

CHINESE REPRODUCTIVE POLICY AT THE TURN OF THE MILLENNIUM: DYNAMIC STABILITY

Edwin A. Winckler
East Asian Institute, Columbia University

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In the 1990s, as fertility fell below replacement, China's state birth planning program began reforms, first to improve its state-centric approach to birth limitation and then to incorporate some elements of a more client-centered approach. In 2000 and 2001, as part of a regime shift toward "rule by law," China both further institutionalized and further reformed the program. A March 2000 Decision and September 2001 Law reaffirm the need for state planning of population and births but mandate a shift in both methods and goals. Regulation should shift from direct to indirect, decreasing negative side effects and increasing positive economic incentives. Birth planning should become only one of several reproductive health services that the program provides. Reforms are occurring also through supporting regulations and changes of procedure within existing regulations. Though as yet incomplete, these reforms are significant.

AUTHOR

Edwin A. Winckler is a research associate of the East Asian Institute, Columbia University.

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In 2000 and 2001 the People's Republic of China (PRC) issued two major documents on reproductive policy that further institutionalize and further reform China's state birth planning. One was a once-in-a-decade central Decision on future program direction, the other was a long-delayed national Law on state planning of population and births. These two policy documents and accompanying regulations culminate demographic and regulatory developments during the last several decades of the twentieth century and set the framework for any remaining struggle over reproductive policy for the first several decades of the twenty-first century. By the late 1990s some combination of socioeconomic change and party-state effort had reduced China's once high fertility to below replacement levels (Feeney and Wang 1993; Lavelly 2001). As a result, the joint party and state Decision in March 2000 did not just reaffirm the need for the state to plan population and births. It also authorized a significant change in program methods and goals, from state-centric birth planning toward client-centered health services. The December 2001 Law further legitimated institutions and policies that have been operating for decades. However, it also finally brought the PRC's state birth planning into line with an overall post-Mao regime shift from party fiat toward "rule by law." These reforms are far from complete in principle and far from completed in practice. Nevertheless, they do constitute a significant change and they do chart likely future program development.

Both the 2000 Decision and the 2001 Law represent political and practical compromises between stability and change. Ostensibly the main theme of both was "stability": maintaining China's recently achieved low birth rate by reaffirming existing birth policy and improving its implementation. National political leaders are determined to continue to limit population growth, and any apparent wavering of policy or sudden change in methods could cause the program to falter. Stability of policy is important because the public tends to overreact to any signs of relaxation (Greenhalgh 1986). Zhang Weiqing, the minister of the State Birth Planning Commission (SBPC), stressed that the new national Law represented "neither a tightening nor a loosening" of policy (2001.12.30 -- see news items in References). Improvement of implementation, too, has proceeded cautiously, in order to maintain morale within the birth planning system. The ongoing shift from state demands toward client service is a fundamental change to which the program's many personnel need time to adjust. Thus there is a great deal of stability in recent Chinese reproductive policy. Stringent birth limitation remains obligatory, the program remains omnipresent, and noncompliance remains costly (payment of a substantial "social compensation fee"). Both the Decision and the Law stress citizens' rights, but those rights are mostly to receive services, not to reject them.

Nevertheless, the program's stability is quite dynamic, as the program adapts to low fertility, a market economy, political reform, rising expectations, and deepening globalization. National political leaders are determined to shift China from the chaotic "rule by policies" of the Maoist era to an orderly "rule by law" in what they regard as a socialist democracy. Strengthening citizens' rights against misgovernment not only protects citizens but also improves administration. Thus the 2000 Decision called for "strengthening" the work of administering population and birth planning, but what it wished to strengthen were not requirements and enforcement on citizens but the professionalism and coordination of state agencies. The 2001 Law placed many legal constraints on the program and omitted many objectionable practices found in earlier provincial legislation, which will be required to omit them as well when the national Law goes into effect in September 2002. Both documents authorized an already on-going shift in the definition of the program from simply limiting births toward delivering reproductive health services in which birth planning is one item among many. These documents and their implementing regulations incorporate many recent international ideals of quality care, informed choice, and women's empowerment, even though these ideals are given restrictive Chinese interpretations.

This article reports and discusses these policy developments. The first part provides background. Thus the first section reviews recent program reforms from which the Decision and Law emerged and recent population trends to which they respond. The second section discusses how regime transition and leadership succession are changing the birth program. The second part treats policy formulation. Thus the third section summarizes the 2000 Decision and legislative issues as the immediate background of the 2001 Law. The fourth section assesses stability and change in the 2001 Law, and a fifth section identifies some progressive and problematic silences in it. The third part illustrates policy implementation. Thus the sixth section reports recent program activities in birth planning and reproductive health, while the seventh section outlines the program's mass organizations and international relations. The eighth section notes organizational constraints and environmental processes that will condition the actual impact of policy on citizens. The conclusion briefly sketches debate over how to evaluate the program. The complete text of the 2001 Law is translated in the Documents department of this issue.

In this article, "reproductive policy" identifies a particular nexus between population policy and health policy that has emerged in China at the turn of the millennium. On the basis of "Marxist population theory", the PRC continues to identify economic production and social reproduction as the two basic development processes and to address them equally through "economic and social" development plans (White 1994b; Yu et al. 2001). On the "social reproduction" side, the PRC is now attempting both to continue to limit population quantity and to further improve population quality. China's most basic measure to improve population quality is to raise the "standard of health" of newborn infants, through premarital and post-pregnancy screening and through maternal health care. These Chinese formulations readily accommodate many elements of the shift from national population limitation toward women's reproductive health that has occurred in international population thinking since the 1994 Cairo international conference on population and development. Accordingly, in this article the term "reproductive policy" refers both to regulating reproductive behavior and to providing reproductive health services. In China the latter now includes relevant services not only to married adults but also to infants, adolescents and unmarried young people who are sexually active. 1

BACKGROUND

1990s program reforms and population trends

The 2000 Decision and 2001 Law institutionalize 1990s program reforms that include many interrelated processes and they respond to population trends that reflect program performance. 2

Between 1949 and 1999 a series of policy cycles ratcheted the Chinese party-state first toward intervening in population growth and then toward institutionalizing a birth limitation program (Banister 1984, 1987, 1998; Greenhalgh 1986, 1990; Ming 1999; Wang 1996; Wang and Hull 1991; White 1990, 1992, 1994a, 1994b). From around 1970 a combination of socioeconomic development and government propaganda gradually reduced the number of children that families wanted. Periodic party-state campaigns against unauthorized "out-of-plan" pregnancies still further reduced the actual number of children. Policy reviews became increasingly linked to decennial censuses and five-year economic-and-social development plans. Policy rationale was elaborated to connect the national goal of coordinated development of population, resources, and environment with the international slogan of "sustainable development" (elaborated for China in Yu 1999). Policy promulgation progressed from administrative edicts to provincial legislation. Policy implementation benefited from increases in political priority, financial resources, professional personnel, and mass organization. In 1980 national leaders set a goal of one child per couple, and in 1991 they made lower-level party and state leaders personally responsible for achieving population targets (Commentator 2000; Greenhalgh 1994; Winckler 1999). However, in the course of the 1990s, in order to improve its effectiveness and increase its popularity, the program began a series of progressively deeper reforms (Ming 1999; Greenhalgh and Winckler 2001: Chapter 3, Part C).

1990s program reforms. On the one hand, the program continued to perfect its statist approach to limiting births. From around 1993 program leaders redoubled efforts to reduce reliance on periodic crash campaigns by ordinary cadres and to replace campaigns with continuous implementation by trained professionals (“routinization” and “professionalization”). From around 1995 national program leaders vigorously combated lower-level administrative abuses (“rectification”). These abuses included coercion in the form of too heavy-handed enforcement of birth planning rules and corruption in the form of misappropriation of funds from fines levied on citizens for noncompliance. The program made some attempt to combat demographic distortions, particularly unintended gender effects of birth planning such as sex-selective abortion and the resulting imbalanced sex ratios at birth (“normalization”). From around 1995 the program also increasingly supplemented its reliance on educational propaganda and administrative enforcement with material benefits (“incentivization”). Some of these were direct rewards such as leave or money for postponing marriage and childbearing, for undergoing contraceptive procedures, or for promising to have only one child. Other incentives were indirect benefits from related programs whose benefits were contingent on complying with birth planning (“collateralization”). Examples include combating poverty, helping women, and providing social insurance and retirement pensions. A generation of demographic change began to soften the program’s impact, opening a glide-path toward a “soft landing” sometime in the early twenty-first century. The main change is that declining fertility aspirations have reduced tensions between program and society (but, even according to the program, have not eliminated them: Jiang and Zhao 2001) Even under existing program rules, couples in which both spouses are only children can have two children and the number of such couples is growing.. 3

On the other hand, in the late 1990s the program began to move beyond state-centric birth limitation by broadening its goals and liberalizing its methods (Yu et al. 2001). The program quickly incorporated goals stated by the 1994 Cairo conference and reinforced by the 1995 Beijing international women’s conference. It soon accepted international advice and assistance in experimental projects for pursuing those goals (“internationalization”). The Cairo population conference shifted international attention from limiting population growth to providing reproductive health care and empowering women. Accordingly, the Chinese program added questions on reproductive health to its 1997 quinquennial survey and from 2000 the program began adding more reproductive health care to the services it delivers (“medicalization”). The Beijing women’s conference further highlighted the need to minimize the costs and maximize the benefits of birth planning to women. Accordingly, the program began experiments with projects to raise women’s status, promote their education, and increase their economic participation, particularly for poor women in poor areas (“feminization”). In some advanced areas with already low birth rates, the program even began experimenting with ways to make itself more client-centered and less intrusive (“liberalization”). Thus after a few years of experiments starting in 1995, “quality of care” quickly became a popular concern in service delivery: clients received better counseling and some choice of contraceptive method, and program workers were managed and evaluated to provide them (Gu 1998, 2000; SBPC 27 July 2000). Population targets became less mandatory and more indicative, particularly below the county level. Experiments began with allowing newly married couples to have their first child whenever they wanted, without applying for permission. These late 1990s experiments will be propagated nation-wide in the early 2000s (ALP 2000; interviews -- see Notes, introduction and note number one).

