

CHINA: HUMAN RIGHTS VIOLATIONS AND COERCION IN ONE-CHILD POLICY ENFORCEMENT

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CHINA: HUMAN RIGHTS VIOLATIONS AND COERCION IN ONE-CHILD POLICY ENFORCEMENT

TUESDAY, DECEMBER 14, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Committee met, pursuant to call, at 10 o'clock a.m., in room 2154, Rayburn House Office Building, Hon. Christopher Smith, [Vice Chairman of the Committee] presiding.

Mr. SMITH OF NEW JERSEY. The Committee will come to order. And good morning to all of you. Today, the Committee on International Relations is meeting to examine the appalling issue of the continued and systematic use of coercion by the People's Republic of China in the implementation of its one-child-per-couple policy. In particular, we will hear testimony about the deplorable case of Mao Hengfeng, a victim of forced abortion whose ongoing attempts to receive justice have resulted in her sentencing to 18 months of hard labor during which she has been tortured, denied vitally-needed medicine, and whose life is in danger today.

Some of you may be wondering why this hearing is being held at this time when the 108th Congress has adjourned and the 109th Congress has yet to be sworn in. Fighting for human rights is almost always difficult, and it is certainly always inconvenient, and nowhere is it more inconvenient than when dealing with the Peoples Republic of China. Rocking the boat could be bad for the bottom line and may upset international relationships. Thus, business and international interests may apply pressure to pretend that there are no or few human rights violations in China.

Unfortunately, however, the Communists in China do not take time off from their abuse and persecution, and they certainly don't do it for the holidays. Beijing party leaders do not give local officials a pass from fulfilling their population and family planning quotas, euphemism for forced IUD insertion, forced sterilization and forced abortion. In fact, the torture of Mao Hengfeng demonstrates that China's drive to control its population growth at any cost to the Chinese people is as strong and as dangerous as ever. A leading activist in Shanghai, Mrs. Mao's troubles began with the Chinese Government in the late 1980s when she was pregnant for the second time. She petitioned her work unit for larger housing, which she was refused. Despite a hunger strike in protest by Mrs. Mao, she was confined to a psychiatric facility for 6 days in February 1989, during which she was administered drugs designed to

induce an abortion, which nevertheless failed. The following month, in March 1989, she was dismissed from her job for missing too many days of work, after which she was sued for wrongful dismissal and won but lost on appeal.

Mao's legal battles continued during which she became pregnant a third time. Told by the presiding judge that he would rule in her favor if she had an abortion, her child was aborted in October 1990. But the court, nevertheless, rejected her claims. Another protest by Mrs. Mao resulted in another month-long psychiatric confinement where Mrs. Mao reported she was suspended in an inverted position and beaten. Continuing her court battles for the next decade, Mrs. Mao staged protests in front of the Shanghai No. 1 Intermediate Peoples Court in May and October 2003 after a lower court rejected her suit for no payment of a fee, even though a fee waiver request was included in the papers transferred from the higher court.

In early 2004, Mrs. Mao, along with thousands of other petitioners, brought their cases to the attention of party leaders at the National Peoples Congress in Beijing. Upon her return, she was arrested and sentenced to 18 months of reeducation through labor for "disturbance of the peace," as they call it, for allegedly scratching and tearing the uniforms of court personnel during the May and October protests.

In reeducation through labor, credible sources report that in August she was beaten, and that camp police have bound Mao's wrists and ankles with leather straps and pulled her limbs apart for a period of 2 days to force Mrs. Mao to acknowledge wrongdoing. On November 19, she lost an appeal in a Shanghai court to receive welfare payments, but was seen with blood blisters and swelling around her wrists and ankles indicating ongoing abuse. More recently, family members reported that she is being force-fed by an unidentified medicine which turns her mouth black, that she is held for hours in restraints, and that she is incarcerated with two narcotic offenders who are reportedly free to abuse her. Her blood pressure is dangerously high, but she refuses to take medicine for fear of being given psychiatric drugs.

Multiple independent sources confirm that the reports of Mrs. Mao's mistreatment are not exaggerated. Mrs. Mao's case has raised concern even in China where access to information is difficult. Dozens of people have come forward to openly support her, and protests against her treatment led to the adjournment of an October 28 hearing in Yangpu district to consider further administrative action against her. Mrs. Mao clearly is the most egregious and most recent example of China's mistreatment of women who do not comply with China's Draconian policies, but there are thousands and thousands of other victims. As a matter of fact, other victims have personally told me, on trips to China, of their horrific stories about the Chinese one-child-per-couple policies. At one religious freedom meeting in China in the 1990s, I asked what the participants knew about forced abortion policies. All three women in the group broke down in tears as they shared with me how they all had been forced to have abortions. One woman talked about how she thought God was going to protect her baby but that she was not able to escape the abortion. Other women who have gained

asylum in the United States because of China's coercive population control program have told me and this Committee terrible stories of crippling fines, the so-called social compensation fee, which Assistant Secretary Dewey will speak about today, that is up to 10 times the household income. That means father and mother, husband and wife, are forced to pay up to 10 times.

That Draconian fine is the linchpin of the coercive population control program. Because if you can't live, if you can't get housing, if you can't have a wage that at least is somewhat liveable and you are fined up to 10 times your salary, how do you exist? So that becomes, again, the means by which the coercion is carried out. Other women who have gained asylum have stood here and told similar stories in the past. I will never forget one testimony from a woman who told how she had found an abandoned baby girl, picked up this abandoned baby girl, only to find that the family planning cadres knocked on her door and said, you now have to abort the baby that you are carrying. She was the good Samaritan, taking care of an abandoned girl and making that girl her own, only to be sanctioned by the population control police and forced to have an abortion. She finally got asylum here in the United States. According to the most recent State Department *Human Rights Report*, one consequence that has been largely overlooked by the press and by many people has been the impact on women's mental health. According to the State Department report, the country's birth limitation policies have caused an upwards of 500 suicides by women each and every day. Five hundred women who take their lives every day because they see no way out and are dealing with such crippling pain and agony as a result of this coercive population control program.

As a matter of fact, the report points out that 56 percent of the world's female suicides occur in the Peoples Republic of China. We also heard some years back—my good friend and colleague, Mr. Lantos, will remember this—from Mrs. Gao Xiao Duan, a former administrator of the Chinese planned birth control policy. She said, and I quote her briefly,

“Once I found a woman who was 9 months pregnant but did not have a birth allowed certificate. According to the policy, she was forced to undergo an abortion surgery. In the operation room I saw how the aborted child's lips were sucking, how its limbs were stretching. A physician injected poison into its skull, and the child died, and it was thrown into the trash can. I was a monster,” she went on to say, “in the daytime, injuring others by the Chinese communist authorities' barbaric planned-birth policy, but in the evening, I was like all other women and mothers enjoying my life with my children.”

As she sat right where our Assistant Secretaries are sitting, she went on to say,

“To all of those injured women, to all those children who were killed, I want to repent and say sincerely that I am sorry!”

Mrs. Gao has been joined by a rising chorus of government and human rights organizations crying out against these crimes against humanity.

I am pleased that we do have such a distinguished group of individuals who will speak to this issue momentarily. Let me also point out that missing from the line up, and it is an impressive and growing line up of people who are speaking out against forced abortion in China is the United Nations Population Fund (UNFPA). I would point out to my colleagues that since 1979, the UNFPA has been the chief apologist and cheerleader for China's coercive one-child-per-couple policy. That is on the record. That is indisputable. Despite numerous credible forced abortion reports throughout the last 30 years from impeccable sources, including human rights organizations like Amnesty International and others, they have continued to say that this policy is voluntary. The former Executive Director of the UNFPA, Nafis Sadik said, and I quote her because in these words, the statements speak for themselves. She said,

“China has every reason to feel proud and pleased with its remarkable achievements made in its family planning policy. The country could offer its experiences and special expert help to help other countries.”

God forbid that happen, that other countries pick up on this one-child-per-couple policy with its reliance on coercion. And Sven Burmester, UNFPA's man in Beijing gushed over China's achievements and said, in strictly quantitative terms, it is the most successful family planning policy ever developed.

Of course it works. Coercion always works. Make no mistake about it, my friends and colleagues, China covets UNFPA's financial and verbal support for its program, and it certainly is tantamount to a white-washing of these human rights violations. I am also thankful that President Bush took the courageous stand in 2001 to redirect funds away from the UNFPA, and instead direct the same amount of money to other international health programs. On July 15 of this year, Secretary of State Colin Powell summarized the UNFPA problem in a letter to Chairman Hyde, and he said, and I quote,

“China continues to employ coercion in its birth planning program, including through severe penalties for ‘out-of-plan births,’ and UNFPA's program has not been reconstructed to solve the problems identified in 2002.”

The State Department's accompanying report details these coercive measures, many of which Mao Hengfeng is now living out. The country's population control policy relied on education propaganda, economic incentives as well as on more coercive measures, such as the threat of job loss or demotion and social compensation fees.

Secretary of State Colin Powell went on to say reliable sources reported that fees ranged to up to 8 times, and now we hear that the number is as much as 10 times the disposable income. Additional disciplinary measures include the withholding of social services, higher tuition costs when the child goes to school, job loss or demotion, loss of promotion or opportunity, expulsion from the party and the destruction of homes. Examples abound. The *L.A. Times* reported just last month that a couple in Jiangxi province complained that local officials destroyed their home after they were unable pay a fine of about \$2,000, because their daughter broke the

one-child-per-couple policy. Let me also point out to my colleagues that there are numerous Chinese sources which indicate that coercion is getting worse in China. In March 2003, in Jintao, the new Secretary General of the Communist Party Central Committee stated that party comrades must continue to keep a tight grasp on population resources and environmental work and goes on to make these very strong, Draconian statements about how they will implement that policy.

Let me also point out in Jiangxi, a community of 200,000 people in Guangdong province, they lay out again, in a printed directive in August 23, 2003—and I will put this into the record—more statements that direct the local family planning cadres, with great dispatch and earnestness, to carry out this horrific policy.

Let me point out that there is also the issue of the disparity, the missing girls in China. We are finding this increasingly, and social scientists are speaking to it that men in China cannot find their wives because they are missing. They have been killed because of this one-child-per-couple policy. After 25 years of coercive central family planning, this is now beginning to show. In the last census in 2000, there were nearly 19 million more boys than girls in the 0 to 15 age group. And the ratio in many of the provinces show a profound disproportionate number of boys vis-a-vis little girls. For example, one population researcher from the Chinese Academy of Social Sciences, Zhang Qing, said that only 7 of China's 29 provinces are within the world's average sex ratio, with 8 disaster provinces from north to south where there were 26 of 38 percent more boys than girls. And that obviously is a disaster that will lead to more sex slavery, more bride selling, more human trafficking and we have already seen the beginning of that.

Let me just say I am very grateful that we do have such a powerful group who will bear witness to the truth today. And I thank them in advance and will introduce them properly momentarily. But I want to thank all of you for being here and yield to my good friend Tom Lantos for any opening comments he might have.

[The prepared statement of Mr. Smith of New Jersey follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND VICE CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

The Committee will come to order.

Today the Committee on International Relations is meeting to examine the appalling issue of the continued and systematic use of coercion by the People's Republic of China (PRC) in the implementation of its "One-Child" policy. In particular, we will hear testimony about the deplorable case of Mao Hengfeng, a victim of a forced abortion whose ongoing attempts to receive justice have resulted in her sentencing to 18 months of hard labor, during which she has been tortured, denied vitally-needed medicine, and whose life is in danger today.

Some of you may be wondering why this hearing is being held at this time, when the 108th Congress has adjourned and the 109th has yet to be sworn in. Fighting for human rights is almost always difficult and inconvenient, and nowhere is it more inconvenient than when dealing with the People's Republic of China. Rocking the boat could be bad for the bottom line and may upset international relationships, thus businesses and international interests apply pressure to pretend there are no or few human rights violations in China. Unfortunately, however, communists in China do not take time off from their abuse and persecution for the holidays. Beijing Party leaders do not give local officials a pass from fulfilling their "population" and "family planning" quotas—euphemisms for forced IUD insertion, forced sterilization, and forced abortion.

In fact, the torture of Mao Hengfeng demonstrates that China's drive to control its population growth at any cost to the Chinese people is as strong and dangerous as ever. A leading activist in Shanghai, Mao's troubles with the Chinese government began in the late 1980s when, pregnant a second time, she petitioned her work unit for larger housing, which was refused. Despite a hunger strike and protests by Mao, she was confined to a psychiatric facility for six days in February 1989, during which she was administered drugs designed to induce an abortion, which nevertheless failed. The following month, in March 1989, she was dismissed from her job for "missing too many days of work," after which she sued for wrongful dismissal and won, but lost on appeal. Mao's legal battles continued, during which she became pregnant a third time. Told by the presiding judge that he would rule in her favor if she had an abortion, Mao aborted her child in October 1990 but the court nevertheless rejected her claims. Another protest by Mao resulted in another month-long psychiatric confinement, where Mao reported she was suspended in an inverted position and beaten.

Continuing her court battles for the next decade, Mao staged protests in front of the Shanghai No. 1 Intermediate People's Court (IPC) in May and October 2003 after a lower court rejected her suit for non-payment of a fee, even though a fee waiver request was included in the papers transferred from the higher court. In early 2004, Mao along with thousands of other petitioners brought their cases to the attention of Party leaders at the National People's Congress in Beijing. Upon her return, she was arrested and sentenced to 18 months of re-education through labor (RTL) for "disturbance of the peace" for allegedly scratching and tearing the uniforms of court personnel during the May and October protests.

In RTL, credible sources report that in August she was beaten, and that camp police have bound Mao's wrists and ankles with leather straps and pulled her limbs apart for a period of two days to force Mao to acknowledge wrongdoing. On November 19, she lost an appeal in a Shanghai court to receive welfare payments but was seen with blood-blisters and swelling around her wrists and ankles, indicating ongoing abuse. More recently, family members report she is being force-fed an unidentified medicine which turns her mouth black, that she is held for hours in restraints, and that she is incarcerated with two narcotics offenders who are reportedly free to abuse her. Her blood pressure is dangerously high, but she refuses to take medicine for fear of being given psychiatric drugs.

Multiple, independent sources confirm that the reports of Mao's mistreatment are not exaggerated. Mao's case has raised concern even in China where access to information is difficult. Dozens of people have come forward to openly support her, and protests against her treatment led to the adjournment of an October 28 hearing in Yangpu district to consider further administrative action against her. Mao is the most egregious example of China's mistreatment of women who do not comply with China's draconian policies, but there are thousands of other victims.

Other victims have told me their horrific stories about the Chinese one-child-per-couple policy. At one religious freedom meeting in China I asked what the participants knew about forced abortion policies. All three women in the group broke down in tears as they shared with me how they all had been forced to have abortions—one woman talked about how she thought God was going to protect her baby, but she was not able to escape the abortion. Other women who have gained asylum in the United States because of China's coercive population control program have told me terrible stories of crippling fines, imprisonment of family members, and destruction of homes and property—all to force abortion and sterilization upon millions of women. According to the most recent State Department Human Rights Report, one consequence of "the country's birth limitation policies" is that 56 percent of the world's female suicides occur in China, which is five times the world average and approximately *500 suicides by women per day*.

Mrs. Gao Xiao Duan, a former administrator of a Chinese Planned Birth Control Office, testified before this Committee about China's policies. She explained, "Once I found a woman who was nine months pregnant, but did not have a birth-allowed certificate. According to the policy, she was forced to undergo an abortion surgery. In the operation room I saw how the aborted child's lips were sucking, how its limbs were stretching. A physician injected poison into its skull, and the child died, and it was thrown into the trash can. . . . I was a monster in the daytime, injuring others by the Chinese communist authorities' barbaric planned-birth policy, but in the evening, I was like all other women and mothers, enjoying my life with my children. . . . to all those injured women, to all those children who were killed, I want to repent and say sincerely that I'm sorry!"

Mrs. Gao has been joined by a rising chorus of government and human rights organizations crying out against these crimes against humanity. I am pleased that the State Department has provided Assistant Secretary Dewey from the Bureau of Pop-

ulation, Refugees and Migration; Michael Kozak, Acting Assistant Secretary for Democracy, Human Rights, and Labor; and Mr. Joseph R. Donovan, Director for the Office of Chinese and Mongolian Affairs, to testify today. And I want to acknowledge and thank the efforts of our staff at the U.S. Embassy and consulates in China who work tirelessly to obtain accurate information and keep bringing these issues before the Chinese government, including one of my constituents from New Jersey, Benjamin Weber, the human rights officer in Shanghai.

On our second panel, Mr. Harry Wu, Executive Director of the Laogai Research Foundation, has long been a champion on this issue. Harry is himself a victim of China's Laogai, or gulag, and he has just published a book on the topic, whose title comes from a Henan Province family planning slogan, "Better Ten Graves Than One Extra Birth." John Shields Aird, formerly a demographer at the U.S. Bureau of Census specializing on demographic developments and population policy in China, is also with us today. Mr. Aird has filed more than 350 affidavits with DHS on behalf of women in China seeking asylum in the United States as a result of coerced abortions or sterilizations.

I am particularly pleased that we have Amnesty International, represented by Mr. T. Kumar, Amnesty's Advocacy Director for Asia and the Pacific, here today to testify about this issue for the first time. Amnesty has demonstrated a sustained interest and commitment to speak not only about the case of Mao Hengfeng, but also about the massive scale of ongoing human rights violations perpetrated by the Chinese government, by calling on Congress and the Administration to use the upcoming session of the United Nations Commission on Human Rights in Geneva to scrutinize China's behavior and hold it accountable for its abusive practices against its own citizens.

Missing from this impressive lineup is the UNFPA. Since 1979, UNFPA has been the chief apologist and cheerleader for China's coercive one child per couple policy. Despite numerous credible forced abortion reports from impeccable sources, including human rights organizations like Amnesty International, journalists, former Chinese population control officials and, above all, from the woman victims themselves, high officials at UNFPA always dismiss and explain it all away. UNFPA has funded, provided crucial technical support and, most importantly, provided cover for massive crimes of forced abortion and involuntary sterilization. For instance, the former Executive Director of UNFPA Nafis Sadik said, "China has every reason to feel proud of and pleased with its remarkable achievements made in its family planning policy. The country could offer its experiences and special expert to help other countries." And Sven Burmester, UNFPA's man in Beijing, gushed over China's achievements, "In strictly quantitative terms, it was the most successful family-planning policy ever developed." Make no mistake that China covets UNFPA financial and verbal support of its program as a "Good-Housekeeping seal of approval" to whitewash its human rights violations.

I am thankful that President Bush took the courageous stand in 2001 to redirect funds away from UNFPA and instead direct the same amount of money to other international health programs. On July 15th of this year, Secretary of State Colin Powell summarized the UNFPA problem in a letter to Chairman Hyde: "China continues to employ coercion in its birth planning program, including through severe penalties for 'out of plan births,' and UNFPA's program has not been restructured to solve the problems identified in 2002." The State Department's accompanying report details these coercive measures, many of which Mao Hengfeng is now living out: "The country's population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. . . . Reliable sources reported that the fees ranged from one-half to eight times the average worker's annual disposable income. . . . Additional disciplinary measures . . . included the withholding of social services, higher tuition costs when the child goes to school, job loss or demotion, loss of promotion opportunity, expulsion from the Party . . . , and other administrative punishments, including in some cases the destruction of property." Examples abound. The *Los Angeles Times* reported that just last month, a couple in Jiangxi province complained that local officials destroyed their home after they were unable to pay a fine of 16,000 yuan (about \$1,935) because their daughter broke the one-child policy.

In addition to the UNFPA, the PRC government, the foreign press, and others have claimed that China in recent years has abandoned coercive measures to enforce family planning. For instance, New York Times journalist Elizabeth Rosenthal in November 1998 wrote an article entitled "For One-Child Policy, China Rethinks Iron Hand." In December 2001, the PRC government promulgated a family planning law as a reform and centralization of the implementation and enforcement of family planning policies, which was hailed by UNFPA and other Western organizations as

“ushering in an era of reform.” Even our own State Department, in its 2003 report on Human Rights in China, unhelpfully muddies the waters by asserting that the Central Government “prohibits the use of *physical* coercion to compel persons to submit to abortion or sterilization.”

Yet there are numerous Chinese sources which indicate rising coercion in family planning enforcement or refer to aspects of the program which sustain its coercive features. In March 2003, Hu Jintao, the new General Secretary of the Communist Party Central Committee, stated that Party comrades “. . . must continue to keep a tight grasp on population, resources, and environmental work . . . It is necessary to truly make the case that there are laws to follow, there are laws which must be followed, the implementation of the law must be strict, and violations must be pursued.” Just last week the Chinese government announced it was working on “new, substantial measures to *minimize the negative effects*” of its family planning policy.

In fact, recent evidence will be presented in this hearing to show that the PRC’s family planning program is intentionally coercive as a matter of national policy, and family planning enforcement in China has been neither moderated nor relaxed. Instead, there has been a recent sharp escalation in brutality, which has resulted in the use of torture and the deaths of program violators and their unauthorized children.

In but one example, we will hear testimony today of a horrific crackdown in August of last year in Jieshi town, a suburban community of 200,000 in Guangdong Province. In a printed directive dated August 23, 2003, the Jieshi town Party Committee announced a crash family planning surgery drive lasting 35 days, during which 818 women were to be fitted with IUDs, 271 were to undergo abortions (163 early-term and 108 late-term), and 1,369 were to be sterilized. The family planning cadres were told to “mobilize the whole town” “take all possible measures” and “overcome difficulties with creativity”—an open invitation to repression without limits. Authorities were to “educate” resistive families and “persuade them willingly” to take family planning measures the same day. The directive quoted from the national family planning law and copies were distributed widely to the public and various government and Party offices. This coercive birth control drive was the not an instance of over-zealous local officials but an open implementation of quotas to fulfill the state-mandated population control plan.

China’s family planning policies are not only state-sanctioned crimes against humanity and highly unpopular; they are also unneeded and will be remembered along with Mao Zedong’s Cultural Revolution and Great Leap Forward as some of the most ill-conceived and catastrophic in China’s long and proud history. Its underlying premise—that China must immediately limit its population growth through the use of centrally planned quotas, using force if necessary—must be questioned. First, China is no longer on the verge of economic collapse and famine, thanks to less intrusive government actions and sounder economic policies. China is now the world’s fastest-growing economy, it is producing more and higher quality food than ever before, and in fact it has become a net exporter of wheat.

Second, after 25 years of coercive central family planning, its disastrous effects are beginning to appear. The country’s male-female sex ratio is now dangerously skewed. In the last census in 2000, there were nearly 19 million boys more than girls in the 0–15 age group, and from a relatively normal ratio of 108.5 boys to 100 girls in the early 80s, the male surplus is now close to 120 boys for each 100 girls at the present time, according to a Chinese think-tank report. Zhang Qing, population researcher of the Chinese Academy of Social Sciences, notes that only seven of China’s 29 provinces are within the world’s average sex ratio, with eight “disaster provinces” from North to South China, where there were 26 to 38 percent more boys than girls. This dangerous imbalance will aggravate societal instability, violent crime and gang formation, and is even now fueling the trafficking of women as well as the sale of unwanted babies. China’s police have reported freeing more than 42,000 kidnapped women and children from 2001 to 2003.

Finally, let me quote from a USA Today article just published last week on December 9, entitled “China’s ‘daughter dearth.’” The article calls China’s one-child policy a “humanitarian tragedy that is robbing its people one family at a time,” and laments that “hundreds of millions of Chinese men will never experience the unique pleasures that (the author has) known as the father of a daughter.” But William R. Mattox Jr. concludes by writing, “. . . while I know that America can hardly stand in judgment of China’s policies, somehow still I wish the Chinese could love their daughters, too.”

But if America’s citizens and leaders will not stand in judgment of the horrific practices which continue in pursuit of controlling the growth of China’s population, who will stand up for the grieving mothers and fathers and for the children whose lives were so cruelly snubbed out? Watering down human rights protections is the

wrong approach. Human rights are worth fighting for, even when they are costly, and the freedom to give birth is the most fundamental of human rights.

I now turn to my good friend and colleague, a true champion of human rights for all, Mr. Lantos.

Mr. LANTOS. I thank you very much, Mr. Chairman. Let me first indicate that I have a long-standing commitment with an official of another branch of our Government, so I will be reading the testimony of our distinguished witnesses. Before I make my formal statement, Mr. Chairman, let me just say this is a very proud moment for the United States Congress. We are often criticized for our unilateral militaristic foreign policy, and here we are in a special hearing dealing with a tragedy of a single person, a Chinese woman who has been so appallingly abused. I wish this hearing could be a multilateral hearing, and I wish similar hearings would be held today in Paris and Berlin and Moscow and in a lot of other places where there is silence on these issues.

As a matter of fact, as we meet here, dealing with the human rights issue in China, the European Union is actively considering lifting the arms embargo on China, which is an appalling indication of the continuing persistence of greed on the part of the major European countries. Mr. Chairman, as we meet here today, a brave Chinese woman who dares to stand up for her beliefs is being held behind bars at a so-called reeducation through labor camp near Shanghai. Periodically, Mao Hengfeng, a mother of two children under the age of 18, is taken from her cell to be tortured. Ms. Mao's jailers have a simple goal. They want to force her to end her campaign to expose the evil underbelly of China's one-child policy, the use of forced abortion and coercive family planning practices to limit population growth.

Mr. Chairman, we do not usually conduct hearings when Congress is out of session. But the urgency of this human rights case and the continuing incidence of forced abortion in China demands our attention today. And I want to personally thank you for calling us together to address this urgent matter. And I want to thank you for your neverending efforts to free individual prisoners of conscience such as Ms. Mao and to force change in the despicable human rights practices of authoritarian regimes around the world.

There is no more persistent fighter for human rights in the Congress in either body than Christopher Smith. Thank you, Mr. Chairman. And I want to salute you. I would also be remiss if I did not acknowledge the tireless battle waged by Harry Wu on behalf of human rights in China. I have known Harry for nearly two decades, and he has made enormous contributions to international understanding of the extensive use of forced labor in China as well as China's coercive family planning policies. As Harry is also a fellow Californian, I am doubly pleased that he is testifying before us today.

Mr. Chairman, the case that sparked today's hearing is unfortunately not that unusual. Ms. Mao, a former factory worker in Shanghai, simply wanted to have a third child. The local authorities promised her that she would retain her job if she had an abortion. She had the abortion, only to be immediately fired from her position. Ever since, Ms. Mao has courageously fought her dismissal through the courts, a persistence which has now landed her

in prison. My message to the Government of China is simple: Stop the torture of Mao Hengfeng and let her return home to her family. My message to her is equally clear—stay strong. The world has not forgotten about you, nor the cause for which you are fighting. Instead of trying to beat Ms. Mao into submission, perhaps the Chinese Government would be better served by listening to her message.

China's use of forced abortion and coercive family practices denies Chinese women their most basic of human rights: The right to decide their reproductive futures. Chinese families should not be charged so-called "social compensation fees" which can bankrupt them simply because they choose to have another child. And women who get pregnant should not be forced to have an abortion against their will. According to the State Department's *Human Rights Report*, the incidents of forced abortion in China has been declining. But the Government proudly trumpets the penalties it imposes on families who choose to have more than one child, including fees which are 8 times a family's annual income.

Think about this: Average annual incomes in this country are in the \$40,000 range. This would be a penalty of over \$300,000 for having a child in an American family above a prescribed quota, an incomprehensible and insane policy. Local officials also charge exorbitantly high tuition fees for so-called unapproved children to deny them their basic social services. Their parents may find themselves out of a job as well.

Mr. Chairman, China does not need to resort to coercion to control its population growth. When women in the developing world have access to education and the full range of reproductive health care services, they choose to have smaller families. Developing countries that invest in health and education and enable women to make their own fertility choices have also registered faster economic growth than those that do not. Some local officials in China understand this basic truth and have implemented truly voluntary family planning programs. But too many officials at the national and local levels refuse to step away from the old dogma and cling to the coercive family planning practices which have denied basic human rights to women all over China.

Mr. Chairman, you and I do not see eye-to-eye on many population-related issues. And I strongly oppose the Administration's population policy with respect to China. But we are in 100 percent agreement that China must fundamentally revise the manner in which it controls its population growth. And we also agree that China must immediately release this courageous woman who is brave enough to tell the truth. Thank you very much.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Lantos, for your very eloquent statement. And hopefully, the message does go forward from this hearing to free Mrs. Mao. That was the reason why we held an emergency hearing when we are not in session because we are very fearful, and I know you share this, that the torture may even lead to her death. So our message to the Chinese Government is to release her. I would like to yield to my good friend and colleague, Tom Tancredo, the gentleman from Colorado.

Mr. TANCREDO. Thank you, Mr. Chairman, and thank you very much for chairing this hearing. Mr. Chairman, as I sit here and lis-

ten to your words and that of the Ranking Member, I am reminded of how many times we have been on this dais and in this place confronting situations in other countries that have caused us to respond in a variety of ways, far more severely than we have ever responded to something like this. Yet I fail to understand the difference between the situations in Rwanda or the Sudan or a variety of other places where governments are making war on their own people. Governments are killing their own people by the thousands, by the hundreds of thousands, in this case, by the millions.

I fail to understand, Mr. Chairman, the difference between the actions taken by those governments and the actions taken by the People's Republic of China, the Government of the Peoples Republic of China against their own people because I believe this to be a war on their own people. It is the same thing. Yet we have a very different kind of response to this. We have held hearings and I applaud you, certainly, for doing this and I hope that there is a positive outcome as you have stated. But you and I both know that our country will do little more than raise objections to this kind of thing. We will not, for instance revoke PNTR. We would never go so far as to close the Embassy, but I think that those are actions that a country guided by the kind of moral principles that we say we are guided by would take against any country that has so blatantly and horrendously conducted a war on their own people and killed millions. Because in my mind, and I know in your mind, Mr. Chairman, just because it has not moved out of the womb does not mean it is not a person. It is a person, and they have killed them by the millions. What's the difference? I find none.

So I, again, applaud you for having this hearing, and I hope that there is a very positive outcome, and I thank the people that we have here to give testimony. And I think we should get right to it. And I appreciate the opportunity to say a few words.

Mr. SMITH OF NEW JERSEY. Mr. Tancredo, thank you very much for your statement as well, and for coming back from Colorado to be with us today. I would like to welcome our first witness, Michael Kozak, who is the Acting Assistant Secretary for the Bureau of Democracy Human Rights and Labor. Mr. Kozak was named to this position in August of this year. Prior to his current position, Mr. Kozak served as the Bureau's Principal Deputy Assistant Secretary. Mr. Kozak also served as U.S. Ambassador to Belarus in 2000 and as a Chief of the U.S. diplomatic mission in Cuba from 1996 to 1999. He also served as special negotiator to Haiti as a Principal Deputy Assistant Secretary for Inter-American affairs.

Mr. Secretary, thank you for being here. Our next witness will be Arthur E. Gene Dewey, Assistant Secretary of State for the Bureau of Population, Refugees and Migration. Assistant Secretary Dewey has served in this position since January 2002, and he is responsible for overseeing United States Government policies regarding population, refugee and international migration issues and humanitarian assistance programs.

Prior to this position, Secretary Dewey headed the Congressional Hunger Center and also served as United Nations Assistant Secretary-General, and the U.N. Deputy High Commissioner for Refugees. The final Administration panelist today is Mr. Joseph R. Donovan, the Director of the Office of Chinese and Mongolian Af-

fairs in the State Department's Bureau of East Asian and Pacific Affairs.

