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POPULATION POLICIES AND LAWS IN ASIA: CURRENT STATUS AND LEGISLATIVE OPPORTUNITIES

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INTRODUCTION

The governments of Asia have accumulated a great wealth of experience in enacting laws and policies to affect population growth. More than any other region of the world, Asia has been aware that rapid population growth, combined with massive migration to the cities, can be a cause of or major contributor to high unemployment, inadequate housing, pollution, illiteracy, poor sanitation, malnutrition, and limited public services. And more than those in any other region, the countries of Asia have taken steps to alleviate these problems by trying to reduce rapid population growth.

A great deal can be learned from Asian countries. The legislative experience in one nation can be shared with those in others. In this way, we can try to avoid the situation in which, to quote one commentator, "those who fail to learn from history are doomed to repeat it." To help further an exchange of knowledge, this review of Asian policies and laws affecting population has been prepared. It covers three topics of current importance: population policies, fertility regulation, and migration.

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POPULATION POLICIES

Explicit Population Policy Statements

Official statements of population policy usually take one of two forms: they are included in comprehensive development plans or they are issued as separate policy statements. The two are not mutually exclusive.

Both forms are public affirmations that population is an important government concern. Inclusion in development plans indicates that population is crucial to, but only one of the many factors in, development. More detailed, explicit statements issued separately by high-ranking officials or embodied in formal documents can focus special attention on population issues.

The countries of Asia have taken the lead in issuing population policy statements. The government of India issued the first national population policy in 1952, followed by other Asian governments. The most recent development plans of Bangladesh, China, India, Indonesia, Nepal, Pakistan, the Philippines, the Republic of Korea, and Thailand express concern about population growth rates and propose measures to reduce them.

The national constitution of the Philippines calls for population policies that promote national and economic welfare; that of Vietnam requires the state to provide family planning services. The constitution of China not only stresses the importance of population policy for national development but also states that both husbands and wives have a duty to practice family planning.

What do population policies -- whether included in development plans or issued as separate statements -- say? Most

give the rationale for having the policy, set objectives and establish targets, often in the form of quantitative goals, support organized family planning activities, and refer to, or propose, indirect policies to reduce fertility. Unlike African, Latin American, and Middle Eastern policies, many Asian population policies stress the urgency of slowing population growth because of its effect on food shortages, resource depletion, and, the quality of life in general. They also set quantitative targets. For example, the Bangladesh Five-Year Plan sets a goal of reducing the total fertility rate* from 5.8 in 1981 to 4.1 in 1985. The Philippine five-year development plan, 1983-1987, calls for a reduction of the birthrate from 31.2 per 1,000 in 1983 to 27.9 in 1987. Meeting as a group in Beijing in 1982, Asian parliamentarians set a goal of a regional population growth rate of one percent, to be achieved by the year 2000. Some policies also include specific targets for numbers of acceptors, by contraceptive method.

In addition to supporting family planning programs, population policies often endorse economic measures to encourage small families. The population policies of Bangladesh, India, Indonesia, Nepal, Pakistan, the People's Republic of China, the Republic of Korea, Singapore, and Thailand suggest or establish rewards for couples with small families or those who have been sterilized. Thailand's development plan, for example, proposes various measures to extend the availability of fertility

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* The total fertility rate is the number of children a woman would be expected to have in her lifetime if she bore children at the current age-specific fertility rates.

regulation services, including permitting nurses to insert IUDs, allowing specially trained auxiliary health personnel to perform voluntary sterilizations, and reforming the abortion law. In addition, it suggests various measures to motivate couples to have no more than two children. These include lowering the income tax for single people and raising the minimum age of marriage.

Policy-Making and Coordinating Units

Establishing a high-level unit to formulate, coordinate, or monitor population policies can help to ensure that they are actually implemented. Population policy units now exist in most Asian countries. These units take essentially three different forms:

- Small technical units providing information and analysis at a high level of government. In Sri Lanka, there is a Population Division within the Ministry of Plan Implementation; in Thailand, the Population and Manpower Planning Division is located within the National Economic and Social Development Board.

- Interministerial coordinating councils, representing various government agencies, that review policy and sometimes oversee family planning programs and population research. Examples of these are the population commissions of Nepal, the Philippines, and the Republic of Korea.

- Coordinating councils, such as the BKKBN in Indonesia, that oversee or administer the national family planning program. Their responsibilities can include receiving and distributing international funds for family planning activities.

