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# **Civilizing Unmarried Urban Women in China: Authentic or Not?**

**Ting Li\***

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**Centre for East and South-East Asian Studies  
Lund University, Sweden**

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## **Abstract**

**Aim:** The aim of this research was to explore and evaluate the new expected identities of unmarried urban women in China, by analyzing the changes in the marriage law in the last 60 years, particularly in property division in the case of divorce.

**Methodology:** The paper proceeded under the qualitative method and designed a case study in Chengdu. The data from books, journals, policies, newspapers and the interview texts were analyzed under theoretical concepts and discourse analysis method.

**Theoretical framework:** The theoretical framework of the complex “governmentality-identity-authenticity” was applied in the thesis, with the main focus on gender issues.

**Conclusions:** The self-reliance identity has been established among unmarried urban women in China, while the self-esteem identity failed. Interviews with unmarried urban women in Chengdu revealed the biggest obstacle was the lack of protection and compensation for divorced women in China’s marriage law. The fear of a drop in their standard of living and suffering from poverty after divorce led to feelings of insecurity and negative emotions among the unmarried urban women, which hugely influenced their concepts of marriage and self-esteem identity building.

**Key words:** Identity, Governmentality, Authentic, Marriage Law, Property Division, Gender, China, Unmarried Urban Women.



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# 1. Introduction

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*This introductory chapter describes the third amendment of the marriage law in China. It presents the background and problems of the research. Moreover, the research questions are put forward. At the end, it states the disposition of the thesis.*

---

The marriage institution guides individual activity, sustains identity, gives sense and purpose to the lives of its participants, and thereby produces valuable social goods.

(Stewart 2008: 369)

The functions of the marriage institution, referred to by Stewart in 2008 above, are based on a critical examination of the factual description of marriage. This statement shows how influentially marriage interacts with our daily life and behaviors. Moreover, under the constitutional norms, legal institutions constitute various aspects of social life, including heterosexual marriage (Engel & Munger 2003: 13). Particularly, law becomes the most obvious element in the legal institutions, since it defines social roles, signifying how people should be interpreted and how they should interpret others in social relationships (Mitnick 2007: 823–824). Therefore, in the case of marriage, a clear proposal of “law as givers of institution” states that civil marriage is wholly a legal construct, that marriage as experienced in our society is something that the marriage law grants to people; and that, therefore, marriage is something that people, without the marriage law, would not experience in any meaningful way (Stewart 2008: 363). Thus, the role of the marriage law in the institution of marriage can be seen as the “creator” or “facilitator” of relationships between both sides. And the constitutive nature of the marriage law might be embodied in a legislative right, defining and granting the right of establishing a set of social identities in the marital relationship.

Therefore, the marriage law is very important for studying the marriage institution, including the identities and the lives of both women and men. Furthermore, the marriage law in fact also highlights the specific characteristics of gender in/equality. The next section draws attention to the marriage law in China. It presents the preliminary discussions and the lack of research on the topic.

## 1.1 Statement of Problems

In July 2011, the third amendment of the marriage law in China was published, which sparked off a considerable debate within society. The animated discussion is centered on property division in the case of divorce, particularly in articles 7 and 10:

Article 7: “A house bought by the parents and registered under their son/daughter’s name remains the personal property of the son/daughter after the son/daughter gets married.”<sup>1</sup>

Article 10: “Houses bought via a mortgage by one party with a down payment, before the marriage, are to be deemed as the individual property of the registered owner, rather than the joint estate of the couple, no matter whether the registered owner uses the joint property to pay the mortgage after marriage or not. In the case of divorce, the house belongs to the registered owner, the other party will get some compensations depending on the real situation of repayment.”<sup>2</sup>

After the release of the third amendment, reports and discussions about it rapidly appeared on the Internet, in newspapers, and on TV programs. A large amount of discussions were associated with a focus on gender issues. Mostly, they discussed the costs and benefits of property division in marriage between men and women. Among those interpretations of the third amendment of the marriage law, two headlines caught my attention as being the most representative:

New “Marriage Law”: Men Chuckling, Women Worrying?

新《婚姻法》：男人笑，女人愁？

(Yi 2011)

The article presents the collected research data from matchmakers (*hongniang*) and matchmaking companies (*hunjie gongsi*), which predicts that the new amendment of the marriage law will change the marital concepts of the young generation, particularly women and their families. It states that

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<sup>1</sup>第七条：婚后由一方父母出资为子女购买的不动产，产权登记在出资人子女名下的视为只对自己子女一方的赠与，该不动产应认定为夫妻一方的个人财产。

<sup>2</sup>第十条：夫妻一方婚前签订不动产买卖合同，以个人财产支付首付款并在银行贷款，婚后用夫妻共同财产还贷，不动产登记于首付款支付方名下的，人民法院可以判决该不动产归产权登记一方，尚未归还的贷款为产权登记一方的个人债务。双方婚后共同还贷支付的款项及其相对应财产增值部分，离婚时应根据婚姻法第三十九条第一款规定的原则，由产权登记一方对另一方进行补偿。

instead of marrying for a house and car, unmarried young women may focus more on jobs, personality, hobbies and love when it comes to marriage.

New “Marriage Law” Is The Law Of “Men Sleep With Girls For Free”

新《婚姻法》就是男人白睡姑娘法

(Ifeng.com 2011)

This is one episode title of “Qiang Qiang San Ren Xing,” which is one of the most popular TV programs in China. The program discussed the public reaction to the new amendments, from both women and men. The show’s anchor Dou pointed out that the large-scale emergence of women’s dissatisfaction about this new amendment of the marriage law had strongly proved that young women’s morality in marriage in contemporary China had deteriorated. Additionally, he argued that many young women felt unhappy about this new policy, because those young women only thought about marrying for wealth, not for love.

As a conclusion, both of them sharply point out the “deteriorated marriage” concepts in contemporary China and their belief that it is necessary for women to change after implementing the new amendment. In their opinion, young women in particular, who prefer to marry rich men are the main cause of the deterioration of marriage in China. The new amendment clearly regulates property division, which is beneficial for changing young women’s materialistic concept of marriage. Even though there were a lot of dissatisfaction and complaints from women on their blogs and micro blogs about the unfairness of the new policy, the majority of the media have usually emphasized the enforcement of the law and the obedience of women, and it seems that the situation right now for women to change their behavior is irreversible. Accordingly, I started to question “Why women?” Why do women suffer “more” from this new policy? Why do they suffer anyhow? Why would a policy be implemented from which nearly half of Chinese citizens would suffer? Why do women need to compromise and change? And why are women accused of being greedy?

## 1.2 Research Questions

Based on the problem presented above, the research focuses on the nexus between policy, women’s identity, and authenticity. Specifically, in the research, women’s “identity” refers to women’s individual behaviors and

concepts of value in the family and marriage; while “authenticity” is used to examine the process of identity formation and evaluate whether or not the identity is established (cf. Duara 1998; Brown 2010; Appiah 2006 etc.). Also, based on the theory, which I will explain in Chapter 3 of this thesis that a government can use the law to have an impact on people’s social experience and thus on their identity formation, I argue that the marriage law was implemented as a governmental tactic to educate women on their behavior and the concept of value in the marital relationship, which tries to civilize women in China. By revising and amending the marriage law over the past 60 years, the elites of the Chinese government aimed to establish some new marital values for women and create the ideal identity of Chinese women. This research aims at analyzing the new identity building of women and investigates whether or not the new identity is established among unmarried urban women in China. Thus, the main research questions are:

How do the changes in the marriage law cultivate a new identity of women in China? Is it established among unmarried urban women or not?

