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## **Gender in China: cultural conditioning on its respect for human rights**

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Anna Buchardó Parra<sup>1</sup>

**Abstract:** This paper will address a tough topic. The powerful country of China has experienced a great deal of development through history, but it seems that it has forgotten to mature at the same level on topics relating to human rights. For this reason, being a Chinese girl and then a women-called leftover-can be meditated as a real challenge for human rights compliance and shall be considered as a demanding task from the perspective of the Law. This could be a great opportunity to change some views or at least to present a scenario from too long ago where human rights are called into question.

**Keywords:** Human Rights; China; girls; Chinese Women; right to live; right to marry.

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### Introduction

Once upon a time, there was a land where pregnant women could not rejoice at the prospect of parenthood without worrying about the unknown gender of the baby. If the child were a girl, opportunities in life would be fewer than those for boys, and her future would remain uncertain. There, the four deadliest words in the world could be: it is a girl.

Marta Nussbaum or Amartya Sen (Sen, 2001; Nussbaum, 2007) have said that place of birth determines your chances of survival and choices in life. And as an example of this scenario, China, a rapidly developing country with a population of over 1.4 billion, is a long way away from eradicating these inequalities, as its human rights situation testifies (Ramiro Avilès, 2010) and as in 2022 China's ranking in the World Economic Forum's Global Gender Gap Index was 102 among 146<sup>2</sup>.

Nowadays, it constitutes a common place to assert that human rights obstacles to their effectivity are mostly practical in nature. That is how the vast majority of states, and the case of China won't be a different one, have legally recognized human rights even specifically for some groups socially considered on a more vulnerable situation. But it is also true that some other factors

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<sup>2</sup>WORLD ECONOMIC FORUM, *Global Gender Gap Report*, July 2022. Available at: [https://www3.weforum.org/docs/WEF\\_GGGR\\_2022.pdf](https://www3.weforum.org/docs/WEF_GGGR_2022.pdf) (last visited: 31/11/22).

well-known as the culture, traditions, economy, politics among others, could build a huge barrier to get to their realization in practice.

When a male is born, they sway him in the crib,  
covered with rich clothes, giving him as a toy, a jade sceptre.  
His powerful cry announces its strength: he will be the engine of the inheritance.

When a girl is born, they leave her in the crib,  
on the ground, dressed in nappies, giving her as a toy a spindle.

Luxury items will not be for her.

Responsible for meals and drinks.

Without causing problems to her parents<sup>3</sup>

Yet the Chinese Constitution does provide formal recognition of human rights for its citizens while states an obligation for the state to respect and preserve human rights. As an example, one could look at article 33, where it is said that everyone is equal, regardless of gender or any other condition. And, as such

“Every citizen enjoys the rights and at the same time must perform the duties prescribed by the Constitution and the law. The state respects and preserves human rights.” (Constitution of China, 1982)

Following the lines of the Fundamental Norm, if now we look at the regulation concerning women, article 48 asserts that in every sphere of life they enjoy equivalent rights with men as according to the letter of this provision:

“Women in the People's Republic of China enjoy equal rights with men in all spheres of life, political, economic, cultural and social, and family life. The state protects the rights and interests of women (...).”

Article 49 in fine makes further progress on the topic addressed in this study. First when it comes to stipulate that parents have the duty to look at and educate their children until they are

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<sup>3</sup>Ode 189 of the Shih Ching book from the 689 B.C.

adults making no difference again between a girl and a boy born and stating that when they grow up, they both would have the duty to assist their parents. Second, when it calls for the freedom of marriage as its non-respect is forbidden. Besides, mother and child are protected by the state as maltreatment of them is also ruled-out.

So, the truth is, that is nothing new to say that in most cases, having a formal recognition of human rights brings no effectivity for rights in practice. But, in the case of China, there's something more that we should be aware of when examining this lack.

That is how, for instance, according to the emphasis placed on duties in other articles in the Chinese Constitution, we soon realise that every right is assured in so far that the Chinese citizens accomplish their duties. Duties that must be performed above all in the best interests of the motherland, whom security and honour cannot be harmed in any case. But, as we will consider further on this paper, being deprived of the liberty to survive depending on your gender, seems to be a clear symptom of underdevelopment on a country which is a world economic power.

So how does the balance between rights and duties operate if the child is born female? What about this equilibrium between traditions, culture...and the Law? The following sections will

address how the reality of being born a girl in China and being, if permitted, a woman, really is.

