CHINA:

CIVIL SOCIETY SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

80TH SESSION, 1 MARCH 2021 – 5 MARCH 2021, PRE-SESSIONAL WORKING GROUP, LIST OF ISSUES PRIOR TO REVIEW

February 1, 2021

Submitted by Human Rights in China on behalf of The Feminist Network Working Group

The Feminist Network Working Group ("Feminist Network") is a group of international human rights advocates and Chinese feminists fighting against gender-based violence and promoting gender equality, LGB, Transgender rights and legal justice. HRIC was founded in March 1989 by overseas Chinese students and scientists with a mission to support Chinese citizens by promoting international human rights and advancing the institutional protection of these rights in the People's Republic of China.

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Introduction

- 1. Human Rights in China (HRIC) makes this submission on behalf of the Feminist Network Working group ("Feminist Network") to the Committee on Elimination of Discrimination against Women (CEDAW Committee or the Committee) in advance of the adoption of the List of Issues Prior to Review (LOIPR) for the People's Republic of China ("China"). Since its last review before the Committee in 2014, China has continued to achieve economic growth as well as progress in other areas, including the enactment and promulgation of the Anti-Domestic Violence Law. Yet, as the State party has noted in its ninth periodic report (CEDAW/C/CHN/9, para.15), "notions of backward patriarchy and inferiority of women have not been eradicated" and issues around violence and abuse against girls and women continue to exist in China partly due to that "women still face some practical difficulties in the implementation of equal rights in employment, personal property, marriage, and family, etc."
- 2. This submission focuses on measures and policy implementations described in the State party's ninth periodic report to prevent gender-based violence and the practical challenges faced by women in Chinese society. Ongoing pervasive violence against women⁵ continue to have an adverse impact on Chinese women's full enjoyment of rights protected by the CEDAW Convention. This submission highlights two key concerns regarding China's effective implementation of the Convention: 1) *gender-biased sex selection* at birth, such as practices of gender-biased fetal sex selection, including non-medical fetal sex identification and sex-selective artificial termination of pregnancy; and 2) the lack of legal protection of girls and women against *domestic violence*. Related to these two key concerns, we make specific suggestions for the Committee's consideration in its adoption of the List of Issues Prior to Review for State party.
- 3. As an overarching challenge to effective monitoring and assessment of progress by the State party in its Convention implementation progress, we highlight the importance of *specific sex, age and ethnicity disaggregated, process-based,* and *comparative data* on issues that disproportionately affect women. These data inform meaningful and constructive assessment and measures to promote social progress and substantive gender equality, issue-specific program development, and legislative and policy changes. We respectfully urge the Committee to continue emphasizing the need for the systematic collection and analyses of these data, including soliciting the input of diverse and inclusive civil society organizations.
- 4. The State party described the preparation of the ninth periodic report (CEDAW/C/CHN/9, paras. 3-4),⁶ including the drafting and consultation processes, the participation of an extensive list of official bodies, as well as government-affiliated organizations. The report further notes that it also "solicited opinions from other social organizations and local

women's organizations." To promote a *more transparent and inclusive reporting process*, we urge the Committee to request further information on these "social organizations and local women's organizations," as well as the methods and formats of consultation. In the preparation of the responses to the Committee's LOIPR, the State Party should be encouraged to expand the input and consultation opportunities for grassroots women's organizations with direct experience in supporting victims of gender discrimination and violence.

Part I. High Sex Ratio at Birth and Practices of Gender-biased Non-Medical Needs Fetal Sex Identification and Sex-Selective Artificial Termination of Pregnancy (CEDAW arts. 3, 5, and 12)

