

Exploring ‘Glorious Motherhood’ in Chinese Abortion Law and Policy

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Abstract Currently, abortion can be lawfully performed in China at any gestational stage for a wide range of social and medical reasons. I critically explore the Chinese regulatory model of abortion in order to examine its practical effects on women. Although I focus on the post-Maoist abortion law, I also analyse the imperial Confucianism-dominated regulation and the Maoist ban on abortion in order to scrutinise the emergence of the notion of ‘glorious motherhood’. By examining how ‘glorious motherhood’ is constructed and reinforced in the Chinese family planning context, I argue that the post-Maoist government intentionally made abortion ‘law in the books’ unrestrictive in order to impose its control over female fertility. As a result of this, women are persuaded and even forced to lead a ‘glorious’ maternal life, which means sacrificing themselves for the purpose of achieving the state’s Malthusian and eugenic demographic goals. Furthermore, I argue that, in addition to exacerbating gender oppression, abortion law’s embrace of the idea of ‘glorious motherhood’ also produces ‘group oppression’ of unmarried women and working-class women.

Keywords Abortion law · Family planning · Glorious motherhood · Politicisation · Population policy · State

Introduction

In China, since the beginning of the 1980s, the legal limits on when and on what grounds an abortion can be carried out have been gradually removed. Technically, termination can be performed lawfully at any gestational stage for a wide range of social reasons. In other words, “if women need to terminate pregnancy then the law

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allows them to do so” (Lee 1998, xi). Compared with their British sisters for example, Chinese women seeking abortion do not have to satisfy legally specified reasons for terminating a pregnancy nor secure approval of such from two registered medical practitioners.¹ Furthermore, historically, foetuses have not been accorded personhood or any serious moral and legal status that is independent from that of pregnant women (Nie 2005; Mungello 2008). A foetus at any gestational stage is regarded as part of a pregnant woman legally and culturally in Chinese society and jurisdiction. According to *Wuzang Bielun* (literally, the theory of five organs), one of the earliest and most influential Chinese traditional bioethical works, there is no exact upper limit which relates to ideas of animation or viability, and the whole process of foetal development is regarded as horizontal. The birth is the symbol of completing foetal development, and only after the birth can the foetus be treated as a fully developed person (Nie 2005; Wang et al. 2013). Legally, in accordance with Article 9 of the General Principles of the Civil Law of the People’s Republic of China, a person’s civil rights start at birth and end at death. Thus, unlike their peers in many other jurisdictions, where abortion provokes strong moral controversy (Hull and Hoffer 2001; Lee 2003) and the right to life of the unborn child is given constitutional protection (Fletcher 2005), Chinese women do not have to fight for the right to make a choice that is against the so-called ‘right to life’² or face social stigma caused by seeking a termination.

The latest official statistics show that there were about 13,000,000 surgical abortions performed in 2013,³ which means that China performs the most terminations in the world (the National Family Planning Research Institute 2014). In this regard, the argument that China has the more liberal abortion law seems to be true (Rigdon 1996, 546). However, recently, the Chinese government expressed its concern about the problem of ‘back-street’ abortions for the first time and announced that in 2012 about 10,000,000 terminations had been performed by unregistered providers (Zhou and Xiang 2015). Furthermore, China’s abortion law and practice have also been harshly criticised by scholars, who have targeted either the violation of women’s human rights or the countless abortions of female foetuses that are allowed (Aird 1991; Ebenstein 2010). For example, the case of Feng Jianmei who was forced to abort when she was 7 months pregnant with her second child in 2012, sparked international outrage after her relatives took photographs of her and the stillborn blood-covered foetus minutes after the termination procedure and posted them online (Yang 2012). This 23-year-old mother of a daughter became

¹ Briefly, Section 1(1) of the Abortion Act 1967 (applicable in England, Wales and Scotland, but not Northern Ireland) states that there are four legal reasons for terminating a pregnancy: to save the pregnant woman’s life; to avoid serious permanent damage to her health; to avoid physical or mental harm to her or her existing children and when a serious foetal abnormality has been detected.

² For the arguments for the right to life, see, for example, Finnis (1973).

³ The use of abortion drugs, such as mifepristone and misoprostol tablets is also legal in China. However, because the administration of medical abortion is often more time consuming and makes less profit than the performance of surgical abortion, the main termination method recommended and adopted in both public and private medical institutions is still surgical in China. The abortion statistics collected annually by the National Family Planning Research Institution also includes surgical abortions only. For more information on the reasons why medical abortion is not promoted in China, see, for example, Winikoff et al. (1997) and Liu (2000).

pregnant again against the national demographic policy, and did not pay the 'out-of-quota' fines before the specified time given by the local family planning centre. She was finally kidnapped by three local family planning officials from the county hospital and then forced to terminate her 7-month pregnancy.⁴ By exploring the construction of 'glorious motherhood' in the Chinese family planning context, I analyse how an abortion law regime which is seemingly liberal can operate to enforce women to terminate their wanted pregnancies and make China the country that performs the most legal, and perhaps also the most illegal, abortions in the world.

As many feminist scholars argue, the law's embrace of the compulsory cultural assumption of womanhood as maternal (Butler 1990; Siegel 1992; Fineman 1995, 2004) leads to the fact that abortion in many Western jurisdictions is constructed as criminal or irrational, or at least undesirable, and women who choose to have an abortion are construed as sinful, selfish and desperate (Sheldon 1997; Thomson 1998; Jackson 2001; Leslie 2010). Constructing abortion and women seeking an abortion in this way means that women are legally discouraged from making decisions about abortion or that "the only women who are allowed to terminate are those who can do so without rejecting maternity/familial norms per se" (Sheldon 1993, 18). My discussion of the Chinese regulation of abortion in this article suggests that abortion has been legally defined as a praiseworthy decision which helps women become 'glorious mothers' since the start of the 1980s. While law's construction of abortion and women seeking an abortion in China is very distinct from the Western one mentioned above, I argue that both construing abortion as criminal and defining it as laudable are based on and reinforce the gendered assumption of womanhood as maternal.

