

**IMPLEMENTATION OF THE CONVENTION ON THE
ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST
WOMEN IN THE PEOPLE'S REPUBLIC OF CHINA**

**A PARALLEL NGO REPORT BY HUMAN RIGHTS IN CHINA
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Submitted to the Committee on the Elimination of Discrimination against Women in advance of its review of the combined fifth and sixth periodic reports of the People's Republic of China on implementation of the Convention on the Elimination of All Forms of Discrimination against Women



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EXECUTIVE SUMMARY

Overview

The People’s Republic of China (PRC) was among the original 64 States to sign the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW or “the Convention”) when it opened for signature at the 1980 Second World Conference on Women in Copenhagen, and the government ratified the Convention within the same year, in November 1980. Today, CEDAW has 183 State Parties and remains one of the most widely acceded international human rights treaties. Whereas the PRC combined 5th and 6th Periodic Report (“PRC Report”) reflects some progress in reporting efforts since the previous round of reporting, including gathering and reporting of information, despite the PRC’s long-standing support for CEDAW, serious challenges remain for effective domestic implementation of the Convention.

Over the past two decades, the PRC has seen an unprecedented level of rapid macroeconomic growth; yet domestic aggregated figures of China’s prosperity conceal the uneven distribution of this wealth between rural and urban areas—and, more fundamentally, between men and women. Human Rights in China (HRIC) submits this report to facilitate the Committee on the Elimination of Discrimination Against Women’s (the Committee) examination of the PRC Report by highlighting specific areas of concern affecting Chinese women. The report will focus on discrimination (Article 1); trafficking and prostitution (Article 6); education (Article 10); health (Article 12); and domestic violence (Article 16). Particular emphasis will be placed on the situation of rural women and girls (Article 14), who continue to endure growing and persistent inequality in their access to education, health and employment, as well as the situation of ethnic minorities and migrant women, who face additional challenges in securing their rights.

The implementation of CEDAW in the PRC is detrimentally affected by lack of transparency and control of information. Much of the data and statistical information provided in the PRC Report are classified as state secrets by the government, including statistics on kidnapping and trafficking, induced abortions, infanticide and the gender ratio. The data provided, therefore, has first been vetted by the government, impacting comprehensive, accurate and complete review of implementation of the Convention by the Committee. At the domestic level, if civil society actors, including civil society organizations, ordinary citizens and the media, cannot have access to information that would enable them to review and assess the full extent of the various issues affecting Chinese women, then they cannot actively or effectively contribute to the promotion of women’s rights in China. All these factors undermine the ability of the Chinese government to build meaningful partnerships with both local and international actors in the forming relevant and useful solutions for the advancement of women that is consistent with the goals and purposes of the Convention.

In addition to constraints on transparency, there remain significant gaps between the formal Chinese law and its compliance with international law to which the PRC is bound as a State Party. This HRIC report notes that these gaps can be the absence of a definition—“discrimination” is not defined under Chinese law—or definitions that are imprecise or inconsistent with the international definition, as in the case of “trafficking in persons” under Article 6 of CEDAW. Gaps are exacerbated by inadequate implementing mechanisms built into the legal system, as for cases of domestic violence in China. Despite the numerous laws cited in the PRC report promulgated to implement articles under the Convention, these gaps negatively impact the effective implementation of CEDAW in the PRC.

Summary of key issues by article

The following is a summary of the key issues by article highlighted in this HRIC parallel report to the PRC Report. A set of categorized and concise recommendations aimed at improving both the reporting process and a more comprehensive and effective implementation of the Convention follows this executive summary.

- **Discrimination (Article 1):** The lack of any definition of “discrimination against women” in PRC legislation hinders effective implementation of the Convention as a whole and prevents the PRC from addressing the concerns and repeated recommendations of the Committee related to discrimination. Without a definition, effective education, and training cannot be undertaken to combat societal discrimination. Further, reporting, assessment and monitoring are all hindered, and women are less able to invoke legal procedures and remedies.
- **Trafficking and Prostitution (Article 6):** Despite reported initiatives to suppress all forms of trafficking in and exploitation of women, efforts have fallen short of substantive protections due to limited legislative definitions, administrative detentions of prostitutes, and policy execution. Due to the control of information and the limited statistics provided, a full assessment of implementation and the impact and effectiveness of initiatives is difficult to carry out.
- **Education (Article 10):** The implementation of the universal right to education in the PRC is marked by weak political will to adequately fund education, which disproportionately affects girls: due to remaining societal prejudices, girls are more likely to be withdrawn from school than boys. The lack of clear data disaggregated by gender, age and actual drop out rates by region also prevents a comprehensive assessment for how continued discrimination against women and girls in China is both a cause and consequence of their lack of access to education.
- **Health (Article 12):** The growing sex-ratio disparity in China is a serious indication that implementation of the PRC family planning policy is wrought with flaws that are both detrimental to women’s health and the makeup of society at large. The full impact of the family planning policy as implemented, however, is difficult to fully assess due to the Government’s classification of relevant information, including information on the number of induced abortions, statistics on infanticide and child abandonment as state secrets. Further, the rapid spread of HIV/AIDS in China has not been adequately addressed with a gender perspective, despite women’s particular vulnerabilities. Rural women face further challenges on access to HIV/AIDS prevention and treatment.
- **Rural Women (Article 14):** Although it provides descriptions of programs directed towards rural women, the PRC Report provides limited information about their actual situation and the impact of government-promulgated policies and programs. The PRC Report also does not adequately address the growing rural-urban divide and the particular impact on rural women of economic inequality and lack of access to basic services. The unique challenges faced by ethnic minority women, many of whom live in rural areas, and migrant women, who leave rural areas in search or employment opportunities in the cities, both of whom face additional challenges, including societal and economic disadvantages, are also not fully addressed.

- **Marriage and family life (Article 16):** Flawed legislation and implementation have left a gap between Chinese domestic law in regards to marriage and family life and China's obligations under CEDAW. This includes insufficient specificity and inclusiveness in the scope of family/domestic violence; requiring a direct victim complaint in most cases of family/domestic violence; and lower penalties for perpetrators of family/domestic violence.

RECOMMENDATIONS

HRIC offers a set of categorized and concise recommendations aimed at improving both the reporting process and the implementation of the Convention. The recommendations seek to address those areas of concern highlighted in this parallel report, and offer suggestions on how to advance the development of benchmarks to assess ongoing compliance as a means to improve program assessment and implementation.

I. Implementation of Obligations

A. Legislative Reform

1. **Legal definitions: Discrimination:** A clear definition of discrimination, consistent with international standards as set out by the Convention must be adopted to enable *de jure* as well as *de facto* equality between men and women. A clear definition will also enable women to invoke administrative and legal mechanisms to protect their rights, and will allow for effective education, training, reporting, assessment and monitoring programs.

2. **Legal definitions: Domestic violence:** In order to effectively implement prohibitions against violence in the home, a definition of what constitutes such violence must be adopted. Any definition must be consistent with international legal standards, and include threats of physical harm and marital rape.

3. **Review of legal protections against domestic violence:** A comprehensive review of legal protections against domestic violence must be undertaken to ensure compliance with the Convention and the Committee's General Recommendation 19. Specifically, protections against domestic violence may have to be addressed outside the narrow confines of the PRC Marriage Law. Further, the burden on victims of domestic violence to file complaints must be lessened to encourage women to come forward. Finally, a review of penalties for perpetrators of domestic violence should be undertaken with a view towards preventing violence, and enhancing coherence with other penalties against violence.

4. **Abolition of the Reeducation Through Labor (RTL) System:** In order to ensure safeguards against abuse, custodial detention must only be imposed where due process rights are ensured. The persistent use of RTL, including as a means to punish prostitutes, violates international law and is also in conflict with existing Chinese legal requirements on the deprivation of citizens' personal freedoms. The RTL system must be abolished to enhance safeguards against violations of personal liberty.

5. **Review of the state secrets framework:** A review of the state secrets legal and regulatory framework must be undertaken to ensure that policymakers do not make decisions in a vacuum of adequate and reliable information with regard to the rights of women. In compliance with international standards on the right to information, freedom of expression and freedom of association, at a minimum the following must be done:

- Revise regulations that classify data and statistics essential for adequate implementation of international treaties, including data on trafficking in humans and statistics on the gender ratio;
- Revise laws and regulations to provide a clear and specific definition of what constitutes a state secret;
- Establish a system that will ensure transparency in the process of classification and review, which also makes classification subject to judicial review;
- Any steps taken towards passing a law on the right to information should include greater transparency in the drafting process.

B. Fiscal/Budgetary Policies

1. *Education funding*: Measures must be taken to address the lack of funding at the local government level that directly impacts the ability of rural girl children to access education. By increasing funding, the PRC can combat the disproportionate rural female illiteracy rate, as well as more broadly discrimination and prejudice against women. Measures to address inadequate funding should include:

- National increase in investment in education as a percentage of the GDP, which should aim to meet the minimum of 6 percent suggested by UNESCO and the Special Rapporteur on Education;
- Allocation of a greater proportion of the education-funding budget by the national government to ensure that localities do not bear a disproportionate burden that is passed on to poor families;
- Fiscal plans must be reviewed and examined for a human rights impact to ensure that national and provincial policies are adequate to respect, protect, promote and fulfill the rights under the Convention.

2. *Healthcare funding*: Measures must be taken to address the lack of funding at the local government level that directly impacts the ability of rural women to access healthcare. These measures should include:

- Increasing investment in healthcare as a percentage of the GDP, which should aim to meet the 5 percent recommended by the World Health Organization;
- Establishment of a specific budget and plan aimed at addressing the specific needs and vulnerabilities of women. Such a plan must also address the needs of prostitutes, HIV/AIDS sufferers and women living in remote areas;
- Fiscal plans must be reviewed and examined for a human rights impact to ensure that national and provincial policies are adequate to respect, protect, promote and fulfill the rights under the Convention.

C. Training and Capacity Building

1. *Human Rights Education in Schools*: Human rights education that includes a gender perspective, positive role models, and human rights concepts and values of dignity and equality should be included in school curricula for all children and youth to help combat social and cultural prejudices and discrimination.

2. *Human Rights Education and National programs*: National policies and programs promulgated that aim to combat discrimination, violence against women, trafficking in women and girls, domestic violence, and other non-State activities that harm women's rights, must be informed by a gender focus. Independent civil society actors must also be encouraged to contribute to these programs, and substantive reviews should be undertaken to examine impact.

3. Professional training: Training programs must be implemented in a comprehensive range of national, provincial and local bodies that deal with particular groups of women. Training must enable professional staff, authorities and others to ensure that they are aware of relevant needs and international standards, and must specifically address gender and the particular needs and vulnerabilities of women. Training must include a cultural sensitivity component for bodies working with ethnic minorities. National and local funding must be provided for training and assessment. Authorities and the professional staff of bodies that deal with the following groups of women should undergo training:

- Prostitutes;
- Victims of trafficking;
- Victims of domestic violence;
- Rural women and girls;
- Women with HIV/AIDS.

4. Assessment Indicators and Mechanisms: Human rights education and capacity-building initiatives should incorporate specific assessment indicators and mechanisms that include the input, supervision, and participation of civil society groups.

II. Monitoring and Assessment

A. Standards and Benchmarks

1. **Targets and benchmarks:** Targets and benchmarks in the PRC report must be strengthened by linking them to international standards, including substantive human rights found in international treaties including the Convention, and international efforts such as the Millennium Development Goals (MDGs).

2. **Substantive indicators:** Substantive indicators already developed by international organizations must be utilized by the State Party to strengthen the assessment .

B. CEDAW Reporting Process

1. **Data collection:** Despite improvements in the PRC Report, subsequent reports will be further strengthened with additional data collection, and a revised collection process. Subsequent reports should include:

- Data that is disaggregated by region, not only by province, but also with comparisons between rural and urban areas, as well as regions populated by ethnic minorities, and those primarily inhabited by Han Chinese.
- Timeframes that allow for meaningful comparisons from one reporting period to the next, grounded in targets and benchmarks.

2. **Enhanced Transparency:** In addition to including more substantive and disaggregated data, the report must be made more transparent by giving more detail with regards to the consultation process with civil society, by including:

- A list of all civil society groups and organizations consulted;
- A thorough explanation of what was included in the consultation process, including scope, time, process, contributions adopted and difficulties and obstacles encountered.

3. Government expenditure and tax policies: Trends and statistics on government expenditure and tax policies related to women, including rural land taxes, must be collected, disaggregated and analyzed, particularly with regard to the fiscal capacity of local and provincial governments who provide public services such as health care and education. Analysis should be undertaken as to whether allocated funds are enough to assure access for rural women:

- Availability, accessibility, acceptability and adaptability of education;
- Availability, accessibility, acceptability and quality of health;
- Availability, and cultural adequacy of services for particular groups of women, including HIV/AIDS sufferers and victims of trafficking, and domestic violence victims.

C. Independent Review

1. *Domestic monitoring and assessment mechanisms*: Adequately resourced and staffed monitoring mechanisms that are reviewed on an on-going and periodic basis should be established to oversee programs that seek to advance the rights of women, and programs that seek to address women's rights violations. Monitoring should include:

- Periodic assessments of programs to ascertain whether they are moving towards their goals and meeting established targets;
- A human rights impact assessment within the programs' constituency to ensure no new abuses have occurred, including a review of any complaints received;
- Civil society surveys to ascertain whether community needs are met.