Mr. Donovan has served in many positions with the State Department, including 3 years as the Chief of Political Section at the American Institute in Taiwan, Deputy Political Consular and Chief of the Political/Military Affairs unit in Tokyo and Deputy Head of the Political Section at the United States Embassy in Beijing. Mr. Donovan also worked at the United States Embassies in Seoul, Korea and Qatar. We also look forward to your testimony, and if I could ask Secretary Kozak, if you could begin.

STATEMENT OF THE HONORABLE MICHAEL G. KOZAK, ACTING ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE

Mr. KOZAK. Well, thank you very much, Mr. Chairman, Mr. Tancredo, and thank Mr. Lantos for us. We really appreciate your taking the time this late in the congressional session to look at this important subject. Secretary Dewey's testimony will focus on the details of China's birth control policy. I thought I would focus on giving an update on the overall human situation and on the case of Mao Hengfeng. In 2004, serious human rights abuses continued in China. These included torture, mistreatment of prisoners, incommunicado detention and the denial of due process. Authorities remain quick to suppress religious, political, or sources groups that they perceive as threatening to Government authority or to national stability. Often they detained those seeking to exercise their fundamental freedoms on State secret charges. The Government used the international war on terror as a justification for cracking down on Uighur Muslims, including those who peacefully expressed dissent. They also repressed independent Muslim religious leaders. Tight restrictions on freedom of speech and press continued, and the Government increased its efforts to monitor and control use of the Internet. I think we saw some cases in the paper this morning, actually, of people who have been publishing on the Internet and paid a price for it. The Government severely restricted freedom of assembly and association and increased the repression of people of unregistered religious groups in some part of the country. The crackdown on Falun Gong practitioners continued. Violence against women continued to be a problem, including the imposition of a coercive birth limitation policy that resulted in instances of forced abortion and forced sterilization.

Now the Chinese Government did take some steps to address a number of other human rights abuses. It issued new regulations and made other legal reforms related to the interrogation of detainees, fighting corruption, extending social security, providing legal aid, and passing a law prohibiting discrimination against people with HIV/AIDS. However, it remains unclear to what extent these reforms will be implemented in practice and the impact that they will have on the lives of average Chinese citizens.

We will, of course, continue to press for implementation. It is not enough to have reforms just on the books. In a very discouraging development, we continued to see detentions and arrests of those seeking to take advantage of the space created by these reforms. These include arrests of individuals discussing sensitive subjects on

the Internet, health activists, labor protesters, defense lawyers, journalists, Catholics loyal to the Vatican, and Protestant house church members.

During the past year the authorities have also harassed and abused many who raised public grievances. These included petitioners to the central Government and large numbers of individuals protesting forced evictions and workplace and health issues. Mao Hengfeng, about whom the Committee has expressed deep concerns, is just such an activist. In addition to actively pursuing her own claims on a variety of housing and pension issues, she has tenaciously fought on behalf of the other civic activists and the lawyers who seek to defend them in court, and she has paid a heavy price, as you outlined Mr. Chairman. The Department has provided the Committee staff with a detailed summary of activities, detentions, and involuntary incarcerations in psychiatric hospitals. And I would like to briefly discuss the most relevant parts of her case history, some of which you mentioned, Mr. Chairman, but I think it bears repeating because it is so horrendous. And also it is because her case history highlights four particularly serious abuses of the Chinese systems.

It is coercive family planning policies, the abuse of administrative detention, particularly the continued use of reeducation through labor, forced incarceration of citizens in psychiatric hospitals and the use of torture to force detainees to confess alleged crimes or to recant their beliefs. In 1987, Ms. Mao gave birth to twins. She asked her work unit to provide additional housing for her growing family and for her mother. The work unit refused to provide the housing for her mother. This dispute continued until 1989, when Mao became pregnant with her third child. At that time, the work unit denied her revised claim for housing on the grounds that she was in violation of China's one-child policy. Mao engaged in a hunger strike and protests at the office of her work unit.

Her work unit then had Mao confined to a psychiatric facility in February 1989. She reported that during her 6-day incarceration she was treated with drugs in dosages she said were sufficient to affect her and her unborn child. Fortunately, as you mentioned, she carried the child to term. Upon her return to her office, Mao sought compensation for her mistreatment. She was dismissed from her job on the grounds that she had missed too many days of work. She initiated and won a suit for wrongful dismissal, but it was overturned on appeal. During her legal battle, she became pregnant again. According to Ms. Mao, the presiding judge told her that if she terminated her pregnancy, he would rule in her favor. She said she reluctantly did so in October 1990, but the court, nonetheless, rejected her appeal. In response, Mao led another protest at the court. This resulted in yet another involuntary confinement in a psychiatric facility. She reported that she was suspended upside down and beaten during the month that she was held there until her husband secured her release. Ms. Mao continued to appeal her case regarding compensation for housing and her dismissal from her job. The courts, however, rejected her suits several times between 1991 and 2002. She appealed to the Supreme Peoples Court

in December 11, 2002, but reports that she has not received a response to date.

In early 2004, Ms. Mao joined thousands of other petitioners from Shanghai and Beijing to bring her suits and those of others to the attention of the central Government authorities and of the delegates who were attending the National Peoples Congress in Beijing. In April, upon her return to Shanghai, she was detained and was given an 18-month sentence at a reeducation through labor camp. She was alleged to have disturbed the peace and scratched and tore the uniforms of court personnel during her earlier protests in May and October 2003. She is currently being detained, along with fellow activists Zhang Cuiping, Liu Hualin and other inmates who are described as politicals.

During her incarceration she has refused to be intimidated. She has responded to demands that she write a letter of contrition by defiantly writing "Down With Reeducation Through Labor." According to her relatives, with whom our consulate in Shanghai has kept in close touch, she is denied her right to contact her family. She is held, as you mention, with drug addicts who are allowed to abuse her. She has been strapped down to her bed for hours at a time. On one occasion, she had her legs pulled in different directions for a period of 2 days. Most recently, family members have reported that she is being fed an unidentified medicine which turns her mouth black. Mao's case is an example of what can and does go wrong in China. Her experiences illustrate how China's birth policies can be used by Government officials as a powerful form of punishment and coercion.

Even though Ms. Mao managed to allude the system and have three children, her violation of the birth policy was used against her in her housing suit. The judge, in a wrongful dismal suit, apparently used assurances that he would rule in her favor if she terminated her pregnancy to apply heavy pressure on her to have an abortion in 1990. Her 18-month sentence in a reeducation through labor camp also is illustrative of the serious abuses in China's arbitrary administrative detention system. Chinese citizens are sentenced up to 3 years in prison-like facilities or institutions, with no judicial oversight, often for peaceful political or religious activities. Allegations of mistreatment and torture in these facilities are all too common. Unfortunately, China has found its extensive administrative justice system a convenient mechanism with which to control dissidents and activists. The figures of the number of people incarcerated for reeducation through labor bear this out. In the early 1990s, 150,000 persons were in reeducation through labor camps. In the period 2001 to 2003, the number was 310,000. According to some estimates, over 100,000 Falun Gong are also serving reeducation through labor sentences. Ms. Mao's involuntary confinements in psychiatric hospitals are a shocking example of the abuse of psychiatric facilities in China.

Several years ago the highly respected NGO Human Rights in China reported that official statistics showed a relatively high proportion of so-called "political" cases among the psychiatric hospital patients. The report described several categories of political and religious nonconformists who were labeled "political maniacs" for being whistleblowers, persistent complainants and petitioners and

adherents of religious sects not supported by the State. There are 20 angkang Peace and Health institutions for the criminally insane in China that are administered by the Ministry of Public Security. The Department has received reports of patients in these hospitals being given medicine against their will and being forcibly subjected to electric shock treatment. I would note, Mr. Chairman, that these reports are virtually identical to those I received when I was head of our interest section in Cuba.

They do the same type of thing there. It seems to go with being a dictatorship. Ms. Mao's case is an example of the mistreatment and torture that such prevalent problems—they are such a prevalent problem in China's prisons detention centers and reeducation through labor camps. But most of all, Ms. Mao is an example of the courage and determination of ordinary Chinese in their quest for justice, fundamental rights and a Government that respects the rights and dignities of its people.

Today China is vastly more confident, more influential and more prosperous than it was when she began her struggle. But it is not vastly more free. We are committed to standing with those people in China who, like Ms. Mao, are struggling for human rights. While we remain committed to working with China until the time it brings human rights practices into compliance with international human rights standards, we are under no illusions regarding its performance to date. Our commitments are well-reflected in the State Department's May 17 report to Congress on *Supporting Human Rights and Democracy: The U.S. Record 2003–2004*. Let me summarize what the Administration has done over the past year. President Bush has raised human rights as a primary topic in each one of his meetings with the Chinese President. Secretary Powell has similarly made human rights a key part of his agenda with Chinese officials. United States officials in Washington and in China, Geneva and elsewhere consistently highlight publicly and privately the need for improvements in human rights conditions. We call for the release of prisoners of conscience. We vigorously protest detentions like those of Ms. Mao, who seek to take advantage of growing space in Chinese society.

In late November, Elizabeth Dugan, Deputy Assistant Secretary of State for Democracy, Human Rights and Labor, traveled to China at the initiative of the Chinese authorities to discuss the resumption of a working-level dialogue with China on human rights which the Chinese had suspended after we sponsored a resolution in Geneva last spring. She conveyed our expectation that steps—that China will take steps that can lead to a resumption of our formal human rights dialog and that dialog will yield real progress.

Regrettably in 2002 and early 2003 the Chinese failed to move forward with their earlier commitments including those related to visits by the U.N. Special Rapporteurs on Torture, on Religious Intolerance, the U.N. Working Group on Arbitrary Detention and the U.S. Commission on International Religious Freedom. Invitations have now been issued to those groups but only the Working Group on Arbitrary Detention has actually visited. We have pressed China to honor its international commitment and its own constitution, to respect religious freedom. We again designated China this year as a Country of Particular Concern for particularly severe vio-

lations of religious freedom. We are supporting activities in China to reform the judicial system, improve public participation and strengthen civil society.

In fiscal year 2004, my Bureau alone spent \$13.5 million to support these programs. And in this coming year, we will fund capacity-building projects for NGOs in Shanghai, Social Security rights for rural aged, labor rights protection for migrant workers and NGO-mediated public participation in environmental governance, just to name a few. We were also promoting China's compliance with international labor standards. These are wide-ranging strategies programs and commitments. They grow out of our conviction, as President Bush has said earlier this year in a speech to the National Endowment of Democracy, that the calling of our country is to advance freedom.

Our duty is to support the allies of freedom and liberty everywhere. Our obligation is to help others create the kind of society that protects the rights of individuals. We will continue to call for China to make the right choices in this regard. We will seek to make them understand that issues affecting the dignity of every woman and man will not go away. As long as we continue to have concern about human rights, worker rights and religious freedom, and as long as China is unwilling to address them, we will not realize the full potential of the United States-China relationship.

Thank you for your continued commitment to human rights and for convening this hearing to call attention to China's human rights record. I know that those in China, like Mao Hengfeng, who so courageously struggle for justice in the rule of law despite the enormity of the consequences appreciate your strong support for their efforts. Thank you very much.

[The prepared statement of Mr. Kozak follows:]

PREPARED STATEMENT OF THE HONORABLE MICHAEL G. KOZAK, ACTING ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE

Chairman Smith and Members of the Committee, thank you for holding this full Committee hearing on China's one-child policy and human rights abuses. We appreciate your making time this late in the Congressional session to look at this important subject.

I am pleased to testify here today with Assistant Secretary Gene Dewey and Joe Donovan, Director of the Office of Chinese and Mongolian Affairs and Acting EAP DAS. Assistant Secretary Dewey, as head of the Bureau for Refugees, Population and Migration, has responsibility within the State Department on population issues and his testimony will provide details on China's birth control policy. In my testimony I will provide you with an update of the overall human rights situation and the case of Mao Hengfeng.

In 2004, serious human rights abuses continued in China, including torture, and mistreatment of prisoners, incommunicado detention, and denial of due process. Authorities remained quick to suppress religious, political or social groups that they perceived as threatening to government authority or national stability, often detaining those seeking to exercise their fundamental freedoms on state secret charges.

The Government also used the international war on terror as a justification for cracking down on Uighurs Muslims, who peacefully expressed dissent, and on independent Muslim religious leaders. Tight restrictions on freedom of speech and the press continued and the Government increased its efforts to monitor and control use of the Internet.

The Government also severely restricted freedom of assembly and association and increased the repression of members of unregistered religious groups in some parts of the country. The crackdown on Falun Gong practitioners continued. And violence against women, including the imposition of a coercive birth limitation policy that re-

sulted in instances of forced abortion and forced sterilization, continued to be a problem.

The Chinese Government did take some steps to address a number of these abuses, issuing new regulations or reforms related to the interrogation of detainees, fighting corruption, extending social security, providing legal aid, and passing a law prohibiting discrimination against people with HIV/AIDS. However, it remains unclear to what extent these reforms will be implemented and the impact they will have on the lives of average Chinese citizens. We will, of course, continue to press for implementation. It is not enough for reforms to be on the books.

And, in a very discouraging development, we continue to see detentions and arrests of those seeking to take advantage of the space created by reforms, including arrests of individuals discussing sensitive subjects on the Internet, health activists, labor protestors, defense lawyers, journalists, Catholics loyal to the Vatican, and Protestant house church members. During the past year, the authorities also harassed and abused many who raised public grievances, including petitioners to the central government, and there were large numbers of detentions of individuals protesting forced evictions and workplace and health issues.

Mao Hengfeng, about whom the committee has expressed deep concern, is just such an activist. In addition to actively pursuing her own claims on a variety of housing and pension issues, she has tenaciously fought on behalf of other civic activists and the lawyers who seek to defend them in court.

She has paid a heavy price.

The Department has provided your committee staff with a detailed summary of her activities, detentions, and involuntary incarcerations in psychiatric hospitals. Today, I would like to briefly discuss the most relevant parts of her case history because they highlight four particularly serious abuses of the Chinese system: its coercive family planning policies; the abuse of administrative detention, particularly the continued use of Reeducation Through Labor; the forced incarceration of citizens in psychiatric hospitals, and the use of torture to get detainees to confess to crimes or recant their beliefs.

In 1987, Ms. Mao gave birth to twins and asked her work unit to provide additional housing for her growing family and mother. The work unit refused to provide housing for her mother, and the dispute continued until 1989, when Mao became pregnant with her third child. At that time, Mao's work unit denied her revised claim for housing on the grounds that she was in violation of China's one-child policy. In likely retaliation for Mao's subsequent hunger strike and protests at the offices of her work unit, her work unit had Mao confined to a psychiatric facility in February 1989. During her six-day incarceration she reported that she was treated with drugs for three days in dosages she says were sufficient to affect her and her unborn child. Fortunately, she carried the child to term.

Upon her return to her office, Mao attempted to seek compensation for her mistreatment. In March 1989, she was dismissed from her job on the grounds that she "had missed too many days of work." She initiated and won a suit for wrongful dismissal, but it was overturned on appeal. During her legal battle, she became pregnant again, and, according to Ms. Mao, the presiding judge told her that if she terminated her pregnancy he would rule in her favor. Although she reluctantly did so in October 1990, the court nonetheless rejected her appeal.

In response, Mao led another protest at the court, which resulted in yet another involuntary confinement in a psychiatric facility, ordered by the court. She reported that she was suspended upside down and beaten during the month she was held, until her husband secured her release.

Ms. Mao continued to appeal her case on compensation for housing and her dismissal from her job but the courts rejected her suits several times between 1991 and 2002. She sent legal papers to the Supreme People's Court on December 11, 2002, but to date has not received a response.

In early 2004, Ms. Mao joined thousands of other petitioners from Shanghai and Beijing to bring her suits and those of others to the attention of central government authorities and delegates who were attending the National People's Congress in Beijing. In April, upon her return to Shanghai, she was detained and given an 18-month sentence in a Reeducation of Labor camp, purportedly for "disturbing the peace" and scratching and tearing the uniforms of court personnel during her earlier protests in May and October 2003.

Mao is currently being detained along with fellow activists Zhang Cuiping, Liu Hualin, and other inmates who are described as "politicals." Since her incarceration, Mao has refused to be intimidated and has responded to demands that she write a letter of contrition by defiantly writing "Down with Reeducation Through Labor." According to her relatives, with whom our Consulate in Shanghai has kept in close touch, she is denied her right to contact her family, held with drug addicts who are

allowed to abuse her, and has been strapped down to her bed for hours at time. On one occasion she had her limbs pulled in different directions for a period of two days. Most recently, family members have reported that she is being force-fed an unidentified medicine, which turns her mouth black.

Mao's case is an example of what can and does go wrong in China.

Her experiences illustrate how China's birth policies can be used by government officials as a powerful form of punishment and coercion. Even though Ms. Mao managed to elude the system and have three children, her violation of the birth policy was used against her in her housing suit. And the judge in her wrongful dismissal suit apparently used assurances that he would rule in her favor if she terminated her pregnancy to apply heavy pressure on her to have an abortion in 1990.

Her 18-month sentence in a Reeducation Through Labor camp also is illustrative of the serious abuses in China's arbitrary administrative detention system, where Chinese citizens are "sentenced" to up to three years in prison-like facilities or institutions with no judicial oversight, often for peaceful political or religious activities. Allegations of mistreatment and torture in these facilities are all too common.

Unfortunately, China has found its extensive administrative justice system a convenient mechanism with which to control dissidents and activists. The figures of the number of people incarcerated in Reeducation Through Labor bear this out. In the early 1990s, 150,000 persons were in Reeducation Through Labor camps. In the period 2001–2003 the number was 310,000. And according to some estimates, over 100,000 Falun Gong practitioners are serving RTL sentences.

Ms. Mao's involuntary confinements in psychiatric hospitals are a shocking example of the abuse of psychiatric facilities in China. Several years ago, the highly respected NGO, Human Rights in China, reported that official statistics showed a relatively high proportion of so-called political cases among psychiatric hospital patients. The report described several main categories of political and religious non-conformists who were often labeled "political maniacs" for being whistleblowers, persistent complainants and petitioners, and adherents of unconventional religious sects. To date, there are 20 *angkang* (Peace and Health) institutions for the criminally insane in China that are administered by the Ministry of Public Security. The Department has received reports of "patients" in these hospitals being given medicine against their will and forcibly subjected to electric shock treatment.

Finally, Ms. Mao's case is an example of the mistreatment and torture that is such a prevalent problem in China's prisons, detention centers and Reeducation Through Labor camps.

But most of all, Ms. Mao is an example of the courage and determination of ordinary Chinese in their quest for justice, fundamental rights and a government that respects the rights and dignity of its people.

Today, China is vastly more confident, vastly more influential, and vastly more prosperous than it was when Ms. Mao began her struggle. But it is not vastly more free.

We are committed to standing with those people in China who, like Ms. Mao who are struggling for their human rights.

And we remain committed to working with China until the time when it brings its human rights practices into compliance with international human rights standards.

This depth of these commitments are well reflected in the State Department's May 17 report to Congress on "Supporting Human Rights and Democracy: The U.S. Record 2003–2004."

Let me briefly summarize what the Administration has done over the past year:

- President Bush has raised human rights in each one of his meetings with the Chinese President.
- Secretary Powell has similarly made human rights a key part of his agenda during his conversations with Chinese officials.
- U.S. officials—in Washington, throughout China, in Geneva and elsewhere—consistently highlight, publicly and privately, the need for improvements in human rights conditions. We call for the release of prisoners of conscience, and we vigorously protest detentions of those, like Mao Hengfeng, who seek to take advantage of the growing space in Chinese society.
- In late November, Elizabeth Dugan, the Deputy Assistant Secretary in my Bureau, traveled to China and discussed the resumption of a working level dialogue with China, which the Chinese had suspended after we sponsored a resolution in Geneva last spring. We are hopeful that China will take steps that will lead to resumption of our formal Human Rights Dialogue, and that that dialogue will yield real progress. Regrettably, in 2002 and early 2003, the Chinese failed to move forward with their commitments, including those

relating to visits by the UN Special Rapporteurs for Torture and Religious Intolerance, the UN Working Group on Arbitrary Detention and the U.S. Commission on International Religious Freedom. Invitations have been issued, but only the Working Group on Arbitrary Detention has visited.

- We have pressed China to honor its international commitments and its own constitution in respecting religious freedom and again designated China as a country of particular concern for particularly severe violations of religious freedom.
- We are supporting activities in China to reform the judicial system, improve public participation, and strengthen civil society. In FY 2004, the Bureau of Democracy, Human Rights and Labor is spending \$13.5 million to support these programs. In 2003, we funded 13 projects, including training for criminal defense and labor lawyers, educating workers about Chinese labor law, and strengthening public hearings. The U.S. Embassy also awards small grants to members of China's NGO movement in support of democratic values. This coming year, we will fund capacity building projects for NGOs in Shanghai, social security rights for the rural aged, labor rights protection for migrant workers and NGO-mediated public participation in environmental governance, to name just a few. We are also promoting China's compliance with international labor standards.

These are wide-ranging strategies, programs and commitments and they grow out of our conviction, as President Bush said in a speech earlier this year to the National Endowment for Democracy, that the calling of our country is to advance freedom, our duty is to support the allies of freedom and liberty everywhere, and our obligation is to help others create the kind of society that protects the rights of the individual.

Again, we will continue to call for China to make the right choices and to understand clearly that issues affecting the dignity of every woman and man will not go away. As long as we continue to have concerns about human rights, worker rights and religious freedom, and as long as China is unable or unwilling to address them, we will not realize the full potential of the U.S.-China relationship.

Thank you for your continued commitment to human rights. And thank you for convening this hearing to call attention to China's human rights record and those in China, like Mao Hengfeng, who so courageously struggle for justice and the rule of law despite the enormity of the consequences.

Thank you very much. I look forward to your comments and questions.

Mr. SMITH OF NEW JERSEY. Secretary Kozak, thank you very much for your outstanding statement and for the good work that you and your Bureau are doing on behalf of the suffering and persecuted in China. I would like to now ask Secretary Dewey if he would proceed.

STATEMENT OF THE HONORABLE ARTHUR E. DEWEY, ASSISTANT SECRETARY, BUREAU OF POPULATION, REFUGEES, AND MIGRATION, U.S. DEPARTMENT OF STATE

Mr. DEWEY. Thank you, Chairman Smith, Mr. Tancredo, Mr. Lantos, for focusing on this issue and providing us with an opportunity to appear before you today to discuss the one-child policy in China. The Bush Administration is deeply committed to advancing human rights issues in China, but also around the globe. The Administration is also deeply committed to upholding liberty and the dignity of human life, and we strongly and absolutely oppose the practice, of course, of coercive abortions and sterilizations wherever they occur. I am here today to tell you how we are ground-truthing population matters in China and recount what we have done to advance respect for the value of human life in that country.

In my testimony, I will describe our findings and the challenges that remain ahead. When I came to this post 3 years ago, I had conflicting reports concerning China's population practices. Some said that there was no coercion that would trigger the Kemp-Kas-

ten amendment provisions of the Foreign Assistance Act that prohibited funding to any agency that supported the course of abortion or involuntary sterilization. Other reports said that was not the case, that there was indeed coercion.

So the obvious thing to do is to resolve these differences. And so the State Department dispatched a blue ribbon team in May 2002 to get at the facts. On its return from a week in China, the team recommended a continuation of funding of UNFPA, but it also suggested doing what it lacked time to do during its brief mission. What it lacked time to do was, number one, to translate the legislation governing birth planning policies in the counties where the U.N. Population Fund works. And second, to find out how these policies were implemented and enforced. We did both of these recommended follow-up actions, and the evidence drawn from these follow-up steps clearly showed us that the large fees and penalties, which you have cited, Mr. Chairman, and others have mentioned, for out-of-plan births assessed and implementing China's regulations are tantamount to coercion that leads to abortion.

UNFPA funding goes to support the Chinese National Population and Family Planning Commission. It is this support to an agency that supports coercion that triggers the Kemp-Kasten prohibition on funding any organization that supports or participates in the management of a program of coercive abortion or involuntary sterilization. These findings were based on application of the law to the facts on the ground leading the Secretary of State to determine that Kemp-Kasten applies. It is this legal bar that has prevented our funding UNFPA during the past 3 years. In 2002, I began a dialogue with China regarding its birth planning law. We have had six rounds of discussions, and I might say these have been very business-like discussions conducted in a very congenial and businesslike atmosphere, and the most recent was held in early November, in fact, on our Election Day, when I traveled to Beijing to meet with a senior Chinese official to press for reforms.

In all of our conversations with our Chinese counterparts, we laid out our understanding based on the Universal Declaration of Human Rights, as well as the 1994 Cairo Declaration on Population and Development that there should be no coercion in any form, in any nation's population policies. We made measurable progress in these negotiations, but fell short in getting a coercive measures lifted. The lifting of those measures would have permitted resumption of UNFPA funding. We believe China's population policies, including the so-called one-child policy, are undergoing an assessment and evaluation within the Chinese leadership. The Chinese Government, in our view, may be beginning to understand that its coercive birth planning regime has had extremely negative social, economic and human rights consequences for the nation. In our 2 years of negotiations, we have seen encouraging movements in China's approach to population issues and the reduction of coercion in birth planning programs.

For example, provincial legislation in 25 of China's 31 provinces has been amended to eliminate the requirement that married couples must obtain Government permission, that is, birth permits before the woman becomes pregnant. This may prove to be an important change. Without birth permits, there may be no effective over-

all mechanism for systematically enforcing birth targets and quotas in each county.

We hope that the elimination of this repressive mechanism of the control and interference in family life will be extended throughout all of China. And as I have said, we will be monitoring that issue very closely. The Chinese Government has also started a new Government public information pilot project to highlight the status of the girl child. This could be an important step for human rights in eliminating discrimination against women and girls in China. Such an effort responds to the continuing reports of sex selective abortions in China in the abandonment of girl babies, horrific behaviors that result from the devastating combination of the one-child policy and the traditional preference for a son. Respect for the inherent worth and human dignity of the girl child from conception through adulthood is an essential element of a just society. This initiative is only a small step forward, but it does indicate some acknowledgment that the birth planning regime has resulted in very negative outcomes.

The one-child policy has certainly contributed to the stark gender imbalance in China which, according to the 2000 census, was about 117 males to 1 female. For second births, however, the national ratio was about 152 to 100. Moreover, China's aging population and the rising ratio of dependent to wage-earning adults pose tremendous challenges for youth. The lack of effective pension and social welfare systems for senior citizens results in a growing burden on China's working age population. Many Chinese one-child couples who lack siblings are hard pressed to support two sets of aging parents. Also of note under the national birth planning law, Chinese citizens, in theory, have the ability under the administrative procedures law to sue officials who violate their family planning rights.

The Government has established a hotline for citizens to report abusive family planning practices to the federal authorities. We are gathering information on use of this hotline and its effectiveness in dealing with alleged abuses. I want to emphasize that it is the practical implementation of these measures that matters and not just public pronouncements.

In addition, the Chinese authorities I met with last month emphatically declared the end of any health and education penalties for out-of-plan children such as higher tuition fees. These children are no longer to be treated as second class citizens. Again, we will be watching closely to see if this is implemented. And to the extent it is, this would be a very welcome development indeed. Yet, I must be clear, China's birth planning law and policies retain harshly coercive elements in law and practice. Forced abortion and sterilization are egregious violations of human rights and should be of concern to the global human rights community as well as to the Chinese themselves.

Unfortunately, we have not seen a willingness in other parts of the world or other parts of the international community to stand with us on these human rights issues. As Mr. Lantos said, it would be nice if hearings like this were held in Berlin and Moscow and Paris and some other capitals in the world.

In our discussions with the Chinese Government, we have urged them to implement fully the principle recognized in the program of

action of the International Conference on Population and Development, the ICPD, that couples, not governments, should decide the number and spacing of their children. And on many occasions Chinese authorities have professed great commitment to the ICPD. Such statements, no matter how fervent or how frequent, will ring hollow and will be little more than empty rhetoric until that day when Chinese birth planning programs become Chinese family planning programs, fully voluntary and free of all forms of coercion.

A national law on population and birth planning went into effect on September 1, 2002. The law provides that the State shall employ measures to place population growth under control, improve the quality of the population, and conduct birth planning.

The law requires married couples to employ birth control measures. While provinces have some latitude of how they implement certificate aspects of the law, it also requires counties to use specific measures to limit the total numbers of births in each county. The law grants married couples the right to have a single child, and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. Many provincial regulations require women to wait 4 years or more after their first birth before making such an application. These regulations also prohibit single women who become pregnant from giving birth. But enforcement of this prohibition reportedly varies widely throughout China.

The law specifies a number of birth limitation measures by the Government that do amount to coercion. Party members and civil servants who parent an out-of-plan child are very likely to face administrative sanctions, including job loss or demotion. Couples who give birth to an unapproved child are likely to be assessed a social compensation fee that can range from one-half the local average annual household income to as much as 10 times that level.

As social compensation fees policies are set at the provincial level and implemented locally, we understand enforcement varies greatly, with some areas waiving or greatly reducing the fees and others imposing them at a high level. The Chinese have changed the national law so that any fees collected now go to national, not local, authorities. We are told this step has been taken to reduce the extensive corruption that had been associated with the collection of these fees.

Some Chinese authorities would like to see an end to the social compensation fees, recognizing their coercive nature and witnessing that they are especially burdensome on the poor. There is much more attention to poverty alleviation, which in some areas is shoving out the preoccupation with birth limitation. So there is a sentiment in some areas to get rid of those fees, which are especially burdensome for the poor, while more affluent citizens simply pay the fee and have additional children.

Nonetheless, we have noted in our *Human Rights Report* that social compensation fees remain a harsh and effective enforcement tool. During unauthorized pregnancies, women are sometimes visited by birth-planning workers who use the threat of the social compensation fee to pressure women to terminate their pregnancies. In many cases, these penalties and the level of harassment from officials leave women little practical alternative but to under-

go abortion, and therefore these fees and related punitive measures amount to a program of coercive abortion.

In a circumstance where social compensation fees and intense psychological and social pressure are not sufficient to compel women to have an abortion, there are reports, albeit declining numbers of these reports, of instances where the authorities have physically forced a woman to terminate a pregnancy.

Finally, I would like to raise the problem of forced and coerced sterilization. Forced sterilizations continue to occur, most frequently when couples have more children than the allowable number. Women may be allowed to carry the excess child to term, but then one member of the couple is strongly pressured to be sterilized. In some cases, they may be asked to go to a hospital under other pretenses, or sterilized without consent.

Additionally, if doctors find a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo a sterilization.

I want to assure you, Mr. Chairman and Members, that we will continue to seek engagement with the Chinese authorities on these difficult and important issues. Our Embassy in Beijing and our consulates throughout China track developments in this area very closely. We will continue to urge China to move to a human rights-based approach to population issues. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Secretary Dewey, thank you so very much for your testimony.

[The prepared statement of Mr. Dewey follows:]

PREPARED STATEMENT OF THE HONORABLE ARTHUR E. DEWEY, ASSISTANT SECRETARY, BUREAU OF POPULATION, REFUGEES, AND MIGRATION, U.S. DEPARTMENT OF STATE

Thank you Chairman Smith and Members of the Committee for providing us with an opportunity to appear before you today to discuss the one-child policy in China.

The Bush Administration is deeply committed to advancing human rights issues, in China and around the globe. The Administration is also deeply committed to upholding liberty and the dignity of human life, and we strongly and absolutely oppose the practice of coercive abortions and sterilizations wherever they occur.

