



MASTER THESIS

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„ A Broken Generation – The Social Implications of the One
Child Policy, and its Place in China’s Human Rights
Development “

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Jake Mendrik

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Univ. -Prof. Dr. Susanne Weigelin-Schwiedrzik

自由無價
以有涯

寧以玉碎
以殉中華

林昭

Freedom is priceless,

My life is a limited dream,

I prefer to be jade broken,

To save China in martyrdom.

Lin Zhao (1932-1968)

Contents

My Last Farewell Verse – A Poem	2
Acknowledgements.....	5
Abbreviations	7
Introduction	8
Chapter One – Origins of the One Child Policy.....	12
Introduction	12
1.1 Population control in Chinese history – the eugenics movement.....	13
1.2 Mao’s China	17
1.3 Song Jian	23
1.4 Deng’s need for legitimacy	26
Conclusion.....	30
Chapter Two -Implementation of the one child policy	33
Introduction	33
2.1 One state comprised of many	34
2.2 1981-83 – The damage is done.....	36
2.3 Central Document 7: Relaxation then Re-enforcement.....	40
2.4 Incentives, Disincentives, and Coercive Measures	43
2.5 Shifts in Governmentality	51
2.6 The Present Condition.....	59
Conclusion.....	61
Chapter Three – The human rights perspective of the one child policy.....	64
3.1 The Chinese system of rights	65
3.2 The role of Confucianism and Individual Rights	66
3.3 Development of Rights in the Late Qing Dynasty	73
3.4 Chinese Marxism – the Ultimate Prioritisation of Collective Rights.....	76
3.5 A Middle Ground between Universalism and Relativism.....	79
3.6 The one child policy’s place in human rights discourse	86
Conclusion	95
Chapter Four – Was the one child policy necessary?.....	97

Introduction	97
4.1 The effect on China's fertility rate	98
4.2 Comparative Fertility Rate Studies	102
4.3 The one child policy's role as instigator of cultural and political change.....	112
Conclusion.....	118
Chapter Five	121
5.1 Research Parameters	122
5.2 Method of Research	123
5.3 Results	123
Conclusions	124
Chapter Six – The Future	127
Introduction	127
6.1 The Effects of Low Fertility.....	127
6.2 Increasing China's Fertility	138
6.3 Further Effects of the one child policy	141
6.4 Future human rights for China	144
Conclusion.....	147
Conclusion.....	149
Appendices	154
Bibliography	159
Literature	159
Reports	173
Online Articles	177
Legal Sources.....	181
Interviews	182
Abstract	184
Abstract Deutsch	185

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Abbreviations

CCP – Chinese Communist Party

CEDAW - Convention on the Elimination of all Forms of Discrimination Against Women, 1979

CHNS – China Health and Nutrition Service

CRC – Convention on the Rights of the Child, 1989

ICCPR – *International Covenant on Civil and Political Rights, 1966*

ICESCR - International Covenant on Economic, Social and Cultural Rights, 1966

KMT – Guómíndǎng or Kuomintang (the Chinese Nationalist Party)

MIFS – Mean Ideal Family Size

PRC – People’s Republic of China

SFPC - State Family Planning Commission

TFR – Total Fertility Rate

UDHR – Universal Declaration of Human Rights, 1948

Introduction

Now more than ever China's relationship with the Western world is under intense scrutiny. In the following fifteen years after the country's 2001 entry into the World Trade Organization China has experienced unprecedented growth and emerged as a leader of global economic affairs. Akin to France's role as the instigator of multiple civil uprisings during Europe's tumultuous and pivotal 1848 ('when France sneezes, Europe catches cold¹'), China's recent 'hiccoughs' in the stock market have had seismic impressions on markets across the world. The fear is no longer what happens if China surpasses the west, but how can the west catch up.

Nevertheless, whilst China has developed immensely as an economic power, it still faces severe criticism for its human rights record. The superpower has developed a reputation as being notoriously difficult to deal with, adopting an extremely defensive demeanour whenever facing questions regarding its HR. This has led to the annual publication of the '*Human Rights Record of the United States*²' by the Chinese State Council Information Office, criticising the US's own HR record, and a continual reliance on the defence of 'cultural relativism³'.

At the heart of this international criticism is the one child policy, perhaps the most notorious social project ever put into practice. Other than precipitating a condition in which further human rights would and still do occur, the policy had become representative of the People's Republic of China's (herein referred to as PRC) attitude with the international human rights system. A policy defended for being necessary in the conditions in which it was created, the birth-planning program smacks of the

¹ *Klemens Wenzel Fürst von Metternich (1773-1859)* – As perhaps the most important statesman in Europe of the first half of the 19th century Metternich was well placed to make this comment about geopolitics within the 'concert of Europe'. It is my belief that China, at least economically, can lay claim to being in a similar position in the 21st century.

² *Full Text of Human Rights Record of the United States in 2014*, Xinhua, 26th June 2015, available at <http://english.cri.cn/12394/2015/06/26/2982s884702.htm> accessed 3rd February 2016

³ A term popularised by the German-American anthropologist Franz Boas pertaining to the idea that civilisation (or culture) is not absolute but relative – '*...our ideas and conceptions are true only so far as our civilisation goes*' – Boas, Franz, *Museums of Ethnology and their classification*, Science 9: 589, 1887

nation's preference for collective over individual rights and economic development over the expansion of a liberal and equitable system of rights.

At a grass-roots level, my experiences whilst living in the nation have indicated that the Chinese show respect and even nonchalance towards their government's decisions. The respect stems from thousands of years of Confucian tradition whilst the indifference is indicative of the sheer size of the country and how varied it can be. For many, government interaction is not common. Yet the one child policy has made real concrete changes to the social landscape and for many, has been intolerable. With the rise of social media platforms such as *Weibo* more and more citizens are able to voice their opinions (although at risk of deletion by the internet police) like never before. This is symptomatic of the rapid modernisation China has undergone. However, it is this very modernisation and economic developed that has excused the one child policy's many faults. Party leaders continue to associate this progress with the policy and this hyperbole has so far been a success. If the direct consequences of the birth-planning program – population aging, a shrinking workforce and gender imbalance – hinder this development, the situation may not remain so sound.

Having never formally studied as a sinologist or received Mandarin teaching for an extended period of time, researching and comprehending such a broad and complex topic proved to be difficult. As a result, where it may have taken minutes for an experienced scholar to read Chinese texts, it has taken me hours. In addition, many of the concepts existent in Chinese history had been completely alien to me providing another stern challenge.

That an understanding of the one child policy dictates an understanding of multiple disciplines has also proved demanding. Again, I had never been exposed to demography and so learning the key terms and methods was a steep learning curve. Nevertheless, in order to gain an accurate understanding of this subject matter, a broad approach is required.

This thesis seeks to clarify through the example of the one child policy how China has applied human rights to its population and by what conditions this rights system is moulded and defined. In addition, by exploring the necessity of the policy and its aftereffects, we may better understand China's relationship with the international human rights movement, and make predictions about how the situation will progress.

The first chapter will serve to apply an historicist approach to understanding why the one child policy was enacted in the first place. Through a narrative of the nation's history we can understand the contexts in which the policy was thought to be needed and constructed. It is here we can also comprehend the initial mistakes made by the Chinese Communist Party (herein referred to as CCP), mistakes that would account for the vast number of consequences stemming from the birth-planning program's implementation.

The following chapter will seek to describe the nation's developing governmentality through the concept of 'biopower' and 'biopolitics'. Through detailed explanation, the one child policy has emerged as a central way in which the Chinese government can control its population in order to promote economic development and modernisation. Changes in governance also provide a picture as to how the policy was implemented and how human rights violations both happened and were encouraged.

Integral to the thesis is the understanding of the rights system employed in modern China. Chapter three serves to provide an account of its development and importantly question how the one child policy fits. Key polarities have emerged when debating China's rights philosophy – rights of the individual versus the collective, precedence of duties over rights, and the issue of universality against relativism, and give scholars an indication of how compatible it is with the international model. If relativity can be allowed for, and the one child policy matches the country's cultural norms, can its violations be overlooked?

Chapter four highlights an issue connected to the preceding question: the necessity of the one child policy. If the birth-planning program is found to be unnecessary as well as a direct violation of human rights doctrine even accounting for relativity, this places an added pressure on the legitimacy of Chinese policy formation heading into the future. By analysing similar trends in neighbouring nations sharing comparable cultural values, this necessity can be gauged. However, there may emerge additional functions of the plan rather than the reduction in fertility rates.

The final two chapters tackle the questions arising from the aftermath of the one child policy. The small qualitative study described in chapter five aims to create a picture of the difficulties faced in returning fertility rates to acceptable levels while also highlighting certain socio-cultural consequences felt by the ordinary Chinese woman. This leads on to an elaboration of these issues in chapter six creating a real comprehension of how deep and how broad of an impact the policy has had upon Chinese society. Although the situation is far from clear-cut, I have attempted to make some suggestions and predictions regarding the alleviation of these problems.

The conclusion attempts to tie the whole thesis together by providing a complete summary of the situation facing contemporary China, and the one child policy's role in creating it. It also indicates possible plans of action for the future in order to incorporate a universal system of rights into Chinese society and policy-making whilst also maintaining awareness for the country's very sensitive traditions and cultural norms. I argue for specific changes that must take place in order for progress to be made although my points are tinged with a hint of pessimism.

Chapter One – Origins of the One Child Policy

Introduction

On 27th December 2015, three decades after its introduction, it was announced that China's one child policy would be abolished. Infamous in the west for its draconian methods of implementation and enforcement, hailed a success by those within the Chinese centrist government, the policy in plain terms achieved its primary goals of curbing a growing population in a developing nation. Yet its legacy remains to be seen. This legacy and the aforementioned methods of implementation will be discussed in later chapters. For now, it is important to explore and understand why the policy was devised, and how it has evolved since its initial state until now.

The underlying motive behind initiating such a nation-wide program is fairly obvious and well-known – a fear of overpopulation in a society not yet developed to hold the load. However, it would be simplistic to say this is the only reason and does not answer further questions. Why, for example, was the one child policy introduced in the late seventies rather than at an earlier date, and perhaps most pressing, why has it taken so long for the policy to be phased out? Through investigation of the development of this system of fertility planning answers may be found as to why the Chinese people were subjected to such a brutal program, and perhaps an understanding of how policy development takes place within China. While the middle kingdom is undoubtedly a much changed nation to the one it was in 1979, the drives behind national development may remain the same.

In addition, as an ancient country at a 'cultural crossroads' in its development, met with the pressures of western influence and facing a choice over the direction it continues its development, it is important to understand how much weight is given to the great traditional sources of China and whether they still remain relevant. It is arguable that there is no other developed nation in which customary practice driven by ancient traditions plays such a big part in everyday operations, from the politicians of the CCP

in Beijing to the farmers of rural Sichuan. It is intriguing therefore to question how much of an influence these ancient teachings had on the development of the one child policy.

This first chapter will seek to introduce the development of the one child policy from the logical starting point of 1949, the year in which the PRC was established, until the 1979, the year of its implementation. It is through this understanding of how the policy was formulated that we can then continue to understand it from a human rights perspective and determine both its legacy and relevancy.

1.1 Population control in Chinese history – the eugenics movement

There has arguably never been a more important time in China's history than the twentieth century. During these one hundred years the country faced both internal and external battles in a struggle to establish new political regimes whilst ensuring its own survival in the opposition of foreign imperialism. What started with the Qing dynasty under the Empress Dowager Cixi and ended with the CCP and Jiang Zemin was a century fraught with turmoil.

Although not an entirely new theme, the question of Chinese identity and its preservation arose during the first half of this era. It is this idea of Chinese 'race' and predestined place amongst the world order that spurred many young revolutionaries on during those turbulent years. Among those advocating a 'single race state' was Wang Jingwei, an outspoken opponent of Qing dynasty rule and close associate to Sun Yat-sen. He advocated the promotion of a single race in order to establish state stability and induce power. Many of his ideas drew on the examples of the nations of the West - nations with no trace of foreign rulers. Manchu rule was therefore deemed unacceptable⁴. This is not the first time that Chinese policies would cite the West as supporting evidence. Sun would, however, seek to establish the principles of 'Five

⁴ See Prasenjit Duara's analysis of Wang Jingwei, an influential follower of Sun Yat-sen, in Duara, Prasenjit, *Rescuing History from the Nation: Questioning Narratives of Modern China* (University of Chicago Press, Chicago, 1995), pp. 36–37.

Races under One Union' (wǔ zú gònghé), hoping to create strength in the face of imperialist threats⁵.

While Wang's ideas were a far-cry from the eventual one child policy, there is clear evidence of a reaction to the threat to Chinese security in the form of promoting the Han above all other Chinese ethnicities. Whether this is a primitive form of eugenics or not is debateable, but there is no doubt that the idea to increase the 'quality' of the Chinese population for the good of the state is an ambition shared with the later one child policy. However, in this case, the threat was not overpopulation but the very existence of the Chinese state.

There were those as well who, in deciding the future direction of a post-Qing China, took inspiration from a different source. Wang looked at the West for examples of the strength in a single race to inspire his ideas but there were those who preferred to look within China's history for ideas. The Qing dynasty reformers Liang Qichao and Kang Youwei amongst others called for the preservation of Confucian culture and teachings to provide direction for the nation. Kang specifically suggested the use of sterilisation as an appropriate technique for human selection. It is interesting therefore, that while Wang, Liang, and Kang represented different strands of the political spectrum, they advocated the use of drawing grouping boundaries in the face of the threat to Chinese sovereignty that was occurring at that time.

Support for the improvement of the cultural and political 'level' of the Chinese *guómín* continued and were replicated by the leaders of the newly founded CCP in 1921. It was the idea that China belonged on the top tier of world nations as a world leader that would form the underlying basis of reform later on in the century⁶. China would only temporarily be a backward country whose rightful place was amongst the industrial

⁵ Chung, Yuehsen Juliette, *Better Science and Better Race? Social Darwinism and Chinese Eugenics*, Isis, Volume 105(4), 2014, p.797

⁶ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003) p.57

powers of the world⁷. However, for all parties involved, whether that be the *Guómíndǎng* (herein referred to as KMT) or the CCP, China assuming her seat of power would have to wait. For the following three decades China would be consumed by civil war and the war against Japanese occupation. Yet it was these conflicts that would serve as the inspiration for the fledgling Chinese eugenics movement.

1.1.1 Pan Guangdan

The eugenicist Pan Guangdan was the flag-bearer for eugenics in China during the first half of the twentieth century. As the promotion of scientific study was seen as a central component to national development, his ideas would gain a lot of support within the research community. It is important to remember here, that it was not until the aftermath of the Holocaust that the study of eugenics would be tainted and rejected by most societies. In fact, in Pan's writings the idea of race superiority was not relevant. His ambitions were simply to create a stronger Chinese population in the face of external threats. In addition, through his works *The Eugenic Question in China* and *Chinese Family Problems*, Pan pointed to the importance of family over individualism arguing that racial improvement is best achieved through biological inheritance.

It was the experiences of the civil war and anti-Japanese war that would be the making of the Chinese people in Pan's view. In his opinion, China and her population were still in its youth and were being given the opportunity to develop by these awful circumstances. This was a chance to test Chinese national vitality, a vitality that 'like Jews, had a high capacity to endure in or evade unfavourable environments⁸', through the twin indexes of quantity and quality of the population.

After years of research, the fruits of Pan's labour came in the form of the National Policy Guidelines which were passed on 5th May 1945. His guidelines make refreshing

⁷ Greenhalgh, Susan, *Science, Modernity, and the Making of China's One-Child Policy*, Population and Development Review 29(2), June 2003, p.176

⁸ *Pan Guangdan's Collected Works*, Volume 3 (Beida, Beijing, 1995), p. 192.

reading when compared to the later methods employed during the one child policy's implementation. Amongst others, there was a prohibition of abortion, infanticide, trafficking, and the call for increased educational facilities, environmental improvement, and finally, and encouragement of interracial and interethnic marriage⁹. For Pan, intermarriage would create better Chinese offspring through the combination of Han and minority Chinese. For Pan, there was no sense of hierarchy, yet still an underlying principle of self-improvement of the Chinese people.

Yet these guidelines would never be realised with the subsequent expulsion of the KMT from China. Pan Guangdan would later be persecuted during the Cultural Revolution, resulting in his death in 1967.

1.1.2 Conclusion

When population control became the main topic of debate amongst the leaders of the CCP in the second half of the twentieth century, the study of eugenics had, due to its association with the Nazi regime, become taboo. Yet it did arguably lay part of the foundations for what the one child policy wanted to achieve – the qualitative improvement of the Chinese population. The theme of the Chinese nation's destiny as becoming one of the global superpowers existed long before the birth of the PRC in 1949. These ambitions for cultural and economic improvement could arguably be called reactionary, in that they sought to provide incentive to a beleaguered Chinese population in the wake of revolution, civil war and foreign occupation. But this desire to progress the cause of the Chinese people would become one of the driving forces behind policy implementation in the latter half of the century.

Although the one child policy that would emerge in the 1970s sought to address the quantitative imbalance of China's population, its formulation and the pressing need for its implementation were catalysed by the desire to improve the quality of life in China.

⁹ Chung, Yuehsen Juliette, *Better Science and Better Race? Social Darwinism and Chinese Eugenics*, Isis, Volume 105(4), 2014, p.800

It is arguable that it was through the experiences of the early twentieth century, and the early findings and reports of the Chinese eugenics movement, that this desire was fuelled.

1.2 Mao's China

Mao Zedong's name is synonymous with China, and some forty years after his death his cult of personality still exists. Yet there is a certain detachment from the Maoist politics of the past in the CCP which, while continuing to label itself as a follower of Maoist doctrine, in actuality has evolved beyond that. Nevertheless, Mao is still acknowledged as the father of the modern PRC by the majority of the population. His portrait still hangs in front of the Forbidden City in Beijing; his face still adorns every renminbi note.

However, there can be no denial of his part in the systematic purge of both the capitalist and traditional remnants of Chinese society during the fateful Cultural Revolution (*Wénhuà dàgémìng*), and the preceding Stalinist mass collectivisation and industrialisation movement – the Great Leap Forward (*Dà yuèjìn*), a movement that would result in a nationwide famine (*Sān nián dà jīhuang*) taking the lives of around 45 million Chinese citizens¹⁰. Party officials to this day contest the damage caused to the Chinese population during these events and maintain their necessity in developing China's economy. Regardless of this, Mao had the central role in the first major mistake of the modern Chinese era. How much he influenced the second, the one child policy, will be discussed below.

1.2.1 1949

1949 marked not only the birth of the PRC but was the first time in an age that China was not subject to either internal or external conflicts. The focus could move away from self-preservation to development. As aforementioned, there were many who believed

¹⁰ Dikötter, Frank, *Mao's Great Famine: The History of China's Most Devastating Catastrophe, 1958-62* (Bloomsbury, London, 2010), p. 333

that China belonged with the USA and Britain at the highest echelon of world order, and now was the time to bring about this pre-destined change to China's fortunes. The question of population and reproduction, which had only been briefly touched upon pre-1949 now became a central topic for consideration¹¹. However, rather than being an issue for concern, party officials saw China's large population as an untapped resource through which power could be drawn. This is not to say that there were no concerns, but initially, after years of oppression, the focus was on the potential advantages of Chinese strength in numbers.

The period from 1949 until his death will be marked by Mao's ambivalence towards population control¹². Initial warnings were ignored and eventually, any scientific research into the issue became exponentially more difficult to carry out as population studies were effectively abolished in the late fifties. While scientific endeavour was crushed under the sinister guise of the Cultural Revolution, Mao's ambivalence has more grounded reasoning. He was of the opinion that any attempt at population control by the PRC would not yet be implemented effectively or efficiently. The country first needed to be more economically and systematically developed¹³. In addition, any attempts to curb fertility rates would be met with huge opposition particularly in rural society, where cultural norms still held sway over much of societal decision-making.

As a result of the preceding events, initial talk of population control was relatively non-existent, and in fact in 1949 the health ministry was opposed to any form of contraceptive measures let alone talk of sterilisation and abortion¹⁴. In fact, at this time most PRC were ardently opposed to limiting births on ideological grounds while

¹¹ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.55

¹² Tien, H. Yuan, *China's Population Struggle: Demographic Decisions of the People's Republic, 1949-1969* (Ohio State University Press, Columbus, 1973); Aird, John S., *Population policy and demographic prospects in the People's Republic of China*, in *People's Republic of China: An Economic Assessment: A Compendium of Papers Submitted to the Joint Economic Committee*, Congress of the United States, (US Government Printing Office, Washington D.C., 1972)

¹³ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.312

¹⁴ *Ibid.*, p.49

Chinese society was opposed on ‘traditional’ grounds¹⁵. But this would change in the coming decades eventually resulting in a tentative approval of individual population control (*Jiézhi shēngyù*). One man to actively push for the promotion of such a nationwide measure was Ma Yinchu.

1.2.2 Ma Yinchu

The origins of our modern day concept of the one child policy came through the writings of the celebrated Chinese economist Ma Yinchu. However, his initial theory over population control did not make a real impact until after Mao Zedong’s death. Nevertheless, his ideas did help bring attention to the population problem to the main party leaders paving the way for development of the field.

As a patriot, Ma’s allegiance was predominantly to the nation rather than the ruling parties during his lifetime. Initially, his advice on issues of economic importance was sought after by Chiang Kai-Shek, leader of the KMT, but, with the spread of unchecked corruption across the war-torn country, Ma soon resorted to openly criticising and denouncing the republicans. This resulted in his house arrest in 1940. His belief that China was not suited to the kind of capitalism that existed in the UK and US led to an eventual support of the ruling Communist party after 1949 and a close friendship with the leading economic minister, Premier Zhou Enlai. But it was his patriotic beliefs rather than support for the CCP that led to his ‘*new population theory*’.

The foundations of his views that ‘the State should have the power to intervene in reproduction and to control population¹⁶’ were possible due to two different reasons. Firstly, Ma’s social philosophy was that of a universalist, placing society above the life of the individuals who exist within it. This placed importance upon the collective rather than the individual, a key concept that will be discussed in later chapters, and allowed for government interference in matters of population control. Secondly, Ma placed

¹⁵ Ibid., p.19

¹⁶ Tien, H. Yuan, Wan, Xi, Shao: *How China Meets Its Population Problem*, International Family Planning Perspectives, Volume 6(2), June 1980, p.65

China's failing economy as the number one concern during this time and identified population growth as the principle cause.

This places a clear distinction between Ma Yinchu's theory with any Chinese population theory that came before. Particularly in the case of the eugenicist movement, priority was placed on improving the quality of the Chinese people whereas Ma strictly called for a quantitative change for the benefit of the economy. It would be this underlying principle that would fuel the one child policy.

During this period it may be argued that China's population was at a manageable level. Decades of conflict had a major human toll on the country. Yet the natural law of socialism promoted population growth as an indication of increased social prosperity and the improvement of Chinese livelihood. From 1949 to 1952, the natural growth rate rose from 16 per thousand to 20 per thousand in part because of this belief of a link between growth and prosperity but also because of the legacy of the previous decades¹⁷. Having experienced years under the yoke of foreign oppression, and the accompanying problems brought about by the civil war, a promotion of growth and fertility is a logical answer to enhance national spirit. 'Strength in numbers' would become a slogan of Maoist success.

So, in the face of a failing economy and a growing population, why were Ma's plans not implemented sooner? One possible answer may be Ma's inability to keep pace with the Communist movement in China.¹⁸ His lecture, to be presented before the Second Session of the First National People's Congress in July 1955, was criticised for its links to Malthusianism and attempts at questioning the superiority of socialism¹⁹. As the socialisation of private enterprises across China sped up during the Maoist era, Ma felt detached, and was yet again censored for showing partiality to capitalist ventures in his

¹⁷ Qian Xinzong, *China's Population Policy: Theory and Methods*, Studies in Family Planning, Volume 14(12), December 1983, p.296

¹⁸ Hsia, Ronald, *The Intellectual and Public Life of Ma Yin-ch'u*, The China Quarterly 6 (April-June 1961), p.61

¹⁹ Ibid., p.60

work ‘*The socialist transformation of private industry in China.*’ From April 1958 until November 1959 his economic and population control theories were criticised from over 200 of his contemporaries, mostly fuelled by political motives.

It was not until 1979 that scholars admitted fault in the government’s censorship of Ma Yinchu’s work. A newspaper headline from that year summed up the sentiment: ‘Erroneously criticised one person, population mistakenly increased 300,000,000²⁰.’ Nevertheless, it is arguable that without Ma’s work and research during the formative years of the PRC, the one child policy would not have received the amount of government support that it allowed it to become a central policy in advancing Chinese development. His views that economic growth was directly influenced by population, as highlighted in his paper presented to the Third Session of the National People’s Congress in 1957²¹, were essential to the advancement of a nationwide fertility-control scheme.

In 1956 Comrade Zhou Enlai stated in his ‘Proposal on the Second Five-Year Plan for National Economic Development’ that ‘We agree to have appropriate limitation on births in order to protect our women and children; to better educate our future generations; and to benefit the nation’s health and prosperity.’

1.2.3 The policy stagnates - 1959-1979

The years after Ma Yinchu’s initial proposal are characterised by stop-start initiatives, none more so than China’s fledgling population policies. When Mao Zedong’s government backed any form of population control progress was tempered by other more important national problems. Even when discounting these distractions, there was no funding towards any research and no access to western findings. In short, there was

²⁰ Tien, H. Yuan, *Demography in China: From Zero to Now*, Population Index (Office of Population Research) 47(4), December 1981, p.688

²¹ Hsia, Ronald, *The Intellectual and Public Life of Ma Yin-ch’u*, The China Quarterly 6 (Apr.-Jun. 1961), p.61

very little opportunity for this field to develop during this period. It was only by the 1970s that population control became a nationwide reality²².

Credit for repeatedly saving the movement must be given to Mao's right hand man, Zhou Enlai. Predominantly involved in state economic planning, Zhou saw the risks of allowing the Chinese population to grow unchecked. His close relationship with Ma may have had something to do with this. In an interview with the American journalist Edgar Snow in 1958 Zhou spoke of his confidence in putting birth planning into practice, an action he labelled as '*zhèngquè de* (correct)'. However, he acknowledged that doing so would be particularly '*kùnnán de* (difficult)' owing to, in part, the cultural conservatism and traditionalism of rural families. In concurrence with Mao's opinions on the matter, Zhou saw the education of the public on issues regarding reproduction and natality as of paramount importance. Only then could a population control process be introduced in a gradual and voluntary manner. At the time of speaking the Chinese population was still in the majority pro-natalist and adverse to limitations on fertility²³. As a result it is highly unlikely that even an aggressive policy of population control, similar to what occurred once the one child policy was instigated, would have been successful owing to the lack of cheap and effective contraceptive methods and the social antagonism to curbing population²⁴.

Thus, initial attempts at swaying the population were not instigated by employing Maoist or Stalinist methods as seen in the application of other government policies. These methods were used sparingly and intermittently in an attempt to prioritise education and a soft advocacy of couples practicing birth control²⁵. However these methods to induce change from and by the population proved to be fruitless due to several large interruptions.

²² Greenhalgh, Susan, *Science, Modernity, and the Making of China's One-Child Policy*, Population and Development Review 29(2), June 2003, p.166

²³ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.19

²⁴ Ibid., p.56

²⁵ Ibid., p.8

After Ma there was an initial notion of ‘birth planning’ but this was interrupted by the Great Leap Forward. Not only did this event suspend development of the population control program but made the situation more urgent by creating famine in rural areas and an overabundance of migrants China’s cities heaping pressure on the state. PRC leaders were able to resume efforts in slowing down population growth after the Great Leap Forward but met resistance in the countryside. Nevertheless, fertility rates fell. Once again these endeavours were put on hiatus during the Cultural Revolution to be finally picked up again in the 1970s²⁶.

One reason for this continuation was the Chinese government’s eventual relaxation of restrictions placed on scientific research. In addition, Mao may have felt Chinese rural society were ready to be subjected to certain birth control measures necessary for the next stage in population control. Of course, the final issue was the burgeoning population which, since 1949 had risen by almost 400 million people²⁷. Never mind the increasing party-line rhetoric, there was definite evidence by the seventies that population was having an effect on economic development. This need for a solution paved the way for a new breed of social scientists to make a name. One such man was Song Jian, a cybernetician who would prove central to the one child policy’s final implementation.

1.3 Song Jian

The absence of any scientific research into population studies during the initial decades of Mao’s rule proved to be of great consequence to the nation and was arguably the biggest factor in shaping what form the one child policy would take. There are several reasons why this may be the case:

²⁶ Greenhalgh, Susan and Winckler, Edwin A., *Governing China’s Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.55

²⁷ *Total population, CBR, CDR, NIR and TFR of China (1949-2000)*, 20th August 2010, available at http://www.chinadaily.com.cn/china/2010census/2010-08/20/content_11182379.htm accessed 10th June 2016

Firstly, in the absence of any domestic studies into population the social scientists tasked with solving the population crisis were forced to look elsewhere. This was particularly troublesome as China is an especially unique country, and studies that have taken place elsewhere would more than likely not apply to the Chinese situation. Nevertheless, great attention was given to these western studies on population control.

Secondly, an unnecessary weight was attached to the role of science in revolutionising Chinese population studies and enabling China to reach her true potential. The idea of science, or *scientism*, as providing an ‘all-powerful’ solution to China’s problems was central to the Chinese dream of modernity, wealth, and power²⁸. Unfortunately, this favouritism of science led to the systematic ignorance of societal and cultural needs, and particularly, the humanist element of population control.

Finally, when Mao finally advocated the use of science in policy-making it effectively ‘opened the floodgates’ for many wishing to catapult themselves into national consciousness. To gain favour from the central government would not only cast these individuals in a favourable light, but provide their respective areas of research with much needed funding. However, this approach was dangerous in that it opened the possibility of fallacious scientific studies. As long as the submitted theories met with the party line they would most likely be accepted as fact. This is possibly how Song’s proposals received so much support from the CCP.

1.3.1 Looking to the West

Song Jian took much of his inspiration from foreign resources, specifically British and Dutch research questioning optimal population size in their individual states²⁹. He drew

²⁸ Kwok, D. W. Y., *Scientism in Chinese Thought, 1900-1950* (Yale University Press, New Haven, 1965); Hua Shiping, *Scientism and Humanism: Two Cultures in Post-Mao China (1978-1989)* (State University of New York Press, Albany, 1995)

²⁹ Goldsmith, Edward, Allen, Robert, Allaby, Michael, Davoll, John, and Lawrence, Sam, *Blueprint for Survival* (Houghton Mifflin, Boston, 1972); Kwakernaak, Huibert, *Application of control theory to population policy*, in Bensoussan, A., Lions, J.L., *New Trends in Systems Analysis, (Lecture Notes in Control and Information Sciences, Volume 2 1977)* (Springer-Verlag, Berlin) p.357-378

his inspiration from a 1978 trip to Europe in which he learnt of Goldsmith et al.'s *Blueprint for Survival* which posited that 'Britain's population should be gradually reduced to 30 million, namely a reduction of nearly 50 percent.' According to the study, the current population of 58 million had greatly outgrown the British ecosystem's sustaining capacity³⁰. Unfortunately Song had failed to realise that these European studies merely provided a heuristic device for thinking through available options for policy-making. These hypotheticals would be central to the one child policy's functioning and indicative of why, perhaps, the policy was not necessary. Nevertheless, the fact that his research was attached to western science was appealing to party leaders.

1.3.2 Science and the economy

The field of Chinese population studies emerged rapidly during the 1970s, from a position of near non-existence to being central to Chinese policies moving forward³¹. As a result, it needed a classification. Would population studies incorporate societal and cultural aspects or merely the study of trends and numbers? From the Chinese perspective, unsurprisingly, population was seen as an attribute of the economy. Therefore social and cultural factors were neglected in favour of statistics and mathematical projections, especially if these projections concerned the wellbeing of the Chinese economy. Song's approach incorporated these cold, hard, numbers that the CCP leaders could appreciate and also use to garner support from the wider public.

In the race for providing the best solution to the problem of the burgeoning Chinese population, Song Jian was not alone. Liu Zheng, and his colleagues Wu Cangping, Lin Fude, and Zha Ruichuan also supplied an attractive answer steeped in statistical evidence and committed to a Marxian model. However, while this Marxian model

³⁰ Song, Jian, *Systems science and China's economic reforms*, in Yang Jiachi (ed.), *Control Science and Technology for Development* (Pergamon, Oxford, 1986)

³¹ Tien, H. Yuan, *Demography in China: From zero to now*, Population Index 47(4), 1991; Zhang, Xuexin, *Gaodeng xuexiao renkouxue de xiankuang he chushi* (Present situation and trend of demography in institutions of higher education), Renkou Yanjiu (Population Research) 5, 1984, pp.22-24

singled out the production of material goods as integral, it also incorporated the security of human beings, an element not in line with the CCP's desired policy.

It was thus that the policy options preferring qualitative methods supplied by Chinese social scientists were rejected in favour of Song's approach based upon a quantitative mode. Prioritising quantity over quality would be the best bet for securing China's economic future. In the end, it was the group headed by Song Jian, and including Yu Jingyuan, Li Guangyuan and Tian Xueyuan that would provide scientific basis on which the one child policy was built.

1.4 Deng's need for legitimacy

The final driver behind the evolution of the one child policy was Deng Xiaoping, Mao Zedong's successor (after the short chairmanship of Hua Guofeng). While Mao's approach to the population question can best be described as ambivalent, owing to the various interruptions in developing this key policy, Deng saw it as a critical component of China's socialist modernisation and a central part to cementing his political legitimacy³². For in the years following Mao's death until his succession to power in 1978, Deng was shunned from the political limelight, a time in which several Central Committee directives openly criticised him and his role in the party. However, rather than seeking to destroy Mao's cult of personality as Khrushchev had done when succeeding Stalin in the USSR, Deng sought to create his own legacy. Modernisation would be the ultimate goal.

Deng's regime planned out steps to achieving this final ambition. Science and technology were underlined as the first of China's modernisations and essential to

³² Greenhalgh, Susan, *Science, Modernity, and the Making of China's One-Child Policy*, Population and Development Review 29(2) (June 2003), p.167

achieving national wealth, power and glory³³. It is therefore easy to understand why Song Jian's proposals fit so well with Deng's plans for a stronger China³⁴.

However, Deng was still aware of the cultural opposition any nationwide population policy would create, even after years of gradual implementation by the previous regime. A large amount of rural society still held that financial security lied in creating offspring and would not easily let go of these traditions. He therefore needed to create a national emergency. Statistical evidence would only do so much to spread alarm across the nation; powerful rhetoric and propaganda techniques were also needed.

