

The Interplay Between Traditional Asian Values and Women's Rights in China

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East Asia – July 2024



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INTRODUCTION

The intersection of traditional Asian values and human rights has long been a pivotal issue in socio-political discourse, particularly in rapidly transforming nations like China. Rooted deeply in Confucian ideals, Chinese society has historically been shaped by values emphasising hierarchical order and familial roles.¹ Recently, China's demographic crisis, characterised by a declining birth rate and an ageing population, has prompted a dramatic policy shift. The government's recent emphasis on encouraging women to adopt domestic roles in order to boost population growth marks a significant departure from the progress made in gender equality over recent decades.²

This policy reversal highlights a profound conflict between the demographic needs of an ageing nation and the advancements in women's rights. By prioritising traditional family roles over gender equality, the Chinese government is not only challenging the strides made towards gender equality but also reaffirming the enduring influence of Confucian values on state policy. This re-emergence of conservative family policies, framed as essential for national stability, raises critical concerns about the future trajectory of women's rights in China.

This report delves into the complex interplay between traditional Asian values and women's rights in China, examining how recent policy shifts align with or challenge the country's international human rights obligations. By analysing this policy reversal in the context of international human rights law and considering the international community's responses, this report aims to shed light on the tension between preserving cultural traditions and advancing gender equality. Through this examination, the study contributes to a broader understanding of how nations with deep-rooted cultural traditions can navigate the balance between demographic needs and gender equality in a globalised world.

¹ Haiyan Gao, Peng Wang, and Tony Tam, "Chinese Social Value Change and Its Relevant Factors: An Age-Period-Cohort Effect Analysis" (2024) 11 *Journal of Chinese Sociology* 7.

² Maya Wang, "Xi vs. She: China's Government Wants Women to Return to Domesticity, but It's Already Too Late" (2023) Human Rights Watch.

1. Background and Context

1.1 Defining Traditional Asian Values

Traditional Asian values, deeply rooted in Confucianism and other philosophical traditions, have significantly shaped the social, cultural, and political landscapes of East Asian societies, including China.³ These values emphasise communal harmony, respect for authority, filial piety, and the preservation of hierarchical social structures.⁴ In this context, individual rights are often considered secondary to the collective well-being, with an emphasis on social stability and familial responsibilities.⁵

Confucianism, which has been the dominant ethical framework in China for over two millennia, promotes a societal order where each individual has a defined role.⁶ This hierarchical approach extends from the family unit to the state, reinforcing a governance model that prioritises moral duty and social harmony over individual autonomy.⁷ The values derived from Confucianism advocate for a clear division of roles within society, where the family is seen as the cornerstone of social order, and the ruler is viewed as a paternal figure responsible for the welfare of the people.⁸

1.2 The Bangkok Declaration and the Asian Values Discourse

The debate surrounding traditional Asian values and their relationship to international human rights gained significant traction in the early 1990s, particularly with the adoption of the Bangkok Declaration in 1993. The Bangkok Declaration, issued by Asian states ahead of the World Conference on Human Rights in Vienna, articulated a regional perspective on human rights that emphasised the importance of cultural context, economic development, and social stability.⁹

The Declaration highlighted the view that human rights should be interpreted in light of a country's historical, cultural, and religious backgrounds, a stance that reflects the Asian values discourse. This perspective challenges the universality of human rights, arguing instead for a more culturally relativist approach that prioritises the collective over the individual. The Bangkok Declaration affirmed the commitment of Asian states to human rights, but it also underscored the need to consider these rights within the framework of regional and national specificities.¹⁰

³ Hoang Thi Ha, "The Global Civilisation Initiative: Are "Asian Values" Back with a Chinese Vengeance?" (2023) Fulcrum.

⁴ *Ibid*

⁵ *Ibid*

⁶ Quansheng Zhao, "The Influence of Confucianism on Chinese Politics and Foreign Policy" (2018) Asian Education and Development Studies.

