

Is China's law eugenic?

China's approach to family planning has been attacked in the West as authoritarian and an infringement on individual rights. Below, Chinese Academician Qiu Renzong rejects claims that his country's Law on Maternal and Infant Health is eugenic. Overleaf, a German Sinologist challenges Qiu Renzong's position.

1. 'A concern for collective good'

► Qiu Renzong

China's Law on Maternal and Infant Health (see box opposite page) has attracted considerable criticism in the Western media and scientific circles. Some of the criticism is valid but some is based on misunderstandings caused by linguistic or cultural barriers. Much of the confusion revolves around the word *yousheng*, which repeatedly occurs in the legal text. A tricky word with dual meanings, it is commonly used to mean "healthy births" in association with child-rearing. However, *yousheng* can also be used to describe eugenic programmes such as that practised by the Nazis. Unfortunately, English translations of the law tend to reflect this latter meaning.

Is the Maternal and Infant Health Law eugenic? I would argue that for a policy to be eugenic it must first reject individual consent and second, be based on racism. Neither of these conditions applies to China's law. While doctors may advise two individuals at risk of passing on hereditary disease to refrain from marrying or to undergo sterilization, the ultimate decision is left to these adults. When prenatal testing reveals genetic disease, a doctor will offer advice—not a directive—concerning abortion.

The way to a higher domain

It is also crucial to recognize that the law is not motivated by racism but by a desire to reduce birth defects. Indeed, there is no racist tradition in China. The Chinese have been the victims of Western imperialism and Japanese militarism. They may have made grave mistakes, but they have never claimed superiority over another people, and their military actions have never been motivated by racism. Nor is racism part of China's internal policies. The Han, China's dominant ethnic group, do not claim superiority over China's minorities.

Westerners are often shocked by Chinese attitudes to defective fetuses because they do not understand the cultural and economic factors involved. The great Confucianist Xun Zi (300-237 BC) said: "Birth is the beginning of a human being, and death is the end of a human being. A human being who has a good beginning and a good end fulfills the Tao [the Way to a higher spiritual domain]." Two major fac-

tors shaping genetic policy in China emerge from this Confucian view. First, abortion is morally and socially acceptable because life begins with birth. A foetus is not considered a human being. Second, congenital disease and deformity are considered a sign of sin committed by the parents or ancestors in their previous life. Given that a defective newborn child is traditionally called a "monster foetus", it is not surprising to find little in the way of familial or social support. One of the parents of a deformed baby will usually have to stop working, and the costs of caring for such a child can amount to a third of an average worker's salary.

Poverty

Changing these negative attitudes will take a great deal of time. There are now more than 50 million handicapped people, mostly living in poverty, and it is unreasonable to expect any major improvements in the treatment of handicapped children and their mothers in the near future. In this context, many feel that these children and their mothers would be better off if the handicapped had never been born. In fact, the Chinese Association of the Handicapped formally urged the government in 1989 to speed up legislation to prevent the birth of deformed babies, given their suffering and the burden they represent for society.

The concern for the collective good has at times led geneticists and others in China to infringe upon individual autonomy. They have confused what is technologically possible (genetic testing) with what is ethically permissible. However, I feel that the law is a positive step towards guaranteeing everyone access to genetic counselling and to prohibiting sex-selection. Chinese geneticists and bioethicists have criticized some articles of the law. Their suggestions include more explicit recognition of the principle of informed consent. Last year, the authorities consulted leading Chinese bioethicists and geneticists and will make the needed changes at an appropriate time. Meanwhile, I would ask Western colleagues to directly consult officials, geneticists and citizens instead of trying to sanction China, which may do more harm than good. ■

If the twentieth part of the cost and pains were spent in measures for the improvement of the human race that is spent on the improvement of the breed of horses and cattle, what a galaxy of genius might we not create.

Francis Galton,
British scientist, initiator of the
study of eugenics (1822-1911)

► Bioethics programme
director, Chinese Academy of
Social Sciences, Beijing

2. 'The legislation imposes decisions'

► Frank Dikötter

Supporters of China's Maternal and Infant Health Law often argue that the word *yousheng* is mistranslated as "eugenics", instead of "healthy birth". Besides the simple observation that a term has no given meaning outside the context in which it is used, it might be noted that in European languages the word "eugenics" also etymologically refers to "healthy birth" (Greek root meaning "good in birth").