Recent population trends. The main factual cornerstone for policy reorientation has been the assessment by Chinese demographers that during the 1990s China achieved a below replacement fertility rate (Yu et al. 2000b). The SBPC’s best estimate is that starting in 1992 China’s total fertility rate has been about 1.8 (SBPC 19 August 2001, based on figures from the National Bureau of Statistics, or NBS). A 2001 survey found the average total lifetime fertility of women to be 1.81 children (1.22 urban and 1.98 rural -- SBPC 4 March 2002). According to program leaders, fertility remains “unstable” because in backward areas the policy remains somewhat ahead of economic development and reproductive culture. Meanwhile, China has kept within government targets for population growth rate and total population size. In the late 1990s annual population growth fell below 1 percent as planned (2001.3.6; 2001.3.28). As of the November 2000

decennial census China's population was 1.266 billion, well under the 2000 target of 1.3 billion (2000.7.19; Lively 2001).

These numbers probably reflect social reality well enough to provide an adequate basis for policymaking. Nevertheless, despite strenuous efforts by the NBS and SBPC, Chinese statistics on population and birth planning have problems that significantly affect program content (Greenhalgh and Winckler 2001: 60-61). The greater the policy pressure from above for particular results, the greater the falsification from below of indicators for measuring those results. These problems worsened in the course of the 1990s as national political and program leaders demanded that successive provinces improve their performance. Within a few years each targeted province achieved remarkable increases on indicators of public compliance with policy (Greenhalgh and Winckler 2001: 105-126). Despite some fears of some birth planning officials, the 2000 census largely confirmed the claimed changes, but it had similar reliability problems of its own (Lively 2001). Moreover the statistical problems of the birth planning and census systems become linked when, as they are not supposed to do, census takers identify birth planning violators (2000.11.16). Meanwhile, for monitoring and adjusting its own activities, the birth program relies on a system of indicators for evaluating lower-level political leaders and program administrators that has many of the same reliability problems. (For countermeasures, see SBPC 2 November 2000 and SBPC 25 November 2000.) As in other policy areas in China, one does not really know the extent to which statistics reflect reality and to which policy affects society (e.g., Solinger 2001).

Thus another factual cornerstone for policy reorientation has been the program's measurement of its own performance (Greenhalgh and Winckler 2001: 67-72). In 1997 and 2001 the program conducted surveys of birth planning and reproductive health that showed the program's impact as of the late 1990s. (For the Tables and Figures cited below from the 1997 survey see Jiang 1997 and SBPC & CPIRC 1997.) As a comparative baseline, note that in developing countries only about a third of couples practice contraception, in the United States about two-thirds. In China over 85 percent of the married women in the 1997 survey practiced contraception, with the urban and rural rates virtually identical (Figure 2-90). As the program had long prescribed, 85 percent of women used an IUD after the birth of their first child (urban 76 percent, rural 91 percent -- Figures 2-98 to 2-100). Also as the program prescribed, 66 percent turned to female sterilization after the birth of a second child (urban 52 percent, rural 68 percent -- *ibid.*). Cumulatively, about 49 percent of couples had one partner sterilized (40 percent of women and 9 percent of their husbands -- Figure 2-91). By comparison, in the United States about 38 percent of the population choose sterilization (27 percent of women and 11 percent of men). Most of the sterilizations in China had occurred in the countryside (47 percent of rural women and 11 percent of their husbands, versus 14 percent of urban women and only 2 percent of their husbands -- Figure 2-91). However, during the 1990s sterilizations declined drastically (from 9.1 million and 24 percent of birth planning clinical procedures in 1991 at the height of enforcement to 2.0 million and 11 percent in 2000 -- Ministry of Health 2001: 493). 4

Despite all this contraception, by 1997 one-third of these women had had one or more abortions, averaging 0.46 per woman. (Table 2-3-16 and Figure 2-45). By comparison, in the United States an estimated 43 percent of women have at least one abortion during their lifetimes and the worldwide average is about one abortion per woman. In China the two main reasons that women gave for their last abortion were contraceptive failure (40 percent) and that the child was "not allowed by policy" (36 percent). Women with only one child had experienced an average of 0.61 abortions (Figure 2-48). Urban women -- much more strictly subject to the one-child limit and much less likely to have been sterilized -- were three times as likely as rural women to have experienced an abortion (Figure 2-51). Roughly corresponding to the severity of the program, in successive decades the ratio of abortions to live births had climbed steadily (from 0.10 in 1960-79, to 0.26 in 1980-89, to 0.30 in 1991-95, and to 0.34 in 1996-2000 -- Figure 2-51 and SBPC 4 March 2002). However, at the end of the 1990s the number of abortions fell sharply (from 14 million and 37 percent of birth planning clinical procedures in 1991 at the height of enforcement to 6.7 million and 31.5 percent in 2000 -- Ministry of Health 2001: 493). 5

As regards the past costs and benefits of the program, a 1999 SBPC report to the party central committee and state cabinet was emphatically positive (*China Birth Planning Yearbook*, 2000: 90-91 and 184-197, hereafter just “*Yearbook*”). On expert advice, the analysis assumed that between 1971 and 1998 economic and social change had accounted for 46% of the reduction in fertility. Then the program had accounted for 54% of the fall in fertility and had reduced births by 338 million. The SBPC surveyed the cost of child-rearing and estimated that the 338 million reduction in births had saved the nation 7.4 trillion yuan (14 percent in state costs, 86 percent in family costs), close to China’s entire gross domestic product in 1997. The return was 82 yuan of national savings for each 1 yuan of program expenditure (which was 90 billion yuan, 42 percent from the formal state budget and 58 percent from community sources). Without the program, in 1998 population would have been somewhat more than 20 percent higher and per capita availability of many resources would have been somewhat less than 20 percent lower. Among the study’s more striking claims were that, without the program, in 1998 population would have grown by 30 million not 10 million, that surplus rural labor would have been 300 million not 200 million, and that foodgrain production would have been roughly 300 kilograms per capita (below self-sufficiency) not roughly 400 kilograms per capita (above self-sufficiency).

Nevertheless, reviewing program performance during the Ninth Five Year Plan (1996-2000), a report by the SBPC’s Planning and Statistics Division was unprecedentedly critical (Wang, Wang, and Kuo 2001, the first author having since become a vice chairman of the SBPC). Under pressure from national political leaders for realistic numbers, the new young national program leaders writing this report were hard-nosed. Not only did they not accept the data reported upward within the SBPC system, they did not accept the usually more realistic calculations by the NSB. Instead they substituted still more skeptical estimates of their own. For example, as regards progress toward the one-child goal, both SBPC and NBS data showed the proportion of births that were only first children as rising significantly between the Eight and Ninth plan periods and reaching very high levels (SBPC 74 percent and NBS 69 percent). In contrast, the report’s estimate was that the proportion had remained stable at a much lower level (about 55 percent). Both SBPC and NBS data showed a large decrease in the proportion of “multiple” children (three or more, reduction of which was a key target during the 1990s). In contrast, the SBPC estimate showed only about half that decrease, at a much higher level (about 10 percent of all births, five times the level reported to the SBPC and twice the level calculated by the NBS). The report went on to criticize both statistical misreporting and lax implementation. For example, it complained that some married women still remain outside the system and that too many “two-daughter households” go on to have unauthorized third children.

Looking ahead into the twenty-first century, a late 1999 national birth planning conference formulated China’s population dynamics as the “one stability and four highs”: a relatively stable low fertility rate accompanied by peaks in the numbers of fertile women, active workers, elderly retirees, and rural migrants (2000.1.7). Policy planners warned that population would continue to increase by 10 million a year for the next ten years, precluding “optimism” and requiring vigilance (2000.4.14; 2000.12.19). The PRC’s goals are to keep population under 1.33 billion in 2005, under 1.4 billion in 2010, and under 1.6 billion in the middle of the twenty-first century, when it should peak (2000.12.19; White Paper 2000: section 11). The main preoccupations of the tenth Five Year Plan for population and birth planning work in 2001-2005 are stabilizing low fertility, limiting population growth in western China, strengthening local service networks, and raising the quality of their technical services (*Yearbook* 2000: 92-93).

Regime transition and leadership succession

The balance between stability and change in China’s reproductive policy reflects China’s incremental transition from communism and a gradual succession in national leadership.

Regime transition. Several processes in China’s transition from communism affect the birth program. First, the Chinese party-state has been gradually contracting the scope of its control over economy and society.

During the post-Mao period economic production “grew out of the plan” (Naughton 1995). By the late 1980s marketization had weakened the birth program’s control over citizens (White 1991). In the early 1990s the national leadership officially embraced marketization and instructed the program to adapt to it, which it did starting in 1995 by emphasizing economic benefits (“incentivization” and “collateralization”). Social reproduction retained micro-management longer than most other policy areas (Winckler 1999). Nevertheless, by the late 1990s the birth program too finally began shifting toward merely indicative planning and more indirect regulation (“liberalization”). Second, the Chinese party-state is not simply contracting, but rather is selecting some strategic policy areas for more effective intervention. The fact that the birth program is being routinized and professionalized is part of the rebuilding of state capacity. Third, the post-Mao state has devolved many functions downward from the center, particularly in social policy. As a result the birth program must rely on provinces, counties, and communities (townships and villages) for most of its funding. This reduces national influence over local programs and limits the services that localities can provide. The center wishes to promote national standards of reproductive health care, but it must do so without making such services into either national or local entitlements.