I'm here today to tell you how we are ground-truthing population matters in China, and recount what we've done to advance respect for the value of human life in that country. In my testimony, I will describe our findings and the challenges that remain ahead.

When I came to this post three years ago, I had conflicting reports concerning China's population practices. Some said that there was no coercion that would trigger the Kemp-Kasten prohibition of U.S. funding to the UN Population Fund, UNFPA. Others said that there was. So the State Department dispatched a Blue Ribbon Team in May 2002 to get the facts.

On its return from a week in China, the team recommended continuation of funding of UNFPA. But it also suggested doing what it lacked time to do during its brief mission, that is to translate the legislation governing birth planning policies in the counties where UNFPA worked, and also to find out how these policies were implemented and enforced.

The evidence drawn from these follow-on steps clearly showed us that the large fees and penalties for out-of-plan births assessed in implementing China's regulations are tantamount to coercion that leads to abortion. UNFPA support of, and participation in, China's population-planning activities allows the Chinese government to implement more effectively its program of coercive abortion, thus triggering the Kemp-Kasten prohibition on support to any organization that supports or participates in the management of a program of coercive abortion or involuntary sterilization.

These findings were based on an application of the law to the facts on the ground, leading the Secretary of State to determine that Kemp-Kasten applies, and as a result we have been prohibited from funding UNFPA during the past three years.

In 2002, I began a dialogue with China regarding its birth planning law. We have had six rounds of discussions on this important issue, the most recent in early November when I traveled to Beijing to meet with senior Chinese officials to press for reforms. In all of our conversations with our Chinese counterparts, we laid out our understanding, based on the Universal Declaration of Human Rights, as well as the 1994 Cairo Declaration on Population and Development, that there should be no coercion, in any form, in any nation's population policies.

We made measurable progress in these negotiations, but fell short in getting the coercive measures lifted, which would have permitted resumption of UNFPA funding. We believe China's population policies, including the so-called "one-child" policy, are undergoing an assessment and evaluation with the Chinese leadership. The Chinese Government, in our view, may be beginning to understand that its coercive birth planning regime has had extremely negative social, economic, and human rights consequences for the nation.

In our two years of negotiations, we have seen encouraging movement in China's approach to population issues, and the reduction of coercion in birth planning programs. For example, provincial legislation in 25 of China's 31 provinces, municipalities, and autonomous regions, has been amended to eliminate the requirement that married couples must obtain government permission ("birth permits") before the woman becomes pregnant.

This may prove to be an important change. Without birth permits there may be no effective overall mechanism for systematically enforcing birth targets and quotas in each county. We hope that the elimination of this repressive mechanism of control and interference in family life will be extended throughout all of China, and, as I have said, we will be monitoring this issue very closely.

The Chinese Government has also started a new government public information pilot project to highlight the status of the girl child. This could be an important step for human rights in eliminating discrimination against women and girls in China. Such an effort responds to the continuing reports of sex selective abortions in China and abandonment of girl babies, horrific behaviors that result from the devastating combination of the one-child policy and traditional son preference. Respect for the inherent worth and human dignity of the girl child, from conception through adulthood, is an essential element of a just society. This initiative is only a small step forward, but it does indicate some acknowledgement that the birth planning regime has resulted in very negative outcomes.

The one-child policy has certainly contributed to the stark gender imbalance in China, which, according to the 2000 census, was about 117 males to 100 females. For second births, the national ratio was about 152 to 100. Moreover, China's aging population and rising ratio of dependent to wage-earning adults pose tremendous challenges for the country. The lack of effective pension and social welfare systems for senior citizens results in a growing burden on China's working age population. Many Chinese "one-child" couples, lacking siblings, are hard-pressed to support two sets of aging parents.

Also of note, under the national birth planning law, Chinese citizens—in theory—have the ability under the Administrative Procedures Law to sue officials who violate their "family planning rights." The government has established a "hotline" for citizens to report abusive family planning practices to the federal authorities. We are gathering information on use of this hotline, and its effectiveness in dealing with alleged abuses. I want to emphasize that it is the practical implementation of these measures that matters, not public pronouncements.

In addition, the Chinese authorities I met with last month emphatically declared the end of any health and education penalties for "out-of-plan" children, such as higher school tuition fees. These children are no longer to be treated as second-class citizens. We will be watching closely to see if this is implemented, and to the extent that it is, this would be a very welcome development indeed.

Yet, let me be clear. China's birth planning law and policies retain harshly coercive elements in law and practice. Forced abortion and sterilization are egregious violations of human rights, and should be of concern to the global human rights community, as well as to the Chinese themselves. Unfortunately, we have not seen willingness in other parts of the international community to stand with us on these human rights issues.

In our discussions with the Chinese government, we have urged them to implement fully the principle recognized in the Program of Action of the International Conference on Population and Development, the ICPD, that couples, not governments, should decide the number and spacing of their children. On many occasions, the Chinese authorities have professed great commitment to the ICPD. Such statements, no matter how fervent or how frequent, will ring hollow and will be little more than empty rhetoric until that day when Chinese birth planning programs be-

come Chinese family planning programs, fully voluntary and free of all forms of coercion.

A national Law on Population and Birth Planning went into effect on September 1, 2002. The law provides that the state shall employ measures to place population growth under control, improve the quality of the population, and conduct birth planning. The law requires married couples to employ birth control measures. While provinces have some latitude in how they implement certain aspects of the law, it also requires counties to use specific measures to limit the total number of births in each county.

The law grants married couples the right to have a single child and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. Many provincial regulations require women to wait four years or more after their first birth before making such an application. These regulations also prohibit single women who become pregnant from giving birth, but enforcement of this prohibition reportedly varies widely throughout China.

The law specifies a number of birth limitation measures by the government that amount to coercion. Party members and civil servants who parent an "out-of-plan" child are very likely to face administrative sanction, including job loss or demotion. Couples who give birth to an unapproved child are likely to be assessed a social compensation fee, which can range from one-half the local average annual household income to as much as ten times that level.

As social compensation fee policies are set at the provincial level, and implemented locally, we understand enforcement varies greatly, with some areas waiving or greatly reducing the fees, and others imposing them at a high level. The Chinese have changed the national law so that any fees collected now go to national, not local authorities. We are told that this step has been taken to reduce the extensive corruption that had been associated with the collection of these fees. Some Chinese authorities would like to see an end to the social compensation fees, recognizing their coercive nature, and witnessing that they are especially burdensome on the poor, while more affluent citizens simply pay the fee and have additional children.

Nonetheless, as we have noted in our Human Rights Report, the social compensation fees remain a harsh and effective enforcement tool. During "unauthorized pregnancies," women are sometimes visited by birth planning workers who use the threat of the social compensation fees to pressure women to terminate their pregnancies. In many cases, these penalties and the level of harassment from officials leave women little practical alternative but to undergo abortion and therefore these fees, and related punitive measures, amount to a program of coercive abortion.

And in circumstances when social compensation fees and intense psychological and social pressure are not sufficient to compel women to have an abortion, there are reports, albeit declining, of instances where the authorities have physically forced a woman to terminate a pregnancy.

Finally, I would also like to raise the problem of forced and coerced sterilization. Forced sterilizations continue to occur, most frequently when couples have more children than the allowable number. Women may be allowed to carry the "excess" child to term, but then one member of a couple is strongly pressured to be sterilized. In some cases, they may be asked to go to a hospital under other pretenses, or sterilized without consent. Additionally, if doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization.

I want to assure Members that we will continue to seek engagement with the Chinese authorities on these difficult and important issues. Our embassy in Beijing and our consulates throughout China track developments in this area very closely. We will continue to urge China to move to a human rights based approach to population issues.

Thank you, and I would be happy to answer any questions that Committee members may have.

Mr. SMITH OF NEW JERSEY. Mr. Donovan.

STATEMENT OF JOSEPH R. DONOVAN, DIRECTOR, OFFICE OF CHINESE AND MONGOLIAN AFFAIRS, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. DONOVAN. Mr. Chairman, I don't have a statement to make, but I will be available to answer any questions you may have.

Mr. SMITH OF NEW JERSEY. Thank you, Mr. Donovan.

Let me just begin the questioning again by thanking you for your very clear and unambiguous statements. I think, Secretary Dewey, when you made the point in your testimony that the Bush Administration has said that we are deeply committed to upholding liberty and the dignity of human life, and we strongly, and with my emphasis, absolutely oppose the practice of coercive abortions and sterilizations wherever they occur, that has to be nonnegotiable. And I am very grateful that this Administration sees it that way and is speaking out very clearly, and I think effectively. Because if we do not do it, who will?

I think it is important to stress the point that has been made by you, as well as by some of those who will submit testimony, and those who will be in panel II making their testimony shortly, as well as Mr. Lantos, about the lack of concern by many of our allies and friends in Europe and elsewhere. I have been in Congress now for 24 years, and I learned of this in the early 1980s. When I was Chairman of the International Office of Human Rights Committee for 6 years, we held approximately 20 hearings on human rights issues in China, in whole or in part focused on the issue of coercive population criminal.

I have been there three times. I have had dialogues throughout this town and elsewhere with Chinese leaders. I find it appalling that we have not had the engagement by other nations, like you pointed out, especially in Europe and Canada, but it has been my experience that part of it is because there is a very rigorous and effective counter lobby. The UNFPA, I believe, leads it. They have whitewashed these crimes against humanity with public statements. They are like Holocaust deniers. And they have been doing this since 1979.

I think when you have an active opposition trying to dilute the clear message that these human rights abuses are intolerable, you get the kind of outcomes, the chaos and the paralysis that follows in the international community. Somehow there is a question about the basic facts on the ground, when nothing could be further from the truth.

I would also point out, and you may want to respond, that I have met with Peng Peiyun, the woman who ran the program. I met with her for a very long period of time in Beijing, and she kept coming back to the fact that the UNFPA is here, and they do not see any coercion whatsoever. So for international audiences, it becomes an effective tool in their toolbox of repression to now have a counterforce constantly saying, it is not that bad, it is an exaggeration, when, based on the facts on the ground, it is probably much worse. That leads to part of the silence.

I am grateful the U.S. Government at least pierces through that fog and sees these abuses for what they are. I do believe, as well, that most Americans will be shocked. For many of them, particularly with C-SPAN carrying this hearing, will be hearing this for the first time, because most of the mainstream media ignores this gross human rights abuse, and they do so, I think, with impunity. It is carried by a few, but very, very few. And that is unfortunate, because, again, Chinese women are the ones who bear the burden. The babies are dead, clearly, but the women carry the scars throughout their life.

I also would point out and, Secretary Dewey, you may want to comment on this, that I appreciated how you brought additional focus to the social compensation fee, which many Members of Congress remain largely ignorant of, and that is the means to the repression. When you can fine people, as you pointed out, up to 10 times the household income, that talks. That tells these individuals that they have no way out. How can they provide for their families when such a harsh and Draconian penalty is going to be levied upon them?

I think it is also important that you pointed out in your testimony that the 2002 law has tightened the net, and this began in the 1990s, on children who happen to be handicapped. There is a eugenics policy in China in their drive, as you point out, to improve the quality of the population. That is reminiscent of the Nazis.

When this was being promulgated in the late 1990s, I remember that I talked to Holocaust Museum people who said it is very similar to the eugenics policy of the Nazis. They are attempting to weed out the undesirables, the children with Down Syndrome and other anomalies and developmental disabilities, as well as mental impairments.

I also think it is important that you brought focus on—and very few people focus on this—the fact that single women cannot get pregnant. There are no single moms in China. That is very illuminating because, again, the Government, big brother, steps in and will destroy those out-of-plan pregnancies.

So if you would perhaps speak to the issue of why we are unable to get our colleagues in other countries, who on some issues—for example, apartheid, thankfully—gave us great deal of support, but when it comes to this issue, our friends in Europe and Canada show very, very little understanding. It is especially surprising considering people like Harry Wu and others make trips to Europe and speak about this. Harry, who has suffered the indignities of the Laogai himself, his message falls on deaf ears. That has to change.

Secretary Dewey.

Mr. DEWEY. Thank you. I think what helps, Mr. Chairman, in addressing this issue with some of our opponents, or people who do not stand with us, is to put it and keep it in the human rights context. It is much tougher for them to oppose us or to take exception to our approach to China, it is much tougher for UNFPA to take exception.

I have seen an evolution in their rhetoric, anyway, in UNFPA; that they do admit now there is coercion, as China admits there is coercion. And I think to the extent we can keep placing this in the context that coercion is a violation of human rights, then we have to do that.

I think this is the approach with European countries. Some of the European countries are honest enough to engage me after my trips to China to say, what happened and what progress have you made and so forth; and we do not like your policies of not funding the U.N.; and how do you explain how you can still continue not funding the U.N.? And that gives me a chance with them to put it in the context of, we wish you would stand with us; you are so quick to try to isolate the United States on these issues.

And they do. They try to isolate us in every conference. It seems that almost every international conference now becomes a population conference, or somehow population is drawn into it, almost as a pretext to isolate the United States policy on population. They also use it as part of our anti-U.N. stance, as part of what they describe as an anti-U.N. stance on the part of the United States. This is where we can really lash back at them, because it is not comfortable for the United States to be out of any U.N. organization. Our humanitarian practice uses as its center of gravity the multilateral system, and we need to be able to fund UNFPA because UNFPA, like most of the U.N. organizations we fund, badly needs reform. And we cannot do that, our voice is not as strong, if we are not providing money.

So I can come back and say that we take a back seat to no country in terms of our multilateralism and humanitarian action, and this is another reason we are working very hard to establish conditions where we can resume funding of UNFPA and do what we do with every U.N. organization: Work on reform in that organization.

Mr. SMITH OF NEW JERSEY. On that issue, you said in your statement that the UNFPA's support of and participation in Chinese population planning activities, Kemp-Kasten, allows the Chinese Government to implement more effectively its program of coercive abortion. Clearly, China's program is coercive, and it is equally clear that UNFPA supports financially and with expertise the Chinese program.

With those facts established, do you believe the State Department has the legal option to give money to UNFPA, when they violate these human rights norms?

Mr. DEWEY. No. Clearly, the law bars us from giving money to the UNFPA, with the support they give to the National Population and Family Planning Commission in China. It is that support that would have to be changed or the coercive policies of China that would have to be changed in order to permit us to fund the UNFPA.

Mr. SMITH OF NEW JERSEY. You mentioned that you have heard in your dialogues that some Chinese leaders have talked about the educational fees or the educational penalties potentially being lessened. It has been my experience—and I would appreciate your input and reaction on this—that in the 1980s, even as the high tides of 1983 and those years were abating and a more systematized, more pervasive, and a honing of the one-child-per-couple policy was occurring, and the use of these heavy, now called "social compensation" fees, was emerging, they found they could be more effective by setting an example. By being harsh for a while and then matriculating into a system that was more sustainable, they could heap harsh penalties onto people.

There were many diplomats, including foreign policy hands of the China Watchers, who suggested that the policy had changed, and coercion was no longer a problem. That was in 1985. I remember being a part of that hearing, and all the subsequent hearings that followed, and there have been many. It always seems like reform is right around the corner, and the Chinese seem to be incredibly adept at duping international audiences into believing that they

are on the threshold of some change or some amelioration in the policy. And we often get dialogue in lieu of reform.

They have done it on a host of issues, not just on forced abortion, but on torture, and religious persecution. The Department has done yeomen's work on promoting the International Religious Freedom Act, legislation that was authored by Congressman Frank Wolf about 6 years ago, which was opposed by the Clinton Administration. We had the Assistant Secretary for Human Rights, John Shattuck, sit where you sit as we went to markup on that bill when I was the Chairman of the Committee that marked it up, and they were against it. China was one of those countries where things were always getting better as they were getting worse.

I am concerned that while dialogue is good, and I'm all for constructive engagement, unless it becomes a pretext and cover. I would ask you to comment also on the social compensation fee, which you mentioned is up to 10 times, Secretary Dewey, but Secretary Powell said it was up to 8 times; perhaps it's gotten a little worse. But we also know this from Harry Wu's testimony and many others, Dr. John Aird, who will be testifying shortly.

So I would ask you to respond to that. Here is a man who was the senior research specialist on China for the United States Bureau of the Census, and he will be testifying to his conclusion. He says that the evidence is clear that the one-child policy is still basic national policy; that it remains highly coercive, in violation of human rights; that the coercion is approved, encouraged, and virtually mandated by the central authorities. And that despite grumblings of discontent from below, there is no sign that change is imminent. I repeat: No sign that change is imminent.

International pressure has been too ineffective to induce Chinese authorities to abandon coercive population planning measures on humanitarian grounds. Instead, they regard criticism from abroad as an image problem that can be solved by steadfast denial. They are helped in this regard by the continuing support, expressions of approval, and propaganda assistance provided by sympathetic foreign interests, mainly in the international family planning arena and population control advocacy community. They are also helped by superficial investigation and reporting by reporters who incautiously accept disingenuous explanations and denials by Chinese officials and by foreign apologists for the program.

That is the most concise and, I think, profound statement that I have heard in a long time in Congress that just absolutely encapsulates what the problem is. How do you respond to that?

Mr. DEWEY. There certainly is a tendency to take small steps to avoid big steps, and to use rhetoric as a way to indicate a forward-leaning posture toward addressing these human rights abuses, which China is starting to recognize as human rights abuses.

On this last visit to China, for the first time I learned that the amendments to the Chinese Constitution had to do with human rights in 2004. You can say it is rhetoric, but it is something we can hang on and refer to and hark back to measure progress in the population area.

There are some measurable ways to indicate progress, and I think one of these is on the education fees which you alluded to, where a year ago I had a promise from Chinese authorities that the

education fees would be waived for out-of-plan births and health costs would be waived. Everybody has free health and education in China. And that also the sanction of losing your job, that would be waived, or a demotion would not happen. And I said, okay, that is great. Let us put that in writing so that everybody in China understands that is the way it is.

This time, going back in November, they said, well, we were able to assure that the education fees and the health fees are not assessed, but we just cannot go to that step of the employment, because these people are party members so they are civil servants. They are in the Government, so it is a bad example if we don't sanction them for out-of-plan births. So that is an indication of how one step forward may be two back in some areas where we can measure progress.

The real indicator of progress, however, is the social compensation fees. That is the prime coercive element. Our argument goes this way: That you have had the law in place since September 2002. Here it is, 2 years later. There is now a chance to look at how the law is working and what modifications might be permissible to improve your human rights record and to improve your image in the world. And it seems as if the primary flexibility that would do this would be waiving the social compensation fees, these Draconian fees, in those counties where UNFPA operates, where international money is being applied. And it seems even if you had a population explosion in those 32 counties, given the fact that there are over 2,000 counties in China, this is not going to do great violence to your population control program. Our belief is that you would not see a population explosion, but that you would see an opportunity to make exceptions to your law to waive these fees and recognize that they are not essential to maintaining your population numbers.

The answer is still no: It is the law, we cannot do that. And I guess that has been the most disappointing aspect of my engagement with China is that very logical approach, a risk which is almost a no-risk option, they have not yet been willing to take.

Mr. SMITH OF NEW JERSEY. Secretary Kozak, you may want to speak to this as well, but have we been able to engage in a substantive, no hyperbole whatsoever, dialogue with other allies?

I joined Ambassador Williamson and Loren Craner in Geneva, and they did a marvelous job in the very truncated time period that they had to make the case for the China resolution. Regrettably, the "no action" resolution prevailed. I met with 23 delegations, Renee Austell was there as well, and we had round-the-clock series of meetings where there was an almost total lack of appreciation and understanding on the part of our European colleagues, African colleagues, and Latino nations about forced abortion in China. It was like, What are you talking about?

We need to do an informational offensive about this on a human rights plane. As Secretary Dewey pointed out so well, this is the most egregious violation of women's rights, I think, in the history of the world, to have women having their children stolen, destroyed, and then raped by the State with forced abortion. It is a horrific crime against humanity. What can we do to ratchet that up?

Mr. KOZAK. Mr. Chairman, you mentioned earlier, I think, what is one of the fundamental problems; that many of these countries have substituted, or they see dialogue as progress rather than the fruits of dialogue, concrete progress, on human rights across the board, not only in this area of forced abortion and sterilization but on other aspects.

We have tried to work with colleagues in Europe, with Canada and all of the different countries and groupings of countries that have dialogues with China. There is a thing called the "burn process," where we get together and compare notes on our dialogues, and we have tried to reactivate that recently in connection with this discussion of possibly lifting the arms embargo on China. Susan O'Sullivan, from my Bureau, has spent a good deal of time traveling around to different capitals and meeting with Government officials there and trying to show them that the glass they see as half full is quite a bit empty on many of the human rights issues.

So I think it is going to take a lot of work. We are not, though, completely alone. I would say there are countries, especially parts of Europe, that really do see human rights abuses for what they are. But we are up against a lot of inertia in the other direction, and I think it is just going to take a lot of work of the kind you were discussing with Rich Williamson and Loren and the kind of day-by-day work that Susan has been doing of going around and spending a concentrated period of time, a day or 2 in each capital, talking about these issues.

We need public information as well, and I think your hearings today should help contribute to that effort.

Mr. SMITH OF NEW JERSEY. I do appreciate Benjamin Weber—who is one of our political people from my district, by the way—who is in Shanghai and doing a tremendous job. We appreciate his work. Could you perhaps fill the Committee in as to what kind of response we are getting back from the Chinese Government on Mrs. Mao's case?

I mean, there is the indignity of forced abortion and coercive measures that is coupled with everyday mundane—and there is no such thing as mundane torture; but torture is certainly mundane in China when you are arrested for a so-called political crime. But what has been the reaction?

Mr. Donovan.

Mr. DONOVAN. Thank you, Mr. Chairman. As of today, we have not had a reaction from the Chinese.

Mr. SMITH OF NEW JERSEY. Could you keep the Committee informed about the reaction? We have made interventions, I'm sure, on her behalf?

Mr. KOZAK. Yes, we have, and we certainly will keep the Committee informed.

Mr. SMITH OF NEW JERSEY. I appreciate that very much.

Let me just conclude by again, as a matter of information, saying that I appreciate that Harry Wu brings the adoption issue out in his testimony. It is something I had not thought of over these many years of working this. Chinese couples cannot adopt, because if they do, that one they would have adopted counts as the one child

they are allowed to have and counts against any children that a woman may bear herself.

Harry also makes the point, and I think you have made the point as well, that there is a double standard when it comes to human rights in China in the world. It is as if so many people, either through indifference or the concerted effort made by the UNFPA and others to muddy the waters, do not seem to get it—that women are suffering this cruelty every single day.

As Harry points out in his testimony, this is the one human rights abuse that touches virtually every single solitary family in the People's Republic of China. And just because it is so widespread should not mean that we do not shout from the rooftops that it has to stop immediately.

I would like to thank you again, gentlemen, for your testimony. I look forward to working with you as we move forward. I thought your statement, Secretary Kozak, about the number of dissidents rising from 150,000 to 310,000 hardly suggests progress in China. And, unfortunately, because of the trading status of the United States and the work with China, human rights groups have been put pretty much under the table in the public's eye, and so we need to get them back out on the front burner.

So, again, I want to thank you for your testimonies and look forward to working with you as we go forward, unless you have anything else further to add.

I would like to introduce the second panel, beginning with Harry Wu, Executive Director, Laogai Research Foundation, a nonprofit organization committed to documenting the Laogai system and other systemic human rights abuses, and the China Information Center which manages Chinese language news and commentary Web sites for mainland China readers. As a young student, Mr. Wu was arrested and sent to the Laogai, the Chinese Gulag, as a "counterrevolutionary rightist." He was imprisoned for 19 years, subjected to beatings, torture, and in 1985, Wu came to the United States as a visiting professor at the University of California at Berkeley. Mr. Wu has since made several trips to China to document human rights abuses and was again arrested by the Chinese Government in 1995 and sentenced to 15 years for "stealing State secrets." After 66 days and extensive international pressure, including a hearing we held on his behalf here in this room, he was expelled from China. Since his release, he has continued to travel the world to tell of the abuses of the Chinese Government that they inflict on their own people.

Our next witness will be Mr. T. Kumar, Advocacy Director with Amnesty International USA. Mr. Kumar has served as a human rights monitor throughout Asia as well as in Bosnia, Haiti, Guatemala, and South Africa. He has also served as the United Nations Representative for Peace Brigades International. Mr. Kumar was in prison for 5 years in Sri Lanka for his peaceful human rights activities.

We will then hear from Mr. John S. Aird, former Senior Research Specialist on China at the U.S. Census Bureau. He was for 28 years a specialist on the population of China. He received his Ph.D. in sociology from the University of Michigan and taught for several years before joining the Census Bureau in 1957. Since his retire-

ment in 1985, he has provided affidavits and testimony in immigration proceedings on behalf of more than 360 Chinese asylum applicants fleeing their country's coercive family planning programming. He is also author of the book, *Slaughter of the Innocents: Coercive Birth Control in China*, which I have read and which I gave to Chinese officials during one of my trips to the People's Republic of China, which was just laid aside and with some derision, Mr. Aired.

Our fourth witness is Ms. Ma Dongfang. In the early 1990s, Ms. Dongfang became a victim of China's one-child policy. Married, with one legal child, she became pregnant with what would have been her second child. Because a second child was a violation of the one-child-per-couple policy, Ms. Dongfang was forced to abort her child. After the abortion, doctors surgically inserted a series of contraceptive devices which made Ms. Dongfang severely ill. After arriving in the United States in 1998, she received asylum, and an American doctor removed the device that was causing harm to her health. She is currently employed with Radio Free Asia where she helps to promote freedom and democracy for those still suffering in the People's Republic of China.

Mr. Wu, if you would proceed.

**STATEMENT OF HARRY WU, EXECUTIVE DIRECTOR, LAOGAI
RESEARCH FOUNDATION**

Mr. WU. Mr. Chairman, I would like to request that the book, *Better Ten Graves Than One Extra Birth*, published by the Laogai Research Foundation, be entered into the congressional record as a part of my testimony.

Mr. Chairman and Members of the Committee, I am honored to testify here again on the topic of China's population control policy. I have testified in front of the Congress and European Parliament on China's one-child policy several times in the past, and unfortunately the policy is still enforced in China.

Despite recent supposed reforms and developments, China's population policy still does not conform to United Nations principles. The one-child policy is the most pervasive source of human rights violations in China today. It affects every family, every woman. Family planning, in the true sense of the word, should be encouraged the way that family planning is universally accepted throughout the international community. Its concept, defined in the United Nations Declaration, is that husbands, wives, and individuals freely and consensually decide how many children they wish to have and at what spacing. But, in contrast, the family planning in force in China is actually a State-controlled mechanism of the reproduction of children.

The family planning carried out as a State policy by the Chinese Communist Party is Government planning, not planning by the individual. It is not freely decided upon by the individual family. Anyone in China who does not follow the Government plan is in violation of the law. In Mainland China, so-called illegal pregnancies, illegal births, exceeding the number of children allowed and so on, is prohibited and suppressed in the same way as are thieves, drug smugglers, and murderers. These terms and views

are unheard of in any other country, and there is no other country who supports them.

The Chinese people first lost their freedom of speech, freedom of relocation, freedom of association, freedom of religious beliefs, and then their most fundamental freedom, the freedom to give birth. These days when people speak about human rights violations in China, they seem to focus on freedom of religious beliefs and freedom of speech but neglect the most serious infringement on human rights: The freedom to give birth. This accounts for why Chinese families, women and children in particular, can hardly express support of the outside without being subjected to great harm with regard to the Chinese family planning policy.

We have to tell the Chinese people that you are the same people as the rest of the people in the world. You deserve the right to give birth. There is no reason which should deprive this right from them.

Chinese Communist leaders, such as Jiang Zemin, have often used the excuse of economic well-being and stability to justify China's repressive family planning regulations. They have to use the ratio of China's massive population to its small amount of arable land to argue that harsher measures are required to restrict the population and ensure that there is enough food for everyone to eat. However, this is an empty, baseless argument. What China needs most in order to thrive is a free political and social system.

The example of Japan or Taiwan can be used to refute China's arguments, with its population of more than 1.3 billion, 22 percent of the world, and only just over 9 percent of arable land of the world. But Japan and Taiwan enjoy relatively prosperous economic conditions and stability. Unlike China, Japan and Taiwan have a free and open political and social system that drives its success.

Unfortunately, there are double standards with regard to the rights of Chinese families. Many Western economists and politicians are unwilling to criticize the Chinese Government that grants them access to the data their careers depend on. They have adopted a so-called "yes, but" attitude to the one-child policy in China, stating that human rights violations are aberrations with regard to its policy. Indeed, ever since atrocities related to the one-child policy were first reported in the 1980s, many have argued that coercion was a thing of the past. However, for the last 25 years now, this has simply not been the case.

Every year, many Chinese who are able to come to the United States apply for asylum here because they were subjected to forced abortions and fertilizations. And thousands of abandoned baby girls, victims of the one-child policy, are adopted from China by American families every year; probably over the last decade, more than 50,000.

The one-child policy is a national policy mandated from the top level of the Chinese Communist Party Government, which holds all officials of every level and every work unit responsible for carrying out the policy, from the provincial government level to the tiniest of villages. We have very small information from the bottom of the country. We only hear from the central Government that the so-called policy is very civilized and is nothing coercive.

Here is one small document from one small village or town, Jieshi Town, and this document is from 2003. Let me read something quoted from this document:

“Jieshi is a town located in the northern part of Lufeng City, Guangdong Province. The area is 125 kilometers, and the population is 200,000. And in this town, from August 26, 2003 through September 30th, the local government had a goal that must be achieved: To sterilize 1,369 women, fit 815 IUDs to the women, induce labor in 108, and carry out 163 abortions during the 35-day time period in this small county.”

China has 3,000 counties. This is one of the documents to show you what is the reality.

The policy has been carried out by the Chinese Government for 25 years now, and 2 years ago the Chinese Government said because we carried out this policy, that is why we reduced the population in the last 10 years to around 300 million. We have to ask: What is the percentage of the so-called 300 million that is due to the forced abortions or late-term abortions, which means murder? If we say 10 percent of them, that means 30 million murder cases there.

If we are unable to put a stop to this problem, it means that we have still not been successful in terms of our efforts to promote democracy or human rights in China. The cruel and unjust methods the Chinese Government carries out to enforce its population policy constitutes a human rights violation of the worst kind. I call on the Chinese Government to end this brutal practice of forced abortion population control and seek to implement voluntary and nonviolent population programs. And I urge the American people, the United States Congress and the United States Government, to help put a stop to China’s barbaric policies. Thank you.

Mr. SMITH OF NEW JERSEY. Mr. Wu, thank you, very, very much.
[The prepared statement of Mr. Wu follows:]

PREPARED STATEMENT OF HARRY WU, EXECUTIVE DIRECTOR, LAOGAI RESEARCH FOUNDATION

Thank you for inviting me to testify before you today. I would first like to request that the book *Better Ten Graves Than One Extra Birth*, published by the Laogai Research Foundation, be entered into the congressional record as part of my testimony.

Mr. Chairman, members of the committee, I am honored to testify here again on the topic of China’s population control policy. I have testified in front of Congress on China’s one-child policy several times in the past, and unfortunately the policy is still enforced in China.

