STATUS OF WOMEN

China's Compliance With International Human Rights Obligations

China underwent a periodic review by the UN Committee on Economic, Social and Cultural Rights (CESCR) in May 2014\(^1\) and will undergo a periodic review by the UN Committee on the Elimination of Discrimination against Women (Committee) beginning in October 2014.\(^2\) In its concluding observations on the second periodic report of China, CESCR noted persistent gender disparities in China, “especially in relation to employment, wages, housing and access to higher education” and highlighted “with concern the disadvantaged position of rural women.”\(^3\) In preparation for the upcoming Committee review, the Chinese government submitted a report in January 2014 on its implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) from 2006 to 2010.\(^4\) The report described progress on protecting women’s rights in China’s laws, regulations, and policies,\(^5\) yet also acknowledged some challenges, including persistent gender discrimination, inadequate implementation of relevant laws, low percentages of female representation in senior decisionmaking bodies, unequal treatment of rural women under local village rules, and violence against women.\(^6\) Non-governmental organizations also highlighted areas for improvement in reports to the Committee in January and February 2014, specifically noting cases of suppression of women’s rights advocates.\(^7\)

Women’s Political Decisionmaking

Through its international commitments and domestic laws and policies, the Chinese government is obligated to ensure gender-equal political participation; however, during the Commission’s 2014 reporting year, women remained underrepresented in government and Communist Party positions. In accordance with its commitments under CEDAW,\(^8\) the Chinese government has passed several laws\(^9\) and issued policy initiatives\(^10\) in prior years to promote gender equality in government. Yet, female representation remains low or non-existent in central Party and government leadership bodies, including the Political Bureau of the Communist Party Central Committee (Politburo),\(^11\) Politburo Standing Committee,\(^12\) Communist Party Central Committee,\(^13\) State Council,\(^14\) and National People’s Congress,\(^15\) and falls far short of the 30 percent target recommended by the UN Commission on the Status of Women.\(^16\) Women reportedly held 22.1 percent of village committee memberships as of 2012 and 2.7 percent of leadership positions in village committees as of 2008.\(^17\) Such underrepresentation at the village level leaves rural women vulnerable to violations of their rights and interests.\(^18\) The UN Working Group on the Issue of Discrimination Against Women in Law and in Practice (Working Group) noted following its December 2013 visit to China, “The imperative for full integration of a gender sensitive policy framework into China’s deepening reform agenda . . . requires the full and effective participation of women in political and public life at all levels.”\(^19\)
In ratifying CEDAW, the Chinese government has committed to take “all appropriate measures to eliminate discrimination against women in the field of employment,” yet women in China’s workforce continue to face many forms of discrimination. Following its December 2013 visit to China, the Working Group issued a report noting China’s accomplishments in women’s rights, as well as persistent challenges, including gender discrimination in recruitment, wages, and retirement. When applying for civil service positions, women report that they continue to be subjected to invasive gynecological examinations and inappropriate questioning. In January 2014, in what is believed to be China’s first gender discrimination lawsuit, a recent college graduate accepted a 30,000 yuan (US$4,845) settlement and a formal apology after a company refused to hire her because of her gender.

Gender-based discrimination remains a barrier for some young women pursuing a university education in China, despite provisions in the PRC Education Law that prohibit discrimination on several grounds, including gender. Reports indicate that universities across China continue to implement gender quotas that require women to score higher than men on the college entrance exam (gaokao) for acceptance into certain schools or majors. Some schools also ban or restrict women from certain majors, including mining, navigation, naval engineering, tunnel engineering, and police work. Reasons given for preventing or limiting women from enrolling in these majors included that the jobs that result from these studies are not available to women; or are too dangerous, too physically strenuous; or would require too much time at sea. In October 2012, the Ministry of Education (MOE) responded to an Open Government Information request, stating that gender quotas are permitted in military and national defense, marine and mining, and some less-commonly studied foreign language majors. In September 2013, two groups of women separately wrote reports to the MOE protesting the unfair enrollment practices and requesting an explanation.

