

POPULATION CONTROL

International Standards and China's Coercive Population Policies

Chinese officials continue to actively promote and implement coercive population planning policies that violate international standards. The PRC Population and Family Planning Law and provincial regulations limit couples' freedom to build their families as they see fit.¹ National and provincial population planning policies continue to require that couples be married to have children and limit them to bearing one child.² Exceptions allowing for additional children exist for couples who meet certain criteria, which vary by province,³ including some exceptions for ethnic minorities and a new exception allowing couples to have two children if one of the parents is an only child (*dandu erhai* policy).⁴ Officials continue to enforce compliance with population planning targets using methods including heavy fines,⁵ arbitrary detentions,⁶ coerced abortions,⁷ and coerced sterilizations.⁸

Coercive controls imposed on Chinese women and their families, and additional abuses engendered by China's population and family planning system, violate standards set forth in the 1995 Beijing Declaration and Platform for Action⁹ and the 1994 Programme of Action of the Cairo International Conference on Population and Development.¹⁰ China was a state participant in the negotiations and adoption of both.¹¹ Acts of official violence committed in the implementation of population planning policies¹² contravene provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,¹³ which China has ratified.¹⁴ Furthermore, discriminatory policies against some children whose parents fail to comply with population planning policies¹⁵ contravene the Convention on the Rights of the Child¹⁶ and the International Covenant on Economic, Social and Cultural Rights.¹⁷ China is a State Party to these treaties and has committed to uphold their terms.¹⁸

Policy Revision and Implementation

At the Third Plenum of the 18th Party Congress Central Committee held in November 2013,¹⁹ central Party authorities issued the Decision on Certain Major Issues Regarding Comprehensively Deepening Reforms, which called for a broad range of reforms,²⁰ including the provision of a new exception to China's population planning policy aimed at addressing the demographic challenges facing China.²¹ The exception allows couples to have two children if one of the parents is an only child (*dandu erhai* policy), which represents a slight modification of the previous policy.²² Rural couples,²³ ethnic minority couples,²⁴ and couples in which both parents are only children (*shuangdu erhai* policy)²⁵ were among those already permitted under previous exceptions to bear a second child. Experts have predicted that the impact of the policy revision will be more noticeable in urban areas,²⁶ and that the change may affect 15 to 20 million people across China.²⁷ By November 2014, all 31 provincial-level jurisdictions in China had amended their population and family planning regulations in accordance with the new policy.²⁸

Government statistics revealed the limited impact of the policy revision during its first year of implementation in 2014. The National Health and Family Planning Commission (NHFPC) had initially predicted that the policy would result in approximately 2 million additional births per year.²⁹ As of December 2014, roughly 1.07 million out of 11 million eligible couples nationwide (less than 10 percent) reportedly had applied to have a second child.³⁰ Moreover, official NHFPC data showed that only 470,000 additional children were born in 2014 as a result of policy implementation, a number significantly lower than the 2 million additional births the NHFPC had predicted.³¹

The policy revision also appears to have had limited impact at the provincial level. Reports from several provincial-level jurisdictions—including Beijing³² and Shanghai municipalities;³³ Anhui,³⁴ Gansu,³⁵ Henan,³⁶ Jilin,³⁷ Liaoning,³⁸ and Zhejiang provinces;³⁹ and the Guangxi Zhuang Autonomous Region⁴⁰—indicate an “overall low willingness” among couples eligible to have a second child.⁴¹ For example, in 2014, out of approximately 90,000 couples in Jilin province who became eligible for a second child under the policy revision, only 7,004 couples (approximately 7.78 percent) applied to have a second child.⁴² 170 additional children were born to newly eligible couples in Jilin province in 2014, representing approximately 2.43 percent of the 7,004 couples that applied and approximately 0.19 percent of the 90,000 eligible couples in the province.⁴³ Factors that discourage eligible couples from having a second child reportedly include the high cost of rearing an additional child,⁴⁴ couples’ limited time and energy,⁴⁵ lack of adequate child care options,⁴⁶ disruption to career development,⁴⁷ and the perception that “one child is best” due to decades-long government propaganda.⁴⁸

As the two-child policy exception appeared to have limited impact in its first year of implementation⁴⁹ and China’s demographic challenges remain daunting,⁵⁰ some experts and media outlets called for further relaxation of the family planning policy to allow all couples to have two children (a universal two-child policy),⁵¹ while others called for cancellation of the entire policy on family planning.⁵² NHFPC officials, however, downplayed these concerns and repeatedly emphasized that “currently there are no plans to suspend or further relax the one-child policy.”⁵³ They maintained that implementation of the policy revision allowing married couples to have a second child if one of the parents is an only child had been steady in 2014,⁵⁴ and that the result was reasonable⁵⁵ and had met official expectations.⁵⁶ NHFPC officials also predicted that there would be 1 million more births in 2015 than in 2014.⁵⁷ Population experts, however, challenged the NHFPC’s prediction, arguing that the impact of the policy revision would be limited and that the number of additional births is unlikely to increase in 2015, as 2014 data showed a monthly decline in birth permit applications for a second child.⁵⁸

In the 2015 government work report presented during the Third Meeting of the 12th National People’s Congress, Premier Li Keqiang mentioned that the government will “promote management reform for family planning services.”⁵⁹ According to a March 2015 article in *Caixin*, Li’s mention of reform presented a “marked contrast” to past official declarations that “family planning as a

fundamental national policy cannot be shaken.”⁶⁰ Speaking at a news conference after the conclusion of the annual meetings of the National People’s Congress and Chinese People’s Political Consultative Conference in March 2015, Li said that “. . . we are currently conducting comprehensive reviews of the [policy] . . . taking into consideration China’s economic and social development as well as changes in the demographic structure, weighing the pros and cons, to adjust and improve population policies in accordance with legal procedures.”⁶¹ Li’s remarks fueled speculation that central government authorities were considering further changes to the family planning policy,⁶² although no specific timeframe was given.⁶³ Chinese population experts expressed optimism that the current policy is only transitional and that a universal two-child policy will be implemented within the next few years.⁶⁴

