1. China

Statistics

**GENERAL**

*Population*
- Total population (millions): 1,315.8.
- Population by sex (thousands): 639,189.0 (female) and 674,120.0 (male).
- Percentage of population aged 0–14: 24.2.
- Percentage of population aged 15–24: 16.3.
- Percentage of population in rural areas: 61.

*Economy*
- Gross national income per capita: USD 1,100.
- Government expenditure on health: 2% of GDP.
- Government expenditure on education: 2% of GDP.
- Percentage of population below the poverty line: 5.

**WOMEN’S STATUS**
- Life expectancy: 73.9 (female) and 70.3 (male).
- Average age at marriage: 22.1 (female) and 23.8 (male).
- Labor force participation: 80.3 (female) and 90.1 (male).
- Percentage of employed women in agricultural labor force: Information unavailable.
- Percentage of women among administrative and managerial workers: Information unavailable.
- Literacy rate among population aged 15 and older: 82% (female) and 94% (male).
- Percentage of female-headed households: Information unavailable.
- Percentage of seats held by women in national government: 22.
- Percentage of parliamentary seats occupied by women: 20.

**CONTRACEPTION**
- Total fertility rate: 1.72.
- Contraceptive prevalence rate among married women aged 15–49: 84% (any method) and 83% (modern method).
- Prevalence of sterilization among couples: 46.1% (total); 35.9% (female); 10.2% (male).
- Sterilization as a percentage of overall contraceptive prevalence: 54.5.

**MATERNAL HEALTH**
- Lifetime risk of maternal death: 1 in 710 women.
- Maternal mortality ratio per 100,000 live births: 56.
- Percentage of pregnant women with anemia: 52.23
- Percentage of births monitored by trained attendants: 97.24

**ABORTION**

- Total number of abortions per year: 7,930,000.25
- Annual number of hospitalizations for abortion-related complications: Information unavailable.
- Rate of abortion per 1,000 women aged 15–44: 26.1.26
- Breakdown by age of women obtaining abortions: Information unavailable.
- Percentage of abortions that are obtained by married women: Information unavailable.

**SEXUALLY TRANSMISSIBLE INFECTIONS (STIS) AND HIV/AIDS**

- Number of people living with sexually transmissible infections: Information unavailable.
- Number of people living with HIV/AIDS: 840,000.27
- Percentage of people aged 15–49 living with HIV/AIDS: 0.1 (female) and 0.2 (male).28
- Estimated number of deaths due to AIDS: 44,000.29

**CHILDREN AND ADOLESCENTS**

- Infant mortality rate per 1,000 live births: 33.30
- Under five mortality rate per 1,000 live births: 47 (female) and 39 (male).31
- Gross primary school enrollment ratio: 115% (female) and 115% (male).32
- Primary school completion rate: Information unavailable.
- Number of births per 1,000 women aged 15–19: 5.33
- Contraceptive prevalence rates among married female adolescents: Information unavailable.
- Percentage of abortions that are obtained by women younger than age 20: Information unavailable.
- Number of children under the age of 15 living with HIV/AIDS: Information unavailable.
ENDNOTES

4. See UNFPA, Country Profiles, supra note 2.
12. See UNFPA, Country Profiles, supra note 2.
13. See id.
14. See id.
18. See id. at 108.
20. See id., tbl Supp. 2.3, at 55.
29. See Joint United Nations Programme on HIV/AIDS (UNAIDS) et al., supra note 27.
31. See UNFPA, Country Profiles, supra note 2.
33. See id. at 108.
The People's Republic of China lies to the west of the East and South China Sea and borders 14 other countries including India and Russia. China has one of the oldest civilizations in the world. It was founded on October 1, 1949, by the Communist Party of China (CPC), under the leadership of Mao Zedong. The country was conceived as a socialist nation dedicated to the principles of Marxism-Leninism and the Maoist ideology of class struggle, and was the result of years of civil unrest and an internal power struggle between the Kuomintang and the CPC. The government gained popular support by curbing inflation, restoring the economy, rebuilding many war-damaged industrial plants, and unifying the country. In 1958, Mao launched the Great Leap Forward, a radical initiative aimed at accelerating industrial growth that led to one of the deadliest famines in human history.

Mao stepped down from the presidency in 1959 amid heavy criticism in the aftermath of the Great Leap Forward. Meanwhile, CPC Secretary-General Deng Xiaoping gained political support through his introduction of pragmatic economic reforms that ended famine and dramatically increased income and productivity. To regain power and halt the “capitalist corruption” of the masses, Mao in 1966 instigated a popular rebellion against the leadership, the Great Proletarian Cultural Revolution, plunging the country into political and social anarchy that lasted until his death in 1976. Subsequently, Deng Xiaoping assumed leadership of the Chinese government and the CPC, officially adopting open-door economic policies guided by capitalist, free-market principles. He also advanced the principles of the “Four Modernizations”—a development strategy aimed at modernizing industry, agriculture, science and technology, and national defense. Deng was succeeded in 1993 by President Jiang Zemin, who focused on advancing production, culture, and industry, agriculture, science and technology, and national defense. Deng succeeded in 1993 by President Jiang Zemin, who focused on advancing production, culture, and industry, agriculture, science and technology, and national defense. In March 2003, he was succeeded by Hu Jintao.

China has an estimated population of more than 1.3 billion, approximately 48.5% of which is female. More than 91.1% of the country is Han Chinese, and the remainder of the population consists of 56 other ethnic minorities. China is officially atheist, but prevalent religions include Buddhism, Daoism (Taoism), Islam, Catholicism, and Christianity. China's official language is Mandarin (Putonghua, based on the Beijing dialect), spoken by more than 70% of the population. Other languages include Yue (Cantonese), Wu (Shanghaiese), Minbei (Fuzhou), Minnan (Hokkien-Taiwanese), Xiang, Gan, Hakka dialects, and other ethnic languages.

China has been a member of the United Nations since October 24, 1945, and is a permanent member of the United Nations Security Council. China has joined several economic alliances, including the Asia-Pacific Economic Cooperation (APEC) in 1991, and the World Trade Organization (WTO) in 2001, and has a co-operative relationship with the Association of Southeast Asian Nations (ASEAN).

I. Setting the Stage: The Legal and Political Framework of China

Fundamental rights are rooted in a nation's legal and political framework, as established by its constitution. The principles and goals enshrined in a constitution, along with the processes it prescribes for advancing them, determine the extent to which these basic rights are enjoyed and protected. A constitution that upholds equality, liberty, and social justice can provide a sound basis for the realization of women's human rights, including their reproductive rights. Likewise, a political system committed to democracy and the rule of law is critical to establishing an environment for advancing these rights. The following section outlines important aspects of China's legal and political framework.

A. THE STRUCTURE OF NATIONAL GOVERNMENT

The executive branch of the Chinese government consists of the president, the vice president, and the State Council (guo yu yuan), its premier, and vice premiers. The president of China is the titular head of state and is nominated, elected, and removed by the NPC. The president serves for a maximum of two consecutive five-year terms. The president’s functions include promulgating NPC decisions regarding statutory enactments, deciding on State Council appointments and removals, declaring a state of emergency or war to the public, and conducting foreign diplomatic relations.

The State Council is the most powerful executive body in the Chinese government. The premier presides over the State Council and has final decision-making power pertaining to issues within the State Council's authority. The composition of the council includes vice premiers, state coun-
The State Council has undergone multiple restructurings to reduce the central government’s involvement in economic affairs. It is currently composed of the General Affairs Office, 28 ministries and commissions, 17 directly affiliated organs, 7 working offices, and a number of news agencies and academic institutions. Among the departments within the State Council are the Ministry of Education (MOE), Ministry of Labor and Social Services (MOLSS), Ministry of Health (MOH), and the National Population and Family Planning Commission (NPPFC). The NPC oversees the work of the State Council, which together exercise legislative power for the country.

The NPC comprises no more than three thousand deputies elected to five-year terms by local people’s congresses made up of deputies elected by the people of each electoral district, special administrative regions, national autonomous regions, and the armed forces. Among the NPC deputies must be an appropriate number of women. Special committees within the NPC assist in discharging legislative responsibilities. Special committees include, among others, the Legislative branch, the Education, Science, Culture, and Health Committee, and the Civil and Judicial Affairs Committee.

The NPC meets in annual sessions. Among its powers and functions are approving amendments to the constitution and supervising the enforcement of the constitution; enacting and amending national laws; electing and removing members of the executive branch and leaders of the Supreme People’s Court (SPC), Central Military Commission (CMC), and Supreme People’s Procuratorate (SPP); examining and approving national plans for economic and social development, and for the national budget; deciding on questions of war and peace; and nullifying or amending decisions of its Standing Committee.

The Standing Committee of the NPC is the permanent office of the NPC. It is composed of the chairperson, vice chairpersons, the secretary-general, and appointed deputies from the NPC. The chairperson, vice chairpersons, and the secretary-general form the Council of Chairmen, which handles the daily work of the Standing Committee.

The Standing Committee has the authority to interpret and supervise the enforcement of the constitution and national laws; annul local and State Council legislation that contravenes the constitution or national laws; supervise the State Council, the CMC, the SPC, and the SPP; appoint or remove members of the judiciary and procuratorate. Between NPC sessions, the Standing Committee may amend national laws; approve necessary adjustments to national economic and development plans and the state budget; appoint State Council and CMC members; and declare a state of emergency or war.

B. THE STRUCTURE OF LOCAL GOVERNMENTS

For administrative purposes, the country is divided into provinces, municipalities, and autonomous regions. China has twenty-three provinces (including the disputed province of Taiwan), five autonomous regions (including the contested Tibet Autonomous Region), four centrally administered municipalities, and two special administrative regions (Hong Kong and Macau). Each division is further divided into prefectures, counties, districts, and cities, and counties are subdivided into townships and towns.

People’s congresses and people’s governments are established in all administrative divisions. The structure and authority of people’s congresses and governments are prescribed by the constitution and designated by the central government.

Executive branch

The people’s governments serve as the organs of executive power in their respective administrative divisions, subordinate to the State Council, the people’s government of the preceding
division, and the people's congress at the corresponding division. People's governments are led by governors in counties and provinces, mayors in municipalities and cities, and heads of districts, townships, and towns who are appointed by the corresponding people's congresses for three or five-year terms.

The functions and powers of the people's governments are determined by the State Council and may include the following: implementing resolutions and laws of higher state organs; issuing administrative measures, decisions, and orders within its authority; amending or repealing inappropriate directives of subordinate departments and governments; overseeing economic, health, education, family planning, and other affairs in their region; issuing decisions and orders; and safeguarding citizens' and women's rights.

Beneath the people's governments in townships, towns, and villages are residents' and villagers' committees that manage local affairs. The primary tasks of these committees, which are led by a chairperson elected by the residents, are to mediate conflicts between local residents; manage public security, health, and social services; and convey residents' opinions and demands to the people's government immediately above.

National and local people's governments and administrative bodies (i.e. the Ministry of Health, provincial departments of health) are staffed by cadres (ganbu), or civil servants, who range in title from the State Council premier to clerks and researchers. They are bound by the Civil Servant Law and the rights and obligations of civil servants as outlined by the Ministry of Personnel.

**Legislative branch**

The constitution mandates the establishment of a people's congress, the local legislative organ, in all administrative divisions. Deputies to people's congresses are elected and removed by their constituents, or by their constituents' elected representatives in the people's congress at the next lower administrative division.

**Self-government of national autonomous areas**

National autonomous areas are regions inhabited by ethnic minorities in concentrated communities and approved by the State Council. They are classified as autonomous regions, autonomous prefectures, and autonomous counties, and are governed by 'organs of self-government' in the form of people's congresses (legislative) and people's governments (executive).

The people's congresses and governments of national autonomous areas serve functions similar to those of other local organs of China, with an additional right of autonomy. People's congresses and governments of autonomous regions are empowered by the constitution and statutes to adopt special policies and regulations in light of local political, economic, and cultural characteristics of minority peoples.

**Special administrative regions**

China's constitution empowers the NPC to establish special administrative regions (SARs) as it deems necessary.

The Hong Kong SAR was established on July 1, 1997, and the Macao SAR was established on December 20, 1999. According to China's Ministry of Justice, the government administers the SARs with the principle of "one country, two systems" in order to maintain national unity, territorial integrity, and prosperity. The principle is described as refraining from imposing socialist policies upon autonomous regions and accepting their basic laws as well as their current system of governance. Most laws in this report are not applicable to Hong Kong and Macao.

**Special economic and development zones**

Special economic and development zones were established in accordance with economic reforms in the 1980s to facilitate economic development, technological advancement, and foreign investment. The State Council has established five major special economic zones and various technological development zones, coastal economic open zones, free trade zones, and other zones where preferential financial and economic regulations are employed. These regions are often urban trade centers, populated by well-educated business people who enjoy greater accessibility and choice in public and private health care.

**Judicial branch**

The constitution provides for a multitier judicial system composed of the Supreme People's Court, local people's courts, and special people's courts. People's courts exercise independent judicial powers and are answerable to the national or local people's congresses. Their primary function is to safeguard the socialist system of government led by the working class, uphold the legal system and public order, and "the citizens' right of the person" and other constitutional rights.

The Supreme People's Court (SPC) is the highest judicial organ in China. It is composed of a judicial committee and criminal, civil, economic, administrative, and other divisions. The NPC appoints an SPC president, and other members are appointed by the NPC Standing Committee. The SPC is responsible for supervising the administration of justice and may remand or reverse erroneous decisions by all subordinate people's courts. It has original jurisdiction in national criminal cases, civil cases of "major impact," and "grave and complicated" administrative cases. Other responsibilities of the SPC include making a final review of death penalty cases and issuing judicial interpretations regarding application of laws and decrees in judicial proceed-
ings that are equivalent to statutes.111

Local people's courts are divided into higher people's courts (HPCs), established in provinces, autonomous regions, and municipalities;112 intermediate people's courts (IPCs) in prefectures;113 and basic people's courts (BPCs) in counties, districts, and cities.114 Members of local people's courts are appointed and removed by the corresponding people's congress, or may be recruited through open examination.115 The HPCs and the IPCs have jurisdiction over civil,116 administrative,117 and criminal cases that occur within their designated regions,118 and over appeals from subordinate court decisions.119 BPCs handle minor criminal, civil, and administrative cases,120 establish representative courts (people's tribunals) in their localities, and oversee people's mediation and arbitration committees.121

Judicial committees are mandatory bodies within the SPC and local people's courts.122 Their primary task is to provide judicial oversight to ensure correct determination of facts and proper application of laws.123 The president of the court presides over the committees, and other members are appointed or removed by the corresponding people's congress.124 Legal aid is available to help indigent citizens to reduce, postpone, or avoid litigation costs.125 They may apply for legal aid in matters such as seeking state compensation, social insurance, pension or relief funds, spousal maintenance, and support payments for parents, grandparents, or children.126

The constitution requires trials to be conducted openly, available for public auditing, and open to the press,127 except in cases involving state secrets, personal privacy, or juvenile offenders,128 or upon request by litigants in divorce and commercial proprietary cases.129

Customary forms of alternative dispute resolution

People's mediation is an integral part of the Chinese judicial system as stipulated by the constitution130 and various statutes.131 It aims to settle disputes between citizens out of court under the principle of “equality and willingness.”132 People's mediation committees are established by and consist of local residents and have jurisdiction over matters of commerce, marriage, inheritance, adoption, and property.133 The committees operate independent of the court system, although they are guided by local people's governments and people's courts. There were 1.7 million mediated cases of family disputes in 2003, or 40% of the total number of mediated civil disputes in the country.134

When mediation fails or is inappropriate, arbitration through third party adjudication may be employed. The Arbitration Law was formulated “with a view to ensure fair and timely arbitration of economic disputes, reliable protection to the legitimate rights and interests of parties concerned, and a healthy development of the socialist market economy.”135 Disputes over labor, contracts, and property may be submitted for arbitration,136 but disputes over marriage, adoption, guardianship, childrearing, and inheritance are explicitly exempt from the statute.137

C. THE ROLE OF CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS (NGOS)

The Chinese government defines NGOs as “not-for-profit organizations formed by citizen volunteers which carry out activities aimed at realizing the common aspirations of their members in accordance with organizational articles of association.”138 Under the law, NGOs are classified as social organizations, noncommercial enterprises or institutions, and public and private fundraising foundations. The majority of NGOs in China are labor federations or social service providers that are supported by state funds or private monies.139

The Bureau of NGO Administration, housed in the Ministry of Civil Affairs under the State Council, is the government agency responsible for registering, approving, inspecting, and supervising the operation of NGOs.140 The Chinese government permits NGOs so long as their activities do not interfere with the interests of the state, oppose the principles of the constitution, “endanger national unity, security or ethnic unity,” or contravene “national interest [or] … prevailing social morality.”141

Powerful entities known as people's organizations are organized and fully funded by the government and considered loyal to the CPC.142 People's organizations are entitled to a 100% tax deduction143 and do not have to be registered or supervised by a government agency.144 These organizations include the All-China Federation of Trade Unions, the China Communist Youth League (CCYL), and the All-China Women's Federation (ACWF).145

The CCYL shares a close relationship with the CPC and represents the interests of the youth population on issues such as education, employment, and rights.146 The ACWF is a government-sponsored organization founded in 1949 “to represent and safeguard women's rights and interests and promote equality between women and men.”147 The ACWF acts as a bridge between policymakers and civil society and is intended to be “an important part of the enabling environment for gender equality in China.”148 The federation is responsible for drafting legislation that protects women's rights and was recently entrusted with writing the final draft of the Amendments to Law on the Protection of Women's Rights and Interests (“Women's Rights Law”).149 The ACWF has helped formulate policies and laws on women's health and popularized related programs and measures.150 Over the years,
the ACWF has launched several projects to promote public awareness of women’s health issues and to encourage scientific research, and has conducted surveys to collect information on women’s health for use by government agencies.158

Although all domestic NGOs in China are required to register with the bureau, many grassroots NGOs are unable to find a sponsoring government agency and therefore operate without registration.152 The Ministry of Civil Affairs estimates that out of seventy thousand NGOs in China, only about twenty thousand were officially registered with the government.153

D. SOURCES OF LAW AND POLICY

Domestic sources
The primary domestic sources of Chinese law are the constitution, legislation, and judicial interpretations of law.