1.4.1 *The one child policy as the only solution*

Deng Xiaoping's initial years as leader of China were accompanied by weekly newspaper headlines spreading warnings about the incoming threat of overpopulation. Chinese population specialists, who placed economic growth as a number one priority, were becoming increasingly worried by the situation. Not only would the population crisis affect China's economic development but also employment, education, livelihood and even China's opportunities of become a fully modernised nation³⁵. Population growth was as a result made out to be a villain, the direct cause of many societal problems including poverty and unemployment.

Scientific spiel was central to spreading the propaganda message that population growth must be tempered. Party rhetoric pressed upon the public included phrases such as 'reliable data' and 'precise calculations' all indicating that the one child policy was the

³³ Ibid., p.171

³⁴ Greenhalgh, Susan, *Science, Modernity, and the Making of China's One-Child Policy*, Population and Development Review 29(2) (June 2003)

³⁵ Tian Xueyuan, *Kongzhi renkou cujin sihua (Control population to advance the four modernizations)*, in Tian Xueyuan, Tian Xueyuan Wenji (Collected papers of Tian Xueyuan) (Zhongguo Jingji Chubanshe, Beijing, 1985), pp.10-16; Liu Zheng, *Laogu shuli you jihua kongzhi renkou zengzhang de zhanlue sixiang (Firmly establish a strategic concept for controlling population growth in a planned way)*, Renmin Ribao (People's Daily), 25th February 1980, p.5; Liu Zheng, Wu Canping, and Lin Fude, *Dui kongzhi woguo renkou zengzhang de wudian jianyi (Five proposals for controlling China's population growth)*, Renkou Yanjiu (Population Research) 3,1980, pp.1-5

only natural and logical recourse. Further evidence came in the hard statistical facts presented in the CCP's official party organ, *the People's Daily*, and the journal *World Economic Research* (*Shijie jingji diaoyan*). Future projected trends of population control were displayed designed to incite panic at how potentially critical population levels could be in only a number of decades. Especially disturbing was the claim that if an average birth rate continued until 2080, China's population would reach 4.2 billion, or 'almost equal [to] the total population of the entire world'³⁶.

Yet most demographers who would later consider these statistics found these projections alarming. Most importantly because they did not consider the huge variety of unpredictable factors that can affect population growth. It was as if Song's group did not consider population to be human and instead more akin to singular units³⁷. It must also be noted that although there were undeniable sceptics amongst the Chinese populace, these population studies would not be open to democratic debate. It is also highly likely that many Chinese population scientists had to largely improvise their methods due to the very basic means for research available.

Nevertheless, having ascertained that the most desirable population by 2080 to be between 650 and 700 million, or two-thirds of the Chinese 1980 population³⁸, Song came to the conclusion that a fertility rate of one would be most conducive to Chinese aims of become a modernised society. This is discounting the fact that a fertility rate of 1.5 would produce the desired effects of an ideal population by 1980. For Song, a 1.5

³⁶ Song Jian, Tian Xueyuan, Li Guangyan, and Yu Jingyuan, *Concerning the issue of our country's objective in population development*, Renmin Ribao (People's Daily) (in Chinese), 7th March 1980, in *Joint Publications Research Service* 75524, 18th April 1980, p.36

³⁷ Cohen, Joel E., *Review, Population System Control* by Song Jian and Yu Jingyuan, *SIAM Review* 32(3), 1990, pp.494-500; Bongaarts, John and Bulatao, Rodolfo A. (eds.), *Beyond Six Billion: Forecasting the World's Population* (National Academy Press, Washington D.C., 2000)

³⁸ Song Jian, *Population development – goals and plans*, in Liu Zheng, Song Jian et al. (eds.), *China's Population: Problems and Prospects* (New World Press, Beijing, 1981) pp.25-31; Song Jian and Yu Jingyuan, *Renkou Kongzhilun (Population control theory)* (Kexue Chubanshe, Beijing, 1985)

child family would be ‘disadvantageous to our country’s four modernisations...and to the raising of the people’s stand of living³⁹.’

Finally, in 1981, the one-child policy had been officially coded as China’s only choice to alleviate the problem of overpopulation. As Greenhalgh posits, by forcing a false choice between two extreme options, the scientific and effective, and the unscientific and ineffective, and then excluding all other possible avenues of remedying the situation, the Chinese populace were impelled to accept the one child policy as ‘the only choice⁴⁰’. In a country in which media is state-owned and censored, and served as the primary means of top-down communication, repeated reminders of population control as the only solution soon became accepted.

Of course there would always remain those opposed to such measures, and their concerns came through worries about the macrosocietal consequences of such a scheme. Initial apprehension surrounded questions of rapid aging, a growing dependency burden, and the future lack of labour and military recruits. In addition, there were those that were concerned by the affect the policy would have on rural societies. As aforementioned much of the Chinese peasantry’s livelihood lay in the assurance of plentiful offspring to provide financial security. The amount of coercion needed to wrest these cultural values from rural society was imagined with trepidation⁴¹. The

³⁹ Song Jian, Tian Xueyuan, Li Guangyan, and Yu Jingyuan, *Concerning the issue of our country’s objective in population development*, Renmin Ribao (People’s Daily) (in Chinese), 7th March 1980, in *Joint Publications Research Service* 75524, 18th April 1980, p.5

⁴⁰ A phrase that soon appeared in political speeches and party documents. Zhao Ziyang.1985 [1981]. *Dangqian de jingxi xingshi he jinhou jingji jianshe de fangzhen* (The present economic situation and the principles for future economic construction), in Zhongguo Shehui Kexueyuan Renkou Yanjiu Zhongxin (ed.), *Zhongguo Renkou Nianjian* (Almanac of China’s Population) (Zhongguo Shehui Kexue Chubanshe, Beijing, 1985), p.33; Central Committee. 1985 [1980]. *Zhonggong zhongyang, guanyu kongzhi woguo renkou zengzhang wenti, zhi quanti gongchandangyuan, gongqing tuanyaun de gongkaixin* (Open Letter from the Central Committee to all Communist Party and Communist Youth League members on the question of controlling China’s population growth), in Population Yearbook of China Editorial Committee (ed.), *Zhongguo Renkou Nianjian* (1985) (Population Yearbook of China) (Zhongguo Shehui Kexue Chubanshe, Beijing, 1985) , pp.27-29.

⁴¹ Su Renyu and Yinghang Kou, *Control of population growth and the acceleration of agricultural development: Village population survey, Wuwei County, Gansu Province* (in Chinese), 1978, in *Papers of the First National Annual Conference on the Science of Population Theory*, Institute of Population Research (People’s University of China. Beijing, 1978), pp. 190-196; Kang Mingcun, Pang Shugui, and Gu Zushan, *Dui Xinjiang Shehezi Diqu dusheng zinu xingbie bili diaocha* (A survey of the sex ratio of

government attempted to appease any concerns in an Open Letter from the Central Committee in September of 1980.

1.4.2 The Open Letter

This Open Letter to all party members is the first real indication of the implementation of a nationwide one child policy. Rather than seeking to enforce any such policy, the letter merely stated that in order to be a good party member one must endeavour to only have one child. It highlighted the fact that if the present average of 2.2 children per couple were continued, China's population would reach over 1.3 billion within 20 years, aggravating the difficulties for the four modernisations and jeopardising the improvement of the Chinese people's standard of living. It stated that the policy would be maintained for the next thirty to forty years as the most effective way to avert any crisis. All aforementioned problems were discounted either as misunderstandings or as problems that could be dealt with at a later time⁴². It would be from this point onwards that the one child policy would be strictly implemented, resulting in the human rights violations that has made the policy so infamous. These will be discussed in later chapters.

Conclusion

For those that supported the one child policy, the conditions of the late 1970s were perfect for its initial implementation. China was once again at a crossroads having lost its leader, Mao Zedong, the founder of the PRC, and needed something to catalyse reform and growth so that it could realise its destiny as one of the world superpowers. By this time there was enough evidence, whether it be factual or distorted by

single children in the Shihezi district of Xinjiang), Renkou Yanjiu (Population Research) 4, 1981, pp.43-45

⁴² Central Committee. 1985 [1980]. *Zhonggong zhongyang, guanyu kongzhi woguo renkou zengzhang wenti, zhi quanti gongchandangyuan, gongqing tuanyaun de gongkaixin* (Open Letter from the Central Committee to all Communist Party and Communist Youth League members on the question of controlling China's population growth), in Population Yearbook of China Editorial Committee (ed.), *Zhongguo Renkou Nianjian* (Population Yearbook of China, 1985), Zhongguo Shehui Kexue Chubanshe, Beijing, 1985, pp.27-29

propaganda and party rhetoric, that a system of population control was needed and that the growing population was indeed the cause of economic stagnation. The population largely accepted this, and in doing so accepted Deng Xiaoping's vision for the future.

However, there were already signs that the one child policy would not be a success most notably because of the scientific research that it was based upon. Having suffered from a complete absence of any form of population studies, at least from the scientific community, during the first decades of Mao's rule, the field upon which this policy was based was remarkably under-prepared and unsuitable for accurate and reliable prediction-making. The techniques and strategies necessary to undertake the appropriate levels of investigation for the formulation of future population trends were seriously lacking and, rather than having a team of social scientists at the helm factoring in the human cost and cultural effects population control would have on a society, government support was placed in the incapable hands of Song Jian. The resultant scare-mongering based on fraudulent predictions paved the way for a common acceptance of the one child policy as a 'the only choice'.

Although this question will be discussed in later chapters, it would be highly interesting to ponder what the reaction of party members would have been had Song published the actual Chinese population trends in the 1970s. While population was arguably still a pressing concern for inhibiting economic growth by 1980, the fact that during the preceding decade crude birth rate had fallen by a remarkable fifty percent would surely have garnered some different results⁴³. However, with Deng's insistence on modernising China through encouraging scientific endeavour and economic development, the one child policy may not have merely been introduced to invoke quantitative change but rather to spur on nationwide modernisation.

In purely both quantitative terms and qualitative terms, the one child policy has been called a success by the central party. The next chapter will discuss how it was

⁴³ Greenhalgh, Susan, *Science, Modernity, and the Making of China's One-Child Policy*, Population and Development Review 29(2) (June 2003), p.173

implemented and the resulting consequences of its application across a modernising China.

Chapter Two -Implementation of the one child policy

Introduction

For the international community, the legacy of the one child policy will forever be tarnished for the way in which it was implemented. The average person with no prior knowledge of the inner workings of the policy would associate it with abortion and forced sterilisation and as a true representation of China as an overbearing, intrusive and authoritarian regime. Of course, while there is a certain amount of truth in this supposition, the reality is more complicated. For a start, the term '*one child policy*' may not be the entirely correct term for this population control scheme when looking in depth at how it was enforced and evolved as the twentieth century progressed. The policy did not fully impose regulations stifling Chinese families into only having one child for the entire duration it was in force, and it was definitely not applied equally to the whole population. We must also take into account that for minorities the policy was not enforced at all⁴⁴. Yet for most westerners the one child policy remains a key example of the binaristic differences western media has constructed – poor and rich, backward and scientific, controlled and free, and, most importantly, good and bad⁴⁵. Further research can reveal how wrong our perceptions may be.

This is not to say that criticism of the policy, unfounded or not, should be suppressed. On the contrary. Any government-issued scheme depriving its citizens of fundamental rights should be questioned especially when its implementation has led to further human rights violations. Criticism of the one child policy should be encouraged as it will fuel a deeper interest in understanding China and all aspects of its functioning. Understanding can only help enable better communication and cooperation in the future and hopefully aid in preventing any possible potential repetition.

⁴⁴ Scharping, Thomas, *Birth Control in China 1949-2000, Population policy and demographic development* (Routledge, New York, 2003), p.150

⁴⁵ Greenhalgh, Susan, *Science, Modernity, and the Making of China's One-Child Policy*, *Population and Development Review* 29(2) (June 2003), p.163

This chapter will seek to present how the one child policy was enforced across the entirety of China, taking note of the challenges faced in its implementation and how they were solved. It will also establish how the nation's developing governmentality had an influence on the one child policy and policy execution. The issue of the human rights violations, in particular forced abortions and sterilisations, will be addressed, most importantly why the CCP felt they were an option in the first place. By the conclusion of this chapter of the thesis we will have a better understanding of the reality of the one child policy's implementation and how and why violations occurred. By grasping the complexities of the policy's operation we may better understand the government's relationship with its population and truly approach the issue from a human rights perspective.

Firstly, we must approach the primary challenge for the execution of the program on such a massive scale: the sheer variety present in the Chinese population. From wealth to belief systems, education to population density, the differences are huge which explains why issues were present in the project's execution from the outset.

2.1 A nation 'divided as one'

We, as Westerners, are confronted with an enormous problem when addressing all aspects of the functioning of the Chinese nation: that we do not understand it⁴⁶. There is no shame in it. The reality is that China is completely unique in both its longevity and the relationship of the state with its own civilisation. The journalist Martin Jacques calls out the Western claims that the Chinese state lacks legitimacy, in part due to the lack of any democratic process seen in the West, as false arguing that China exists as arguably the most legitimate state in the modern world. The state exists as a guardian of Chinese civilisation and therefore, the population. Ninety percent of all Chinese also consider themselves as Han. While this leaves more than 100 million 'other' Chinese, the fact

⁴⁶ Jacques, Martin, *Civilization state versus nation-state*, 15th January 2011, available at www.martinjacques.com/articles/civilization-state-versus-nation-state-2/ accessed 8th July 2016

that China is comparatively less ethnically diverse than other modern nations creates more solidarity and introduces the concept of *guānxì* or a relationship that pervades the entirety of Chinese society. This togetherness, elaborated in the following chapter, has stemmed from the teachings of Confucius and Mencius, whose teachings for a long time defined the nation's system of governance and rights. It is through those teachings, espousing filial piety and discouraging individuality that created a condition in which the Chinese population were more ready to accept the implementation of one child policy.

However, as a counterbalance to this existence of a single Chinese spirit present within the entire populous, distinct differences also serve to create noticeable divisions across China. Chovanec states that 'China is a mosaic of several distinct regions, each with its own resources, dynamics, and historical character'⁴⁷. He distinguishes nine separate regions⁴⁸ each with this special sense of uniqueness⁴⁹ separating them apart from the rest of the nation he has identified the challenges present for the CCP when trying to enact any nationwide policy. It would have been impossible to have executed the one child policy in which it was applied objectively rather than subjectively for each region. For this reason alone, the policy cannot be seen in such a rigid manner as it was not applied equally across the nation.

As has been mentioned, and will be discussed again, Mao Zedong knew of the dangers of introducing a scheme at odds with the deeply set cultural norms of a society not conducive to change. When Deng Xiaoping pushed on with this project he would also have been aware of the challenges, and this is possibly why, as we shall discover, the policy was applied intermittently and in both a forced and relaxed manner throughout its existence.

⁴⁷ Chovanec, Patrick, *The Nine nations of China*, November 2009, available at www.theatlantic.com/magazine/archive/2009/11/the-nine-nations-of-china/307769/, accessed 8th July 2016

⁴⁸ Such as *The Yellowland* (Beijing, Tianjin, Shandong, Hebei, Henan, Shanxi, Shaanxi) or *The Refuge* (Sichuan, Chongqing)

⁴⁹ A shared history, language, cultural tradition, geography or economic value

Therefore when commenting on Chinese policy making and governance, we, as outsiders, must take into full account how much some practices full completely counter to what may seem logical in our own countries. The Chinese state exists as a modern phenomenon which, in my opinion, can only be understood through direct contact. It cannot be underestimated or criticised for being different. This non-conformity with Western values will be discussed in depth in the following chapter which directly addresses the human rights aspects of our topic at hand.

As for the issue of human rights violations caused directly by the one child policy, the discrepancies of its implementations must be seen as a possible reason. Jacques argument of a wholly legitimate state which commands enormous respect from its population holds true, yet a centralised government will always experience problems when trying to enact a scheme of this size. Variances in budget, training and effective leadership across China's diverse regions surely helped the spread of illicit practices. As will be later shown, the one child policy may have been employed in a certain area with negligible cases of human rights violations while in another areas, the untrained, and militaristic party officials may have experienced extreme resistance and felt coercive measures were the only solution.

Again, this is not to take away any fault due to the policy as a program which permitted and incited human rights violations. It is simply important that when researching and commenting, diligence must be paid to the varied nature of its implementation, especially when understanding why abuses occurred. Further, this approach should be applied to studying any nationwide state-enacted policy.

Now we turn to analysing the actual methods used for ensuring Chinese population growth was limited, and where and why mistakes were made.

2.2 1981-83 – The damage is done

Introduced in 1979, the one child policy supposedly began in a much less aggressive manner than it is best remembered. Rather family planning was introduced through incentives and slogans best summarised by: ‘one is best, at most two, never a third’⁵⁰. In fact initially second births were not punished in any way, just discouraged⁵¹. This is most likely because the CCP wished to establish how the Chinese population would react to the changes it hoped to enact. By agreeing to only birth one child, couples would be playing their part as ‘good party members’ and looked upon favourably. After this preliminary period the policy could be applied more fervently.

Second births became prohibited, except under extraordinary circumstances, first in urban areas in 1981 followed by rural areas in 1982. The incentives that existed before no longer applied and were replaced by tightened enforcement. It was during this period that the coercive measures that the policy is infamous for started to be used.

There are reports however that point to use of more intimidating methods from the outset. The American social scientist Stephen Mosher recounted of witnessing forced abortions during his time in China in 1979:

*‘The draconian campaign that I witnessed began by ordering young mothers to have abortions, arresting them when they refused, and incarcerating them under conditions of extreme psychological pressure. Those who still refused were physically dragged into the local medical clinic, where they were held down on the operating table while they were aborted and sterilised. Many of these women were in the third trimester of pregnancy. Indeed, some were already in labour.’*⁵²

His words conjure up horrific images of the real damage done to individuals and in turn, whole societies. Mosher’s recounting stem mostly from his time in rural China

⁵⁰ Banister, Judith, *China’s Changing Population* (Stanford University Press, Stanford, 1987)

⁵¹ Ibid.; Croll, Elisabeth, *Introduction: Fertility norms and family size in China*, in Croll, Elisabeth, Davin, Delia, and Kane, Penny (eds.), *China’s One-Child Family Policy* (St. Martin’s Press, New York, 1985), pp.1-36

⁵² Mosher, S., *A mother’s ordeal: one woman’s fights against China’s one-child policy* (Harcourt Brace Jovanovich, New York, 1993)

conducting anthropological research. The publications he later made based on his experiences caused him to be expelled from his PhD program at Stanford University due to the critical content and pressure from the Chinese government. In fact, the surrounding affair led to added restrictions placed upon American anthropologists wishing to conduct research within China.

Mei Fong, the Pulitzer Prize winning Malaysian Chinese journalist, has also documented the practices of party officials during the policy's first years:

*'In the beginning, execution of the one-child policy ranged from lax to excessive across China. In some parts of the country, pregnant women without birth permits were marched off in handcuffs to undergo forced abortions.'*⁵³

Mei's description of the early implementation methods are in line with Mosher's. This confliction in the tale of the one child policy's evolution is worrying yet understandable. What is worrying is that even in conditions in which no punishment was prescribed for having more than one birth forced abortions and sterilisations were being enforced. What is understandable is, as has been aforementioned, that instances like this would occur in such a vast nation where overseeing the universal application of the policy is nearly impossible. The most important thing to question though is whether these really were instances, or a common practice encouraged by party cadres. Mosher's primary source research was limited to, for the majority, Guangdong province in the south of China, whilst Mei's research occurred much later, mainly in rural areas of the country. Being able to accurately account for practices across the entirety of the country is a very difficult thing to do.

In addition, where commentators have been able to gain access to the relevant information, we must be careful in assessing the resultant observations' reliability. As expressed in the Mosher incident, the Chinese government, even in the 1980s, had the

⁵³ Mei, Fong, *Sterilization, abortion, fines: How China brutally enforced its one-child policy* (New York Post, 3rd January 2016), available at www.nypost.com/2016/01/03/how-chinas-pregnancy-police-brutally-enforced-the-one-child-policy/ accessed 9th July 2016

leverage to prevent too much international intrusion into their domestic matters. This is a problem as foreign scholars provide a useful counter-balance to the Chinese perspective. The existence of coercive measures used in the implementation of the one child policy is known by the Chinese, but is rarely acknowledged.

Nevertheless, there is enough evidence of the widespread use of coercive methods during this early period. The most likely reasoning for their use is because of the desire to swiftly enact change upon what would turn out to be a less than receptive society. To truly gauge the scale in which abortions, IUDs and sterilisation was used, see Graph 1 in the appendices section.

2.2.1 Initial resistance

The relationship between the Chinese state and its population is a key matter in this chapter and thesis on the whole. China may have the one of most politically legitimate government in the world in that its word is for the most part unquestioned the public but this is changing as the country modernises – you only have to spend five minutes on the social media website *weibo* to notice this. However, continued censorship, bans on public gatherings and rallies and a one-party system represent the very large barriers to this change.

Norah Lewis echoes Jacques' commentary by stating: 'one must understand the facility of the Chinese people to accept each new policy and change in policy as it occurs. Whether the Chinese people agree with each new policy is a moot point, for they know that governmental policies are absolute, inflexible, and that implementation is certain⁵⁴.'

However, through additional research regarding the initial popularity of the policy it seems that Lewis' arguments may not represent the absolute truth. In fact, the studies into the subject by both Mei and Greenhalgh indicate the CCP's concern over the

⁵⁴ Lewis, Norah L., *Implementing Social Change: China and the One Child Policy*, International Review of Modern Sociology 17(2), Autumn 1987, p.241

policy's implementation chiefly because of the public's opposition. Firstly, there would be difficulties over enforcement due to how unpopular the policy was⁵⁵. In addition, there was a major risk of expenditure of capital if resistance lasted for a long time⁵⁶.

There is no doubt that the policy's reception would have contrasted widely across the nation depending on certain factors. Most obviously, those rural folk who rely on the next generations for financial reasons in the absence of an effective social security system would have been outraged. Those who could support themselves or had already been successfully urbanised (*see chapter five*) would not have felt so wronged. Yet ultimately, the question asked of the population by the government was whether they could rapidly change their family-planning tendencies which were so entwined with Chinese culture. For many that answer was no.

The reality is that the government was forced to change their approach as early as 1984 due to growing civil opposition to the policy.

2.3 Central Document 7: Relaxation then Re-enforcement

In 1984 the CCP made a slight u-turn by issuing Central Document 7 which altered the way in which the policy functioned across China⁵⁷. This is partly due to the opposition the initial form of the one child policy received but mostly to incorporate the varied nature of China's societal landscape, as hinted at in previous sections.

Conditions changed allowing more couples to have a second birth⁵⁸, while, as Susan Short and Zhai Fengying allude to, Document 7 also looked to the development of

⁵⁵ Mei, Fong, *Sterilization, abortion, fines: How China brutally enforced its 1-child policy* (New York Post, 3rd January 2016), available at www.nypost.com/2016/01/03/how-chinas-pregnancy-police-brutally-enforced-the-one-child-policy/ accessed 9th July 2016

⁵⁶ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.320

⁵⁷ Short, Susan E. and Zhai Fengying, *Looking Locally at China's One-Child Policy*, *Studies in Family Planning*, Volume 29(4), 1998, p.374

⁵⁸ Greenhalgh, Susan, *Shifts in China's population policy, 1984-1986: Views from the central, provincial, and local levels*, *Population and Development Review* 12(3), pp.491-515; Hardee-Cleaveland, Karen, and

separate policies to suit regional needs⁵⁹. Mei believes that this regionalisation of the policy made it confusing for most as conditions were so varied⁶⁰. In short, while the CCP initiated the program, the one child policy's implementation, including the benefits and penalties, was made official by local governments⁶¹.

There was also an effort to induce more accountability throughout the party hierarchy with the introduction of what was known as the family planning responsibility system. On the surface, more accountability may seem like a worthy cause yet it only created conditions suited for corruption and malpractice. To be a party cadre, even at a very local level, was a good job. To be given the task to meet certain quotas added further pressure and created situations in which these officials would do anything to succeed including allowing coercive measures.

Mei argues Document 7 failed to remedy the lack of accountability inherent in the system. In fact, because of the huge discrepancies in the system and the confusion this caused, local officials now had the freedom to issue fines of varying amounts⁶². This was again in an effort to meet their birth quotas. For the Chinese citizen, there was no way of knowing if the levied out fines were correct or not.

The importance in gender was also addressed by the early reforms of the one child policy. In particular, rural societies where 'son hunger' was most rampant were allowed greater freedom to have more than one child. Many communities adopted a policy in

Judith Banister, *Family Planning in China: Recent Trends*, Washington D.C., Center For International Research, United States Bureau of the Census (1988)

⁵⁹ Short, Susan E. and Zhai Fengying, *Looking Locally at China's One-Child Policy*, Studies in Family Planning, Volume 29(4), 1998, p.374

⁶⁰ Mei, Fong, *Sterilization, abortion, fines: How China brutally enforced its 1-child policy* (New York Post, 3rd January 2016), available at www.nypost.com/2016/01/03/how-chinas-pregnancy-police-brutally-enforced-the-one-child-policy/ accessed 9th July 2016

⁶¹ Liao, Pei-Ju, *The one-child policy: a macroeconomic analysis*, Journal of Development Economics, Volume 101, 2013, p.50

⁶² Mei, Fong, *Sterilization, abortion, fines: How China brutally enforced its 1-child policy* (New York Post, 3rd January 2016), available at www.nypost.com/2016/01/03/how-chinas-pregnancy-police-brutally-enforced-the-one-child-policy/ accessed 9th July 2016

which a couple may have another child on the grounds that the first was a girl⁶³. This problem of the gender balance in China will rear its ugly head in later chapters.

Ultimately, due to the liberalisation and easing of government policy during the mid to late 1980s, rural fertility increased during this time. This could only mean one thing: that the policy had not done enough to supplant the existing cultural norms surrounding family planning in rural China. As a result, the CCP felt stricter enforcement was again necessary in the following decade⁶⁴. As a result, by 1993, the year chosen to end this section's narrative, the total fertility rate (TFR) had reached a low of 1.9 children per woman of reproductive age. This is below the replacement level of 2.1 needed to ensure that the following generations are as populous than those preceding. This sub-replacement fertility (and the continued decline) would cause many of the problems seen to today, and discussed in later chapters.

The reason that the implementation narrative ends in 1993 is because this is the agreed point in which the government under Jiang Zemin changed targets from limiting the quantity of the Chinese population to raising its quality⁶⁵. The policy continued to function right up until its abolition on 1st January 2016 but it had become an altogether different animal more than twenty years prior. This thesis is focussed on the human rights violations caused by the one child policy and the changing nature of the population's relationship with its government, or simply the balance between individual and collective rights. Fundamentally by removing individual couples' ability to plan their own families the policy violates their human rights, and this was true until 2016 and is even true now with the adoption of a 'two' child policy. The strict violations brought about by coercive measures still continued, although at a decreased rate, right up until the policy's final days. Li Yan's harrowing description of a woman forced to

⁶³ Zeng, Yi, *Is the Chinese family planning program 'tightening up'?*, Population and Development Review 15(2), 1989, pp.333-337

⁶⁴ Short, Susan E. and Zhai Fengying, *Looking Locally at China's One-Child Policy*, Studies in Family Planning, Volume 29(4), 1998, p.375

⁶⁵ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.2

abort her baby at seven month's gestation in 2012 are a testament to this⁶⁶. But the fact remains that the reasons why these violations have and do occur were formulated in the policy's early years. However, before addressing these reasons it is first important to understand what punishments were entailed in the one child policy's functioning and how they may have affected Chinese society.

2.4 Incentives, Disincentives, and Coercive Measures

An interesting aspect of the development of the one child policy is the evolution of the measures used for inducing change in the fertility trends of the Chinese population. As has already been alluded to, the policy was introduced moulded by certain incentives and disincentives. Supposedly the coercive measures that are so infamous would become the norm later, although as we have learned in the previous section, there are examples of their usage earlier.

It must be noted however, that while the utilisation of a 'soft' approach which advocates incentives and disincentives may seem to be the less harsh method when compared with forced abortions and sterilisations, many of the penalties introduced would serve to destroy the livelihoods of many couples and in turn the futures of their children. The details of these courses of action and their repercussions will be discussed now.

2.4.1 Incentives

Couples wishing to adhere to the one-child policy's restrictions were asked to sign a pledge signifying so. These certificates were a source of various benefits. These included but were not limited to cash or health subsidies, better housing, or even increased food rations⁶⁷. Unfortunately the best source for information regarding the

⁶⁶ Li, Yan, *Reflections on the causes of forced abortion in China*, The Lancet 380, 9844, 1st September 2012, p.804

⁶⁷ Croll, Elisabeth, *Introduction: Fertility norms and family size in China*, in Croll, Elisabeth, Davin, Delia, and Kane, Penny (eds.), *China's One-Child Family Policy* (St. Martin's Press, New York, 1985), pp.1-36; Hardee-Cleaveland, Karen, and Judith Banister, *Family Planning in China: Recent Trends*, Washington D.C., Center For International Research, United States Bureau of the Census (1988)

implementation of the one child policy, the China Health and Nutrition Survey (CHNS), does not provide statistics for those receiving these certificates but rather the benefits received. By far the most popular of these benefits is the cash subsidy which, from 1989-93, was employed by two-thirds of all communities both rural and urban⁶⁸.

Additional incentives provided for limiting births included the provision of only children to preferential education, job placement, or priority placement in gaining public child care, although these measures were more prevalent in urban areas⁶⁹.

The implications of these incentives are important to consider from an objective point of view. Arguably, these inducements place the individual citizen in a position where they must choose to limit their reproductive rights in order to gain a chance to better their child's right to education, and their right to work and right to housing⁷⁰. This is a terrible dilemma and proves that even though these soft measures seem at first glance to be a better alternative to the hard measures of abortion and sterilisation, the limitation of individual rights is much the same. The incentives become all the more powerful when applied to those in need of these advantages most.

2.4.2 Disincentives

Fines imposed by party cadres were the most common form of disincentives. This, as has been explained previously, was problematic due to difficulties interpreting people's

⁶⁸ Short, Susan E. and Zhai Fengying, *Looking Locally at China's One-Child Policy*, Studies in Family Planning, Volume 29(4), 1998, p.378

⁶⁹ Wang, Feng, *A decade of the one-child policy: Achievements and implications* in Goldstein, Alice, and Wang, Feng (eds.), *China: The Many Facets of Demographic Change* (Westview Press, Boulder, 1996), pp.97-120

⁷⁰ Reproductive rights highlighted in Art. 16, Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1979; Right to education highlighted in Art. 26, Universal Declaration of Human Rights (UDHR), 1949, and Arts. 13 and 14, International Covenant on Economic, Social and Cultural Rights (ICESC), 1966; Right to work highlighted in Art. 23, UDHR, 1948, and Art. 6, ICESC, 1966; and Right to housing highlighted in Art.25, UDHR, 1949 and Art.11, ICESC, 1966.

respective liabilities⁷¹. However, no matter the location the fines were likely to be substantial. They also had a tendency to increase over time. Over the duration of Short's period of research the median fine doubled from 1989 to 1991 and further increased by 800 yuan in rural areas and 500 yuan in urban areas by 1993⁷². To get a better understanding of how debilitating these fines were, fines in 1989 were around thirty percent of the median household income per year increasing to fifty percent in 1991 and 1993⁷³. This is an outstanding amount for a nation still in the midst of developing. Short does note however that these fines were merely noted. They may not have been levied and collected.

As a direct comparison with the cash subsidies meted out for willing adherents to the one child policy, the received amount was fifty times less than the fined amount for refusal to obey. Again, this remarkable difference shows why there is argument for disincentives playing the strongest part in bringing about social change.

Fines were not the only disincentive and arguably not the most serious nor most widely employed. Any additional child born could potentially be difficult to officially register. By labelling the child as 'out of plan' their futures were made exponentially harder with the registration needed to secure proper healthcare and education withheld. In addition, their families would miss out on the additional food subsidies or land entitlements that would have been previously expected by adding another family member⁷⁴.

Thus, it is clear how serious this particular disincentive was and how, again, citizens were forced to abandon their individual rights to plan their own families in order to protect other inherent rights. It is important to also stress that this registration

⁷¹ Mei, Fong, *Sterilization, abortion, fines: How China brutally enforced its 1-child policy* (New York Post, 3rd January 2016), available at www.nypost.com/2016/01/03/how-chinas-pregnancy-police-brutally-enforced-the-one-child-policy/ accessed 9th July 2016

⁷² Short, Susan E. and Zhai Fengying, *Looking Locally at China's One-Child Policy*, Studies in Family Planning, Volume 29(4), 1998, p.380

⁷³ Ibid., p.380, using CHNS data

⁷⁴ Ibid., p.379

prevention was commonplace, being applied in around 76 percent of all communities across China.

There is an additional distinction to be made when addressing the incentive and disincentive system. Again, in conjunction with the fact that China is a complex country, its regions separated by languages, customs, and practices, the penalties were also administered differently. A two-category system emerged in which some regions administered their measures in a strong manner and others in a weak way. Strong, where the most restrictions were applied, and weak, where either all couples were allowed two children, or just those couples whose first child was female⁷⁵.

In strong implementation regions the fines were higher, but as were the chances of being offered cash and health subsidies. The opposite was true for those existing at the weak end of the policy employment spectrum.

In summation, when observing the patterns displayed across China during this period it is obvious where the one child policy's persuasive power lay. The fact that in a ten year period from 1979 only 22 percent of the Hebei population accepted one-child certificates, and of this number 20 percent later relinquished them, just shows one aspect of how the incentives fell flat. In actuality, as the material benefits given by the state for only having one child were simply not enough relative to household income⁷⁶. Short also argues that the countrywide shift from collective to family production meant that local party cadres were left with limited funds with which to work with⁷⁷.

Disincentives proved to be the best way to maintain a responsive population as the CHNS data suggests with the vast majority of communities levying fines on whoever violated the one child policy. This approach would take a nasty turn in cases where

⁷⁵ Scharping, Thomas, *Birth Control in China 1949-2000, Population policy and demographic development* (Routledge, New York, 2003), pp.98-99

⁷⁶ Li, Jiali, *China's family planning program: How, and how well has it worked? A case study of Hebei province, 1979-88*, *Population Research and Policy Review* 12(3), pp.277-96

⁷⁷ Short, Susan E. and Zhai Fengying, *Looking Locally at China's One-Child Policy*, *Studies in Family Planning*, Volume 29(4), 1998, p.383

individuals were not able to pay the fine. In these instances the now infamous spate of forced abortions and sterilisations would occur.

2.4.3 Coercive Measures

We have already covered the practice of forced abortions and sterilisations during this chapter yet we must be able to understand how these seemingly unsanctioned methods of coercion occurred and related to the previously covered system of incentives and disincentives.