This past year, government authorities also took measures to implement reforms to the “reproductive services permit” (*shengyu fuwu zheng*) system, commonly known as the “birth permit” (*zhunsheng zheng*) system.⁶⁵ Following a July 2014 guiding opinion issued by the NHFPC to “actively promote reproductive services permit system reform,”⁶⁶ Li Bin, director of the NHFPC, emphasized the need to “resolve the difficulty in getting a birth permit” at a January 2015 work conference.⁶⁷ Sources indicate that obtaining a birth permit is a burdensome process, involving visits to multiple offices to get stamps of approval in order to complete the necessary paperwork.⁶⁸ The birth permit system reportedly has been a significant obstacle for married migrant worker couples who want to have children by requiring them to return to the locale of their household registration (*hukou*) to apply for birth permits.⁶⁹ [For more information on China’s *hukou* system, see Section II—Freedom of Residence and Movement. See also Punishment for Non-compliance below.] Localities are actively shifting to a “first-child registration” (*yihai dengji*) system whereby married couples register their first child and obtain a “reproductive services permit” without going through a complicated approval or application process.⁷⁰ An approval process, however, is still in place for couples who intend to have a second child, but local family planning authorities are to promote standardization and simplification of that process.⁷¹ As of July 2015, 25 provinces and province-level municipalities—including Beijing municipality and Hebei, Shanxi, and Liaoning provinces—have implemented the “first-child registration” system, and at least 6 provide online registration.⁷²

Coercive Implementation

The PRC Population and Family Planning Law contains provisions that prohibit officials from infringing upon the “legitimate rights and interests” of citizens while implementing family planning policies, but does not define what constitutes a citizen’s “legitimate” right or interest.⁷³ Despite these provisions, abuses committed during the implementation of family planning policies continued during the Commission’s 2015 reporting year. Many provincial-level population planning regulations explicitly instruct officials to carry out abortions, often referred to as “remedial measures” (*bujiu cuoshi*), for “out-of-plan” pregnancies, with no apparent requirement for parents’ consent.⁷⁴ Officials also reportedly contin-

ued to use other coercive methods—including arbitrary detention,⁷⁵ forced insertion of long-term birth control devices,⁷⁶ and forced sterilization⁷⁷—to implement family planning policies.

OFFICIAL CAMPAIGNS

Language used in official speeches and government reports from jurisdictions across China continued to reflect an emphasis on harsh enforcement of family planning measures. The Commission noted that during this reporting year, as in previous years,⁷⁸ official reports from several provinces across China—including Anhui,⁷⁹ Fujian,⁸⁰ Gansu,⁸¹ Guangdong,⁸² Guizhou,⁸³ Hebei,⁸⁴ Henan,⁸⁵ Hubei,⁸⁶ Hunan,⁸⁷ Jiangsu,⁸⁸ Jiangxi,⁸⁹ Shandong,⁹⁰ and Sichuan⁹¹—continued to promote “family planning implementation work” which entailed harsh and invasive family planning measures. Phrases such as “fight the family planning battle” (*dahao jisheng zhang*),⁹² “resolutely implement” (*henzhua*),⁹³ “spare no efforts” (*quanli yifu*),⁹⁴ “use hard measures and harsh tactics” (*caiqu ying cuoshi ying shouduan*),⁹⁵ and “use all means necessary” (*qianfang bai ji*)⁹⁶ appeared in official speeches and government reports, indicating the aggressive nature of these family planning campaigns.

Implementation targets promoted in local government reports were unrelenting, including some reports calling for a 100-percent implementation rate⁹⁷ in compelling women to undergo the invasive “three inspections” (intrauterine device (IUD), pregnancy, and health inspections),⁹⁸ “four procedures” (IUD insertion, first-trimester abortion, mid- to late-term abortion, and sterilization),⁹⁹ and the forcible collection of “social compensation fees” (*shehui fuyang fei*).¹⁰⁰ [See Punishment for Noncompliance below for additional information on “social compensation fees.”] For example, one March 2015 government report from Baiyangxi township, Luxi county, Xiangxi Tujia and Miao Autonomous Prefecture, Hunan province, indicated that township authorities had formed a “family planning work strike team” (*jisheng gongzuo tujidui*) to “comprehensively implement the task of the four procedures” during a township-wide family planning “service” campaign.¹⁰¹ According to the same report, as of March 5, 2015, Baiyangxi family planning authorities had carried out 28 “four procedures” operations—2 sterilizations, 24 IUD insertions, and 2 abortions.¹⁰²