2. *International experts*: International experts must be granted access to records and programs for review of compliance with international standards. Relevant international experts include those with mandates covering women's rights as well as issues related to violence against women.

3. *Role of independent civil society*: The role of independent civil society organizations must be included and strengthened, including by encouraging contributions and assessments of national policies, and lessening of restrictions on the formation of civil society organizations.

INTRODUCTION

1 Chinese women constitute more than one fifth of the world's women,¹ and almost half of the People's Republic of China's (PRC) 1.3 billion people.² As recognized by the government in its combined 5th and 6th Periodic Report ("PRC Report") to the Committee on the Elimination of Discrimination Against Women ("the Committee"), "gender equality and the advancement of women" are closely tied to the development of society as a whole.³ During the rapid macroeconomic development over the past quarter century,⁴ however, Chinese women have not made economic or social gains on the same level or at the same pace as men. Due to cut-backs in state-provided services,⁵ and as the economic and social services divide between urban and rural areas grows,⁶ rural, migrant, and ethnic minority women and girls have borne the brunt of these inequitable policies,⁷ and do not enjoy equal access to affordable education, healthcare, or safe and fairly compensated employment opportunities. In order for Chinese society as a whole to progress in an equitable and sustainable way, these women and girls cannot be left behind or written off as necessary human losses in the economic reform process. The Committee's review of the PRC Report under the Convention on the Elimination of All Forms of Discrimination against Women ("the Convention" or CEDAW) is an important opportunity to address these issues and to develop recommendations for more effectively promoting the rights set forth in the Convention.

2 State Parties to the Convention are required to submit periodic reports focusing on the "progress made towards and the current implementation of the Convention,"⁸ which include sufficient information and data disaggregated by sex and geographical area over time that are necessary to conduct a complete assessment. The PRC Report is an extensive overview of legislation in place and programs promulgated as efforts towards implementing the Convention. The 5th and 6th periodic report covering mainland China is almost three times the length of the previous combined 3rd and 4th periodic report, presenting more information and numerous statistics, including some that have been disaggregated by province, allowing for a more detailed analysis of its compliance under the Convention. This is a positive indication of progress and efforts to comply with reporting requirements. The report, as well as the response of the PRC to the Committee's additional questions,⁹ however, still reflects a tendency to focus on formal law and policy, without an adequate examination of monitoring and assessment of implementation mechanisms and the *de facto* enjoyment of rights.

3 In order to contribute to a more comprehensive and constructive review of the substantive implementation of the Convention in the PRC, Human Rights in China (HRIC) submits this parallel nongovernmental report. There are two overarching themes relevant to the Committee's review of the PRC that will frame this report: (1) transparency and the control of information; and (2) gaps between Chinese domestic and international law. Informed by these key themes, this report will then examine the substantive implementation of the Convention in the PRC with a focus on six articles of the Convention, focusing in particular on the most vulnerable populations of women and girls: minorities and those living in rural areas.

Transparency and control of information in the PRC

4 The control of information and lack of transparency in the PRC has three important impacts on the implementation of CEDAW: First, it undermines the ability of the Chinese government to analyze and assess the situation of women in China and form relevant and useful solutions. Second, it limits the ability of nongovernmental actors, including civil society organizations, individual activists and business entities to monitor and contribute to the promotion of women's rights. Finally, it specifically limits this Committee's work to carry out its mandate and conduct a comprehensive, accurate and complete review of the PRC's implementation of the Convention.

5 Under the state secrets legal framework,¹⁰ authorities exercise wide and unchallengeable discretion over the classification, control, and dissemination of a broad range of descriptive as well as statistical information.¹¹ Information is classified in a comprehensive range of issues, including labor, ethnic minorities, religion, the environment, family planning, land use, social security, health, social sciences, and the judiciary. Information control, therefore, poses serious challenges for both domestic and international civil society actors to constructively engage human rights issues.

6 Information provided by the PRC government must therefore be assessed within this system of information control and vetting. For example, classified information includes statistics on "kidnapping and trafficking."¹² As a result, the statistics provided in the PRC report under article 6 have been vetted by the State. The information provided in this parallel report under article 6 (see paragraphs 21–27) may not necessarily be complete. Similarly, statistical information on induced abortions, infanticide and the gender ratio, relevant for a full assessment of implementation of article 12, are also state secrets.¹³ Information in this parallel report (see paragraphs 40–42) is collected to the degree possible through official sources as well as certain nongovernmental organizations.

7 The fact that leaking, obtaining or possessing state secrets are criminal offenses under the PRC Criminal Law¹⁴ is also significant for the consideration of the PRC report. Because the state secrets law allows for discretionary procedural derogations from due process protections in cases involving state secrets, and provides for serious criminal and administrative penalties, it is a powerful disincentive to independent efforts to research, critically report on, or raise implementation problems. While the PRC lists numerous bodies contributing to the report,¹⁵ the detention and imprisonment of journalists, lawyers and others for leaking state secrets contributes to a culture of fear, which impacts open consultation with individuals and groups on the issue of women's rights generally, and the implementation of CEDAW specifically.

8 A second issue with respect to the control of information is the provision of statistical information. In response to the Committee's requests for additional statistical information¹⁶ on the situation of women over time under each article of the Convention,¹⁷ as well as data on the situation of ethnic minority women,¹⁸ the PRC Report includes a greater amount of statistical information, including data disaggregated by gender as well as province. The increased number of statistics in this report reflects an improvement in reporting. However, a frame of reference on how those statistics are gathered, analyzed, or used, and clarification of the extent to which the statistics are complete should be provided. Finally, the data provided in both the PRC Report and the PRC reply regarding the enjoyment of rights by particular groups, including Tibetans and Uighurs, remains inadequate for a complete assessment of implementation.¹⁹

Gaps between Chinese domestic and international law

9 The implementation of international conventions and treaties—particularly human rights treaties—is a complex and challenging process. It requires reform of formal law, the creation of implementation and monitoring mechanisms, training authorities, and human rights education for the public. Despite challenges, States must make every effort to move towards complete implementation, including through ongoing assessments of the *de jure* and *de facto* situation for women and children. Despite the numerous laws cited in the PRC Report promulgated to implement articles under the Convention,²⁰ there remain significant gaps between the formal Chinese law and compliance with international law to which the PRC is bound as a State Party. The impact of these gaps, which range from imprecise or inconsistent definitions, or no definition at all, to a lack of adequate implementing mechanisms built into the legal framework, to inadequate protections, is demonstrated by the serious disadvantages still faced by women throughout China, and particularly by women in rural or minority areas.

10 As noted in the PRC report, formal equality between men and women is guaranteed under Chinese domestic law. This is reflected in the Constitution,²¹ in the Law on the Protection of the Rights and Interests of Women,²² and in the General Principles of the Civil Law.²³ Despite this formal parity and references to discrimination in various laws, the most significant omission in the legal framework for implementation of CEDAW is the lack of any definition of discrimination. The Chinese report, while stating “[t]here is no definition of discrimination in China’s laws,”²⁴ does not provide any explanation, even where the Committee had recommended the adoption of the definition provided in the Convention at the 20th session. The PRC reply to the Committee’s questions goes no further in providing explanation, nor does it fully explain the effect that this omission has on the implementation of the Convention.²⁵

11 The PRC report describes numerous policies and laws related to women and the rights of women. However, less detail is provided on adequate monitoring, reporting, or implementing mechanisms built into those laws and policies to ensure their implementation in fact, nor is there a comprehensive description of nationwide or provincial assessment efforts. This is true, for example, in labor and employment law which does not adequately provide for independent mechanisms with the authority to prevent discrimination in the workplace.

12 The adoption of special measures that treat women as a protected class can be legitimately undertaken by a State Party. The PRC report notes that the goal of these measures in Chinese law is both to protect women in areas in which they may be particularly vulnerable, for example in labor and education,²⁶ and also to advance *de facto* parity with men.²⁷ However, as demonstrated in this report, discrimination may also result from special measures intended to benefit women. On their face, some of these provisions meet the test under international law that the special measure enacted serve specific goals and do not have a discriminatory effect. However, problems exist with respect to advancing parity, and more alarmingly to the discriminatory effect of some “protective” laws and regulations.

13 First, with respect to advancing equality with men, while several laws and policies described in the PRC are good beginnings towards advancing the protection of women's rights—these include provision for spaces to be filled by women in senior political posts, subsidies for unemployed women, and preferential treatment for the receipt of poverty alleviation grants²⁸—other areas, including education and health, do not adequately address gender. Second, while certain protective regulations and laws are valid, others have a discriminatory effect. For example, longstanding regulations authorize work units to enforce the earlier retirement for women civil servants and workers,²⁹ limiting women's earning power, career advancement and career span. This kind of discriminatory result from special measures is not only problematic with respect to the PRC's obligations as a CEDAW State Party, but is also a result of paternalistic policymaking.

14 These two overarching concerns have an impact on both the substantive implementation of CEDAW and the Committee's assessment of the situation for women and girls in China. Whereas the PRC report provides more substantial information than was submitted for the previous reporting period, it remains weakened by the underlying control of information, including statistics, in the PRC, as well as the *de jure* gaps that continue to exist between domestic and international law. At the conclusion of the Committee's 20th session, it requested additional information from the PRC, including additional statistics on women relevant to each article of the Convention—disaggregated and presented over time in comparison to the situation of men—information collected on the practices of local officials and agencies, specific procedures available to women in a range of areas, and information on the investigation of abuse.³⁰ However, the information and statistics provided in the report currently before the Committee does not fully answer these requests. While additional information is provided by the reply to the initial questions of the Committee,³¹ comprehensive answers relevant to a complete review of the PRC is not provided.

15 The lack of adequate information provided to the Committee in this report, coupled with the discriminatory effect of various laws, including some designed to protect women, suggests that the goal of gender equality has not been mainstreamed throughout the domestic law, or promulgated by policymakers and legislators. Whereas improvements have been noted in some areas, in order to advance the substantive implementation of the rights of women and girls, specific and targeted political will and determination will be necessary to address the concerns described in this parallel report. Without that shift at all levels of law and policymaking, the cycle of poverty and exclusion will be perpetuated, with particularly serious impact on rural, migrant and minority women and girls.

16 In this report, HRIC will highlight six specific areas of implementation of the rights under the Convention that are impacted by these challenges: discrimination (Article 1), human trafficking and prostitution (Article 6); education (Article 10); health (Article 12); and domestic violence (Article 16). Particular emphasis will be placed on rural women and girls (Article 14), who continue to suffer growing and persistent inequality in their access to education, health and employment.

PROGRESS UNDER SPECIFIC ARTICLES OF THE CONVENTION

ARTICLE 1: DISCRIMINATION

17 **Obligations:** Article 1 of the Convention defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex” that has the effect or purpose of impacting women’s enjoyment of fundamental human rights differently from men’s. At the Committee’s 20th session, after its review of the PRC’s combined 3rd and 4th Periodic Reports, it noted that the PRC’s laws do not contain any definition of discrimination and urged the government to adopt legislation that prohibits gender discrimination in accordance with Article 1.³² The preliminary questions addressed to the Chinese government prior to the start of the 36th session further emphasize this question, and also ask what impact the lack of a definition of discrimination has on the PRC’s compliance with the Convention.

18 **Discrimination undefined:** Despite the adoption and revision of laws aimed at addressing discrimination against women, the PRC’s failure to define the term has seriously weakened the effectiveness of those laws and hindered full compliance with the provisions of the Convention. The Law on the Protection of the Rights and Interests of Women, for example, purports to ban any discrimination directed at women, but is silent on what type of actions or behavior would constitute discrimination.³⁴ Without the concrete scope of discriminatory practices built into the text, the law is left unclear and inexact. Coupled with the lack of a viable implementation mechanism in the law, female victims of discrimination are left with little guidance on when and how they can invoke such laws, rendering positive legislation ineffective and preventing full compliance with the Convention.³³

19 **Precedent for defining definition:** The PRC has previously recognized the importance of defining the term “discrimination.” As a member of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities, the PRC officially supported an article on definitions that would include important terms, which they determined should at minimum include “disability” and “discrimination against persons with disabilities.”³⁵ Their proposed definition for discrimination included “any forms of distinct[ive] treatment, exclusion or restriction based on a disability, which has the effect of impairing the rights and dignity of persons with disabilities.”³⁶ Adopting a definition for discrimination in the context of CEDAW that similarly maps international standards would strengthen laws already established by the PRC and promote the purposes of the Convention.

20 **Impact of the lack of definition:** Failing to incorporate the Article 1 definition of “discrimination against women” into its legislation has lessened the positive impact that such legislation could have on eliminating discrimination against women in the PRC, and has prevented the PRC from addressing the concerns and repeated recommendations of the Committee. Without a definition, effective education, training, reporting, assessment, and monitoring programs will be seriously hindered. Further, women will be less likely to effectively invoke legal challenges where discrimination has occurred. In the PRC’s reply to the Committee’s preliminary questions, for example, statistics related to court cases that involved women’s rights make no reference to cases involving discrimination.