The constitution is fundamental law and has supreme legal authority.154 It establishes China as a country governed by the rule of law.155 The constitution provides fundamental rights for all citizens, including equality before the law;156 freedom of speech, assembly, association, religion, and marriage;157 freedom from unlawful arrest or detention, libel, and infringement of physical integrity;158 and the right and duty to work and receive education.159 It also directs the state to respect and protect human rights,160 encourage economic development, supply social assistance and benefits,164 and create conditions to ensure that citizens enjoy their rights.162

The constitution guarantees women’s equality in political, economic, cultural, social, and family life.163 It charges the government with the responsibility to protect the legitimate rights and interests of women and to prohibit maltreatment of women and children.164 The constitution further prohibits discrimination or oppression on the basis of ethnicity.165 However, constitutional rights may be abrogated for the “interest of the state, of society, or of the collective,” or for national security and as punishment for crimes.166

Legislation enacted by the NPC, the State Council, and the local people’s congresses is subordinate to the constitution.

Another formal source of domestic law is judicial interpretation formulated by the SPC or the SPP on questions concerning specific applications of law in judicial practice.167 All lower courts (including HPCs, IPCs, and BPCs) are compelled to follow judicial interpretations; however, case rulings by a higher court are not binding on lower courts because decisions are made on a case-specific basis.168

International sources
The Standing Committee of the NPC, represented by the president, ratifies and abrogates treaties and important agreements concluded with foreign states.169 China has ratified the following international legal instruments: the Convention on the Elimination of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and the Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography.170 The Chinese government has submitted reports to the committees that monitor implementation of these treaties.171 China has signed, but not ratified, the International Covenant on Civil and Political Rights (ICCPR) and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.172

China hosted the Fourth World Conference on Women in Beijing in 1995, and attended the International Conference on Population and Development (ICPD) in September 1994, the ICPD+5, and Beijing+5.173 At the Millennium Summit in 2000, China joined 189 countries in adopting the Millennium Declaration outlining eight major Millennium Development Goals, including eradicating poverty, establishing universal primary education, promoting gender equality, improving maternal health and child mortality rates, and combating HIV/AIDS.174

II. Examining Reproductive Health and Rights

In general, reproductive health matters are addressed through a variety of complementary, and sometimes contradictory, laws and policies. The scope and nature of such laws and policies reflect a government’s commitment to advancing the reproductive health status and rights of its citizens. The following sections highlight key legal and policy provisions that together determine the reproductive rights and choices of women and girls in China.

A. GENERAL HEALTH LAWS AND POLICIES

The constitution of China guarantees “the protection of the people’s health” through the development of medical and health services; the promotion of modern and traditional Chinese medicines; encouragement and support for the establishment of medical and health facilities by rural economic collectives, state enterprises and institutions, and neighborhood organizations; and public health activities.175 China’s Civil Law further provides citizens with the “right of health and life.”176
Objectives

China's health-care policies are formulated by the MOH under the leadership and directives of the NPC and the State Council. They fit within the broader framework of the Tenth Five Year Plan (2001–2005) and the Decision of the CPC Central Committee and the State Council Concerning Public Health Reform and Development as adopted in 1997. The MOH sets forth the following health-care strategies:

- accelerate the development of the public health-care system;
- strengthen prevention and treatment of serious illnesses by implementing, among other measures, the Law on the Prevention and Treatment of Infectious Diseases;
- introduce a quality health-care system in rural areas;
- initiate urban health-care system reforms under the guidance of the State Council’s Directives on Deepening Urban Health-Care System Reforms;
- strengthen public security and health administration;
- encourage improvements in maternal and infant health care;
- widely disseminate information on how to prevent chronic, noncommunicable diseases;
- support the advancement of medical technologies, improve the quality of medical schools throughout the country, and offer better training and education to medical personnel, particularly those stationed in rural areas;
- promote the development of traditional Chinese medicine;
- increase collaboration and information sharing with international health agencies; and
- assist local health departments in their implementation of national health-care programs, with a focus on long-term development and the sustainable distribution of resources.


A primary focus of several national programs is improving the rural health-care system and addressing the lack of health awareness in rural areas. The National Plan for Health Education and Promotion (2005–2010) calls for a rural health education campaign, with the goal of disseminating health information among rural residents, and raising their awareness of basic health-care issues from 36% to 60%–80%, and of maternal and infant health-care issues to 80% by 2010.

The Chinese government encourages and supports the establishment of health facilities by rural economic collectives, state enterprises, and neighborhood organizations. The central government is directed to prioritize and provide additional financial resources to support the development of health services for the Western Region, composed mainly of impoverished and ethnic minority districts. Eastern provinces and municipalities are required to play an active role in the development of the Western Region, providing financial assistance in order to improve the health services of low-income communities in the west.

Infrastructure of health-care services

Government facilities

China has only 2% of the world’s medical resources, yet it provides enough health-care resources to treat 22% of the world's population. The government is the largest health-care provider in the country; in 2002, it funded 306,038 medical institutions made up of 63,858 urban and township hospitals, 365 sanatoriums, 219,907 clinics, 1,839 specialized prevention and treatment centers, 3,580 epidemic prevention stations, and 3,067 maternal and infant health-care institutions. In sum, these facilities are staffed by 5.6 million medical and technical personnel, including 2.4 million certified physicians and physician’s assistants, and 1.3 million registered nurses.

The government plans to fully staff and equip all provincial medical and health institutions by 2010. Another objective within this timeframe is to improve development and training for rural and urban doctors, preventive care personnel, medical technicians, laboratory technicians, and more than ten thousand infectious disease prevention and control personnel, at or above the county level.

The Regulations on Management of Medical Service Organizations and its Rules for Implementation regulate organizations that provide health-care services. These facilities include all types of hospitals, such as cooperative care, Chinese medicine, joint (eastern/western) practice, minority medicine, and specialty and rehabilitative care; maternal and infant health-care centers; urban, township, rural, and street-level health clinics; and other health-care centers, stations, and organizations.

Medical facilities must also comply with national standards and submit to inspection, approval, licensure, reg-
istration, and periodic appraisals by the national or local health department.\textsuperscript{193}

Private run facilities

Private health facilities, which were outlawed during the Cultural Revolution (1966–1976), rebounded in the 1980s and shifted Chinese health care from a system of centralized public health funding to one that was market-oriented.\textsuperscript{194} Since then, the government has left health-care costs to individuals. As a result, out-of-pocket costs for health care have soared in China and coverage has become increasingly inequitable.\textsuperscript{195}

Financing and cost of health-care services

Government financing

The government’s budget for public health care has dropped substantially since the adoption of a decentralized, market-oriented system. The government’s health expenditure shows a progressive decline from 32\% of the total budget in 1986, to 14\% in 1993, and 5.8\% in 1996.\textsuperscript{196} In 2001, the total budgetary allocation for health undertakings by the government at all levels was 80 billion Chinese Yuan (CNY) (USD 9.67 billion), approximately 4.2\% of the total budget.\textsuperscript{197}

The most significant impact can be seen in the erosion of the rural Cooperative Medical System (CMS), which insured 90\% of the rural population at the peak of its popularity in 1970, but only about 7\% by 1993.\textsuperscript{198} CMS is funded through community financing and bolstered by a system of mutual assistance that provides health stations, paid village doctors to deliver preventative, primary, and secondary health care, medications, and partial reimbursement for patients receiving services at township and county hospitals.\textsuperscript{199} Economic and agricultural reforms in the early 1980s led to the disintegration of the cooperative organizations that funded the CMS, leading to the decline of health care in rural areas.\textsuperscript{200}

In 1998, China promulgated the Decision on Establishing a Basic Medical Insurance System for Urban Employees, instituting an urban health-care system that guarantees basic medical insurance for employees under the jurisdiction of the Ministry of Labor and Social Services (MOLSS).\textsuperscript{201} By 2002, 97\% of prefectures and cities had developed basic medical insurance programs (BMIIPs).\textsuperscript{202} BMIIPs cover all employers and employees in cities, government organizations, enterprises, and private nonenterprise units, as well as freelance workers.\textsuperscript{203} Participants in BMIIPs receive medical services from public hospitals, which are then reimbursed on a fee-for-service basis according to a fee schedule established by the government.\textsuperscript{204} As of 2004, more than 109 million people were participating in BMIIPs, of whom 79.75 million were active workers and 29.27 million were retirees.\textsuperscript{205}

Insurance premiums are paid by both the employer, at 6\% of total wages, and employees, at 2\% of total wages.\textsuperscript{206} Employees’ payments go directly into personal accounts while the employer’s premium payments are divided between personal accounts, which mostly pay for outpatient services, and social security program funds, which usually cover hospitalization fees and treatment for chronic illnesses.\textsuperscript{207} Retirees are exempted from premium payments and they generally receive medical services for lower fees.\textsuperscript{208} Free medical service is no longer provided for civil servants and employees of public institutions; instead, they are now entitled to medical subsidies.\textsuperscript{209} In addition, employers are encouraged to provide supplementary medical insurance for their workers and are allowed to write these costs off as a portion of their operating expenses.\textsuperscript{210}

Certain reproductive health services such as midwife care and contraceptive services are provided free of charge. (See “Reproductive Health Laws and Policies” for more information.)

Private and international financing

The Chinese Ministry of Health has several collaborative programs with the World Health Organization (WHO), including programs on reproductive health, nutrition, vaccination, health promotion, and health care delivery. For 2002–2003, WHO spent USD 11.5 million on these programs, setting aside 1.1\% (USD 122,445) for reproductive health care and 2.7\% (USD 312,416) for sexually transmissible infections, including HIV/AIDS.\textsuperscript{211}

The United Nations Population Fund (UNFPA) has assisted China since 1980.\textsuperscript{212} Following the ICPD in 1994, the Chinese government and UNFPA discussed new initiatives that would help realize ICPD principles.\textsuperscript{213} Under the fourth UNFPA program in China, birth targets and quotas were lifted in the 32 counties in which UNFPA maintained its program.\textsuperscript{214} This program marked a major shift from a government-mandated family planning program to one that integrated the needs and desires of individuals in the target counties.\textsuperscript{215} As a result, local advocacy networks were created and officials were trained to respect the right of individuals to make their own decisions about their reproductive lives without coercion.\textsuperscript{216}

Cost

Total individual expenditure for public health in 2003 was CNY 311.33 billion (USD 37.6 billion).\textsuperscript{217} Urban households spend about 7\% of their annual household expenses on medicine and medical services, costing approximately CNY 430.5 (USD 52) per person.\textsuperscript{218} In rural areas, annual average individual spending on health care ranges from CNY 57.54 (USD 7) to CNY 201.72 (USD 24), which is 5.76\% of total living expenses for rural households.\textsuperscript{219} The MOH reports that fees for government-sponsored medical treatments have increased

by about 8.2% annually since 1999. Its surveys indicate that almost 50% of Chinese citizens cannot afford medical treatment when they are sick, and about 30% are not hospitalized despite medical necessity.

Almost 50 million people participated in employment injury insurance programs in 2004, and most provinces are formulating related insurance plans in accordance with the 2004 Regulations on Insurance for Work-Related Injuries. In 2002, social insurance and welfare funds for retirees paid CNY 266 million (USD 32 million) in medical care expenses, an increase of 20% from the previous year.

In an effort to address rising health-care costs, the Chinese government has promised to standardize fees for medical services and medicines. In China, medicines account for 70% of total health-care costs, compared with 6%–12% in Western countries. Essential medications must be sold in accordance with the prices set forth or suggested by the government, while nonessential medicines should be priced reasonably, guided by the principles of fairness, rationality, honesty, good faith, and adjustment for the quality of the medication. Violators are subject to confiscation of illegal gains, fines of up to five times the amount of the illegal gains, suspension of their business license, and possible civil liability.

Medical facilities are required by statute to charge patients according to the prices fixed by the local people’s government or its pricing department. Medical organizations or personnel that charge more than what they are allowed are subject to severe fines, closure, administrative penalties, and/or suspension of their operating or practicing license.

The Maternity Insurance Scheme was introduced by the central government in 1988 and is currently available in 29 provinces, autonomous regions, and municipalities. In 2003, more than 36 million female workers were covered by maternity insurance, and about 360,000 pregnant employees received these benefits. The government aims to achieve 90% maternal insurance coverage for eligible female workers by 2010. The scheme provides female workers with maternity subsidies and covers the costs of medical and health-care services throughout pregnancy and during maternity leave, which must be a minimum of 90 days. Most employees of urban enterprises and some female employees of government agencies and public institutions are covered by the scheme. Employers, not individual employees, are responsible for paying maternity insurance premiums, and organizations not participating in the scheme must provide comparable maternity benefits. Failure to pay maternity benefits may result in administrative penalty or civil liability if harm was caused.

**Regulation of drugs and medical equipment**

Several laws and regulations establish guidelines for the research, production, trade, use, supervision, and management of modern and traditional medicines, with special provisions for narcotics, psychotropic substances, toxic drugs for medicinal use, radioactive drugs, and traditional Chinese medicines. The Pharmaceutical Administration Law was revised in 2001 and formulated to enhance the supervision and control of pharmaceuticals, and ensure their quality, efficacy, and safety “to safeguard the health and legal rights and interests of the people.” Pharmaceutical manufacturers, retailers, and dispensaries in medical organizations must be examined, approved, and licensed by the State Food and Drug Administration (SFDA) or face fines of CNY 10,000 to CNY 30,000 (USD 1,208 to USD 3,624).

Manufacturers may only produce pharmaceuticals, with the exception of some traditional Chinese medicinal herbs and prepared formulas, after obtaining the registered document of approval issued by the SFDA or the MOH. New medications must undergo clinical testing approved by the State Council and examination and evaluation by the SFDA, and comply with pharmaceutical standards set forth by the SFDA’s Pharmacopoeia Committee. Drugs classified as prescription medications and certain nonprescription medications may be dispensed only by licensed pharmacists or other legally certified pharmaceutical technicians. Pharmaceutical retailers and dispensaries are prohibited from substituting or altering prescriptions written by doctors, and must reject prescriptions containing incompatible substances or excessive dosages.

**Regulation of health-care providers**


The Medical Practitioner Law sets standards for physicians and physician assistants regarding their qualifications, standards of practice, assessment, training, and legal responsibilities. Exams for physician licenses are formulated by the MOH, while physician assistant qualification exams are prepared by the health administration at or above the provincial level. The exams are administered to applicants with appropriate medical education and practical training. Upon receipt of the government’s medical practitioner license, physicians must register with the central government’s medical practitioner registration system in order to practice medicine legally. Licensed medical practitioners are granted the right to provide health-care services within their registered field.
They are expected to abide by relevant laws; fulfill professional responsibilities and adhere to professional ethics; care for, respect, and protect patients and their privacy; improve and advance skills and techniques; and provide medical education to patients.250

National strategies for improving the regulation of health-care providers include the prosecution of medical personnel who accept “red pockets” (bribes), those who charge unreasonable and unlawful fees, and those who violate other norms of medical ethics.251 Furthermore, the government is committed to banning unlicensed medical practitioners, technicians, and facilities; the production and sale of counterfeit medicine; unlawful blood collection and sale; and food contamination, in accordance with the State Council decision concerning further strengthening food safety.252

One of the MOH’s key strategies for improving health care in China is the execution of the National Plan for the Development of the Nursing Profession (2005–2015).253 The 1993 Measures for the Management of Nurses were introduced to promote the field of nursing, accelerate the development of nursing science, strengthen the skills of nursing professionals, and recognize the important work of nurses in medical, preventative, and rehabilitative health care and treatment.254 The measures outline the educational, clinical, and clerical requirements for practicing nurses.255 To receive a license, nurses must pass a qualifying exam administered by the local government.256 Afterward, nurses must register with the county’s health department; registration is subject to renewal and assessment every two years.257

Traditional medicine refers to traditional Chinese medicine as well as the medical traditions of the Tibetan, Mongolian, and Uygur minority populations.258 Practitioners of traditional medicine are subject to standards and licensing procedures similar to those applied to mainstream medical providers. To receive a license, they must be secondary school graduates (or equivalent); complete three years of apprenticeship under a practitioner with at least twenty years of clinical experience; obtain a practical training completion certificate from the provincial department of Chinese medicine; undertake a clinical residency for at least two years under the supervision of a licensed medical practitioner at a medical facility; and successfully complete a provincial qualification exam.259

Specific laws apply to health-care workers and medical facilities in the field of maternal and infant health care. Medical facilities that perform premarital health examinations, genetic disease diagnosis, prenatal consultations, sterilization surgeries, and abortions must adhere to specific standards set forth by the MOH and obtain a maternal and infant health-care service permit from the local health department.260 The law mandates that provincial people’s governments must establish technical appraisal committees under the supervision of the local maternal and infant health-care offices within the local health department.261 These committees are responsible for inspecting the staff, equipment, and services of a medical facility to determine whether a maternal and infant health-care service permit will be issued.262 The permit is valid for three years and is renewable upon reassessment.263 Maternal and infant health-care workers are required to fulfill the conditions of the Basic Standards for Specialty Maternal and Infant Health-Care Technical Services, and hold a license for maternal and infant health-care technical services or a license for midwifery.264 Health-care workers can receive a maternal and infant health-care technical service license upon passing a national qualification exam.265

 Personnel conducting premarital health examinations must be licensed medical practitioners with at least three years of clinical experience in obstetrics or gynecology (OB/GYN)266 and must hold a maternal and infant health-care technical service license.267 These exams, which screen engaged couples for hereditary illnesses, infectious diseases, major psychiatric disorders, and reproductive health problems,268 must be conducted at facilities with a maternal and infant health-care technical service permit.269 These facilities must be equipped and staffed according to the specifications outlined in the Standards for Premarital Health-Care Work (Revised) and the Basic Standards for Maternal and Infant Health-Care Technical Services.270

The Measures for the Management of Prenatal Diagnostic Technology regulate health-care workers who conduct prenatal consultations and examinations for diagnosis of genetic or gestational birth defects.271 According to the measures, all prenatal screening technicians and clinicians must be qualified and licensed by local health departments, satisfy the conditions of the Basic Standards for Prenatal Screening Technician, and hold a maternal and infant health-care service license.272 In addition, physicians must have supplementary training in ligation surgery (sterilization) and abortion prior to performing these operations.273 Medical facilities providing prenatal services must have an obstetrics department staffed by trained personnel and furnished with appropriate equipment, as well as a committee of medical ethics, and must comply with the basic standards for prenatal screening facilities.274

Midwives must undergo relevant training, examination, and licensure by the county health department or authorized health-care organizations.275 They must also have facilitated at least five births under the supervision of a licensed physician, carry sterile medical supplies, be able to identify high-risk pregnancies and obstetric emergencies, follow the
Regulations for Rural Midwife Deliveries, and keep written medical records.276 Both midwives and medical institutions that perform deliveries must issue birth certificates and report any perinatal deaths, stillbirths, infant deaths, or babies with birth defects to the provincial health department.277

Organizations that provide family planning technical services must adhere to standards set by the State Council, obtain a license from the local health department that is subject to renewal every three years, and submit to regular inspections.278