Representative Cases of Coercion

- **Guizhou province.** On May 12, 2015, the bureaus of education and of family planning in Libo county, Guizhou jointly issued a Notice of Order To Terminate Pregnancy to local school teacher Qin Yi.¹⁰³ The notice demanded that she either have an abortion by May 31, 2015, or lose her job.¹⁰⁴ Qin and her husband were remarried, and each had a child from their previous marriages.¹⁰⁵ Under family planning regulations in Anhui province where Qin's *hukou* is registered, a couple in their circumstances are allowed to have another child,¹⁰⁶ and Qin had obtained a birth permit in advance from family planning authorities in Anhui in February 2015.¹⁰⁷ But under Guizhou provincial family planning regulations, they were not permitted to have another child.¹⁰⁸ Following public criticism of the decision, the Guizhou Provincial Health and Family Planning Commission intervened and rescinded the pregnancy termination order, allowing Qin to have another child under Anhui's provincial family planning regulations.¹⁰⁹
- **Guangdong province.** In May 2015, the Dongguan No. 1 People's Court accepted an administrative lawsuit from a Mr. Chen of Zhongtang township, Dongguan municipality, Guangdong, against the Zhongtang Township Public Security Bureau for refusing to issue *hukou* to his twin sons who had been "illegal residents" (*heihu*) for over four years due to their lack of *hukou*.¹¹⁰ The public security bureau in charge of issuing *hukou* required Chen to provide a "certificate of family planning" from the local family planning office,¹¹¹ but officials at the family planning office refused to issue the certificate unless Chen's wife underwent sterilization.¹¹² According to Liu Huawen, Deputy Director of the Human Rights Research Center at the Chinese Academy of Social Sciences, there are many similar cases nationwide, and local regulations that link family planning measures to *hukou* registration are "inappropriate" and should be amended to protect the fundamental rights of children.¹¹³
- **Hunan province.** According to a December 2014 Consumption Daily report, family planning officials in Pingjiang county, Yueyang municipality, Hunan, required women who had given birth to undergo IUD insertions and sterilizations before they could obtain *hukou* for their children.¹¹⁴ According to the same report, Chinese legal experts and state-run news agency Xinhua noted that such arbitrary restrictions have no legal basis and violate Chinese laws.¹¹⁵

Punishment for Noncompliance

Chinese authorities continued to use various methods of punishment to enforce citizens' compliance with population planning policies. In accordance with national measures,¹¹⁶ local governments have directed officials to punish noncompliance with heavy fines, termed "social compensation fees,"¹¹⁷ which compel many couples to choose between undergoing an unwanted abortion and incurring a fine much greater than the average annual income of their locality.¹¹⁸ For example, in November 2014, local family planning officials in Tuanlin township, Lin'gang district, Linyi municipality, Shandong province, reportedly detained a couple and their 10-month-old infant at a local hotel for failing to pay "social compensation fees" of 140,000 yuan (US\$22,600).¹¹⁹ Family planning officials

also detained others at the hotel, including an elderly woman whose daughter had given birth to an “out-of-plan” child.¹²⁰ According to a December 2014 report, these detentions were “illegal” and a Linyi spokesperson indicated that the offending officials were investigated and punished.¹²¹

Draft Regulations on the Collection and Management of Social Compensation Fees

In November 2014, the National Health and Family Planning Commission (NHFPC) issued draft Regulations on the Collection and Management of Social Compensation Fees (Regulations) for review by the State Council and for public comment.¹²² The draft Regulations marked several significant changes from the 2002 Measures for Collection of Social Compensation Fees, including the proposal of a unified national collection standard that limits fines for the first “out-of-plan” child to no more than three times the local average annual disposable income per person, a significant reduction from current fine amounts if passed and implemented.¹²³ Other changes introduced in the draft Regulations include eliminating fines for eligible couples who give birth to an additional child but fail to follow proper procedures,¹²⁴ and allowing only county-level family planning agencies to collect fines.¹²⁵

Despite these proposed changes in the draft Regulations, many continued to voice concerns over corruption, lack of transparency, abuses, and violations of citizens’ legal rights in the collection and usage of “social compensation fees.”¹²⁶ Demographers, legal experts, National People’s Congress delegates, Internet users, and other individuals called on central government authorities this reporting year to amend the PRC Population and Family Planning Law and abolish “social compensation fees.”¹²⁷ At a symposium in December 2014, however, an NHFPC official emphasized that “social compensation fees” will not be abolished, saying that abolition would be “unfair to Chinese citizens who comply with the family planning policy.”¹²⁸ In its Concluding Observations on the Combined Seventh and Eighth Periodic Reports of China, issued in November 2014, the UN Committee on the Elimination of Discrimination against Women stated its concern that “notwithstanding the recent relaxation of the State party’s one-child policy, women who violate the policy are still subjected to fines . . . and continue to experience some difficulty in registering their children.”¹²⁹

During this reporting year, authorities in some localities denied birth permits and *hukou* for children whose parents violated local family planning policies. In one such example reported by the Party-run news outlet Global Times in March 2015, family planning authorities in the Guangxi Zhuang Autonomous Region rejected a couple’s application for a birth permit “on the grounds that one of them had two children from a previous marriage.”¹³⁰ The couple was eligible to have a child together according to central government guidelines, but not under provincial-level regulations.¹³¹ According to the Global Times, NHFPC guidelines allow a remarried couple to have a child together if one of the parents is a single child who has no children and the spouse has two children from a previous marriage.¹³² The amended 2014 Guangxi Zhuang Autonomous Region Population and Family Planning Reg-

ulations, however, allow a remarried couple to have a child together only if one of the parents has no children and the spouse has only one child from a previous marriage.¹³³ A local official admitted that Guangxi's family planning regulations "might be a little harsh" for such couples, and maintained that central government guidelines on remarried couples are "only a recommendation" which "have not been applied in Guangxi due to its large population base and relatively fast population growth."¹³⁴

Authorities in some areas also withheld *hukou* from children born in excess of birth quotas, demanding that their parents must first pay the necessary "social compensation fees" associated with their births.¹³⁵ In some localities, authorities would not issue *hukou* to children born to unmarried parents who lacked official documents—such as the child's birth permit and birth certificate, and the parents' marriage certificate and *hukou*.¹³⁶ People who lack *hukou* in China are commonly referred to as "illegal residents" (*heihu*)¹³⁷ and face considerable difficulty accessing social benefits typically afforded to registered citizens, including health insurance, public education, and state welfare.¹³⁸ According to 2010 national census data released by the State Council, there are approximately 13 million "illegal residents" in China, of whom about 1.3 million (10 percent) are children born to unmarried parents.¹³⁹ During this reporting year, in a positive development, Hubei province took steps to delink *hukou* registration from "social compensation fees" and birth control procedures, allowing children born to parents who violate family planning policies to register for *hukou* without the prerequisites of paying "social compensation fees" or undergoing birth control procedures.¹⁴⁰

