

Reflections on the Three-child Policy from the Perspective of Feminist Jurisprudence

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ABSTRACT

The three-child policy promulgated by China has had some impacts on society. This article will consider the impact and reasons of the three-child policy on women from both macro and micro perspectives, as well as considering some supporting measures and solutions in conjunction with the implementation of the second-child policy.

Introduction: Feminist jurisprudence focuses on the oppression of women by the legal system on the macro level and reveals the root of the oppression, and on the micro level, it focuses on the equality of men and women in specific aspects. With the development of the Internet and the improvement of the quality of the people, the concept of feminism has gradually taken root in the hearts of the people. The author believes that the awakening of women's self-awareness is a sign of the strength of the nation. In conjunction with China, May 31, 2021, the Political Bureau of the CPC Central Committee held a meeting. The meeting pointed out that the childbirth policy should be further optimized, and a couple can have three children, which is the three-child policy. The author will consider the impact and reasons of the three-child policy on women from both the macro and micro perspectives, as well as some supporting measures and solutions in conjunction with the implementation of the second child policy.

Keywords: *Feminist Law, Three-child Policy*

1. THE IMPACT OF THE THREE-CHILD POLICY ON WOMEN

1.1 Impact on female employment

The implementation of the three-child policy will have a negative impact on female employment. Research shows that some employers will give priority to males when the conditions are the same. Even when females have higher qualifications than males, they prefer to hire men who are qualified for the position. The reason is that women entering work are facing childbirth problems, which will bring about the lack of maternity leave work, thereby causing personnel losses to the employer. In addition, some companies require female employees to be approved for pregnancy to avoid labor shortages caused by a large number of maternity leave. [1] The author believes that this has caused damage to the autonomy of women's reproductive rights. Therefore, the author believes that the implementation of the three-child policy has not only further aggravated the problem of women's employment, but also undermined women's

reproductive rights under the mandatory requirements of some companies.

1.2 Impact on women in the workplace

The advancement of the three-child policy may adversely affect some women who are in the promotion period in some workplaces. Women who have been employed for more than ten years are in the rising period of their careers, but their bosses may be worried about whether they will be in the future because of the three-child policy. They will be pregnant with children and lack of work or can not take care of their career and family, which will make them difficult to get promoted and face the pressure of promotion. "The job vacancies of female employees due to maternity leave will increase the work pressure of human resources. Social enterprises must first deploy employees from other departments or directly recruit new employees in a very short period of time, and then undergo training and guidance so that they can match. Responsibilities of the position. However, when female employees return to the company, there will be other employees in the original job position, highlighting the problem of job

arrangement. In addition, after giving birth to the second child, women will leave the job for a period of time in addition to maternity leave. There is a lot of time and energy spent on the main parenting responsibilities of the children, causing some women to stay in place, failing to improve their work skills, and difficult to complete the relevant requirements of the job." [2]

1.3 Impact on women's right to education

Some families are affected by the traditional concept of marriage and childbirth. The adjustment of childbirth policy will change the parents' expectation of women's marriage and childbearing age. The age of childbearing coincides with the age at which women receive higher education, which means that women who have three births need to give up the opportunity to receive higher education.

2. FEMINIST LEGAL THOUGHT

Since its emergence, law has been known for its practicality and the diversity of theoretical origins combined with the women's movement, and has played an important role in the research and resolution of western women's issues. The development of feminist jurisprudence in China began with the early Chinese scholars' understanding of the Western women's movement and the introduction of Western feminist theories. With the continuous development of China's social economy, the status of women has gradually improved. However, discrimination against women and inequality between men and women still exist in various fields such as economy, politics, and culture, and a series of women's problems have arisen. The acceptance of the concept of equality between men and women in legislation and the protection of women's rights in law have naturally become the main solution to women's problems. The importance of feminist legal research is thus highlighted.