A second transition process affecting birth planning is a change in the institutional nature of the Chinese party-state. From 1949 to 1978 China oscillated between different proportions of revolutionary mobilization and bureaucratic socialism. The Maoist party-state relied heavily for policy implementation on periodic campaigns by generalist cadres. Even into the early 1990s the dual party-state nature of the PRC regime continued to produce the mixture of mobilization and institutionalization with which the national leadership enforced birth planning (White 1990; Winckler 1999). Party and state remain intertwined, but the post-Mao PRC has invested heavily in modernizing the state. In birth planning this has meant both a local network of technical services (in collaboration with the health system for most surgical operations) and a local mass organization for persuasion and monitoring (the Birth Planning Association, or BPA).

A third transition process affecting reproductive policy is a post-Mao shift from reliance on party fiat toward “rule by law.” The Maoist party-state had no administrative law: it

had reduced law to administration, had reduced government administration to party policy, and had reduced “rule by policies” to “rule by persons” (Lubman 1999; Lin 1996). From 1978 post-Mao leaders began using law to rebuild and legitimize impersonal public administration and from 1989 they began using law to discipline public administration as well. The idea of a regime shift to “rule by law” -- and perhaps even a transition to “rule of law” -- emerged incrementally at successive party congresses. Nevertheless, compared to Western legal development, the overall process has been remarkably quick. By 2000 birth planning was the last national policy area -- and the last of the “basic national policies” on population, resources, and environment -- that did not have national enabling legislation. A basic reason for the delay may have been too great a gap between the constitutional ideals that “rule by law” represented and the way in which birth planning was actually being implemented. By the late 1990s all agreed that a national law was imperative and that the program had been sufficiently reformed to permit passing one. Even so, passing the Law required still more reformulation of national program principles and implementing the Law will require still more reform in local program practice.

In sum, until the turn of the millennium, birth planning was mostly a lagging not leading sector in China’s transition from communism. Relative to other policy domains it retained more planning, ran more campaigns, and relied more on administrative edict. Nevertheless, reproductive policy could not only catch up with but even leapfrog other policy domains to become a leading sector in some aspects of regime transition. So far these aspects include appointing nonparty and female ministers, using meritocratic methods of personnel selection, stressing quality care in service delivery, and emphasizing public satisfaction in performance evaluation. In addition, changes in reproductive policy constitute an important test of the capacity and flexibility of the personnel evaluation systems that the center uses to maintain control over subnational political leaders and to steer subnational policy implementation. In birth planning, in the course of the 1990s,

national political and program leaders used the same top-down “responsibility systems” for opposite purposes: in the early 1990s to tighten enforcement on citizens and in the late 1990s to correct abuses by implementors, with much success in both cases, according to the SBPC. Finally, reproductive policy should also provide an important experiment in state-society relations. Will the Birth Planning Association remain largely an instrument of top-down control even as it provides bottom-up monitoring of administrative behavior, or will the BPA and other social organizations gradually assume some independence and even begin providing some services privately?

Leadership succession. Several aspects of leadership succession affect Chinese reproductive policy. At the level of national political leaders, the main process is the declining power of successive generations of Chinese communist leaders over both the party-state and Chinese society. The first-generation leader Mao Zedong assumed that he could transform society toward his ideals. The second-generation leader Deng Xiaoping assumed that the Chinese party-state could still impose on the Chinese people whatever demographic sacrifices the party leadership deemed essential. Third-generation leader Jiang Zemin has firmly supported limiting births. To emphasize the importance of this and the other “basic national policies” on sustainable development, every year he addresses a Forum on Population, Resources, and Environment, attended by the entire Politburo standing committee and the top party and government leaders of all provinces (2000.3.12; 2001.3.11). However, Jiang has wished to avoid antagonizing the public by clumsy enforcement or associated corruption. Moreover, he has set as a future target that the population and birth planning undertaking “can truly become one that brings benefits to the people” (in his speech at the March 2000 annual forum, quoted in Wei 2001: 240-241 and Zhang 2001).

As part of their struggle over political succession, new Chinese leaders advance new ideologies that support new policies. In February 2000, in order to project a vision of the future, Jiang Zemin stipulated that policy in any area should represent three things: the development of the most advanced productive forces (in the economy), the practices of advanced culture (communist, Chinese, or otherwise), and the fundamental interests of most of the Chinese people (not just a the working classes). This formulation uses classical Chinese communist concepts to rationalize progressive reforms such as admitting businessmen to the Chinese Communist Party, raising standards for party and government, and aligning policies with popular preferences (Fewsmith 2001: 229-230). Program leaders quickly applied Jiang’s formulation to birth planning (SBPC 2 June 2000). Explaining that the 2000 Decision constitutes the practical manifestation of Jiang “three represents” in the population field, SBPC Minister Zhang noted the program’s contribution to economic development, its unremitting ideological assault on traditional reproductive culture, and its current emphasis on client satisfaction as “a main criterion for judging our work” (Zhang 2001).

At the level of national program leaders, the main succession process is the continuing “technocratization” of the Chinese state (Li 2001). With the inauguration of the new Zhu Rongji administration in early 1998, long-term SBPC Minister Madame Peng Peiyun graduated to a vice chairmanship of the National People’s Congress (NPC). Some SBPC vice chairmen also moved on, two of them to positions in the NPC. In order to find the right replacement leaders for its new tasks, since 1998 the SBPC has been implementing a new method for appointing leading personnel through competition, the first central ministry to do so (interviews; *Yearbook* 2000: 189). The method involves a sophisticated combination of previous performance, competency tests, and face-to-face interviews with future subordinates. As a result, vice ministerships and department directorships are gradually being taken over by smart younger people eager to advance program reforms.

POLICY FORMULATION

The 2000 Decision and legislative context

The immediate antecedents to the 2001 Law are the guiding principles expressed in the 2000 Decision and the legislative context of the drafting process.

The 2000 Decision. The March 2000 Decision provides a comprehensive rationale for Chinese birth planning and a pointed analysis of what the program must do to adapt to the circumstances it faces at the turn of the millennium. It was drafted concurrently with the 2001 Law and provides the “guiding thought” for current Chinese reproductive policy. The first two parts concern population, asserting the need to continue to limit population growth and stating the goals for the decade 2000 to 2010. The second two parts concern the process of regulation, discussing the requirements for improving it and for adapting it to marketization. The last part concerns the need for party and state leaders to continue taking personal responsibility for meeting population goals and the need to further increase spending on birth planning by governments at all levels. (See Decision 2000 and White Paper 2000.)

The 2000 Decision appears to be a political compromise that synthesizes stability and change while remaining silent on some issues. Among stable goals, the Decision reaffirms the program’s historic mission: party-led state intervention to save China from overpopulation by limiting births. A large population remains China’s most basic national condition, with a fundamental impact on development. A “sharp contradiction” will persist between population on the one hand and economy, society, resources, and environment on the other, continuing to make birth planning difficult. Limiting population growth requires policy that is comprehensive, stable, and discriminating (emphasizing rural areas, particularly in the western and central regions). Birth limits must be particularly strict in developing the relatively “backward” western region. Among stable methods, the Decision calls for strengthening program capacity and interagency coordination. Cities should take primary responsibility for birth planning among migrants. The birth planning and health systems should cooperate to establish a local “service network.” Only in the very long run will economic, social, and cultural modernization make political regulation unnecessary.

Among changing goals, the Decision adds new content to the program’s longstanding mandate to improve population quality, while downplaying any “eugenic” element. For the birth program, better population quality still includes premarital health checks and “genetic counseling,” but now means also better maternal and child health care (see White Paper 2000: section 16). By noting the need “to perfect” the leader responsibility system, the Decision authorizes the adjustment of performance evaluation criteria toward such progressive goals as lawful administration and client satisfaction. Among changing methods, the Decision stresses the need for positive economic incentives, thereby acknowledging that the program’s classic reliance on voluntarism and mobilization is no longer appropriate. The Decision incorporates the operational upshot of many critical assessments and cleanup campaigns during the 1990s. The Decision demands “lawful administration,” thereby obliquely acknowledging the vigorous housecleaning that the program required in the 1990s to combat abuses. The Decision notes the need to improve sex balance and provide pension programs for an aging population, thereby implicitly acknowledging that the program itself may have aggravated or accelerated some demographic distortions. 6

Despite its comprehensiveness, the Decision remains silent on some matters. On the one hand, it does not contain the ringing calls for citizen sacrifice and citizen discipline of its 1980 and 1991 precursors. On the other hand it ignores some new issues. It does not address some additional program-induced distortions, such as the program’s inadvertent creation of a “black population” of unauthorized “out-of-plan” children not entitled to government benefits (Greenhalgh 2003). It does not explicitly acknowledge, let alone endorse, any of the foreign philosophies and feminist critiques that advocate a genuinely client-centered approach that truly empowers women (Greenhalgh 2001). Finally, not surprisingly, the Decision does not re-examine any of the program’s basic assumptions, such as the extent to which mandatory birth planning has accelerated China’s fertility decline and whether it has been worth the cost in state resources and social suffering. 7

Legislative context. The content of the 2001 Law was affected by issues that surrounded previous, unsuccessful attempts to pass a national birth planning law and by measures to implement the Law that accompanied its successful passage this time around. The legislative history of the 2001 Law is a long one, reflecting the controversial position of state birth planning even within China. From 1978 central political leaders wanted a national birth planning law, and in the course of repeated attempts such a law has gone through several major drafts and many minor revisions (Yao 1999; Zhang Yuqin 1999). Success was prevented by legislative dilemmas concerning how much of what kind of detail to include. A first issue concerned uniformity. In continental-scale China, communist policymakers learned from experience to give diverse treatment to diverse circumstances, such as urban versus rural and Han versus minority. However, legal scholars argued that a national law should treat all citizens equally. A second issue concerned contraceptive methods. Some favored specifying which methods people should use at what stage of childbearing, to make sure that contraception would be effective. However, lawyers and sociologists objected that China lacked the necessary medical facilities and that it was not proper to make something mandatory in law that was not feasible in practice. A third issue concerned number of children. Some thought a national law should specify the number legally permitted under particular circumstances. Others thought this infringed on citizens' rights and at most should be no more than a recommendation. (Zhang 1998: 119-125; Yao 2000; interviews.)

