

# WOMEN'S RIGHTS AND CHINA'S NEW FAMILY PLANNING LAW

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## ROUNDTABLE

BEFORE THE

### CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

SEPTEMBER 23, 2002

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## **WOMEN'S RIGHTS AND CHINA'S NEW FAMILY PLANNING LAW**

**MONDAY, SEPTEMBER 23, 2002**

CONGRESSIONAL-EXECUTIVE  
COMMISSION ON CHINA,  
*Washington, DC.*

The roundtable was convened, pursuant to notice, at 2:30 p.m., Ira Wolf (staff director) presiding.

Also present: John Foarde, deputy staff director; Holly Vineyard, U.S. Department of Commerce; Anne Tsai, specialist on ethnic minorities; Matt Tuchow, Office of Representative Sander Levin; Susan Weld, general counsel; and Chris Billing, director of communications.

Mr. WOLF. I would like to welcome everybody here today to this staff-led roundtable of the Congressional-Executive Commission on China.

Today, we are looking at Women's Rights and China's New Population and Family Planning Law. We have got a number of experts before us today. I will quickly introduce them.

John Aird is former chief of the China Branch and senior research specialist on China at the U.S. Bureau of the Census; Bonnie Glick was part of the 2002 U.S. Assessment Team to China and currently with IBM, but she is here in her private and personal capacity today; Edward Winckler is research associate at the East Asian Institute at Columbia University; Susan Greenhalgh is professor of anthropology at the University of California at Irvine; and Stirling Scruggs is currently director of the Information and External Relations Division of the U.N. Population Fund, with long hands-on experience in China.

We welcome you all today.

We will start with John Aird, if you would, please.

### **STATEMENT OF JOHN S. AIRD, FORMER CHIEF, CHINA BRANCH AND SENIOR RESEARCH SPECIALIST ON CHINA, U.S. BUREAU OF THE CENSUS, SILVER SPRING, MD**

Mr. AIRD. Thank you, Mr. Wolf.

How will China's new family planning law affect reproductive freedom in China, particularly the rights of women? To answer these questions, we need to know what was the purpose of the law, why it was adopted at this time, and how it is likely to affect the implementation of family planning in China.

To address that first question, what was the purpose of the law, the best indication of its purpose is the justifications for it that

were given in Chinese domestic sources during the 23 years in which the government struggled to produce it.

On this count there is little doubt. When Vice Premier Chen Muhua first proposed it in July 1979, she said that it was “to quickly and further reduce the population growth rate.” She added that “parents having one child will be encouraged, and strict measures will be enforced to control the birth of two or more babies.”

Other references to the law in Chinese sources over the next 4 years repeated these ideas. The timing was also significant, because 1979 was the first year of the one-child policy. This policy was bound to encounter opposition and it needed all the reinforcement it could get.

When the crash program of compulsory birth control surgeries in 1983 created such a backlash that the Chinese authorities felt obliged to relax controls in order to take care of what they called “the alienation of the masses from the Party,” all mention of the national law disappeared from the Chinese media. Nothing further was heard about it until 1988. During a period when coercion is not necessary, law is not needed for reinforcement.

In March 1988, a demographic journal said that persuasion alone would not work without “the necessary legal and administrative measures.”

In 1989, Peng Peiyun, then head of the State Family Planning Commission [SFPC], said that the problem in family planning had become crucial. There had been a rebound in the birth rates in the middle- to late 1980s, and a law would be enacted in October 1990. But that did not happen.

In 1990, another source said family planners wanted the law to be passed to make policies more authoritative and forceful. Still, it did not happen. In September 1999, after another hiatus, a vice minister of the State Family Planning Commission said the law would be enacted within 3 years and that it would “tighten the rule of law in carrying out family planning.”

In December 2000, Zhang Weiqing, then the minister in charge of the State Family Planning Commission, said the new law was “to ensure the status of the national family planning policy and the realization of birth control targets.” He made other statements at that time.

Up to this point, the rationale for the law had not changed. Its purpose was to strengthen control of fertility and add legal force to the administrative enforcement of measures already in use.

But when the law was finally made public December 29, 2001, Zhang Weiqing announced, in an English-language dispatch aimed at foreigners, that it neither tightens nor relaxes population policy.

That statement made very little sense. Why did the government work 23 years to adopt a policy that made no change in the implementation of family planning rules? Why had they gone to all that trouble?

The most likely explanation for the change in the way it was represented, was several things that happened in the meantime that made coercion once again an embarrassing issue for the Chinese Government.

First, a number of instances of extreme coercion had been reported by the Chinese international media since the late 1990s,

including some loss of life by family planning violators, and at least one instance of the deliberate drowning of a baby born without a birth permit.

Second, the private investigation by the right-to-life organization PRI claimed to have discovered coercion in one of the United Nations Fund for Population Activities's [UNFPA] 32 experimental counties in China where, of course, the measures were supposed to be absent.

Then there were two other investigations shortly on that challenged those findings, and then still later in May 2002, a fourth investigation, in which Bonnie Glick participated, came out with a finding that there were still coercive measures in the Chinese policy.

Obviously, under these circumstances this is not the time to draw foreign attention to a hard-fisted family planning law. The tightening had to be denied. Shortly, there were people even arguing—including Jiang Zemin himself—that the purpose of the law was to put an end to coercive abortion in China. That had never been mentioned as a purpose for this law in all the 23 years. Besides, no law is needed for that purpose.

If the central authority simply relaxed the demands that drive the coercion in the system, the coercion will stop very quickly. It did in 1978, it did again in 1980, and it did in 1984. You do not need a law to stop coercion when it is the central authority that is the impetus for coercion.

You simply relax the impetus. Family planning operatives at the lower level have always regarded family planning as the most difficult work under heaven, and it is also elsewhere described as something nobody wants to attend to. The coercion will immediately disappear.

In any case, that cover story will be somewhat hard to promote because the text of the law is already in print. It contains some rather suggestively tight-fisted measures. The UNFPA itself has objected to three provisions, three different articles of the law.

It, however, did not object to the one I would have thought it would object to first of all, and that is a provision in Article 11 that says "specific population and family planning measures shall provide for detailed population control quotas."

The UNFPA has been saying that not only are quotas abolished in the experimental counties, but the tendency is spreading across China. This does not make that sound very likely.

Furthermore, the law says nothing at all about the basic components of reproductive freedom of the ICPD [International Conference on Population and Development] in the 1994 plan of action. It does not acknowledge the rights of couples and women to "determine the number and spacing of their children." That could gut the one-child policy.

It does not guarantee their right to choose their own form of contraception, which presumably would include the right to choose none. That would run afoul of the constitutional provision, again repeated in the law, about the citizens' duty to practice family planning.

Taking all the evidence available into account, I think one must conclude that the purpose of the law is still what it has always

been. That is, to lend more compulsion to an already compulsory program.

There still remains the question of what effect the law is likely to have. I think that as long as the coercion issue is a focus of international attention, efforts to present the law as curbing coercion will probably continue, largely in communications addressed to foreign audiences. There are not many statements of that sort currently being addressed to domestic audiences.

In fact, it may be used to add reinforcement to the 1995 “Seven Prohibitions” document, which did not preclude all forms of coercion in the program, but only those that were most likely to create popular opposition and thus do damage to the program itself.

But once world attention—which faces many other distractions in these years—turns elsewhere, I think efforts will be made to use the law to shore up citizen compliance with family planning rules. Whether it will succeed in doing that may be open to question.

There are many factors operating in China today which are weakening the administrative system in general and the implementation of family planning in particular. These run simultaneously with renewed extreme efforts to enforce family planning that come into the international press from time to time, and I can document a number of those.

There will also be a continuation of the problems brought about by family planning in China, including the sex ratio imbalance, the excessive aging, adverse effects on marital relations, and damage to demographic statistics.

I think these are likely to continue. But, in the long run, I think the attempt will probably fail. The program, which is still very unpopular in China, will become increasingly unenforceable, law or no law. However, the time for that is not yet.

Thank you.

[The prepared statement of Mr. Aird appears in the appendix.]

Mr. WOLF. Thank you very much.

Bonnie Glick.

**STATEMENT OF BONNIE GLICK, FORMER FOREIGN SERVICE OFFICER AND MEMBER, 2002 U.S. ASSESSMENT TEAM TO CHINA, BETHESDA, MD**

Ms. GLICK. Thank you.

At the beginning of May, I traveled to China as a member of a three-person team selected by the White House to conduct an assessment of whether the U.N. Population Fund has supported or participated in the management of a program of coercive abortion or involuntary sterilization in the People’s Republic of China [PRC].

These concerns were codified in 1985 in U.S. legislation known as the Kemp-Kasten amendment. Since 1998, the Chinese State Birth Planning Commission has conducted a special program with UNFPA participation in 32 of the PRC’s approximately 2,800 counties.

Given the controversy that has existed in the Congress on the issues of coercive abortion and involuntary sterilization, great emphasis was placed on making this a mission of objective fact-finding and assessment.

After we received an overview of the population situation in China, we began our travels through 5 of the 32 UNFPA counties. The five counties were selected by the U.S. Embassy and they represented a cross-section of urban and rural, poor and middle income.

During the next 10 days, we traveled approximately 6,000 miles by air and road through urban and rural China. The five counties visited were Rongchang County, 100 kilometers outside of Chongqing Municipality, Pingba County, 2½ hours from Guiyang in Guizhou Province, Xuanzhou and Guichi Counties in Anhui Province, and Sihui City in central Guangdong Province.

We were accompanied on our travels by Mr. Hongtao Hu, a member of the State Birth Planning Commission. Mr. Hu received no more than 24 hours advance notice of our daily travel plans. Our visits were often unannounced and with no notice. We stopped in at 3 factories, 2 schools, 11 village birth planning substations, 5 municipal birth planning centers, and 3 hospitals.

I held discussions with women in the streets and agricultural fields who were going about their daily lives. I went to China with open eyes and with an objective point of view, and with a narrow mandate. We went to as many counties and as many villages as possible.

We also made a variety of unscheduled stops. Although our sample size was small, I believe the results are representative, and that we varied our methodology through random visits and with little to no notice given to Chinese Government authorities, thereby decreasing biases in the observed data.

I would like to address the conversations I had with women throughout our travels. In my years as a Foreign Service officer, I often found that women around the world, particularly women in societies that tend to be dominated by men, are willing to open up to foreign women to discuss personal issues.

Thus, in speaking with Chinese women, I was able to elicit direct and thoughtful responses to probing questions. Culture played an enormous role in these conversations.

Often, I found myself asking indirect questions in order to obtain genuine responses, such as, how many children do you plan or hope to have? How do you feel about the policy of the Chinese Government that ostensibly limits your ability to have more than one child? Do you know any women who have been coerced to have abortions or forced involuntarily to become sterilized? Do you know anyone who has to pay social compensation fees because she had more than one child?

If I sensed that a woman—especially a professional woman—in one of the health clinics was suspicious of my line of questioning, I would change the way in which I asked my questions. I might ask her, perhaps not in this county, but have you heard of women in other counties who might have been coerced to have abortions or sterilizations?

In one pharmaceutical manufacturing and packaging factory, I had the opportunity to talk to a group of 15 or so women all working on an assembly line. We talked as they packaged pharmaceuticals. The conditions in which they were working were good,

clean, and comfortable. They considered themselves lucky to have these stable jobs.

When I asked them questions about their family planning practices, nearly all said they had just one child. One woman had two children, several had none. All commented that it is expensive to raise children.

I met with two women in a health clinic in Rongchang County who had just had abortions due to pregnancies arising, they said, from failed contraception. I asked each of them why they chose to abort. The first woman said that she already had twins and neither wanted, nor could afford, a third child. She and her husband, she said, were happy with their two children and they had not planned on a third.

The other woman, a 22-year-old, said that she and her husband were not yet ready to have children. They themselves were children, she said, and she wanted to wait until she was ready for a “perfect birth.”

The Chinese Government, it seems to me, through public service announcements in all forms of media, has convinced women of the merits of marrying late, delaying births, and focusing on a “perfect birth.”

What is a perfect birth? This is a potentially dangerous question to ask. Since abortions are legal in China, women take great care to ensure that fetuses they carry are perfect. If they fear that a fetus is in any way less than perfect, the inclination among Chinese women is to abort.

While the practitioners with whom we met said they do not promote abortion as a form of birth control, they were well aware that many women abort rather than waste their one opportunity to give birth on a less than perfect child.

As many of us are aware, this attitude has no doubt led to the skewed gender ratios in Chinese births. With 116 male children born for every 100 female children, the numbers speak for themselves. This skewed birth ratio, when considered among a population of 1.3 billion people, demonstrates that the demographic challenges facing China today and into the future are staggering.

I was initially surprised by the near uniformity of responses I received to the questions I asked Chinese women. However, after several days I realized that the similarity of responses was due to the tremendous public service campaign the Chinese Government has undertaken to promote its one-child policy.

Generally speaking, women in China genuinely and faithfully adhere to the one-child policy, now codified with the new population law. Although it is hard for Americans to accept the concept of limitations on family size, we must all think for a moment about the particulars of the situation in China.

In a country with a population of at least 1.3 billion people, and where the current generation of women of child-bearing age was raised with the philosophy of one child only, it is easy to see women in China accepting the limitation on births as part of their civic and patriotic duty.

This public service campaign, if you will, to discourage multiple births has been so prevalent and so effective, that few women I met seemed willing to rock the boat.

Indeed, all the women I met talked about how expensive it is to raise children, the underlying implication being that it is even more expensive to raise multiple children, given the coercive social compensation fees levied on families daring enough to have multiple births.

Clearly, China is sitting on a demographic time bomb. If the population continues to grow at its current rate, it will run into problems of resource allocation. I went to China to look into the resources of the U.N. Population Fund, all \$3.5 million of its annual budget.

When comparing the budget of the UNFPA with the overall budget of the Chinese State Birth Planning Commission, \$3.6 billion, it quickly becomes apparent that China is not interested in UNFPA for its money.

Rather, the PRC is interested in the fig leaf UNFPA provides in its attempt to show the world that it conforms to the international norms and conventions for family planning.

By having an UNFPA presence in China, the PRC can hold this fact up to the world as evidence that it follows generally accepted norms vis-a-vis family planning. In fact, it does not. The limited presence of UNFPA in China may actually hurt efforts to bring the country's policies more in line with international norms.

This leaves UNFPA with only two options, as I see it: Either expand into more counties in China, which is unlikely given its tremendous resource constraints, or scale back and demand real reform of the Chinese Government before agreeing to share international expertise and before granting international acceptance of Chinese practices.

Given the codification on September 1 of China's one-child policy, UNFPA should act forcefully to demand changes to this law, to the coercive fines, and so-called social compensation fees.

The opportunity I had to travel relatively freely throughout China is one that is afforded to few people. The Chinese Government was accommodating in that we were allowed to travel anywhere we chose in the country. Were we fully free? Doubtful. Everywhere we went, we were accompanied by an official of the State Birth Planning Commission.

At the initiation of our trip, I did not think it would be possible to operate as freely as I would have liked. In truth, the representatives of the State Birth Planning Commission were more token than anything else. Mr. Hu facilitated our encounters in health centers and in factories, nothing more.

In closing, I would like to express my thanks to those who facilitated the visit, while assiduously avoiding any effort to color our team's impressions or influence our opinions. These include individuals in the State Department, the American Embassy in Beijing, and the Consulates General in Shanghai and Guangzhou.

I would urge this Administration to continue to monitor closely this aspect of Chinese life. As I mentioned, China's continued population explosion is the elephant in the room that no one wants to discuss and all would rather ignore.

It will place ever-increasing strains on natural resources, public services, and employment. These strains will be felt up and down

the political spectrum and they must be factored into our decision-making as we deal with China in this new century. Thank you.

[The prepared statement of Ms. Glick appears in the appendix.]

Mr. WOLF. Thanks very much.

Edwin Winckler, please.

**STATEMENT OF EDWIN A. WINCKLER, RESEARCH ASSOCIATE,  
EAST ASIAN INSTITUTE, COLUMBIA UNIVERSITY, NEW YORK  
CITY, NY**

Mr. WINCKLER. I appreciate the Commission inviting me. I have to leave out all courtesies, because in 10 minutes I cannot even mention what needs to be covered, so I am just going to dive right in.

Let me say that Susan Greenhalgh and I wrote a 250-page report for the Immigration and Naturalization Service a year or two ago explaining the very profound changes that have been occurring in the Chinese birth limitation program in the last 5 to 10 years. We are revising that report as a book for Stanford University Press. Since I had to update that report for the book, I wrote a 40-page article about the new national law—the programs first national law—explaining what it is doing. That article will be posted on your Website and it will be coming out pretty soon in *Population and Development Review*. Given that I cannot explain the law to you in 10 minutes, please consult that article for what the law is all about. I also made my own translation of the law, which the Commission will not only post, but also print with my prepared statement. So while I talk, I am going to stick to the outline of my prepared written statement and refer you to that article for details.

However, there is something new I want to get on the table, which is that at the beginning of this month the birth planning program in China had a very important work conference where they summed up 2 years' of experiments about how they are going to go about implementing the 2001 law, which is the most concrete indication that we have of where things will be going in the next couple of years. I hope we can get into that a little bit in the question period.

Now, the first part of my prepared statement is about change. If nobody remembers anything else from my presentation, I hope you will remember that there have been extraordinary and extensive changes going on in the birth program, as in everything else about China. It would be remarkable if the program were not changing a great deal. I wish somebody would ask me a question afterward about the political nature of this process, because it is a very convoluted process and it is very easy to misread from the outside. I cannot go into that and still tell you anything concrete about the change, so may I ask that somebody ask me about that?

Now, the three changes that I want to call to your attention are, first of all, demographic change. The whole reason for the reorientation of policy at the turn of the millennium is that it is not 1983 any more. China is now facing a low fertility rate, not a high fertility rate. The problem now, as they phrase it, is to "maintain" the low fertility rate and not to drive it down any further. This is a very different kind of problem, so it gives them the latitude to make some changes, and it requires some changes.

The second kind of change noted in my prepared statement is political change, which my article discusses at greater length. We all know that there have been great political changes in China. As Mr. Aird said, the current leadership is much weaker than the old one was. It is going out of its way not to do things to the population that will create unnecessary popular discontent. There is also systemic change, the contraction of the government out of large areas of the economy and other sectors. So it is not as though the changes in the program are being driven by public relations concerns about what foreigners think. The changes in the program are being driven by very powerful systemic changes in China itself.

The third kind of change is change in the program itself. Again, I cannot go into it in any detail. But let me say that the previous peak of nasty enforcement was around 1991. Coming out of that, they realized that they had leaned on the populace too hard and unnecessarily, given how low fertility was. So, on the one hand, beginning around 1993, they launched a series of reforms to clean up their own bureaucratic act, to clean up their state-centric program. They cleaned it up by professionalizing it and by putting a lot more money into it—by not having periodic crash campaigns by amateur cadres, but instead financing a professional core of birth planners and reproductive health workers. That is the positive side. The negative side, in terms of cleaning up their act, was removing all sorts of stupid abuses from the system, coercive implementation and enforcement abuses, and also corruption and misallocation of local funds abuses. I would be happy to go into that.

On the other hand, beginning about 1995, and particularly later in the decade, they began moving toward a more client-centered approach, what you might call liberalization or deregulation. They themselves decided that they had too much red tape in the program, that it was not necessary for their purposes. It was creating opportunities for corruption, it was irritating the public, and they did not need it. They launched a process, which they are now continuing dramatically, of getting rid of this unnecessary red tape.

Now, another process of change in the program you could say embraces all of these kinds of reforms. Let us call it the process of legalization. The main point I want to make about that is that passing the law in 2001 had a long preparatory period. They could not pass the law until they cleaned up their enforcement act enough to narrow the gap between what the Chinese Constitution would require in the name of a law and what they were actually doing. The “Seven Don’ts” and the cleaning up the act were much more than cosmetic. It made clear to local cadres that they were not supposed to use grossly coercive implementation measures.