Feminist jurisprudence, whether as a social ideological trend or a method of law, has important reference significance for my country's socialist construction. Although China and Western countries have huge differences in political systems and other aspects, discrimination against women and inequality between men and women is an unavoidable reality. Therefore, understanding and learning from feminist jurisprudence is conducive to our theoretical and practical discussion on the three aspects. How to protect women's rights more effectively in the fetal policy, so as to better improve our country's legislative and judicial systems

2.1. Origins of Feminist Jurisprudence

Feminist jurisprudence was also translated as Feminist jurisprudence, which was established in the

second wave of feminism in the 1970s. During this period, the institutionalization of women's studies provided a theoretical basis for feminist jurisprudence and absorbed the importance of the awakening of the ruling class in Marxist thought. It believed that there is a relationship between oppression and oppression between the sexes, which requires the awakening of women's own consciousness to break it. The domination of men on the consciousness class. The critical legal research movement that emerged in the United States in the 1970s and 1980s also provided a source for feminist jurisprudence to criticize the concepts and principles of the male legal system.

2.2 The main schools of feminist jurisprudence

2.2.1. Liberal Feminist Law

Liberal feminist law emphasizes the equality between individuals, pursues the freedom and equality of women in law, and pays attention to women's right to education, political rights and employment rights. Criticize and question the unique rights of men, and demand that the law grant equal rights to men and women. The author believes that liberal feminist law emphasizes more on formal legal equality. Due to the individual differences between men and women, in the context of the three-child policy discussed in this article, the legislative equality of men and women cannot solve the real inequality problem of women. Follow up with supporting measures to achieve substantial equality.

According to liberal feminist legal scholars, women's rationality and intelligence are not worse than men's. As long as women and men have equal opportunities to exercise their rights, they can make rational and beneficial choices. It can be said that the realization of gender equality mainly means that when women and men face the same choice, they can pursue the maximization of personal interests through their own rational choices. The distribution of legal benefits should have nothing to do with gender, and the law should treat people as individuals, not as members of a group.

2.2.2 Radical feminist law

Radical feminism emphasizes that its own theory is a theory about women, a theory created by women, and a theory created for women. Its basic viewpoints are as follows: it regards the oppression of women as the most basic and most common form of rule, and its purpose is to understand and end this rule; among all concepts, patriarchy is the key concept; women are the same as a group. Male interests are opposed to each other. This interest enables women to unite on the basis of sisterhood, transcending the boundaries of class and race. All women should fight together for the liberation of

women; the rule of patriarchy is not limited to politics and ownership. The public sphere of paid work exists in the sphere of private life. For example, family and sex are both tools of male rule, that is to say Radical feminist jurisprudence believes that fertility and the physiological nature of men are the root of women's oppression. The society puts men in a dominant position while women are in a subordinate position. Women need to organize themselves and establish women's self-service to resist oppression.

It is true that radical feminism has promoted the reform of a country's political system to a certain extent, improved the status of women, and guaranteed women's rights, but we should also clearly realize that radical feminism has its own limitations. Sex has a certain negative effect. For example, radical feminists believed that physiological differences caused the disadvantaged status of women's theory of difference, and then moved up to the ideological realm. They publicly criticized the phenomenon of gender discrimination in society and challenged the traditional theory of gender domination. Although in the course of these several reforms, radical feminist attitudes toward men have changed again and again, but without exception, they have placed men on their opposite sides, thinking only from the standpoint of women themselves, and only fighting for them. Women's own interests, this awareness of holding an antagonistic attitude towards men and seeking power only for themselves has always been a very important part of radical feminist thought, and reached a climax with the help of radical feminist thought.

Therefore, the influence of radical feminism on national politics has two sides. This article proposes relevant feasible policies from the perspective of radical feminism.

2.2.3. Socialist Women's Law

Socialist women's law pays attention to the inequality of women in society, and proposes that to improve women's social status, it is necessary to start with the capitalist market, balance the work value and labor remuneration of men and women, increase women's welfare and allowances, and eliminate disagreements through social security. Oppression by women.

3. THINKING ABOUT THE PROTECTION OF WOMEN'S RIGHTS AND INTERESTS FROM THE PERSPECTIVE OF FEMINIST LAW

Regarding some of the existing laws that protect women's rights in my country, such as the Constitution, the Law on the Protection of Women's Rights and Interests, and the Provisions on the Protection of Female Employees, most of them are instructive regulations that

stipulate the equality of men and women from a macro perspective. No specific measures have been formulated to protect women's rights and interests in specific aspects. Through some thinking from the perspective of feminist law, the author hopes that some specific measures can be adopted to protect women's rights and interests.