In September 2013, the UN Committee on the Rights of the Child conducted a periodic review of China's compliance with the Convention on the Rights of the Child. In its Concluding Observations, the Committee stated its concern about low rates of birth registration in China—in part due to China's family planning policies—and recommended that China "reform family planning policies in order to remove all forms of penalties and practices that deter parents or guardians from registering the birth of their children" and "abandon the *hukou* system in order to ensure birth registration for all children."¹⁴¹

Officials also imposed or threatened other punishments for family planning violations. These punishments included job termination,¹⁴² arbitrary detention,¹⁴³ abortion,¹⁴⁴ and sterilization.¹⁴⁵ The PRC Population and Family Planning Law prohibits and provides punishments for officials' infringement on citizens' personal, property, and other rights while implementing population planning policies.¹⁴⁶

Demographic Consequences of Population Control Policies

The Chinese government's population planning policies continue to exacerbate the country's demographic challenges, which include a rapidly aging population, shrinking workforce, and sex ratio imbalance. Affected in recent decades by government restrictions on the number of births per couple, China's total fertility rate has dropped from 6 births per woman in the early 1970s¹⁴⁷ to an estimated 1.2 to 1.6 births per woman in 2015,¹⁴⁸ below the replace-

ment rate of 2.1 births per woman necessary to maintain a steady population.¹⁴⁹ The fertility rate is even lower in some major cities, such as Shanghai municipality, which currently has a fertility rate of 0.6 to 0.7 births per woman, reportedly one of the lowest in the world.¹⁵⁰

China's low fertility rate has contributed to a rapidly aging population and a shrinking workforce. From 2013 to 2014, China's working-age population (persons between the ages of 16 and 59) declined by more than 6 million people¹⁵¹ to 915.8 million,¹⁵² and according to a February 2015 report, is "expected to fall at an accelerating rate in the coming years."¹⁵³ At the same time, the elderly population (persons aged 60 or older) increased by more than 10 million in 2014 to 212.4 million people, or 15.5 percent of the total population.¹⁵⁴ It is estimated that China's elderly population will reach 400 million, or a quarter of the population, by 2030,¹⁵⁵ and will account for approximately one-third of China's total population by 2050.¹⁵⁶ These demographic trends reportedly could burden China's health care, social services, and pension systems,¹⁵⁷ and may weaken China's economy as labor costs rise and its competitiveness erodes.¹⁵⁸ Chinese experts have voiced concerns that China's fertility rate is "dangerously low"¹⁵⁹ and "unsustainable,"¹⁶⁰ and some experts have called on the central government to allow all families to have a second child or to abolish the entire family planning policy.¹⁶¹

The Chinese government's restrictive family planning policies also continued to exacerbate China's sex ratio imbalance.¹⁶² Although Chinese authorities continue to implement a ban on "non-medically necessary sex determination and sex-selective abortion,"¹⁶³ some people reportedly continue the practice in response to government-imposed birth limits and in keeping with a traditional cultural preference for sons.¹⁶⁴ According to several reports, China's sex ratio at birth is about 116 to 118 males to 100 females (compared with a global average of 103 to 107 males per 100 females).¹⁶⁵ According to a CCTV report, census data from the National Bureau of Statistics of China showed that there were approximately 34 million more males than females in China.¹⁶⁶ Officials from the National Health and Family Planning Commission described China's sex ratio imbalance as "the most serious and prolonged in the world."¹⁶⁷ In its October 2013 Concluding Observations on the Combined Third and Fourth Periodic Reports of China, the UN Committee on the Rights of the Child urged China to "take immediate legal, policy and awareness-raising measures to prevent sex-selective abortions, female infanticide and abandonment of girls, including by addressing factors that reinforce cultural norms and practices that discriminate against girls."¹⁶⁸

Demographic experts Andrea den Boer and Valerie Hudson expressed concerns that the sex ratio imbalance in China has contributed to "increases in societal instability characterized by a rise in violent crime, the number of secret societies and gangs, the levels of muscular nationalism, and prostitution and trafficking in women and children," which may have "regional and international repercussions . . ."¹⁶⁹ This past year, reports continued to suggest a link between China's large number of "surplus males" and the trafficking of foreign women—from countries including Cambodia,¹⁷⁰

Laos,¹⁷¹ Mongolia,¹⁷² Burma (Myanmar),¹⁷³ North Korea,¹⁷⁴ Thailand,¹⁷⁵ and Vietnam¹⁷⁶—into China for forced marriage or commercial sexual exploitation.

Reports also indicate that decades of birth limits under China's population planning policies combined with a traditional preference for sons have helped create a "black market" for illegal adoptions.¹⁷⁷ According to reports in January 2015, police in Shandong province rescued 37 infants who had been born in an "underground delivery room," part of an illegal adoption scheme run by eight criminal syndicates.¹⁷⁸ A police spokesperson revealed that almost all of the babies had health conditions, including seven found to have sexually-transmitted diseases.¹⁷⁹ According to Chen Shiqu, Director of the Ministry of Public Security Anti-Trafficking Office, moving pregnant women to a "trafficking site" for the purpose of selling their babies is a "new form of child trafficking."¹⁸⁰ On June 21, 2015, 52 fathers from 20 provinces in China issued a "Father's Day" plea to central government authorities to abolish family planning policies, citing family planning policies and the "social compensation fee" system as major causes of illegal adoptions.¹⁸¹ [For information on the Chinese government's conflation of child trafficking with illegal adoption, see Section II—Human Trafficking.]

