



**HÁSKÓLI ÍSLANDS**

Hugvísindasvið

# **Hukou and educational barriers**

*Discrimination for migrant children*

**Ritgerð til BA-prófs í kínverskum fræðum**

**Helga Árnadóttir**

**Desember 2012**

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**Helga Árnadóttir**  
**Kt.: 080477-3849**

**Leiðbeinandi: Magnús Björnsson**  
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## Útdráttur

Tilgangur þessarar ritgerðar er að vekja athygli á búsetuskráningarkerfinu í Kína og gera grein fyrir áhrifum þess á kínverskt samfélag – sér í lagi farandverkamenn. Markmið ritgerðarinnar er að fjalla um þær hömlur og þá aðgreiningu sem börn farandverkamanna búa við þegar kemur að menntun. Ritgerðin fjallar sérstaklega um búsetuskráningarkerfið, fólksflutninga, kínverskt lagaumhverfi, aðstæður farandverkamanna og félagslega aðgreiningu þeirra í kínversku samfélagi. Við upphaf valdatíma kommúnistaflokksins í Kína var tekið upp búsetuskráningarkerfi, svokallað *hukou*-kerfi, til að stemma stigu við flutningum fólks til borganna. Vegna kerfisins býr farandverkafólk oft á tíðum við bág kjör og án allra réttinda í borgunum. Sökum þess að börn farandverkamanna erfa *hukou* foreldra sinna þá má með sanni segja að þau fæðist með minni réttindi í þennan heim. *Hukou* staða þessara barna hefur gert þeim erfitt að sækja nám í borgunum. Í gegnum árin hefur kommúnistaflokkurinn birt fjölda laga og reglugerða í þeim tilgangi að veita þessum börnum betri aðgang að menntastofnunum. Flest héruð og borgir hafa hins vegar verið hikandi við að hrinda þessum lögum í framkvæmd. Þá hefur einbirnisstefnan haft mikil áhrif á líf allra kínverja en ör fólksfjölgun varð til þess að umrædd stefna var sett á laggirnar. Hvorki *hukou* kerfið né einbirnisstefnan hefur borið þann árangur sem til var ætlast og börn farandverkamanna mæta enn hindrunum á vegi sínum til menntunar. Með valddreifingunni, sem átti sér stað í Kína á níunda áratugnum, var vald héraðanna aukið til muna og hefur hvert hérað vissa sjálfsstjórn í menntamálum. Af þeim sökum hafa börn farandverkamanna enn takmarkað aðgengi að almenningsskólum í borgum.

Helstu niðurstöður þessarar ritgerðar er að þrátt fyrir tilslakanir Kommúnistaflokksins á lögum er snúa að farandverkamönnum og menntun farandverkabarna eru ýmsar hindranir enn til staðar. Það er skoðun mín að æðstu stjórnvöld í Kína þurfa að setja skýrari lög sem eru til þess fallinn að draga úr þeim ójöfnuði sem að farandverkamenn og fjölskyldur þeirra búa við. Þá tel ég að valddreifingin hafi gengið nokkrum skrefum of langt og þeirri þróun þarf að snúa við.

## Abstract

The purpose of this paper is to draw attention to the Household Registration system in China and explain its impact on Chinese society - in particular migrants. The aim of this paper is to discuss the restrictions and segregation migrant children stand up to when it comes to education. The paper highlights the Household Registration system, Chinese legal framework, migration, migrants and social differentiation in Chinese society. In the beginning the Household Registration system or *hukou*, was originally intended to steer the rural to urban migration during China's industrialization in the 1950s. The *hukou* system has created a social gap among the residents of China. Many migrants are living in poverty and do not enjoy the same benefits as urban *hukou* holders, especially when it comes to education. *Hukou* status is inherited from either the fathers' or the mothers' *hukou* but the status can also be earned. As a result, the *hukou* system is like a barricade to many migrants as their children often face difficulty studying in the cities. Through the years, the Chinese Communist Party has published number of laws and regulations in order to provide these children better access to education. Most provinces and cities, however, have been hesitant to implement those laws in practice. Furthermore, China's one-child policy, which was established in 1979 to limit population growth, also had major impact on Chinese society. Neither the *hukou* system nor the one-child policy has brought results to their plan and migrant children still face barriers on their way to education. Under the wave of decentralization, which took place in China in the eighties, each locality comes with its own concerns, which makes the practice of governing education for migrant children more varied than ever. Thus, despite regulation reforms, migrant children are still left with limited options for accessing education in urban areas.

The main findings of this paper is that even though the Chinese Communist Party has made concessions of the laws relating to migrant workers and education of their children, several obstacles still exist. It is my opinion that the state should set clearer laws that are intended to reduce the inequality among Chinese residents. I also believe that the decentralization has gone a few steps too far and the trend needs to be reversed.

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## 1 Introduction

In general people take access to education for granted. However, in China the Household Registration system has created barriers towards migrant workers and their children in many aspects. In the beginning the Household Registration system served the role of social control and helped steering the rural to urban migration during China's industrialization in the 1950s, but later the purpose of this system went far from just controlling the migration flow. Since its economic reform in 1978, China's population demography has changed due to the great numbers of people migrating from rural to urban areas.

The research question of this paper is to examine how the Household Registration system and other related factors operate as barriers to education towards migrant children.

The literature is based on articles from journals, reports, official statistics from governmental websites, and other articles to establish basic understanding of the Household Registration system and its function.

The purpose of the paper is therefore to identify the main causes and consequences for discrimination against migrant children towards education in China.

### 1.1 Structure of thesis

The paper is divided into *four* parts. The *first* part is the introduction and contains the research question. The *second* part provides historical overview of the Household Registration system, its purpose, affects on labor, and rural-urban migration. The *third* part is in-depth discussions about the educational barriers and the consequences it has had on education towards children of migrant workers in China. The *fourth* part presents the discussion and conclusion i.e. answer to the research question and personal views of the author towards education of migrant children.

## 2 The Household Registration system

The Household Registration system, also known as the *hukou system* was first restored in China in 1951 following the success of the communist revolution in 1949 when Mao Zedong proclaimed the founding of the People's Republic of China (PRC) (Cheng & Selden, 1994). The origins of the Household Registration system can be traced all the way back to the Xia dynasty (21<sup>st</sup> to the 16<sup>th</sup> century BC), when it served the role as a social control system, which enabled taxation collection, kept track of birth and death rates of individuals, and the maintenance of order (Zhu L. , 2003).

The term *hukou* itself appeared at the end of the Qing dynasty (beginning of 20<sup>th</sup> century) and when it was taken up again by the PRC it later became the touchstone of the social distinction between urban and rural inhabitants. The *hukou* system, which was designed to provide population statistics and identify personal status, became important to the central government as a tool of social control, which helped to regulate rural to urban migration. However, its functions go far beyond simply controlling population mobility (Chan & Zhang, 1999).

Before Mao took power, China was largely agricultural. In the 1950s China began its industrialization and the mobility restrictions helped the Chinese Communist Party (CCP) to reinforce the command structure of the economy that ranked industrial areas higher than rural areas. With the purpose of financing the industrialization, the central government underpriced agricultural products and overpriced industrial products to bring an inequity between the agricultural and industrial sectors (Chan & Zhang, 1999). Rural migrant's suffered poverty in the countryside and their loss of wealth attracted them to the urban areas. The industrializing cities and their much better-off inhabitants accelerated migration to the cities (Windrow & Guha, 2005).

To control the population flow between the sectors, the central government had to create a system which blocked free flows of labor between industry and agriculture and between urban and the rural area. The rapid urban population growth and the unraveling of their economic plans threatened to create social disorder; the CCP began to issue directives to bring an end to uncontrolled rural migration (Windrow & Guha, 2005). Despite the migrant worker's contribution to urban development, the central govern-



ment looked at them in a negative way and called this group of workers *blind migrants* or *mangliu*. The state expected them to return to the rural area after their work was done (Cheng & Selden, 1994). In 1955, the central government established a food rationing system to prevent migration flow between rural and urban areas (Wang F.-L. , 2005). Then in 1957 the government established detention centers to return peasants to the countryside. But both of these plans failed to stem the migration tide (Windrow & Guha, 2005).

## 2.1 The role of hukou

In 1932, the Union of Soviet Socialist Republics (USSR) designed an internal passport system, the *Propiska* system, for the urban population as it needed oversight of the migration of their citizens in order to control the geographical distributions of labor supply in the economy (Lyubarsky, 2001).

It had the means of assigning a label at birth to control social mobility, control the growth of cities in the country and stimulate demand for low-wage jobs. Having learned from the USSR China tried to implement a system that was somewhat modeled after the *Propiska* system (Shatrunga, 1991). On October 1, 1949, Mao decided to lean towards the USSR in the attempt to rebuild the Chinese economy. In 1950 the CCP launched a campaign against counter-revolutionaries, which was designed to eliminate those groups and individuals who were actively resisting the new regime. Punishment for those found guilty was harsh, imprisonment, torture and in many cases public execution. The severity of punishment was intended to serve as a warning to their enemies.

The very existence of the *hukou* system has much to do with China's development strategies under an authoritarian government of Mao and the CCP (Wang F.-L. , 2005). In the beginning the *hukou* system contributed to the country's rapid economic growth and was a useful tool to create political stability. But over time both political and economic factors changed this as growing social, regional and other economical inequalities became evident with the *hukou* system. Nonetheless the *hukou* system has played an important role in China's impressive economic development. It affects China's political stability, governance, economic growth, social life, as well as equality, demography,

internal migration, and interregional relations. The function of the system allows authorities to control movement of laborers by issuing *hukou* status to migrant workers.

In 1958 the CCP issued a law that hampered migration to the cities (Liang V. , 2003). The *Regulations on hukou registration in the People's Republic of China* was introduced with its purpose to manage social order and serve socialist construction, and therefore prohibit freedom of movement (Cheng & Selden, 1994). The *hukou* system required all Chinese citizens to register with the authority.

*Hukou* registration is legal for personal identification and its classification is dual in nature. The first classification is local residency classification (*hukou suozaidi*), which can be urban or rural, and defines one's permanent residence. This specific type of *hukou* gives citizens rights for social and economic benefits, only in their local area. The second classification is the status or type of *hukou* registration (*hukou leibie*), which can be either agricultural or non-agricultural *hukou*. This classification originated from the occupational division in 1955 which gave the non-agricultural *hukou* holders entitlement to grain subsidies and greater employment opportunities, free education, and medical care (Chan & Zhang, 1999).

Until 1998, *hukou* residency and type was inherited from a person's mother to ensure minimum upward mobility of peasants, because women were less likely to marry down (Davin, 1999). After 1998 children were allowed to choose either fathers or their mothers' *hukou* residency and type.

## 2.2 Urban migration

Urbanization occurs naturally from individual and corporate efforts to reduce time and expense in commuting and transportation while improving opportunities for jobs and education. Industrialization in farming communities has affected the economy of small and middle-sized farms and has reduced the need for the rural laborer. This had made it to become increasingly difficult to improve one's standard of living in rural areas. The natural trend is to seek opportunities elsewhere, preferably in urban areas where businesses, which generate jobs and capital, are located. Some may move to the cities permanently, while others may migrate to the cities in pursue for work. Migrant workers in

China are mostly people from poor regions who go to more urban and affluent areas in search of work (China Labour Bulletin, 2008).

The size of the rural migrant population is uncertain. It has been variously estimated at around 80-120 million in the late 1990s and closer to 150-225 million more recently (Solinger, 1999; Goodkind & West, 2002; Liang & Ma, 2004). Rural migrants are the largest part of the urban temporary population. The National Bureau of Statistics in China (2012) reported around 253 million migrant workers in yearend 2011, approximately 19 percent of the population.

Temporary migrants do not enjoy state benefits and are usually not registered at the place they migrate to in their search for work and that is what creates the gap between them and permanent migrants. Temporary migrants are mostly self-taught and of lower socio-economic status (Sun & Fan, 2011). Permanent migrants are however often state sponsored, well educated and high-skilled similar to the local residents (Chan, Liu, & Yang, 1999).

The Open Door Policy and the market-oriented reform changed the ground level supporting the urban-centered welfare system in the late 1970s. It revealed the problem of rural surplus labor which totaled up to 132.3 million in 1980. Rural citizens could no longer rely on the governmental support for work and food as before. Therefore, many of them migrated to the cities to look for work.

The one-child policy was established in 1979 to limit population growth. The policy restricts urban couples to having only one child and limits the number of children born in rural families to 1.5 (two for a first-born girl, otherwise one). The one-child policy had great effect on the rural household structure, mainly the agricultural workforce. Slower income growth for rural families, increased demand for cheap labor in the urban areas, and booming development pushed rural labor to the cities.

In 1984, the government relaxed the restrictions over agricultural and non – agricultural transfer of *hukou* status and rural – urban migration with the introduction of economic reforms encouraging a free – market mechanism in the socialist economy of China. Farmers and their families were allowed to move to specific towns on a permanent basis

as long as they could supply their own accommodation and food grain and were involved in industrial or commercial activities in these towns (He & Pooler, 2002; Zhu, Lin, & Wang, 2009).

The following year a *hukou* reform allowed migrants to register with temporary residency in towns and cities but without all benefits. This was a way to fill in the unwanted occupational positions the local residents did not want. With the food grain rationing system ending in 1992 in most parts of China the urban-rural concept had lost its meaning, so in the late 1990s policy experiments were made to replace the urban-rural classification (Chan K. W., 2009).

### 2.3 Hukou reforms and amendments

The State Council has made several changes on the *hukou* system since it was introduced in 1950s – many of them were meant to minimize the urban-rural divide.