⁷ *Ibid*

⁸ *Ibid*

⁹ Todd Eric Myers, "Asian Values Debate" (2011) D.K. Chatterjee (ed), Encyclopedia of Global Justice.

¹⁰ *Ibid.*

In China, the principles outlined in the Bangkok Declaration have resonated with the government's approach to human rights. Chinese leadership has often emphasised that the application of human rights must be consistent with the country's unique cultural and socio-economic conditions.¹¹ This view aligns with traditional Asian values, particularly the emphasis on social harmony and the collective good, which have been central to Chinese governance throughout history.

1.3 Historical Overview of Women's Rights in China

The history of women's rights in China is marked by significant fluctuations, shaped by cultural, political, and economic forces over centuries. Traditionally, Confucian ideals dominated Chinese society, espousing a patriarchal structure where women were expected to remain obedient to male authority figures throughout their lives, first to their fathers, then to their husbands, and finally to their sons.¹² This doctrine of "Three Obediences and Four Virtues"¹³ dictated that a woman's primary role was within the household, confined to domestic duties and child-rearing, with limited access to education or public life.

The early 20th century saw the beginnings of a shift, as the fall of the Qing Dynasty and the subsequent establishment of the Republic of China introduced ideas of modernisation and reform.¹⁴ The subject of women's rights gained more attention during this period, with movements advocating for greater gender equality, including access to education and the right to participate in the workforce.¹⁵ However, it was not until the founding of the People's Republic of China in 1949 that women's rights began to see more formal and extensive advancements. Under Mao Zedong, the Communist Party promoted gender equality as a fundamental aspect of socialist ideology, famously declaring that "women hold up half the sky."¹⁶ Policies were implemented to eradicate traditional practices such as foot binding¹⁷, encourage women's participation in the workforce, and promote their involvement in political life.

Despite these efforts, the reality of gender equality in China has been complex and often contradictory. While legal frameworks were established to protect women's rights, deep-seated cultural attitudes and economic policies often undermined these advances. The introduction of the One-Child Policy in 1979, for instance, while ostensibly gender-neutral,

¹¹ Michael C. Davis, "Human Rights in Asia: China and the Bangkok Declaration" (1996) 2 Buffalo Journal of International Law 1.

¹² Yuhui Li, "Women's Movement and Change of Women's Status in China" (2000) 1(1) Journal of International Women's Studies 30-40.

¹³ Xiongya Gao, 'Women Existing for Men: Confucianism and Social Injustice against Women in China' (2003) 10(3) Race, Gender & Class 114.

¹⁴ *Id* at 6.

¹⁵ *Id* at 6.

¹⁶ Xin Huang, "The Gender Legacy of the Mao Era: Women's Life Stories in Contemporary China" (2018) Albany: State University of New York Press 14.

¹⁷ Foot binding was a traditional practice in China where young girls' feet were tightly bound to alter their shape, making them small and arched. This practice, which began in the 10th century and persisted for nearly a thousand years, was considered a symbol of beauty and status. However, it severely restricted women's mobility and reinforced their dependence on men, limiting their social and economic roles. Foot binding exemplified the broader systemic oppression of women, as it prioritised male-defined aesthetics over women's health and autonomy. Antonia Malchik "The Neglected Consequences of foot-binding" (2020) The Atlantic.

had significant gendered consequences, including an exacerbation of son preference and gender imbalances due to sex-selective practices.¹⁸ The reforms of the late 20th century, which opened China to market forces, also introduced new challenges, as economic liberalisation sometimes resulted in the marginalisation of women in the workforce.¹⁹

1.4 Recent Demographic Trends and the Government's Policy Responses

China is currently facing a demographic crisis, characterised by an ageing population, a shrinking workforce, and a declining birth rate.²⁰ The One-Child Policy, implemented in 1979 and only recently relaxed, has contributed significantly to these challenges, resulting in a skewed gender ratio and a rapidly ageing society. By 2022, the country recorded its first population decline in decades, a trend that has sparked concern among policymakers about the long-term economic and social implications.²¹