Marriage and love in China have been subject to various interpretations in accordance with the state’s needs (Liu 2004: 199). For example, in the 1950s onward, sharing the same political and ideological outlook was the most basic condition of marriage and love (Evans 1997: 91). Also in the 1980s, when economic principles were highly promoted, marriage and love as a “personal” matter seemed to be less the state’s business (Evans 1997: 96). Therefore, to study the marriage institution in relation to identities, the nation-state’s needs and its approach to the marriage law are the crucial aspects to examine. Thus it is important to investigate questions such as:

What is the governmentality of marriage in China? How does the Chinese government interfere in marriage issues?

What kind of identity does the government want to cultivate in Chinese women?

If this marriage law is used by the government to civilize unmarried urban women in China, then it is necessary to check the reaction to the new identities, and whether or not they are successfully established. Therefore, the following questions about authenticity will be examined, such as:

To what degree is the new identity established or not among the unmarried urban women?

What effects and problems are produced amid changes in the marriage law? Who is likely to benefit from these new changes, men or women? What is left or unsolved from these changes?

### 1.3 Disposition

The thesis consists of seven chapters, which are divided into three parts.

A general introduction (Chapter 1) and Chapter 2 about material and method constitute the first section.

The second part is the main body of the thesis, which consists of four chapters (Chapter 3 to Chapter 6). Chapter 3 presents the theoretical framework, which discusses a set of theories concerning “governmentality-identity-authenticity,” as well as how those theories are applied in the thesis. Based on those theories, Chapter 4 begins to analyze China’s governmentality of marriage from the changes in the marriage law in the past 60 years in order to examine the underlying logics of the Chinese government about marriage. Taking into account marital governmentality, Chapter 5 elaborates on the new identities in marriage, which the government expects will civilize Chinese women in contemporary society. Chapter 6 deals with the authenticity of the new identities. It examines the new identity building among unmarried urban women by analyzing the interview texts collected from women in Chengdu.

The third and last part is the conclusion, which is presented in Chapter 7. The summary and discussion of the result from the analytical chapter is displayed and it also reflects upon the findings and the contribution, as well as provides suggestions for future research.

## 2. Method and Material

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*In this chapter, the methodological considerations are presented. It begins with the motivation of the research approaches in relation to the aims of the thesis. Then it outlines and explains both the discourse analysis approach and the feminist approach to studying family. Lastly, the case study and data collection methods will be introduced.*

---

The aim of the research is to describe and understand a possible new identity for unmarried urban women in China by analyzing the changes in the marriage law in recent years, particularly in property division in the case of divorce. To do this, the study adopts a qualitative research strategy (Bryman 2008: 21). First of all, the process of gathering materials from policies, newspapers, and websites are mostly inductive as I interpret the

governmentality of marriage and the new identity of women in China. This step is instructed by the discourse analysis approach to analyzing texts, especially with consideration of different contexts and presuppositions (Bacchi 1999: 7–8). Second, the empirical materials from interview texts are analyzed based on the theories of feminism in family studies, specifically the “feminization of poverty” approach, to figure out the disadvantages for divorced women (cf. Franklin 1992; Atwood & Genovese 1997; Huang 2007; Peterson 1987).

## **2.1 Discourse Analysis Approach**

The method of the research is discourse analysis, specifically the “What’s the Problem?” approach developed by Bacchi in 1999. Bacchi argues that in policy drafts or policy debates the various descriptions of an issue or a “problem” are different interpretations, which involve judgment and choices (1999: 4). Thus, she proposes that instead of approaching policies as solutions to the problems, we should realize that policies constitute competing representations of political issues (Bacchi 1999: 5). Furthermore, a “problem” contains both representation of the presupposition and the remaining unproblematic representation (Bacchi 1999: 8). Accordingly, when we analyze the revisions of the marriage law in China, we can notice that there is an existing area with material consequences where the policy is practiced. And we find that there still are competing ideas or ways of communicating within the policymaking.

Bacchi also proposes the basic method of how to use discourse analysis to investigate a policy. First of all, a close analysis of items that do make the political agenda should be made to see how the representation of those issues is limited (Bacchi 1999: 7). Since the policy is issued on the condition that people believe there is a marriage problem that needs states policy intervention, I can start to decipher what the “problem” is exactly. For instance, is there any marital or gender-biased concept that hinders economic development in China? Or is there any marriage crisis among the young generation that needs government policy intervention? Here, analysis or judgment can give different impressions, such as a concern, a cause, or a decision (ibid.). Similarly, at the level of “social” problem, we should figure out what kind of public responsibility addresses the policy. Thus, context is extremely important in the analysis of the problem, whether it is location-specific, institution-specific or history-specific.

Then, policy “responses” need to be understood as part of a discursive construction of the “problem” (Bacchi 1999: 8). That’s because after testing out the presuppositions and assumptions in competing interpretations, people can discard the “real” problems and make comments on them (ibid.). Related to the marriage law, the revision can be seen as the government’s choice to solve the most essential problem from the decision makers’ point of view. However, it does not mean that other opposite interpretations are not important. To analyze the marriage law I will take both sides of the representations, from government and feminism, into account and try to figure out whether or not this policy is practiced by sacrificing women’s benefits in order to solve social problems.

Furthermore, we can make an evaluation of policies (Bacchi 1999: 13). Based on this theory, the research will focus on analyzing the interview texts from urban unmarried women to check whether this policy will change their marital concepts and the discussion texts in society about publishing this policy.

Generally, in this thesis, I will use the “What’s the Problem?” approach as a main clue to analyze the marriage law. First, by combining the historical background of Chinese women’s marital status and the changes in the marriage law, I will study governmentality of marriage in order to present the specific problems of marriage in China. Then, I will analyze the women’s identity, such as what essential problems the government wants to solve in marriage or what kinds of identity the government wants to address in relation to women in China as a solution to marital problems as a means to display the government’s representation on the problems. Additionally, I will discuss the competing representation from the feminist perspective and critically question the policy that appears gender-neutral, and the interests and costs between women and men.

## **2.2 Feminist Approach to Studying Family**

The research aims at investigating the marital concepts of unmarried urban women in China and finding out whether or not the government-expected identity is established among this group of women. Since these young women’s feelings, such as fears of divorce and impoverishment or marital convention, are strongly associated with their conjugal selection and identity, their inner beliefs will thus be examined by analyzing the interview texts. Also, in order to explain the fears about future marriage among the unmarried urban women in China, I will use the “feminization of poverty” approach to



discuss the disadvantages for divorced women and the connections between property division in the case of divorce and the conjugal selection of young women.

Marriage and family have always been paramount issues in feminism. In the 1980s, feminists focused on the meaning of family and considered the diversity of family life without seeing the “standard package,” which for instance is a married couple with children, with the husband as primary provider (Thompson & Walker 1995: 858). Instead of taking for granted who or what family is, feminists believe that family studies should accommodate family diversity (ibid.). Regarding this belief, feminists noticed that, starting from the end of the nineteenth century, feminism movements in the world have achieved some civil rights for women in the law system of the twentieth century, such as property ownership, self-determination of divorce, and guardianship for children. However there still exist many unequal gender phenomena in the domain of marriage and family (Huang 2007: 42). Therefore, in the emergence of the second global wave of feminism in the 1960s, feminists restarted to more deeply criticize and theoretically analyze the fields of family, marriage, sex, the body, housework, childbearing and so on (ibid.). And they advocated change in women's subordination and disadvantage in families and stated openly that women are often disadvantaged in family life, that men's interests are served more often than women's interests, and gender inequality is unacceptable (Thompson & Walker 1995: 251).