Domestic violence is prohibited and punishable under Chinese law, yet the problem of domestic violence in China remains widespread, affecting approximately one in four families. Current national-level legal provisions that address domestic violence leave many victims unprotected by prohibiting domestic violence without defining the term or clarifying the specific responsibilities of government entities—such as law enforcement, judicial organs, and providers of social services—in prevention, punishment, and treatment. The UN Working Group on the Issue of Discrimination Against Women in Law and in Practice called on the Chinese government this year to “urgently adopt” a national-level domestic
violence law, reiterating advocates’ calls from previous years. As of June 2014, draft domestic violence legislation reportedly had been submitted to the State Council for review and included in its 2014 legislative work plan.

In February 2014, the Supreme People’s Court (SPC) issued a report presenting 10 “typical cases” that serve as illustrations for lower courts on how they should handle cases involving domestic violence. According to one international expert's analysis of the report, the SPC's selection of typical cases provides guidance on issuing civil protection orders; expands the scope of who may be protected under protection orders to include the elderly and minors; clarifies what may constitute evidence in domestic violence cases; expands the definition of violence to include non-physical forms; and sets a precedent for additional punishments that can be imposed for domestic violence, including loss of custody of a child even if the child has not suffered physical harm.

According to one Chinese anti-domestic violence expert, in the absence of the authority of a domestic violence law, protection orders have not yet gained ground in China, as courts “are afraid of being overrun by applicants and of being unable to enforce the orders and therefore becoming a mockery, with the police not cooperating.” Advocates reportedly claim that legislation, including a domestic violence law, could help standardize the process of issuing protection orders, provide a formal definition for domestic violence, and counter the widely held belief in China that domestic violence is a private matter by assigning responsibility to courts, police, hospitals, and civil society actors to assist victims. In one high-profile domestic violence case, following Chinese and international advocates’ calls for a sentence commutation, in June 2014, the SPC overturned the death sentence of Li Yan, who killed her husband in 2010 after enduring months of spousal abuse. The Sichuan Province High People’s Court had upheld Li’s death sentence on appeal in August 2012, stating that there was insufficient evidence of long-term domestic violence.

Central government authorities have taken regulatory steps this year to better protect the rights of women and children who may be vulnerable to sexual violence. In apparent response to citizens’ outrage over a series of high-profile cases of sexual violence against girls last year, in September 2013, central authorities issued guidelines and a circular, both aimed at strengthening the prevention of sexual assault of a child. The following month, the SPC, Supreme People’s Procuratorate, Ministry of Justice, and Ministry of Public Security jointly issued guidelines strengthening punishments for child sexual assault. Perpetrators had previously received lighter punishments if they could claim consent or if money was involved. Critics have noted that legal loopholes may mean that certain circumstances or conduct will still result in lighter punishments for perpetrators.

Chinese law prohibits sexual harassment yet does not provide a clear legal definition or standards for prevention, reporting, and punishment. Two surveys of female factory workers in Shenzhen and Guangzhou municipalities, Guangdong province, released in...
November 2013 showed that 70 percent of respondents had experienced some degree of sexual harassment in the workplace, and few sought assistance from management or the police. Legal experts have called for strengthened legislation on sexual harassment, yet authorities have not announced any progress on such legislation during this reporting year.

STATE-AUTHORIZED VIOLENCE AGAINST WOMEN

Officials in localities across China continued to employ forms of coercion and violence against women—including forced abortion, forced sterilization, and forced contraceptive use—while implementing population planning policies, in contravention of international standards to which China has agreed. Chinese law leaves women unprotected against such abuses. In December 2013, over 1,000 Chinese women signed and sent a letter to the National People’s Congress Standing Committee, the Family Planning Commission, and the All-China Women’s Federation, noting that the implementation of China’s population planning policies “causes great harm to women’s wombs” and calling on Chinese officials to “protect women’s right to life and health” during the drafting and execution of China’s population planning policies.

In February 2014, the Ministry of Public Security launched a crackdown on the commercial sex trade, starting in Dongguan municipality, Guangdong province, in apparent response to a February 9 China Central Television expose on the industry. As of July 2014, Dongguan police reportedly had detained 2,252 people as part of the crackdown. In past years, women in China have reported suffering unlawful arbitrary detention, extortion, physical violence, and forced labor at the hands of authorities carrying out enforcement of anti-prostitution laws.