Despite recent supposed reforms, China’s population policy still does not conform to UN principles. The one-child policy is the most pervasive source of human rights violations in China today. It affects every family, every woman. With few exceptions, only married couples that obtain advance approval, i.e. a birth permit, may legally have a child, even if it is their first child. A majority of Chinese women are required to use intrauterine devices (IUDs). Violators, if discovered to be pregnant, are coerced into having an abortion. Most violators of the one-child policy are forced to undergo sterilization. Doctors who do not perform IUD insertion or sterilization, or who fake these operations, are jailed. Family members of violators are often jailed if they do not reveal the violator’s whereabouts. Despite relaxation of certain aspects of China’s family planning regulations, enforcement of the one-child policy continues to be coercive.

As published, China’s newly-promulgated State Family Planning Law is a violation of reproductive rights as outlined by the UN Charter, UNDHR (Universal Declaration of Human Rights), and the Cairo Declaration, all of which China is a signatory to. All of these documents clearly state that family planning should be the re-

sponsibility of individuals. However, China uses a system of quotas and regulations to dictate how many children can be legally born and where. Ultimately, individuals and families, not governments, should decide on the parity and spacing of having children.

China, despite its economic development over the past 20 years, remains a poor, rural nation. Most Chinese are unconcerned with the rights of religion or the right to post an article on a website. A majority of Chinese are not concerned about human rights violations in Tibet. Indeed, China traditionally is not a rights-based culture, and most Chinese are simply ignorant of the concept of human rights. However, the one-child policy is almost universally hated by the Chinese public. The desire to have children, specifically male offspring, drives this contempt.

Chinese Communists leaders, such as Jiang Zemin, have often used the excuses of economic well-being and stability to justify China's repressive family planning regulations. They have used the ratio of China's massive population to its small amount of arable land to argue that harsh measures are required to restrict the population and ensure that there is enough food for everyone to eat. However, this is an empty, baseless argument. What China needs most in order to thrive is a free political and social system. The example of Japan or Taiwan can be used to refute China's argument—with its population of more than 1.3 billion, 22% of the world and only just over 9% of arable land of the world, Japan and Taiwan enjoys relatively prosperous economic conditions and stability. Unlike China, Japan and Taiwan has a free and open political and social system that drives its success.

Unfortunately, there is a double standard with regard to the rights of Chinese families. Many Western academics, unwilling to criticize the government that grants them access to the data their careers depend on, have adopted a "Yes, but" attitude toward the one-child policy, stating that human rights violations are aberrations with regard to this policy. Indeed, ever since atrocities related to the one-child policy were first reported in the 1980s, many have argued that coercion was a thing of the past. However, for the last 25 years, this has simply not been the case.

Every year, the U.S. Bureau of Citizenship and Immigration Services (BCIS) receives thousands of applications for asylum from victims of China's coercive population control measures. Congress views China's one-child policy as a form of persecution and mandated that the BCIS set aside 1,000 visas per year specifically for its victims. China is the only nation whose citizens are eligible for asylum based on population control-related persecution.

Thousands of abandoned baby girls, victims of the one-child policy, are adopted from China into U.S. homes each year (about 50,000 over the past decade). Research shows that a vast majority of these girls are abandoned because their parents want to avoid sterilization and the heavy fines of the one-child policy. Adopting families have all been to China, and they have a keen understanding of the problem. Their adoption informs their entire social network as well; their neighbors, friends, family, and coworkers all see first-hand the impact of China's one-child policy. As the numbers of adoptions continue to increase, the social awareness of the horrors of the one-child policy will continue to grow.

After the introduction of the *Population and Family Planning Law* on September 1, 2002, Chinese authorities declared that all family planning violators would be fined a so-called "social alimony" instead of being subject to other punishments. There have been various unwritten rules for how family planning violators should be punished. These include admonishments that the whole family should be punished for one individual's "crime", forced abortion and sterilization, promoting IUD insertion as one's duty, and the destruction of violators' homes, etc. The implementation of these different forms of punishment has varied in locations throughout China—while each location has attempted to carry out measures in the spirit of the central government's policy; each has had its own measures to prevent "illegal births". The one-child policy is a national policy mandated by the top levels of the CCP government, which holds all officials of every level and every work unit responsible for carrying out the policy, from the provincial government level to the tiniest of villages. Each work unit's bureaucratic leader must use their power to enforce the policy and make sure orders are carried out, or they will be punished by the Communist Party or the government.

This year, the Laogai Research Foundation obtained a document of Jieshi Town, Guangdong Province from 2003. This Document No. 43 of the Township shows how the local government has harshly implemented China's family planning law.

Jieshi, located on the northern part of Lufeng City, Guangdong Province, has an area of 124 km and a population of 200,000. Document No. 43 of Jieshi Township from August 26, 2003 gave orders that the fall 2003 family planning assignment should begin on August 26, and within 35 days (ending on September 30), the goals must be achieved: to sterilize 1,369, fit 818 with an IUD, induce labor for 108, and

carry out 163 abortions. During this period, each five days there should be a count and each ten days there should be an evaluation, and there must be a 100% success rate. Party secretaries and village heads who failed to fulfill this task would have their salaries cut by half, and other responsible cadres would suffer the withholding of their entire salary.

One regulation of Document No. 43 stipulates: “sterilized women will be compensated with 50 yuan, and women will be compensated with 300 yuan for late abortions”. The document also demands: “in the countryside, sterilization for all women with two girls, and induced labor for late pregnancy. Overcome difficulties with creativity, so that all fall actions can be implemented successfully, and the ground can be set for yearly population control planning”.

In the spirit of the document, the leaders of the township asked all villagers to be vigilant and to denounce all “unlawful” pregnancies and births.

Sanitized language such as “clear the repertory with avant-garde and creative methods”, “reach our goal in a timely fashion and meet the required quantity and quality standards” is used in a document that deals with human lives. “Focus on late inducement” has also been emphasized. This sounds more like killing than giving birth. According to Chinese law, those who sexually molest women are guilty of infringing upon another person’s body. It is ironic that today the government forces women to undergo sterilization and abortions in the name of the law.

Many Western demographers and organizations, such as the UNFPA, have hailed the 2002 family planning law as ushering in an era of reform. They believe the law shifts China’s population control policy away from human rights abuses. However, the law does not discourage the use of quotas, and it keeps the “one-vote veto system”, thus retaining two of the fundamental causes of such abuses. Document No. 43 of Jieshi Township is an important piece of evidence proving that quotas for sterilizations and abortions continue to be implemented in China.

The *Population and Family Planning Law* codifies the implementation of family planning policy in the constitution. Among reforms included are guarantees of rights to healthcare access and information. In certain areas, and in certain circumstances, birth permits are no longer necessary. Yet the law does not grant any new or confirm any previous reproductive freedoms.

Indeed, upon completion of China’s 2000 census, Chinese officials realized they had reached an unthinkable goal: the total fertility rate had reached 1.8, which is below the natural replacement rate. In other words, China was about to achieve zero population growth. This certainly allows for a more liberal policy. For example, today in many urban areas, such as Shenzhen and Shanghai, no prior approval is necessary for a couple’s first-born child.

Unfortunately, any optimism related to the amount of coercion involved is misplaced. Despite the fact that, under the law, individuals have the right of access to contraceptive information, these same individuals are not allowed to make their own choices to not use birth control, or, for example, to use condoms or pills as opposed to IUDs. Under the law, couples do not have the right to choose their form of birth control, let alone the number or spacing of their children.

In addition, enforcement is still as strict as ever. Any out-of-plan births are met with coercion. According to officials from the SFPC, renamed the State Family Planning and Population Commission, there will be no significant change in the enforcement or implementation of the one-child policy.

When confronted with evidence of coercion and the abuse of laws, officials state that abuses are a result of rogue actions by local cadres. Yet the new law does nothing to reign in their actions against violators. It does denounce opportunistic cadres who accept bribes to fake sterilization or birth permits. It calls for punishing health workers who inform couples of the gender of their child. However, the law does nothing to prohibit or discourage many types of human rights abuses. It does not prohibit forced sterilizations, forced abortions, infanticide, the detention of violators or their families, or the confiscation or destruction of property. Most important, the law maintains the use of quotas and targets, as well as the “one-vote veto” system, described in our book, the engine that drives cadres to commit human rights abuses.

The case of Mao Hengfeng, a long-time campaigner against China’s coercive family planning policies and other human rights violations in China, is another example of the continuing harsh implementation of the one-child policy. The group Human Rights in China has reported that Mao has in recent months been subjected to abusive treatment in a reeducation-through-labor camp, or RTL, in Shanghai, including being bound hand and foot and suspended in mid-air, and being subjected to severe beatings and other forms of torture.

After giving birth to her second child in the late 1980s in violation of Chinese law, Mao was dismissed from her job at a soap factory, and she began a lengthy court battle for her right to work. She was seven months pregnant with her third child

at the time of a key court hearing and was told by the trial judge that he would rule in her favor if she agreed to have an abortion. She then had an abortion against her wishes, but the court ultimately ruled against her, saying that because she had violated China's family planning policy, the factory had a right to dismiss her. Mao then embarked on a 15-year struggle for her right to work and other basic rights. In April of this year, the Shanghai Public Security Bureau ordered that Mao serve 18 months in an RTL because of her relentless petitioning.

In addition to being a violation of the basic rights of Chinese citizens, the one-child policy has a serious impact on Chinese society in terms of a significant gender imbalance. This problem has been widely documented in the international media. While the world's overall male-to-female birth ratio, which measures the number of males born for every 100 females born, is between 103 and 106 males, China's ratio was calculated in 2000 to have reached about 117–134. When this ratio is superimposed on China's massive population, the imbalanced ratio translates into almost about a *million* "missing" baby girls per year.

While China's male-female sex ratio has traditionally been tilted toward males, 30 years ago it was only slightly higher than the world average. However, since the advent of the one-child policy, the imbalance has grown steadily with each study or census conducted.

Influenced by traditional culture and socioeconomic conditions, including the fact that there is no insurance system or social welfare net for people in rural areas, many Chinese families, especially in rural areas, insist on having at least one male child. They will not stop having children until they achieve their goal. Despite the biological facts of procreation, which place the onus of sex selection on the male, women heavily bear this responsibility in China.

According to the 2000 census, with the exception of Tibet and Xinjiang, every province in China exceeded the world average in terms of the male/female ratio. The ratio was most imbalanced in the following nine provinces/autonomous regions: Fujian, Shaanxi, Guangxi, Hunan, Anhui, Hubei, Guangdong, and Hainan. The imbalance was highest in Hainan and Guangdong, with ratios of 135.6 and 130.6, respectively.

Researchers have established three principal reasons for the gender imbalance: sex-selective abortion, female infanticide and neglect, and finally abandonment and underreporting.

Despite the government's efforts to end it, the practice of sex-selective abortion remains. According to Zeng Yi, a one-time Peking University population expert now at Duke University, "Abortion based on gender selection reduced the number of girls expected to be born by one-third, even one-half." Couples determined to have male offspring are able to determine a fetus's sex and have an abortion. Family planners, who are eager to reduce population growth, are unlikely to prohibit an abortion simply because they fear it is due to gender. Indeed, our research has not been unable to uncover any instance of prosecution or punishment for such activity. Most couples have a sex-selective abortion after using prenatal screening. Over 10,000 ultrasound machines are produced in China yearly. Screening can cost as little as \$4. In Zhanjiang, a city in Guangdong province, over 70,000 women engaged in prenatal screening from 1997 to 2003. While data is unavailable to determine how many of these women went on to have an abortion, the city experienced a male/female birth ratio of 147 during this period.

After the 1949 Communist revolution, infant abandonment declined until the adoption of the one-child policy. Infanticide is occasionally carried out by family planning officials and doctors under their direction as the ultimate means of "preventing a birth". In a survey publicized in January 2001, in some remote or impoverished areas where potential parents are unable to pay for ultrasound tests, or the test results are inaccurate, committing infanticide against female newborns is used as a last resort. However, neglect is a much more significant factor than infanticide. In one study completed in 1994, statistics indicated that with regard to infant deaths in rural areas, "60 percent of deceased male children had been taken to the hospital in the 24 hours before their death, as opposed to 40 percent of female children. According to the law, child abandonment is illegal, but prosecution of abandonment is extremely lacking. Abandoned children are at a significant health risk, and an even greater risk of not being registered. Of those children that make it to orphanages, up to half of them die within their first few months.

The one-child policy currently discourages legal adoption of children by Chinese by treating adoptions as no different than a birth. Thus, a family may only adopt a child if it conforms to the one-child policy. Violators, who adopt "out of plan", are treated as if they have had a non-approved birth, which would make them subject to significant fines and sterilization. This policy is intended to prevent the circumvention of the one-child policy. The government worries that if it were to liber-

alize adoption policy, families could pass on their “black children” (called *heihaizi* in Chinese) to relatives or neighbors who could then in turn officially adopt them.

In the United Kingdom, *The Mirror* of February 13, 2001 printed a series of photos showing how a newborn baby girl in Hunan who was abandoned in a street, naked, and who had frozen to death. *Marie Claire* magazine also reported on this story in June 2001. Only three hours after the photographer reported this to the police was the baby carried away. Almost no passers-by paused and inquired about the baby. Brits and Americans who read reports about this incident were shocked by the photos and criticized China, saying that its inhuman family planning policy leads to many abandoned girl babies, rendering the Chinese callous and indifferent to human life. The CARE organization in the United Kingdom called for support of the “International Development Bill” to seek new norms and to curb the expenditure of British aid funds toward China’s family planning policy, which it charged ignores basic human rights.

China’s one-child policy also engenders criminal behavior such as corruption, bribery and human trafficking. Corrupt family planning cadres and doctors abuse their authority to exact fines and accept bribes to give couples birth permit certificates, fake sterilization certificates, fake IUD checkup certificates, etc. Meanwhile, the surplus in female infants and the sex ratio imbalance has led to an increase in the trafficking of infants and women. It is estimated that after a decade, about 30 million Chinese bachelors will not be able to find a wife. This dire situation will result in instability even across the border and will have a negative influence on China’s neighboring countries.

The Chinese government uses the slogan “get rid of poverty and rush to well-to-do status” to persuade peasants to accept its forced family planning policy. However, little or no efforts are being invested in the areas of medicine, sanitation, education and employment for China’s rural population. No improvements have been achieved in the retirement and pension systems for China’s peasants. Instead, the government has used a huge amount of money and human resources to build up a strong contingent to implement its family planning policy.

Coercion in China’s family planning policy is not sporadic or unauthorized, but rather an essential tool used by family planning cadres to meet ambitious targets. Coercion is systemic, widespread, and appalling. As international law clearly stipulates, the right of families to choose the number and spacing of their children is clear and inviolable, and this right is clearly denied to Chinese citizens. As long as China’s one-child policy remains in place, women in China will continue to lack control over their own bodies and their own reproductive choices, and the state will continue to dictate when they will be fitted with IUD devices, sterilized, or forced to have an abortion. This is clearly a policy that should be abhorrent to the international community, and one that we must work to eliminate.

Tragedies due to the one-child policy continue to be played out one after the other, and the societal consequences of “family planning” are gradually manifesting themselves. If we are unable to put a stop to this problem, it means that we have still not been successful in terms of our efforts to promote human rights in China. The cruel and unjust methods the Chinese government carries out to enforce its population policy constitute a human rights violation of the worst kind. I call on the Chinese government to end its brutal practices of forced population control and seek to implement voluntary and non-violent population programs. And I urge the American people, the United States Congress, and the U.S. government to help put a stop to China’s barbaric policies.

Mr. SMITH OF NEW JERSEY. I would like to ask Ms. Dongfang if you could proceed.

STATEMENT OF MA DONGFANG, VICTIM OF CHINA’S ONE-CHILD POLICY

Ms. DONGFANG. Good morning. My name is Dongfang Ma. I was born in China and got married in 1986. In 1988, I gave birth to my first child, and I was required to get a certificate for having only one child under China’s one-child policy.

In 1991 I became pregnant again, and I was forced to abort this child, like many other Chinese women who got pregnant with their second child, because it was a violation of Chinese Government policy. After the abortion, the doctor inserted an IUD device into my uterus without either my knowledge or permission. I soon became

very sick as a result of the IUD and endured months of horrible pain and discomfort.

I suffered from excessive bleeding, weight loss and fatigue, so I begged the doctors to remove the device, but they refused to do so. If they had it removed, they would be breaking the law. My body just could not tolerate the device. Instead, they inserted a Norplant into my left arm. The Norplant proved to be no less distressing. It gave me night sweats, anxiety, and depression. I did not have my menstrual cycle for over 10 months.

Again, I begged the doctors to remove the Norplant, not because I intended to have another child, but because I was suffering so much. Bound by Chinese law, and fearful of the consequences, the doctors refused. If I had found some way of removing it myself, I would have lost my job and possibly would have had to undergo a forced sterilization or reinsertion. I was forced to make self-criticisms several times before I had the abortion.

After I came to the United States in 1998, an American doctor helped remove the device that was causing so much harm to my health. This is the device from my left arm. Six little tubes. I was granted asylum over here, and I now live peacefully with my husband and my only child as a permanent resident.

The right to give birth is fundamental. It is recognized in article 16 of the Universal Declaration of Human Rights. I support the idea that women should be involved in their own family planning. I condemn any governmental policy that results in physical pain, infanticide, and emotional torture. To punish a woman and her family for unplanned pregnancies is an unspeakable cruelty.

There are so many stories like mine in China, and so many women wish to escape the one-child policy; however, they cannot come to the United States to seek asylum. So this policy must change so that women may live in China without constant anxiety and a fear for their own bodies.

MR. SMITH OF NEW JERSEY. Ms. Dongfang, thank you so much for your testimony, for your willingness and your courage to bring your story forward so that the Committee and, by extension, the American people, can know, as you put it, the unspeakable cruelty that you and other women have suffered at the hands of this barbaric policy. Thank you so much for your willingness to be here. We do appreciate it.

[The prepared statement of Ms. Ma Dongfang follows:]

PREPARED STATEMENT OF MA DONGFANG, VICTIM OF CHINA'S ONE-CHILD POLICY

Good morning,

My name is Dongfang Ma. I was born in China and got married in 1986. In 1988 I gave birth to my first child, and I was required to get a certificate for having only one child under China's one-child policy. In 1991, I became pregnant again, and I was forced to abort this child like many other women in China who got pregnant with their second child, because it was a violation of Chinese government policy. After the abortion, the doctor inserted an IUD device into my uterus without either my knowledge or permission. I soon became very sick as a result of the IUD and endured months of horrible pain and discomfort. I suffered excessive bleeding, weight loss, and fatigue. I begged the doctors to remove the device, but they refused to do so. If they had it removed, they would be breaking the law. My body just could not tolerate the device, so instead they inserted a Norplant into my arm. The Norplant proved to be no less distressing. It gave me night sweats, anxiety and depression. Again, I begged the doctors to remove the Norplant, not because I intended to have another child, but because I was suffering so much. Bound by Chinese law

and fearful of the consequences, the doctors refused. If I had found some way of removing it myself, I would have lost my job and possibly would have had to undergo a forced sterilization or re-insertion. I was forced to make self-criticisms several times before I had the abortion.

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Mr. SMITH OF NEW JERSEY. Mr. Kumar.

STATEMENT OF T. KUMAR, ADVOCACY DIRECTOR FOR ASIA & PACIFIC, AMNESTY INTERNATIONAL USA

Mr. KUMAR. Thank you, Mr. Chairman, Congressman Tancredo. Amnesty International is extremely pleased to testify at this important hearing today. Before I start my formal presentation, I would urge that my full testimony be part of the record.

Mr. SMITH OF NEW JERSEY. Without objection. And all the testimonies will be part of the record.

Mr. KUMAR. I also want to say a personal note of thanks to you, Mr. Chairman. You have been a champion for human rights, not only in China but in other parts of the world, and we are fortunate to have you as a Member of Congress and taking the lead on these issues.

Today you are taking the lead for a woman who is not a politician, who is not popular, and who no one knows. No one knew her. An unknown person. The only people who may be standing up for her are her children, as is her husband. So we appreciate your taking the leadership for someone who means nothing to other people, but it means a lot to you and to the human rights community because it means we are focusing on the abuse against a person of her fundamental rights.

The previous speakers in the first panel addressed numerous issues, which we all agree with, more or less, so I will go quickly to who gets affected by this: First, women who have given birth to more than one child, and in some exceptions, more than two children; secondly, unmarried women; third, migrant women who have gone to cities and did not want to return. So these three categories of women get affected, and their children get forcibly aborted. And after the abortion, if a particular woman is healthy enough, they will sterilize her right away. That is information we have.

The other category is the second child. If a second child is born, if it is above the quota, so to speak, then we have reports that doctors are involved in killing these babies. And also occasionally we have reports that nonmedical officers were also involved in killing these babies.

How do they encourage or force these actions to take place, apart from forcibly aborting and forcible sterilization? The policy is reward and punishment. Reward: If you behave and you have one

child, your jobs will be secure, your child will get tuition, and you will have promotions and all the rest of it. All the benefits you will see. If you don't, then you will pay the penalty of losing your job, your child being paid no tuition, and all the rest of it. We also have documented that occasionally houses have been demolished when the couples find it difficult to pay their fines.

Second, people have been kept in detention. Women who refuse to get aborted have been dragged in and kept in detention until they relent. These are the pressure tactics.

Third, hostage situation. They take family members. If they go to a house looking for a woman and she is not there, they will take family—the husband, I'm not sure about the children—and keep them until the woman shows up so that they can force her to have an abortion. That is a hostage situation.

Fourth is torture. Amnesty considers forced abortion and sterilization as torture. But other than that, family members also have undergone torture. In a couple of cases I mentioned in my testimony, in one particular case the husband was tortured to reveal the whereabouts of his wife, and he eventually died because of the torture.

So what we are saying today is still continuing. You have taken the leadership. As a result, I will say that in 2002, China brought some regulations to punish and to regulate the officials who are violating rights, but it is still on the books, from our perspective. Only a few officials have been punished. They did not punish, or they did not regulate effectively. That means there is impunity prevailing for officials who are involved in these gruesome actions.

How do we achieve? There are different techniques we can use. This hearing is one, which is remarkable, which will send a strong message to Chinese authorities and to our Administration, because our Administration is extremely weak when it comes to China for a variety of reasons. Number one, of course, business reasons, which you mentioned. Amnesty International would urge that the Administration announce that they will sponsor a resolution at the next U.N. Human Rights Commission in January. They should announce it in January, not wait until March or April when everything is already too late, and immediately put diplomatic muscle behind that to ensure the passage of the resolution.

Mr. Chairman, I can assure you, the mere fact when the Administration announces they are going to have a resolution will have serious impact on China's policy, and they will try to address all these issues, whichever they can.

Second, the Olympics is going to take place in 2008, and we urge that Congress, as well as the Administration, set a very clear policy to ensure that human rights in all aspects, including family planning, is upheld before the Olympics take place.

As a side note, U.S. businesses are going to pump in millions of dollars to make sure they sponsor events. They also should take responsibility to ensure that human rights is part of their dialogue when they are talking to China's administration. When they are giving billions of dollars, they also should raise the issue of women, as well as other human rights issues.

Finally, again with U.S. businesses, we have found out that U.S. business industries, if they have factories there—and there are

thousands of U.S.-owned factories there—that there are substantial amounts of women who are employed there. We want to make sure, Mr. Chairman, that Congress and the Administration take effective steps to make sure that U.S. businesses do not support and are not involved in implementing these policies, because there are thousands of women working in their factories and living close by. They may be migrant women. They may be women who are pregnant the second time, so they may have to report to the Chinese authorities.

This can be controlled right away. You can take steps, the Administration can take steps to put restrictions on U.S. businesses to make sure they do not in any way, covertly or overtly, involve themselves in enforcing the one-child policy.

Finally, Mr. Chairman, once again Amnesty International is extremely pleased that you are holding this hearing for an unknown woman who doesn't have anyone to stand up for her. Thanks again.

Mr. SMITH OF NEW JERSEY. Mr. Kumar, thank you very much for your very eloquent testimony and for the outstanding work that Amnesty International does throughout the world, not just on the torture issue and political prisoners, but on all of the human rights issues. Thank you also for being so strong and persuasive in speaking out not just for Mrs. Mao, but for all the victims, like Mrs. Dongfang, who have suffered the cruelty of forced abortion.

When you said that torture and forced abortion are equivalent, I think your point was very well taken. And now they have added this additional measure in recent years of torturing family members—as you pointed out, the husband—and, of course, people like Mrs. Mao, who speak out against human rights abuses, especially about the coercive population control program.

Thank you, and we will get to questions later.

Mr. KUMAR. Thank you.

[The prepared statement of Mr. Kumar follows:]

PREPARED STATEMENT OF T. KUMAR, ADVOCACY DIRECTOR FOR ASIA & PACIFIC,
AMNESTY INTERNATIONAL USA

"It was part of my work to force women . . . to have abortions. In the evening, when the couple was likely to be at home, we would go to their houses and drag the woman out. If the woman was not at home, we would take her husband or another member along and keep them in custody until the woman turned herself in." Statement by a former family planning official. [China: No one is safe—Amnesty International report: 1996]

Thank you Mr. Chairman, and distinguished members of this committee. Amnesty International is pleased to testify at this important hearing. The above statement is just a glimpse of the abuses Chinese women are facing in the context of the enforcement of China's "one-child policy", which forms the basis of China's family planning. Amnesty International continues to receive information regarding patterns of abuse of human rights in the context of China's family planning laws. The central government has drafted legislation and taken other measures in an attempt to curb these abuses, but implementation of these measures remains weak and the pattern of abuse is continuing.

The human rights situation in China has been of consistent and grave concern to Amnesty International and, indeed, to Members of this Senate, for years. In 1996, Amnesty International launched an international campaign to increase awareness of China's human rights record. Over the years we have released numerous reports to highlight the deteriorating conditions.

BRIEF ACCOUNT OF THE HUMAN RIGHTS SITUATION IN CHINA

The scale of China's human rights violations is staggering. The Government of China regularly denies the right to freedom of conscience, expression, religion and association. China holds thousands of political prisoners, executes more people than

the rest of the world combined, regularly practices torture resulting in numerous deaths, persecutes religious groups of all persuasions, has forced mothers to endure forced abortions and sterilizations, and perpetrates countless other human rights violations. Tibetans, Uighers, “unofficial” church members, Falun Gong practitioners, democracy activists, and political dissidents bear the brunt of abuses. Other groups targeted for repression include trade union organizers, advocates of reform, and people using the Internet to disseminate information deemed to be “politically sensitive.” North Korean asylum seekers also have faced an intense crackdown in China leading to large-scale forcible repatriation to North Korea.

AMNESTY INTERNATIONAL AND CHINA’S BIRTH CONTROL POLICY

Amnesty International (AI) takes no position on the official birth control policy in China, but is concerned about the human rights violations which result from it. AI is concerned at reports that forced abortion and sterilization have been carried out by or at the instigation of people acting in an official capacity, such as family planning officials, against women who are detained or forcibly taken from their homes to have the operation. Amnesty International considers that in these circumstances such actions amount to torture or cruel, inhuman and degrading treatment.

HUMAN RIGHTS VIOLATIONS RESULTING FROM THE BIRTH CONTROL POLICY

Many people, especially woman, have suffered violations of their most fundamental right as a result of China’s birth control policy. Birth control has been compulsory since 1979. The government argues that population control is essential for China’s modernization and food security.

SUMMARY

The official government line that “coercion” is not permitted is flatly contradicted by the facts. Birth control is enforced through family planning bureaus who are directly responsible for monitoring and enforcement of the policy, and who liaise with state and private employers and other organizations, to ensure implementation of the policy. At a minimum, couples who have children “out of plan” face punitive action, including heavy fines and loss of employment. In reality, many local authorities resort to much more severe actions.

Some facts

- Women pregnant out of plan have been abducted and forced to have abortions and undergo sterilization.
- Pregnant women have been detained and threatened until they agree to have abortions.
- “out of plan” new-born babies have reportedly been killed by doctors under pressure from officials.
- The homes of couples who refuse to abide by the policy have been demolished.
- Those committing human rights violations while enforcing the birth control policy often go unpunished.

POLICY

The China’s family planning policy involves controlling the age of marriage and the timing and number of children for each couple. In China, women must have official permission to bear children. In most regions, urban couples may have only one child unless their child is disabled, while rural couples may have a second if the first is a girl. According to most local regulations, a third child is generally “prohibited”. Abortions are mandatory for unmarried women as well as for migrant women who do not return to their home region. Local party officials (cadres) have monitored the system, and since 1991 they have been held directly responsible for its implementation through “target management responsibility contracts.” Cadres may face penalties if they fail to prevent “out of plan” births.

New law

In September 2002, a new Population and Family Planning Law was introduced in a stated attempt to standardize policies and practice across the country and safeguard citizens’ rights. However, reports of coerced abortions and sterilizations have continued and few officials are believed to have been brought to justice or punished for such abuses.

EXEMPTIONS?

The authorities in Beijing initially exempted ethnic groups with a population of less than 10 million from the one-child policy and even from family planning more generally. It is clear, however, that controls have been applied to these groups for many years, including the more stringent sanctions for urban residents. There have also been reports since 1988 of controls extending to enforcement of one-child families, in particular for state employees. Currently, as for the rest of the population, specific regulations for implementation of the regulations are drafted by "Autonomous Regions and Provinces where the minorities reside."

PUNISHMENT

Couples who have a child "out of plan" are subject to sanctions, including heavy fines. In rural areas, there have been reports of the demolition of the houses of people who failed to pay fines. State employees may be dismissed or demoted. Psychological intimidation and harassment are also commonly used to "persuade" pregnant women to have an abortion. Groups of family planning officials may visit them at night to this end. In the face of such pressure, women facing unwanted abortions or sterilizations are likely to feel they have no option but to comply.

USE OF FORCE

The use of forcible measures is indicated in official family planning reports and regulations, and in Chinese press reports. Amnesty International has also received testimony from former family planning officials as well as individuals who were ill-treated.

A former family planning official described to Amnesty International the threat of violence used to implement the policy:

"Several times I have witnessed how women who were five to seven months pregnant were protected by their neighbours and relatives, some of whom used tools against us. Mostly the police only had to show their weapons to scare them off. Sometimes they had to shoot in the air. In only one case did I see them shoot at hands and feet. Sometimes we had to use handcuffs."

FORCED ABORTION & STERILIZATION

Several family planning officials, who worked in Liaoning and Fujian provinces from the mid-1980's to the mid-1990's and are now in exile, have reported that they detained women who were pregnant with "out of plan children" in store rooms or offices for as long as they resisted having an abortion. This could last several days. One official reported being able to transfer such women to the local detention centre for up to two months if they remained intransigent. Once a woman relented, the official would escort her to the local hospital and wait until a doctor had signed a statement that the abortion had been carried out. Unless the woman was considered too weak, it was normal to be sterilized straight after the abortion.

A man from Guangdong province described to Amnesty International how he and his wife had suffered under the birth control policy. The couple had their first child in 1982 and were subsequently denied permission to have another. In 1987 the authorities discovered that the wife was pregnant and forced her to have an abortion. In 1991 she became pregnant again and to conceal it, the couple moved to live with relatives in another village. In September that year local militia and family planning officials from the city of Foshan surrounded the village in the middle of the night and searched all the houses. They forced pregnant women into trucks and drove them to the hospital. The man's wife gave birth on the journey and a doctor at the hospital reportedly killed the baby with an injection. The other women had forced abortions.

FAMILY MEMBERS TARGETED

The implementation of the birth control policy has also resulted in the arbitrary detention and ill-treatment of relatives of those attempting to avoid abortion and sterilization. Significantly, the Supreme People's Court felt the need specifically to outlaw the taking of hostages by government officials in a directive in 1990. However, the practice continues, as shown by a series of reports since late 1992 from Hebei province.