Notes to Section II—Population Control

¹PRC Population and Family Planning Law [Zhonghua renmin gongheguo renkou yu jihua shengyu fa], passed 29 December 01, effective 1 September 02, art. 18. Article 18 stipulates, “The State maintains its current policy for reproduction, encouraging late marriage and child-bearing and advocating one child per couple. Where the requirements specified by laws and regulations are met, plans for a second child, if requested, may be made. Specific measures in this regard shall be formulated by the people’s congress or its standing committee of a province, autonomous region, or municipality directly under the Central Government.” Implementing regulations in different provinces vary with respect to the ages at which couples may give birth or the spacing permitted between children; most provinces have cancelled limitations on birth spacing altogether. See, e.g., “New Updates for Universal Two-Child Policy, When Will the Two-Child Policy Become Universal?” [Quanmian fangkai ertai zuixin xiaoxi ertai zhengce heshi quanmian fangkai], Re Dian Shi Jian Net, 22 March 15; “19 Provinces in China Cancel [Mandatory] Birth Spacing, Central [Authorities] Call for Strict Control of the Births of Multiple Children” [Woguo 19 sheng quxiao shengyu jian’ge zhongyang yaoqiu yankong duohai shengyu], Xinhua, reprinted in People’s Daily, 31 December 13. For provincial-level regulations limiting how many children married couples may bear, see, e.g., Beijing Municipality People’s Congress Standing Committee, Beijing Municipality Population and Family Planning Regulations [Beijing shi renkou yu jihua shengyu tiaoli], effective 1 September 03, amended 21 February 14, art. 17, reprinted in Liuxiaoe; Zhejiang Province People’s Congress Standing Committee, Zhejiang Province Population and Family Planning Regulations [Zhejiang sheng renkou yu jihua shengyu tiaoli], issued 3 September 02, amended 28 September 07, 17 January 14, art. 18, reprinted in Liuxiaoe.

²PRC Population and Family Planning Law [Zhonghua renmin gongheguo renkou yu jihua shengyu fa], passed 29 December 01, effective 1 September 02, art. 18. Article 18 stipulates, “The State maintains its current policy for reproduction, encouraging late marriage and child-bearing and advocating one child per couple. Where the requirements specified by laws and regulations are met, plans for a second child, if requested, may be made.” For provincial population policies that limit married couples to bearing one child, see, e.g., Zhejiang Province People’s Congress Standing Committee, Zhejiang Province Population and Family Planning Regulations [Zhejiang sheng renkou yu jihua shengyu tiaoli], issued 3 September 02, amended 28 September 07, 17 January 14, art. 18, reprinted in Liuxiaoe; Beijing Municipality People’s Congress Standing Committee, Beijing Municipality Population and Family Planning Regulations [Beijing shi renkou yu jihua shengyu tiaoli], issued 1 September 03, amended 21 February 14, art. 17, reprinted in Liuxiaoe; Jiang Yuanbo, “Suggestions Regarding the Initiation of Review on Provincial Family Planning Regulations” [Guanyu qidong dui ge sheng jihua shengyu tiaoli jinxing shencha de jianyi], Population and Future, 15 March 15.

³Chen Wei and Jin Yongai, “The Implementation and Influencing Factors of China’s Family Planning Policy—A Micro-Level Perspective” [Zhongguo jihua shengyu zhengce de zhixing ji qi yingxiang yinsu—ji yu weiguan de shijiao], Population and Economics, No. 4 (2014), 118–28, reprinted in China Social Sciences Net, 10 February 15; Jiang Yuanbo, “Suggestions Regarding the Initiation of Review on Provincial Family Planning Regulations” [Guanyu qidong dui ge sheng jihua shengyu tiaoli jinxing shencha de jianyi], Population and Future, 15 March 15.

⁴Ibid. For provincial regulations that allow danda couples to have two children, see, e.g., Zhejiang Province People’s Congress Standing Committee, Zhejiang Province Population and Family Planning Regulations [Zhejiang sheng renkou yu jihua shengyu tiaoli], issued 3 September 02, amended 28 September 07, 17 January 14, art. 19(1, 4), reprinted in Liuxiaoe; Beijing Municipality People’s Congress Standing Committee, Beijing Municipality Population and Family Planning Regulations [Beijing shi renkou yu jihua shengyu tiaoli], issued 15 January 91, amended 14 May 99, effective 1 September 03, amended 21 February 14, art. 17(2, 5), reprinted in Liuxiaoe.

⁵See, e.g., “First Child Born in Hong Kong, Couple Sues Family Planning Agency for Fining Them for Giving Birth to a Second Child in Mainland China” [Fufu zai xianggang sheng toutai neidi er tai bei fa qisu jisheng bumen], Southern Metropolitan Daily, reprinted in Sina, 1 December 14; Wu Tingting and Zhang Lu, “Proposal To Unify Social Compensation Fee Collection Standards” [Shehui fuyang fei ni tongyi jizheng biao zhun], Beijing Morning Post, 21 November 14; “Shandong Family Unable To Pay Fines, [Authorities] Even Detain an Infant” [Shandong chaosheng hu jiao bu qi fakuan lian dai ying’er ye bei ju], The Paper, reprinted in Women’s Rights in China, 12 December 14.

⁶“Shandong Family Unable To Pay Fines, [Authorities] Even Detain an Infant” [Shandong chaosheng hu jiao bu qi fakuan lian dai ying’er ye bei ju], The Paper, reprinted in Women’s Rights in China, 12 December 14; “Woman in Lanba Township, Shuicheng County, Guizhou Detained and Beaten During Forced Pregnancy Inspection” [Guizhou shuicheng xian lanba zhen funu bei qiangzhi chayun zhong, bei guanya ouda], Radio Free Asia, 22 January 15.