- 5. China moved from "one-child policy" to "two-child policy" on January 1, 2016, ⁷ a change closely related to and affecting billions of people. Notwithstanding, this policy change did not stop the practices of gender-biased fetal sex identification for non-medical needs and sex-selective artificial termination of pregnancy, practices that contribute to the high male-to-female ratio at birth. Official state media also report that the practices of non-medical fetal sex identification and sex-selective artificial termination of pregnancy continue to exist and are prevalent in China. While China referenced these issues in a series of paragraphs in its combined seventh and eighth State Party Report, ⁹ it only provided a total of two paragraphs on these issues in its ninth periodic report, stating that the 2017 sex ratio at birth has decreased to 111.9. However, the sex ratio at birth in China remains higher than 102 to 106 boys to girls, the biologically normal sex ratio at birth. ¹¹
- 6. China clearly stated in its previous report (CEDAW/C/CHN/7-8) that "family planning is a basic state policy of China." The *Population and Family Planning Law of the People's Republic of China* forms the foundation of this state policy. The National People's Congress (NPC) amended this law on December 27, 2015. Effective on January 1, 2016, China moved from one-child policy to a two-child policy. The newly amended Article 18 of the said law, among other amended articles, ¹⁴ provides that the state advocates every married couple to have two children and that more children may be allowed where the requirements specified by laws and regulations are met. Article 18 also authorizes provincial-level people's congresses to formulate implementing measures to address issues such as eligibility for more than two children. As a result of this policy change, married couples are encouraged to have two children. China's birth registration service system was also updated. Couples who bear no more than two children will no longer be required to obtain birth permits from government authorities.
- 7. In the context of the "two-child policy," continuing practices of gender-biased fetal sex identification for non-medical needs and sex-selective artificial termination of pregnancy contribute to the high sex ratio at birth in China. Practices of non-medical needs fetal sex

identification and sex-selective artificial termination of pregnancy ("two-nons") are prevalent in Guangdong, Anhui, and Hubei provinces. According to official media reports, ¹⁶ toolkits to perform fetal sex identification are easily accessible online. Relevant practices range from selling and appropriating B-mode ultrasound labeled as animal use for human use to "mailing blood samples to identify fetal sex." Online shopping also makes a variety of these non-medical needs fetal sex selection tools available. Four-dimensional ultrasonography is popular online with a simple search. For example, a keyword search of four-dimensional ultrasonography yielded quotes from service providers at RMB168 (around \$26.14). Currently, there are no specific legal provisions against these practices.

- 8. The National Population Development Plan (2016 to 2030) issued by China in 2016¹⁷ clearly pointed out there should be a number of targeted policy measures (para. 34). The ninth periodic report describes a number of measures being taken to curb the trend of rising sex ratio at birth, including advocating the concept of gender equality, revision of village rules and regulations, and promoting the value of girls (para. 44).
- 9. In addition to the rural/urban demographic differences, there is a huge floating population of estimated 245 million individuals, comprising individuals who move away from their registered *hukou* (household registration) location, the majority of whom moving from rural villages in underdeveloped regions to modern cities in search of better work opportunities and a better life.¹⁸ However, China's ninth periodic report did not provide any updated information regarding the high sex ratio at birth and the practice of non-medical needs fetal sex identification and sex-selective artificial termination of pregnancy with respect to the floating population.

The Feminist Network respectfully urges the Committee to consider the following issues and questions to advance to the Chinese government:

- 10. Please provide more information on concrete measures and implementation progress to address the *ongoing sex ratio imbalance at birth*, as well as efforts to combat the *widespread practice of non-medical needs fetal sex identification and sex-selective artificial termination of pregnancy*, including concrete actions taken by the Chinese government at the local and central levels to address the *widespread availability of tools* to facilitate these practices.
- 11. Please provide more information regarding the *basis for the determination* of the reported *sex ratio at birth* decrease to 111.9 (ninth periodic report, para. 44), including but not limited to, data collection, statistical analysis, and challenges to data collection.

- 12. Please provide the *yearly sex ratio at birth* data disaggregated by rural and urban areas for the period of 2012 to 2020.
- 13. Please provide more information regarding *the legal, policy, and concrete measures* taken to address the issues of gender selection and the impact of the two-child policy on the *floating population* including:
 - a. Current status and any amendments to the *Regulations on the Work of Family Planning for the Floating Population*¹⁹;
 - Concrete measures taken by the Chinese government at the local and central levels regarding the practice of Non-medical needs fetal sex identification and sex-selective artificial termination of pregnancy among the floating population; and
 - c. Concrete examples and updates of the "new model of advocacy and consulting" related to family planning and reproductive health applied to the *floating* population as stated in the combined Seventh and Eighth Report of China, (CEDAW/C/CHN/7-8)²⁰ before and after the two-child policy, 2012 to 2020.