According to Xinhua, the official Chinese news agency, the practice of forced abortions is strictly prohibited by Chinese law. Yet there have been reports from the time of the policy's inception until now indicating its usage. These stories are not limited to the western media either as accounts have often circulated popular social media platforms in China such as Weibo. One such example is the suspension of three local family planning officials from Shaanxi province who, in 2012, forced a seven-month pregnant Feng Jianmei into having an abortion. This was in reaction to Feng and her husband's inability to pay a fine equivalent to 6,300 US dollars for violating the one child policy⁷⁸.

This story is an excellent representation of the issues surrounding the usage of coercive measures when implementing the one child policy. Firstly, it shows that right up until the twilight of the policy's lifespan forced abortions were still an issue. There are numerous examples of this to be true. Secondly, it gives a good indication of why these measures were being implemented – because of the inability of citizens to pay the fines in place. Finally, it shows who has the power to enforce these remedies – the party cadres.

The last two points are particularly important as they give weight to the argument that much of the human rights violations that occurred were as a result of a confusing system

⁷⁸ Barboza, David, *China Suspends Family Planning Workers After Forced Abortion*, The New York Times, 15th June 2012, available at <http://www.nytimes.com/2012/06/16/world/asia/china-suspends-family-planning-workers-after-forced-abortion.html> accessed 17th July 2016

‘frequently obscured by the use of euphemisms and apparently innocuous abstractions that presumably convey specific messages⁷⁹’. This, in conjunction with the untrained and increasingly militaristic party officials who decided which channels to take in their respective regions, led to a one child policy that did not advocate the use of forced abortions and sterilisations but created an environment in which they could be used freely.

There still remains for the foreign or even domestic observer great difficulties in ascertaining exactly to what extent coercive measures have been implemented. This difficulties will be presented next.

2.4.4 Semantics of the one child policy’s enforcement

John S. Aird looks further into the euphemisms that pervaded the one child policy’s imposition. For example, he believes ‘remedial measures’ was easily inferred as meaning mandatory abortions due to the fact that ‘remedies’ are advocated for women who attempt to violate the policy’s rules⁸⁰. Local leaders were also told to ‘grasp firmly’ or ‘get a good grasp of’ family planning work. This may seem harmless on first glance, but when placed in the context of ‘We must get a good grasp of family planning and strictly control population growth’⁸¹, it is easy to understand how it is a promotion of coercive tactics. An additional example of the issue of semantics that Aird provides is the use of ‘Technical services’⁸² which could be construed as meaning birth control surgeries – IUD insertions, abortions and sterilisations.⁸³

⁷⁹ Aird, John S., *Slaughter of the Innocents – Coercive Birth Control in China* (The AEI Press, Washington D.C., 1990), p. 12

⁸⁰ Ibid. p.12. He gives examples being: ‘Energetically stress remedial measures for unscheduled pregnancies,’ (Haikou radio, Hainan Island Service, 14th April 1987, Foreign Broadcast Information Service (FBIS), 22nd April 1987, p. P2) and ‘Above plan pregnancies must be discovered and remedied early...’ (Zhong Kan, ‘On Sichuan’s Current Population Trends,’ Sichuan ribao [Sichuan Daily], Chengdu, 22nd December 1988, Joint Publication Research Service (JPRS), No. 89-106, 27th February 1989, p.37)

⁸¹ Chengdu radio, Sichuan Provincial Service, 13th April 1989, FBIS, No.71, 14th April 1989, p.47

⁸² Aird, John S., *Slaughter of the Innocents – Coercive Birth Control in China* (The AEI Press, Washington D.C., 1990), p. 12

⁸³ For example, ‘Providing good technical services is another important aspect of developing good family planning. [Fewer] birth control measures were used and a lot less birth control operations were performed

The complexities of Mandarin Chinese can also lead to hidden meanings concealed behind party messages. A perfect instance of this occurrence is the usage of the word ‘advocate’. When foreigners observe that official policy ‘advocates’ that each couple has only child, they are quickly reminded of the subtleties of the language. Chinese spokesmen are keen to express that in this instance advocate does not mean require. However, an advisor to the State Council on population matters, Ma Bin, identified the Chinese translation of advocate, ‘*tíchàng*’, as also encompassing ‘ideological mobilisation, economic measures, and rewards and punishments’ to be then ‘supplemented with administrative measures’⁸⁴, with ‘administrative measures’ being a further euphemism for the application of bureaucratic power at a grassroots level. It is easy to see then how statements of party policy can be misconstrued and allow for the use of coercive measures even without explicit mention of them.

2.4.5 Reliability Issues

The best instances in which the use of coercive measures has been confirmed are from eyewitness accounts. The previous examples and accounts such as Steven Mosher’s *A Mother’s Ordeal* are testament to this and fill in the gaps of foreign study on the subject. Unfortunately, and unsurprisingly, publications from Chinese authors or even Chinese-based foreign authors are flaky at best in their reliability.

Most available Chinese publications in English are designed to sway public opinion. This means that the previous statement by Xinhua in which forced abortions were declared to be prohibited can be read with a slightly sceptical approach. Xinhua, the

in 1988 and, if attention is not paid to solving this problem, above-plan pregnancies may increase in 1989... The technical policy of ‘IUDs first and tying tubes second’ must be carried out well... and technical services should be provided before and not after pregnancies occur.’ (Zhong Kan, ‘On Sichuan’s Current Population Trends’)

⁸⁴ Bin, Ma, *Wei shixian ben shiji zhongguo renkou kongzhi mubiao bixu wending tichang yidui fufu zhi sheng yige haizi de zhengce* (To Realise China’s Population Control Target in This Century, the Policy of Advocating One Child Per Couple Must Be Stabilised), in *Lun zhongguo renkoyu wenti – renkou zhanlue renkou guihua renkou zhengce* (On China’s Population Problems – Population Strategy, Population Planning, and Population Policy) (Zhongguo guoji guangbo chubanshe, Beijing, 1987), pp.25-34

chief mouthpiece of the CCP, has a tendency to omit information that might damage the one child policy's reputation in the outside world⁸⁵. This scepticism can also be applied when considering *China Daily*, *Beijing Review* and *China Today*, three journals published in English which have a habit of censoring important material at odds with party lines.

Aird accuses statements made by Chinese officials to foreign audiences as being least credible source of information regarding the implementation of the one child policy. Most notable are statements made by Qian Xinzong, Wang Wei, and Peng Peiyun, who have been heads of the State Family Planning Commission (SFPC) at certain times. Qian in 1983 was quoted as saying 'We don't advocate abortions, let alone force people to accept this method,'⁸⁶ whilst the following year Wang assured the audience at an international population conference that abortion was 'permitted on condition that it is voluntary and safe technical measures are taken'.⁸⁷ Peng, in a 1989 interview with the *Washington Post* stated 'We encourage couples to have one child, but it is not a must'. However, in a previous article she had reaffirmed her intention to 'strictly implement the policy and allow no variations or exceptions' accompanied by a warning that 'legal punishments will be meted out to... family planning offenders'.⁸⁸ In all instances these statements appear to be dishonest and untrue highlighting the severe lack of credibility scholars or even foreign observers can place on representatives of the one child policy.

It must seem all the more remarkable for the victims of the one child policy that the government continued to tell the rest of the world how the Chinese population fully supported the program. Opinion polls have shown this not to be true as did the reactionary rise of birth rates once the policy was eased during the mid-1980s. Aird

⁸⁵ Aird, John S., *Slaughter of the Innocents – Coercive Birth Control in China* (The AEI Press, Washington D.C., 1990), p. 13

⁸⁶ Gupte, Pranay, *The Crowded Earth* (W. W. Norton and Company, New York, 1984), p.156

⁸⁷ *Abortion a Woman's Rights – Minister*, China Daily, 31st July 1984, p.1, and *Population Policies Explained at Forum*, China Daily, 9th August 1984, p.1

⁸⁸ *Minister Warns of 'Legal Punishment' for Family Planning Offenders*, Xinhua, Beijing, 23rd February 1989

makes clear the contradiction present by citing the following statement made by Peng at the 1988 Sixth National Women's Congress:

'The implementation of family planning must be based on the principle of combining state guidance with the willingness of the masses. We should realise that there is still a gap between China's current family planning policy and the wishes of the masses on childbirth... Propaganda and education must be put in first place to enable the foundation of family planning to be laid in voluntary action on the part of the masses.'⁸⁹

Of course this 'principle' was hardly a reality at the time Peng spoke and it was not until after decades of abuse and continual propaganda that the population's 'willingness' matched the government's target. This is in direct opposition to the values of freedom of choice and self-determination central to a nation with a functional rule of law abiding by the spirit of human rights.

The human rights side to the coercive measures caused through the one child policy's implementation will be discussed in the following chapter. The next section will look in depth at how the dynamics in policy advocated the use of these measures and how the program evolved along with changes in Chinese governmentality.

2.5 Shifts in Governmentality

The lifespan of the one child policy has effectively given observers a clear indication of when and how the Chinese government's relationship with its population evolved. The way in which the policy was implemented is a good reflection of the changing nature of this association. Susan Greenhalgh has devoted an entire book to the study of this phenomenon and how the notion of 'biopower' emerged as a driver of governmental strategy. This concept will be expanded upon later.

⁸⁹ Peng, Peiyun, *Zuohao jihua shengyu gongzuo tuijin funu jiefang shiye* (Do Family Planning Work Well to Push Forward the Liberation of Women), *Zhongguo renkou bao* (China Population Journal), Beijing, 12th September 1988, p.1

Firstly, we must identify the time in which the CCP's approach to state governance changed and what this meant for the implementation of the one child policy. Once establishing this we may theorise how the path that China's government is taking may influence future family-planning decisions.

Broadly speaking, China has existed chiefly under the guise of Leninism, although the form of Leninism being applied has altered as the country has developed. Initially the nation operated under the auspice of Maoism, a broadly totalitarian system in which the party dominated all aspects of the nation's political life⁹⁰. It was well-suited to the war-torn China of pre-1949 in which scattered forces were united through matching ideologies with a minimal amount of bureaucracy⁹¹.

After 1949 a more Stalinist approach was adopted in which centralisation was sought after in addition to the development of a technocratic bureaucracy.

Reformism was the next stage in the evolution of Chinese governmental approaches. It attempted to fill in the gaps left by the previous Maoist and Stalinist regimes by applying 'advanced Western experience' with the ultimate aim of modernisation.

It appears that the birth-planning program lagged behind the progression that took place in all other areas of Chinese governance. What is meant by this is that during the one child policy's initial development the Maoist and Stalinist ideals being applied in other areas, such as the economy, was only applied intermittently by Mao to birth planning. As aforementioned this is largely due to his worries about a population not receptive to rapid cultural change and because of the major interruptions caused by the Great Leap Forward and the Cultural Revolution. It was only when Deng Xiaoping took power that a harder approach was finally applied to the area of population control. Of course, Deng was the chief instigator of political and economic reform in China, once again leaving

⁹⁰ Goldman, Merle, *Citizens' Struggles in China's Post-Mao Era*, International Journal of China Studies, Volume 3(3), December 2012, p.272

⁹¹ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.8

the one child policy trailing behind until the Jiang era when it finally received its own dose of reform.

The ultimate form of Chinese governance has been the emergence of a form of hybrid Neoliberalism mixing the freedoms of a market economy with continued state intervention. However, within this political realm state intervention is intended to be as limited as possible with an understanding and respect for the complexities and autonomy of the subsystems that exist in Chinese society. This time, the one child policy was included in the overall overhaul of the government approach resulting in the program's termination in January 2016. Typical reflection of the application of Neoliberal ideals has been the gradual increased responsibility placed upon separate communities, families and even individuals⁹². This, however, may not be an altogether good thing as will be discovered in the following subsection.

2.5.1 The Relationship between Governmentality and Implementation

The biggest criticism of the one child policy by foreign observers has been the vast number of human rights violations that have occurred and allowed since its inception. It is my opinion that the manner in which the policy operates is a big reason for these abuses.

As stated previously, after the 'soft' advocacy of couples practicing birth control that had existed previous to the one child policy's inception came increasingly 'hard' enforcement. This new direction which abandoned methods of education and encouragement in favour of propaganda and coercion needed a deeply structured administration to ensure the program operated effectively. Functioning within a Leninist framework family-planning was institutionalised from the top down. To summarise the extent to which the web of administration existed, it was estimated that in 2005 over half a million staff were directly involved in the operation of the one child policy at the

⁹² Ibid, p.9

township level and above, in addition to the 1.2 million village administrators and 6 million ‘group leaders’⁹³.

The formation of this hierarchy was fundamental in the inner-workings of the early one child policy. It meant that the state was able to maintain a connection with society in the form of community cadres. Unfortunately, it is my opinion that it is this importance placed on the grassroot-level officials that led to the extreme desecration of the Chinese people’s rights.

Simply put, too much power was placed in the hands of the community cadres who lacked the training and education to implement the one child policy humanely. As Greenhalgh states:

‘Ideologically, birth work has always included educating cadres as well as masses. Organisationally, the main problem for birth planning has been securing the financing for local personnel and services and training the personnel to deliver those services to communities.’⁹⁴

This is the principal issue that faces implementation of the one child policy – the actions of the local officials. As the central government under Deng did away with the Maoist principles that preceded it and turned a large amount of rural activities over to the private sector, rural services continued to be underfunded. This was unfortunate as the aforementioned educating and training of local cadres that needed to be applied to ensure the effective and fair execution of the family-planning program was lacking.

In addition the move away from Maoist ideals meant that the CCP no longer had the same leverage over the one child policy’s implementation as it once commanded⁹⁵. The

⁹³ Basten, Stuart, *Why scrapping the one-child policy will do little to change China’s population*, theconversation.com, available at <http://theconversation.com/why-scrapping-the-one-child-policy-will-do-little-to-change-chinas-population-49982>, accessed 16th July 2016

⁹⁴ Greenhalgh, Susan and Winckler, Edwin A., *Governing China’s Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.51

⁹⁵ *Ibid.*, p.51

application of incentives, disincentives and coercive measures was the prerogative of these grassroot-level officials. There exists in modern day China a useful comparison providing us an example of how untrained officials can lead to increased problems.

2.5.2 Comparing abuses – the Chinese para-police

The ‘*chéngguǎn*’, an agency in charge of enforcement of urban management in individual cities draws certain parallels with the community cadres in charge of local one child policy implementation. The ‘*chéngshì guǎnlǐ háng zhèng zhífǎ jú*’ (Urban Administrative and Law Enforcement Bureau) was established in 1997 (although some sources place the date later in 2001) in an attempt to improve municipal governance yet has come under great criticism for the way in which it operates. The lack of sufficient training and militarisation of the agency has meant that it has continually abused the power bestowed upon it.

In 2008, Wei Wenhua, the manager of a construction company in Tianmen City, Hubei, was beaten to death for filming a local dispute involving the *chéngguǎn*⁹⁶. Human Rights Watch released a report in 2012 documenting the agency’s abuses⁹⁷. The report lists a vast number of abuses suffered by the Chinese people as a direct result of these officials’ actions. It also identifies attempts made by the central government to improve the organisations ‘comprehensive set of qualities’⁹⁸. To exacerbate the issue, there have been reports of agency officers attacking Chinese police officers indicating a severe problem in the way police enforcement functions in the country⁹⁹.

⁹⁶ Yang, Lifei, *Family of man beaten to death appeals for compensation*, Shanghai Daily Online Edition, 14th November 2008, see <http://www.shanghaidaily.com/news/20081114/380643> accessed 18th July 2016

⁹⁷ Human Rights Watch, *Beat Him, Take Everything Away – Abuses by China’s Chengguan Para-Police*

⁹⁸ Xu Fan, *Officials to be enlightened by philosophy*, China Daily, 19th April 2010, available at www.chinadaily.com.cn/china/2008/03/content_13044144.htm accessed 18th July 2016

⁹⁹ Xinhua news agency, *Henan suiping chengguan weigong jingcha, cheng jingcha ganyu chengguan zhifa*, (Chengguan attack police in Suiping, Henan because of police intervention in chengguan’s law enforcement), Renmin Ribao (People’s Daily), 4th November 2011, available at http://news.xinhuanet.com/society/2011-11/04/c_111144601.htm (in Chinese) accessed 18th July 2016

In fact, due to continued abuses committed by the *chéngguǎn*, the Chinese people have chosen to satirise the issue, now adapting their lexicon to include *chéngguǎn* as the meaning for ‘terrorise’ or ‘bully’¹⁰⁰.

The actions of this local law enforcement agency have a certain similarity with the actions of the one-child policy’s local cadres. The discretion given to both agencies in implementation of law and national policy heightens the chances of abuse of power. Without increased training, education, supervision, and transparency, violations were always going to occur.

It is arguable then that once power was displaced from the CCP to the local officials the ability to prevent human rights abuses occurring was tempered. There may be truth in claims that the party leaders never wished coercive measures to be used after the policy’s reforms in the early nineties, but by that time the sheer number of cadres in circulation and the lack of education and training afforded to them meant that forced abortions and sterilisations would continue unabated.

2.5.3 Adopting Neoliberalism through a Biopolitical Lens

The conditions created by the evolving governmentality of the CCP and their reform of the one child policy allowed for the continuation of human rights violations. But for many, the successful evolution from Maoist and Leninist application to Neoliberalism and reduced government intervention is the one child policy’s greatest achievement. The statistics covering desired family sizes that are covered in later chapters allude to a population that can regulate itself. As a result, Neoliberal doctrine can be applied to family planning.

This is the final stage occurring in the French philosopher Michel Foucault’s notion of biopolitical ‘governmentalisation’ and ‘biopower’. His opinion places state power

¹⁰⁰ Ramzy, Austin, *Above the Law: China’s Daily Law-Enforcement Officers*, time.com, Beijing, 21st May 2009, available at <http://content.time.com/time/world/article/0,8599,1899773,00.html> accessed 18th July 2016

above both the physical and political bodies of a population. China and the one child policy represent a perfect example of Foucault's biopolitics in play with the policy acting as a control apparatus exerted over an entire population¹⁰¹. In fact, he directly mentions controlling a nation's fertility rate as an example of biopolitical control when initially theorising the concept in 1976¹⁰². For Foucault using biopower, by controlling a population through discipline, individuals will gradually acquiesce to state expectations allowing the emergence of a modern state and capitalism¹⁰³.

Greenhalgh adapts Foucault's theory to explain how China's approach to government has changed in the last four decades. Initially China implemented its policies in a manner more akin to early Leninism. Applying Foucault's theories, this includes the intervention by the 'government' in a purely conventional sense¹⁰⁴. Mao had originally applied this method of 'governmentalisation' by instating Soviet techniques for economic reform. Deng would then adopt these techniques for the implementation of the one child policy. What is more widely known as 'neoliberalism' was born from Jiang Zemin's decision to reform the birth planning policy in reaction to increasing 'dǎi jiā' (side costs) of the scheme. We must remember, however, that Chinese neoliberalism still exists within the Leninist spectrum alluded to previously. Here, democracy and human development, two pillars of neoliberal doctrine, must battle with the Chinese Leninist approach of centralism and development. Neoliberalism in this context is much removed from what western observers are used to.

Perhaps the biggest indicator of China's transformation and the rise of biopolitics has been the decision to focus on the quality of the population rather than quantity. The rise of consumerism tied with the self-regulation of the Chinese populous has made the

¹⁰¹ Foucault, Michel, *The History of Sexuality* (Vol.1) (Vintage, New York, 1990)

¹⁰² Foucault, Michel, *Society Must Be Defended: Lectures at the Collège de France, 1975-76* (St. Martin's Press, New York, 1976), p.243

¹⁰³ Policante, Amedeo, *War Against Biopower – Timely Reflections on an Historicist Foucault*, Theory & Event, Vol.13, Issue 1, 2010

¹⁰⁴ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.4

country an altogether more modern state ready for participation in the global marketplace and making an impact on the global stage¹⁰⁵.

The idea that the Chinese population will now self-regulate even in the absence of the constraints of the one child policy is to a certain extent true. As will be covered in a later chapter, the individual Chinese citizen seemingly is used to the idea of birthing less children. Yet, as the previous sections have shown, coercive methods akin to a previous form of governmentality have continued to be applied to dissidents. This suggests that while China has ostensibly shifted into the realm of Neoliberalism, deeper inspection reveals the old methods still in practice.

A final and decisive indicator of the CCP's absolute desire for fertility change was the passing of the one child policy officially into Chinese law through the 2001 Population and Family Planning Law¹⁰⁶. An often overlooked fact is that it did take until the 21st century for the policy to transfer into law and considering how effective it had been up until that point, it is arguably this step never needed to be taken. Nevertheless, this is a clear indication of the government's continued devotion to the project.

The reality is that the coercive methods best suited to the early years of the policy's implementation have been the driving factor behind the China's biopolitical evolution towards Neoliberalism. In a peculiar way therefore, these self-regulating Chinese citizens are enjoying a kind of 'regulated freedom' defined by years of state practices, despicable acts of human rights violations and propaganda. As Greenhalgh states:

'The reproductive self-discipline of the contemporary Chinese, then, is not freedom in the sense of autonomy or 'natural liberty'. Instead it is an artefact of numerous 'practices of liberty' embedded in systems of domination'¹⁰⁷.

¹⁰⁵ Ibid., p.321

¹⁰⁶ *Population and Family Planning Law of the People's Republic of China, 2001*, available at http://www.china.org.cn/china/2010-09/25/content_21001026.htm, accessed 24th July 2016

¹⁰⁷ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.326

This statement provides a perfect analysis of the current relationship between citizen and state in China. The average Chinese citizen is aware of the constraints on their liberty but accepts them as opposed to the western belief that we exist in liberal societies only to be shocked to find out this may not be the entire truth¹⁰⁸. As a result, the one child policy and its role in advancing the relationship between population and state may have set the foundation for China's ascension to the modern global stage. At least from a Foucauldian perspective, it was necessary in achieving modernisation, and for the CCP, the emergence of a population aware of the limitations placed on its freedoms but with the capacity to self-regulate may be the best by-product of the most notorious population experiment ever conducted.

2.6 The Present Condition

The one child policy was formally abolished on 1st January 2016 having been implemented in the PRC for the best part of forty years. In its wake came the decision to allow couples to now birth two children. The relaxation of the policy, as has been identified in the previous section, is due in part to the changing governmentality that had occurred in China. As a method of reducing Chinese population levels, the policy had fulfilled its purpose and the population was now able to self-regulate. It was a triumphant measure not because it had prevented a supposed 400 million extra births, although this number is generally agreed to be an exaggerated figure, but because even in its absence it is highly unlikely that there will be a reaction and upsurge in fertility levels. Whether this is a good thing will be discussed in later chapters.

The present danger, however, and the alternate reason for the policy's termination, is the effect of the social and familial reconstruction that has occurred at a grassroots level in China. In fact, the CCP, via Xinhua, has communicated that the reshuffle of government

¹⁰⁸ See the case of Edward Snowden and the surrounding revelations concerning western personal liberties.

policy has happened in order ‘to improve the balanced development of population’¹⁰⁹. This seems to indicate that the population is now in a state of imbalance. This may refer to various areas of imbalance that have arisen within the populous as a direct result of the one child policy. The two most threatening aspects are the gender imbalance and rapid aging of the population.

Whilst these problems will be addressed in detail in later chapters, particularly the future impact on human rights, it is important to note the current situation. According to the Chinese National Bureau of Statistics the national sex ratio for children aged 0 to 4 years old in 2013 was 117.30 (with female equalling 100)¹¹⁰. When compared to the 1996 census, the earliest data available, in which the ratio was 118.38¹¹¹, the issue has not escalated, but has also not alleviated. This predicament may not seem so alarming in western nations where gender roles are less defined and more enmeshed, but for a country such as China, where there still remain traditional burdens placed on the sexes, an imbalance such as this can cause serious ramifications. The issue of gender within Chinese society will be looked at in depth in the following chapter. It is clear that the one child policy has caused this problem and that it will need more than its abolition to resolve the issue.

The crisis brought about by an aging population is more apparent and much more urgent especially in the context of the Chinese situation. The most accentuated issue at hand is that of increased dependency. Social roles dictate an inherent responsibility in the younger generations taking care of their elders long before they are unable to do so themselves. The increased percentage of those aged over sixty has and will put extreme pressure on this system of cultural norms. The serious lack of adequate social security for elderly is also a major concern and no doubt a reason for the government’s action.

¹⁰⁹ See Zhōngguó gòngchǎndǎng dì shíbā jiè zhōngyāng wěiyuánhui dì wǔ cì quánǐ huìyì gōngbào, 29th October 2015 available at http://news.xinhuanet.com/politics/2015-10/29/c_1116983078.htm (in Chinese), accessed 16th July 2016

¹¹⁰ See Chinese Statistical Yearbook available at <http://www.stats.gov.cn/tjsj/ndsj/2014/indexeh.htm> , accessed 16th July 2016

¹¹¹ See Population by Age and Sex Statistics, 1st October 1995, available at <http://www.stats.gov.cn/english/statisticaldata/yearlydata/YB1996e/C3-5e.htm> , accessed 16th July 2016

Professor Stuart Basten posits a further reason why the Chinese government has sought to, rather than outright removing the one child policy, replace it with a two child policy. He does not ignore the very immediate concerns of gender imbalance, an aging population and an increasingly shrivelled workforce and their place in the government's actions, but sees the refusal to completely remove all constraints as evidence of the CCP not wishing to lose face. He states: 'Scrapping the policy completely was not an option. This would have indicated that the policy was, in some ways, 'wrong''¹¹². This reality is concerning, given the very real problems created by the one child policy and the need to abolish it completely, but not altogether surprising considering the role 'face' plays in Chinese politics and everyday life¹¹³.

The good news for most critics of the one child policy is that it has officially ended. However, this does not mean that the Chinese government is willing to cede total control to its population regarding matters of family planning. As has previously been mentioned, there are definite indications of a move towards neo-liberalism as is seen in many western countries, but the reality is, as is often the case, this is a Chinese form of neo-liberalism. The future of the policy and its effects will be discussed in subsequent chapters. A thought for now however, is whether the new two child policy is an indication of the government's complete reversal of policy in which births will now be encouraged and potentially enforced in the time ahead.

Conclusion

¹¹² Basten, Stuart, *Why scrapping the one-child policy will do little to change China's population*, theconversation.com, available at <http://theconversation.com/why-scrapping-the-one-child-policy-will-do-little-to-change-chinas-population-49982>, accessed 16th July 2016

¹¹³ To both lose and gain 'face' (留面子, 丢面子) are the most Chinese of concepts described by the writer Lin Yutang (林语堂) as 'abstract and intangible, it is yet the most delicate standard by which Chinese social intercourse is regulated' (Lin Yutang, *My Country and My People*, (New York, Reynal & Hitchcock, 1935), pp.199-200). Face pervades through all social interactions be they business or educational, to actions on a global scale.

The transformation that China has undergone from its birth as the PRC in 1949 until the modern day is staggering. When comparing the economic conditions Mao Zedong oversaw with what Xi Jinping now has to deal with it would appear old and new China are worlds apart. Factoring in the problems that arise in a nation of over one billion people, the changes are even more astounding. The most significant change however may be the continued evolution of methods of governance in the middle kingdom from Maoism to a mixed form of Leninist Neo-liberalism. Hopefully, as the country continues its development into being a fully-fledged modern state, China's biopolitics will be increasingly liberal.

However, with recent policy changes and the impending challenges the Chinese government will face as a result of the one child policy, it is unlikely any form of Western democracy will be applied any time soon. In fact, the issues of the gender ratio imbalance, an aging population and decreasing workforce will no doubt hinder economic progress. The overpopulation 'crisis' that would have 'crippled' China's economic development in Deng Xiaoping's China was enough to facilitate the draconian one child policy¹¹⁴. Surely it is not too farfetched to consider a similar threat to economic growth helping initiate a comparable program of population control, only this time, as Basten posits, China may find encouraging population growth much harder than stifling it, as has been the case in many of the country's East Asian neighbours¹¹⁵.

As foreigners, it is important not to read too much into the spiel emanating from Beijing regarding developments in the area of population. As has been mentioned, the lack of reliability has made it considerably difficult to pinpoint the damage that has been caused by the one child policy in terms of the extent coercive measures have been used, and may continue to be used if further population control schemes are implemented.

¹¹⁴ Greenhalgh, Susan, *Science, Modernity, and the Making of China's One-Child Policy*, Population and Development Review 29(2) (June 2003), p.165

¹¹⁵ Kato, Koichi, *South Korea under pressure to reform to prevent bankruptcy*, Nikkei Asian Review, 6th March 2015, available at <http://asia.nikkei.com/Politics-Economy/Economy/South-Korea-under-pressure-to-reform-to-prevent-bankruptcy> accessed 18th July 2016

Nevertheless, it is undeniable that through the one child policy human rights violations have been facilitated and in most cases ignored by the PRC. This chapter has described in detail the environment in which these abuses have been allowed to flourish. The following chapter will seek to understand better where human rights can be placed in the sphere of Chinese thought, whether they are congruent to each other and whether it is right to even consider them as polar opposites at all. In particular, the issue of individual and collective rights will be considered, from the basis of Confucian thought until the present day.

Chapter Three – The human rights perspective of the one child policy

China's rapid rise to the top tier of global politics has had a major effect on the scrutiny it receives from the international community. This, in addition to the fact that after the 'decommunisation' attached to the fall of the Soviet Union China remains the only major Communist power, has led to an increased focus on the human rights situation within the country. In the realm of international relations, there can be no doubt that there is more leverage attached to human rights than ever before. By in large, they have become ingrained in the prevailing norms of the international community and now possess a legitimacy that China can no longer ignore¹¹⁶.

This added inquiry into the human rights situation in China has resulted in certain realisations and difficult truths regarding their application. Certain polarities have emerged which make harmonisation increasingly difficult. For example, the individual rights upon which western-style democracies place so much value are secondary to collective rights in China. Chinese theories regarding the relationship between rights and duties of the individual are also divergent to their Western equivalents. A final area of conflict which has become increasingly prevalent on the global stage is the issue of universalism versus cultural relativism. China has long maintained that as human rights are part of their domestic affairs, international pressure to change how they are perceived and defended within the nation has been deemed an attack on their national sovereignty. That many also argue that human rights are for the most part a western invention has also been used as an example of 'cultural imperialism'.

However, this chapter will seek to show that, especially in these three areas of conflict, there need not be so much polarisation and a middle ground can be found. In doing so, we, as outside commentators, will be better placed to understand how and why the one child policy was allowed to be implemented considering its ghastly effects on the

¹¹⁶ Zhu, Yuchao, *China and International 'Human Rights Diplomacy'*, China: An International Journal, Vol. 9(2), September 2011, p.219

Chinese population, and hopefully be better placed in understanding and predicting future challenges to international human rights practice emanating from China. Before placing the one child policy into the sphere of debate, we must first identify what form China's system of rights takes and from which sources it has developed. Having established this we may identify the nation's real position when it comes to the three polarising battlegrounds mentioned earlier. It is then important to come to a conclusion about whether China's system of rights is compatible with the westernised standard of human rights, whether the one child policy is even coherent with these rights and what the future may hold for further harmonisation.

3.1 The Chinese system of rights

The development of the modern Chinese system of rights for the purpose of this thesis will be identified in three stages. Firstly, we may discover how the ancient teaching of Confucius, the birth of Chinese legalism, and the writings of Mencius have affected rights evolution in China. Secondly, we will focus on the scholarship of the later Qing dynasty and the effect of foreign imperialism on Chinese rights and finally, how the rise of Chinese Marxism has played a key part in creating a modern system of rights. There is no doubt that with the development of neo-liberalism that has been discussed in the previous chapter, and the rapid rise of the nation in the realm of international politics, this area has developed further in recent decades, yet as this thesis is specifically focused on the one child policy's relationship with human rights, we shall only be placing our attention on its progression until the mid-1980s. A study of how human rights have since advanced in the country and how they may further mature in the future is in chapter six. For a visual representation of how China's system of rights has evolved, see Figure 1 in the appendices section¹¹⁷.

A first clear point to be made before delving into the subject, as has been identified earlier, is that China is indeed a special country with no obvious parallels. Its borders

¹¹⁷ Taken from Weatherley, Robert, *The Discourse of Human Rights in China* (St. Martin's Press, New York, 1999) p.5

have remained largely unaltered for thousands of years, during which it has existed free of the major western religions and the influence of western culture. It has experienced a period of warlords, revolution, feudalism, tyranny and importantly, has suffered under the yoke of imperialism. It is in fact an ancient relic that has only been forced to emerge and evolve in the previous century because of outside influences. All of these factors have helped to develop the nation's system of rights and how the nation operates even in the modern era.

3.2 The role of Confucianism and Individual Rights

There is perhaps no man, not even Mao Zedong, who has had a greater effect in shaping China than Confucius (551 – 479 BC). His doctrine was the state's ideology for approaching two thousand years. For many, including Robert Weatherley, there is no doubting that how rights are now perceived in China as a lot to do with this ancient way of thinking¹¹⁸.

Rather than merely identifying the key tenets of Confucian philosophy it is better to identify where the system of rights in place during the formation of the one child policy have been influenced by Confucian teachings.

The first area is the weighing of certain rights over others, in particular that of socioeconomic and 'subsistence' rights. These are of course also prevalent in Marxist doctrine, but it is perhaps because of these similarities that Marxism was so effectively applied in post-1949 China. The formation of this philosophy grew from the Mencian belief relating to the role of a 'Benevolent Government' (Rénzhèng) in Chinese society. It was the role of the government to assure the material welfare of its people. As the distinguished political scientist Andrew Nathan posits, the provision of welfare rights to the Chinese people, rather than being one of many obligations, was the key obligation of

¹¹⁸ Weatherley, Robert, *The Discourse of Human Rights in China* (St. Martin's Press, New York, 1999) p.4

the government¹¹⁹. This is already dissimilar to the western understanding of government obligations in the field of human rights; that of the obligation to respect, protect, and fulfil¹²⁰.

The contrast between how individual rights are perceived with Confucian teachings and international human rights practice is noticeable as well. Through the Mencian theory of *Mín wéi bāng běn*, or The People as the Basis of the State, the relationship between ruler and population is better defined. Rather than owing any obligations regarding the safeguarding of individual rights of his people, through this idea a ruler must adhere to the ideas of the Benevolent Government by providing material welfare and in turn will reap the popular and collective support of his people. Rather than protecting the socioeconomic rights of his people for their advantage, it was to ensure he, or the nation, was protected¹²¹.

The most serious case of incompatibility between the modern day system of human rights and Confucianism is the apparent lack of any rights tradition at all for the individual. In fact, Confucian theory was underlined by the existence of a moral inequality which defined what rights certain people would receive. As a rule, not all people were born equal.