Unlike the Abortion Act 1967 in Great Britain, the current regulation of abortion in China is not included in a specific piece of legislation. Performance of abortion is currently governed by two codes and the state's policy-making on population. Since the Communist party took over in 1949, the state's demographic policies have been used as the basis for legislating and regulating abortion. Thus, the discussion of abortion law and policy in the article also examines how the state's population policies and its policy-making affected access to abortion. To help the reader understand how the notion of 'glorious motherhood' emerged, I first scrutinise the unregulated access to abortion in the era of Confucianisation (about 134BC-1912) and the ban on terminations in the Maoist era (1949-1976). Then by analysing the post-Maoist regulation of abortion, I examine how the notion of 'glorious motherhood' is reinforced and adopted by the state to justify its use of women's fertility as a platform to pursue its population goals. As will be argued later in the article, while technically women can have an abortion on demand if they can afford it under the state-centred model, they can also be forced to terminate their wanted pregnancy if it is 'unauthorised'. As Roberts (1996) argues, regulation that is seemingly permissive often produces new oppression or exacerbates existing 'group oppression' by liberating the privileged and constraining the disadvantaged (949). I

⁴ For more information on the official response to the case of Feng, see <http://www.ak.gov.cn/zwgk/akxw/2012/06/14/21184647170.shtml>. Accessed 30 March 2015.

follow Roberts by suggesting that the legalisation of abortion in China is at the expense of women's health and reproductive decision-making, particularly those who are unmarried or socioeconomically disadvantaged. I examine how this happened by discussing the following three issues: the state's recent carrot and stick strategy; law's construction of unmarried women who need an abortion; and the ban on non-medical sex-selective abortion. Finally, I suggest a number of possible proposals and priorities for law reform, which aim to challenge abortion law's embrace of 'glorious motherhood' and to empower women to exert control over their reproductive decision-making. Given the difficult political climate and weak awareness of reproductive rights in China as analysed in the conclusion, I concede that law reform alone is not a sufficient solution to women's powerlessness in the Chinese family planning context.

Feminist jurisprudence was introduced into China only about 10 years ago and its study was still at the stage of translating and discussing relevant theoretical discourses (Ma 2012). Thus, by offering a feminist response to the regulation of abortion in China, my purpose is not only evaluating law's practical effects on women, but also contributing to the application of feminist legal studies to analysing woman-related health issues in China. Furthermore, my analysis of the state-centred model of abortion law in this article provides feminists in other jurisdictions with a fresh standpoint from which they can explore the problems of their national regulatory model of abortion. Additionally, by exploring 'glorious motherhood' in China's abortion law and policy, I seek to deconstruct the official definition of abortion and women who need it and to shape alternative visions of these so-called "authorized truths and discourses" (Smart 1989, 164).

From Confucianisation to Politicisation: The Emergence of the Notion of 'Glorious Motherhood'

The Confucianism-Dominated Regulation of Abortion

Abortion was unregulated before the Communist Party took over China in 1949.⁵ There was a long history of using particular herbs to bring about a termination. According to Rigdon (1996), references to ending unwanted pregnancy appear in Chinese medical books written as long ago as 2000 years BC. She describes these in some detail:

⁵ Self-abortions were temporarily prohibited between 1910 and 1948 when the nationalist government was in power. In the nationalist era, the government tried to modernise the imperial codification by copying Japanese codes, including its abortion law. Japan's experience of copying German codes to reform its legal system motivated the nationalist government to follow suit. The criminal law stated that any woman who attempted to abort would be imprisoned for up to 5 years (see, for example, Kitagawa 2006, 240). However, the government did not effectively implement the law, and in reality there were not a great number of clinics with trained personnel where women could have an abortion (see, for example, Luk 1977, 390). Thus, the regulation of abortion in this special and short period is not considered as part of Chinese abortion law in this article.

A number of ingredients commonly used in traditional Chinese medicine were known for their abortifacient properties, including aromatic stimulants and drugs used to invigorate blood circulation. A list of toxic herbs contraindicated for use by pregnant women because of their abortifacient properties included: croton fruit, morning glory seed, Peking spurge. (547)

Many legal documents in pre-twentieth-century China show that only miscarriage by assault was dealt with under criminal law and that there was no punishment for seeking or performing abortions. Even the penalty for miscarriage by assault was not heavy, according to the law that applied in the successive imperial dynasties.⁶ As mentioned above, this was mainly because the Confucian culture treated birth as the sign of the start of human life, and the foetus was not considered to have a moral status. However, the unregulated situation did not allow women to exert control over their reproductive decisions. In its 3000-year imperial history, Confucianism dominated Chinese society in both official and informal ways, such as by formulating law and governing people's everyday lives (May 1985; Ko and Zheng 2007). The principle of 'Three Obedience' was used by the successive imperial dynasties as the code for female conduct. The 'Three Obedience' principle, which could be traced back to the eleventh century BC, was part of the Confucian theory of 'Li', which was described as "the idealised form of appropriate behaviour in human conduct" (May 1985, 56). In accordance with this principle, a virtuous woman was required to obey her father before her marriage, her husband during married life and her eldest son in widowhood. During married life, women were required to subject their preferences to the needs of their husband and family-in-law (Wang 2010). Furthermore, the Confucian division of labour between the sexes regarded reproduction as women's main contribution to their family and community. Infertility was a legally acceptable reason used by men to divorce their wife or concubines, but women could not divorce their infertile husbands (Wu 2011).

In the Confucian hierarchy, emperors, who were treated as 'the son of heaven', were expected to rule all male subjects, and emperors also authorised married men to rule the women and children in their households (Xing and Liu 2005). Within this hierarchical system, the male head of the individual family regulated domestic issues, including reproduction, according to the Confucian conduct codes. While the imperial authorities did not regulate reproductive issues, they remained as the primary source of control of women's reproductive decision-making by entitling adult men to managing female fertility. Leaving abortion unregulated was the imperial rulers' strategy for maintaining the Confucian gendered social orders and family relations, which tied women and reproduction closely together and enabled them to fulfil their procreative duties.

⁶ For example, in the Tang Dynasty (618AD–709AD), the penalty for attacking a woman who was pregnant and causing a miscarriage was being kept in penal servitude for a term of two years, which was a slightly more serious punishment than for breaking two of a victim's fingers or knocking out two of their teeth and a less serious punishment than for breaking someone's limb or causing permanent blindness in one eye. *Daming lü* (the Ming Code), dated 1368, and *Daqing lü* (the Qing Code), dated 1646, imposed similar penalties on a person who attacked a pregnant woman and caused her miscarriage: they would receive about 80 heavy blows and serve two years of penal servitude (see, for example, Zhang 2012).

As Siegel argues, bearing and raising children are often constructed as women's contribution to others—their husband, community and state (Siegel 1992). In this “construct of culture” (Ortner 1972, 28), women are expected to lead a self-sacrificing life in order to effectively take maternal responsibility for others, so their own interests in procreative decisions are often ignored. The discussion provided in the following section suggests that by regulating abortion, the successive communist governments have reinforced the status quo. Consequently, women are not only required to procreate but to reproduce ‘gloriously’ according to the state's interests and needs.