### **First label in life: What if it is a girl?**

It is often said that women make up most of the world's population. In Europe and the US, the gender ratio is around 1.05 or 1.06 of women to men (Sen, 2002). But as Amartya Sen pointed out, the gap across Asia is caused by female feticide and infanticide. These girls simply don't exist, and their lives do not matter in comparison to the value placed on boys, who become men (Sen, 2010). Following the aforesaid, Muñoz asserts that "the cards are marked so that a girl won't be welcomed" (Muñoz, 2007).

Some interpretations of this demographic gap could be summarised as follows:

2.1. The patriarchal organization of society and some economic aspects.

Chinese society has always been known as patriarchally organised (Jaschok, Miers, 1994; Thornton, Hui-Sheng, 1994). If we take a look at the meaning of *patriarchal*, we may find that it means (Oxford English Dictionary, 2021):

-A system of society or government in which the father or eldest male is head of the family and descent is reckoned through the male line.

-A system of society or government in which men hold the power and women are largely excluded from it.

It's something rather obvious that in a society characterised by these factors, women have a difficult job if they want to be considered as any other male citizen (Liu, Zhao, 1994)<sup>4</sup>.

For instance, the institution of the dowry is well-known in China as a compensation for the woman, or a payment that the family do because they are handing over a daughter to marriage. A practice like this, makes it evident that woman is absolutely away of any kind of possibility to inherit a thing even if the dowry began as a way to transmit belongings from mother to daughter or a payment made by the groom's family for their loss of domestic care from their daughter (Campos Mansilla, 2010). This practice also is a burden for the woman's family that maybe not all families would be in conditions to afford- if they at first glance want to be held responsible for it-.

It has emerged as a tricky business, as when the girls are so young, they are entitled with a *retail price* fixed by their families. And, sometimes extortion, maltreatment and abuse are used to express the disconformity with the dowry given<sup>5</sup>. Unfortunately, this is not the only place in the world where this

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<sup>4</sup>Chinese ideology and ethics were built on patriarchy and man's domination and on the oppression and subordination of woman, characterized by the rules of "three obedience's and four virtues" (obedience to father before marriage, to husband after marriage, and to son after husband's death; morality, proper speech, modest manner, and diligent work).

<sup>5</sup>In India, more than 200.000 women have been murdered for this reason. See a recent case from 2022 at: <https://www.france24.com/en/live-news/20220607-death-of-three-sisters-spotlights-india-dowry-violence> (last visited: 20/1/23)

happens.

## 2.The assignment of culturally prescribed societal roles.

The son is the one that has the commitment of taking care of his parents when they get elderly. This is a crucial thing in China, where citizens don't have access to Social Security in the extent in Western countries, we may have access to. He is also the one entitled to do all the funerary rites that will ensure that their souls meet the other life, and he will be the one that perpetuates the name of the family too. There is an important cultural gap which has a negative impact on the social and family status of girls - and women - in Chinese society: it will be the son - not the daughter - who will have to take care of their parents as they grow older. This socially imposed obligation has a negative effect on the girl's family status and her right to equal opportunities - legally recognized in Chinese law and traditionally well-established in communist political models-. So, the son and not the daughter will be probably given a future to ensure his economic capacity when needed.

From the previous thoughts, we can conclude that a girl does not ensure the economic sustenance of her family's house. Further, she will be left to the domestic work and will rather imply an extra outlay for her family, and a loss of time caring about her activities to ensure that she does not tarnish the family's

reputation (Campos Mansilla, 2010).

Giving birth to a boy, on the contrary, will elevate the respect given to a woman by her husband's family. From that moment, she will have a place as a mother-in-law, in a hierarchically higher position, being able to perpetuate along with the husband who is his son, the domination of the woman that will be her future daughter in law. If she fails to bring a child into the world, her in-laws, could mistreat her, blaming her as an incomplete woman, and even inducing her to commit suicide<sup>6</sup>.

## 2.Abortion.

Having a daughter is seen as a problem. Terminating the pregnancy before birth appears for some to be the best and cheapest way to solve it and they even call it as the "solution to dowry". If not, as the Indian proverb says, for them, "raising a daughter is like watering your neighbour's garden". In so far that, the systems to detect in advance the baby's sex in China from the 90's have experimented an increase of a 3.300% and 97.7% of the abortions were girls (Manier, 2008).