A key example of this is the concept of ‘Jūnzǐ’, defined as a man of moral worth or ‘gentleman’ and ‘Xiǎo rén’, which can be strictly defined as ‘little people’. Donald Munro states, that having taken the correct moral path in their life, Jūnzǐ were, according to the Confucian belief, better suited to and ‘morally qualified’ to receive better jobs. Xiǎo rén on the other hand, would have to make do with tasks more akin to

¹¹⁹ Nathan, Andrew, *Sources of Chinese Rights Thinking*, in Edwards, R. Randle, Henkin, Louis and Nathan, Andrew (eds.), *Human Rights in Contemporary China* (Columbia University Press, New York, 1986), pp.153-4

¹²⁰ UNODC and the Promotion and Protection of Human Rights – Position Paper, 2012

¹²¹ Weatherley, Robert, *The Discourse of Human Rights in China* (St. Martin’s Press, New York, 1999), p.9

the work of the European peasantry¹²². These preordained positions in Chinese society would also see better economic and political freedoms afforded to the Jūnzǐ.

This system of moral hierarchy is of course highly incompatible with the human rights method. As a rule, we, as humans, possess an equal moral status regardless of our individual attributes. Our individual characteristics should not define how suited we are to receive undeniable rights. This equal moral dignity is something that is inherent, and exists from the moment that we are born¹²³.

In Mencian thought there was always an opportunity to better oneself and to increase in moral value. But yet again this is at odds with the tenets of human rights. David Hall and Roger Ames best sum up the Confucian view: ‘being a person is something one does, not something one is; it is an achievement rather than a given¹²⁴’.

Further evidence of the complete lack of a notion of individual rights in Confucian theory was the ‘Rectification of Names’ or ‘zhèngmíng’. This defined an individual’s role in society and ensured that if one’s position was understood and boundaries not crossed, the harmony of society would prevail. Each position had certain duties and roles that had to be adhered to resulting in, as Henry Rosemont puts it, ‘no *me* in isolation¹²⁵’.

This concept translated itself to ‘Wǔ lún’, or the ‘Five Relationships’ consisting of ruler-subject, father-son, elder brother-younger brother, husband-wife, and friend-friend¹²⁶. It was within these defined roles that the idea of duties emerged. As Weatherley explains: ‘A son was expected to fulfil the duties of deference and filial

¹²² Munro, Donald, *The Concept of Man in Early China* (Stanford University Press, California, 1969), pp.112-3

¹²³ Vlastos, Gregory, *Justice and Equality*, in Melden, A.I. (ed.), *Human Rights* (Wadsworth, Belmont, 1970), pp.76-95

¹²⁴ Hall, David, and Ames, Roger, *Thinking Through Confucius* (New York Press, Albany, 1987), p139

¹²⁵ Rosemont Jr., Henry, *Why Take Rights Seriously? A Confucian Critique*, in Rouner Leroy (ed.), *Human Rights and the World’s Religions* (University of Notre Dame Press, Indiana, 1988), p.177

¹²⁶ Weatherley, Robert, *The Discourse of Human Rights in China* (St. Martin’s Press, New York, 1999), p.38

piety to his parents, while the people of a state were obliged to be loyal to their ruler¹²⁷. This concept has attached itself to all positions in Chinese society and has meant integrating a notion of individuality has been extremely difficult. For Liu Zehua and Ge Quan the human being in Confucian theory was nothing more than an agent required to carry out the obligations and duties of his role for the entirety of his lifetime¹²⁸. There is opposition to the theory that Confucian ideals are inherently incompatible with individual rights. Wang Gungwu has argued that by placing a duty upon one to do something, another has the right to expect it to be carried out. For example, a father has the right to expect a son to be filial, and the son has the right to expect a mother to be loving¹²⁹. This line of argumentation does bring to the fore the existing relationship between rights and duties but it also makes clear yet again how polarised western and Confucian thought is on the subject. Whereas in the western condition of human rights duties are carried out for the purpose of ensuring rights, the opposite is true in ancient Chinese doctrine. It is evident that in the latter's realm, the duties of the individual, to their government and state, are prioritised over the rights of the individual.

Another factor weighing against any conception of individual rights in Confucian thought is the stigma attached to any perceived form of 'selfishness'. Ethics dictate that attending to one's duties before one's own interests is far more desirable, and a continued fixation on one's affairs is considered egoist and completely adverse to the qualities of a righteous man. As a result, seeking the satisfaction of one's individual rights was seen as the highly unethical. D.C. Lau, when researching Confucian doctrine, puts it best:

'Of all the things that are likely to distort man's moral judgment and deflect him from his moral purpose, self-interest is the strongest, the most persistent and the most insidious¹³⁰'.

¹²⁷ Ibid., p.43

¹²⁸ Liu Zehua, Ge Quan, *Lun Ruxue Wenhua de Ren (On the Notion of the Human Being in Confucian Culture)*, Shehui Kexue Zhanxian (Social Sciences Front), volume 1, 1988, p.87

¹²⁹ Wang Gungwu, *Power, Rights and Duties in Chinese History*, Australian Journal of Chinese Affairs, volume 3, 1980, p.6

¹³⁰ Lau, D.C., *Confucius: the Analects* (Penguin Books, Middlesex, 1979), p.20

3.2.1 *Individual versus the Collective*

Chinese society therefore existed as a cluster of individuals, defined by roles, fulfilling duties for the benefit of that nation. The state or government is presented as the largest collective, but at each strata of the social order there existed smaller and smaller examples. Other than the needs of the nation, the best interests of the village were to be adhered to, and then to the family. By this logic, China did not represent hundreds of millions of individuals, but rather millions of collective units.

While there does not exist the same individual rights expected through a correctly applied system of western human rights, this does not mean that the concept was completely alien to Confucian theorists. Rather, individuality was hidden behind the needs of the collective. This is why, when debating the question whether contemporary China is more adherent to individual or collective rights, it is better to look for a middle ground. How can Chinese society be judged on an absence of the individuality so inherent in human rights doctrine when it had never been considered as a separate entity, much less trampled upon and ignored. As the interests of the individual and of the collective were seen as one and the same, there was never thought to have been any conflict between the two.

In actuality, the belief that all members of society had a role to perform and duties to carry out, including the Benevolent Government, meant that there was no need for rights. A filial son needs no protection against a righteous father in the same way as the individual citizen needs no defence against a government that assuredly provides welfare¹³¹.

This does not mean that there did not exist any defence mechanism on the occasion that one member of the collective abused his position or failed in a duty. This gave the

¹³¹ Grief, Thomas, *The Principle of Human Rights in Nationalist China: John C.H. Wu and the Ideological Origins of the 1946 Constitution*, China Quarterly, volume 103, 1985, pp.450-1

population a right to revolt in the case of an unruly and unvirtuous king. Yet, even this example falls flat as Nathan reminds us that rather than attaching added importance to the people, this ‘protection’ just solidified their position as a ‘resource’ best utilised when least abused¹³².

3.2.2 Confucianism in Legal Theory

Due to the Confucian concept of a Government by Virtue, law was seen by the most orthodox of theorists as irrelevant. Strictly speaking, by encouraging the act of virtue and the Rules of Propriety criminal behaviour could be completely avoided. This is at odds with the other major theory of ancient China – legalism. For legalists such as Shang Yang (died 300 BC) the opposite was true: ‘if you govern by punishment the people will fear. Being fearful, they will not commit villainies¹³³.’

As in most societies, the most orthodox practices had to make way for theories more grounded in reality and as a result China did develop a penal code albeit still based on Confucian principles. However, because of this entrenched basis in Confucianism, the Chinese legal system was highly unfair by modern standards.

As previously mentioned, Confucius held a belief in the moral inequality of people, and this is reflected in the relationship between the law and citizen in Chinese law. Put bluntly, some people, due to their higher moral worth, were treated more leniently than others even in cases in which the offence was exactly the same.

As an example, under the conditions of the Qing dynasty’s (1644-1911) penal system, were a son to strike his father, he would be put to death, whereas if the father were to do the same no penalty would be enforced as long as he survived. Were he to perish, the father would receive a differing amount of strikes from the heavy bamboo and possible

¹³² Nathan, Andrew, *Sources of Chinese Rights Thinking*, in Edwards, R. Randle, Henkin, Louis and Nathan, Andrew (eds.), *Human Rights in Contemporary China* (Columbia University Press, New York, 1986), p.151

¹³³ Ch’u T’ung-Tsu, *Law and Society in Traditional China* (Hyperion Press, Westport, 1980), p.263

jail time depending on the presence of provocation¹³⁴. Similar patterns occurred in all manners of social relationship.

Inequality did not just pervade the criminal justice system but also areas of civil law such as marriage and divorce. Divorce instigated by the woman was excessively difficult to achieve and would result in almost complete social ostracism, barriers not existent for the man¹³⁵.

We must remember to afford the Chinese legal system a little sympathy at this juncture however when comparing the European counterparts of the time. The problem is that for over a thousand years the Confucian practices remained largely unchained whereas European societies continuously evolved through bottom-up changes serving to constantly improve the least-favoured man's lot.

A final example of the inequalities present in Qing dynasty law was the vertical nature of its operation. Rather than working in a horizontal manner between individuals as most of the western models did, Chinese citizens were unable to bring complaints directly to the individual they believed had wronged them. Cases were taken to local officials who then decided if they were worthy to take to court.

As a result, it is plain to see that the legalised system of inequality prescribed by Confucian doctrine was completely at odds to the spirit of human rights in which it is proclaimed 'All are equal before the law and are entitled without any discrimination to equal protection of the law'¹³⁶. This equality of moral status provides the key ingredient of due process afforded to citizens in a system that follows the rule of law. Unfortunately, Confucian teachings are opposed to this.

It is perhaps unfair to accuse the Confucian system as being totally incompatible to human rights simply along the lines of favouring the collective over the individual when,

¹³⁴ Bodde, Derk, *Essays on Chinese Civilisation* (Princeton Press, Princeton, 1981), p.187

¹³⁵ Baker, Hugh, *Chinese Family and Kinship* (Columbia University Press, New York, 1979), pp.45-7

¹³⁶ Art. 7, Universal Declaration of Human Rights 1948

as has been discussed, the concept of the individual as seen in Western discourse, was never debated or even felt needed to be debated in early China. However, when really identifying the social injustices and inequality of the system best represented by an unjust legal code, there should be no refrainment from criticism. This is most important because of the large effect Confucian thought has had on the formation of modern China, and the development of its own rights system. It is also evidence for why there still exist so many injustices in contemporary Chinese society.

Arguably the biggest factor that one must consider when studying the evolution of the Chinese system is the longevity of the Confucianism as the primary state doctrine. It is exceedingly difficult to make an accurate comparison of equivalent western modern ideals when in the large majority most of the West's individual nations have not existed in their modern form as long as Confucian doctrine has been enacted. Europe in particular has benefitted (and suffered) from continuous upheaval, political unrest, conflict and revolutions that have pushed the discourse of rights onwards and upwards. China has not. In fact, the first significant time since the life of Confucius will be discussed in the following subsection.

3.3 Development of Rights in the Late Qing Dynasty

During the late 19th century and early 20th those areas of the globe not considered civilised or westernised were wrapped up in the swathe of imperialism. China was no exception. Despite dwarfing the western nations carrying out their imperialistic regimes, the middle kingdom was no match for the invaders. A notable example of the 'gunboat diplomacy' employed by many of the western colonisers is the First Opium War (1839-42) resulting in a humiliating defeat for Qing dynasty and, most notably, the cession of Hong Kong island to the British¹³⁷. For many Chinese commentators, the war marks the beginning of Chinese modern history¹³⁸.

¹³⁷ Tsang, Steve, *A Modern History of Hong Kong* (I.B. Tauris, London, 2007), pp.3-13

¹³⁸ *Ibid.*, p.29

It is easy to understand why this period marked a watershed moment for the Chinese. The nation had adopted a broadly isolationist foreign policy since the voyages of the eunuch admiral Zheng He in the 15th century and the adoption of the ‘Hǎijìn’ or ‘sea ban’ in later years¹³⁹. With the sudden interest of foreign powers and the subsequent embarrassments in losses to both the British and the French, a great impression was made on the minds of Chinese leaders. It is arguable that this imprint has had an effect on the social, foreign and rights policies ever since. What is definite is that it led to a form of idealist ‘opening up’ almost a century before the official economic ‘opening up’ of Deng Xiaoping’s reforms.

As has been mentioned many times before, China has always had a spiritual belief in Sino-centricity. This is the traditional Confucian conviction of Chinese superiority and China’s position as a leader in global affairs¹⁴⁰. This view has been used time and time again to reinforce certain strategies including the infamous one child policy. However, this faith in China’s strength was seriously tested during the late Qing dynasty in what amounted to be a drastic loss of face.

The result was akin to ‘swallowing one’s pride’ as many scholars decided that the best course of action, at least for the time-being, was to ‘look west’. The scholar and translator during this time became quite well known for his translations of famous western works such as Huxley’s *Evolution and Ethics*. He specifically called on Chinese culture to embrace western theories and ideas by quoting ‘Xiàng xīfāng xún zhēnlǐ’ or ‘look to the west to find the truth’. Leading academics proposed similar ideas. The purpose in all cases though was to make China a stronger state resistant to imperialism. A solution was to bestow upon the Chinese public more political rights but, in opposition to the traditional Lockean principle of curtailing state power that has shaped much of modern human rights theory¹⁴¹, by instead enlarging the source of the state’s

¹³⁹ Finlay, Robert, *The Voyages of Zheng He: Ideology, State Power, and Maritime Trade in Ming China*, Journal of the Historical Society, volume 8(3), 2008, pp.327–347

¹⁴⁰ Weatherley, Robert, *The Discourse of Human Rights in China* (St. Martin’s Press, New York, 1999), p.8

¹⁴¹ Locke, John, *Second Treatise of Government*, 1690, Project Gutenberg, accessed 28th July 2016

power. Again, Confucius' teachings seem to have been at play. While western beliefs were being integrated into the Chinese intelligentsia's minds, they were wholly tinged by a traditional Chinese flavour.

Indeed when these scholars started to even embrace the idea of democracy and political rights, it was not seen as a way of strengthening their own individual liberties and rights but rather as a way in increasing the powerbase of the government and state. By involving more Chinese into the political process people would show more loyalty¹⁴². This ties nicely in with the Mencian idea of 'People as the Basis of the State' and illustrates what was seen as the necessary 'confucianisation' of the western system of rights into Chinese society.

This is perhaps the key crux of the matter when trying to compare the western model of rights with the Chinese model. The European and, as a result, American versions are the product of hundreds of years-worth of fine-tuning in the form of the drafting of constitutions, revolutions and constant dialectic. China has had a similar system in play for nearly two millennia. It is therefore prudent not to discard the defence of 'cultural relativism' often made by Chinese representatives when defending the obvious gulf in Western and Chinese human rights practices. Just as Mao Zedong was hesitant in introducing a birth-restriction policy that might upset the deeply traditional occupants of the Chinese countryside, Qing scholars were aware that fully introducing a Western-based system of rights may have a catastrophic effect.

A suitable example is provided by Maria Hsia Chang when discussing the new freedoms afforded to women in the realm of marriage and divorce¹⁴³. Mao had called the old Qing system covered in the previous subsection as have kept the women of China 'oppressed and abused' for thousands of years¹⁴⁴. Thus, the Marriage Law of

¹⁴² Weatherley, Robert, *The Discourse of Human Rights in China* (St. Martin's Press, New York, 1999), p.52

¹⁴³ Chang, Maria Hsia, *Women*, in Wu, Yuan-li, Michael, Franz, Copper, John F., Lee, Ta-ling, Chang, Maria Hsia and Gregor, A. James, *Human Rights in the People's Republic of China* (Westview Press, Boulder, 1988), pp. 250-65

¹⁴⁴ *Beijing renmin ribao* (Beijing People's Daily), 28th April, 1950, p.3

1950, which was based on ‘free choice and equal rights’ enabled both men and women to instigate divorces¹⁴⁵. The results were disastrous. As a result of the abuse and in some cases torture inflicted by their families for instigating divorce proceedings over ten thousand females died in central and southern China alone either because of the wounds inflicted or because they committed suicide¹⁴⁶. Confucian ideals of the roles and duties of the woman fuelled the opposition and terrible reaction of the Chinese people and these unfortunate women suffered.

From here, we turn to the development of rights in the Marxist years up until the implementation of the one child policy.

3.4 Chinese Marxism – the Ultimate Prioritisation of Collective Rights

As Marxist thought, specifically Maoism, took hold in China after the birth in 1949 a lot of the work of the earlier Qing scholars was continued. Although Marxism differed from traditional Confucian doctrine on a number of points, specifically when regarding the relationship of the Chinese ‘Xiǎo rén’ with the ‘Jūnzǐ’ (Marxists of course were in favour of the proletariat works over the bourgeois establishment), Chinese leaders were still careful to adopt a ‘Confucianised’ form of this political doctrine. Mao Zedong spoke at length about the ‘Sinification of Marxism’: ‘We are Marxist historicists; we must not mutilate history. From Confucius to Sun Yat-sen we must sum it up critically, and we must constitute ourselves to the heirs of this precious legacy¹⁴⁷.’

However, the real advance of the Chinese system of rights during this period was the development of collective rights as opposed to the individual’s.

Karl Marx spoke at large about the nature of rights in a similar way to Confucius and Mencius before him, as ‘nurturing an unhealthy preoccupation with the self, and

¹⁴⁵ Art. 1, Marriage Law, in the Appendix of Yang, C.K., *Chinese Communist Society: The Family and the Village* (M.I.T. Press, Cambridge, 1972), p.221

¹⁴⁶ Ma Tieding, *Chanjiang ribao*, 10th June, 1951, p.3

¹⁴⁷ Schram, Stuart, *The Thought of Mao Tse-Tung* (Cambridge University Press, Cambridge, 1977), p.42

ultimately encouraging people to think in an egotistical and selfish way¹⁴⁸.’ He would continue by submitting that this form of individualism would serve to break up society into antagonistic ‘atoms’ with no interest in the wellbeing of society as a whole¹⁴⁹. He criticised the French Declaration’s ‘Rights of Man’ as enabling people to operate in enclosed ‘spheres of operation’ and condemned the right of man to freedom as being based on ‘the separation of man’. In the *Grundrisse* of 1857-8 who further echoed Confucian thought by summarising the individual as the ‘sum total’ of his social relations¹⁵⁰. Marx did however praise the Rights of the Citizen for nurturing the right to participate and the freedom of speech. However, this only led him to concluding that the French Declaration, another document upon which modern human rights has largely been built, as ‘dualistic’ in which man can exist as a free entity in material life and as a ‘species being’ in the political strata¹⁵¹.

It is easy to see then where Confucian doctrine differed and adjoined with Marxism. This is clearly another reason for Mao’s insistence on investing on a ‘historicist’s’ version of contemporary Marxist theory, hitherto known as Maoism.

One such shared concept was the role of duties in both Marxism and Confucianism. For both the individual owed a shared set of duties to the society at large which, upon completion, would benefit all. They were not duties arising from the citizen’s rights but rather existent from the moment of ‘becoming’ a citizen (birth). The 1975 Constitution has clear evidence of this preoccupation of duties before rights simply due to the fact they were listed before rights in the text. It is the insistence on the completion of one’s duties that fuelled the propaganda surrounding the one child policy. Failure to comply was a selfish act and at odds with the practices of a good Marxist.

¹⁴⁸ Weatherley, Robert, *The Discourse of Human Rights in China* (St. Martin’s Press, New York, 1999), p.84

¹⁴⁹ Marx, Karl, *On the Jewish Question*, in McLellan, David (ed.), *Karl Marx – Selected Writings* (Oxford University Press, Oxford, 1977), p.42

¹⁵⁰ Weatherley, Robert, *The Discourse of Human Rights in China* (St. Martin’s Press, New York, 1999), p.85

¹⁵¹ Waldron, Jeremy (ed.), *Nonsense Upon Stilts: Bentham, Burke and Marx on the Rights of Man* (Methuen, London, 1987), p.131

Remaining focused on the early constitutions of the PRC, there is a clear imbalance afforded to the rights of the individual and collective. While individual rights are covered and explicitly mentioned, there is a later article that effectively annuls any previous compliance with the modern Western view of the nature of human rights. If any individual right is seen as having a ‘detrimental’ effect to the ‘collective good’ they are withdrawn and considered worthless:

‘The exercise by citizens of the People’s Republic of their freedoms and rights may not infringe upon the interests of the state, of society and of the collective’

– Article 51, *The Constitution of the People’s Republic of China*¹⁵²

This hierarchy of rights is further exemplified by the comments of the Marxist scholars Yang Zhongbo and Zhuang Yuchun who, in the official theoretical journal of the CCP, ‘Qíúshí’ (‘Seek Truth’), explain ‘socialist collectivism firmly upholds the idea that the collective interests of the state society and the nation are ‘higher’ than the rights of individuals¹⁵³’.

The ultimate defence for this line of thinking is that without a solid base on which to protect collective rights, individual rights can never be realised¹⁵⁴. In fact, were one to take the selfish course of seeking to protect his own rights, by harming the collective interest at large, he would only be hurting himself. The fulfilment of his obligations and duties will benefit the collective and enable him to then enjoy his individual rights at a later stage¹⁵⁵. By comprehending this view regarding the sino-Marxist approach to rights, it is easy to understand how the one child policy was not only formulated, but represented the Chinese human rights ideals. By sacrificing their own individual rights, and fulfilling their duties to the Chinese state, women (and the men who suffered with

¹⁵² Beijing Review, *The Constitution of the People’s Republic of China*, 1982, pp.10-29

¹⁵³ Yang Zhongbo and Zhuang Yichun, *Ping Yige Ren Zhuyi wei Hexin de Jiazhi guan* (An Appraisal of Individualism as a Core Value Concept), in *Qíúshí* (Seek Truth), 1991, pp.7-13

¹⁵⁴ Ibid., p.13

¹⁵⁵ Nathan, Andrew, *Sources of Chinese Rights Thinking*, in Edwards, R. Randle, Henkin, Louis and Nathan, Andrew (eds.), *Human Rights in Contemporary China* (Columbia University Press, New York, 1986), p.144

them) all across China were enabling the collective to benefit in order to secure better freedoms for themselves in the future. Figure 2 in the appendices section gives a visual representation of what I consider to be the Chinese system of rights as it exists now.

There is no doubt that as the twentieth century bore on individual rights were considered more important, but again there was a distinctly Chinese take on them. Most specifically, subsistence rights, or the right to adequate living through the provision of shelter, food and health, were held to be above all else the most important human rights. Sufficient provision of these rights would enable more political and civil rights to be exercised – in theory. A more detailed look into the role in subsistence rights will be discussed in chapter six.

Later, we will turn to how the one child policy fits into the Confucian Marxist doctrine of rights and later, the ever-developing field of Chinese human rights thought. For now, we must settle the oft used argument against implementing the western form of human rights into the realm of Chinese policy-making and government.

3.5 A Middle Ground between Universalism and Relativism

In the previous sections the effect of the sudden change in the political climate surrounding China upon the dawn of Western imperialism has been alluded to. As a result of this policy of domination exacted by the European powers during the late nineteenth and early twentieth centuries, China has maintained a deeply entrenched form of scepticism for anything seen to encroach on their domestic climate. That the nation was born out of the ashes of a terribly damaging war with the Japanese has only solidified this mistrust of outside demands for internal Chinese change.

As a result, China has chiefly reminded the rest of the world that their application of human rights is a strictly domestic affair and through the right to self-determination and the protection of the nation's sovereignty, should not be scrutinised or subject to any

pressure¹⁵⁶. As a deeply traditional nation, their argumentation runs parallel to the often used defence of cultural relativism maintaining that certain ‘universal’ human rights are simply not compatible with traditional practices in China. We can assess the validity of this assertion before then applying it to the one child policy determining whether its implementation can be sheltered behind this justification. Firstly, however, we must clarify where China stood regarding the universal nature of human rights during the implementation of this infamous birth-planning regime.

3.5.1 Was China in favour of Universality?

By their very nature human rights are intended to be universal. This universality has been ingrained in international human rights doctrine from the very beginning when the Human Rights Commission was created in June of 1946 with China, France, the United Kingdom, the Soviet Union, and the United States all receiving permanent seats¹⁵⁷. The primary international expression of these rights appeared with the signing of the Universal Declaration of Human Rights in 1948. At the heart of its formation was a Chinese presence in the form of the eminent Peng Chun Chang. China has been at the heart of the universal integration of human rights ever since so to label the nation ‘an outsider’ is not true.

Chung-shu Lo was one of many international representatives tasked with providing insight into the rights practices of their respective nations. He spoke of ‘the fulfilment of the duty to one’s neighbour, rather than the claiming of rights¹⁵⁸’ – a concept deeply embedded in the Confucian teachings we have covered earlier in this chapter. Mahatma

¹⁵⁶ Zhu, Yuchao, *China and International ‘Human Rights Diplomacy’*, China: An International Journal, Volume 9(2), September 2011, p.217

¹⁵⁷ Art. 23, U.N. Charter, preamble, signed 26th June 1945 (entered into force 24th October 1945)

¹⁵⁸ Chung-Shu Lo, *Human Rights in the Chinese Tradition*, in Maritain, Jacques (ed.), *Human Rights: Comments and Interpretations*, 1949, p.187

Gandhi was among the dignitaries highlighting the importance and diversity of those helping to construct a universal charter¹⁵⁹.

Chang's presence enabled the formation of the UDHR to take on a more global feel encompassing the thoughts and beliefs of all major religions and cultural practices. He sought fervently to prevent the script from promoting individualism, cited by both Marx and Confucius as being intolerable and unvirtuous, in order to better represent the 'spirit of brotherhood' and the morality of man¹⁶⁰. As a result, in the aftermath of a global war in which the modernised Western nations fought side-by-side with the developing 'third world' states, Chang ensured that these deeply traditional countries would have a direct input into the formation of the most important charter created in ensuring the betterment of mankind.

Due to the way in which the UDHR was created and conceived, its spirit of universality is undeniable. However, we must remember that although Chang was present at the behest of the Chinese nation, it was a nation that was in the midst of a civil war from which an entirely new political regime would emerge. His words and efforts were not completely representative of the PRC.

Jun Zhao does allude to an effort by the Chinese government to ensure the protection of more individual rights for its population in the following years. The 1954 Constitution for example gave protection to freedom of speech, press, and publication as well as freedom of association, assembly, procession, demonstration, and religion. There also included provisions for the freedom from arbitrary arrest, equality before the law, and the right to vote and stand for election¹⁶¹. In the following years until 1957 there were

¹⁵⁹ Gandhi's Letter Addressed to the Director-General of UNESCO, the Committee's report, the questionnaire, and the responses are collected in UNESCO, *Human Rights: Comments and Interpretations*, Appendix I, Appendix II, U.N. Doc. UNESCO/PHS/3(rev.) (1984)

¹⁶⁰ UN Third Committee, UN GAOR, 3rd Sess., 95th mtg., at 87, U.N. Doc A/C.3/SR.95 (1948)

¹⁶¹ Wu, Edward, *Human Rights: China's Historical Perspective*, *Journal of the History of International Law*, Volume 4, 2002, pp.335-7

also definitive steps towards the formal implementation of human rights through the institutionalisation of a proper legal system¹⁶².

However, akin to the development of the soft implementation of the birth-planning program through education and propaganda, the development of human rights practice in China hit a wall when most of the good work was reversed during the Cultural Revolution. Unfortunately, the 1975 Constitution removed a lot of the provisions drawn up in its 1954 counterpart¹⁶³. The 1982 Constitution was an improvement but still fell short of meeting international requirements¹⁶⁴.

It seems then that China had made a conscious effort to improve its human rights practice formally through the drafting of its constitutions. These attempts, although thwarted by the Cultural Revolution, seemingly identify the Chinese government as a supporter of the universality of human rights. A clear case supporting this view is the affirmation of this position during the 1955 Bandung Conference in Indonesia¹⁶⁵.

Nevertheless, it is prudent to remember that the mere drafting of a constitution promising to adhere to the universal principles of human rights does not represent strict observance. As will be highlighted in a later chapter, China's actions may be hollow in order to better their standing on the global stage and afford themselves better economic opportunities. The real measure of how universal China considers human rights is their practices.

While we should not ignore the obvious violations that occurred during Mao Zedong's reign and after (and which have continued to occur to the present day), the purpose of

¹⁶² Turner, Karen G., Feinerman, and Guy, R. Kent (eds.), *The Limits of the Rule of Law in China* (University of Washington Press, Washington, 2000); Cai Dingjian and Wang Chenguang, *From the Rule of Man to the Rule of Law*, in Cai Dingjian and Wang Chenguang (eds.), *China's Journey Toward the Rule of Law: Legal Reform 1978–2008* (Brill, Leiden, 2010)

¹⁶³ Cai Gao Qiang, *International Human Rights Protection and Domestic Practical Research*, volume 146 (2007)

¹⁶⁴ Katie Lee, *China and the International Covenant on Civil and Political Rights: Prospects and Challenges*, *Chinese Journal of International Law*, volume 6(2), 2007, pp.445–474

¹⁶⁵ *Spirit of Bandung Conference will shine forever*, People's Daily Online, Apr. 18, 2005, available at http://english.peopledaily.com.cn/200504/18/eng20050418_181612.html, accessed 29th July 2016

this essay is to understand the one child policy's place in China's rights policy. Prima facie, the policy represents a severe violation of the doctrine of universal human rights. Firstly, the policy violates the human right to determine the size of one's own family¹⁶⁶. The enforced abortion of babies who have just been born¹⁶⁷ amounts to a violation of the right to life¹⁶⁸. The coercive measures used to sterilise or abort unlawful pregnancies amounts to a violation of the freedom from cruel, inhuman or degrading treatment or punishment, strictly when these actions amount to 'remedies' for falling foul of the policy's restrictions¹⁶⁹. The right to privacy has also been violated, especially the aspect of freedom from attacks upon one's honour or reputation which are so central to the Chinese people¹⁷⁰. In addition, victims of the one child policy's stringent rules suffer violations against the freedom to found a family. In this way, the government has abandoned its duty to protect the family units of its population¹⁷¹. Further examples include the violation of the right to an adequate standard of living with the medical and housing assurances included¹⁷², the violation of the right to work¹⁷³, and the violation of the right to education¹⁷⁴. These final violations occur in the form of the disincentives in which the average Chinese couple must make the tortuous decision of whether to abandon their right to determine the size of their family, or the risk losing the essential necessities of employment, housing, medical care and education.

The question here is whether these violations can be overlooked due to the gaps in universality present in human rights.

3.5.2 The Case for Relativism

¹⁶⁶ *Proclamation of Teheran*. International Conference on Human Rights. 1968

¹⁶⁷ Chang, Maria Hsia, *Women*, in Wu, Yuan-li, Michael, Franz, Copper, John F., Lee, Ta-ling, Chang, Maria Hsia and Gregor, A. James, *Human Rights in the People's Republic of China* (Westview Press, Boulder, 1988), p.260

¹⁶⁸ Art. 3, UDHR 1948

¹⁶⁹ *Ibid.*, Art. 5

¹⁷⁰ *Ibid.*, Art. 12

¹⁷¹ *Ibid.*, Art. 16

¹⁷² *Ibid.*, Art. 25

¹⁷³ *Ibid.*, Art. 23

¹⁷⁴ *Ibid.*, Art. 26

The contemporary approach to the issue of cultural relativism and the universality of human rights is to find a middle ground in which both concepts can exist. This is a view shared by Jack Donnelly, Jun Zhao, Li Buyun, Gu Chunde, Luo Haocai, Wang Jiafu, Liu Hainian and Li Lin amongst others¹⁷⁵. The key is in evaluating which rights are globally accepted as inherent and indivisible and therefore universal, which rights are not globally accepted but deemed so serious that they must be applied universally, and which rights are largely defined by their cultural settings and therefore are subject to relativity.

There have been arguments that by finding this middle ground and labelling human rights as ‘relatively universal’ as Donnelly does, their legitimacy is in some way harmed. Michael Goodhart, for example, feels it is better to focus on the global appeal of rights rather than espousing a form of polarity based on context which severely blunts their effectiveness¹⁷⁶. But this is to overlook the meaning of true meaning of relativity and universality. Stating that universality will strengthen and relativity will weaken the application of human rights is a falsity. The truth is that they do have a global appeal which is affected by a form of relativity on a contextual basis. This does not mean that human rights are weakened per se but just reflects the complex nature of their application¹⁷⁷. This is definitely true of China.

Social, economic and cultural freedoms, so highly esteemed in Chinese society, are first to be considered. The UDHR explicitly refers to a form of relativism in its wording of

¹⁷⁵ Wang, Jiafu, Liu, Hainian, and Li, Lin (eds.), *Renquan yu ershiyi shiji (Human Rights and the Twenty-First Century)* (Beijing, Zhongguo fazhi chubanshe (China Legal Publishing House), 2000), pp.8-10; Jun Zhao, *China and the Uneasy Case for Universal Human Rights*, Human Rights Quarterly, Volume 37, Number 1, February 2015; Li Buyun, *Lun Renquan (On Human Rights)* 253 (2010); Donnelly, Jack, *Cultural Relativism and Universal Human Rights*, Human Rights Quarterly, Volume 6(4), 1984; Donnelly, Jack, *The Relative Universality of Human Rights*, Human Rights Quarterly, Volume 29(2), May 2007, pp.281-306; Luo Haocai, *Jiji Suzao Chuanbo Zhongguo Renquan Wenhua Shuanggui Moshi (Actively Formulate and Promote the Chinese Human Rights Culture in the Dual-Track Mode)*, China News, 9th November 2011, available at <http://www.chinanews.com/gn/2011/11-09/3449286.html>; Gu Chunde, *Confucian Human Rights Ideas and Their Influence on Modern Human Rights Thought*, Human Rights, Volume 1(23), 2004

¹⁷⁶ Goodhart, Michael, *Neither Relative nor Universal: A Response to Donnelly*, Human Rights Quarterly, Volume 30(1), February 2008, pp.183-93

¹⁷⁷ Donnelly, Jack, *Human Rights: Both Universal and Relative (A Reply to Michael Goodhart)*, Human Rights Quarterly, Volume 30(1), February 2008, pp.194-204

Article 22 on the right to social security. Allowances have been made for nations with differing resources and political organisations¹⁷⁸. The wording however, does not permit a complete absence of this right. The acceptance of pluralism is further defined by the 1993 Vienna Declaration on Human Rights provision stating that: ‘the significance of national and regional peculiarities and various historical, cultural and religious backgrounds must be borne in mind¹⁷⁹.’ This may make a case for the Chinese argument for safeguarding the rights attached to material welfare and development in order to guarantee individual rights in the future.

Furthermore, another international document that hints at the increased acceptance of relativism is the Bangkok Declaration of 1993 which echoed the message of the previously mentioned Vienna Declaration: that relativity can subsumed into the system of global human rights application.