The State Council is the highest executive body of the government. It is responsible for carrying out the principles and policies of the Communist Party, implement regulations and laws, and dealing with both external and internal affairs such as finance, economy, culture and education. The State Council has also the power to issue laws and submit proposals (SC, 2012).

Current policy makes it difficult for rural migrant workers and their children to obtain urban *hukou* status and to access social services in cities. It is only possible by seeking governmental authorization, college or graduate school enrollment, job assignment, military service, or other factors through state channels.

The *hukou* reforms have given local governments more control over *hukou* administration and management. Local governments are found to have a high degree of control over *hukou* criteria and as a result, local governments in urban areas tend to give preferential treatment to those applicants who can meet certain levels of skills or wealth (Chan K. W., 2010).

For instance, in the late 1980s some cities and towns offered migrants to buy *hukou* residency that could cost them up to tens of thousands of yuan. This fee was rational-

ized by the local government as a compensation for making urban benefits available to migrants e.g. in 1993, the local government received an income of 25 billion yuan from the purchasing migrants (Yu, 2002).

The “*Blue-Stamp*” *hukou* was first launched in 1992 (Chan & Zhang, 1999).<sup>1</sup> This type of *hukou* was mainly attracting investors, commodity property buyers and migrants with certain skills or education which the cities required (Wong & Huen, 1998). Costing more than 40 thousand yuan (Mallee, 1995) only one out of ten of migrant workers afforded this type of *hukou* and therefore it was abolished in 2002 (Litao & Rong, 2010).

Furthermore, the wording in Article 5 of the *Labor Law* (1994) gives the local government authorities to solve labor relations issues. For example temporary migrants in Shanghai were forbidden to apply for certain occupations e.g. banking, security and administration work<sup>2</sup> causing these migrants to mostly end up finding unskilled temporary work (e.g. in the heavy industry and textile area). Their working conditions were unsafe and with limited benefits (Wang D. , 2008; Roulleau-Berger & Lu, 2005).<sup>3</sup>

In 1997 the State Council introduced a pilot program focused on making urban *hukou* more accessible to rural migrants living in certain small cities and towns. Those who were eligible to receive urban *hukou* status and ultimately entitled to state benefits had to have a permanent residency and stable income for more than two years and had to be engaged in professional services or management at the tertiary and secondary industry market. This program was revised and extended to all small towns and cities in 2001 (Fan, 2008).

Even though some migrant workers receive temporary urban residency (*hukou suozaidi*), the classification typically does not in itself grant access to social services such as childcare, healthcare, housing and education (Xu, Guan, & Yao, 2011).

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<sup>1</sup> Various sources suggest that small cities and towns had sold urban *hukou* to outsiders prior to 1992.

<sup>2</sup> Although it was relaxed in 2001 it still limits the job opportunities for migrants. Migrants with a temporary resident's status were excluded from jobs e.g. in the environmental protection service field and public security (The Shanghai city council, 2001).

<sup>3</sup> in 2004, 136.000 occurrence of death by accidents were registered due to unsafe working environment (Wen, 2005).

However, the process of transferring one's type of registration (*hukou leibie*) from agricultural to non-agricultural determines one's entitlement status in a given locality (Chan & Zhang, 1999). That process is inaccessible for most migrant workers because of the complexity of various official and unofficial documents and standards and the requirements of paying fees, which is simply beyond their reach (Amnesty International, 2007).

A 2010 data from the National Bureau of Statistics states that the average monthly income of migrant workers was 1.690 yuan against 2.687 yuan monthly income of local city workers (Yancheng, 2011). With the world economy relying heavily on low wages, public policy in China has focused on domestic migration as the principal source of low-cost labor (Zheng, 2004).

## 2.4 Conclusion

China's robust economic growth is inextricably linked to its rapid urbanization. Rural people move to cities to take advantage of various employment opportunities, higher wages, and potentially to enjoy higher standards of living. However, rural migrants face a serious institutional barrier upon their arrival: the *hukou* system. The *hukou* system, implemented in the 1950s, uses residency permits to divide Chinese citizens into urban and rural residents. The *hukou* system, which was originally designed to provide population statistics and identify personal status, became important to the state as a tool of social control, which helped to regulate the uncontrolled rural to urban migration. The *hukou* system has undergone many reforms since its beginning, but the system still serves these same basic purposes.

Hukou residency and type is inherited from one's parents at the time of birth, children born in urban areas to parents with rural *hukou* are similarly designated as rural *hukou* holders. Moreover, a person's *hukou* status determines his or her access to social services. Under normal circumstances, a person with a rural *hukou* status is not eligible for social services in urban areas, and vice versa. As a result, rural migrant children living in Chinese cities without urban *hukou* are effectively shut out of state schools even if they were born within the city walls.

### 3 Hukou and educational barriers

China's rural-to-urban migration continues to sustain the country's rapid economic growth and development. In the case of China, migration and education are closely interconnected. The *hukou* system and decentralization of educational financing have caused great difficulties for migrant children to receive high quality compulsory education. The *hukou* system prevents the children of migrant workers from receiving an education like their urban counterparts, primarily due to the regulations of the *hukou* system. *Hukou* registration is inherited from one's parents. Children of migrant workers do not enjoy the same access to healthcare, education, and social services as urban residents.

For the past decades, large numbers of migrant workers have streamed into the cities in search for a better work. If a migrant finds a steady employment, it is not uncommon that they bring their family with them (Liang & Chen, 2005).

There is no accurate information available for the number of migrant children in China, but there are indications that the number is growing each year (Kwong, 2004). Data from the 2000 Chinese Population Census suggest the size of temporary migrant population is around 80 million. This suggests the size of temporary migrant children is around 8–10 million at migrant destinations (Nielson, Nyland, Nyland, Smyth, & Zhang, 2006).

A few suggestions have been made, for instance in 2001 it was suggested that the estimated number of migrated school age children was 7 million (Kwong, 2004). Another suggestion, made in 2009, estimated that the number had risen to 19 million (Chan A. , 2009). This is 20% of the entire student population at the compulsory education level. In other words, one in every five school age children comes from a migrant family (OECD, 2010).

#### 3.1 Historical overview of China's education system

In the 1950s, the Chinese government implemented policies to nationalize all education institutions. A centralized government can exploit economies of scale in the provisions of public goods and coordinate fiscal policy. The education system was under a tight

control of the central government and everyone had access to free education. Centralized governments do not have an unlimited ability to collect information and monitor their agents (Bardhan, 2002). In the post-Mao era the State Council began to move educational issues towards decentralization (Mok, 2000). At the same time, peasants and farmers were keen to build their own schools in the villages. This led to a decision in 1980 to allow local non-government financing of schools. This paved the way for a major reform of education (OECD, 2010). As time passed, the state could no longer monitor or bear the cost of free education and in 1986 further actions were made to decentralize education when the Compulsory Education Law took effect. The idea with decentralization is to push decision making and responsibility for public functions from the state to the local government. Decentralization increases efficiency in delivery of public services and promotes democracy, if it is promoted in right manner (World Resource Institute, 2002).

The Education law from 1995 promoted equal opportunity for all citizens to receive education gave schools and other educational institutions the permission to charge education fee, and laid guidelines on how the State Council and local governments would manage the educational system (see Appendix).

In 2006, the State Council made amendments to the Compulsory Education Law to further improve education for migrant children. The local government was made responsible for primary education cost of all migrant children forbidding them to charge any kinds of additional fees during compulsory education (Chan A. , 2009). According to the law, all migrant children at the age of six should have the rights to free compulsory education without consideration of gender, family status, nationality, race or religious thoughts (see Appendix).

### 3.2 The main educational barriers

In this part the focus will be on the main educational barriers towards migrant children, which include:

1. The *hukou* system
2. Political and institutional issues
3. The National College Entrance examination



### 3.2.1 The hukou system

Institutionally, the *hukou* system is widely considered a fundamental cause for unequal treatment of migrant workers, resulting in a series of problems with regard to public goods provision, such as children's education (Jiang, 2009). The dual *hukou* system divides the Chinese population into rural and urban types from birth and they can enjoy social services and other entitlements in the place where their *hukou* are registered. Following the reform and opening up in the late 1970s, the mobility function of *hukou* has been gradually eliminated due to substantial labor demand in the urban areas; however, the associated state benefits have not been in parallel provided to the migrant population. The social discrimination against the migrant population has profound negative impacts upon the lives of migrant workers and their families. Non-urban *hukou* holders are considered to be second-class citizens and are assumed to be poor, uneducated and are denied access to state services (Foucault, 1983).

Although the *hukou* system can be considered to be an educational barrier for migrant children, the policy of *hukou* is important. For the most part because of continued rural-to-urban migration and because it determines peoples access to social services; but having said that, the functioning of the *hukou* system generates social barriers and provides unequal access towards education.

As said before, *hukou* classifications is inherited from parents, and migrant parents are often living in cities without urban *hukou*, which is necessary for access to state services. Internal migration has meant millions of children have no household registration where they are living now and that generates problems of educational provision (Guo, 2002). Consequently, migrant children living in the cities are in effect kept out of the state schools (Branigan, 2010).

It is not easy for rural migrant families to obtain urban *hukou* status and get access to social services. The *hukou* reforms have given local governments more control to decide the type of registration people receive. Consequently, local governments tend to grant urban *hukou* status to applicants who are well educated and rich (Chan K. W., 2010).

However, as they are unlikely to apply for jobs in the Secondary labor market, which are still vital to any society, these jobs fall to migrant workers.<sup>4</sup> By not changing the migrants' *hukou* status, local governments can deny them the access to state services, such as healthcare and education. Also, the abundance of migrant workers will keep wages low until the surplus labor decides to go elsewhere in search of job.

### 3.2.2 Political and institutional issues

Rural-to-urban migration in China - especially the migration of young adults and the fact that more children are migrating with their families, means the number of migrant school age children is growing (Sa, 2004). Some families, however, choose to leave the children behind with relatives or friends in the countryside and to send them to rural schools. Evidence suggests that the main reason for leaving the children behind was their inability to afford schooling for the children in the cities (Sa, 2004). The central government in China has promulgated numerous laws and regulations in an attempt to grant migrant children free access to urban state schools.

When the *Compulsory Education Law* in China took effect in 1986 - all children, from the age of six, were entitled to nine years of compulsory education regardless of sex, nationality, and race (See article 2 and article 5 in the Appendix). At the same time, authority and control over education was being moved to local governments and were no longer under state control. Local governments were made responsible for compulsory education and given the power to decide on how they would manage it; thus charges for education became legal (Mok, 2000). Both the State Council and local governments were made responsible of raising funds for the expenses of compulsory education. Article 10 of the *Compulsory Education Law* also provides that the state shall not charge tuition for students receiving compulsory education and shall establish a system of grants to support the school attendance of children from poor families.

However, the *Compulsory Education Law* provided migrant children more protection in theory than in reality. Solinger (1999) calculated that in mid-1990s only 40% of migrant children, age between five and twelve, attended school in Beijing, compared to nearly 100% of local children.

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<sup>4</sup> Secondary labor market consists of low-wage paying jobs, contrasted by the Primary labor market consisting of high-wage paying jobs and state benefits.

Widespread media coverage, among other factors, resulted in changes in education legislation. The *Education Law* from 1995 was designed to improve school attendance among migrant children.

The law further enhanced the education system in China, e.g. by bringing up several issues not mentioned in the 1986 Compulsory Education Law.

Article 9 of the 1995 Education Law stipulates that “... *Citizens shall enjoy equal opportunity of education regardless of their nationality, race, sex, occupation, property or religious belief etc.*”, therefore family status should no longer be a limiting factor for migrant children for receiving education. It also stipulates in article 10 that the state shall support the development of education facilities in poor areas.

A survey conducted in 1997 found that the number of migrant children attending school in Beijing had risen to 88% (Guo, 2002). These numbers suggest that the implementation of the Education Law did improve school attendance among migrant children.

Article 29(3) requires that the schools and other educational institutions make protective measures to safeguard the rights of all students to receive education. Article 18 of the Education Law encourages local governments to take necessary measures to ensure education for all school-age children in their localities.

In spite of the law, school authorities have not shown full interest in eliminating the hostility and discrimination towards migrant children in state schools as they are considered second-class citizen (Amnesty International, 2007). Recent studies have shown that migrant students frequently complain about being teased and bullied by the local students, as well as finding themselves ignored by their teachers when searching for a support for academic and social reasons (Tan, 2010).

With the law, charging fees was further legalized as local governments now had to make the charges public. The law also laid down guidelines on how the education fee should be collected, controlled and used.

The reason for why migrant children face difficulties accessing education is lack of governmental funding as state schools often receive no/little financial support from the

central government for these children (Chan A. , 2009). Government funding for education is based on the number of school age children of local residents. Despite the 1995 Education Law, local governments have no absolute obligation to educate migrants (Chan A. , 2009). Because migrants are not included in the local education budgets, schools given permission to charge temporary student fees, within limits set by the local government, to cover their expenses. However, the local government limits rarely covered the additional costs incurred by schools. Consequently many urban state schools were extremely reluctant to admit migrants (Chan A. , 2009).

In 2003, the annual educational cost per urban student in Nanjing was 1.500 yuan while the student fee for a migrant student was set at maximum 480 yuan. This meant that it would cost the schools over a 1.000 yuan to enroll each migrant student into state schools. To make up for the shortfall, schools would often collect additional fees – which turned many parents away from receiving education for their children in state schools (Chan A. , 2009).