The upshot—you know this because you have heard many sessions about it—is that the whole country is moving toward legalization of institutions, lawful implementation in all areas. So you end up at the end of the 1990s with buzz words like “implementation according to the law,” which means no beating people over the head and other things that were said in the “Seven Don’ts,” and “legitimate rights and interests of citizens,” which means, among other things, that citizens have a right not to be abused by family planning workers. That is the language that is the upshot of the 1990s reforms and that does appear in the law,

and that does address the issue of coercion, albeit not using that word.

The second part of my prepared statement is about the 2001 law. Here again, I ask that somebody ask me a question about the principles behind the law, because some people talk as though China is like Sierra Leone, some kind of group of thugs, running around acting in some unprincipled way or beating up on people for no purpose. No, birth limitation is a public policy in China and there are a lot of complicated considerations that go into it. I would love to talk about that if somebody would like to ask.

Now, under the 2001 law, I have three topics. The first topic is duties. Some people say there are two incompatible interpretations of Chinese birth policy, voluntary versus coercive. This is not very helpful, because the policy is both. Limiting your fertility is mandatory, like paying your taxes or serving in the draft in a war. So, it is not voluntary. But compliance with the policy is now, as Bonnie just explained, largely voluntary, as a result of 20 years of enforcement, propaganda, and socioeconomic change.

But there is still some non-compliance. People try to get away with things. There is, therefore, enforcement now in the form of the quite large “social compensation fee.” So arguing about whether there is total reproductive freedom or whether the program is completely voluntary or not is a complete waste of time. The policy is mandatory and it is a duty of Chinese citizens to comply with the policy. That is a matter of considered public policy, and that is not going to change.

My second topic about what the 2001 law is trying to do, is that the national political leadership has a huge interest in restraining the local state. Local governments in China tend to be very predatory, they try to extract too many resources from the public. Some have gone hog-wild in their administrative behavior. The national leadership is terrified of this. They do not want a rebellion against them on account of this maladministration. So one of the basic purposes of the law is to reign in maladministration.

Accordingly, when you see demands for lawful implementation and punishments for unlawful implementation in order to guarantee citizens’ rights, this is not boilerplate. The idea that it is not mentioned domestically is absolutely preposterous. The law came into effect on September 1, and the entire birth planning system spent the entire month of August running one of its huge educational campaigns in order—of all things, in a post-totalitarian system—to make sure that all citizens understood their legal rights and interests. That is not just altruistic. The point is that the government wants the citizens, from the bottom up, to exercise control over the sometimes-out-of-control local state. I would love to talk more about restraining the local state and I would love to cite the articles in the law that address this, but there is no time.

My third topic about the 2001 law is its positive side. Restraining the local State addresses the negative rights of citizens not to be abused. The provision of benefits addresses positive rights. What is really extraordinary here is that the Chinese Government is in the process of making up new rights on behalf of its citizens right and left, rights that are not in the Constitution, rights to reproductive health care, rights to free this and that. I am not saying that it

is paradise over there, but my talk is titled, “Positive Recent Developments” because if you do not recognize the positive developments when you see them, you cannot foster them.

The third part of my prepared statement was about implementation. The main thrust of what I talked about there—and you can look at it—are the practical problems that the government will have in carrying out the 2001 law, particularly the cost of delivering these positive reproductive health services and we all know how expensive that is. But, here again, I make a plea that somebody ask me a question about implementation, because now I have something much more concrete to talk to you about, which is this recent work conference, which is the implementation of the 2001 law and which is a positive development of such positiveness that I would not have dared hope for it when I made up the title.

[The prepared statement of Mr. Winckler appears in the appendix.]

Mr. WOLF. Susan Greenhalgh, please.

**STATEMENT OF SUSAN GREENHALGH, PROFESSOR OF ANTHROPOLOGY, UNIVERSITY OF CALIFORNIA AT IRVINE, IRVINE, CA**

Ms. GREENHALGH. Thank you.

Since China launched its controversial one child policy in 1980, influential voices in this country have advanced a powerful critique of the state-sponsored coercion used in the name of limiting population growth. While the focus on coercion has been helpful in drawing attention to the human rights abuses in the Chinese program, it has outlived its usefulness.

Three limitations bear note. First, the existence of coercion in the Chinese program is by now very stale news. Few people on earth do not know about this.

Second, and more importantly, the exclusive focus on coercion has kept us from seeing, to say nothing of understanding, new developments in China’s population policy. The coercion story divides the world into two opposed systems—capitalist/socialist, free/coercive, good/bad—and defines the presence of coercion as the only thing worth noticing about the Chinese program. Evoking an older bipolar cold war world, the coercion perspective ignores forces of globalization that are profoundly transforming China’s State and society, fostering not only change in the State program, but also the emergence of new and progressive quasi-state and non-state sites of political activity. While some Americans have been turning over every stone looking for coercion, since 1993–1994 Chinese reformers have been quietly dismantling the old target-oriented system, replacing it piece by piece with one focused on reproductive health. These gigantic changes remained invisible when we are only looking for coercion.

Third, the exclusive focus on coercion has limited our responses to new developments in Chinese population affairs. The coercion critique has elicited punitive responses from the American Government, rather than constructive engagements with Chinese reformers.

The official American response has been less helpful than it could have been. China is changing. While continuing to draw

attention to human rights violations in the Chinese program, it is time to move beyond that single-minded focus on coercion to see the remarkable transformations that are taking place and the opportunities they present for constructive American response.

This brief presentation draws on nearly 20 years of active scholarly research on China's population dynamics, policy, and birth planning program. That research has involved numerous trips to China where I have conducted extensive interviews with both the makers of China's policy and the peasants who are its main objects. In those 20 years, I have heard many heartbreaking stories and seen many deeply appalling things. In my scholarly articles, many focused on the human costs of the Chinese policy, I have sought not to criticize China, but to understand how those troubling practices came about. That has seemed a more productive approach.

Today I want to make three points. First, despite the heavy cost China's restrictive population policy has imposed, and continues to impose, on women and girls, important pro-woman changes are occurring not only within the Chinese population establishment, but also outside the state, that is, beyond the scope of formal law, which often follows as much as leads social change in China. Given the growing role of non-state forces in Chinese politics, it is important to attend to and support these developments.

The second big point. The promising changes that have occurred in China have stemmed, not from foreign coercion, but from a combination of internal critique and constructive engagements with international organizations. This history contains important lessons for the formation of American policy toward China in the future.

The third big point. The prospects for further reform to advance women's rights and interests will be shaped by a variety of cultural, political, and demographic factors which present both challenges and opportunities. In this, as in other domains, China will continue to follow a Chinese path to reform that will bear the marks of that nation's distinctive culture and politics. We must not expect Americanization.

Since the early 1990s, two streams of women-focused critique and reform of the birth planning program have developed within China.

Reforms in the State Birth Planning Commission.—In the early 1990s, facing rising birth rates, the Commission oversaw the use of harsh administrative measures to reach targets. By early 1993, those in charge realized that fertility had fallen to a level far below what they had imagined possible. With pressure to produce results off, in 1993 and 1994, Commission leaders began to grow concerned about the social, physical, and political price that had been paid for pushing the numbers down so fast.

These domestic concerns were supported by China's growing involvement with the international movement for women's reproductive health, associated with the 1994 Cairo conference. In the wake of that conference, collaborations with foreign organizations advancing reproductive health agendas multiplied. From those organizations, reformers in the Commission received a vocabulary of reform, financial resources, and organizational and technical know-how to pursue more woman-centered health-oriented approaches.

As documented in detail elsewhere, since the mid-1990s the State has introduced a package of programmatic policy and legal reforms culminating in the new law designed to improve the delivery of services, while retaining control over population growth.

New voices outside the state.—Meantime, another dynamic has been developing outside the population establishment. Since the mid-1990s, a loosely defined group of women scholar-activists has begun to speak out about the harmful, as well as helpful, effects of birth planning on women's health and well-being.

Crucial to the emergence of these activists has been the multiplying connections to transnational agencies and feminist and reproductive health networks forged at the Fourth World Conference on Women held in Beijing in 1995. Since the conference, a number of women's rights activists have begun to work to raise consciousness about the effects of State birth planning on women and girls and to promote policy and program changes to alleviate the negative ones. Women's advocates in China must exercise great caution in criticizing what remains "a basic state policy." In this restrictive political climate, transnational links have been critical, for they have given these women and men new concepts, political support, and external resources to pursue their agendas.

NGO [non-governmental organizations] projects on behalf of women and girls.—Recent work has highlighted the significant innovations in the state program, but initiatives emerging from NGOs are significant as well. Such projects include women's income-generating activities, magazines for rural women that include special sections on reproductive health, telephone hotlines providing advice on sexual and reproductive health and rights, and many other things. Many of these projects have been developed on local initiative and supported, in part, by foreign organizations.

So far, I have talked only about the projects initiated by urban elite actors. But China's rural people are also taking matters into their own hands and working to alleviate some of the costs strict birth control has imposed on rural women and girls. In the countryside, for example, a whole informal culture of adoption has developed that flourishes largely outside of the official apparatus of the state. The legal development of women's rights is important, but so, too, are informal practices that bolster women's status and rights on the ground.

Challenges and opportunities ahead.—First, the challenge of political economy. In the reform area, the advance of global capitalism, coupled with the retreat of the State from direct intervention in many areas of life, have left women vulnerable to many forms of discrimination. New notions of the virtuous wife and good mother who has left the public sphere to men will complicate efforts to promote women's status and rights.

Second, the challenge of traditional culture. The notion of women's independent rights has few precedents in traditional Chinese culture, a culture in which women's social and legal place was within the male-defined family. These cultural constructs will shape the way legal notions of women's rights develop.

Third, the challenge of an unknowable demographic future. Today's relaxation has been contingent on the achievement and maintenance of low birth rates over the last 10 years. Today, by

the way, the TFR [total fertility rate] is estimated at 1.8, quite astonishing. Should the birth rate, though, somehow rise or turn out to be higher than current estimates suggest, the reforms may well slow.

Fourth, the opportunity presented by social change. Twenty years of reform and economic advance have dramatically lowered child-bearing preferences. In many parts of the countryside couples want, at most, two children, and in some areas they want only one. These changes in Chinese society have made, and will continue to make, high-pressure tactics in the birth planning program increasingly unnecessary.

Fifth, the opportunity offered by a new gender consciousness in the state. Since the mid-1990s, the Chinese State has made women's economic, political, and educational development a newly important part of its ongoing reforms. While implementation faces obstacles, this new commitment to women is a promising development.

Thank you. Thanks very much.

[The prepared statement of Ms. Greenhalgh appears in the appendix.]

Mr. WOLF. Stirling Scruggs.

**STATEMENT OF STIRLING SCRUGGS, DIRECTOR, INFORMATION AND EXTERNAL RELATIONS DIVISION, UNITED NATIONS FUND FOR POPULATION ACTIVITIES [UNFPA], NEW YORK, NY**

Mr. SCRUGGS. Thank you, sir.

I will spend a few minutes talking about UNFPA's history of work in China, what it has done in the area of advocacy, and its current program.

UNFPA first began work in China in 1980. During our first 10 years, we focused mainly on projects that had to do with self-sufficiency, UNFPA supported China's first modern census, with assistance by the U.S. Census Bureau and the U.N. Population Division.

We also supported contraceptive research in China with WHO, believing that a breakthrough in contraceptive technology could come from China because they had such an extensive research program.

We began academic training for Ph.D candidates from 23 universities in China and who were sent away to United States, United Kingdom, and Australian universities for their degrees. We also worked in the first 10 years on contraceptive production, assisting China to upgrade, and in some cases build, contraceptive factories. We did not pay for the building, but for the equipping and the training.

In about 15 years, China became totally self-sufficient in high-quality international-standard modern contraceptives, including pills, condoms, IUDs [intra-uterine devices], injectables, and foam. We were assisted in this work by the Program of Appropriate Technology in Health [PATH], a Seattle-based NGO.

Beginning in the 1990s when I arrived in China, we assisted with another census. We worked with the returning Ph.Ds so they could establish academic programs in their own universities in the subject areas of sociology, demography, and statistics. This way

they could provide research that told Chinese decisionmakers about the problems inherent in their policy, and some of what Susan Greenhalgh was talking about.

We continued contraceptive research and we established a high-quality maternal and child health and family planning program in 310 counties. The focus of the program was on safe deliveries, acute respiratory infections, diarrhea, breast feeding, and the use of high-quality contraceptives manufactured in Chinese factories. Our partners in this endeavor were UNICEF and WHO [World Health Organization].

We established a special inter-personal counseling and informed consent program which was also executed by the Seattle group PATH.

The creation of China's first women's empowerment projects in 36 counties in 11 provinces was probably the most gratifying field projects I have ever been associated with. Of course, beginning in 1997 we initiated the current program, which includes the now very well-known 32 counties project.

In the area of advocacy, we began in 1980, as soon as we arrived in China, advising the Chinese against the use of the one-child policy. We have maintained a constant dialog since that time with the Chinese as representatives of the United Nations and international standards.

In 1983, as John Aird pointed out earlier, it became apparent that there was a massive coercive campaign of sterilizations and abortions. We sent our deputy executive director the day after we learned of this injustice, and I myself, when I was in China, met with the ministers and vice ministers frequently to criticize and discuss various aspects of coercion that would appear in the press or that I would learn about.

When I arrived in China, my first field trip was based on a human rights event. That is a law that was passed in several provinces to sterilize the mentally retarded. The law was put together without scientific evidence or consideration for human rights.

I went to villages in the northwestern part of China where there were a significant number of people who were suffering from mental retardation, much more than in a normal population. I went back and worked with WHO to bring in a team of experts. They came in and discovered that micro nutrients were missing from the diet and set up a massive iodine program to add iodine to the diet. That was financed and executed by UNDP [U.N. Development Programme] and UNICEF.

In 1992, I put together a research project with the Alan Guttmacher Institute, WHO, and Beijing University to try to convince the Chinese to stop using the steel ring IUD, which was ineffective and caused significant difficulties for the women who used them—some 75 million at that time.

The research convinced the government to switch to copper-based IUDs 2 weeks after the report was released. Over a 10-year period, which just ended last year, the researchers estimated that 41 million pregnancies, 26 million abortions, and 14 million births were prevented just by the switch of IUDs, and that a million miscarriages were prevented, along with 360,000 child deaths and 84,000 maternal deaths.

In 1994, armed with the Cairo program of action, the Action Plan of the International Conference on Population and Development, a needs-based and human rights-based blueprint for global action, we were able to push the Chinese harder to accelerate pro-human rights changes in their program. The fourth country program was put together with that in mind.

The objectives of the program in 1997 were to improve and provide access to quality reproductive health services for women and men in a small, limited area, and to demonstrate an integrated client-centered approach to reproductive health, information, and services on a voluntary basis, and by doing so, developing a model in these selected counties from which lessons could be learned and could be drawn on for application at the national level.

At the beginning of the project, a so-called “pink letter” was sent to all households in the 32 counties explaining the project, the human rights implications, and the rights that the people would have for quality family planning and to be able to make their own choices. Although targets and quotas were lifted, they still were not absolutely free to make their own choice because of an onerous social compensation fee.

Before this program was initiated, there was no privacy during counseling and no informed consent. Now there is privacy and informed consent. During the life of the project, the number of women who know at least three forms of contraception has increased from 39 to 80 percent; sterilization has decreased; IUD use has increased; abortion has decreased; maternal mortality has decreased; infant mortality has decreased; and delivery by skilled birth attendants has increased.

Better medical protocols were developed for choice in contraceptives, for help during menopause and infertility, for support to prevent sexually transmitted infections, reproductive tract infections, and AIDS prevention. Also, protocols to promote breast feeding were improved.

So far, this model has been adopted in 800 other counties in China, including 4 entire provinces.

Challenges ahead: The social compensation fee, the one-child policy itself, improvement of the IEC, or Information, Education, and Special Communication; projects to change behavior, and condom availability for the HIV problems that China is now facing. Our major mission continues to be to prove that choice is right, it works, and to continue to advocate for gender equality.

UNFPA, like all U.N. organizations, is guided by international human rights standards and principles. UNFPA provides assistance in all phases of reproductive health, including family planning, maternal health, sexually transmitted disease, and HIV prevention, treatment for unsafe abortion, and advocacy for an enabling environment.

What that primarily means is women’s rights and the availability of reproductive health services. We assist countries to become sustainable in development planning and self-sufficiency through data collection, analysis, and research.

Governments need to know the size of their population, the dynamics—the number who live in urban areas, rural areas, the internal and external migration situation, age—in order to meet

citizen needs and vital statistics. We have advocacy programs all over the world focused on human rights, gender equality, women's education, social participation, health care, and reproductive health.

I am proud to be associated with UNFPA. I am proud of its principles, its work, and its staff. But today, due to discrimination and lack of quality reproductive health services, and because of a lack of funding, "every minute" a woman dies from pregnancy-related causes, 40 have unsafe abortions, 190 become pregnant who do not want to be, 48 percent of all women deliver at home without medical help, and finally, every minute 10 people are infected with HIV, half under the age of 25.

Specifically, in China, I believe engagement has helped to move China to improve women's rights and to moderate its population policies. Much more is needed, but each day more citizens are getting involved and understanding this agenda. China is, I believe, moving forward, but they have a long way to go.

Thank you.

[The prepared statement of Mr. Scruggs appears in the appendix.]

Mr. WOLF. Thank you all very much. This is a wealth of information, and a diversity of views, which is what we try to do at these roundtables.

I will start. We had a similar roundtable 2 weeks ago on HIV/AIDS. One of the issues that came up was the skewed gender birth ratio and the implications for HIV/AIDS into the future.

It obviously has many other implications. It is something that exists not just in China, but that skewing exists in a number of societies.

What are some of the longer term implications of this? Are there concerns within the Chinese Government, among reformers and non-reformers, about the implications and what one might do to reduce it?

Mr. AIRD. There have been concerns within Chinese circles, including even, I understand, within the State Family Planning Commission itself, but especially in Chinese demographic circles, about the consequences of the use of coercive measures.

In the mid-1990s, there were articles in demographic journals which frankly admitted that the program was based on coercion and argued that coercion was creating and exacerbating the popular backlash.

One article said that the stronger the course of measures used, the stronger the backlash against them. Another article pointed out that programs of this sort represent a violation of women's rights. They did not have the right to choose their own form of contraceptive. The type of contraception was prescribed for them and they had to follow that. Now, these are complaints from the 1990s.

More recently, and I think more significantly, something which has not been mentioned here, and I do not think I mentioned it in my written preparation—it should have been there but I did not really have time, in just 2 days, to put it in there—is the fact that there have recently been testimonials from top Chinese leaders going back as far as Peng Peiyun, the previous minister in charge of the State Family Planning Commission, and now including

Zhang Weiqing, who has said this several times, and even Jiang Zemin himself, that the present low birth rates are unstable. Some of the quotations suggest that the——

Mr. WOLF. Excuse me. I am sorry. Maybe I was not clear. My question was, the implications of the skewed gender birth ratio.

Mr. AIRD. Skewed gender. Well, all I know about the attitudes on that, is there has been an outcry that the danger of this sort of thing is that, within a given period, many Chinese men will not be able to find wives and that there will be serious problems of social unrest as a result.

There have been current reports in China of difficulties with abduction of women under false pretenses into rural villages, reports of women being lured away on a social service basis and then finding themselves used as common property in villages where there are insufficient women.

The government has expressed concern about this, and of course it is partly a result of the one-child limitation, particularly its impact on rural areas where it is important to have a male because it is the only basis for Social Security in many villages when the family grows old.