For more than 20 years the solution to these legislative dilemmas was to postpone passing a national law while relying on successive revisions of provincial legislation to enforce policy and gain experience. In the mid-1990s national political leaders authorized further rounds of research on a national law, in 1998 they ordered another round of drafting. During 1998 and 1999 the SBPC consulted the main relevant national agencies, convened a national work conferences on birth planning legislation, and asked the opinions of various provinces and localities (Yao 2000; *Yearbook* 1999: 116; *Yearbook* 2000: 64-67). During 1998-2001 the old issues that reemerged were again those of how uniform and explicit national policy should be, particularly about the number of children permitted (interviews). In general the solution appears to have been to keep the national law as general as possible and leave details to national regulations and subnational legislation. The main new issue was how to guarantee that during implementation a program originally dedicated to limiting births would actually deliver reproductive health services (interviews; 2001.12.24). The solution was to mention this in principle in the law while having the State Council issue detailed regulations on "Managing birth planning technical services" (interviews; 2001.6.30). Another State Council regulation will specify details of the "social compensation fee." 8

Thus the 2000 Decision and 2001 Law are not the only policy instruments at work. Some reforms are occurring through implementing regulations issued by the State Council and SBPC. Others are occurring simply through changes of procedure and reinterpretation of terms within existing policies and regulations. Still others are occurring through progress in related policy areas. Implementing regulations do much more than just relieve a law of technicalities, they can determine the exact extent and nature of reform (Tanner 1999: 10-11). For example, the State Council "technical services" regulations further define the rights of citizens in the area of reproductive health, including a quite rigorous definition of "quality of care" that requires informed choice and safe treatment. Basic contraceptive services should remain free of charge (i.e., even if reproductive health services are not). The regulations map how the birth planning system and health ministry should cooperate to form a "birth planning service network." Reportedly, State Council regulations on the "social compensation fee" will instruct that all receipts be transferred into the state treasury and be incorporated into the general budget of the local government (interviews; *Yearbook* 2001: 87-89).

Of course, implementing regulations from the SBPC itself are also important. In the case of the 2001 Law, a crucial implementing instruction long preceded the Law and helped clear the way for it. In the mid-1990s the program cracked down hard on maladministration, strengthened internal organs for monitoring it, and ordered local governments to remove overly harsh provisions from their local regulations. In particular, on 10 July 1995 the SBPC issued a "notice" (*tongzhi*) listing "seven don'ts" (*chige bujun*) for dealing with citizens who violate birth planning regulations. Judging from the violations mentioned in various sources,

implementers were not permitted to arrest or harm violators or their family members, to destroy property, to impound property without due process, to add fees and levy fines at will, to detain associates or retaliate against complainers, to refuse permission for a legal birth in order to meet population plans, and to organize pregnancy checks of unmarried women. National political and program leaders instructed the Birth Planning Association to help monitor compliance with these new restraints (*Yearbook* 2001: 42-43).

The SBPC's handling of the "seven don'ts" illustrates not only its determination to curb abuse by cadres but also the delicacy of doing so. When the new rules were announced to provincial officials, reportedly many were in anguish over how they could implement the birth policy under so many restrictions (interviews). Nevertheless, the "seven don'ts" were added to the performance evaluation criteria for officials in most localities, though serious problems persisted in some (*Yearbook* 2000: 65). Both the existence and content of the new rules remained confidential, in order to protect the morale of grassroots personnel. During the late 1990s both the country and the program made much progress toward "lawful administration," and the public began accepting birth planning more readily. Citing those reasons, in April 1999 the SBPC finally issued another notice partially declassifying the first one. Community birth planning workers should post the "seven don'ts" at township and village offices and should take the initiative in receiving relevant oversight from the public. However, they still should not publish the "seven don'ts" in their local newspaper and the SBPC notice still did not reveal the new rules themselves (*Yearbook* 2000: 82).

The 2001 Law: Stability and change

The 2001 Law legalizes institutions for the state planning of population and births and at the same time places legal restraints on them. The Law proceeds systematically from general principles (chapter one) to macro-demographic population planning (chapter two) to micro-demographic regulation of reproduction (chapter three). Continuing at the micro level the Law specifies program incentives, health services, and legal responsibilities (chapters four, five, and six). Each chapter balances state power and citizen protection. Most of the rewards specified are to citizens for compliance, and most of the penalties specified are against officials for maladministration. The full text of the Law is worth examining (see the Documents department in this issue, or Law 2001a or Law 2001b in the References). The SBPC officials who supervised drafting have provided authoritative explanations of the legislative intent of most chapters and the legal meaning of most articles (Jiang and Zhao 2001; Jiang 2002; Zhang et al. 2002; and Commentator 2001). The following summary highlights issues that have concerned foreign observers. Like the 2000 Decision, the 2001 Law appears to represent a political compromise that combines stability, change, and silence.

Stability. The 2001 Law reaffirms an existing policy that already includes some slight qualifications to state demands, as regards number of children, methods of contraception, and penalties for noncompliance. On numbers, citizens have a constitutional duty to limit their childbearing, but they do have a right to reproduce (Article 17). Nevertheless, according to supplementary explanations, people who suffer from hereditary disease should refrain from having children (Jiang 2002: item 55). The state encourages (*guli*) late marriage and childbearing and advocates (*tichang*) one child per couple, but does not absolutely legally require it (Article 18). Couples who meet the conditions specified by subnational legislatures may apply to have a second child (Article 18). Ethnic minorities must practice birth planning, but subnational legislatures specify the details (i.e., sometimes allowing more children, Article 18).

As to methods, couples must limit their childbearing, but the main method should be contraception (*biyun*, in order to minimize abortion, Article 19). It is recommended (*tichang*) that husbands and wives who already have children adopt long-term contraceptive measures (Article 34). Fertility limitation measures should be "safe, effective, and appropriate" and personnel should protect the safety of all clients undergoing relevant clinical procedures (Article 19). Couples practicing birth planning should be able to obtain, free of charge, the technical services that the state stipulates as basic items (Article 21). The state should "establish systems for premarital health care and for health care during pregnancy and childbirth, [in order] to prevent or reduce

birth defects and improve the standard of health of newborn infants” (Article 30). This implements the state’s longstanding objective of improving population “quality” while delivering much-needed services.

The Law does not explicitly mention either sterilization or abortion. Sterilization is implicitly included as a voluntary option under long term contraceptive measures (*changxiao biyun cuoshi*, literally “long effective,” which in past program usage primarily meant sterilization but now evidently includes IUDs and subdermal implants as alternatives, Article 34, second clause). According to supplementary interpretations of the Law, abortion is not a method for *promoting* birth planning (Zhang et al. 2002: 66, on Article 19, first clause). On grounds of safety the Law is intended to “strictly forbid” *unsafe* abortions (ibid.: 67, on Article 19, second clause). Abortion is implicitly included as a last resort under “measures for preventing pregnancy and controlling birth” (*biyun jieyu cuoshi*), after contraception has failed (ibid.: 71, on Article 20, first clause). As noted above, in 2000 sterilization accounted for 11 percent of all birth control clinical procedures and abortion accounted for 31.5 percent. Many of the latter may have been at the initiative of couples rejecting unwanted girls, not at the insistence of the program limiting births, though of course in response to those limits (Chu 2001).

On penalties, the Chinese state constitution lists the duty (*yiwu*) to practice birth planning along with other citizen duties such as raising children and caring for parents, serving in the military and paying taxes (Constitution, Article 49; Edwards 1986). All of these duties are clearly compulsory, but in principle citizens are expected to comply voluntarily. According to the still-relevant Maoist ideal of “voluntarism”, noncompliance calls for more educational persuasion, not coercive enforcement or criminal penalties (Milwertz 1997). Market-oriented post-Mao policy-makers have often supplemented persuasion with economic incentives and disincentives. Accordingly, on the disincentive side, the 2001 Law stipulates that citizens who bear an unauthorized child must pay a “social compensation fee” (Article 41, *shehui fuyang fei*, literally “social bringing-up fee”). The 2001 Law couches this fee less as a negative sanction intended to secure compliance and more as compensation to society for the extra cost of raising extra children. This may seem like a distinction without a difference, but it does mean that -- even though the fee can amount to several times a couple’s annual income -- citizens should not be subject to criminal penalties simply for having an extra child. 9

However, the penalties escalate as citizens go from merely having an extra child to actively resisting the program. Citizens who do not pay the social compensation fee incur an additional monetary penalty (Article 41). Those who persist in nonpayment can be taken to court (Article 41). Citizens who “refuse” (*jujue*) birth planning officials should be given “criticism and education”, evidently for not complying themselves; citizens who obstruct (*zu-ai*) birth planning officials should be “stopped”, evidently from interfering with efforts to secure the compliance of others (Article 43). Those who violate public security regulations or criminal law may be prosecuted (Article 43). State employees are subject to additional administrative penalties; other personnel are subject to additional disciplinary measures by their employers (Article 42). (Nationally, such “staff and workers” amount to about 17 percent of the population -- *Yearbook* 1999: 530-531.)

Change. Some of the progressive changes that the Law introduces are intended to reduce abuses, increase incentives, and foster women. About abuses, the Law says that officials “should conduct administration strictly in accordance with the law, should enforce the law in a civilized manner, and must not infringe upon citizens’ legitimate rights and interests” (Article 4, *hefa quanyi*, literally “legal” or “lawful” rights and interests). During review of the 2001 Law, members of the NPC noted that the problem of cadre abuse was not yet solved in some localities and slightly emphasized it by separating one clause into two (2001.6.26; interviews; Article 39, clauses one and two). The Law contains punishments for doctors guilty of performing illegal operations, for anyone guilty of forging documents, and for service providers guilty of negligence (Articles 36-38). State officials should be punished for maladministration, including abusing citizens, diverting funds, or falsifying statistics (Article 39). Citizens who think that a government agency has

infringed on their legitimate rights and interests may appeal for administrative reconsideration or may initiate administrative litigation (Article 44, as authorized by other laws).