In the *2006 Compulsory Education Law*, the collection of student fees was officially prohibited. The law lays down the principle that the state shall establish a funding system to guarantee implementation of compulsory education. In order to uphold unbiased development of all schools, the local governments are prohibited from dividing schools into key schools and non-key schools and from dividing classes into key classes and non-key classes. The law also bans any entrance examinations for basic education.

According to article 12 the local governments should enroll children to schools in their registered area as well as provide those children of parents who work or reside in area other than their registered residence, equal conditions to receive education. The law also punctuates that all citizens should enjoy the equal right to receive compulsory education, regardless of family or financial status.

In the 1986 Compulsory Education Law, 1995 Education Law, and the 2006 Compulsory Education Law, the state encouraged individuals, as well as organizations, to make donations in the name of education. Because the collection of student fees was now prohibited, state schools began to charge migrant parents to pay excessive contribution

to admit their children to the schools – which again have turned many of them away from receiving public education (Dong, 2010).

The state has introduced several policies in order to reduce the fees of migrant children to study in state schools. One such policy, the “*Circular on the Abolition of Tuition and Miscellaneous fees for Students in Compulsory Education in Cities*”, permitted migrant children who satisfied the government rules to study in state schools, with no tuition, miscellaneous fees and temporary schooling fee (SC, 2008).

However, the local governments of flow-in districts lack the motivation to carry out these policies. Meanwhile, most schools of the cities have a strict entrance requirement which increases the difficulties of enrolling migrant children in state schools (Liu S. , 2009).

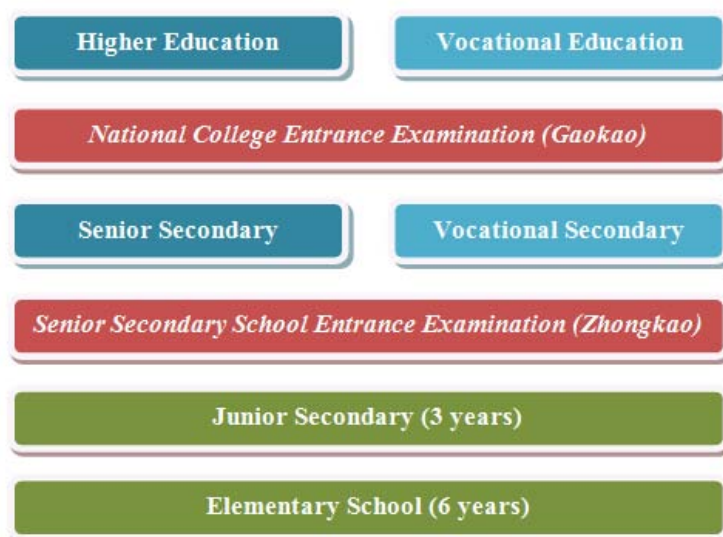
Take Beijing for example, migrant children must show their temporary hukou permit, proof of residence, proof of parents’ employment in the city, proof of no guardianship in the registered districts, hukou type, and proof of previous school if they want to attend state schools (Beijing Municipal Government, 2004).

Presently, the issue of migrant children’s education is far from been resolved. Many of these laws and directives mentioned above, generally state that migrant children should not pay additional fees to attend urban state schools. However, life happens at the level of events – not of words and the state needs to issue stricter and clearer regulations so the local governments have no option but to comply and follow the 2006 Compulsory Education Law to the letter.

### 3.2.3 The National College Entrance examination

The educational system in China starts with 9 years of compulsory education which consists of 6 years of Elementary school (6-12 years of age) and 3 years of Junior high school (12-15 years of age). After the compulsory education, children have the option of leaving school or entering secondary program. All students attend senior secondary school entrance exam at the end of their junior high school education (*Zhongkao*). Depending on the results of this exam, they may enter an academic or a vocational upper secondary school, or they may choose to end their formal education (Ministry of

education of the people's republic of China, 2010). The next level includes 2-3 years at a Senior high school or a Secondary Vocational school. The final stage is university, high vocational school or employment (Yingkang, 2012). To continue their education to university or higher education, students must take and pass the National College Entrance examination (*Gaokao*).



Picture 1 - The Chinese education system

Primary education includes pre-school education and elementary education. Pre-school, or kindergarten, can last up to three years, with children entering as early as age three, until age six, when they typically enter elementary school. Elementary school is a six year program. Secondary education is divided into regular secondary education and vocational secondary education. Regular secondary education consists of junior high school and senior high school. Junior high school will involve either three or four years of schooling and senior high school is a three year program. Students in the vocational education will, upon graduation from junior high school, enter a vocational school. Vocational schools generally offer programs ranging from two to four years, and train medium-level skilled workers, farmers, as well as managerial and technical personnel. Higher education at the undergraduate level includes two-year junior colleges, four-year colleges and universities (CERNIC, 2000).

Passing the Gaokao is one of the most important goals to reach for Chinese students as its score determines which college or university they can attend. Gaokao is usually taken over a two-day period in June (Chinadaily, 2012).

The Gaokao was established in 1952 and was only suspended during the Cultural Revolution in 1966-1976 (Economist, 2012). It is mostly taken by senior high school graduates and their final score decides in which kind of college or universities they can be registered at. Gaokao is the only exam that allows students to be enrolled at a college or a public university in China and is seen as the best option for brighter future (Rabkin, 2011). A 2011 study shows that 72 percent out of 9.33 million students sitting the Gaokao were enrolled into universities (Xinhuanet, 2011).

Nevertheless, the National College Entrance examination and associated rules remain as barriers to migrant children receiving education in urban state schools. According to the Ministry of Education, all students must take the Gaokao exam in the county to which their original *hukou* belongs (Chan A. , 2009). Due to this millions of students have been forced to return to their local residency to take the Gaokao exam (Xinhuanet, 2012). It has been argued that migrant students, who return to their hometown to sit the exam, are often not competitive as the curriculum and textbooks may be different from what they are used to in the urban area (Fang, Miller, Trieu, & Yang, 2006). Moreover, the exams are likely to be set up differently than they are used to and in some cases they have to receive higher marks than their urban classmates to get accepted to a city college or university (China Labour Bulletin, 2012). This might encourage families not to bring their children to the city.

Professor Yang Dongping called attention to the fact, that the numbers of rural students accepted to key universities has dropped drastically in recent years. She noticed that despite 62 percent of those who enrolled for Gaokao were rural *hukou* holders, only 17 percent of students attending Tsinghua University in Beijing came from rural areas (China news, 2011). Although discussions have been brought up to let migrant students sit Gaokao at their destination place city governments are still reluctant to do so.

Results from a survey made in 2008 revealed that 60 percent of migrant students studying in Beijing said they would not continue their education after finishing the compulsory education. Approximately 90 percent of those considered the *hukou* system to be the main barrier for them to continue their studies to the next level (Liu & Jacob, 2012).

### 3.3 Other educational barriers

In 1998 the Ministry of Education and the Public Security Bureau issued the "*Provisional Measures for the Schooling of Migrant Children*" which specifically acknowledged the right for migrant children to receive compulsory education in their place of domicile.<sup>5</sup>

Despite these regulations, and the laws and directives mentioned above, there are many different reasons why migrant families are unable to take advantage of these rulings and send their children to state schools. Many children living with their parents in the city are effectively shut out of state schools, because of their *hukou* status or by the high school fees.

Education is of a great importance in China and for many it is the key to success. As good schools fill up quickly, rural migrants often are not allowed to enroll in the local school (Liu, et al., 2009). When they try to move to another state school, school officials often charge fees and require excessive amounts of documentation which makes public education inaccessible to migrant families (Montgomery, 2012).

Decentralization of state schools is an important factor in this matter and evidence suggests that in some places local governments have set up rules and policies which are intended to keep rural children from using the public services in urban areas and hence from receiving education. These settings have kept rural migrants out of the urban schools and these barriers force migrants to select rural schools or migrant schools, which are often more accessible – although they are not free.

Migrant schools are generally private for-profit schools and neither the state nor the local government receives any revenue from these schools. Most migrant schools are not acknowledged or reflected in government plans and receive no financial support from the government (Amnesty International, 2007). Migrants have been acting on it by privately funding and running these kind of schools (both licensed and unlicensed) for the sake of their children (Lai, et al., 2011).

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<sup>5</sup> See, China Education an Research Network at <http://www.edu.cn/20040217/3099163.shtml>.



Migrant schools do not offer the same quality of education as state schools. Migrant schools are typically set up in unsafe facilities. The resources are often scarce, classrooms overcrowded and without air conditioning. The teachers are less qualified and equipped with outdated teaching material (Tan, 2010).

Low income parents are often left with the option to register their children into low budget migrant schools, which are often of low quality with poor facilities and limited teaching. Many parents of migrant children do not have the extra budget for private tutoring and in addition their poor educational background and long working hours makes it difficult for them to tutor their children in the evenings (Rural Education Action Project, 2010).

Several local governments have been shutting down or even demolishing migrant schools in recent years – in attempt of enrolling more migrant children into state schools. Those actions have left many migrant children with very limited options for receiving education (Goodburn, 2009).

Overcoming the educational barriers has been a great obstacle for migrant parents over the years. Decentralization and vague regulation relating to education and unwillingness of local governments towards educational need for migrant children has forced parents to come up with their own solutions (Kwong, 2004). The migrant schools have therefore sprung up in the cities over the years. For instance, the number of migrant schools in Beijing grew from over a 100 in 1999 up to 150 in 2000. In 2008 there were around 300 migrant schools in Beijing and more than 200 migrant schools in Shanghai (Shanghai Daily, 2008; Lu, 2008). Since then, 150 migrant schools have been shut down in Beijing and over 100 migrant schools in Shanghai, the official explanation being poor facilities, unqualified teaching resources and high safety risks (Yanfeng, 2010; China Labour Bulletin, 2012).

### 3.4 The one-child policy

The one-child policy is said to be the root cause of the increasing number of migrant children in urban areas (Kwong, 2004).<sup>6</sup> The flexibility of the policy in the late 1980s

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<sup>6</sup> The one-child policy was not formally written into Chinese law until 2002 (see Appendix).

permitted rural inhabitants in certain Chinese counties to have a second child. But due to the exclusion from state benefits in urban areas, migrating with more than one child has led to extra financial pressure on those families. It's main purpose was to ensure that the government could support its population with food, healthcare, housing and education. The aim was to reduce poverty and to improve quality of life for the people (Begum, Quheng, & Gustafsson, 2011).

In some areas which have a low population, the policy is very relaxed, whereas in other areas, the policy is strictly followed because of overpopulation (Mosher, 2006).

The one-child policy, which stated that each couple is allowed to have only one child, was initiated by the central government. However, the implementation of the policy, including benefits and penalties, was formalized by local governments. Thus policies and penalties can vary between areas. Penalties for having a second child can for example be a twenty percent cut in basic salary for 3-14 years (Liao, 2012). Officials can deny registering babies who are born not in compliance with the one-child policy. Your second child and any others you decide to have will be unregistered (Edstrom, 2009). Hence the *hukou* system and the one-child policy are interlinked. A child without *hukou* status will not receive any authorized education.

The one-child policy and the exclusion from benefits in urban areas have led to a falling birth rate (Liao, 2012). In theory, falling birth rate could mean there is an increased role for both parents on the labor market and there is a chance that child could receive a higher and better education. Many still believe this is the case as the following example reveals.

A survey made in 2007 revealed that out of 5400 women who were physically able and had the legal right to have a second child, only about 1800 of them would consider having another child. About three years later only about 4 percent of the women had a second child born. The main reason given for why the other women chose not to bear a second child was because they wanted a quality education and a greater success for their child in the future (Cai, 2010).

Decreased birth rate in large cities like Shanghai and Beijing has resulted in extra capacity in state schools. It has been reported that state schools in Beijing have a maximum capacity for 1.5 million students but the enrollment number was only 1.2 million (Human rights in China, 2002). This fall in the number of elementary school students in urban cities has occurred despite the fact that urbanization rates are still rising.

This information should indicate that there are surplus of state schools in those cities – despite that many migrant children have been turned away from schools because of the current settings of the education law, their *hukou* status or because their parents do not have the resources available so they can attend schools. (Froissart, 2005; Pan, 2012)

The largest governmental expenditure in many countries is healthcare and education. Due to declining birth rates in China, the population is ageing and numbers in the workforce is falling (Begum, Quheng, & Gustafsson, 2011). The ageing population means that the government will probably have to increase tax revenue by increasing consumption tax rate or reduce governmental role in providing healthcare.

As the number of migrant workers increases in urban areas their wellbeing has become a problem as they are rural *hukou* holders and therefore have no beneficial support from local governments in destination area. The same goes for their children, including their educational needs. There are many factors affecting their quality of education which relies mainly on their *hukou* registration certificate. The rural to urban influx of temporary migrated children over the years has created many barriers and thus made them feel unwanted in the China's education system.

### 3.5 Conclusion

China has been undertaking economic reforms more than two decades, but during this time it has not managed to eliminate current rules that link *hukou* status to state services. There is growing evidence that the reform process and decentralization policies have increased both economical and social inequalities (Froissart, 2003).

The *hukou* system and decentralization of educational financing have caused great difficulties for migrant children to receive high quality compulsory education. Rural mi-

grant children living in Chinese cities without urban *hukou* are effectively shut out of the state school even if they were born within the city walls.

The central government has issued various laws to improve the education environment for migrant children but with different results. The local governments under the state council have interpreted the laws their own way resulting in discrimination against migrant children and consider them to be second-class citizens.

The educational barriers set on migrant children only encouraged their parents to register them into migrant schools, which are more available to them. Although such schools are affordable they are usually of low quality and provide poor teaching.

While most urban students continue their studies through Gaokao, many migrant students have to find other alternatives of education as they neither have the same opportunity nor access to education as urban students. Attending a vocational school might be the answer for them to get a decent position at the labor market.