But the other part of it, of course, is the traditional Chinese preference for males, which is not confined to China, but is found elsewhere in Asia.

Mr. WOLF. Right.

Susan, I wonder, could you comment on long-term implications and the possibility of, I do not know, reversals from policy means?

Ms. GREENHALGH. The long-term implications are really worrying. You probably know that the sex ratio at birth now is 116.9. It is really high, and it gets worse with higher-order births. It is hard to say what the long-term implications are.

I think we cannot be sanguine about the implications for women. The rise in the abduction and sales of women in rural areas is directly connected to the disappearance of marriageable women. On the other hand, the government has been deeply concerned about this since the early 1990s especially since around 1993.

The deputy director of the State Birth Planning Commission issued an order to stop using ultrasound for prenatal sex determination, because this is the major factor behind the increase in the sex ratio at birth. Parents are aborting female fetuses. Those kinds of measures have not been very effective. All you need to do is bribe the local medical worker and you can be told the gender of your unborn child.

Increasingly, especially since the mid-1990s, there has been a concerted effort in many areas of government, including the State Birth Planning Commission, to change tactics. That is, to try to improve women's well-being on all fronts: political participation, economic status, legal status, health status, and so on. This is where the action is now.

I have a new statement, right off the Web, in Chinese, on the interpretation of the new law, "Central Concept: People as the Core. Major implementation strategy: Improve the status and legal rights of women." So, that is encouraging.

Mr. WOLF. Thank you.

John Foarde is the deputy staff director of the Commission.

Mr. FOARDE. Thank you, Ira.

Thank you all for coming and sharing your expertise with us this afternoon.

Since the late 1980s, and particularly after the Tiananmen massacre in 1989, a number of Chinese people have come to the United States and asked for asylum under the Immigration and Nationality Act. A great many of them have asked for it on the basis of the family planning policy.

I take it, John, you, and also Ed and Susan, have done background papers over the years—a recent one in your case, I think—for the INS to consult when trying to adjudicate these claims.

Can you give us a sense of whether there has been any change in the nature of those claims in the last 12 years, and if more recently there is the same basis on which to grant asylum on that basis as it was, for example, in 1990, 1991, 1992?

Mr. AIRD. It is hard to detect a change because when I see the cases, sometimes the offenses that they refer to occurred 2, 3, 4, 5 years ago. However, recently, for example, I had two cases in which the complaint was recent—it was dated from about 2000, 2001—of children born without a birth permit.

In one case, it was a daughter born to a couple in a hospital. The child was obviously in good, healthy condition. It was born under circumstances of a forced late-term abortion. The child emerged, however, unharmed, but was taken away and apparently killed by the hospital personnel because it did not have a birth permit.

In the second case, it was a girl, again, a forced late-term abortion. The child was born alive. It was taken home by the parents. One week later, the Family Planning people came to the home and said the child needed an inoculation.

The parents suspected nothing. The inoculation was given. Shortly after they left, the child began to experience difficulty in breathing. They rushed it to the hospital, where it was declared dead on arrival.

There, a family planning official—or one of the doctors, I do not remember which—said to the couple, do not think you can escape the long reach of the family planning policy. That alerted them to the idea that the inoculation was probably a lethal dosage intended to kill the child born without a permit.

I cannot trace that these things are getting any more moderate over time, but I think these are rather deviant samples. I do not think there would be much basis for generalizing from them. All they say is, such incidents continue. They continue because local cadres are still under pressure to make sure that they do not exceed their birth quotas.

Mr. FOARDE. Thank you, Susan.

Ms. GREENHALGH. I will take that one. I agree that it is impossible to detect a change in the nature of the stories, because many of the claims are for events that happened even 10, 20 years ago. My firm view is that these kinds of stories that these claimants tell are not at all a reliable basis for our knowing what is going on in China.

I have discussed this matter with a number of INS agents, people who are on the front line listening to these stories, trying to decide whether they are credible. The INS agents have a very

difficult time. For one thing, the INS does not require any kind of documentation, so people can just tell whatever story they think is going to give them political asylum in this country.

And while the abuses that have taken place in the program are really pretty terrible, there are also networks of story shapers out there that help to shape the stories that people tell. So, I do not think that these kinds of stories are going to be a good basis for shaping American policy having to do with China's birth planning program.

Mr. AIRD. May I voice a note of dissent?

Mr. FOARDE. Please.

Mr. AIRD. Many of the stories that I see, Susan, are highly detailed. They have a ring of verisimilitude. I do not get a chance to question the applicants themselves. I never have that opportunity.

But, where I think the applicants' comments are not very credible, I do not accept the case. That has happened in a few cases. In fact, once I testified on the other side, on behalf of the Service and against an applicant whose story I found not believable.

Often, too many times, however, the story is simply too vivid, too particular to be dismissed as a fabricated story. But, again, you are absolutely right. As I said earlier, it is hard to generalize from these stories about things. What they say, is it is still going on in some places.

Mr. WOLF. Susan Weld is the general counsel of the Commission.

Ms. WELD. As you all know, this is a rule of law Commission. We are supposed to be focusing on the rule of law in China. So I am interested in what ways does the expression of this policy in the form of a national law make a difference?

Does it mean that women will have causes of action to try to apply some of those penalties against the administrators who do the abuse? How will this be enforced? Is there additional legislation necessary before that step can be taken by women who are the victims of abuse? I guess, Ed, could you respond to this?

Mr. WINCKLER. Well, that does go to some of the implementation questions. I think a set of legal premises—the language about lawful implementation and legal rights of people—is the crux. Then there are supplementary implementing regulations, such as the Technical Services Regulations, that begin to spell out what that is supposed to mean. And now there is also this work conference where they are putting together their package of implementation measures. This is the Chinese talking to themselves—not the Chinese talking to foreigners—which is always the best kind of evidence you can get. This is the model that they are going to prop up to be what the whole country should do.

If I could just take a slight sidebar. There is the misapprehension that the 2001 law calls for targets and quotas, but that is simply a mistranslation. The whole system has begun the process of dropping targets and quotas, partly under UNFPA urging, and this city in Heilongjiang, which is going to be the national model, has gone quite far in that direction.

The real crucial test is that not only is the formulation of policy implementation measures shifting from making up target numbers that cadres are supposed to meet, toward making up programs for raising the quality of reproductive health service, but also they are

doing the same thing in the “responsibility systems,” the personnel evaluation systems. This is supposed to go to your question of, how do we know that the law is going to make a difference? Well, we know it is going to make a difference because they are using this tool, the personnel evaluation system—it is astounding—to do exactly the opposite of what they used the same tool to do in 1991 when they used that tool to enforce a very coercive enforcement of the program.

Now, in Mudanjiang, in Heilongjiang, the new model, they are not going to have any item in the personnel evaluation system for population quota or for birth rate. They are dropping the demographic indicators and they are switching all the indicators over to quality of care, which of course includes women’s rights not to be abused and so forth. But the emphasis now, because they really feel that they have gotten a handle on the abusive administration problem, is quality of care and it is “democratic participation.”

Now, I utter that in quotation marks because this village self-government business where the government is trying to get the community itself to enforce the program does not mean an absence of coercion. The program is still mandatory. But in terms of guaranteeing that there will not be abusive implementation, that everything is fair, that it is transparent, and so forth, that is exactly what the government is trying to do, by putting as much of the administration of the program in the hands of village committees as possible. That is the emphasis in this new implementation model that is being put out.

Ms. WELD. I was thinking of something quite specific, which is when the women’s rights and interest law was passed it was criticized because it says women shall have all these good things, and certain ways of treating women shall be considered abusive and illegal. But there was inside that law no cause of action, so you often had to depend on somebody else, like the Women’s Federation or somebody, to come up and sue on your behalf.

So I am looking for a way that the people harmed, the women in particular, can be subjects rather than objects. The government is trying to reform the abuse from the top and the United States is trying to reform it from the outside, but the women are the ones harmed. How can they enforce the law for themselves?

Mr. WINCKLER. Well, the quick answer is that national laws in China are always vague. There is a tissue of laws, other related laws—administrative redress and administrative litigation and so forth—that if you want to take a legal approach is what you would rely on. The procedures are there. But actually this village self-government thing is much more to the point, because if you are a woman in a village and abused, you do not have to go through some complicated court process. You just bring it up within the village and the village leadership should complain to higher authorities.

Ms. WELD. Thank you very much.

Mr. WOLF. Anne Tsai, who is our specialist on ethnic minorities.

Ms. TSAI. I was just wondering if any of you have a sense of the Chinese public’s reaction to the law, particularly women in various parts of China. Let us start with Bonnie.

Ms. GLICK. When we were there, the law had not yet been implemented. So when we would address the idea that there was a new law coming, it was hard to elicit any responses on that except in discussions with government officials.

When we met with people from the government who were generally at the deputy Governor level, is the easiest way to describe it, of each of the five counties that we went to, they toed the line.

Going to Susan's question about the legal process through which people could address their claims, we would specifically ask in each case, have you had examples of families or women coming through the courts to say we have this child, we do not want to pay social compensation fees, we cannot pay social compensation fees, whatever it was. And the constant response was, rather than going through the courts, we handle these things off-line.

The sense is certainly that there are formal measures of redress in place, but they are probably not used. When we asked if we could cite cases that had been brought to court, no, we have not had any cases in this county.

In terms of women, it was actually so interesting to see generational spreads on that. When talking with older women who were government officials, they were pretty hard-core, is the best way to describe their impressions.

One woman said to us, well, there is no discussion here. We are on a boat. We are 50 people on a boat and there are limited resources on board this boat. If somebody brings an extra person on board, what are we supposed to do? We cannot have 51 people on this boat.

The younger women we met with, also government officials, were at least, in tone, more flexible in terms of their perceptions of where China was going, what the new law would bring, but nobody was willing at the time to comment on specifics of the law.

Ms. GREENHALGH. I can address that, but kind of obliquely. It is way too early to know people's reactions to the new law. But in answer to your question, and also Susan Weld's, how women can become subjects, not objects, of these legal and policy developments, I had an interesting set of interviews in Beijing in late 1999, mostly with women's rights scholar-activists. They described to me how the women's activists are really constantly monitoring what is going on in the state, new legal and policy developments. They gave me an example of a way they can use these developments subversively to advance women's own interests.

For example, they pointed out that new developments in the State birth planning program at that time had focused mostly on "quality of care" and the concept of "taking people as the core." They were not really sure. That seemed like a top-down process of reform and they were interested in bottom-up, individual-initiated reform. So they pointed out that they could take that concept, quality of care, which had a rather restrictive definition in terms of the State use of it, and broaden the meaning. Everybody knows that, after Cairo, concepts like that have a multiplicity of meanings. So, they could take that because the State introduced it in formal legislation and policy developments. They could say, aha! Take that, grab it, broaden the meaning. Use it to gain more support for it.

In this way, they could broaden the types of changes that are going on in China. I was really excited about that.

Mr. WINCKLER. Just one word. There is considerable literature about the uses that ordinary Chinese citizens make of some of these administrative litigation procedures. Kevin O'Brien has a wonderful article about this, called, "Rightful Resistance." So there is every reason to think that, as a result of the August campaign educating everybody about these rights—even though this which probably is not a complete process—as people learn of these rights they will use them. They have used similar rights in other policy areas, so there is no reason to think they will not do it here.

Mr. AIRD. I would just add a quick comment. One ironical result of the law already was, men claimed that under it, since it guarantees the right to have a child, that they should have the right of veto over a woman voluntarily seeking abortion. That caused a little excitement in China.

Mr. WOLF. Thanks.

Matt Tuchow works for one of our Commissioners, Congressman Sander Levin.

Mr. TUCHOW. My question is for Professor Greenhalgh and Ms. Glick. Is there any evidence that the UNFPA funds are being used to directly fund forced abortions or sterilizations? Then I have a follow-up question for Mr. Scruggs, which is, what mechanisms are in place at the UNFPA to prevent such direct use of funds?

Ms. GLICK. I went to 5 of 32 UNFPA counties. In those five counties, I saw no evidence that UNFPA directly funds a program of coercive abortion or involuntary sterilization.

I cannot say that I saw everything. The question that you ask of direct funding of forced abortion, what does direct mean? As I learned on return, this is something that lawyers figure out after the fact. I would have to say that, based on the 5 of 32 counties that we went to, we saw no such evidence.

Ms. GREENHALGH. I certainly have no evidence that UNFPA directly supports such practices. But I do have evidence based on 20 years of going back and forth to China and working mostly in the scholarly domain, and observing what UNFPA does from the outside, of UNFPA's working to support the reformers within China. Obviously, UNFPA cannot control everything that goes on within its bailiwick, but my impression is that their work overall has been moving things in the right direction.

Mr. SCRUGGS. We monitor, as much as we can, all of our programs there. We monitor and require exact information on procurement and program activities. With this particular program, it seems like half the countries in the world have helped UNFPA monitor including the United States which monitors frequently.

But to speak to what we have always tried to do, it is to engage the Chinese in dialog. For example, the sterilization of the mentally retarded. We tried to find a solution to that, and I believe, did.

When you were talking about sex ratios earlier, we supported the research that began to bring that information out that came from some of the scholars we trained. We supported the Ph.Ds who became the people who went to the government and told the govern-

ment what their policies were doing, and how they were harming the social fabric in China.

What we do, is we try to be a voice for change, a voice for human rights, a voice for reason, and we monitor everything that we do to the best of our ability, both financially and programmatically. Everything that we do is plotted in a work plan that is fairly rigidly adhered to.

Mr. TUCHOW. A follow-up for Professor Greenhalgh. You mentioned in your testimony something to the effect that the emphasis on coercion was restricting constructive engagement.

I was wondering if you can elaborate on that. What sort of constructive engagement? Has it been the UNFPA or others that you think were helpful? You mentioned briefly the NGO contact, but I am interested particularly with regard to international organizations.

Ms. GREENHALGH. I think it would be very helpful, if instead of the United States constantly scolding China for being coercive—and everybody knows, people in this room, people around the world, people in China know that coercive abuses continue to occur in the program. But the question is, is that what we should be noticing, or should we be noticing the broad changes, systemic changes and very particular changes that are leading to a reduction in the incidence of those terrible abuses? I think it would be wonderful if, instead of just criticizing China, we would acknowledge that China is not this massive totalitarian State any more. China is quite politically divided inside. There are all sorts of factions, just as there are in this country. There are a lot of reformers within China.

By the way, we should notice that the Chinese Government is increasingly filled with people with at least bachelors degrees, being filled with engineers. These people are not the old Communist cadres that many of us still think about when we think about China.

I think it would be really helpful if we could identify reform factions within China and support the work of those organizations, both within the state and NGOs who are operating outside the state. We can work through international organizations to support the people and China if that is what works better.

Mr. WOLF. That is actually an interesting issue that our own bosses are struggling with as members of the Commission. How do you balance the issue of identifying problems of human rights abuses and putting a spotlight on them while, at the same time, recognizing that in various areas there are changes going on, and the China of today is not the China of 25 years ago.

Mr. AIRD. I keep asking to add a footnote. May I do one more?

Mr. WOLF. Sure. Go ahead.

Mr. AIRD. There are several sources that I have seen over the years in China which indicate that foreign criticisms of human rights violations in China have had two effects. One, is to weaken the use of coercion at the grassroots level, because apparently the word gets down and it undermines the confidence of cadres in applying coercive measures.

The other, is that it tends to strengthen the hand of people in China who are already objecting to coercion and who feel that the moral sentiment of the world may be, to some extent, on their side.

So I think that it is not entirely a negative impact. It can have a constructive impact on the diminution of coercion and on re-thinking coercive measures in China.

Ms. GREENHALGH. Can I add a quick footnote to that?

Mr. WOLF. Sure.

Ms. GREENHALGH. I have done extensive field research at the local level and at the village level in China, and also read the reports of other anthropologists who have done similar work. I sincerely doubt that foreign criticism has undermined the use of coercive practices at the local level. I mean, people do not have any idea what is going on outside China in the remote areas of rural China. So, just a footnote to that point.

Mr. WOLF. No more footnotes.

Where are the reformers? Are there focal points within the ministries, within the Party, within other areas?

Mr. WINCKLER. Basically, I should say that we do not know the politics of all of this very well. Certainly, some of the reformers are the people that, as Stirling Scruggs explained, UNFPA helped train as demographers so that they can give some professional input to the policy process.

The only reason I grabbed the microphone is that I had the good fortune to be involved in an effort of constructive engagement to help reform the birth program at the request of the State Birth Planning Commission. One hundred of their people came over to the United States, and many of them are the reformers, people who, at that point, were deputy directors of their departments, and so forth. These are now the top 100 people in China who run the program, running all the departments in the central government, and running the provinces locally. Most of these people are a joy to talk to, they are extraordinarily open-minded.

Incidentally, apropos of the 2001 law, one of the reasons why I think I know what the law is trying to do, is that a member of the last delegation that I met with in March of this year helped draft the law and was the human rights specialist in the process of drafting the law. He sure as heck is a reformer, to continue on that line. You sit there with him and go through the law, and he is pointing out all the things that are not there, coercive provisions, and he is telling you that he is going to go and meet with the provinces and get them to remove those kinds of provisions from their local legislation. I mean, there is a reformer for you, and the other new people running the State Birth Planning Commission.

Mr. WOLF. Any other thoughts, institutionally, where those loci are?

Ms. GREENHALGH. Yes, definitely. In the State Birth Planning Commission, in the CPIRC, China's Population Information and Research Center, in the universities. I happen to know the demographers, the academic wing, better. Most of these people, the younger people in particular, were trained abroad. These people have learned a lot in this country.

They all want China to be a respected member of the international community. They still work in politically difficult circumstances. They have to be careful how they say what they say. These are people who are actively interested in reforming the program.

Even within the State Birth Planning Commission, it is amazing. In 1999, I interviewed the man, a very high-level official at the Birth Planning Commission, who was personally responsible for getting those targets achieved in the early 1990s. That achievement entailed horrendously coercive measures. This man totally turned around. He was influenced by a Chinese sociologist, trained in this country, who kept saying in his ear, "behind the numbers are tens of thousands of families. Remember the families." This man totally turned around. Of course, he achieved his targets, and then he had a complete revelation. He personally feels very terrible about what happened. So, it is amazing where you can find the reformers. This is a tough-minded, engineering-type person.

Also, these NGOs that are springing up. All those are very interested in promoting change, and there are a lot of them. One can gain access to them. Even on the web, it is out there.

Mr. WOLF. Bonnie.

Ms. GLICK. I think, too, that we saw a stark difference in two different government agencies. One, was the State Birth Planning Commission, where I truly agree that you have really enlightened people who have been trained in the United States and in the United Kingdom in demography, and they also have souls.

These were people who genuinely want the situation to change in a way that is focused on reproductive health and maternal care. I am going to put them in stark contrast with the folks who are with the Ministry of Health. I do not know why the distinction exists, but in the Ministry of Health the focus is on making numbers, it is on staying the same, not changing.

What came to light very graphically for us, was in one of our first stops we went to a State Birth Planning Commission health sub-station. It was clean, the people were friendly, the displays were easy to understand. Right next door, was the hospital and it was the most horrifying scene that I have seen.

I have lived in some extraordinarily poor countries, and this was worse than anything I had ever seen. The entryway to the hospital was full of coal and there was a motorcycle parked there, and there were puddles everywhere filled with syringes of medical waste that children were playing with in the streets.

It was just such a horrible juxtaposition of what really struck me as focused on women's health care, and then the Ministry of Health and the gross distinction between the two.

Mr. WOLF. John, you want to add a footnote, please?

[Laughter.]

Mr. AIRD. No footnote this time.

Mr. WOLF. A comment on reformers?

Mr. AIRD. Well, I think I mentioned earlier that I have seen signs of it, of course, in the demographic journals which have condemned coercion and said that it does not work, that it provokes popular resistance. So, it is quite clear.