Particularly, in 1978, the term “feminization of poverty,” which was introduced by Diana Pearce, soon entered the social science lexicon and a campaign emerged to address a type of poverty that was based on gender (Franklin 1992: 143–144; Pearce, 1983: 71). One of the most central assertions from feminist campaigns in addressing poverty based on gender is that divorce produces a single man and a single woman who takes care of children (Franklin 1992: 144). Researchers, studying the economic situation of women in no-fault divorce cases, reported that on a worldwide scale women and their children generally suffer a precipitous drop in income and standard of living after divorce (Atwood & Genovese 1997: 22). This precipitous drop in income in custodial mothers and their children's income is referred to as the “feminization of poverty” (ibid.).

Moreover, feminists argue that although some phenomena of the feminization of poverty occurred among women who live in a family with a husband, the most common situations of that throughout the world emerged in groups of women who are the heads of the family (Huang 2007: 58).

Applied to the household registration system in China, it refers to the group of women called “*nü huzhu*,” such as single mothers with children or unmarried women. (Huang 2007: 59). These women have usually gone through divorce or separation without a legal divorce from their husband, had babies outside marriage or are unmarried (ibid.). Furthermore, Huang points out that in China a large number of the “*nü huzhu*,” who are divorced have suffered from poverty (2007: 60). That raises the question: “What are the economic and social factors associated with being female that result in poverty after divorce?”

In order to explain the impoverishment of women after divorce, studies concerned with the feminization of poverty have tended to focus on three areas which include the changes in family structures, the labor market, and welfare programs (Peterson 1987: 330). Especially, in Peterson’s point of view welfare programs that effectively help women and the impact of policy changes have great influence on women after divorce (1987: 335). Thus, in order to figure out the policy factors that impoverish divorced women in China, one of the aims of the thesis is to critically analyze the marriage law that appears gender-neutral in disguise and to discuss the interests and costs between women and men in the case of divorce.

### **2.3 A Case Study in Chengdu and Data Collection**

The primary sources for this thesis are policy statements, media representation of the marriage amendments, such as articles or news about the controversial discussions and debates among the policymakers, as well as the interviews I have conducted.

In my research I conducted a case study. One of the most important parts of case study research is the consideration of the context and the understanding of the contextual conditions (Yin 2003:13). The aim of the thesis is to investigate identity building among unmarried urban women in China. Within the considerations of China’s diversity, the identities of women are various in different regions. Therefore, I chose Chengdu as a case in which to conduct my interviews. Economically and politically, Chengdu is the capital city of Sichuan Province and one of the big cities with rapid urbanization and modernization in China. Moreover, Chengdu is geographically situated in central China with a less transient population and foreign cultural assimilation, compared with other metropolitan cities such as Shanghai and Beijing. The civic culture is stable. Thus, it is suitable for my study to investigate the new identity building.

It is helpful in generating rich and interesting data to use the qualitative techniques, for example the structured/semi-structured interview (Bryman 2008: 53). The research is based on interviews with 10 unmarried urban young women, who are aged from 24 to 29. All informants are heterosexual, the only child in their family, and originally from Chengdu. Furthermore, the majority of them are now in relationships with their boyfriends and planning to get married, while a few of them have broken up with their boyfriends. All of them had been in a serious relationship for at least two years. Seven of them graduated from university, including two undergraduates, three postgraduates from Chinese universities, two postgraduates from overseas universities, and one PhD student. Another three among them graduated from colleges with associate degrees. In regard to work experience, nine of them are working and one is still studying. Three of them have been working for more than four years, while six have at least one or two years of work experience. Their monthly salaries ranged from 3,000 RMB to 6,500 RMB. One is supported by her parents' money. I found these informants via my friends' contacts.

Each session of interview time was around three to four hours in a local café. I recorded seven of the interviews with the informants' consent and took notes during the other three in order to carry out discourse analysis. The aim of the interviews was to acquire some first-hand materials about the marriage values and selection, particularly feedback about the third amendment of the marriage law, so as to examine whether or not the expected identities authenticate women. The conversation mainly included four parts: the economic viewpoint, opinions on choosing a boyfriend, views on choosing a husband, and the opinion about marriage and the marriage law.

All the interviewees and the people who helped me find contacts are well aware of my research. According to the rules of ethnical considerations, the names of my interviewees and informants will be confidential throughout the thesis.

### 3. Theoretical Framework

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*This chapter outlines a set of theories. Initially, it explains the reasons and the ways of studying governmentality on marriage that emphasize policy and underlying logic. Furthermore, it elaborates on narratives, identity, and authenticity to explain how the nation-state influences individuals. Lastly, it introduces how the theoretical framework will apply to this research.*

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Rooted in modern science, modern state power often centers on the biological body, both on individual and collective levels (Greenhalgh 2010: 12). According to Foucault, modern governance is the governance of human life or, more specifically, human bodies, which administrate and cultivate individuals and collective life, health, and welfare (ibid.). Particularly, since recent years, specialists on modern governance have drawn more attention to the historical emergence of a new form of power and claimed that the study should not only concentrate on the state or governments themselves, but also increasingly be dispersed throughout society in institutions of medicine, education, and the law (Greenhalgh 2010: 11). Therefore, laws can be seen as one of the most significant types of governing techniques to be investigated. Especially, the changes in the marriage law can, on one hand, offer a lens to study the Chinese governmentality of marriage, which displays the government's aims and goals to govern the marital relationship. On the other hand, laws can be seen as a narrative romanticized by government as an approach of power exertion, to change the individual's social experiences in order to form a new identity.

#### 3.1 Governmentality: Policy and Underlying Logic

In the twenty-first century, states and other governing agencies attempt to modernize their populations by getting individuals to adjust their provided modern norms on sexuality, marriage, contraception, childbearing, and so on (Greenhalgh 2010: 10). In order to persuade citizens to accept their modern reproductive norms and associated practices, states and governments try to negotiate and contest with individuals (ibid.). Undoubtedly, within this negotiation and competition, power can be distributed and exerted in many different forms or ways. Moreover, accompanying the new emerged agenda in the 1990s, more and more analytical power studies of modern governance shifted from state-centric analyses to include a focus on the processes of governance to highlight the power of non-state actors, and to identify and

theorize the changing forms and institutionalization of political authority (Sending & Neumann 2006: 651). In this context, in order to grasp the thinking and practice associated with the relations and the implied power between states, governments, and other actors, the concept of “governmentality” originally developed by Michel Foucault can be drawn on as one explanation (Sending & Neumann 2006: 652). Namely, the ideas emerging from studies of governmentality are a combination of government and political rationality, which explores modes of governing beyond the state (Greenhalgh 2010: 11). That is to say, governmentality can highlight the significance of logics and rationality of governance, which is an analytical concept aimed at grasping government as a form of power (Sending and Neumann 2006: 656). Furthermore, in the perspective of governmentality based on Foucault, the role of non-state actors, which include individuals, is not an example of transferring power from the state to individuals; rather it is an expression of changing logics and rationality of government (Sending & Neumann 2006: 652). Thus, the individuals do not stand in opposition to the political power of the state; in sharp contrast, it is a most essential feature of power operation in late modern society (*ibid.*). Generally, governmentality can be seen as a different take on modern governance and non-state actors. And following the ideas of governmentality based on Foucault, different governmentality contains various meanings for states and governments, influencing their individuals and cultivating their ideal citizens.