**Patients' rights**

China's policies on patients' rights are outlined in various laws and regulations. The Criminal Law provides criminal detention or a maximum of three years' imprisonment for medical workers who cause death or severe harm to the health of the patient through gross negligence.279 In addition, persons unlawfully practicing medicine (including performing family planning surgeries) without obtaining the necessary licenses are subject to fines, criminal detention, public surveillance, or, in the event that death is caused, no fewer than ten years' imprisonment.280 Hospitals must respect the legitimate rights and interests of patients to have medical care, informed consent, freedom of choice, and privacy; to file complaints; and to practice their cultural and religious beliefs.281 The Law on Maternal and Infant Health Care also sets forth provisions dealing with patients' rights. (See “Maternal health” for more information.) Additionally, family planning agencies must receive patient consent; provide safe and effective services and medications; and ensure patient safety when performing contraceptive services, sterilization procedures, special examinations or treating particular diseases.282

No specific laws address the confidentiality of pregnancy-related information. Under the Measures for the Management of Prenatal Diagnostic Technology, both the pregnant woman and her family members have access to information pertaining to the pregnancy.283 Furthermore, the decision to continue or terminate the pregnancy after prenatal screenings is to be made jointly by “man and wife.”284 Family members may also grant permission for medical facilities to conduct an autopsy of an aborted fetus.285 However, premarital health examination records must be properly stored to maintain individual confidentiality.286 Statutes stipulate that HIV status must be kept in the strictest confidence, and medical providers are prohibited from releasing any HIV-positive patient's personal information without consent.287

**B. REPRODUCTIVE HEALTH LAWS AND POLICIES**

China's reproductive health laws and policies are formulated to complement its strategy on population control and development, promote family planning, maintain low birth rates as part of its “have fewer children and prosper quicker” poverty alleviation project, and improve the quality of the population.288 The government rewards families that observe its family planning policy and has a national system of Social Support for Some Rural Families Practicing Family Planning, which was to expand to more areas in 2008.289

**Regulation of reproductive health technologies**

Encouraging research and development of new reproductive techniques and medicine has been identified as key to the effective implementation of the Regulation on Administration of Family Planning Technical Services.290 In an effort to correct the gender imbalance that has ensued from sex-selective abortion, the Population and Family Planning Law strictly prohibits reproductive health and family planning organizations, service providers, prenatal screening centers, and other medical facilities from conducting tests to determine the gender of the fetus unless medically necessary.291 The law also prohibits providers from performing sex-selective abortions.292

Human assisted reproductive technologies (ART) are in high demand in China, since 10% of Chinese couples of childbearing age suffer from infertility.293 In 2001, the Ministry of Health issued a series of statutory measures regarding the safety, standards, management, and use of ART, including artificial, intravaginal, intracervical, intrauterine, or intratubal insemination; in vitro fertilization; and embryo transfer.294 At the end of June 2005, the ministry approved 46 medical institutions as providers or developers of ART and six medical facilities to establish sperm banks.295

The Standards, Ethical Principles, and Measures for the Management of ART authorize their use for medical treatment, as long as it adheres to the government's family planning policy, ethical principles, and other relevant laws.296 Couples with infertility, a family history of genetic diseases, sexually transmissible infections, or other physiological ailments preventing natural conception are eligible to receive ART services.297 Single women are prohibited from using ART, but it is unclear whether this rule also applies to widowed or divorced women.298 The law forbids surrogate motherhood, which is thought to involve too many legal, ethical, and moral complications.299 The marketing of gametes, zygotes, and embryos is illegal, and financial incentives may not be offered for donors, although the law does permit the allocation of social benefits and subsidies for work, transportation, and health care for donors.300

ART service providers must ensure that donors and recipients are informed about the procedures and possible dangers involved in the utilization of the technologies, and written consent from the couple must be provided prior to the commencement of any procedure.301 ART providers are also barred from
manipulating the DNA of gametes and may not conduct medically unnecessary sex-selection or sex-determination. Violations of these prohibitions may result in criminal punishment.

Medical facilities providing ART must receive permission to do so from the Ministry of Health and the provincial departments of both health and family planning. Organizations in violation of ART laws are punished according to the Regulations on Management of Medical Organizations and Rules on its Implementation.

Government monitoring of reproductive health

The Law on Maternal and Infant Health Care and its Implementation Measures mandates premarital health exams for engaged men and women to check for hereditary illnesses, infectious diseases, major psychiatric disorders, and reproductive health problems. If these conditions are discovered, the examining physician will issue a medical “suggestion” of “unsuitable for marriage,” “unsuitable for reproduction,” or “delay marriage.”

The 2003 amendment to the Regulation on Marriage Registration abolished compulsory premarital medical exams for marriage registration, but the Implementation Measures for the Law on Maternal and Infant Health Care stipulate that local marriage regulations may continue to mandate premarital exams; consequently, some still do. Since the government lifted the universal requirement for mandatory premarital medical exams, the number of couples who voluntarily undergo them has decreased dramatically. However, premarital exams are still greatly encouraged by the government and identified as a strategy in several national health plans.

Physicians who perform premarital exams are required to consult with couples if a serious disease is detected. Couples may be deemed “unsuitable” for marriage or reproduction by a physician on grounds including mental illness and hereditary or degenerative disease. When a diagnosis indicates that childbearing would be medically inappropriate, the couple may be married only after taking long-term contraceptive measures or undergoing sterilization. Couples may be advised to postpone marriage if one party is suffering from the infectious phase of a contagious illness, an acute phase of a mental disorder, or another debilitating medical condition. In cases of nonsymptomatic carriers of infectious and viral diseases who wish to be married, physicians must provide full disclosure about the illness and make recommendations on protective, preventive, and treatment measures. All premarital medical diagnoses must be supported with a scientifically based explanation, physicians must provide information about the possible repercussions of any medical conditions on marital and reproductive life, and the couple must sign documents indicating that they understand and are willing to comply with the doctor’s recommendation.

The only recourse available to couples seeking to dispute their status as unsuitable for marriage or reproduction is to petition local health authorities for a medical reappraisal. Couples who have been advised to delay marriage and have been educated on the marital and reproductive consequences of the disease(s) in question are permitted to marry if they insist. Physicians are required to respect the couple’s wishes and note on their premarital exam certificates that “medical management is recommended.”

Family planning

General policy framework

Chinese citizens have a constitutional obligation to practice family planning. Husbands and wives also have a duty to practice family planning created by the Marriage Law. The primary objectives of the Population and Family Planning Law are to promote family planning and to protect citizens’ legitimate rights and interests. To achieve these ends, the law proposes a number of strategies, including some of the following:

- establish premarital health care and maternal and infant health-care systems to prevent and reduce the incidence of birth defects and improve the health of newborns;
- increase access to family planning services throughout the country;
- through health-care facilities, provide the public with basic population and family planning services, pregnancy checkups and follow-up for married women of reproductive age, and technical services relating to family planning and general reproductive health;
- have family planning service workers guide citizens to choose safe, effective, and appropriate methods of contraception; and
- encourage research and the widespread use of new family planning technologies and products.

The Regulations for the Management of Family Planning Technical Services were introduced in 2002 to strengthen administration of family planning services, control population quantity, improve the quality of the population, and utilize technological and medicinal advances to increase the capacity of family planning services. The regulations aim to protect the right of citizens to reproductive health care, the right of informed choice in the use of contraceptives, and the right to receive suitable family planning technical services. Under the regulations, citizens are entitled to the following services from urban and rural family planning facilities:
- medical examination, consultation, guidance, and follow-up regarding contraceptive methods and related issues;
- contraceptive procedures such as insertions of intrauterine devices (IUDs), sterilization surgeries, abortions, and follow-up visits, exams, and consultations; and
- other reproductive, contraceptive, and infertility treatments authorized by the MOH and the State Council.

Under the Population and Family Planning Law, specific regulations and plans for population and family planning are formulated by the provincial, municipal, and autonomous regional people’s congresses and implemented by local family planning departments, villagers’ committees, and residents’ committees. The law prescribes family planning as a fundamental state policy and advocates one child per couple. In general, local regulations permit married couples without children to make their own arrangements to have a first child. Within three months of a pregnancy, couples must bring their residency papers, marriage certificate, premarital health-care exam certificate, and a letter from the work unit or the villagers’ committee to the local people’s government or family planning department to register for a “birth permit.” In limited circumstances, married couples may petition the local family planning department for permission to have a second child.

Pregnancies for a second child without government approval or in violation of local laws and regulations must be terminated under the directives of family planning technical service personnel. In some provinces, the local villagers’ or residents’ committee are permitted to “take measures” and establish a deadline for terminating the pregnancy. Couples who refuse to undergo an abortion are given a warning, and if the abortion is not performed, the couple may be fined up to CNY 2,000 (USD 242). Citizens who have children without permission from the government must pay social compensation fees, must assume financial responsibility for all maternal health-care costs, and are denied maternity insurance benefits for leave and subsidies; rural citizens are refused future increases in land allocation.

Couples who volunteer to have only one child are awarded a certificate of honor that entitles them to some of the following: award money, subsidies for child care, preferential treatment in land allocation, and extra social security benefits. Married couples of childbearing age may also enter into a family planning contract with their work unit (state-owned enterprises) for additional benefits and services. (Refer to “Population” for more information.)

Since signing the ICPD Programme of Action, the Chinese government has altered its national strategy for population control in order to curb excessive population growth and maintain a low and stable fertility rate. In early 2000, the National Population and Family Planning Commission of China (NPFPC) officially changed the focus of its national strategy for population and family planning from a fertility control regime to a more client-centered program that ensures individuals receive quality reproductive health care and make informed choices about their reproduction.

This new focus stems from a 1995 pilot project introduced in an explicit commitment to ICPD objectives that addressed quality of care services in 11 districts in eastern China. The goals of these pilot projects were to meet the diversified needs of people, increase the availability of information to ordinary citizens, standardize service and operational procedures, improve the competence of service providers, and establish a surveillance system that could be used to monitor quality of care services. The program has since been introduced throughout China, with 827 counties participating in 2001, covering more than 40% of the country, including some of the poorest areas in the Western Regions.

Contraception

Primary contraceptive methods used in China are IUDs, sterilization, condoms, oral pills, injections, implants, and spermicides. The most popular contraceptive method is the IUD, used by 45.5% of women in China. An official 2001 survey indicates contraceptive prevalence at 86.9% among married women of childbearing age, and 99.1% of those women utilized modern contraceptive methods.

Contraception laws and policies

According to the Population and Family Planning Law, family planning should be practiced “chiefly by means of contraception,” and the government is charged with creating the necessary conditions for its citizens to knowingly choose safe, effective, and appropriate contraceptive methods. The law obligates citizens of reproductive age to adopt contraceptive methods and to accept technical services and guidance for family planning.

Several types of emergency contraception are readily available to Chinese women and adolescent girls through the government’s family planning facilities. At least one type of emergency contraceptive pill is sold by drugstores and pharmacists without a prescription.

Regulation of information on contraception

The major sources of contraceptive information are the Information, Education, and Communication (IEC) component of family planning programs and friends and relatives. Knowledge of modern contraceptive methods among Chi-
Chinese women has increased significantly since the government implemented the Programme of Action of the ICPD in 1994. Surveys indicate that 86% of Chinese women know of modern contraceptive methods, 83% have information about reversible family planning methods, 94% have information about condoms, and 98% have information about IUDs and female sterilization. The Population and Family Planning Law instructs government departments in charge of family planning, education, science and technology, culture, health, civil affairs, press, publishing, broadcast, and television to organize and develop information and education pertaining to population and family planning.

Regulations issued in 1989 by the State Administration of Industry and Commerce ban advertisements of sex products which are defined as products that treat sexual dysfunction or that “assist in sexual life,” including condoms. However, the ban against advertising condoms was lifted in 2004 under the urging of the NPC, when the Chinese government adopted a policy of encouraging condom use for the prevention of HIV/AIDS.

The Regulations for the Management of Family Planning Technical Services stipulate that citizens have the right to information on the different types of contraceptive methods available and the right to make informed choices regarding their use.

Sterilization was utilized by 36% of Chinese women in 2002, and ranks as the second most popular family planning method, according to the NPFPC. Comparatively, only 9.24% of men undergo sterilization as a strategy for family planning.

Sterilization: laws and policies

Sterilizations performed for the purpose of family planning or in accordance with the Law on Maternal and Infant Health Care are provided free of charge. Female sterilization operations require the informed and written consent of the patient, and if the woman is unable to understand the procedure or is illiterate, responsibility for consenting to the operation and signing the consent form falls to the woman’s legal guardian. The Population and Family Planning Law stipulates that couples with children are “encouraged” to choose long-acting contraceptive methods.

The Chinese government formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. There are reports of physically coerced sterilizations, though they have not been confirmed. The government also condemns the use of population and family planning centers as detention centers meant to coerce women into undergoing sterilizations or abortions. Nevertheless, the practice has been reported in some areas.

The government has promulgated regulations which provide free sterilization services for married couples of childbearing age in rural areas. Citizens who fail to limit the number of children they have are required to pay social compensation fees that can range from one-fifth to ten times the average worker’s annual net income, in addition to other financial penalties.

The government offers a number of incentives designed to encourage individuals to undergo sterilization. Under the Population and Family Planning Law, individuals who undergo “surgical procedures” for family planning are granted extended leave and extra benefits from their workplace. Other laws condition the right to marry upon sterilization: under the Maternal and Infant Health Care Law, if a doctor finds that a couple is at risk of transmitting disabling congenital defects to their children, the couple may only marry if they “voluntarily” undergo long term contraception or sterilization.

Government delivery of family planning services

China utilizes a five-tier network to provide family planning services at the national, provincial, prefectural, county, and township levels. The network covers 95% of all urban and rural areas with more than 2,500 county technical service units, 140,000 technical service staff, and 4 million family planning specialists, excluding volunteers and part-time workers in villages.

The law emphasizes the importance of contraception to the implementation of family planning programs in the country. Compulsory population control techniques were used as a strategy by the government from the 1970s until the early 1980s, leading to 18 million IUD insertions, 21 million sterilizations, and 14 million abortions, but the public outcry that ensued forced the government to scale back its aggressive methods and implement more “realistic” and “reasonable” family planning strategies.

The current Population and Family Planning Law states that citizens must be informed of “safe, effective, and appropriate contraceptive methods” and that the “[s]afety of recipients of birth control procedures must be ensured.” Married couples of childbearing age who practice family planning receive basic family planning technical services free of charge. Couples who abide by family planning laws are rewarded with monthly stipends, extra land for agricultural use, preferential treatment in employment and training, and access to loans, subsidies, old-age insurance, and medical and educational benefits for themselves and their child.

Family planning services provided by NGOs and the private sector

Since government facilities mainly target married couples,
young people, especially young female migrant workers, must rely on the private and NGO sectors for family planning and contraceptive services. The China Family Planning Association (CFPA), established in 1980, is the largest family planning/reproductive health social organization in the country, with 83 million volunteers and more than 1 million branches throughout the country. Its members and activities are vital channels for disseminating family planning, reproductive health (including contraception), and HIV/AIDS information and services to the public.

Approximately 150 million people participate in the CFPA's educational activities each year, and several programs target reproductive health-care services to women, unmarried people, poverty-stricken regions, adolescents, migrant workers, and ethnic minorities. The CFPA has 20 provincial service centers that offer gynecological checkups; pregnancy tests; diagnoses of infertility, STIs, and HIV/AIDS; training in the use of emergency contraception; and sales of various contraceptives and maternal, health care, and reproductive health products. The association aims to enable people of all ages, genders, nationalities, and socioeconomic statuses to make informed decisions about their reproductive lives. It also monitors family planning services to ensure that people of childbearing age enjoy their lawful rights to reproductive health care. In addition, the CFPA raises public awareness by publicizing the medical, social, and psychological factors and risks of unsafe abortions in an effort to eliminate the problem.

The Chinese Working Women's Network runs a Center for Women Workers and mobile service centers that provide health checkups and reproductive health education for migrant workers in the South China industrial areas.

Contraceptive tablets and condoms are available for purchase without a prescription at drug stores and supermarkets throughout China. Hotels, bars, university campuses, construction sites, entertainment venues, and other public places around the country are required to install condom vending machines. Many NGOs, among them the CFPA, the Red Cross Society of China, and Population Services International, disseminate free or low-cost contraceptives such as condoms to targeted populations (e.g. adolescents and migrant workers) in many poverty-stricken areas and in areas with high risk for HIV/AIDS.

**Maternal health**

China's maternal mortality rate has been decreasing steadily, from 636 deaths per 100,000 live births in 1997 to 53 in 2000, 50.20 in 2001, and 43.2 in 2002. Obstetric complications are the third leading cause of death among city hospital patients, and diseases originating in the perinatal period are among the top ten causes of death of women in urban and rural areas.

**Laws and policies**

China initiated a Safe Motherhood Program during 2000–2001 that successfully lowered the maternal mortality rate by almost 30% in 378 impoverished counties in the Western region, and it has since been expanded nationwide. The program includes a special poverty relief fund for 5% of the poorest pregnant women, which aims to provide quality maternal and infant health care (including hospital delivery), and the “Green Lifeline” project which establishes emergency and referral systems at county, township and village level health institutions for treatment of sick and high-risk pregnant women with the goal of providing 24-hour access to emergency obstetric care.

China incorporated maternal and infant health care into its Ninth (1996–2000) and Tenth (2001–2005) Five-Year Plans for National Social and Economic Development and National Plans for Women's and Children's Development (2001–2010). Implementation rules, regulations, and standards in obstetrics were developed to improve the three-tiered (county, township, and village) maternal and child care network, which has played an enormously important role in greatly reducing once-common or chronic diseases affecting rural women. In 1995, China had 349 maternal and child health-care medical facilities, 49 gynecological and obstetric hospitals, gynecological departments in 14,000 hospitals, 2,832 maternal and child-care clinics, and 35 children's hospitals.