The condition for attending a vocational school is to sit the Zhongkao entrance exam in their hometown to be promoted from junior high school to vocational school (Liu, et al., 2009). But many migrant students find it hard to get a good score on this examination due to their poor educational background. Therefore in many cases instead of continuing their studies they quit school and enter the labor market (Chan A. , 2009).

Those migrants who pass the Zhongkao often face another barrier as education cost is by far higher than the cost for receiving compulsory education. Tuition fee and the high cost of textbooks is a barrier for many students in achieving higher education, this is especially true for migrants as they are economically more disadvantaged in receiving higher education due to low household income (Liu, et al., 2009). Putting into context that it is estimated that only one third of migrant children attend high schools against 95% of urban children (Chan A. , 2009).

Even though the *hukou* system can be considered to be an educational barrier for migrant children, the policy of *hukou* is important for many reasons. For instance the one-child policy is said to be the root cause of the increasing number of migrant children in urban areas, therefore it is necessary to be able to control the migration flow to avoid

overpopulation. Nevertheless, it creates social barriers and unequal access for migrant children towards education.

## 4 Discussion and conclusion

The purpose of this paper is to understand the role of the Household Registration system and how it affects migrant families, with special attention to education and migrant children. In the beginning the *hukou* system controlled the migration flow from rural to urban areas during China's industrialization in the 1950s, at the same time the *hukou* system separated the rural and urban inhabitants. As time went on, flaws in the system came apparent, particularly due to changing social conditions in China. The *hukou* system had created a huge gap between rural and urban residents mainly concerning access to state benefits and education.

Under the wave of decentralization, which took place in China in the 1980's, local governments have been allowed to interpret policies and regulations their own way, which has created barriers between urban state schools and migrant children. These barriers have kept migrant children from receiving compulsory education or encouraged parents to enroll their children into migrant schools. Migrant schools offer low quality teaching with limited curriculum, poor facilities and teaching equipment and are far from reaching the same standards as state schools. Those migrants who attended state school often face humiliation from their teachers and urban counterparts due to their rural *hukou* status. Furthermore, rural *hukou* holders are required to take the Gaokao in the place to which their original *hukou* belongs, causing difficulties for them to get good marks in these exams.

Policy makers have to some extent come to grips with this rising problem which is caused by the *hukou* system and the legal framework to ensure equal access for all in receiving education. To solve these problem policy makers must issue stricter and clearer regulations make sure migrant children get better access to education.

However, ensuring equal access to education for all would have negative impact on China's economical growth. If higher education would become more accessible to students, migrant workforce for the secondary labor market would possibly decrease. Demand for laborers would therefore increase, causing the laborer to pressure on higher salary. Automatically it would narrow the income gap between the primary and secondary labor market creating dissatisfaction amongst the primary workers who would

normally demand a salary raise. Higher wages on the secondary labor market would most likely lead to a higher production costs and that could make China less competitive.

To respond to this problem the central government could for example give local governments the authority to further limit the access for migrant students to take the National Entrance examination in the cities – which would likely increase the supply of laborers on the secondary labor market.

It appears that one solution quickly creates another problem and no obvious solution is available. The fact of the matter is that the *hukou* system is, in spite of everything, still an important tool to control the influx of migrant families into the cities. While the walls which separate the rural and urban inhabitants are allowed to stand, migrants will continue to feel the sting from discrimination.

Both the restriction of mobility and the fact that people are born into their social classes has helped to reinforce the command structure of the economy which prioritizes urban sectors over rural sectors. Even though workers and their families are allowed to move from rural to urban areas, their social status continues to stick with them and they cannot enjoy the same services that their urban counterparts enjoy as the non-urban *hukou* holders continue to face barriers to education and healthcare.

I conclude that the state need to set clearer laws that are aimed to diminish the disparity among Chinese residents and I believe that the decentralization process has gone few steps too far and the trend needs to be reversed.

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6 Appendix

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## **The Compulsory Education Law of the People's Republic of China**

Adopted at the Fourth Session of the Sixth National People's Congress April 12, 1986 and promulgated by Order No. 38 of the President of the People's Republic of China on April 12, 1986.

### **Article 1**

This Law is formulated, in accordance with the Constitution and the actual conditions in China, for the purpose of promoting elementary education and the building of a socialist society that is advanced culturally and ideologically as well as materially.

### **Article 2**

The State shall institute a system of nine-year compulsory education. The authorities of provinces, autonomous regions, and municipalities directly under the Central Government shall decide on measures to promote compulsory education, in accordance with the degree of economic and cultural development in their own localities.

### **Article 3**

In compulsory education, the State policy on education must be implemented to improve the quality of instruction and enable children and adolescents to achieve all-round development -- morally, intellectually and physically -- so as to lay the foundation for improving the qualities of the entire nation and for cultivating well-educated and self-disciplined builders of socialism with high ideals and moral integrity.

### **Article 4**

The State, the community, schools and families shall, in accordance with law, safeguard the right to compulsory education of school-age children and adolescents.

### **Article 5**

All children who have reached the age of six shall enroll in school and receive compulsory education for the prescribed number of years, regardless of sex, nationality or race. In an area where that is not possible, the beginning of schooling may be postponed to the age of seven.

### **Article 6**

Schools shall promote the use of Putonghua (common speech based on Beijing pronunciation), which is in common use throughout the nation.

Schools in which the majority of students are of minority nationalities may use the spoken and written languages of those nationalities in instruction.

### **Article 7**

Compulsory education shall be divided into two stages: primary school education and junior middle school education. Once primary education has been made universal, junior middle school education shall follow. The department in charge of education under the State Council shall decide on the duration of each stage.

### **Article 8**

Under the leadership of the State Council, local authorities shall assume responsibility for compulsory education, and it shall be administered at different levels.

The department in charge of education under the State Council shall, in accordance with the needs of the socialist modernization and with the physical and mental development of children and adolescents, decide on the teaching methods, the courses to be offered and their content, and the selection of textbooks for compulsory education.

### **Article 9**

Local people's governments at various levels shall establish primary schools and junior middle schools at such locations that children and adolescents can attend schools near their homes.

Local people's governments shall establish special schools (or classes) for children and adolescents who are blind, deaf-mute or retarded.



The State shall encourage enterprises, institutions and other segments of society to establish schools of the types prescribed by this Law, under unified administration by local people's governments and in compliance with the basic requirements of the State.

Appropriate facilities for compulsory education must be included in the plans for construction and development of both urban and rural areas.

#### **Article 10**

The State shall not charge tuition for students receiving compulsory education.

The State shall establish a system of grants-in-aid to support the school attendance of poor students.

#### **Article 11**

When children have reached school age, their parents or guardians shall send them to school to receive compulsory education for the prescribed number of years.

If, on account of illness or other special circumstances, school-age children or adolescents need to postpone enrollment or be exempted from schooling, their parents or guardians shall submit an application to that effect to the local people's government for approval.

No organization or individual shall employ school-age children or adolescents who should receive compulsory education.

#### **Article 12**

The State Council and the local people's governments at various levels shall be responsible for raising funds for the operating expenses and capital construction investment needed for the implementation of compulsory education, and the funds must be fully guaranteed.

State appropriations for compulsory education shall increase at a faster rate than regular State revenues, and the average expenditure on education per student shall also increase steadily.

In accordance with the provisions of the State Council, the local people's governments at various levels shall levy surtax for education, which shall be used mainly for compulsory education.

The State shall subsidize those areas that are unable to introduce compulsory education because of financial difficulties.

The State shall encourage individuals and all segments of society to make donations to help develop education.

The State shall assist areas inhabited by minority nationalities to implement compulsory education by providing them with teachers and funds.

#### **Article 13**

The State shall take measures to strengthen and develop normal schools and colleges in order to accelerate the training of teachers, so as to ensure, in a planned way, that all primary school teachers have received at least secondary normal school education and that all junior middle school teachers have received at least higher normal school education.

The State shall establish a system to test the qualifications of teachers and shall issue qualification certificates to those who pass the test.

All graduates of normal schools and colleges must engage in educational work, as required by the relevant regulations. The State shall encourage teachers to make education their long-term career.

#### **Article 14**

Teachers should be respected by the public. The State shall safeguard the teachers' lawful rights and interests, and take measures to raise their social status and improve their material benefits. It shall reward outstanding educational workers.

Teachers should be committed to the cause of socialist education, endeavor to raise their own ideological and cultural levels as well as professional competence, show concern for their students and be devoted to their duties.

#### **Article 15**

The local people's governments at various levels must create conditions for all school-age children and adolescents to enroll in schools and receive compulsory education. In cases where school-age children or adolescents do not enroll in school and receive compulsory education, with the exception of those who, on account of illness or other special circumstances, are allowed by the local people's governments not to go to school, the local people's governments shall admonish and criticize the parents or guardians of those

children or adolescents, and adopt effective measures to order them to send the children onwards to school.

In cases where organizations or individuals employ school-age children or adolescents for work, the local people's governments shall admonish and criticize them and shall order them to stop such employment. In serious cases, the offenders may be fined, ordered to suspend their business operations or have their business licenses revoked.

**Article 16**

No organization or individual may appropriate, withhold or misuse funds earmarked for compulsory education, disrupt order in education, or occupy or damage school buildings, grounds or facilities.

It shall be forbidden to insult or assault teachers. It shall be forbidden to inflict physical punishment on students.

No one may make use of religion to engage in activities which interfere with the implementation of compulsory education.

Persons who violate the provisions of the preceding two paragraphs shall be subject to administrative sanctions or penalties depending on the circumstances. In case damage is caused, the offender shall be ordered to make compensation. If the circumstances are serious and a crime is committed, criminal responsibility shall be investigated in accordance with the law.

**Article 17**

The department in charge of education under the State Council shall, in accordance with this Law, formulate rules for its implementation, which shall come into force after being submitted to and approved by the State Council,

The standing committees of the people's congresses of provinces, autonomous regions, and municipalities directly under the Central Government may formulate specific measures for implementation in accordance with this Law and their local conditions.

**Article 18**

This law shall go into effect on July 1, 1986.

## Education Law of the People's Republic of China

Adopted at the third session of the eighth National People's Congress, promulgated by Order No.45 of the President of the People's Republic of China on March 18, 1995 and effective as of September 1, 1995.

### Chapter I General Provisions

#### Article 1

With a view to developing educational undertakings, improving the quality of the whole nationality, accelerating the construction of the socialist material and spiritual civilization and in accordance with the Constitution of the People's Republic of China, the present Law is hereby formulated.

#### Article 2

The present Law shall be applicable to all kinds of education at all levels within the territory of the People's Republic of China.

#### Article 3

In developing the socialist educational undertakings, the state shall uphold Marxism-Leninism, Mao Zedong Thought and the theories of constructing socialism with Chinese characteristics as directives and comply with the basic principles of the Constitution.

#### Article 4

With education being the foundation for construction of socialist modernization, the state shall give priority to the development of educational undertakings.

The whole society shall pay attention and render support to the educational undertakings.

The whole society shall respect teachers.

#### Article 5

Education shall serve the construction of socialist modernization, be combined with production and labor and satisfy the needs of training constructors and successors with all round development of morality, intelligence and physique for the socialist cause.

#### Article 6

The state shall conduct education among education receivers in patriotism, collectivism and socialism as well as in ideals, ethics, discipline, legality, national defense and ethnic unity.

#### Article 7

Education shall be carried out in the spirit of inheriting and expanding the fine historical and cultural traditions of the Chinese nation and assimilating all the fine achievements of the civilization progress of human beings.

#### Article 8

Education activities shall be in the benefit of public interests of the state and the society.

The state shall separate education from religion. Any organization or individual may not employ religion to obstruct activities of the state education system.

#### Article 9

Citizens of the People's Republic of China shall have the right and duty to be educated.

Citizens shall enjoy equal opportunity of education regardless of their nationality, race, sex, occupation, property or religious belief etc.

#### Article 10

The state shall help all minority nationality regions develop educational undertakings in light of the characteristics and requirements of different minority nationalities.

The state shall support the development of educational undertakings in remote border areas and poverty-stricken areas.

The state shall support the development of educational undertakings for disabled people.

**Article 11**

The state shall fit in with the needs of the development of socialist market economy and the social progress, accelerate educational reform, promote the coordinated development of all kinds of education at all levels, establish and perfect the whole life education system.

The state shall support, encourage and organize scientific research on education, spread the scientific research achievements on education and improve the quality of education.

**Article 12**

The Chinese language, both oral and written, shall be the basic oral and written language for education in schools and other educational institutions. Schools or other educational institutions which mainly consist of students from minority nationalities may use in education the language of the respective nationality or the native language commonly adopted in that region.

Schools and other educational institutions shall in their educational activities popularize the nationally common spoken Chinese and the standard written characters.

**Article 13**

The state shall offer awards to those organizations and individuals who have made distinguished contributions to the development of educational undertakings.

**Article 14**

The State Council and all local People's government at different levels shall supervise and manage the educational work according to the principle of management by different levels and division of labor with individual responsibility.

Secondary and lower education shall be managed by the local People's government under the leadership of the State Council.

Higher education shall be managed by the State Council and the People's government of province, autonomous region or municipality directly under the central government.

**Article 15**

The department of the State Council in charge of educational administration shall be responsible for the educational works of the whole country, make overall plans and coordinate the management of educational undertakings of the whole country.

The departments in charge of educational administration under the local People's government at and above the county level shall be responsible for the educational works within the jurisdiction of the respective administrative region.

Other relevant departments of the People's government at and above the county level shall be responsible for relevant educational works within their terms of reference.