### 2.1.The societal structure and public policy.

Some studies demonstrate that the likelihood of having an abortion is directly correlated to levels of education. If a woman

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<sup>6</sup>In fact, China is one of the few regions in the world where feminine suicide rates are higher than men. See more at: <https://datosmacro.expansion.com/demografia/mortalidad/causas-muerte/suicidio/china> (last visited: 20/1/23)

is more affluent, for the reasons described here, she is more likely to want a son than a daughter (Baldauf, 2006).

Public policy, and in particular the measures to reduce population growth introduced in the 1970s is another factor that has also impacted this context (Xueffeng, 2004). Since the one-child policy was relaxed in recent years the Chinese government was faced with the challenge of not being able to keep up with the economic growth targets. And the scarcity of women able to marry and reproduce can be identified as a key problem for the economic and developmental goals of the Chinese government. The evolution of the one-child policy consisted in authorising couples living in the city to have a second child if one of the members of the couple is a single child. Before, it required both to be so. This is part of a policy that seeks to ensure a long-term balanced development and was considered to bring two millions of children more each year. Some of the methods used by the Chinese government to guarantee the accomplishment with this policy have been an unaffordable fine – as a social compensation fee- and forced abortions or sterilizations<sup>7</sup> which were led to be unacceptable by the European Parliament following its official investigations.

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<sup>7</sup>European Parliament resolution of 14 March 2013 on *EU-China relations* (2012/2137(INI)), point 16 about the internal situation. See more at: [https://www.bbc.com/mundo/noticias/2015/10/151030\\_china\\_hijo\\_unico\\_consecuencias\\_men](https://www.bbc.com/mundo/noticias/2015/10/151030_china_hijo_unico_consecuencias_men) (last visited: 20/1/23)

Moreover, the end of the one-child policy (Xinran, 2011)<sup>8</sup> hasn't solved the problem (Hvistendahl, 2015) as it was not intended to better assure human basic rights but as a reaction to the aging of society as it has impacted negatively the economy (Thay, 2016). Consequently, since some years ago, the government is again taking an interest in population planning and management (Anand, 2015) and we'll see in the future where this brings the Chinese human rights to as they were not at the forefront of the previous policy nor at the avant-garde of the new ones.

These policies, however, also need to be assessed from a human rights perspective, giving as a result that for instance, since the traditional preference for boys, a large numbers of baby girls have ended up homeless, in orphanages, and sometimes killed. As such, in 2017, it was reported that in China 800,000 fetuses aborted were girls (Chao and others, 2019). And also, as a result of the increasing number of girls in orphanages, the Chinese government opened its international adoptions.

The documentary "The dying rooms" in 1995<sup>9</sup>, filmed with a hidden camera, shows the conditions in which these girls "lived"- we hope never more- in orphanages. Girls tied to

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<sup>8</sup>"Having more than one child means losing your job, your home, your entitlement to food and clothing, your child's entitlement to schooling and medical care and even your chance of finding new other work, as no one would dare employ you. Just because you had had that 'extra child', you and your family would forfeit absolutely everything".

<sup>9</sup>See it at [https://www.youtube.com/watch?v=zd\\_nptd2q0M](https://www.youtube.com/watch?v=zd_nptd2q0M) (last visited: 20/1/23).

benches, ‘older’ children taking care of the younger, tied to the bed, with weak bodies, malnourished, and in poor health conditions. Some girls were even abandoned in locked rooms by themselves. Besides, given the current gender imbalances, the Chinese State is again changing its policy and baby girls are now becoming harder to be adopted internationally.

What does the future look like?

“Where the Chinese women are prevented from appearing in any kind of social situations, it should be forbidden any sort of taste or feelings delicateness. The softness in the behaviour, the grace of an elegant conversation, the passions game and the love and friendship refinements (Spence, 1999)”.

From what can be considered as an optimistic point of view, some have argued that a lower presence of women, will make them more able to choose who they want to marry- attending at their preferences and interests-. And it may change the social norms in favour of women<sup>10</sup>. But it’s rather unexpected that the hard patriarchal organisation of the Chinese families would let them choose by their own who they want to get married with although their Constitution ensures their liberty to do so or not.

Furthermore, social changes. The ‘drought’ of women is said to be able to change some social patterns. Such as the acceptance of the divorce where the Government hasn’t been even thinking about making it legal. Besides, a new chance for the widow to

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<sup>10</sup>See more at:

<http://www.telegraph.co.uk/news/worldnews/asia/china/9780786/Chinas-brides-go-for-gold-as-their-dowries-get-bigger-and-bigger.html> and <http://qz.com/92267/in-a-reversal-of-the-dowry-chinese-men-pay-a-steep-price-for-their-brides/> . (last visited: 20/2/23).

marry again (Ge Wang, 2016). Traditionally, widows in China have been seen as the accountable of their husband's death, with no social value and bringing anyone at their side, bad omen. Then, although this change is positive, the possibility of getting a desired divorce or similar is reserved for those with the best economic capacity. The most common is still that women are expected to accept the destiny of mostly a beforehand compromised married life.