The Department of Maternal and Infant Health Care and Community Health (DMCH), established in 2001 under the auspices of the Ministry of Health, has several primary objectives, including the following:

- establish policies, laws, statutes, plans, and regulations governing administration of the Law of the People's Republic of China on Maternal and Infant Health Care (MIHC) and oversee the implementation of relevant technologies;
- design technology appraisals and training programs, such as continuing medical education, and develop protocols for assessing the professional qualifications of health personnel;
- develop plans, policies, and standards to raise “the quality of the birth population” and supervise their implementation;
- develop plans, measures, and technological standards for women's health care and guide their implementation;
• monitor health MICH organizations and health education facilities;
• establish polices regarding children’s health care, survival, protection, and development; and
• enable international cooperation and exchanges with respect to primary health care, maternal and infant health care, and health education.396

These objectives are carried out by six divisions within the DMCH, including the administrative office, the office of women’s health, and the office of children’s health.397 The DMCH is also responsible for composing a yearly health action plan, collecting observational data, and documenting the situation of women’s and children’s health for its annual report.398

Pregnant women who suffer from serious illnesses or exposure to teratogenic substances are entitled to medical guidance, particularly if their life or health or the fetus’s development is endangered.399 Couples discovered to be or suspected of suffering from serious genetic diseases are expected to take appropriate measures (contraception, including possibly sterilization) in accordance with their doctor’s advice.400 Pregnant women are referred for a prenatal diagnostic exam if an abnormality is found in their fetus, and physicians may recommend an abortion if the fetus suffers from a genetic disease or defect of a serious nature, or if the women’s health or life is threatened.401

The government considers fetal diseases to be serious if they fulfill the following criteria: they have a high likelihood of occurring; they cause severe harm and place a high disease burden on society, families and individuals; there is no effective clinical treatment; and they can be reliably diagnosed.402 Couples who have given birth to an infant with a serious defect must submit to medical examinations prior to a second pregnancy.403

Government policy encourages hospital deliveries as a strategy to combat infant and maternal illnesses and mortality.405 Where hospital delivery is not possible, the Law on Maternal and Infant Health Care mandates that pregnant women shall deliver at home under the care of government-licensed midwives or birth attendants.406 Women with high-risk pregnancies must deliver in hospitals.407

**Delivery of services**

**Public facilities**

The DMCH of the MOH is responsible for enforcement, management, and implementation of the Law of Maternal and Infant Health Care.408 Since the law was adopted, a series of rules, regulations, and policies was issued to enable its effective implementation. These include the Basic Standards for Specialty Maternal and Infant Health–Care Technical Services, Measures for the Management of Maternal and Infant Health–Care Specialty Technical Service Permits and Personnel Qualifications, Measures for the Management of Maternal and Infant Health–Care Medical Technology Appraisals, and Standards for Premarital Health–Care Work (Revised).409

At the end of 2002, the Chinese government estimated that 90.14% of expectant mothers received prenatal check-ups and 97.2% of midwives in rural areas practiced modern midwifery.410 Health initiatives that have sought to provide primary health care for all rural residents, particularly women and children, encompass strategies to increase hospital births, reduce maternal deaths by 25%, reduce infant deaths by 20%, enhance infant nutrition, and offer quality health-care services for women and girls.411

In the National Plan for the Development of Chinese Women (2001–2010), the government set forth the goals of hospital deliveries for 65% of rural pregnancies and 90% of high risk pregnancies, and licensed midwife or birth attendant facilitated deliveries for 95% of pregnancies in impoverished regions.412 In addition, free midwifery services have been offered to peasant and herder women since November 2004 through a pilot program introduced in the eight counties of Qinghai Province.413

The Law on Maternal and Infant Health Care and the Rules for its Implementation entitle women of childbearing age and pregnant women to the following services:

- premarital health-care instruction on topics such as sex, procreation, contraception, family planning, and genetic and reproductive diseases;
- premarital health consultations to provide guidance and advice about medical conditions related to marriage and childbearing; and
- premarital medical exams to identify the presence of diseases that “may have an adverse effect on marriage and childbearing,” including genetic and infectious diseases, and mental disorders.414

Additionally, women of childbearing age and pregnant women have the right to receive the following types of specialized health–care services from medical institutions:

- contraceptive, family planning, and reproductive health consultations and services;
- instruction on maternal and infant health care;
- periodic prenatal physical checkups and follow-ups; and
- newborn health care.415

The MOH has established 3,200 maternal and child health-care hospitals, staffed by 500,000 workers, throughout the country.416 Family planning stations and clinics are available in 93.5% of towns and townships and 80.1% of vil-
To provide reproductive services in poor and remote areas, the government has dispatched mobile service vans equipped with examination and diagnostic technologies in 2,404 counties. In 2003, the hospital delivery rate grew to 79.4%, up from 43.7% in 1985.

Private facilities including NGOs

A number of international and domestic NGOs provide maternal health-care services in China. Distribution of maternal health-care information to the general public and specifically to women is a major component of the China Family Planning Association’s activities in the area of reproductive health.

Several NGOs, including the Zigen Fund, the Tibet Poverty Alleviation Fund (TPAF), the Terma Foundation, the Swiss Red Cross, and ProLiteracy, train doctors, midwives, and birth attendants to improve maternal and obstetric services. PLAN, Health Unlimited, and women’s federations in several provinces and counties provide training in maternal and child health care for medical staff and communities.

The TPAF, in partnership with the government, developed a Tibet-wide Safe Motherhood Strategy aimed at reducing maternal mortality by 10% by 2010. The TPAF is implementing the strategy by equipping and upgrading maternal health-care facilities and building their capacity for obstetric surgeries and safe deliveries. It has also assisted local health departments in launching the Community Medical System (CMS) to rural families to reduce the cost of health care, including the cost of deliveries at clinics and hospitals.

The Terma Foundation has a “Healthy Mother, Healthy Babies” campaign that seeks to improve maternal outcomes in the Tibet region by providing at-risk women with prenatal vitamins and nutritional and lactation education, and equipping health workers with diagnostic tools to identify high-risk pregnancies and life-threatening postpartum and neonatal diseases.

PATH has worked in China since the 1980s, advancing reproductive health, family planning, and maternal and infant health-care services by offering technical assistance, including the development of new contraceptives. Currently, it is working with the CFPA to provide life-planning skills (addressing, for example, romantic relationships, sex, contraception, condoms, and STIs/HIV) for adolescent girls and migrant workers through peer educators and employersponsored seminars.

Health Unlimited has been working in the area of maternal and child health care in China since 1993. In addition to training health-care workers, it provides vital equipment (such as incubators and fetal monitors) and support services and conducts community education campaigns to improve maternal and infant mortality rates.

Nutrition

The Law on Maternal and Infant Health Care, effective since 1994, requires medical institutions and personnel to provide consultation and instruction on prenatal nutrition as part of prenatal health-care services. The law also calls for educating mothers about nutrition for newborn babies and promoting breastfeeding.

There are national campaigns to improve maternal nutrition, including attempts to eliminate iodine-deficiency disorder by distributing iodine salt and capsules for pregnant women, distribution of tetanus toxoid vaccines during pregnancy to reduce the incidence of neonatal tetanus, and programs to reduce iron-deficient anemia. Additionally, the water supply has been improved, benefiting 92.38% of the rural population of China in 2000. And to improve infant nutrition, the Ministry of Health is also trying to reverse the decline in the rate of breastfeeding (from 76% in 1998 to 64% in 2005), by mandating breastfeeding education for all postnatal women in medical/health facilities, restricting promotion of breast milk substitutes, and revoking operating licenses for facilities that violate these provisions.

Safe abortion

China’s induced abortion rate peaked in the 1980s and has declined by 53% since, from 43 abortions per 1,000 women of childbearing age in 1990 to 18 per 1,000 in 2001. Nonetheless, approximately 4 million induced abortions were performed in 1999, according to government statistics. Studies show that abortion has assumed a greater role in controlling fertility in China because of contraceptive failure and reduced rates of contraceptive use. Government statistics indicate that 72% of abortions in China overall, and 90% of abortions in urban areas, result from contraceptive failure.

The family planning program was reoriented after China signed the ICPD in 1995 from a focus on controlling population to providing quality health-care services. The change has led to a notable fall in abortions. Nonetheless, induced abortion is recognized as a major contributor to China’s fertility decline. Furthermore, the incidence of abortion among urban, college-educated women—who the government effectively targeted through its family planning programs—is at least six times higher than that of rural, illiterate women.

Abortion laws and policies

Currently, the Criminal Law of China, enacted by the National People’s Congress in 1979 and revised in 2005, contains no provisions under which abortion, performed with the consent of the pregnant woman by a licensed doctor, constitutes an offense. However, sex-selective abortions for nonmedical
purposes are strictly prohibited by the Population and Family Planning Law 2002 and are expected to be criminalized in an amendment to the Criminal Law. In spite of this prohibition, the practice continues. One official study in Hainan province found that 68% of abortions were of female fetuses.

Early abortions may be performed surgically by licensed medical personnel in a clinic, using the vacuum aspiration technique or medically. The government approved the use of medical abortion in 1988. Although mifepristone is legally available at hospitals, concern about side effects led the government to ban sales of the drug on the open market. Abortions at or during the second trimester are medically or surgically performed in a hospital by a licensed physician.

There are no national laws or regulations limiting the gestational age at which a pregnancy may be terminated, and the Ministry of Health’s Rules for Birth Control Surgeries describe methods for terminating pregnancies up to 27 weeks. However, local legislation and policies place restrictions upon the conditions under which a woman may terminate a pregnancy.

The 1994 Law on Maternal and Infant Health Care specifies the following three conditions under which an abortion may be medically necessary:
- where the fetus has a “serious deformity;”
- where the fetus has a serious hereditary disease; and
- where the pregnancy endangers the life of the pregnant woman.

Permission for a non-medically necessary abortion must be obtained from the county or local people’s government’s family planning department if a birth permit was issued for the pregnancy by the provincial population and family planning department. Unapproved abortions result in official admonishments, fines of up to CNY 3,000 (USD 362.50), revocation or future denial of birth permits, and possible required sterilization for the woman. Second trimester abortion (starting at 14 weeks) of a government-sanctioned pregnancy may be performed only upon approval of the local family planning agency, and in numerous provinces, local legislation bans these abortions unless they are deemed medically necessary.

To proceed with a pregnancy termination, a woman’s consent is required. If the woman is unable to consent, such consent must be obtained from her guardians. Unauthorized health-care workers who conduct a termination of pregnancy that results in a patient’s death or disability may face criminal charges.

The 2002 Population and Family Planning Law states that “husbands and wives bear equal responsibility for family planning.” This provision may be interpreted to require a husband’s consent in obtaining an abortion.

A woman receives 14 days of paid sick leave for a first-trimester abortion and 30 days if the pregnancy is terminated after the first trimester. In some parts of the country, paid sick leave is extended if a woman who has an abortion has an IUD inserted, or is sterilized after the abortion is performed.

**Government delivery of abortion services**

Abortion services are provided by the Government of China as a public service. Family planning technical service facilities from the village to the provincial level offer abortion services and follow-up care.

There has been much concern about government officials at various levels coercing women to undergo abortion. Although the use of physical coercion to compel women to submit to abortions is prohibited, it has been reported that officials in at least one province have forced women to abort unplanned pregnancies immediately. In response, the central government and the NPFPC issued an official condemnation of these actions, imposed administrative penalties, and fired the responsible officials. Because the Population and Family Planning Law delegates the responsibility of its implementation to provincial governments and states only that compliance with birth limits should be “chiefly” achieved through the use of contraception, some existing provincial regulations mandating sterilization or abortion do not directly contradict the law and have remained in effect.

**HIV/AIDS and other sexually transmissible infections (STIs)**

At the end of 2003, 80,000 of the estimated 840,000 people who tested positive for HIV in the country were clinically confirmed AIDS cases. The number of AIDS cases and AIDS-related deaths has increased dramatically in the last several years. The reported number of AIDS cases increased by 44% between 2001 and 2002, and the increase was 206% between 2000 and 2001. Among adults, the national HIV/AIDS prevalence rate is less than 0.1%; however, certain regions have significantly higher HIV/AIDS infection rates (about 80%), particularly among high-risk groups such as intravenous drug users.

While intravenous drug use is the predominant mode of HIV transmission in China, sexual transmission is steadily increasing, primarily among sex workers. Between 1997 and 2002, the rate of sexually transmitted HIV infections nearly doubled, from 5.5% to 10.9%. Figures from 1997, 2001 and 2002 indicate that HIV prevalence is also increasing among unmarried youth (1.7%), pregnant women (1.3%), and newborns through mother to child transmission (0.4%). Prior to the enactment of Regulations for the Management of Blood Products in 1996, a significant number of HIV infections resulted from blood transfusions, and this remains a
problem in rural areas. In some provinces, an average of 60% of former plasma donors are reportedly infected with HIV and the unregulated sale of plasma/blood remains a common phenomenon.

Awareness of the epidemic is low among the general public, especially in vulnerable groups such as sex workers. One survey revealed that only 14% to 30% of sex workers knew condoms could prevent HIV infection, and only 2% to 30% considered themselves at risk of being infected. Lack of knowledge is also behind discriminatory attitudes against people with HIV/AIDS.

Prevalence of HIV/AIDS among Chinese gay men ranges from 3% to 5%, and lack of essential knowledge and unsafe sex with multiple partners are the primary causes of infection. The central government has no program or policy addressing this population, although local governments, working in concert with foreign partners, have begun to offer limited HIV/AIDS services for gay men.

There are currently an estimated eighty thousand children orphaned by AIDS in China, and the number is expected to grow to two hundred sixty thousand by 2010.

**Laws and Policies**

The Law on the Prevention and Treatment of Infectious Diseases was enacted in 1989 and amended in 2004 in order to prevent, control, and eliminate the occurrence and epidemic of infectious diseases such as HIV/AIDS and other STIs.

The law applies to all individuals who are physically present in China. Individuals suspected of having an infectious disease are mandated by the law to submit inquiries, examinations, investigations, and undergo treatment provided by disease control and medical institutions. These facilities are also charged with providing necessary treatment and control measures appropriate to the patient’s condition.

Anyone with knowledge of an individual who has or is suspected of having HIV/AIDS or other designated STIs (e.g. gonorrhea, syphilis, or hepatitis) is compelled by law to report him or her to medical or disease control agencies, which must then immediately notify relevant government departments and the Ministry of Health. The law prohibits individuals who have or are suspected of having HIV/AIDS or STIs from being employed in jobs in which the spread of such diseases might be difficult to control. Violations of these provisions are punishable by up to three years’ imprisonment, and in cases where the consequences are especially serious, up to seven years’ imprisonment. If the illegal action leads to personal or property damage, the violator may be subjected to civil action.

Several border control laws address issues related to the exit and entry of persons with STIs or HIV/AIDS at airports, seaports, and train stations. Health and quarantine organs must bar carriers or suspected carriers of infectious diseases from exiting the country, and foreigners with AIDS or venereal or infectious diseases are prohibited from entering the country. Attempts to evade border health inspection, falsify one’s health status, or spread communicable diseases may be punished with a fine and/or up to three years’ imprisonment.

The Blood Donation Law, which became effective in 1998, was enacted to control the spread of STIs and HIV/AIDS by regulating blood banks and blood donors. The law requires blood banks to ensure the quality of blood by guarding against risk of contamination by persons with STIs or HIV/AIDS. Donors must undergo a free medical exam and must be in satisfactory physical health—specifically, free from HIV/AIDS—to be eligible to give blood. The Regulation on Management of Blood Products also establishes provisions to strengthen control and guarantee quality and safety of blood products, and prevent the spread of infectious diseases through their use. Individuals engaged in illegal selling of blood face fines and imprisonment for up to five years. Hospitals that fail to screen their blood and thereby transmit HIV to a patient may face civil liability.

The Maternal and Infant Health Care Law also addresses the issue of STIs and HIV/AIDS in premarital couples. If one party is discovered to be in an infectious stage of an infectious disease, such as gonorrhea, syphilis, or HIV/AIDS, the examining practitioner will offer medical advice and issue a premarital medical “suggestion” advising the couple to postpone marriage. The 2003 revision of the Regulation on Marriage Registration alleviated the requirement that people registering for marriage must undergo premarital medical exams, and officials from the Ministry of Health have stated that HIV carriers have the right to marry; however, some provinces have refused to issue marriage certificates to people living with HIV/AIDS (PLWHA).

China’s efforts to prevent the spread of HIV/AIDS were bolstered in 1994 through the signing of the Paris Declaration, a global statement calling for the prevention and control of the disease. Subsequently, the Ministry of Finance established a special fund for HIV/AIDS prevention and control in 1996.