The Politicisation of Abortion and ‘Glorious Motherhood’

At around the beginning of the twentieth century, the Confucian religious climate was strongly challenged by the rising awareness of human rights and gender equality (Chen 1970). When the communist state was founded in 1949, the Maoist government claimed that all imperial discriminatory rules and social conventions that served to act against women should be repealed, and it enacted the Constitution in 1954, which states that women should enjoy equal rights with men.⁷ Nevertheless, the analysis of the Maoist award of ‘glorious mothers’ and the ban on abortion offered in this section suggests that the constitutional guarantee for gender equality did not grant women any substantial right to make reproductive decisions. On the contrary, women were still valued according to their reproductive biology. Female fertility, which had been thought of as women's main contribution to their families in Confucian society, became defined in Maoist China as female citizens' contribution to the state. The state's strategy of controlling women's reproductive decision-making shifted from being a strategy of Confucianisation to being one of politicisation.

To politicise reproduction, the Maoist government defined access to family planning services, such as contraception and abortion, as an issue which was closely connected with its policy-making on population figures and had to serve to facilitate the population objectives set by the ‘party state’.⁸ The Chinese-style politicisation of abortion does not indicate that the party state attempted to balance the interests of pregnant women and foetuses. The term ‘zhengzhihua liuchan’ (literally, politicisation of abortion) is equivalent to the term ‘guoyouhua liuchan’ (literally, nationalisation of abortion), which both mean that abortion is defined as a state-centred decision. The Maoist state as defined in the Constitution represented the good of the nation and was entitled to nationalise China's resources, such as land and the means of production, for the state's needs.⁹ Meanwhile, the party state

⁷ See Article 86 of the Constitution 1954. The Constitution 1954 was substantially revised in 1975, 1978 and 1982 and was partly amended in 1988, 1993, 1999 and 2004.

⁸ According to the Constitution 1954, the Communist Party is the only party that can be in power. Thus, some scholars put ‘party’ and ‘state’ together as there is no clear boundary between them (see, for example, Zhao 2006).

⁹ For the original text of Article 13 and Article 14 of the Constitution 1954, see <http://www.npc.gov.cn>. Accessed 10 March 2015.

advocated for a central planning economy that politicised almost all aspects of economic, cultural, social and family life, treating them as state-orientated issues (Wang 2008). For example, all hospitals and clinics in Maoist China were state owned and health care services had to be provided to comply with the state's plans.

Tumultuous decades of famines and wars during the second half of the twentieth century led to China having a relatively small population when the communist state was founded.¹⁰ The Maoist government defined a larger population and a high birth rate as a "sign of recovery" (Scharping 2003, 75). A large population was thought of by the government as a great advantage and essential to national economic development (Peng 1997, 289). Furthermore, the former Soviet Union (SU) had a profound influence over Chinese policy and law in the Maoist era, including the population policy and the regulation of abortion (Savage 1988). Similar to the regulation of abortion in the SU, a fundamental characteristic of the Maoist abortion regulation was that it did not exist as law "in its sense in the common law or the civil law" (Savage 1988, 1088) because it was derived from the party state's population policy rather than being made or passed by the national legislative body.¹¹ The state's advocacy for a large population was translated into a series of pro-natalist programmes, including awarding the designation of 'Guangrong Muqin' (literally, glorious mother), which had been created by the SU government to grant to mothers of more than ten children. The Maoist government adopted this means to encourage women to have a larger family and awarded it to women who bore and raised more than ten children (Peng 1997).

To ensure women fulfilled the pro-natalist duty of becoming 'glorious mothers', the government placed a ban on contraceptive and abortion services. According to a political document entitled 'Kongzhi Nvyanbu Duotai Fangfa' (literally, 'Restricting Access to Abortion') issued by the Ministry of Health in 1950, abortion was only allowed in very strict therapeutic circumstances or for eugenic reasons, which were:

1. The pregnant woman has severe tuberculosis, heart disease, kidney disease or any other serious disease and the continuance of the pregnancy would worsen the disease and threaten her life; or
2. The performance of abortion is necessary to save the life of the pregnant woman; or
3. The woman has at least one child, but is physically unable to have another one; or

¹⁰ According to the first national census, the total population of mainland China was about 601,938,035. See <http://www.stats.gov.cn>. Accessed 15 March 2015.

¹¹ The Code of Legislation 2000 states that only the National People's Congress (NPC) and the Standing Committee of the NPC can enact national primary legislation. In the Maoist era, there was no clear boundary between policies and laws. Law existed as an amalgam of constitutional duties, governmental normative documents, state policies and political leaders' personal preferences (see, for example, Savage 1988). The regulatory methods were mainly state centred and coercion orientated (see, for example, Potter 2004).

4. The pregnant woman has a serious genetic or mental disease that would be passed on to any child born.¹²

Apart from satisfying one of these grounds for abortion, women seeking abortion had to obtain their husband's written consent and also had to convince their doctor that their reason for requesting abortion was being physically unable to complete the gestation. However, Chinese doctors could not exert discretion in performance of abortion services and they only worked as the state's agents and were subject to the state's pro-natalist policy. By banning access to abortion, women's fertility was politicised and treated as a state-owned resource. The very limited access to contraceptives and abortion meant that women in the Maoist era could be forced to lead the 'glorious' maternal life designed by the state¹³ or resort to illegal and/or unreliable means of ending unwanted pregnancy. In the first decade of the Maoist era, many of the 'glorious mothers' were permanently injured or even died because of the maternal diseases caused by excessive childbearing, poor maternal care and unsafe abortion means (Peng 1997, 549). Using unsafe means of termination, such as jumping from a height or eating poisonous herbs, was not unusual in Maoist China, particularly in more undeveloped rural areas where families had poor access to financial and medical resources (Xi and Jin 2006). Although there is no accurate official figure which confirms the number of the women who died or were severely injured by using unsafe measures for termination, the number is reckoned to be high according to a bulletin issued by the Ministry of Health in 1956. The bulletin set out the government's concern about the high maternal morbidity and mortality caused by unsafe abortions (Peng 1997, 278). Nevertheless, this did not drive the government to lift the ban and promote women's reproductive autonomy because the party state's pro-natalist needs that represented the public interests were treated as superior to individual preferences. As Nie (2005, 51) notes:

In China the interests of the country and collective enterprises are always given priority over the personal interests of individual ... because the state or party or government (the three terms are used interchangeably in the official discourse) represents the highest interests of China as a country and the Chinese people as a whole.

The discussion of the regulatory model of abortion in the next section suggests that the removal of the legal restrictions on access to abortion in the post-Maoist era has not enhanced women's reproductive decision-making, but has reinforced the politicisation of abortion and entrenched state-centred control over women's reproductive decision-making.

¹² For the original text, see Peng (1997, 889). What is set out here is my translation into English.

¹³ According to the first national census, the average births per married woman were about 6 between 1949 and 1954. See <http://www.stats.gov.cn>. Accessed 10 March 2015.