I also have heard of people attending demographic conferences in China in which there were violent shout-downs over the issue of the implementation of the family planning program between people who defended it and people who felt that it was inhumane. This does not get into print, but apparently it is going on.

Mr. WOLF. Sure. Go ahead.

Mr. SCRUGGS. Ira, I have a footnote. It is a story that I believe speaks to what Bonnie and Susan both spoke about. As I said earlier, we conducted an interpersonal counseling and informed consent training program for many people in the State Family Planning Commission when I was in China.

About 6 months later after the training was completed, I went to one of the areas at the edge of the Gobi desert and met with some of those people. I said, how is it going? How do the people like it? They said, well, we tried it for a while and it was a wonderful thing to do, because the people responded and we felt more humane. But our supervisor stopped us.

But I can tell you, just as these Ph.D candidates and others, like those people that were trained and understand the impact that it has on their interpersonal relationships with clients and that it has on health care. They will make changes when they can. They are moving China.

Mr. WOLF. Thanks.

John Foarde.

Mr. FOARDE. Bonnie, during your statement you concluded that the Chinese do not meet international norms for family planning. Can you give us a summary, for the record, of what those norms are and where they come from?

Ms. GLICK. I think probably everyone here is better qualified than I to State chapter and verse, but coming from the ICPD and the focus of UNFPA on informed choice, John pointed out, informed choice should mean the choice not to have to use contraception. That is not the case in China.

In America, we have a lot of freedoms. China is a police state. The idea that women and their personal lives, while nothing like they were in the 1970s where women's menstrual cycles were tracked and everyone knew if you were pregnant, that has changed in China. But these fees that the Chinese Government refuses to lift are not in conformance, as far as I can see, with any sort of international norms.

When we would meet with these Chinese Government officials and say to them, you know, your program is going great in this county and you have been selected, you have self-selected to participate in the UNFPA study, what if you lifted the social compensation fees?

And across the board, the response was always the same, oh, we could not possibly do that. It all comes from the center. We are told what to do from the center.

I think that the Chinese still have not reached the point where Chinese Government officials trust the population. If it means that 300 million women of child-bearing age in China were suddenly given the freedom to have two children, that would be an additional population the size of our country. That is something that China is really having to struggle with.

Mr. WOLF. Susan Weld.

Ms. WELD. Thanks. I wanted to ask Mr. Scruggs about the UNFPA and different ways of improving the birth planning system. Does it result in improved health care for women throughout their lifetime, or is it focused only on their reproductive health care? Is

this something which is going to be an effort in those kinds of programs?

Mr. SCRUGGS. We focus on reproductive health care from cradle to grave for all people. That means that it starts with prenatal care, medical care that women get, and nutrition that they get during their pregnancy. And, of course, family planning, which saves more lives than any other intervention because it helps prevent high risk births that women have who are very young, who are old, and who have had multiple births.

So I think that we have a dramatic impact on health, women's reproductive health, and, of course, training birth attendants so that all women can have assisted childbirth and deliveries. That has been a focus of the work. I think that when you improve the quality of care—for example, one of the things these 32 counties do, which is routine in the United States, is that people understand how each method of contraception works and then they choose what is best for them. This choice leads to better results, fewer abortions, and fewer complications. Anyone—and certainly a woman—knows that certain things work for them and certain things do not. Of course, there are contraindications, such as smoking and blood pressure, with various methods of family planning: That is why one needs counselling and consent.

We have seen in these counties that maternal mortality and infant mortality are improving. The abortion rate is going down, which is what will happen when people use contraceptives of their choice. But this is a long discussion and has many facets.

Ms. WELD. Let me move the question on to some of the other people. What I am trying to get at, is whether the idea of Cairo, which is that if women are given other ways of getting power and status in society, they will not focus so much on requiring many children to support them in their old age, or to support their family in their old age. So I am wondering, are those principles actually being adopted in any part of the Chinese policymaking community?

Mr. WINCKLER. Well, I can make one brief comment on it. I think the Chinese have totally bought into Cairo. That is not true with regard to freedom not to contracept—though, now they are about to start dropping the spacing requirement. In some specific ways which one might wish to consider extremely important, they are not in compliance with international norms. But as far as the broad vision of Cairo and shifting the emphasis to empowering women and giving them economic opportunities and raising their status, the Chinese totally have signed onto that. In fact, they started trying to do it before Cairo.

One of the reforms that they started making in the early 1990s was an idea that was sort of analogous to “you cannot raise a child without the whole village.” You cannot change people's reproductive behavior without making many changes throughout the whole society. So, they are trying women's empowerment programs, and poverty alleviation programs, and programs targeted precisely at poor women, and programs targeted at the poorest areas of the country, and western China, and so forth.

Now, many of those programs are under the auspices of other administrative systems than the birth planning system, because clearly it cannot have a competence in all of those areas. But the

man who supervises birth planning these days on behalf of the State Council is Wang Zhongyu, who is the Secretary General of the State Council. By the way, he attended the work conference I am talking about and, on behalf of the cabinet, which is clearly intimately involved in shaping this new policy, endorsed the whole thing. Anyway, if you look back over the last 5 years or so, Wang Zhongyu has chaired endless inter-agency coordination committees trying to implement this more comprehensive approach that I mentioned. So, I think that the Chinese are doing everything that they have the resources to do, and everything they know to do, and everything that the Cairo conference ever thought of.

Ms. WELD. Bonnie, do you have one little sentence to add? If you do not, that is fine.

Ms. GLICK. No. No, I do not.

Ms. GREENHALGH. Can I go back quickly and address that reproductive health question? I think it is important not to think of reproductive health as something having only to do with reproduction and a woman during her childbearing years, because the Cairo concept includes women's health throughout their lives.

In China, it is particularly important because some of the reproductive health problems you can get during your childbearing years, like upper reproductive tract infections, can impair your health and well-being throughout your life. By addressing those early, it is improving women's health throughout their lives.

I have to tell you, I have been an outspoken critic of China on this birth planning program, especially because of the implications of the program for women. I have just been really amazed at the changes. For example, they did a reproductive health survey, one in 1997 and a recent one in 2001. About 40,000 people were surveyed. The improvements in reproductive health care between those two periods are really dramatic.

I will not read you the statistics, but things like proportion of women taking iron when pregnant doubled, taking calcium while pregnant went from 7 percent to 40 percent, prenatal check-ups, from 57 percent to 82 percent. I mean, dramatic changes are taking place. I actually have turned around on this issue.

Mr. WOLF. Anne.

Ms. TSAI. This question is for Ed. I was just wondering if you could elaborate further on the implementation of the new law and findings of the conference that you discussed.

Mr. WINCKLER. Well, let me see. I think I already got the main point across, which is that they are shifting all the administrative emphasis from the old target-driven approach toward the new client-centered approach.

Could I just step back slightly and address the question of the nature of the change process, which will then come back to implementation? The analogy I use is of Nixon and Kissinger deciding to withdraw from Vietnam. There are 300,000 to 400,000 workers in this birth planning system. If you are going to turn an organization around that has that many people in it, you have to proceed cautiously and bring them on board before you hit them with new measures, and so forth. Nixon and Kissinger could not just say, well, this is all a terrible mistake, the troops get out instantly. You have to retreat in a systematic way, particularly since, as Susan

has documented for the 1980s, the minute you give the population the idea that the program is breaking down or softening its policies, then people start doing things that are outside of the parameters of what the program can accept.

So think of it as a strategic retreat, and under fire, if you like, from conservative legislators like Li Peng. Mr. Aird pointed out that there are lots of contradictions in the statements that are coming out. Those are partly the result of the fact that this is a highly political process. Parts of the 2001 law itself are a sop, if you like, to the old style of planning everything from the top down: it spells out the formal framework of planning. As I say in my article, all of the language is there for either a state-centric approach or a client-centric approach, and that is why I consider this recent work conference so important, because it shows that they are moving ahead with actually implementing the client-centered provisions that are a part of the 2001 law.

As far as the specifics of the conference are concerned, I have got the conference summary right here. How can I summarize it briefly? Let me put it this way: practical details. One of the recommendations of Bonnie's group was that we need to monitor this program more, and the Congress needs to appropriate some money so that the State Department has some money with which to follow these developments. What needs to be monitored is no longer what the policy is, because that is fairly clear, but rather this implementation process. It comes down to very nuts-and-bolts issues.

Health care funding in China is a little bit like in the United States, at least in New York State where I live. It is wonderful to have these women's rights to this and that service, but it is actually possible only if the locality can afford it. So, you get into very nitty-gritty questions like, can the country afford these 300,000 to 400,000 birth planning workers? Bonnie has described the fine facilities that they have in some places, but those are expensive and largely have to be paid for by the local community.

So, both from our point of view and from their point of view, what is on the table at this point is a lot of nuts-and-bolts issues. One of the things that you see as you go through these work conference documents, is that they are very candid about all of this. For example, down at the level of specific measures here is Wang Zhongyu, the Secretary General of the cabinet, summing up the concrete things that have to be done: Use the responsibility system to enforce these new objectives; create measures for implementing them; get the local governments to guarantee financing at levels that will actually support these new objectives; make sure that the local governments maintain the personnel slots, because the local governments, in a sense, effectively hire and pay for these birth planning workers. So, those are the crucial issues.

There is also something that came out last year called the Technical Services Regulations, which sounds like it must be the most boring thing you could ever imagine. But that is where all the nitty-gritty stuff is. In particular, there is the question, if you are going to deliver better reproductive health care to rural areas, what is the division of labor between the birth planning system and the Ministry of Health? What the Technical Services Regulations say is that the two of those institutions together should create a local

service network, but Bonnie has already alerted you to the kinds of problems that will emerge.

Bonnie's observations, I think, were extremely astute and very on point. This is precisely the kind of thing, oddly enough, that we need to understand: Not that there is some incident of coercion in some place, but how, as a system, is this Technical Services Network being put into place, and what does it look like? I am sure in different localities there will be a different division of labor between the Ministry of Health and the Birth Planning Commission. So, it is going to be a real mess, but that is the kind of institutional monitoring question that we need to follow.

Mr. AIRD. I think it is necessary to bear in mind, however, that coercion is not something that exists in scattered places at a lower level. Coercion is still essentially the attitude of Li Peng, who still has strong influence in the government.

It has been reiterated by Jiang Zemin and by Zhang Weiqing, both of whom have taken a hard line, both of whom still insist that the birth rates will rise again if the pressure is not maintained.

The policy document of March 2, 2000, still reaffirmed the importance of the target management responsibility system, and the veto with one vote system, and still called for firm hold on family planning.

There are a lot of hard-liners in very important positions who do not share the more optimistic view of some of the people in the State Family Planning Commission and elsewhere.

Mr. WINCKLER. Can I have a 1-second footnote?

Mr. WOLF. Let me just move on.

Matt.

Mr. TUCHOW. Well, I have a follow-up question for Mr. Winckler, also. When you were giving your remarks, you asked for a question or some more time to speak about the law as it applies to restraining local State power, and also the provision of benefits or the creation of new rights in the law. So, I was wondering if you could elaborate on that, briefly.

Mr. WINCKLER. Well, fortunately the local state power thing feeds right into what we were just discussing. I do not know exactly what speeches are being referred to, but, it is true that the policy is that the enforcement must remain firm. Our government leaders do not normally give speeches in which they address issues of what you might call regulatory theory, what kind of mechanism is needed to implement a particular kind of policy, but in China they do.

The 2000 Decision says that maintaining a low birthrate requires a variety of measures—legal, educational, economic. It does include administrative measures, which now are mostly stiffer penalties for government employees. It also placed them last, which is exactly where they are in Chinese enforcement priorities.

However, if you want to talk about what Jiang Zemin's own main personal contribution to this situation is, look at this work conference that I keep talking about. It starts right off, as a post-Communist system would do, from the national leader's ideology, in this case, Jiang's doctrine of the "Three Represents," which we do not have time to go into. Basically Jiang is trying to, just like the 2001 law is trying to, legitimize the possibility of all sorts of

progressive development. What is most relevant here is that Jiang Zemin's Three Represents is trying to shift policy toward stuff that will give the public satisfaction. It is like running for office. They want majority support in the country. What is really salient about Jiang Zemin's statements on these things, is that he has endorsed the slogan that has come out of the State Birth Planning Commission, that the basic criteria for their work should be public satisfaction.

Actually, that, oddly enough, does go to your question about restraining the local State because the whole point is to deliver truly concrete, positive benefits to the citizens—that is, reproductive health care, and so forth. Thus another thing that Jiang Zemin has said, is that they must, in the future, conduct the birth planning program in such a way that it really can do that. And to do that, they have to do two things vis-a-vis the local state.

If I could just have another little sidebar, you realize that since most of this is paid for by local governments and the provinces, the central government has a great deal of difficulty bringing leverage to bear. They can make recommendations for services and create models for implementation, but they cannot tell the local governments, you must do this. It is like an unfunded mandate. They have to persuade the local governments to make the resources available.

So on the general theme of the relationship between the central government and the local state, they want to do two things. They want to rein in local abuses. They are in the process of reforming the local financial system, not just with regard to the birth planning system, but in order to prevent the local governments from over-taxing farmers, in general.

In that context, another concrete thing that is on the table at the recent work conference is that the birth planning program is now going to have to be funded more out of the state budget and less out of miscellaneous local revenues, because these miscellaneous local revenues are being rolled into the more formal tax system to prevent those miscellaneous exactions.

If I could just toss in one more thing about financing, some things should be remembered, with regard to the social compensation fee, however obnoxious we may consider it to be. In the first place, from the Chinese point of view, at this point to demand that they drop this fee is preposterous because they just spent the last 20 years responding to the idea that they should use market-based incentives instead of Maoist coercion and Red Guards. This is their adaptation of incentives and disincentives to a "socialist market economy," as they call it. They have just been able to work this out. I mean, they have spent a long time working this out and it is not going to go away very soon.

But it is a system not only of disincentives but also of incentives. One of the things that the social compensation fee does is to make resources available to the government to pay for things that this extra child will cost the society. In addition, a great deal of that money turns around and goes into the hands of the people who have restricted their fertility and had only one child, as a matter of fairness, because they gave up having another child that would

have been an economic and other benefit to them and out of fairness they deserve some compensation.

So you have flows of funds that have to be arranged properly, both for the practical reason to maintain the funding for the reproductive health services we are all talking about, but also out of equity considerations to maintain the public acceptance of the program that Bonnie was talking about. I may not have covered all your questions.

Ms. GLICK. Can I footnote? The social compensation fee does not sound bad to us when we hear it in English. I am not a Chinese speaker, but another term is the "Society is Bringing Up Child Fee."

That said, the social compensation fees that are levied on Chinese families who have out-of-plan births can be 1 to 2 years' combined salary of the husband and wife. It is not just a little fine, it is really a very strong financial disincentive. So I appreciate the concept of market forces, but it is really a tremendous disincentive.

Ms. GREENHALGH. May I add a quick footnote to something that Mr. Aird said a few minutes ago?

Mr. WOLF. Well, I do not want to start another debate because we have been here for about 2 hours. I think we are pretty much at the end of this. I did want to ask, John, if you had any final comment on this last discussion.

Mr. AIRD. On the social compensation fee. I think that in most countries, the idea that the State invests in the education and welfare of children is seen not as a way of assuming a burden, but rather as an investment in the future. Ultimately, the child grows up. If his health is good and he acquires skills, he repays the state by being productive.

It is not seen as something to the disadvantage of the State for which parents ought to pay. I do not see any trace of that concept behind any mention that I have seen of the social compensation fee. I think its real purpose is as a coercive measure.

Ms. GREENHALGH. Can I please respond to that?

A quick footnote to that.

Mr. WOLF. All right.

Ms. GREENHALGH. I think it is really inappropriate to read statements by somebody like Jiang Zemin or Li Peng, to the effect that we must keep the birth rate down as evidence that they are supporting coercion in the sense of forceful measures. Population control in China, birth planning, has always been about keeping the population growth rate down. They will always say that until population control is eliminated from China.

The fact of the matter is, the birth rate is way, way, way down, and that is because social change has been so massive. What is going on now is walking on two legs, keeping that rate stable and improving women's health.

Thank you.

Mr. WOLF. Actually, if we were going to spend more time here, the issue I would want to discuss is the concept of coercion as a tool for attitudinal change, and its impact.

What is the impact of 10 to 20 years of coercion on people's own thought and behavioral processes, and how much coercion is needed after that. That will be for another future roundtable.

I want to thank all five of you. This has been a very useful, very professional, very learned set of presentations. It is a good way for us to start off the next year.

[Whereupon, at 4:27 p.m. the roundtable was concluded.]

# APPENDIX

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## PREPARED STATEMENTS

PREPARED STATEMENT OF JOHN S. AIRD

SEPTEMBER 23, 2002

What is the purpose of China's new family planning law? Why was it adopted at this time? What effect is it likely to have on family planning in China? Misleading claims about the law are being put forward by Chinese family planning officials and by apologists for the Chinese program, but its true purpose has been made clear in Chinese domestic sources from the start. It is intended to increase the government's control over childbearing in order to reduce the numbers of births and hold down the rate of population growth. This is quite clear from the explanations given in Chinese sources during earlier attempts to draft a national law.

## PREVIOUS ATTEMPTS

These efforts have been under way in China intermittently for the past 23 years. In July 1979, as China was tightening the then newly announced and highly coercive one-child policy, the leading Chinese family planning official at that time, Vice-Premier Chen Muhua, disclosed that a national family planning law would soon be adopted "to check population growth." She explained:

To quickly and further reduce the population growth rate, the central government is working out a planned parenthood law based on experiences obtained in various localities. A policy of encouragement and punishment for maternity, with encouragement as the main feature, will be implemented. Parents having one child will be encouraged, and strict measures will be enforced to control the birth of two or more babies. Everything should be done to insure that the natural population growth rate in China falls to zero by 2000. (Beijing radio, Domestic Service, July 7, 1979)

However, the law ran into opposition from some Chinese academicians, who argued that popular resistance to the one-child policy was too strong for the law to have a positive outcome. As one put it,

If we adopt under these circumstances administrative measures of a forcible command type, such as not registering more than one child in the census records, not issuing food grain allocations for such children, and not allowing their parents to participate in work, the outcome would be contrary to our wishes, have bad aftereffects, and in fact not be admissible in a socialist state. (Gui Shixun, "Population Control and Economic Policies," Shanghai Teachers' University Journal, April 25, 1980)

A Beijing newspaper noted that

Some people believe that family planning should be carried out with encouragement and education, not with coercion. They therefore disapprove the formulation of a family planning law.

The article continued:

Laws have the nature of enforcement, but enforcement is not the same as coercion. It is exactly for eliminating coercion which has arisen in some areas when they carry out concrete work that a family planning law must be promulgated to for all people, young and old alike, to abide by. (Guangming Daily, August 29, 1981)

The writer was clearly suggesting that adoption of a family planning law would legitimize coercion by reclassifying it as law enforcement.

In 1983 another writer in a journal for foreign readers argued that

Since different people have different levels of understanding, education alone . . . cannot fully solve this very urgent problem. Therefore, China plans to draft a family planning law. For the time being, the local governments in various places have introduced economic and administrative measures. (An Zhiguo, "Family Planning," Beijing Review, August 29, 1983)

The "administrative measures" referred to included the massive campaign of compulsory birth control surgeries carried out in 1983, which reportedly produced 18 million IUD insertions, 21 million sterilizations, and 14 million abortions. This campaign was directed by the then Minister-in-Charge of China's State Family Planning Commission (SFPC), Qian Xinzong, who later that year was given one of the United Nation's first two family planning awards for his achievement. However the

authorization had come from Deng Xiaoping, then the supreme leader of China, who called upon family planning personnel to “rely first on political mobilization, second on law, and third on technical measures” (the last phrase a euphemism for the three birth control surgeries).