In response to these demographic shifts, the Chinese government has reversed its strict family planning policies, first by introducing a Two-Child Policy in 2016 and then by further relaxing restrictions to allow three children per family in 2021.²² However, these policy changes have not produced the expected increase in birth rates, as many families, particularly in urban areas, continue to opt for fewer children due to economic pressures, changing social norms, and the high cost of raising children.²³

In light of these trends, the government has increasingly turned to policies that encourage women to return to traditional domestic roles.²⁴ This shift is part of a broader strategy to boost the birth rate and support the ageing population, but it has raised significant concerns about the impact on gender equality.²⁵ The emphasis on women's roles as mothers and homemakers threatens to roll back the progress made in women's rights over the past decades, highlighting the ongoing tension between demographic imperatives and the pursuit of gender equality.

¹⁸ *Id* at 6.

¹⁹ *Id* at 6.

²⁰ Chi Hung Kwan, "The Low Birthrate and Aging Population in China—A Comparison with Japan" (2022) Rieti.

²¹ Kelly Tang, Adrianna Zhang and Bo Gu, "Facing Demographic Crisis, China Pushes Women Back Into the Home" (2023) VOA.

²² *Id* at 13.

²³ *Id* at 13.

²⁴ *Id* at 2.

²⁵ *Id* at 2.

2. Asian Values, Women’s Rights and the Law

Rooted in deeply ingrained Asian values, particularly Confucian ideals that prioritise family unity and marital status, single women in China encounter significant gender inequality, especially in the realm of reproductive rights. These traditional values have shaped the legal and policy frameworks in ways that restrict the reproductive autonomy of unmarried women, thereby perpetuating societal biases and reinforcing gender disparities.

01 Constitutional and Legislative Frameworks

Article 25 of China’s Constitution²⁶ emphasises the importance of family planning as a national policy agenda, aligning population control with economic and social development. However, the Constitution lacks explicit provisions addressing reproductive rights, leaving gaps that are filled by laws steeped in traditional values.

The **Law of the People’s Republic of China on the Protection of Women’s Rights and Interests (PWRI)**, first enacted in 1992, introduced the concept of reproductive rights but with significant limitations. Article 47²⁷ of the PWRI states that “women have the right to bear children in accordance with relevant state regulations,” subtly reinforcing the notion that reproductive rights are contingent upon compliance with state policies, which often favour married couples. This law was later revised in 2022,²⁸ removing the phrase “in accordance with the provisions of the State,” but the impact on single women’s reproductive autonomy remains minimal due to other prevailing statutes.

02 Assisted Reproductive Technology (ART) and Fertility Preservation

The **Measures for the Administration of Assisted Reproductive Technology**²⁹ and the **Ethical Principles for Human Assisted Reproductive Technology and Human Sperm Bank**³⁰ further exemplify the influence of traditional values. These regulations restrict access to assisted reproductive technologies to married

²⁶ Constitution of the People’s Republic of China (1982), art 25.

²⁷ The Law of the People’s Republic of China on the Protection of Women’s Rights and Interests (1992), art 47.

²⁸ The Law of the People’s Republic of China on the Protection of Women’s Rights and Interests (2022).

²⁹ Measures for the Administration of Assisted Reproductive Technology’ (2001) Ministry of Health, People’s Republic of China.

³⁰ Ethical Principles for Human Assisted Reproductive Technology and Human Sperm Bank’ (2003) Ministry of Health, People’s Republic of China.

couples, preventing single women from utilising such services. For instance, sperm and oocyte preservation is only available to women who meet specific criteria, such as those undergoing cancer treatment, but even then, a marriage certificate is required. This limitation underscores the prioritisation of marital status over individual reproductive autonomy.

03 Judicial Restrictions and Case Law³¹

Judicial decisions in China have also reflected these cultural biases. An analysis of 206 legal cases involving single women’s reproductive rights, documented in the China Judgements Online database, reveals that courts have frequently ruled against single women seeking to exercise their reproductive rights.³² For example, in several cases, courts denied requests for childbearing insurance benefits and refused to sanction embryo transfers for widowed women, citing the absence of a marital relationship as a decisive factor. These rulings illustrate the judiciary’s alignment with traditional values that favour married couples and reinforce the societal expectation that women’s reproductive roles should be confined within the bounds of marriage.