**Article 16**

The State Council and the local People's government at and above the county level shall report to the People's congress at the respective level or its standing committee on educational works, budgets and financial accounts of educational expenditures and submit to their supervision.

## **Chapter II**

### **Basic Educational System**

**Article 17**

The state shall adopt a school education system including infant school education, primary education, secondary education and higher education. The state shall establish scientific school system. Regulations in regard to institution of schools and other educational institutions within the school system, forms of education, length of schooling, admissions requirements and educational objectives shall be formulated by the State Council or the departments in charge of educational administration so authorized by the State Council.

**Article 18**

The state shall adopt a nine-year compulsory education system.

The People's government at different levels shall adopt every measure to ensure children and juveniles of school age to go to school.

Parents and guardians of children and juveniles of school age and relevant social organizations or individuals shall have the duty to ensure that children and juveniles of school age complete the compulsory education of a prescribed length.

#### **Article 19**

The state shall adopt a vocational education system and an adult education system.

The People's government at different levels, relevant administrative departments, enterprises and institutions shall adopt measures to develop and ensure for citizens vocational school education or vocational training in various forms.

The state shall encourage the development of adult education in various forms and make sure that citizens receive proper forms of education in politics, economy, culture, science, technology, profession and whole life education as well.

#### **Article 20**

The state shall adopt a national examination system of education.

The national educational examinations shall be categorized by the department in charge of educational administration under the State Council and be conducted by institutions authorized by the state to organize examinations.

#### **Article 21**

The state shall adopt a schooling credentials system.

Schools and other educational institutions with the approval or consent of the state shall award schooling credentials or other schooling certificates according to corresponding regulations of the state.

#### **Article 22**

The state shall adopt an academic degree system.

The units who confer academic degrees shall confer correspondent titles of academic degree upon people who have achieved certain academic standards or professional standards of technology and award the correspond academic credentials.

#### **Article 23**

The People's government at different levels, self-managed mass organizations at grass-roots level and organizations in enterprises and institutions shall take every measure to develop education to eliminate illiteracy.

Citizens who according to the state statutes have the capacity to receive education intended for elimination of illiteracy shall receive such education.

#### **Article 24**

The state shall adopt educational inspection system and educational assessment system for schools and other educational institutions.

### **Chapter III**

#### **Schools and Other Educational Institutions**

#### **Article 25**

The state shall formulate plans for educational development and institute schools and other educational institutions.

The state shall encourage enterprises, institutions, mass associations, other social organizations and private citizens to establish schools and other educational institutions according to law.

Any organization or individual may not establish schools or other educational institutions for the purpose of making profit.

#### **Article 26**

The establishment of schools or other educational institutions shall be subject to the following requirements of availability:

(1) organized institution and constitution;

- (2) Qualified teachers;
- (3) Teaching and learning rooms, facilities and equipment that meet the prescribed standards;
- (4) Funds necessary for operation of the school and steady source of capital injection.

**Article 27**

The establishment, change or termination of a school or other educational institution shall go through procedures of examination, approval, registration or record according to corresponding state stipulations.

**Article 28**

A school or other educational institution shall exercise following rights:

- (1) Autonomous management according to constitution;
- (2) Organizing and conducting educational activities;
- (3) Recruiting students or other education receivers;
- (4) Exercising school administration over education receivers and awarding prize or imposing punishment;
- (5) Awarding corresponding schooling credentials upon education receivers;
- (6) Employing teachers or other staff and awarding prizes or imposing punishments;
- (7) Managing and using facilities and capitals of the own unit;
- (8) Refusing to accept any illegal interference into the educational and teaching/learning activities by any organization or individual;
- (9) Other rights as provided for by the law and regulations.

The state shall protect schools and other educational institutions from breach of their legitimate rights and interests.

**Article 29**

Schools and other educational institutions shall perform following duties:

- (1) Obeying the law and regulations;
- (2) Implementing the state directives on education, practicing the state educational and teaching/learning standards and guaranteeing the quality of teaching and learning;
- (3) Safeguarding the legitimate rights and interests of the education receivers, teachers and other staffs;
- (4) Providing convenience in a proper manner for education receivers and their guardians to be informed of the receivers' school achievements and other results;
- (5) Charging fees according to relevant state prescriptions and making public the charges;
- (6) Submitting to supervision according to law.

**Article 30**

Schools and other educational institutions sponsors shall decide on the management of schools and other educational institutions according to concerned state regulations.

Headmasters or chiefs of schools and other educational institutions shall be those who are of the Chinese nationality, residing in the territory of China and fit for the conditions prescribed by the state. Their appointment and removal shall be made according to corresponding procedures provided for by the state.

Headmasters of schools shall be held responsible for teaching/learning activities and administration.

Schools and other educational institutions shall guarantee the participation of teachers and staffs in democratic management and supervision through the organic form such as the teachers and staffs congress mainly consisting of teachers in accordance with relevant provisions of the state.

**Article 31**

Schools and other educational institutions which have satisfied conditions for legal persons shall obtain the status of legal persons from the date of approval or registration of legal persons.

Schools and other educational institutions shall enjoy civil rights and interests and bear civil liabilities in civil activities according to law.

State owned assets of schools and other educational institutions shall be within the ownership of the state. Enterprises sponsored by schools and other educational institutions shall solely undertake civil liabilities of their own.

## Chapter IV

### Teachers and Other Educational Workers

**Article 32**

Teachers shall enjoy the rights and interests stipulated by law, perform duties prescribed by law and devote to the People's education cause.

**Article 33**

The state shall protect the legitimate rights and interests of teachers, improve the working and living conditions of teachers and higher the social status of teachers.

The teachers' wages, remuneration and welfare shall be handled according to laws and regulations.

**Article 34**

The state shall adopt a qualification-based post employment system, improve the quality of teachers and strengthen the development of teachers by way of examination, rewards, fosterage and training.

**Article 35**

Schools and other educational institutions shall adopt an educational staffs system for the management. Schools and other educational institutions shall adopt a professional-skill-based posts employment system.

## **Chapter V**

### **Education Receivers**

**Article 36**

Education receivers shall enjoy equal rights in going to school, entering higher school, employment and etc.

Schools and relevant administrative departments shall guarantee that the female enjoy equal rights with male in going to school, entering higher school, employment, conferment of academic degrees and being sent abroad for learning.

**Article 37**

The state and society shall provide with different forms of financial aids to children, juveniles and youths who are eligible for schooling but in poor families.

**Article 38**

The state, the society, schools and other educational institutions shall organize education in consideration of the physical and mental characteristics and requirements of the disabled people and offer them with assistance and convenience.

**Article 39**

The state, the society, schools and other educational institutions shall create conditions for those minor offenders to receive education.

**Article 40**

Employees shall have the right and duty to receive vocational training and continuous education according to law.

State organs, enterprises, institutions and other social organizations shall provide conditions and convenience for the learning and training of the staffs of their own.

**Article 41**

The state shall encourage schools, other educational institutions and social organizations to create conditions for the whole life education of citizens.

**Article 42**

Education receivers shall enjoy following rights and interests according to law:

- (1) Participating in different activities conducted in accordance with educational programme or teaching/learning syllabus; using educational or teaching/learning facilities, equipment or books and materials;
- (2) Obtaining scholarship, loan for education and stipend according to relevant state regulations;

- (3) Obtaining fair assessment in terms of academic achievements and behavior; being conferred correspondent credentials of learning and academic degree upon fulfillment of prescribed school work;
- (4) Bringing a complaint with relevant department in case of refusal to accept a disciplinary action of the school; bringing a complaint or a suit according to law if the right of personal safety or property has been infringed upon by the school or the teacher;
- (5) Other rights and interests as are provided for by law and regulations.

**Article 43**

Education receivers shall perform the following duties:

- (1) Abiding by law and regulations;
- (2) Observing conduct standards of the school; showing respect to teachers and developing good ideology, proper morale and behavior habit;
- (3) Studying strenuously and fulfilling assigned learning tasks;
- (4) Obeying rules of the school or other educational institution to which the education receiver is attached.

**Article 44**

Administrations of education, physical education and health, schools and other educational institutions shall improve sports and health care facilities and protect the physical and mental health of students.

## **Chapter VI**

### **Education and the Society**

**Article 45**

State organs, the army, enterprises, institutions, social associations and other social organizations and individuals shall create good social environment for the healthy growing-up of children, juveniles and young student.

**Article 46**

The state shall encourage enterprises, institutions, social associations and other social organizations to cooperate by various ways with higher education schools, secondary vocational schools in teaching and learning, scientific research, technology development and dissemination.

Enterprises, institutions, social associations and other social organizations and individuals may support the construction of schools and participate in management through proper forms.

**Article 47**

State organs, the army, enterprises, institutions and other social organizations shall render assistance and convenience for student to practice and conduct social practical activities organized by the school.

**Article 48**

Schools and other educational institutions shall take an active part in local public welfare activities under the precondition that normal educational and teaching/learning activities are not affected.

**Article 49**

Parents or guardians of minor children shall provide their underage sons and daughters or children under the guardianship with necessary conditions for their education.

Parents or guardians of minor children shall collaborate with the school or the other educational institution on the education of their sons and daughters or children under guardianship.

Schools and teachers may provide parents of students with advice.

**Article 50**

Students shall enjoy preferential treatment as to public cultural and sport facilities such as libraries, museums, science and technology centers, cultural centers, art galleries, gymnasiums and stadiums, historical or cultural spots and revolutionary commemoration halls or places so that education receivers can be offered convenience for education.

Radio and TV station shall design education programmes and promote the improvement of students in aspects of ideology, morale, cultural and scientific capacity.



**Article 51**

The state and the society shall establish out-of-school education facilities for minor children. Schools and other educational institutions shall collaborate with autonomous grass roots mass organizations, enterprises, institutions and social associations to strengthen out-of-school education of minor children.

**Article 52**

The state shall encourage social associations, social cultural institutions, other social organizations and individuals to conduct social cultural activities of education that are beneficial to the physical and mental health of education receivers.

## **Chapter VII**

### **Education Investment and Safeguards of Condition**

**Article 53**

The state shall establish a mechanism based mainly on financial allocation and supplemented with various approaches to raising educational funds, gradually enlarge investment in education and ensure stable sources of educational funds for state run schools.

Schools and other educational institutions established under the sponsorship of enterprises, institutions, social associations, other social organizations and individuals according to law shall have the school funds raised by the sponsors. The People's governments at different levels may render proper support.

**Article 54**

The proportion of the state educational investment by way of financial allocation to the volume of general national products shall gradually increase along with the growth of national economy and financial income. The executive steps for the proportion increase shall be determined by the State Council.

The proportion of educational appropriations to the total volume of financial expenditures at different levels of the whole state shall increase step by step with the growth of the national economy.

**Article 55**

Educational appropriations of the People's governments at different levels shall be listed as a separate item of the financial budget according to the principle of consistency of business power and financial power.

The increase of financial allocation to education by the People's government at different levels shall be higher than the growth of frequent income of the finance. The People's government shall make the average per capita education appropriation for all students in the school increase progressively and ensure that the teacher's salary and the per capita public fund for students grow gradually.

**Article 56**

The State Council and the local People's government at different levels shall establish specific fund for education and lay special stress on supporting compulsory education in remote border areas and poverty-stricken areas and minority nationality regions.

**Article 57**

Taxation agencies shall fully collect the added education fee, which shall be controlled by the educational administrations and used mainly in enforcement of compulsory education.

The People's government of province, autonomous region and municipality directly under the central government may decide on the levy of added local education fee for specific use of education.

The collection of the added education fee in the countryside within the overall finance of townships shall be organized by the People's government of the township. The fee shall be managed on behalf of the township People's government by the education administrative department of the People's government at the county level or by the People's government of the township itself and shall be used for the educational undertakings at the two levels of township and village within the jurisdiction of the township. The accurate proportion of the levy of added education fee in the countryside to the overall finance of the township and the concrete management thereof shall be regulated by the People's government of province, autonomous region and municipality directly under the central government.

**Article 58**

The state shall adopt preferential measures to encourage and support schools to develop work-and-study programme, conduct social services and establish campus workshops on the precondition that the normal education and teaching/learning activities are not affected.

**Article 59**

Subject to the approval of the People's government at the county level the People's government at the level of township or minority nationality township may in light of the principle of voluntary and capacity consideration collect funds to run school within its own jurisdiction, using the funds so collected in reconstruction or repair of dangerous houses in the purpose of enforcement of compulsory education or construct new school houses. The funds may not be used for any other purpose.

**Article 60**

The state shall encourage social organizations and individuals to donate money for schools.

**Article 61**

The financial allocation of education funds of the state and donations of social organizations or individuals shall be used in education only and may not be diverted for other purposes or deducted.

**Article 62**

The state shall encourage the use of banking and credit measures to support the development of educational undertakings.

**Article 63**

The People's government at different levels and education administrative department shall strengthen supervision and management of educational capitals of schools and other educational institutions and raise the education investment efficiency.

**Article 64**

The local People's government at different levels and relevant administrative departments thereof shall include the capital construction of schools in the construction planning of the cities and townships, take into consideration the use of land for capital construction of schools and necessary goods and materials and make arrangements accordingly, and shall carry out priority or preferential policies according to related state regulations.

**Article 65**

The People's government at different levels shall carry out priority or preferential policies according to corresponding state regulations in respect to the publication and distribution of textbooks and other books or materials for the purpose of teaching and learning, to the production and supply of instruments and equipment for teaching and learning, and to the import of books, materials, instruments and equipment for the purpose of school education or of teaching and learning.