Additionally, in regard to a focus on governmentality, there are at least two important implications, which are investigating the specific practices and techniques of governing as an empirical phenomenon, and identifying the rationality that characterizes systematic thinking and knowledge (Sending & Neumann 2006: 657). In other words, in order to figure out what a government aims at, on one hand, the concrete policies and enforcement techniques are important; on the other hand, the underlying logics, which have analytical precedence, can never be neglected, because they shape how those institutions, policies, and enforcement method develop (Greenhalgh 2010: 12). Thus with respect to the latest revisions of marriage law in China from 1950s to 2011 as an enforcement techniques, I can analyze the changes of property ownership between two parties in marriage, so as to conclude the power relations between men and women and also to find out the underlying logics of governmentality on marriage.

### 3.2 Political-Based Narratives, Identity, and Authenticity

A “narrative” is stories about how people develop, their origins in antiquity, and what details are difficult to reconstruct or challenge (Brown 2010: 462). Since these stories can shift over time, tracking contemporary politics, the narratives can be used as a rhetorical strategy to obfuscate how identities reflect current politics (ibid.). That is to say, in order to fit contemporary political needs, narratives leading to the present identity seem to be an unfolding of some predestined essence of descent (Brown 2010: 463). Thus, by romanticizing narratives, the government has the possibility to construct an ideal identity of marriage, such as women/men’s behaviors or concepts of marital value.

Moreover, in order to find out how the narratives work on building identities, the “authenticity” should be taken into consideration. Authenticity refers primarily to an order or regime, which cites various narratives of authoritative inviolability and a nation-state of power that repeatedly constitutes itself as the locus of authority (Duara 1998:294). Additionally, a nation-state that wants to be “authentic” can only go through the evolution of self-consciousness if the nation is positioned to move competitively into modernity (Duara 1998: 289). And this self-consciousness of nation-state requires sharing some core ideas between the collective and the individual in the aspects of identity and so on (ibid.). In the case of marriage and family, the shared collective identities of both parties, including morality of marital life, value of family, and so forth are the essential factors to achieve the authenticity of nation-state. Thus it is necessary for the government to cultivate authentic identities through narratives. Furthermore, the concept of authenticity assumes that each individual has a unique “inner self,” constructed by individuals but constrained and guided by individuals’ culture and society (Brown 2010: 463; Appiah 2006: 17). In order to build an authentic identity, an individual must follow that inner self (Brown 2010: 463). Also, the inner self can be focused on in the empirical processes by people’s negotiation and their internalization in collectives (ibid.). Therefore, in the case of women’s identity, if a woman showed positive feelings such as “willingness” or “entrancement” for an identity, then it could mean that she follows her inner self to accept this identity. On the contrary, if a woman expressed negative feelings, such as “fear” or “intimidation,” then it could be recognized as resistance to negotiation or failure in building this identity.

Essentially, since the authentic identity is fluid under the changing social experience, governments and authorities can influence collective identities by shaping individuals’ social experience (Brown 2010: 476). Associated with the

revisions of the marriage law in China, the government can use policy changes as an unfolding narrative to change the social experience of the marital relationship. Subsequently, it can influence and adjust the individuals' interactions in households and form a new individual identity for women. Even though the government tries to form a new collective identity among urban Chinese women, whether or not it can confer their individual identity is, in turn, decided by the authenticity of the identity, such as how they react to the changes.

### **3.3 Applications for Research**

In the following analysis, I will use the theoretical framework of governmentality, identity, and authenticity to examine the revisions of the marriage law in China.

Starting from analyzing the changing policies of marriage law particularly in property division, I will explore the power relation between government and individuals, in order to investigate the underlying logics on marriage from the Chinese government. For instance, what is the boundary between individual freedom and government interference in marriage? In which case will government interfere in individual behaviors?

Moreover, the revisions and amendments of marriage laws are the narratives of unfolding as an approach for government to change or adjust individual behaviors, in order to follow the underlying logics of governmentality on marriage. Therefore by studying the changes of marriage laws in property, including revisions and amendments, I analyze the changes of individual social experience under the interaction of marriage and family; also figure out the new identity. For instance, under the context of the prevailing traditional marriage custom, what's the new relationship on property division between men and women in the case of divorce? Who gains more benefits from the new declaration of property ownership, man or woman? How does it change the marriage status of women, when it comes to select grooms?

Lastly, based on the interviews of unmarried urban women in Chengdu, I examine the authenticity of the new identity, and ask whether the individual identity is authenticated in turn to become a collective identity or not. For instance, even though government use law to interfere marital issues, I would like to investigate despite knowing about the disadvantage of property distribution in the case of divorce, whether those urban young women will accept and establish the new identity to change their situations and follow the "inner self" or not.

## 4. Governmentality of Marriage: Law and Underlying Logic

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*This chapter investigates the historical changes of China's marriage law in recent sixty years, particularly drawing attention to the property division in the case of divorce. Separately, it concludes two features of those changes, which are releasing female labour force from 1950 to 1980 and privatizing individual property from 1980 till now. Last, it expands on analyzing the underlying logic of governing marriage from Chinese government.*

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### 4.1. Historical Implications of Previous Marriage Law

The historical unity of the nation-state is inseparable from the complexities of contemporary diversity. Because a national history is always being challenged through counter histories or through political opposition by different ethnicities, races, classes, or other expressions of difference, therefore the regime of authenticity contributes tremendously to the production through narratives that depict the priority of the nation (Duara 1998: 295). And the subjects of authenticity can be symbolized for the associated notions of identity, honor, morality, spirituality and so on, to stand for some representations being denied by citizens in the public, in order to consolidate a nation-state (ibid.).

#### 4.1.1 *Releasing Female Labour Force (1950-1980)*

Traditionally, there are five relationships in traditional Confucian narrative with descending order of importance, which are ruler and minister, father and son, elder brother and younger brother, husband and wife, friend and friend (Li 2003: 12). They strengthened the intra-familial relations and weakened the position of conjugal relations in Chinese historical society (Li 2003: 27). Moreover China's patrilineal kinship system emphasized the linkage of 'descent line' traced through a man with to both his ancestors and descendants, which indicates that the male descent line was more important than individual family relationships (Pimentel 2000: 32). Thus, the so-called arranged marriage system and virilocal postmarital residence facilitated the attainment of family reproduction and structured conjugal bonds as inferior to intergenerational ties (ibid.). Moreover, since women in the marital relationship did not have any right to inherit or manage property, their lack of



rights to dispose of possessions mainly led to women's reliance and submission to men in traditional society (Huang 2007: 121).