04 Policy Restrictions and Social Welfare³³

In addition to legislative and judicial constraints, unmarried women face significant policy-related hurdles. For instance, extramarital childbirth is not covered under China’s childbearing insurance system, as demonstrated by the 2017 case of Ms. Zhang, an unmarried mother in Shanghai who was denied benefits.³⁴ The process of registering a child born out of wedlock also involves additional bureaucratic steps, further marginalising single mothers. These policy restrictions reflect a broader societal bias that privileges married women and conforms to traditional family structures, thereby limiting the reproductive rights and social welfare benefits available to single women.

³¹ Li T, Zheng L, Zhang J, Chen Q, “Obstacles to Exercising Reproductive Rights for Single Women in China and Legal Recommendations” (2023) 16 Risk Management and Healthcare Policy 2125. <https://wenshu.court.gov.cn/website/wenshu/181010CARHS5BS3C/index.html?https://wenshu.court.gov.cn/website/wenshu/181107ANFZ0BXS4/index.html?docId=ZWUIqLwQkQyrJzsgvN81BdXyv/ZqK4FlnS8dKx4gbvCrt4UX9sUKeZO3qNaLMqsJL5X//xJPIBrnxWUIRIW2CY6L7iGBBquUAazPhcV8jmwHTtYBI/Bnqf0ZIKp o6POb>

³² *Ibid*

³³ *Ibid*.

³⁴ Single moms can’t claim maternity benefits? Scholars: local rules go against the original purpose of maternity insurance; 2022. Available from: <https://www.toutiao.com/article/7131983753739502087/?wid=1671020430019>.

3. Government's Policy Reversal and its Implications:

The policy reversal encouraging women to embrace domestic roles comes in the wake of an alarming decline in China's birth rates. According to the National Health Commission, the country recorded only 9.56 million live births in 2022, marking a 10 percent drop from 2021 and the lowest figure since the onset of modern record-keeping.³⁵ The significance of this demographic shift is further underscored by the halving of marriage registrations over the past decade, with only 6.8 million couples getting married in 2022, the lowest level since official registries began in 1986.³⁶ In response to this demographic crisis, President Xi Jinping, addressing the 13th National Congress of Chinese Women, called for the cultivation of a new culture of marriage and childbearing, emphasising the need to strengthen guidance on young people's views towards family life and to implement fertility support policies aimed at improving the quality of population development.³⁷

This policy reversal reflects a deep-rooted adherence to traditional Asian values, which have historically prioritised the family unit as the cornerstone of social stability. In this context, women's roles have been traditionally confined to domestic spheres, where they are expected to prioritise motherhood and caregiving. The reinstatement of these ideals in contemporary policy is indicative of an effort to realign societal norms with these longstanding cultural imperatives, particularly as China faces the dual challenges of a declining population and an ageing society.

The immediate impact of this policy reversal on women's rights and gender equality is already manifesting in the reinforcement of traditional gender roles.³⁸ The emphasis on domesticity risks curtailing women's autonomy and opportunities for professional advancement, as societal expectations increasingly pressure women to prioritise family life over personal and career ambitions. This shift not only undermines decades of progress in gender equality but also perpetuates the structural inequalities that have historically limited women's participation in the public sphere.

In the long term, these policies could entrench gender disparities further, as women may find themselves increasingly marginalised in the workforce and subjected to heightened social pressures to conform to traditional family roles. The re-emphasis on marriage and childbearing as societal imperatives could also exacerbate the stigma against single women, particularly those who choose to remain childless or delay marriage. As a result, the policy reversal could lead to a broader societal regression in gender norms, with potential long-lasting implications for the advancement of women's rights in China.

³⁵ Kelly Tang, Adrianna Zhang and Bo Gu, "Facing Demographic Crisis, China Pushes Women Back Into the Home" (2023) VOA.