The China Medium- and Long-Term Plan for HIV/AIDS Prevention and Control (1998–2010) (CMLTP), issued and distributed by the State Council in 1998, sets out the government’s objectives for HIV/AIDS prevention and control, which include the following:

- ensure that provincial governments incorporate HIV/AIDS prevention work into the local economic and social infrastructures;
- create a surveillance system that monitors the preva-
ience of the disease; and

- establish and modify laws and regulations related to STIs and HIV/AIDS.499

In 2001, China’s minister of health signed the Declaration of Commitment on HIV/AIDS at the United Nations General Assembly Special Session on HIV/AIDS, reiterating China’s commitment to HIV/AIDS prevention and control.500 The same year, the State Council issued the China HIV/AIDS Containment, Prevention, and Control Action Plan (2001–2005) to ensure that the objectives and tasks set out in the CMLTP would be achieved.501 The principles of the action plan are as follows:

- focus on educating the general public and vulnerable populations about high-risk behavior and harm reduction;
- strengthen health education and behavioral interventions and emphasize the development of effective, sustainable programs; and
- increase guidance, monitoring, and supervision of programs.502

The action plan aimed to achieve the following targets by 2005:

- condom usage rate of over 50% among high-risk populations;
- HIV/AIDS training for all personnel engaged in HIV prevention and control, clinical treatment and care, laboratory testing, blood collection, and provision; and
- integration of local and national HIV/AIDS information networks.503

During a high-level HIV/AIDS meeting of the UN General Assembly in September 2003, the Chinese government made several commitments to fighting HIV/AIDS, including the following:

- holding health-care workers accountable if their professional negligence results in the further spread of the disease;
- providing free antiretroviral (ARV) medicines to low-income PLWHAs in urban areas and all PLWHAs in rural areas;
- increasing international cooperation on HIV/AIDS by welcoming continued financial and technical support from other countries and international organizations.504

The central and local governments have pledged more than CNY 10 billion (USD 1.2 billion) to improve the strength of the health-care system and professional capacity for HIV/AIDS prevention and control.506

Recent regulations related to HIV/AIDS include a trial implementation of the Principles for Prevention and Protection of Medical Personnel from HIV Exposure to establish working protocols, exposure-reduction methods, and emergency procedures to reduce the risk of HIV infection among health-care workers.506 The MOH has also issued guidelines for pregnant women for prevention of HIV/AIDS transmission;507 issued guidelines and technical manuals for free ARVs; organized the National HIV/AIDS Clinical Task Force to provide HIV/AIDS services training for primary, county, and township health workers; and established ten AIDS clinical treatment centers.508

The government has taken several steps toward fulfillment of the goals of CMLTP, including exempting imported ARVs from duty and VAT (value added tax) for five years to increase their availability and affordability;509 expediting approval of ARVs;510 and encouraging domestic drug producers to produce generic ARVs.511 Condom quality has improved, as has condom dissemination, and free condoms are now supplied to PLWHAs.512

The government has introduced a series of measures to improve the quality of life of PLWHAs and their families. Medical facilities appointed to care for PLWHAs must provide treatment immediately and are not allowed to refuse care.513 To increase accessibility of HIV/AIDS treatment, home care programs are available for patients in remission or in situations where isolated treatment is inappropriate.514 Anonymous HIV tests are conducted free of charge in areas with large numbers of HIV/AIDS cases, in poverty-stricken regions, and for vulnerable populations.515 Pregnant women with HIV/AIDS are given free counseling, medical screenings, and ARVs to prevent transmission of the virus to their fetus.516 In partnership with NGOs and international organizations, the government provides PLWHAs with agricultural tax-exemptions and microcredits, and allows their children to attend school free of charge.517

In 2004, the State Council premier announced the Four Frees and One Care policy, which provides the following:

- free ARV drugs for all people diagnosed with HIV/AIDS in rural areas;
- free voluntary counseling and testing (VCT) in high prevalence areas;
- free education to children orphaned by AIDS;
- free VCT and prevention of mother-to-infant transmission services for pregnant women; and
- care to PLWHAs facing financial difficulties.518

The government’s four-tier (county, prefecture, province, and national) disease prevention and control network implements this policy through the China National Free ARV Treatment Program.519 Among the strategies of the program are China CARES (Comprehensive AIDS Response) pilot initiatives, which are community-based HIV/AIDS treat-
ment and care projects in 127 counties throughout 28 provinces; and the provision of support and resources from the Chinese Center for Disease Control to provinces according to their needs.520

Regulation of information on HIV/AIDS and other STIs

Information on HIV/AIDS and STIs is disseminated to the Chinese population through a number of campaigns conducted by ministries and government divisions. The State Council Policy on HIV Prevention and Control calls upon all levels of government to disseminate information on HIV prevention to all child-care centers, schools, enterprises, and media outlets.521 On annual World AIDS Day, which falls on December 1, the Chinese government sponsors national HIV/AIDS awareness campaigns involving conferences, entertainment interviews with experts, on-site consultations, hotlines, distribution of educational materials, and activity reports.522 Other national programs initiated by NGOs and government divisions include HIV/AIDS Prevention and Health for the Whole Family, sponsored by the ACWF and the Ministry of Health,523 and Red Ribbon Action, sponsored by the CCYL, the Ministry of Education (MOE), and the MOH.524

Government departments offer a variety of HIV/AIDS education and awareness campaigns organized by the State Council Coordination Mechanism on AIDS/STIs to maximize the effectiveness of HIV/AIDS prevention and control efforts.525 Since the State Administration of Industry and Commerce lifted the ban against condom advertisements in 2004, the government has adopted a policy of encouraging condom use for the prevention of HIV/AIDS using public service television commercials, billboards, and publications.526 The MOE set forth guidelines defining the standards for HIV/AIDS training materials in schools and curricula.527 The ministry is also responsible for implementing programs for HIV prevention and voluntary, nonremunerated blood donation in all schools, vocational schools, and institutes of higher learning.528 The Ministry of Railways and various transportation departments target commuters and migrant workers by printing HIV/AIDS information on the backs of tickets and conducting campaigns at major stations and ports.529 The All-China Federation of Trade Unions and the NPFPC both conduct awareness raising campaigns, educational seminars, and training programs throughout the nation.530

The government’s antidiscrimination protections for PLWHAs are somewhat contradictory. The Notice on the Administration of HIV Positive People and Patients states that HIV-positive individuals and their relatives cannot be discriminated against.531 The notice also guarantees PLWHAs and their children the same legal rights and social benefits afforded to other citizens, including access to day care and education.532 Citizens are urged to follow their social duty in combating discrimination, and local governments are obligated to ensure that PLWHAs are provided with a friendly, considerate, and healthy environment where they are encouraged to think positively, correct high-risk behavior, and receive care that prolongs the quality of their lives and their lifespan.533 These provisions were also included in the State Council Notice on Strengthening HIV/AIDS Prevention and Control of 2004.534

However, despite policies denouncing HIV/AIDS discrimination, violations are punishable only by minor administrative penalties, and some legislative measures seem more supportive of segregation than acceptance. For instance, PLWHAs are required to submit to medical consultations before marriage and may be issued premarital medical exam certificates with a recommendation to “postpone marriage” for an indefinite period.535 Officials from the Ministry of Health have stated that PLWHAs have the right to get married, but in many provinces, such as Hunan and Jiangsu, HIV-positive individuals cannot obtain a marriage certificate.536 In addition, it has been reported that AIDS orphans, who are often HIV-positive, face maltreatment by their peers and teachers, and are refused entry to schools, hotels, and businesses.537

Adolescent reproductive health

China has one of the largest adolescent populations in the world. According to the 2000 census, more than 320 million people in China are between the ages of 10 and 24, accounting for 26% of the total population.538 About 50% of Chinese adolescents are female.539

Laws and policies

Though China has signed and ratified international instruments with provisions for adolescent reproductive health care, such as the ICPD Programme of Action, the Beijing Platform for Action, and the ICPD+5, family planning and reproductive health services for adolescents are extremely limited in China.540

However, the Chinese government has taken several steps to improve availability and accessibility of reproductive health care for adolescents. In 2002, a government hospital in Beijing opened the country’s first clinic for adolescent psychological and sexual health-care services.541 The clinic provides adolescents with free or low-cost gynecology, maternity, urology, pediatrics, and psychological counseling services.542 Similar facilities have since opened in several cities.543 These government-funded adolescent health-care facilities offer free abortion services for pregnant girls under 18 years of age, and some permit anonymous abortions without parental notification.544
Delivery of adolescent reproductive health services by NGOs and international organizations

NGOs and international organizations are addressing the inadequacy of adolescent reproductive health services through a variety of programs. A CFPA initiative provides information about reproductive and maternal and infant health care, puberty, and family planning to unmarried youths to encourage responsible behavior, such as contraceptive use, and decrease incidences of premarital pregnancies and induced abortions.546

The United Nations Development Programme (UNDP) and UNFPA created pilot projects on adolescent reproductive health (ARH) in Shanghai and Beijing, where students function as youth volunteers and peer educators to help increase awareness of sexual and reproductive health issues and generate support from local leaders, teachers, parents, and family planning workers.546 The program also involved the targeted marketing of contraceptives, thereby increasing both the accessibility of condoms and awareness of reproductive health issues for underserved adolescents.547

These initiatives have produced promising results.548 The UNDP and UNFPA plan to concentrate their advocacy efforts on policy development and the recognition and realization of reproductive health rights for young people.549 In the future, the pilot ARH projects will be expanded to other areas and various approaches will be tested to provide youth-centered information, counseling, and services.550 The UNFPA will strengthen the capacity of program managers to integrate ARH into the existing health-care system and offer assistance to improve the overall health-care system.551

HIV/AIDS is a growing problem among China's youth. The Red Cross Society of China (RCSC) has introduced youth peer education for HIV/AIDS prevention and care in more than 15 provinces.552 Implemented and funded by local people's governments and international NGOs, the programs' objectives are to give accurate information about HIV/AIDS and its prevention to adolescents through peer education to reduce high-risk behavior, improve decision making, and dispel the stigma of the disease.553 The program is expected to be expanded to migrant workers, sex workers, and PLWHAs.554 To combat discrimination against AIDS orphans, local people's governments, China's Center for Disease Control, and domestic and international NGOs have launched public awareness campaigns, provided subsidies to foster families, and organized summer camps for AIDS orphans.555

C. POPULATION

China is one of the most populous countries in the world, inhabited by more than 1.3 billion people, comprising one-fifth of the world's population. Since the 1950s, family planning has been a national policy with the goal of ensuring that families have only one child, thereby reducing the rapidly climbing population growth rate.556

In the 1970s, the government launched the “wan, xi, shao” (“later, longer, fewer”) campaign emphasizing later marriage, longer intervals between births, and fewer births.557 At the onset of the campaign, couples were discouraged from having more than two children, but by the late 1970s no more than one child was recommended.558 The campaign was the first to introduce national, provincial, and local birth rate targets.559

Fears that excessive population growth would derail economic development drove the Chinese government to go further and launch the one-child policy in 1979.560 The policy restricted couples from having more than one child and required official “birth permits” before conceiving a child.561 It is widely reported that at the policy's inception, coercive methods were frequently exercised to ensure its enforcement.562

After abandoning the compulsory birth control strategies employed in the 1970s and 1980s, China adopted less stringent measures in implementing its population policies. Although the shift places greater focus on individual rights, “these rights are mostly to receive services, not to reject them,” and citizens must still adhere to birth limitations.563

The government's population policies have been criticized for reinforcing patriarchal attitudes by supporting son preference, a critical factor in the “missing girls” phenomenon whereby female babies are abandoned, neglected, or killed, or their births hidden from family planning authorities so couples can try to have a son.564 The policies have also been faulted for contributing towards skewed sex ratios, where more boys than girls are born. Currently, newborns in China are disproportionately male with national statistics indicating that the male to female sex ratio for newborns is 119 boys to 100 girls.565 In some regions, the ratio is 130 boys to 100 girls.566

China's population control program has led to a dramatic decline in the country's national birth rate, which has dropped from a high of 23.33 births per 1,000 persons in 1988 to 12.86 births per 1,000 persons in 2002, with urban areas reporting record low rates.567 In 2002, the official national fertility rate in China was 1.9 average number of live births per women aged 15–49.568 Although China is now on the path to population stabilization and a low fertility rate,569 the Chinese government maintains that further reduction in population is necessary to ensure economic and social well-being.570 In a decision promulgated by the CPC Central Committee and
the State Council in 2000, excessive population growth was cited as a "crucial factor" in hindering the country's economic and social development.\textsuperscript{571}

The government has indicated that in the long run, economic development will limit childbearing; in the meantime, the government “relies on publicity and education, advances in science and technology, multipurpose services and … the reward and social security systems” to secure compliance with its population control laws.\textsuperscript{572}

\textit{Laws and policies}

China is committed to achieving a peak population of 1.6 billion by the mid-21st century and a steady decline in population thereafter.\textsuperscript{573} In 2001, China codified its one-child policy and current family planning policy and practices in the Population and Family Planning Law.\textsuperscript{574} The law was enacted to bring about “a coordinated development between population on the one side and the economy, society, resources, and the environment on the other,” and to promote family planning for the enhancement of family happiness and the prosperity of the country.\textsuperscript{575}

According to the Population and Family Planning Law, the government “advocates” one child per married couple, and requests to have a second child are subject to local laws and regulations.\textsuperscript{576} Regulations permitting a second child vary across provinces, autonomous regions, and municipalities. In general, couples fulfilling the following criteria may petition the local family planning department to have a second child:

- their first child is disabled with no hope of entering the work force;
- they are remarried and one of the spouses has no children;
- they were diagnosed as infertile and became pregnant after adopting a child;
- both husband and wife are single children;
- they are ethnic minorities living in rural or autonomous national regions; or
- they live in a rural area and their first child is a girl.\textsuperscript{577}

One of the earliest exceptions to the one-child policy, the provision permitting rural couples with a daughter to have a second child, was enacted in 1984 as a concession to the strong resistance to birth limits and the desire to have multiple children among rural couples who lack pension plans and must rely on their offspring to support them in their old age.\textsuperscript{578}

The government's population and family planning objectives for 2000–2010 are outlined in a decision released jointly by the CPC Central Committee and the State Council. They are as follows:

- limit the total population to 1.4 billion by 2010;
- balance the sex ratio of newborn babies;
- enable individuals of childbearing age access to basic reproductive health-care services; and
- widely promote the informed use of various contraceptive measures.\textsuperscript{579}

China’s family planning policies were further reiterated in the Tenth Five-Year Plan for National Economic and Social Development (2000–2005), and called for the following results:

- sustain the low birth rate;
- improve prenatal and postnatal care;
- improve management of family planning in rural areas and among migrant populations;
- establish rewards for family planning; and
- accelerate the work of legislation for population and family planning.\textsuperscript{580}

In 2005, the government launched a nationwide program called Social Support for Some Rural Families Practicing Family Planning, which provides cash rewards to elderly (60 years old or above) rural couples with one child or two daughters in compliance with population and family planning policies.\textsuperscript{581} Eligible recipients are entitled to a minimum of CNY 600 (USD 72) a year, or CNY 1,200 (USD 144) per couple.\textsuperscript{582}

Some rural families with daughters are given privileges in housing, employment, education, and welfare support under the NPFPC’s Care for Girls program, launched in 2000, which seeks to reverse the newborn gender disparity and “improve the environment for girls’ survival and development.”\textsuperscript{583} Under the program, daughter(s)-only families receive loans and funding of up to CNY 5,000 (USD 604) for income-generating production, free schooling, and lectures on gender equality, and girls receive free health exams to ensure they are properly cared for by their families.\textsuperscript{584}

Both incentives and penalties are used to encourage compliance with the population policy. Couples who follow the population policy receive social and economic incentives such as insurance, welfare benefits, poverty-alleviation loans, and work relief.\textsuperscript{585} Citizens who do not follow the directives of the population policy are required to pay a social compensation fee.\textsuperscript{586} Unmarried couples, women under the legal age for marriage, and both parties of an extramarital affair who have a child may also be subjected to social compensation fees.\textsuperscript{587} These fees are significant and may be several times the amount of an individual’s annual income.\textsuperscript{588} Families who do not pay their social compensation fees within the specified time period are subject to additional fees and charges,\textsuperscript{589} and anyone who fails to make payments may be given administrative sanctions or face disciplinary actions from their work unit or organization.\textsuperscript{590} Civil servants and state functionaries who violate family planning laws are subjected to harsher punishments.\textsuperscript{591} (See “Family planning” for more information).
**III. Legal Status of Women and Girls**

The health and reproductive rights of women and girls cannot be fully understood without taking into account their legal and social status. Laws relating to their legal status not only reflect societal attitudes that shape the landscape of reproductive rights, they directly impact their ability to exercise these rights. A woman or adolescent girl's marital status, her ability to own property and earn an independent income, her level of education, and her vulnerability to violence affect her ability to make decisions about her reproductive and sexual health and to access appropriate services. The following section describes the legal status of women and girls in China.

### A. RIGHTS TO EQUALITY AND NONDISCRIMINATION

The constitution of the People's Republic of China pronounces all citizens equal before the law and states that "women enjoy equal rights with men in all spheres of life, in political, economic, cultural and social, and family life." The government is entrusted to "protect the rights and interests of women, apply the principle of equal pay for equal work to men and women alike[,] and train and select cadres from among women." Other constitutional provisions obligate the government to uphold the freedom of marriage, protect families, and prevent the maltreatment of women and children.

The Chinese government has encouraged women to participate in politics by passing a number of legislative measures, which have resulted in the steady increase of female government officials since the establishment of the Republic (See "Legal and Political Framework" for more information). In addition to the constitution, a number of laws address the rights and interests of women and girls, including the Civil Law, Marriage Law, Law on Maternal and Infant Health Care, Law of Succession, Labor Law, Women's Rights Law, Trade Union Law, Compulsory Education Law, Education Law, Adoption Law, Criminal Law, Law on the Protection of Minors, and Law on Population and Family Planning. The Women's Rights Law of 1992, revised in 2005, was the first

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**Ethnic minority groups**

The people's congresses in autonomous national regions may formulate their own family planning policies in light of the central government's stated interest in improving the quality of life and economic and social development of ethnic minority populations and the need for family planning regulations. These policies allow most ethnic minority families to have two or three children; allow more than three in small ethnic minority populations or for those living in harsh geographical conditions; and place no official constraints on the number of children of Tibetan farmers and herdsmen.

### Implementing agencies

All sections of the government are directed to promote and implement the population policy, including the family planning administrative departments, social organizations such as trade unions and women's federations, the armed forces, and the mass media. Family planning departments that fail to fulfill birth targets are admonished by their supervising agency, and the person in charge may be given administrative penalties.

The NPFPC formulates, coordinates, and oversees the population policy. The NPFPC is headed by a minister, several vice ministers, and departmental director-generals. There are eight major departments in the NPFPC: the general office; the Department of Policies and Regulations; the Department of Development and Planning; the Department of Publicity and Education; the Department of Science and Technology; the Department of Finance; the Department of Personnel; and the Department of International Cooperation. The general office organizes and coordinates surveys, research, and analysis of key population and family planning issues to support policy-making at the commission's top levels. The general office also examines and supervises the enforcement of major population and family planning policies formulated by the CPC Central Committee and the State Council. There are family planning commissions at the provincial, prefectural, and county levels and family planning committees below them. The NPFPC has ties with numerous research and mass educational organizations to manage and implement the population control policies.

Several Chinese NGOs assist the government on population control issues. Among them are the Family Planning Association, the Population Association, the Association for Promotion of Population Culture, the Population Welfare Foundation, the Association for Healthier Births and Better Childbearing, the Association for Research on Healthier Births, and the Family Planning Institute of China Medical Association.

With the help of these NGOs, China's government is experimenting with less stringent fertility controls. In 2004, the NPFPC, working closely with the MOH, the CFPA, and UNFPA, established pilot programs in 32 counties that abandoned birth quotas and upgraded services in family planning clinics. In these counties, women and men were given more freedom of choice when selecting contraceptive methods, including wider access to condoms and birth control pills.
basic law to protect women’s rights and interests in a comprehensive and systematic manner and provides that women enjoy equal rights and status with men in all aspects of political, economic, cultural, social, and family life.607

There is currently no law explicitly protecting homosexuals from discrimination, or recognizing and promoting their particular rights. Homosexuality was a criminal offense until 1997, and it was classified by the Chinese Psychiatric Association as a mental illness until 2001.608

**Formal institutions and policies**

The government has established a number of institutional procedures and official policies to advance gender equality.