BETTER TO HAVE MORE GRAVES THAN MORE THAN ONE CHILD

Villagers in Fengjiazhuang and Lontiangou in Lingzhou county, Hebei province, alleged they were targeted in a birth control campaign initiated in early 1994 under

the slogan “better to have more graves than more than one child.” Ninety percent of residents in the villages are Roman Catholic. Among those targeted was an unmarried woman. She had adopted one of her brother’s children after he and his wife fled their village fearing sterilization as they had four children. The woman was detained several times, including once in early November 1994 when she was held for seven days in an attempt to force her brother and his wife to return and pay more fines. She was taken to the county government office and locked in a basement room with 12 to 13 other women and men. She was reportedly blindfolded, stripped naked, with her hands tied behind her back, and beaten with an electric baton. Several of those detained with her were suspended above the ground and beaten, and some were detained for several weeks.

IMPUNITY

Despite assurances from the State Family Planning Commission that “coercion is not permitted,” Amnesty International is aware of only a handful of cases where sanctions have been imposed on officials who perpetrated such violations. In light of the information available on serious human rights violations resulting from the enforcement of the birth control policy, Amnesty International has called on the Chinese Government to take much more effective measures to ensure that officials who perpetrate, encourage or condone human rights violations during birth control enforcement are brought to justice.

EXAMPLE OF A CASE

Mao Hengfeng was forced to have an abortion, and dismissed from her job, when she became pregnant in violation of China’s family planning policies 15 years ago. She has been protesting through official channels ever since, and has reportedly now been imprisoned and tortured because of her persistence.

Mao Hengfeng was dismissed from her job in a soap factory in Shanghai in 1988 when she became pregnant, because she already had a young daughter. She refused to have an abortion, and was detained in a psychiatric hospital where she was injected with unknown medication. However, she managed to continue her pregnancy and give birth to a daughter.

Mao then appealed against her dismissal under China’s Labour Law, and was ordered to be reinstated in her job. However, the factory where she worked disputed the ruling, and appealed to a higher court. Mao was seven months pregnant with her third child at the time of the appeal hearing, when the judge reportedly told her that if she terminated her pregnancy, he would rule in her favour.

Mao terminated her pregnancy against her wishes, but still the court ruled against her, apparently because of her original violation of family planning policies.

Since then, Mao has repeatedly followed official procedures to petition the authorities about her dismissal and against the treatment she suffered at the hands of the police. She has been detained several times on account of these activities, and forcibly confined in psychiatric units where she has been forced to undergo shock therapy. Her daughters, both under the age of 18, have also reportedly been detained repeatedly by police and questioned about who is assisting her with her petitions.

Mao was sent to a labour camp by police in Shanghai in April 2004, to undergo 18 months “re-education through labour” (a punishment imposed without charge or trial) because of her persistence in petitioning the authorities. At the labour camp she has reportedly been tied up, suspended from the ceiling and severely beaten. She is facing the possibility of further abuse.

TORTURE DURING THE IMPLEMENTATION OF THE BIRTH CONTROL POLICY

Zhou Jianxiong, a 30 year-old agricultural worker from Chunhua township in Hunan province, died under torture on 15 May 1998. Detained on 13 May, he was tortured by officials from the township birth control office to make him reveal the whereabouts of his wife, suspected of being pregnant without permission. Zhou was hung upside down, repeatedly whipped and beaten with wooden clubs, burned with cigarette butts, branded with soldering irons, and had his genitals ripped off.

Amnesty International has long-standing concerns about human rights violations, including torture and ill-treatment, committed during the implementation of China’s family planning policy. Responding to questions from the UN Committee against Torture in May 2000, Chinese diplomats stated: “China has all along adhered to the principle of combining state guidance with people’s voluntarism and is firmly opposed to any forcible order, coercive measure in any form. It is true however that some family planning functionaries in the grass-roots have adopted a simple and

rude approach . . . Any case of rude and rough approach by family planning functionary, once discovered will be resolutely checked and rectified”.

Numerous public reports from China indicate that stiff penalties as well as rewards are still a major feature of implementing the policy at a local level. Whilst exceptions have recently been made in some municipalities, pregnancy without permission and so “outside the plan” may still be punished by heavy fines and dismissal. Officials may also be demoted, fired or fined for failing to uphold the plan. With pressure to perform, and popular opposition to enforcement, officials continue to resort to violence, torture and ill-treatment including physically coerced abortions and sterilizations. In recently publicized cases, some officials who have engaged in extreme violence have received only suspended sentences.

In April 1999, a justice office (*sifasuo*) director in Guyi township, Hubei province, was given a suspended two year prison sentence for illegal detention. He had made an agreement with the township birth control official to collect outstanding fines for violation of birth control regulations in return for 20 percent of the proceeds. The birth control official reportedly encouraged him to collect the fines however he pleased. He reportedly illegally detained defaulters in the justice office for up to five days, and led the department’s contracted workers (*yaoyong renyuan*) in beating and physically abusing the victims until they handed over “deposits”. (*Xizang Ribao* 16.4.99). It is not clear whether the birth control official was punished in any way.

On 26 May 1999 the director of family planning and the vice mayor of Dong Lin township, in Eastern Sichuan province, reportedly arranged for the illegal detention of several people who they believed had humiliated them by evading or resisting family planning measures. Already fined 8,000 Yuan for having a second child, Gou Tiezhong, Gou Zhongyin and Li Bin were detained in the town hall and beaten up by around 10 members of the Family Planning office and the Township Comprehensive Security Office (*zongzhiban*). The two officials reportedly forced Gou Tiezhong to kneel, beat and kicked him ferociously and whipped him across the back with electric cable. They then forced Li Bin to beat another detainee, threatening him when he did not beat hard enough. When Gou Zhongyin refused to kneel, protested his innocence and threatened to report them, seven of the officials forced him to the floor and beat him on the head, chest, back and genitals until he collapsed. He needed several weeks hospital treatment. The three were not released until their families paid their attackers at least 300 Yuan each in “payment for lost work” and “expenses”. The officials attempted to cover up the incident, but two were eventually sentenced to one year suspended for 18 months and to six months suspended for one year. A third defendant was exempted from criminal punishment for confessing. (*Sichuan Fazhibao*, 25.3.00).

Such cases most frequently come to public attention when large crowds of enraged villagers petition or besiege government offices demanding an end to excessive measures by birth control officials and justice for victims.

A series of large scale confrontations between family planning officials and villagers took place in several locations in Guangdong Province in 1997 and 1998, including Gaozhou and Yunkai districts, and Fengkai County. Several became violent and were quelled by the People’s Armed Police. Subsequently the provincial birth control committee insisted that abuse of authority by birth control staff which led to injury or damage to property would not be tolerated, and all allegations would be investigated. However, whilst several demonstrators were sentenced to prison terms, it is not clear if any officials were sanctioned in any way. On 8 July 2000, a Hong Kong TV station revealed that birth control officials in Nanhai County, Guangdong Province, were still operating illegal custody facilities with impunity, detaining women pregnant outside the plan and relatives of fine defaulters for long periods in poor conditions to enforce compliance with their directives.

A similar demonstration in Changsha, Hunan province, in 1998 reportedly followed the death of a peasant brutally tortured and mutilated whilst detained by local birth control officials.

Zhou Jianxiong, 30, from Jiumu village, Chunhua township, and his wife Jiang Lianhui, 28, had a nine year old son. In January 1998, Jiang moved to Guangdong to find work, and Zhou to Changsha, leaving their son with his mother. Rumours developed that Jiang had left because she was pregnant outside the plan. Jiang had a tubal ligation in November 1997, but the township birth control office still sent officials to compel Zhou to return from Changsha

and produce his wife for examination. They refused to believe he had no way to contact her, and, in early April, detained him for 10 days of beating torture and interrogation. When his mother arrived with her grandson to plead for his release she was detained for six days and was reportedly made to stand still, listening to her son scream as he was tortured in the room above.

On May 12 the officials released Zhou, asking him to complete an application for permission to have a second child, claiming he was entitled to this concession as the last surviving male of his lineage. The next day Zhou reportedly returned to plead with the officials that he really had no way of contacting his wife. He was detained again, denied food, hung upside down, whipped and beaten with wooden clubs and burned with cigarette butts. He reportedly became doubly incontinent, his body covered in excrement. The officials reportedly then branded his lower body with soldering irons, tied wire around his genitals and ripped off his penis. Zhou died on 15 May 1998. Superior officers were informed of the death and a public statement was released claiming Zhou had been sent to hospital. When his relatives could not find him, they demanded answers. Party cadres, then visited the family, proposing 20,000 Yuan in settlement.

Many citizens had experienced torture, detention and extortion at the hands of the birth control office, and by 20 May many thousands had reportedly gathered in Chunhua township to demand punishment and justice, faced by police and army units. In the afternoon, the mayor's announcement of 20,000 Yuan compensation and administrative detention for 15 days for the culprits reportedly enraged the crowd, who proceeded to break through the police lines in an attempt to march to Changsha and petition the provincial government. Dozens were arrested in the melee, but those who arrived in Changsha, shouting for justice for Zhou attracted attention. The settlement was revised to 160,000 Yuan compensation and prosecution of the suspects. The principal offender was eventually sentenced to death, suspended for two years, but after a year he was reportedly permitted to serve his sentence at home.

Public outrage and reports to local newspapers disclosed the brutal battering and killing of a new born "out of plan" baby by birth control officials in Caidian village, Hubei Province on 15 August 2000.

Liu Juyu, a former medical practitioner, reportedly rescued the baby boy from the cess pit of a men's public toilet behind the village government offices. Liu took the baby to the local clinic to remove his umbilical cord and administer vaccinations. Liu was reportedly feeding the baby on her doorstep when 5 birth control officials approached, grabbed the baby and threw him on the ground. In front of several witnesses, they reportedly kicked the baby repeatedly as he convulsed on the ground, then took him away to a paddy field where they drowned him, witnessed by other villagers. Birth control officials had reportedly brought the impoverished mother, nine months pregnant with her fourth child, to their office early that morning and had injected her to kill the baby. When the baby was born alive, they had reportedly instructed the father, Huang Qiusheng, to get rid of him. (*Nanchang Wanbao* 19.8.00, *Huabao Wang* 19.8.00, *Ming Bao*, 20.8.00). Responding to reports of the case, Chen Shengli, Director of the State Family Planning Commission's Information and Education Department said: "Clearly the educational level of these officials was quite poor. They didn't understand the law . . . But unfortunately they killed the infant, and there isn't much we can do now to change the outcome."(*South China Morning Post*, 8.11.00).

UNFPA

Amnesty International is not aware of UNFPA's involvement in forced abortions or sterilizations in China.

Amnesty International believes that UNFPA's work to ensure universal access to reproductive health, including family planning and sexual health to all couples and individuals is vital in the context of world poverty and lack of access to reproductive health services.

For example, In India in 2004, UNFPA launched a program to transport basic emergency obstetric care to five districts in Gujarat state. In addition to bringing supplies to the region, the UNFPA set up a basic referral transport system for obstetric emergencies at the district and block. In Orissa state, the UNFPA program provides health care including trained health personnel, equipment, infrastructure and transport to ensure safe childbirth.

US BUSINESSES AND ONE CHILD POLICY

Mr. Chairman, there are numerous business entities from the United States having operations in China, employing thousands of workers. A substantial number of these workers are women. Amnesty International would urge the Administration and Congress to ensure that US businesses are not involved in any way in assisting China in enforcing its family planning law.

BUSH ADMINISTRATION'S HUMAN RIGHTS POLICY ON CHINA

We applaud the Administration for sponsoring a resolution on China during last year's session of the United Nations Commission on Human Rights. However, The Administration's policy during the last four years of appeasing China and compromising on fundamental human rights issues have emboldened Chinese authorities to continue committing human rights abuses. It is imperative that the Administration set a clear and unambiguous human rights policy to deal with China's gross human rights situation.

As the world's super power, the United States has an enormous responsibility to ensure that China is held accountable for its abusive practices against its citizens.

UN HUMAN RIGHTS COMMISSION

Amnesty International urges the Administration to declare its intention to sponsor a resolution on China at next years session of the United Nations Commission on Human rights (UNCHR) and commit real diplomatic muscle behind this effort. It is imperative that United States takes a leadership position in censuring China in this forum. As a permanent member of the United Nations Security Council, China's behaviour should be scrutinized by the UNCHR, the world's largest and most important international forum for discussion, review, and promotion of human rights.

Failure to sponsor a resolution will send a wrong signal to the Chinese authorities that they can continue to abuse the rights of their citizens with impunity. Congress can also take steps to encourage the Administration to sponsor a resolution.

OLYMPICS AN OPPORTUNITY NOT TO BE MISSED

The 2008 Olympics will take place in Beijing. Amnesty International recommends that the Administration and Congress take full advantage of this opportunity to set in motion a comprehensive plan of action to improve human rights in China in the run up to the Olympics.

United States businesses sponsoring or involved in any other activities for the Olympics also should integrate human rights in their activities.

Thank you, Mr. Chairman for inviting Amnesty International to testify at this hearing.

Mr. SMITH OF NEW JERSEY. I would now like to ask Dr. John Aird if he would present his testimony.

**STATEMENT OF JOHN S. AIRD, FORMER SENIOR RESEARCH
SPECIALIST ON CHINA, U.S. CENSUS BUREAU**

Mr. AIRD. Thank you, Mr. Chairman. First, I would like to express my appreciation for your leadership in modifying United States immigration law in 1996 to recognize coercive family planning as a form of persecution for political opinion, thus making it possible for many Chinese asylum seekers in the United States to avoid being sent back to China, and also avoid making the U.S. Government a party to the coercion and human rights violations that would ensue if they were sent back.

My statement here is just a summary of the detailed statement of 14,000 words that I have already submitted, in which I have heavily documented the charges that I here merely restate.

The one-child policy is still enforced in China, still backed by regulations, targets, and penalties for violators and for officials who fail to enforce the policy. Forced IUD insertions, abortions, and sterilizations still occur, and there are recent reports of unauthor-

ized infants being killed by family planning cadres and of adult violators dying of abuse while in detention.

Population resistance also continues, especially in rural areas, making family planning work difficult. Local officials have often been reluctant to enforce the rules, which has led the central authorities in the late 1980s to institute two measures that would compel them to act. One is called the Target Management Responsibility System and the other, the Veto With One Vote System.

The first requires the leading party and Government officials at all levels to sign contracts with their superiors, promising to attain their State-assigned population targets or accept the penalties, which can range from loss of bonuses and demotions to dismissal. The second demands that at their annual performance evaluations, officials and cadres who fail to reach their targets be regarded as total failures regardless of their success at other official duties. A family planning failure vetoes all other accomplishments.

These two measures were explicitly reaffirmed in a National Family Planning Policy document adopted by the Party Central Committee and the State Council on March 2, 2000, which is still in effect. In June 2004, for example, Fujian province, Zhao'an county used the one-vote veto to dismiss nine officials for "not doing their best work" in family planning.

These two measures are the main driving force behind the coercion in the family planning program. As long as they continue in force, coercion will also continue. It is not as the Chinese Government often claims, contrary to national policy; instead, it is part of national policy.

The Chinese authorities know this; since the early 1990s, articles in Chinese scholarly journals have openly stated that the family planning policy is based on coercion. Top leaders including President Jiang Zemin and Family Planning Ministers Peng Peiyun and Zhang Weiqing have declared publicly that the current low Chinese birthrate is unstable because the birth policy is unacceptable to the people and can only be sustained by force.

They have also warned that if there is any relaxation of policy, the birthrate will rise again and have insisted that the policy will not change. Therefore, coercive family planning measures cannot be abandoned.

Birth limitations can be made a little more palatable by rewards, incentives, subsidies for one-child families and minor rule changes, but these are small adjustments that do not preclude the ongoing use of coercive measures.

China's new National Family Planning Law is alleged by the authorities to prohibit coercion in the program, but there are indications that it was actually designed to make compliance still more compulsory. The one-child policy has had some serious side effects, most notably an imbalance in sex ratios at birth, resulting in a growing shortage of girls and women, and a rapidly aging population.

Palliative measures are being tried, but they cannot erase the distortions the one-child policy has wrought on China's demographic profile. The sex imbalance has led to resurgent prostitution, the abduction and sale of women, and worries about social unrest in future years when tens of millions of young Chinese men

cannot find wives. The aging of the population poses impossible problems for China's still underdeveloped Social Security system and threatens labor shortages in China's cities.

These problems have intensified internal debate about the one-child policy, but thus far the party leaders have resisted proposals to undertake major adjustments. In short, the evidence from Chinese domestic sources shows that: (1) the one-child policy is still a basic national policy; (2) that it remains highly coercive and violates human rights; (3) that the coercion is approved, encouraged and virtually mandated by the central authorities; and (4) that despite rumbles of discontent from below, there is no sign that significant changes are imminent.

Ultimately, the adverse consequences of the policy for Chinese society will make it a political liability for the party leaders, at which point coercive family planning will probably have to be terminated, but that point has not been reached yet. Meanwhile, foreign condemnation of the human rights violations under the one-child policy can lend support to the forces within China demanding a change, and hopefully advance the day when these violations cease.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Aird follows:]

PREPARED STATEMENT OF JOHN S. AIRD¹, FORMER SENIOR RESEARCH SPECIALIST ON CHINA, U.S. CENSUS BUREAU

China's one-child policy is still in effect, according to statements by Chinese officials, but in recent years articles in foreign media have sometimes asserted that the once rampant coercive family planning measures that sustained it have now become rare. Some reports say that enforcement of the policy is becoming more lax, that coercion is being curbed by the central authorities, that voluntary compliance is replacing compulsion, and that violations are not severely punished. They imply that human rights concerns about birth control in China are no longer urgent.

However, the Chinese domestic media present a rather different picture. Articles in Chinese professional journals and statements by high Chinese officials indicate that the program remains coercive, that the current birth rate in China is below the level acceptable to people in rural China, that local family planning officials are still accountable for the attainment of their population targets, and that program enforcement must continue for at least the next fifty years. In the last four or five years, foreign journalists in China have cited instances of violent family planning measures more extreme than any reported previously in the one-child policy's 25-year history. The evidence has often been ignored or misinterpreted by foreign newspapers, and as a result world public opinion has been misled about current developments in the Chinese program.

CHINESE ADMISSIONS THAT THE PROGRAM IS COERCIVE

Since the early 1990s, some articles in Chinese scholarly journals have been very candid about the issue of coercion in family planning. Several have openly advocated increased coercion, while others have questioned its long-term effectiveness. In April 1993 a national law journal article deplored the fact that because of the lack of an explicit national family planning law, "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 added:

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

¹ Former Senior Research Specialist on China, U. S. Bureau of the Census.

So far the reduction in China's rural fertility rate has been the result of external constraints; that is, the mechanism involved has been a coercion-based reduction mechanism. Consequently, there is the possibility that the rural fertility rate can rise again when there are externally provided opportunities.²

In July 1994, an article in the demographic journal *Population Research* alleged that the compulsory use of the notoriously flawed Chinese steel ring IUD violated the rights of women:

In some places, women have no way to choose a contraceptive method. In some places, the government sets "long-term effectiveness" as the goal in planned parenthood work. In order to "meet the goal," some women are forcibly "required" to use an intrauterine device [IUD]. Such a compulsory "ring insertion" may have the following harmful results at a minimum: First, it harms some women's bodies. Granted that an IUD is economical, effective, and has no effect on childbearing once removed, it also has a real failure rate (such as, falling out, pregnancy despite its use). It also has side-effects (such as bleeding, backaches, and irregular menstruation). . . . Second, such interference leads to a loss of women's rights. . . .³

In September 1994, the authors of another article in the same journal said:

It cannot be denied that population control in China is a control model guided by administrative coercion. This type of control in the beginning is based on countering the forces against control. It can be said that the stronger the coercion, the stronger the counter resilience. Thus, the current decline in fertility in China is still not stable. . . .

As everyone knows, the mechanism for decline in China's fertility rate is based mainly on coercion. . . . The decline in the fertility rates of most of rural China was accomplished through widespread restrictive conditions dominated by coercion . . . Just as mentioned above, the low fertility rates currently achieved are still quite unstable.⁴

This same idea was repeated in official policy documents and statements by Chinese leaders. In April 1992, Premier Li Peng said that it was necessary "gradually [to] change the mentality of the people through deep-going ideological work so that birth control will really be accepted by the masses,"⁵ an admission that it had not yet been accepted. In March 1993, Family Planning Minister Peng Peiyun warned that

. . . The low birth rates the Chinese women have reached are not stable. If we relax the family planning effort, the number of births may increase right away.⁶

Two weeks later President Jiang Zemin told a major family planning work conference that "the current low birth level is still unstable . . ." and added that "we . . . should be determined to lower the birth rate and keep it within an appropriate limit."⁷

In April 1993 an editorial in a family planning journal explained that

Because [the] mentality of a section of the people in matters of childbearing has not yet changed, and certain actual difficulties have not yet been fundamentally resolved, it can happen that as soon as work is relaxed just a little, the comparatively low birth rate achieved for a time can again be going up. Even in areas where family planning work has been very successful, it happen[s] that as soon as work is relaxed, there is again a resurgence of births.⁸

²Mu Guangzong, "Views on Population Trends in China in the 1990s," *Zhongguo renkou bao* (ZGRKB)*(China Population)*, June 14, 1993, JPRS-CAR 93-059, August 16, 1993, p. 42.

³Sha Peining, "Birth Control and Women's Rights," *Renkou yanjiu (RKYJ) (Population Research)*, Beijing, No. 88, July 29, 1994, JPRS-CAR, 94-001, October 14, 1994, p. 59.

⁴Gu Baochang and Mu Guangzong, "A New Understanding of China's Population Problem," *RKYJ*, No. 5, September 1994, FBIS-CHI 95-032, February 16, 1995 pp. 28-36..

⁵XINHUA, Beijing, April 2, 1992, FBIS-CHI, 92-065, April 3, 1992, p. 15.

⁶Peng Peiyun, "Jianchi buxiedi zhuajin zhuahao jihua shengyu gongzuo, nuli wancheng shisida tichu de renwu" ("Make Unremitting Efforts to Keep a Firm Grasp of Family planning work; Work Hard to Accomplish the Mission Assigned by the 14th Party Congress," *ZGRKB*, March 3, 1993, p. 1.

⁷Zhu Youdi, Jiang, Li Peng Address Family Planning Meeting," XINHUA, Beijing, March 21, 1993, FBIS-CHI, 93-054, March 23, 1993, p. 63.

⁸"Accurate Analysis of the Present Population Situation," (editorial), *ZGRKB*, April 9, 1993, JPRS-CAR, 93-038, p. 42.

In that same month, Peng Peiyun herself told a press conference that “the fertility level already achieved at present is not stable and may be likely to swing back to a high level again in case our efforts are slackened . . .”⁹ At a Beijing meeting in March 1994 she explained the instability as follows:

. . . Since there was a big gap between the state family planning policy and the desire for having children by farmers, the policy on family planning in the country [is] being carried out mainly through powerful executive measures, and if there [is] any relaxation in this sector, the birth rate [will] soon [rebound] further.¹⁰

In February 1995 a XINHUA English dispatch said that “the birth rate in rural areas is very likely to rise if control loosens” and that peasants’ preferences for having lots of children would only change as a result of economic development.¹¹ In that same month, the State Family Planning Commission (SFPC), in its “outline” of family planning work from 1995 to 2000, said that “the level of births [in China] is still unstable.”¹² In March 1995 Jiang Zemin repeated that “the low birth rates today are precarious,”¹³ and in a *People’s Daily* article in December Peng Peiyun said that

Because it is mainly the result of administrative means, the low birth rate in most regions during the Eighth Five-Year Plan period is considered unstable. . . . There has yet to be a fundamental change in the childbirth concept among a considerable number of the masses . . .¹⁴

In July 1996 an article in *Population Research* by a county level family planning official from Sichuan Province began by reiterating that

In rural areas, there is still a gap between the aspirations for childbearing among the masses and the State’s current birth control policies, which is usually said to be the “most difficult thing in the world.”

For the next several years no national leader seems to have referred publicly to the conflict between central policy and the wishes of the peasants, but then in December 1998, Peng’s successor as Minister in Charge of the SFPC, Zhang Weiqing, said that “there is still a gap between state policy and the wishes of some rural residents regarding childbearing, and it will take some time to eliminate this gap.”¹⁵ In September 1999 Yang Kuifu, a vice-minister of the SFPC, predicted that by the year 2015, with a “sound legal system” in place, “people of reproductive age would follow the state family planning policy voluntarily,” an implicit admission that their compliance was not yet voluntary!¹⁶ In September 2000 a *People’s Daily* commentator noted that:

. . . There are still many unstable factors behind this low birth rate. We must clearly understand that any unfavorable influences, such as flaws in policy, errors in our work, or changes in the external environment, could cause the birth rate to rise again and result in serious problems.¹⁷

⁹“Speech of Minister Peng Peiyun at the Press Conference,” [typescript], April 21, 1993, p. 4.

¹⁰ZHONGGUO XINWEN SHE-English, Beijing, March 26, 1994, FBIS-CHI, 94-059, March 28, 1994, p. 20. The existence of a “contradiction” between the official policies on births and the “masses’ wishes about having children” was first acknowledged in August 1986 in an article in a family planning journal. See Commentator, “Zhengce, guihua yu shengyuguan” (“Policy, Planning, and Views on Having Children”), *Jiankang bao jihua shengyuyu ban (Health Gazette Family Planning Edition)*, Beijing, August 22, 1986, p. 1.

¹¹XINHUA-English, Beijing, February 13, 1995, FBIS-CHI, 95-029, February 13, 1995, p. 25.

¹²SFPC, “Outline of China’s Family Planning Work (1995-2000),” *People’s Daily (PD)*, Beijing, February 24, 1995, FBIS-CHI, 95-056, March 23, 1995, p. 13.

¹³XINHUA, Beijing, March 19, 1995, FBIS-CHI, 95-073, April 17, 1995, p. 26.

¹⁴Peng Peiyun, “The Only Road for Coordinating Population Growth With Economic and Social Development—On Ways to Actively and Steadily Promote the Family Planning Work of ‘Three Integrations,’” *PD*, December 14, 1995, FBIS-CHI, 96-004, January 5, 1996, p. 10.

¹⁵Zhu Baoxia, “Planning Holds Birth Rate Stable; CFPA Elects President,” *China Daily (CD)*, Beijing, December 16, 1998, FBIS, FTS19981215001919, December 15, 1998.

¹⁶Zhu Baoxia, “New Family Planning Law Expected in Three Years,” *CD*, September 13, 1999, FBIS, FTS19990913000118, September 13, 1999.

¹⁷Commentator, “Further Do Well Population Control and Family Planning Work,” *PD*, September 25, 2000, FBIS, CPP20000926000083, September 25, 2000.

In March 2001 Zhang Weiqing said that China's low birth rate was "not stable compared with developed countries" and in December he again referred to China's "low but unstable fertility level."¹⁸

These statements show that the Chinese authorities at the highest level are well aware that compliance with family planning demands is not entirely voluntary, and that the program depends on coercion for a significant part of its success.

In fact, the leadership has frequently signaled to lower levels that coercive tactics were expected and, in effect, approved. Deng Xiaoping made this clear back in the 1980s. In 1981 Chen Muhua, then the head of the family planning "leading group" under the State Council, predecessor to the SFPC, reportedly quoted Deng as saying, "In order to reduce the population, use whatever means you must, but do it!" To calm the fears of local cadres that they could be accused of resorting to "coercion and commandism," Chen added, "With the support of the Party Central Committee, you should have nothing to fear."¹⁹ In 1983 Premier Zhao Ziyang told family planning workers to "prevent additional births by all means."²⁰ Open-ended invitations to local cadres to use whatever measures get results virtually guarantee that coercion will occur, and during 1983 it reached such extremes that in 1984 the Party leaders were obliged to disavow the measures their demands had inspired and call for a halt to coercion. The remission was only temporary, however. By late 1985 the pressures were resumed. In January 1990 Peng Peiyun said

If we can adopt forceful measures, strictly control population growth, and hold down the birth peak as much as possible, not only will it directly be related to realizing the population control targets of the end of the century but [it] also will be beneficial to forming gradually a more sensible population age makeup by the end of this century.

We should resolutely implement the existing family planning policy. . . .

We should actively urge relevant departments and organizations to carry out comprehensive control of the population issue and adopt additional strongly directed policies and measures

We must unswervingly stick to and implement the present family planning program and adopt effective measures to carry out the program²¹

All local family planning departments should adopt practical and effective measures²²

In April 1991, the central authorities adopted a new family planning policy document entitled "Decision of the Party Central Committee, State Council on Stepping Up Family Planning Work, Strictly Controlling Population Growth," calling for the "resolute" implementation of existing policies "without any wavering, loosening or changes."²³ At that time, Peng said:

The 1990s is a crucial decade in our country for controlling population growth. We need powerful measures. It is necessary for the whole Party to take immediate action to mobilize the entire people.²⁴

Accordingly, in July 1991 the People's Daily urged local authorities to "adopt all relevant measures which have been proved to be effective in our practice over the past years."²⁵ Open ended exhortations like these are explicit enough to convey the message that coercion is approved yet sufficiently abstract to allow room for "plausible deniability" in case the central authorities should later wish to disavow the actions their words inspired. In June 1991 a provincial source strongly suggested that even more explicit instructions were being issued in communications not published in the

¹⁸XINHUA-English, Beijing, March 2, 2001, FBIS, CPP2001030000109, March 2, 2001; and "Four Population Peaks to Appear in Near Future," *China Population Today (CPT)*, Beijing, December 2001, p. 16-17.

¹⁹Dr. Bao Fu, "Massacre of the Innocents in China," *China Spring*, Vol. 1, No. 1, Jan./Feb., 1987, pp. 44-45.

²⁰Zhao Ziyang, "Report on the Work of the Government," XINHUA-English, Beijing, June 23, 1983.

²¹Peng Peiyun, "Controlling Population Enriches the Nation and Makes People Strong," *Liaowang*, (Outlook), No. 1, January 1, 1990, FBIS-CHI, 90-030, April 24, 1990, pp. 53-54; and Peng Peiyun, "The 1990s Are a Crucial Decade for Controlling Population Growth in China," *Liaowang Overseas Edition*, Beijing, January 1, 1990, FBIS-CHI, 90-013, p. 14.

²²Xiao Zhu, "Minister Reaffirms Policy," *CD*, January 9, 1990, FBIS-CHI, 90-011, p. 11.

²³"Decision of Party Central Committee, State Council on Stepping Up Family Planning Work, Strictly Controlling Population Growth" XINHUA. Beijing, June 12, 1991, FBIS-CHI, 91-119, June 20, 1991, pp. 33-36.

²⁴Wuhan radio, Hubei Provincial Service, April 17, 1991, FBIS-CHI, 91-078, April 23, 1991, p. 23.

²⁵Hu Weilue, "Economy Improves When Population Decreases," *PD*, July 17, 1991, FBIS-CHI 91-142, July 24, 1991, p. 32.

Chinese media. A radio broadcast from Qinghai Province contained the following injunction in characteristically abstract but tough language:

In accordance with the instructions issued by the Communist Party of China Central Committee and the State Council, we should be greatly determined to take forceful measures to fulfill the targets of population control in the coming 10 years and the Eighth Five-Year Plan period.²⁶

Presumably the reference was to the 1991 Party Central and State Council "Decision."