⁷“Two Provinces’ Two-Child Policies for Remarried Couples Come Into Conflict, Pregnant Teacher With Anhui Birth Permit Is Ordered To Get Abortion in Guizhou” [Liang sheng zaihun erhai zhengce chongtu, huaiyun jiaoshi you anhui zhunsheng zheng bei guizhou zeling yincan], The Paper, 18 May 15; Liu Xin, “Shandong County Denies ‘Abortion Quotas,’” Global Times, 26 May 15. See also Tan Fangzhi, Baiyangxi Township People’s Government, “Baiyangxi Township ‘Fights Hard’ To Carry Out Targeted Family Planning Service Activities” [Baiyangxi xiang kaizhan jizhong jisheng fuwu huodong yeshi ‘man pin de’], 5 March 15.

⁸Sun Ying, “Twins Already Four Years Old but Are Still ‘Illegal Residents,’ Public Security Bureau: [Mother] Must Be Sterilized Before Hukou Can Be Registered” [Shuangbaotai chusheng si nian reng shi ‘heihu’ gong’anju: xiang shanghu xian jieza], China National Radio, 19 May 15; Tang Ru, “Pingjiang County, Hunan Province: Family Planning Office Distributes Assignments, Forced Procedures Imposed on Women” [Hunan pingjiang xian: jisheng fenpei renwu funu qiangzhi shoushu], Consumption Daily, 11 December 14; “Family Planning Office of

Sizhang Township, Sishui County, Jining Municipality Illegally Implements Forced Sterilization” [Jining shi sishui xian sizhang zhen jisheng ban weigui qiangzhi jieza], Qilu Net, 6 May 15. See also Tan Fangzhi, Baiyangxi Township People’s Government, “Baiyangxi Township ‘Fights Hard’ To Carry Out Targeted Family Planning Service Activities” [Baiyangxi xiang kaizhan jizhong jisheng fuwu huodong yeshi “man pin de”], 5 March 15.

⁹Beijing Declaration and Platform for Action (1995), adopted at the Fourth World Conference on Women on 15 September 95, and endorsed by UN General Assembly resolution 50/203 on 22 December 95, Annex 1, paras. 9, 17. The Beijing Declaration states that governments which participated in the Fourth World Conference on Women reaffirmed their commitment to “[e]nsure the full implementation of the human rights of women and of the girl child as an inalienable, integral and indivisible part of all human rights and fundamental freedoms; . . .” (para. 9) and “are convinced that . . . [t]he explicit recognition and reaffirmation of the right of all women to control all aspects of their health, in particular their own fertility, is basic to their empowerment . . .” (para. 17).

¹⁰Programme of Action adopted at the Cairo International Conference on Population and Development, 13 September 94, paras. 7.2, 8.25. Paragraph 7.2 states that, “Reproductive health therefore implies that people . . . have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice . . .” Paragraph 8.25 states, “In no case should abortion be promoted as a method of family planning.”

¹¹United Nations, “Report of the Fourth World Conference on Women,” 1996, chap. II., para. 3; chap. VI, para. 12. China was the host of and a participating state at the Fourth World Conference on Women, which adopted the Beijing Declaration and Platform for Action. United Nations Population Information Network, A/Conf.171/13: Report of the International Conference on Population and Development (ICPD), 18 October 94, chap. II, sec. C, chap. VI, sec. 1. China was one of the participating states at the ICPD, which reached general agreement on the Programme of Action. The Programme of Action is provided as an annex to the above ICPD report.

¹²“Shandong Family Unable To Pay Fines, [Authorities] Even Detain an Infant” [Shandong chaosheng hu jiao bu qi fakuan lian dai ying’er ye bei ju], The Paper, reprinted in Women’s Rights in China, 12 December 14; “Woman in Lanba Township, Shuicheng County, Guizhou Detained and Beaten During Forced Pregnancy Inspection” [Guizhou shuicheng xian lanba zhen funu bei qiangzhi chayun zhong, bei guanya ouda], Radio Free Asia, 22 January 15.

¹³UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by UN General Assembly resolution 39/46 of 10 December 84, art. 1; UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, Adopted at Its 41st Session (3–21 November 2008) CAT/C/CHN/CO/4, 12 December 08, para. 29. In 2008, the Committee against Torture noted again with concern China’s “lack of investigation into the alleged use of coercive and violent measures to implement the population policy (A/55/44, para. 122).”

¹⁴See United Nations Treaty Collection, Chapter IV, Human Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, last visited 11 July 14. China signed the convention on December 12, 1986, and ratified it on October 4, 1988.

¹⁵See, e.g., Sun Ying, “Twins Already Four Years Old but Are Still ‘Illegal Residents,’ Public Security Bureau: [Mother] Must Be Sterilized Before Hukou Can Be Registered” [Shuangbaotai chusheng si nian reng shi “heihu” gong’anju: xiang shanghu xian jieza], China National Radio, 19 May 15; Tang Ru, “Pingjiang County, Hunan Province: Family Planning Office Distributes Assignments, Forced Procedures Imposed on Women” [Hunan pingjiang xian: jisheng fenpei renwu funu qiangzhi shoushu], Consumption Daily, 11 December 14.

¹⁶UN Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification, and accession by UN General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, signed by China 29 August 90, ratified 2 March 92, arts. 2–4, 6, 24, 26, 28. Article 2 of the CRC calls upon States Parties to “respect and ensure the rights set forth . . . to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s . . . national, ethnic or social origin . . . birth or other status;” and that “State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.” Article 24 sets forth the right of the child to access health care; Article 26 sets forth the right of the child to social security; and Article 28 sets forth the right of the child to free primary education and accessible secondary education and higher education.

¹⁷International Covenant on Economic, Social and Cultural Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, signed by China 27 October 97, ratified 27 March 01, art. 10(3). Article 10(3) calls upon States Parties to recognize that “Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions.”