The Post-Maoist Politicisation of Abortion (1979 to the Present)

The Post-Maoist Demographic Policies: Imposing a Woman-Orientated Duty

The implementation of pro-natalist policy led to the dramatic increase in the national population.¹⁴ However, due to the three-year 'Great Leap Forward' (1958–1960) and the ten-year disaster of the 'cultural revolution' (1966–1976), China was hesitant and virtually at a standstill: there was no economic growth, no rise in the standard of living because the major aim for the Maoist government was to carry out class struggle. The demographic increase and economic difficulty led to the government's fear that economic production could not keep pace with population growth. Since the late 1970s, the Malthusian and eugenic national population policy has gradually replaced the pro-natalist one. In order to bring the national population development back under the party state's control, the first post-Maoist government claimed that the Maoist implementation of the pro-natalist policy was a "historic mistake" (Peng 1997, 485) and that the state would adopt all means, including incentives and coercive methods, to solve the demographic problem because it believed that this was in the public interest. To emphasise the significance of reducing the population, the government defined 'family planning' as a fundamental state policy (Hou 2004).¹⁵ In quick succession, the birth control policy was written into the Constitution in 1982. Article 25 and Article 49 of the Constitution state:

The state promotes the planned reproduction that makes economic and social development plans keep pace with demographic growth ... The husband and the wife have an equal duty to practice family planning.

The term family planning has special meanings in the Chinese context. Its official introduction to China was greatly influenced by Malthusian and eugenic demographic theories and was aimed at reducing the total population and improving the quality of the population. According to an open letter entitled 'The question of controlling the increase in the national population' issued by the Central Committee of the Communist Party of China (CCP) in 1980, the key idea of family planning is 'shaosheng yousheng' (literally, have fewer and healthier births) and its implementation is in the public interest and for the good of the whole nation. More specifically, according to the letter, "having fewer births" means that married

¹⁴ According to the first, second and third national censuses, the population had increased dramatically by 12 % in the period from 1954 (601,938,035) to 1964 (723,070,269). By 1982, the total population had increased to 1,160,017,381. See <http://www.stats.gov.cn>. Accessed 10 March 2015.

¹⁵ Fundamental state policies are jointly issued by the Central Committee of the Communist Party and the State Council. They are defined as the essential guidelines to be used by the party state to conduct internal and external affairs, such as legislation, administration and diplomacy, etc. (see, for example, Yang and Xu 1991).

couples are required to have only one child, and “having healthier births” involves “avoiding the births of defective infants” (the CCP 1980).¹⁶

Although the Constitution and the open letter claim that married male and female citizens should take equal responsibility for practising family planning, in practice this duty has been designed to apply to women. There are the following ways in which this can be seen. First, since the start of the 1980s, the government has adapted compulsory gestational and prenatal services to promote its eugenic purpose. Pregnant women are required to attend regular medical check-ups and be tested for various prenatal diagnoses. Women are expected, in the public interest, to end the gestation if foetus would have defects at birth (Wu and Zhou 2011, 129). This eugenic duty was translated into the national legislation in 1994 when the Code on Maternal and Infant Health (the 1994 Code) was enacted. According to Article 18 of the 1994 Code, doctors ought to offer termination advice to the pregnant woman if the foetus is diagnosed with hereditary diseases or other abnormalities. Second, the state’s main strategy to reduce the population is controlling women’s fertility and limiting reproductive decision-making. For example, normally wives rather than husbands have been kept under the state’s surveillance. To facilitate this surveillance, the state founded the National Population and Family Planning Commission (NPFPC) in 1981. The NPFPC set up hundreds of grass-roots family planning centres nationwide to directly guide and supervise individual women’s practice of birth control. To do so, these centres require local women of reproductive age to register and they then closely monitor their gestation from as soon as they are pregnant right up until the birth. Furthermore, the two main contraceptive methods that are recommended by the NPFPC are the IUD and female sterilisation. In practice, according to a survey conducted by Guo et al. (2006, 8) of 6454 families, 50.6 % used the IUD as their usual contraceptive means and 32.8 % chose female sterilisation. The main reason why the IUD and female sterilisation are two most frequently used contraceptive methods in China is that women who had given birth to one or two children are usually persuaded or even forced by local family centres to have one of them adopted.¹⁷ To stop women who had the coil from removing it, the Criminal Law states that a woman removing an IUD or a medical practitioner administering IUD removal without permission from a local family planning centre will be charged with the crime of ‘feifa jinxin jieyu shoushu zuo’ (literally, unlawfully performing family planning operation) and be imprisoned for up to 3 years.

¹⁶ The Central Committee of the Communist Party of China is in charge of convening the National People’s Congress and drafting and enacting fundamental state policies. For the original text of ‘The question of controlling the increase in the national population’ see <http://cpc.people.com.cn>. Accessed 11 March 2015.

¹⁷ In rural areas, if the couple’s first child is a girl, they are allowed to have the second child. As discussed below, the implementation of compulsory contraception has been relaxed since the start of the 2000s. For more information on the use of contraception among married couples after 2000, see, for example, Guo et al. (2006).

The State-Centred Regulatory Model of Abortion

To facilitate the practice of family planning, the ban on abortion has been lifted since the start of the 1980s. While post-Maoist governments have emphasised that contraception should be used as the main means of reducing births, they have also repeatedly claimed that to avoid unauthorised births abortion should be used as a 'bujiucuooshi' (literally, back-up method) when contraception fails. This definition was written into the national legislation, the Code on Population and Family Planning 2002 (the 2002 Code). Article 19 and Article 20 state that the main means of practising family planning is contraception; other methods should be used to reduce 'unplanned gestation'.¹⁸ The term of unplanned gestation in the text does not mean an accidental or unwanted pregnancy. It is equivalent to the term of unauthorised pregnancy and means being pregnant without the approval of the local family planning centre. To have gestation approved, the pregnant woman has to meet at least three conditions: she is legally married, she and her husband do not have an existing child (in urban areas) or have only one (in most rural areas), and she and her husband do not have any severe genetic diseases which may affect the health of a child. The 2002 Code, along with the 1994 Code, provides the regulatory basis for access to abortion services. Distinct from abortion law in many other jurisdictions, the 1994 Code and the 2002 Code do not impose any limit on the time when or the grounds on which abortion can be performed. Technically, pregnancies can be terminated lawfully in China at any gestational stage and for a wide range of social and medical reasons apart from non-medical sex selection. The NFPCP issued The Rule of Prohibition of Non-medical Prenatal Sex Diagnosis and Sex Selective Abortion (the 2003 Rule) in 2003 in order to help correct the skewed sex ratio. The 2003 Rule aims to stop the use of prenatal techniques, such as amniocentesis and ultrasonic scans, to identify the sex of the foetus and abort female ones. In this regard, the post-Maoist regulation of abortion superficially looks permissive and even woman-friendly because the restrictions on sex-selective abortion aim to prevent female feticide. As Ridgon observes, Chinese abortion law is the most liberal in the world because it is the only law which does not impose any penalties for "having or performing an abortion at any state of pregnancy" (1996, 546). However, with the post-Maoist governments' imposition of the Malthusian and eugenic duty on women in mind, this representation of Chinese abortion law as liberal requires in-depth analysis. This representation is far from the reality, in that the liberalisation of abortion has not been motivated by the desire to enhance women's reproductive decision-making but to justify and facilitate the state's use of