**Article 66**

The People's government at and above the county level shall develop education through satellite television and other modern advanced approaches to teaching and learning, which shall enjoy preferential arrangement and sustaining support of administrative departments.

The state shall encourage extended application of modern teaching and learning methods.

## **Chapter VIII**

### **External Exchange and Cooperation**

**Article 67**

The state shall encourage external exchange and cooperation of education.

External exchange and cooperation of education shall firmly accord to the principles of maintaining independence, keeping initiative in our own hands, equality, mutual benefits and respect and may not run counter to Chinese laws or imperil the state sovereignty, safety or public interests of the society.

**Article 68**

Chinese citizens within the territory of China who intend to go abroad for purpose of learning, research, academic exchange or teaching shall go through procedures prescribed by the state.

**Article 69**

Individual persons out of the Chinese territory may, subject to conditions stipulated by the state and after completion of corresponding formalities, enter China and go to Chinese schools or other educational institutions for the purpose of learning, research, academic exchange or teaching. Their legitimate rights and interests shall be protected by the state.

**Article 70**

Recognition by China of academic degree credentials and schooling credentials awarded by educational institutions out of the territory of China shall be realized subject to international conventions concluded or conceded to by the People's Republic of China or corresponding regulations of the state.

## **Chapter IX**

### **Legal Liabilities**

**Article 71**

In case of failure to examine and allocate educational appropriations based on budget in violation of relevant state regulations, the People's government at the same level shall see to it that the appropriations shall be allocated after examination within a limited period of time. If the violation is a serious case, the persons-in-charge held in direct responsibility and other persons directly responsible for the violation shall be punished by disciplinary sanctions according to statutes.

In case of diversion or deduction of educational capitals in violation of the state financial regulations or accounting procedures, the authority at higher level shall order a replacement of the capitals diverted for other uses or deducted within a limited period of time and shall impose disciplinary sanctions upon those persons-in-charge held in direct responsibility and those directly responsible for the offence. If a crime is constituted, the criminal liabilities therein shall be investigated into according to law.

**Article 72**

In case some people gather a crowd to engage in an affray, mob, make troubles to the extent of disturbing the educational or teaching/learning order of schools or other educational institutions or damaging houses, grounds or other property thereof, the public security organ shall impose administrative penalties for public security. If a crime is constituted, the criminal liabilities shall be investigated into according to law.

Those who have encroached upon houses, grounds other property of schools or other educational institutions shall bear corresponding civil liabilities.

**Article 73**

In case of failure to adopt measures upon precise knowledge of dangers with school houses or other educational or teaching/learning facilities to the result of personnel casualties and serious loss of property, the criminal liabilities of those persons-in-charge held in direct responsibility and other persons directly responsible for the damages shall be investigated into according to law.

**Article 74**

In case of solicitation of funds from schools or other educational institutions in violation of relevant state regulations, the government shall order a replacement of the funds solicited and shall impose disciplinary sanctions upon the persons-in-charge who are held in direct responsibility and other persons directly responsible for the violation.

**Article 75**

In case of establishment of schools or other educational institutions in violation of relevant state regulations, the education administrative department shall dissolve those schools or institutions so established, confiscate any illegal gains there from if there is any and impose disciplinary sanctions according to law upon those persons directly in charge of the matter or other persons directly responsible for the violation.

**Article 76**

In case of recruitment of students in violation of relevant state regulations, the education administrative department shall order a return of those students and a refund of any fees collected and shall impose disciplinary sanctions upon those persons directly in charge of the matter or other persons directly responsible for the violation according to law.

**Article 77**

In case of malpractice of favourism or fraudulence in enrollment of students, the education administrative department shall order a return of those students so enrolled, shall impose disciplinary sanctions upon those persons who are directly in charge of the matter and other persons directly responsible for the malpractice according to law and, where a crime is constituted, investigate into the criminal liabilities.

**Article 78**

In case of solicitation of fees from education receivers in violation of relevant state regulations by schools or other educational institutions, the education administrative department shall order a return of those fees so solicited and shall impose disciplinary sanctions upon those persons who are directly in charge of the matter and other persons directly responsible for the misconduct according to law.

**Article 79**

In case of malpractice in national education examinations, the education administrative department shall declare such examinations invalid and impose disciplinary sanctions upon those persons who are directly in charge of the matter and other persons directly responsible for the malpractice according to law.

In case of illegal conduction of national education examinations, the education administrative department shall declare such examinations invalid, confiscate any illegal gains where such gains exist and impose disciplinary sanctions upon those persons who are directly in charge of the matter and other persons directly responsible for the offence according to law.

**Article 80**

In case of awarding of academic degree credentials or schooling credentials in violation of the present Law, the education administrative department shall declare the credentials so awarded invalid, order a revoke or confiscation of those credentials, confiscate any illegal gains when such gains exist and disqualify the violator from awarding such credentials where the violation is serious.

**Article 81**

In case of infringement upon the legitimate rights and interests of teachers, education receivers, schools or other educational institutions in violation of the present Law to the extent of any loss or damage, the civil liabilities therefore shall be investigated into.

## **Chapter X Supplementary Provisions**

**Article 82**

Regulations governing education of military schools shall be formulated by the Central Military Commission according to principles of the present Law.

Regulations governing education of religious schools shall be formulated separately by the State Council.

**Article 83**

Procedures regarding operation or joint operation of schools within the territory of China by organizations or individuals out of the territory of China shall be formulated by the State Council.

**Article 84**

The present Law shall come into effect as of September 1, 1995.

## **The Compulsory Education Law of the People's Republic of China - Renewed**

Amended and adopted at the 22nd Meeting of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on June 29, 2006, is hereby promulgated and shall go into effect as of September 1, 2006.

### **Chapter I General Provisions**

#### **Article 1**

This Law is enacted in accordance with the Constitution and the Education Law, for the purpose of ensuring the right of school-age children and adolescents to compulsory education, guaranteeing provision of compulsory education and improving the qualities of the entire nation.

#### **Article 2**

The State implements a system of nine-year compulsory education.

Compulsory education means education which is uniformly provided by the State and which all the school-age children and adolescents must receive, and constitutes a public welfare undertaking which must be guaranteed by the State.

No tuition or miscellaneous fees shall be charged for provision of compulsory education.

The State establishes a mechanism for guaranteeing funds for compulsory education, to ensure implementation of the system of compulsory education.

#### **Article 3**

In compulsory education, the State policy on education shall be implemented by providing qualities-oriented education, to improve the quality of instruction, with a view to enabling school-age children and adolescents to achieve all-round development -- morally, intellectually and physically, so as to lay the foundation for bringing up well-educated and self-disciplined builders and successors of socialism imbued with lofty ideals and moral integrity.

#### **Article 4**

All school-age children and adolescents of the nationality of the People's Republic of China shall, in accordance with law, enjoy the equal right, and fulfill the obligation, to receive compulsory education, regardless of sex, ethnic status or race, family financial conditions, religious belief, etc.

#### **Article 5**

People's governments at various levels and their departments concerned shall perform the duties provided for in this Law, to ensure the right of school-age children and adolescents to compulsory education.

Parents of school-age children and adolescents or other statutory guardians shall, in accordance with law, guarantee that they start school at the specified age and receive and complete compulsory education.

Schools providing compulsory education according to law shall accomplish the tasks of instruction and teaching in compliance with the prescribed standards and guarantee the quality of instruction and teaching.

Public organizations and individuals shall create a good environment for school-age children and adolescents to receive compulsory education.

#### **Article 6**

The State Council and the local people's governments at or above the county level shall rationally allocate educational resources, promote balanced development of compulsory education, help the schools started on weak foundations to improve the conditions for school running, and adopt measures to ensure that compulsory education is provided in rural areas and in areas inhabited by ethnic groups and that the school-age children and adolescents who are from families with financial difficulties or who are disabled receive compulsory education.

The State arranges for and encourages the economically developed areas to support the underdeveloped areas in providing compulsory education.

**Article 7**

In compulsory education, the system shall be practiced under which the State Council shall provide guidance, the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government shall make overall plans for its provision and the people's governments at the county level shall play the main role in administration.

The administrative departments for education of the people's governments at or above the county level shall be responsible specifically for the provision compulsory education, and the other administrative departments concerned of the said people's governments shall be responsible for the provision of such education within the scope of their respective duties.

**Article 8**

The authorities of the people's governments for educational supervision shall oversee the observation of laws and regulations in compulsory education, the quality of instruction and teaching and the balanced development of compulsory education, and announce their reports on supervision.

**Article 9**

All public organizations and individuals shall have the right to inform the State organs concerned of violations of this Law or lodge complaints against such violations with the said organs.

Where a major event in violation of this Law occurs, which impedes provision of compulsory education, thus exerting a great impact on the society; the leading person of the people's government concerned or of the administrative department for education of the people's government shall admit his mistake and resign.

**Article 10**

Public organizations and individuals that make outstanding contribution to provision of compulsory education shall be commended and rewarded by the people's governments at different levels and the related departments in accordance with relevant regulations.

## **Chapter II**

### **Students**

**Article 11**

When children have reached the age of six, their parents or other statutory guardians shall send them to school to receive and complete compulsory education. For children in areas where conditions do not exist for children to do so, the beginning of their schooling may be postponed to the age of seven.

If, on account of physical conditions, school-age children or adolescents need to postpone schooling or be suspended from school, their parents or other statutory guardians shall submit an application to such an effect for approval to the local people's governments of the towns or townships or to the administrative departments for education of the people's governments at the county level.

**Article 12**

School-age children and adolescents shall be exempted from the entrance examinations. The local people's governments at various levels shall ensure that school-age children and adolescents enroll in school near the places where their residence is registered.

For school-age children and adolescents whose parents or other statutory guardians work or reside in places other than the places of their registered residence and who have to receive compulsory education in the places where their parents or other statutory guardians work or reside, the local people's governments shall provide equal conditions for them to receive compulsory education. The specific measures in this regard shall be formulated by provinces, autonomous regions, and municipalities directly under the Central Government.

The administrative department for education of the people's government at the county level shall ensure that the children of servicemen within its administrative area receive compulsory education.

**Article 13**

The administrative departments for education of the people's governments at or above the county level and the people's governments of towns or townships shall arrange for and urge school-age children and adolescents to enroll in school, help solve their difficulties in receiving compulsory education, and adopt measures to prevent them from dropping out of school.

The residents' committees and villagers' committees shall assist the governments in successfully urging school-age children and adolescents to enroll in school.

**Article 14**

No employing units shall employ school-age children or adolescents who are expected to receive compulsory education.

The public organizations which have obtained approval according to relevant State regulations to recruit school-age children and adolescents for special training in literature and art or sports shall guarantee that the recruited school-age children or adolescents receive compulsory education; where a public organization intends to provide compulsory education itself, the matter shall be subject to approval by the administrative department for education of the people's government at or above the county level.

**Chapter III**  
**Schools****Article 15**

The local people's government at or above the county level shall, on the basis of such factors as the number of the school-age children and adolescents and the places of their residence within its administrative area and according to relevant State regulations, formulate and adjust the plans for the establishment of schools. Where schools need to be established in new residential communities, schools shall be established simultaneously with the development of the residential communities.

**Article 16**

Establishment of schools shall be in compliance with the standards for running schools prescribed by the State and meet the need of instruction and teaching, and shall meet the requirements for location and the standard for construction, as are prescribed by the State, in order to ensure safety of the students and the teaching and administrative staff.

**Article 17**

People's governments at or above the county level may, in light of need, establish boarding schools to ensure that the school-age children and adolescents who live far from school receive compulsory education.

**Article 18**

The administrative department for education under the State Council and the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government shall, in light of need, establish schools (classes) in economically developed areas to enroll school-age children and adolescents of ethnic groups.

**Article 19**

People's governments at or above the county level shall, in light of need, establish schools (classes) to provide special education that is appropriate for school-age children and adolescents who are blind, deaf-mute or mentally retarded to receive compulsory education. Such schools (classes) shall have places and facilities tailored to the special characteristics of the said children and adolescents for the benefit of their study, rehabilitation and daily life.

Regular schools shall admit to the classes corresponding to the levels of the disabled school-age children and adolescents who are capable of receiving regular education and provide them with aid in study and rehabilitation.

**Article 20**

The local people's governments at or above the county level shall, in light of need, establish special schools to provide compulsory education to the school-age adolescents who are prone to such serious juvenile misbehaviors as are specified in the law on prevention of juvenile delinquency.

**Article 21**

The juvenile delinquents and the minors against whom compulsory educational measures are taken, who have not completed compulsory education, shall be provided with such education, and the funds needed in this respect shall be guaranteed by the people's governments.

**Article 22**

People's governments at or above the county level and the administrative departments for education shall promote balanced development among schools by narrowing the differences in the conditions for school running, and they shall not divide the schools into key and non-key schools. And the schools shall not divide the classes into key and non-key classes.

People's governments at or above the county level and their administrative departments for education shall not change the nature of government-run schools in any name or in disguised form.

**Article 23**

People's governments at or above the county level and their departments concerned shall, in accordance with law, maintain order in the areas surrounding the schools, protect the legitimate rights and interests of the students, teachers and schools and ensure security of the schools.

**Article 24**

Schools shall set up a sound security system and a mechanism in response to emergencies, conduct education among students in the importance of security, tighten administration, eliminate hidden hazards in time and prevent accidents.

People's governments at or above the county level shall regularly inspect school buildings with respect to their safety and have them maintained or renovated in time, where necessary.

Schools shall not employ persons who have been deprived of their political rights for intentional crimes or persons who are not suited to compulsory education.

**Article 25**

Schools shall not collect any fees in violation of State regulations, nor shall they seek profits by selling commodities, services, etc. to students or doing so in disguised form.