On incentives, Chapter 4 authorizes rewards for compliance (Article 23), but arrangements and funding are left to local governments and employers (Articles 27 and 29). People should be rewarded for postponing marriage and childbearing, for undergoing birth planning surgical procedures, and for volunteering to have only one child (Articles 25 to 27). Households that practice birth planning should receive preferential treatment, particularly poor households (Article 28). Relevant insurance plans and pension systems are encouraged, but again the details are left to localities (Article 24). According to commentaries, preferential treatment of strict compliers is regarded as a way of making their chances for personal development equal to those of less strict compliers (Dang and Yao 2000). According to a 2001 survey, 71% of one-child families have received a one-child allowance, but less than 10 percent have received educational, medical or old-age benefits, and less than 5 percent have received house sites, labor reduction or employment (the last only 0.4 percent — SBPC 4 March 2002).

As for women, birth planning should be linked to their education and employment and to improving their health and raising their status (Article 3). Implementation should include measures not only to control the quantity and improve the quality of population -- the program's classic goals -- but also to strengthen maternal and child health care (Article 11). There must be no discrimination against female children and their mothers (Article 22). Sex selection through ultrasound and abortion is strictly prohibited (Article 35).

The 2001 Law: Progressive and problematic silences

As with the 2000 Decision, it is important to note what is missing from the 2001 Law, for good or ill.

Progressive silences. The good side is that the new Law omits many things that many Chinese and foreigners consider objectionable. Evidently national policymakers do not want to put details of a severe birth limitation program into national law, at the very least so that goals and methods can be relaxed by localities as their changing conditions permit. The national Law adopts a much milder tone than existing provincial regulations and omits many specific prohibitions and penalties on citizens that many provincial regulations include. These omissions are highly significant because, at least in principle, they oblige provincial legislatures to remove "inconsistent" provisions from provincial laws before the national Law goes into effect on 1 September 2002. The national agencies that drafted the Law met with the provinces in spring 2002 to discuss these issues. In practice central reformers do not expect all provinces to achieve complete consistency immediately (interviews).

Examples of provincial prohibitions and penalties omitted from the national Law include the following. The national Law (Articles 9-11) requires population and birth plans down to the county level but does not call for them to be disaggregated into population targets or birth quotas at the community and individual level (as, for example, the Fujian provincial regulations seem to imply in their Articles 23-24; see Greenhalgh and Winckler 2001: Appendix Three). The national Law does not "forbid" early marriage or out-of-plan births (Fujian Article 5). It does not prescribe what form of contraception citizens must practice at particular stages of childbearing (e.g., an IUD after one child and sterilization after two, long a major program slogan and included in most provincial regulations -- Zhang Yuqin 1999: 232). It does not explicitly mention the termination of out-of-plan pregnancies (Fujian Articles 13 and 40). The Law does not prescribe fines for refusal of sterilization, a procedure that is supposed to be voluntary (interviews). It does not require the sterilization of one member of couples in which hereditary disease is a problem (Fujian Article 12). For ordinary citizens, it does not supplement the "social compensation fee" with "administrative restrictions and penalties," although these apply to state employees (Fujian Articles 37-38; national Law, Article 42).

Problematic silences. As for possible ill effects, some of the omissions in the 2001 Law provide grounds for concern. First, the fact that the new Law does not provide strong legal enforcement mechanisms might tempt some local political leaders, program officials or program workers to resort to extra-legal means of enforcement in order to avoid being penalized themselves for not meeting birth planning goals. The deterrent effect of the “social compensation fee” may not be adequate to ensure compliance in areas where birth limits remain difficult to enforce, particularly among very rich couples who can afford to pay the fee and among very poor couples who cannot be forced to pay anything. The program hopes that extra-legal enforcement can be avoided by further revising the evaluation criteria for local political leaders, program administrators, and program workers in order to further emphasize lawful implementation and public satisfaction (interviews; SBPC 23 March 2000; SBPC 10 April 2000).

Second, the new Law still leaves local program representatives with the contradictory jobs of trying to secure compliance on behalf of the state while trying to deliver services in the interest of the client. It is community birth planning workers who do much of the education and persuasion that is supposed to be the program’s major means of obtaining compliance (Article 13). It is they who conduct much of the necessary monitoring and mobilization, and they who dissuade “refusal” and enjoin “obstruction” (Article 43). It is local program officials who levy the “social compensation fee” on noncompliers and take nonpayers to court (Article 41). Implementation has been somewhat facilitated by the election of village officials (O’Brien and Li 1999; Alpermann 2001). In the future, implementation may be further eased by giving villagers a role in the selection of their birth planning worker. This procedure began as an experiment in some communities in Heilongjiang in 1999 and should spread to the rest of Heilongjiang and the rest of the country in the next few years (interviews).

Third, the 2001 Law does not fully define citizens’ “legitimate rights and interests” in the reproductive area. In large part this is because they are defined by other legislation to which the 2001 Law implicitly refers (Zhang 1998: 122-125). Some of these rights are procedural, such as administrative review and redress, and some are substantive, such as rights of women and infants to reproductive health care (Lin 1996; Keith 1997). Some ordinary Chinese have used such nationally defined rights to resist local government actions (O’Brien 1996). Nevertheless, most ordinary Chinese probably have little idea of their “legitimate rights and interests” in the area of reproductive policy. As the program itself recognizes, such awareness requires an educational effort by both the birth program and nongovernmental organizations, particularly the Birth Planning Association (*Yearbook* 2001: 42-43; BPA 1999). Fully defining these rights may require some court cases.

POLICY IMPLEMENTATION

Birth planning and reproductive health

Recent concrete measures for promoting birth planning and reproductive health provide the practical context for the Decision and Law and illustrate continuity and change in policy implementation.

Birth planning. In 2000 and 2001 vigilance continued against program abuses such as coercive implementation and pecuniary corruption by local cadres. Recent evidence of abuses derives mostly from Chinese media reports of successful prosecutions of errant local officials, which are intended both to warn officials against misconduct and to inform citizens of their rights (2000.11.16; 2001.5.19). Some coercion has occurred because of cadre zeal: over-eagerness not to be punished for failing at birth planning (2001.1.2). To combat this, in 2000 the program held a conference on lawful administration and issued circulars on establishing a permanent system for inspecting enforcement and on including lawful implementation in performance evaluation (*Yearbook* 2001: 85-86, 106-108). Other coercion has occurred because of cadre greed: local extortion of fees and fines using birth planning as an excuse (2000.11.24). To combat this, the program began experiments with having noncompliers pay fines directly to county finance offices and issued implementation rules for a crackdown on corruption (*Yearbook* 2001: 87-89, 114-115). To combat

misreporting, the program issued “Methods” for managing program statistics and surveys and issued a circular on their implementation (ibid.: 116-118, 123-124).

The program continued working to extend birth planning to all of China. According to the 2001 program survey of birth planning and reproductive health, 93.5 percent of the townships surveyed had birth planning “service stations” with an average of 3.4 technical service providers. 80 percent of villages had a birth planning clinic, and 99 percent of villages had at least one professional birth planning worker (SBPC 4 March 2002). Emphasis shifted toward bringing the most populous provinces into compliance with birth limits, particularly in central China. Poor rural areas in central and western China became a priority (Yu et al. 2000a). In 2000 the program held a workshop and issued instructions on birth planning in western China, which national political leaders wish to develop, with birth planning playing a significant role (*Yearbook* 2001: 81 and 119-20). The national political consultative congress organized research on establishing an old-age security system for families practicing birth planning in rural western areas (ibid: 94-95). Attention to western China in turn entails attention to minority nationalities, on which in 2001 the program held a conference and issued “Comments” (*Yearbook* 2001: 85 and 120-123; 2000.8.17). The program is reiterating the principal that national minorities should practice birth planning, and it is putting the necessary regulations in place. However, these regulations remain more lenient than those for Han Chinese, particularly in rural areas. 10

Reproductive health. Meanwhile the program turned increasing attention to reproductive health, starting from health services most closely related to birth control (2000.7.10; *Yearbook* 2001: 84). The program proceeded cautiously, partly because of limitations of program personnel and equipment, partly because of competition with the Ministry of Health over mandate and revenues. According to the 2001 survey, only 6 percent of township service stations had gone beyond birth limitation to provide reproductive health services (SBPC 4 March 2002). By 2000 the “quality of care” initiative had been adopted by about a third of China’s roughly 2100 counties, mostly in more developed eastern China. Localities themselves chose which aspects of quality care to implement (*Yearbook* 2001: 100; interviews). In 2000 the program convened a work conference and issued “Comments” on extending quality care from east to west (ibid., 2001: 100-102, 112-114). The Comments called for “informed choice” between contraceptive measures, but the workshop defined quality care only as high quality service that served clients’ needs. According to the 2001 survey, a third of village clinics offered a choice between 3 to 6 methods of contraception and another third offered a choice between 5 to 7 types. (A tenth could provide no method -- SBPC 4 March 2002). Meanwhile, the program continued efforts to raise women’s educational levels (2001.11.30) and help impoverished women improve economically (2000.7.20). Attention continued also to improving the “quality” of children. Some earlier efforts had consisted mostly of negative “eugenics” efforts to prevent the reproduction by people with hereditary defects. However, a new five-year “eugenics” project is to follow international guidelines and evidently consists mostly of positive measures to foster maternal and child health (2001.3.28).