However, during the twentieth century, tremendous changes in Chinese marriage and family systems took place, specifically the freedom of women in the household and marriage. One of the most significant turning points was the establishment of the People's Republic of China (PRC) in 1949. From that time onwards, China has gradually constructed a legal system to protect the interests and rights of women in various ways. In particular, the first marriage law of China was issued in 1950, which contained eight chapters and 27 articles. Since gender inequality largely existed in imperial China, the marriage law in 1950 mainly reflected the overall commitment of the Communist Party toward gender equality (Agarwal 2002: 407). The slogan "abolishing the old and establishing the new" (*feijiu lixin*) was the essence of the marriage law in 1950. "Abolishing the old" (*feijiu*) substantially focused on issues such as the abolition of forced and arranged marriage, the prohibition of bigamy, and the custom of child-brides and so on (*ibid.*). The so-called "establishing the new" (*lixin*) aimed to build up the marriage system of new democracy and socialism by implementing marriage freedom, monogamy, gender equality, and protecting women and children's rights (Ge 2006: 10). So, based on the essence of gender equality and building women's economic independence, article 23 in chapter six stipulated that both married parties have equal property ownership rights and the right to deal with the property, and if divorced, the women's pre-marital property remains in their possession. Also, the division of other property should be based on mutual negotiation; if both parties cannot make a deal, a people's court is responsible for bringing about a verdict, which should principally take care of women and children's benefits. Together with other laws such as the land law, the marriage law in 1950 not only encouraged marital equality, but also guaranteed that women's property rights would enable them to be economically independent in society.

Overall, the most outstanding feature of governing women in this period was to implement the neutrally-gendered marriage law as a means to challenge women's submissive status and assimilate the female labor force. Motivated both by feminist ideals and by a desire to mobilize women's labor for national development, the Communist government began providing women with employment opportunities soon after it took control of China in 1949 (Fong 2002: 1101). Namely, the main reason for publishing a new marriage law in 1950 was to release the productivity of Chinese women, in line with the establishment of the new democracy system and the integration of the female

labor force in the development of China's rural agriculture and urban industrialization (Ge 2006: 4). According to the outlined land law of China in 1947, it stated that all rural citizens, including the old, young, women, and men, have the right to distribute land impartially. As a consequence, in 1952, rural women (*nongcun funu*) participated in over 60 percent of agricultural production (Ge 2006: 29). And in cities, the Chinese Communist Party (CCP) and government advocated women to join the construction of socialism and assigned the China Women's Federation with the task of increasing the value of women's economic independence and gender equality (Ge 2006: 30). In 1952, there were some 1.85 million women working in units of ownership in the whole population (*quanmin suoyouzhi*) (ibid.). Additionally, according to the report of the marriage law published in *People's Daily*, Deng Yinchao said:

“The reason for implementing the new marriage law is to embody a concentrated reflection of awakened working people, particularly working women...”

May 26 1950

Therefore, in coordination with other policies to encourage women to get jobs, the property division of the marriage law in 1950 partially protected women's pre-marriage property and stimulated unmarried women's motivations. It defined joint property for husband and wife and aimed to change women's submissive status inside the family and encouraged more and more married women to work independently.

#### ***4.1.2 Privatizing Individual Property (1980s–)***

In 1980, after China's reform in 1979, rapid economic development and the revision of the marriage law took place in order to establish a system of morality compatible with a socialist-capitalist market economy and politics. The revision of the marriage law in China added 10 more amendments and advocated later marriage and later childbearing under the influence of family planning policy. As for the property division, the amendment on one hand, gave a more explicit explanation of joint property. It stipulated that the property gained in the marriage period is joint property, except when the two parties make another contract, and both parties have the right to inherit property from each other's family. On the other hand, the amendment changed the law of 1950 that the women's pre-marital property still belongs

to women in the case of divorce. The amendment clarified that men's pre-marriage property is also recognized as men's private property, not as jointly-owned property, which embodied the principle of equality in property between the genders (Huang 2007: 135). Even though passed in 1950 and modified in 1980, the marriage law resulted in a relatively comprehensive system to regulate marital relationship; it still lacked in general provisions for governing personal relations (Zhang 2002: 400). For instance, in the system of property ownership division, it did not contain provisions related to the management of property held in joint possession, the distinction between shared debts and individual debt, and the use of joint or separate property to meet debts (ibid.). The incompleteness of these previous laws has caused problems in judicial practice.

Therefore, on April 28, 2001, the National People's Congress (NPC) adopted the revised marriage law of the PRC. Specifically regarding property division, the rights over inheritance and division of marital property in the case of divorce have been clearly defined (Agarwal 2002: 409). Article 17 states: property gained within the period of marriage, such as salary, profits, inheritance without being specified in the will or the contract that the property belongs to one party exclusively and so forth, is considered to be jointly-owned property. In article 18, however, there are allowances for individual property, which states that one part of pre-marriage private property, which may include medical compensation, living allowance for the disabled, inherited or gifted property, is considered to be individually-owned. Furthermore, in article 19, it denotes the change of the matrimonial property system in China, which combines both husband and wife's legal property system (*fading caichanzhi*) and husband and wife's appointed property system (*yueding caichanzhi*). The former means that husband and wife can follow the regular jointly-owned property system and private-owned property system given by the marriage law to divide their property (Huang 2007: 136). The latter means that husband and wife can choose to negotiate and make a contract to divide their private property and jointly-owned property (ibid.).

Following the marriage law in 2001, in the next three years two more amendments of the 2001 marriage law were adopted to supplement explanations. Particularly in the property division, the first amendment published on December 27, 2001 reaffirmed that the pre-marriage property always belongs to one party, which would never change to joint property, except when the two parties make another agreement. The second amendment was issued January 6, 2004, which mainly addressed the house value and ownership in the case of divorce, the problem of husband and wife's

debts, and the ownership of company property in the case of divorce. Specifically, in article 22, it stipulated that if a house is bought by the parents and registered under their child's name before the child got married, the house is considered as gift property and belongs to one party, except when the parents present the ownership of the house as belonging to both parties. If bought after the marriage, the house is joint property for both parties. Both of the amendments further clarify the issues of property division and reaffirm the appointed property, which were widely accepted by society.

Compared with the former revisions of the marriage law, the amendments give clearer provisions for private property and marriage relations based on property ownership, and fully respect the autonomy of husband and wife, and agree to give the parties the right to freely deal with property. This can be signified as an important feature of the underlying logic from the 1980s till now, which is to consolidate individualism step by step through the privatization of individual property in marriage. This is a trend caused by families' transformation.

Since China has undergone another wave of modernization characterized by rapid social change and fast-paced economic growth, families began to adapt themselves to their new role of consumption institution (Fowler & Gao 2010: 344). Much as is the case in Western countries, Chinese families started to finance themselves, such as saving money, using credit cards, investing in the stock market, buying houses and so on (ibid.). Therefore, this economic consumption function caused a metamorphosis whereby families became more market-consumption oriented. Additionally, aggravated by the family planning policy and the high cost of living, the traditional extended, multigenerational, masculine-centric, cooperative system of communal living has been transformed into small, nuclear institutions that seek individual goals on a much more gender-equal basis (Fowler & Gao 2010: 347). Thus, with the progress of the discernible expansion of civil society, signifying that the state will no longer adopt blatantly crude disruptive or oppressive measures against spontaneous civil activities, the nation-state should instead only intervene through laws for the protection of individual rights (Liang 1999: 223). As a result, the proliferation of new legislation in marriage has been prompted in China, which complies with the increasing mentality of individualism, the move towards the privatization of individual property, and the weakening control of the family over the individual.

## 4.2 The Underlying Logic of Governing Marriage

From the overview of how the problem has been defined, interpreted, and practiced in policy discourse, the Chinese government's underlying logics of marriage can be seen as conferring more rights to individuals and specifying the nation-state's interference on the basis of gender equality in order to comply with individualism and accomplish self-governing in the household.