**Article 26**

The system under which the principal assumes full responsibility shall be practiced in schools. Principals shall meet the requirements for the position as prescribed by the State. Principals shall be appointed according to law by the administrative departments for education of the people's governments at the county level.

**Article 27**

Where a student violates the administrative rules of the school, the school shall criticize him by way of education, but shall not expel him.

## **Chapter IV**

### **Teachers**

**Article 28**

Teachers shall enjoy the rights, and fulfill the duties, as provided for by law, and they shall play an exemplary role for other persons and be devoted to the educational undertaking of the people.

Teachers shall be respected by the entire society.

**Article 29**

Teachers shall treat students equally in instruction and teaching, pay attention to the individual differences of students, teach students in accordance with their aptitude, and promote their full development. Teachers shall respect the personality of students, and they shall not discriminate against students, punish them physically or in disguised form, or humiliate them or strip them of their dignity, nor shall they infringe on the students' legitimate rights and interests.

**Article 30**

Teachers shall obtain the qualifications for teachers as prescribed by the State.

The State shall establish a unified system for the posts of teachers engaged in compulsory education.

Such posts of teachers are divided into primary, intermediary and senior posts.



**Article 31**

People's governments at various levels shall guarantee the salaries, welfare benefits and social insurance premiums of the teachers and improve their working and livings conditions, and improve the mechanism for guaranteeing the funds for the salaries of teachers in rural areas.

The average salary of teachers shall be not less than that of the local public servants.

Teachers engaged in special education shall enjoy subsidies for special posts. Teachers working in areas inhabited by ethnic groups or in outlying or poverty-stricken areas shall enjoy subsidies for working under tough conditions or in poverty-stricken areas.

**Article 32**

People's governments at or above the county level shall put more efforts in the training of teachers and adopt measures for developing education among teachers.

The administrative departments for education of the people's governments at the county level shall distribute the resources of teachers within their own administrative areas in a balanced manner, arrange training for principals and teachers and arrange for their transfer from school to school, and enhance the development of schools started on weak foundations.

**Article 33**

The State Council and the local people's governments at various levels shall encourage and support teachers in urban schools and graduates of schools of higher education to go to rural areas and areas inhabited by ethnic groups to engage in compulsory education.

The State encourages graduates of schools of higher education to teach as volunteers in schools in rural areas and in areas inhabited by ethnic groups where teachers are lacking. The administrative departments for education of the people's governments at the county level shall vouch for their qualifications as teachers according to law and the length of time of their teaching shall be counted in their length of service.

## **Chapter V** **Instruction and Teaching**

**Article 34**

Instruction and teaching shall be carried out in conformity with the pattern of education and the characteristics of students' physical and mental development, be oriented to the need of all students and designed to impart knowledge to them by organically integrating moral, intellectual, physical and aesthetic education in instruction and teaching, with special attention paid to developing their ability of independent thinking, creativity and practice, in order to enable them to develop in an all-round way.

**Article 35**

The administrative department for education under the State Council shall, on the basis of the physical and mental development of school-age children and adolescents and the actual conditions, determine the teaching system, the contents of instruction and teaching and curriculums, reform the examination system and improve the method of student enrollment by senior secondary schools, in order to promote qualities-oriented education.

Schools and teachers shall conduct instruction and teaching in accordance with the determined contents of instruction and teaching and curriculums and ensure that the requirements specified by the State in respect of the essential qualities are met.

The State encourages schools and teachers to adopt such methods of instruction and teaching as the elicitation method, in order to improve the quality of instruction and teaching.

**Article 36**

Schools shall put moral education in the first place and embodying moral education in instruction and teaching, carry out social practices that are suited to the ages of the students, thus to form a system for ideological and ethical education in which the school, family and society cooperate with each other and help students cultivate good ideology and moral character and a good habit of conduct.

**Article 37**

Schools shall guarantee the students time for extracurricular activities and organize extracurricular cultural and recreation activities, etc. Public cultural and sports facilities shall be made convenient for schools to carry out extracurricular activities.

**Article 38**

Textbooks shall be compiled in compliance with the educational policy and curricular standards of the State, and their contents shall be simplified by selecting the essential, basic knowledge and skills, the textbooks shall be affordable and of practical use, and their quality shall be guaranteed.

Staff members of government departments and the persons responsible for examining textbooks shall not participate in compiling textbooks or do so in disguised form.

**Article 39**

The State practices an examination and approval system for textbooks. The measures for examination and approval of textbooks shall be formulated by the administrative department for education under the State Council.

Textbooks which have not been examined and for which no approval has been obtained shall not be published or used.

**Article 40**

The criterion prices for textbooks shall be fixed under the principle of minimum profits by the administrative department for pricing under the State Council together with the administrative department for publication. The prices for their retail shall be fixed on the basis of the criterion prices by the administrative departments for pricing of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government, together with the administrative departments for publication.

**Article 41**

The State encourages cyclical use of textbooks.

## **Chapter VI** **Guarantee of Funds**

**Article 42**

The State places compulsory education completely within the scope of financial guarantee and the funds for compulsory education shall be guaranteed by the State Council and the local people's governments at various levels according to the provisions of this Law.

The State Council and the local people's governments at various levels shall incorporate the funds for compulsory education into their budgets and allot such funds in full and in a timely manner in conformity with the standards for the size of the teaching staff and their salaries and the standards for the development of schools and for the average amount of funds per student for public use, in order to ensure the normal running of schools, the safety of the school buildings and the payment of the salaries of the teaching staff according to regulations.

The percentage of increase in government funds allotted for compulsory education by the State Council and the local people's governments at various levels shall be higher than the percentage of increase in regular government revenues, in order to ensure the gradual increase in the average amount of funds for compulsory education per student in school, in the salaries of the teaching staff and in the average amount of funds per student for public use.

**Article 43**

The basic standard for the average amount of funds per school student for public use shall be formulated by the administrative department for finance under the State Council together with the administrative department for education and be adjusted in time on the basis of economic and social development. When the standard for the average amount of funds per student for public use is formulated or adjusted, attention shall be paid to meeting the basic need of instruction and teaching.

The people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall, in light of the realities within their own administrative areas, formulate the standard for the average amount of funds per school student for public use which shall not be lower than the standard formulated by the State.

The standard for the average amount of funds per student for public use of schools (classes) providing special education shall be higher than that for students of regular schools.

**Article 44**

Input of funds for compulsory education shall be provided jointly by the State Council and the local people's governments at various levels on the basis of their respective duties, and the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for establishing a system for overall planning for bringing such provision into effect. The funds needed for compulsory education in rural areas shall be shared by the people's governments at various levels on the basis of the items and proportions as prescribed by the State Council.

People's governments at various levels shall gratuitously provide textbooks for the school-age children and adolescents whose families are in financial difficulties, and subsidize resident students in living expenses.

The specific measures for guaranteeing funds for compulsory education shall be formulated by the State Council.

**Article 45**

The local people's governments at various levels shall separately list the funds for compulsory education in their financial budgets.

When drawing up their budgets, people's governments at the county level shall arrange the funds for compulsory education in a balanced manner, apart from giving preferential consideration to schools in rural areas and schools started on weak foundations.

**Article 46**

The State Council and the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall standardize the financial system for transfer payment, increase the amount of such transfer of a general nature and standardize the transfer payment specially for compulsory education, in order to support and guide the local people's governments at various levels in increasing their input in compulsory education. The local people's governments at various levels shall make sure that the funds provided through transfer payment by the people's governments at the higher levels for compulsory education be used for compulsory education according to regulations.

**Article 47**

The State Council and the local people's governments at or above the county level shall, in light of actual need, set up special funds to assist the rural areas and the areas inhabited by ethnic groups in providing compulsory education.

**Article 48**

The State encourages public organizations and individuals to make donations to compulsory education, and encourages the establishment of foundations for compulsory education in accordance with the State regulations governing the administration of foundations.

**Article 49**

The funds for compulsory education shall strictly be used in a way as specified in the budget. No organizations or individuals may take illegal possession of or misappropriate such funds, or illegally collect fees from schools or apportion fees among them.

**Article 50**

People's governments at or above the county level shall establish a sound system of supervision through auditing and of announcement of statistics in respect of the funds for compulsory education.

## **Chapter VII**

### **Legal Responsibility**

**Article 51**

Where the related department of the State Council or a local people's government, in violation of the provisions in Chapter VI of this Law, fails to perform the duty of guaranteeing the funds for compulsory education, it shall be ordered by the State Council or the people's government at a higher level to make rectification within a time limit; and if the circumstances are serious, the person directly in charge and the other persons directly responsible shall be given administrative sanctions according to law.

**Article 52**

A local people's government at or above the county level shall, under one of the following circumstances, be ordered by the people's government at a higher level to make rectification within a time limit; and if the circumstances are serious, the person directly in charge and the other persons directly responsible shall be given administrative sanctions according to law:

- (1) Failing to formulate or adjust the plans for the establishment of schools according to relevant State regulations;
- (2) failing to establish schools in compliance with the standards for running schools, the requirements for location and the standard for construction as prescribed by the State;
- (3) Failing to regularly inspect school buildings with respect to their safety and to have them maintained or renovated in time; or
- (4) Failing to arrange the funds for compulsory education in a balanced manner according to law.

**Article 53**

A people's government at or above the county level or its administrative department for education shall, under one of the following circumstances, be ordered to make rectification within a time limit and be criticized in a circular by the people's government at a higher level or its administrative department for education; and if the circumstances are serious, the person directly in charge and the other persons directly responsible shall be given administrative sanctions according to law:

- (1) Dividing schools into key and non-key schools; or
- (2) Changing, or changing in disguised form, the nature of government-run schools.

Where the administrative department for education of the people's government at the county level or the people's government of a town or township fails to adopt measures to arrange for school-age children and adolescents to enroll in school or to prevent them from dropping out of school, they shall be pursued for legal responsibility according to the provisions in the preceding paragraph.

**Article 54**

Under one of the following circumstances, the organization or individual shall be ordered to make rectification within a time limit by the people's government at a higher level or its administrative department for education, finance or pricing or the auditing authority on the basis of the division of duties; and if the circumstances are serious, the person directly in charge and the other persons directly responsible shall be punished according to law:

- (1) Taking illegal possession of or misappropriating the funds for compulsory education; or
- (2) Illegally collecting fees from schools or apportioning fees among them.

**Article 55**

A school or teacher that, in the work of compulsory education, violates the provisions in the Education Law or Teachers Law shall be punished according to the provisions in either of the said laws.

**Article 56**

A school that collects fees in violation of State regulations shall be ordered by the administrative department for education of the people's government at the county level to return such fees; and the person directly in charge and the other persons directly responsible shall be punished according to law.

A school that seeks profits by selling commodities, services, etc. to students or doing so in disguised form shall be criticized in a circular by the administrative department for education of the people's government at the county level; the illegal gains, if any, shall be confiscated; and the person directly in charge and the other persons directly responsible shall be punished according to law.

A staff member of a State organ or a person responsible for examining textbooks who participates in compiling textbooks or does so in disguised form shall be ordered to make rectification within a time limit by the people's government at or above the county level or its administrative department for education on the basis of their respective duties and limits of power, and be given administrative sanctions according to law; and the illegal gains, if any, shall be confiscated.

**Article 57**

Under one of the following circumstances, a school shall be ordered to make rectification within a time limit by the administrative department for education of the people's government at the county level; and if the circumstances are serious, the person directly in charge and the other persons directly responsible shall be punished according to law:

- (1) Refusing to admit to the classes corresponding to the levels of the disabled school-age children and adolescents who are capable of receiving regular education;
- (2) Dividing classes into key and non-key ones;
- (3) Expelling students in violation of the provisions in this Law; or
- (4) Using textbooks which have not been examined and for which no approval has been obtained.

**Article 58**

The parents or other statutory guardians of school-age children or adolescents who, without justifiable reasons, fail to send them to schools to receive compulsory education according to the provisions of this Law shall be criticized by the local people's government of the town or township or the administrative department for education of the people's government at the county level and be ordered by the said government or department to make rectification within a time limit.

**Article 59**

Under one of the following circumstances, an organization or individual shall be punished according to the provisions of relevant laws and administrative regulations:

- (1) Coercing or cajoling school-age children or adolescents who should receive compulsory education into forfeiting schooling or dropping out of school;
- (2) Illegally employing school-age children or adolescents who should receive compulsory education; or
- (3) Publishing textbooks which have not been examined and for which no approval has been obtained according to law.

**Article 60**

A violation of the provisions of this Law that constitutes a crime shall be investigated for criminal responsibility according to law.

## **Chapter VIII Supplementary Provisions**

**Article 61**

The measures for implementing the provisions that school-age children and adolescents who receive compulsory education are exempted from miscellaneous fees shall be formulated by the State Council.

**Article 62**

For schools that are run by public organizations or individuals according to law to provide compulsory education, the relevant provisions in the Law on Promotion of Privately-Run Schools shall be observed; for matters with regard to which no provisions are contained in the said law, this Law shall prevail.

**Article 63**

This Law shall go into effect as of September 1, 2006.

## **Population and Family Planning Law of the People's Republic of China**

Adopted at the 25th Meeting of the Standing Committee of the Ninth National People's Congress of the People's Republic of China on December 29, 2001, is hereby promulgated and shall go into effect as of September 1, 2002.

### **Chapter I**

#### **General Provisions**

##### **Article 1**

This Law is enacted, in accordance with the Constitution, for the purpose of bringing about a coordinated development between population on the one side and the economy, society, resources and environment on the other, promoting family planning, protecting the legitimate rights and interests of citizens, enhancing happiness of families, and contributing to prosperity of the nation and progress of the society.