ARTICLE 6: TRAFFICKING AND PROSTITUTION

21 **Obligations:** Article 6 of the Convention requires State Parties to take all appropriate measures to suppress all forms of trafficking in women and exploitation of prostitution of women. The Committee has noted that this exploitation includes sex tourism, domestic labor recruitment, and organized marriages to foreign nationals.³⁷ The Committee has specifically stated that information on punitive, preventive, and rehabilitation measures taken to protect women engaged in prostitution or subject to trafficking and other forms of sexual exploitation should be included in the reports of State Parties.³⁸ Further, the Committee has emphasized that prostitutes are especially vulnerable to violence, and that States must ensure they receive equal protection under laws against rape and other violence.³⁹

22 **Overview:** Trafficking in women is a serious problem in China. On an international level, the United Nations Office of Drugs and Crime has rated China “very high” in the index as a country of origin, and “high” as a destination country. The report profiles victims as mainly women and children, especially girls, trafficked for the purposes of sexual exploitation and forced labor.⁴⁰ At the same time, domestic trafficking remains the more widespread problem, with the majority of trafficking victims in China trafficked from inside the country. An estimated minimum of 10,000–20,000 victims are believed to be trafficked within China each year, though the actual number could be much higher.⁴¹ While several factors contribute to the prevalence of trafficking in women, foremost is the striking gender imbalance stemming from impacts of the family planning policy. Poor rural girls, already disadvantaged in education, health, and employment opportunities, and girls from nearby developing countries fall prey to trafficking to be exploited sexually, or to serve as potential brides or laborers. China’s attempts to address this issue and comply with article 6 have fallen short due to several deficiencies in information dissemination, legislative definitions, and policy execution.

23 **Classification of information and lack of comprehensive data:** Data and statistics on human trafficking are classified and their dissemination restricted, making it difficult to accurately assess the situation. The trafficking statistics that have been released by the government are of limited use because the data have not been disaggregated according to important relevant criteria. The figures released only reflect cases that have been resolved and the number of victims that have been rescued, without additional details on the victims’ nationalities and age. For instance, a recent news report in an official newspaper notes that between the years 2001 to 2004, the Public Security Bureau cracked down on 24,809 cases of trafficking of women and children, with 26,636 traffickers captured and 51,164 women and children rescued, but provides little further statistical insight into the overall trafficking situation.⁴² The lack of disaggregated data makes it especially difficult to perform a meaningful analysis and take effective measures to combat domestic rural-to-urban trafficking cases, which are estimated to account for as much as 90 percent of human trafficking cases in China.⁴³

24 **Limited legal definitions:** China’s definition of human trafficking is very limited in scope and is not in line with international standards. Article 240 of the Chinese Criminal Law defines the abduction and trafficking of women and children as: “abducting, kidnapping, buying, selling, transporting, or transshipping women or children.” It only explicitly refers to the practice of exploitation for the purpose of prostitution (Article 240(4)), whereas the international definition of trafficking in persons, and the recommen-

dation of the Committee,⁴⁴ covers a larger scope of potential exploitation practices. Article 3 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, includes “forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs” as possible forms of exploitation. The Protocol also includes “the abuse of power or of a position of vulnerability” for possible methods of victim recruitment, whereas article 240 of the Chinese Criminal Law only mentions abduction and kidnapping. Because trafficking victims are often illiterate, disadvantaged rural girls,⁴⁵ the Chinese Criminal Law does not fully address the possibility that many victims may be lured away due to their vulnerable position rather than through violent means.⁴⁶

25 Limited scope of promulgated programs: In executing legislation and policy designed to address trafficking issues, the PRC has focused almost exclusively on exploitation through prostitution, ignoring other forms of exploitation such as sex tourism, domestic servitude, and arranged marriages. The PRC report, for example, only mentions an “anti-prostitution” campaign, conducted in 2000 during which 73,000 individuals were investigated.⁴⁷ Despite the fact that article 6 of CEDAW explicitly calls for all State Parties to take all appropriate measures to suppress all forms of trafficking in women, practices of forced labor, debt bondage and domestic servitude are not explicitly mentioned as potential exploitations of trafficking victims under the Chinese Criminal Law. It is also significant to note that while the Decision of the Standing Committee of the National People’s Congress on the Strict Prohibition against Prostitution and Whoring targets those who traffic girls under the age of 14 for forced prostitution, key international human rights and labor treaties, to which China is a State Party, extend special protection to individuals under 18 years of age.⁴⁸

26 Detentions violate due process guarantees: Furthermore, methods used to detain and punish prostitutes violate international law and are also in conflict with Chinese legal provisions. As a consequence of the illegality of prostitution in China, law enforcement bears down heavily on prostitutes without respect for their basic human rights to due process or consideration of their possible status as trafficking victims. While programs do exist that target those who traffic women, available information suggests that trafficked women themselves bear a disproportionate burden of law enforcement efforts. According to regulations issued by the State Council, those involved in prostitution can be sentenced to administrative detention for six months to two years.⁴⁹ Specifically, the NPC Standing Committee in 1991 authorized the detention of prostitutes in Reeducation Through Labor (RTL) centers.⁵⁰ Each year, approximately 40,000 to 50,000 prostitutes are coercively detained by authorities and entered into one of two administrative detention systems for “reeducation.”⁵¹ Through the RTL system, public security authorities and other administrative officials are vested with complete authority to execute these administrative sentences without regard for due process protections, such as a hearing before an independent tribunal. Despite the fact that the RTL system violates international human rights law and is in conflict with existing Chinese legal requirements for the deprivation of citizens’ personal freedom, the government has been unwilling to abolish this system.⁵² The RTL system infringes upon the basic human rights of those accused of prostitution while failing to incorporate adequately measures to identify, assist and protect to those who may be trafficked victims of forced prostitution.⁵³

27 Implementation of the Convention impacted by lack of data and coherent legislation: The trafficking of women and girls is a serious problem in China. Victims may fall prey to trafficking through many methods of abduction or recruitment for exploitation in a large variety of ways. Whereas the PRC report provides information related to programs enacted to combat some forms of trafficking, the government's compliance under article 6 is seriously impeded by a lack of useful data on the subject and legislation that is limited in scope and does not address whole issue. Further, the narrow focus on punishing prostitution that employs the improper use of administrative detention as a whole, and specifically without adequate measures to protect trafficking victims, leads to serious concerns. Finally, the high incidence of rural women and girls as trafficking victims leads to additional concerns of compliance under article 14.

ARTICLE 10: EDUCATION

28 **Obligations:** Article 10 of the Convention requires State Parties to eliminate discrimination against women in the field of education, and to ensure that women and men are provided with equal school environments, curricula, and opportunities to succeed. In addition, the Convention states that governments must eliminate stereotypes of gender roles in education and reduce the female dropout rate. During the review of the PRC's combined 3rd and 4th Periodic Reports, the Committee noted the disproportionate illiteracy among women and requested that the government adopt a specific time-frame, with budgetary and resource allocation, aimed at achieving both universal literacy and primary education, and increasing access to higher education for women.⁵⁴

29 **Overview:** Though education is recognized as both a duty and right according to the PRC Constitution Article 46,⁵⁵ implementation is marked by weak political will to adequately fund public education, which has a disproportionate impact on girls in poor and rural areas. Through the 1990s, government investment in education has averaged a little more than 2 percent of GDP,⁵⁶ a figure that has only marginally increased in recent years. The Special Rapporteur on the right to education has recommended that the budgetary allocation for education in the PRC be increased to a minimum of 6 percent of GDP.⁵⁷ The passage of education fees onto students and their families⁵⁸ has a disproportional and adverse effect on the access to educational opportunities for girls, as they are more likely than boys to be withdrawn from school. Furthermore, clear data, disaggregated by gender, age, and actual drop-out rates by region, are necessary to understand how the continued discrimination against women and girls in China is both a cause and consequence of their lack of access to education and their marginalized status.

30 **Domestic legal protections:** Several domestic PRC laws have specific provisions on gender equality in education. In the Compulsory Education Law,⁵⁹ Article 5 states: "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." The Education Law of 1995⁶⁰ reiterates the principle of equal access to education by stating in Article 9 that all citizens, "regardless of ethnic group, race, sex, occupation, property status or religious belief, shall enjoy equal opportunities for education according to law." Equal access to educational opportunities was also a key theme in the various provisions relating to education in the Law on the Protection of Women's Rights and Interests,⁶¹ where article 14 obliges the state to "guarantee that women enjoy equal rights with men with respect to culture and education."

31 *Lack of adequate government funding:* Implementation of these legal provisions relating to the principle of equal access to education, however, is hindered by insufficient government investment in this area. In 1985, the government set a goal of spending 4 percent of GDP on education by 2002, but in 2002, the number only reached 3.4 percent.⁶² Through the 1990s, government investment in education averaged little more than 2 percent of GDP.⁶³

Government Investment in Education	1999	2000	2003
GPD (billion <i>yuan</i>)	8206.75 ⁶⁴	8944.22 ⁶⁵	11725.19 ⁶⁶
Government expenditure on education (billion <i>yuan</i>)	228.718 ⁶⁷	256.261 ⁷⁰	293.734 ⁷³
By central government (billion <i>yuan</i>)	27.66 ⁶⁸	27.95 ⁷¹	24.02 ⁷⁴
By local governments (billion <i>yuan</i>)	201.057 ⁶⁹	228.311 ⁷²	269.714 ⁷⁵
Percentage of GDP on government investment in education	2.8	2.9	2.5

Although recent trends suggest that the government is committed to increasing its education funding by setting its target at 4 percent of its annual GDP in the 11th Five Year Plan,⁷⁶ the goal still falls short of the UNESCO recommended 6 percent of a country's GDP for education.⁷⁷

32 *Lack of adequate data:* Government statistics primarily cite enrollment rates, which do not adequately provide information on drop-out rates. For instance, government statistics for 2004 show that 93.6 percent of Chinese children receive the legally-mandated nine years of compulsory education and that 98.95 percent are enrolled in primary schools.⁷⁸ As noted, however, by the UN Special Rapporteur on Education, who carried out a country visit to China in 2003, these statistics are collected at the beginning of the year and reflect enrollment rather than attendance rates.⁷⁹ School attendance, as well as reasons for students' non-attendance and dropping out must be more seriously examined and monitored, with data disaggregated by gender, ethnicity, province, and rural versus urban areas.⁸¹

33 *Rural-urban divide:* Most of the cost for education is borne by the local government. This system of education funding has resulted in rural-area schools "still lag[g]ing behind better-developed urban areas because of the long-standing disparity in economic development," as recently noted by Mr. Jiang Peimin of the Department of Basic Education.⁸² According to one survey, this has resulted in a drop-out rate of 40 percent of pupils attending rural secondary schools. Due to the imbalanced education investment in rural and urban areas and the lack of implementation of 9-year compulsory education, the drop-out rate can reach as high as 90 percent in some areas. Girls in poor regions and among poor families tend to have a higher drop-out rate. The dropout rate for girls aged 7–12 in poor counties is two percent higher than for boys, and the rate for girls aged 13–15 was 5 percentage points higher than their male counterparts.⁸³

34 Use of illegal fees: Furthermore, despite a legal provision that prohibits charging tuition for compulsory education,⁸⁴ fees are still widely used. Rural residents, in addition to paying tuition fees and contributing to operational funding through educational surcharges, often also bear most of the construction costs associated with compulsory education.⁸⁵ Together, these fees represent significant obstacles to school attendance, particularly by rural children, who comprise 80 percent of school-age students.⁸⁶

35 Specific economic impact on rural families: When charged for sending their children to compulsory education, rural and poor families are placed in the position of having to choose which child to send, if any. When compulsory education is viewed as a luxury rather than a basic entitlement, the cultural preferences for boys stacks chances against a girl, even if she excels at the school.⁸⁷ As a result, education indicators show an increasing discrepancy between male and female rates. In 2003, female literacy stood at 86.5 percent, whereas the rate for males was 95.1 percent.⁸⁸ In 2003, 71.9 percent of illiterate or semi-illiterate Chinese people aged 15 or above were female.⁸⁹ Statistics from the China Human Development Report 2005 indicate that Chinese females are enrolled at lower rates in all levels of education, with the disparity greatest in higher education.⁹⁰ In 2003, 70.9 percent of those aged six or above who received little or no schooling were female.

Educational attainment of females aged 6 and over	2000 ⁹¹	2003 ⁹²
Population aged 6 and over	1,178,951	1,182,247
Female illiteracy rate, population and percentage	85,809 (71.2%)	81,141 (70.9%)
Females completing primary school, population and percentage	210,086 (51.0%)	201,903 (51.1%)
Females completing lower secondary schooling, population and percentage	198,315 (44.7%)	203,146 (45.2%)
Females completing senior secondary schooling, population and percentage	63,055 (43.0%)	68,771 (43.5%)
Females completing college or higher-level education, population and percentage	22,708 (40.9%)	26,692 (41.1%)

36 *Impact on literacy among rural women:* During the Committee's 20th session, in considering China's 3th and 4th periodic reports, the Committee also expressed concern over the disproportionate persistence of illiteracy among women in rural areas, noting particularly the impact on minority women. Given that China's female illiteracy rate underdeveloped provinces exceeds the male rate by more than 15 percentage points, such as Qinghai (18.7 points higher), Tibet (17.8), Yunnan (16), and Guizhou (15.8),⁹³ the Committee recommended that the government adopt a specific timeframe, with budgetary and resource allocation, to achieve universal literacy and primary education. This information is not, however, adequately set forth in the report currently under review.