From a more pessimistic point of view, one may argue that we don't have to wait for the future to see evidence of the negative consequences that the implementation of that policy is causing. As a matter of fact, in the absence of enough women to marry, marriage has been transformed into a business, but one of adhesion- where everything is already fixed rather than something negotiated-. Due to the scarcity, more and more young girls are being converted into goods. Further, so long as a person is dehumanized as easy is to forget everything about his or her rights (Haworth, 2013). In other cases, they are abducted, violated or the victims of women trafficking. This could be just a case of this, among others that may have been silenced:

"Most respected Xinran, (...) I am writing to tell you a secret. It's not really a secret because everyone in the village knows. There is an old, crippled man of sixty who recently bought a young wife. The girl looks very young; I think she must have been kidnapped. This happens a lot around here, but many of the girls escape later. The old man is afraid his wife will run off, so he has tied a thick iron chain around her. Her waist has been rubbed raw by the heavy chain- the blood has seeped through her clothes-. I think it will kill her.

Please save her. Whatever you do, don't mention this on the radio. If the villagers find out, they'll drive my family away" (Xinran, 2003).

These previous considerations could be hard to be read as a considerable number of factors are called into question if things have to change from a human rights perspective. Nevertheless, being a girl in China is not easier or more respectful for her human rights than being a woman.

### **Second label in life: being a sheng-nu, the chinese Bridget Jones**

Manier (2008) asserted that women trade, girls trafficking, sexual abuse, rape, violations etc. have experimented an important increase in China. Due to the absence of women, needed for the progeny, many families that want to marry their sons, attend the "marriage market" in order to buy a wife or a little girl that they will rear as a good future bride. Even though before this was something that the society wanted to eliminate, nowadays it's seen as a suitable solution for the women's crisis that China is experimenting. Recently, more boys are joining the army to bear their frustrations, and some of them may be starting to see and to assume that the only way to behave with a woman is a violent way too.

"The peach tree flaunts its beautiful youth.  
Its flowers reverberate its splendour.  
These maidens will celebrate their weddings.  
Perfectly prepared as wives and to take care of home.

The peach tree flaunts its beautiful youth.  
 Its branches are riddled with fruit.  
 These maidens will celebrate their weddings.  
 Perfectly prepared as wives and to take care of home.  
 The peach tree flaunts its beautiful youth.  
 A green light brights from its dense foliage.  
 These maidens will celebrate their weddings.  
 Perfectly adapted to their new relatives<sup>11</sup>".

In some rural areas, little girls are bought and isolated from their families, taking advantage of their poverty. That means, no option for education and less life expectancy since immature pregnancy is the main factor of young girls' mortality.

However, one could say that the institution of the dowry is starting to be a positive issue for women- although it is prohibited, they "pay" it with televisions, fridges, cars etc, so they solve this legal obstacle-, as men now are the one's responsible to pay it. But nothing positive can be brought from this from a human rights perspective. That's because the dowry is just transformed into the price to pay for a wife, which would make her more submissive.

It is also of a primary relevance to say that China's laws against domestic violence are far to be adequate. As far as literally women are discouraged from reporting abuse while wives that decide to make it public are accused of "exposing family ugliness". Further, it seems that, in some cases, social institutions as the police, doctors etc. are failing in their basic

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<sup>11</sup>The *Glowing peach tree*,  
<http://lasvocesdejunuunay.blogspot.co.uk/2014/06/poesia-china-antigua-el-libro-de-las.html> (last visited: 20/1/23).

duties of care. Sometimes, police just labelled the abuses as purely family conflicts and they tell the couple to solve their differences peacefully (Hong Fincher, 2014)<sup>12</sup>.

Also, recent legal developments are in so far undermining women's property rights as, even though the Marriage Law, was enacted in 1980 as a better mean to guarantee the women's rights in marriage, divorce and property. However, it has been interpreted by the Chinese Supreme Court as if the marriages collapses, the woman can be left homeless- even if she has spent her savings and income financing the property also- as the properties belong to the person whose name is written on the property titles, before the family house was considered a joint property. And, since most of the times, men are those who provide that house, this is a circumstance that will likely affect just women (Tatlow, 2011).