¹⁸ China's current national family planning funding scheme only includes married couples. Married couples are eligible for certain contraceptive services, such as IUD, female and male sterilisation, and abortion within 12-week gestation. Other contraceptive methods, such as condoms, contraceptive and morning-after pills, and abortion after 12-week pregnancy (even on foetal abnormality grounds) are not included in the funding scheme. However, people can access the above services by paying by themselves. In practice, to avoid 'out of quota' births, the cadres in a local family planning centre check and record detailed information about local married women of reproductive age regularly. After they give birth to one or two children, the cadres persuade or even force them to use the two most commonly used contraceptive means, namely, IUD and female sterilisation.

abortion as “an dispensable instrument of the national population control agenda” (Nie 2005, 44).

In practice, under the post-Maoist regulatory model, each provincial government is entitled to make rules concerning practising family planning which allow local family planning centres to persuade or even force women to abort in order to achieve the demographic task of having fewer and healthier births. According to Article 14 and Article 16 of the Rule of Family Planning issued by the government of Guangdong province in 1982, ‘unplanned gestation’ is forbidden and must be terminated; couples with a serious genetic disease are forbidden to reproduce and any pregnancy must be terminated.¹⁹ During the 1980s, all 23 provinces enacted similar rules which stated that termination for the eugenic and birth control reasons given was a ‘must-do’ task for the promotion of public interests.²⁰ While it is impossible to find out how many abortions per year in China are coercive, the number is unlikely to be small, according to a report on family planning services in Guangdong province, which suggests that in 1982, 80 % of 624,000 abortions were carried out “by order” (Nie 1999). Additionally, after the implementation of the post-Maoist population policy, the number of abortions in registered medical institutions increased rapidly from 539,000 in 1979 to 13,856,000 in 2012 according to the *China Health Year Book 2013* (the National Health and Family Planning Commission 2014). While the Maoist and post-Maoist regulatory models of abortion are quite distinct from each other, the reasoning behind them remains the state-centred one, namely that individual women should sacrifice their reproductive preferences and health to maintain maternal glory as construed by the state. The state-centred model also conveys the message that women need restriction and interference to manage their fertility ‘gloriously’. As the Guidance on Practising Family Planning issued by the CCP and the State Council in 1982 notes:

Controlling the demographic increase is of strategic importance in promoting our socialist modernisation and also the concern for the whole party and the nation ... because of its necessity and significance, the state adopts all means to ensure that couples of reproductive age control their fertility and become ‘glorious’ citizens. (cited in Peng 1997, 20)

From the Maoist ban on abortion to the post-Maoist use of abortion as a method used to practise Chinese-style family planning, the regulatory model of abortion has worked within the framework of ‘the state knows best’. Since the Maoist government wanted a larger population, women were encouraged and even forced to lead a ‘glorious’ maternal life by producing more children for the state. Women who sought to terminate their pregnancies were considered ‘inglorious’ according to the pro-natalist policy because they tried to escape the maternal duty to reproduce. At the beginning of the 1980s, the post-Maoist state’s implementation of the birth control programme significantly changed the legislation on abortion, which became defined as a necessary and even a compulsory method of avoiding extra births when

¹⁹ For the use of prenatal genetic diagnosis, see, for example, Chen et al. (2004).

²⁰ For the Rule of Family Planning enacted by other provinces, see <http://law.hnadi.cn/web/index2.html>. Accessed 19 March 2015.

contraception fails. As a consequence, women have been and still are persuaded and even forced to have an abortion if they fail to gain permission to proceed with the pregnancy from their local family planning centre. Under this state-centred model, women's needs for health and control over their fertility have been marginalised and have become defined as trivial and irrelevant matters; instead, the state's policy-making on the population, which is presented as being in the public interest, has been centralised and has also been constructed as a code governing women's reproductive behaviour.

The Construction of 'Glorious Motherhood' Under the State-Centred Regulatory Model

Since the start of the 2000s, the regulatory model of abortion has changed in terms of the way in which it treats 'inglorious' women who breach the birth control policy. As discussed in this section, the adoption of coerced abortion to force women to become 'glorious' has been gradually replaced by a combination of incentive-based and financial punishment-based methods to help women become 'glorious'. This change is treated by some legal scholars and social commentators as the relaxation of the state's control (Winckler 2002; Duan 2007). I argue in the following analysis that the current revision of abortion regulation is still targeted at maintaining the state's control over women's reproductive decision-making and reinforcing law's construction of 'glorious motherhood'.

Carrot and Stick

Thirty years after the practice of restrictive birth control policy, the government claimed that the demographic goal of reducing the population that started in the 1980s had been achieved to a significant extent: both the birth rate and the natural growth rate had decreased from 3.343 to 2.583 % in 1970 and from 1.523 to 0.877 % in 1999. The dramatic decrease in the total fertility rate makes China one of the countries in the world with the lowest fertility rates.²¹ Against this background, subsequent governments have repealed the local rules relating to family planning that allowed family planning centres to use abortion as a coercive birth control method. The Jiang Zemin government (1993–2003) enacted a normative document entitled 'Shehuifuyangfei Zhengshouguanli Banfa' (literally, 'The Act for Collecting and Managing the Social Maintenance Fee') (the 2002 Act). It regulates how couples who have unauthorised birth(s) pay 'out-of-quota' fines, which the government calls 'social maintenance fees', to family planning centres. According to the 2002 Act, the standard payment of 'out-of-quota' fines varies slightly from area to area, but is mainly three times the couple's previous year's income. If the couple's annual income is unclear or they are unemployed, the fines

²¹ The statistics are from the 'China Twenty-first Century Population and Development' White Paper. It was issued by the State Council in 2000. The White Paper summed up the completion of demographic tasks in the past decade and offered new plans for the new century. For the full text, see <http://www.gov.cn/gongbao/content/2001.htm>. Accessed 24 March 2015.

are 4–6 times the per capita income in the local area. ‘Out-of-quota’ fines are thought of as the softer replacement for forced abortion (Duan 2007). The government’s justification for the implementation of this rule is still that an individual must obey the population policy for the good of public interests, the state or the majority. Article 1 and Article 2 of the 2002 Rule read as follows:

Article 1 The rule was enacted to implement the fundamental state policy of birth control, protect all citizens’ lawful interests and make the population growth keep pace with economic, social, resource and environmental development.

Article 2 Citizens have the right to reproduce, but are under an obligation to practise family planning and keep their reproductive behaviour consistent with the state’s population policy.