After 1983, 5 years passed without any mention of a national family planning law in the Chinese media. The year 1984 had seen a sudden change in policy away from coercive measures, caused by a strong popular backlash against the 1983 surgery drive, which allegedly had resulted in “the alienation of the masses from the Party.” Coercion had to be put on hold. It was no time to pass a law to augment compulsion in family planning. Qian was removed from his post as head of the SFPC in December 1983, and replaced by a new head, Wang Wei, who immediately announced a change in policy. Early in the next year the Party Central Committee issued a new “Decision” which called for a “more realistic” family planning policy which is “reasonable, is supported by the masses, and is easy for the cadres to carry out.”

This requires that family planning workers do a great deal of difficult, in-depth, and meticulous work, improve their work method and work style, refrain from coercion, strictly forbid any illegal or disorderly action, and carry out their work consistent with actual conditions and reasonably. (People’s Daily, March 8, 1984)

The call to refrain from coercion was made official in a national “circular” known as Party Central Committee Document No. 7, which was issued on April 12, 1984, widely circulated, often quoted in the Chinese media, but never published. But the effect was immediate. A general relaxation of family planning enforcement spread throughout the country.

Within 2 years, the central authorities began to be concerned about evidence of rising birth rates. By the end of 1985, Document No. 7 was reinterpreted as a call take “effective measures,” “grasp family planning work firmly,” be “resolute in curbing “unplanned” births, and fulfill the population control targets. In May 1986 a new Party circular, Document No. 13, also unpublished but widely distributed, apparently reversed the softer components Document No. 7 and reaffirmed the need to regain control of population growth.

The task proved difficult. Central wavering on the coercion issue seemed to have weakened control at the grassroots level, and it was not easy to regain. In 1988 talk of adopting a national family planning law resumed. An article in a demographic journal noted that local family planning efforts had become confused and inconsistent, birth reports were being falsified, and family planning rules were being violated. The writer proposed that the government

. . . Formulate and promulgate a family planning law as soon as possible to change the situation of no laws to abide by. Births outside of plans can only be controlled with persuasion and education on the one hand and with the adoption of the necessary administrative and legal measures on the other hand. (Qu Yibin, “An Enquiry into the Causes of the Marked Rise of China’s Population Birth Rate and Measures to Deal with It,” *Population Research*, March 29, 1988)

In January 1989, a family planning journal article said that a new law was “imperative” to strengthen the resolve of family planning workers. The provincial family planning regulations were inadequate for this purpose:

. . . Without having formal laws, the rural cadres at the grass-roots level are always worried. They are fearful that things will change. This greatly [inhibits] their activism. . . (Wang Shengduo and Wu Yiren, “The Dilemma of the Village Cadres in Rural Family Planning Work and Measures to Deal With It,” *China Population*, January 20, 1989)

In August a writer with provincial Party connections, though he objected to some compulsory measures, such as smashing down houses, confiscating farm implements, and refusing household registration to unauthorized newborns, insisted that compulsory abortion was both humane and legal, since it was an expression of the Chinese Constitution’s provision that “both husband and wife have a duty to practice family planning.” A national family planning law, he said,

. . . should use the forceful intimidation of punishment to reduce the opposition to compulsory abortion. . . . The state has grounds to adopt legal measures for compulsory enforcement against those who are unwilling to carry out their duty of practicing family planning. (Kuang Ke, “Some Suggestions on Passing Laws on Childbirth,” *Social Science*, August 15, 1989)

Though few published commentaries echoed this writer’s idea of legalizing coercion, most, including prominent demographers and other influential spokespersons,

seemed to think the law would strengthen family planning enforcement and urged its adoption "as soon as possible."

Madame Peng Peiyun, who had replaced Wang Wei in January 1988, was quoted by XINHUA in February 1989 as saying that the situation in family planning work had become "crucial" and that a national law was being drafted which would go before the State Council "as soon as possible." (XINHUA-English, February 23, 1989)

In April, however, another XINHUA article questioned the wisdom of this step:

Now, more and more experts are asking the state to accelerate the introduction of [a] family planning law. But many family planning officials are not optimistic about the results of such action. An official of the State Family Planning Commission says, "As long as such a great number of people ignore the law, what can the law do to them?" (XINHUA-English, Beijing April 13, 1989)

Nevertheless, in October 1989 Madame Peng told reporters that the draft law on family planning "will be enacted in October next year." (ZHONGGUO TONGXUN SHE, Beijing, October 17, 1989)

It wasn't. In November 1990 the China Daily reported that family planners were still calling for a family planning law "as soon as possible" to make family planning policies "more authoritative and forceful." ("Planners Urge Firmer Control of Population," November 14, 1990, p. 4) In May 1992 a demographic journal commented

For one reason or another, our country still has no family planning law. According to public opinion in our society, most people are sympathetic with those having extra children. They are not inclined to support the basic national policy. Under such circumstances, family planning in some localities has become a task that almost no one wants to attend to and take care of. (Li Shaoxian, "Farmers' Desire for More Children and Measures to Solve This Problem," Population Research, May 29, 1992)

A number of articles candidly discussing the issue of coercion in family planning appeared in Chinese professional journals during the middle 1990's, some of them opposing coercion and others approving coercive measures. One of the latter appeared in April 1993 in a national law journal. Its authors deplored the fact that because of the lack of an explicit national law legalizing forcible means, "some forcible measures which could have become legal have become illegal. . . . Meanwhile, it is impossible to totally avoid using forcible measures in practice." The article adds:

In addition to ordinary economic and administrative sanctions, it is also necessary to have legal rules providing for relevant forcible, restrictive measures to deal with the situation of being pregnant and preparing to give birth after having had two births, such as rules which explicitly provide for forcible termination of pregnancy, forcible induced abortion, or induced abortion. It is necessary to forcibly sterilize those couples who have failed to be sterilized or use contraceptive measures after having each had two births. Forcible and restrictive measures constitute an issue which critically affects whether family planning work can be effectively carried out. If there are no relevant legal rules, then it would be difficult to eliminate the stubborn problems in family planning work. Therefore there should be no hesitancy on this issue. . . .

To get family planning work out of the predicaments, both cadres and ordinary people urgently hope there will be a uniform family planning law so as to use the state's policy on birth; and such a law can then be used to regulate and adjust the activity of reproduction of human beings. . . . (Yang Quanming and Yuan Jiliang, "Thoughts on Family Planning Legislation," Politics and Law Tribune, No. 50, April 1993, pp. 89-93.)

One of the things that concerned these authors was that foreign and domestic criticism that the Chinese government had "violated human rights" in family planning had caused people in China to "worry that restricting citizens' reproductive rights is incompatible with the constitution-stipulated protection for human rights," and these worries "have all along been creating difficulties for conducting thinking on family planning legislation." . . .

When the SFPC's "Outline" of family planning work was published in February 1995, the task still lay in the future. In fact, it sounded more remote than ever:

We must conscientiously do a good job of making preliminary preparations for the drafting of the "PRC Family Planning Law," make proposals on population and family planning legislation, and provide legal guarantees for the implementation of family planning. (People's Daily, February 25, 1995, p. 11)

Still, nothing happened. Four years later a Hong Kong newspaper speculated that "a draft law specifying a citizen's rights to have children now looks unlikely to be ever passed by the National People's Congress (NPC)." The writer seemed to think

passing such a law would undermine the pretense of the Chinese leadership that their family planning program was voluntary. (Jasper Becker, South China Morning Post, April 19, 1999, p. 17)

#### THE LAW'S ADOPTION

That surmise was also mistaken. In September 1999 a vice-minister of the SFPC predicted that the long-awaited law would be enacted within the next three years and that it would "tighten the rule of law in carrying out family planning and strengthen mass supervision over law enforcement in the next decade." By 2015, he predicted, the rule of law in China would be greatly improved and "by then, people of reproductive age would follow the state family planning policy voluntarily," an implicit admission that their compliance now was not entirely voluntary! (China Daily, internet version, September 13, 1999) In December 2000 XINHUA quoted Zhang Weiqing, who had replaced Peng Peiyun in March 1998 as head of the SFPC, to the effect that the long-promised national law would be drafted in 2001:

China will draft up a law on population and family planning . . . next year to ensure the status of the national policy of family planning and the realization of birth control targets, said an official. At a conference on family planning, Zhang Weiqing . . . said that lawmaking in the field of population and family planning in China is still backward and the force of existent laws and regulations is limited. (XINHUA, Beijing, December 24, 2000)

Zhang's prediction did come true. In April 2001 the People's Daily revealed that the draft law had been tabled before the Standing Committee of the NPC. In introducing the measure to the Committee, Zhang explained that the law was "indispensable" for "upholding existing birth control policies" because the issue is "very sensitive" and "the traditional concept of having more children remains influential." (People's Daily internet version, April 24, 2001)

Throughout the 23 years of its gestation, the essential rationale for the national family planning law was unmistakable and remained unchanged. It was to strengthen enforcement of the existing family planning policies and reinforce government control over childbearing in order to overcome stubborn popular resistance. The law was seen as an additional means of compulsion. Not until 2002 did anyone try to represent it as an effort to curb coercion, and that representation was largely confined to statements for foreign audiences.

However, when the new law was made public at the end of December, the official propaganda line explaining its purpose had already begun to change. On December 30, 2001, the day after its adoption by the NPC Standing Committee, Zhang Weiqing said that "the law neither relaxes nor tightens population policy." (XINHUA-English, Beijing, December 30 2001) In January 2002 another SFPC spokesperson quoted by a Hong Kong newspaper said that the new law "solidly sets forth China's current family planning policy, and there will be no tightening up nor liberalization." (Ta Kung Pao, Hong Kong, January 21, 2002) But these statements made no sense. Why would the Chinese government have struggled for 23 years to pass a law that made no difference in how the program was implemented? The only plausible purpose for the law was to tighten controls. In denying that this was intended, the Chinese authorities were being disingenuous.

They may have been reacting to widespread reports of spectacular instances of coercion in the program since the late 1990's, some of them involving the death of family planning violators under torture and, in two cases, attempts by local family planning officials to kill live-born infants who had been conceived without birth permits. One of these involved the deliberate drowning of a newborn baby boy in a paddy field. In the other case, several attempts by a hospital director to kill a newborn baby girl failed, and the child survived. More recently the efforts to "sanitize" the law retroactively may have been stimulated by the disclosure in October 2001 that a private investigative team sent to China by a Washington organization with anti-abortion connections had found coercive measures still in force in one of the UNFPA's project counties, where such measures were supposed to have been abolished. This report embarrassed both the Chinese government and the UNFPA, and the UNFPA hastily put together an "independent" team with close U.N. connections to go to the same county obviously with the intent of finding no coercion, which, hosted and escorted by both the government and the UNFPA, it naturally did not find. After the report of the U. S. State Department investigative team's visit to China in May 2002, released in July, confirmed the persistence of coercive measures in China, it was obvious that China's new law needed to be given a softer image. Hence the subsequent official statements from Chinese sources disavowing the only reasonable *raison d'être* for such a law!

Giving the law a “kinder, gentler” image was not easy to accomplish, mainly because the text of the law, which conveys a rather hard-fisted impression, as will be pointed out in detail below, was already finalized and was published in December 2001. Some foreign observers immediately rejected the official assurances that the law would not affect the intensity of family planning implementation. In January 2002 a Hong Kong newspaper said flatly that:

The legislation basically incorporates current policy and practice. . . . Analysts say China is unlikely to see a major departure [from] or relaxation of the coercive one-child policy. . . . The legislation has failed to prescribe detailed prohibitions against the well-documented abuses that have been perpetrated in the name of the policy, analysts said. (Clara Li, South China Morning Post, January 5, 2002)

Two months later, perhaps partly in response to such skepticism, the Chinese authorities seem to have decided to try to represent the law as a human rights document. In an English language dispatch, clearly targeted at a foreign audience, XINHUA asserted that NPC delegates were saying that

The law emphasizes the principle of human care and prohibits coercion, abuse of powers, and infringement on people’s legitimate rights and interests. . . . “The law requires that officials in charge of family planning change their work style,” said [a Sichuan family planning commission director]. (XINHUA-English, Beijing, March 13, 2002)

The law itself gives little encouragement for any such notions. Moreover, only 5 days after that, former Premier Li Peng, always a hard-liner on birth control, presented the annual work report of the NPC Standing Committee in which he said nothing about avoiding coercion. Referring to the new law, he said:

. . . The NPC Standing Committee enacted the Law on Population and Family Planning, thereby upgrading this basic national policy into a law. This is set to have a profound and far-reaching impact on effectively controlling the size of the population and improving the quality of births. (XINHUA, Domestic Service, Beijing, March 18, 2002)

The propaganda effort continued, however. In April, Wang Zhongyu, secretary general of the State Council, warned that family planning personnel must

. . . improve their working style and method, and ensure that laws are understood, observed, and followed in regulating administrative actions in family planning. (XINHUA, Nanchang, April 8, 2002)

Wang also called for the amendment of local family planning regulations to bring them into conformity with the national law and to “ensure the continuity and stability of family planning policy.” This news item was NOT directed at a foreign audience. The Chinese authorities now seemed to be speaking with two voices even to domestic audiences, a sign of confusion in official circles.

More mixed signals emerged as the new law was about to go into effect on September 1, 2002. The day before, a XINHUA-English dispatch quoted a Beijing professor saying the law would represent a milestone in China’s transformation from “the administrative-guided period into a new era that puts public satisfaction as top priority.” (XINHUA-English, Beijing, August 31, 2002) But the XINHUA domestic dispatch on the same subject said nothing of the sort! Instead, it quoted Zhang Weiqing in a statement that the new law must be publicized so that everyone would

. . . understand the importance of stabilizing the childbearing policy currently in force, gain a better understanding of citizens’ rights and obligations to practice family planning, understand the legal provisions concerned, and enhance their consciousness in practicing family planning. (XINHUA, Domestic Service, Beijing, August 31, 2002)

The next day, a XINHUA-English dispatch quoted Zhang as saying that the new law “focuses on the all-around development of human beings.” The article went on to say that “it also strictly prohibits the abuse of authority, illegal administration, coercive imperatives, and other practices infringing on the interests of citizens during family planning.” (XINHUA-English, Beijing, September 1, 2002)

The Hong Kong English language newspaper South China Morning Post quoted Zhang Weiqing as having said that the new law would “help end abuses such as late abortions and arbitrary fines,” but statements attributed to Zhang in domestic sources said nothing about curbing abuses. (“New family planning law might end abuses,” South China Morning Post, September 2, 2002) In fact, late-term abortions have long been not only approved but required for unauthorized pregnancies that had not been detected earlier in the pregnancy. In domestic regulations such abortions are not called “abuses”—instead, they are called “remedial measures.”

A September 1 XINHUA domestic dispatch quoted the Deputy Director of Legislative Affairs Office of the State Council as saying:

. . . It is a misconception to think that China will relax its family planning policy, a change that would permits its citizens to have as many children as they would like as long as they are able to pay the fine imposed for an extra-policy birth.

The article continued:

Zhao Bingli, Vice-Minister in Charge of the SFPC, said the law was made to ensure the control of the country's population and thus to guarantee the harmonious co-development of population, economy, society, and environment.

"The mentality of 'money for children' goes against the core principle of the family planning legislation," Zhao said. "From the date that the law took effect, those who have an extra-policy birth must face the music." (XINHUA, General News Service, Beijing, September 1, 2002)

From these strange contradictions, one might have supposed the references were to two different laws! Actually discrepancies between Chinese pronouncements in domestic channels and those addressed to foreigners are often highly revealing. China scholars have long been aware that English language publications can present a very different picture of a controversial issue from that found in the Chinese version. Usually, the Chinese language version is the more reliable and the more informative. What that version omits is misleading propaganda devised for foreign consumption that could not possibly deceive a domestic audience.

All that aside, why did the Chinese authorities decide to adopt a national family planning law at this time despite all their former misgivings? One possibility is that they felt that their grip on family planning enforcement was slipping and they needed all the legal force they could muster. In fact, there are signs that at least since the late 1990s, the Chinese political system has been gradually losing its effectiveness in all spheres of domestic administration, not just in family planning. This is apparent in the leaders' increasingly paranoid reaction to any spontaneous citizen action, especially any collective action, that takes place without official prompting or control. That reaction may explain the Chinese government's violent persecution of the Falun Gong cult and other religious groups not under state supervision and control. The leaders seem to fear any form of dissidence or civil disobedience, and they are ruthless in their attempts to crush all such manifestations.

They have also expressed concern recently that losing control of population growth could lead to social "instability." Exactly how is not spelled out, but Chinese demographers, SFPC leaders, Peng Peiyun, Zhang Zemin, and Jiang Zemin himself have been saying since at least 1994 that the birth control policy was in conflict with the childbearing desires of the Chinese people, especially those in rural areas, hence the current low birth rates in China are "unstable." On March 11, 2001, Jiang Zemin himself affirmed that population control was a "major affair for strengthening the country, enriching the people, and maintaining tranquility." Jiang called for "really effective measures" and demanded that the country "grasp ever more tightly and do still better this major item of economic and social work, without the slightest slackness or relaxation." (XINHUA, Domestic Service, Beijing, March 11, 2001) Presumably the new population law was seen as helping the government tighten its "grasp." The language of the law in many places, even where it sounds intentionally vague, seems to point in that direction.

#### SPECIFIC PROVISIONS

When the text of the law was made public, it immediately began to receive close scrutiny both in China and abroad. Some of its provisions apparently caused problems for the UNFPA. In February 2002 the UNFPA Executive-Director, Thoraya Obaid, sent a letter to Zhang Weiqing expressing "reservations" about provisions in three articles that she alleged were inconsistent with "ICPD principles and recommendations." She said the UNFPA would seek "further clarifications," surely a very mild remonstrance! The three articles are: Article 18, which proposes to "stabilize the current childbirth policies," speaks of "upholding a single-child policy for married couples," and reaffirms that couples must have government permission before they can have a second child; Article 41, which provides for the imposition of a "premium" on unauthorized childbirths; and Article 42, which says that in addition to the "premium" a state functionary "may also be punished administratively."

Curiously, the UNFPA raised no objections to a number of other articles which seem to contain hints of coercion or at least seem to be contrary to the principles of reproductive freedom. For example:

- Article 2 says “The state shall employ a series of varied measures to place the population growth under control,” but it does not set any limits on the kinds of measure alluded to, an ominously vague and wide-open provision;
- Article 10 authorizes the formulation of population plans at various levels and calls for supervision over the “implementation” of these plans, but population plans in China have always been the foundation of population quotas and targets and an essential part of the coercion mechanism;
- Article 17 couples a citizen’s right to give birth to a child with the idea that citizens are also “duty-bound to undergo family planning, as provided for in the law,” thus implying that citizens have a right to have only as many children as the government family planning policy permits them to have;
- Article 20 says that “husbands and wives of childbearing age shall consciously employ family planning, contraceptive, or birth control measures, accepting family planning technical services and teachings, in order to prevent an unintentional pregnancy or reduce its chances,” which precludes the option of NOT practicing family planning hence constitutes a direct infringement on reproductive freedom (“unintentional” by whose standards?);
- Article 12 says that village and neighborhood committees “shall press ahead with family planning, with unreserved efforts, and in accordance with the law,” which has a somewhat relentless sound that is undoubtedly intentional;
- Article 34 talks about “urging husbands and wives who already have a child or children to adopt permanent birth control measures, a reference to IUDs and sterilization. Moreover, in the past “urging,” “advocating,” “promoting,” and “persuading” have often culminated in brute force when noncompliance continued;
- Article 11 says “Specific population and family planning measures shall provide for detailed population control quotas. . .” Here the language undisguised and quite unambiguous. One might have supposed this provision would have caught the UNFPA’s attention, inasmuch as the agency has been saying that it is encouraging an abandonment of targets and quotas not only in the 32 counties where it has current projects but all across the country.