The term *yousheng* appeared in China during the 1920s when many publications on eugenics were translated or written in Chinese. The international eugenics movement, spanning from Sweden to Japan, was embraced by many intellectuals in China. Some openly praised Nazi racial policies, while others adopted a softer approach aimed at preventing "unfit" individuals from reproducing. While eugenics became taboo after the communist take-over in 1949—as it did elsewhere in the world given its association with Nazism—it reappeared as an intrinsic component of the one-child policy of 1978.

Today, large numbers of popular and scientific publications still hail the British scientist Francis Galton (1822-1911; Charles Darwin's cousin, the founder of eugenics) as the father of *yousheng* which they clearly define as the science by which the state can improve the physical and mental features of its population by selective breeding.

The law's supporters strongly emphasize its recognition of "individual consent": but what real effect can "individual consent" have in a one-party state such as China, where political dissent is so often punished? These supporters tend not to mention the half a dozen provincial laws passed since 1988 which

never mention individual wishes: in Gansu province, for instance, "idiots", "cretins" and "imbeciles" (not defined in medical terms) are not allowed to marry unless they have been sterilized.

It is crucial to understand that racism is not a necessary component of eugenics. Thousands of individuals judged to be mentally impaired were forcibly sterilized in Scandinavian countries until the 1960s without being defined as "racially" different. To defend China's law by arguing that the Han do not think of themselves as superior to "minorities" is seriously misleading. Why not ask ethnic Tibetans what they think about this?

An inalienable right

Eugenic laws in China fall largely on two groups: peasants (about 70 per cent of the population) and ethnic minorities, (55 groups comprising about eight per cent of the population). In specialist and popular publications, Chinese geneticists claim to find higher rates of mental and physical handicap among the peasantry than the urban population. They also claim that there are higher rates among at least some ethnic minorities in comparison to the majority Han. These geneticists maintain that the economic backwardness of these groups is reinforced by inbreeding. I would argue that this is no more than a scientized version of Han prejudice against minority endogamic practices.

"Confucian values" are also evoked to justify the 1995 law. China is not frozen in time. To invoke Xun Zi in the 1990s is as useful as referring to the Spartans to explain Nazi policies. Reproductive freedom is not the prerogative of a few privileged cultures, but an inalienable part of individual rights. Coercive methods of controlling population growth cannot be defended on cultural grounds. The sterilization programmes used in India during the "emergency period" in the 1970s, for example, were overwhelmingly rejected once general elections were held. Besides, research shows that in China and elsewhere individuals have very different views on the treatment of handicapped people. In surveys by Chinese researchers in the late 1980s, up to 25 per cent of those questioned considered life to be sacred in all circumstances. Serious birth defects are one of the most painful challenges any family can face, and all possible ethical considerations and medical options should be carefully considered and openly debated. The present eugenic legislation does not reflect this consensus-making process; it imposes decisions.

Even in democratic countries, marginalized people may be treated in a discriminatory way, as social prejudice and economic interest affect the nature of genetic information made available to families, employers, insurance companies or welfare states. In a one-party state like China, eugenic laws have been used to suppress rather than assist vulnerable people. ■



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POINTS OF LAW

The following are key excerpts from the official translation of China's Maternal and Infant Health Care Law, which came into effect in 1995.

Article 8: The pre-marital physical check-up shall include the examination of the following diseases: (i) genetic diseases of a serious nature; (ii) target infectious diseases; and (iii) relevant mental disease.

Article 10: Physicians shall, after performing the pre-marital physical check-up, explain and give medical advice to both the male and the female who have been diagnosed with certain genetic disease of a serious nature which is considered to be inappropriate for child-bearing from a medical point of view; the two may be married only if both sides agree to take long-term contraceptive measures or to take ligation operation for sterility.

Article 16: If a physician detects or suspects that a married couple in their child-bearing age suffer from genetic disease of a serious nature, the physician shall give medical advice to the couple, and the couple in their child-bearing age shall take measures in accordance with the physician's medical advice.

Article 18: The physician shall explain to the married couple and give them medical advice for a termination of pregnancy if one of the following cases is detected in the prenatal diagnosis: (i) the foetus is suffering from genetic disease of a serious nature; (ii) the foetus is with defect of a serious nature; and (iii) continued pregnancy may threaten the life and safety of the pregnant woman or seriously impair her health. ■