There are, however, evident instances in which relativism has been applied in a fraudulent manner as an excuse to allow an action which otherwise would be deemed unscrupulous. Donnelly raises the argument that it is mostly the more westernised elites of ‘traditional’ nations that promote the issue of cultural relativism, even though they enjoy all the advantages of western excess from imported luxury automobiles to fancy vacations¹⁸⁰. He argues that violations such as arbitrary arrest, torture and disappearances are completely without merit and lacking in cultural foundation and cannot be allowed by any form of relativism. The importance of this defence against the universal application of human rights is to protect authentic cultural practices steeped in tradition rather than shelter would-be despots¹⁸¹.

¹⁷⁸ Art.22, UDHR

¹⁷⁹ *Vienna Declaration and Programme of Action*, adopted 25th June 1993, U.N. General Assembly Official Records, World Conference on Human Rights, 48th Session, 22nd plen. meeting., Paragraph 5, U.N. Doc. A/CONF.157/23 (1993)

¹⁸⁰ Donnelly, Jack, *Cultural Relativism and Universal Human Rights*, Human Rights Quarterly, Volume 6(4), 1984, pp.411-2

¹⁸¹ *Ibid.*, p.414

Donnelly does admit though that civil rights may be considered more relative. If, for example, the traditional practices of a community provide the individual with an accepted form of dignity, the populous may not have any need or desire to claim more freedoms¹⁸². This is an area of contention however. The Western argument here would be that for those ignorant to certain civil rights, they may not be aware of what they are truly missing. Nevertheless, there is a truth in the argument that unless direct harm to person or dignity has occurred, allowances for relativity can be made.

I would argue that economic development and the modernisation of a nation will see more civil rights afforded to individuals naturally. Nations which seek the flexibility of cultural relativism are normally less-developed or in the process of modernisation and as a result, lack the foundation on which to provide an effective system of civil freedoms. It is no wonder that as China has developed towards a more neo-liberal form of governance more and more scholars have favoured universalism.

As a rule then, the international community should accept the variance in global cultures when seeking to apply human rights universally, but be strict on the application of rights which are undeniable and inherent. Rights to life, liberty, scrutiny of the person; protection from arbitrary arrest, slavery, detention or exile, and torture and inhumane or degrading treatment, and the guarantee of legal personality are all clearly valued by any culture that has any importance placed on human dignity and thus, no excuses can be made. As a result, barring slight cultural differences, basic human rights should be applied universally.

3.6 The one child policy's place in human rights discourse

The previous sections have served as a foundation this final question: where does the one child policy fall under the ambit of a universal but culturally sensitive application of human rights? To answer this loaded question, we must also understand whether the one

¹⁸² Ibid., p.417

child policy is coherent with the system of rights that existed during the time of its implementation.

The answer to these issues will go some way to identifying the importance of the one child policy in shaping Chinese governance, the relationship between state and population, and the importance placed on the application of human rights in the future, all of which will be discussed in the final chapter. If the policy is seen to have fallen outside of the boundaries of what can be expected by a human rights conscious nation, even with the added influence of cultural relativism, evidence provided for the necessity of the nationwide family-planning scheme will be all the more important, especially if the program is ultimately deemed a waste of resources and an example of an unwarranted abuse of a nation's population. For these reasons, the conclusions reached in the following section will be of paramount importance for the direction this thesis will take.

3.6.1 The one child policy as an act of cultural practice

For the violations that have undeniably occurred through the implementation of the one child policy to be allowed there must be clear evidence that the practice was one of cultural importance and steeped in Chinese tradition. As an alternative, it must be considered whether fiscal and economic restraints meant that the obligations of the state to protect certain rights were not able to be performed and whether the policy was necessary in order to alleviate these controls. The former possibility at first glance seems highly unlikely for the reasons posited above. When listing the violations caused directly (or indirectly) by the one child policy, there are too many rights which are deemed inviolable in all traditions and societies that have been infringed upon. The latter argument may be more plausible and will be discussed fully in later chapters. Where cultural relativity is prevalent in modern civilisation it is often present in areas where dualistic societies have formed. Examples may include the Amazonian peoples living together with Brazilians ever-expanding into the heart of the rainforest; Native American tribes forced to share sacred grounds with modern day Americans; and the

traditional Islamic societies in areas such as Dubai and the Arab Emirates being infiltrated by western investors and immigrants. In all instances special cases for allowing the continuation the practice of customs and traditions which may be at odds with customary human rights law have been made. These efforts to preserve cultures are defensive measures and give these peoples protection over their systems of natural law. A further great illustration of this is the legal pluralist systems used in areas such as South America designed to protect the rights of indigenous peoples¹⁸³.

In all cases though protection has been granted for peoples existing as a minority within a larger body of society, whose rights and customary practices have been encroached upon by a much superior majority. In addition, these allowances for cultural relativism are by no means the rule and instead represent the exception¹⁸⁴.

Applying this logic it is hard to see how any acts of violation carried out by the PRC can be considered reasonable. Only on the global scale do the Chinese see their traditional values being encroached upon and often state that due to human rights being a domestic affair, any outside pressure amounts to an intrusion on their national sovereignty¹⁸⁵. Yet the fact is China is one of the world's least ethnically diverse nations. There are cultural divergences across the nation, but all are underpinned by the same Confucian ideals and glued together by a centrist model. The outliers of Tibet and Xinjiang, areas where protection is really needed, are having their cultural practices eroded yet the CPC remains hypocritical on the matter.

Thus, as the practice of cultural relativism is determined to allow protection and act as a form of remedy in many cases where cultures have clashed, on this count, China really has no excuse to claim the one child policy as an example where leeway is needed.

¹⁸³ For the rights of indigenous peoples see the 1989 International Labour Organisation Convention (also known as C169) and the draft UN Convention on the Rights of Indigenous People

¹⁸⁴ Donnelly, Jack, *Cultural Relativism and Universal Human Rights*, Human Rights Quarterly, Volume 6(4), 1984, p.410

¹⁸⁵ Zhu, Yuchao, *China and International 'Human Rights Diplomacy'*, China: An International Journal, Volume 9(2), September 2011, p.217

Relativism is not an excuse to allow governments to enact overbearing and despotic policies, and China is simply not in the position, now, or when the one child policy was enacted to make this claim. Factoring in the country's role in the formulation of international human rights norms, it is even more ludicrous to imagine China needing these kinds of safeguards to deviate from universal practices.

The only saving grace may be in finding out whether the policy really is steeped in tradition and of customary cultural descent. This chapter has already made clear the values of Confucian, Qing and Marxist scholarly thought on the values encompassed by a system of rights and arguably it is easy to see how the one child policy evolved. The underlying axiom of Confucian thought has been the absence of individuality for the benefit of the collective. This essay does not seek to label this view right or wrong but rather clarify the position. As such, the one child policy is wholly representative of this adage. As Hua Guofeng, the short-lived successor to Mao Zedong, said, placing harsh restrictions on reproduction was a necessity in building a socialist society and benefits national development¹⁸⁶. Song Jian stated that limiting population growth would be advantageous to the fulfilment of the nation's four modernisations and in turn, raise the people's standards of living, another hint at the importance of subsistence rights in Chinese mentality¹⁸⁷.

Susan Greenhalgh has echoed this argument by positing that the limitation of the individual's reproductive freedoms was entirely deliberate in order to sustain economic development and in turn, the quality of life for future generations¹⁸⁸. The latter point here is particularly important when attempting to understand the reasoning behind instigating such a draconian program. As has previously been clarified, the quality of

¹⁸⁶ Hua, Guofeng, *Shuji guashi, quandang dongshou, jinyibu gaohao jihua shengyu* (With party secretaries in command, all party members [should] join the effort to do a better job in birth planning), in *Population Yearbook of China Editorial Committee* (ed.), *Zhongguo Renkou Nianjian* (Population Yearbook of China, Zhongguo Shehui Kexue Chubanshe, Beijing, 1985), pp.20-22

¹⁸⁷ Song Jian, Tian Xueyuan, Li Guangyuan, and Yu Jingyuan, *Concerning the issue of our country's objective in population development* (Renmin Ribao (People's Daily), 7th March 1980), in *Joint Publications Research Service* 75524, 18th April 1980, p.37

¹⁸⁸ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.332

life here refers to subsistence rights which pertain to a form of individuality. Yet these are individual rights which can only be secured once the lot of the collective, or the nation, is improved.

The 1991 white paper elucidates this line of argumentation well: ‘the right to subsistence is the foremost human rights in China without which all other rights are basically unobtainable¹⁸⁹.’ The rationality of this approach is that without human existence, which is cemented by the provision of subsistence rights, one cannot enjoy any of the other civil rights the government may or may not wish to bestow upon them¹⁹⁰.

The additional principle central to the formation of the one child policy is the Marxist belief of the necessary provision of welfare rights, or, to put it another way, the assurance of the material well-being of the population. As Nathan posits, key to all Marxist-Leninist constitutions is the obligation to provide these welfare rights to the people above all other obligations¹⁹¹.

The final piece of evidence of how the one child policy fit in to the jigsaw that is the post-Mao Chinese system of rights comes from the programs chief instigator, Deng Xiaoping. For Deng the rights of the nation, the ‘Guó quán’, or the collective took overall precedence. After that human rights (Rènguán) and subsistence rights (Shēngcún quán) could follow¹⁹². It is clear then why the Chinese are so averse to criticism of their human rights practices. By placing rights practice within the realm of domestic policy,

¹⁸⁹ GXB, *Zhongguo de Renquan Zhuangkuang (China's Human Rights Situation)* (Central Literature Publishing House, Beijing, 1991), p.1

¹⁹⁰ Dong Yunhu and Liu Wuping, *Shijie Renquan Yuefa Zonglan Xubian (A Supplement to International Documents on Human Rights)* (Sichuan People's Publishing House, Sichuan, 1993), p.20

¹⁹¹ Nathan, Andrew, *Sources of Chinese Rights Thinking*, in Edwards, R. Randle, Henkin, Louis and Nathan, Andrew (eds.), *Human Rights in Contemporary China* (Columbia University Press, New York, 1986), pp.153-4

¹⁹² Gu Chunde, Zheng Hangsheng (eds.), *Renquan, cong shijie dao Zhongguo: dang dai Zhongguo ren quan de li lun yu shi jian (Human Rights, From the World to China: The Theories and Practice Studies of Chinese Human Rights Today)* (Beijing: Dangjian chubanshe (Party Building Books Publishing House), 1999), pp.300-1

and designating sovereignty as the most important of all rights, China has yet again 'sinofied' the realm of human rights.

Therefore, once it is clear through study of Confucian principles, the Marxist approach, and the belief of very man in charge of initiating it, that the one child policy does fit in with the rights psychology of 1970s China. The only issue is whether one can really believe that claims by the government that the one child policy would lead to economic development and the subsequent provision of rights. As stated in previous chapters, the CCP did an admirable job in creating an environment in which the policy did appear to be the only possible solution to the looming threat of a lack of subsistence for the nation. This was facilitated by the Confucian Sinocentric view of the world where China needed to be at the head of world affairs and thus modernised at the earliest opportunity. By labelling population growth as the key barrier to this modernisation, the one child policy was assimilated into the inner-workings of the Chinese system of rights, as a means of ensuring a better future for the entire nation¹⁹³.

The next chapters will look in depth into whether these claims were truisms and whether the one child policy was indeed necessary for the economic development and consequent modernisation of the nation. For now though, a conclusion must be made on if, regardless of its place in the traditional Chinese system of rights, the one child policy can be allowed through the method of cultural relativism.

3.6.2 Does relativism apply to the one child policy?

Strictly speaking, the one child policy falls within the system of rights espoused by the Chinese regime at that time. That party officials speak of its success now hints that the policy is still deemed acceptable. Yet, as Donnelly has made clear, the practice of

¹⁹³ Greenhalgh, Susan, *Science, Modernity, and the Making of China's One-Child Policy*, Population and Development Review 29(2) (June 2003), p.182; Song Jian, Tian Xueyuan, Li Guangyuan, and Yu Jingyuan, *Concerning the issue of our country's objective in population development* (Renmin Ribao (People's Daily), 7th March 1980), in *Joint Publications Research Service* 75524, 18th April 1980, in *Joint Publications Research Service* 75524, 18th April 1980, p.37

allowing forms of cultural relativism should not be used to shield acts of despotism or actions that violate certain inalienable rights. After all, every global culture, whether as part of the westernised network of human rights practice or not, employ mechanisms which protect conceptions of human dignity¹⁹⁴. There should then be no leeway for a state that actively chooses to initiate a policy with the effect of violating absolute rights. The specific rights which are affected by the birth-planning policy from the outset have been listed above. Yet the damage does not end there. The one child policy has had effects that have, like a virus, spread and infected all areas of Chinese society.

The added pressure placed upon couples in rural societies in particular to birth boys has further set back any progress made to China's deeply-set gender imbalance. The one child policy has directly caused the widespread pursuit of female infanticide indicated by the increase in the gender ratio in the years immediately after the policy's initiation. In 1964, the ratio stood at 1.04 or 104 males for every 100 females. This had risen to 1.11 by 1983. The figures represent a loss of 877,000 baby girls from the three years between 1981 and 1983 when coercive measures were most widely used¹⁹⁵. Deng Xiaoping's economic reforms and system of responsibility in rural areas had placed an extra measure of desirability on having male offspring as they would be able to contribute in greater amounts to the family income¹⁹⁶.

For a nation whose Confucian roots were so deeply entrenched in the practice of patriarchy the one child policy served to ensure a continuation of this status quo. Not only were females unwanted, women also took the brunt of the blame when giving birth to girls. The journalist Michael Weisskopf's account is particularly harrowing:

¹⁹⁴ Jack Donnelly, *Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights*, American Political Science Review 76, 1982, pp.303-316.

¹⁹⁵ Weisskopf, Michael, *China's Birth Control Policy Drives Some to Kill Baby Girls*, Washington Post, 8th January, 1985, pp.A10-A11

¹⁹⁶ Chang, Maria Hsia, *Women*, in Wu, Yuan-li, Michael, Franz, Copper, John F., Lee, Ta-ling, Chang, Maria Hsia and Gregor, A. James, *Human Rights in the People's Republic of China* (Westview Press, Boulder, 1988), p.262

‘... Unsuccessful wives have been poisoned, strangled, bludgeoned and socially ostracised....[Some have been driven] to suicide, others into mental institutions... The pressure on women is so great that many openly weep on learning they have given birth to a girl¹⁹⁷.’

One additional piece of evidence illustrating the effect of the policy on women is the toll it took on life expectancy. In 1982 the estimated life expectancy of Chinese men was 65.7 years whereas for women it was 64.2 years. For Chinese living abroad however, women outlived their male counterparts by up to seven years on average¹⁹⁸. Chang notes that China’s 1982 statistics represent an outlier for nations with similar life expectancies. Women have always outlived the men¹⁹⁹. It appears then, that although Deng’s reforms helped develop and modernise the nation, the attributing welfare and reduction in mortality of the female population has not occurred, and in fact, conditions have worsened²⁰⁰. This is a clear example of the systematic violation of Chinese women’s fundamental human rights as a result of the one child policy. It is increasingly difficult to comprehend the actions taken by the CCP when acknowledging that China had both signed and ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as early as 1980.

It is clear then that the one child policy served to amplify existing divisions between women and men and differences in their social and cultural importance that was prevalent in the overly patriarchal Confucian doctrine²⁰¹. Whether improvement has been made will be discussed in the final chapter.

¹⁹⁷ Weisskopf, *China’s Birth Control Policy Drives Some to Kill Baby Girls*, Washington Post, 8th January, 1985, p.A11

¹⁹⁸ Banister, Judith, *An Analysis of Recent Data on the Population of China*, Population and Development Review, Volume 10(2) (June 1984)

¹⁹⁹ Chang, Maria Hsia, *Women*, in Wu, Yuan-li, Michael, Franz, Copper, John F., Lee, Ta-ling, Chang, Maria Hsia and Gregor, A. James, *Human Rights in the People’s Republic of China* (Westview Press, Boulder, 1988), p.264

²⁰⁰ Eberstadt, Nick, *Material Poverty in the PRC in International Perspective*, Issues and Studies, Volume 22(5) (May 1986), p.52

²⁰¹ Susan Greenhalgh, *Sexual Stratification: The Other Side of ‘Growth and Equity’ in East Asia* (1985)

A concluding indirect consequence of the one child policy is the increase of human-trafficking of both women and children. Given the added importance of male over female offspring and the threat of major penalties for birthing more than one child, the sale of one's daughter has seemed for many the best remedy. Oppositely the desire for a son has led to a significant number of young boys being abducted and sold into the trafficking business.

In addition, the increased gender imbalance has created a gulf in the marriage market with millions of men now finding themselves single at 50 representing a complete loss of face for both the individual and the family. With no method available of continuing the family lineage and no certainty of financial security in the future, the added pressure of these Confucian responsibilities has created a generation of 'failures'. Domestic and cross-border trafficking of women has provided a suitable solution for many. The U.S. Department of State's Trafficking in Person (TIP) 2014 Report has indicated that directly due to the gender ratio imbalance, women and girls from Burma, Vietnam, Mongolia, Cambodia, Laos, and North Korea are now being recruited through marriage brokers and transported to China²⁰². All of the above practices are strictly at odds with international human rights law and practice²⁰³.

Again, while not directly causing trafficking, the one child policy has created the optimum environment in which it can occur. The added traditional practices and views of gender and familial structure as made trafficking rife and unfortunately, China has still not done enough to combat it²⁰⁴.

Further possible indirect violations caused by the one child policy will be discussed in the final chapter, including how the policy may have served to irreversibly altered the perception of Confucian ideals it was manufactured under that Chinese society has.

²⁰² *Country Narratives*, U.S. Department of State's Trafficking in Person (TIP) 2014 Report, 2014, p.132, available at <http://www.state.gov/documents/organization/226845.pdf> , accessed 29th July 2016,

²⁰³ Art. 6, CEDAW, 1979; Art. 35, Convention on the Rights of the Child(herein referred to as CRC), 1989. China has ratified both.

²⁰⁴ *Country Narratives*, U.S. Department of State's Trafficking in Person (TIP) 2014 Report, 2014, p.132, available at <http://www.state.gov/documents/organization/226845.pdf> , accessed 29th July 2016,

What is clear for now, however, is that either directly or indirectly, the one child policy has overstepped what can be called legitimately allowed under the guise of cultural relativism. On the fact of it, this was obvious, and under deeper inspection we can really gain an understanding of how much degradation of one's individual rights the policy has caused.

Conclusion

Human rights as a doctrine is constantly evolving and adapting to suit the needs of an increasingly connected world. The effect of globalisation means that there are few places still left completely untouched by what is essentially a universal rights system. I have constantly used the term 'Western' during this chapter to make clear where the human rights movement began, but this is not to say that the ideas making up the concepts of rights all originate in Europe and the USA. The very fact that even before the any advancement of a global human rights regime began there existed uniting principles of inherent rights in each and every culture proves their universality. Yet we must be careful, just as Peng Chun Chang argued during the formation of the UDHR, to respect and learn from contextual relativity that occurs across the globe.

However, a line must be drawn when making allowances for relativity that can under no circumstances be overstepped. Practices that defy our inherent rights to life, liberty, security, dignity and encourage the use of torture, and inhumane or degrading treatment can never be allowed. There is no defence possible for their use.

I argue that at the time of its implementation the one child policy satisfied the qualifications of being part of Chinese cultural norms particularly due to how entrenched society was and still is in Confucian and Marxist dicta. Individual rights which are so necessary in a free and open society were not developed and the welfare of the state was prioritised. The one child policy reflects this. But, while allowances can be made for certain civil rights being absent, especially in nations in which cultural norms have meant individual rights are a completely alien concept let alone demanded by the

population, the violations that are a direct result of this infamous family planning project are inexcusable.

I have stated explicitly that the employment of the one child policy *at that time* fit with Chinese normative practices and beliefs because I am not so sure they would now. China has developed remarkably quickly in the past four decades since the policy has been initiated and with modernisation and growth certain developments have been made in the area of civil and political rights. The final chapter will determine whether modern day China is still conducive to a project such as the one child policy and how the Chinese rights system has developed. We will also be able to better understand the direction in which the middle kingdom is developing and whether it is likely we will see any more schemes as notorious and rights-destroying as the one child policy again.

Presently however, we must distinguish whether the CCP's reasoning behind instigating the one child policy holds true: that the policy was the only option to combat overpopulation, and that it has helped modernise and benefit future generations. The following chapters will seek to establish how necessary the scheme was in sustaining China's economic development and curbing its population's growth, and understand better how much of an impact was made on the individual's freedom to determine the size of their family. By comprehending both we can better establish the one child policy's true legacy in the field of human rights.

Chapter Four – Was the one child policy necessary?

Introduction

The one child policy's legacy in shaping the modern Chinese state will inevitably be viewed differently depending on the source. For those towing the party line, the policy achieved everything that it was intended to achieve and allowed for China's development into the second largest economy on earth. For the predominantly western opponents of the system, the one child policy has created more problems than solutions, some of which have yet to fully rear their ugly heads. Having already sacrificed the rights and wellbeing of one generation, China may, as a consequence of her population controlling scheme, experience a similar catastrophe in the future. When considering the true legacy of the policy, it is therefore prudent not only to weigh up the rewards and failings of the system but also its possible future impact on Chinese society.

One must not forget the final perspective when assessing the pros and cons of the one child policy – the view of those who were directly affected. There is no doubt that attitudes will have changed in the forty years that have passed, especially as China, and overall the Chinese individual, has seen its fortunes increased. Yet, with issues of gender imbalance and an aging population amongst others, how much would it take for the generation who sacrificed so much for the benefit of their nation, to cry foul of the policy and turn on their very government were comparable rights-reducing policies implemented in the future. It remains to be seen, but is definitely an area to watch in the coming years.

In judging the necessity of the one child policy we need to remind ourselves of its original intentions – the reason why it was implemented. Quite simply, the policy was employed to reduce fertility nationwide as a way of ensuring China reaches its developmental goals. For many government officials and social scientists, fertility was directly linked with economic growth in so much that a high fertility rate inhibited the growth China needed to take its place at the pantheon of other great nations across the

globe. This is perhaps a reason why the one child policy was not only seen as necessary but as an inevitable stage in the growth of the nation by the aging party leaders of the 1970s.

This chapter will therefore serve to provide the best evidence of the one child policy's effect on China's fertility rate while also seeking to provide proof of this rate's relationship to economic growth. Other factors for growth will also be posited and considered in an attempt to question whether the policy was ever needed at all to achieve Chinese nationwide development. Most importantly, a comparison must be made between China and its surround neighbour's fertility rates during the period in question. As the only nation to inflict such a scheme upon its population it will serve as good evidence of whether the policy was really effective and therefore necessary. It must be noted however, that the sacrifice of an individual's inherent rights and a prolonged period of human rights violations inflicted upon a populous should never be considered as 'necessary' measures in the quest for national development. This issue is covered in depth in Chapter Three. This chapter only seeks to clarify whether those responsible for the one child policy's instigation can be legitimised by their own people through the scheme's results.

4.1 The effect on China's fertility rate

When strictly considering the figures, from the initial stages of the one child policy until the present day the drop in China's fertility rate has been astounding. In the 1970s alone the number of children per woman had declined from approximately six to just under three²⁰⁵. To see a clearer picture of the drop in Chinese fertility rates see Graph 2 in the appendices section. Of course how much this has to do with the effects of the one child policy and the Chinese program of population control is up for debate and will be discussed later in the chapter. In the following decades the rate continued to decrease eventually falling below the '*replacement level*' of 2.1. By the 2000s the figure rested at

²⁰⁵ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003) p.3

around 1.6 children per woman, a dangerously low number hovering just above what is considered conducive to triggering the '*low-fertility trap*'.

We must be careful to place too much trust in these statistics however as Chinese population studies can be notoriously unreliable. When considering the sheer magnitude of undergoing regular population censuses in the most populated country in the world it is easy to understand why results may be changeable. Problems are exemplified when factoring in the sheer scale of the country in size and the variability of setting and locations of individual populations. Finally, and perhaps most importantly, population surveys predominantly use the nationwide system of household registration, the *hùkǒu*. However, problems can occur for those born outside the regulations of the one child policy²⁰⁶ making the eventual gathered results highly undependable.

Although modern technology and logistical improvements have been able to nullify some of these hindrances to a certain extent it seems that issues still remain. In fact, it is apparent that even the scientific establishment can create barriers for those wishing to gather Chinese population statistics. My source at Vienna's Wittgenstein Centre for Demography and Global Human Capital (hereby known as the Wittgenstein Centre), herself a Chinese researcher, stressed how covert a lot of the population statistics are to the general public and even the Chinese academia²⁰⁷. Reasons for this secrecy are unclear. It is possible however, that, similar to how figures were used pre-one child policy to instil fear and legitimise the policy's implementation, the current trends and statistics are being guarded to prevent a parallel effect, stoking alarm and seriously harm the one child policy's legacy. Although we can never be certain about this, it is a possibility in a country such as China which lacks transparency at almost every level of governance. This issue of reliability and the volume of data needed for a population

²⁰⁶ For example, if a woman who is not permitted to give birth to more than one child produces another, their second child will, as punishment, refused access to certain state benefits, such as registration to the *hùkǒu* leading to an extreme lack of civil rights and limited access to education or employment.

²⁰⁷ Interview with Wittgenstein Centre for Demography and Global Human Capital Chinese PhD Researcher, 29th June 2016

survey means we, as commentators, must take most publicly-available figures with a pinch of salt.

Nevertheless, as a program designed to drastically reduce the national fertility rate there is no denying that the one child policy has been an overwhelming success regardless of the questionable data available. When strictly addressing the scale of this achievement it is hard not to be impressed – although we should not forget the terrible consequences²⁰⁸. It is also important to consider that the reduction in numbers could have been considered as merely a means to an end had it not resulted in the ultimate goal: parity with the advanced nations of the West both socially and economically²⁰⁹. As has been discussed previously, control over population growth has long been considered by scholars and, consequently, party leaders as essential to catalyse economic growth and achieve this parity²¹⁰. Therefore surely we can consider the one child policy as a remarkable feat of social engineering for the greater good of a nation? Not entirely.

4.1.1 Did the one child policy directly cause the decline in China's fertility rate?

This question is quite possibly key in answering whether the one child policy can really be called necessary and therefore a success. If there is direct association the policy has at least some legitimisation for the number of rights violations inflicted upon its population. However, if fertility trends would have continued downwards regardless of a nationwide program of population control not only would this place further condemnation on one of the most reviled governmental 'projects' of human history but be an additional burden on the CCP in moving forward and improving foreign relations. Surely international criticism would reach an all-time high if it were proved that the policy was all for nought. There is already widespread acceptance of the human rights cost of the one child policy, but the human rights issues can hardly claim to have the

²⁰⁸ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003) p.19

²⁰⁹ Ibid. p.313

²¹⁰ See my comments regarding Ma Yinchu, *ch.1, 1.2.3 Policy Hiatus – 1959-1979*, and Hsia, Ronald, *The Intellectual and Public Life of Ma Yin-ch'u*, *The China Quarterly*, Volume 6 (Apr.-Jun. 1961), p.61

same weight as global economic matters on the international political level. If the scheme was shown to have had no effect on Chinese economic growth and fertility it would have lost its only defence from universal denunciation which can only lead to more protection for Chinese citizens' rights going forward.

This is also where this thesis steps away from the realm of human rights and into the nitty-gritty of demography. While, in its association with formulae, trends, statistical analysis and data collection this area of study may be considered more closely attached to a branch of mathematics, the fact that demographers are most often interested in the 'why' question places this discipline firmly within the field of sociology. The multi-disciplinary facet of human rights study absolutely encompasses demography. We can therefore press on with the analysis of the statistics.

It has already been highlighted that there was a definite correlation between the decline in Chinese fertility and the time in which the one child policy was in force. However, the biggest drop came in the preceding decade. In fact, as Greenhalgh and Winckler attest to, were we to begin our analysis of the fertility rate at the start of the population control program, the results would not be so impressive. Using their statistics, the fertility fell by about one birth, from the 2.54 children per woman in 1979-81, to around 1.55 births in 2001. It is ironic that the father of the one child policy, Song Jian, would have considered this result as 'disadvantageous to our country's four modernisations... and to the raising of the people's standard of living'²¹¹.

It is important to note at this juncture again how flimsy the statistics are with further comparison. As has been stated, the figure used by Greenhalgh and Winckler for 2001 is 1.55 yet Stuart Basten and Gu Baochang report from two sources 2006 figures of 1.6 and 1.8 respectively. There is no chance of an increase during this time as the policy was still in effect and, as will be discussed later, the idea of 'one couple, one child' was embedded within the Chinese populous. The National Bureau of Statistics officially

²¹¹ Song Jian, Tian Xueyuan, Li Guangyan, and Yu Jingyuan, *Concerning the issue of our country's objective in population development*, Renmin Ribao (People's Daily), 7th March 1980, in *Joint Publications Research Service* 75524, 18th April 1980, p.37

acknowledged the 2006 total fertility rate as 1.6²¹² whilst the other government agency in charge of fertility statistics, the National Population and Family Planning Commission placed their figure at around 1.8 stating: '[we have] been reluctant to accept that fertility has fallen to a level well below replacement, and maintains that [the] fertility level is still around 1.8'²¹³. The reason for this discrepancy may fall in line with my previous conviction of an urgency to 'hide' the ill-effects of the one-child policy. As will again be discussed later, having your population fall far below the replacement level of 2.1 can be disastrous especially in an aging nation where a family hierarchy is still central to the functioning of society.

Even considering the possibility of unreliable data there is still no denying the correlation between the one child policy and the drop in fertility rate. Perhaps the biggest evidence of the direct relationship is that immediately after the policy was enacted, during which time it was most aggressively enforced, the fertility rate was most greatly reduced (when considering data from 1979 onwards). After the initial stages of implementation, once the policy had been embedded, coercive measures were replaced by disincentives and incentives²¹⁴ and the decline was more gradual.

However, in order to really establish the credibility of the one child policy as the principle instigator of fertility reduction, we must make a fair comparison. The following section will delve into the corresponding fertility patterns across the Taiwan Strait in Taiwan and in the semi-autonomous city of Hong Kong.

4.2 Comparative Fertility Rate Studies

²¹² Basten, Stuart and Gu, Baochang, *Childbearing preferences, reform of family planning restrictions and the Low Fertility Trap in China* (University of Oxford, Department of Social Policy and Intervention, Oxford Centre for Population Research: Working Paper No.61, August 2013)

²¹³ Cai, Y, *Does Enrolment Statistics Provide a Gold Standard for Chinese Fertility Estimates?* [in Chinese], *Population Research*, Volume 33(4), pp.22-43

²¹⁴ Short, Susan E. and Zhai Fengying, *Looking Locally at China's One-Child Policy*, *Studies in Family Planning* 1998; 29, 4, p.374

Before addressing the statistics it is important to explain why Taiwan and Hong Kong were chosen above all other states. Originally India had been feted as a possible country for comparison mainly due to its status as the only other nation with a population of over one billion. However, two reasons exempt that nation from this comparison. Firstly, as the world's largest democracy, India is placed under a higher level of scrutiny from both the international stage and its own population which means any process akin to the one child policy would automatically have been criticised and ultimately snuffed out. This is precisely what happened in 1975 and 1976 when, after an enforced period of national sterilisation, in which more than eight million sterilisations were performed, Indira Gandhi's government came under extreme pressure and ultimately collapsed. China does not have this problem as a state with very limited transparency and with a very aggressive attitude towards public discontent²¹⁵. Secondly, India does not share the same societal structure and values as China which would prove to be an obstacle for those wishing to reduce the fertility rate.

Taiwan and Hong Kong (in theory) are also democratic societies like India which will be apparent later, but the fact that they share an almost identical culture with Mainland China means they are best placed to be compared with the PRC. An obvious difference is of course the disparity in size between the three cases, yet, when considering all factors, they seem most suitable for comparison.

4.2.1 Taiwan

First, we can try to consider the compared numbers provided by an international population reference organisation. For fairness sake, the figures must be provided by the same organisation. The latest statistics made public by the Population Reference Bureau (PRB) for Total Fertility Rate (TFR) in 2014 place Taiwan at 1.2 and China at 1.7. When placed against 1970 estimate, also according to the PRB, of 3.9 and 5.5

²¹⁵ Harkavy, Oscar, and Krishna Roy, *Emergence of India's National Family Planning Program*, in Robinson, Warren C., and Ross, John A., (eds.), *The Global Family Planning Revolution, Three Decades and Policies and Programs* (Washington D.C, 2007) . Visaria, Pravin, *Population Policy*, Seminar 511 (March) (New Delhi, 2002)

respectively²¹⁶, both countries have experienced extreme declines although these numbers extend further than the lifetime of the one child policy. However the fact that there is a similar trend of decline, even with the absence of an intrusive population control policy in Taiwan, is enlightening. But this source has a clear lack of statistics by which we can really measure how closely the trends mimic each other. It does however show that both nations are well below the replacement level with Taiwan well below the 'low fertility trap' threshold. Finally, when compared to the previous statistics given for China's current TFR, PRB's estimates are not far off which is encouraging.

Second, we should delve into the statistics made public by the governments of said countries themselves. These, in theory, should be more accurate (although as aforementioned the lack of transparency in China can lead to questionable results) and more abundant. The National Statistics Bureau of the Republic of China (Taiwan) openly shares fertility rate data from 1981 until 2014 on their website²¹⁷.

As shown in graph 3²¹⁸ in the appendices section, the TFR in 1981, only two years after the mainland's one child policy was instigated, was 2.455. This fell gradually reaching an all-time low of 0.895 in 2010 before recovering to 1.165 in 2014. Over this period from 1981 to 2014, roughly the same length of time of China's infamous population control program, TFR fell by roughly 1.3 children per woman (although at one point this figure was closer to 1.5). By contrast, using the Chinese National Bureau of Statistics figures expressed by Gu Bao Chang and Yong Cai in their United Nations Population Division Expert Paper on Chinese fertility prospects²¹⁹, Chinese TFR was 2.75 in 1979 at the advent of the one child policy. The same organisation stated that in

²¹⁶ See *Total Fertility Rate, 1970 and 2014*, Population Reference Bureau, available at <http://www.prb.org/DataFinder/Topic/Rankings.aspx?ind=17>, accessed 1st July 2016

²¹⁷ See *National Statistics*, available at <http://www1.stat.gov.tw/mp.asp?mp=3> (in Chinese), accessed 1st July 2016

²¹⁸ Taken from *Table 15 - Fertility rates for women of childbearing age*, available at http://eng.stat.gov.tw/public/data/dgbas03/bs2/yearbook_eng/y015.pdf and *Table 14 - Fertility rates for women of childbearing age*, available at http://eng.stat.gov.tw/public/data/dgbas03/bs2/yearbook_eng/y014.pdf, accessed 1st July 2016

²¹⁹ Gu, Baochang, and Yong Cai, *Fertility Prospects in China*, UNPD Expert Papers (New York, United Nations Population Division) 2011

2006 TFR was 1.6²²⁰, a difference of 1.15 children per woman. Although the time parameters are slightly different, the fact that the Chinese sample ends eight years before Taiwan's should not matter too much as China's fertility has not dropped by much since that time²²¹.