Such exhortations are still being issued to local family planning officials. In December 1998, Jiang Chunyun, a member of the Party Central Committee political bureau and vice-chairman of the National People's Congress, was elected chairman of the Chinese Family Planning Association, the government-controlled "mass organization" charged with helping the government enforce family planning rules. The new chairman called upon his organization to help "mobilize the masses" for family planning and said that the local family planning departments should "use administrative, legal, and economic means to restrict the people's childbearing behavior according to the plan . . ." ²⁷ "Economic means" refers to the heavy fines imposed on violators; "legal means" refers to the enforcement of the provincial family planning regulations; and "administrative means" refers to coercive measures devised by the local family planning authorities using the power of their office.

The same instructions were issued in March 1999 at a national meeting convened by the Party Central Committee, this time by Jiang Zemin himself:

Family Planning and population control constitute arduous work involving many aspects. Instead of putting a brake on the work, we must strengthen it. We should further improve our population macro-control, family planning management . . . Education, legal, economic, and administrative measures should be adopted.²⁸

Jiang's instructions were repeated by SFPC minister Zhang Weiqing in December 1999.²⁹ In March 2000 a new national family planning policy document said the "whole society" must be "mobilized" to deal with the population problem and also called for the four kinds of measures.³⁰ On March 11, 2001, Jiang Zemin affirmed that population control was a "major affair for strengthening the country, enriching the people, and maintaining tranquility," 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."³¹ When the central authorities issue injunctions such as these and do not include warnings to avoid coercion, the lower levels know what is expected of them!

In August 2004 a surprisingly candid article in the Beijing paper *China Youth Daily* expressed reservations about the government's use of force to impose family planning requirements:

When choosing a management mode, it seems the government prefers a compulsory one. To control population growth over a short period, it adopted the strict punishment mode.

However, there are potential risks. In the grassroots, public power is prone to abuse and can become an excuse for officials to violate individual rights.

²⁶Xining radio, Qinghai Provincial Service, June 7, 1991, FBIS-CHI, 91-118, June 19, 1991, p. 53.

²⁷Bai Jianfeng and Yu Changhong, "Jiang Chunyun Elected Family Planning Head," XINHUA-Domestic, Beijing, December 15, 1998, FBIS, FTS19990109000774, January 9, 1999.

²⁸Yang Zhenwu and Liu Zhenying, "Jiang Addresses Pressing Population, Environment Issues," XINHUA-Domestic, Beijing, March 13, 1999, FBIS, FTS19990314000091, March 14, 1999.

²⁹Zhang Weiqing, "The Population Problem Is the Primary Problem in China's Sustainable Development," *Jingji ribao (Economic Daily)*, Beijing, December 27, 1999, FBIS, FTS20000128001051, January 28, 2000.

³⁰"Decision of the CCP Central Committee and the State Council on Strengthening Population and Family Planning Work and Stabilizing the Low Birth Rate" (March 2, 2000), XINHUA, Beijing, May 7, 2000, FBIS, CPP20000507000012, May 7, 2000.

³¹Yin Hongzhu, "Jiang Zemin Stresses at Central Forum on Population, Resources, and Environmental Work, the Whole Party and Whole Country Must Strengthen the Sense of Urgency and Responsibility to Enhance the Level of Population, Resources, and Environmental Work in the New Century," XINHUA-Domestic, Beijing, March 11, 2001, FBIS, CPP20010311000052, March 11, 2001.

Meanwhile, compulsory management comes with a high cost for enforcement and supervision.³²

This was only the most recent of a series of published criticisms of the government's reliance on coercion in family planning work.

EXTREMES OF COERCION

Coercive acts, though they may be commended and applauded, are not supposed to be reported explicitly in the Chinese media where foreign reporters might discover them and bring them to international attention. Occasionally, however, there are leaks. In February 2001, Amnesty International cited an incident in Changsha, Hunan Province, in May 1998 involving a man whose wife had gone to Guangdong Province to find work and was suspected by the Changsha family planning authorities of being pregnant without permission. They twice tortured her husband in an attempt to force him to reveal her location. On the second occasion,

. . . he was detained again, denied food, hung upside down, whipped and beaten with wooden clubs and burned with cigarette butts. He reportedly became doubly incontinent, his body covered with excrement. The officials reportedly then branded his lower body with soldering irons, tied a wire around his genitals, and ripped off his penis. Zhou died on 15 May 1998.³³

In August 2000, in Caidian Township, Hubei Province, a local uproar was precipitated when family planning cadres snatched a newborn baby boy from the arms of a retired doctor as she was carrying the baby home to care for it. They took it into a nearby flooded paddy field and drowned it in sight of the doctor and her neighbors. The baby was the fourth child of its mother who was given a saline injection when the pregnancy neared full term to cause the baby to be born dead. Instead it had survived. Officials then ordered the father to kill it, but he left the baby in a lavatory near the hospital, where its cries attracted the attention of the doctor. Directly interviewed by a foreign reporter a week after the event, the doctor was still traumatized by the incident, which she could hardly talk about.³⁴ Given the foreign publicity generated by this incident and the fact that a storm of protest was raging over the Chinese internet about it, the authorities could not deny that it had happened. Instead they reported in September that three people had been detained by the police and the local judicial department was investigating to determine "whether or not to take legal action against them."³⁵ Legally, this was a case of murder, but it was murder in support of the family planning policy, hence the indecision of the local authorities as to whether or not punishment was called for.

In January 2001 a report by Agence France Presse asserted that "abuses" in the family planning program were still "rampant." Pressure on family planning workers to meet their birth quotas was causing local officials to resort to "beating people, locking them up illegally, confiscating livestock, and destroying their homes." Local officials were seldom punished for such "abuses," the article said. It cited a case in Fungzhuang Village, a part of Changle City, Fujian, in which a man died after arguing with local officials about a fine imposed on him for an unauthorized child. The officials claimed that he had killed himself by drinking pesticide, but his family reportedly said he was not suicidal.³⁶

In April 2001 several attempts by hospital officials to cause the death of a newborn baby girl were frustrated by lower level hospital personnel and by the intervention of Chinese journalists. Her 31-year-old mother, Zhang Chunhong, was in the 35th week of her fourth pregnancy when she was apprehended by family planning cadres while picking through a rubbish dump in Harbin, Heilongjiang Province, for recyclable waste, the only livelihood she and her husband had on which to sustain themselves and their three boys. Ms. Zhang was taken to a hospital, which confirmed the pregnancy, and the next day gave her a saline injection to bring on a stillbirth. Ms. Zhang heard her baby cry, but the nurses refused to show it to her.

³² Quoted in [Unattributed], "Progressive Policy Shift," *CD*, August 5, 2004, FBIS, CPP20040805000017, August 5, 2004. The article's authors were applauding a new program for giving subsidies to elderly parents who had only one child or two girls.

³³ Amnesty International, *Torture: A growing scourge in China—Time for Action*, February 12, 2001, pp. 18–19.

³⁴ Damien McElroy, "Anger sweeps China over baby-killers," *News Telegraph Company, UK*, [Internet], August 27, 2000.

³⁵ Zhu Baoxia, "PRC Family Planning to Continue with More Concern for People's Rights," September 22, 2000, FBIS, CPP20000922000013, September 22, 2000.

³⁶ Cindi Sui, "Twenty years after China's 'one-child' policy began, abuses run rampant," Agence France Presse, Hong Kong, January 2, 2001, FBIS, CPP20010102000028, January 2, 2001.

Her husband caught a glimpse of the baby, who looked healthy, but when he asked for it, he was told that an order had been issued that it must not be given to its parents. The couple left the hospital and went home.

Back at the hospital, the director, on learning of the baby's survival, ordered one of the nurses to "starve her or freeze her to death" by exposing her on a balcony. The weather was cold and snow was falling. After two hours, one of the nurses could no longer endure the baby's cries. She brought her back inside the abortion room, where she was attended to and fed. The hospital director saw the baby and threatened to sack anyone who cared for her, but the staff continued to do so surreptitiously when the director was not around. With this help the baby clung to life. Each day on reporting for work, staff members would ask, "Is she still alive?" Finally, on May 9 a television journalist was told about the baby. The journalist came to the hospital, but at first the baby could not be found in the abortion room. After a search, she was found in a "sterilization box." Her condition was captured on camera, but the television station refused to air the pictures of the emaciated baby. However five newspaper journalists followed up on the story. At this point the baby received clothing, a bottle, and a cot to sleep on. When she again disappeared, this time into the hospital director's office, journalists alerted the Harbin police, who quickly located the baby's parents and handed the baby over to them.³⁷ The little girl was given a Chinese name which means "saved by journalists."

In May 2001 a 34-year-old woman in a county near Fuzhou Municipality, capital of Fujian Province, was allegedly beaten to death by family planning officials when she resisted demands that she undergo sterilization. She had objected that she had documents from a local hospital indicating that the operation was not advisable in her case because of a health problem. She was taken away from her home by force, and later that afternoon she died after jumping from the fourth floor of the building that housed the local family planning administration. Family members who saw her body said she had large bruises on her head and other parts of her body which they did not believe could have been caused by the fall. No official would accept their complaint about the incident. She had had two children but had taken precautions to avoid further pregnancies and was not pregnant at the time.³⁸

The reports of deaths in connection with family planning are few in number and undoubtedly exceptional, but they probably represent many more incidents, no word of which has reached the international media. I know of at least two other cases reported by Chinese asylum seekers in the United States. These reports emerge from a pool of more than 350 Chinese asylum appeals that I have reviewed. One instance occurred in 1996, when a couple with one daughter who had been subjected to a forced IUD insertion had the device removed by a private doctor and became pregnant with twins. The wife went into hiding to conceal her unauthorized pregnancy but was discovered shortly before the babies were due to be delivered. She was taken by the family planning authorities to a local hospital, where she was given an injection to bring on an abortion and kill the infants. As a result, one of the twins was born dead, but the other emerged alive. Family planning officials ordered the attending doctor to kill the surviving infant by placing it in a plastic bag, which caused its death by suffocation. Although the couple had only one child, the authorities decided to sterilize the wife, but because she was absent from home when they came to get her and her husband refused to tell them where to find her, they sterilized him instead. The husband later hired another private doctor to reverse his sterilization operation, after which he and his wife fled from China to the United States, where they were able to have a second child, a boy this time, in April 2000.

The second case was an even more blatant example of official infanticide. This involved a couple who became pregnant in 1999 without first obtaining a birth permit. When they applied for the permit, they were refused because they were under 25 years of age. They were told that the wife must have an abortion instead. This woman also went into hiding and her baby girl was born in January 2000. She then left her hiding place and returned home with her baby. Family planning officials learned of the birth, came to the couple's home, and said that the baby needed a physical examination. This seemed reasonable to the husband, who was not suspicious when an official and a doctor arrived at the house a week later, said the baby needed a shot, and proceeded to administer it. Soon after the doctor and the official left, the baby began to have difficulty in breathing. The couple rushed her

³⁷ Calum and Lijia MacLeod, "The baby girl that they just couldn't kill," *The Independent*, [Internet], Hong Kong, September 24, 2001.

³⁸ Hong Kong Information Center for Human Rights & Democracy, "A Woman in Fujian Was Beaten to Death by a Family Planning Official," May 19, 2001, FBIS, CPP20010519000050, May 19, 2001.

to the hospital, where she was pronounced dead on arrival. On her death certificate the cause was listed as “congenital heart disease,” but the official who had come to the house with the doctor later taunted the husband with a remark to the effect that there was no way the couple could evade the clutches of the family planning authorities. Only then did the husband realize that his little daughter had been murdered.

The one-child policy has caused Chinese parents not only to accept but on occasion to demand infanticide in the case of children born with physical defects because of the policy’s close link to Chinese notions of “eugenics” and the “quality” of the population. In June 2003 a foreign journalist in Beijing told of seeing a dead child in the neonatal intensive care unit of the Peking Union Medical College, where his own two-month premature infant was being cared for. He called the dead baby to the attention of the attending doctor, but she was already aware of it. She explained that the child had been born with undeveloped lungs, which meant that birth anoxia would probably have caused the child severe mental and physical handicaps. The parents had asked the doctor to “handle the matter,” and the doctor had withheld care and food until the baby died. The doctor told the journalist she had little choice in the matter. She said that doctor-aided euthanasia was not uncommon in China in cases involving birth defects.³⁹

Extreme instances of coercion are undoubtedly only the spectacular peaks of compulsion that also takes many less conspicuous forms that do not attract the attention of foreign media. These incidents show that coercion is still used to secure compliance with family planning rules and can take extreme forms in difficult cases. As long as the program retains the top priority that has been accorded it since the start of the 1990s, coercive enforcement measures may be expected to continue.

OFFICIAL POLICIES THAT MAINTAIN COERCION

When instances of violent coercion surface in the international media, the Chinese government is embarrassed. If possible, local and national authorities will attempt to discredit the reports by charging “fabrication.” If a local reporter was responsible for airing the story, he will soon be quoted as admitting that he made the story up. The individual victims will be quoted as saying that no coercion was applied to them. If the individual who gave the account has fled the country, he or she will be subjected to character assassination in the Chinese press with the obvious intent to destroy his or her credibility. If the story cannot be effectively discredited, the Chinese authorities will in some instances at least go through the motions of detaining and punishing those guilty of flagrantly inhumane acts, but with visible reluctance. The Chinese central authorities have always tended to take a forgiving attitude toward local officials who use coercion to carry out central policies.

Indeed, they should be forgiving, since the responsibility rests with the top leadership. They set the targets, reward those who attain them, and punish those who don’t. Two centrally mandated administrative mechanisms are mainly responsible for maintaining the coercion in local family planning administration: the “target management responsibility system” and the “veto with one vote system.”

The first of these had its earliest origins in 1981, when China instituted an “agricultural production responsibility system” under which peasant households signed contracts with their production brigades committing them to certain crop production targets. In many areas the new arrangements had the effect of undermining family planning work because it disrupted the system by which family planning cadres were paid and weakened their surveillance over childbearing in peasant families. Rural population growth began to rise. The leadership then came up with the idea of requiring peasants to sign family planning contracts at the same time they signed agricultural production contracts, in which they committed themselves to practice contraception and limit their childbearing. In case of an unauthorized pregnancy, peasant couples were supposedly bound by the terms of their contract to submit to abortion. However, the dissolution of the communes seems to have undermined this system. By 1986 some localities were experimenting with a new approach requiring local leaders to sign contracts promising to achieve the population control targets assigned to them from higher levels or suffer specified penalties. During 1987 and 1988 this system expanded throughout the country and by the end of the decade the system of signed contracts guaranteeing fulfillment of targets extended from provincial governors down through the intervening administrative levels to the leadership at village and street level. In April 1989 Peng Peiyun disclosed that a central

³⁹ Matthew Forney, “Heal Thyself?” *TIME Asia*, Vol. 161, No. 23, June 16, 2003.

decision had been made to require leaders at all levels throughout the country to accept personal responsibility for target attainment.⁴⁰

Throughout the 1990s efforts continued to perfect the target management responsibility system. A major increase in its effectiveness was achieved through its combination with the “veto with one vote” system, which provided that cadres and officials who failed to meet their family planning targets were to be judged a total failure in their annual evaluations, regardless of their accomplishments in carrying out other central task, and penalized accordingly. A failure in family planning “vetoed” all other achievements. The idea seems to have been first tested in Changde Prefecture, Hunan Province in the middle 1980s, and by September 1987 it was being promoted throughout the province. It was said to have “greatly heightened the understanding and the determination of Party committees at all levels [in family planning work]; they could no longer take it lightly.”⁴¹ Over the next several years the veto system was taken up by a number of other provinces, and by 1991 it had apparently become national policy.⁴² In July 1998, a national demographic journal said that the provision had been written into many local government documents and that it had “an obvious promotional function of assuring the smooth development of family planning work . . .”⁴³ Provincial dispatches called for its “firm” and “resolute” implementation.⁴⁴ In February 2000, Jieyang City in Guangdong Province, which had been criticized by the provincial authorities for being “backward” in family planning work, carried out “more than 10,000 sterilizations” in the first 23 days of the month and suspended or dismissed seven village cadres for “adversely affecting family planning.” A public meeting convened to launch the new campaign was told:

We must absolutely get rid of the label of being backward in family planning and resolutely implement the “one-vote vetoing” system. If any township or town receives a yellow card warning in the inspection conducted by the city, people holding primary responsibility in Party and government work . . . Shall be resolutely punished according to Party or administrative discipline.⁴⁵

The March 2000 “Decision of the Chinese Communist Party Central Committee and the State Council on Strengthening Population and Family Planning Work and Stabilizing a Low Birth Rate” confirmed that the two measures were still national policy:

It is necessary to persistently implement and improve the target management responsibility system for population and family planning, separately appraise the responsibility of Party and government leading cadres and family planning departments, and implement the “veto with one vote” system.⁴⁶

Although the document also called for combining “government guidance” in family planning with “the people’s wishes” and said that the task was to be carried out in a “civilized” manner, “work style” improved, and the people’s “legitimate” rights respected, it also insisted that Party and government control over the work be strengthened, that local leaders be held personally responsible for meeting targets, and that any failures be penalized. In January 2003, Wang Zhongyu, Secretary-Gen-

⁴⁰ Ai Xiao, “I Hope That Everyone Will Conscientiously Carry Out Family Planning—An Interview With Peng Peiyun, Minister of the State Family Planning Commission,” *PD*, April 14, 1989, FBIS-CHI, 89-074, April 19, 1989, p. 35.

⁴¹ Liang Yi, “Hunan xia daliqi jiuzheng fangsong he ziliu xianxiang” (“Hunan Puts Great Effort into Correcting the Loosening of Family Planning Work and the Situation of Letting It Take Its Natural Course”), *Zhongguo jihua shengyu bao (China Family Planning)*, Beijing, September 4, 1987, p. 1.

⁴² A provincial report in April 1992 seemed to connect the one vote veto system with the “spirit” of a “recent” national family planning work conference convened jointly by the Party Central Committee and the State Council. (Commentator, “The Population Alarm Is Sounding,” Guangxi radio, Nanning, April 10, 1992, FBIS-CHI, 92-072, April 14, 1992, p. 60.)

⁴³ Tan Kejian, “Inaccurate Population and Family Planning Statistics: An Analysis of New Features and Countermeasures,” *Renkou yu jingji (Population and Economics)*, July 25, 1998, FBIS, FTS19980918000289, September 18, 1998.

⁴⁴ Li Changchun, “Create More New Favorable Conditions, Stride Toward the New Century, and Advance the Modernization of Guangdong in an All-Around Way,” *Nanfang ribao (Southern Daily)*, Guangzhou, FBIS-CHI, 98-176, June 25, 1998; and Zhu Bo and Wu Long, “Anhui Province Has Deployed the Family Planning Work for This Year—Wang Zhaoyao Attended and Spoke at the Conference,” *Anhui ribao (Anhui Daily)*, Hefei, April 8, 1999, FBIS, FTS19990429002702, April 29, 1999.

⁴⁵ Lin Waiming and Li Jindi, “Cadres Punished in Jieyang for Undermining Family Planning,” *Nanfang ribao (Southern Daily)*, Guangzhou, February 25, 2000, FBIS, CPP20000228000005, February 28, 2000.

⁴⁶ XINHUA-English, Beijing, May 7, 2000, FBIS, CPP20000507000021.

eral of the State Council, made it clear that the “Decision” of March 2000 was still national policy.⁴⁷

In September 2003 an article in a Chinese scholarly journal on rural affairs charged that the “veto with one vote” system, which the author said applied to tax collection as well as to family planning, was a contributing factor to an increasing tendency among local officials in rural areas to use gangs of thugs to aid them in enforcing unpopular central policies, including collecting family planning fines. The author called attention to what he described as “a serious crisis of rule” in China’s rural areas caused by the “infiltration of evil forces into grassroots administration.” He based his concerns in part on the results of a study he conducted in 40 villages in southern Hunan Province, but he also cited information from other provinces and obviously felt that the problems were found throughout rural China. According to his analysis, the worsening fiscal situation in rural areas had led local administrators to depend on local thugs to force the peasants to meet the demands imposed on them. One consequence was rising social unrest in rural areas and a loss of control over local governments by authorities at higher levels.⁴⁸

In December 2003, an article in the People’s Daily seemed to concur with the concerns about rising violence in rural administration. The author deplored the “trouble stirred up” by “unlawful administration” in rural areas and condemned specifically the excesses in family planning enforcement:

. . . Family planning has changed in nature, and this is particularly so in some underdeveloped hinterland regions . . . where family planning has degenerated into a money-making means for a handful of local officials. Instead of conducting family planning through persuasion and education and by propagating the population policies of the Party and the State, a handful of local officials have indiscriminately “fined” residents under various pretexts. . . . In addition to collecting charges from people who have given birth to an additional child, as required by the State, the local officials have imposed various other charges on the local population, such as “premarital pregnancy charges,” “unwanted childbirth charges,” “pregnancy examination charges,” “unplanned pregnancy charges,” “education charges,” and “sterilization and induced abortion charges . . .” . . .

In other regions, the local officials have been found to have organized “shock brigades” for family planning purposes, and the “shock brigades” would frequently enter villages to search farmers’ houses and take away farmers’ belongings during the day and would break into farmers’ houses to arrest people at night, and such . . . practice[s] have been resented by the masses.⁴⁹

These two articles imply that the use of force in local family planning administration is not being progressively eliminated, as some central government spokesmen have claimed, but is actually on the rise.

The most recent reference to the “veto with one vote” system was in June 2004, when Fujian Province’s Zhaoan County carried out a “rectification drive” to “intensify the responsibility system in family planning work” during which some unreported “excess” births were discovered. To put a stop to these derelictions,

. . . county authorities enforced the “one-vote veto” system and dealt with 29 village officials who did family planning work irresponsibly, of whom 15 were given punishments ranging from removal from office, demotion, suspension of office, [to] inner-Party warning. Nine village committee members were removed from office according to relevant procedures after being subject to the “one-vote veto” system and four village family planning personnel and one village family planning association chairman were dismissed or removed from office for not doing their best work.⁵⁰

⁴⁷“While meeting with delegates to the national family planning work conference in Beijing on 9 January, Wang Zhongyu stresses importance of studying, implementing penetratingly 16th CCP National Congress spirit to create favorable population environment for building well-off society in all-around way,” XINHUA-Domestic, Beijing, January 9, 2003.

⁴⁸Yu Jianrong, “The Evil Forces in Rural Areas and the Deterioration of Grassroots Administration—A Survey of the South Area of Hunan,” *Zhanlue yu Guanli (Strategy and Management)* Beijing, September 1, 2003, FBIS, CPP20031008000183, pp. 1–2.

⁴⁹Liang Xinge, “When Will ‘Unlawful Administration’ Be Stopped in Rural Areas?” *PD*, December 20 2003, FBIS, CPP20031220000045.

⁵⁰This account was given in the internet version of the Fujian provincial Party newspaper *Fujian Daily* on June 8, 2004 and was summarized in an FBIS report of June 23, 2004 entitled “Highlights: Reports on Village Democracy in PRC 10 May–23 June 2004, CPP20040726000254, July 26, 2004.

The story was reported in the *Fujian Daily*, organ of the provincial Party committee, which was obviously serving notice on family planning cadres throughout the province that they must also tighten up.

THE RULE OF LAW

Central sources have long proclaimed their intention of eventually putting family planning administration under the authority of law. In communications intended for foreign audiences they have often implied that the transition toward the “rule of law” would curb the use of coercive tactics by local family planning officials, but in domestic references to it the emphasis was always on strengthening family planning enforcement instead. In March 2002 a XINHUA English language dispatch, quoted NPC delegates as 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].⁵¹

The day before the law took effect on September 1, 2002, another 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.”⁵² 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.⁵³

The next day, another XINHUA-English dispatch quoted Zhang as saying that the new law “focusses 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.”⁵⁴ 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 did not mention curbing abuses.⁵⁵ Instead, the domestic message seemed to be that the Chinese people should not view the new law as a relaxation of family planning requirements. A September 1 XINHUA domestic dispatch quoting the Deputy Director of Legislative Affairs Office of the State Council, said:

. . . It is a misconception to think that China will relax its family planning policy, a change that would permit 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.”⁵⁶

However, a month later, in an interview intended for internet distribution, Zhao stated that “. . . to fully protect people’s rights is the basic concern of the legislation.”⁵⁷ Clearly, the central authorities wish to project two different images of the law—one for their own people and the other for the rest of the world.

⁵¹XINHUA-English, Beijing, March 13, 2002.

⁵²XINHUA-English, Beijing, August 31, 2002.

⁵³XINHUA, Domestic Service, Beijing, August 31, 2002.

⁵⁴XINHUA-English, Beijing, September 1, 2002.

⁵⁵“New family planning law might end abuses,” *South China Morning Post (SCMP)*, Hongkong, September 2, 2002.

⁵⁶XINHUA, General News Service, Beijing, September 1, 2002.

⁵⁷Hu Huiting, “Family Planning Law and China’s Birth Control Situation” *China.org.cn*, October 18, 2002.

There are, in fact, some provisions in the law that do speak of protecting the rights of citizens, but the law does not make clear what those rights are. 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.” One of the provisions under Article 39 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. 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,” but many reports from China indicate that local courts, on prompting of higher level administrators, often simply refuse to hear citizen complaints, and the local police sometimes jail the complainant. Conspicuously, the law does not condemn the use of coercive measures in general nor does it specifically proscribe the most frequent forms—forced IUD insertions, forced abortions, and forced sterilizations. That would by now have destabilized China’s low birth rate, as the central authorities are well aware⁵⁸

In fact, the law seems to legitimize these measures by stating in Article 2 that “the state shall employ a series of varied measures to place population growth under control,” in Article 17 that citizens are “duty-bound to undergo family planning, as provided for in the law,” and in Article 20 that “Husband and wives of childbearing age shall consciously employ family planning, contraceptive, or birth control measures accepting family planning technical services and instructions . . .”⁵⁹ The three birth control surgical operations are often referred to in Chinese family planning documents as “technical services.”

The law does not incorporate the basic principles of reproductive freedom—the right of women and couples to determine the number and spacing of their children or their right to choose their own form of contraception, which implicitly includes the right to choose NOT to use ANY form of contraception. These rights were among the principles endorsed by China along with other nations at the 1994 world population conference in Cairo, but, though accepted internationally, they are apparently not “legitimate” in China.

The primary purpose of the new law was to lend force to family planning policy by legalizing the measures necessary for its implementation. This had always been the purpose of the law during the 23 years of unsuccessful efforts to get it drafted and enacted since it was first endorsed by Vice-Premier Chen Muhua in July 1979, the year the one-child policy was adopted, making more forceful measures necessary.⁶⁰ This is still the law’s primary purpose.

That the 2001 law does not discourage, let alone prohibit, forced IUD insertions, abortions, and sterilizations was made clear by a local family directive issued in Guangdong Province on August 26, 2003. On that day, Jieshi Township, a component of Lufeng Municipality, announced an autumn family planning drive that bore a striking resemblance to the crash birth control surgery drive of 1983, when 18 million IUD insertions, 14 million abortions, and 21 million sterilizations were carried out in China in a single year under the authority of a national directive issued in December 1982.⁶¹ The Party committee of Jieshi Township, a community of 200,000, issued a printed “directive” announcing the beginning that same day of its “autumn 2003 planned birth campaign.” The campaign was to last 35 days, during which 818 women were to be fitted with IUDs, 271 were to undergo abortions (163 of them early-term and the other 108 late-term), and 1,369 were to be sterilized. The directive stated that 45% of the operations were to be carried out by September 10, 75% by September 20, and 100% by September 30. Local family planning officials were to report their progress every five days and evaluate the performance of their subor-

⁵⁸ A number of other conspicuous omissions in the new law are listed in John S. Aird, “China’s New Family Planning Law,” in *Women’s Rights and China’s New Family Planning Law*, Roundtable before the Congressional Executive Commission on China, September 23, 2002, U. S. Government Printing Office, Washington, DC, 2002.

⁵⁹ “PRC Law of Population and Family Planning,” XINHUA-Domestic, Beijing, December 29, 2001, FBIS, CPP20011229000094, December 29, 2001.

⁶⁰ Beijing radio, Domestic Service, July 5, 1979, FBIS—CHI, 79–134, July 11, 1979, p. L25.

⁶¹ “Guanyu kaizhan quanguo jihua shengyu xuanchuan yue huodong de tongzhi” (“Circular on Carrying Out the Nationwide Family Planning Propaganda Month Activities”), State Family Planning Commission Document (82) No. 207, *Zhonghua renmin gongheguo guowuyuan gongbao (PRC State Council Bulletin)*, 1982: 21, February 12, 1983, pp. 1063–1979.

dinates every 10 days. The family planning cadres were told to “mobilize the whole town,” “take all possible measures,” and “overcome difficulties with creativity,” an open-ended invitation to devise their own expedients with no limits set. It was said that this would prepare the way for completion of the annual population control plan, a reference to the target figures handed down from higher levels. Specific responsibilities were assigned to leaders and cadres. Those who fulfilled their assigned tasks were to be praised; those who failed persistently could have their pay and bonuses reduced by half. Hotlines were to be established at the village level for citizens to use in reporting family planning violations not yet known to the authorities, and the names of those targeted for surgery during the drive were to be posted so that informers could find out which violations were already known.

The national family planning law of December 2001 and the Guangdong provincial family planning regulations were to be publicized to create a favorable “atmosphere” for the drive, an indication that these documents were not perceived as prohibiting coercive measures but rather as authorizing their use. In fact, a phrase taken from the national law was used in this directive: the cadres were told to “execute the laws in a civilized manner.” They were also told to “educate” resistive families and “persuade them willingly” to take family planning measures the same day. In this context, the quoted words obviously convey a message that goes far beyond their usual meaning!

Copies of the directive were sent to the Lufeng Municipal Party Committee, the Municipal Government Office, the Municipal Health Department, the Municipal General Command Office for Concentrated Service Events, as well as to Jieshi Party and government officials. Obviously this document with its rigidly harsh and punitive tone was issued with confidence that it had approval at the municipal level besides being consistent with national and provincial family planning laws.⁶² This was an open and unabashed coercive birth control drive designed to fulfill the targets assigned to Jieshi under the state-mandated population control plan using a form of the target management responsibility system.

ADVERSE CONSEQUENCES OF THE ONE-CHILD POLICY

The Chinese Party leaders have paid a price for their promotion of coercive family planning. It is one of the most, if not the most, unpopular of China’s domestic policies, and has at times been responsible, according to official sources, for “the alienation of the masses from the Party.” In the late 1990s efforts to enforce family planning rules sometimes led to rioting and attacks on officials. The program undoubtedly adds to the current popular disillusionment with the Chinese Communist Party, which in the early 1950s enjoyed the respect of most of the Chinese people. As one American journalist puts it, the Chinese government has, in effect, offered its people a new contract, by which it promises the people greater freedom in their everyday lives so long as they do not challenge its authority and abide by its one-child policy.⁶³

How long this arrangement will last may depend in part on other problems generated by the one-child policy, the main cost of which falls on the people. Among them, one of the more conspicuous is the imbalance in the sex ratio at birth in China, reportedly shown by China’s 2000 census to be close to 120 male births per 100 female births.⁶⁴ Some provincial, county, and local figures run much higher. Hainan Island’s 135.64 is reported to be the highest among the provincial figures,⁶⁵ but in one Hubei county the birth sex ratio had already reached 316.2 by 1995!⁶⁶ The central authorities dismissed the early evidence of the growing imbalance back in the 1980s as of no consequence, but in recent years they have warned that, if the trend continues, a few years hence millions of Chinese men would be unable to find wives. Recent Chinese sources talk of shortages of 30 to 40 million women of marrying age by 2020.⁶⁷ The authorities have tried to make it illegal to use

⁶² Communist Party of China, Jieshi Township Committee, Official Directive No. 43 (2003), “Announcement of the Fall Family Planning Campaign,” August 26, 2003, 6 pp.