Notes to Section II—Status of Women


2 UN Office of the High Commissioner for Human Rights, Committee on the Elimination of Discrimination against Women, Provisional Agenda and Annotations, 23 June 14, CEDAW/C/59/1. According to this document, the 59th session of the Committee on the Elimination of Discrimination against Women will take place from October 20 through November 7, 2014.

3 UN Committee on Economic, Social and Cultural Rights, Committee on Economic, Social and Cultural Rights Concluding Observations on the Second Periodic Report of China, Including Hong Kong, China and Macao, China, E/C.12/CHN/CO/2, 23 June 14, para. 16.


5 Ibid., paras. 10–51.


7 Convention on the Elimination of All Forms of Discrimination against Women, adopted and opened for signature, ratification, and accession by UN General Assembly resolution 34/180 of 18 December 79, entry into force 3 September 81. Under Article 7 of CEDAW, China is committed to ensuring the right of women, on equal terms with men, “to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government.” UN Treaty Collection, Chapter IV, Human Rights, Convention on the Elimination of All Forms of Discrimination against Women, last visited 19 June 14. China signed the convention on July 17, 1980, and ratified it on November 4, 1980.
9 PRC Law on the Protection of Women's Rights and Interests [Zhonghua renmin gongheguo funu quanyi baozhang fa], passed 3 April 92, effective 1 October 92, amended 28 August 05, art. 11; PRC Electoral Law of the National People's Congress and Local People's Congresses [Zhonghua renmin gongheguo quanyi baozhang fa], passed 1 July 79, amended 10 December 82, 2 December 86, 28 February 95, 27 October 94, 14 March 10, art. 6. The PRC Law on the Protection of Women's Rights and Interests and the PRC Electoral Law of the National People's Congress and Local People's Congresses stipulate that an “appropriate number” of female deputies should serve at all levels of people's congresses.


12 Women held no positions in the Politburo Standing Committee as has been the case throughout the history of the CCP. See “Meet Your New Politburo Standing Committee,” Economic Observer, 15 November 12; Cheng Li, “A Biographical and Fractional Analysis of the Post-2012 General Secretary Xi Jinping’s Leadership in China,” Hoover Institution, Stanford University, No. 41, 7 June 13; Zhuang Pinghui, “Breaking the Glass Ceiling in the Politburo Standing Committee,” South China Morning Post, 19 September 12.

13 Women held 10 positions in the 205-person Communist Party Central Committee. See “Members of the 18th CPC Central Committee,” Xinhua, 14 November 12.

14 Two women (Li Bin and Wu Aiying) held positions on the 35-person State Council, which was announced in March 2013. See “China Unveils New Cabinet Amid Function Reform,” Xinhua, 17 March 13.

15 Women held 23.4 percent of National People's Congress memberships in 2014. See Yan Hao et al., “Percentage of Female Delegates to China’s Top Authoritative Body Reaches Highest Level in History” [Zhongguo zuigao guojia quanli jiguan nuxing bili shi fazhan suo xu], People's Daily, 12 March 14; Christophe Bahuet, “The Importance of Women's Leadership,” China Daily, 6 November 12.


18 Convention on the Elimination of All Forms of Discrimination against Women, adopted and opened for signature, ratification, and accession by UN General Assembly resolution 34/180 of 18 December 79, entry into force 3 September 81, art. 11; China signed the convention on July 17, 1980, and ratified it on November 4, 1980. See UN Treaty Collection, Chapter IV, Human Rights, Convention on the Elimination of All Forms of Discrimination against Women, last visited 14 September 12.