3.1. Improve the female employment discrimination litigation system

Regarding the issue of female employment discrimination, my country's employment discrimination litigation system needs to be improved. In the process of employment, in order to maximize economic benefits, employers will also choose men under the same conditions. In this case, women cannot find obvious evidence of gender discrimination in employment and become the weaker party. In the process of litigation, the method of proof of responsibility of "who advocates, who gives evidence" in infringement cases makes it difficult for women to give evidence and makes it impossible for judges to recognize that their rights and interests have been infringed. Therefore, in order to protect women's employment, it is imperative to transfer the burden of proof and improve the employment discrimination litigation system.[3]

3.2. The company's management measures for women's careers

Certain rules and regulations have been formed within the enterprise, such as providing systematic learning opportunities for women who face the problem of insufficient job skills after reworking after giving birth. Companies establish a timely reporting system for pregnancy, prepare for job candidates in advance, evaluate women's individual abilities, and treat them as independent individuals rather than tools that need to be stopped due to childbirth, so that the company's talents can flow and promote women Employment.

3.3 Improve childbirth protection measures

3.3.1. Increase the number of maternity rooms.

As of 2019, according to statistics, Beijing is the country's largest city in terms of the number of maternity rooms, with only 341, and more than 90% are in shopping malls, airports, and subway stations. Shanghai ranks second with 301, while the third and fourth cities Guangzhou and Hangzhou have only one or two hundred. For economically underdeveloped areas, it is even rarer. The care for women must not only be reflected in policies, but also in whether the construction of infrastructure is actually implemented. Therefore, increase the number of maternity rooms and provide

women with a place in public places. A comfortable nurturing environment is also crucial.

3.2.2. Improve the male paternity leave system and suggestions on male paternity leave

The concept of male paternity leave originates from the paternity system established by Western countries. Most of this system is stipulated in the maternity insurance and legal regulations formulated by them. Provincial and municipal "Population and Family Planning Regulations." Women, due to their own physiological structure, provide for maternity leave in the law to protect their reproductive rights, and the true realization of gender equality means that men's reproductive rights also need to be paid attention to, and the responsibilities of men's childcare should be emphasized in terms of the equivalence of rights and obligations. It is recommended to increase paternity leave for males. Under the express provisions, men's participation in marriage and family should be increased, and women's burdens of parenting should be reduced. In the childbirth and cultivation of offspring, the contribution and contribution of men and women reach a balance between the sexes. Make men and women have the same level of concern about selection by employers, and employers can treat female laborers of school-age childbearing equally[4].

At present, the paternity leave period for males in most provinces in my country is 15 days. To extend the period of paternity leave for males, you can refer to the "Parental Care Leave Law" passed on June 3, 2021, allowing men to apply for four weeks of paternity leave. I believe that perfecting the relevant provisions of the law can change the traditional concept that women are in a disadvantaged position in the family, reduce social differences caused by physiological differences, and respect and protect women's rights from another perspective.

4. WOMEN'S WORK AREAS

"Professional women's social work is more about providing professional services to the clients, including solving difficulties, finding resources, dealing with problems, restoring functions, tapping potential and promoting development. The focus of its work is on the people themselves."

The feature of women's work in western developed countries is that there are many types of women's organizations with different purposes and political propositions. The main task is to enable women to further improve their status in the political, social and family spheres, and truly achieve equality between men and women. They demand the right to make decisions; in the family, the husband and wife share housework and manage children together, so as to solve the problem

of women's unemployment and re-employment.

According to the ideology of radical feminine law, the establishment of a female self-service system. As mentioned above, the impact of the three-child policy on women's right to education. The author believes that women can protect their right to higher education through mutual assistance in the field of women's work and do for their parents. In ideological work, women's right to childbearing is not regarded as an obligation, or to provide economic or daily support for women who wish to continue to receive education, so as to increase the autonomy of female childbearing. Let women truly enjoy the freedom of education. Women's social work can also establish a benign public opinion towards women, reduce prejudice against women in employment, and enable women to receive friendly and harmonious treatment in employment. Complete the transformation of the social concept of female childbearing obligations.[5]

5. CONCLUSIONS

Both the right to employment and the right to education are basic rights granted to everyone by the constitution. Women should not be infringed on their due rights due to the adjustment of the childbirth policy. This article only considers specific measures from a micro perspective to protect women's rights. And if women can demand true equality by using the law to change the relationship between the country and women and part of the relationship between women and men, it is not only the expectation of the ideal state of law, but also the goal pursued by feminist jurisprudence.

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