Part II Concerns regarding legal protection of girls and women against domestic violence (CEDAW art. 2, art. 5, and art.16)

- 14. Despite the implementation of the Anti-Domestic Violence Law in 2016, recent data from All-China Women's Federation (ACWF) shows that there were reported *39,371* complaints of domestic violence in 2018. However, according to reports on data released by the ACWF, "every 7.4 seconds, one woman is being beaten by her husband in China." Findings from the Third Survey on Chinese Women's Social Status in 2010 also have demonstrated that 24.7% of women in 270 million households in China have encountered domestic violence, "including verbal abuse, assaults, restriction of personal freedom, economic control, forced sex, and other forms of domestic violence during their marriages." ACWF's statistics show that about 157,000 women commit suicide every year, 60% of which were caused by domestic violence. 4 Yet, the numbers of cases of domestic violence in actuality are often underreported as research shows that most domestic violence cases are unreported. Specifically, in China, battered victims only report to the police after an average of 35-times domestic violence. 26
- 15. Since the *Anti-Domestic Violence Law* went into effect on March 1, 2016,²⁷ non-profit organizations have researched the experience of battered women and the effectiveness of the implementation of anti-domestic violence policies and programs. According to one report, factors contributing to the ineffectiveness of the Anti-Domestic Violence Law include the lack of "special information collection, mechanism to collect statistics and financial support."²⁸

- 16. Additionally, *COVID-19 has exacerbated the severity* of domestic violence, and "intimate terrorism" has become a new crisis worldwide.²⁹ Despite the lack of nationwide statistics on domestic violence in China, various domestic and international reports show that there is a rise in domestic and intimate partner violence in China during the pandemic.³⁰ For example, according to a report in *The New York Times*, Lele (pseudonym), a woman living in Hubei during the lockdown, was beaten by her husband with a high chair while she was holding her 11-month-old daughter. She was apparently beaten so many times that she could not feel her leg anymore. Lele told the reporter that she has been abused for the whole six-year relationship and COVID-19 had made it worse.³¹ Equality, a Beijing-based NGO dedicated to combating violence against women, also witnessed "a surge in calls to its helpline since early February" in China, then the epicenter of the outbreak.³²
- 17. The State party noted in its ninth periodic report that it has established a legal system that requires "mandatory reporting by units and individuals, public security cautions, and other important personal safety protection orders" under the *Anti-Domestic Violence Law* (CEDAW/C/CHN/9, para. 21)³³ to stop domestic violence. It reports that "by the end of 2018, courts across the country had issued 3,718 personal safety protection orders, effectively curbing the occurrence of domestic violence" (CEDAW/C/CHN/9, para. 46).³⁴ Yet, there is a huge gap (39,371 versus 3,718) between reported complaints and the number of issued personal safety protection orders.
- 18. Additionally, according to the Judicial Big Data Special Report on Divorce Disputes issued by the Supreme People's Court in 2018,³⁵ 73.4% of plaintiffs are female, and domestic violence is the second most common reason for application for dissolution of marriage. However, China states that the implementation of "divorce cooling-off period" is part of the "The Court's Opinions on Further Deepening the Reform of Family Trial Methods and Working Mechanisms (for Trial Implementation)" to properly resolve marriage and family disputes and protect the legal rights of women and children to the greatest extent possible (CEDAW/C/CHN/9, para. 23). Yet, research shows that "domestic violence did not increase the probability a court granted a divorce request," disproportionately affecting female victims of domestic violence.