On the face of it, these results are quite remarkable. In the absence of the type of population controlling system implemented on the mainland, Taiwan's fertility rate still dropped by a larger amount than in China during the one child policy's time period. When considering that different government sources place the current TFR in China higher at around 1.8, the margin is even greater.

The question is why, has Taiwan experienced such a change in the last half-century? It is true that the government enacted widespread family planning initiatives during this time, but nothing comparable to the mainland's infamous policy.

There are numerous reasons why this reduction in fertility has occurred in Taiwan which will help us understand similar patterns in China. Firstly, this island nation has an overwhelmingly urban population. In 1978 the proportion of urbanites stood at 89 percent when placing the threshold for what is considered an urban area at a population of 25,000 and 63.85 percent when placing the threshold at a population of 50,000²²². China has experienced a massive amount of urbanisation in the last half a century, even when accounting for the brief migration back to the countryside during the Cultural Revolution in which 18 million urban youth, from 1962 to 1978 were sent back to the rural areas of the country in an extended period of rustication²²³. According to statistics compiled by the National Bureau of Statistics of China, the total national urban

²²⁰ Basten, Stuart and Gu, Baochang, *Childbearing preferences, reform of family planning restrictions and the Low Fertility Trap in China* (University of Oxford, Department of Social Policy and Intervention, Oxford Centre for Population Research: Working Paper No. 61, August 2013)

²²¹ However, for fairness sake, Taiwan's 2006 TFR was 1.115, a 1.3 drop from 1981.

²²² Shao Qin, *Luetán táiwān chéngshì rénǒu yǔ chéngzhènghuà tèdiǎn* (A brief discussion on Taiwan's urban population and the process of urbanisation) (In Chinese) (China Academic Journal Electronic Publishing House)

²²³ Riskin, Carl, *China human development report 1999: transition and the state*, United Nations Development Programme (Oxford University Press, 2000), p.37

population percentage in 1982 was 20.9 percent contrasting with 56.1 percent in 2015. However, the population threshold here is not clear as it is in the Taiwanese data set. Nevertheless, even in the wake of urbanisation the percentage of China's city-dwelling population still lags far behind Taiwan.

Stepping away from the numbers for a moment, we can consider the relevance of urbanisation in affecting fertility rates. Most important is the impact of the much higher direct costs of childbearing in an urban environment as opposed to in countryside setting. These costs encompass the costs of living, expected investment in education and further *indirect* costs. What is meant by 'indirect costs' is the damage caused to women in particular when the private domain is unable to catch up to the ever-evolving public sphere²²⁴. Yu emphasises the importance in the changeable Taiwanese labour market by suggesting that this rapid development has led to an uncomfortable dilemma for many well-educated younger women – the choice between their career and family. For previous generations, workers were able to combine family duties with informal sector work²²⁵.

In my interview at the Wittgenstein Centre further possible reasons for such low fertility rates came to light. These included changes in the psychology of young people, the transformation of traditional family and societal structures, and even the lingering effect of Japanese occupation²²⁶. For young people, as has already been noted, the burden of early child-bearing was too heavy especially when combined with the desire for independence from family constraints and parental expectations. This desire is reflected in the number of young adults choosing to abandon the traditional *sì shì tóng táng*²²⁷ in

²²⁴ Basten, Stuart and Verropoulou, Georgia, *A Re-Interpretation of the 'Two-child Norm' in Post-Transitional Demographic Systems: Fertility Intentions in Taiwan*, PLOS ONE, August 20th 2015

²²⁵ Yu, W-H, *Gendered trajectories: women, work, and social change in Japan and Taiwan* (Stanford University Press, Stanford, 2009)

²²⁶ Interview with Wittgenstein Centre for Demography and Global Human Capital Chinese PhD Researcher, 29th June 2016

²²⁷ Chinese idiom translated as 'four generations under one roof' in which, sometimes very literally, all four generations co-habit in the same home or neighbourhood. This familial structure in addition with the patriarchal Confucian hierarchy of '*Ràng jūn shì jūn, chén shì chén, fù fù, zǐ shì zǐ*' or 'Let ruler be ruler, subject be subject, father be father, and son be son', is central to traditional Chinese and Taiwanese social values.

father of living alone. Combined with an increased number of Taiwanese students being encouraged to seek further education in schools with western curriculums, home and abroad, it is no surprise traditional values are being left behind.

Chen posits a final indicator of the modernisation of Taiwanese familial values in the significant shift towards a postponement of both marriage and childbearing²²⁸. Whilst before offspring were encouraged by their parents to marry and repopulate as early as possible due in part to the cultural and economic importance of children to continue a family's name and provide another source of income in the future. Now children are seen more of an economic liability and not considered until married couples have the financial security of a steady income from a good job in a demanding urban labour market.

By applying further demographic statistics the picture becomes clearer. The mean ideal family size (MIFS) reported by young women aged 18-27 dropped from 2.1 in 1993, to 1.8 in 2003 with almost a quarter of respondents indicating an ideal family size of one child or less compared to only 6.7 percent ten years earlier²²⁹. Of course this also shows that a large number of young Taiwanese women do still want more than one child, yet the eventuality of this actually happening is low and is getting increasingly less likely.

However, this change is gradual and resistance still exists. This is no wonder considering how deeply-set normative customs are in China. As a result, these young couples still have to deal with the expectations of the previous generations, in particular looking after their parents when they grow old²³⁰. This is not likely to change in the near future as, like China, Taiwan is experiencing a severe case of population aging putting

²²⁸ Chen, Y. H., *Trends in low fertility and policy responses in Taiwan*, Japanese Journal of Population, Volume 10, 2012, pp.78-88

²²⁹ Basten, Stuart and Gu, Baochang, *Childbearing preferences, reform of family planning restrictions and the Low Fertility Trap in China* (University of Oxford, Department of Social Policy and Intervention, Oxford Centre for Population Research: Working Paper No.61, August 2013), p.15

²³⁰ Basten, Stuart and Verropoulou, Georgia, *A Re-Interpretation of the 'Two-child Norm' in Post-Transitional Demographic Systems: Fertility Intentions in Taiwan*, PLOS ONE, August 20th 2015

pressure on individual families and the maintenance of national bodies such as the National Health Insurance system.²³¹

Patriarchal customs and attitudes are still commonplace at home, in the workplace and in the political domain. This is a particular concern for Frejka and al. who state that the ‘public and private institutions are not devoting sufficient attention to generating broad social change supportive of parenting.’²³² For these commentators, not enough is being done to ‘increase male involvement in the household’ and ‘unless current conditions are radically changed and child and family-friendly environments are fostered, it is difficult to believe that fertility patterns will change.’²³³ Simply put, if the current status quo remains, parents will be totally put off having children as the conditions are not conducive to a suitable child-bearing environment.

The grave danger of having a population whose fertility rate dipped as low as 0.895 in 2010 was highlighted by then President Ma Ying-jeou when he stated that ‘the low birth rate is a serious national security threat’. This opinion was echoed by Hau Lung-Bin, the mayor of Taipei, who feared the TFR would ‘cripple our city’s development’.²³⁴

We must not forget in our comparison that Taiwan did in fact employ a successful anti-natalist system which did have a contributing effect to the fertility decline. However, it did not exist in a similar vein as the one child policy - a strictly proscriptive family planning regime. Conversely, this island nation has employed a pro-natalist regime through the ‘Mega Warmth Programme’, although this did not come into force until 2006, a full 22 years after Taiwan dipped below the replacement level. It remains to be seen, especially if fertility rates continue to fall, whether China follows suit.

²³¹ Poston, D. L. Jr., Li, Z., *Taiwan’s demographic destiny: marriage market and aged dependency implications for the twenty-first century*, in Poston, D. L. Jr., Yang, W-S., Farris, N. D. (eds.), *The family and social change in Chinese societies* (Dordrecht, Netherlands, 2014), pp.265-281

²³² Frejka, T., Jones, G. W., Sardon, J-P., *East Asian childbearing patterns and policy developments*, Population Development Review, Volume 36, 2010, p.579

²³³ Ibid., p.603

²³⁴ Basten, Stuart and Verropoulou, Georgia, *A Re-Interpretation of the ‘Two-child Norm’ in Post-Transitional Demographic Systems: Fertility Intentions in Taiwan*, PLOS ONE, August 20th 2015

Before evaluating what these patterns mean for the relevance of the one child policy we must turn to a brief overview of the Hong Kong fertility trends.

4.2.2 Hong kong

The Hong Kong Census and Statistics Department provides easy access to this special administrative region's population figures from which are represented in graph 3²³⁵ in the appendices section.

The results are not too surprising although the starting figure is curiously low. At 1.93 the Hong Kong TFR was already below the replacement level of 2.1 in 1981. There is a fairly regular decline until 2003 when an all-time low of 0.901 is reached, deep in 'low fertility trap' waters. In the last decade there has been a recovery to a 2014 mark of 1.234 which is encouraging for those nations threatened by the prospect of an increasingly low fertility rate. However, with a population of 7.188 million, pro-natal programs would certainly be more manageable and effective than in a nation like China or even Taiwan.

Most interesting is the data provided after 1997 which provides a TFR excluding babies born to a Mainland mother whose spouse is a Hong Kong resident. With this consideration, the rate falls to an extremely low 0.748 in 2003 giving a helpful indication of the differences between Mainland Chinese and Hong Kong attitudes towards child-bearing as late as the twenty-first century.

Using data provided by the World Bank, Hong Kong's current percentage of urban population stands at an unsurprising 100 percent²³⁶. This is undoubtedly a major reason why fertility rates are and have been so low in Hong Kong for so long as explained in the preceding *Taiwan* section. Urbanisation is also an explanation for why even in 1981

²³⁵ Taken from *The Fertility Trend in Hong Kong, 1981 to 2014*, Hong Kong Monthly Digest of Statistics, December 2015, available at <http://www.censtatd.gov.hk/hkstat/> accessed 2nd July 2016

²³⁶ *Urban population*, United Nations, World Urbanisation Prospects, available at <http://data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS?locations=HK> accessed 2nd July 2016

the fertility rate was below the replacement level. However, we must also take into account Hong Kong's very own family planning policy initiated by the Family Planning Association of Hong Kong. The 'Two is Enough' campaign aimed to combat a rapidly rising population (in conjunction with the doomed 'touch base' policy which hoped to prevent mainland migrants entering China illegally) through education means by providing planning advice, sex education and birth control services to the general public.²³⁷

Importantly there is yet again a distinction between the Hong Kong and Taiwan birth-planning campaigns and the one child policy. Whilst the one child policy was proscriptive in its implementation, both the Hong Kong and Taiwan government sought to educate their populations about family planning.

Ultimately, through means of a 'two-child policy' and the effects of complete urbanisation, Hong Kong has reached the same dangerous TFR levels as Taiwan, levels which China may yet drop to in the coming future. For now the MIFS in Hong Kong for young females aged 18-27 stands at 1.5 in 2011 when compared to 1.8 in 1991²³⁸. The positive aspect for Hong Kong, however, is that, as an economic hub, the city has an abundance of foreign workers and migrants to keep the city inundated with vitality and energy.

Hong Kong may just exist as a major conurbation on the southern periphery of the most populous nation on earth, yet it provides an excellent example of the effects of urbanisation on fertility trends and MIFS which can be translated to the urban centres of Mainland China. In addition, with the statistics provided, we are given an interesting insight into how, even after Hong Kong's 'repatriation' in 1997, there was a clear

²³⁷ See The Family Planning Association of Hong Kong website for more information <http://www.famplan.org.hk/fpahk/en/template1.asp?style=template1.asp&content=about/history.asp> accessed 2nd July 2016

²³⁸ Basten, Stuart and Gu, Baochang, *Childbearing preferences, reform of family planning restrictions and the Low Fertility Trap in China* (University of Oxford, Department of Social Policy and Intervention, Oxford Centre for Population Research: Working Paper No. 61, August 2013), p.15

distinction between TFR with and without the inclusion of Mainland Chinese women's babies.

4.2.3 Conclusion

How much importance can we place in these comparisons between Chinese, Taiwanese and Hong Kong TFR? China exists as a unique country so a direct and fair match was impossible to find. But the cultural similarities and the shared history of these three lands are enough to prevent decent analysis. Using our comparative data we can understand better how much credit can be given to the one child policy for reducing TFR in China and go some way to determining its necessity.

Taiwan's decreasing fertility rate is a cause for concern with latest predictions hinting a shrinking population accounting for a 22.3 percent total loss by 2060. Yet this phenomenon has occurred without anything akin to China's one child policy. Blame can be placed on an overwhelmingly urban population rejecting traditional familial structures and basing their child-bearing decisions on what is most economically viable. When framed in these terms, it is logical that Taiwan's TFR has decreased by a larger margin than China's during the one child policy era. The percentage of Taiwanese living in urban areas greatly outweighs the Chinese figure. This is reflected also in the trends identified in the Hong Kong statistics. As urbanisation in China continues surely fertility rates will continue to drop. Shanghai's fertility rate of 0.6 is testament to this²³⁹.

However, the effect of urbanisation can also be used to legitimise the one child policy as main driver behind China's drop in TFR. The areas in which traditional customs hold most weight are overwhelmingly rural and it is in these areas that resistance to change will be met most fiercely. Mao Zedong was aware of this when he hesitated in implementing a national family-planning regime. Education regarding the use of contraception and limitations on child-bearing was needed first before countryside

²³⁹ *China's Achilles heel*, The Economist, 21st April 2012, available at <http://www.economist.com/node/21553056>, accessed 24th July 2016

societies could let go of their views that multiple offspring meant more security. We must remember that in 1982 four fifths of the entire Chinese population still resided outside of urban areas. Even with the gradual urbanisation of the population, there are still hundreds of millions of Chinese citizens living in rural society. It was here that the one child policy would have the most effect. Taiwan and Hong Kong confirm that in a predominantly urban Chinese population fertility rate tends to fall, but, whilst we can apply this to China, it does not answer the entire question.

Thus, we can safely assume the role of the urbanisation of China's population as a principal driver behind the drop in Chinese fertility rates perhaps surpassing the importance of the one child policy's implementation, an argument at odds with the CCPs continued defence of the policy. But, it would be imprudent to assume that there has been only one catalyst in this decline and, as will be discussed in the next section, the one child policy can still take a lot of credit.

4.3 The one child policy's role as instigator of cultural and political change

It is also important to consider whether the one child policy should be merely be judged on face value as a policy designed to reduce the national fertility rate and limit population growth. As aforementioned, TFR has dropped significantly during the one child policy's lifespan although urbanisation probably had a large effect too. However, what is more intriguing is when this national scheme is framed as an instigator of cultural and political change: Cultural, in that the Chinese population were forced to abandon traditional conceptions of family structure and the importance of bearing children, and political, in that the policy was used to legitimise the new government and its ambitions after the death of Mao Zedong.

4.3.1 Traditionalism – a barrier to progress

In his aforementioned interview with the American journalist Edgar Snow in 1958, Zhou Enlai used the term '*kùnnán de* (difficult)' to describe the possibility of putting a

birth control program into operation. This was because of the difficulty in overcoming the conservatism and traditionalism that pervaded Chinese, and in particular rural Chinese, society²⁴⁰. As covered in chapter one, attempts were made to slowly educate couples on practices relating to birth control, similar to the soft advocacy employed in Hong Kong during the 1970s. However, Zhou and Mao's efforts to instigate any policy of family planning were thwarted by the Great Leap Forward and Cultural Revolution of the 1950s and 1960s. By the time Deng Xiaoping took power, population trends were deemed crisis-worthy and the one child policy was deemed the only solution.

Originally, incentives were provided to those who sought to limit their families to one child. Second births were criticised and discouraged but not penalised. This was not enough, however. It was the goal of the party to change public behaviour as quickly as possible, and by employing a Leninist system of 'basic-level' party cadres the entire population could be inundated as soon as possible. In 1981 and 1982 policy was changed so that second births became completely forbidden and enforcement by these officials was intensified and more coercive measures were employed in the place of the previous incentives and disincentives. These, as described by multiple commentators, included mandatory IUD²⁴¹ insertions, abortions, and sterilisations.²⁴²

This aggressive method of enforcing the policy at a widespread level did not last long as by 1984, with the release of Central Document 7, conditions for having two children were expanded.²⁴³ Taking into account the variability of China's rural population, policies were developed to suit local needs rather than being an all-encompassing state-

²⁴⁰ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003) p.56

²⁴¹ Intrauterine device – a contraceptive device. The mandatory application of the IUD would no doubt have been invasive and shocking for many uneducated women who had no real idea of modern day contraception usage.

²⁴² Aird, John S., 1990, *Slaughter of the Innocents: Coercive Birth Control in China* (The AEI Press, Washington DC, 1990); Banister, Judith, *China's Changing Population* (Stanford University Press, Stanford, 1987); Davin, Delia, *The single-child family policy in the countryside* in Croll, Elisabeth, Davin, Delia, and Kane, Penny (eds.), *China's One-Child Family Policy* (St. Martin's Press, New York), pp.1-36; Greenhalgh, Susan, *Shifts in China's population policy, 1984-1986: Views from the central, provincial, and local levels*, *Population and Development Review*, Volume 12(3), pp.491-515

²⁴³ Hardee-Cleaveland, Karen, and Banister, Judith, *Family Planning in China: Recent Trends*, Washington DC: Center For International Research, United States Bureau of the Census, 1988

derived scheme. There was also an attempt, through the ‘family planning responsibility system’, to hold local cadres more accountable for successful policy implementation.

However, although easing continued into the late 1980s, including a consideration of gender preferences²⁴⁴, the effect was an increase in rural fertility. Clearly more needed to be done to change sociocultural values attached to family planning. The response was a reversal to previous methods which by all accounts were successful with TFR declining from 2.4 in 1989 to 1.9 in 1993. Susan Short and Zhai Fengying’s research does seem to suggest that during this period implementation in rural areas became a lot stricter.²⁴⁵ The coercive measures in conjunction with the system of disincentives and incentives, which have been covered in chapter two, helped to slowly alter rural Chinese societies disposition towards family planning.

One of the greatest accomplishments of the PRC in the last half century has been to transform the dynamic of the relationship between population and government. An oft-forgotten by-product of the one child policy is enabling the 21st century Chinese population to have a rationalised governance of its own reproduction. From a culture which was only four decades ago was overwhelmingly pro-natalist, the CCP has been able to place reproductive conduct and the population process under a form of rationalised conscious control²⁴⁶.

For Greenhalgh a large part of the PRC’s system of birth planning can be identified as using political-economic mechanisms to implant new sociocultural ideals regarding childbearing in Chinese society for the next era in China’s development²⁴⁷. By employing Leninist methods in infiltrating the innards of rural society, and exercising both extreme coercion as well as utilising a system of disincentives and incentives, the population was forced into changing its attitudes towards fertility through the previously

²⁴⁴ Zeng, Yi, *Is the Chinese family planning program ‘tightening up’?*, Population and Development Review 15, 2, p.333-337

²⁴⁵ Short, Susan E. and Zhai Fengying, *Looking Locally at China’s One-Child Policy*, Studies in Family Planning, Volume 29(4), 1998, p.377

²⁴⁶ Ibid., p.19

²⁴⁷ Ibid. p.24

described measures. By the turn of the century, under Jiang Zemin and Hu Jintao population quality and not quantity became the onus and China's population control program underwent a period of reform.

Mass abortion and sterilisation will forever be associated with the one child policy whether it be deemed a success or not yet their government-sanctioned usage only took place during a brief stage of the one child policy's era. These heinous methods of limiting population growth were, however, commonly used even during the time they were proscribed by the CCP.²⁴⁸ It is my belief that these intrusive acts, performed by government officials on the Chinese public, were at least responsible for a partial change in fertility trends. However, the previous quantitative evidence indicates that the real catalysts of change were urbanisation and eventual modernisation.

When considering the statistics the change is less apparent however. Martin King Whyte and Gu Shengzu in their *Popular Response to China's Fertility Transition* found a mean MIFS of 1.98 taken from a sample of ten rural areas in 1982-85 as opposed to the 1.50-1.81 taken from six urban settings in 1983-85.²⁴⁹ By 1997, according to the *State Family Planning Commission* (SFPC), this number had fallen to 1.83 as opposed to 1.58 in urban areas and 1.77 as a national average. There is an evident decline, and one must remember that quite often the MIFS given will be higher than the TFR. Most intriguing were the results of Hermalin and Liu in 1990, and Wang, also in 1990. They posited that in urban areas the MIFS given was on average 0.5 more when not given in a face-to-face interview. It seems that this understating of preference was most evident in urban areas where the participants were educated well for they were more sensitive of the one child policy.²⁵⁰

²⁴⁸ Mosher, Steven W., *China's one-child policy itself leads to forced abortions*, www.thelancet.com Volume 380, 3rd November 2012

²⁴⁹ Whyte, Martin King, and Gu, Shengzu, *Popular Response to China's Fertility Transition*, Population and Development Review, Volume 13(3), pp.471-493

²⁵⁰ Hermalin, Albert I., and Liu, Xian, *Gauging the Validity of Responses to Questions on Family Size Preferences in China*, Population and Development Review, Volume 16(2), pp.337-354; Wang, Jichuan, *Women's Preferences for Children in Shifang County, Sichuan, China*, Asian and Pacific Population Forum, Volume 4(3), pp.1-2, 89-92

This sensitivity towards the policy in the face of questions regarding child-bearing shows the depths to which the program infiltrated the average Chinese citizens' way of thinking. Even without the constraints of the one child policy in 2016, women are still reluctant to admit they want more than two children, as will be shown in the following chapter in which I have carried out a small qualitative study into the effects of the policy.

All in all, the efforts to remove the barriers of traditionalism when dealing with population control have been a partial success. Confucian thought and ancient traditions have by no means been abandoned completely and in recent years have been praised by the CCP yet for the majority of the population childbearing is perceived less of an economic source and more of a disservice to the nation and a financial burden. The change is less apparent in rural populations as, by all accounts they received the greatest amount of leeway in the application of the policy. Urban populations were met by stricter measures as well as higher economic demands placed upon them by city living resulting in a more conducive people to change.

The proof of the one child policy's success and in turn, its necessity in this area, is that the early signs show that there will not be a resultant baby-boom. China holds its traditions and customs close to its heart, but in the realm of population, this was one instance where the CCP needed to instigate change. Unfortunately, in order to gain a real insight and make legitimately accurate theories regarding the imposition of coercive measures and their relationship with reducing MIFS and TFR, a wider qualitative study has to be undertaken to ascertain why women changed their attitudes towards birth-planning. However, it is far too soon to begin this process with the policy's formal abolition only occurring earlier this year.

4.3.2 Political Legitimation

Deng Xiaoping inherited a leadership fraught with problems. Growth was sluggish in the wake of the Mao era and reform was desperately needed. However, any reform would represent an abandonment of Maoist principles, a very serious gamble to play.

And so, a principal dilemma for Deng's regime, as stated by Jean Robinson, was 'How can they disavow Mao's words and policies without denying his central importance to the Chinese revolution and the modern Chinese state?' and 'How can they use Mao to assert the legitimacy of the party-state without being constrained by Mao?'²⁵¹

Deng had been in trouble with Mao's supporters previously during the '*Criticise Deng*' campaign for supposedly trying to destroy the positive reputation of the Cultural Revolution and he still saw this period during the preceding decade as the sole reason behind China's economic stagnation. Yet he could not reform without undermining his own position and leaving himself vulnerable. His ultimate aim was to push for the realisation of Zhou Enlai's 'Four Modernisations' through which he believed China could develop socially and economically. But this alone would not endear himself to the Maoist diehards.

What Deng needed was a charismatic pitch in which he could play on the emotional relationship Mao shared with his followers whilst realising his own ambitions and cementing his own status. As Robinson posits, this emotional relationship centres upon the affirmation of a leader's ability to accomplish great feats and set out special visions for their nation.²⁵² Mao achieved both when the PRC was born in 1949. The one child policy would be Deng's ticket to this emotional relationship needed to achieve political legitimacy.

First, by presenting the population problem as a 'crisis' threatening to overwhelm the great vision of China as a modernised superpower, Deng set out both his dream for the nation and the problem that needed to be overcome. Second, he adopted a program that had been formulated in the Mao era and had at least in part been initiated by Mao himself. But whilst his predecessor was hesitant, Deng implemented the one child

²⁵¹ Robinson, Jean C., *Mao after Death: Charisma and Political Legitimacy*, Asian Survey, Volume 28(3), March 1988, p.354

²⁵² Ibid., p.354

policy vigorously.²⁵³ Finally, Deng and his advisors were able to convince the population of the urgency of the situation and the eventuality that this policy was in fact the only solution. Through this strategy he was able to enact a program he truly believed was a hindrance to economic growth, enable that his reforms could take place, and legitimise his own position.

In hindsight, Deng Xiaoping can be remembered as a leader who, through his *gǎigé kāifàng* (Reform and Opening) methods of reformism, managed to take China out of the economic stagnation caused by the Cultural Revolution and catapult the country towards being the global superpower it is now. The question is, would he have survived had he not enacted the one child policy, and merely attempted to dismantle the Maoist regime of his forebear? By making it known that ultimate modernisation was his goal, prioritising economic reform and development, and pinpointing high TFR as the principal barrier to China's destiny, Deng both legitimised his own position in the eyes of his comrades and the imposition of the one child policy. It is questionable whether in the absence of this policy Deng could have carried out his reforms at all, reforms that undoubtedly laid the foundation for China's current global standing.

Conclusion

The necessity of the one child policy's implementation for most within China has never and probably will never be in question. Not only has any worry of over-population been extinguished but the prosperity of the average Chinese citizen has increased almost exponentially. When Deng Xiaoping set a target of increasing the capita per income from 250USD to 1000USD by 2000 it may have seemed ambitious. In reality that figure at the turn of the century was a massive 8000USD. This is testament enough for many Chinese to the effects of national population control. The obstacle to economic growth of a high fertility rate has seemingly been overcome due to one child policy.

²⁵³ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003) p.48

However, there are growing rumblings from foreign commentators concerned with the reliability of these claims. Firstly, China's TFR has indeed fallen dramatically, but several other Asian nations share this trend in the absence of anything akin to the one child policy. These similar patterns point towards the effect of urbanisation and an improving economy in addition to a move towards consumerism in which financial security and labour is prioritised above marriage and child-bearing. Taiwan and Hong Kong, although both significantly smaller than China, provide good comparisons of two nations comprising of the same peoples, sharing the same cultures and customs, who have initiated and continued a gradual reduction in TFR without the need of draconian rules and coercive measures. One can only assume that had economic reform been initiated without the implementation of a one child policy, along with the migration to urban areas of swathes of the Chinese population, fertility rates would have dropped.

Conversely, this theory does not consider the decline in TFR felt in the rural areas of China. The way in which the one child policy was implemented did have a massive effect on attitudes towards family planning. This helps explain how changes were felt in areas untouched by mass urbanisation. The scheme has by-in-large successfully negotiated the major hurdle of uprooting a network of ancient customs and traditions encompassing family values. By first applying extreme coercive measures and replacing them with disincentives and incentives, the CCP were able to affect the MIFS of individual citizens. As expected, urbanites were easier to control than their rural counterparts. As a result, exceptions were made in the countryside regions of China. So much so that by 2007 only 36 percent of the nation was subject to a strict one-child restriction. Nevertheless, the one child policy has been effective in changing nationwide mentality towards child-bearing as after its abolition in 2016 there are no indicators of a reaction and upsurge in the fertility rate.

Finally, the one child policy can arguably be labelled the reason why Deng Xiaoping achieved political legitimacy after the death of Mao Zedong. It enabled him to remain attached to Maoist principles whilst enacting his own reforms upon China. These reforms would ultimately benefit the nation greatly on its quest to become modernised.

It is arguable that the economic growth seen during and after Deng's regime has done as much as or maybe more than the one child policy to reduce fertility rates.

In conclusion, party leaders must continue to speak of the great successes attributed to the one child policy whether they are genuine or not. The sacrifice of a generation is too much of a load to bear, especially on a policy that may not have been necessary. There are a multitude of reasons why fertility rates dropped in China during the last forty years ranging from urbanisation to economic growth and the change in desired family size brought about by the coercive nature of the policy. Yet perhaps the policy's greatest legacy is bringing about the age of reform needed for China's evolution into a global power.

On a darker note, the policy will also have further legacies to bear, particularly if its implication in changing child-bearing ideals brings about a realisation of the low-fertility trap. This possible consequence, and others, will be discussed in the following chapter.

Chapter Five

One of the consequences of the one child policy has been to precipitate a fall in national fertility rates. The previous chapter has established this. Whether the CCP are right to call the program as the principal cause for change is arguably however. Nevertheless, this fall in fertility rates has already had a major impact on Chinese society and will do for at least the next decade most likely stunting projected economic growth and placing extreme pressures on the fabric of traditional societal norms.

As a reaction the Chinese government has gradually relaxed one child policy standards until finally ending this notorious ‘social project’ in January of 2016. My argument, along with many other commentators, is that this step has come too late. The best evidence of this can be found when studying the patterns of mean ideal family size (MIFS) or to put more simply, the desired number of children per couple.

The previous chapter provided clear evidence that the one child policy has had a great effect on reducing MIFS across the nation (although the transformation has been more pronounced in urban areas because of the added effects of urbanisation on fertility behaviour). My interest however is in challenging the Chinese government’s assumption post-2016 there will be a reaction in the amount of babies being born and as a result a clear case for keeping a two child policy in place. My hypothesis is more-or-less the opposite:

- A partial relaxation (i.e. instigation of a two child policy) will fail to encourage a rise in TFR;
- This is due to the one child policy’s inherent effect of changing individual Chinese female’s behaviour towards childbearing;
- Only complete abandonment of the policy will stimulate growth;
- Even if this latter course became an eventuality change would not be immediate and most likely take decades.

5.1 Research Parameters

Through limited resources and time I was unable to undertake a quantitative research study which may have provided greater objectivity and accuracy which is important in a nation as varied as China. However, the decision to operate a qualitative method of data collection has allowed me to gain insight at a personal level of the challenges faced by my interviewees and the logic behind their fertility beliefs.

Through an interview with Professors Isabella Buber-Ennsner and Tomas Subotka at the Wittgenstein Centre for Demography and Global Human Capital in Vienna I was able to ascertain that around twelve subjects would give me a wide enough range of results to create an accurate portrayal of the issues at hand²⁵⁴.

Nevertheless the fact that I would be working with such a small cohort from which to gain information meant that extra strictures were necessary in order to make the results a better representative of the contemporary Chinese rationale.

Naturally my subjects were women of reproductive age who had already formed an opinion regarding their current or future birthing plans. As a result, the age range was from 24 to 40 years old. In addition, I hoped to find women who represented a range of areas, provinces and cities across the nation taking into the account possible contextual variations. I also decided that immigration to another country may have had a major effect on family-planning philosophies so I have included women currently living outside of China. Finally, I felt that the level of education received, occupation, and wealth of the interviewee would have a big effect on forming an opinion regarding the one child policy and desired family size. However, as in most cultures, ascertaining one's wealth through a line of questioning is particularly difficult and a sensitive topic so I have not been successful in a number of instances.

²⁵⁴ Interview with Professor Isabella Buber-Ennsner and Professor Tomas Subotka, *Wittgenstein Centre for Demography and Global Human Capital*, Vienna, 9th June 2016

5.2 Method of Research

The majority of my interviews took place face to face in China, Vienna and London creating a more personal and comfortable environment in which this delicate area can be discussed²⁵⁵. Certain funding and logistical issues meant a number of dialogues took place over social media. However, this has added another element to my findings which may yet prove useful.

I have been lucky enough to use the *Mother's Bridge of Love* facilities in both Nanjing and London to assist in both setting up and performing my interviews which I am very grateful for.

5.3 Results

Of the ten interviewees there were no instances of anyone desiring three children. The vast majority were happy to have two children, only three wanting a single child leaving one single woman deciding against having children altogether.

However, of those interviewed who had already given birth to a single child only two were happy to have another although it must be noted that this may be because of pressure from the husband's family. One subject wished that she had never given birth at all. Those who had not yet given birth overwhelmingly decided that they would like to have two children in the future.

Regarding sex preferences, one out of the ten women openly stated she had preferred to conceive a daughter over a son. Two who were reluctant to have another child said that

²⁵⁵ Interview with Fan Bingbing (real name withheld), Vienna, 8th July 2016,; Interview with Cai Yenhong, *Online interview*, 10th July 2016; Interview with Li Shasha, *Online Interview*, 10th July 2016; Interview with Ada Wang, Wenzhou, 30th January 2016; Interview with Kerr Lin, *Online interview*, 30th July 2016; Interview with Vivian Xu, Wenzhou, 25th January 2016,; Interview with Dany Wu, *Online interview*, 24th July 2016; Interview with Yang Jingjing, London, 23rd July 2016,; Interview with Rina Wang, Nanjing, 7th February 2016; Interview with Zhang Jing, Vienna, 1st July 2016

their husband wanted to have a son. All those who had not yet given birth were happy to have a son or a daughter.

Concerning additional possible factors to consider, immigration does not seem to have had a major effect on fertility views the anomaly being the interviewee who wished to have no children at all. Capital assets and education have also not made a large amount of difference either because not enough information was collected (subjects not wishing to disclose salary) or because the range in educational levels yielded no discernible variances.

Conclusions

Considering how all of the subjects were aware of the relaxations of the one child policy and knew that their ‘desired number of children’ was free from any government policy restrictions, it is surprising that the MIFS of the group was 1.5 children per couple. However, when considering the arguments of Basten et al. a reason why emerges. The lexical meaning of what is ‘desired’ here may be confused with what is ‘ideal’ for a Chinese woman²⁵⁶. This is an important distinction to make when comparing data from China and the rest of the world. China has just emerged (partly) from the mire of a very restrictive and at times terribly coercive nationwide policy of birth control and as a result, the freedom to plan one’s family is for some an entirely alien concept. Therefore it is my belief that the 1.5 figure I have received is direct consequence of the one child policy’s implementation. As a result, this form of research may not be deemed a true reflection of Chinese woman’s real birth intentions until the shadow of this infamous program passes.

The individual reasoning behind fertility choices has been less surprising. The overwhelming consensus for those wanting two children and not one is because of the angst of creating a ‘lonely’ child who may not grow up with the social skills needed to

²⁵⁶ Basten, Stuart, Lutz, Wolfgang and Ren Qiang, *Shanghai’s Ultra-Low Fertility: The Future for Other Populations?* In *Population Association of America Annual Meeting*, Dallas, 2010

survive. In addition, all subjects had an awareness of the major problem caused by the one child policy in placing surplus pressure on the shoulders of the single child to support their elders. By this logic, two children can bear the load better. This indicates that the spirit of filial piety espoused by Confucius is still alive and well.