37 *Implementation of the Convention hindered by lack of adequate resources and monitoring:* Weak political will to adequately fund education has led to the failure of the Chinese government to meet international and national goals related to universal primary education. By 2003, 381 counties had failed to implement 9-year compulsory education, despite education being both a duty and a right under the Chinese Constitution.⁹⁴ Governments at the county and township levels bear too much of the burden for compulsory education and have passed on the costs to parents in the forms of fees and hidden surcharges. This practice continues against the Committee's recommendation to China in its review of the combined 3rd and 4th report, which called for the government to adopt a specific timeframe, with budgetary and resource allocation, aimed at achieving both universal literacy and primary education, and increase girls access to higher education.⁹⁵ The result is that women and girls not only have limited access to all levels of education, but in the long run, are unable to enjoy gender parity in all aspects of meaningful participation in China's political and public life (Article 7 of CEDAW).⁹⁶

ARTICLE 12: HEALTH

38 *Obligations:* Article 12 of the Convention requires State Parties to take all appropriate measures to eliminate discrimination against women in the field of health care, and to provide equal access with men to family planning and other health services. Equal services, however, must not prevent women's access to appropriate services relating to pregnancy and maternity. "Women," in this article, has been clarified to include girls and adolescents.⁹⁷ Strategies to promote women's health should include prevention and treatment,⁹⁸ taking special measures to address the health of women in disadvantaged groups,⁹⁹ the high women's suicide rate,¹⁰⁰ and the spread of HIV/AIDS among heterosexual women in the PRC.¹⁰

39 *Overview:* The following section will examine concerns in the implementation of article 12 of the Convention in two specific areas: population planning and policy and the spread of HIV/AIDS.

Population Policy

40 *Overview of the population policy:* Article 12 is clear on the relationship between ensuring women’s right to health care and protecting women’s rights regarding family planning and maternity. The PRC implemented family planning policies in the 1970s, and in 1979 instituted the so-called “one-child” policy, which sets birth quotas for couples to one child with some variations. Although the Law on Population and Family Planning, referenced by China in their 5th and 6th periodic report, puts forward a positive, social encouragement-based system, the growing sex-ratio disparity is a clear sign that implementation of the law continues to have detrimental impacts on both women’s health and on the makeup of society at large. The PRC report notes that “China has always adhered to the principle of government guidance with the voluntary participation of the people,”¹⁰ yet in the implementation of the family planning policy, abusive or coercive enforcement measures, including cases of forced abortions, compulsory sterilization and the forced implantation of intrauterine devices after abortions or births, continue to be documented. By denying Chinese women their reproductive rights, specifically their right to make free and responsible decisions with their partners on the number and spacing of children, the PRC has also prevented full compliance with other articles of the Convention.¹⁰³ Whereas the government has recently issued a number of policies in health sector reform,¹⁰⁴ reproductive health remains one of the items missing from the reform agenda. Many services related to reproductive health remain limited at best, particularly in rural areas.¹⁰⁵

41 *Classification of information and lack of comprehensive data:* The full impact of family planning policy as implemented is difficult to fully assess due to the classification as state secrets of relevant information, including the number of induced abortions, statistics on infanticide and child abandonment.¹⁰⁶ The combined 5th and 6th Periodic Report provides few details on women’s reproductive rights beyond maternal and infant health. Despite requests and recommendations from the Committee and other international human rights monitoring bodies¹⁰⁷ for more information and relaxation of control over population policies, individual cases of abuse continue to be documented,¹⁰⁸ and may represent a much larger body of similar occurrences.¹⁰⁹

42 *Natural sex ratio skewed:* One result of the restrictive implementation of the PRC’s family planning policy, coupled with prevalent cultural preference for male children, is an estimated shortage of 40 million women when compared with the expected natural birth rate. The PRC’s third national census in 1981 revealed a ratio of newborn boys to girls of 108.47 to 100; in 1989 it was 111.92 to 100; and in 2000 it was 117 to 100.¹¹⁰ The 2000 national census estimated that there were approximately 40 million women “missing,” and 12.77 million fewer girls under the age of nine than would be expected if China had experienced a normal sex ratio at birth and natural mortality rates for both sexes.¹¹¹ Female children who have never been officially registered, remain in a state of limbo, with very limited access to education, health care, social services and other benefits.¹¹² The Committee, during its review at the 20th Session, encouraged the Chinese government to help eliminate preferences for sons by expanding educational and employment opportunities for women in rural areas. The Committee further recommended that the government enforce laws against sex-selective abortion, female infanticide, and abandonment of children, and remove all legal obstacles from “out-of-plan” and unregistered children.¹¹³ The laws that the Government adopted in response to these recommendations have been insufficient in balancing the sex ratio. Both article 23 of the Measures for Implementation

of the Law of the People's Republic of China on Maternal and Infant Health Care¹¹⁴ and article 36(2) and (3) of the Law on Population and Family Planning prohibit identifying the gender of a fetus or aborting a pregnancy based on gender by using ultrasound technology or other technologies for those without medical needs.¹¹⁵ This prohibition, however, has yet to be criminalized, making meaningful enforcement even less likely.

HIV/AIDS

43. *International commitments:* The Beijing Platform for Action, adopted by 189 participating governments, including China, at the United Nations Fourth World Conference of Women in 1995, acknowledged that HIV/AIDS is a women's health issue. It required governments to "undertake gender-sensitive initiatives that address sexually transmitted diseases, HIV/AIDS, and sexual and reproductive health issues."¹¹⁶ It listed ten actions to be taken by governments, international bodies, bilateral and multilateral donors, and non-governmental organizations targeted towards ending unequal gender relations through the education and the empowerment of women, especially HIV-positive women, by involving them in decision-making, improving their economic opportunities and ending violence against women.¹¹⁷

44. *Lack of comprehensive gender perspective in HIV/AIDS strategy:* In addressing the issue of HIV/AIDS and women, the Committee, in its General Recommendations, has asked State Parties to include in their periodic reports the effects of HIV/AIDS on the situation of women and on action taken to prevent discrimination and promote the care of those women already infected.¹¹⁸ It has also urged States to ensure the right to sexual health information for all women, including prostitutes and victims of trafficking.¹¹⁹ This requires an explicit gender-specific approach towards any HIV/AIDS prevention strategy, which takes into consideration women's particular vulnerability to HIV/AIDS at the initial stages of infection due to their lower socio-economic and cultural status. The PRC's current HIV/AIDS prevention policy fails to sufficiently incorporate a gender perspective to address the underlying concerns related to women's particular vulnerabilities. Similar to criticisms on China's policy on women's health, which emphasizes maternal and infant care without properly addressing the fundamental issue of women's reproductive rights, the focus of China's HIV/AIDS strategies must be expanded beyond the prevention of mother-to-child transmission and address the vulnerability of women in contracting HIV/AIDS.¹²⁰

45. *Vulnerability of women to HIV/AIDS:* In recent years, the proportion of HIV/AIDS patients in China who are women has increased from 19.4 percent in 2000 to 28.1 percent in March 2005.¹²¹ As elsewhere, sexual transmission is the major channel of infection among women in China, and 55 percent of HIV carriers infected through sexual transmission are women.¹²² Several factors have contributed to this increase. Foremost is lack of knowledge on HIV/AIDS and ways to prevent its transmission, especially among women in poor rural areas. In a 2005 article, Health Minister Gao Qiang further noted that less than 40 percent of women in rural areas know how to prevent HIV/AIDS.¹²³ Despite official recognition of this lack of knowledge on HIV/AIDS among women, statistics and data and descriptive information are lacking on efforts directed towards HIV/AIDS education for both genders, and on condom usage among sexually active individuals.

46 *Vulnerability of prostitutes to HIV/AIDS:* This issue of HIV/AIDS prevention through education and condom usage is particularly critical in the Chinese commercial sex industry, where a December 2002 survey of 800 prostitutes in Yunnan and Sichuan indicated that only 60 percent used condoms with all of their clients.¹²⁴ About 17 percent said they insisted on using a condom when they had sex with their boyfriend or a non-commercial sex partner, and of these women, fewer than 10 percent said they used condoms with their clients. The survey also polled 800 men between the ages of 25 and 45 who frequented the commercial sex trade, out of which a high percentage of about 40 percent admitted to having had sex without using a condom. The vulnerability of female prostitutes to HIV/AIDS is exacerbated by the nature of their work and also by their lack of education on HIV/AIDS prevention.¹²⁵ A study among prostitutes in China found that only 14–30 percent of respondents knew that condoms could be protective.¹²⁶ This has resulted in a situation in which as of the end of 2005, official estimates indicate that 19.6 percent of 650,000 HIV-positive individuals in China¹²⁷ (about 127,000 cases) are prostitutes and their customers.¹²⁸ The HIV prevalence rate among prostitutes, in fact, has risen from 0.02 percent in 1996 to 0.93 percent in 2004, representing a 46.5 times increase in less than a decade.¹²⁹

47 *Limitation of current education component in national policies:* Though the PRC has enacted the “Four Frees and One Care” nationwide policy that features prominently in its HIV/AIDS strategy,¹³ its active HIV/AIDS education component is limited in scope. The policy is also implemented in conjunction with China Comprehensive AIDS Response (China CARES), an ambitious program to expand access to comprehensive HIV/AIDS treatment and care services that covers 127 sites in priority provinces most affected by HIV/AIDS. Both of these programs focus on treatment, and their gender focus remains on HIV-positive mothers and children. This underscores the fact that a sweeping expansion of China’s current HIV/AIDS strategy is needed to address factors that specifically contribute to women’s vulnerability to HIV/AIDS, such as the lack of knowledge on HIV/AIDS and ways to prevent its transmission.

48 *Limited access to care in rural areas:* No discussion on health services can be complete, however, without an examination of health providers, not only in urban areas, but also in poor rural areas. Despite the PRC’s rapid economic development, government funding for healthcare, in rural areas in particular, has had a detrimental impact on rural and minority women.¹³¹ The decentralization of healthcare spending and privatization of services has led to several specific problems: the imposition of high user fees, leading many to go without healthcare; the neglect of preventive care in favor of curative treatment bringing greater revenue; and the spread of infectious disease owing to rural poverty and individuals selling blood as a means of making money. Free HIV testing is provided only in specific poverty-stricken rural areas covered by China CARES, and is prohibitively expensive for most of the rural population. At 400 *yuan*,¹³² an HIV test costs almost one-fifth of the annual average salary of 2,109.5 *yuan* in rural areas.¹³³ The inadequacy of the treatment and the complete lack of public health infrastructure to implement HIV/AIDS treatment and testing policies in rural areas is indicative of the rural population’s lack of access to basic services and their marginalized status in society.

49 *Gender perspective in HIV/AIDS policies must be strengthened:* Although the Chinese government has made progress in addressing its HIV/AIDS problem, the situation remains serious, particularly for women and girls who are not adequately considered in

nationwide programs. The lack of focus on women in HIV/AIDS policies is also impacted by the lack of information provided, and by the fact that discussion in civil society is officially monitored. While the PRC properly declassified information related to the spread of infectious diseases in response to the SARs crisis,¹³⁴ the government continues to crack down on individuals who speak out on issues relating to HIV/AIDS.¹³⁵ In order to address the specific concerns of women posed by HIV/AIDS, national policies must be crafted with a gender-focus, but the government must also encourage and allow open and transparent debate and the free flow of relevant information.

ARTICLE 14: RURAL WOMEN

50 **Obligations:** Article 14 of the Convention requires State Parties to ensure that all of the rights outlined in the Convention apply to women in rural areas, including elimination of discrimination against these women and ensuring their equal access to health care, education, economic opportunities, and adequate living conditions. During its 20th session, the Committee stated that reported information on rural women should also include sex-disaggregated information on women from ethnic minorities.¹³⁶ The Committee has specifically required State Parties to adopt measures to address risks to women in rural areas, such as violence¹³⁷ and nutritional needs.¹³⁸ Because rural women are at a special risk of economic exploitation, the Committee requires State Parties to take specific measures to protect the rights of rural women participating in the informal economic sector¹³⁹ and to ensure them equal access to rural land contracting in the PRC.¹⁴⁰

51 **Overview:** Rural women face particular challenges, requiring additional measures and monitoring of those measures to ensure implementation of the Convention. While some macroeconomic data show that overall poverty levels in China have been declining, in 2003, the number of people living below the poverty line increased by more than 800,000 after a steady decline for 25 years.¹⁴¹ Further, inequality continues to grow,¹⁴² with rural areas lagging far behind urban areas.¹⁴³ As a result, rural women face growing and persistent inequality in their access to education, health, and employment opportunities. While the PRC report provides some disaggregated data by province as well as minority population, the information provided does not allow a comprehensive assessment of the situation of rural women in China. The report does not substantially discuss the achievements of the programs implemented to eliminate gender discrimination in rural areas specifically.¹⁴⁴ The following section will lay out some of the more serious issues facing women living in rural areas, and will also examine the situation of minority women, many populations of whom live outside urban centers, examining rural land rights, education, health, suicide among rural women, and employment.