One wonders why the UNFPA expressed no concern about these articles? Why don’t they also need “clarification”?

The lack of specificity of many of the law’s provisions is in itself a reason for suspicion. Some articles, in contrast, are highly explicit, notably those which condemn actions that disrupt or weaken program implementation. For example:

- Article 36 is quite specific about penalties for those who gain “illegal” income by helping people evade family planning rules, including performing “illegal” birth control surgical operations, using ultrasound to detect and abort female fetuses, and performing phony birth control operations, conducting false pregnancy checks, or issuing false birth control certificates;
- Article 37 specifies penalties for those who falsify birth control certificates or issue them “illegally,” presumably to people who do not qualify for them—not much ambiguity there;
- Article 39 provides for the punishment of state functionaries who engage in several kinds of activities, including “doing wrong to serve friends or relatives,” “seeking or accepting a bribe,” diverting family planning funds for other purposes, and falsifying population and family planning statistical reports—nothing very vague there either;
- Article 40 which provides for administrative punishment of the leadership of local units which “refuse . . . to assist in a family planning process as required . . .,” apparently a reference to the long-term policy of holding local leaders responsible for the success of family planning in their units. This is not fully explicit but it does not need to be. Local leaders in China would have no trouble knowing what it means;
- Article 43 which provides for the punishment of those who oppose or obstruct an administrative department. This is not specific, but given its purpose it needs to be broadly construed, since popular opposition to birth control takes so many different forms.
- Article 22 should also be cited as one of the more specific. It prohibits “discrimination against and maltreatment of women” who give birth to girls, which the government has long recognized as a form of opposition to the family planning rules.

The seven articles of Chapter Four of the law (Articles 23 through 29) which provide for rewards and incentives for those who comply with family planning requirements are also in most cases relatively specific, and they resound with serious intent.

On the other hand, the articles which purport to offer some sort of protection for the rights of citizens are particularly vague. For example:

- Article 4 says that family planning is to be conducted “in strict accordance with the law, in a civilized manner, and without infringing upon citizens’ legitimate rights and interests,” but does not indicate what constitutes an “uncivilized” manner or what rights of citizens are “legitimate;”
- Article 21 says that couples of childbearing age “shall enjoy free of charge basic family planning technical services,” which of course include the three basic birth control surgeries that have not always been so enjoyable for recipients in the past because these were mandatory. To present the surgeries as a service to be enjoyed is more than a little bit cynical;
- There is also one provision under Article 39 that condemns “infringing upon a citizen’s personal rights, property rights, or other legitimate rights and interests.” This may be an attempt to discourage certain kinds of coercion, such as knocking down houses and confiscating farm implements, which have in the past been recognized by the central authorities as counter-productive because they arouse the collective anger of citizens and lead to setbacks in family planning work. But this provision could have been made more explicit, unless perhaps its vagueness was meant to allow wiggle room in case the government later decided that it did not wish to come down too hard on cadres who used such tactics.
- Finally, Article 44 provides that citizens and organizations may “apply for reconsideration of an administrative decision or file a lawsuit against an administrative decision, after considering that an administrative organ [has] infringed upon their legitimate rights and interests during a family planning process.” Again, the meaning of this provision depends upon a precise definition of the “rights and interests” of citizens, which the law does not provide. Even with such a definition, a plaintiff appealing under this provision may get nowhere if the local courts, on prompting of administrators at some higher level, simply refuse to hear him, as has often happened in the past. A more explicit law might have made it harder for them to dismiss such appeals, but the vagueness here allows them considerable latitude in ruling specific citizen complaints out of order.

If the new law was meant to curb coercion in family planning, it could have done so almost instantly without the necessity of any judicial process, simply by explicitly demanding coercive tactics widely used in the past that must cease at once and imposing penalties on those who continue to use them. The law does not do that.

- It does not prohibit forced IUD insertions, forced subcutaneous implants, forced abortions, or forced sterilizations.
- It does not prescribe penalties for cadres or officials who authorize, condone, or carry out such measures.
- It does not prohibit exorbitant fines for family planning violators.
- It does not condemn the use of administrative harassment of violators which is often applied to them in addition to other penalties.
- It does not prohibit the widespread practice of detaining pregnant women, their spouses, or their other relatives to force them to submit to abortion, sterilization, or other unwanted procedures.
- It does not prohibit the killing of unauthorized infants by medical personnel at the time of delivery or within the next few days, a practice that has been reported in the international media several times in the past 3 years.
- It does not prohibit the use of torture to extract confessions or information from family planning violators, which has sometimes resulted in their death while in detention, as has also been documented in foreign press reports.
- It does not repeat or even allude to the particularly offensive coercive tactics discouraged by the so-called “Seven Prohibitions” circular issued by the SFPC in July 1995, which ruled out punitive measures that provoked popular unrest and damaged family planning work.
- It does not even mention the word “coercion” or advise cadres to “improve their work style,” expressions which appeared in the brief anti-coercion campaigns of 1978, 1980, and 1984, and which, as noted above, again reappeared briefly in several domestic news items in March and April of this year.

Nor does the law affirm any of the basic principles of reproductive freedom supposedly endorsed by China along with other nations at the 1994 Cairo World Population Conference, although this would be the place for such an affirmation if the Chinese government were serious about implementing them. It does not acknowledge “the rights of citizens to determine the number and spacing of their children” or their right to choose their own form of contraception, presumably because these

rights go beyond what the Chinese authorities wish to recognize as "legitimate." To have included such language in the law would have caught the imagination of the people throughout the country and led to a virtual rebellion against the family planning program as presently implemented. Reproductive freedom might have suddenly become a reality for most Chinese couples of childbearing age. The Chinese government clearly has no intention of taking that risk, and the UNFPA and other apologists for the program seem disinclined to make an issue of the matter.

How the new law will play out in the next few years remains to be seen. It is possible that a show of suppressing the more flagrant forms of coercion will take place in the near term, at least until world attention becomes preoccupied elsewhere. But then the emphasis will probably shift back to requiring citizen compliance with family size limits, targets, quotas, and plans, and the argument will be advanced that family planning is now not just a policy but a law which citizens must obey. Whether the law's domestic advocates, who expect this will make for more compliance, or its domestic critics who think it will inspire more defiance, will be proven correct may not be clear for some time. For the moment, however, the advocates have prevailed.

Taking all the evidence so far into account, one conclusion is inescapable. The basic purpose of the new law is to reinforce population control in China. Ultimately that control will probably be lost despite government efforts to hold onto it, but the new law is clearly meant to delay the attainment of true reproductive freedom in China as long as possible.

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PREPARED STATEMENT OF BONNIE GLICK

SEPTEMBER 23, 2002

Commission members, esteemed colleagues:

At the beginning of May, I traveled to China as a member of a three-person team selected by the White House to conduct an assessment of whether the U.N. Population Fund (UNFPA) has supported or participated in the management of a program of coercive abortion or involuntary sterilization in the People's Republic of China. These concerns were codified in 1985 in U.S. legislation known as the Kemp Kasten Amendment. Since 1998, the Chinese State Birth Planning Commission has conducted a special program with UNFPA participation in 32 of the PRC's approximately 2800 counties under an agreement signed by the State Birth Planning Commission and the UNFPA on September 11, 1998.

Given the controversy which has existed in the Congress on the issues of coercive abortion and involuntary sterilization, great emphasis was placed on making this a mission of objective fact-finding and assessment.

Prior to our departure for China, we met in the State Department with a variety of U.S. Government officials. We also met with the Executive Director of the UNFPA, U.N. Undersecretary General Madame Thoraya Ahmed Obaid and with Mr. Scruggs as well as with Steven Mosher, President of the Population Research Institute and with Mr. Aird. Finally, we met with several Members of Congress and/or their staff members.

On May 12, we departed for Beijing for a 2-week assessment visit. In Beijing, we paid a courtesy call on U.S. Ambassador Randt then had extensive discussions with Minister Zhang Weiqing, Chairman of the State Birth Planning Commission as well as with Ms. Siri Tellier, the Director of the UNFPA Country Office in Beijing. We met with Chinese academics specializing in population and demographics as well as with students and NGO representatives involved in Chinese population matters.

Following this overview of the population situation in China, we began our travels through 5 of the 32 UNFPA counties. The five counties were selected by the U.S. Embassy, and they represented a cross-section of urban and rural, poor and middle income. During the next 10 days, we traveled approximately 6000 miles, by air and road, through urban and rural China. The five counties visited were Rongchang County (100 km outside Chongqing Municipality), Pingba County (2.5 hours from Guiyang in Guizhou Province), Xuanzhou County (in Anhui Province), Guichi County (in Anhui Province), and Sihui City (in central Guangdong Province). We were accompanied on our travels by a fluent Chinese-speaking member of the U.S. Embassy, by an interpreter, Ms. Ying Yu, a naturalized American citizen of Chinese origin, and by Mr. Hongtao Hu, a member of the State Birth Planning Commission. Mr. Hu received no more than 24 hours advance notice of our daily travel plans. Our visits were often unannounced and with no notice. We stopped in at three factories, two schools, 11 village Birth Planning substations, five municipal Birth Plan-

ning centers and three hospitals. I held discussions with women in the streets and agricultural fields who were going about their daily lives.

I went to China with open eyes, with an objective point of view, and with a narrow mandate. We went to as many counties and as many villages as possible. We also made a variety of unscheduled stops. Although our sample size was small (5 out of 32 possibilities), I believe the results are representative in that we varied our methodology through random visits, and with little to no notice given to Chinese government authorities, thereby decreasing biases in the observed data.

I would like to address the conversations I had with women throughout our travels. In my years as a Foreign Service Officer, I often found that women around the world, particularly women in societies that tend to be dominated by men, are willing to open up to foreign women to discuss personal issues. There is a commonality of interests and experiences. This was as true for me in rural Ethiopia and Nicaragua as it was in rural and urban China.

Thus, in speaking with Chinese women, I was able to elicit direct and thoughtful responses to probing questions. Culture played an enormous role in these conversations. Often I found myself asking indirect questions in order to obtain genuine responses such as, "How many children do you plan or hope to have?" "How do you feel about the policy of the Chinese government that ostensibly limits your ability to have more than one child?" "Do you know any women who have been coerced to have abortions or forced, involuntarily, to become sterilized?" "Do you know anyone who has to pay Social Compensation Fees because she had more than one child?"

If I sensed that a woman, particularly a professional woman in one of the health clinics, was suspicious of my line of questioning, I would change the way in which I asked my questions. I might ask her, "Perhaps not in this county, but have you heard of women in other counties who might have been coerced to have abortions or sterilizations?"

In one pharmaceutical manufacturing and packaging factory, I had the opportunity to talk to a group of 15 or so women all working on an assembly line. We talked as they packaged pharmaceuticals. The conditions in which they were working were good, clean, and comfortable. They considered themselves lucky to have these stable jobs. When I asked them questions about their family planning practices, nearly all said that they had just one child. One woman had two children, several had none. All commented that it is expensive to raise children.

I met with two women in a health clinic in Rongchang County who had just had abortions due to pregnancies arising, they said, from failed contraception. I asked each of them why they chose to abort. The first woman said that she already had twins and neither wanted nor could afford a third child. She and her husband, she said, were happy with their two children and they had not planned on a third. The other woman, a 22 year old, said that she and her husband were not yet ready to have children. They themselves were children, she said, and she wanted to wait until she was ready for a "perfect" birth.

The Chinese government, it seems to me, through public service announcements in all forms of media, has convinced women of the merits of marrying late, delaying births, and focusing on a "perfect" birth. What is a "perfect" birth? This is a potentially dangerous question to ask. Since abortions are legal in China, women take great care to ensure that the fetuses they carry are perfect. If they fear that a fetus is in any way less than perfect, the inclination among Chinese women is to abort. While the practitioners with whom we met said that they do not promote abortion as a form of birth control, they were well aware that many women abort rather than "waste" their one opportunity to give birth on a less than perfect child.

As many of us are aware, this has, no doubt, led to the skewed gender ratios in Chinese births. With 116 male children born for every 100 female children, the numbers speak for themselves. This skewed birth ratio, when considered among a population of 1.3 billion people, demonstrates that the demographic challenges facing China today and into the future are staggering.

I was initially surprised by the near uniformity of responses I received to the questions I asked Chinese women. However, after several days, I realized that the similarity of responses was due to the tremendous public service campaign the Chinese government has undertaken to promote its one-child policy. Generally speaking, women in China genuinely and faithfully adhere to the one-child policy (now codified with the new population law as of September 1, 2002). While it is hard for Americans to accept that women elsewhere in the world might not want a house full of children, we must all think for a moment about the particulars of the situation in China. In a country with a population of at least 1.3 billion people, and where the current generation of women of childbearing age was raised with the philosophy of one-child only, it is easy to see women in China accepting the limitation on births as part of their civic and patriotic duty. The public service campaign, if

you will, to discourage multiple births, has been so prevalent and so “effective” that few women I met seemed willing to rock the boat. Indeed, all the women I met talked about how expensive it is to raise children, the underlying implication could be that it is even more expensive to raise multiple children given the coercive Social Compensation Fees levied on families daring enough to have multiple children.

Clearly, China is sitting on a demographic time bomb. If the population continues to grow at its current rate, it will run into problems of resource allocation. I went to China to look into the resources of the U.N. Population Fund—all \$3.5 million of its annual budget. When comparing the budget of the UNFPA with the overall budget of the Chinese State Birth Planning Commission—\$3.6 billion—it quickly becomes apparent that China is not interested in UNFPA for its money. Rather, the PRC is interested in the fig leaf UNFPA provides in its attempt to show the world that it conforms to international norms and conventions for family planning. By having a UNFPA presence in China, the PRC can hold this up to the world as “evidence” that it follows generally accepted norms vis-a-vis family planning. In fact, it does not, and the limited presence of UNFPA in China may actually hurt efforts to bring the country’s policies more in line with international norms. This leaves UNFPA with only two options, as I see it: expand into more counties in China—unlikely given its tremendous resource constraints; or scale back and demand real reforms of the Chinese government before agreeing to share international expertise and before granting international acceptance of Chinese practices. Given the codification on September 1 of China’s one-child policy, UNFPA should act forcefully to demand changes to this law, to the coercive fines and so-called Social Compensation Fees.

Before our departure for China, we were cautioned by certain Members of Congress that it would be impossible to get Chinese citizens to speak openly to our group. China is, after all, a police state. With all due respect, I believe that many of the women I met were able to speak openly and honestly. While the answers they gave were not the ones that some in the U.S. would choose to believe, I would like to think I was able to sift through the half-truths and obfuscation to come out with a relatively clear picture of the birth planning decisions made by dozens of women in rural and urban China.

The opportunity I had to travel relatively freely throughout China is one that is afforded to very few people. The Chinese government was accommodating in that we were allowed to travel anywhere we chose in the country. Were we fully free? That is doubtful. Everywhere we went, we were accompanied by an official of the State Birth Planning Commission. At the initiation of our trip, I did not think it would be possible to operate as freely as I would have liked. In truth, the representative of the State Birth Planning Commission was more of a token than anything else. He facilitated our encounters in health centers and in factories, nothing more.

In closing, I would like to express my thanks to those who facilitated the visit while assiduously avoiding any effort to color our team’s impressions or influence our opinions. These include individuals in the State Department, the American Embassy in Beijing and the American Consulates General in Shanghai and Guangzhou. I urge the Administration to continue to monitor closely this aspect of Chinese life. As I mentioned, China’s continued population explosion is the elephant in the room that no one wants to discuss and all would rather ignore. It will place ever-increasing strains on natural resources, public services, and employment. These strains will be felt up and down the political spectrum, and they must be factored into our decisionmaking as we deal with China in this new century.

Thank You.

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PREPARED STATEMENT OF EDWIN A. WINCKLER

SEPTEMBER 23, 2002

POSITIVE RECENT DEVELOPMENTS IN CHINESE REPRODUCTIVE POLICY

INTRODUCTION

As part of China’s gradual transition from communism, Chinese social policy is gradually shifting, from limiting population through planning of births by the state, toward delivering a broader range of reproductive health services needed by citizens. A December 2001 Law has legalized both the birth limitation program and many reforms in it; associated regulations have helped curb abuses and expand citizens’ rights. Due to the complexity of this subject and the shortness of time, I will package my remarks in the kind of numerical slogan in which Chinese public administration often packages complex policy matters—here “one theme, two purposes and

three threes.” (For a longer briefing with references, please see my September 2002 paper in *Population and Development Review*, appended to this testimony and posted on the Commission website. My translation of the 2001 Law also appears in both places. As regards numerical slogans, in the late 1990s the birth planning program’s summary of its key policies was “33321,” referring to the “three unchangeables,” the “three basics,” the “three links,” the “two transitions” and the “one purpose,” explained below.)

By way of introduction, the one theme over-arching my remarks is that this subject involves tradeoffs between competing rights and objectives, both for Chinese social policy and for American foreign policy. On both sides, public policymakers are making difficult practical and ethical choices. Each side has legitimate criticisms of the other, but these criticisms are most persuasive when they recognize that both sides have reasons for doing what they are doing that many on both sides consider legitimate. Each side should understand the values that are being privileged by the other and the values that are being sacrificed by its own choices. The PRC is deliberately limiting the reproductive freedom of current generations in order to preserve the sustainability of development and the quality of life of future generations. In the name of reproductive freedom, the United States is protesting this restriction, but at the cost of the UNFPA’s capacity to deliver reproductive health services desperately needed by millions of women in countries less developed than China. “Limiting reproductive freedom” may sound horrendous to some, but no freedom is absolute, including “reproductive freedom,” even in the United States, and even according to international conventions. Besides, any society may limit some freedoms during emergencies. For several decades the PRC leadership has regarded China’s burgeoning population as a national crisis. Evidently by now much of China’s populace largely agrees. Ongoing program reforms are deliberately intended to restore as much reproductive freedom as possible, consistent with continuing to limit population growth.

Overall, my remarks have two purposes. One is to provide reliable information about recent policy developments in China, which I believe are mostly good news. My statement is called “positive recent developments” not only because some positive developments have occurred, but also because, in order to promote positive developments, it is essential to be able to recognize them when they occur. Such recognition becomes unnecessarily difficult when today’s PRC is viewed through yesterday’s ideology: as a timelessly totalitarian monstrosity mindlessly inflicting pointless suffering on its population. My other purpose is to identify forms of effective intervention from outside, which I believe should include not only criticizing the bad but also supporting the good. At the very least, as recommended by the State Department’s May 2002 Independent Assessment Team, the Congress should give the State Department and other executive agencies the resources necessary to monitor developments in Chinese reproductive policy. Moreover, the executive branch should give some priority to doing so.

In the body of my remarks, the first set of points emphasizes the extent of change in China over the past decade. These include demographic change to low fertility, political change toward a smaller State and weaker national leadership and, consequently, program change from state-centric birth limits toward client-centered health services. The second set concerns principles of law. The 2001 Law institutionalized the duty of citizens to comply with birth limits. However, it also institutionalized restraints on how those limits can be administered and it authorized a transition toward provision of more benefits. The third set of points notes the difficulties of practice that China will face in attempting to implement these principles over the next decade. Both politics and prudence dictate the need for some stability of policy. The central government’s leverage over local practice is limited by decentralization of authority and resources. What any particular locality can achieve is relative to its level of economic development.

#### EXTENT OF CHANGE

The main point of this section is that China is changing rapidly and greatly and that PRC reproductive policy is changing along with everything else. Birth policy change has been mostly for the better, particularly since around 1993. A 2000 Decision and 2001 Law codified reforms over the past decade and prescribed additional reforms over the next decade. These reforms in the Chinese birth program have not been superficial or cosmetic, but rather have been grounded in fundamental changes in population and politics.