The Feminist Network respectfully urges the Committee to consider the following issues and questions to advance to the Chinese government:

- 19. Please provide additional statistics and information regarding *Personal Safety Protection Orders* referenced in China's ninth periodic report (paras. 21 & 46), including:
 - a. Please provide the 1) numbers of complaints received by the court and 2) the numbers of complaints received by non-profit organizations in 2016, 2017, 2018,

- 2019, and 2020 (especially during COVID-19), respectively, to provide a fuller picture of the scope of the domestic violence in China.
- b. Please provide the ratios of *Personal Safety Protection Orders issued in rural and urban areas* concerning the numbers of locally reported domestic violence cases, respectively.
- c. Please explain the large gap between the numbers of complaints (e.g., 39,371) and the numbers of Personal Safety Protection Orders issued by the court (e.g., 3,718, para. 46) and what *protection measures* have been put in place to protect the victims who did not receive the Personal Safety Protection Orders.
- 20. Please provide specific information on the results of the *investigations of domestic* violence, including punishments for perpetrators, the percentage of successful court rulings against the perpetrators, and the number of cases where female plaintiffs' first requests of divorce were denied.³⁹
- 21. Please provide information about *additional protective and support measures* to address domestic violence and the effectiveness of these measures, including information regarding:
 - a. *specific protection measures* the State has provided for battered women in divorce disputes *to ensure their safety* during the "divorce cooling-off period"; and assessments of how the "divorce cooling-off period" effectively protects women;
 - b. *social and psychological support programs* the State has offered to victims of domestic violence during and after COVID-19 to ensure the physical and mental well-being of battered women;
 - c. *immediate actions, protection measures, and recovery plans*, if any, taken by the State party *during and after stages of the COVID-19 pandemic* to address domestic violence against women; and
 - d. the *amount of funds distributed to non-profit organizations* devoted to help victims of domestic violence each year and legal aid.

¹ "Ninth Periodic Report submitted by China in accordance with Article 18 due in 2018 (CEDAW/C/CHN/9, Advance unedited version)," received March 26, 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCHN%2f9&Lang=en.

² Committee on the Elimination of Discrimination against Women, "Concluding observations on the combined seventh and eighth periodic reports of China (CEDAW/C/CHN/CO/7-8)," November 14, 2014, <a href="https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsoVqDbaslinb8oXgzpEhivhQ3NCi1e8470HGzJcswgVQFqmcLRie5oHIlbXpXbb5sZQhK9Ry3t3ZUdaSlXBeGda8VKatQc8B7D9rkBGmOHvnQYC%2b9%2bWwl09wtgYT%2bBwBqg%3d%3d.

³ 中华人民共和国反家庭暴力法(主席令第三十七号)(Anti-Domestic Violence Law of the People's Republic of China (Chairman Order No. 37), December 28, 2015, http://www.gov.cn/zhengce/2015-12/28/content_5029898.htm.

⁴ "Ninth Periodic Report submitted by China in accordance with Article 18 due in 2018 (CEDAW/C/CHN/9, Advance unedited version)," op. cit. para. 15. See unofficial English translation by a group of human rights advocates and Chinese feminists, edited by HRIC at: https://www.hrichina.org/sites/default/files/prc 9th cedaw report 2021 trans.pdf.

- ⁵ In its Concluding Observations following its last review of China, the Committee recommended that China "thoroughly investigate allegations of violence and abuse against women who stand for election as independent candidates and ensure that the perpetrators are prosecuted and adequately punished." This has not been implemented. "Concluding observations on the combined seventh and eighth periodic reports of China (CEDAW/C/CHN/7-8)," op. cit. However, in the State party's ninth periodic report, the State has not provided any relevant information on any actions or measures taken.
- 6 "Ninth Periodic Report submitted by China in accordance with Article 18 due in 2018 (CEDAW/C/CHN/9, Advance unedited version)," op. cit. paras. 3-4. See unofficial English translation by by a group of human rights advocates and Chinese feminists, edited by HRIC at: https://www.hrichina.org/sites/default/files/prc_9th_cedaw_report_2021_trans.pdf.