Reproductive health measures included largely new attention to sexual health. This included a new program of sex education for adolescents, repeatedly attempted in the past but never widespread (2000.7.11; 2000.9.22). Sexual health even included some attention to the topic of men’s health, previously seldom-mentioned: 28 October was declared Men’s Health Day. Evidently one target was erectile dysfunction, said to affect half of Chinese men over age 40 (2000.10.28). Most important, in December 2000 the SBPC conducted a survey on AIDS, finding alarmingly little public understanding of this lethal disease (2001.4.9). The release of the SBPC survey contributed significantly to opening discussion of China’s increasing AIDS problem and perhaps foreshadowed a future role in education and detection for the birth planning system’s extensive grassroots network (interviews). Finally, the program continued to computerize record-keeping and communication, both within the birth planning administration itself and between the program and society. At both levels, computerization increases both service and control. On the one hand, it enables the program to deliver increasingly complex services to an increasingly complex and mobile society. On the other hand, it enables superiors to inspect subordinates records and enables the program to monitor individuals’ reproductive health status. (*Yearbook* 2000: 110-111; *Yearbook* 2001: 140-141)

Mass organizations and international relations

Recent developments in mass organizations and international relations illustrate the program's internal and external organizational reach.

Mass organizations. The PRC has long used "mass organizations" to help implement policy but recently also has begun using them to monitor administration "from below". So far, the PRC has allowed little space for organized groups in "civil society" to take independent initiatives but they may play a larger role in the future. The Birth Planning Association (BPA) is one of the PRC's largest mass organizations, with more than a million branches (covering China's roughly one million village settlements) and more than 83 million members. The BPA was established in 1980 specifically to help implement birth planning, originally through propaganda and mobilization. Since the 1980s the BPA has assumed some additional functions. It has participated in significant program innovations such as linking birth planning to individual advancement (literacy and income) and to community development (economic ventures, nursery schools, old-age homes). The BPA has also provided an upward channel for public demands for quality care and fair administration (BPA 1999). On the instruction of national political leaders, the BPA has helped monitor "lawful administration" and has been upgrading its branches to perform both old and new functions more effectively. The BPA's "strategic vision" for the future is "to fill the gap in China between a shrinking public sector and a profit-seeking private sector" and "to position itself as China's major social development NGO" (BPA 1999; Peng 2000).

In 2000 the BPA celebrated its twentieth anniversary (2000.5.29) and convened its fifth national congress (2000.12.6). The BPA issued "Opinions" on its future work that were endorsed and circulated by the general offices of the party central committee and government cabinet. The Opinions reiterated the BPA's classic mission of community-level propaganda and mobilization, but also called upon it to help solve citizens' practical difficulties and to participate in the construction of community-level democracy (*Yearbook* 2001: 42-43). A BPA survey found only 30 percent of its branches to be highly effective and fully 30 percent to be largely ineffectual (*ibid.*: 43). In 2001 BPA chairman Jiang Chunyun called on BPA branches to "perform competently" (2001.5.27) in "real terms" (2001.5.27). A BPA council meeting emphasized building grassroots organizations in rural areas in central and western China (2001.12.6). In the future, the BPA hopes to help deliver reproductive health services to the most disadvantaged portions of the population: the poorer, younger, rural or migrant. One BPA focus will be unmarried young people, whom the SBPC has largely ignored and whose reproductive health needs are growing as people mature early and marry late (BPA 1999; interviews).

Another relevant quasi-nongovernmental organization is the China Population Welfare Foundation (CPWF). It is much smaller and more independent than the BPA and the two organizations collaborate where their activities are complementary. Both have many ideas for innovative projects but lack the money to do them. The 2001 Law encourages private contributions but the PRC's tax and audit laws do not provide adequate incentive and oversight for philanthropy (interviews). In 2000 the CPWF received a significant grant from a Chinese entrepreneur operating from Hong Kong (2000.9.11). Meanwhile, the SBPC has turned to internet websites to facilitate communication both between state agencies and between the state and the public. On World Population Day in 2001, at China's first exposition on new technologies for birth control and reproductive health, the SBPC launched a new "China Population Net". SBPC Minister Zhang said the new technology "indicates a change in both the concepts and methods concerning China's family planning work... in the new century, which is heading for large-scale publicity, integration, opening up and development..." (Zhang 2001)

International relations. Internationalization became an increasingly significant theme in 2000 and 2001. As noted at the outset, international discourse has helped provide domestic discourse with both the rationale for maintaining a birth limitation program (e.g., "sustainable development") and the rationale for reforming it

(e.g., “quality of care”). The SBPC has long had relationships with foreign organizations, some of which have been criticized for involvement in a program that has included some mandatory abortion and sterilization. In fact, however, such organizations have contributed greatly to minimizing abortion by improving contraceptive technology, training Chinese professionals, and educating program leaders. The United Nations Population Fund (UNFPA) delayed beginning a fourth cycle of projects until the Chinese program began shifting toward a more health-oriented and client-centered approach. Thus in the late 1990s organizations and projects operating in China included the UNFPA (reproductive health/family planning and women’s empowerment), the Ford Foundation (male involvement), the Rockefeller Foundation (informed choice), and the Population Council (quality of care). From 1998 to 2001 the SBPC sent several delegations of national and provincial program leaders to the United States to expose them to foreign thinking and practice in reproductive policy. This exercise helped national and provincial program officials arrive at common concepts for pursuing program reform (ALP 2001).

The PRC’s entry into the World Trade Organization (WTO) in late 2001 was a milestone in China’s internationalization. The SBPC convened a conference on international cooperation at which Minister Zhang called entering WTO an opportunity for the SBPC to expand exchanges with foreign organizations (2001.10.23). At a seminar on the impact of WTO entry on birth planning, Chinese experts concluded it would help control population by further stimulating economic development, urbanization and education (2001.11.16). In 2000 and 2001 the SBPC received visits from the US Program for Appropriate Technology in Health (PATH, on adolescent sex education, 2000.7.11), from a delegation of the International Planned Parenthood Federation (to assess the past three years -- 2001.4.07), and from the UNFPA (on reproductive health -- 2001.11.30; *Yearbook* 2001: 199-200).

In addition to receiving incoming influences, the PRC also wishes to project influence outward. A main part of this has been efforts to explain the Chinese program and its ongoing reform to foreign audiences, both to counter foreign criticism of coercion and to present the program as a successful model for emulation. In 1999 an SBPC vice minister participated in the international review of implementation of Cairo goals and the SBPC convened an international symposium on China’s implementation of “quality of care” (*Yearbook* 2000: 163-164; SBPC 2000). In December 2000 the State Council’s Information Office issued a White Paper on population and development conveying the gist of the 2000 Decision (White Paper 2000). The PRC regards limiting its own population as a significant contribution to limiting global population. The PRC also wishes to contribute to population programs in developing countries, both to help limit world population and to develop its relations with Third World countries. Since 1997 China has belonged to Partners in Population and Development, a program promoting “South-to-South” exchange of experience; in 2000 the annual board meeting was held in Beijing (2000.11.2; *Yearbook* 2001: 198-199). In 2000 and 2001 China conducted bilateral exchanges with such countries as Egypt, Kenya, and Vietnam. However, the PRC’s state-centric program remains too mandatory and coercive to be a policy model for most developing countries.

Organizational constraints and environmental processes

The practical impact that the 2000 Decision and 2001 Law will have on China’s citizens will be conditioned by organizational constraints that the program faces within the Chinese bureaucracy and by processes within the program’s larger environment.

Organizational constraints. The impact of policy will be affected most immediately by the bureaucratic environment that the program faces, which is complex and changing. Around 1970 national political leaders extracted birth planning from the Ministry of Health in order to give it a much higher priority than it was likely to receive there. Since then the birth planning system has only gradually achieved the “stand-alone” administrative capacity to deliver the necessary contraceptive services. Even today what the SBPC can do depends heavily on cooperation by other levels and branches of government. Vertically, the SBPC has only an advisory relationship to provincial and local birth planning commissions, which are under the authority of

their respective provincial and local governments. The only way for the SBPC to bring administrative authority to bear on lower-level commissions is to persuade national party and government leaders to order lower-level party and government leaders to issue appropriate instructions to their commissions. Horizontally, the SBPC is only the equal, not the superior, of the many other ministries on which it must rely for cooperation. Again, the only way the SBPC can bring leverage to bear is to persuade the national political leadership to adopt policies that are binding on all the relevant ministries. Relative to some other ministries the SBPC is rather weak because, as the provider of a “social service”, it is a consumer not a generator of revenue.

Recently the SBPC’s main inter-organizational struggle has been to maintain the independent existence, administrative personnel and operational funding of its lower-level administrative branches and service organs, in the face of drastic government-wide mergers of ministries, cutbacks in staff, and reductions in budgets (ALP 2000, 2-7). The Zhu Rongji administration ordered most ministries to cut their staff in half, but let birth planning off with approximately a quarter, from about 400,000 to somewhat more than 300,000 full-time employees (ibid., 1; *Yearbook* 2001: 190). The struggle over resources is vertical because program funding and staffing is multilevel, including not only formal “state financial” (*guojia caizheng*) appropriations by the national, provincial and county governments but also “non-state financial” (*fei guojia caizheng*) contributions from taxes, fees and fines that villagers pay to the township and village (*Yearbook* 2001: 119). The struggle is also horizontal, because it involves a share-out of resources with the Ministry of Health and arrangements with the Ministry of Finance to maintain program funding. 11

Program funding faces several major problems. A first is inflation. In the last thirty years per capita program funding increased significantly when measured in current currency, but in the last fifteen years it has decreased significantly when measured in constant 2000 currency (Greenhalgh and Winckler 2001: 108, 138; ALP 2000: 2). In 1998 total allocations for birth planning fell 20 percent short of what was needed even to cover basic program expenses, with the shortfall made up through various expedients (Wei 2001: 196).