The National Working Committee on Children and Women under the State Council (NWCCW) was established on February 22, 1990, to implement China’s policy of gender equality and ensure adherence to the principle of devotion to women and children’s survival, protection, and development.609 The NWCCW assisted the State Council in drafting and promulgating the National Plan for the Development of Chinese Women (1995–2000) and the National Plan for the Development of Chinese Children (1995–2000), and is currently overseeing the National Plan for the Development of Chinese Women (2001–2010) and the National Plan for Development of Chinese Children (2001–2010).610 The NWCCW is composed of officials from 28 ministries and commissions, and 5 NGOs, including the Chinese Communist Youth League (CCYL) and the ACWF.611

The main role of the NWCCW is to make the rights and interests of women and children a priority at all levels of government.612 Specifically, some of the working committee’s primary responsibilities include the following:

- strengthening legislation that protects the rights of women and children and addressing prominent barriers to the development of this population;
- encouraging the full implementation of key international treaties such as CEDAW and CRC that protect the rights and interests of women and children;
- establishing and strengthening mechanisms to ensure the implementation of women’s and children’s programs at the local level;
- training relevant government officials to implement programs for women and children;
- addressing key obstacles to the provision of education and health care for all women and children; and
- ensuring sanitary conditions in low-income and minority regions to improve the survival and development of their women and children.613

The Office of Workers, Youth, and Women (OWYW) is an integral part of the Committee on Internal and Judicial Affairs of the NPC. Some of the main activities of the OYW include researching, drafting, and monitoring the implementation of national legislation on women, children, and adolescents; and monitoring local laws concerning women, children, and adolescents.614

The ACWF was founded in 1949 “to represent and safeguard women’s rights and interests and promote equality between women and men.”615 The ACWF is entrusted, under statute, with representing and upholding “the rights of women of all nationalities and all walks of life and striving[ing to] … protect … women’s right and interests.”616 The federation is responsible for creating legislation pertaining to women’s issues and was recently entrusted with writing the final draft of the amendments to the Women’s Rights Law.617 The federation is a member of the NWCCW and enjoys consultative status with the Economic and Social Council of the United Nations.618 Members include female workers’ committees of trade unions in factories and mines, as well as registered national or local women’s organizations approved by ACWF. At present there are about sixty thousand grassroots women’s federations at or above the township and neighborhood committee levels, and more than nine hundred eighty thousand women’s groups.619

According to the World Bank’s East Asia Environment and Social Development Unit, the ACWF in some ways functions as a “quasi-governmental agency” and is constrained to a certain extent because of its close association with the Chinese government. Nevertheless, the ACWF acts as a bridge between policymakers and civil society and is, thus, “an important part of the enabling environment for gender equality in China.”620

**B. CITIZENSHIP**

Under the 1980 Nationality Law of the China, men and women have equal rights regarding the acquisition, loss, and restoration of citizenship.621

**C. MARRIAGE**

The right to marriage and the freedom of marriage are protected by the constitution, the Civil Law, the Marriage Law, and Women’s Rights Law.622 The constitution guarantees women equal rights in marriage and in the family and obligates the government to take measures to protect women’s right of self-determination in marriage and prohibit external interference with their freedom of marriage.623

Men and women have equal rights to marriage, and a marriage must be based upon the complete willingness of both parties.624 “The Marriage Law is the fundamental code governing marriage”625 and establishes the legal marriage age as 22 for men and 20 for women.626 The Law on the Protec-
tion of Minors stipulates that parents or guardians may not force or permit their minor children to marry or undertake an engagement. The Population and Family Planning Law rewards couples who delay their marriage beyond the minimum ages with welfare benefits such as longer nuptial leaves from work.

The Marriage Law prohibits marriages based upon an arbitrary decision by a third party, monetary or material gains, and other types of interference or compulsion by a third party or the prospective spouse. A marriage that has been coerced or obtained under conditions restricting personal freedom may be dissolved upon request by the coerced party to the marriage registration office or the people’s court. This request must be submitted within one year of the marriage registration date, or within one year of regaining personal freedom. Coercion refers to any actions that threaten the life, physical body, health, reputation, or assets of the coerced party or his or her close relatives.

Bigamy is prohibited, as is marriage between certain blood relatives or those infected with diseases that may render a person unfit for marriage. Using force to interfere in anyone’s freedom of marriage is a criminal offense, punishable by up to two years of imprisonment or criminal detention, or up to seven years of imprisonment if the victim is killed. This crime can only be investigated upon the filing of a formal complaint. Even children are prohibited from interfering with their parents’ matrimonial rights and cannot abandon their financial duty to support their parents upon a parent’s marriage to a new spouse.

Although the right to marriage is protected under the law, it is not absolute and is subject to certain restrictions. Until recently, the Regulations on Management of Higher Education Students stipulated that students and graduate students would be automatically dismissed or expelled if they got married or had children while they are in school. This 15-year-old provision was abolished in the recent revision to the Regulations which came into effect on September 1, 2005, providing greater rights of self-determination for students.

The Marriage Law and the Regulations on Marriage Registration do not explicitly state that marriage is limited to members of the opposite sex. However, it is implied by references to “husband and wife,” “man and woman,” “male and female,” and “father and mother” in the language of the statutes. Furthermore, senior officials of the Ministry of Civil Affairs, which is in charge of marriage registration, have stated that China is not prepared to recognize any marriage between people of the same sex.

With limited exceptions, couples must register with their local marriage registration department and obtain a marriage certificate in order to legally establish their marital relationship. The Regulations on Marriage Registration, revised in late 2003, provide that Chinese citizens may apply for a marriage certificate if they can show identification cards and residency papers, and sign an affidavit attesting to their unmarried status and lack of blood relation to their intended spouse. Prior to these revisions, Chinese citizens were required to obtain a letter from their work unit verifying their unmarried status and were compelled to undergo premarital medical examinations to determine their “fitness for marriage.” (See “Examining Reproductive Health and Rights” for more information) The revised regulations allow transgender individuals who have undergone sex change operations and officially changed their sex on their identity cards to register for marriage as their new gender and prohibit discrimination against them.

Both the Women’s Rights Law and the Marriage Law establish women’s property rights within marriage and also establish equal rights for women in the possession, use, proceeds, and disposal of common marital property, regardless of the income status of either party. Under the Marriage Law, property acquired by the husband and wife during their marriage is classified as jointly owned, unless otherwise stipulated by a written agreement between the husband and wife. Husband and wife possess equal rights upon joint property, and decisions regarding disposition of this property must be made by husband and wife following discussion and mutual agreement.

The Marriage Law covers a number of rights and duties that extend to both husbands and wives. They are to have equal status within the family, and must be faithful and respect one another. Each has the right to engage in work, study, and social activities without restriction or interference from the other. They have a duty to practice family planning and to protect, discipline, raise, and educate their children. Husbands and wives also have a duty to provide for each other, and if either fails to do so, the other may demand maintenance payments.

Marriage and ethnic minorities
Ethnic minorities in autonomous regions and prefectures may, with approval from a regional representative of the central government, alter resolutions, decisions, orders, and instructions to incorporate local practices regarding marriage and family. In some national autonomous regions, for instance, the legal marriage age was changed to over 18 for women and over 20 for men.

D. DIVORCE
Husbands and wives can file for divorce jointly or separately.
and a woman's right to seek a divorce is protected from interference.\textsuperscript{653} Grounds for divorce may include bigamy or cohabitation; domestic violence, maltreatment, or desertion; gambling or drug addiction; and other serious actions that destroy marital affections.\textsuperscript{654} Restrictions are placed on the ability of a husband to seek divorce. A husband cannot apply for a divorce while his wife is pregnant, within one year after the birth of a child, or within six months of a miscarriage or the termination of a pregnancy as required by the government's family planning policy.\textsuperscript{655} These rules apply unless a people's court determines that it is necessary to accept the husband's divorce request.\textsuperscript{656} A woman's ability to seek divorce during any of these periods is not restricted.\textsuperscript{657}

Couples who did not register their marriage in accordance with the Marriage Law may be regarded as a married couple for the purpose of divorce proceedings if they fulfilled the criteria for marriage prior to the enactment of the Regulations on Marriage Registration on February 1, 1994; otherwise, the court is to treat such relationships as cohabitation.\textsuperscript{658} Where both spouses wish to divorce, the marriage registration office will issue divorce certificates after confirming the intentions of both parties and verifying that arrangements exist for the division of property and the care of children.\textsuperscript{659} When only one spouse desires a divorce, he or she may either request mediation or appeal to a people's court to initiate divorce proceedings.\textsuperscript{660} The Marriage Law provides that the court shall grant a divorce if mediation fails due to any of the following circumstances:

- mutual affection no longer exists;
- bigamy or cohabitation of a married person with any third party;
- domestic violence, maltreatment, or desertion of one party by another;
- the continuation of bad habits such as gambling or drug addiction despite repeated admonition;
- separation of at least two full years due to incompatibility;
- other circumstances leading to the loss of mutual affection; or
- one party is declared missing, leading the other party to file for divorce.\textsuperscript{661}

According to the Civil Procedure Law, parties involved in divorce litigation must appear in person before the court even if they are represented by counsel.\textsuperscript{662}

For purposes of dividing property at divorce, property is classified either as jointly possessed or as solely belonging to the husband or wife. Examples of jointly possessed property include the following:

- pay and bonus;
- property obtained as an inheritance or gift (with exceptions);
- earnings from investment of separate property;
- retirement pension and arranged compensations for bankruptcy that both husband and wife have acquired or will acquire; and
- housing purchased using marital assets, even if the deed lists only one party.\textsuperscript{663} In contrast, the following are considered separate property items:

- prenuptial property possessed by only one spouse;
- medical expenses, disability living allowances, and other property acquired by one party as a result of personal injury;
- property (including housing) acquired as an inheritance or gift as specified to one party in a will or gift contract; and
- one party's private articles for daily use or any other individually held items.\textsuperscript{664}

Notwithstanding these provisions, the Marriage Law permits spouses to identify in writing their prenuptial and joint property holdings.\textsuperscript{665}

Upon seeking a divorce, the spouses shall first negotiate with each other and attempt to reach an amicable agreement on the disposition of their jointly possessed property.\textsuperscript{666} If the parties fail to reach an agreement, "the people's court shall make a judgment, taking into consideration the actual circumstances of the property and the rights and interests of the wife and child, or children."\textsuperscript{667} Before property is distributed, the law provides that "debts incurred jointly by the husband and wife during their marriage shall be paid off out of their jointly possessed property," with any remaining property then divided between the spouses.\textsuperscript{668} If the jointly possessed property is insufficient to pay the debts, the "parties shall work out an agreement with regard to the payment. If they fail to reach an agreement, the people's court shall make a judgment."\textsuperscript{669}

In general, only jointly possessed property is distributed upon divorce, but the Marriage Law does provide for the distribution of individual property in some instances. The law maintains that even if the spouses stipulated that they were individual owners of their property during the marriage, the spouse who assumed a greater responsibility as caretaker of the children or elderly parents and who assisted in the other's work may request compensation at the time of the divorce.\textsuperscript{670} If one party to the divorce is unable to meet minimum living standards after the division of property, the other party shall provide assistance, which may be in the form of residential or ownership rights to a dwelling.\textsuperscript{671} In addition, if the divorce is granted because one spouse has committed bigamy, cohabited with a third party, acted violently toward the family, or
maltreated or deserted family members, the spouse “without fault” shall have the right to request additional compensation for his or her losses.672 The party without fault may claim compensation either as part of the divorce decree or as a separate matter within one year of the divorce, unless the spouse has clearly surrendered such a claim at the time of the divorce.673 Spouses may claim compensation for loss of material goods as well as emotional harm for divorces granted by the people’s court.674

Divorce settlements are legally binding unless there was coercion or deception during the proceedings.675 Parties who attempt to conceal, deceive, destroy, or manipulate joint property at the time of the divorce may be awarded none or a smaller share of the joint property and may be subjected to civil litigation.676 Furthermore, parties in violation of the divorce decree through arrears in spousal maintenance, child support payments, noncompliance with division or inheritance of property, or visits to children, may be detained or fined by local authorities.677

There is no legislation explicitly dealing with judicial separation.

Marriages and divorces between Chinese citizens and foreign nationals are bound by the laws of the location in which the marriage or divorce occurred.678 Spousal maintenance agreements are subject to the laws of the country to which the claimant is most closely connected.679 As long as one party to the marriage is a Chinese citizen, the people’s court may exercise jurisdiction over the case, and either spouse may petition the court for recognition of a foreign divorce judgment.680

Parental rights

Child custody may be awarded to either parent. Under the Women’s Rights Law, favorable consideration is given to a wife’s reasonable demands for custody, and to the rights and interests of the children, especially if the wife has lost the ability to bear children due to sterilization or other reasons.681 The Marriage Law establishes that, in principle, the mother is granted custody of an infant she is breastfeeding.682 If the husband and wife cannot agree on the custody of their weaned child, the people’s court shall make a judgment based on the rights and interests of the child and the actual conditions of both parents.683

Whether children are placed in the custody of the mother or the father, they remain the children of both parents according to the law and both the mother and father have a continuing right and duty to raise and educate their children.684 The noncustodial parent also has a duty to bear some or all child support expenses, including living expenses, tuition and education costs, medical fees, and other relevant expenses.685 The people’s court will make a judgment about the amount and duration of child support payments for parents who cannot come to an agreement on their own.686 Those who fail to pay child support may be brought before the people’s court, and impoverished petitioners may apply for legal aid from the state in these cases.687

Parents not given custody of their children are granted visitation rights.688 Visits must be negotiated between the parties, with the court making a ruling when the parties are unable to agree.689 The custodial parent or legal guardian of a child may petition the people’s court to terminate visitation rights if the other parent’s visit endangers the child’s physical or mental health.690

Children under the age of 14 are eligible for adoption if they are orphaned or abandoned, or if their parents are unable to rear them.691 The consent of both parents must be obtained prior to placing their child for adoption, unless one parent is deceased or cannot be found.692 If an adoptee is aged ten or older, his or her consent must be obtained prior to the adoption.693 Same-sex couples are not granted the right to adopt children together. The Adoption Law states that when a person with a spouse adopts a child, the male and female parties must adopt the child in concert.694 Family planning regulations hold that parents who have voluntarily given up a child for adoption may not have additional children.695

Ethnic minorities

Although China does not have separate divorce and custody policies for minority groups, the Marriage Law and the Adoption Law give the country’s autonomous regions, where most minority groups reside, “the right to formulate certain adaptations in keeping with the principles of [the law] and in light of the specific conditions of the local nationalities with regard to marriage and the family.”696 In China’s Hubei province, for instance, both the husband and wife must be present to express their views before a divorce is granted.697

E. ECONOMIC AND SOCIAL RIGHTS

Ownership of property and inheritance

The Civil Law grants women and men equal rights regarding protection of their personal property and the right to inherit under the law.698 Property rights are also addressed by the Women’s Rights Law, which guarantees women an equal right to property, including the allotment of agricultural land and land for housing construction.699

The Women’s Rights Law additionally guarantees an equal right to inherit property.700 This is also incorporated into the Law of Succession.701 Under these statutory schemes, property is inherited in the first order by the spouse of the decedent, the decedent’s children, and the decedent’s parents, and without discrimination on the basis of gender.702 Daughters-
in-law or sons-in-law are entitled to inherit property as successors in the first order if they were primarily responsible for taking care of their parents-in-law.703 A widow has the right to dispose of inherited property as she wishes, and interference with this right is prohibited.704

Husbands and wives, and unmarried, cohabiting couples are the first to inherit each other’s property regardless of whether a widowed spouse remarries, and they may dispense of the inherited property without interference.705

Within marriage, women have equal rights with their spouses in the possession, use, proceeds, and disposal of joint property.706 This right is not affected by the income status of either the husband or the wife.707 Property acquired by the husband and wife during marriage is generally presumed under the law to be held in joint possession, unless they otherwise agree.708 Certain types of property, however, may be considered a spouse’s separate property. (See “Divorce” for more information.)

**Rural women and rights to agricultural land**

Rights to agricultural land are guaranteed to women regardless of their marital status.709 The central government assigns agricultural land to local administrative bodies that utilize a membership system for land distribution.710 Legally, women and men have equal rights to rural land, and no organization or individual may deprive women of their lawful rights.711 However, pervasive patriarchal attitudes generally result in the exclusion of women from these local bodies, and they are often deprived of their right to inherit the agricultural land of their father or spouse.712

**Labor and employment**

In 2002, 335.52 million women, or 45.5% of the total female population, were employed in China.713 In recent years, women have grown to comprise 38% of urban employees as an additional 5.65 million have entered the urban workforce.714

Under the constitution, citizens have the right as well as the duty to work.715 Pursuant to the constitutional principle that women enjoy equal rights with men in all areas of life, the government shall provide “equal pay for equal work,” and equal opportunities to women for training.716

The Labor Law enacted in 1994 reaffirms the principle of equal pay for equal work and calls for the distribution of wages according to work.717 The law prohibits sex discrimination and grants women equal rights with men in employment.718 Employers are forbidden from imposing higher recruitment standards for women or from using sex as a basis for excluding female workers, unless the work is deemed unsuitable for women.719 Labor laws restrict women from working in certain areas due to female physiology, particu-
larly during menstruation, pregnancy, puerperium, lactation, and menopause.720 Employers may not assign female workers to work in mines or in conditions involving intense physical labor.721 Employers are required to ensure that the work environment does not adversely affect women’s reproductive capacity or the health of the next generation.722

The labor laws provide special protections for pregnant women and lactating mothers, and employers are prohibited from revoking their labor contracts, decreasing their salary, or demoting them during these periods.723 Restrictions, however, are placed on the physical intensity of work.724 When a worker reaches her seventh month of pregnancy, or when she is breastfeeding a child of less than one year, employers are prohibited from extending her hours, assigning her to night shifts, or assigning her to work in operations involving toxic substances.725 If she is unable to perform her regular duties because of pregnancy, the volume of work must be reduced or other work must be arranged.726 Pregnant workers or women workers with a baby under one year of age are granted paid, periodic breaks for resting or feeding.727

Women workers are entitled to a minimum of 90 days paid maternity leave, of which 15 days may be allocated for prenatal leave.728 In the event of multiple births, 15 days of additional leave are awarded for each additional child.729 Women who experience a miscarriage are entitled to a portion of their paid maternity leave.730 Time spent for prenatal exams is paid, and provincial regulations determine the duration and number of prenatal visits pregnant workers are entitled to during pregnancy.731 Under special circumstances, pregnant workers may petition the local health department to increase the number of prenatal exams.732 Female workers, regardless of their reproductive status, are entitled to maternity insurance and other social insurance benefits.733 Workplaces staffed with a large number of female workers are required to individually or jointly establish a gynecological clinic, a lounge for pregnant workers, a feeding room, a nursery, and a kindergarten, and endeavor to solve any difficulties female workers experience in the areas of reproductive health, feeding, and child care.734

As the Chinese population ages, a greater number of older women are present in the workforce, and special provisions have been established to address menopausal issues. Women over 45 who suffer from adverse symptoms of menopause are given less work and are entitled to at least two breaks of no less than 30 minutes each.735

If employers violate a female worker’s rights, they are ordered by the labor department to correct the situation and pay a fine.736 Employers are responsible for compensating any woman who has been harmed by their violation of the law, and the persons in charge may be investigated for crimi-
nal liability if the violation leads to serious injury, death, or substantial loss of or damage to personal property. In cases where employers assign pregnant or lactating females to work with toxic substances, the local health department will issue a warning, and if the situation is not rectified in a timely fashion, it may fine the employer CNY 50,000 to CNY 300,000 (USD 6,041 to USD 36,247), or assess criminal liability where serious poisoning occurs.