*Demographic change.* Around 1970 when the PRC began seriously trying to limit its population growth, the average woman bore a lifetime total of just under six children. Around 1980 when the PRC declared a “one child” goal, China faced a new

generation-long baby boom. To China's leaders these facts constituted a crisis that required party-state intervention and justified some temporary sacrifice of citizens' rights. It took several years for national political and program leaders to arrive at a policy that seemed reasonable enough to the populace that implementation was feasible. In particular, the "one child" goal had to be modified to allow much of the rural population to have two children. Nevertheless, by around 2000, through some combination of program effort and socioeconomic change, total fertility had fallen to around two. Most couples no longer want many more children than that, though many still want at least one son. To China's leaders the crisis was not entirely over, because substantial population growth continues and the pressure on environmental resources continues to intensify. Therefore, they concluded, it is necessary to retain the program for limiting fertility, particularly in less developed areas where natural fertility remains high. Nevertheless, the fact that average national fertility is now below replacement has broadened policy options, to maintaining low fertility while expanding services. Therefore, China's national political and program leaders concluded, it is necessary to actively reform the program in many respects, particularly in more developed areas where citizens' childbearing aspirations barely exceed what the government recommends.

*Political change.* Changes in reproductive policy reflect broader political changes. The most basic changes have been systemic. Since around 1980 PRC leaders have been deliberately shrinking the State and substituting indirect State regulation for direct State operation of economy, society and culture. PRC leaders have been systematically "legalizing" the State by passing laws that both authorize and constrain administration of each area of public policy. PRC leaders have been further decentralizing the State by transferring many economic and social matters to provincial and local governments for funding and administration. There have also been significant changes in the leadership itself. The first and second generation of revolutionary founders such as Mao and Deng were confident of their control over Chinese society and imagined that they could plan reproduction in society just as they planned production in the economy. The third and fourth generations of revolutionary successors such as Jiang and Hu have become increasingly preoccupied with avoiding political collapse. They prefer policies that do not antagonize the public by making undue demands on citizens or by permitting maladministration by cadres. China's national political leaders are attempting to make policies more truly "public" in the sense that policies are adopted through representative bodies that then help monitor implementation, to prevent incompetence and corruption and to ensure transparency and fairness. Where bureaucratic "red tape" creates unnecessary costs of administration or opportunities for corruption, the PRC has begun to "deregulate"—including in the birth limitation program.

*Program change.* Around 1970 China's national political leaders launched an ambitious attempt to control the quantity and improve the quality of China's population. Three decades of experience have provided China's birth program with many local examples of "best practice" in attempting to reach these twin goals, examples that the program has propagated nationwide. For example, a major early lesson was to stress propaganda-and-education over administrative or economic incentives, to stress pre-pregnancy contraception over post-pregnancy birth control, and to stress routine work over crash programs (the "three basics"). Accordingly, by the 1990s a major program objective was to replace crash campaigns by amateur cadres with continuous work by trained professionals. At the beginning of the 1990s, conservative national political and program leaders announced that some things about the birth program would not change: the basic policy of limiting births, overall national targets for controlling population, and the personal responsibility of local party and government leaders for meeting these objectives (the "three unchangeables"). On this basis, since around 1993 the program has unleashed a series of progressively more fundamental reforms.

Reforms in the early 1990s addressed flaws in China's state-centric approach itself (the "two transitions"). First, birth limitation was linked to other government programs such as alleviating poverty and advancing women. Second, the program began adapting to China's new "socialist market economy" by supplementing administrative and social "constraints" with financial "guidance" through incentives and disincentives. Throughout the 1990s a major preoccupation was correcting abuses within the administration of the program itself. Clumsy coercion was attacked by the 1995 "seven don'ts;" local financial corruption was addressed first through anti-corruption campaigns and later through local financial reform. Reforms in the later 1990s initiated movement toward a more client-centered approach. With international assistance, China's more advanced localities began improving "quality of care:" some choice between methods of contraception in particular and better maternal-and-child health care in general. By around 2000, the emphasis was shifting

from limiting the quantity of the population toward improving its quality—“quality” both in the narrow sense of better maternal-and-child health care and in the broad sense of better lifelong health and education. The program also began reducing unnecessary regulation, for example allowing newlyweds to have their first child whenever they choose instead of waiting for local government permission.

At the turn of the millennium, two major policy documents both further institutionalized and further reformed Chinese reproductive policy: a once-in-a-decade joint party-and-government Decision in March 2000 and a long delayed national Law, finally passed in December 2001. As regards institutionalization, the Decision and Law reaffirmed the PRC’s intention to continue trying to control national population growth and to limit individual couples’ fertility. As regard reform, the Decision and Law formalized 1990s reforms and authorized further progressive reforms. As I say in my current article in *Population and development review*: “Clearly the program is no longer just administratively enforced birth limitation, but equally clearly it is not yet entirely client-centered reproductive health care. Language is now in place authorizing much of both. How much of which prevails will depend on the power of rival policymakers and the vagaries of local implementation.” Fortunately, since I wrote that, an important program conference has given further concrete indication that the program will continue moving in a progressive direction.

Thus in early September 2002—just as the 2001 Law came into effect—the program convened a national work conference to summarize 2 years of experiments in how to proceed with the additional reforms that the new Law now permits. The conference site, the city of Mudanjiang in the province of Heilongjiang, will serve as a national model for many features of the next round of reforms. One of the most important of these involves the PRC’s rigorous system for evaluating the performance of local political leaders and administrative personnel (a form of western “management by objectives” that the Chinese call a “responsibility system”). This system is one of the national leadership’s most important tools for controlling local politics and steering local policy. In the early 1990s the national leadership used this system to ensure draconian enforcement of birth limits. Now, in the early 2000s, the national political leadership is using this same system to ensure reform of the program toward less State regulation and more service delivery. In evaluating personnel performance, Mudanjiang is dropping indicators for population growth and birth quotas and replacing them with indicators for quality care and citizen satisfaction. This is the most direct evidence one can have of the likely future direction of the program: further reform in a progressive direction is now institutionalized not only as national law but also as the criteria by which local performance will be evaluated.

#### PRINCIPLES OF LAW

The main point of this section is that current PRC reproductive policy is principled not unprincipled. The 2001 Law embodies definite constitutional principles concerning citizen rights and duties, definite public policy principles of optimality and justice, and definite implementational principles of reasonableness and fairness. What so long delayed the adoption of a national law governing reproductive policy were difficulties in squaring the ideal requirements for what a law should contain under the PRC State constitution and the actual practice of birth limitation in China. It was only after the program was already substantially reformed that the 2001 Law could be passed authorizing further reforms. Westerners may justifiably disagree with some of the principles involved or with how some of them are applied. Nevertheless, the underlying principles are analogous to principles upheld by the West—in fact many of them derive from the West or from current international conventions. Preoccupations common to the PRC and the West include defining an appropriate relationship between the rights and duties of citizens, establishing restraints on what the State can do to citizens, and achieving a feasible relationship between citizen entitlements and local resources.

*Duties of citizens.* The 2001 Law reaffirms the duty of Chinese couples to practice contraception and to limit their childbearing. The PRC regards this duty as comparable to military service or tax payment. Ideally citizens should comply with such duties voluntarily. Noncompliance is not criminal and should not be punished by criminal penalties. Nevertheless, such duties are mandatory and therefore should be enforced by some sanctions. Accordingly, noncompliers must pay a steep “social compensation fee” (several times annual income), so called because the PRC regards it as a way to reimburse society for the extra costs imposed by extra children. This fee also provides local revenues from which to reward couples who do restrict themselves to only one child. Of course, such a fee also serves as a coercive deterrent, but in the form of a financial disincentive that the PRC considers appropriate to

a “socialist market economy.” Sanctions become more severe only for citizens who do not pay this fee (either immediately or by yearly installments). Citizens who actively refuse to pay, or who otherwise actively obstruct birth planning, can be referred to the courts for trial and punishment.

Thus, as a policy, PRC birth limitation is “coercive” in the sense that it is a mandatory restriction on absolute reproductive freedom. Nevertheless, by now—as a result of thirty years of propaganda and enforcement on the one hand and of economic and social change on the other—compliance is largely voluntary. Evidently by now, in principle, most Chinese citizens agree with their government that population should be limited and that citizens have a duty to limit their childbearing. Most citizens are willing to do so, provided that policy is reasonable and consistent and that enforcement is firm and fair—just as most Americans are willing to pay their taxes voluntarily, but only so long as everyone does so. In practice, of course, some couples attempt to break the rules, particularly couples who have a daughter or two but still do not have the son they desire. But then enforcement is definitely not supposed to be “coercive” in the sense of community-level implementors taking physical action against the noncompliers.

*Restraints on the state.* Thus the 2001 Law also reaffirms the right of Chinese citizens not to suffer from abuses of maladministration or from over-harsh implementation measures. This is part of an ongoing effort by national political leaders to rein in sometimes predatory local governments, in order to protect the regime’s legitimacy in the eyes of the public. As noted above, during the 1990s the national political and program leadership made strenuous efforts to combat abuses in the birth program such as clumsy enforcement (physical coercion of persons, physical damage to property) and financial corruption (local governments levying undue fines to increase their revenues). These efforts included removing egregiously coercive or extractive provisions from local regulations. The 2001 Law institutionalizes these efforts by stipulating severe penalties for such abuses. Thus most of the punishments specified in the 2001 Law are not on citizens for non-compliance but on local officials for maladministration. Associated regulations will turn all money from fees over to county finance bureaus, reducing opportunities for financial corruption.

The 2001 law also omits many harsh measures that still remain in existing provincial regulations, which will require removing them from provincial regulations as well. These include such unpopular requirements as that, after a couple has had its permitted number of children, one partner in the couple should accept sterilization. The 2001 Law also continues efforts to combat demographic distortions that birth policy has aggravated, such as skewed sex ratios at birth. Thus the 2001 Law confirms that it is illegal to use ultrasound machines to determine the sex of a fetus as a prelude to sex-selective abortion. (This is intended as a restraint on both State and private medical providers, and on private citizens. Unfortunately the popular demand for sex-selection is so great that this attempt at restraint has little effect.)

*Provision of benefits.* At the same time that the PRC is limiting some rights (mostly civil-political) it is extending others (in the case of reproductive health, rights to social services that go beyond those guaranteed by the Chinese State constitution). The 2001 Law affirms the right of citizens to a variety of benefits related to reproduction. Couples who forego extra children deserve direct rewards to compensate for the economic benefits the children would have provided. Poor households who practice birth planning deserve extra help in developing their livelihoods through priority access to poverty-relief resources and programs. Women deserve access to basic reproductive health services and to more opportunities for education and employment. An adequate social security system would lessen the need of parents for children who can care for them in old age. Of these benefits, the main specific one currently being actively expanded is reproductive health care. A main goal here is to raise the “quality” of the children actually born, through premarital and prenatal screening, checkups and nutrition during pregnancy, and better care during childbirth and early infancy. In 2001, concurrent with the process of passing the Law, the State Birth Planning Commission issued Technical Services Regulations to govern the provision of these benefits. Among other things, these regulations instructed the SBPC and Ministry of health to cooperate in establishing a “local service provision network.”

#### DIFFICULTIES OF PRACTICE

The main point of this section is that the principles endorsed by the 2001 Law face difficulties of implementation in practice. In the long run progressive reformists at the center probably will largely prevail. However the process will be gradual, piecemeal, and incomplete.

*Need for stability.* Program change will be gradual because national political and program leaders regard some stability as a precondition for much reform. As in any country, policy change is easier to achieve if it can be represented as a continuation of existing policies. In the March 2000 Decision “stability” is a mantra: the goal is to “stabilize” a low fertility rate that the leadership regards as potentially “unstable,” because in some areas economic and cultural development is not yet sufficiently advanced to reduce fertility on its own. According to the Decision, the key to maintaining low fertility is to “stabilize” and “strengthen” existing policies. This does mean maintaining strict limits on the number of children that couples are permitted, particularly in less developed areas where fertility remains high. However it does not mean “strengthening” enforcement against citizens—instead, what is to be “strengthened” is program capacity to deliver services—competently, honestly and efficiently.

In practice, the process of reforming China’s birth program will involve a great deal of stability. First, to placate conservative elites, large parts of central policy itself will not change. Perhaps as a concession to conservatives, the 2001 Law contains much language authorizing features of the old “state planning” approach. Second, to avoid erratic mass behavior, policy change must proceed in an orderly fashion. At each stage it must remain clear what rules cadres must enforce and citizens must obey. Program leaders believe that experience has taught them that for the program to remain stable—neither grass-roots implementors nor the mass public either rebelling or defecting—the program must steer a centrist course between too great severity and too great leniency. That is why, when the 2001 Law was passed, national program leaders immediately underlined that it represented “neither a tightening nor a loosening” of policy. Third, existing policies have been arrived at through a long process of trial-and-error. The reform strategy is to “fade in” new methods and to make sure they work before a “fade out” of old methods. Obviously change in China’s birth program is a politically sensitive and technically complex process that requires careful attention to understand correctly.

*Limits from decentralization.* Program change will be not only gradual but also piecemeal because the central government’s leverage over provincial and local governments has some limits, for both constitutional and practical reasons. According to the Chinese State Constitution, provinces have some latitude for adapting national policies to provincial circumstances. In social policy, central ministries do not exert direct authority over their provincial branches, which report instead to the provincial government and its party leadership. The same is true of the relationship between provincial and local governments (county and city), and between local governments and community governments (township and village). As a practical matter, lower levels provide much of the funding and staffing for social programs and therefore inevitably have some latitude for influencing what occurs within their jurisdictions. For very high priority objectives, higher levels can use personnel policy and party discipline to overcome these obstacles. This has worked well for combating maladministration of birth limitation but is less likely to work well for delivering reproductive health services.

*Level of development.* Program change will be not only gradual and piecemeal but also incomplete, because it will be relative to development. As Marxists, national leaders view many matters as relative to the overall level of national economic development, including what constitutional rights it is feasible to implement at each stage. In practice it will be harder to rein in abuses in less developed localities, where fertility is still high, compliance is less voluntary, and the quality of personnel is lower. In these poorer localities, positive benefits will be harder to fund and many benefits may never be feasible at all.

#### CONCLUSION: POLICY IMPLICATIONS

By way of conclusion I return first to my two purposes (providing reliable information about recent policy developments and identifying effective forms of outside intervention) and then finally return to my one main theme (the inevitability of tradeoffs between different rights). All of these are complicated by the multiplicity of discourses in both China and the West. China includes both many modern discourses (e.g. variants of both communist and non-communist modernity) and many traditional discourses (e.g. variants of Confucianism and other philosophies). Each of these discourses has its own interpretation of, or adds its own nuance to, Chinese understanding of Western rights concepts. These Western concepts are themselves contested within the United States, within the international community, and between the two. In particular, the dominant discourse through which Americans have perceived PRC birth limitation is what Professor Susan Greenhalgh calls “the coercion narrative,” whose relevance to the program has been steadily decreasing

(please see her testimony). Accordingly, dialog between China and the West over the PRC's implementation of specific rights might best proceed by looking for common ground, particularly between the Chinese and Western discourses that are closest to each other. These are Western social democracy and its Eastern offshoot, post-Mao Chinese market socialism. However, philosophical agreement is no longer the main problem: China has already adopted most of the aspirations compiled in international agreements.

The first of my two purposes has been to provide reliable information about recent policy developments in China, in particular to underline that there is much that is positive in recent developments, the 2001 Law in particular. Evidently that positiveness is difficult to detect through the lens of the coercion narrative, as Dr. John Aird's statement to this Roundtable illustrates, making that statement distinctly unreliable as a source of information. Dr. Aird's main conclusion is correct: Chinese couples still do not have complete reproductive freedom and the 2001 Law is intended to further institutionalize public policies limiting the number of children that PRC citizens are permitted to have. Nevertheless, his conclusion presents a number of problems. A first is that, contrary to the impression he conveys, few informed persons maintain otherwise, least of all the PRC government or the 2001 Law, which he correctly cites as plainly requiring that Chinese citizens limit their fertility. A second problem is that much of the rest of his strategy for substantiating his conclusion is irrelevant or misleading. It is irrelevant to report that enforcement of the policy has been clumsily coercive in the distant past. It is misleading not to report that, precisely for that reason, the PRC is doing its best to prevent enforcement from being clumsily coercive in the present and future.

A third problem is that some of the rest of Dr. Aird's strategy for proving his conclusion is misinformed or misguided. As for misinformation, it is simply not the case that, for example, the 2001 Law calls for population targets or birth quotas (that was a FBIS mistranslation). It is not true that the Law does not proscribe abusive coercion as a method of implementation (that is the meaning of the Law's demand for "lawful implementation" and for respecting citizens' "legal rights and interests"). It is not correct that the government makes no domestic mention of its opposition to abusively coercive implementation (in the late 1990s it advertised the "seven don'ts" and in the early 2000s it is trying to inform citizens of the 2001 Law's ameliorative provisions). As for misguidedness, Dr. Aird asks why the PRC would pass such a law at this time if it were not for the sinister purpose of increasing "coercion," when the answer plainly is that the PRC is belatedly bringing birth planning into a longstanding process of reconstructing the foundations of the regime on the basis of "socialist legality." In doing so the PRC has reaffirmed that birth limitation is mandatory, but it has also chosen the least coercive method for enforcing such limits that it could devise. Equally misguided as a form of argument, Dr. Aird finds "contradictions" between various Chinese policy statements, which again to him proves a sinister intent to "coverup" increased coercion, but which really just demonstrates that he simply does not understand the complex process of reform that is occurring.

As regards effective intervention, over the past decade Chinese reproductive policy has been remarkably responsive to outside influences. Negative criticism of questionable practices has contributed. However, constructive assistance and persuasive ideals have contributed more. For example, the United Nations Population Fund (UNFPA) made the largest single contribution to reducing abortions in China, by improving contraceptive technology to avoid unauthorized pregnancies. International standards for reproductive health and women's rights (Cairo 1994 and Beijing 1995) quickly and strongly influenced Chinese reproductive policy. The Ford Foundation, Population Council and other international organizations helped launch the 1990s reforms in China's birth limitation program. The problem now is not so much persuading the PRC to adopt Western ideals as it is the PRC's ability to implement jointly held ideals. According to the "developmental" approach to rights taken by China's leaders, the main question is one of feasibility. Demographic feasibility dictates that implementation measures not allow a rebounding of fertility. Economic feasibility requires that local resources be available to fund better administration and more benefits. Political feasibility demands that particular measures win credit for individual leaders within the elite and win legitimacy for the regime within society. Effective intervention would analyze and help alleviate these feasibility constraints, through both bilateral and multilateral assistance to the Chinese birth program in such matters as employing voluntary methods, raising technical standards, and combating HIV/AIDS.

Finally, I return to my one main theme of tradeoffs. Most contemporary ethical theories concede that rights are never absolute. In particular some tradeoff is likely between libertarian rights of freedom from State interference and social-democratic

rights to social services that require some State intervention. In China's reproductive policy the main tradeoff has been between the right of the current generation to bear more children and the right of future generations to resources and environment. In relevant American policy there has been some tradeoff between security and economic relations with China and the ethical values of some Americans related to reproduction. There has also been some tradeoff between the right of Americans to promote such values and the right of Third World women to receive international assistance for reproductive health. No doubt such tradeoffs will continue, but positive recent developments in Chinese reproductive policy should make them less acute.