Conversely, there appears to be a realisation by the survey subjects when they have their first child that one is enough. This is a belief shared by the single young woman who having recently gotten married but wishing to remain employed believes a single child is the only manageable amount. This may hint at the concrete positions held by the different sexes in the traditional Chinese family. The husband works and provides welfare while the woman obeys and raises the child. For these mothers who, in an increasingly modernised China, wish to pursue their career aspirations, having no help from their male counterparts and no support from the state can mean that one child is the maximum they can bear.

This is the argument raised by the one subject who regrets bearing a child.

Unfortunately due to these restrictions she feels she cannot pursue her goals that a Western woman would be able to. As a result childbearing seems like a death sentence to her dreams.

The final conclusion to take from my research is that gender bias still pervades Chinese society. Those who alluded to a husband or husband's family who was yearning for a son hailed from different regions of China, only joined by this pressure to have another child. It hints at the very real possibility that many women are exposed psychologically from those closest to them in the family unit. Now that there is a two child policy the problem remains, only this time the mother has one extra chance to 'get it right' and give birth to a baby boy.

It appears then that my hypotheses made before my research were largely true. The only major realisation from the study forcing me to amend my predictions is that even in the absence of the strict one child policy controls, the desired number of children per woman is not rising and it is my belief that it will not rise for some time to come. I am

aware of the limitations of my study, particularly the absence of a true rural representative and the small size of the sample. These factors may have had an effect on the accuracy of the test but, given my constrictions, were quite unavoidable. It is my intention to return to the matter in the future able to gather data using a much bigger cohort sample.

Chapter Six – The Future

Introduction

The purpose of this thesis thus far has been to establish firstly how the one child policy came to be, secondly, how it evolved along with the shaping of China's system of governance, thirdly, its attachment and place within the Chinese system of rights, and lastly, whether its role in modernising a nation is warranted. This final chapter will seek to ascertain the policy's legacy in the rapid advance of the world's newest superpower, and to find a relationship between its implementation and possible future policies affecting human rights.

The principal consequence of China's development has been a deteriorating fertility rate. The previous chapters have attempted to tackle the issue of whether the one child policy truly was the catalyst of the drop in fertility rate seen across the nation. As we have seen, similar patterns have emerged in nations who have not adopted such draconian policies and instead catered towards 'soft' measures of birth-planning. This points to urbanisation as the true instigator of change. However, as we are well aware, China is a massive state where a large proportion continues to tend to their livelihood in the countryside. It is here that the one child policy had the greatest effect in removing Confucian elements of family planning and throttled rising fertility rates.

And so, it is fair to label the one child policy as one of the chief initiators of change in fertility trends, and thus, a source of the problems which plague contemporary Chinese society and will continue to do so well into the future. We now determine what these issues may be.

6.1 The Effects of Low Fertility

Through analysis of the current fertility trends and the data received from my qualitative research it appears that China is indeed approaching the mire which is the *low fertility trap*. As is often the case figures vary when determining the true current TFR but the accepted number is around 1.7²⁵⁷. Although replacement rates (the TFR needed to sustain a nation's population level) differ according to how developed that country may be and therefore how high the mortality rate is²⁵⁸, the generally accepted figure is around 2.1 children per woman. Considering the continued development and urbanisation of the middle kingdom, fertility rate may continue to suffer plunging the state into deeper trouble. In fact, recent reports made by the Chinese Academy of Social Sciences (CASS) have placed TFR at an alarming 1.4²⁵⁹.

The expected effects of a low fertility rate in all nations is a shrinking work force and, in congruence with improving mortality rates, an aging population. For any nation this creates a dire problem. For China however, the issues are magnified due to the absence of an effective social security system.

6.1.1 Social Security

China's social security system, or lack thereof, has experienced major restructuring in recent years to combat the effects of the one child policy, yet the system is still inherently broken. This is especially surprising because of the importance of Mencius' Benevolent Government in the development of rights in contemporary China and the importance of the provision of welfare and subsistence²⁶⁰.

²⁵⁷ See *Total Fertility Rate, 1970 and 2014*, Population Reference Bureau, available at <http://www.prb.org/DataFinder/Topic/Rankings.aspx?ind=17> , accessed 1st July 2016

²⁵⁸ Espenshade, T. J, Guzman, J. C., and Westoff, C. F., *The surprising global variation in replacement fertility*, Population Research and Policy Review , Volume 22(5/6), 2003, p.575

²⁵⁹ *Chinese fertility rate drops into 'low fertility trap'*, CCTV America, 5th January 2015, available at <http://www.cctv-america.com/2015/01/05/chinese-fertility-rate-drops-into-low-fertility-trap> , accessed 30th July 2016

²⁶⁰ Nathan, Andrew, *Sources of Chinese Rights Thinking*, in Edwards, R. Randle, Henkin, Louis and Nathan, Andrew (eds.), *Human Rights in Contemporary China* (Columbia University Press, New York, 1986), pp.153-4

The dual threat weighing heavily on the program is the upheaval of Confucian familial norms in which security was provided by the family's youngest generations, and the schemes' consequential drastic population aging both consequences of the one child policy. The latter issue will be focussed upon in the following section. For now we turn our attention to the former.

The distinct lack of a suitable social security system in place before or even during the one child policy's enactment is a complete oversight by the CCP and may have serious consequences. With the drastic drop in fertility and the emphasis on single-children families, the one-child generation are growing up with the knowledge that they will have to support more people than ever before. This is especially true of rural families who have relied on the Confucian methods for centuries.

China's modern social security system was founded in the 1950s but only provided for employees of state-owned-enterprises (SOEs) and collective-owned-enterprises (COEs) in addition to certain government administrative and operative units. However, rural societies were completely overlooked, the traditional familial system deemed adequate. The Cultural Revolution yet again created turmoil resulting in SOEs having to pay benefits to retirees using their revenues.

With the state-wide reforms of the 1970s competition between SOEs was encouraged. Those enterprises that fared poorly were unable to provide their employees with benefits. As a reaction, the government called for the pooling of all social security accounts together taking power away from the enterprises and giving it to the state.

The current system was defined in 2005. The individual employee will contribute 8 percent of their taxable wages to an individual account while their employers contribute 20 percent of the employees wage to a social pooling account. This is dependent on the ratio of the employee's wage with the area's average wage.

Finally, in 2009, a rural society security net was founded in which the individual funds the majority to a personal account with the government chipping in a small amount every month. There still exists though a major problem for rural migrant workers who, due to being very often mobile, have not obtained their urban ‘hùkǒu’ (registration) leaving them at risk of not receiving welfare at all²⁶¹.

The most important issue here is the crooked nature of the whole system in which deficits in the social pooling scheme (which commands an incredibly high 20 percent contribution rate) are paid for by personal accounts (which again at 8 percent contribution is high compared to other industrialised nations). Without reform this will lead to a massive increase in personal debt.

Western commentators tend to agree that reform leading to a fully funded system would benefit later generations immeasurably²⁶². Were government capital used to fund the existing social security debt, the current generations will suffer due to the loss of interest on their savings. However, as a consequence of an increase in governmental capital and a decrease in private capital, the interest rate should be enhanced benefitting later generations. This may not be the most desirable outcome however due to the costs incurred by today’s age group²⁶³. For now, perhaps the best option would be to raise the current pension age and ensure contribution levels are fixed, a solution that treats all members of Chinese society, urban or rural, young or old the same, and allows the system to be restructured gradually²⁶⁴.

However, even if changes were to be made to the way in which the welfare scheme was funded, greater modifications need to be made to the way in which it covers its population.

²⁶¹ Wang Yanzhong and Long Yuqi, *China’s Fiscal Expenditure on Social Security Since 1978*, China: An International Journal, Volume 9(1), March 2011, p.130

²⁶² Gruber, J., and Wise, D., *Social Security programs and retirement around the world*, in *NBER working paper series no.6134*, 1997; Kotlikoff, L.J., *Privatizing social security at home and abroad*, *American Economic Review*, 86, 1996, p.358-372; Feldstein, M., and Samwick, A., *The transition path in privatizing social security*, in *Working paper no.5761* (National Bureau of Economic Research, Cambridge, 1996)

²⁶³ Li Shiyu and Lin Shuanglin, *Population aging and China’s social security reforms*, *Journal of Policy Modeling*, Volume 38 (2016), p.93

²⁶⁴ *Ibid.*, p.93

The biggest victims of the social changes caused by the one child policy are those living in rural society of which there are still over half a billion. To have an effective social security system that meets international human rights standards²⁶⁵ coverage must be available to all and an equitable system must be manufactured²⁶⁶. There is an argument posited by Donnelly and discussed in Chapter 3 of how certain rights can be applied relative to their cultural and economic context²⁶⁷. However, as Wang and Long argue, there should exist a mechanism of social security in line with a nation's economic growth²⁶⁸. China as an industrialised and, by global standards, modern economy, has not done its duty to evolve its provision of welfare. This must be immediately rectified.

6.1.2 Aging Population

As already alluded to, the one child policy has had a direct impact in forcing socioeconomic changes in Chinese societies. The traditional familial structures which have been for so long the foundation on which old-age security lies are now facing the pressure of an increasingly lopsided population²⁶⁹ as graphs 4 and 5 in the appendices section suggest²⁷⁰

The previous subsection has made clear the challenges that the nation faces in caring for its elderly. The percentage of Chinese aged 65 or over is increasingly remarkably and by UN estimates, will not level out until around 2065 by which time it will be 30.2

²⁶⁵ Article 22, UDHR 1948; Weissbrodt, David S., and De la Vega, Connie, *International human rights law: an introduction* (University of Pennsylvania Press, Pennsylvania, 2007), p.130

²⁶⁶ Wang Yanzhong and Long Yuqi, *China's Fiscal Expenditure on Social Security Since 1978*, China: An International Journal, Volume 9(1), March 2011, p.130

²⁶⁷ Donnelly, Jack, *Cultural Relativism and Universal Human Rights*, Human Rights Quarterly, Volume 6(4), 1984, p.417

²⁶⁸ Wang Yanzhong and Long Yuqi, *China's Fiscal Expenditure on Social Security Since 1978*, China: An International Journal, Volume 9(1), March 2011, p.128

²⁶⁹ Feng Zhanlian, Liu Chang, Guan Xinping and Mor, Vincent, *China's Rapidly Aging Population Creates Policy Challenges In Shaping A Viable Long-Term Care System*, Health Affairs 31(12), 2012, p.2764

²⁷⁰ Images taken from Feng Zhanlian, Liu Chang, Guan Xinping and Mor, Vincent, *China's Rapidly Aging Population Creates Policy Challenges In Shaping A Viable Long-Term Care System*, Health Affairs 31(12), 2012

percent²⁷¹. This is the result of rapid modernisation in which living standards have increased. By itself, this should be encouraging and for the supporters of the one child policy, evidence of its effectiveness in helping China develop. However, the country does not have the welfare structure in place to accommodate this change or provided for a complete abandonment of Confucian familial principles.

In addition, due to the aging of the population at large, fiscal expenditure on old-age security will reach new heights. It is estimated that in the eight years from 2012 to 2020 spending will nearly double, from 800 billion RMB to around 1.4 billion RMB²⁷². This placed an added pressure on an already debt-ridden system. China still possesses underdeveloped financial markets which are not yet ready to deal with what will soon be a huge scale of pension funds²⁷³.

Finally, more effort must be made in concerning the needs of the elderly rather than merely trying to make welfare available to all. There has been an increasing desire to expand the private-sector in providing care for the elderly by setting up private homes and supplying trained ‘old-age care workers’²⁷⁴ for those whose children or grandchildren are unable to care for them. The former method is practically revolutionary when compared to the traditional Confucian ideals of keeping three or four generation under one roof, while the latter shows how this familial structure has been unseated due to the effects of the one child policy. Unfortunately, in both cases lack of funds and adequate training have already been stumbling blocks.

One saving grace of the situation may be that population aging has been most rapid in urban societies as one might expect²⁷⁵. Due to the disparity of the social security system, city-dwellers will receive better welfare than their countryside cousins. However, rather

²⁷¹ *World population prospects: The 2010 revision*, United Nations, Department of Economic and Social Affairs, Population Division, 2011

²⁷² He Ping, Li Shi and Wang Yanzhong, *Research on Public Fiscal Support to China's Development System of Social Welfare*, Fiscal Research 6, 2009, pp.2-11

²⁷³ Williamson, John B., and Deitelbaum, Catherine, *Social Security Reform: Does Partial Privatization Make Sense for China*, Journal of Aging Studies, Volume 19, 2005, pp.267-8

²⁷⁴ As defined by the Ministry of Labour and Social Security's *National occupational standards for old-age care workers* (The Ministry, Beijing, 2002)

²⁷⁵ Powell, Jason L., *Global Aging, China and Urbanization* (Nova Science Publishers, 2013), p.22

than being a positive, this should serve as a reminder of the still-existing endemic inequality that pervades the system.

A growing consensus for improving the situation caused by the aging Chinese population is to refrain from alarmist reactions and in particular tarring the nation's elderly with the same brush. China is a nation in which cultural norms are deeply embedded but this is not to say that many are seeking a departure from these practices. The CCP would be wise not to assume that all elderly wish to remain tied to their younger family members and refuse private care²⁷⁶. A balanced system should be built catering to the wishes of the individual along with a fair and equitable pension scheme. Combining both the weakness of the provision of welfare and the aging population in China there is a distinct need for major reforms in China's current social security system which presently endangers the livelihood of hundreds of millions, especially in rural areas, inadequately cares for the sick and the disabled²⁷⁷, and threatens to cripple the nation's progress in the coming decades. The nation is no longer restricted by the traditions of their ancestors but would do well not to abandon them quickly. A well-adjusted and fair system based on the needs of the people as a whole should be implemented to mirror the nation's rapid modernisation.

6.1.3 Gender Imbalance

The issue of gender imbalance, inequality and preference as a consequence of the one child policy has been covered numerous times in the body of this thesis but as of yet I have not made a conclusion regarding the phenomenon's effects and the direction in which it is taking. Due to the importance of this area of socio-cultural study, it is only right to devote a section to this issue now.

Across the globe the push for gender equality has been well-touted particularly in the labour market but the Chinese case is far more deep-set and broad. As such I will be

²⁷⁶ Ibid., p.37

²⁷⁷ Loyalka, Prashant, Liu Lan, Chen Gong, Zheng Xiaoying, *The Cost of Disability in China*, Population Association of America, 3rd January 2014

focusing mainly on how the one child policy has exacerbated gender issues in a cultural and social sense although many of the issues are driven by economic factors.

In the traditional Confucian context son preference is understandable. To birth male offspring was to provide the family with security particularly, as has been alluded to previously, when state welfare was lacking. A son serves as a source of monetary welfare, will look after his older generations in sickness and old age and importantly will carry the family's name. Conversely, female offspring may provide the family with the opportunity to unite with perhaps a wealthier or better-connected family but due to the almost caste-like system of *xiaoren* and *junzi*, social positions were more or less defined and an 'upgrade' was unlikely. Effectively when a daughter married she adopted her new family and relinquished the duties owed to her previous one. Therefore it is easy to see why a son preference existed and continues to do so in much of China²⁷⁸. The one child policy intensified pressures placed on the shoulders of pregnant wives as in effect numerous chances to birth a son were now whittled away to one. Almost overnight in some cases families were been asked to abandon Confucian practices and ideals in favour of the nation's security in the face of overpopulation. For many the threat and ultimate realisation of birthing a daughter was too much. Abortion, infanticide, abandonment, neglect, and trafficking of female babies are all consequences of the one child policy's draconian conditions²⁷⁹. Further results included the increase in abuse and violation of the mother's dignity at the hands of the family or community at large. This led to a spike in the rate of suicides reported and the number of women hospitalised for mental issues, and ultimately a decrease in female mortality. These issues have been referred to in previous chapters.

The key question though is whether, due to the softening and eventual abolition of the one child policy, and the gradual move away from Confucian traditions in Chinese society, are we seeing changes in the way women are treated and a reversal of the gender imbalance?

²⁷⁸ Hesketh, Therese, *Selecting sex: The effect of preferring sons*, Early Human Development, Volume 87, 2011, p.759

²⁷⁹ Hesketh, Therese and Zhu, W.X., *Abnormal sex ratios in human populations: causes and consequences*, Proceedings of the National Academy Sciences (PNAS), Volume 103(36), 2006, p.271-5

It is evident that even in contemporary Chinese society that gender is still important. While my qualitative research presented in the previous chapter hints that women no longer see gender distinctions as mattering a great deal, my results are restricted due to the absence of rural data. One of the effects of urbanisation has been a restructuring of gender roles in which educated women are now embarking on professional, working lives in which they will marry later and have fewer children. However for the hundreds of millions of women still living in rural areas cultural norms are still practiced. One method of preventing the increasing sex ratio at birth (SRB) that has been followed in many East Asian nations including China has been the abolishment of foetal sex determination. This will hopefully lead to a reduction in gender-fuelled abortion and infanticide. In states where the law has been strictly enforced such as South Korea, the effects have been positive with a reduction in SRB of 1.18 in 1990 to 1.09 in 2008²⁸⁰. In China, however, the law has not been well policed. When met with bribes and coercion doctors are ignoring the limitations and performing sex determination procedures. As a result, legal abortions have been carried out. To prove that they were under the pretext of sex-selection is near impossible.

There are arguments that the lack of women may lead to an increased importance placed on the female sex. In a form of vicious circle, the traditional concepts that have led to this gender imbalance will now lead to a generation of men without brides, a cultural faux-pas in China and a severe loss of face²⁸¹. This phenomenon has even led men without brides has been labelled 'bare branches' indicating that damage has been suffered by both sexes²⁸². I have previously discussed how this has led to an increase in

²⁸⁰ Gupta, M., Chung, W., Li, S., *Evidence for an incipient decline in the number of girls in China and India*, Population Development Review, Volume 35(2), 2009, pp.401-16

²⁸¹ Greenhalgh, Susan and Winckler, Edwin A., *Governing China's Population – From Leninist to Neoliberal Biopolitics* (Stanford University Press, Stanford, 2003), p.319

²⁸² Basten, Stuart, *Family Planning Restrictions and a Generation of Excess Males: Analysis of National and Provincial Data from the 2010 Census of China*, Oxford, 2012; Trent, Katherine, and Scott J South, *Too Many Men? Sex Ratios and Women's Partnering Behavior in China*, Social Forces, Volume 90(1), 1st September 2011, pp.247–267; Guilmoto, Christophe Z., *Skewed Sex Ratios at Birth and Future Marriage Squeeze in China and India, 2005- 2100*, Demography, Volume 49(1), February 2012, pp.77–100

domestic and international trafficking, but were measures made to prevent this, improvements may be inevitable for the fairer sex.

However, this may prove to be a false dawn. The concept of marriage in many areas of China is still fairly archaic and seen as a method of solidifying the male's power base and future lineage. In my opinion, a shortage of available brides would lead to an increase in the female sex's value akin to the increase in the value of a prize mare rather than in the value of their individual rights and worth.

A final consequence which is particularly felt by the new, independent, educated, and professional generation of young women, produced in part due to the one child policy, is the moral dilemma of marriage. On the one hand, marriage undoubtedly still holds great value as a way of making one's family proud and even fulfilling one's duty to society at large, both Confucian concepts, yet partly as a consequence of 'opening up', newly defined roles in the workplace and the evolution away from strictly traditional philosophies, women are more and more frequently 'holding off' marriage, some in the hope of true love, and others not yet fulfilled in their professional endeavours. This has led to a new concept of 'Shèngnǚ', or 'Left-over women'²⁸³. An additional example of the lasting stigmatisation of women, this title has constricted those who wish to be more liberal but are scared of the consequences. A relatively new phenomenon adopted into the modern Chinese lexicon, it represents that perhaps China is not yet ready to abandon its inequitable past.

The imbalance caused by the one child policy which served to amplify the worst aspects of traditional beliefs surrounding gender will possibly have longest lasting effect on Chinese society. Efforts have already been made to reduce the harm done through education, monetary incentives and the work of NGOs, but sadly it seems to be another case of too little too late. When the forces of thousands of years of cultural practices are given license to roam, attempting to reverse the damage is nigh on impossible, or will at

²⁸³ See Hong Fincher, Leta, *Leftover Women: The Resurgence of Gender Inequality in China* (Zed Books, London, 2014)

least take a long time. I fear that it will be several generations of reparation until SRB can be stabilised, and far longer for gender equality to pervade Chinese conscious thought.

6.1.4 Smaller Workforce

An additional consequence of an aging population caused by the one child policy is the decline in the size of China's workforce. On face value this may seem to only have an effect on the economic environment within China and across the globe, but there are rights implications entailed as well.

Most importantly, with a dwindling workforce - defined as those from 15 to 59 years old – the country may have to shift its role from being the 'factory of the world' to the 'investor of the world', a transformation that is already well on its way²⁸⁴. However, while other developing markets will benefit from the changes, China may lack the labour infrastructure to deal with the changes.

A diminishing workforce will place pressure on the state as the advantage of low-cost labour will be reduced. China will therefore have to focus on improving the quality of labour through education and training to ensure the government's treasured economic growth is sustained.

The nation has long been criticised for violating various international labour rights and abusing their workers. The NGO, China Labor Watch (CLW) has monitored China's labour practices and continues to report various abuses each year including inefficient certification processes and deteriorating working conditions²⁸⁵. For China's

²⁸⁴ Garcia-Herrero, Alicia, *China's outward foreign direct investment*, Bruegel.org, 28th June 2015, available at <http://bruegel.org/2015/06/chinas-outward-foreign-direct-investment/>, accessed 30th July 2016

²⁸⁵ *China: Labour rights abuses in toy factories supplying major brands – companies respond*, Business and Human Rights Resource Centre, available at <https://business-humanrights.org/en/china-labour-rights-abuses-in-toy-factories-supplying-major-brands-companies-respond>, accessed 30th July 2016; see *China Labor Watch Reports* available at <http://www.chinalaborwatch.org/reports>, accessed 30th July 2016

transformation to be successful, standards must be raised for its workers and an effective network of ensuring their rights must be pursued. If not, productivity may be offset stunting economic growth²⁸⁶.

6.2 Increasing China's Fertility

The previous section has highlighted how much of a problem a reduced fertility rate has had and will have on Chinese society and the application of human rights. Now we must consider whether this decrease in fertility can be reversed in order to alleviate some of the issues at hand. However, to put it bluntly, the answer is a resounding no.

Relaxation of the birth-planning regime has predicted for some time. Studies were carried out years before the eventual abolishment of the one child policy in 2016 regarding the future effects on fertility rates if restraints on birth-planning remained the same, were partly loosened, or completely removed²⁸⁷. In 2013 a 'three-step' policy transition was recommended by the China Development Research Foundation resulting in complete removal of constraints by 2020²⁸⁸, and by 2014 reforms had been made nationwide meaning an extra 20 million couples were eligible to have another child²⁸⁹. Initial predictions of a 'baby-boom' reaction affected markets raising the share price of baby products overnight as official estimates of an additional 10 million births in the following half a decade were banded about²⁹⁰.

²⁸⁶ Yue Qu, Fang Cai, *Understanding China's workforce competitiveness: a macro analysis*, Journal of Chinese Human Resources Management, Volume 2(1), p.20

²⁸⁷ Zeng, Yi, *Options for fertility policy transition in China*, Population and Development Review 33(2), pp.215-246; Morgan, S. Philip, Guo Zhigang, and Hayford, Sarah R., *China's Below-Replacement Fertility: Recent Trends and Future Prospects*, Population Development Review 35(3), 2009, pp.605-29

²⁸⁸ Waldmeir, P., *China counts cost of one child policy*, Financial Times Online Edition, 1 February 2013 available at <http://www.ft.com/cms/s/0/f60a25c8-6c52-11e2-b73a-00144feab49a.html#axzz2rnu9L14f> accessed 30th July 2016

²⁸⁹ Bai, Jianfeng, *Jiedu dandu lianghai zhengce (Elucidating policy permitting couples to have a second birth if one spouse is an only child)*, 2014, people.com.cn. . Available at <http://ft.people.com.cn/directList.do?fid=141>, accessed 28th July 2016

²⁹⁰ Wetzstein, Cheryl, *10 million new babies? China's hope for boom likely to become policy bust*, The Washington Times, 20th April 2014, available at <http://www.washingtontimes.com/news/2014/apr/20/10-millionnew-babies-chinas-hope-for-boom-likely/>, accessed 28th July 2016

To say the reaction was tepid is to put it mildly. In Xuanwei Prefecture of Yunnan Province, with a population of over 1.26 million, a mere 36 applied for this special dispensation to birth another child. In Zhejiang Province initial estimates were halved and then quarters as the year went by²⁹¹. The results accrued are consistent with my findings in my small qualitative report. Even without restrictions Chinese couples are reluctant to have more children.

Unfortunately the effectiveness of the one child policy has essentially shot the country in the proverbial foot. While the policy's actual role in instigating economic development and modernisation is still debateable, as evidenced by my previous chapter on the matter, there is no doubt that the program has had a major effect in ensuring fertility rates dropped and remain low. In cities the ever-increasing lure of consumerism abetted by a better standard of living and changes in the role of women has led to later marriage and falling fertility rates. In the countryside damage done to the Confucian familial system through coercive measures and disincentives may prove to be irreversible.

It is my opinion that the best way of instigating a reversal in fertility trends is not to fight the current tides in motion. Urbanisation is a necessary by-product of modernisation and the development of a strong economy. It does, however, breed a certain mentality in which birthing children is deemed secondary. The current aid given to young professionals to start and raise families is extremely lacklustre. It is here that change must occur.

By creating a welfare network in which women (and their counterparts) feel comfortable and secure in starting a family and continuing their career, fertility rates will increase. Maternity *and* paternity leave, free education, monetary incentives, available children's facilities and increased opportunities for young mothers are all

²⁹¹ Zhuang, Pinghui, *Birth rate holds steady after onechild policy eased, but there won't be further easing*, South China Morning Post, 11th July 2014, available at <http://www.scmp.com/news/china/article/1551461/birthrate-holds-steady-after-one-child-policy-eased-there-won't-be>, accessed 28th July 2016

options which are used across the globe which can combat the side-effects of modernisation and help raise fertility. It is of paramount importance that this time, rather than taking the isolationist approach of believing population is simply a Chinese problem, the country looks outwards as well as inwards for solutions. Low fertility is now, after all, a global issue.

For rural couples a complete relaxation of policy past the present stage is the best option to take. Morgan et al. have identified that through this method within 5 years fertility rates may approach the replacement level of 2.1. The underlying spirit of the one child policy and the damage it has done on desired children in rural families will ensure that it is vastly unlikely that a ‘baby boom’ will occur. Confucianism still holds significance across the nation and the old values still saturate countryside units so the importance of family is still noteworthy, yet with the continued pull of urbanisation and a strong social security system, fertility rates will continue to be checked.

However, as Basten and Jiang argue, it is not unlikely that in the near future we may see a positive government policy enacted actively ‘encouraging’ couples to have more children²⁹². In fact in 2014 Zuo Xuejin of the Shanghai Academy of Social Sciences hinted at that very possibility²⁹³. The major sign that this may be the case is that in January 2016, although the one child policy was abolished, its family planning policy remains a ‘basic national policy’. The recent changes are in line with the model of policy formation posited by Kenneth Lieberthal and Michel Oksenberg, that a policy may be adopted with the intention of solving new policy problems²⁹⁴.

While Basten errs on the side of caution when debating this theory, positing that the impact of the one child policy may have created new social norms which would require

²⁹² Basten, Stuart and Jiang Qianbao, *Fertility in China: An uncertain future*, Population Studies, Volume 69(S1), 2015, p.S102

²⁹³ Kaiman, Jonathan, *Time running out for China’s one-child policy after three decades*, The Guardian (UK), 31st December 2014, available at <http://www.the-guardian.com/world/2014/jan/31/time-running-out-chinaone-child-policy-exemptions>, accessed 28th July 2016

²⁹⁴ Lieberthal, Kenneth, and Michel Oksenberg, *Policy Making in China: Leaders, Structures and Processes* (Princeton University Press, Princeton), p.3

a long time to reverse and be damaging if attempted in the short-term²⁹⁵, we have learnt in this thesis that Chinese policy making rarely takes a sympathetic view of the welfare of its population when faced with threats to the nation's wellbeing. For this very reason, we must be weary of what may come in the next decade or so.

6.3 Further Effects of the one child policy

The one child's policy role in driving fertility rates down in China will continue to be debated for a long time, but their position as a catalyst working in tandem with an evolving system of governance, developing economy and rapid modernisation is certain. However, as has been shown, the effects of this drop in fertility will most probably have a catastrophic effect on Chinese generations for many years to come. The government was not prepared for the pace of change and as a result the supporting mechanisms needed for a transforming society are not yet in place.

The aftereffects are not limited to those described above however. The one child policy has also had an impact on areas of society unaffected by the change in fertility.

6.3.1 Cracks in Confucian system

As has been reiterated often in this thesis, the teachings of Confucius have had a major role in the shaping of contemporary Chinese society and how its rights policies have developed. However, their relationship with the one child policy is rather complex. As elucidated in Chapter Three the policy in its original form adhered to many of the principals espoused through Confucian doctrine as to embodied the individual's sacrifice of rights for the benefit of the collective. Ironically though, the effects of the birth-planning scheme have been unkind to the traditional set of norms that have permeated Chinese society for many hundreds of years.

²⁹⁵ Basten, Stuart and Jiang Qianbao, *Fertility in China: An uncertain future*, Population Studies, Volume 69(S1), 2015, p.S103

Most endangered of all the Confucian principles is the concept of ‘xiào’ or ‘filial piety’²⁹⁶. This denotes the duties a son has for their parents and elders in providing either material welfare or care in later life²⁹⁷. As explained above, the one child policy has created a situation in which the current generations may find it overwhelming to care for their previous two generations. In addition the ‘little emperor’ syndrome, as alluded to below, has created a cohort of offspring who feel detached and pressured to provide for their family. A further possible way in which ‘xiào’ may be affected is in the provision of a suitable social security system which will negate the need for this process of generational support.

The process of urbanisation and modernisation which the one child policy certainly helped catalyse has also had an undoubted effect on rendering cracks in Confucian familial practices. Younger generations are migrating to urban areas, preferring to live on their own, and deciding to stave off marriage until they are financially ready. Confucian traditions will never be completely eroded by the winds of modernisation and nor should they as an integral part of Chinese society. Yet the remarkable pace in which societal practices have been transformed due in part to the one child policy is astounding. It is the ultimate irony that a policy that in its inception fit so well into the Confucian puzzle may serve to liberate much of the Chinese population from the inherent inequalities of its teachings and practices.

6.3.2 Creation of ‘Little Emperors’

My original exposure to the concept of ‘Xiǎo huángdì’ or ‘little emperor’ syndrome came through my interview with the author Xue Xinran in late 2015²⁹⁸. It describes the culmination or transformation of China’s one child generations into what can essentially be labelled, ‘spoiled brats’. The phenomenon is *prima facie* psychological but has also

²⁹⁶ Xiào(孝) – piety, combined with Tī(梯) - respect, zhōng (忠) – loyalty, and xìn(信) – faith, represent the four Confucian injunctions (四德) inherent in virtuous men.

²⁹⁷ Confucius, *Analects*, 2:7, Lau, D.C., *Confucius: the Analects* (Penguin Books, Middlesex, 1979)

²⁹⁸ Interview with Xue Xinran, London, 21st December 2015

tested the fibres which hold together traditional family systems and is a fascinating but potentially destructive product of the one child policy.

Although my familiarity with the syndrome is fairly new research into possible psychological and behavioural effects of the one child policy has been conducted for the past twenty years. The general theory is that, due to the constraints in place limiting births to one per couple, parents and grandparents have tended to overindulge their youngest generation of the family. The effects are bilateral with greater opportunities and material wealth showered upon the child, whilst the youth can experience more amount of stress and trepidation arising from the added pressure of succeeding and providing for the family.

An additional consequence that was often cited by my interviewees is that in being an only child, the ‘little emperor’ may grow up lacking the social skills that are nurtured in a well-balanced family of with one or more siblings. For this reason some are seeing a second child as a viable option.

What is considered ‘overindulgence’ is entirely subjective but the effects case by case tend to be the same. For example, the effect of a daughter from a rural family being catered for every day until he is married is akin to a son from a wealthy urban family being gifted his own factory before he turns 25 years old – both, according to Confucian sensibilities, are not afforded the opportunities to becoming morally upstanding citizens. To put it a more contemporary way, both develop a sense of entitlement and narcissism due to their family’s excessive generosity.

Cameron et al. in 2009 performed a series of personality tests on Beijingers born around the time of the policy’s introduction to clarify if there really did exist behavioural fallout from the one child policy. The results showed a lack of optimism, and motivation to succeed in conjunction with a higher chance of neuroticism when

compared with those raised with siblings²⁹⁹. The results are congruent with both the findings of Zhang et al. in a similar test³⁰⁰ and the cases described by Xinran³⁰¹.

A final possible aftereffect of this syndrome is the pattern adopted by many middle-class families when approached with their single child's education. Academic achievement is another key ingredient for socialisation in Confucian doctrine and as such the family unit is willing to sacrifice everything to ensure the youngest generation receives the best schooling possible³⁰². This means more Chinese students than ever before are leaving the country to receive Western education. There may be a great benefit in this. By opening up in this way, and allowing children from China's richest and most powerful families to be exposed to Western ideals it may better build a bridge between global cultures going forward. Although traditions are still held close to the hearts of the upper-class, it is nice to feel this may be a possible side-effect of this 'little emperor' syndrome.

6.4 Future human rights for China

The current version of the Chinese constitution was adopted in 1982 as the Fourth Constitution of the Fifth National People's Congress. The document was a significant step forward for the formation of a legislated system of rights in China. The fact that a number of rights and duties integral to the doctrine of universal human rights are listed was surely an indication of progress being made. The constitution shared many of the same values existent in the liberal democracies of the west³⁰³. Later amendments in

²⁹⁹ Cameron, L., Erkal, N., Gangadharan, L., and Meng, X., *Little Emperors: Behavioral Impacts of China's One Child Policy*, SCIENCE, Volume 339, 22nd February 2013, pp.953-957

³⁰⁰ Zhang Yuching, Kohnstamm, Geldolph A., Cheung Ping Chung and Lau Sing, *Developmental Changes in the Personality of Only Children in China*, Social Behavior and Personality, volume 29(7), 2001, pp.725-732

³⁰¹ Xue Xinran, *Buy Me the Sky – The Remarkable Truth of China's One-Child Generations* (Rider Books, London, 2015)

³⁰² See *Studying in America – Crafting a future: Businesses help Chinese students get into American universities*, in The Economist, 19th February 2015, available at <http://www.economist.com/news/china/21644458-lucrative-businesses-help-chinese-students-get-american-universities-short-cuts> accessed 31st July 2016

³⁰³ Cai Gao Qiang, *International Human Rights Protection and Domestic Practical Research* 146 (2007)

1999 and 2004 made promises of a nation governed ‘according to the rule of law³⁰⁴’ and a state that ‘respects and safeguards human rights³⁰⁵’.