¹⁸UN Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification, and accession by UN General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, signed by China 29 August 90, ratified 2 March 92. International Covenant on Economic, Social and Cultural Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, signed by China 27 October 97, ratified 27 March 01.

¹⁹Chinese Communist Party Central Committee, Decision on Certain Major Issues Regarding Comprehensively Deepening Reforms [Zhonggong zhongyang guanyu quanmian shenhua gaige

ruogan zhongda wenti de jue ding], issued 12 November 13; “China To Ease One-Child Policy,” Xinhua, 15 November 13.

²⁰Chinese Communist Party Central Committee, Decision on Certain Major Issues Regarding Comprehensively Deepening Reforms [Zhonggong zhongyang guanyu quanmian shenhua gaige ruogan zhongda wenti de jue ding], issued 12 November 13. See also David Shambaugh, “Breaking Down China’s Reform Plan,” National Interest, 2 December 13; Christopher K. Johnson, Center for Strategic and International Studies, “China Announces Sweeping Reform Agenda at Plenum,” 15 November 13.

²¹Chinese Communist Party Central Committee, Decision on Certain Major Issues Regarding Comprehensively Deepening Reforms [Zhonggong zhongyang guanyu quanmian shenhua gaige ruogan zhongda wenti de jue ding], issued 12 November 13, para. 46; National Health and Family Planning Commission, “National Health and Family Planning Commission Deputy Director Wang Pei’an Answers Reporters’ Questions About Maintaining the Basic National Family Planning Policy and Launching the Implementation of Two Children for Married Couples in Which One Parent Is an Only Child Policy” [Guojia weisheng jishengwei fu zhuren wang pei’an jiu jianchi jihua shengyu jiben guoce qidong shishi dandu erhai zhengce da jizhe wen], 16 November 13; Marcus Roberts, “Why Aren’t Chinese Couples Keen To Have More Children?” MercatorNet, 6 February 15; Elizabeth Economy, “Time for Xi To Reform His Reforms,” Forbes, 6 February 15.

²²Chinese Communist Party Central Committee, Decision on Certain Major Issues Regarding Comprehensively Deepening Reforms [Zhonggong zhongyang guanyu quanmian shenhua gaige ruogan zhongda wenti de jue ding], issued 12 November 13, para. 46. See also “Chinese Communist Party Announces Revision to Population Planning Policy,” CECC China Human Rights and Rule of Law Update, No. 2, 23 December 13.

²³Jiang Yuanbo, “Suggestions Regarding the Initiation of Review on Provincial Family Planning Regulations” [Guanyu qidong dui ge sheng jihua shengyu tiaoli jinxing shencha de jianyi], Population and Future, 15 March 15.

²⁴Ibid.

²⁵Tian Yuan and Zheng Songbo, “All 31 Provinces in China Have Launched Two-Child Policy for Families in Which Both Parents Are Only Children” [Quanguo 31 shengfen jun yi fangkai shuangdu jiating sheng ertai zhengce], China Radio International, reprinted in NetEase, 26 November 11.

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²⁸“A Universal Two-Child [Policy], If Not Relaxed This Year When Will It Be?” [Quanmian ertai, jinnian bu kaifang dai heshi?], China National Radio, 9 March 15; “NHFPC Deputy Director: It Is Not Good To Have a Large Population, Nor Is It Good To Have Much Less” [Weijiwei fu zhuren: renkou duo le bu hao ye bushi yue shao yue hao], China National Radio, reprinted in Boxun, 14 March 15.

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⁴²Ibid.

⁴³Ibid.

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⁶⁵See, e.g., Zhang Donghong, Xinxiang Municipality Population and Family Planning Commission, “Municipal Population and Family Planning Leaders Guest-Host Live Radio Show To Explain Xinxiang Municipality’s Reproductive Services Permit Reform Work” [Shi renkou jishengwei lingdao zuoke zhibo jian xianchang jiedu wo shi gaige shengyu fuwu zheng gongzuo], 5 August 15 (Xinxiang municipality is located in Henan province). See also “How To Abolish the Birth Permit” [Ruhe quxiaozhunsheng zheng], Zongbao Net, 24 October 14; “Family Planning Services Permit” [Jihua shengyu fuwu zheng], Mama Net, last visited 1 September 15. The “birth permit” (*zhunsheng zheng*) system was instituted in the 1980s to “regulate and manage the population.” In the 1990s, the “birth permit” was renamed in some locations as the “reproductive health services permit” (*shengyu jiankang fuwu zheng*) or “family planning services permit” (*jihua shengyu fuwu zheng*). It is also known as a “reproductive services permit” (*shengyu fuwu zheng*), “family planning services manual” (*jihua shengyu fuwu shouce*), or “reproductive permit” (*shengyu zheng*). While different names are used to refer to the same document, the original term, “birth permit” (*zhunsheng zheng*), continues to be used. The more restrictive “birth permit” system of the 1980s has largely been reformed and the newer birth permit serves multiple purposes, including: allowing a couple to legally bear a child; allowing couples to obtain reproductive health services and “birth insurance” during pregnancy; collecting marriage and reproduction information for official record keeping; and registering a child’s *hukou*.

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⁶⁹Ibid.

⁷⁰See, e.g., Zhao Peng, “Say Goodbye to Birth Permits for First Child” [Sheng yihai he zhunsheng zheng shuo baibai], People’s Daily, 3 June 15; “Beginning Next Month, by Supplying Complete Information Chongqing Couples Having First Child Can Obtain Birth Permit in One Day” [Xia yue qi chongqing fuqi shengyu toutai ziliao qiqian ke dangtian ling zhunsheng zheng], Chongqing Morning Post, reprinted in Xinhua, 4 June 15. See also Zhang Shuhui, “Hebei Province Implements First-Child Registration System” [Hebei sheng yihai shengyu shixing jiu jin dengji zhidu], Hebei Daily, reprinted in Xinhua, 12 August 15.