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PREPARED STATEMENT OF SUSAN GREENHALGH

SEPTEMBER 23, 2002

WOMEN'S RIGHTS AND BIRTH PLANNING IN CHINA: NEW SPACES OF POLITICAL ACTION, NEW OPPORTUNITIES FOR AMERICAN ENGAGEMENT

INTRODUCTION

Since China launched its controversial one-child-per-couple policy in 1980, influential American politicians and the media have advanced a powerful critique of the state-sponsored coercion used in the name of limiting population growth. While the focus on coercion has been helpful in drawing attention to the human rights abuses in the Chinese program, it has outlived its usefulness. That exclusive focus on coercion has limited both our understandings of, and our responses to, new developments in Chinese population affairs. Three of those limitations bear note.

First, the coercion critique has paid scant attention to the violations of women's interests and rights, when it is women and girls who have borne the heaviest costs of China's birth planning program. Second, the coercion story divides the world into two opposed systems—capitalist/socialist, free/coercive, good/bad—and defines the presence of coercion as the only thing worth noticing about the Chinese program. Evoking an older, bipolar cold-war world, the coercion perspective ignores forces of globalization that are profoundly transforming Chinese society, fostering not only change in the State program but also the emergence of new and progressive quasi-state and non-state sites of political activity. Finally, the coercion critique has encouraged punitive responses from the American government, rather than constructive engagements with Chinese reformers. The official American response has been less helpful than it could have been. China is changing. While continuing to draw attention to the human rights violations in the Chinese program, it is time to move beyond the single-minded focus on coercion to see the remarkable transformations that are taking place in the global and local Chinese politics of population and the opportunities they present for constructive American response.

This brief presentation draws on nearly 20 years of active scholarly research on China's population dynamics, policy, and birth planning program. That research has involved numerous trips to China, where I have conducted extensive interviews with both the makers of China's policy and the peasants who are its main objects. In those 20 years, I have heard many heartbreaking stories and seen many appalling things. In my scholarly work, much of it focused on the human costs of the Chinese policy, I have sought not to criticize China, but to understand how those troubling practices came about. That has seemed a more productive approach. This presentation draws heavily on interviews with leading Chinese women's rights scholars and activists.

I want to make three points. First, despite the heavy costs China's restrictive population policy has imposed and continues to impose on women and girls, important pro-woman changes are occurring not only within the Chinese population establishment, but also outside the state—that is, beyond the scope of formal law, which often follows as much as leads social change in China. Given the growing role of non-state forces in Chinese politics, it is important to attend to and support these developments. Second, the promising changes that have occurred in China have stemmed not from foreign criticism, but from a combination of internal critique and constructive engagements with international organizations. This history contains important lessons for the formation of American policy toward China in the future. Third, the prospects for further reforms to advance women's rights and interests will be shaped by a variety of cultural, political, and demographic factors, which present both challenges and opportunities. In this as in other domains, however, China will continue to follow a Chinese path to reform that will bear the marks of that nation's distinctive culture and politics. We must not expect Americanization.

## I. DYNAMICS OF REFORM

Since the early 1990s, two streams of women-focused critique and reform of the birth planning program have developed within China. One has been located within the State Birth Planning Commission, while the other has been emerging from a loose grouping of women's advocates located outside the population establishment. Before we can assess the prospects for future change, we need to understand the dynamics behind the reform movements that are already developing.

*Reforms in the State Birth Planning Commission*

Since its creation in 1981, the State Birth Planning Commission's central mandate has been the fulfillment of stringent population control targets. In early 1990s, facing rising birth rates, the Commission oversaw the use of harsh administrative measures to reach targets. By early 1993, those in charge realized that fertility had fallen to a level far below what they had imagined possible. With the pressure to produce results off, in 1993–94 Commission leaders began to grow concerned about the social, physical, and political price that had been paid for pushing the numbers down so fast. Larger reform-era changes in Chinese society—in particular, the spread of an increasingly globalized market economy, the development of “socialist legality,” and limited political reform in the form of local elections—also stimulated growing concern at the Commission with the human costs of population control.

These concerns, which grew out of China's own experience of population control, were supported by China's growing involvement with the international movement for women's reproductive health associated with the 1994 International Conference on Population and Development held in Cairo. The Cairo process gave supporters of change a vocabulary of reform that dovetailed with concerns that were developing domestically. In the wake of the conference, collaborations with foreign organizations advancing reproductive health agendas multiplied. From international organizations, reformers in the Commission received crucial financial resources and organizational and technical know-how to pursue more woman-centered, health-oriented approaches to the State planning of births. As documented elsewhere, since the mid-1990s the State has introduced a package of programmatic, policy, and legal reforms—culminating in the new Population and Birth Planning Law—designed to improve the delivery of services while retaining control over population growth.

*New voices from outside the State*

Meantime, another dynamic of change has been developing outside the population establishment. Since the mid-1990s, a loosely defined group of women scholar-activists has begun to speak out about the harmful as well as helpful effects of birth planning on women's health and well-being. Crucial to the emergence of these women's rights activists have been the multiplying connections to transnational agencies and feminist and reproductive health networks, forged in particular at the Fourth World Conference on Women held in Beijing in 1995. The international women's conference gave the women's movement in China, which had been moribund during the 1960s and 1970s, fresh energy and life. Since the conference, a number of women's rights activists have begun to work to raise consciousness about the effects of State birth planning on women and girls, and to promote policy and program changes to alleviate them. These individuals come from a variety of backgrounds—from population studies to bioethics, women's studies, women's activism, and even journalism. They are located in such diverse institutions as universities, the social science academies, the All-China Women's Federation, and a variety of newly emerging NGOs. Women's advocates must exercise great caution in criticizing what remains a “basic State policy” of the party and government. In this restrictive political climate, transnational links have been critical, for they have given these women (and some men) new concepts, political support, and external resources to pursue their agendas.

## II. A GENDER CRITIQUE FROM OUTSIDE THE STATE

Although they remain few in number, unorganized, and dependent on a fragile tolerance by the state, these women's rights advocates represent a new voice on population, with the potential to question the policies that have guided population work for the last 20 years. What have they been saying about the impact of birth planning on women's lives?

*Contradictory effects on adult women*

The women's advocates I talked to all maintained that the birth control program has had huge and largely unexamined effects on women's lives. They also agreed that those effects have been not exclusively good, as the state has claimed, but contradictory, with harmful consequences mixed in with the good. On the positive side,

birth planning has facilitated women's personal development, enabling them to acquire skills and education and to devote themselves to work and income acquisition as never before. While such benefits might be enjoyed by the majority of urban Chinese women, for rural women, they emphasized, the harm has outweighed the benefits. In the birth planning program, they felt, rural women have been treated less as subjects than as objects to be managed and used in the achievement of State plans and goals. The effects of this objectification extend from women's health to their psychological well-being and socioeconomic security.

*Threats to infant girls*

A strict one- or two-child policy enforced in a culture with a strong son preference has also proved dangerous for rural infant girls. Statistics show that the sex ratio at birth has been rising steadily, reaching about 117 today. That means that for every 100 girls born, 117 boys are born, much higher than the biologically normal level of 106. In the past infant girls were sent away, hidden, abandoned, or even killed; today female fetuses are increasingly being aborted. Death rates among female infants have also been rising, producing what demographers call an "excess female mortality"—higher than biologically expected level—that is high and rising in some places. Despite the political risks of criticizing the state program, some of my interviewees acknowledged that the birth program was a contributor to these problems faced by the infant girls.

The emergence of this women's health and rights critique is highly significant, for it suggests the evolution of a discourse on population that departs from the official line. Although the commentators I spoke with followed rather than led the State in interrogating the benefits of birth planning to women, they have moved much further than the State has in dismantling the official view that birth planning has been an unmitigated good for women. These activists also have visions of new paths to political change that might allow women themselves to begin articulating their own reproductive needs and interests.

### III. NGO PROJECTS ON BEHALF OF WOMEN AND GIRLS

While this gender critique is developing at the level of discourse, other promising developments are occurring at the level of practice.

*NGO activities to promote women's interests*

Recent work has highlighted the significant innovations in the state program, but initiatives emerging from NGOs are significant as well. Let me give just a few illustrations of the many activities that are developing. One major project has supported rural income-generation activities that have worked to boost women's income and thus power in the family. Another important project is a magazine for rural women that carries special sections on reproductive health. Yet another is a telephone hotline set up for women to call in and get advice on a wide range of problems, including sexual and reproductive health and rights. Many of these projects have been developed on local initiative and been supported in part by resources from foreign organizations.

*Peasant initiative in solving the problem of abandoned baby girls*

So far I have talked only about projects initiated by urban elite actors. But China's rural people are also taking matters into their own hands and working to alleviate some of the costs strict birth control has imposed on rural women and girls. One of the most important arenas of such peasant initiative is that of the adoption of infant girls. As is well known, strict limits on births have led many couples to abandon infant daughters. Even as the State has tried to regulate the adoption of these abandoned girls, in the countryside, research in a few localities suggests that a whole informal culture of adoption has developed that flourishes largely outside the official apparatus of the state. In the localities studied, this research indicates, the babies are adopted not from State orphanages, but directly from their birth parents or through intermediaries. Few of these adoptions involve local cadres, and when cadres are involved, they do not try to prevent the adoptions, but only to collect fines for unregistered adoptions. These studies also suggest that it is women who are taking the initiative in finding daughters to adopt, especially when they had only sons. In the rural areas, at least, adoption seems to be an arena in which women are gaining informal power to shape family size and composition and to give abandoned girls good homes. The legal development of women's rights is important, but so too are informal practices that bolster women's status and rights on the ground.

## IV. CHALLENGES AND OPPORTUNITIES AHEAD

These efforts to promote women's reproductive rights and health are being nurtured into existence in a larger political, cultural, and demographic environment that presents both challenges and opportunities.

*Political economy*

First, the challenge of political economy. Although it failed to fulfill its promises to women, Maoism at least championed the goal of gender equality. In the post-Mao era, the advance of global capitalism coupled with the retreat of the State from direct intervention in many areas of life have left women vulnerable to many forms of discrimination. Although the economic and political reforms have had contradictory effects on the lives of urban women, it is the losses—of job security, formal political position, and much more—that have received the most attention. A new consumer culture has commodified the bodies, sexualities, and identities of women and promoted the image of the “virtuous wife and good mother” who has left the public sphere of production and politics to men. Moreover, the reforms have supported a biological notion of gender that sees women as by nature physically and psychologically different from men. This notion that women are essentially different from men can be expected to shape the women's rights that will develop in Chinese legal thought and practice.

*Traditional culture*

Second, the challenge of traditional culture. The notion of women's independent rights has few precedents in traditional Chinese culture, a culture in which women's social and legal place was within the male-defined family. In the countryside, where the majority of the population lives, the basic social and gender organization of the family has been quite resistant to change. These cultural constructs will color the way legal notions of women's rights develop.

*A stable but unpredictable demography*

Third, the challenge of an unknowable demographic future. Despite the important reorientation that has occurred in the birth program, over the last 20 years the state's fundamental rationale for the drastic limitation of births has been the notion that China faces a real or potential population crisis—a crisis of people proliferating out of control, sabotaging the nation's economic growth and global ascent. Keeping the numbers down has been the number-one concern. Today's relaxation has been contingent on the achievement and maintenance of low birth rates over the last 10 years. Should the birth rate somehow rise again, or turn out to be higher than the current estimates suggest, the reforms may well slow.

*Falling desires for children*

Fourth, the opportunity presented by social change. Twenty years of reform and economic advance have dramatically lowered childbearing preferences, even in the rural areas. In many parts of the country couples want at most two children, and in some of the more developed rural areas they want only one. These changes in Chinese society have made, and will continue to make, high-pressure tactics in the birth planning program increasingly unnecessary.

*A new gender consciousness among State officials*

Fifth, the opportunity offered by a new gender consciousness in the state. Since the mid-1990s, the Chinese State has made women's economic, political, and educational development a newly important part of its ongoing reforms. While implementation faces obstacles, this new commitment to women is a promising development.

## CONCLUSION

These challenges are real and will continue to shape the way the issue of women's rights is handled in China's birth planning program. Yet China is changing—and fast. Globalization is producing fundamental transformations in China's society and polity whose implications for women and birth planning no one can predict. The history of the 1990s and early 2000s reveals the critical role of international organizations in supporting both the positive reforms in the state, and the emergence of new, quasi- and non-state spaces of political critique and action. These promising developments open up opportunities for new forms of constructive engagement by Americans that support the reform tendencies already in place.

## PREPARED STATEMENT OF STIRLING SCRUGGS

SEPTEMBER 23, 2002

UNFPA has worked in China since 1980. During our first 10 years, we focused on building self-sufficiency. In particular, we supported:

- China's first modern census, which was executed by the U.S. Census Bureau.
- Contraceptive research, which was executed by WHO.
- Academic training for Ph.D candidates from 23 universities, which was executed by the U.N. Population Division. Their studies took place in U.S., U.K. and Australian universities.
- Contraceptive production, which eventually helped China become self-sufficient in the production of high-quality, international standard contraceptives, including birth control pills, condoms, IUDs, injectables and foam. This activity was executed by PATH, a Seattle-based NGO.

Beginning in 1990, when I was the UNFPA Representative in China, UNFPA assisted with:

- Another census.
- Working with the returning Ph.Ds, whom we had sent away for training. We assisted the 23 universities that sponsored their studies to establish Population Science curricula, which included Sociology, Demographics and Statistics.
- Continued contraceptive research.
- The establishment of a high-quality Maternal and Child Health Programme in 310 counties. The programme focused on safe deliveries, ARI, diarrhea, breastfeeding, and the use of high-quality contraceptives manufactured in Chinese factories. Our partner agency in this endeavour was UNICEF.
- The establishment of a special interpersonal counseling and informed consent project, which was executed by PATH.
- The creation of China's first women's empowerment projects in 36 counties. These were the most gratifying field projects I have ever been associated with. And I will be glad to discuss them later with anyone who is interested. They were executed by FAO and ILO.

Beginning in 1997, UNFPA initiated its current programme, which includes the now well-known 32 counties quality reproductive health care project. And we continued women empowerment projects.

## UNFPA ADVOCACY IN CHINA

UNFPA has always engaged in a serious dialog with the Chinese Government on human rights, including reproductive and women's rights. In:

*1980:* UNFPA advised against the one-child policy.

*1983:* UNFPA strongly condemned the first reports of massive coercion in China's population programme. The Executive Director sent the Deputy Executive Director the day after it was reported in the Washington Post. That coercion was occurring on a large scale. We have been in constant dialog since then.

*1990:* My first field trip after assuming my post in China was to visit remote villages in northwestern China to investigate China's new campaign to sterilize the mentally retarded. While this sterilization campaign was initiated for humanitarian reasons, that is, because authorities had become aware that mentally deficient parents had in many cases neglected their children even to the point of death, the Chinese approached this situation without scientific evidence or consideration for human rights. I consulted with WHO and brought a team of experts to China, including a scientist from Columbia University and another from CDC in Atlanta. After a month, they developed a micro-nutrient programme that effectively decreased the incidence of mental retardation in these remote areas. The primary reason for the large numbers of mentally deficient citizens in these remote areas was a lack of iodine in their diets. The micro-nutrient programme was financed and executed by UNDP and UNICEF.

*1992:* UNFPA, working with the Alan Guttmacher Institute, WHO, and Beijing University conducted a large-scale IUD study. This study was prompted by the large number of contraceptive failures of the Chinese steel ring IUD. The study resulted in a policy change in China. Two weeks after the study was released, China made it mandatory that all IUDs being used in its programme should be copper-T IUDs, which were being manufactured in China in the factories that UNFPA was assisting.

Over a 10-year period, it is estimated that the use of the copper-T IUD prevented:

- 41 million pregnancies
- 26 million abortions

- 14 million births
- 1 million spontaneous abortions/miscarriages
- 360,000 child deaths
- 84,000 maternal deaths

1993: I tried to initiate the first model county programme, which was, in fact, the precursor to the 32 counties programme that began in 1997. When the day came for the Governor of the Province to suspend targets and quotas in the county in question, he was told that he could not suspend targets and quotas. Thus I canceled this programme.

1994: The Cairo International Population and Development Conference specifically addressed coercion and advocated a needs-based, human rights-based approach to all population programming. This gave UNFPA the international standard and leverage to be insistent in mandating this approach.

1995: Negotiations began on the current 32 county programme. These negotiations took 2 years and during those 2 years UNFPA did not have a programme in China.

1997: The current 32 county programme was approved by UNFPA's 36-member Executive Board, of which the United States was a member. This programme ends this year.

#### OBJECTIVES

- The objectives of the 1997 programme were improved access of women and men to quality, integrated client-centered RH/FP information and services on a voluntary basis, and developing a model in selected counties from which lessons could be drawn for application at the national level.
- These efforts were reinforced and complemented by programmatic activities aimed at creating an enabling environment in terms of women's empowerment and advocacy.

#### ACHIEVEMENTS

The 32 counties were chosen according to geographic criteria and their stated willingness to drop targets and quotas, and whether they were willing to invest counterpart matching funds (3-9 times of the UNFPA budget).

At the beginning of the project, a so-called "pink letter" was sent to all households in the 32 counties explaining the project (ICPD, client rights, etc.).

*Before:* No privacy during counseling, no informal counsel.

*Now:* Privacy and informed consent.

- Women who knew about at least three methods of contraception has increased from 39 to 80 percent
- Sterilization decreased: 44 to 30 percent
- IUD's increased: 51 to 61 percent
- Other methods increased: 5 to 9 percent (mainly condoms to prevent AIDS)
- Abortion decreased: From 18/100 to 11
- Maternal mortality: 66/100,000 to 62
- Infant mortality: 27.7 percent to 21 percent
- Delivery by skilled attendant: 90 to 96 percent
- Better medical protocols to include choice in contraceptives, help during menopause, infertility, STI/RTI, HIV/AIDS, breastfeeding promoted.
- So far this model has been adopted in 800 other counties in China including four entire provinces.

#### CHALLENGES AHEAD

- Stop social compensation fee.
- Improve IEC and condom availability for AIDS.
- Continue to prove that choice is right and it works.
- Continue to advocate for Gender Equality.

#### UNFPA ROLE AND STRUCTURE

- UNFPA's role is to advocate and support governments in their efforts to implement ICPD principles and its Programme of Action.
- UNFPA reports to an Executive Board composed of 36 U.N. member countries. The Board meets 3 times yearly.
- UNFPA works in those countries which request assistance, and which, according to the Executive Board, fall within the criteria for assistance, both for the country and the type of assistance requested. The four UNFPA country programmes for China have each been adopted by UNFPA's Executive Board.

- UNFPA's core budget is funded entirely by voluntary contributions from 126 U.N. member countries.
- UNFPA assists 142 developing and transition countries.
- UNFPA is a development fund. It relies on standards and data from other U.N. entities (e.g. WHO, U.N. Population Division, etc.). UNFPA generally works through U.N. agencies and international NGO's and governments for project execution.

## CONCLUSION

- UNFPA, like all U.N. organizations, is guided by international human rights standards and principles.
- UNFPA provides assistance in all phases of reproductive health: FP, MH, STD/HIV prevention, treatment for unsafe abortion, and advocacy for an enabling environment.
- UNFPA assists countries to become sustainable in development planning and self-sufficiency through:
  - Data collection, analysis and research.
  - Governments must know population numbers, dynamics (urban, migration, age etc.), in order to meet population needs.
  - Advocacy for human rights, gender equality, women's education, social participation, health care and RH care.

I am very proud of UNFPA, its principles, its work and its staff.

The malicious lies and misinformation of the past few years have hurt UNFPA, most importantly they have hurt women, youth and men around the world. Today, due to discrimination and a lack of quality reproductive health services:

- One woman dies every minute.
- 40 have unsafe abortions.
- 190 become pregnant who do not want to be.
- 48 percent deliver at home without medical help.
- 10 people are infected with AIDS: half are under 25, our future.

They could be our mother, wife, sister, daughter—but they aren't. But they are a mother, wife, sister, or daughter to someone. They deserve our assistance. Thank you.