Due to the global triumph of neo-liberalism and the capitalist mode of production, Chinese society has been involved in the current round of individualization through the impact of globalization (Yan 2010: 507). While experiencing the radical changes in her/his life situation, Chinese individuals have also gone through more and more searches for individual identity and reformation of the self in the subjective domain (Yan 2010: 504). Thus, the changes in the marriage law reflect a trend of keeping abreast of both individual freedom and nation-state interference, yet specializing in clearer and more definite, different categories. The imperial China prevailed the concept of "laws do not go into family" (*fabu rujia*), which means the nation-state laws should rarely interfere in family issues and relations (Qian 2001: 157–158). However, this concept is found in the sacrifice of the rights and protection of women and children in patriarchal society. Undergoing the process of strong interference through the law on marriage and family life, such as political marriages in the 1960s and 70s, the Chinese government started to follow the new mentality of individualism and practiced a new model of governance, which can be understood as self-governing in the household (Ma 2011a: 45).

On one hand, in order to inject self-governing into administration as an external discipline, the government needs to establish morals of self-discipline without an authoritative and mandating legal force that guarantees the conduct of citizens (Zhang 2002: 401). Thus, the legislation of the marriage law is continuously expanding individuals' rights by privatizing individual property and confirming individual marital choices, while withdrawing some limitations on marital issues. Therefore, individuals could gain the freedom of controlling their own property and the freedom to marry or divorce at their own wills and so on, so as to provide a space for individuals' self-governance in relationships with others (*ibid.*). For instance, in the case of property division, the marriage law of the last 60 years displays the progress of a transformation from a purely legal property system to the mutual existence of a legal property system and appointed property system, and finally to the improvement of the appointed property system and establishment of an individual specific property system (Ma 2011a: 46).

On the other hand, if the moral standards of self-governing deteriorated, the wish to strengthen the family and support a civilized way of life would easily become mere pretence (Zhang 2001: 40). Thus, the mandatory legal principles should in turn contribute to the construction of a moral norm for self-governing in marriages. According to the marriage law, the state also gradually builds up a more comprehensive law system in order to interfere in some specific fields with regard to protecting the weak party in marriage, such as improving the system of housework indemnity, the system of compensation for damage due to divorce and so forth (Ma 2011a: 49).

In general, inside this power relation, the nation-state aimed to grant more powers to individual and family autonomy, in the aspects of family values, normal human relations, morality and so on. In turn, the nation-state has tightened up the interference and administration on the issues of domestic violence, child rearing and so forth. Thus it can not only strengthen the family and support a civilized and healthy way of life as a part of the construction of moral standards in the citizenry, but can also use the legal regulations of the marriage law to make the adjustments and draw the moral boundaries in the marital relationship (Zhang 2002:401).

## 5. Representing the Ideal Identity of Women

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*This chapter concentrates on analyzing the new identities, which the Chinese government expects to establish in women in a marital relationship. Particularly, it concludes two kinds of identity, self-reliance and self-esteem.*

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With the rise of individualism, the marriage law has changed considerably, where individual affection becomes the more important element in marriage and family building, but the fundamental functions of family such as reproduction and economic support have never disappeared (Ma 2011a: 48). Thus, in this context, the marriage law is endowed with the characteristics of public law, which emphasizes balancing individual freedom and nation-state interference by using comparatively direct methods, such as revisions of the law (ibid.). Moreover, authorities can influence collective identities by shaping individuals' social experience (Brown 2010: 476). Therefore, by analyzing the changes of property allocation in the case of divorce under the hidden logics, which enormously influenced marital interaction, we can analyze the power

distribution and manifestation between both parties in order to figure out some identities that the government expected to impose on women.

### **5.1 Self-Reliance Identity**

According to the Chinese government's underlying logic based on individualism, women's economic independence is the premise of individuality. Thus, from 1950 till now, one of the most important identities, which the Chinese government wanted to create in women, is the identity of self-reliance.

Law in China was intended as a means to bringing the domestic realm into a closer relationship with the state, not to disrupt it (Glosser 2003: 10). And China's marriage law was not primarily a means of raising women's status; its central concern was the state's relationship to families (Glosser 2003: 17). The Chinese government made nation building an explicit part of a couple's marital and social duties, codifying the idea that a reformed family would lead to a strong nation (*ibid.*). Therefore, in order to fulfill the requirement of a female labor force, the party continued to insist that women should achieve liberation by participating in movements to benefit the nation, specifically those to raise productivity (Evans 1999: 37). As a response, the produced long-term effects of the marriage law largely practiced women's transition in married life, which turned out to be more partial, less traumatic, and more varied (Hershatter 2004: 995). The marriage law has changed the social experiences of women. For instance, in the 1950s, a woman's status and mobility in public life were still greatly fettered by tradition. In order to break through the shackles of convention and to cooperate with liberation, the marriage law was partially inclined to grant some fundamental rights to women, such as freedom of choice and divorce at will (Hershatter 2004: 999). As one of the most efficient ways of breaking through conventions, the marriage law in 1950 stipulated that only women's pre-marriage property still belonged to women in the case of divorce. This largely encouraged women to go out to work and become more economically independent.

In coordination with changes in the marriage law, the Chinese government has constantly propagated and declared thoughts of economic independence. For example, the vice president of China Women's Federation, Gu Xiulian, delivered a report about the progress of promoting women's liberation in China (June 26, 2002). Gu concluded the success and failure of the strategic principle in women's rights and emphasized the future policy for the Women's Federation is to popularize laws made for protecting women, such

as the marriage law, and to establish women's status and development in the field of work in the economic and social background. Also, in 2005, the information office of the state council announced a report called Gender Equality and Women's Development in China, which contains nine chapters that judge women's development in various ways (August 25, 2005). Essentially, the report emphasizes the importance of establishing comprehensive law systems to protect women's rights, and also clearly points out the significance of the female labor force in the aspects of women and economy, and women and political decision-making (ibid.). In those cases, the marriage law becomes the positive stimulus to encourage women's economic independence in order to reach a self-reliance identity.

## **5.2 Self-Esteem Identity**

In the underlying logics mentioned before, even though the Chinese government granted more rights to individual autonomy in marriage and relationship, once the outlined social morals have deteriorated the authority can always regulate and control the macro coordination of a marital relationship by amending the marriage law (Zhang 2001: 401). In this case, the third amendment of the marriage law indicates the the Chinese government's reaction to dealing with the marital barriers of individualism by building up the identity of "self-esteem" (*zizun*) in women.

Although the family continues to be a critical unit of demographic and social analysis, perceptions of what constitutes the "family" vary across groups and societies (Tillman & Nam 2008: 367). Usually, popular perceptions of what constitutes the family are driven by prevailing views regarding the different kinds of functions that people in these units are expected to perform for one another and for society at large, such as economic and emotional support, reproduction, and the socialization of children (ibid.). In China, after the open-up policy, the concept of family became more pluralistic, with rapid economic development and prevailing individualism, (Luo 2011: 175). Namely, in recent years, many new alternative models of family have emerged. For instance, "AA family" represents a husband and wife who go dutch in all kinds of family issues, such as expenditure and housework. "Dink family" refers to those who have "double incomes no kid," which means the agreement between husband and wife to not have a child. The "Weekend husband and wife" means that couples live separately during the weekdays and only meet at the weekend. However, along with the further expansion of individualism and pluralism, some social problems have arisen, which keep



challenging people's moral boundaries. Specifically, Tillman and Nam argue that a shared residence does not guarantee shared family experiences (2008: 370). The alternative models like "AA family" and "Dink family" lack meaningful contact between husband and wife, particularly when it comes to the provision of intimacy, emotional support, or involvement in practical care-giving tasks. Also, the residential separation of family members, such as the "Weekend husband and wife," prevents these family functions from operating effectively.