Employment statutes provide procedural mechanisms for workers and employers seeking to resolve labor disputes. Laborers have the right to criticize, report, or file charges against employers for endangering the safety of their life or health. The Regulations on Settlement of Labor Disputes in Enterprises instruct disputing parties to first attempt to negotiate a solution. If the parties are unwilling to negotiate or if negotiations fail, the case may be referred to the labor dispute mediation committee, which is composed of representatives of employees and employers as well as representatives from trade unions, one of whom chairs the committee. If mediation fails or if either party wishes to apply directly for arbitration, they may appeal to the labor dispute arbitration committee at the county, city, or district level. These arbitration committees comprise persons from the trade union council, the government’s labor department, and the economic administrative department. If one or both parties refuse to accept the arbitration awards, they may bring the case before the people’s court.

The Women’s Rights Law, like the Labor Law, guarantees women an equal right to work and equal pay for equal work. The law provides that no employer should refuse to hire women, or set a higher threshold for hiring women based on gender, except in industries or positions for which women are deemed unfit.

In the interest of women’s health and safety in the workplace, the law states that women should not be assigned to unsuitable work or labor and special protective measures should be employed during menstruation, pregnancy, childbirth, and lactation. Like the Labor Law, the Women’s Rights Law prohibits the dismissal of female workers from employment or reducing their salary based on pregnancy, maternity leave, or lactation. The law additionally forbids employers from terminating women due to marital status.

Trade unions are obligated to uphold the constitution and strive for the protection of women’s rights and interests within the scope of their work. The rights and obligations of trade unions are governed by the Trade Union Law. Trade union membership is available to “all … workers in enterprises, institutions, and government departments within … China … who rely on wages or salaries as their main source of income … irrespective of … sex.” Trade union committees for female workers are allowed in workplaces with relatively large numbers of women. In workplaces with relatively small numbers of women, a representative of female workers must be included on a trade union committee. If the special rights and interests of female workers are infringed upon by an employer, the trade union shall formally lodge a complaint with the employer and “negotiate an appropriate remedy.”

The Regulation on Labor and Social Security Inspection also urges labor protection monitoring committees of the local labor department to ensure that employers comply with the law against child labor, observe special protection laws for women and minors, and assign penalties for any violation. The Law on Safety in Mines stipulates that mining enterprises must practice special labor protections for female workers and may not assign women or adolescents to any underground work.

The retirement age for Chinese women is generally five years lower than that of their male counterparts. Professional women working for any institution or industry run by the government reach retirement age at 55, but men may work until age 60. For blue-collar workers, the retirement age is 50 for women and 55 for men. Discrimination against women in the state’s retirement policy was recently outlawed by the revision of the Women’s Rights Law, which shall be effective on January 1, 2006.

Access to credit
Chinese women and men have equal rights with regard to access to credit. Since 1996, the central and local governments have made budgetary allocations to support low-interest or preferential loans that are only available to women. These loans are generally underwritten by the ACWF, which expanded its microcredit scheme nationwide in 1994 to include low-income rural women, urban female entrepreneurs, and urban female laid-off job seekers. These credit programs are funded by the central government, local people’s governments, and international organizations such as the UNDP.

Education
The total enrollment rate of children in primary schools in 2002 was 98.58%. The school attendance rate for girls has steadily improved since the 1990s, reaching 98.53% in 2002. The national female illiteracy rate has dropped from 90% in 1949 to 14% in 2002.

Although women and girls have achieved greater equality in access to education, discrepancies are still prevalent, particularly among the children of migrant workers and in rural areas where there are few means of enforcing antidiscrimination statutes. This is particularly evident in outlying
mountain regions and areas inhabited by ethnic minorities, where poverty-stricken families cannot afford to send their children to school. Every year, about 1 million students, of whom 70% are girls, are forced to drop out of school to help support their families. National statistics show that boys receive an average of 1.07 more years of education than girls—an improvement over the 2.9 years recorded in 1991. These issues were addressed in the National Education Development Program and circulars of the Ministry of Education, all of which emphasized the importance of educating girls and outlined measures for narrowing the education gap between boys and girls.

The constitution explicitly states that citizens have “the duty as well as the right to receive education” and that the government “promotes the all around moral, intellectual, and physical development of children and young people.” It also notes that parents have the duty to rear and educate their minor children. The Compulsory Education Law and the Education Law reiterate the right of all citizens to education, irrespective of sex.

The Compulsory Education Law, introduced in 1986, requires both males and females to complete nine years of education beginning at six years of age and including six years of primary and three years of secondary schooling. Once universal primary education has been achieved, the government will seek to make middle school education compulsory as well.

The Compulsory Education Law stipulates that “the State shall not charge tuition for students receiving compulsory education,” and the Education Law prohibits collection of fees from students in violation of state regulations. The State Council and local governments are responsible for covering all expenses associated with compulsory education and must provide subsidies and personnel for the implementation of compulsory education in minority and low-income areas. However, official statistics indicate that government funding supported only 53% of education expenditure in 2000, and only 8% of that amount came from the central government, with a mere 2% for compulsory education. Ultimately, the financial burden of compulsory education falls upon private citizens, who have shouldered the costs—estimated at CNY 200 billion (USD 24.2 billion) over the past decade—through taxes and public school fees.

Local people’s governments are required by law to create conditions that are conducive for all school-age children and adolescents to receive compulsory education. When children have reached school age, their parents or guardians must send them to receive compulsory education for the entire period required by law and may not withdraw them, except in the event of illness or other special circumstances. Parents or guardians who fail to send their school-age children or adolescents to school are subject to official admonishments.

Organizations and individuals are prohibited from employing school-age children or adolescents who should be enrolled in compulsory education. Violators are admonished and ordered by the local people’s government to terminate the illegal employment of minors. If the violation is serious, offenders may also be fined, ordered to suspend business operations, or have their business license revoked. The law also prohibits religious justifications for withdrawing from compulsory education. Individuals or organizations that breach these provisions may be subject to administrative sanctions or penalties, ordered to provide compensation if damage is caused, and assigned criminal responsibility if the circumstances warrant such an investigation.

The Women’s Rights Law guarantees women equal rights to education. Accordingly, parents and guardians must ensure that girl children and adolescent girls receive compulsory education. The law parallels the Compulsory Education Law, which maintains that parents or guardians will be criticized by local people’s governments if they fail to send girls to school without an official exemption. In recognition of the fact that girls face particular difficulties in receiving an education, the government, society, and schools are all charged with taking effective steps to ensure that girls properly receive compulsory education.

Beyond compulsory education, the Women’s Rights Law, the Education Law, and the Higher Education Law grant women equal rights to all levels of education. The Education Law and the Women’s Rights Law oblige schools and governmental departments of education to ensure that women enjoy equal rights and access to education, specifically in regard to enrollment, admission to institutions of higher education, advancement, practical training, conferment of academic degrees, and opportunities for studying abroad. Additionally, schools are directed to take adolescent girls’ physiologies into account and provide appropriate accommodations in order to promote their healthy mental and physical development.

Local people’s governments are also responsible for including literacy programs for women in their continuing education programs and plans to fight illiteracy. The Vocational Education Law and the Law on the Protection of Minors require all levels of government to adopt vocational education and technological training for women and minors. Finally, the Women’s Rights Law directs all state organs, social organizations, enterprises, and institutions to afford women equal
rights with men when engaging in scientific, technological, literary, artistic, and other cultural activities.

The China Youth Development Foundation (CYDF) is an NGO founded by the All-China Youth Federation in 1989 with the mission of promoting education, science and technology, culture, sports, health, and social welfare for Chinese youth and children. Among the programs implemented by the CYDF is Project Hope, a policy initiative launched in 1989 to lower dropout rates and improve education facilities in poverty-stricken areas. Since then, the CYDF has assisted more than 2.6 million students from underprivileged families to enroll or return to school and has received more than CNY 2.2 billion (USD 265.8 million) in donations. At least 10,000 Hope Primary Schools for rural students have been constructed or rebuilt; 150 of them are equipped with computer labs that have internet access to support distance learning programs. Over 20,000 scholarships were awarded to excelling students to facilitate the completion of their high school and university studies, and 113,000 five-year scholarships were granted to elementary school students to cover basic school fees. The project is available in 16 provinces and 27 urban cities. The foundation has also supported other activities designed to raise literacy, science and technology achievements, and computer knowledge of children and adolescents. In 2005, the foundation launched the Jinguo Fund to provide education subsidies for the nearly 20 million school-aged children of immigrant workers, 10% of whom are at risk of dropping out due to poverty.

The ACWF and the China Association for Sciences and Technology (CAST) have implemented education and skills-building programs with the support of UNICEF for women and girls throughout the country. The CAST programs provide girls aged 12–17 with life skills training. Under the ACWF's Spring Buds project, female dropouts were reinstated in formal schooling in 29 provinces, and “Spring Buds Classes for Girls” in literacy, mathematics, and adolescent health were established in poverty-stricken areas. Launched in 1989, the ACWF's Double Learning and Double Competing program addresses illiteracy and provides agriculture skills training among rural women. Since its inception, 120 million rural women have participated in the program, and many program facilities have been upgraded to comprehensive schools for women. In urban areas, the ACWF has implemented activities for female high school students aiming to strengthen their self-esteem, self-confidence, and independence.

Sex education

Adolescent sex education is a mandatory component of high school curricula in China. In the early 1980s, the Chinese government recognized that sex education for young people was essential for the effective implementation of its population policy. As a result, in 1988 the Ministry of Education and the National Population and Family Planning Commission instructed high schools nationwide to incorporate sex education into their curricula. The Ministry of Education reiterated the importance of adolescent sex education, comprising studies of sexual physiology, psychology, and morality, in the 1993 Guidelines to Health Education for University Students.

Sex education is also addressed in several related policies and laws. The Population and Family Planning Law instructs schools to conduct education in physiology, health, puberty, and sexual health in an age-appropriate manner. The Women's Rights Law requires that schools tailor their educational programs and facilities to meet the physical, mental, and emotional needs of female students. The Law on the Protection of Minors also calls for schools to provide “education in puberty knowledge.”

Despite official support, there is a lack of comprehensive systematic sex education in China and resource materials are not readily available, especially to women. Censorship of sexual content and conservative ideology on sexuality often means that sex education programs in Chinese schools are inadequate and discussions are usually limited to adolescent physiology, hygiene, sexual morality, and usage of contraception to limit population growth and promote chastity rather than ensuring safe sex.

Recently, however, the quality of sex education has improved. The Ministry of Education recently held that all provincial education departments should institute HIV/AIDS prevention curricula in all junior middle schools, senior high schools, and vocational high schools by the end of 2005. Provincial departments are employing diverse methods to implement these programs. In Shanghai, for example, lectures begin in fourth grade about HIV/AIDS and how it is transmitted, and continue through senior high school where lessons focus on AIDS prevention and control, and nondiscrimination toward people with HIV/AIDS.

The first comprehensive domestic sex education textbook for teenagers, entitled Thoughts of Teenagers, was released in 2004. The book covers sexual psychology, sexual physiology, sexual health, sexual morality, marriage, and family planning, as well as culturally taboo topics of masturbation, contraception, sexual harassment, AIDS, and homosexuality. In 2003, the first sex education videos were released to teach primary and high school students about sexual behavior, contraception, and HIV prevention.

The Shanghai Municipal Education Commission has developed a comprehensive program addressing more than
200 topics in physiology, psychology, and sociology relating to drug addiction, AIDS prevention, and safe sex.823 The program begins in fourth grade with lectures on the physiological differences between boys and girls and continues through sixth grade, where students are taught to adapt to physiological changes in puberty.824 In middle school, students are given information about HIV/AIDS and by the end of high school are made aware of HIV/AIDS prevention through safe sexual practices such as condom use.825

### F. PROTECTIONS AGAINST PHYSICAL AND SEXUAL VIOLENCE

#### Rape

Rape, whether committed by violence, coercion, or other forcible means, is punishable by a minimum of three years' and a maximum of ten years' imprisonment.826 Sexual relations with a girl under the age of 14 is regarded as rape and punishable by a more severe sentence—either a minimum of ten years' imprisonment, life imprisonment, or death.827 Harsher penalties are imposed if rape occurs under several circumstances, including:

- the rape of a woman “before the public in a public place”;
- the rape of a woman by “one or more persons in succession”; and
- causing the victim serious injury, death, or other serious consequences.828

While the general age for criminal responsibility is 18, for certain serious crimes, including rape, the age is lowered to 14.829 A person between the ages of 14 and 18 who commits rape is, however, subject to a reduced sentence.830

The molestation or humiliation of a woman through violence, coercion, or other means is also a crime.831 Molestation or humiliation is punished by a sentence of up to five years' imprisonment or criminal detention.832 Harsher punishment is meted out in cases of child molestation.833 The sentence is also increased to a minimum of five years' imprisonment if the perpetrator assembles a crowd to commit the molestation or humiliation, or commits the crime in public.834

A woman who injures or kills her attacker in order to defend herself from rape or physical assault is protected from criminal prosecution. The law provides that there is no criminal responsibility for those who defend themselves in the face of any violent crime, including physical assault or rape, that seriously endangers personal safety.835 There is no law specifically regarding marital rape, but legal scholars have recognized marital rape if the marriage is forced, in certain circumstances such as during separation, or after a divorce has been filed for.836

#### Incest

There is no specific legislation that prohibits or criminalizes incest. However, the Marriage Law provides that no marriage may be contracted under a circumstance in which the male party and the female party are lineal relatives by blood or collateral relatives by blood up to the third degree of kinship.837

#### Domestic violence

According to reports by the ACWF, domestic violence occurs in three out of every ten families and is cited in three-fifths of China’s divorce cases.838 There is no specific national legislation on domestic violence, but the constitution, the Marriage Law, and the Criminal Law address the issue.839 The constitution and the Marriage Law prohibit the “maltreatment of … women and children.”840 The Criminal Law provides that serious mistreatment of a family member is a crime punishable by a maximum of two years' imprisonment or seven years' imprisonment if serious injury or death is caused.841 The perpetrator may be given a lesser prison sentence, placed under criminal detention, or subjected to close monitoring by the police with restrictions on his or her mobility and other rights.842

The Supreme People's Court of China defines domestic violence as “any act that causes physical, psychological, and other kinds of damage to other family members through battering, binding, brutality, forcible restriction to physical freedom, or other means. Frequent or persistent acts of domestic violence constitute abuse.”843 Under the provisions of the current Marriage Law, victims of domestic violence or maltreatment by family members are entitled to assistance from the neighborhood or village committee to dissuade the abuser and provide mediation.844 The police are responsible for stopping the violence and assigning administrative penalties to the perpetrators of domestic violence upon the victim's request.845 Domestic violence and maltreatment are grounds for divorce according to the Marriage Law, and the victim may request damage compensation.846

Where domestic violence or maltreatment of family members constitutes a criminal offense, the victim may bring a voluntary prosecution in a people's court in accordance with the Criminal Procedure Law.847 The police must investigate the case and the people's procuratorates may prosecute the offender as stipulated under the Criminal Law.848

The recent revision to Law on the Protection of Rights and Interests of Women in August 2005 includes new provisions that address domestic violence.549 The Law explicitly forbids domestic violence against women and instructs the State, various government agencies and NGOs to take measures to prevent domestic violence and render assistance
to female victims of domestic violence. The ACWF and women’s NGOs have established shelters, hotlines, and counseling centers for battered women and conduct training sessions about how to stop violence for the police force.

**Sexual harassment**

The first national legislation against sexual harassment of women was introduced in the 2005 revision of the Women’s Rights Law, which will come into effect on January 1, 2006. The law prohibits sexual harassment against women, and victims have the right to file a complaint against the perpetrator with his or her work unit or relevant agency. Further definitions and punishments for sexual harassment remain to be determined.

In 2003, the first sexual harassment lawsuit was tried and the court of first instance ruled in favor of the plaintiff. As no sexual harassment legislation existed at the time, the suit was filed on the grounds of “safeguarding [the victim’s] reputation” and the perpetrator was ordered to apologize and pay monetary compensation to the victim for psychological harm. However, the appellate court concluded that the harassment did not cumulate in serious effects on the victim and overturned the ruling. Of the few sexual harassment cases filed since then, most have been dismissed due to lack of evidence.

**Commercial sex work and sex-trafficking**

The Chinese government strictly prohibits commercial sex work and penalizes sex workers under the Criminal Law, several NPC decisions, and various administrative measures. People who voluntarily engage in sex work are punished by local police forces under the Regulations on Administrative Penalties for Public Security. They may be detained for a maximum of 15 days, given a warning, made to sign a statement of repentance, given custodial “re-education through labor” for six months to two years, and charged concurrent fines of up to CNY 5,000 (USD 604). Repeat offenders are subject to re-education through labor and a maximum fine of CNY 5,000 (USD 604). Sex workers must undergo mandatory testing and treatment for STIs. Those who knowingly engaged in sex work and are found to be infected with a STI can be sentenced to a maximum of five years’ imprisonment, criminal detention, and a concurrent maximum fine of CNY 5,000 (USD 604).

The Criminal Law, revised by the Decision of the Standing Committee of the NPC on the Strict Prohibition against Prostitution and Whoring of 1991, punishes people who organize, assist, force, lure, shelter, or procure any other person or persons to engage in sex work. This is echoed in the Women’s Rights Law.

People found guilty of these crimes are subject to imprisonment of five to ten years, fines of CNY 5,000 to CNY 10,000 (USD 604 to USD 1,208), and/or confiscation of property. Death, life imprisonment, or a minimum of ten years’ imprisonment shall apply if the violator is found guilty of the following:

- forcing a girl under age 14 to engage in sex work;
- forcing many people to engage in sex work or forcing a person to engage in sex work many times;
- forcing the victim to engage in sex work after raping her; or
- causing death, serious bodily injury, or other severe consequences to the victim.

Employees of catering, transportation, or entertainment services who utilize their position to violate prohibitions on sex work are also subject to penalties under the Criminal Law. Hotels, caterers, and entertainment and taxi services have a responsibility to prevent sex work within their workplaces, and knowingly failing to stop sex work is punishable by fines of CNY 10,000 to CNY 100,000 (USD 1,208 to USD 12,082), the suspension of business, or the revocation of an operating license. Obstructing the police from uncovering sex work through concealing or assisting violators is punishable by up to three years’ imprisonment, criminal detention, public surveillance, or fines. The state confiscates any illegal incomes gained through sex work.