Rural land rights

52 **Weak implementation of equality provisions:** A number of key legal provisions protect the equal rights of rural women to own and use land, yet *de facto* equality is still far from being achieved. Article 30 of the Women's Law states: "Women shall enjoy equal rights with men in the allotment of responsibility farmland, or grain ration farmland and in the approval of housing sites in rural areas, and women's lawful rights thereto shall not be infringed upon"; and further affirms women's rights in the case of change of civil

status.¹⁴⁵ The Rural Land Contracting Law also guarantees the equal right of women to contract rural land by stating in article 6: “The women’s lawful rights to land contract shall be protected. No organizations or individuals shall exploit or infringe upon the right to operate contracted land that women shall enjoy.”¹⁴⁶ While the Rural Land Contracting Law provides for equal rights to land among women and men, lease contracts remain mostly in the names of men. According to a survey conducted by the All-China Women Federation, 70 percent of those surveyed who are landless in rural areas are women.¹⁴⁷ In actual practice, this seriously frustrates the provisions of the Rural Land Contracting Law where lease contracts are not directly in the woman’s name.¹⁴⁸ There is also unequal division of land in home villages that adversely affect women’s right to land, thus resulting in the increasing vulnerability of rural women caught in the growing urban-rural inequality of China’s rapid economic development.¹⁴⁹

Education

53 *Rural women and girls at serious disadvantage for access to education:* The vulnerability of Chinese rural women is further manifested in their growing and persistently unequal access to education, health, and employment. In the 1980s, the central government shifted the burden of education provision to the local level without a corresponding transfer of funding (see paragraphs 31–37, above). When “the lowest levels of government, county and township, shoulder the biggest burden by providing 87 percent of public expenditure for education,”¹⁵⁰ additional fees are transferred to the rural poor. As a result, girls are often the first to be withdrawn from schools and rural women subsequently have an illiteracy rate 2.6 times that of their male counterparts.¹⁵¹ Women in rural areas are disproportionately affected, given that 8.7 percent of village dwellers receive no schooling at all, compared to just 2.5 percent of city residents.¹⁵² Those living in urban areas go to school nearly three years longer, on average, than their rural counterparts.¹⁵³ Among rural women, those belonging to minorities are particularly vulnerable.¹⁵⁴

Health

54 *Access to adequate healthcare undermined by limited funding:* A joint World Bank and Asian Development Bank survey conducted between October 2004 and 2005 found that that rates of illness among rural women are 5 percent higher than among rural men. About 60 percent of women interviewed suffered from long-term illnesses, resulting in twice as many visits to the doctor compared with men (see paragraphs 47–48, above). This is considered to be the consequence of long working hours and poor nutrition and care after childbirth.¹⁵⁵ The once successful Rural Cooperative Medical System (RCMS), which financed healthcare on a prepayment system by contribution from individuals, community, and upper-level governments, collapsed with the introduction of agricultural reform in the early 1980s. During the peak period of RCMS’s tenure, 90 percent of the rural population was covered under this prepayment system and enjoyed free health services.¹⁵⁶ Since the termination of the RCMS, however, 90 percent of rural residents have to pay out-of-pocket for all their health expenses.¹⁵⁷ With rising costs for health care, the collapse of the RCMS has meant that rural women have very limited access to services that meet their basic health needs or address their nutritional needs, as per the Committee’s General Recommendation No. 24.¹⁵⁸

Female Suicide Rate

55 *Disproportionately high rate of female suicide in rural areas:* The female suicide rate in rural areas is alarmingly high in comparison not only to Chinese urban areas, but also to other countries. The suicide rate in rural areas is three times that in urban communities.¹⁵⁹ Suicide is currently the number one killer of people aged 15–34 in China, accounting for 30 percent of deaths in this age range.¹⁶⁰ China's suicide rate also has a strong gendered element: the female suicide rate is 25 percent higher than that of males,¹⁶¹ making China unique among countries that submit mortality statistics¹⁶² to the World Health Organization.¹⁶³ Multifaceted reasons exist for the high suicide rate among China's rural women. Foremost, the high suicide rate among Chinese female rural inhabitants reflects their overall lower social, economic, and education status,¹⁶⁴ resulting in increased vulnerability to abuse. Violence against women in China can take on different forms, including but not limited to domestic violence (*see* paragraphs 65–71, below), sex-selective abortion, abandonment of baby girls, female infanticide (*see* paragraphs 40–42, above), and trafficking of women and children (*see* paragraphs 21–27). In addition, rural women often have to cope with additional stress that comes from being the family's sole caretaker when the men leave to find higher paid jobs in the cities.

56 *Impact of social prejudices and need for greater monitoring:* In General Recommendation No. 19, the Committee recognized that rural women and girls are at a special risk of gender-based violence¹⁶⁵ and specifically recommended that the Chinese government pay urgent attention to the high suicide rate among rural women rate and undertake necessary research for a better understanding of the causes of these suicides.¹⁶⁶ In reviewing the PRC's 3rd and 4th periodic report, the Committee expressed concerns on prejudices against women, especially in rural areas, the lack of opportunities of rural women to benefit from the economic progress in China, and the high suicide rate among rural women. It therefore recommended the government pay urgent attention to address the female suicide rate and undertake necessary research for a better understanding of the causes of these suicides.¹⁶⁷ Similarly, in considering the PRC's initial report under the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights also took note of the alarmingly high suicide rate among Chinese women and similarly recommended that China “conduct a study regarding factors and causes of the high rate of suicide among women and report back to the Committee on its findings in its next periodic report.”¹⁶⁸

57 *Lack of data and national monitoring:* The PRC report describes efforts made towards “coordinate[ing] various departments in strengthening public health and mental health education, expanding service networks in rural areas, and training grass-roots health workers in the knowledge and techniques for conducting mental-health work so as to provide medical services to patients with mental disorders.”¹⁶⁹ Village-level committees and women's federations are also attempting to help women with serious family disputes or economic difficulties to resolve their immediate problems,¹⁷⁰ and there are plans for pilot suicide prevention and intervention programs in selected areas, among other programs.¹⁷¹ Lack of transparency in data collection and analysis, however, impedes a comprehensive analysis of the specific situation of rural women, which would be useful in informing the creation of these programs.

Employment

58 Overview: The problem of unemployment in China's rural areas is exacerbated by the fact that the government does not officially recognize the existence of unemployment or under-employment in the countryside, in the same way as in the cities, instead referring to it as a "surplus of rural labor."¹⁷² There is limited information available broken down by gender, and much remains unknown as to the true extent of unemployment among China's rural women. A national survey conducted in December 2000 showed that 94.8 percent of rural women were employed, whereas the employment rate for rural men was 97.3 percent.¹⁷³

59 Married women less able to find compensation for work: Although unmarried rural women participate in non-farming work at approximately the same rates as men, marriage causes their participation in non-farm work to drop precipitously, while for men, marriage enhances their ability to leave the farm for work. This "marriage handicap" is felt in a variety of ways: (1) women's agricultural contributions are less valued; (2) they bring in far less income; and (3) household work and care for family members is not valued on the same scale as other work. This is highlighted in one instance by the All-China Women's Federation public acknowledgement of women's performance mainly within the domestic sphere: on Women's Day, Uighur village women are featured as good brides or good mothers-in-law, but not for their economic contributions.¹⁷⁴ The Committee has also requested States to report on women's participation in the informal economy,¹⁷⁵ of which there is scant mention in China's most recent combined periodic report.¹⁷⁶

60 Additional challenges for ethnic minority women: Rural women who are also members of ethnic minorities in China face additional discrimination in the workplace. According to a survey conducted in Liaoning, 80 percent of positions advertised put restrictions on female applicants, including age and ethnicity.¹⁷⁷ PRC national laws lack specific protections for the rights of ethnic minority women. Article 4 the PRC Constitution affirms that all ethnic groups in China are treated equally;¹⁷⁸ taken in conjunction with article 48 of the PRC Constitution on the equal enjoyment of women and men of all political, economic, cultural, and social rights, the two articles could be said to affirm that that women, regardless of ethnicity, enjoy the same rights as men in China.¹⁷⁹ In practice, however, rural women who are members of minorities face additional discrimination in the workplace. One example cites statistics of 5,200 college graduates (2400 male, 2800 female) from a commerce college in Liaoning. Eighty-three percent of all male graduates got jobs, compared to 60 percent of the females. Among the female graduates, only 230 were ethnic minorities, and only one-fourth of these obtained employment after graduation, accounting for only three percent of all female graduates.¹⁸⁰

61 Migrant women bear a disproportionate impact of unjust and unfair working conditions: The lack of employment opportunities in China's countryside drives poor rural women to seek jobs in the more affluent coastal cities. At least one-third of China's 120 million migrants are women aged 17 to 25.¹⁸¹ The total number of migrants is expected to reach 300 million by 2020, meaning that there will be an estimated 100 million female rural workers in the urban areas.¹⁸² In cities, the *hukou* household registration system—though in the process of being phased out—continues to institutionalize discrimination, in the form of unfavorable and unjust working conditions for migrants,¹⁸³ including the non-payment of wages, unsafe working environments, and working hours that exceed the maximum set in the labor law. The lack of a means that social security benefits are

severely limited or non-existent for migrant workers and their children. The increased vulnerability of female migrant workers in cities make them more likely to become victims of labor exploitation and gender-based violence, including all forms of trafficking and prostitution of women (see paragraphs 21–27).

62 *Obstacles for rural women in political life:* In addition to the problem of providing national and aggregate data that do not properly describe the challenges of implementing CEDAW in China’s rural regions, the PRC Report does not adequately reference the participation of rural women in policy or planning efforts that directly affect them, which was one of the concluding comments of the Committee at its 20th session in 1999. A one-year survey funded by the World Bank and the Asian Development Bank from October 2004 to 2005 of ten villages in the poorest rural areas, including Sichuan, Gansu, Shaanxi, Jiangxi, and Ningxia, found more obstacles for rural women to exercise their political rights than for their urban counterparts. Only 12.5 percent of rural cadres are women.¹⁸⁴ Aside from the issue of participation in planning efforts, the PRC Report also does not give a full explanation of the effects of programs referenced under its plan to “accelerate the structural adjustment of agriculture and the rural economy. . . and to facilitate rural women in facing new challenges,” related to the PRC’s accession to the World Trade Organization in 2001.¹⁸⁵

63 *Increased examination of substantive impact of programs needed for adequate review:* The PRC report provides little information about the actual situation of rural women. Although the report does provide descriptions of programs directed at them and some basic numbers regarding participants, it is not readily evident what kind of impact these programs are having, whether there are tools for monitoring progress, or if expected outcomes have been achieved. Furthermore, the report needs more substantive discussion of the lingering disparities between the lives of rural and urban women, and the ways in which growing economic inequality between regions has adversely impacted access to services by rural women.

ARTICLE 16: MARRIAGE AND FAMILY LIFE

64 *Obligations:* Article 16 of the Convention requires State Parties to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family. This includes equality in matters related to marriage and reproduction choices. The Committee has also required that State Parties take measures to combat domestic violence¹⁸⁶ and prevent coercion in regard to fertility and reproduction.¹⁸⁷

65 *Lack of comprehensive collection and dissemination of data:* In their reply to the Committee’s list of issues and questions to the 5th and 6th periodic report,¹⁸⁸ the PRC states that no department collects data on domestic and sexual violence against women by province, city, village, and district, and is only able to provide statistics from women’s unions. As such, the information necessary to assess the situation of women over time, in comparison to the situation of men, with respect to domestic violence is incomplete. According to one recent survey conducted by the All-China Women’s Federation in 2002, however, various degrees of gender-based violence in the home occurred in 30 percent of 270 million families.¹⁸⁹

66 *Lack of adequate attention in agenda-setting:* Women account for 90 to 95 percent of all victims of violence in the home setting.¹⁹⁰ Despite such prevalence, it was not until the early 1990s, in preparations for the 1995 United Nations Fourth World Conference on Women in Beijing, that the PRC began to consider gender-based violence in the home as a serious social issue.¹⁹¹ While revised laws and public awareness programs have made some progress in greater protection for women, promulgated laws and policies have demonstrated the government's lack of understanding in addressing domestic violence as a serious human rights violation.

67 *Lack of monitoring of domestic violence:* General Recommendation 19 requires State Parties to take necessary measures to overcome domestic violence, including criminal and civil penalties, legislation to remove the defense of honor, services to support and ensure the safety of victims, and rehabilitation programs for perpetrators.¹⁹² The two national action plans adopted by the PRC since 1995¹⁹³ have served as the framework for the government to push through a series of legislative initiatives, at both the national and provincial levels, and have provided some legal protection for victims of gender-based violence in the home. At present, more than 30 provinces and municipalities that have developed local regulations against domestic violence. The *de facto* effectiveness of these regulations, however, is seriously impeded by a flawed definition of domestic violence under Chinese law. Implementation is made more difficult given the requirement of a direct victim complaint and inadequate penalties for perpetrators of domestic violence.