### **The chinese Bridget Jones**

In a non-formal language, “Sheng-nu” is the name given to the women that having reached the age of 27 – for some is 30- are unmarried and considered too old to be desired, so presumably “leftover”. If we look at the data that the “All-China Women's

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<sup>12</sup>A husband who murdered his wife in 2009 after she had reported domestic violence to the police eight times was given a mere six-and-a-half-year prison sentence for “ill-treatment” of his wife. A 2013 UN study reported that 50% of Chinese men surveyed on intimate partner violence had physically or sexually abused their partner, and that 72% of Chinese rapists suffered no legal consequences.

Federation”- which is a government organisation founded in 1949 to defend women’s rights- collected in 2010, more than 90% of males said that these women should get married before they reach 27 if they don’t want to face the risk of being left alone.

But it’s not everything about men or government. Chinese women have a considerable space of action to achieve higher rates of equality and freedom to decide whether they want to marry or not. For instance, it’s not a positive asset that the “All-China Women’s Federation” has been in some sense aggressive in pushing into the stage the idea that urban women that remain unmarried when they reach 27, are leftover. And also, that,

“these women may have university degrees and thriving careers but in the eyes of much of the state-controlled media they are essentially worthless without husbands and children”.

So, it goes as further as it questions – in an article- if we should have any kind of sympathy to leftover women.

“Girls with an average or ugly appearance (...) hope to further their education in order to increase their competitiveness. The tragedy is they don't realise that, as women age, they are worth less and less, so by the time they get their MA or PhD, they are already old, like yellowed pearls” (Lovell, 2014).

The reality shows us that far from having too many women, China has too few. So, one could ask how any of these women could be leftover. As in a strict sense, it appears to be that the leftover are men. Additionally, the situation of the marriage institution for Chinese women is better now, as it is no longer the passport into adulthood. Before, there were no basic human

rights for a woman until she got married.

So, the question would be now, why to marry if they haven't found the right one?

The curious thing about it, is that as more educated women are, less likely they are to get married. As such, there's a modern joke about this situation that says: "there are three genders in China, women, men and women with a Ph.D.". So then, while men marry women, women in the third group don't marry anyone although it seemed that it was their fate (Larson, 2012).

### **The chinese marriage market**

In the 20th century, the idea of buying a wife may sound strange for any of us. But, in the absence of enough women to marry, more and more Chinese single men have used this mechanism to make sure that they achieve the socially expected from them, marriage. As a matter of fact, 18.000 millions of male Chinese, travel to Vietnam or Brunei and they pay up to 6.000 dollars if the future wife remains virgin, anyway, calling it to be also nice and a future loving wife with a year of guarantee in case she decides to escape<sup>13</sup>.

Vietnamese women are the most valued. For them, marrying a

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13A falta de mujeres, los chinos pagan hasta 6,000 dólares por una esposa, 2011. Available at: <http://expansion.mx/historias-extraordinarias/2011/09/13/a-falta-de-mujeres-chinos-pagan-hasta-6000-dolares-por-una-esposa-virgen>.

Chinese means a way to escape from the poverty of their country and from the low social level that the women have at it. And for Chinese men, Vietnamese women are easier to satisfy on their requirements to get married.

In Beijing, for instance, an average of 316,949 dollars are required to get a wife, as a report made by the Chinese website “Sonhu Jiaordian” says. The report considers: the approximate cost of an 80-metre squared house, the furniture expenditure, electrical appliance, car, wedding celebration, honeymoon- in Europe or Australia- and every spend money in the “infatuation” period.

At the same time, most of the marriages are carried out without the consent of the future wives, who are kidnapped from their families, forced to marry, maltreated and obliged to maintain sexual relations. Therefore, most of the wives try to escape after a while. This was the case in China, in the late August of 2013 reported by the “Xinhua” news agency. In Shuang Feng, a region which takes part of the province of Hunan, most of the male citizens were left without their “paid” wives. The wives, acquired each for 5.686 dollars, disappeared at the same time, and 50 husband were abandoned. The fact is that some has argued that this could be a strategy or some kind of agreement between the agency and the sold wives that would make them able to be re-sold, increasing the benefits of the transaction.

That's why the replacement guarantee was requested and may apply (Watson, 2015).