Additionally, owing to the high price of real estate and the wide gap between the rich and the poor, the new concept of marriage among the young female generation, the so-called "after 80" or "80s" who were born after 1980, is to a large extent associated with the economic status and capability of earning money, such as whether the partner can purchase a house or not (Luo 2011: 172). This concept of marriage aggravated the collapse of the traditional function of family based on emotional support. This kind of concept is deeply rooted in Chinese traditional marriage customs. The Chinese traditional unwritten marriage custom of "marry up" is the husband/man's family buys the house and the wife/women's family handle the decoration, including furniture, electrical equipment, and so on. Thus, for women, the ability to live up to this expectation remains an important determinant of whether or not a man can win a bride (Fong 2002: 1104). Therefore, a son and his parents must try to buy, rent, borrow, or inherit extra housing by the time the son is ready to marry (*ibid.*).

As a result, on one hand, due to the high housing prices, it has led to the problem of delayed marriage and great pressure to find a wife for young Chinese men. For instance, according to a survey conducted by China Daily on June 4, 2011, 24.8 percent of China's urban youth postponed marriage because of the housing difficulty. Nearly 70 percent of respondents, mainly youths aged from 25 to 35 living in urban areas, said they would not like to get married if they still had to rent, since they lacked a sense of security. On the other hand, as part of the trend of house/money-based marriage or relationships, many rich married men cheat or lure young unmarried girls with houses. This has thus led to a boom in irresponsible extramarital love affairs and Chinese mistresses have emerged in large numbers, such as the "little three" (*xiaosan*) who is socially identified as a short-term mistress, and the "second wife" (*ernai*) who is believed to be a long-term mistress, and so on. In an article from the New York Times, Levin pointed out that the mistress boom has bred a generation of nouveau-riche lotharios, who yearn to rival the sexual conquests of the Chinese imperial ancestors (August 9, 2011).

Thus, in an effort to combat the growing appeal of the “sugar daddy,” some local governments have even gone as far as to preach against moral turpitude and try to encourage young women to rely less on carnal skills to survive (ibid.).

By facing the marital problems, like the phenomenon of postponing marriage in urban cities, and the moral deterioration of marriage, such as house-based or money-based relationships, the Supreme People’s Court started to consider a draft interpretation of the country’s marriage law. One female legislator, who is the member of the expert group in marriage legislation and a professor at Peking University, said in an interview:

“The Supreme People’s Court has managed a lot of conferences to get suggestions for the supplements of marriage law. One of the essential reasons for drafting the third amendment of the 2011 marriage law is to adjust the deterioration of the social moral atmosphere, and crack down on the money worship in regard of marriage and materialism in the younger generation, particularly the ‘little three’ and the ‘second wife’... in order to solve the predicament of young men without a house or parents’ help to buy a house, who find it extremely difficult to get married...”

March 7, 2012

Thus, within the consideration of the necessity of emotional support in family and marriage, on July 4, 2011 the third amendment by the Supreme People’s Court of several issues on the application of the marriage law was adopted. It came into force on August 13, 2011. Compared with the former law, the new law gives 19 new clauses to further explain the ambiguous details of the marriage law, which can be generalized into six important aspects. In particular, article 7 and article 10 (mentioned above in the introduction) both associated with property division, aroused a lot of controversy.

Based on balancing both individual freedom and government interference in the case of moral deterioration, the third amendment requires “self-esteem” (*zizun*), a higher moral standard, in women’s marriage selection. It emphasizes that women should not expect to gain wealth from marriage. Instead, marriage should be built upon emotional support, such as sharing hardships together, intimacy, and care giving. In order to change women’s concept of marriage and establish the “self-esteem” identity, the marriage law changes social experiences and only protects individual property. According to the

former marriage law, in the case of divorce the marital home has the possibility to be mutually owned by both parties. However, this new amendment indirectly implies the regression of women's morality, such as they "marry for money" or "marry for a house," and directly abolished some property rights for women in the case of divorce in article 7 and article 10 (Luo 2011: 172). The government intends to adjust the moral values of marriage and family, which is not based on materialism, and asks women to abandon the thought of viewing a house as an indispensable condition of marriage (ibid.). That is to say, the amendment encourages women to abandon the traditional marriage custom of "marry up" and instead emotionally support their partners and increase intimacy. For instance, one of the most typical sayings on the Chinese internet right now is that to marry a "blue chip share" (*jiyou gu*),<sup>3</sup> who are the rich sons of senior officials and enterprise owners, is not as good as marrying a "potential share" (*qianli gu*)<sup>4</sup>, which is a metaphor for the very talented and capable young people from poor families. It indicates that marriage is a long-term investment. The rich people's wealth is their own property, which would never belong to women. But if women would like to marry a "potential share" they might in the future accumulate jointly-owned wealth.

## 6. Analyzing Authenticity of Unmarried Urban Women

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*This chapter analyzes the interview texts of unmarried urban women in Chengdu and their opinions of housewives, ideal husbands, and the reactions to the third amendment of China's marriage law. Also, it evaluates the authenticity of the two new identities separately. At the end, it criticizes the reasons why the identities failed.*

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Even though the government put forward the marriage law and the amendments to propagate the ideal female identities, the core criterion of

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<sup>3</sup> Blue chip share is an economic term, which is used in the stock market. According to the New York Stock Exchange, it is stock in a corporation with a national reputation for quality, reliability, and the ability to operate profitably in good times and bad.

<sup>4</sup> Potential share is also an economic term in the stock market. It implies the share has possibility of gaining money in the long term.

success is that women can choose whether or not to follow their inner selves (Brown 2010: 463). Therefore, it is necessary to investigate the authenticity of the identities. It remains to assess how these unmarried urban women will react by confronting this new amendment, and whether they would like to accept the new identities or not.

## 6.1. Examining Self-Reliance Identity

### 6.1.1 *Economic Independence: Housewives?*

The interviews were conducted using the topic of housewife in order to investigate the women's feelings about self-reliance identity. Specifically, it remains to be seen whether or not the informants are willing to be economically independent.

All of the informants stated clearly that they would prefer to work rather than be a housewife. Only one of them indicated that she might leave her job temporarily for one to two years, if she really needed to take care of her children after marriage. The others claimed that they would never be housewives in the future. The underlying reasons of economic independence are diverse, which generally divide into two categories.

First, some informants consider work as a necessary guarantee for marriage stability. For instance, two of them said:

“我觉得女生**必须**要有自己的工作，哪怕挣的钱少一些。家庭主妇婚后没有前途啊...”

I think girls **must** have their own jobs, even if they earn less money. A housewife has no future after marriage [...] (G2 January 8, 2012).

“...还是**经济独立**比较重要。要不然**只能**在家上演“回家的诱惑”咯!”

[...] **Economic independence** is comparatively important. Otherwise, it will **only result in** “home temptation”<sup>5</sup> in my family (G7 January 25, 2012)!