 7 中华人民共和国人口与计划生育法 (Population and Family Planning Law of the People's Republic of China), September 1, 2002, https://www.gov.cn/banshi/2005-08/21/content_25059.htm.
- 8 See e.g. "非法鉴定胎儿性别乱象: 无明确刑罪 违法成本太低 (Chaos of Illegal Fetal Sex Selection: No Clear Criminal Offense and Low Cost of Law-Breaking)," *China Court*, May 15, 2015, https://www.chinacourt.org/article/detail/2015/05/id/1629564.shtml; and "非法鉴定胎儿性别暗流汹涌(Illegal Fetal Sex Selection Is Prevalent Underground)," *Xinhua Net*, October 3, 2018, http://www.xinhuanet.com/local/2018-10/03/c_1123517086.htm.
- ⁹ See China State Party Report, information regarding implementation of Article 3 and Article 12. "Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Combined Seventh and Eighth Periodic Report of States Parties, China (CEDAW/C/CHN/7-8)," January 12, 2020, https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsoVqDbaslinb8oXgzpEhivg3sNENLHVcUuRT2Xol3pd4twu4TiEnGVv3Hyi1gDwN%2fKGZdPtraDkwcNKLrQwBnKrWeCE1VzAa0jCUFuVlev4B.
- ¹⁰ "Ninth Periodic Report submitted by China in accordance with Article 18 due in 2018 (CEDAW/C/CHN/9, Advance unedited version)," op. cit. para. 44. See unofficial English translation by by a group of human rights advocates and Chinese feminists, edited by HRIC at: https://www.hrichina.org/sites/default/files/prc 9th cedaw report 2021 trans.pdf.
- ¹¹ World Health Organization, "Preventing Gender-Biased Sex Selection—An Inter-Agency Statement, OHCHR, UNFPA, UNICEF, UN Women and WHO," 2011, pg. v, https://apps.who.int/iris/bitstream/handle/10665/44577/9789241501460_eng.pdf.
- ¹² "Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Combined Seventh and Eighth Periodic Report of States Parties, China (CEDAW/C/CHN/7-8)," op. cit., para. 184.
- ¹³ "Population and Family Planning Law of the People's Republic of China)," op. cit.
- ¹⁴ ibid., Article 18 Sections 1 and 2.
- 15 中共中央 国务院关于实施全面两孩政策改革完善计划生育服务管理的决定 (CPC Central Committee and the State Council Decision on Reforming and Improving the Birth Planning Registration Service System for the Comprehensive Implementation of the Two-Child Policy), December 31, 2015, http://www.gov.cn/gongbao/content/2016/content 5033853.htm.

- 16 "非法鉴定胎儿性别乱象: 无明确刑罪 违法成本太低 (Chaos of Illegal Fetal Sex Selection: No Clear Criminal Offense and Low Cost of Law-Breaking),"; and "非法鉴定胎儿性别暗流汹涌(Illegal Fetal Sex Selection Is Prevalent Underground)," op. cit.
- ¹⁷ 国家人口发展规划(2016—2030 年)(*National Population Development Plan (2016 to 2030)*), January 25, 2017, http://www.gov.cn/zhengce/content/2017-01/25/content_5163309.htm.
- ¹⁸ Daniel Goodkind, and Loraine A. West, "China's Floating Population: Definition, Data and Recent Findings," *Urban Studies*, November 2002,
- https://www.researchgate.net/publication/248973772_China's_Floating_Population_Definitions_Data_and_Recent_Findings#:~:text=...%20China's%20floating%20population%20(,better%20life%20(Wang%202017).
- 19 流动人口计划生育工作条例 (Regulations on the Work of Family Planning for the Floating Population), May 11, 2009, http://www.gov.cn/zhengce/content/2009-05/20/content 6505.htm
- ²⁰ "Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Combined Seventh and Eighth Periodic Report of States Parties, China (CEDAW/C/CHN/7-8)," op. cit. para. 191.
- ²¹ "还说家丑不可外扬? 全国妇联统计每 7.4 秒就有一女性被家暴 (Still saying that the ugliness of the family should not be exposed? The All-China Women's Federation counts that a woman is domestically abused every 7.4 seconds)," *The Paper*, November 25, 2016, https://www.thepaper.cn/newsDetail_forward_1568118.
- 22 "统计显示我国 24.7% 女性遭受过不同形式家庭暴力(Statistics show that 24.7% of women in my country have experienced various forms of domestic violence)," *Gov.cn China News*, October 21, 2011, http://www.gov.cn/jrzg/2011-10/21/content_1975297.htm.
- ²³ Yang Shen, "Findings from the Third Survey on Chinese Women's Social Status, The London School of Economics and Political Science, Department of Gender Studies," *LSE Department of Gender Studies*, November 3, 2011, https://blogs.lse.ac.uk/gender/2011/11/03/findings-from-the-third-survey-on-chinese-womens-social-status/.
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- ²⁵ Enrique Gracia, "Unreported cases of domestic violence against women: towards an epidemiology of social silence, tolerance, and inhibition," January 13, 2006, *Journal of Epidemiology and Community Health*, Volume 58 Issue 7, https://jech.bmj.com/content/58/7/536.
- ²⁶ "还说家丑不可外扬? 全国妇联统计每 7.4 秒就有一女性被家暴 (Still saying that the ugliness of the family should not be exposed? The All-China Women's Federation counts that a woman is domestically abused every 7.4 seconds)," op. cit.
- ²⁷ 中华人民共和国反家庭暴力法(主席令第三十七号)(Anti-Domestic Violence Law of the People's Republic of China (Chairman Order No. 37), op cit.
- 28 源众性别发展中心,《反家庭暴力法》实施情况调研报告全文 (The full text of the investigation report on the implementation of the "Anti-Domestic Violence Law"), March 15, 2017, https://mp.weixin.qq.com/s/s6wP1cNkS8VK7OGImwV_9Q.
- 29 Amanda Taub, "A New Covid-19 Crisis: Domestic Abuse Rises Worldwide", *The New York Times*, updated April 14, 2020, https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html.