##### **Article 2**

China being a populous country, family planning is a fundamental State policy.

The State adopts a comprehensive measure to control the size and raise the general quality of the population.

The State relies on publicity and education, advances in science and technology, multi-purpose services and the establishment and improvement of the reward and social security systems in carrying out the population and family planning programs.

##### **Article 3**

The population and family planning programs shall be combined with the efforts to offer more opportunities for women to receive education and get employed, improve their health and elevate their status.

##### **Article 4**

When promoting family planning, the people's governments at all levels and their staff members shall perform their administrative duties strictly in accordance with law, and enforce the law in a civil manner, and they may not infringe upon legitimate rights and interests of citizens.

Lawful performance of the official duties by the administrative departments for family planning and their staff members shall be protected by law.

##### **Article 5**

The State Council shall exercise leadership over the population and family planning programs throughout the country. Local people's governments at all levels shall exercise leadership over the population and family planning programs within their own administrative regions.

##### **Article 6**

The administrative department for family planning under the State Council shall be in charge of the family planning program and the population program related to family planning nationwide.

Family planning administration departments of the local people's governments at or above the county level shall be in charge of the family planning program and the population program related to family planning within their own administrative regions.

The other administrative departments of the local people's governments at or above the county level shall be in charge of the relevant aspects of the population and family planning programs within the limits of their duties.

##### **Article 7**

Public organizations such as Trade Unions, Communist Youth Leagues, Women's Federations, and Family Planning Associations, as well as enterprises, institutions, and individual citizens shall assist the people's governments in carrying out the population and family planning programs.

##### **Article 8**

The State gives rewards to organizations and individuals that have scored outstanding achievements in the population program and family planning.

## **Chapter II**

### **Formulation and Implementation of Population Development Plans**

#### **Article 9**

The State Council shall make plans for population development and incorporate them into the national economic and social development plans.

Based on the plans for population development nationwide and such plans made by the people's governments at the next higher level, people's governments at or above the county level shall, in light of their local conditions, work out such plans for their own administrative regions and incorporate them into their economic and social development plans.

#### **Article 10**

People's governments at or above the county level shall, on the basis of the population development plans, formulate plans for implementation of the population and family planning programs and make arrangements for their implementation.

The administrative departments for family planning of the people's governments at or above the county level shall be responsible for routine implementation of the population and family planning plans.

People's governments of townships, ethnic townships, and towns, and neighborhood offices in urban areas shall be in charge of the population and family planning programs in the areas under their jurisdiction and shall implement the population and family planning plans.

#### **Article 11**

In the implementation plans for population and family planning programs shall be specified measures for keeping the size of the population under control, improving maternal and child healthcare services, and raising the general quality of the population.

#### **Article 12**

Villagers' committees and residents' committees shall, in accordance with law, make a success of the family planning programs.

Government departments, the armed forces, public organizations, enterprises and institutions shall make a success of the family planning programs in their own units.

#### **Article 13**

Departments in charge of family planning, education, science and technology, culture, public health, civil affairs, the press and publication, and radio and television broadcasting shall make arrangements to conduct public education in the importance of the population program and family planning.

The mass media are obligated to give publicity to the population program and family planning for the public good.

Schools shall, in a manner suited to the characteristics of the receivers and in a planned way, conduct among pupils education in physiology and health, puberty or sexual health.

#### **Article 14**

Family planning among migrant people shall jointly be managed by the people's governments of the place where their residence is registered and of the place where they are currently staying, but chiefly by the latter.

#### **Article 15**

The State, on the basis of the national economic and social development, gradually increases the overall amount of funding for the population and family planning programs. People's governments at all levels shall guarantee the necessary funding for the said programs.

People's governments at all levels shall give special support to the population and family planning programs in poverty-stricken areas and in areas inhabited by ethnic peoples.

The State encourages public organizations, enterprises and institutions and individuals to offer financial assistance to the population and family planning programs.

No unit or individual may withhold, reduce or misappropriate the funds earmarked for the population and family planning programs.

**Article 16**

The State encourages scientific research and international exchange and cooperation in respect of the population and family planning programs.

### **Chapter III Regulation of Reproduction**

**Article 17**

Citizens have the right to reproduction as well as the obligation to practise family planning according to law. Both husband and wife bear equal responsibility for family planning.

**Article 18**

The State maintains its current policy for reproduction, encouraging late marriage and childbearing and advocating one child per couple. Where the requirements specified by laws and regulations are met, plans for a second child, if requested, may be made. Specific measures in this regard shall be formulated by the people's congress or its standing committee of a province, autonomous region, or municipality directly under the Central Government.

Family planning shall also be introduced to the ethnic peoples. Specific measures in this regard shall be formulated by the people's congress or its standing committee of a province, autonomous region, or municipality directly under the Central Government.

**Article 19**

Family planning shall be practised chiefly by means of contraception.

The State creates conditions to ensure that individual citizens knowingly choose safe, effective, and appropriate contraceptive methods. Where birth control operations are performed, the recipients' safety shall be ensured.

**Article 20**

Couples of reproductive age shall conscientiously adopt contraceptive methods and accept technical services and guidance for family planning.

Incidence of unwanted pregnancies shall be prevented and reduced.

**Article 21**

Couples of reproductive age who practice family planning shall receive, free of charge, the basic items of technical services specified by the State.

The funds needed for rendering the services specified in the preceding paragraph shall, in accordance with relevant State regulations, be listed in the budget or be guaranteed by social insurance plans.

**Article 22**

Discrimination against and maltreatment of women who give birth to baby girls or who suffer from infertility are prohibited. Discrimination against, maltreatment, and abandonment of baby girls are prohibited.

### **Chapter IV Rewards and Social Security**

**Article 23**

The State, in accordance with regulations, rewards couples who practice family planning.

**Article 24**

To facilitate family planning, the State establishes and improves the social security system covering the basic old-age insurance, basic medical insurance, childbearing insurance, and welfare benefits.

The State encourages insurance companies to offer insurance schemes that facilitate family planning. In rural areas where conditions permit, various types of old-age support schemes may be adopted in adherence to the principles of government guidance and willingness on the part of the rural people.

**Article 25**

Citizens who marry late and delay childbearing may be entitled to longer nuptial and maternity leaves or other welfare benefits.



**Article 26**

In accordance with relevant State regulations, women shall enjoy special occupational protection and be entitled to assistance and subsidies during the period of pregnancy, delivery, and breast-feeding. Citizens who undergo surgical operation for family planning shall enjoy leaves as specified by the State. Local people's governments may give those rewards.

**Article 27**

The State shall issue to a couple who volunteer to have only one child in their lifetime a "Certificate of Honor for Single-Child Parents".

Couples who are issued the said certificate shall enjoy rewards in accordance with the relevant regulations of the State and of the province, autonomous region, or municipality directly under the Central Government.

Where measures in laws, rules or regulations specify that the rewards to couples who have only one child in their lifetime shall be given by the units where they work, such units shall execute the measures.

Where the only child of a couple is disabled or killed in accidents, and the couple decides not to have or adopt another child, the local people's government shall provide the couple with necessary assistance.

**Article 28**

Local people's governments at all levels shall help rural households that practice family planning to develop economic undertakings by giving them support and preferential treatment in terms of funds, technology and training. Poverty-stricken households that practice family planning shall be given priority in terms of poverty-alleviation loans, relief through work and other poverty-alleviation projects, and social assistance.

**Article 29**

Specific measures for conferring rewards specified in this Chapter may be formulated by the people's congresses or their standing committees or the people's governments of the provinces, autonomous regions, municipalities directly under the Central Government or larger cities in accordance with the provisions of this Law and relevant laws and administrative regulations and in light of local conditions.

## **Chapter V**

### **Technical Services for Family Planning**

**Article 30**

The State establishes premarital health care and maternal health care systems to prevent or reduce the incidence of birth defects and improve the health of newborns.

**Article 31**

People's governments at all levels shall take measures to ensure citizens' access to technical services for family planning in order to improve their reproductive health.

**Article 32**

Local people's governments at all levels shall rationally allocate and make multi-purpose use of health resources, establish and improve family planning technical service networks comprising family planning technical service institutions and medical and healthcare institutions providing such services and upgrade the facilities and improve the conditions for and raise the level of, such services.

**Article 33**

Family planning technical service institutions and medical and healthcare institutions providing such services shall, within the scope of their respective responsibilities, conduct, among different reproductive age groups of people, publicity and education in the basic knowledge about the population program and family planning, provide pregnancy check-ups and follow-up for married women of reproductive age, offer advice and guidance and provide technical services in respect of family planning and reproductive health.

**Article 34**

Persons providing family planning technical services shall give guidance to citizens who practice family planning in choosing the safe, effective and appropriate contraceptive methods.

Couples who already have children are encouraged to choose long-acting contraceptive methods. The State encourages research in, employment and wide use of, new technologies and contraceptives for family planning.

**Article 35**

Use of ultrasonography or other techniques to identify fetal sex for non-medical purposes is strictly prohibited. Sex-selective pregnancy termination for non-medical purposes is strictly prohibited.

**Chapter VI**  
**Legal Liability****Article 36**

Anyone who, in violation of the provisions of this Law, commits one of the following acts shall be instructed to make rectification and be given a disciplinary warning, and his unlawful gains shall be confiscated by the administrative department for family planning or public health; if the unlawful gains exceed RMB 10,000 yuan, he shall be fined not less than two times but not more than six times the amount of the unlawful gains; if there are no unlawful gains or the said gains are less than 10,000 yuan, he shall be fined not less than 10,000 yuan but not more than 30,000 yuan; if the circumstances are serious, his license shall be revoked by the authority that issued it; if a crime is constituted, he shall be investigated for criminal liability in accordance with law:

- (1) Illegally performing an operation related to family planning on another person;
- (2) Using ultrasonography or other techniques to identify fetal gender for non-medical purposes or to bring about sex-selective pregnancy termination for non-medical purposes for another person; or
- (3) Performing a fake birth-control operation, providing a false medical report, or issuing a counterfeit certificate of family planning.

**Article 37**

If anyone forges, alters or trades in certificates of family planning, his unlawful gains shall be confiscated by the administrative department for family planning; if the said gains exceed 5,000 yuan, he shall be fined not less than two times but not more than ten times the amount of the said gains; if there are no such gains or the gains are less than 5,000 yuan, he shall be fined not less than 5,000 yuan but not more than 20,000 yuan. If the offence constitutes a crime, he shall be investigated for criminal liability in accordance with law.

A certificate of family planning that is obtained by illegitimate means shall be revoked by the administrative department for family planning; if the fault lies with the unit that issues such a certificate, the persons who are directly in charge and the other persons who are directly responsible shall be given administrative sanctions in accordance with law.

**Article 38**

Persons providing technical services for family planning who serve against rules and regulations or delay rescue measures, diagnosis or treatment, if the consequences are serious, shall, in accordance with relevant laws and administrative regulations, bear appropriate legal liability.

**Article 39**

Any functionary of a State organ who commits one of the following acts in the work of family planning, if the act constitutes a crime, shall be investigated for criminal liability in accordance with law; if it does not constitute a crime, he shall be given an administrative sanction in accordance with law; his unlawful gains, if any, shall be confiscated:

- (1) Infringing on a citizen's personal rights, property rights or other legitimate rights and interests;
- (2) Abusing his power, neglecting his duty or engaging in malpractices for personal gain;
- (3) Demanding or accepting bribes;
- (4) Withholding, reducing, misappropriating or embezzling funds for family planning or social maintenance fees; or
- (5) Making false or deceptive statistic data on population or family planning, or fabricating, tampering with, or refusing to provide such data.

**Article 40**

Any unit that, in violation of the provisions of this Law, fails to perform its obligation of assisting in the administration of family planning shall be instructed to make rectification and be criticized in a circular by the local people's government concerned; the persons who are directly in charge and the other persons who are directly responsible shall be given administrative sanctions in accordance with law.

**Article 41**

Citizens who give birth to babies not in compliance with the provisions of Article 18 of this Law shall pay a social maintenance fee prescribed by law.

Citizens who fails to pay the full amount of the said fees payable within the specified time limit shall have to pay an additional surcharge each in accordance with relevant State regulations, counting from the date each fails to pay the fees; with regard to ones who still fail to make the payment, the administrative department for family planning that makes the decision on collection of the fees shall, in accordance with law, apply to the People's Court for enforcement.

**Article 42**

Where the person who should pay the social maintenance fees in accordance with the provisions prescribed in Article 41 of this Law is a State functionary, he shall, in addition, be given an administrative sanction in accordance with law; with regard to a person other than the State functionary, a disciplinary measure shall, in addition, be taken against him by the unit or organization where he belongs.

**Article 43**

Anyone who resists or hinders the administrative department for family planning or its staff members in their performance of their official duties in accordance with law shall be subject to criticism and be stopped by the administrative department for family planning. If his act constitutes a violation of the administrative regulations for public security, he shall, in accordance with law, be given a penalty for the violation; if it constitutes a crime, he shall be investigated for criminal liability.

**Article 44**

Citizens, legal persons or other organizations that believe an administrative department infringes upon their legitimate rights and interests while administering the family planning program may, in accordance with law, appeal for administrative review or initiate administrative proceedings.

## **Chapter VII**

### **Supplementary provisions**

**Article 45**

Specific measures for family planning among migrant persons and for providing to them family planning technical services, and measures for collecting social maintenance fees shall be formulated by the State Council.

**Article 46**

Specific measures for implementing this Law by the Chinese People's Liberation Army shall be formulated by the Central Military Commission in accordance with this Law.

**Article 47**

This Law shall go into effect as of September 1, 2002.