  The effectiveness of a policy-making or coordinating body does not seem to depend primarily on the type of organization. More important seem to be 1) the direct involvement of the nation's president or some other powerful leader; 2) a charismatic group leader; and 3) a dedicated and competent staff of sufficient size.

FERTILITY REGULATION

Family Planning Programs

Ninety-six percent of the population of the developing world lives in countries that support family planning. Currently in Asia, only Burma, the Democratic People's Republic of Korea, Kampuchea, Laos, and Mongolia, either restrict or provide no support to family planning services. A number of Asian nations have devoted great effort to family planning: On the whole, the number of service points per 10,000 eligible couples grew from one in 1960 to 7.5 in 1980. Furthermore, some countries have demonstrated marked success. Budget allocations are one crucial item in the success of family planning programs. Available data suggest that government allocations to family planning programs in Asia have been growing steadily. In Indonesia, for example, the government budget for family planning rose from U.S. $5.6 million in 1972 to $49.2 million in 1980. Similar increases can be cited for other countries. The International Conference on Family Planning in the 1980s (which met in Jakarta, Indonesia, in 1981) recommended that developing countries allocate approximately five percent of their national budgets to family planning. The only country even approaching that is Bangladesh, where family planning accounted for 3.1 percent of the national budget in 1981.

Making Contraceptives More Accessible

In addition to support for family planning programs, a wide range of law and policy measures can make contraceptives more available. These can involve changes in legislation or in

ministerial regulations. Such measures include the following:

- Legalizing the distribution of contraceptives. In some countries, public policy promotes distribution, but outdated legislation prohibiting the distribution of contraceptives has not been repealed.

- Widening the availability of contraceptives (particularly oral contraceptives). By eliminating the requirement of a prescription for oral contraceptives, and by allowing nurses, pharmacists, midwives, other auxiliary health personnel, and community agents to serve as distributors, access to contraceptive supplies can be increased. In Bangladesh, Indonesia, Nepal, Pakistan, the People's Republic of China, the Philippines, and Thailand, oral contraceptives are dispensed by nonphysicians. In India, 1983 regulations permit village health workers to distribute oral contraceptives, provided clients see a physician within six months. This change increased the number of distribution points for pills from 43,000 to 250,000. In addition to permitting distribution of the pill through a wide variety of community and commercial channels, some countries --including Bangladesh, Hong Kong, Pakistan, the People's Republic of China, the Philippines, the Republic of Korea, and Thailand -- permit trained auxiliary health personnel to insert IUDs. Evaluations from around the world have demonstrated that properly trained nurses and auxiliaries can perform routine family planning tasks, including IUD insertion, as safely as physicians can.

- Reducing import duties on contraceptives and the ingredients for contraceptives. This has been done in Bangladesh, Sri Lanka, and Thailand, and is being considered in the Republic of Korea. Reduction of import duties is not as simple a matter as it first appears, since it can conflict with policies to bolster local industry, to reduce dependence on foreign donors, and to gain foreign exchange.

- Permitting public advertisement of contraceptives. While few countries prohibit promotion of family planning, advertising of contraceptive methods is sometimes restricted in various ways -- often under obscenity laws. Fear of prosecution can keep contraceptive advertising off radio, television, or the printed page -- no matter what a nation's avowed population policy. Active publicity for contraceptives has been given in Bangladesh, India, and Sri Lanka in conjunction with "social marketing" programs.

Voluntary Sterilization

Voluntary sterilization has been the backbone of a number of Asian programs. It has been actively promoted in Bangladesh, China, India, Pakistan, Singapore and Sri Lanka.

Since voluntary sterilization is generally irreversable, a major concern has been to facilitate access and promote the procedure while taking steps to prevent abuse. To make voluntary sterilization more accessible, governments have done the following:

- Made it clear through legislation, regulation or presidential proclamation that the procedure is legal. For example, an order issued in 1976 by President Marcos of the Philippines established the legality of sterilization. Singapore's Voluntary Sterilization Act of 1974 made it clear that the procedure was not a grievous bodily injury under the Criminal Code.
- Offered incentives to providers, promoters and clients. This practice is discussed in more detail later.
- Enabled appropriately trained nurses or other auxiliary personnel to perform the operation. In Bangladesh, China and Thailand, nonphysicians have been trained to perform tubal ligations and apparently are doing so without increased risk to the patient.

Parallel to policies designed to make services available are those whose objective is to prevent abuse or to reduce the possibility of later regret. These include requiring that formal informed consent of the client be obtained, establishing minimum age and parity guidelines, penalizing those who perform sterilizations without obtaining consent, and compensating those who were sterilized under duress.