⁶³ Thomas L. Freedman, “While We Were Sleeping,” *The New York Times*, March 26, 1999.

⁶⁴ “Imbalance gender ratio a worry of China,” *People’s Daily Online*, (in English), July 1, 2004, FBIS, CPP20040702000110, July 2, 2004. The exact figure was 119.92 males per 100 females.

⁶⁵ “Unbalanced Sex Ratio at Birth,” *CPT*, Vol. 19, No. 3, June 2002, p. 16.

⁶⁶ Yue Han, “Wide Angle on Society: China’s Eye Shows Yellow Card to Adam—Perspective on Male-Female Ratio in China’s Population,” *Shenyang lilun yu shijian*, February 1, 1997, FBIS—CHI, 97—061, February 1, 1997.

⁶⁷ Guo Nei, “Nation To Coordinate Growth and Resources,” *China Daily (Internet Version)*, Beijing, March 11, 2004, FBIS, CPP2004031100013, March 11, 2004; and Dwight Daniels, “Take

ultrasound technology to determine the sex of fetuses early in pregnancy so that female fetuses can be aborted, but sex-selective abortion still continues. In March 2003 they began another effort to deal with the problem with a three-year pilot propaganda campaign in eleven provinces called "Care for Girls," which they hope will bring the birth sex ratio back to normal by 2010.⁶⁸ Eleven provinces were selected for the pilot project. In August 2004, it was reported that Fujian Province's Anxi County, one of the pilot counties, was offering paid insurance and other benefits to only-daughter households.⁶⁹ But as long as the one-child policy continues, the prospects for this approach are not bright. Although Chinese officials often try to dissociate the distorted sex ratios from China's one-child policy, a July 2004 article in Beijing's English language China Daily quoted a university professor in an acknowledgement that without the family planning policy the problem would not be as serious.⁷⁰

The imbalance has already contributed to a rise in prostitution in China and an increase in trafficking in infants and women. Chinese and foreign media reports between 2000 and 2004 tell of tens of thousands of women being enticed by false job offers, then kidnapped, beaten, and raped until they agree to be sold as slave wives far from their homes. The gangs that operate these rackets may charge as much as ten or fifteen thousand *yuan* apiece for them, making the enterprise highly profitable. The government has responded to these trends with investigations and arrests. Some of those caught are executed, others imprisoned,⁷¹ but the trade persists. In March 2003, 28 baby girls, none older than 3 months, were discovered in nylon tote bags on a bus in southern China, all to be sold to rural Chinese families. A Justice Ministry spokesman said that a three-month crackdown on such activities in 2000 had resulted in the "rescue" of some 10,000 babies, which suggests the scale of the problem.⁷² In October 2004 the government arrested 110 "baby smugglers" and confiscated 53 baby boys that had been purchased in poverty-stricken south-western Yunnan Province for sale to couples in Fujian Province.⁷³ The conditions under which the smuggling occurs have reportedly resulted in numerous deaths among the children being transported.

The distorted sex ratios are a direct result of the concerns of rural residents that without sons to look after them in old age they face possible destitution after retirement. Daughters usually join the families of their husbands and are often unable to care for their own parents. In the 1980s the central authorities sometimes assured peasants that they need have no fears about their future, because a social security system for rural China would be in place by the time they needed it. They urged local political leaders to come up with plans, but rural China lacked the necessary financial resources, so the promised system is not there. For this reason, in the late 1980s most Chinese provinces allowed peasants whose first child was a girl to apply for permission to have a second child. But if that child was also a girl, they were supposed to submit to sterilization like all other couples with two or more children. When ultrasound technology spread throughout much of the country, many rural couples saw sex-selective abortion as a way to increase their chances of giving birth to a boy. Other peasant couples sometimes destroyed their baby girls at birth,

Gender Preference Out of Family Planning," *CD (Internet Version)*, March 11, 2004, FBIS, CPP2004031100002, March 11, 2004.

⁶⁸XINHUA-English, Beijing, August 15, 2003, FBIS, CPP20030815000065, August 15, 2003; and "More Hope, Health and Happiness," *CD*, July 8, 2004, FBIS, CPP20040708000011, July 8, 2004; and "Care for Girls' Gaining Momentum," *CD*, July 8, 2004, FBIS, CPP20040708000012, July 8, 2004.

⁶⁹Ma Zhijuan, "New incentives offered to families with girls," *CD*, August 12, 2004.

⁷⁰"Care for Girls' Gaining Momentum," *CD (Internet Version)*, Beijing, July 8, 2004, FBIS, CPP20040708000012, July 8, 2004. It is true that in South Korea, which has no compulsory family planning program, there are 117 males for every 100 females. But in China the distortion did not become serious until the one-child policy was implemented.

⁷¹"Chinese police campaign frees 120,000 abducted women and children," *CD*, cited by *Ananova*, September 16, 2000; "Four sentenced to death in bride-selling ring," *Ananova*, September 25, 2000; "Six executed in China for selling women as slave wives," *Ananova*, June 29, 2001; Hannah Beech, "China's Baby Bust: a dwindling birth rate and an ageing population force China to rethink its family planning policy," *Time Pacific*, No. 31, August 6, 2001; "Chinese men sentenced for kidnapping and selling 104 women," *Ananova*, June 1, 2002; Andrew Alderson and Lena Kara, "Scandal of the £300 Chinese girl slaves," *News Telegraph, UK*, June 23, 2002; Peter Goff, "Costly Women," *SCMP*, August 26, 2003; "Largest kidnap ring on mainland nailed," *SCMP*, November 15, 2003; and Justin McCurry and Rebecca Allison, "40 [million] bachelors and no women . . . The birth of a new problem for China," *The Guardian*, London, March 9, 2004.

⁷²Joe McDonald, "Chinese Trade in Baby Girls Thrives," *AP*, Beijing, March 25, 2003.

⁷³"China holds 110 'baby smugglers,' BBC News, October 7, 2004.

sought other families to adopt them, or simply abandoned them.⁷⁴ Selling them to smugglers has apparently become another option.

The Chinese government has long recognized that the lack of an effective social security system has been a major deterrent to acceptance of the one-child limit in rural areas. According to an August 2002 article in an English language population journal, reporting the results of a survey of 6,300 households in five provinces,

Ultimately, a lack of a social safety net is preventing hundreds of thousands of households—particularly those in rural areas—from practicing family planning. Our survey shows that in both developing and developed provinces, the primary purpose for having children is old-age support. Therefore, creating an extensive social security network to provide the rural elderly with adequate old-age support is key to stabilizing and reducing the fertility level in rural areas. This effort, however, will take years.⁷⁵

But prospects for establishing such a system are dimmed by another consequence of China's one-child policy—the ageing of the population. In the fall of 2004 a forum on care for the elderly noted that the numbers of Chinese aged 65 and over would rise from 100 million in 2000 to more than 200 million, or 14 percent of the population, by 2007.⁷⁶ American Enterprise Institute scholar Nicholas Eberstadt, in a recent journal article, said that China's ageing is about as rapid as any in history with the exception of Japan's. But, he added, "Japan became rich before it became old; China will do things the other way around."⁷⁷ In May 2004 XINHUA also noted that "China has become an ageing country well before it has become affluent . . ." The article added that only about 150 million of China's 1.3 billion people were now covered by the country's new pension system.⁷⁸ A just released Hongkong report says that China has little time in which to deal with this problem. If its pension system, which serves mainly urban residents, should fail, it could threaten social stability. The report notes that the ageing problem is a result of the one-child policy.⁷⁹

An often neglected aspect of China's one-child policy is its adverse impact on women. Defenders of the Chinese program sometimes argue that it has emancipated women, permitted them to control their own fertility, and allowed them to participate in productive and leisure activities denied to child-burdened women in earlier generations, all of which is true. But it is also obvious that the worst aspects of the Chinese family planning program mainly afflict women, who have suffered most of the sterilizations, all of the IUD insertions, all of the mandatory quarterly IUD check-ups, and all of the abortions. Girls are the main targets of sex-selective abortion, infanticide, neglect, and abandonment. Now the shortages of girls and women, instead of increasing their social value, are subjecting them to further abuse.

RECENT MODIFICATIONS OF THE FAMILY PLANNING POLICY

Since the middle 1990s articles in the international press and statements from sources supportive of the Chinese program have frequently announced that the program was being softened, that coercion was a thing of the past, and that the Chinese government was now turning toward voluntary family planning. These predictions became so optimistic in the late 1990s that in February 1998 Peng Peiyun was apparently concerned that they might reach people in China and cause rumors that could impede family planning efforts. In a XINHUA interview reported in an English language dispatch, she attempted to squelch such stories:

State Councillor Peng Peiyun stressed here today that China will spare no efforts to pursue its family planning policy in the coming years. "China will not slacken its family planning policy in the next century," Peng . . . told XINHUA.

She denied a recent rumor spread by the Western media that China would loosen its birth control policy. "China's family planning policy and its target for population control will not change," she stressed. . . .

⁷⁴The abandonment problem may be getting worse according to Irene Wang, "Rural Trend of Abandoning Babies Spreads to the Cities," *SCMP*, May 3, 2004.

⁷⁵Wei Jinsheng and Lin Xiaohong, "Impact of Family Planning on Chinese Families," *CPT*, August 2002, p. 15.

⁷⁶"Elders' problems centre stage at forum," CD, September 9, 2004.

⁷⁷Eberstadt's article in *Policy Review* was cited in May 2004 by Michael Richardson, "The greying of Asia," *SCMP*, May 14, 2004.

⁷⁸"China's ageing population causes concern among policy-makers," XINHUA-English, Beijing, May 12, 2004.

⁷⁹Richard McGregor, "China urged to reform markets and lift retirement age to tackle pensions," *The Financial Times*, London, December 13, 2004.

She said . . . It is incorrect to draw a conclusion from some local changes that China will slacken its control over population growth. . . .

SFPC Deputy Minister Yang Kuifu said . . . The strong pressure of population will last for a long time due to the inertial function of this huge population. "For this reason, China will not slacken control over the birth rate in the slightest degree . . ." ⁸⁰

Zhang Weiqing said in July 1998 that the policy would continue for "the next 50 years," ⁸¹ and his assurances were repeated in 1999 and 2000. ⁸² Nevertheless, the foreign press reports of softening family planning policies and weakening efforts have continued.

There have, in fact, been some changes in the policy since the late 1990s, but it is important to know exactly what has changed and what has remained unchanged. There are also indications that many people in influential circles in China are dissatisfied with the policy. Even within the SFPC, there are signs of sharp differences over how family planning policy should be implemented. From time to time in the domestic debates over possible changes have surfaced. But most proposals for moderating the policy have not been accepted by the Chinese leadership.

A two-child policy for urban couples was urged by some scholars in the early 1990s on the grounds that this would improve the "quality" of the population, but that idea was promptly shot down. The idea surfaced again in 2002 in a proposal that college graduates be allowed to have two children, but an SFPC deputy director challenged the notion that college graduates' children were necessarily superior to those of peasants. ⁸³ In 2002 there were reports that some people in China were arguing for a shift to a two-child policy as a response to the ageing problem, but on November 2003 the dean of China's demographers, Professor Wu Cangping of People's University in Beijing, who had called attention to the prospective ageing of the Chinese population back in the 1980s, pointed out that a loosening of childbirth restrictions would merely add to the dependency burdens of parents. The children would not enter the labor force and be productive until two decades later. ⁸⁴ In October 2002, foreign newspapers reported on a proposal submitted to the government by a group of "experts" again proposing the eventual replacement of the one-child by a two-child policy, but the source noted that "some politicians and academics" opposed any immediate relaxation, saying the matter needed more careful consideration. ⁸⁵ In that same month, SFPC vice-minister Zhao Bingli was asked by a reporter whether there was "any possibility the current policy may become more flexible and allow each couple to have two children," but Zhao gave an evasive response. ⁸⁶

In April 1999 a Hongkong journal said that the policy had "become a battleground between liberals and hard-line leftist leaders who preferred coercion to compromise." The article quoted a SFPC "expert" as saying that "The old hard-liners don't want to admit their mistakes and draw any lessons. That is at the heart of this." ⁸⁷ But the "hard-liners" evidently have the backing of the central leadership, for their views have prevailed.

In June 2000 XINHUA published the text of the State Council's March 2 "Decision" on stabilizing the low birth rate and the People's Daily said that, despite the success of the program in reducing fertility, this was no time for complacency. It added that the State Council remained firm in its resolve to continue family planning efforts to keep the population growth rate stable or, better still, to lower it further. ⁸⁸ State Council Secretary-General Wang Zhongyu was quoted in a Hongkong paper in a statement that China would not change its policy despite the problems

⁸⁰ "Peng Peiyun: 'Strict Family Planning Policy' To Continue," XINHUA-English, Beijing, February 23, 1998.

⁸¹ "China to Follow Family Planning Policy Into Next Century," XINHUA-English, Beijing, July 10, 1998.

⁸² "Zhang Weiqing on Family Planning Policy," CD [Internet Version], Beijing, October 12, 1999, FBIS, FTS19991011001576, October 11, 1999; XINHUA-English, Beijing, October 12, 1999, FBIS, FTS19991012000919, October 12, 1999; and XINHUA-English, Beijing, July 19, 2000, FBIS, CPP2000071900093, July 19, 2000.

⁸³ "Chinese graduates 'should be allowed to have two children'," *Ananova*, July 25, 2002.

⁸⁴ "Loosening family planning policy un conducive to ageing problem," CD, November 5, 2003.

⁸⁵ "China mulls overhaul of family planning policy," *Straits Times*, Singapore, October 5, 2004. This article was based on one that appeared a day earlier in the *Asian Wall Street Journal*.

⁸⁶ See note 55.

⁸⁷ Jasper Becker, [Article Questions 1-Child Policy Success], *SCMP*, April 19, 1999, FBIS, FTS19990419000251, April 19, 1999.

⁸⁸ "No Time for Complacency' in Population Control," CD, May 20, 2000, FBIS, CPP20000520000027, May 5, 2000.

caused by the one-child rule.⁸⁹ Still, articles in foreign media continued to insist that the policy was being relaxed.⁹⁰ In June 2001 a Hongkong newspaper that has often contained important information on family planning not found in mainland newspapers printed an article that mistakenly assumed that the allowance for rural couples whose first child was a girl to have a second child instituted in the middle 1980s had instead just occurred in “the second half of the 1990s” and took this as a sign of recent relaxation.⁹¹ In December 2002, the same paper published a second article making the same mistake.⁹² In August 2002 an article in the *Los Angeles Times* interpreted the new population law’s provision for levying “social compensation fees” rather than “fines” as a sign of easing,⁹³ though the distinction was probably lost on those who had to pay!

Again the Chinese authorities attempted to counter such notions. In September 2002 the *People’s Daily* quoted a State Council official’s assurances that “China will neither tighten nor relax its family planning policy for a long period of time” and that “it is a misconception to think that China will relax its family planning policy.”⁹⁴ In October an official of the Chinese Family Planning Association told an international conference that China would continue its family planning policy for a long time because population growth was still high.⁹⁵ However, some changes were taking place in local family planning administration. Most of those reported were of limited scope and did not represent major changes in the basic policy. In that sense, the central claims that the policy had not changed were substantially correct. One that was reported by XINHUA in December 2002 was an experiment said to have been initiated by the SFPC in 1995 in Shanghai, Liaoning, and Jiangsu, which allowed women to choose their own methods of contraception in an effort to enlist their cooperation and reduce the amount of surveillance necessary. The report said the experiment had by 2002 been extended to include more than 800 counties, and in October 2002 Zhao Bingli said full-scale introduction had occurred in Liaoning, Zhejiang, and Fujian provinces.⁹⁶ But even if the choice of contraceptive measures had been expanded, there was nothing in the report to suggest that the one-child policy’s restrictions on numbers of births had been relaxed, nor was there any mention of removing the penalties for unauthorized births.⁹⁷

In 2003 some localities began to report small changes in family planning regulations that benefitted certain categories of couples. In August Beijing Municipality announced changes that would make it easier for nine special categories of couples to have a second child. Couples with a disabled first child, couples who were the only children in their respective families, and remarried couples who had only one child had always been permitted to have a second, but only if they waited four years and if the mother was at least 28 years old. The new regulation said that these couples now need meet only one of the latter two requirements.⁹⁸ There was no indication what proportion of Beijing couples of childbearing age would be affected by the change. A day earlier the Beijing Municipal Family Planning Committee announced another new regulation granting one-child families in Beijing 1,000 *yuan* (US \$120)

⁸⁹Fong Tak-ho, [No title given], *Hongkong Standard*, Hongkong, May 7, 2000, FBIS, CPP20000508000015, May 8, 2000.

⁹⁰For example, in February 2001 *The Wall Street Journal* printed an article by a staff reporter, Leslie Chang, claiming that the one-child policy was being eased, based on alleged experiments being conducted in a Jingsu village and un-sourced reports that Zhejiang Province had abolished the annual “birth quotas.” A sub-heading asked, “Is a Two-Child Policy Next?” but the article said nothing about that idea. It also said nothing about the March 2, 2000 policy calling for continuing coercive measures. “China Tries Easing Once-Brutal Approach to Family Planning.”

⁹¹Clara Li, “Beijing relaxes one-child policy,” *SCMP*, June 28, 2001.

⁹²Louisa Han, “Hubei to relax its one-child regulation,” *SCMP*, December 4, 2002. However, the author added that a spokeswoman for the SFPC had insisted that the country’s birth planning policy had not changed.

⁹³Ching-Ching Ni, “China eases one-child rule,” *The Los Angeles Times*, Shanghai, August 23, 2002.

⁹⁴“No Relaxation of Chinese ‘One Couple, One Child’ Policy: Official,” *PD Online*, September 2, 2002.

⁹⁵“China Encourages NGOs To Assist in Formulating Family Planning Policy,” XINHUA, Kunming, October 16, 2002, FBIS, CPP20021016000215, October 16, 2002.

⁹⁶See note 55. Liaoning and Zhejiang provinces have both been leaders in family planning implementation, but Fujian ranks in the middle of the provinces in this regard. There is no other convincing evidence of such a change in Fujian.

⁹⁷“Beijing agency says China protects women’s choice on contraception,” XINHUA-English, Beijing, December 8, 2002.

⁹⁸“Beijing eases birth control policy,” XINHUA, Beijing, August 8, 2003. The article does not indicate what the other six special groups of families were.

annually when the mother reaches 55 and the father 60 years of age.⁹⁹ But one Beijing source said that although the subsidies provided people with more choices, they did not eliminate the former practice of punishing people who had more children than the policy allowed.¹⁰⁰ In February 2003 XINHUA announced that Beijingers wanting to marry would soon be able to complete marriage (and divorce) registration via the Internet.¹⁰¹

Beijing Municipality has one of the lowest birth rates in China and can therefore presumably afford minor changes in birth limitations. Shanghai, which has had negative growth rates among its indigenous population for the past eleven years, also made some changes. In November it amended its municipal family planning regulations to allow urban couples to have a second child if their first was so disabled that the child's working ability was impaired. Previously that option had been available only to rural couples. Remarried couples were allowed to have a second child even if each of them already had one child; previously only if one spouse had never had a child could these couples have a second. The mandatory four-year interval between first and second children was also removed. The source said that although these exchanges were small in scope, they showed greater consideration for the families concerned.¹⁰² In September 2004 Shanghai discontinued its financial rewards for couples who decide not to have any children. A local official explained that if every couple was unwilling to reproduce, society would not "develop in a healthy way." In 2003, Shanghai reportedly had had 100,700 deaths but only 57,000 births.¹⁰³ Shanghai's changes apparently caught the attention of Beijing residents, who began to ask their local family planning commission whether Beijing's rules against second children might soon be eased. Officials responded that Beijing's family planning policies would not be readjusted, "at least in the short term." But the report admitted that "experts" in Beijing were calling for a change.¹⁰⁴

In July the government of Yunnan Province announced a series of rewards to rural one-child families to start when the parents reached age 60. They would receive an annual subsidy of 500 *yuan* each, or 1000 *yuan* for a couple.¹⁰⁵ In September 2003 a rural community in Shanxi Province reported that its branch of the Chinese Family Planning Association had received a long-term loan from the Agricultural Bank of China to provide financial rewards to one-child families.¹⁰⁶ In April 2004 a member of the State Council announced that China was about to test a new population control policy that would pay at least a 600 *yuan* (US \$72) bonus to rural families who faithfully observed the one-child policy.¹⁰⁷ In August 2004 the English language *People's Daily Online* announced a new project to award subsidies to rural one-child families. The pilot work was to be launched this year in Sichuan, Yunnan, Gansu, and Qinghai provinces and in Chongqing Municipality and nine cities in other provinces.¹⁰⁸ In May an article in the *China Daily* revealed what may well be the reason why these steps were taken. It said that the rural birth rate in China was on the rise, and that, especially in poor areas, the family planning policy was being "pushed aside." If the birth rate in rural areas continued at a higher level than that in urban areas, the article said, the economic gap between urban and rural areas would widen.¹⁰⁹ The bonus for one-child couples, dubbed the "reverse baby bonus," was described in the Chinese media as a shift from punishing births to encouraging fewer births. Clearly, the authorities hoped that this incentive would lead to more voluntary compliance with the one-child limit and thus reduce the need for penalties, but none of the sources suggested that penalties for violating the limits were to be discontinued.¹¹⁰

⁹⁹"One-child families to get more subsidies," *CD*, August 8, 2003.

¹⁰⁰The statement was quoted from an article in the *China Youth Daily*. [Unattributed], "Progressive Policy Shift," *CD*, August 5, 2004, FBIS, CPP20040805000017, August 5, 2004.

¹⁰¹"Beijingers Can Soon Register Online For Marriage, Divorce," XINHUA-English, Beijing, February 26, 2003, FBIS, CPP20030226000154, February 26, 2003.

¹⁰²Hua Hua, "Balance Needed in Family Planning," *CD*, November 7, 2003, FBIS, CPP20031107000036, November 7, 2003.

¹⁰³"Shanghai Scraps Rewards for Childless Couples," XINHUA, Shanghai, September 9, 2004.

¹⁰⁴Li Fangchao, "Beijing not to change one-child policy," *CD*, October 20, 2004.

¹⁰⁵"Yunnan to Reward Households Adhering to One-Child Policy," XINHUA-English, Beijing, July 10, 2003.

¹⁰⁶"One-child farmers helped to make a fortune," *CD*, September 2, 2003.

¹⁰⁷"Government To Pay Bonus To Villagers for Family Planning," XINHUA-English, Beijing, April 1, 2004, FBIS, CPP20040401000193, April 1, 2004.

¹⁰⁸"China shifts from punishing over births to encouraging fewer births in family planning," *People's Daily Online*, August 4, 2004.

¹⁰⁹"Concern over birth widens," *CD*, May 27 2004.

¹¹⁰"China shifts from punishing over births to encouraging fewer births in family planning," *PD Online*, August 4, 2004; "China Strives to Curb Population Growth through Reward Instead

At the same time that this policy was being touted as a major change, SFPC director Zhang Weiqing was warning that China's population would continue to increase at the rate of ten million a year for the next two decades. Zero growth would not be reached until 2043, by which time the population total would approach 1.6 billion. Other "experts" noted that zero growth would reach the cities much earlier, causing an even more rapid ageing of the urban population and a dwindling urban labor force.¹¹¹ The mix of somewhat contradictory messages seemed to reflect the increasing contradictions in Chinese society precipitated by the demographic, economic, and social consequences of the one-child policy, and no doubt these underlie the apparently growing divergence of opinion in China about the future course of population policy. However, for the time being at least, the leaders of the Chinese Communist Party, who have the final say, seem unready to make any radical changes.

CONCLUSION

What the evidence from Chinese domestic sources makes clear is (1) that the one-child policy, is still a basic national policy; (2) that it remains highly coercive and violative of human rights; (3) that the coercion is approved, encouraged, and virtually mandated by the central authorities; and (4) that, despite rumblings of discontent from below, there is no sign that change is imminent. International pressure has been too ineffective to induce the Chinese authorities to abandon coercive family planning measures on humanitarian grounds. Instead, they regard criticism from abroad as an image problem that can be solved by steadfast denial. They are helped in this regard by the continuing support, expressions of approval, and propaganda assistance provided by sympathetic foreign interests, mainly in the international family planning and population control advocacy community, but also by superficial investigation and reporting by reporters who incautiously accept disingenuous explanations and denials by Chinese officials and by foreign apologists for the program. Ultimately, the adverse consequences of the one-child policy for Chinese society will make it a political liability for the Party leaders, at which point coercive family planning will probably have to be terminated, but that point has not been reached yet. Meanwhile, foreign condemnation of the human rights violations under the one-child policy can lend support the forces within China already calling for a change and hopefully advance the day when those violations cease.

Mr. SMITH OF NEW JERSEY. Dr. Aird, thank you very much for your testimony, for being available to those women who are seeking asylum here and for providing those very important affidavits that are accepted by the courts and by the adjudication officers that have made, I think, a significant difference.

In reading your testimony last night, I was struck by—and it is usually the case with your writing—how many footnotes you had. I mean, you document every sentence, practically, with information and a source, and it makes your testimony very persuasive, and it has been for years. I will never forget Judith Bannister and others, who relied on much of the important work you did in gathering information, which led originally to the funding of the UNFPA because of the complicity of that organization with the hardliners in Beijing. And even then, I would remind my colleagues, we heard how this was an exceptional policy. It was an exception to the rule.

We always hear how it is getting better when it is actually getting worse. This doublespeak is so easily accepted by foreign ears; and then people turn the page and say it is not a problem.

Also, perhaps all of you might want to comment on this. In the earlier panel we had a discussion about the idea that dialogue should not be accepted in lieu of genuine reform, which hardliners and dictatorships, whether it be Romanian Ceausescu for all the

of Punishment," XINHUA-English, Beijing, August 4, 2004, FBIS, CPP20040804000104, August 4, 2004.

¹¹¹ "Zero growth possible but after 1.6 billion," *PD Online*, August 4, 2004; "China's population to grow by 10 million a year in next two decades," *Interfax-China*, Shanghai, August 4, 2004.

years that he ruled and many of the Eastern European countries, who always were willing to talk to you, roll out the red carpet.

On my three trips to the Peoples Republic of China I was treated, initially at least, with kid gloves and with access and very seemingly friendly conversations until tough questions were posed. And then the facade was very quickly changed, when the arguments became about religious freedom as well as the persecution of women.

I would like to ask, Mrs. Dongfang, if your situation is unique, or if other women are suffering in China as a result of the Norplant as well? I mean, forced abortion is an event. It happens and it is, as you put it, an unspeakable cruelty. But with the ongoing morbidity and the ongoing injury done to women, both emotionally and physically, are women suffering today in China as a direct result of the one-child-per-couple policy?

And Mrs. Mao, the woman that we are appealing to the Chinese Government to cease and desist, is just the tip of a very ugly iceberg of repression. Again, I think our European friends need to speak out on her behalf as well, and I know Amnesty is trying to spread that word, as is Harry Wu, in European capitals. But she nevertheless is a very important person that we care about deeply here in the United States Congress.

But is it commonplace, what you suffered, among these women? And if you could share that with us—

Ms. DONGFANG. Yes, it is. I know several cases like me.

And later on, I was forced to abort a child, and in '92 my sister got pregnant after marriage. But she did not get permission for pregnancy so she had to abort her child. So later on, certainly, she suffered much.

And then, later on, she kind of fled from the country, and right now she has two babies, and I am so proud of her. And I certainly cannot get the chance myself and also many other women like me just couldn't get that because kind of, you know, for the physical condition or whatever of everything. It is kind of—we all miss that.

Mr. SMITH OF NEW JERSEY. Let me point again to the fact that the *Human Rights Report* contained information—and perhaps any of you might want to speak to this—of, again, mental injury that is done to women. Five hundred women per day are committing suicide in China, which is attributed in whole or in part—probably in part, because there are probably many contributing factors. But the one-child-per-couple policy, as Mr. Wu pointed out in his testimony, touches every family, and it does so in a very ugly way.

What has been your understanding of this suicide phenomenon that is occurring in the Peoples Republic of China?

Ms. DONGFANG. Well, like I just said, many people suffered the infant deaths. Like, I saw this young woman who was pregnant for 6 months and then she was forced to have this abortion, and the doctor just gave her a kind of promise from the community saying that if you go abort this child, you would have a job, we would offer you a job; otherwise, you will lose your job.

So anyway, she finally had to sacrifice, and she stayed in the hospital for several days, and the doctor gave her the shot and then she was finally forced to have that abortion, but the baby came out still alive and the doctor just have a shot of that baby and that

baby head. The mother went crazy, and she screamed, saying, "He is still alive!"

Mr. SMITH OF NEW JERSEY. Thank you. We could get back in a moment.

Mr. Wu, could you please explain briefly to the Committee the source of your most recently published book, *Better Ten Graves Than One Extra Birth*, published by the Laogai Research Foundation?

Also you point out that the repressive policy has now extended into Taiwan, occurring if a Mainland China woman marries a man from Taiwan and similarly in Hong Kong. Within this point there are a number of very damaging assertions about the policy.

I would like to put as much of this as we possibly can into the record. I think it is just additional testimony, but you could speak to the source of that title.

Mr. WU. I know everybody heard Ma Dongfang talking about her individual case, and I want to go back to this document again, okay?

This is 2003. In the last year, the local government document from the county in small village from Canton says, from August 26th to September 30th—35 days—in this town, they have to implement the task, the case total: 2,458. Among these is 1,369 sterilization. That 35 days in this small town is 1,369 women who have been sterilized, not by their own will, by the Government decision. And then it talks about so-called abortion. There is 108 so-called "late-term abortions"; late-term abortion, it means they are already pregnant more than 5 months, okay? So early abortion, that means 163, totally 272, killings and murders.

Ma Dongfang is one of these cases, and this only one small county in the last year in one amount, 35 days; and China has 3,000 counties. In the last 25 years, how many murders?

I am an American citizen. I really want to demand our Congress pass a resolution to condemn this practice. I really hope our Government takes the case. It is a very simple topic, to the United Nations-Geneva to say, "What is it? Stop it, okay?"

This has never happened in any other country in history, okay. And this is a big lie. The lie is because we are a poor country. If we want to have prosperity, we have to control the population growth. And I said, "Okay. Why don't you just use your atomic bomb?" China has an atomic bomb. Kill half the population then our GDP tomorrow doubles.

Is that right? Are you going to do that? Okay, this is not true; it is a big lie. Okay. In the history, how you would say using the reason of religion, using the reason of so-called race to kill the other—you know, a group of the people by—kill the baby, whatever; it happens all the time. And today in China, using so-called economic reasons, if we want to become rich, want to have prosperity, we have to kill the baby, kill the women, and this lie is going on and on until today. Thank you.

Mr. SMITH OF NEW JERSEY. Let me just point to one thing that is in your book. You have a number of examples of slogans that are all over, for example, "The more children the guiltier; think about it." And, "Let's ruin the families of those who have excessive births."