20 Ibid., paras. 15–18.


and 55, respectively, while retirement ages for male and female workers in general are 60 and 55, respectively. For regulations on retirement ages for most workers, see State Council Provisional Measures on Workers' Retirement and Withdrawal from Office (Gongren guanyu gongren tuixiu, tuizhi de zaxing banfa), issued 2 June 78, art. 1. For regulations on extended retirement ages for cadres, see State Council Provisional Measures on the Settlement of Elderly, Weak, Sick, and Disabled Cadres (Guowuyuan guanyu gang ren jiucheng bei diaochazhe zhichi lifa), 234, 236, 237, 260; PRC Marriage Law (Zhonghua renmin gongheguo hunyin fa), passed 3 April 92, effective 1 October 92, amended 28 August 05, art. 46; PRC Criminal Law (Zhonghua renmin gongheguo xingfa), passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, arts. 234, 236, 237, 260; PRC Marriage Law (Zhonghua renmin gongheguo hunyin fa), passed 10 September 90, effective 1 January 91, amended 28 April 01, art. 3. 36 PRC Law on the Protection of Women's Rights and Interests (Zhonghua renmin gongheguo funu quanyi baozhang fa), passed 3 April 92, effective 1 October 92, amended 28 August 05, art. 46; PRC Marriage Law (Zhonghua renmin gongheguo hunyin fa), passed 10 September 90, effective 1 January 91, amended 28 April 01, art. 3. 37 For Chinese experts' discussion of the shortcomings of current national-level legislation, see Ng Tze-wei, "A Clear Definition of Domestic Violence Is Needed To Curb the Crime," South China Morning Post, 7 February 13; Huang Yuli and He Dan, "Call for Action on Domestic Violence," China Daily, 26 November 12; "China Scholars Call for Attention on 'Anti-Domestic Violence' Legislation" (Zhongguo xuezhe huyu guanyu jiabao de biaoli, "fan jiating baoli" lifa), 13 January 10; Li Pei, "All-China Women's Federation Strongly Promotes Anti-Domestic Violence Legislation" (Quanguo fulian litui fan jiabao fa, "fan jiabao fa caoan song shen gao bao guoyuwan jiucheng bei diaochazhe zhichi lifa"); Li Li, "Leveling the Playing Field," Beijing Review, 8 October 13. 38 Ibid. For additional information on the use of gender quotas, see China Labour Bulletin, "Employment Discrimination in China," 20 November 12; Didi Kirsten Tatlow, "Women in China Face Rising University Entry Barriers," New York Times, 10 October 12. 39 Celia Hatton, "100 Women: The Jobs Chinese Girls Just Can't Do," BBC, 16 October 13; "Room for Improvement in Achieving Gender Equality in University Enrollment," Phoenix Net, translated and reprinted in All-China Women’s Federation, 17 January 14. 40 China Labour Bulletin, "China's Compulsory Retirement Age for Males and Females Weak, Sick, and Disabled Cadres (Guowuyuan guanyu gang ren jiucheng bei diaochazhe zhichi lifa)," People’s Representative News, 31 December 09. See also "All-China Women's Federation Proposes, Highlights Need for Draft Anti-Domestic Violence Legislation," Congressional-Executive Commission on China, 2 February 10. 41 "4th Supreme People's Court, Supreme People's Court Issues 10 Typical Cases Involving Domestic Violence Legislation," Congres-sional-Executive Commission on China, 2 February 10.
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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

65 World Health Organization, "Violence Against Women," Fact Sheet No. 239, November 2012. The World Health Organization defines sexual violence as "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work."

67 Wu Xiaofeng and Xing Dongwei, "Hainan, Wanning Primary School Principal Takes Four Young Girls to Hotel, Government Worker Takes Two Young Girls to Hotel" [Hainan wanning yi xiao xiaozhang dai 4 younu kaifang zhengfu zhiyuan dai 2 younu kaifang], Legal Daily, 13 May 13; "China Orders Severe Penalties for Child Abuse," Xinhua, 24 October 13.
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 or she “infringes on a citizen’s personal rights, property rights, or other legitimate rights and interests” or “abuses his or her power, neglects his or her duty, or engages in malpractices for personal gain” in the implementation of population planning policies. The provision does not define what constitutes an infringement or provide punishment for violations. See also Yan Shuang, “Fury Over ‘Forced Abortion,’” Global Times, 14 June 12; Stanley Lubman, “The Law on Forced Abortion in China: Few Options for Victims,” Wall Street Journal, China Real Time Report (blog), 4 July 12.