³⁶ *Ibid.*

³⁷ Maya Wang, "Xi vs. She: China's Government Wants Women to Return to Domesticity, but It's Already Too Late" (2023) Human Rights Watch.

³⁸ *Id* at 2.

4. Human Rights Law and Women's Rights

The recent policy reversal in China, which encourages women to embrace traditional domestic roles in response to declining birth rates, raises significant concerns under international human rights law. This policy shift, promoting a return to traditional gender roles, can potentially violate women's rights, particularly those guaranteed under international conventions to which China is a party.

4.1 International Human Rights Obligations

China's obligations under international human rights law are enshrined in various treaties and conventions. As a State Party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),³⁹ China is required to ensure gender equality and non-discrimination in all areas of life, including marriage, family life, and reproductive autonomy. CEDAW mandates that State Parties take all appropriate measures to eliminate discrimination against women. Specifically, Article 16 of CEDAW⁴⁰ asserts that women have the right to decide freely and responsibly on the number and spacing of their children. Additionally, the Universal Declaration of Human Rights (UDHR)⁴¹ and the International Covenant on Economic, Social and Cultural Rights (ICESCR),⁴² both ratified by China, affirm the rights to have a family and to work without gender-based discrimination.

4.2 Analysis of Policy Reversal

The recent policy reversal, which advocates for traditional domestic roles for women, appears to contravene China's international commitments. Encouraging women to prioritise domestic responsibilities and childbearing over professional and personal autonomy conflicts with the principles of CEDAW. This policy shift undermines Article 11 of CEDAW,⁴³ which obliges States to eliminate discrimination in employment and ensure equal opportunities for women. By reinforcing traditional stereotypes, the policy also contradicts Article 5(a) of CEDAW,⁴⁴ which requires States to modify social and cultural patterns perpetuating gender stereotypes. Furthermore, the policy may violate the principle of non-retrogression, which prohibits States from enacting measures that diminish the enjoyment of rights.

³⁹ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (adopted 18 December 1979, entered into force 3 September 1981) ratified by China 4 November 1980.

⁴⁰ *Ibid* art 16.

⁴¹ Universal Declaration of Human Rights (UDHR) (adopted 10 December 1948, entered into force 10 December 1948) ratified by China 28 September 1991.

⁴² International Covenant on Economic, Social and Cultural Rights (ICESCR) (adopted 16 December 1966, entered into force 3 January 1976) ratified by China 27 March 2001.

⁴³ *Id* at 26 Art 11.

⁴⁴ *Id* at 26 Art 5(a).

4.3 Potential Human Rights Violations

The policy reversal poses risks to several human rights guaranteed under international law. The promotion of traditional domestic roles could potentially push women out of the workforce and into unpaid domestic labour, violating Articles 7 and 23 of the UDHR⁴⁵ and Articles 6 and 7 of the ICESCR,⁴⁶ which guarantee the right to equality before the law and the right to work. Additionally, the policy could adversely affect women’s reproductive rights. Under Article 12 of CEDAW,⁴⁷ States must ensure women’s equal access to health care services, including family planning. The emphasis on childbearing may coerce women into reproductive choices they would not otherwise make, infringing upon their right to decide freely and responsibly on the number and spacing of their children, as outlined in Article 16 of CEDAW.⁴⁸

5. International Responses

CEDAW has expressed concerns about the applicability of the Convention within China’s national legal system, highlighting the need for integration of its provisions into domestic law. This includes amending or repealing legislative provisions that conflict with principles of equality. Recommendations focus on various areas, including:⁴⁹

1. Equal Pay and Employment Rights: Enforcing the principle of “equal pay for equal work” to close the gender pay gap and ensuring that women have the same opportunities in employment.
2. Reproductive Health and Rights: Strengthening women’s sexual and reproductive health rights (SRHR), including access to voluntary and rights-based family planning services and education.
3. Domestic Violence and Protection: Amending laws to extend protection against all forms of domestic violence, including economic violence and abuse by former partners.
4. Legal and Institutional Reforms: Enhancing monitoring mechanisms, improving access to confidential complaint mechanisms, and ensuring effective enforcement of laws against gender-based violence.
5. Education and Awareness: Integrating age-appropriate SRHR education into school curricula and raising awareness about new regulations concerning sexual harassment and cyberbullying.
6. Discrimination Against Marginalised Groups: Adopting measures to combat discrimination against LGBTI women and ensuring that transgender individuals can change their gender markers in identity documents without onerous requirements.