30 Hongwei Zhang, "The Influence of the Ongoing COVID-19 Pandemic on Family Violence in China", Nature Public Health Emergency Collection, September, 2020, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7473410/. See also examples of news interviews with advocates or victims of domestic violence in China: Nathan Vanderklippe, "Domestic violence reports rise in China amid COVID-19 lockdown", *The Globe and Mail*, March 29, , 2020, https://www.theglobeandmail.com/world/article-domestic-violence-reports-rise-in-china-amid-covid-19-lockdown/; Sophie Mak, "China's Hidden Epidemic: Domestic Violence", *The Diplomat*, April 6, 2020, https://thediplomat.com/2020/04/chinas-hidden-epidemic-domestic-violence/; 曹颖, "疫情中的家暴受害者: 被削弱的自救系统,南方周末 (Domestic violence victims in the epidemic: a weakened self-help system),"南方周末, March 22, 2020, https://mp.weixin.gq.com/s/iV3UiSRdAZ41MWRHTexPOO.

³¹ "A New Covid-19 Crisis: Domestic Abuse Rises Worldwide", op. cit.

- ³³ "Ninth Periodic Report submitted by China in accordance with Article 18 due in 2018 (CEDAW/C/CHN/9, Advance unedited version)," op. cit. para. 21.
- ³⁴ "Ninth Periodic Report submitted by China in accordance with Article 18 due in 2018 (CEDAW/C/CHN/9, Advance unedited version)," op. cit. para. 46.
- 35 "司法大数据专题报告之离婚纠纷 (Judicial Big Data Special Report on Divorce Disputes issued by the Supreme court)," The Supreme People's Court of the Republic of China, March 23, 2018, http://www.court.gov.cn/fabu-xiangqing-87622.html.
- 36 最高人民法院关于进一步深化家事审判方式和工作机制改革的意见 (试行) (The Supreme People's Court's Opinions on Further Deepening the Reform of Family Trial Methods and Working Mechanisms (for Trial Implementation), 2018, http://gongbao.court.gov.cn/Details/fa1841610affb20d291ddf57c42526.html.
- 37 "Ninth Periodic Report submitted by China in accordance with Article 18 due in 2018 (CEDAW/C/CHN/9, Advance unedited version)," op. cit. para. 23.
- 38 Ethan Michelson, "Decoupling: Marital Violence and the Struggle to Divorce in China," American Journal of Sociology, Volume 125, Number 2, September, 2019, https://www.journals.uchicago.edu/doi/abs/10.1086/705747

39 ibid.

³² ibid.