The 2002 Rule does not change the fact that women having an unauthorised pregnancy are construed as ‘inglorious’, but simply provides a new remedial method of recovering from ‘inglorious motherhood’, namely paying a fine. Thus, the restrictive and compulsory demographic policies are replaced by ‘neo-liberal’ ones which allow the individual who can afford financially to do what law and policy prohibit. Thus, the 2002 Rule results in the privilege of having more children. Nevertheless, women who reproduce in contravention of the population policy and who cannot afford to recover their glory are still forced to choose between having an abortion or having ‘illegal births’. ‘Illegal births’ means children who are born ‘out of quota’ without birth permission. They will be treated differently from children whose births have been authorised until their parents pay the ‘out-of-quota’ fines. For example, they might not be able to gain an ID card or pay health care insurance, etc. (Hemminki et al. 2005).

The main incentive used to encourage women to become ‘glorious’ is awarding the mothers of a single child with the ‘jihushengyu guangrongzheng’ (literally, one-child glorious certificate). The mothers who are entitled to the certificate can apply for a small allowance of ¥10–50 per month (£1–5), get 30 days more than the statutory maternal leave (90 days) and have better maternal care.²² Similar to awarding mothers of multiple children the designation of ‘glorious mothers’ in the Maoist era, issuing one-child glorious certificates is also a means of exerting the state’s control over women’s fertility and decision-making. It contributes to strengthening the authorised truth that termination of extra births is praiseworthy because it helps women become ‘glorious’.

Similar to the purpose of banning or liberalising abortion, the goal of adopting this ‘carrot and stick’ approach is to enable women not to undertake a duty to bear and rear children and, more importantly, to do so in a ‘glorious’ way that is in accordance with the party state’s requirements. More specifically, the approach has subjected women’s reproductive decision-making to the state’s construction of ‘glorious motherhood’ in the following ways. First, through imposing fines, the

²² The rewards for having only one child vary from area to area. For example, in Shanghai, ‘one-child’ mothers will receive ¥30 (£3) per month, have a 120-day maternal leave and get two prenatal blood tests and one ultrasonic check free of charge in their community hospital. For more information on the policy of rewarding one-child mothers in Shanghai, see <http://www.wsjw.gov.cn/wsj>. Accessed 25 March 2015.

government has emphasised the fact that reproduction has to be consistent with the state's population policy or it is wrong and ought to be punished. Second, along with forced abortion, financial punishment serves as a deterrent for women, particularly those from disadvantaged backgrounds, who attempt to have unauthorised births. Third, awarding one-child glorious certificates encourages pregnant women without permission to proceed with the pregnancy to make a 'right and reasonable' choice, namely abortion. Additionally, China has a very strict national 'hukou' (literally, household registration) system that records citizens' name, date of birth, gender, address, marital status, political status, education and employment. Citizens are required to inform the local police station of any change of their personal information and update the changes in the system. Registering the 'hukou' system is equivalent to issuing a certificate for a person's legal existence, because it decides whether one can gain passport, ID card, marriage certificate, birth permission, enrol in public education institutions.²³ Thus, when an infant was born, the most significant thing to do is to visit the local policy station and have her registered in the system. However, the 'unauthorised births' are not allowed to register until the 'social maintenance fees' are paid. For the couples who cannot afford the fines, abortion not only becomes a 'right and reasonable' choice, but also the 'one and only' choice even when it is involuntary and "painful" (Nie 2005, 135). As Aird observes, the majority of the couples who accepted one-child glorious certificates he surveyed wanted to have at least two children, but "had no choice" to obey the birth control policy (1991, 54).

Constructing Unmarried Motherhood as Inglorious

According to the current regulation of abortion, unmarried women are not entitled to the government's financial support for abortion services. Article 17 and Article 21 of the 2002 Code state as follows:

Article 17 Citizens have the right to reproduce, but also ought to fulfil the duty of practising family planning.

Article 21 Married couples of reproductive age are entitled to access to basic family planning services free of charge for the purpose of practising family planning.²⁴

This means that women, regardless of their marital status, have to obey the state's population policy, but only married women's termination is accorded the government's financial assistance. The abortion law restricting abortion funds to married women assumes that marriage is essential to sexual life and construes premarital sex as a legal taboo for women. This regulatory situation reflects the reality, which is that premarital sex and premarital fertility in particular are still considered to be "social taboos" in Chinese society (Li and Liu 2004, 23).

²³ For more information on China's household registration system, see, for example, Cheng and Sheldon (1994).

²⁴ Basic family planning services are oral contraception, condoms, abortion, female sterilisation and the IUD.

According to a survey on the sexual attitudes and behaviour of college students in 2012, 79 % of participants believed that sex was ‘forbidden fruit’ which could lead to negative consequences, such as accidental pregnancy, sexual disease and an unhappy marriage, although 47.8 % of participants admitted that they had had sex (Huang et al. 2012, 20). Chinese society has an even lower tolerance of premarital fertility, which is normally considered to be a ‘disgrace’ for the woman, her family and the community (Guo 2012, 67). Furthermore, in the Chinese family planning context, a marriage certificate is essential for applying for birth permission,²⁵ so premarital fertility is automatically classified as ‘unauthorised’ even if the woman does not have any existing children. To make her birth authorised, she has to pay the ‘out-of-quota’ fine. Because of the considerable social stigma and financial punishment, abortion becomes the only ‘rational and reasonable’ choice for unmarried pregnant women, especially those who are socioeconomically disadvantaged and cannot afford fines. In practice, of about 13,000,000 women who had surgical abortions in 2013, more than 81.5 % were unmarried (the National Family Planning Research Institute 2014). Since the state’s birth control programmes, including increasing the use of contraception, have been mainly targeted at married women, the rate of using contraception by the unmarried is much lower than that for married women. According to a survey of the reproductive health of unmarried young women aged between 15 and 25 conducted by Wei in 2008, while 53 % of the 280 respondents had had premarital sex, 95 % said that they felt too ashamed to seek contraceptive or abortion information or advice from parents, relatives or local family planning centres; of the respondents who had had sex, 67 % of them had not used contraception or had not use it correctly and 18 % had had at least one abortion (Wei 2008).