Following this arguments, it's interesting to take a look at the ideas that some intellectuals have had to solve this "women's crisis". The most surrealist idea that has been brought to be applied is probably the one that the Chinese economics' professor Xie Zuoshi suggested. He said that the problem with the scarcity of women was an economic one, so it had to have a monetary solution. On the one hand, he founded that the high-incomed men would have no problem in finding a bride to marry as they can afford the price. On the other hand, for him, Chinese poorest men should make groups and share their wives which would be a solution to the shortage but also more economically affordable for them. Moreover, the "affective" relationship of all men with these women won't be a problem neither, as if it cannot be solved legally, it would be solved illegally, he said (Xie, 2015). He has received many critics, as he was reinforcing misogyny in society, and the idea that women are objects. So, people that looked at his post, asked him whether he would like to share his wife.

### **A little revolution?**

As we have seen until this point, a single woman in China that reaches the age of 27-and before that we may guess that too- is often facing family pressure to get married. As a response to that situation and as an attempt to change the way unmarried women are considered by the society, the Japanese beauty Brand *SK-II* has made a new advertisement entitled “Marriage Market Takeover” that shows how their life could be if the society just allow them to be like they are (Chen, 2016).

It gets started with some images of young Chinese girls that seem happy in different situations of life: laughing, having fun, trying to achieve goals in life etc. Suddenly, all this change, the era of the “compulsory” marriage for women takes all the happiness away<sup>14</sup>. In this advert, the words “you are too picky”, “you are too stubborn” or “I won’t die in peace unless you get married” are said by the parents. Some comments make the daughters fall in tears as their parents say them. For instance:

“We have always thought that our daughter has a great personality. But she’s just average looking. That’s why she’s leftover”. While the words “people think that in Chinese society, an unmarried woman is incomplete” or “not being married is the biggest sign of disrespect to your family, I want to say sorry”

belong to their daughters.

In the meantime, the alleged as leftover, explain that some of them don’t feel like they need to marry anyone, as they are happy being single. Others say that they are just searching the

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<sup>14</sup>The advert of this campaign can be seen at: <https://www.youtube.com/watch?v=irfd74z52Cw&t=23s>

true love, while their parents look for just “suitable matches” for them. At this point, the video shows an example of “marriage market” where parents in some sense are selling their daughters, by posting resumes about their unmarried children, trying to attract compatible partners. The women in the advertisement, instead of hanging those typical profiles, hang pictures of themselves with personal messages. This messages may be considered as a little revolution that is just getting started, for instance: “I want to take my time to find the right person” or “I’m happy being alone”.

It is a fact that Chinese women are now more educated than ever, and they try harder not to get married by force. But are they doing it well? Is it for love or for money? Anyway, young women see themselves condemned to act like that, due to the way in which the society they live in functions. Nevertheless, the truth is that women are now more likely to have the opportunity to choose a potential groom that better fits their interests and expectations for life. But are those who can choose, doing it in a proper way? Let’s take a look at the example of a woman that took part of one of the Chinese most popular TV reality programmes “Don’t bother me”. When asked, Ma Nuo, 22-year-old model from Beijing, said “I would rather weep in a BMW than smile on the bicycle of my true love” (Wen, 2010).

The oldest women are starting to talk about this new generation

of Chinese women that deserve money and not love when choosing a partner. They say that for their generation material success was not that important, and they looked for the spiritual match for them. They claim how important for the social evolution of China was the enactment of the Marriage Law in the 1950s, which entitled them with the freedom to choose who they wanted to marry, and banned child marriages, bride prices, multiple wives, concubines etc. As an example, Hu Yongquan, 83-year-old man that was born in a wealthy family and had his first marriage arranged, took advantage of the law and he divorced from her and married the women he had always loved, who belonged to a merchant family. In the article, he explains that when their parents realized that they were dating each other, the woman's father even locked her up. But he told his father that this was a new society, and every one of us had the freedom to choose our life-long partner. They lived happily eventually (Wen, 2010).

However, the material success is part of our society nowadays, is what is expected from all of us no matter where we have been born or where we live. So, despite that those kind of affirmations can be rather seen as something we must avoid, they are quite regular.

Another way in which the current situation in China may be considered as a little revolution from the women's part is that

now, they are changing marriages for education and focusing on building stable, high-paying careers for themselves before they decide to settle down. This new generation is slowly forming the new normal for other women who feel the pressure to be married by a certain age with programs like “Plan B”. This is a guide with tips for single women who live under the pressure of having the conventional life established for them. It gives them advice to learn to be alone in a society that seems both afraid and reticent of their choice in life<sup>15</sup>.