Compensation and Incentives

Governments can reinforce population policies, as they reinforce other national policies, by rewarding those who follow

national policy and penalizing those who do not. In Asian programs, these types of reinforcement -- often referred to as incentives and disincentives -- take at least five different forms:

- Special payments to health personnel providing family planning services. Virtually all Asian programs supplement the salaries of physicians, nurses, paramedical staff, and recruiters who provide family planning services. Payments range from a certain amount per sterilization (as in Nepal) to an additional monthly stipend for family planning workers (as in some Indian states).

- Payment in cash or kind to acceptors of specific family planning methods, particularly sterilization. In most cases, these have been justified as payments to cover the loss of wages for several working days, transportation, and other incidental costs. Cash payments are given in Bangladesh, a number of Indian states, Nepal, and Sri Lanka. The amount ranges from one to four weeks' pay. Paid leave for sterilization is common.

- Economic or social benefits for families under a specified size. This general approach is utilized in China and Singapore, and is also followed in Nepal, the Republic of Korea, Nepal, and some Indian states. In China, benefits to families that agree to have only one child can be extensive. Children of one-child families receive priority in health care and admission to schools. Their parents are eligible for better housing, better jobs, an additional monthly stipend, government loans, and, eventually, higher pensions. This is implemented locally with one-child certificates and other incentives such as extra work points and time off for sterilization and abortion.

- Rewards to communities that meet or exceed national goals. Community incentives have been tried in China, Indonesia, Thailand, and the Indian states of Uttar Pradesh, Madya Pradesh, Haryana, and Gujarat.

- Penalties or loss of benefits ("disincentives"). China and Singapore have imposed serious disincentives on large families, including loss of housing and educational benefits. The most common disincentive is limitation on tax allowances to a specified number of children, as in Korea, Indonesia, and Thailand. This may affect the urban and salaried populations but has less influence in agricultural areas.

Incentives and disincentives raise significant ethical, political, and administrative questions. For example, many critics consider incentives coercive, reducing people's freedom to choose the size of their families. Others argue that in some countries, the needs of the society to control population growth must take precedence over individual choice. Legislators, by their need to be responsive to their constituents, are in a unique position to balance societal and individual interests, to see that programs are implemented in an evenhanded manner, and to assure that incentives, where they are offered, reflect the opinion of the public.

Status of Women

In addition to influencing population growth directly (through accessible services, incentives, and disincentives), policy-makers can influence fertility indirectly by stimulating people to want smaller families. Historically, family size has declined as the standard of living has improved; smaller families have been associated with improved health (particularly lower infant mortality), better education, fairer distribution of income and higher income.

How much these changes actually affect fertility may depend, however, on the degree to which such improvements are available to women. Thus, policies to improve the status of women are central to the indirect measures to influence fertility. Government initiatives can improve the status of women through passage of new laws, interpretation of existing laws, emphasis within development plans, budgetary allocations, and

establishment of administrative mechanisms. The initiatives fall into three major categories:

- Civil and political rights. The fundamental rights to vote and to hold elected office are guaranteed to women in most countries, but the ability to own property or to enter into contracts is limited in some places.

- Marriage and the family. This category includes laws regulating marriage and divorce as well as those providing greater equality within marriage. Laws raising the age of marriage can make it more difficult for parents to marry off their children -- usually their daughters -- at an early age, often without their consent. China, Indonesia, Sri Lanka, and Thailand have recently raised the age of marriage. An area that is changing, albeit slowly, is equality of spouses within a marriage. The Republic of Korea, for example, passed a law permitting women in a family to inherit property on an equal basis with men.

- Access to education, health, employment, and social benefits. Although these are guaranteed in a number of Asian constitutions and laws, implementation has been spotty.

Particularly with regard to the rights of women, having laws on the books does not necessarily mean that policies will be implemented. While legislative changes are important, to be successful they must be accompanied by efforts aimed at the modification of customs, attitudes, and traditions.

MIGRATION

Although population policy analysis has tended to concentrate on fertility, more attention is now being given to the explosive growth of major cities, the flow of migrant workers, and the increasing number of refugees. There is to date little agreement on policies that would best deal with issues of migration.

Internal Migration

Asian governments have used a variety of methods to reverse, divert, or prevent migration from rural areas to the cities, including the following:

- Instituting rural development programs. This has been the most common mechanism, attempted in almost all Asian countries. Although it is difficult to measure the effect of rural development activities on migration, their success to date appears to be limited. Some experts now argue that these projects may have the reverse of the intended effect. For example, the building of roads and schools may actually increase the desire of rural residents to leave, and some agricultural development projects can favor the larger farmer, squeezing out smaller ones.

