



From Rarity to Recognition: China's Single Mothers Striving for Government Benefits

A debate over legal restrictions on children born out of wedlock is being propelled by a briskly declining birth-rate and a new generation of independent Chinese women. Despite a raft of pronatalist policies in recent years, single motherhood still remains a legal grey area in China.

By Thomas Lee

Single Mothers Struggling

“My pregnancy was just an accident.”

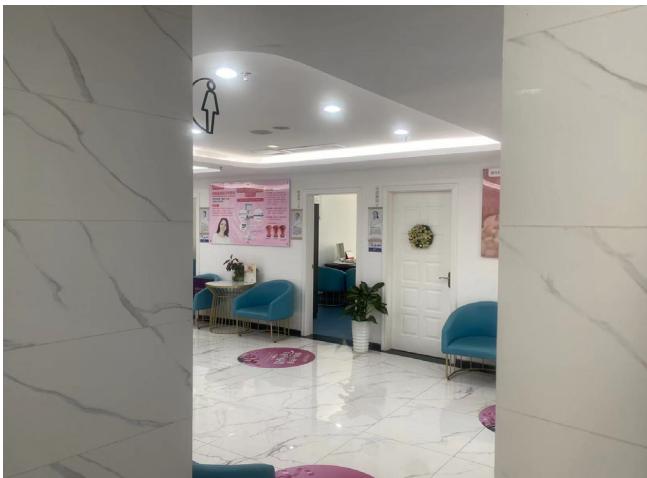
Xingxing Lu, a 26-year-old sales agent from central China province of Anhui, told Pearl News Reporter via WeChat. “When I saw two lines appeared on the pregnancy test stick, I felt like my world was falling apart.”

Xingxing is one of the women who suffered pregnancy without wedlock in China. For them, stigma from society can be seen every single day. Under a Weibo post discussing whether unmarried women should get maternity leave, a netizen commented: “...Don’t you know how you got

pregnant? You guys are mistresses who destroy other’s families.”

“I felt frightened, terrified, and overwhelmed,” Xingxing said. “No one came to help. All I had was complaints from family members and mocks from colleagues.”

After a long deliberation, Xingxing finally chose an abortion, which is a hard but common option for Chinese women who are pregnant out of wedlock. According to a study conducted by Renmin University, compared to developed countries, most unmarried pregnancies in China ended in “shotgun weddings”. Those who choose not to get married are very likely to get an abortion instead.



The abortion department of a Chinese hospital. In China, women who have miscarried often wish to remain anonymous. Seeking unlicensed clinic is not an uncommon practice. Photo by Iris Lau.

Xiaoqi Zou, a 46-year-old financial worker from the Eastern China city of Shanghai, faced the similar problem. Unlike Xingxing, she chose to deliver her baby. “I can’t give my baby up,” she said in an interview with The New York Times. While pregnant, however, she realised she can’t apply for maternity benefits, including insurance and her salary, like other mothers do.

With a free fall of the country’s birth-rate, the Chinese government has made repeated adjustment to its longstanding, notoriously strict family planning policy. The biggest change came in 2021, when the policymakers upped the maximum number of children allowed in a family to three. While married parents have gained more benefits from the social security net, unmarried mothers are still denied from the system.

Policy Recognition Lagging

Chinese law does not unequivocally prohibit single women, like Xingxing and Xiaoqi, from giving birth. Instead, it is clearly stated that “children born out of wedlock shall enjoy the same rights as children born in wedlock”. But it wasn’t until 2016 when the government finally clarified that children born out of wedlock are eligible for

household registration. Meanwhile, official family plan policies only mention married couples, and local officials have long provided benefits based on these obscure and vague provisions.

“The process was too difficult and time-consuming. During this period, I kept calling the family planning office and the health bureau, explaining my situation to them.” Ms. Lui, a single mother who’s applying for maternity insurance in Shenzhen, Guangdong, wrote in her blog post.

In any case, Ms. Lui was lucky. Pearl News reporter checked the population and family planning regulations of all 31 provincial-level administrative regions in mainland China. It turns out only Guangdong Province removed major procedural obstacle and allows unmarried women, like Ms. Lui, to apply for social welfare, including maternity insurance and benefits. In many places, unmarried mothers are excluded from the social security system, even with additional fines called “social child-raising fee”, a financial punishment originally targeted couples who had multiple children in the age of “single child policy”. In Guangxi, Yunnan and Guizhou, unwed mothers may be forcibly fired if they insist on delivering their children.