However, the 1982 constitution still does not meet the requirements set by the international standards for human rights focusing more on welfare rights or ‘subsistence’ rights than on individual liberty³⁰⁶. It is all very well for China to cover every single condition put forth by the ICESCR, but not at the expense of civil and political rights. This is reflective in the nation’s signing and ratification of the aforementioned ICESCR but hesitance to ratify the ICCPR. Not surprisingly this is directly opposite to the USA’s international treaty compliance who have not yet ratified the ICESCR³⁰⁷.

There can be no denying that China has engaged more with the global human rights question by frequently attending dialogues, helping to draft new instruments and hosting a number of meetings and events not to mention ratifying several international treaties³⁰⁸. But this is by no means an indication of China’s obedience to the international system of human rights. Rather the middle kingdom has seemingly decided to ‘pick and choose’ which rights to adhere to, most commonly focusing on those rights that ensure social stability, sacrificing the rest³⁰⁹.

A pattern is unfortunately emerging in which China is increasingly using supposed conformity to the human rights regime to gain leverage on the international stage. It is no surprise that the ICCPR and ICESCR were signed in the years leading up to its accession to the World Trade Organisation in 2001 - a gateway to further economic development. Acts such as these and the Vice Premier Qian Qichen’s admission of the

³⁰⁴ Article 5, Constitution of the People’s Republic of China (1999)

³⁰⁵ Article 33, Constitution of the People’s Republic of China (2004)

³⁰⁶ Katie Lee, *China and the International Covenant on Civil and Political Rights: Prospects and Challenges*, Chinese Journal of International Law, Volume 6, 2007, p.445

³⁰⁷ Jun Zhao, *China and the Uneasy Case for Universal Human Rights*, Human Rights Quarterly, Volume 37(1), February 2015, p.42

³⁰⁸ For a full list of China’s membership in international human rights treaties as of 2007, see Ming Wan, *Human Rights Lawmaking in China: Domestic Politics, International Law, and International Politics*, Human Rights Quarterly, Volume 29, pp.730-732

³⁰⁹ Griffiths, Rudyard, and Luciani, Patrick (eds.), *Does the 21st Century Belong to China? Kissinger and Zakaria vs. Ferguson and Li* (House of Anansi Press, Toronto, 2011)

universality of human rights at the 1998 International Human Rights Symposium³¹⁰ have been called out by critics as ‘empty gestures’³¹¹.

This may be true but it need not be a hindrance to human rights harmonisation. It is a general truism that nations have used human rights as a standard of influence in matters of international diplomacy, a point China has laboured home numerous times, but if nations such as China are actively seeking to improve their rights condition to gain opportunities for economic development it can only be a good thing.

However, China increasingly sees itself as an autonomous entity on the global stage rather than an active participant of the human rights movement. For scholars such as Ann Kent, the nation’s approach is no longer one of ‘enforced compliance’ but one of ‘selective cooperation or adaption’³¹². This is surely a side-effect of the country’s new position as a global power.

6.4.1 Charter 08

The Chinese government’s repertoire of false promises might in the context of human rights development have not gone unnoticed however. Its very own people have shown agitation at a lack of progress. On the 60th anniversary of the UDHR, a document China helped to write, a movement known as *Charter 08* was founded. Amongst criticisms brought by the lobby was the government’s failure to abide by the 2004 constitutional amendments advocating ‘respect and protection of human rights’ and the continued refusal to ratify and abide by the ICCPR. In a bold statement, the movement declared that: ‘China has many laws but no rule of law, it has a constitution but no constitutional government’³¹³.

³¹⁰ Qian Qichen, *Protecting Human Rights a Universal Ideal*, Beijing Review (16-22 November 1998), pp.11-20

³¹¹ Zhu, Yuchao, *China and International ‘Human Rights Diplomacy’*, China: An International Journal, Volume 9(2), September 2011, p.224

³¹² Kent, Ann, *Beyond Compliance* (Stanford University Press, Stanford, 2007), p.5

³¹³ Goldman, Merle, *Citizens’ Struggles in China’s Post-Mao Era*, International Journal of China Studies, Volume 3(3), December 2012, pp.280-1

What made this particular undertaking unprecedented was that its supporters were not restricted to one area of society. Whilst the Tiananmen protests of 1989 were restricted by-in-large to students, the eight thousand who petitioned in favour of *Charter 08* came from all walks of life. Relatively speaking, this is a tiny proportion of the total population, yet the sheer range of background indicates an issue that is no longer confined to one are – the people of China, no matter their education, wealth, or occupation, have shown signs that they want a liberalised and democratised society. This can only be a good thing.

The development of human rights in China may not be taking the orthodox route Western nations may have prescribed for it, but nonetheless, progress is being made. Human rights are now being talked about an included as part of the Chinese international policy agenda. The biggest fear however, is that this inclusion does not translate to the domestic field as has been alluded to through the various constitution amendments and treaty signings. China has long maintained that subsistence rights and the provision of welfare will always come before civil and political rights and has reiterated this stance very recently³¹⁴. However, the nation is now in the economic position to provide the whole package. To put it bluntly regarding its imposition of a legitimate human rights system, China now needs to put its money where its mouth is.

Conclusion

The one child policy served its purpose by helping a general drop in Chinese fertility rates and aiding economic development and modernisation of a nation desperately in need, but it has done say at a great cost. Aside from the direct rights violations that occurred during its heyday, the policy has ensured the Chinese population will suffer for generations to come.

³¹⁴ Information Office of the State Council of the People's Republic of China, White Papers of the Government, National Human Rights Action Plan of China (2012–2015), available at http://www.china.org.cn/government/whitepaper/node_7156850.htm.

The dogmatic approach the government has taken to safeguarding rapid economic progress has meant certain musts for nation-building have been forgotten – namely the founding and gradual reform of an effective social security system. The aging of the population brought on by sudden falls in TFR in conjunction with this lack of effective welfare means the youngest generations are going to be under a humungous amount of pressure to abide by the Confucian rules of piety that have pervaded Chinese society for so long.

As a result, the nation lies at a crossroads. It is hard to see the traditions of yesteryear vanishing yet the conditions created by the one child policy have meant that their hold on the Chinese populous is loosening. In order to cope with the demands of modernisation and urbanisation in addition to the new breed of ‘little emperor’s’ familial structures are being forced to change. It will be interesting how the situation develops into the future.

In the realm of human rights policy-building, it is refreshing that universality is finally part of the Chinese lexicon. Yet this Western concept is being highly sinofied to a point where the application of rights is clearly unequal. The importance attached to individual liberties still pales in comparison to the role of subsistence and national sovereignty in the Chinese system. Finally it is encouraging to see more active participation by the PRC on the international stage. This may merely be as a method of prying open doors to lucrative economic opportunities through false promises of human rights compliance.

Conclusion

The lack of genuine understanding of the one child policy is a good analogy for the relative ignorance the West has for China and the country's practices in general. A nation that for most outsiders seems so alien and detached from Western concepts and ideologies can no longer go unnoticed and ignored. As the 21st century ticks by China's importance increases most predominantly driven by its new found economic base. However there is a danger that whilst China finds itself more and more connected in the commercial world, its cultural values and distinct lack of a liberal and democratic system of rights will leave it isolated and distrusted.

The Chinese population are also deeply at risk in the coming decades. The one child policy robbed a generation of their inherent freedoms, their livelihoods, their health, their dignity, the love and support of their families, and resulted in the unlawful slaughter of millions of infants. This is evident and well documented. What is not so clear is how the following cohorts of young Chinese may also be in jeopardy. As a consequence of immense economic growth and modernisation, an ancient civilisation has been unable to keep up with the rapid transformation entailed creating holes in welfare provision, familial ties, and the structures that make up society.

Nevertheless, we should not underestimate China in any way. This is a country fuelled by thousands of years of geopolitical dominance, one of the longest and most deeply entrenched philosophical doctrines, and a serious belief in a destiny far greater than any other rival nation's. Add to that the relatively recent humiliations at the hand of Western imperialists, the ravaging of the nation by an East Asian neighbour and a catastrophic civil war and China has also developed a clear mistrust of the international community and an innate sense of nationalism.

This thesis has attempted to decipher the reasons behind the one child policy's implementation by first clarifying the context in which it was deemed necessary and then identifying the system of rights in which the policy was considered acceptable.

The opening chapter applies an historicist approach by trying to determine the social and cultural environment of 1980s China through stages in its history. Early evidence of what may be described as a form of ‘scientific realism’ at the expense of rights consideration came in the form of Song Jian, a rocket scientist tasked with creating a scheme designed to alleviate China’s overpopulation woes. The fact that the policies of Ma Yinchu and Zhou Enlai were never able to take hold due to Mao Zedong’s mistakes creates an intriguing counterfactual scenario: what if the nation’s birth-planning program had been initiated twenty years prior?

By studying the PRC’s developing governmentality the notion of Foucauldian ‘biopower’ came to the fore in which population-controlling policies are developed in order to achieve modernisation. The evolving relationship between state and Chinese citizenry explains in part the different methods of implementation of the one child policy and hints at a possible neo-liberal future in which Western rights doctrine may be incorporated.

The third chapter served to use the one child policy as a step in the developing Chinese system of rights. From Confucianism to the late-Qing dynasty incorporation of Western ideals on to the sinification of Marxism, the one child policy was neither detached nor at odds with the rights philosophy present in 1970s China. However, a continued defence of its implementation as part of domestic policy under the guise of cultural relativism cannot be tolerated by the international community. The direct violation of certain inalienable rights cannot be excused no matter what the context. It is true that during the nation’s rebuilding period after 1949 China perhaps lacked the economic and structural capabilities necessary to cater for all civil and political rights, but after decades of growth and modernisation, there can be no excuses now.

Having established how the one child policy, even given its limitations and cultural context, was in conflict with expected international human rights norms, an insight into whether the policy was necessary in achieving the goals of the state was needed. The

chief target of reducing fertility rates across China was attained yet indications show the one child policy was not the main driver behind this transformation. By comparing fertility trends with both Hong Kong and Taiwan, nations that did not implement a birth control scheme anywhere near as coercive and draconian as China, it is evident that other factors prompted change. Economic development, urbanisation, and modernisation have all been catalysts for alleviating the issue of overpopulation. On the other hand, there are indications that the one child policy helped to legitimise Deng Xiaoping's political status and in turn, precipitated reform in the nation. It would therefore be dangerous to ignore the policy's role entirely.

However, the acceptance of a more consumerist culture and partial change of the roles of women have led to severe drops in fertility in China's biggest cities. The fear now is that China will be plunged into a low fertility trap that it will struggle to get out of. The coercive measures used to help enforce the one child policy have no doubt contributed to a nation-wide drop in desired family sizes. Even after the program's abolishment in 2016 women are anxious to have more children citing fears about time-management, careers, stress and the inequality of gender roles in parenting. For those that do want more than one child, it is either at the behest of a husband hoping for a son, or because of worries that because of the fallout of the one child policy, too much angst will be placed on the shoulders of a single child tasked with supporting an entire family of elders. It is much too early however to really measure whether MIFS across the nation has rebounded and, given the opportunity and resources, it is an area I really hope to continue to research.

Finally, having established the one child policy's secondary role in bring about drops in fertility rates, it has been important to understand where the policy has really been integral in bringing about change. Due to the lack of oversight by the central government, China has emerged from the birth-planning program unprepared and possessing a hollow frame of defences against the impending threats created: an aging population, decrease in workforce, and gender imbalance. China will need to make severe capital investments to quickly assuage the problems, something I fear they will

hesitate to do. As a result another generation of Chinese will see their opportunities and livelihoods damaged as a direct result of the one child policy. Not only that, but there is a new-found burden placed on the role of Confucianism in Chinese society simply due to it being incompatible with the modern environment. The creation of a cohort of ‘little emperors’ may also test the boundaries of filial piety.

Optimism is needed however. Pressed with the need for rapid reform, China may yet emerge from the aftermath of the one child policy with a strong social security system, a developed and modernised economy, and most importantly, a society forced to liberalise in the face of the strictures of traditional norms. Whilst the government continues to rather duplicitous in its application of human rights on the international and domestic fields, the fact that human rights are now part of the Chinese lexicon is encouraging. Nevertheless, I can not help but be rather pessimistic due to the weight economic development and subsistence continues to carry in the system of Chinese rights. I hope to see the following changes in the coming years:

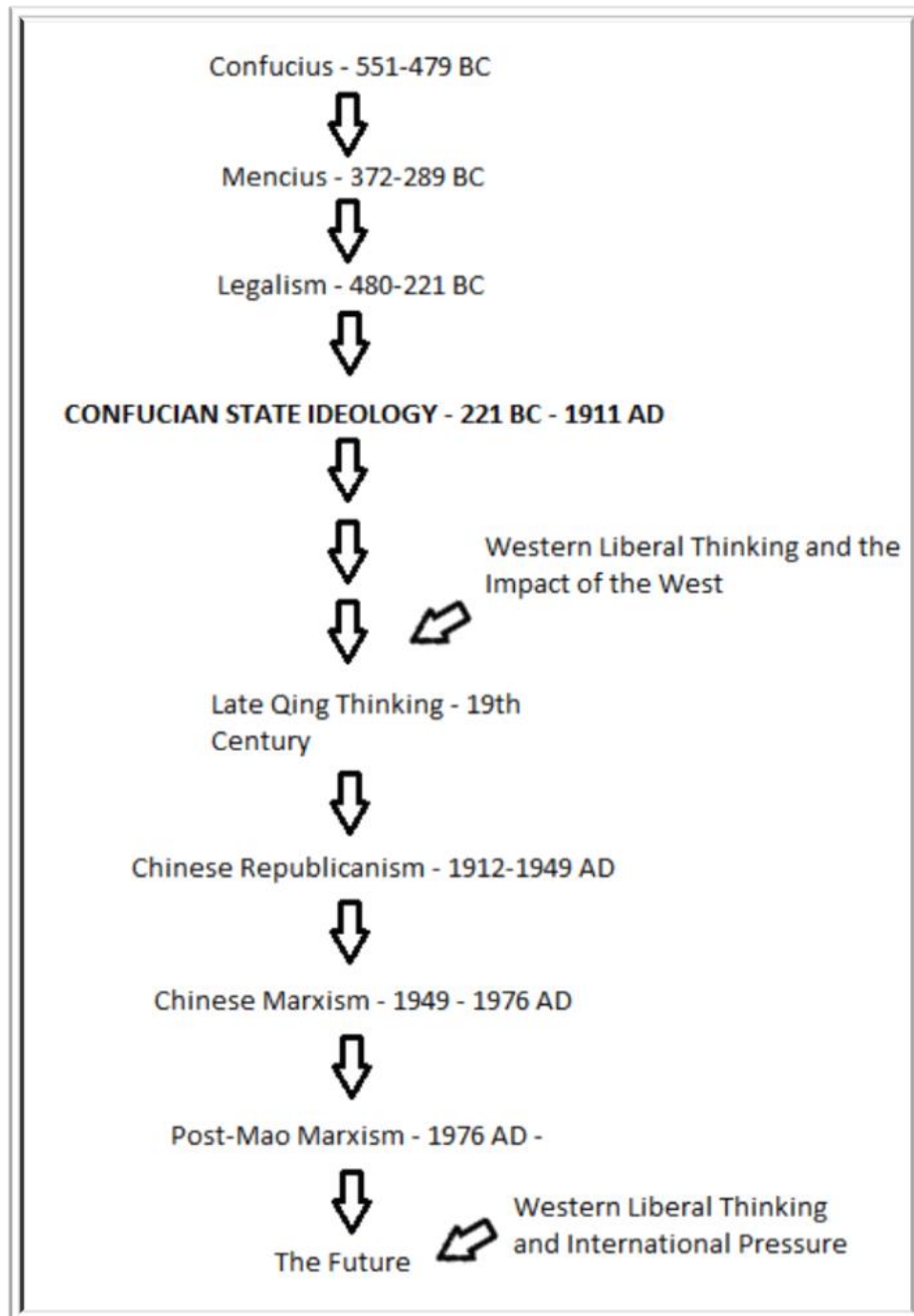
- A complete relaxation of all birth-planning policies by 2020 to ensure the best possible environment to illicit a growth in fertility rates;
- Investment of government capital in the existing social security system in conjunction with a higher pension age and a fixed contribution rate;
- Expansion of network of support for the elderly population through investment in private homes and care-workers;
- Government sponsored training to help dissipate gender stereotypes in business settings and the health industry and champion the role of men in the raising of children. Additional pressure needed to help create an environment in which women are happy to have more than one child;
- Stricter controls surrounding working conditions and workers’ rights and benefits in order to create a more productive and motivated workforce;
- The PRC’s continued involvement in international human rights dialogue combined with cross-cultural exchange to enhance understanding and empathy;

- A renewed international responsibility to ensure Chinese promises are kept regarding the development of an effective rights system.

China, as a fiercely proud and traditional nation, will never be fully committed to install what they perceive to be a 'Western' system of human rights. However, this need not be a hindrance to the development of their universal application. By allowing a form of subjectivity in rights application whilst pushing for the satisfaction of the most inherent of civil and political rights, a concord can be achieved. The one child policy has unfortunately made any harmonisation much harder particularly as I believe it representative of the cold realism of CCP operations. Nevertheless, China is a far more developed and liberal nation than when the policy was first implemented. We, as an international community, can only hope its rights development continues.

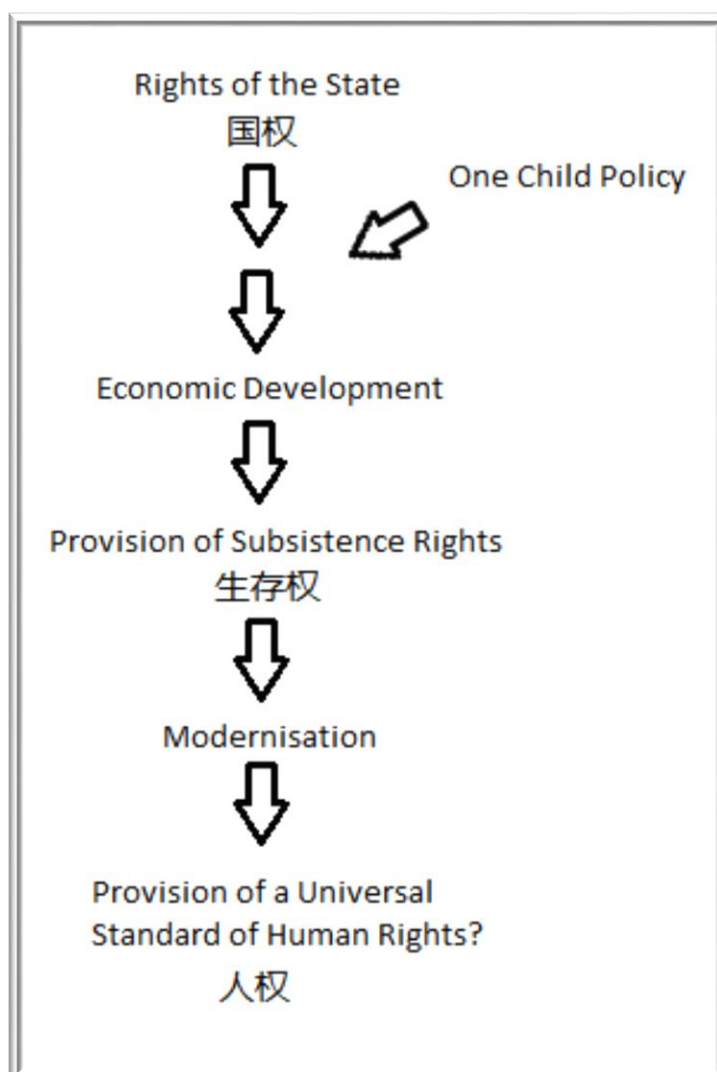
Appendices

Appendix 1 – The development of the Chinese rights thinking³¹⁵

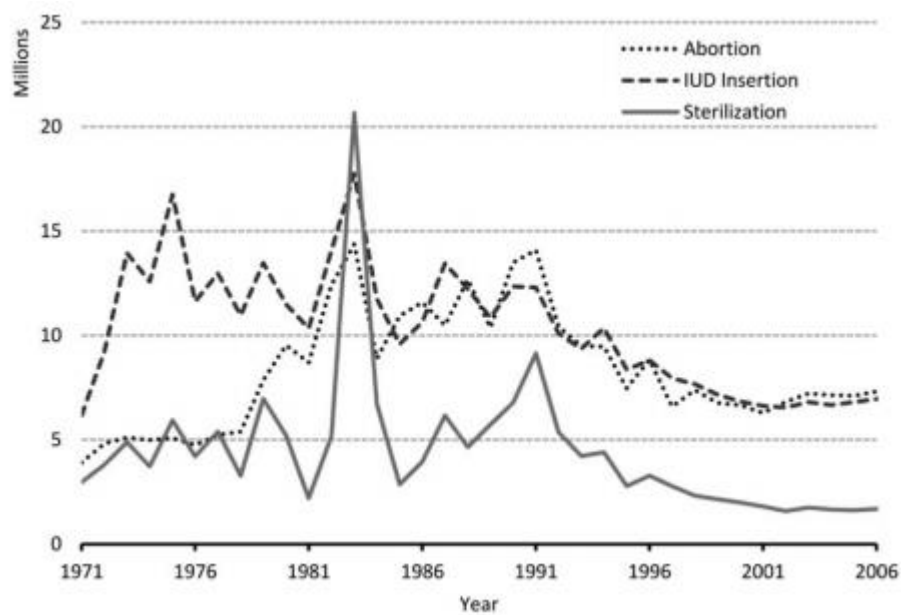


³¹⁵ Weatherley, Robert, *The Discourse of Human Rights in China* (St. Martin's Press, New York, 1999) p.5

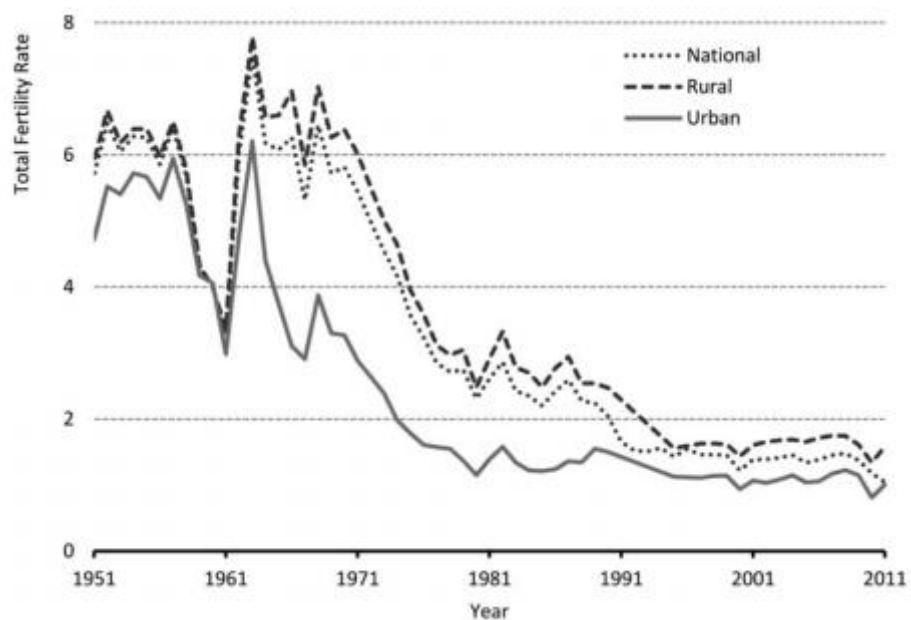
Appendix 2 – One child policy's place in the hierarchy and system of Chinese rights



Graph 1 – Use of extreme coercive measures during the one child policy era³¹⁶



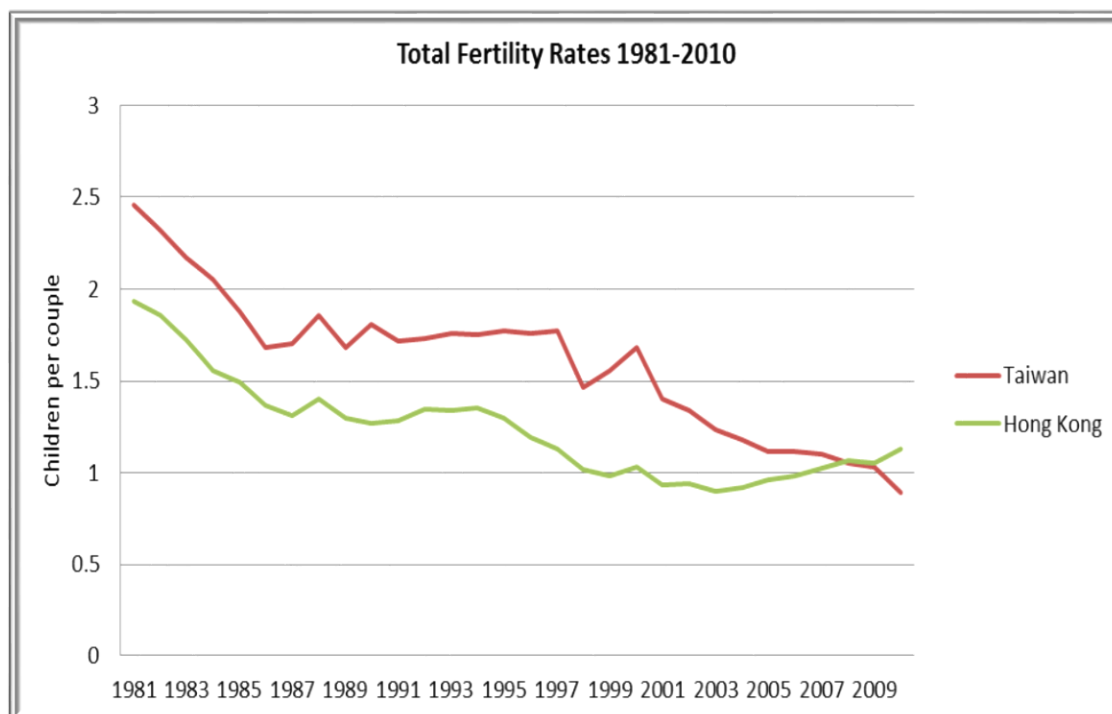
Graph 2 – China Fertility Rates 1951-2011³¹⁷



³¹⁶ Ministry of Health of China, *Zhongguo weisheng tongji nianjian* (China Health Statistics Yearbook 2010) (Peking Union Medical College Press, Beijing, 2010)

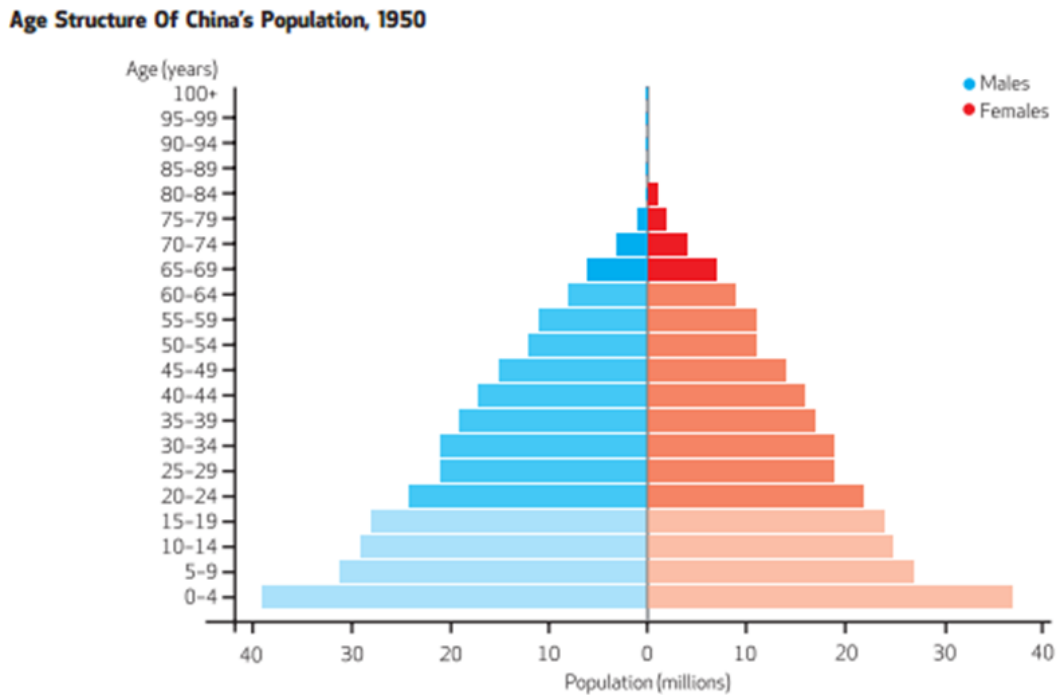
³¹⁷ Whyte, Martin King, Wang Feng, Yong Cai, *Challenging Myths About China's One-Child Policy*, *The China Journal* 74, 2015, p.153

Graph 3 – Comparison of Hong Kong and Taiwan fertility rates 1981-2010³¹⁸

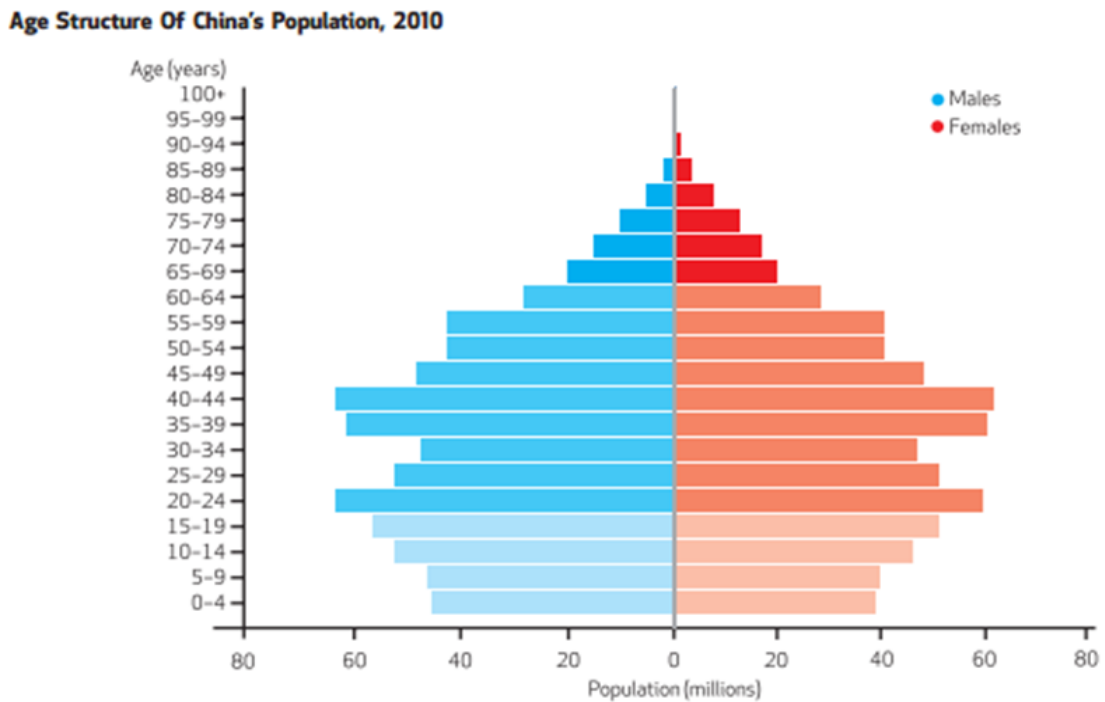


³¹⁸ Taiwan statistics taken from Table 15 - Fertility rates for women of childbearing age, available at http://eng.stat.gov.tw/public/data/dgbas03/bs2/yearbook_eng/y015.pdf and Table 14 - Fertility rates for women of childbearing age, available at http://eng.stat.gov.tw/public/data/dgbas03/bs2/yearbook_eng/y014.pdf, accessed 1st July 2016; Hong Kong statistics taken from *The Fertility Trend in Hong Kong, 1981 to 2014*, Hong Kong Monthly Digest of Statistics, December 2015, available at <http://www.censtatd.gov.hk/hkstat/> accessed 2nd July 2016

Graph 4 – Age Structure of China's Population, 1950³¹⁹



Graph 5 – Age Structure of China's Population, 2010³²⁰



³¹⁹ Images taken from Feng Zhanlian, Liu Chang, Guan Xinping and Mor, Vincent, *China's Rapidly Aging Population Creates Policy Challenges In Shaping A Viable Long-Term Care System*, Health Affairs 31(12), 2012

³²⁰ Ibid.

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Abstract

With the introduction of the one child policy in 1979 China initiated perhaps the most consequential social experiment of the twentieth century. The policy has achieved what it was originally intended to do, yet the implications and effects of its thirty-five year duration may create social inequity and burden for generations to come. Questions continue to surround the necessity of the policy's implementation, why China was so willing to sacrifice the rights of its individual citizens for the benefit of the nation as a whole, and why it has taken so long to end a policy which so obviously violates the human rights of the Chinese people. Restrictions over family planning still remain and there are growing concerns from both internal and external sources regarding the role of individual rights within Chinese society. As a result, the position of human rights within the functioning of Chinese society and culture, along with its international compliance continues to be precarious.

Keywords: One child policy, human rights, individual and collective rights, universalism and cultural relativism, population control

Abstract Deutsch

Mit der Einführung der Ein-Kind Politik im Jahre 1979 initiierte China das vielleicht folgenreichste soziale Experiment des 20. Jahrhunderts. Die Massnahme erfüllte ihren ursprünglichen Zweck, die daraus resultierende soziale Ungleichheit könnte jedoch eine enorme Buerde für die kommenden Generationen sein. Fragen betreffen vor allem die Notwendigkeit der Massnahme. Warum war das Land so einfach bereit individuelle Rechte für das Gemeinwohl zu opfern und warum dauerte es so lange eine Politik zu beenden welche die Menschenrechte so offensichtlich verletzt? Einschränkungen im Bereich der Familienplanung existieren immer noch. Interne und externe Stimmen weisen auf mangelnde individuelle Rechte im Land hin, Menschenrechte nehmen weiterhin eine nachgeordnete Position in der Gesellschaft und Kultur Chinas ein.

Schlüsselwörter: Ein-Kind Politik, Menschenrechte, individuelle und gemeinschaftliche Rechte, Universalismus und kultureller Relativismus. Bevoelkerungskontrolle