A second major funding problem is chronic under-budgeting by the formal state financial system, which from 1971 through 1998 paid for only about 40 percent of total birth planning expenditures (ibid.: 195-197, particularly Table 20). Non-state “community” sources paid for about 60% of program expenses. Out-of-plan birth fees transferred to the county have provided nearly 30 percent of birth planning expenditures by some counties and over 60 percent of birth planning expenditures by some townships (Sheng 2001: 245). The possibility of funding the birth program from fines has given local political and program leaders much incentive both to allow out-of-plan births and to tax them heavily. One reason why the state pays less and the community pays more may be that the state pays for such basics as “technical services” and personnel, which cost relatively little, while the community pays for benefits, which cost a great deal. (According to an estimate for the late 1980s, within total birth planning expenditures, expenses for contraceptives and surgery constituted about 11 percent and personnel about 13 percent. Incentives to one-child families constituted about 72 percent! See Banister and Harbaugh 1994: 62)

A third funding problem is ongoing local financial reform (2000.2.13). To reduce local exactions from farmers, the national government has ordered the conversion of many local “fees to taxes” (*fei gai shui*). This reform reduces local revenue, tempting localities to merge birth planning organs with health organs, to reduce birth planning personnel, and to cut benefits to citizens practicing birth planning (*Yearbook* 2001: 95-96, 118-119). An additional reform will establish separate channels for receipt and disbursement of birth planning funds (*shouzhi liangtiao xian*). This reform will direct “social compensation fees” to county finance departments, requiring them to fund county birth planning activities from general revenues (ibid., 87-89). Given these reforms, at least one Chinese analyst believes that, to guarantee the correct functioning of the birth program, formal budgetary state input should rise to at least 80% of program expenses by 2010. He also believes that the 2001 Law should have included a quantitative target for birth planning expenditures, such as a percentage of government expenditures, which the Law did not do (Sheng 2001: 245-247).

Finally, a fourth major problem with program financing is structural change such as devolution and marketization. Devolution of government functions and funding is intended to shift social spending from center to localities. However, devolution places funding decisions in the hands of local governments that are even less motivated and less able than the central government to appropriate funds for birth planning and reproductive health. Marketization of the economy and medicine can help rationalize resource allocation, prices and revenues, as in SBPC reform of its procurement of contraceptives (ALP 2000: 4). However, marketization can also worsen inequalities in the distribution of health services, as in the shift from collective provision of health care by employment units through community clinics to private purchase by individuals from private practitioners (Shi and Li 2000).¹²

Environmental processes. More broadly, the actual impact of the 2000 Decision and 2001 Law on Chinese citizens will depend on several sets of processes. First is the outcome of continuing struggles over reproductive policy between rival agendas within China. The balance between stability and change in these documents is elusive, and the participants themselves may not know for sure which provisions or omissions may prove operatively most important. Clearly the program is no longer just administratively-enforced birth limitation, but equally clearly it is not yet entirely client-centered reproductive health care. Language is now in place authorizing much of both. How much of which prevails will depend on the power of rival policymakers and the vagaries of local implementation.

Second, the actual impact of reproductive policy will differ greatly across space. In economically developed and socially advanced areas, where fertility aspirations are low and program funding is high, couples may receive not only rewards for child limitation and help with childbearing but also an increasingly broad range of reproductive health services. In backward areas, where fertility aspirations are still high and program funding is low, couples may be limited to one or two children but still receive few rewards and only some basic reproductive health care. Transitional areas will fall in between. Within each kind of area, couples will differ in income and in access to such government rewards and services as are available. They will also differ in their fertility aspirations and the biological accident of whether their first and second children are male or female. ¹³

Third, the actual impact of reproductive policy will depend on how it interacts over time with changes in state and society. Post-Mao China has been a race between institutionalization and disintegration involving a gradual transition in the state and accelerating transformation in the economy and society. This race creates a broad spectrum of possibilities for China's future, with different implications for the birth program (Shambaugh 2000). At one extreme, most of China could develop successfully, with advanced areas expanding and backward areas contracting. As progressive reformers of the program hope, birth planning could give way to reproductive health care, and government services could be supplemented by nongovernmental organizations and private providers. At the other extreme, China could disintegrate into poverty, insolvency, corruption, hooliganism, and disease. Medical expenses from chronic and catastrophic illnesses have already become the largest cause of impoverishment in China, causing President Jiang in late 2001 to order the Ministry of Health to make rebuilding a rural health system one of the ministry's top three priorities (Lawrence 2002: 32). Nevertheless, the urban-based health system could collapse further and leave the birth system's rural outreach as the barefoot doctor of the twenty-first century. Conservatives might tighten birth limits to deal with a crisis, or the birth program itself could collapse from underfunding or unpopularity. The likely prospect falls between these extremes and incorporates some of both, differently in different times, places and policies. ¹⁴

CONCLUSION

The 2000 Decision and 2001 Law are internationally significant because of the controversy that has surrounded the program, both abroad and within China. Foreign views of the PRC's recent reproductive policies range from scathing criticism to guarded approval. Recent American critics highlight stability and

downplay change, usually as part of an argument that the United States should withhold funding from UNFPA, because of its involvement in China, as a Republican administration has again done. These critics usually take for granted an American approach to human rights that emphasizes the rights of individuals not groups (Henkin 1986). In evaluating the Chinese program, international civil servants usually start from international agreements, which are designed to accommodate as many national philosophies as possible, but which in recent decades have been increasingly influenced by the individualistic American approach. International professionals tend to highlight change but acknowledge the considerable stability. For example, recently both outgoing and incoming heads of UNFPA have praised China's progress toward complying with the Program of Action adopted at the 1994 Cairo conference (SBPC 11 January 2002; SBPC 22 January 2002). Nevertheless, the UNFPA does not consider China to be in full compliance. However, it would rather continue working to improve things than to withdraw in protest. 15

The PRC's position is that it is willing to engage in a constructive debate on international standards but that its views should help shape those standards (Zhang and Sun 1999; Dang and Yao 2000; Jiang and Zhao 2001; Angle 2002). Those views, too, show both stability and change. On the one hand, demonstrating stability, the official Chinese approach to rights starts from modern socialist ideals, as influenced by traditional Chinese philosophy, both of which emphasize the need for a strong state to promote the collective welfare (e.g., Nathan 1986; Twohey 1999). The 1982 Chinese state constitution is neither rights-based (Western) nor duties-based (Soviet) but instead regards rights and duties as mutually interdependent. The Chinese approach to rights emphasizes individuals' responsibilities to others, including later generations. The post-Mao approach to rights regards guaranteeing economic subsistence and achieving economic development -- both for the Chinese race and for its individual members -- as indispensable for the exercise of other rights (Kent 1993; Keith 1994; Wan 2001). The drafters of the 2001 Law started from the Chinese approach to rights (Jiang and Zhao 2001). They also studied the relevant international declarations, arguing that those declarations, too, regard rights as entailing duties and criticizing those Western approaches that overemphasize rights at the expense of duties. They found Chinese reproductive policy largely in conformity with human rights, except for some requirements, particularly in provincial legislation, about the number and spacing of children and about methods of contraception (Dang and Yao 2000: 212-213).

On the other hand, reflecting change, during the post-Mao period the balance in China's legal system has shifted somewhat from duties toward rights. The 1982 Constitution extended some social rights that had been limited to "workers" to all "citizens" (e.g., social security -- Kent 1993: 114-117). Chinese reproductive policy has begun to define rights where previously there were mostly duties. The 2001 Law explicitly affirms the right to reproduce (albeit only within the limits of birth policy, Article 17). Rights to services for contraception and reproductive health are strongly implied by injunctions to local governments to provide them (albeit probably only to those practicing contraception, Article 31). The drafters of the 2001 Law addressed the question of how it should conform to the international human rights agreements that the PRC has already signed and urged that articles about obligatory contraceptive measures be crafted carefully to emphasize reproductive health and quality care (Dang and Yao 2000: 213). The 2001 Law emerged from a vigorous 1990s domestic debate over how to implement the "citizens' rights" granted by state law and over whether to add "human rights" deriving from some larger principles (Keith 1994). That struggle continues and is vividly reflected in remarks by some birth planning officials that their real concerns go beyond the legal rights of abstract citizens to the concrete needs of "real human beings."

NOTES

This article has benefited from conversations with Susan Greenhalgh, Jonathan Polansky, Sterling Scruggs and Jason Wang; from comments by anonymous *PDR* referees and Paul Demeny; and from critical readings by Camilla Knapp. It has also benefited from conversations with members of the last five of the six delegations of high-ranking national and provincial Chinese birth planning officials who visited the United States from 1998 through 2002. Most of the national officials were immediately below the vice-ministerial

level: the directors or vice directors of the major departments within the SBPC or of organizations affiliated with the SBPC. All of the provincial officials were the directors or vice-directors of their province's birth planning commission. These are the people who are formulating and implementing the reforms discussed in this article, and the people to whom the national political leadership has entrusted the future of the program. They visited the United States under the Advanced Leadership Program (ALP) initiated by the State Birth Planning Commission (SBPC) and organized by the Public Media Center (PMC, San Francisco) and Center for Health and Social Policy (San Francisco). I thank those organizations for the opportunity to participate in ALP and I am grateful to the officials themselves for discussing with me their efforts to reform China's birth planning system. I also thank the East Asian Institute of Columbia University and the libraries at Columbia, Princeton and Cornell.

1 Parenthetical dates in the text refer to news items listed in chronological order at the beginning of the References. All references in the text to *Yearbook* are to the *China Birth Planning Yearbook*. All references to "interviews" are to conversations with the sixth ALP delegation in March 2002.

When I began this update in January 2002, the most recent *Yearbook* available in American libraries was the 2000 edition, which covers 1999. Therefore I started from more current official Chinese news releases translated into English by the Foreign Broadcast Information Service (FBIS) and available in the electronic database World News Connection (WNC). These are the news items listed at the beginning of the References. I later supplemented these news items through interviews with members of the March 2002 ALP delegation and with additional reading. Finally, as this article was being revised for publication, the 2001 *Yearbook* covering 2000 became available, confirming and elaborating many points from the interviews.