The Women’s Rights Law prohibits abducting, trafficking, kidnapping, buying, and obstructing the rescue of women. The people’s governments and various government agencies, including the MOH, are responsible for taking timely measures to assist women victimized by these crimes and shall work in cooperation with women’s federations to provide victims with recovery assistance.

The NPC issued a decision in 1991 to clarify penalties and disciplinary measures against those who abduct, traffic, or kidnap women and children. Some provisions of the decision were incorporated into the 1997 revised Criminal Law. Under the revision, those involved in abducting or trafficking women or children are sentenced to five to ten years’ imprisonment and a concurrent fine of up to CNY 10,000 (USD 1,208). Under the following circumstances, the crime is considered especially serious and the offender may concurrently have his property confiscated and be sentenced to death:

- being a ringleader of a gang engaged in abduction or trafficking of women or children;
- abducting or trafficking three or more women and/or children;
- raping a woman who is being abducted or trafficked;
- enticing or forcing a victim of trafficking or abduction to engage in sex work, or selling the victim to
another who would force her into sex work;
■ kidnapping a woman or child by means of violence, coercion, or anesthesia for the purpose of selling the victim;
■ injuring or killing a victim of trafficking, or the victim’s relatives;
■ abducting and trafficking a woman or child abroad; or
■ kidnapping a baby or other person for the purpose of selling the victim or extorting money or property.876

Buyers of trafficking victims are subject to criminal liability, a maximum of three years’ imprisonment, criminal detention, or public surveillance.877 If the buyer violates the rights of the victims through forced sexual relations, restriction of their personal freedom, or maltreatment, they face imprisonment of up to ten years and other penalties under the Criminal Law.878 In the event that the buyer does not maltreat the victims or obstruct their return to their place of residence, they are exempted from any criminal responsibility.879

The law stipulates that the government has a duty to rescue victims from kidnapping, trafficking, and abduction, and state functionaries who fail to make a rescue effort upon request are sentenced to two to seven years’ imprisonment.880 Anyone who interferes with the government in rescuing a sold woman or child is penalized by up to three years’ imprisonment, criminal detention, public surveillance, and/or fines.881 Between 2001 and 2003, the Chinese government rescued 43,215 women and children and arrested 22,018 traffickers.882 In 2003, the police rescued more than two thousand trafficked women and children who were forced into sex work.883

The Ministry of Public Security (MPS) and international organizations have established several projects to combat the trafficking of women and children. In one project, the MPS, the ACWF, and UNICEF issued instruction booklets for rural girls to teach them relevant laws and regulations, and how to recognize and protect themselves against human traffickers.884 Since 1999, the MPS in cooperation with UNICEF has implemented the Elimination of Trafficking: Zero Tolerance Plan, which seeks to eliminate the high demand for human trafficking through education, advocacy, crackdowns, and intolerance for the practice.885 The project provides protection, recovery assistance, and community reintegration services for victims and trains law enforcement officers about women and children’s rights.886 Future goals of the project include provision of counseling services, life skills training that covers reproductive health and women’s and children’s rights, and opportunities for small income-generating work-tasks for victims.887 Since 2000, the International Labor Organization and the International Program on the Elimination of Child Labor have implemented a project on combating trafficking in women and children, which has successfully eliminated human trafficking in several remote areas in China.888

Sexual offenses against minors

The molestation or humiliation of a female minor through violence, coercion, or any other forcible means is punishable by a minimum of five years’ imprisonment, and more if the case involves a child.889

Any instance of sexual relations with a girl under the age of 14 is considered rape under the Criminal Law and is punishable by a minimum of three years’ imprisonment.890 The sentence is raised to a minimum of ten years’ imprisonment if the circumstances are particularly “flagrant,” if the person has had sexual relations with several underage girls, or if the victim suffers injury, death, or other serious consequences.891 Under those circumstances, a sentence of life imprisonment or death may be imposed.892

The trafficking of minor young women is a serious concern in China. Abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring of a minor is punishable by ten years’ to life imprisonment or death if the circumstances are especially atrocious.893
ENDNOTES

4. Xianfa [Constitution], publ. ¶ 5 (2004); U.S. Department of State, supra note 1, 2.
11. From the 1970s until the 1990s, Deng served as the de facto leader of China. He was the most influential figure of the CPC and commanded heavy respect from politicians and the public alike. He assumed the responsibilities of Premier Zhou Enlai (term of office from 1949-1976) while Zhou battled cancer, then displaced Mao’s chosen successor Hu Fuqang and ordered the house arrest of Premier Zhou Ziyang (term of office from 1980-1987) until Zhou’s death.
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14. Central Intelligence Agency (CIA), supra note 1; U.S. Department of State, supra note 2.
15. President Jung Zemin developed the governing theory of the “Three Represents,” where the CPC functions as a “faithful representative of the people,” in its development of advanced productive forces, the orientation towards advanced culture, and the fundamental interests of the broadest masses of the people of China.
16. Central Intelligence Agency (CIA), supra note 1; U.S. Department of State, supra note 2.
17. Central Intelligence Agency (CIA), supra note 1 (estimates as of July 2005); U.S. Department of State, supra note 2.
19. See Central Intelligence Agency (CIA), supra note 1; U.S. Department of State, supra note 2.
20. Central Intelligence Agency (CIA), supra note 1.
22. Id.
23. Central Intelligence Agency (CIA), supra note 1.
29. Id. art. 1 (2004). Guided by “the philosophy of Marxism-Leninism, Mao Zedong Thought, Deng Xiaoping Theory and the important thought of the ‘Three Represents’,” Id. publ. ¶ 7. Mao Zedong Thought consists of the sayings and writings of Mao that adapted Marxism-Leninism according to Chinese circumstances that served as a major national ideology until his death in 1976; Deng Xiaoping Theory encapsulates the reforms and policies Deng initiated that focused on economic development rather than political ideology.
30. Xianfa [Constitution], art. 3 (2004). Democratic centralism is “a system where the people influence the policies of the government and party members influence the policies of the party while the government and party maintains centralized administrative power. Within representative and executive organizations, the minority always plays the decisive role in the majority, and lower bodies obey the orders of the higher level organizations.” Library of Congress, Country Studies: China, supra note 2, glossary.
32. Central Intelligence Agency (CIA), supra note 1.
34. Xianfa [Constitution], art. 79 (2004).
35. Id. arts. 80–81.
36. Id. art. 85.
38. The president nominates the premier, who in turn nominates other State Council members, who are appointed once approved by the National People’s Congress or its Standing Committee. Xianfa [Constitution], art. 86 (2004).
39. Id. art. 87.
41. State Council Institutional Restructuring Plan, supra note 40.
42. Id.; China’s Government Restructuring Plan Adopted, supra note 40; Circular of the State Council Concerning Organizational Structure, supra note 40.
43. Xianfa [Constitution], art. 92 (2004). The State Council submits regular reports on its work to the NPC or its Standing Committee.
44. Id. art. 89(1). So long as it is in accordance with the Constitution and the law. Id. art. 89(3)–(5).
45. Id. arts. 89(1), (6)–(8), (10).
46. Id. art. 89(2); Organic Law of the National People’s Congress of the P.R.C., art. 9 (1992).
50. Id. ch. 10, The Cadre System.
52. Xianfa [Constitution], arts. 57–58 (2004); Legislation law of the P.R.C., Presidential Order No. 3, art. 7 (2000).
53. Xianfa [Constitution], arts. 3, 59–60 (2004); Electoral Law of the National People’s Congress and Local People’s Congress of the P.R.C., arts. 15–24, 2004. The zoning of electoral districts is determined by voters’ residence or by their employment units. One to three (based on population) deputies are elected from each electoral district to the local people’s congress, who then elect a number (set by the NPC Standing Committee) of deputies to the NPC. Id. art. 24.
54. The definition for an “appropriate” number of female delegates is non-specific, stating only that it should be “proportional.” Electoral Law of the National People’s Congress and Local People’s Congress of the P.R.C., art. 6 (2004).
55. Xianfa [Constitution], art. 70 (2004).
57. Xianfa [Constitution], art. 61 (2004). NPC sessions may also be convened upon
the request of at least one-fifth of the NPC. Id. art. 67(1)–(2). Interpretation of national laws may involve clarifying the specific meaning of a provision or its application upon a new situation arising after the law’s enactment. Legislation Law of the P.R.C., Presidential Order No. 31, art. 42 (2000).

67. Xianfa [Constitution], arts. 67(6), (11) (2004).
68. Xianfa [Constitution], arts. 67(3), (5), (9)–(10), (18), (20) (2004).
69. Id. art. 67(10) (2004).
71. Organic Law of the Local People’s Congresses and Local Governments of the P.R.C., Presidential Order No. 37, art. 59(1) (1995) (including the people’s congress at the corresponding division and the people’s government or state administrative organ at the higher level). Id. art. 107.
72. Id. arts. 30, 35.
73. Id. art. 3.
74. Id. art. 10; Organic Law of the Local People’s Congresses and Local Governments of the P.R.C., Presidential Order No. 37, arts. 54–55 (2004).
75. Xianfa [Constitution], arts. 98, 105 (2004); Organic Law of the Local People’s Congresses and Local Governments of the P.R.C., Presidential Order No. 37, arts. 8(3), 9(7), 9(8) (2004).
76. Organic Law of the Local People’s Congresses and Local Governments of the P.R.C., Presidential Order No. 37, art. 59(1) (1995) (including the people’s congress at the corresponding division and the people’s government or state administrative organ at the higher level). Id. art. 107.
77. Xianfa [Constitution], art. 107 (2004); Organic Law for Local People’s Congresses and Local Governments of the P.R.C., Presidential Order No. 37, arts. 59(1), 4(6)–(9) (2004).
82. Civil Servant Law of the P.R.C. (2005) (effective Jan. 1, 2006); Library or Congress, Country Studies: China, supra note 2, ch. 10, The Cadre System (guidelines may also be issued by bureau of personnel in various ministries, commissions and offices under the State Council and personnel departments in various local government organs).
83. People’s congresses in provinces, municipalities and autonomous regions may also have Standing Committees. Xianfa [Constitution], art. 95 (2004); Organic Law of the Local People’s Congresses and Local Governments of the P.R.C., Presidential Order No. 37, arts. 1–2 (2004).
84. Xianfa [Constitution], art. 97 (2004) (e.g. provincial people’s congresses are elected by prefectural, county, district or city’s people’s congresses, county people’s congresses are elected by people’s congresses of towns and townships). Organic Law of the Local People’s Congresses and Local Governments of the P.R.C., Presidential Order No. 37, art. 5 (2004).
86. Id. arts. 112–113. Other nationalities inhabiting the area are also entitled to appropriate representation in local government. Id. art. 115.


169. Xianda [Constitution], arts. 81, 64 (2004).


279. Criminal Law of the P.R.C., art. 335 (1997) (criminal detention lasts up to six months and is administered by the local public security organ).


264. Id. art. 24.


36. St. 617, 619, Laws of the P.R.C. on Maternal and Infant Health Care, Presidential Order No. 147, arts. 9–10 (1994) (effective June 1, 1995) (couples “should” go for premarital exams and marriage registration offices “should” inspect the couple’s premarital certificates in regions implementing premarital exams).


48. See supra note 180, § 1(1)(1) (goals of the National Plan).

49. See International Monetary Fund, supra note 197.

50. See supra note 197.

51. See supra note 197.

52. See supra note 197.

53. See supra note 197.

54. See supra note 197.

55. See supra note 197.

56. See supra note 197.

57. See supra note 197.
532. Id. art. 3(2)(1).
533. Id. art. 2(4).
534. Notice on Strengthening HIV/AIDS Prevention and Control, supra note 286, sec. VI.
535. Notice on the Administration of HIV Positive People and Patients, supra note 287, art. 3(2)(2).
541. Rachel Hou, supra note 555.
551. Id. art. 1.
552. Id. art. 18.
555. Id.
560. Id.
561. International Federations of Red Cross and Red Crescent Societies, supra note 552, at 3.
564. Id. at 17–20.
566. Id.


695. supra


699. note 663, arts. 8–9.


701. Law of the P.R.C. on the Protection of Rights and Interests of Women, arts. 1, 2(1)–(4) (1993).


756. Law of the P.R.C. on the Protection of Rights and Interests of Women, art. 27


754. Special Issue of the Ninth National Women' s Congress of China

753. “Elimination of All Forms of Discrimination Against Women: China 

752. Id.

751. Id.

750. Id.

749. Special Rapporteur Report on the Right to Education in China

748. See also


745. Voluntary Education Law of the P.R.C., Presidential Order No. 69, art. 7 (1996); Compulsory Education Law of the P.R.C., Presidential Order No. 38, art. 15 (1986).


743. Labour Law of the P.R.C., Presidential Order No. 28, art. 79 (1994) (effective Jan. 1, 1992). See also


741. Law of the P.R.C. on Protection of Rights and Interests of Women, art. 15 (1995) (effective Jan. 1, 1992). Parents of children or adolescents who postpone enrollment or wish to be exempt from compulsory schooling must submit an application to the local peoples' government for approval.

777. Id. art. 11; Law of the P.R.C. on the Protection of Minors, art. 9 (1991) (effective Jan. 1, 1992). Parents of children or adolescents who postpone enrollment or wish to be exempt from compulsory schooling must submit an application to the local peoples' government for approval.


775. Compulsory Education Law of the P.R.C., Presidential Order No. 38, art. 12 (1996);


772. Id.

771. Id. art. 18.

770. Id.


767. Project Hope Helps 100,000 Dropouts Return to School, supra note 764. Calculations based on exchange rate of 1 U.S. Dollar (USD) to 8.2756 CNY (renminbi). See International Monetary Fund, supra note 197.


763. Compulsory Education Law of the P.R.C., Presidential Order No. 38, art. 16 (1986). See also


761. Project Hope Helps 100,000 Dropouts Return to School, supra note 764. Calculations based on exchange rate of 1 U.S. Dollar (USD) to 8.2756 CNY (renminbi). See International Monetary Fund, supra note 197.

760. See also


756. Special Issue of the Ninth National Women' s Congress of China


754. Law of the P.R.C. on Safety in Mines, Presidential Order No.63, art. 29 (1993). See also

753. “Elimination of All Forms of Discrimination Against Women: China 

752. Id.

751. Id.

750. Id.

749. Special Rapporteur Report on the Right to Education in China

748. See also


745. Voluntary Education Law of the P.R.C., Presidential Order No. 69, art. 7 (1996); Compulsory Education Law of the P.R.C., Presidential Order No. 38, art. 15 (1986).


743. Labour Law of the P.R.C., Presidential Order No. 28, art. 79 (1994) (effective Jan. 1, 1992). See also


741. Law of the P.R.C. on Protection of Rights and Interests of Women, art. 15 (1995) (effective Jan. 1, 1992). Parents of children or adolescents who postpone enrollment or wish to be exempt from compulsory schooling must submit an application to the local peoples' government for approval.

777. Id. art. 11; Law of the P.R.C. on the Protection of Minors, art. 9 (1991) (effective Jan. 1, 1992). Parents of children or adolescents who postpone enrollment or wish to be exempt from compulsory schooling must submit an application to the local peoples' government for approval.


775. Compulsory Education Law of the P.R.C., Presidential Order No. 38, art. 12 (1996);
856. Female Student Wins Sexual Harassment Law Suit, supra note 855, Liz Wever et al., supra note 856.

857. Protect Women from Sexual Harassment, supra note 854.

858. Id.; China Amends Law to Ban Sexual Harassment, Xinhua News Agency (China), June 27, 2005, http://en.chinacourt.org/public/detail.php?id=3905; Li Wever et al., supra note 855; according to the NPC Standing Committee, less than ten sexual harassment cases have been brought before the court since 2001 (translation by Center for Reproductive Rights).


860. Regulation on Administrative Penalties for Public Security, Presidential Order No. 43, art. 30 (1986) (effective Jan. 1, 1987); Maizui Piaoqiang Rennou Shourong Jiaou Banfa [Measures on Re-Education through Labor for Prostitutes and Patrons of Prostitutes], State Council Order No. 127, art. 9 (1993) (persons subject to re-education through labor are held at re-education centers and given compulsory education in law and morality and/or productive labor) (translation by Center for Reproductive Rights); Decision of the Standing Committee of the National People's Congress on the Strict Prohibition Against Prostitution and Whoring, art. 4 (1992).

861. Calculations based on exchange rate of 1 U.S. Dollar (USD) to 8.2765 CNY (renminbi). See International Monetary Fund, supra note 197.


863. Id. at 236.

864. Id. at 236.

865. Id. at 17.

866. Id. at 17.

867. Id. at 237.

868. Id. at 237.

869. Id. at 237.


872. Calculations based on exchange rate of 1 U.S. Dollar (USD) to 8.2765 CNY (renminbi). See International Monetary Fund, supra note 197.


876. Calculations based on exchange rate of 1 U.S. Dollar (USD) to 8.2765 CNY (renminbi). See International Monetary Fund, supra note 197.


878. Criminal Law of the PRC, art. 367 (1997), amended by Presidential Order No. 32 (2006). If the victim is in a leadership position of the work place, they are given harsher punishment. Id.


880. Calculations based on exchange rate of 1 U.S. Dollar (USD) to 8.2765 CNY (renminbi). See International Monetary Fund, supra note 197.


883. Id.


886. Criminal Law of the PRC, art. 367 (1997), amended by Presidential Order No. 32 (2006). When the crime of mutilating a female member “shall be handled only upon complaint,” this stipulation is irrelevant if the victim is seriously injured or killed. Id.

887. Id. at 39.

888. Id. at 39.


897. Note 631, art. 1 (referring to the meaning of domestic violence as a context of a family member). Note 731, arts. 17–19.

898. Calculations based on exchange rate of 1 U.S. Dollar (USD) to 8.2765 CNY (renminbi). See International Monetary Fund, supra note 197.


900. Criminal Law of the PRC, art. 367 (1997), amended by Presidential Order No. 32 (2006). If the victim is in a leadership position of the work place, they are given harsher punishment. Id.


902. Calculations based on exchange rate of 1 U.S. Dollar (USD) to 8.2765 CNY (renminbi). See International Monetary Fund, supra note 197.


904. Criminal Law of the PRC, art. 367 (1997), amended by Presidential Order No. 32 (2006). If the victim is in a leadership position of the work place, they are given harsher punishment. Id.


880. Decision of the Standing Committee of the National People’s Congress Regarding the Severe Punishment of Criminals Who Abduct and Traffic in or Kidnap Women or Children, Presidential Order No. 52, art. 5 (1991).


886. Parker, supra note 582.

887. Id.


890. Id. art. 236.

891. Id.

892. Id.

893. Id. art. 240.