68 *Inadequate legal definitions:* Inadequate legislation and implementation have left a gap between Chinese domestic law in regards to marriage and family life and China's obligations under Article 16 of CEDAW. This includes insufficient specificity and inclusiveness in the scope of domestic violence; requiring a direct victim complaint in most cases of domestic violence; and lower penalties for perpetrators of domestic violence. The PRC Marriage Law prohibits "familial violence,"¹⁹⁴ and also provides for administrative punishment against perpetrators of "family violence."¹⁹⁵ However, there is a lack of clarity on what acts actually constitute "family violence." The definition cited by the PRC in their response to the Committee's list of issues and questions for the 5th and 6th periodic report¹⁹⁶ comes from Interpretation No. 1 of the Supreme People's Court on Several Issues in the Application of Marriage Law of the People's Republic of China,¹⁹⁷ which, compared with the definition in the 1995 Beijing Platform for Action,¹⁹⁸ remains limited in scope and excludes other forms of abuse, including threats of physical violence and marital rape.¹⁹⁹ That the Chinese government refers to the Marriage Law as the means of addressing domestic violence is itself an indication of the limited means used to address such a serious problem.

69 *Limited implementation mechanisms:* Beyond inadequate definitions, the implementation mechanisms in Chinese domestic violence law are problematic and prevent the laws from being fully effective. Article 46 of the Law on the Protection of Rights and Interests of Women prohibits domestic violence and requires various organizations to prevent and stop domestic violence within the scope of their respective duties. However, under Article 260 of the Criminal Law, domestic violence is not considered a crime unless serious injury is sustained, or if the following two conditions are met: (1) the victim files a complaint; and (2) the mistreatment occurs under flagrant circumstances. Article 43 of the Marriage Law also requires a complaint by the domestic violence victim before the neighborhood or villager committee will intervene. Requiring a direct victim complaint in most cases of domestic violence leads to the gross under-reporting of these

cases in China. The PRC reply to the issues and questions of the Committee states that of the estimated 102,993 criminal cases heard by Chinese courts since 2003 that involved women's rights in some way, only one percent involved abuse.²⁰⁰ Of the approximately 3.5 million civil cases involving women's rights during the same period, no statistics were provided on domestic violence, though only 4.3 percent of cases fall outside the otherwise-defined parameters. These figures suggest that many choose not to make a complaint or seek criminal prosecution, due to social taboos, the influence of others, or ignorance of the law.

70 *Disparities in criminal penalties:* Disparities in criminal penalties also suggest that gender-based violence is not being addressed as a serious concern. The PRC Criminal Law prescribes less severe penalties when the victim of violence is a family member. For instance, the mistreatment of a family member carries a maximum sentence of two years,²⁰¹ whereas the maximum sentence for the intentional injury of a non-family member is set at three years.²⁰² Similarly, the infliction of serious injury upon a family member brings a maximum sentence of seven years,²⁰³ but similar treatment of a non-family member brings a maximum of ten years.²⁰⁴ This penalty disparity contributes to a sustained perception of domestic abuse as being a less serious crime, which in turn may negatively affect victims' willingness to make a direct complaint. In addition to the problems of requiring direct victim complaints and different penalties for family versus non-family victims, gender discrimination also prevents the successful prosecution of domestic violence cases.²⁰⁵

71 *Increased political attention needed to address the serious concerns of violence in the home:* Mainstreaming efforts to combat domestic violence is fundamental to compliance with the Convention. The PRC Report focuses on promulgated policies that rely on unclear, limited definitions in legislation. Implementation mechanisms further prevent comprehensive implementation of protections against domestic violence. Greater efforts are needed towards education, training, and monitoring of programs to prevent domestic violence.

CONCLUSION

72 The PRC Report reflects some progress in gathering and reporting information used in analyzing compliance under the Convention, including some data disaggregated by gender and province. Reporting efforts, however, continue to focus on formal laws without adequate monitoring and assessment of implementation and the impact of government programs, particularly in rural regions as compared with cities. Several serious challenges remain for comprehensive implementation of the Convention, including the control of information and lack of transparency, undermining adequate review of programs and laws, and lingering gaps between international and domestic law, including inadequate and unclear legal definitions. In order to respect, protect, promote and fulfill the rights of one-fifth of the world's women, the Chinese government must make greater efforts towards implementation. Specifically, additional legislative reforms, specific budgetary and fiscal allocations towards fulfilling women's rights, and nationwide education and training on the specific provisions of the Convention are needed. Controls over relevant information must also be relaxed, and civil society actors should be enabled to play a more significant role in independently monitoring programs, and acting as partners in solution development. Only a focused, determined effort will bring about real equality in the lives of Chinese women and effectively eliminate discrimination against them in all sectors of society.

ENDNOTES

- ¹ Committee on the Elimination of Discrimination Against Women, Report of the Committee on the Elimination of Discrimination Against Women, A/54/38 (part 1), 20th Session (4 May 1999), para. 270.
- ² National Bureau of Statistics of China, *China Statistical Yearbook 2004*, September 2004, 99.
- ³ People's Republic of China, *Combined Fifth and Sixth Periodic Report of the People's Republic of China under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW/C/CHN/5-6), submitted to the Committee on the Elimination of Discrimination Against Women, June 10, 2004, <http://daccessdds.un.org/doc/UNDOC/GEN/N04/403/05/PDF/N0440305.pdf?OpenElement>, 3.
- ⁴ "China's GDP grows 9.5% in first half," Xinhua News Agency, July 20, 2005, http://news.xinhuanet.com/english/2005-07/20/content_3243732.htm.
- ⁵ See *infra* para. 31, 48.
- ⁶ Martin Ravallion and Chen Shaohua, *China's (uneven) progress against poverty*, World Bank Policy Research Working Paper 3408, Washington: World Bank, 2004.
- ⁷ See *infra* para. 22, 33, 35–36, 48, 51–63.
- ⁸ Committee on the Elimination of Discrimination Against Women, *Compilation of Guidelines on the Form and Content of Reports to be Submitted by State Parties to the International Human Rights Treaties* (HRI/GEN/2/Rev.1/Add.2, para E(1)(b)), May 5, 2003.
- ⁹ People's Republic of China, *Responses to the list of issues and questions for consideration of the Combined fifth and sixth periodic report of China and its addenda 1 and 2* (CEDAW/C/CHN/Q/6/Add.1), June 2, 2006.
- ¹⁰ The legal framework includes the Law on the Protection of State Secrets (1988); the Implementation Measures of the Law on the Protection of State Secrets (1989); and Regulations on the Specific Scope of State Secrets and other Secret Matters in a comprehensive range of areas.
- ¹¹ State secrets are defined as "matters that affect the security and interests of the state;" Art. 2, PRC Law on The Protection of State Secrets (NPC 1989), with three hierarchical classifications: Top Secret; Highly Secret; and Secret. "Matters" include national defense, technology, and state security, and also include the catch-all provision "other matters that are classified as state secrets by the state secret protection bureaus." Information can also be classified retroactively on the basis of the "consequences" of disclosure. Art. 9, PRC Law on the Protection of State Secrets (NPC 1989). A fourth tier of information, "internal" (*neibu*) is also included in the law. Internal information does not have legal status as state secrets, but in practice is often afforded the same protection as classified information.
- ¹² See Human Rights in China, XXXX, *forthcoming* July 2006.
- ¹³ See Human Rights in China, XXXX, *forthcoming* July 2006.
- ¹⁴ Criminal Law of the People's Republic of China [中華人民共和國刑法], adopted July 1, 1979, and revised March 14, 1997, art. 105.
- ¹⁵ PRC report, 2.
- ¹⁶ Committee on the Elimination of Discrimination Against Women, Report of the Committee on the Elimination of Discrimination against Women, Twentieth Session (A/54/38 (Part I)), May 4, 1999, para. 268.
- ¹⁷ CEDAW Report (A/54/38 (Part I)), para. 305.
- ¹⁸ CEDAW Report (A/54/38 (Part I)), para. 306.
- ¹⁹ CEDAW Report (A/54/38 (Part I)), para. 306.
- ²⁰ PRC report, 2.
- ²¹ Constitution of the People's Republic of China [中華人民共和國憲法], adopted and in effect Dec. 4, 1982, and amended April 12, 1988, March 29, 1993, April 15, 1999, art. 33, 48.
- ²² Law on the Protection of the Rights and Interests of Women of the People's Republic of China [婦女權益保障法], adopted on April 3, 1992, promulgated on April 3, 1992, and effective as of October 1, 1992, art. 2, 11, 14, 21, 23, 30.
- ²³ General Principles of the Civil Law of the People's Republic of China [中華人民共和國民法通則], adopted on April 12, 1986, and effective as of January 1, 1987, art. 5, 9, 10, 105.
- ²⁴ PRC Report, 8.
- ²⁵ PRC Reply, 1.
- ²⁶ PRC Report, 14.

²⁷ PRC Report, 13–14.

²⁸ PRC Report, 14.

²⁹ Male cadres are required to retire at the age of 60 whereas their female counterparts are required to retire at 55. Provisional Regulation on Resettlement of Old and Weak Cadres [国务院关于安置老弱病残干部的暂31行办法], art. 4, promulgated June 2, 1978, effective June 2, 1978. Similarly worded provisions exist that set the retirement age for male workers at 60 and female workers at 50. Provisional Regulation on the Retirement and Resignation of Workers [国务院关于工人退休、退职的暂行办法], promulgated June 2, 1978, effective June 2, 1978.

³⁰ CEDAW Report (A/54/38 (Part I)).

³¹ PRC Responses.

³² CEDAW Report (A/54/38 (Part I)), para. 283 and 284.

³³ PRC Responses (CEDAW/C/CHN/Q/6), para. 1.

³⁴ LPWRI, art. 2.

³⁵ UN Convention on the Rights of People with Disabilities, Fourth session of the Ad Hoc Committee - Daily Summary, August 24, 2004, <http://www.un.org/esa/socdev/enable/rights/ahc4sumart03.htm>.

³⁶ UN Convention on the Rights of People with Disabilities, Proposals to the draft text – China, <http://www.un.org/esa/socdev/enable/rights/ahc4china.htm>

³⁷ Committee on the Elimination of Discrimination Against Women, General Recommendation No. 19 (11th session, 1992), (A/47/38) at 1, para. 14.

³⁸ CEDAW GR No.19, at 1, para. 24(h).

³⁹ CEDAW GR No.19, at 1, para. 15.

⁴⁰ United Nations Office on Drug and Crime (UNODC), *Trafficking in Persons Global Patterns – Appendices*, April 2006, 63–64.

⁴¹ U.S. State Department, *Trafficking in Persons Report*, June 2006, 91.

⁴² “Over 50,000 Women and Children Rescued from Trafficking Gang over the Past 4 Years [4年间全国公安机关解救被拐卖妇女儿童5万多人],” People’s Daily Online [人民网], August 17, 2005.

⁴³ U.S. State Department, *Trafficking in Persons Report*, June 2006, 91.

⁴⁴ CEDAW GR No.19, para. 14.

⁴⁵ Wang Jinlin [王金玲], “The Case Study of Child and Underage Women Trafficking in the Five Provinces in Eastern China, Yunnan and Guangxi [华东五省云南 / 广西未成年被拐卖 / 骗妇女 / 儿童流入地个案研究],” *Zhejiang Academic Journal* [浙江学刊], Vol. 4, (2005), 209.

⁴⁶ A person’s initial consent to migrate is irrelevant to the determination of his or her status as a victim of human trafficking, as long as they were abducted or recruited in one of the manners outlined, as stated in Article 3(b) of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. This is especially relevant to North Korean trafficking victims in China who receive very little, if any, protection and assistance from the Chinese government, owing to the fact that all North Koreans in China are presumed to be economic migrants. U.S. State Department, *Trafficking in Persons Report*, June 2006, 93.

⁴⁷ PRC Report, 19.

⁴⁸ UN Convention on the Rights of the Child, ratified by the PRC on March 2, 1992, Art. 1: “For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”; ILO Minimum Age Convention, 1973 (No. 138), ratified by the PRC on 28 April 1999, Art. 3: “The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.” Though not yet ratified by the PRC, Article 3(d) of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime clearly states that ‘child’ “shall mean any person under eighteen years of age.”

⁴⁹ Measures on the Custody and Education of Prostitutes [关于卖淫嫖娼人员收容教育办法], issued September 4, 1993, Art. 9.

⁵⁰ In 1999, the MPS reallocated a portion of the forced detention of prostitutes under its supervision through

shelter and education centers [收容教育所]. Measures on the Custody and Education of Prostitutes, September 4, 1993.

⁵¹ H.L. Fu, *Re-education through Labor in Historical Perspective* (manuscript). See also Gil, V.E., Wang, M.S., Anderson, A.F., Guo, M.L. and Wu, Z.O., "Plum blossoms and pheasants: prostitutes, prostitution, and social control measures in contemporary China," *International Journal of Offender Therapy and Comparative Criminology* 38 (1996), 319.

⁵² According to the Legislation Law of the People's Republic of China, issued on March 15, 2000, effective July 1, 2000, National People's Congress and the Standing Committee cannot enable the State Council to enact administrative regulations in matters where the personal freedom of a citizen is restricted. Such compulsory measures must be formulated by the NPC and the NPC Standing Committee according to law. Article 143 of the Criminal Procedure Law, issued by the NPC on March 17, 1996, provides that if a detained individual will not be prosecuted, he shall be released immediately.

