Report by China Association of Marriage and Family Studies(CAMF) on Women's Rights and Interests Relating to Marriage and Family

1. Gender equality is a basic state policy upon which China is founded and governed. It is also a fundamental principle laid down in the country's Constitution. China has made unremitting efforts to promote women's all-round development and equality with men, and eliminate discrimination against women. In terms of women's rights and interests relating to marriage and family, China has adopted a combination of measures, including legislative, law enforcement and judicial measures, to fulfill its obligations set forth by the *Convention on the Elimination of All Forms of Discrimination against Women* (hereinafter referred to as the Convention) and to protect women's rights and interests relating to marriage and family.

2. First, from the legislative perspective, the Constitution, the Civil Code, the Law on Family Education Promotion, the Law on the Protection of Women's Rights and Interests, the Law on the Contracting of Rural Land, the Anti-Domestic Violence Law and other relevant laws of China fully embody the principles of the Convention concerning the protection of women's rights and interests relating to marriage and family. The Constitution provides that women enjoy equal rights with men in family life and other aspects, and that marriages and families shall be protected by the state.

3. Book of Marriage and Family of the Civil Code, which came into force in January 2021, includes provisions in line with Article 16 of the Convention[1], on the elimination of discrimination against women in all matters relating to marriage and family relations. It comprehensively

1 Article 16, paragraph 1: (to ensure on a basis of equality of men and women) "(a) the same right to enter into marriage; (b) the same right to choose freely a spouse and to enter into marriage only with their free and full consent; (c) the same rights and responsibilities during marriage and at its dissolution; (d) the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases, the interests of the children shall be paramount; (e) the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights; (f) the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases, the interests of the children shall be paramount; (g) the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation; (h) the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration."

stipulates that men and women enjoy equal rights in marriage and family matters, such as the right to freedom of marriage, the right to name, the right to personal liberty, the right to decide on their domicile, equal rights to dispose of community property, and the right to inherit. The Law on Family Education Promotion, which came into force in January 2022, embodies Article 5 of the Convention[2]. It stipulates that family education is the joint responsibility of both parents, who should prioritize the best interests of their children.

4. The revised Law on the Protection of Women's Rights and Interests, which took effect in January 2023, not only prohibits discrimination against women and clarifies what constitutes discrimination in accordance with the Convention, but also enhances the protection of women's rights and interests in relation to marriage and family, including their right to marry freely, ownership of community property, and the right to claim financial compensation in the event of divorce. It further improves the supportive work mechanisms, relief measures and legal responsibility.

5. *The China National Program for Women's Development (2021-2030)*, as a development plan made by the government, for the first time sets the development of "women and families" as a priority. It promotes the formulation of family policies that promote gender equality and women's all-round development, improves the maternity leave system, explores the implementation of parental leave, and establishes a policy evaluation mechanism for promoting family development, which fully reflects the main idea embodied in Article 11, paragraph 2, of the Convention[3]. With regard to parental guardianship of children, the Civil Code and the Law on the Protection of Minors emphasize that both parents have shared rights and obligations, and shall prioritize the interests of children in the systems of guardianship, custody, trusteeship and adoption.

6. The Civil Code stipulates that both husband and wife have equal rights to raise, educate and protect their minor children and they have a joint responsibility to do so. In the case of adopting a minor who is eight years old or above, the consent of the adoptee shall be obtained. When appointing, disqualifying or restoring guardianship, the true will of the

2 Article 5: "To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases."

3 Article 11, paragraph 2: "(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities."

ward shall be respected and the principle of acting in the best interests of the ward shall be upheld.

7. The Law on the Protection of Minors, adopted by the Standing Committee of the National People's Congress on October 17, 2020, stipulates that the state shall adopt measures to guide, support, assist and supervise the parents or other guardians in fulfilling their guardianship responsibilities towards minors. The protection of minors shall be based on the principle of their best interests. Minors have equal lawful rights, and shall not be discriminated against on the grounds of their ethnicity, race, gender, household registration, profession, religious belief, education, family background, or physical and mental condition, or that of their parents or other guardians. When making decisions concerning the rights and interests of minors, parents or other guardians shall, taking into account the minors' age and intellectual development, seek their opinions and respect their true will. The voices of minors, who are capable of expressing their will, shall be heard when deciding on the person entrusted with their care. In cases of divorce where the custody of a minor child is at issue, the true will of the minor who is eight years old or older shall be respected, and decisions should be made in accordance with the principle of acting in the best interests of the minor, as required by law.

8. Secondly, at the judicial level, measures have been taken by judicial organs to promote the effective implementation of laws such as the Civil Code, the Law on the Protection of Women's Rights and Interests, and the Anti-Domestic Violence Law to protect the lawful rights and interests of women. In January 2016, the Supreme People's Court issued the Notice on Determination of Cases for Personal Safety Protection Orders and their Designated Codes, which specifically adds a secondary type of cases, namely " personal safety protection order cases", to civil cases.

9. In June 2016, the Supreme People's Court issued an official reply on procedural issues related to cases concerning personal safety protection orders. It clarified procedural issues such as no legal fees, no need to provide security, and conducting trials in accordance with special procedures. On March 8, 2017, the Supreme Court released ten typical cases to mark the first anniversary of the Anti-Domestic Violence Law. In July 2017, the Supreme People's Court led the first plenary meeting of the Joint Conference on Reform of Family Trials Methods and Work Mechanisms, which established a joint conference system involving 15 departments, including the former Central Committee for Comprehensive Management of Social Security, the Ministry of Education, the Ministry of Public Security, the Ministry of Justice, the National Working

Committee on Children and Women under the State Council, and the All-China Women's Federation.