2 The pre-2000 background summarized in this article is based on Greenhalgh and Winckler 2001, which is in turn based on extensive interviews and documentary research.

3 The terms used to identify reform processes are mostly mine, not the program's. The most relevant program slogan in the late 1990s was the "two transformations" (*liange zhuanbian*), which basically referred to "incentivization" and "collateralization", although the actual program formulation was more complex. On the program's own recent formulations see Ming (1999) and Greenhalgh and Winckler (2001: 54 and Appendix One: Glossary). On incentivization see White Paper 2000: sections 40-43. On collateralization see White Paper 2000: sections 13-19 (on health), 20-24 (women), 25-27 (employment), and 28-33 (poverty).

4 The 1997 survey was of married women only, the 2001 survey included some unmarried women. For English summaries of the 1997 and 2001 surveys see Li 1999 and SBPC 4 March 2002, respectively. According to the 2001 survey, 87 percent of married women practiced contraception, with 92 percent using long-term methods (46 percent each for IUDs and sterilization, with 38 percent of women sterilized and 8 percent of men -- SBPC 4 March 2002). In the United States sterilization is an attractive option to women who are certain they want no more children, particularly if they cannot afford them (Godecker, Thomson and Bumpass 2001). The same reasons should apply in China, so one cannot assume that all sterilizations there are involuntary.

5 I leave estimation and comparison of numbers of induced abortions in China to demographers. Chinese data can be inconsistent and probably undercount induced abortions. It is difficult to find comparable rates for China, the United States, and the world. One can say with some certainty that the Chinese program prefers contraception to abortion, that in recent years the program has emphasized reducing abortions, and that China has done a better job of reducing abortions than many other countries, possibly including the United States. According to some cross-national data, during the early 1990s the number of abortions per thousand women of reproductive age averaged 35 worldwide (AGI 1999), with both China and the United States falling through the 20s per thousand (Henshaw, Singh, and Haas 1999). By 2000 China claimed to have gotten under 20 per thousand (expressed as "under 2 percent": interviews and Wang, Wang, and Kuo

2001: 224). The 1997 Survey estimated the number of abortions per live birth as 0.24 (0.61 urban, 0.20 rural -- Li 1999: 4). The 1997 Survey data suggest that the proportion of pregnancies ending in abortion was at least 31 percent (calculated from Tables 2-3-5, 2-3-6 and 3-23-1). In the 1990s that proportion was about 22 percent worldwide and about 24 percent in the United States (AGI 1999). A comparative source on abortion - and other contraceptive and demographic indicators -- is the website of the Alan Guttmacher Institute: www.guttmacher.org or www.agi-usa.org.

6 It is difficult to assess the contribution of the Chinese birth limitation program to demographic transition, and it is doubly difficult to assess its contribution to distortions in sex and age structure. All countries experience demographic transition and population aging sooner or later. These processes occur faster when governments advocate smaller families and help make contraceptives available, with or without coercion. Smaller family size and greater technology availability combine with persisting son preference to produce skewed sex ratios in a variety of contexts (e.g. not only rural China but also both rural and urban South Korea, where what lowers fertility is family mobility strategy not mandatory state birth limits). Clearly the Chinese program is partly responsible for the wide availability of reproductive health technologies -- including equipment for sex determination and abortion -- but it is not always responsible for the uses to which they are put.

7 As reported above, the program did do a major study of the economic costs and benefits of the program: see 000921 and *Yearbook* 2000: 90-91, 115-116 and 184-197. As that report assumes, much or even most of China's fertility decline could have occurred for demographic and economic reasons (such as falling infant mortality resulting from better public health and improved nutrition), economic and social reasons (such as new economic and educational opportunities and resulting changes in family mobility strategies), and social and cultural reasons (such as rising education and cultural modernization, particularly among women). Moreover, as that report does not analyze, much or even most of the birth program's contribution to fertility decline could have occurred not through coercive birth limits but simply through advertizing and legitimizing "planned birth" and through producing and distributing technology for contraception and abortion.

8 The main national agencies relevant to the legislative process are the legislation bureau of the State Council, the legislation committee of the National People's Congress (NPC), and the relevant specialized committee of the NPC (Education, Science, Culture, and Health). At the end of 1998 the Ninth Session of the National People's Congress placed the population and birth planning Law on its multi-year legislative agenda, thus formally authorizing the resumption of research and drafting (Yao 1999). The SBPC submitted its draft of the Law to the State Council in January 2000 for interagency review and party approval. At the end of 2000 the NPC placed the Law on its 2001 agenda and in January 2001 the State Council forwarded its final draft to the NPC (with few changes, according to interviews). As required by law, the NPC reviewed the draft three times, in April, June and November. On 29 December 2001 the Standing Committee of the NPC passed the Law and on the same day PRC President Jiang Zemin signed and promulgated it, to come into effect in on 1 September 2002. Unfortunately, Chinese news reports on this process are not detailed and interviews suggest that they are imprecise and unreliable.

9 The national Law is vague about the amount of assessment and method of collection because provincial laws have differed and the center intends to allow provinces to continue to implement the fee structure to which they have become accustomed. At the end of the 1990s, following central instructions, the most common fine in provincial regulations for a first "extra" child was a "one time assessment" (*yicixing zhengshou*) equal to between 150 percent and 350 percent of average local net income in the previous year (usually expressed as 30 to 50 percent of income over between five and seven years). In principle the whole amount of the assessment is due at the time that it becomes too late to terminate the pregnancy, but in practice those with "real difficulties" can be allowed to pay the fee in installments over time. Some provinces did not mention "one time assessment" and instead allowed installment payments by all noncompliers. In all provinces, for additional "extra" children, the fine should be higher. See *Yearbook* 2001: 131.

10 Some minority-nationality autonomous areas have passed laws for their local circumstances, typically allowing pastoral households extra children. Provincial program leaders say they will allow local political leaders to decide how fast to proceed (interviews). Moreover, in Muslim areas the program will let local religious leaders make that decision. According to program officials, initially most Imams wrongly assumed that delivering reproductive services to women is forbidden under Islamic law, but they become enthusiastic advocates of doing so after rereading the Koran (interviews). In Muslim Xinjiang and Buddhist Tibet the governments have issued birth planning “management methods” but the legislatures still have not passed them as laws. Tibet has set a limit of three children for rural Tibetans but does not yet enforce it (interviews; Goldstein et al. 2002).

11 Program personnel include three concentric circles. The inner circle is the 300,000 to 400,000 full-time employees, a large proportion of which may be at the township level. Each of China’s more than 40,000 townships is supposed to have at least one full-time birth planning administrator and more than 30,000 townships have a birth planning “service station” that, according to the 2001 survey, employs an average of 3.4 technicians. In the second circle, the program claims a professional representative in 99% of China’s villages, 750,000 to one million, depending on how defined). Many village program workers are part-time and serve concurrently as the head of the village women’s committee. It is unclear exactly where state employees shade into community employees, but most village personnel are mostly paid for by the village, directly or indirectly. It is also unclear where birth planning personnel shade into Ministry of Health personnel, because the MOH has its own hierarchy of rural Maternal and Child Health care organs that partially overlap with birth planning organs at the community level. The outer circle is the mass membership of social organizations, mostly the 85 million members claimed by the Birth Planning Association, most of them at the village level. It is unclear whether the birth planning system counts the full-time professional staff of relevant social organizations among its 300,000 to 400,000 full-time employees. For scattered data, see SBPC 1999; SBPC 4 March 2002; *Yearbook* 2001: 42-43. A study of program funding and personnel is Banister and Harbaugh 1994.

12 For the problems posed by local financial reform and for the program’s countermeasures see *Yearbook* (2001: 95-96 and 118-119); on the reform in general see Bernstein and Lu (2003). Another problem is that abolition of unpaid labor for community service will eliminate the possibility of exempting one-child couples from that labor. A new opportunity is that establishment of a uniform local tax will create the possibility of granting partial exemptions to it. Thus both the incentives and disincentives surrounding reproductive behavior could be largely rolled into the local tax system.

13 For circumstantial reports on the local implementation and personal impact of birth planning, see Chu (2001); Greenhalgh (1994); Greenhalgh, Chu, and Li (1994); Greenhalgh and Li (1995); Gu, Xie and Hardee (1988); Kaufman (all entries); Li (1995); Milwertz (1997); O’Brien and Li (1999); White (1987); Short and Zhai (1998); Zhang Wei-guo (1999); Zhu et al. (1997).

14 Like its approach to all rights, the PRC’s approach to health rights is “developmentalist: the PRC is willing to state them in principle but does not expect to be able to implement them in practice until economic development makes the resources available. Broadly speaking, during its first quarter century (1950-1975) the PRC approached developing country health levels on a developing country economic base. For example, by improving nutrition, combating contagious diseases and extending basic health care to the countryside, China nearly doubled average life span. However, this health achievement helped create the population problem that the birth program was then created to solve. Moreover, during the PRC’s second quarter century (1975-2000), while China still remained at developing economy levels of per capita income, this health achievement began shifting China’s main health problem from contagious diseases attacking children (which are relatively inexpensive to combat) to the chronic illnesses of old age (which are expensive to treat). Even during the Maoist period the formal “state” financial system did not attempt to fund community health care. Unfortunately it is not clear that collective community health facilities were financially viable, except

where collective village and township industry flourished. As the PRC begins its third quarter century, despite China's great progress toward reducing poverty, these financial constraints remain in place, aggravated by rising medical costs associated with privatization of health care. See Hossain 1997, Shi 1999, Shih and Li 2000, and Lawrence 2002.

15 For informed Chinese critiques see Li (1996), Zhu et al. (1997), and the views reported in Greenhalgh (2001).

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