⁵³ The PRC Report noted that 160 correctional institutes have been set up for prostitutes, resulting in a 70 percent non-recidivism rate for the women released (21). However, China does not provide further details on how these rehabilitation programs are implemented. It is possible that these correctional institutes and rehabilitation programs refer to the Chinese system of administration detention or RTL.

⁵⁴ CEDAW Report (A/54/38/Rev.1), para. 294 and 295.

⁵⁵ Article 46: "Citizens of the People's Republic of China have the duty as well as the right to receive education. The state promotes the all-round development of children and young people, morally, intellectually and physically." Constitution of the People's Republic of China (2004), adopted at the 5th session of the 5th National People's Congress on December 4, 1982 and adopted at the First Session of the Eighth National People's Congress on March 29, 1993.

⁵⁶ *Report Submitted by the Special Rapporteur, Katarina Tomasevski, Addendum, Mission to China, Economic and Social Council, E/CN.4/2004/45/Add.1, November 21, 2003, para. 16.*

⁵⁷ Tomasevski Report, para. 16.

⁵⁸ This also contravenes article 17 of the Law on the Protection of Women's Rights and Interests, which states: "Where parents or other guardians fail to send female school-age children or adolescents to school, the local people's governments shall admonish and criticize them and, by adopting effective measures, order them to send their female school-age children or adolescents to school..." When parents cannot afford to send their female school-age children or adolescents to school due to hidden school fees and costs used to fund the school, the local government is not only failing to adopt effective measures to alleviate the problem but is also responsible for sustaining the gender disparity in school enrollment.

⁵⁹ Compulsory Education Law of the People's Republic of China [Compulsory Education Law of the People's Republic of China [中华人民共和国义务教育法], adopted April 12, 1986, and effective as of July 1, 1986.

⁶⁰ Education Law of the people's Republic of China [中华人民共和国教育法], adopted on March 18, 1995, promulgated on March 18, 1995, and effective as of September 1, 1995.

⁶¹ Law of the People's Republic of China on the Protection of Women's Rights and Interests.

⁶² United Nations Development Programme, *Human Development Report 2004: Toward Human Development With Equity*, (New York: UNDP, 2005), 52.

⁶³ Tomasevski Report, para. 16.

⁶⁴ *China Statistical Yearbook 2004*, 53.

⁶⁵ *Ibid.*, 53.

⁶⁶ *Ibid.*, 53.

⁶⁷ *Ibid.*, 681.

⁶⁸ *Ibid.*, 681.

⁶⁹ *Ibid.*, 681.

⁷⁰ *Ibid.*, 702.

⁷¹ *Ibid.*, 702.

⁷² *Ibid.*, 702.

⁷³ *Ibid.*, 308.

⁷⁴ *Ibid.*, 308.

⁷⁵ *Ibid.*, 308.

⁷⁶ “The Target Spending on Education Should be 4% of GDP [教育投入占GDP4%应成硬指针],” *The Beijing News* [新京报], March 8, 2006.

⁷⁷ Tomasevski Report, para. 16.

⁷⁸ “China Sees Progress in Education,” *China Daily*, March 2, 2005.

⁷⁹ Tomasevski Report, para. 16.

⁸⁰ Tomasevski Report, para. 11.

⁸¹ Ning Cui, “China to Pump US\$2.4b to Rural Schools,” *China Daily*, May 31, 2006.

⁸² “Middle School Withdrawal Rate in Rural Areas is Close to 40% [农村初中平均辍学率接近40%],” Radio Free Asia [自由亚洲电台], February 27, 2006.

⁸³ China Human Development Report 2005, 82.

⁸⁴ Compulsory Education Law of the People’s Republic of China, art. 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.”

⁸⁵ China Human Development Report 2005, 86.

⁸⁶ See Human Rights Watch, “China: Right to Education; The Rights of Children Affected by AIDS,” Submitted to the Committee on the Rights of the Child, June 2005, 2–7.

⁸⁷ Besides cultural preferences for boys, rural poverty and high school-related fees, other factors also contribute to girls’ limited access to basic education, such as the skewed sex ratio and the restrictive hukou system of household registration.

⁸⁸ China Human Development Report 2005, 308.

⁸⁹ *China Statistical Yearbook 2004*, 109.

⁹⁰ In 2002, only 44 percent of students in higher education in China were female. China Human Development Report 2005, 50.

⁹¹ Department of Population Social Science and Technology Statistics, National Bureau of Statistics of China, *China Population Statistics Yearbook 2003*, October 2003, 28–29.

⁹² *China Statistical Yearbook 2004*, 107–108.

⁹³ China Human Development Report 2005, 11.

⁹⁴ *Ibid.*, 91.

⁹⁵ CEDAW Report (A/54/38/Rev.1), para. 294 and 295.

⁹⁶ The current political representation of Chinese Women is illustrated by the following: in the Standing Committee of the National People’s Congress, 23 are women out of 176 members (13.07%); in the Standing Committee of the Chinese People’s Political Consultative Conference, 11.7% of its members are women; and in the Politburo of the Communist Party of China, there is one woman out of 25 members (4%); and there are two women in the State Council (18.18%) out of 11 premiers, vice-premiers, state councilors and the secretary general.

⁹⁷ CEDAW General Recommendation No. 24 (20th session, 1999), (A/54/38) at 5, para. 8.

⁹⁸ CEDAW GR No. 24, at 5, para. 29.

⁹⁹ *Ibid.*, para. 6.

¹⁰⁰ CEDAW Report (A/54/38/Rev.1), para. 303.

¹⁰¹ PRC Responses, para. 20.

¹⁰² PRC Report, 47.

¹⁰³ CEDAW Article 16(e).

¹⁰⁴ For example, Decision on Health Reform and Development, issued by the Chinese Communist Party Central Committee and the State Council in 1997; Guideline Opinions on Rural Health Reform and Development, issued in 2001; Decision on Strengthening Rural Health Care Work, issued by the Chinese Communist Party Central Committee and the State Council in 2002; and Opinions on the Establishment of the New Rural Cooperative Medicine System in 2003.

¹⁰⁵ Fang Jing, “Health Sector Reform and Reproductive Health Services in Poor Rural China,” *Health Policy and Planning* 19(Suppl. 1), 2004, i43-i44.

¹⁰⁶ Human Rights in China, XXXXXSS, *forthcoming*, July 2006.

¹⁰⁷ In reviewing China's initial report, the Committee on Economic Social and Cultural Rights expressed a similar concern as the Committee and recommended the Chinese government to "undertake effective measures to ensure that abortions are carried out voluntarily and under adequate medical and sanitary conditions and to ensure that the existing legislation governing the one-child policy does not violate the rights enshrined in the International Covenant of Economic, Social and Cultural Rights" and requested the government to report back in its next periodic report. Committee on the Economic, Social and Cultural Rights, Concluding Observation on People's Republic of China (E/C.12/1/Add.107), 34th Session, May 13, 2005, para. 65.

¹⁰⁸ Some examples include the cases of petitioner Ms. Mao Hengfeng, who was forced to have an abortion in 1988 when her second pregnancy was in violation of China's family planning policy, and Mr. Chen Guangcheng. Mao had refused to have an abortion and was taken to a psychiatric hospital where she was injected with an unknown medication. Her employer subsequently dismissed her from her job and she has since been petitioning through official channels and, as a result, has been the target in numerous harassment, administrative detention and torture. Harassment also extends to those who assist individuals who do not want abortions, as in the case of Mr. Chen Guangcheng and his wife who have been assisting villagers in Linyi, Shandong Province, to take legal action against local authorities. The local government in Linyi, reportedly has obliged parents with two children to be sterilized and forcing women pregnant with a third child to have abortions since March 2005. As a result, Mr. Chen Guangcheng and his wife have been harassed by the authorities numerous times and placed under illegal house arrest.

¹⁰⁹ China's family planning policy is also not consistent with principles that China has agreed to in the Program of Action of the International Conference on Population and Development (ICPD) in September 1994. The ICPD Program of Action (A/CONF.171/13) emphasizes the integral linkages between population and development, focusing on meeting the concrete needs of individuals rather than on achieving demographic targets (para. 3.1-3.3). The Program of Action discards top-down measures controlling the reproductive rights of women and favors the empowerment of women by expanding their access to education and health services, skill development and employment, and participation in the policymaking processes (para. 4.1).

¹¹⁰ PRC Reply, 35.

¹¹¹ *China Population Statistics Yearbook 2003*, 71.

¹¹² Cai Yong and William Lavelly, "China's Missing Girls: Numerical Estimates and Effects on Population Growth," *The China Review* 3, No. 2, Fall 2003, 13-29.

¹¹³ CEDAW Report, para. 299(d) and 301.

¹¹⁴ Measures for Implementation of the Law of the People's Republic of China on Maternal and Infant [中华人民共和国母婴保健法实施办法], Health Care Order of the State Council of the People's Republic of China (No. 308), promulgated and effective on June 20, 2001. Concerning a fetus suspected of carrying a sex-linked genetic disease, the article further states: "if it is necessary to conduct gender identification, such gender identification shall be made by a medical and health care institution designated by the administrative department of public health of the people's government of the province, autonomous region or municipality directly under the Central government in accordance with the provisions of the administrative department of public health under the State Council."

¹¹⁵ Law of the People's Republic of China on Population and Family Planning [中华人民共和国人口与计划生育法], adopted and promulgated on December 29, 2001, and effective on September 1, 2002.

¹¹⁶ Platform for Acton of the United Nations Fourth World Conference on Women, Beijing, September 1995, available at: <http://www.un.org/womenwatch/daw/beijing/platform/>. Strategic objective C.3

¹¹⁷ *Ibid.*, para. 108.

¹¹⁸ CEDAW GR No. 15.

¹¹⁹ CEDAW GR No. 24.

¹²⁰ Issued by State Council on January 18, 2006 and came into force on March 1, 2006.

¹²¹ "China Combats Rising Trend of HIV/AIDS in Women," Associated Press, July 11, 2005.

<http://health.dailynewscentral.com/content/view/0001254/43/>. The Chinese government reply cites a figure of 27.6% by the end of 2005. PRC Reply, 37.

¹²² "China Combats Rising Trend of HIV/AIDS in Women," Associated Press, July 11, 2005.

<http://health.dailynewscentral.com/content/view/0001254/43/>. The PRC Reply cites a figure of 49.06% by

2005. PRC Reply, 38.

¹²³ “China Combats Rising Trend of HIV/AIDS in Women,” Associated Press, July 11, 2005. <http://health.dailynewscentral.com/content/view/0001254/43/>.

¹²⁴ The source for this and the following statistics are from Edmund Settle, “AIDS in China: An Annotated Chronology 1985-2003,” *China AIDS Survey*, November 15, 2003, 6, http://www.casy.org/chron/AIDSchron_111603.pdf.

¹²⁵ It must be noted that for those who are trafficked into forced prostitution, their position to negotiation their clients’ condom usage is seriously undermined by the tactics of coercion that are used to ensure their compliance.

¹²⁶ Cited in AVERT Web site: <http://www.avert.org/aidschina.htm>.

¹²⁷ The Ministry of Health of the People’s Republic of China, Joint United Nations Programme on HIV/AIDS and World Health Organization, *2005 Update on the HIV/AIDS Epidemic and Response in China*, January 24, 2006, 2, available at: <http://www.unchina.org/unaid/2005-China%20HIV-AIDS%20Estimation-English.pdf>.

¹²⁸ “HIV/AIDS in China: From High-risk Groups to General Population,” *People’s Daily Online*, January 27, 2006. http://english.people.com.cn/200601/27/eng20060127_238859.html.

¹²⁹ Ministry of Health, Joint United Nations Programme on HIV/AIDS, World Health Organization, *2005 Update on the HIV/AIDS Epidemic and Response in China*, January 24, 2006, p. 4, available at: <http://www.unchina.org/unaid/2005-China%20HIV-AIDS%20Estimation-English.pdf>.

¹³⁰ The policy aims to provide free ARV drugs to HIV patients who are rural residents or people with financial difficulties living in urban areas; free Voluntary Counseling and Testing (VCT); free drugs to HIV-positive pregnant women in order to prevent parent-to-child transmission and HIV testing of newborn babies; free schooling for children orphaned by AIDS; and care and economic assistance to the households of people living with HIV/AIDS.

¹³¹ More than 44.8 percent of urban residents and 79.1 percent of the rural population are not included in the medical insurance system, as demonstrated by a recent survey by China’s Ministry of Health. “Public Health System Needs Overhaul,” *China Daily*, April 2, 2005, <http://www.chinadaily.com.cn>.

¹³² “Henan Province Cadres’ Trip to the Aids Village [河南省干部的‘艾滋病村庄’之行],” *Nanfeng Daily* [南方周末], March 3, 2004.

¹³³ “China Pay More for Medical Services,” *People’s Daily*, January 16, 2005.

¹³⁴ Human Rights in China, XXXXXSS, *forthcoming*, July 2006.