10. On November 25, 2020, the Supreme People's Court, the All-China Women's Federation and the China Women Judges Association jointly issued ten typical cases of personal safety protection orders. On March 5, 2022, the Supreme People's Court, the All-China Women's Federation and other five departments jointly issued the Guidelines on Strengthening Implementation of the Personal Safety Protection Order System. On June 7, 2022, the Supreme People's Court adopted the Provisions on Several Issues Concerning the Application of Laws in Handling Cases of Personal Safety Protection Order. The protection of victims has been significantly enhanced through the comprehensive measures, the improved standards for personal safety protection order, and the strengthened enforcement of such orders.

11. Thirdly, in terms of law enforcement, the State Council and local governments at all levels have implemented and refined the work of safeguarding women's rights and interests by incorporating relevant legal provisions into planning and formulating policies. In the process of comprehensively optimizing the support policies for childbirth, the Chinese government attaches great importance to protecting women's reproductive rights and interests. In 2021, CPC central committee and the State Council issued a Decision on Optimizing the Fertility Policy to Promote Long-term Balanced Population Development, proposing the implementation of proactive childbirth support policies. The Decision calls for the creation of a childbirth-friendly and women-friendly social environment.

12. At present, the target of 4.5 nursery care slots per 1,000 people for children aged three and under has been included in the *14th Five-Year Plan for National Economic and Social Development*. The central and local governments have provided financial support for non-governmental resources as well as enterprises and public institutions to build affordable nursery care facilities, which are now up and running. Kindergartens with suitable conditions are gradually starting to offer care for smaller children by setting up nurseries and toddler classes. China's 31 provinces, municipalities and autonomous regions have extended the maternity leave for women from 98 days to 158-188 days[4] and encouraged men to share childcare responsibilities by allowing them to take paternity leave and parental leave, and thus reducing the burden of childcare on women.

4 Yang Hui, The Dual impact of the Adjustment and Improvement of Family Planning Policies on Women's Development, *Report on the Development of Chinese Women in the New Era (2022)*, Social Sciences Academic Press, December 2022.

13. By providing parenting subsidies, housing allowances, and implementing policies such as “adding the cost of caring for children under the age of three to the list of special additional deductions of personal income tax”[5], the economic burden of giving birth, raising, and educating children for women and their families has been reduced. The lawful rights and interests of women in employment are protected, and employment discrimination against women who give birth to children is punished. Employers are encouraged to adopt “childbearing friendly” strategies and measures, such as flexible leave and flexible work arrangements that are conducive to employees caring for their young children.

14. Regarding the concluding observations by the Committee on the Elimination of Discrimination against Women (CEDAW) on the combined 7th and 8th periodic reports of China, paragraphs 44 and 45, which raised concerns about the negative impact of customs and traditions on women’s access and title to land in the context of changes to marriage status, the Chinese government has taken a series of positive measures to protect the land rights of rural women. Article 1087, in the Book of Marriage and Family of the Civil Code, which came into effect in January 2022, stipulates that “the rights and interests of the husband or wife arising from the contractual management of land based on the household shall be protected in accordance with law.”

15. The revised Law on the Protection of Women’s Rights and Interests, which came into effect in January 2023, stipulates that women enjoy equal rights with men in land contracting and operation, the distribution of profits from collective economic organizations and the use of homesteads. When applying for registration of immovable property rights, such as rural land contracting and operation rights and homestead use rights, all family members, including women who enjoy these rights, shall be listed in the immovable property register and the ownership certificate. The Land Administration Law, the Law on the Contracting of Rural Land and other laws also have clear provisions for protecting women’s rights and interests in land.

16. In 2016, the Ministry of Land and Resources issued a Notice on Further Accelerating the Confirmation, Registration and Certification of Property Rights for Homesteads and Land for Collective Construction, which clearly states that “the property rights of rural women as members of the household should be recorded in the real estate register and ownership certificate”.

5 Notice of The State Council on the Establishment of Care of Infants and Toddlers under the Age of Three as an Item of Special Additional Deduction of Individual Income Tax, No.8 [2022].

17. Of course, it is difficult for the development of women to surpass the stage of social development and the level of productivity. Currently, the development of women in China is still unbalanced between urban and rural areas, different regions, and different groups. The protection of women's rights in rural areas, especially in remote and impoverished areas, is relatively weak. Domestic violence still occurs, and the violation of women's land rights in rural areas has not been completely eradicated. Women in the workforce still face problems such as heavy housework burdens[6]. In addition, the legal system for the oversight of girls' guardianship is relatively principle-based and lacks effective supervision over the fulfillment of guardians' responsibilities, making it difficult to intervene in cases of improper guardianship in a timely manner.

18. To promote women's development in step with economic and social progress, their equal development with men, and full realization of their marriage and family rights, the following recommendations are proposed:

a. Improve relevant legislation, such as the Land Administration Law, to clarify the personal rights of each family member to the homestead and allow divorced or widowed women to enjoy homestead rights equally.

b. From the perspective of gender equality and women's development, continuously adjust and improve the institutional design of maternity leave, paternity leave, and parental leave to promote shared responsibility of childbearing and child-rearing by both men and women.

c. Establish and improve guardianship supervision mechanisms to timely detect and intervene in situations where parents fail to fulfill their guardianship duties in accordance with the law or abuse their guardianship duties, and other cases of improper guardianship.

6 According to the fourth Survey on Social Status of Women in China in 2021, women spent 154 minutes on housework, about twice as much as men.