A moment ago, Ms. Dongfang mentioned how she had to self-confess several times. You know, the idea that you are guilty, that brothers and sisters are illegal in China, and children are illegal unless the Government says that they are permitted.

Who puts up those slogans? Is this countrywide? I mean, is it everywhere? Is it in school? Does it start at the earliest grades, the propaganda and the indoctrination that only those children permitted by the State will be allowed to live?

Mr. WU. This is national policy. Things very beginning. At each level, the First Secretary of the party is responsible for the number from the top. It is talking about number, okay?

I want to see the rate. I don't care who supposed to abortion or forced sterilization. And then the firsthand so-called one-vote-veto policy, okay? If you cannot implement a policy and carry out the exact number the central Government wants, you are fired. So they are using all the forces, including the police, okay?

Capture the woman—you see, how can you have the number 108 late-term abortions, forced abortion? Because in each town, they have a computer system; every woman is registered. They even know which day of the month is your period. Just entirely it is in the computer systems.

You know that Mr. Kumar testified he is working on the system. Jesus, like this is not a free country at all, right?

Mr. SMITH OF NEW JERSEY. Mr. Kumar made a very good point about American businesses working in China, that not only are we concerned about Chinese businesses. I did raise that with the American Chamber of Commerce in Beijing, that they either wittingly or unwittingly—or as you put it, covertly or overtly—are actually part of the implementation.

We even had some language called the Wu Principles, the Harry Wu Principles, which were like the Sullivan Principles on doing good business in China. They were permissible; they weren't mandatory—and we got them passed in one of our previous formulation bills, but it seems to have had little or no effect.

I was amazed in talking to the United States business representatives interested in Beijing. In about a 2-hour meeting with them on one of my trips, only one said that they even read the fine print about how they were monitoring the menstrual cycles and how they were implementing this horrific policy.

I also had suggested that they meet with dissidents, because they seem to buy into this policy and initial view that everything is just moving in the right direction when, economically, there are some modest advances. But politically, as Secretary Dewey said, "One step forward means two steps backwards." That's not progress. That's anything but. You know, if for every dollar you lost two, you would be a pauper real quick. And I think, you know, we are talking about that kind of ratio here. They seem to be getting much worse when it comes to this.

One last thing on the business side. I had asked—Wei Jingsheng had just been released to get Olympics 2002, I think it was, or 2000, which they didn't get. He was rearrested and then deported soon thereafter. But I met with him when he was out. And I said, "Why don't you business folks—and I certainly appreciate what you are doing—meet with the dissident and find out the other side of

the coin, you know, the smiling faces of the people with whom you are doing business, many of whom are colonels in the Peoples Liberation, army officials. What about the other side, you know, the people who are being repressed?"

And they didn't take me up on it, regrettably, and probably still have not since. But there is a whole other side of this. What can we do?

I think your point about the resolution was excellent. We will begin in earnest, and I hope the Administration will participate as they did last year, but starting early is important. We waited, as a country, until the very end to initiate a China resolution and couldn't even get the European partners to join us as cosponsors.

They need to join us as cosponsors. It was appalling that they took a hands-off attitude. They voted for it, but did not cosponsor it. And I think your maximum pressure prior to the Olympics point is very well taken. And I think Ms. Mao ought to become the poster dissident for this effort, because to think of her being tortured for her opposition to the one-child-per-couple policy and for her other human rights advocacy while an Olympic games is being planned for China is unseemly.

So, Mr. Kumar.

Mr. KUMAR. Yes, thank you, Chairman. We will recommend that a United States business doing business in China publicly commit itself—not voluntary principles, they should mean it when they say—publicly commit that they will not covertly or overtly support the family planning laws within their premises, in the factory, to their employees within their premises.

They should also tell you, Mr. Chairman—maybe you can hold a hearing bringing them in to ask them what steps they are taking to prevent covert and overt and to see what their response is, whether they have a plan, How do you implement? Because they are under pressure by the Chinese authorities to take care of that.

And the China resolution is key, China resolution is extremely key to the U.N. solution, and the Administration should announce it early on in January and start moving toward it right away. That is the best thing that can happen at this moment. Of course, for the Olympics, it is a 3-year process, and you can set something in motion.

One thing that disturbed me about Ma Dongfeng's case—I have heard about other abuses, Mr. Chairman, but I never heard judges involved in plea bargaining. In this case, the judge kind of plea-bargained with her, saying that, "Okay, if you abort, I will take your case very lightly." That is disturbing.

It also goes directly to the rule-of-law issue. There are programs that the U.S. Government is sponsoring, the State Department is sponsoring, and there are other schools who are sponsoring. They should take into account that plea bargaining for family planning enforcement. That is shocking that is happening there.

Thanks, Chairman.

Mr. SMITH OF NEW JERSEY. Shocking, I think, is an apt word. They are obsessed with murdering their own children, so much so, as you just pointed out, that this judge makes that part of the plea bargain. That is a frightful way of looking at how you adjudicate the law.

You know, I think this book, *Better Ten Graves Than One Extra Birth*, again underscores the reality that we are dealing with. Mr. Kumar, if Amnesty has not already done this, this might be one of your appeals, not just for United States businesses, but for European businesses as well. I know when Amnesty undertakes such an effort, it does spread the word, and that is educational in and of itself.

Some of these companies are made up of very, very good people, CEOs right on down the line, who will say, "I didn't know." They will say, "I had no idea that this was going on and we were a party to it, and that will not be the case in the future." And if that kind of pressure is felt by the Chinese Government, and they are getting it not just Government-to-Government and from human rights organizations like your own, but from businesses, it could have at least some moderating effect on what goes on there.

So, please, if that could be one of appeals, I think it would—

Mr. KUMAR. Yes, actually, Mr. Chairman, we are a worldwide organization. We have 1.7 million. We don't have anyone inside of China, but Hong Kong and Macao, we have, and we work as a team.

You know, I am here testifying before you, so I am urging U.S. businesses because this is Amnesty USA urging you. But my colleagues around the world, including Japan, including Britain, Europe, wherever they are, they will be doing the same thing. And we will focus on this more forcefully now.

Thank you very much.

Mr. SMITH OF NEW JERSEY. I would appreciate that. That gives some additional hope to the suffering women in China.

Dr. Aird, I read your summation, and again your testimony was so well documented, with more than 100 footnotes in testimony; that shows a lot of scholarship, I believe.

You heard our Secretary Gene Dewey talk about how they may ease up a little bit on whether or not health care is denied to a woman who has an illegal child; and yet you point out that the movement seems to be clearly in the opposite direction.

Would you respond to that? And Ma Dongfang might want to talk about this. And to think that the social compensation fee is now upwards of 8 to 10 times the household income, a husband and wife would pay their total income for the next 20 years. That is debt bondage. That is worse. Nobody can come up with that kind of money in China.

I think Mr. Lantos cited the American equivalent of over \$300,000. And when you are talking about a relatively impoverished nation, I don't know how they do it.

Dr. Aird, could you speak to that issue of the social compensation fee? And could you elaborate a little bit, if you would, on the issue of the image problem? I thought that was a point you made very well in your testimony.

You also pointed out in your testimony that recent Chinese sources talk of shortages of 30 to 40 million women of marrying age by the year 2020. There has even been a book recently written, which I just got a copy of, about how that might even lead to adventurism on the part of the Chinese military. With so many men

who are idle, who can't find wives, it will certainly lead to human trafficking and bride selling. It has already begun.

This is a deficit of 30 to 40 million women of marrying age, and that will only get worse.

Mr. AIRD. It certainly is viewed by many circles in China, and I think by the top authorities, as a potential threat to social stability; and that is based, of course, on experience that is already going forward with the rise of prostitution, the extensive use of the selling of women and children, who are often lured into the enterprise by a promise of employment and then kidnapped, beaten, raped until they agree to be sold to farmers as wives in the rural areas where women are already in short supply.

This is a pretty serious development. The social compensation fee is actually part of a historical development of use of fines as a backup, sort of a primary force before you resort to forced sterilization and so on, as the next step in securing compliance.

And the problem for the Chinese authorities has been that with the economic improvement in many parts of China, the fees have sometimes not kept up with the availability of funds to pay them. And so they have been escalating these fees steadily, and now, here, we have this incorporated conspicuously into China's family planning law. I think partly the elaboration of that in the law is meant to distract attention from vaguer provisions in the law that also authorize forced sterilization and abortion.

There is one provision in the law which refers to the obligation of people to accept teachings and directions to use family planning technical services. Now, most people looking at that phrase, it wouldn't alarm them. "Technical services" has been a standard reference to the mandatory birth control surgeries, forced IUD insertions, forced subcutaneous injections, forced sterilization and forced abortions. And so the law actually authorizes that; in fact, that is one of the great significances of the document that Harry Wu has been citing, which he generously shared with me, in the Jieshi township directive.

It says that the new national family law is to be used as part of the propaganda campaign in Jieshi to promote compliance with the program. And in fact, that directive even quotes a phrase from the law referring to carrying out family planning work in a civilized manner. And yet this is a program which names people for forced birth control surgeries.

Obviously, in Jieshi town, it was clear that the law supports these things. It does not curb them. And that is a very significant revelation of the true purpose of the law, which could be missed if you simply read the indirect statements that it contains.

Mr. SMITH OF NEW JERSEY. The disproportionate number, is that accurate?

Mr. AIRD. What's that?

Mr. SMITH OF NEW JERSEY. The number of women, vis-a-vis men. Are the numbers that we are hearing, the 20 to 40, 20 to 30 million; is that accurate?

Mr. AIRD. Those are projections of the year 2020.

I have seen other figures. In fact, there was a figure a little while ago that had no due date on it which suggested an eventual short-

age of 111 million, the size of the population of Mexico. I have not seen that figure repeated more recently.

I think these are somewhat more conservative figures; but there is still enough to cause considerable anxiety in professional circles, and I think they have led to a good deal of groundswell support for changes in the program, which nevertheless have not yet prevailed against the party leaders, who still remain a very hard-line position. In fact, I have quoted a source from within the State Family Planning Commission saying the old guard leaders don't want to change their minds. They won't listen to any change, and I think one reason for that is that it might imply that the whole program was a mistake. And I think the party leaders do not want to face the anger in China that would result from the hundreds of millions of families that have suffered under this program, if eventually it had to be conceded that because of the side effects, that program was misguided.

I think, in fact, it was misguided, and that some day there will be an accountability. But they are not in a hurry to own up to that.

Mr. SMITH OF NEW JERSEY. Thank you, Dr. Aird.

Mr. Tancredo.

Mr. TANCREDO. Thank you, Mr. Chairman. Just a few questions really.

Mr. Wu—and, well, anyone really—can you tell me—I think it was Mr. Wu had mentioned pockets of resistance that exist in the Government, but specifically where are they? I mean, are these pockets the resistance in the officialdom or simply among the people themselves that are being abused by this? Do you actually have some sort of identifiable group of people in the Government who are opposed to this procedure?

Mr. WU. I think it comes from every individual nature because the mother wants to keep the baby, and the family wants to keep their own children. It is not like organizing actively today in China to resist the policy. Mostly it comes from an individual family, an individual place.

Mr. TANCREDO. No one in the Government? No one that we are aware of in Government circles, Mr. Aird?

Mr. AIRD. Yes, they are. Reports of disagreements even within the State Family Planning Commission. For years, some demographers have been raising questions about the wisdom of the program, and I have quoted some of them in my written paper.

Demographers in 1994 said, for example, that the forced use of IUDs, which have serious side effects as Ms. Dongfang has alluded to, results in a loss of women's rights, and that the policy makes too much emphasis on effective control of fertility and not enough on the importance of protecting the interest of the people.

And a little later another demographic journal article said, as everyone knows, the program is based mainly on coercion and argued that coercion simply provokes people's resistance and, as a result, the program is unstable, and the low birth rates are unstable. And even central leadership have acknowledged, as you will see in my paper, repeatedly, that the present low birth rates in China are unstable, which is an implicit admission that they have been obtained by forceable means.

And there is apparently a good deal of discontent in professional circles. On occasion some groups have come forward and said the limitation of one child in rural areas with a one-child policy that allows rural couples, whose first child is a girl, to have a second is contrary to the program's basic objective to improve the genetic quality of the Chinese people, because you are allowing the rural people to have two children and the urban-educated people to have one.

That idea recently surfaced again, but so far the idea that would allow intellectuals to have two children while restricting farmers to one has been too inequalitarian for the regime to suppose. But it suggests that there is a great deal of discontent, and much of it comes from circles that cannot be dismissed by the central authorities.

It is not just the people in rural areas, but it is intellectual circles in Beijing and the universities. However, only occasionally do we find their objections breaking into print because the press is still largely controlled, and people who dissent have to be very careful to couch their dissent in terms of trying to help the program be effective by modifying it here and there; and the modifications are usually not accepted.

Mr. TANCREDO. What I am trying to determine is whether or not there is any reason to believe or hope that as the present leadership ages and exits the scene, the next generation of leadership in China—could we hope for some change based upon what we know about who they are?

Mr. AIRD. There is not much encouragement for that yet. New President Hu Jintao, in 2003, made one of the firmest statements in support of continuing the family planning effort that we have seen from a top leader in recent years. And Jiang Zemin, who served the great Presidents behind him, is still very much committed to the hard line approach. So at the top level we just don't see any sign this is happening.

Now, of course, things can fall apart suddenly if there is sufficient social unrest. And there are many other causes of unrest, not only in the rust belt cities, but in rural areas where land confiscations are causing a great deal of problems.

So there are other factors operating to create unrest, and there may be a point reached where the very unpopular Chinese family planning program, the perennially unpopular program, becomes politically too costly to maintain. But there is no sign yet that the leaders want to give up the notion that population growth is a continuing threat to economic development and social stability in China and, therefore, to the continuity of their power.

Mr. TANCREDO. Thank you.

Mr. Kumar, to what extent do you think Amnesty International would be willing to actually undertake a role in very public support of a resolution that would suggest—not that we bring pressure to bear as we lead up to the Olympics because that is sort of an amorphous concept—but actually say that the Olympics should not be held in China if, in fact, this policy is not addressed? Because, frankly, I am more than willing, by the way, with the Chairman's permission, I am certainly willing to propose a resolution of that

nature. But we know that unless it has the support of international organizations such as yours, it certainly won't get much traction.

Mr. KUMAR. I am based here, and our main decisions are based in London, so I would have to get back to you on that, whether it is a possibility. But with my experience with the organization, we are extremely careful before we ask for any form of sanctions, so it would be the last resort we will be asking.

But I have to get back to you on that, whether it is a possibility or not. Thank you.

[The information referred to was not submitted prior to printing.]

Mr. TANCREDO. I appreciate it, because frankly there really aren't that many things that we can do in a practical sense. I mean, we can express outrage, and we certainly have that, and we have certainly have done it and we can continue to do it. That will not change the situation in China, as we have heard.

There is no way that this kind of pressure really will have an effect, the desired effect. We have to do something that really matters. In a way, we are complicit in this. It is one thing to just talk about how horrible it is. But unless we take action—and it really, in my way of thinking, Mr. Chairman, I don't know about you, but you know, I hope that whatever we did would lead to a change in policy, of course, in China. But even if it didn't, it behooves us to take that step just because of who we are, because of who we say we are as a country, as a Nation, as individuals, that we can be complicit in this. Regardless of what China decides to do, we are involved with it because we allow these things to go on, we allow the kind of business interests to overrule these very basic moral decisions that we need to make.

It seems to me that one of the few things we have available to us right now is this issue of the Olympics. We could draw a lot of attention if we could get the movement started, whether it is successful or not. If there was actually a real threat to China, to the PRC, that perhaps, just perhaps, the world might step away from this because of the ugly kind of press and attention it is getting.

I mean, maybe that could go somewhere. So I encourage you to please make that plea to your organization.

Mr. KUMAR. Yeah, definitely. And since you raised that issue, some ideas crossed my mind.

The women athletes are going—

Mr. TANCREDO. Good. Women athletes.

Mr. KUMAR. Men, of course, have a responsibility where women can make this an issue and other issues as well. I mean, forced abortion and sterilization are one issue, but there are numerous other issues. That is why we urge the Administration and the Congress to set in motion specific requirements and recommendations for the Chinese to achieve before the Olympics—I mean, not to wait until the last year, but start from now and do it.

Mr. TANCREDO. That is so true. And it just reminds me of, during the debate here on PNTR whether we should provide permanent normal trade relations with China, I know many people kept saying that if we did, as the economic environment in China improved, so would things like human rights abuses, and we would be less concerned about them being aggressive throughout the world. But, of course, we said over and over again, many of us who opposed,

that just the opposite would happen; that providing them with an economic environment where they could be more able to control the population, where they can use technology, just as we have described here, to now monitor the menstrual cycle for every woman in China in order to apply a policy of this nature.

That is what happens when you improve the economic conditions in China. It is used in both coercive measures internally and, of course, to be very aggressive throughout the world, including threats to the Taiwanese. So I truly would be happy to work with, certainly, the Chairman and under his leadership, and also with any organization, to get this to the point of having a visibility level that would make a difference. Which I don't think it has now.

But thank you, Mr. Chairman. I have no other questions.

Mr. SMITH OF NEW JERSEY. Mr. Tancredo, thank you very much for your participation and for your leadership on human rights issues.

I just wanted to note for the record that we just received a report this morning that Mr. Lu Decheng, a Chinese activist imprisoned for 16 years for splattering ink on a porch of Mao Tse-Tung in Tiananmen Square during the 1989 democracy protest, was arrested in Bangkok on Sunday and was told that he would be repatriated to China.

Our Committee will be urging the Thai Government to abide by its policy, as required by the International Human Rights Conventions, and not send Mr. Decheng back. The U.N. High Commission for Refugees makes a determination in his case. We ask that the Governor let the U.N. High Commission make their determination. We will be following that up with the Thai Government immediately, as soon as this hearing concludes.

I again want to thank our very distinguished witnesses for speaking truth to power, in this case, a very oppressive Government that regrettably has declared war on its own children and on its women. And certainly men have been hurt, as well, but it is women who bear the brunt of the agony of the one-child-per-couple policy.

Ms. Dongfang, thank you so much for giving the insight of what one woman has suffered as a direct result of this egregious policy.

I thank all of you for so expertly speaking out, and so boldly and persistently for so many years. This Committee greatly benefits from your expertise which helps us be informed and motivated to take the right course. And my hope is that we will do much more in the coming weeks and months to raise this issue in Geneva, in every bilateral meeting with the Chinese Government and in our multi- and bilateral meetings with other governments, so that there is a global and a world position on this. That position is that children are precious and cannot be treated like chattel destroyed because the Government believes "better ten graves than one birth."

We will use every tool imaginable, and this is the launching pad for a renewed effort to stop these crimes against women and these crimes against humanity.

If any of you would like to make a final comment before we conclude the hearing, we would be more than happy to receive it.

Mr. WU. Congressman, you just mentioned the gentleman. Right now—he escaped from China; right now, he is facing a deportation from Thailand Government. I wish you could do all the best that Congress can do to prevent that from happening. He was one of the brave men that in Tiananmen Square movement—that, you know, he threw the paints to damage the Mao portrait. This is very strong body language.

That means we oppose atrocity, oppose the practice that is continuing today in China. And, you know, the Thailand Government is sometimes really not very nice to these dissidents, and he already served more than 10 years in a prison camp, and I hope that he can become a free man again. Thank you.

Mr. SMITH OF NEW JERSEY. Thank you. Again, thank you so much for your testimony.

Members will have 5 legislative days to submit any statements they would like for the record. And, again, your full statements will be made part of the record. We greatly appreciate it.

The hearing is adjourned.

[Whereupon, at 12:42 p.m., the Committee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE JOSEPH CROWLEY, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEW YORK

Members of this Committee and of this Congress have gone on record strongly opposing China's one-child policy. I am one of those members. The case of Mao Hengfeng, as detailed by Amnesty International, sadly serves as further evidence supporting this point. China's one-child policy and the resultant torture, has no place in our world. It is why I am supportive of ICPD, the Cairo Programme of Action, to help provide a better future for women around the world. It is also why I offered an amendment to this Committee to provide US funding for the United Nations Population Fund (UNFPA).

Over the past 30 years, UNFPA has provided assistance to more than 160 countries for voluntary family planning and maternal and child health care. Make no mistake, this is needed assistance. Nearly 600,000 women die each year from causes related to pregnancy. Ninety-nine percent of these women are in developing countries. Many of these deaths could be prevented by providing women with the means or information to choose the size and spacing of their families. Many of the atrocities, like the case of Mao Hengfeng, could potentially be avoided through the work of UNFPA. In fact, in Chinese counties with a UNFPA presence, Chinese government birth quotas have been eliminated. It is the Chinese women who live in the counties where UNFPA is not who sadly are the most negatively impacted by this barbaric one-child policy.

The message is clear—in China, and around the world, UNFPA programs work to eliminate coercive practices that hurt women, children, and families. I thank the Committee and the organizations for their work to protect women from the one-child policy, a policy that clearly needs to end. And I thank my fellow UNFPA supporters for their work to protect the programs do just that.

US House of Representatives: Committee on International Relations
“China: Human Rights Violations and Coercion in One Child Policy Enforcement”
December 14, 2004

Submission by Human Rights in China

I. Introduction

Since 1978 when China implemented “open and reform” it has continued to integrate into the international community and become a stronger global economic and political power. This increased international clout has sidelined human rights abuses and violations. While there have been some advancements and improvements in some areas, the human rights situation remains serious, reflecting policy, structural and systemic problems. Human Rights in China (“HRIC”) therefore appreciates this opportunity to comment on abuses that have resulted from the so-called “one-child policy” within the broader context of abuses of the right to health and other international human rights in China.

In this submission, HRIC will lay out the general background of the one-child policy in China and the case of Mao Hengfeng, an activist currently serving 18 months of reeducation through labor (“RTL”) who has recently been subjected to ill-treatment in detention. HRIC will then propose some recommendations.

HRIC is an international, non-governmental organization (NGO) founded by Chinese scientists and scholars in March 1989. Our mission is to promote universally recognized human rights and advance the institutional protection of those rights as a fundamental parameter of China’s social and political transformation. HRIC works to measure, monitor, and promote the implementation of those rights in China, with a special focus on vulnerable groups such as women, workers, ethnic minorities, children, and migrants. HRIC also seeks to facilitate international cooperation on human rights and global governance by working with governments, bilateral and multilateral processes.¹

II. China’s Population Policy

China has one of the world’s most stringent population control policies. When it initially introduced a national family planning policy in the 1970s, the Chinese government instituted a “later-longer-fewer” campaign to promote later marriages, longer intervals between children and fewer children as its principles. In 1979, the policy was tightened over concerns that even an average of two children would lead to destabilizing growth. Despite its propagation at a national level, the policy’s implementation at regional and local levels led to variations from region to region. Flexibility was also advised where a parent or first child is handicapped, for overseas Chinese, national minorities, those in hazardous occupations, and for couples who were both only children or for men whose brothers were all infertile. Generally, however, the policy limited urban couples to one child, with a two or three child policy in some rural areas, and used a variety of incentives and penalties as means of enforcement.

¹ HRIC’s English language website can be accessed at www.hrchina.org.

In the 1980s political pressure to achieve population targets, and lack of coherent legislation, led to numerous instances of forced abortions and forced sterilizations in some areas, impacting women's fundamental right to autonomy over her own body. It was in this context that Mao Hengfeng, a factory worker in Shanghai, became pregnant for a second time in 1988. Mao's case demonstrates some of the most extreme aspects of the one-child policy as it existed in the 1980s: her factory managers wanted her to have an abortion, and when she resisted, she was bound and taken to a psychiatric hospital. Despite this abuse, Mao had her second child and was dismissed from her job. Mao Hengfeng took the case to the Shanghai municipal labor and arbitration committee which ruled that Mao's dismissal was in contravention of the Labor Law and ordered that she be reinstated. The factory appealed the ruling to the Shanghai Yangpu District Court. The just in that case reportedly offered to rule in her favor if she was willing to have an abortion. Mao subsequently had an abortion, but the court ruled against her anyway, stating that because Mao had contravened China's family planning policy, the factory had a right to dismiss her. Mao Hengfeng subsequently embarked on a fifteen-year struggle for the right to work, frequently petitioning the government on that subject. During that time, she has been detained several times by the police, and her daughters have also reportedly been detained and questioned about who is assisting her with her petitions. In April 2004, the Shanghai Municipal Public Security Bureau sentenced Mao to 18 months of RTL, reportedly for "making trouble." RTL is a sentence which can be imposed by the police without trial. After her monthly welfare assistance payment of 290 *yuan* was terminated for the duration of her sentence, Mao sued the authorities for its reinstatement, but the District Court ruled against her in a hearing on November 18, 2004. According to HRIC's sources, while in detention Mao has been subjected to physical abuse on more than one occasion, including being suspended from the ceiling and beaten, and police are alleged to have assigned two other detainees to monitor her activities in detention.²

III. Recent Developments

The Law on Population and Family Planning was passed in 2001³ in an effort to address abuses by local family planning workers that are still reported to a lesser extent today.⁴ These abuses, such as Mao's job dismissal due to an out of plan birth and other cases of coercive practices led to international criticism, most notably by the US government, and in 1994 the UNFPA also withdrew its funding to China for four years. Even the Chinese government grew increasingly concerned over the consequences of the policy, including a rapidly aging population and a skewed sex-ratio.

The new law bans practices such as abandonment, infanticide, and the use of physical force or the confiscation of property as a means of enforcing the policy. The law also replaces the fines that had once been levied for out-of-plan births and implements instead a "social compensation fee." The fee and payment schedule for couples that have out-of-plan births is based on average county income levels. Reports suggest that local officials exercise discretion and may allow reduced payments or even a complete waiver, dependent on family need. Although the use of coercion

² See HRIC Press Release, *Family Planning Opponent Subjected to Further Abuse*, November 24, 2004, available at <http://www.hrichina.org/public/contents/press?revision%5fid=j18765&item%5fid=18764>.

³ The Chinese text and an English translation can be found at <http://www.cecc.gov/pages/newLaws/familyPlanningLaw.php> and <http://www.cecc.gov/pages/roundtables/092302/winklerLaw.php>, respectively.

⁴ For a recent article discussing the wider impact of the policy on women and women's rights in China, see Si-Si Liu, *Where Have All the Young Girls Gone?*, China Rights Forum No. 4, 2004, available at www.hrichina.org.

under the family planning law has been decreasing, whether the new law has the potential to reduce abuse depends on its actual implementation.⁵

The new family planning law should also be viewed within the context of wider legal reforms in China, including amendments to the Constitution that state that the government “respects and protects human rights” in Article 33. The de jure reform of these laws and in the Constitution do not, however, ensure that human rights are being adequately protected in practice to avoid the indirect effects of the policy, including sex-selective abortion that adds to an increasingly skewed sex ratio, abandonment of female infants and the concealment of female children. De facto change will depend on actual implementation, change in cultural attitudes and health and education policies that empower women.

IV. Recommendations

1. *Human Rights and Family Planning*: HRIC recognizes the importance for all states to implement responsible social planning for sustainable growth, but these policies must be designed and implemented in compliance with their international legal obligations. Coercive practices that have been documented in China violate fundamental human rights of health, choice, physical autonomy, and the right to be free from physical abuse, and also perpetuate gender discrimination.
2. *International law and international standards*: HRIC urges the international community to hold China to the international commitments that it has itself signed onto:
 - *The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*: As a state party to CEDAW,⁶ China is obligated not to implement any policy that contradicts the principles of the convention and take necessary steps within its jurisdiction to make the principles a reality. The principles include the elimination of discrimination against women in the field of health care and other areas.
 - *International Covenant on Economic, Social and Cultural Rights (ICESCR)*: As a state party to the ICESCR,⁷ China is obligated to ensure that all rights enshrined in the convention, including the rights to health and equal status at work, are available to men and women equally, and that people are not discriminated against due to their gender or birth status. States are required to address the protection of these rights through all appropriate means, which are not limited to formal legal enactments.
 - *The Beijing Platform For Action (BPFA)*: As a government committed to implementing the BPFA, China is obligated to achieve the objectives outlined, including taking integrated measures to prevent and eliminate violence against women.
 - *The International Conference on Population and Development (ICPD)*: As a participant in the ICPD and having endorsed the Cairo Program of Action, China must implement policies which affirm that women have rights to reproductive health and health care, and

⁵ For another discussion of the potential impact of the new law, see, e.g., Edwin A. Winckler, *Positive Recent Developments in Chinese Reproductive Policy*, Revision of statement prepared for a Roundtable on Women’s Rights and China’s New Family Planning Law, Congressional-Executive Commission on China, Monday 23 September, 2002, available at <http://www.cecc.gov/pages/roundtables/092302/wincklerindex.php>.

⁶ China signed the convention on July 17, 1980, and ratified on November 8, 1980.

⁷ China signed the convention on October 27, 1997 and ratified on March 27, 2001.

the right to make free and responsible decisions on an equal basis with their spouses whether or not to have children. The ICPD affirms that individuals have the right to “attain the highest standard of sexual and reproductive health . . . [and the] right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents.”

3. *Supporting Civil Society Spaces:* There is a growing civil society in China that has been especially active in the areas of labor, the environment and health advocacy and organizing. HRIC urges the US government to fully use its leverage with the Chinese government to promote greater room for those civil society actors in China. This leverage should include more effective use of the bilateral dialogues, technical cooperation, and capacity building programs, which should be tied to transparent human rights benchmarks.⁸
4. *Support for international programs:* The US government has been an outspoken critic of Chinese population-control policies. The concern over such abusive practices has resulted in the halting of US funding for the United Nations Population Fund (UNFPA) for fear that its programs in China included involvement with coercive Chinese government policies.⁹ In 1994, the UNFPA itself withdrew its funding of China programs due to similar concern, but resumed in 1998 through pilot projects throughout the country that seek to move China away from coercion. Despite the May 2002 independent US State Department team’s recommendation that UNFPA funding be reinstated after finding no evidence of UNFPA involvement in coercive abortion or involuntary sterilization in China, fears have remained and funding was again withheld this year.

HRIC urges the US government to reassess its position on the UNFPA within a broader policy framework which includes the following factors:

- Whether the UNFPA program in China helps to reduce coercive practices;¹⁰
- Continued rigorous monitoring of UNFPA’s work in China to ensure that no funds are used in any aspect of China’s policy that results in rights abuse;
- An expansion of the program to regions in China that currently have no access to the UNFPA’s programs that seek to eliminate quotas; and
- Conditionality of funds to address US concerns.

⁸ See also HRIC’s submission to the US Commission on International Religious Freedom: China Forum 2004, *Talking With China about Human Rights: Assessing the Future of Bilateral Human Rights Dialogues*, November 9, 2004, at <http://www.hrichina.org/public/contents/article?revision%5fid=18643&item%5fid=18642>; and *Preliminary Assessment of the EU/China Human Rights Dialogue*, developed by HRIC and the International Federation for Human Rights (FIDH), at <http://www.hrichina.org/fs/view/downloadables/pdf/downloadable-resources/rt2-Incorporating6.2004.pdf>.

⁹ Halting the funding for the UNFPA was based on the 1985 Kemp-Kasten Amendment that bars funding for any group that “supports or participates in the management of a program of coercive abortion or involuntary sterilization.”

¹⁰ It is suggested that China’s \$3 million project in China that focuses on volunteerism has helped to reduce the abortion rate from 24 percent to 10 percent in areas it serves by educating women about contraceptives. Reuters, October 2, 2004. Available at <http://www.philly.com/mla/inquirer/news/nation/9814891.htm?1c>