Moreover, a new trend has arrived in China, and many women, afraid of the reaction of their parents when they came back home and were asked about marrying, are “renting” a boyfriend. The rates go from 1,000 yuan to 10,000 and the “rental companies” apply an additional charge if the fake boyfriend is expected to be involved in romantic activities such as cuddles or hand holding. The advert states

“New Year back home, no longer afraid of gossip, regardless of your eight aunts. Why are you still hesitating? Hurry over to order a fit for your boyfriend now” (Awford, 2015).

Although this can seem to have a positive part as it relieves women of the burden of giving explanations about their emotional life, it is also a sample of the severity of the problem for them. And of course, on the rear it may prompt some sort of scepticism for those believing that not everything can be sold

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<sup>15</sup>See more in <http://www.economist.com/news/asia/21659768-more-women-ditch-or-delay-marriage-men-tie-themselves-knots-i-dont>

and bought.

### **Recent considerations on China's girls and women human rights situation**

For too long have the treaties on human rights been considered just from the perspective of the rights that they respect, protect and guarantee. Notwithstanding the convenience of that consideration, recently it has been regarded a new important point of view to analyse them, which is the standpoint comprising the obligations for states arising from their act of ratification.

In this sense, China has ratified the main Treaties on human rights, ironically it did ratify the first, the treaty that seeks to eliminate all forms of discrimination on women, but the international community cannot allow this recognition from China as being sufficient. That because accepting to become a part of a treaty, should not be a way to receive congratulations for empty gestures on human rights (Huawen, 2008).

That is how China is obliged to adopt all measures that are appropriate and necessary to make human rights recognised on the documents that it has ratified to be a reality. Moreover, a reality without any ground of discrimination allowed, more than those cases where it is needed to make a distinction between

different things, and this is objectively justified. Always bearing in mind that one thing is being different, and another completely reverse, is being unequal.

The situation in China is still tough and the sex imbalance has led to many violations of the human rights of women and girls just for the sake of giving the Chinese men a bride to marry or for the state of China to reach its economic goals. As such, many women are being sold with the false promise of gaining a job if they go to China. Then they are forced to suffer from sexual slavery for years and are sold to Chinese families as brides (Human Rights Watch, 2020). Of course, it is a matter outside this study to analyse whether this situation is different for girls and women with a disability, who are in fact discriminated twice. And as such, it seems that their destiny may be even worse.

As a part of the fundamental Treaties on human rights, China is subject to periodic reviews on its progress in the implementation of this documents that has ratified. That is how, as the Treaty body entitled to verify the conformity of China's behaviour with the Convention on the Elimination of All Forms of Discrimination against Women, the Committee on the Elimination of Discrimination against Women, in 2006, was already regretting China that a major problem to analyse its human rights' situation and to be able to react, was the lack of

sufficient data provided, disaggregated by sex and de facto information about the situation of women in China. It also stated by then, that it again needed to recall China to develop capacity to understand what substantive equality is, and the meaning of non-discrimination as required by the Convention. Besides that, China had to include a definition of what discrimination against women is in its domestic law in line with the Convention that it has ratified (CEDAW, 2006, par.2 and 10).

Some years after that, in 2013, the Committee on the Rights of the Child, recommended China to review its secrecy laws to ensure that data about children involved in cases of violence, infanticide etc. was properly collected and made publicly available, discussed and used to develop further policies on children's rights. It also urged China to take effective action to give an end to social, cultural and economic discrimination against girls and women, including the assessment of those factors that reinforce the cultural patterns and practices that discriminate girls. All of them, found contrary to the provisions of the Convention ratified. Moreover, China had to investigate and ensure the accountability of the perpetrators of abductions and unlawful adoptions of children, including from "orphanages" and hospitals (Committee on the Rights of the Child, CRC:2013, par.15, 27, and 56). It seemed then, that seven years had been a period without not much change on this

grounds.

In 2018, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, regarding equality and non-discrimination, were still concerned about the deep-rooted stereotypes regarding the roles of women and men in family and in the society. Which was reflected by the ongoing tradition of the son preference, the forced abortion, sterilization and infanticide of girls that had resulted in a sex imbalance in the country. Secondly, the concluding observations showed a deep unease about the absence of an anti-trafficking legislation and the way in which the domestic law had not clarified if it criminalized all forms of trafficking, including for sexual exploitation, forced marriage, illegal adoption and others. Thirdly, thousands of children were estimated to be abducted, trafficked and sold every year and their families coerced to give up children born outside the birth quota and sell them. Also, a high prevalence of sexual exploitation, rape and abuse of children was a major concern (Human Rights Council, 2018a: par.13, 33 and 52).