- Preventing urban settlement by limiting urban migration, reducing services, or moving urban people to rural areas. On a national basis, the last was attempted in China in 1969-1973 and in Kampuchea during the 1970s. Governments of some cities, such as Seoul and Jakarta, have taken steps to reduce migration by limiting job opportunities for migrants, requiring urban residence permits, or demolishing squatter settlements.

- Diverting migrants to selected areas, such as smaller cities or colonization areas. The Indonesian government is actively encouraging settlement of the outer islands. India, Malaysia, the Philippines, the Republic of Korea, and Thailand have all experimented with mechanisms to encourage the development of "growth pole" centers -- areas considered to have the potential for economic viability. Decentralization programs appear to be having some success in the Republic of Korea; the growth of Seoul has dropped to around 4.5 percent a year, while smaller cities around the capital have been growing at a yearly rate of 12.7 percent. Factors that are thought to be important to the success of alternative urban areas include the availability of necessary capital, potential economic viability of the area, public services to attract workers, and government commitment.

International Migration

Labor migration has been matters of concern to a number of governments. Bangladesh, India, Pakistan, the Philippines, the

Republic of Korea, and Thailand have become major exporters of workers to the oil-producing countries of the Middle East. In 1980, Indians and Pakistanis made up 23 percent of the total immigrant labor market in Middle Eastern countries. Estimates of the number of Pakistanis employed in the Middle East range from 500,000 to well over a million. Remittances from overseas have become an important source of foreign exchange. For example, in 1979, remittances from Pakistanis working overseas totaled U.S. $1.7 billion, compared with $2.2 billion earned from exports.

Government policies concerning labor export have focused on regulating recruitment of workers, repatriation of remittances and, to a lesser extent, treatment of workers. Comparatively little attention has been given to questions such as the reintegration of returned workers, maintenance of family and cultural ties, and the utilization of remittances.

- Recruitment of workers. Every country in Asia has designated a specific organization to handle recruitment for employment abroad. Their involvement ranges from actively participating in all stages of recruitment to simply requiring registration of recruiting agencies. The Republic of Korea plays a very active role. It has negotiated package contracts under which it promises to complete a project within a specified time and supplies labor, management, planning, and even machinery. Other countries, including India, Indonesia, the Philippines, and Thailand, have begun to experiment with this approach.

- Regulating remittances. Government policies seek to control the flow of remittances either by requiring their repatriation (Korean workers overseas must remit 80 percent of their earnings; some Philippine workers, 70 percent) or by offering incentives, such as favorable exchange rates or permission to import some goods duty free.

- Treatment of overseas migrant workers. This issue has recently received increased attention. In addition to licensing recruitment agencies, governments can set up orientation centers to guide prospective emigrants, can

oversee employment contracts, and can prosecute those who use fraudulent means to persuade people to emigrate. In Pakistan, Protectors of Emigrants are appointed to see that emigrants understand the terms and conditions of their employment agreements and to otherwise aid them.

Refugees

In contrast to migrants seeking jobs, refugees are fleeing from political, religious, or ethnic persecution, or from a crisis such as war. The number of refugees in Asia is massive, including perhaps two million refugees from Afghanistan in Pakistan and 200,000 refugees from Kampuchea, Laos, and Vietnam in Thailand (down from 800,000 in mid-1980).

Of the various policy alternatives, repatriation and resettlement in the country of asylum have been successful in only a few cases. Asian countries have, by and large, chosen to admit refugees temporarily and place them in refugee camps prior to resettlement in other countries. Even with financial and program help from the United Nations High Commissioner for Refugees and others, refugees have placed an enormous burden on some countries of first asylum.

CONCLUSIONS

The experience of Asian countries indicates a number of legislative opportunities that can be utilized influence population trends. These include clear and articulate expressions of national population policy backed up by sufficient funds; establishment of strong policy-making or coordinating bodies; legislation to facilitate the distribution, import, manufacture, and advertisement of contraceptives; clarification

of the legality of voluntary sterilization and oversight of sterilization programs; provision of compensation to acceptors of contraception and sterilization while protecting the rights of individuals; improvement in the civil, political, economic, and social status of women; and enactment of policies to better control urban growth and to regulate international migration. Parliamentarians can seize these opportunities, benefiting from the experiences gained in other countries and adapting the more successful approaches to their own distinctive needs, culture, and society.