Even in Guangdong, the loose policy might be afflicted by contradictory directives and adminis-

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trative practices. Ms. Lui's application was simply turned away by local officials, which is not surprising. "The staff in my hometown didn't even know that unmarried births could be registered, so they rejected me at first. Later, with the help of a lawyer, I showed the policy and proved to the authority that the application can be done without a marriage certificate."

As China's birth-rate has plummeted in recent years - reaching an all-time low of 7.52% in 2021 – and more women from the younger generation embraces feminist ideal, some minor changes on policy can be seen. In 2021, Anhui repealed its regulations which prohibited births without wedlock. Still, authorities' mixed messaging on unmarried women's reproductive right is the greatest barrier. In December 2020, single mothers in Shanghai discovered that they could apply for maternity benefits without marriage certificate. But after the news widely covered by media, their applications were finally rejected.

"No, they cannot apply for insurance or benefits. There is no policy change," a staff from the Health Commission of Shanghai, said when reached by phone. "Single mothers are excluded from the policy."

Judicial Reviews Challenging

Despite all the uncleared regulations and possible misfeasance in public office, a tiny yet determined group of women is calling for guaranteed maternity benefit, and more broadly, for recognition of single mothers' reproductive right. The courts at all levels across the country have become their battlegrounds. Judicial reviews were brought on different reasons by these fearless young women: employers refused to grant maternity leave to single mothers, and health authorities refused to pay women's medical bills.

But the verdicts are often hugely disappointing.

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The High Court of Beijing recently, made a harsh rebuke for out-of-wedlock births. According to an undisclosed court filing gained by Pearl News reporter, the court ruled that "any birth out of wedlock is a violation of family planning policy, and there's no supporting document that single mothers can receive maternity benefits."

As for Xiaoqi, she sued the local family planning council and her cases remained challenging. After losing the first and second trial, she appealed to the High Court of Shanghai. In the final judgment, the court explained that they are "deeply concerned about the sustainable development of



Teresa Xu, who filed a lawsuit against China's ban on egg freezing for single women. According to the Chinese Law, single women who do not comply with the family planning regulations are prohibited from assisted reproductive technology. Photo from China Daily.

ViewPoint

the maternity insurance system and believe it is an important part of the social security system". The court also expressed its "understanding and sympathy for Xiaoqi's situation". Still, the court ruled that "maternity benefits are applicable only for births compliant to family planning policy, from which births without wedlock is excluded."

"Social Insurance Law as the national regulation does not exclude births without wedlock and do not conform to family planning policy from maternity insurance," Clarisa Deng, a law instructor from United International College, Zhuhai, told Pearl News reporter. "However, you need to get married and apply for a family planning certificate as the premise to enjoy maternity insurance, which is a common practice in various provinces and cities. It is difficult to say whether these regulations have a legal basis, because the corresponding superordinate laws are very difficult to define."

Legislative Proposals Pending

Births without wedlock and single mother has always been an unpopular and embarrassing topic in Chinese mass media. But as the looming demographic crisis caused by the sharply declining birth-rate now acknowledged by officials and experts, proposals to end financial penalties and policy discrimination for singles mother appeared in the country's legislative institution, National

People's Congress (NPC), in recent years.

Xihua Huang, the Deputy Secretary of the Huizhou Municipal Government, raised a proposal in 2019 NPC's meeting, calling for unconditional household registration for children born out of wedlock. In the proposal, she wrote that "the subject of reproductive rights is not limited to married couples, but also includes citizens who have not concluded marriages."

During another less formal meeting with no legislative effect, People's Political Consultative Conference (PCC) this year, the debate about unwed mothers seems to have received unprecedented attention. "Women's reproductive rights are surely respected and guaranteed," Yansong Bai, a famous news commentator for the state-owned China Central Television and also a PCC member, suggested in his proposal. "Policy barriers should be removed."

Another proposal is more radical. Yawei Hua, a doctor and committee member from the Communist Party led Peasants and Workers Party, suggested that women should be allowed to retrieve their eggs. Moreover, unmarried women over the age of 30 should be allowed to undergo artificial insemination and IVF (in vitro fertilization).

None of the above proposals were adopted.

The idea being floated by local officials, businessmen and media reporters reflect the concern over the issue. Still, the fact is no clear consensus has been formed on what the government should do. While single mothers not only have to take the responsibility of raising a child on themselves but have to face ongoing social and political stigma just because of their reproductive choice, a way to provide them with entitled support and services is still to be discovered.

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