⁷¹National Health and Family Planning Commission, “National Health and Family Planning Commission Convenes Work Meeting on Reforming the Reproductive Service Permit System” [Guojia weisheng jishengwei zhaokai gaige shengyu fuwuzheng zhidu gongzuo huiyi], 9 January 15. See also Zhao Peng, “Say Goodbye to Birth Permits for First Child” [Sheng yihai he zhunsheng zheng shuo baibai], People’s Daily, 3 June 15; Zhang Donghong, Xinxiang Municipality Population and Family Planning Commission, “Municipal Population and Family Planning Leaders Guest-Host Live Radio Show To Explain Xinxiang Municipality’s Reproductive

Services Permit Reform Work” [Shi renkou jishengwei lingdao zuoke zhibo jian xianchang jiedu wo shi gaige shengyu fuwu zheng gongzuo], 5 August 15.

⁷²National Health and Family Planning Commission, “July Regular News Briefing Material One: Relevant Population and Family Planning Work Situation” [7 yue lixing fabuhui cailiao yi: renkou he jihua shengyu gongzuo youguan qingkuang], 10 July 15.

⁷³PRC Population and Family Planning Law [Zhonghua renmin gongheguo renkou yu jihua shengyu fa], passed 29 December 01, effective 1 September 02, arts. 4, 39.

⁷⁴For some specific examples, see Guangdong Province People’s Congress Standing Committee, Guangdong Province Population and Family Planning Regulations [Guangdong sheng renkou yu jihua shengyu tiaoli], issued 2 February 80, amended 17 May 86, 28 November 92, 1 December 97, 18 September 98, 21 May 99, 25 July 02, 28 November 08, 27 March 14, reprinted in Lawtime, 10 April 14, art. 25; Jiangxi Province People’s Congress Standing Committee, Jiangxi Province Population and Family Planning Regulations [Jiangxi sheng renkou yu jihua shengyu tiaoli], issued 16 June 90, amended 30 June 95, 20 June 97, 29 July 02, 27 March 09, 16 January 14, reprinted in Lawtime, 16 January 14, art. 15; Fujian Province People’s Congress Standing Committee, Fujian Province Population and Family Planning Regulations [Fujian sheng renkou yu jihua shengyu tiaoli], issued 29 April 88, amended 28 June 91, 25 October 97, 18 November 00, 26 July 02, 14 December 12, 29 March 14, reprinted in Lawtime, 9 April 14, art. 18; Sichuan Province People’s Congress Standing Committee, Sichuan Province Population and Family Planning Regulations [Sichuan sheng renkou yu jihua shengyu tiaoli], issued 2 July 87, amended 15 December 93, 17 October 97, 26 September 02, 24 September 04, 20 March 14, art. 22; Anhui Province People’s Congress Standing Committee, Anhui Province Population and Family Planning Regulations [Anhui sheng renkou yu jihua shengyu tiaoli], issued 22 January 14, reprinted in Population and Family Planning Commission of Anhui Province, 2 February 14, art. 27; Beijing Municipal Population and Family Planning Commission, “Early Term Abortion” [Zaoqi rengong liuchan], 10 April 09. The Beijing Municipal Population and Family Planning Commission clearly draws a link between the term “remedial measures” and abortion: “Early term abortion refers to the use of surgery or pharmaceuticals to terminate a pregnancy before the 12th week of gestation; it is a remedial measure taken after the failure of contraception.” See also Zhengzhou University Family Planning Office, “From Family Planning to Planned Pregnancy” [Cong jihua shengyu zou xiang jihua huaiyun], last visited 21 May 15.

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¹⁴⁵ Sun Ying, “Twins Already Four Years Old but Are Still ‘Illegal Residents,’ Public Security Bureau: [Mother] Must Be Sterilized Before Hukou Can Be Registered” [Shuangbaotai chusheng si nian reng shi “heihu” gong’anju: xiang shanghu xian jieza], *China National Radio*, 19 May 15. See also Tang Ru, “Pingjiang County, Hunan Province: Family Planning Office Distributes Assignments, Forced Procedures Imposed on Women” [Hunan pingjiang xian: jisheng fenpei renwu funu qiangzhi shoushu], *Consumption Daily*, 11 December 14; “Family Planning Office of Sizhang Township, Sishui County, Jining Municipality, Illegally Implements Forced Sterilization” [Jining shi sishui xian sizhang zhen jisheng ban weigui qiangzhi jieza], *Qilu Net*, 6 May 15; Tan Fangzhi, Baiyangxi Township People’s Government, “Baiyangxi Township ‘Fights Hard’ To Carry Out Targeted Family Planning Service Activities” [Baiyangxi xiang kaizhan jizhong jisheng fuwu huodong yeshi “man pin de”], 5 March 15.

¹⁴⁶ PRC Population and Family Planning Law [Zhonghua renmin gongheguo renkou yu jihua shengyu fa], passed 29 December 01, effective 1 September 02, arts. 4, 39. Article 4 of the PRC Population and Family Planning Law (PFPL) states that officials “shall perform their administrative duties strictly in accordance with the law, and enforce the law in a civil manner, and they may not infringe upon the legitimate rights and interests of citizens.” Article 39 states that an official is subject to criminal or administrative punishment if he “infring[es] on a citizen’s personal rights, property rights, or other legitimate rights and interests” or “abus[es] his power, neglect[s] his duty, or engag[es] in malpractices for personal gain” in the implementation of population planning policies.

¹⁴⁷ “Another One on the Way,” *China Daily*, reprinted in *The Star*, 3 May 15.

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