The legal restriction of the state-funded abortion services to married women reinforces the idea of ‘glorious motherhood’ based on the gendered social relations. The restriction conveys the message that only the women who are married with a husband are qualified to become mothers and the state helps the ‘mothers’ become ‘glorious’ for the public interest. Premarital sex and fertility are thought of as completely antithetical to both the requirement of motherhood and the construction of glory. For the economically disadvantaged unmarried women who cannot afford legal termination, such as teenagers, college students or working-class women, the lack of access to financial support means that they have to resort to unlawful abortions, which are cheap but are likely to be unreliable or dangerous to a woman’s health. In 2013, *Sohu News* reported that, facing huge social and financial pressure caused by premarital fertility, two teenage mothers killed their newborn infants and admitted that they could not afford an abortion and felt too ashamed to seek help from their parents or friends (Pu 2013). While there are no official statistics for illegal abortions, the large market for online abortifacient drugs suggests that the number is considerable. In 2013, *Souyao News* reported that RU486 was being sold

²⁵ To apply for birth permission, the couple has to provide the local family planning centre with a marriage certificate, their ID cards, the household register, a 3-month pregnancy medical check report and a letter of reference issued by the couple’s neighbourhood committee to prove that they do not have any existing children or have only one child but qualify for having a second one according to the population policy.

unlawfully in some shops on *Taobao*, which is the biggest Chinese online platform, for ¥100 (about £10), which is only about an eighth of the price of a legal medical termination provided in registered medical institutions. While knowing that it was illegal to buy abortion drugs without a physician's prescription and surveillance, many anonymous users commented that it was their only choice because they could not afford a legal service (Zhan 2013). Given the steady increase in Chinese citizens' average age for first-time marriage, there is a growing need for termination services for unmarried women. While the current government is aware of this need (Shan and Qian 2009), this does not motivate it to facilitate women's reproductive decision-making by extending the national family planning funding scheme to unmarried women.

The Ban on Sex-Selective Abortions

As mentioned earlier, under the current regulatory model, technically termination of pregnancy can be performed on any grounds, except for non-medical sex selection. At the beginning of the twenty-first century, a new Chinese population problem shocked the outside world: the severe gender imbalance in the national population. The *BBC News* reported that the culture of a preference for sons stimulated the widespread practice of Chinese women aborting female foetuses and that by 2020 there would be 40 million single men in China, which would make it "a nation of bachelors" (Lim 2004). The skewed sex ratio has also become the concern of the existing government and the public. According to a poll conducted by the *China Youth Daily*, 88 % of 2603 respondents said that they were worried about the problem of gender imbalance (Xin 2007). Officially, the government has claimed that women who seek sex-selective abortions should be blamed for the skewed national gender ratio and other related problems, such as the trafficking of women, which appears to be more serious in the areas with greater gender imbalance (He 2011). To deal with this new demographic crisis, the NPFPC issued a normative document entitled 'The Rule of Prohibiting Non-medical Prenatal Sex Diagnosis and Sex Selective Abortion' in 2002 (the 2002 Rule).²⁶ Article 1 and Article 3 of the 2002 Rule state as follows:

Article 1 The rule is enacted in order to effectively implement the state's fundamental state policy of birth control and redress the skewed sex ratio.

Article 3 Without permission from family planning centres, any institution or individual shall not use prenatal techniques to identify the foetal sex and perform abortion on the ground of sex selection.

Although it facilitates the state's use of abortion as a tool to control birth, the 2002 Rule does not strictly limit termination but only partially bans access to abortion when pregnancies have lasted for more than 14 weeks. More specifically, if a pregnant woman has obtained birth permission from the local family planning

²⁶ The regulations, like the 2002 Rule, issued by the NPFPC are secondary legislation, whereas laws, like the 1994 Code and the 2002 Code, drafted and passed by the National People's Congress are primary legislation.

centre and her pregnancy is more than 14 weeks in duration, she must get approval from this centre in order to access abortion. As discussed earlier, birth permission is granted by family planning authorities to married women whose pregnancies are classified as authorised. Thus, technically, when married women whose applications for birth permission are approved and whose pregnancies are of more than 14 weeks' gestation change their mind and decide to terminate their pregnancies, they have to prove that their requests for abortion are not motivated by the desire for sex-selection.

While the enforcement of the 2002 Rule, as an administrative regulation, is not as strict as that of the primary legislation, such as the 1994 Code and the 2002 Code, given the government's current demographic plans, it is only a matter of time before the 2002 Rule is updated to become a national law.²⁷ Similar to the previous governments' strategies to cope with the labour shortage in the Maoist era and the overpopulation in the post-Maoist era, the current means of redressing the gender imbalance is still heavily reliant on using the regulation of abortion to impose control over women's procreative decision-making. By conditionally limiting access to abortion, the state enables women to reproduce or not to reproduce according to its new requirement. However, distinct from the two methods of increasing the population and reducing the birth rate respectively, the imposition of the ban on non-medical sex-selective abortions received more support than criticism from human rights scholars inside and outside China (Warren 1985; Qu 2005). For example, Warren claims that the arguments for respecting people's reproductive autonomy to select the sex of their children should not be applicable to countries such as China and India, where the gender imbalance is severe and women have not enjoyed a substantial degree of personal economic autonomy (1985, 26). In addition, many leading bioethical and legal scholars in China have argued that the state should intervene to prevent women from accessing prenatal sex diagnosis and sex-selective abortion for non-medical purposes (Qu 2005). However, the question of whether prohibiting and criminalising non-medical abortions after 14 weeks could effectively solve the problem is rarely asked and never answered. In practice, it is not difficult for women who are socioeconomically advantaged to circumvent the ban through the so-called back door by, for example, bribing family planning officials to gain the approval of doctors to inform them of the sex of fetuses (Zhao and Zuo 2005). Additionally, the implementation of the ban is not realistic because it is not easy to distinguish sex-selective abortions from 'normal' ones. The only women for whom there really is a ban are those who either cannot afford to circumvent the rules or who do not have the knowledge to do this. Women who are from disadvantaged backgrounds may find themselves even more pressurised if they are not able to give birth to sons. A survey conducted by Nie indicates:

²⁷ The NPFPC announced that the male-to-female sex ratio of newborns reached 115:88 in 2014 and that the state ought to enact a new law to criminalise non-medical sex-selective abortions and give a more harsh punishment to those people who perform or have abortions of female fetuses. For more information, see <http://finance.sina.com.cn/china/20150120/214321345253.shtml>. Accessed 29 March 2015.

In Hainan province, the male/female sex ratio of newborns was 135.64: 100 in 2005. Broken down further, the ratios were 170:100 for government employees, 221.7: 100 for professionals, and 250:100 for the heads and senior officials of government babies, state-owned companies and other government organisations. (2010, 210)

The widespread practice of sex-selective abortion and the severe sex imbalance suggest that a sexist belief that female offspring are inferior to males is widely shared in China. As Savulescu correctly observes, this incorrect belief is not a product of sex-selective abortion, but “sex-selective abortion is the product of the belief” (2006, 120). Usually, the problem of the skewed sex rate is less serious in Chinese regions where women’s education and employment are better developed, such as Shanghai, where the sex ratio of newborns appears to be “normal” (Chu 2001, 26). However, the government’s imposition of a partial ban on abortion services conveys the message that women who would be pressurised or abused by their husbands and in-laws if they could not produce male offspring should be blamed for a sexist phenomenon that is caused by patriarchal social orders and relations. The connection of non-medical sex-selective abortions with the skewed sex rate becomes the state’s justification for exerting control over women’s reproductive decision-making and also serves as its excuse for ignoring real and more serious social problems behind this phenomenon, such as women’s inferior social status and the lack of equal education and employment opportunities for them. Rather than eradicating these problems and empowering women to struggle against sexist phenomena, the state, by governing the provision of abortion, continues to force women to become ‘glorious mothers’ who always reproduce according to the state’s demographic needs.