The end of 2018 gave us a report from the Human Rights Council, including the recommendations that China had to follow. They might be considered as old friends to us. First, China needs to develop a legal definition of what discrimination is to enhance equality between men and women. Second, it must

undertake the appropriate measures to tackle gender-based discrimination and violence. Third, China has to intensify its efforts to completely ensure the rights of women and children and to implement its international human rights commitments especially regarding them. In this case, considerations made by China are included and it states that it has committed to building and improving its legal system to protect human rights. And, that it has done it developing a path of human rights with Chinese characteristics (Human Rights Council, 2018b: par.7).

It is clear then that Chinese development on the economic matters has not encompassed the same deal of development on the realisation of human rights. It seems to have the same problems although its efforts to show evolution by enacting more laws. But as a matter of fact, having a law that protects human rights does not entail its effectiveness in practice. Besides, the legal obligations of China arising from its human rights' international commitments are not exhausted by adopting new legislation but on the contrary, they entail any adequate measure to ensure the respect, protection and realisation of human rights. As such:

“The Chinese government’s attack on the international human rights system must be resisted. Now is the time to take a stand. Decades of progress on human rights are at stake (...)” (Human Rights Watch, 2020: 19).

### **Final reflections**

At this point, it can seem quite logical to assert that there is not a unique factor to be held responsible for the human right's situation of girls and women in China. But it must be said that a considerable part of this ingredients is fuelled by cultural beliefs and the economic necessity of families. And this, prompt to some social conceptions about what is to be a girl or a woman in this society. Interpretations which are absolutely affecting the way in which they have the possibility to live on equal opportunities and full respect of even their fundamental and basic rights and also give rise to different forms of violence against them.

Furthermore, and strictly following the legal framework established by the Chinese government, we could consider that:

First, women have the same rights as men, and deserve a special protection, either as girls or as women. It's the obligation of the state to provide them with this additional security level. Second, no marriage can be performed without the free election of the parties, always as a monogamic relationship agreement and no marriage can rely on an arbitrary decision of a third party, this is prohibited. Third, receiving money from the marriage agreement, is prohibited where also bigamy, family violence and maltreatment are forbidden. Fourth, marriage must be based in the wish of both the bride and the groom to marry, and no one

can be compelled to celebrate it. No third party can interfere in this free decision. Fifth, no marriage shouldn't be celebrated between a man of less than 22 years old and a woman with less than 20 years old. It will depend on the case but late marriage and maternity, should be encouraged and the wife can become a part of his husband's family or in the other way, as they agree it. However, this is just the formal sphere, as we have seen, and the women's situation in China is far to be good in any perspective as human rights seem to still have gender there. Besides, one strong factor is tradition and culture, but no one can think that it's fair to maintain a tradition where there's no place for a future for women. As Mao Tse-tung said, women are "the other half of the sky and they have the other half of the world on one hand". And this is a phrase brought here not in the sense he used to use it as he was referring to yin-yang, -as this philosophical idea would get us to think that women and men are contrary forces- but in the sense of being complementary, interconnected, and interdependent in the natural world, and how they give rise to each other as they interrelate to one another.

As the video about the "dying rooms" was necessary to make the rest of the world know what was really happening with Chinese girls, now the video about the "marriage market takeover" has again made us open our eyes wider. All in all, we realised that, unfortunately, little has changed for the girls and

now women in China. Let's think that the international community won't have to wait for another video showing such a serious violation of the human rights to react.

It's true that human rights are universal, but as far as the international framework gives states a wide margin on the decision about the means they want to use to realise them, we know that they are not the same in every place. So, human rights are in essence universal in its formal recognition but universalizable in its material effectiveness and this constitutes an example of this.

Everyone talks now about the unsustainable sex imbalance in China, but what everyone might be missing is that the lack of balance nowadays between women and men has its roots in millions of baby girls who once died because of discrimination against women. So, are the economic growth and the developmental goals of the Chinese government sufficient to control and change how Chinese women want to live their lives? Are those aims a suitable excuse to violate human rights of its citizens? We have seen how deep and heavy the situation for a girl, or a woman can be, and even if some changes are starting to fight against it, we need to keep on going as the main conclusion of this paper is that China is violating its human rights obligations concerning girls and women.

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