¹³⁵ For instance, a doctor running an outreach program for prostitutes in Guangxi told a reporter that initially few prostitutes were willing to participate because of fears of punishment once they admitted their occupation. “Anti AIDS Campaign Spotlights Sex Workers,” *Xinhua*, May 4, 2005. Li Dan, founder of a school for AIDS orphans, was detained in August 2004, apparently in an attempt to stop him from protesting against the Chinese government’s handling the AIDS epidemic. The school was closed down by the local authorities in July 2004. “China Hotels, Schools Turned Away AIDS Orphans,” *Radio Free Asia*, August 12, 2004.

¹³⁶ PRC Responses, para. 24.

¹³⁷ CEDAW GR No. 19, at 1, para. 24.

¹³⁸ CEDAW GR No. 24, at 5, para. 7.

¹³⁹ CEDAW GR No. 16, at 1.

¹⁴⁰ PRC Responses, para. 23.

¹⁴¹ “Why the Increase Instead of Decrease of Poverty Population?,” *People’s Daily*, July 21, 2004, http://english.people.com.cn/200407/21/eng20040721_150336.html.

¹⁴² World Bank, *China: An Evaluation of World Bank Assistance*, (Washington, D.C.: World Bank Operations Evaluations Department, 2004), Annex R, Table R-8. With cost of living adjustment, the Gini coefficient that denotes income disparity is 27.98 in 1981 and 36.37 in 1999; Ravallion and Chen, 46, Table 10.

¹⁴³ Ravallion and Chen, 46, Table 11. “Investigators indicate the income distribution gap between the 10 per cent richest and poorest families was more than eight fold in 2004, . . . adding that the Gini index which measures the degree of income inequality was approaching 0.47, higher than the international alert line of 0.4.” Jiang Xuezhou, “Steps to Narrow Rich-poor Gap Needed,” *China Daily*, March 11, 2005, http://www.chinadaily.com.cn/english/doc/2005-03/11/content_423789.htm.

¹⁴⁴ Statistics are provided for areas such as access to facilities, running water, and reforestation. This does not provide a coherent statistical picture of the success of programs of primary interest, such as technical training for farmers, the “hand-in-hand” poverty reduction program, and policies for ethnic-minority areas. See PRC Report, 56.

¹⁴⁵ Women’s Law, art. 30: “After marriage or divorce, women’s responsibility farmland, grain ration farmland and housing sites shall be secured.” In addition, Article 31 of the same law further states: “Women’s equal right, with men, of succession to property shall be protected by law. Among the statutory successors in the same order, women shall not be discriminated against. Widowed women have the right to dispose of the property inherited by them, and no one may interfere with the disposition thereof.”

¹⁴⁶ Law of the People’s Republic of China on the Contracting of Rural Land, adopted on August 29, 2002, promulgated, and entered into force on March 1, 2003.

¹⁴⁷ Xiong Kunxin, Li Xiuying, “The Economic Status of Minority Women in the Course of the Development of Middle Class [小康发展进程中少数民族妇女经济地位问题研究],” *Journal of Qinghai Nationalities Institute (Social Science)* 31, No. 3 (2005), 95-99.

¹⁴⁸ PRC Report, 53.

¹⁴⁹ Given that rural women have limited access to land, this effectively means that they cannot use land as collateral to get the financial credits they would need to start small businesses. Overall, this adversely affects the ability of women to become more actively engaged in economic activities.

¹⁵⁰ Tomasevski Report, para. 10.

¹⁵¹ China Human Development Report 2005, 49.

¹⁵² *Ibid.*, 48.

¹⁵³ In 2000, out of a test population between the ages of 16 and 64, rural residents averaged 7.3 years of schooling while urban dwellers averaged 10.2 years. China Human Development Report 2005, 47.

¹⁵⁴ Western provinces, in which most minorities reside, have the highest number of people who fail to meet goals of compulsory education and literacy, including Tibet (82 percent), Guizhou (56 percent), Ningxia (43 percent), Inner Mongolia (30 percent), Guangxi (30 percent), Xinjiang (28 percent), Gansu (27 percent), Qinghai (27 percent) and Yunnan (23 percent). China Human Development Report 2005, 49.

¹⁵⁵ “Gender Inequality Serious in Rural Areas,” *Xinhua*, September 18, 2005.

¹⁵⁶ Ministry of Health, *National Health Services Survey in Rural Areas, 1985*, quoted in Asian Development Bank, *People’s Republic of China: Towards Establishing a Rural Health Protection System*, September 2002, 7.

¹⁵⁷ A quote from Chen Xiwen, a research fellow with the Department and Research Centre of the State Council. “Medicare scheme to cover more farmers”, China.org.cn, February 20, 2004, <http://www.china.org.cn/english/2004/Feb/87823.htm>.

¹⁵⁸ Specifically address the nutritional needs of rural women. (G.R. 24).

¹⁵⁹ Statistics quoted in a Chinese magazine: “Suicide intervention: For the sake of 280 000 lives a year [自杀干预: 为了每年28万条生命],” *Banyuetan* [半月?] 11, 2004, quoted by Voice of America, “High suicidal rate amongst rural women [中国农村妇女自杀率高],” December 8, 2004.

¹⁶⁰ “Suicide becomes largest killer of young adults in China”, Voice of America, April 20, 2004.

¹⁶¹ “Suicide intervention: For the sake....”

¹⁶² China has two systems to count deaths: the Ministry of Health (MOH) vital registration system and the disease surveillance point (DSP) system, which is monitored by the country’s CDC. Paul Mooney, “Counting the Dead,” *Bulletin of the World Health Organization* 84, No.3, March 2006.

¹⁶³ China has the highest female suicide rate in the world. WHO databank, National Bureaus of Statistics. Department for Economic and Social Information and Policy Analysis Population Division. (1995) World population prospects. The 1994 revision. New York. United Nations. Partly computations: Department of Clinical Psychology, Psychiatric Clinic, University of Würzburg. The first year where mortality data are available is 1950, and the number of countries for which data are available varies from year to year. The existence and completeness of a time series of data also varies by country. Consortium for International Earth Science Information Network, “The World Health Organization’s Mortality Database,” <http://www.ciesin.org/IC/who/MortalityDatabase.html>.

¹⁶⁴ See Zhao, S., Qu G., Peng, Z., and Peng, T., “The sex ratio of suicide rates in China”, in *Crisis* 15, 1994; He,

Z.X. and Lester D., “The gender difference in Chinese suicide rates”, in *Arch Suicide Res* 3, 1997; Qin, Ping and Mortensen, Preben Bo, “Specific characteristics of suicide in China”, in *Acta Psychiatr Scand* 103, 2001.

¹⁶⁵ G.R. 19.

¹⁶⁶ CEDAW Report, para. 302-303.

¹⁶⁷ CEDAW Report, para. 302-303.

¹⁶⁸ Committee on the Economic, Social and Cultural Rights, Concluding Observations on the People’s Republic of China (E/C.12/1/Add.107), 34th Session, May 13, 2005, para. 35 and 64.

¹⁶⁹ PRC Report, 57.

¹⁷⁰ *Ibid.*

¹⁷¹ *Ibid.*, 57-58.

¹⁷² *Ibid.*, 54.

¹⁷³ Research Group of the Second Survey on the Status of Women in China, “Major Findings of the Second Survey on the Status of Women in China,” Tan, Hong, Liu, Bohong (ed.), *Review on the Chinese Women’s Studies in Recent 10 Years*, Beijing: Social Science Academic Press (China), 2005, 865. [第二期中国妇女社会地位调查课题组, “第二期中国妇女社会地位抽样调查主要数据报告,” 谭琳、刘伯红主编, 《中国妇女研究十年(1995-2005)》, 北京: 社会科学文献出版社, 2005年, 頁865.]

¹⁷⁴ Ildiko BELLER-HANN, “Work and Gender among Uyghur Villagers in Southern Xinjiang,” *Cemoti*, n° 25 - Les Ouïgours au vingtième siècle, [En ligne], mis en ligne le, <http://cemoti.revues.org/document55.html>.

¹⁷⁵ G.R. 16.

¹⁷⁶ The PRC Report addresses ways to move rural women into the monetized sectors of the economy, e.g. the section in the PRC Report: “Facilitating the orderly transfer of surplus rural labor into non-agricultural sectors,” but fails to acknowledge the value of women’s contributions to the informal economy. See PRC Report, page 54.

¹⁷⁷ Zhao Yan [赵岩], “Legal Protection for Equal Employment Opportunity for Minority Women—A Survey on Minority Women’s Employment in Benxi City [少数民族妇女平等就业权的法律保护—本溪市少数民族妇女就业情况的调查],” *Manzu Yanjiu* [满族研究], No.2, 2005, 51-55.

¹⁷⁸ PRC Constitution (1982, 1988, 1993, 1999, 2004), art. 4.

¹⁷⁹ *Ibid.*, art. 48.

¹⁸⁰ Zhao Yan [赵岩], “Legal Protection for Equal...,” 51-55.

¹⁸¹ “Migrant workers contribute 16% GDP growth,” *China Daily*, June 12, 2006.

¹⁸² “Migrant workers contribute...”

¹⁸³ “Migrants” here refers to rural residents who move to urban areas temporarily or seasonally to work and send money home to support their rural families.

¹⁸⁴ “Gender Inequality Serious in Rural Areas,” *Xinhua News Agency*, September 18, 2005.

¹⁸⁵ PRC Report, 53.

¹⁸⁶ CEDAW GR No. 19, at 1, para. 23 and 24(r).

¹⁸⁷ CEDAW GR No. 19, at 1, para. 24(m).

¹⁸⁸ PRC Responses, Add.1, §9.

¹⁸⁹ “Call for Legal Intervention to Fight against Domestic Violence [反对家庭暴力呼唤法律干预],” *Xinhua News Agency* 《新华网》, November 16, 2005
http://big5.xinhuanet.com/gate/big5/news.xinhuanet.com/legal/2005-11/16/content_3788204.htm.

¹⁹⁰ Zhang Xiaohung [张晓红], “Domestic Violence in China and Policies [中国的家庭暴力状况及其所采取的措施],” *Zhongguo Faxuehui Fandui Jiating Baoliwang* [中国法学会反对家庭暴力网].
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¹⁹¹ Wang Xingjuan [王行娟], “Actions of Chinese NGO to Fight against Domestic Violence [中国NGO反对家庭暴力的行动],” *Gender and Law in China* [中国性别与法律网], July 22, 2005,
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¹⁹² CEDAW GR No.19, at 1, para. 24(h).

¹⁹³ The National Program for the Development of Chinese Women (1995–2000), adopted by the State Council in 1995. The Chinese version is available at: http://www.nwccw.gov.cn/show/gjshownews.jsp?belong=国家&alias=gygh_gj&news_id=31488. A subsequent plan was adopted for 2001–2010.

¹⁹⁴ Marriage Law of the People's Republic of China [中華人民共和國婚姻法], adopted September 10, 1980, and revised April 28, 2001, art. 3.

¹⁹⁵ PRC Marriage Law, art. 43.

¹⁹⁶ PRC Responses, Add.1 §8(1).

¹⁹⁷ Interpretations No.1 of the Supreme People's Court about the Application of the Marriage Law of the People's Republic of China [最高人民法院關於適用《中華人民共和國婚姻法》若干問題的解釋], adopted at the 1202nd Meeting of the Judicial Committee of the Supreme People's Court on December 24, 2001, came into force on December 27, 2001. The Chinese version is available at: <http://www.findlaw.cn/HY/hylaw/hyjtsf/215004973.html>.

¹⁹⁸ United Nations General Assembly, Report of the Fourth World Conference on Women (A/CONF.177/20), Beijing, September 4-15 1995, para. 113.

¹⁹⁹ Interpretation No. I of the Supreme People's Court on Several Issues in the Application of Marriage Law of the People's Republic of China [最高人民法院關於適用《中華人民共和國婚姻法》若干問題的解釋], art. 1, defines "family violence" as: "a behavior whereby a person causes certain physical or mental injuries to his family member(s) by beating, binding, forced restriction of personal freedom or by other means. Durative or frequent family violence constitutes maltreatment." According to Beijing BPFA (113a), violence against women in the family encompasses physical, sexual and psychological violence, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women.

²⁰⁰ PRC Responses, Add.1 §9.

²⁰¹ Criminal Law, art. 260.

²⁰² Criminal Law, art. 234.

²⁰³ Criminal Law, art. 260.

²⁰⁴ Criminal Law, art. 234 states, "Whoever intentionally inflicts injury upon another person shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance. Whoever commits the crime mentioned in the preceding paragraph, thus causing severe injury to another person, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if he causes death to the person or, by resorting to especially cruel means, causes severe injury to the person, reducing the person to utter disability, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death, except as otherwise specifically provided in this Law."

²⁰⁵ For example, one Chinese law review article published in 2001 noted a case, where the Court acquitted one defendant, who was accused of abusing his wife for thirteen times over twenty years. The judge pointed out the reason that the abuse and assault had only happened occasionally because the defendant had reasons to hit the victim over the last twenty years. The Center of Women's Law & Legal Services of Peking University [北京大學婦女法律研究和法律服務中心], "Theories and Practices on Contemporary Legal Protection for Women's Rights: United Nations "The Study on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women [當代中國保護婦女權益的理論與實踐：聯合國《消除對婦女一切形式歧視公約》實施情況的調?和研究]," Gongren Chubanshe [工人出版社], (2001), 13.

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