Concluding Remarks

In March 2015, Li, the premier of the State Council, announced that in the next ten years the government will work on new demographic plans in order to deal with the problem of an ageing population and to prevent the emergence of a labour shortage.²⁸ Given the previous strategies used by the state to achieve its population aims, the fear that more limits will be imposed on access to abortion is not excessively alarmist. The ideology on which the banning of abortion in the Maoist era, the legalisation of abortion in the 1980s and the current limit on sex-selective abortion are based is that women ought to become ‘glorious mothers’ by reproducing according to the state’s needs. Compared with the Maoist ban on abortion, the post-Maoist regulation of abortion looks female-friendly because its

²⁸ According to ‘The Report on the Chinese Aging Problems 2013’ issued by the Chinese Academy of Social Sciences, China needs to deal urgently with ageing and labour shortage problems, because the population aged over 60 years old was about 0.202 billion in 2013 and made up 14.8 % of the total population. Meanwhile, since 2011, the population aged between 15 and 60 has presented negative growth. In the period from 2011 to 2014, there was a decrease of 11 million in the labour population. For more information about this report, see <http://www.cnki.net/KCMS/detail/detail.aspx>. Accessed 2 March 2015.

repressive appearance is replaced with a liberal one. Nevertheless, it does not change the fact that women are disempowered to make reproductive decisions, but required to maintain 'glorious motherhood'. To do so, women first have to take the responsibility of bearing and raising children. Second, and more importantly, they have to take on this maternal duty in accordance with the state's demographic needs even if the fulfilment of that duty is at the expense of their health and control over their lives. Along with various incentive-based and punishment-based methods, access to abortion has been used by the state to encourage, persuade and even force women to become 'glorious mothers'. Being 'glorious mothers' means having a dual responsibility: taking on the maternal role constructed by the gendered culture and maintaining glory according to the nationalist orders. As argued earlier in this article, the imposition of a reproductive obligation on women by subsequent governments is justified by the gendered, cultural construction of the female body as maternal (Butler 1990; Siegel 1992; Fineman 2004).

By constructing 'glorious motherhood', abortion has also been legally defined as a state-centred decision. When the state advocated for the pro-natalist policy, abortion was treated as punishable and harmful to the public interests, because it could help women escape 'glorious motherhood'. Nonetheless, when the Malthusian and eugenic population policy was implemented, abortion was reframed as a laudable choice that helps women to undertake the 'glorious' duty of reproducing fewer and healthy offspring. Certainly, disempowering women by decentralising their experiences from the regulation of abortion is not a fresh phenomenon or a problem that occurs solely in the Chinese jurisdiction, for example, the British medicalisation of abortion (Sheldon 1997), the American-style politicisation of abortion (Hull and Hoffer 2001) and the Irish moralisation of abortion (Fletcher 2005) all share similarities. However, comparatively, the task of challenging the Chinese politicisation of abortion and empowering women to exert control over their reproduction is an even more difficult and long-term one because of the following two main reasons. First, the case of Feng's forced abortion mentioned in the introduction suggests that while the birth control policy has been relaxed since the 2000s, the state's imposition of control over female fertility is still very intrusive and even violent. Since the foundation of communist China, the state's policy-making on population has been construed as a compulsory code for women's reproductive conduct. As a result, women are put in a disadvantaged position from which their resistance to reproducing or aborting in the interests of the public or for the good of the nation becomes defined as selfish and culpable. Thus, its punishment becomes defined as reasonable and even necessary for the state's good. Second, Chinese women's consciousness of their oppressed position and gender inequality in the context of procreation has historically proven to be comparatively weaker than that of their Western sisters. For example, when the concept of feminism was first introduced into China, it was translated as 'nūquan zhuyi' (literally, the ideology of women's power-ism). The translation makes the term 'feminism' sound as if it is something that is "advocating too aggressively for the improvement of Chinese women's conditions" (Nie 2004, 73). This version detaches feminism from Chinese women's daily language and life experience, so it has not been accepted by Chinese women, including those who are highly educated, and has even aroused their

resistance to claiming to be feminists (Brownell and Wasserstrom 2002). The term 'feminism' maintained its linguistic ambivalence and conceptual controversy in China until a softer version of the translation of the term 'feminism', 'nüxing zhuyi' (literally, the ideology of feminine-ism and also a reference to people who value feminine characteristics), was created; this version has been accepted by many white-collar and educated women in China. Ge, a Chinese feminist activist, has said that for a long time she did not think that it was wrong for her parents to treat her brothers better than they treated her because men always received more support from their family and had access to more resources in the village where she lived; it was only when she learnt about various feminist theories about gender discrimination, the gender role and gendered structure that she changed her opinion (Nie 2004, 75).

Given the difficult political climate and the undeveloped awareness of reproductive rights, relinquishing control to women by reforming the state-centred regulatory model in a woman-friendly way has a very low likelihood of success. Meanwhile, the effectiveness of law reform to empower women is greatly dependent on how such reform will be implemented. As Smart argues, once legislation is passed, it "is in the hands of individuals and agencies far removed from the values and politics of the women's movement" (1989, 164). Thus, any law reform targeted at protecting women's rights from being infringed by the state's control can end up being only lip service as demonstrated earlier in the text. Nevertheless, this does not lead to the conclusion that laws should be left unchallenged. The messages which are conveyed by laws are often considered by the public as facts even when they are discriminatory and sexist. As Smart says, by actively engaging with the law, feminists are able to challenge the 'truth and knowledge' which are apparently gender-neutral, but in fact "deeply antithetical to the myriad concerns and interests of women" (1989, 164) and frame alternative understandings. In this respect, I suggest that to deconstruct 'glorious mothers' and to redress the power imbalance between the state and women, a proposal for at least three possible reforms can be made. First, the legislation on abortion has to be independent from the effect of the state's policy-making on the population. Second, the law should ensure that the provision of abortion services is subject to women's informed consent so that women can be protected from forced abortion ordered by the state. Third, the government should extend its family planning funding scheme to unmarried women and make abortion funds equally available to all. The likelihood of translating these proposals into law and their effective implementation are both heavily reliant on achieving two long-term tasks: maintaining a "woman-friendly polity" (Jones 1990, 781) and raising women's awareness of gender equality by promoting women's education, employment and welfare and their participation in political decision-making, which are certainly harder to achieve than law reform per se.

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