⁴⁵ *Id* at 28 Art 7 and 11.

⁴⁶ *Id* at 29 Art 6-7.

⁴⁷ *Id* at 26 Art 12.

⁴⁸ *Id* at 26 Art 16.

⁴⁹ Report of the Committee on the Elimination of Discrimination against Women on its eighty-fifth session, 8–26 May 2023, A/79/38.

The recommendations from CEDAW often stand in contrast to traditional Asian values, which may emphasise familial roles and gender norms that differ from international human rights perspectives. In China, these traditional values often influence policy and public attitudes, particularly regarding women's roles in family and society. The recent policy reversal promoting domestic roles for women aligns with such traditional values, prioritising family life and childbearing over professional and personal autonomy.

5.1 Implications of Policy Reversal⁵⁰

The policy shift encouraging women to embrace domestic roles raises potential human rights concerns:

1. **Gender Equality:** By promoting traditional gender roles, the policy undermines CEDAW's principles, particularly those ensuring women's equal participation in all aspects of life, including the workforce and public life. This is contrary to CEDAW's mandate to eliminate discrimination and promote gender equality.
2. **Reproductive Rights:** The emphasis on childbearing may pressure women into reproductive choices that undermine their autonomy, conflicting with CEDAW's provisions on reproductive rights and family planning.
3. **Impact on Marginalised Groups:** The policy reversal could disproportionately affect women from marginalised communities, reinforcing stereotypes and systemic discrimination, which CEDAW seeks to address through its recommendations.
4. **Long-Term Effects:** If implemented, the policy could perpetuate gender inequality and limit women's opportunities, contrary to international commitments to advance women's rights and promote equality.

⁵⁰ *Ibid.*

CONCLUSION

This research has examined the implications of recent policy reversals in China, which encourage traditional domestic roles for women in response to declining birth rates. It has highlighted how such policies intersect with international human rights obligations and local cultural values, particularly through the lens of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other relevant human rights instruments.

The analysis reveals a troubling disjunction between China's current policy direction and its international commitments. Despite the country's adherence to CEDAW and other treaties, the recent policy shift towards reinforcing traditional gender roles undermines progress towards gender equality. By promoting domesticity over professional and personal autonomy for women, these policies risk entrenching gender stereotypes and restricting women's rights to work and reproductive autonomy. This reversal not only contravenes the principles enshrined in CEDAW but also threatens to exacerbate existing inequalities, particularly concerning women's economic and social rights.

To address these challenges, several recommendations emerge. Policymakers must ensure that future policy decisions are closely aligned with international human rights standards. This involves reinforcing the legal framework to protect and promote gender equality, including integrating CEDAW's provisions into national legislation and ensuring their effective implementation. Policies should be designed to support both demographic goals and gender equality, recognising that empowering women and upholding their rights can contribute to a more balanced and inclusive society.

In conclusion, while addressing demographic challenges is a valid concern, it should not come at the expense of fundamental human rights and gender equality. By balancing these priorities, China can work towards policies that support sustainable population growth while also advancing women's rights and fostering a more equitable society.

LEGISLATION

Constitution of the People's Republic of China (1982), arts 25 and 47.

Ethical Principles for Human Assisted Reproductive Technology and Human Sperm Bank' (Ministry of Health, People's Republic of China, 2003)

Guidelines for the Oversight of Human Assisted Reproductive Technology (2001).

Law of the People's Republic of China on the Protection of Women's Rights and Interests (1992)

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