The word “must” shows the necessity of both objective and subjective logics, and the phrase “only result in” indicates the inevitable consequence,

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<sup>5</sup> “Home temptation” was one of the most popular TV series in 2011 in Mainland China. It tells a story of a kindhearted housewife, who was miserably abandoned by her husband, then became a confident and successful careerwoman in order to take revenge.

which reveals that the informants resist being a housewife and prefer to be “economically independent.” However, the expressions also demonstrate the fact that the informants’ fear of being a housewife is largely associated with the consideration of marriage stability. The researcher followed this opinion to further discuss marriage stability and happiness with her informants. Generally, in their opinions, the interviewees believe that housewives are usually easily abandoned by their husbands, since they are too economically dependent and submissive, which makes their husbands feel easily controlled and bored (G1 January 7, 2012; G7 January 25, 2012 etc.). Furthermore, they believed that after a divorce housewives lacked basic social experiences and capability for working, which would lead to a miserable life (G2 January 8, 2012). Additionally, when it comes to the original resources of those ideas, they usually got the so-called “common sense” opinions from TV or real stories from friends.

Second, some of the interviewees believed that work is a guarantee for their own development and independence. For example, one woman said:

“...比起家务活，我觉得工作更轻松愉快而且有成就感。工作中的人际交往及自我独立相当重要。”

[...] Compared with housework, I feel working is more relaxed, joyful, and [through it I can be more] accomplished. The human communication in my job is very important for my self-reliance (G10 February 12, 2012).

These women reckon that jobs and career are significant for their own life and personal value. They think that both marital life and personal career are connected to their happiness and feelings of security (G6 January 15, 2012). They also believe it is very important to pursue an ideal job for “self-reliance” (G10 February 12, 2012). Additionally, all of them expressed their expectations of getting a good job in the future, since they are well educated and sufficiently experienced, even though some of them are facing a promotion bottleneck right now.

### *6.1.2 Evaluation: Experience-Based Identity*

Acculturation may make people want a particular identity, but identity must be socially negotiated (Brown 2010: 464). If an imposed identity corresponds to actual experience, it is accepted (ibid.). Therefore, women’s changed identity from housewife to economically independent woman should require the acquiescence of unmarried urban women.

The young informants expressed the importance of “economic independence” in their life. Some of them believe economic independence is indispensable to marital happiness and stability. Others hold the opinion that both achievements in career and marital stability are essential to their happiness. No matter that it is mainly associated with family stability or self-improvement, pursuing a good job has definitely become indispensable to unmarried urban women’s lives. Moreover, the interviews show that more and more women in China start to search for an ideal job for their own development, not only for a family or husband.

Generally, individuals’ inner self is strongly influenced by social experience, which is in turn influenced by the interactions between one person and other individuals, and also by the broader range of political-economic, historic, and personal factors that shape those interactions (Brown 2010: 463; Appiah 2006: 16). The interviews prove that the social experiences, accumulating from the mainstream thoughts that are conducted by drama, TV series, and education, and the interactions between people have substantial influence on the inner selves of these women. Furthermore, individual behavior and perception can more or less constrain others in the network structure, which constructs shared collective identities and in turn confers authenticity. Therefore, with regard to the interviews about economic independence, the majority of the informants expressed positive feelings towards accepting it, which proves that the “self-reliance” identity has been successfully created and attained authenticity.

## 6.2. Examining Self-Esteem Identity

### 6.2.1 *Marriage Selection: Ideal Husbands?*

The researcher discussed the unmarried women’s expectations of future husbands and family structure, such as the income of their husbands, division of housework, and gender roles. The purpose was to know the concept of marriage among these young women.

Firstly, all of them gave a similar answer about the incomes of their partners. They hoped their partners would have higher incomes than them, and some of them even mentioned a preferable quantitative figure. One of the typical answers is:

“肯定是他收入比我收入更多，据报道，男方收入是女方的 1.5 或 2 倍的家庭相对比较稳定。”

**Definitely**, his income should be higher than mine. According to news reports, it would be comparatively more stable if his income was one-and-a-half times or two times higher than mine (G5 January 14, 2012).

When the researcher made a detailed inquiry about why they think their partners' incomes should be higher than their own, they answered:

“女人不就是希望在吃饱穿暖的情况下还能 3 不 5 时的出去疯狂 SHOPPING 一般么?...当然不是傍大款心态只是在这个国家,这样的收入另这段婚姻至少是本人比较有安全感。”

As well as eating themselves full and wearing warm clothes, all of the women wish to go out occasionally to have a crazy shopping spree, don't they? [ ...] Of course, it does not mean finding a sugar daddy<sup>6</sup>, just in this country, this kind of income can make me feel **safe** (G3 January 8, 2012).

“他应该有能力挣钱养家，我的**自由支配**花销...”

He should be the breadwinner for the whole family; my [income] can be **distributed freely** for my own expenditure [...] (G8 February 4, 2012).

With regard to marriage choices or selection, these young Chinese women “definitely” hope their partners can earn more money and take the lion's share of supporting the family's expenditure. They hold the opinion that the man in the family should take more responsibilities to economically support the whole family including raising children, covering medical fees, and bearing daily expenses (G3 January 8, 2012; G9 February 5, 2012 etc.). This kind of capability would make the the women feel “safe” or secure. Also, it reflects that many unmarried women do not expect to share too much of the economic burden in their future family. Overall, they hope to “distribute” their own salaries for shopping and social events.

Secondly, the housework arrangements were discussed. All of the women would like to take more share of the housework. One of the most important features is that even though they think it would be equal if their partners participate in some housework, inside they very much prefer them to be more career-oriented. For example, one woman said:

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<sup>6</sup> Sugar daddy is slang for a rich older man who gives presents and money to a much younger woman, usually in return for sex.

“理想状态，大家共同承担家务，当然我可以多做一些。但是我更希望他能以事业为重。所以我也不介意全部承担。”

In ideal circumstances, both parties share the housework together. Of course I can do more. Importantly, I hope he can be more career-oriented. Therefore, I would not mind if I do all of the housework (G2 January 8, 2012).

“我认为男女生来本来就是不同的，女人主内，男人主外是个合理的分工。”

I think men and women are born to be different. Women take responsibility of the house and family, while men go out making money. It is a reasonable division of labor (G4 January 14, 2012).

Clearly, the preconceptions of gender roles have still remained deeply embedded in those young women, even though they enjoy more freedom than ever before. The social atmosphere has shaped women's identity so they accept more housework, and believe they are “of course” “born” to be good at it. Further conversations between the researcher and informants are based on what kind of housework they can manage well. To my surprise, many of them confessed that they were not very good at cooking (G2 January 8, 2012, G7 January 25, 2012 etc.). However, they believed they had more talents than men (G1 January 7, 2012; G5 January 14, 2012), although one woman expressed that men were more competitive and gifted in political and economic situations (G3 January 8, 2012). Thus, deep down they reckoned that it was easier to convince married women to compromise and to change to a more stable but less competitive job, in order to take care of the family and support the man's career.

According to the previous interviews, these young women still hold the traditional complex that men should shoulder the burden of earning the family's living, while women's duty is to maintain marriage stability and take charge of trivial household matters. Therefore, the researcher questioned closely whether they could accept that women can go out to make money, while men take more responsibility of family issues. Nine out of 10 women resolutely opposed this idea, saying:

“【我】还是希望男人强势一点。”

[I] hope that men can be a little bit more dominant (G6 January 15, 2012).



“个人认为这样长此以往下去会严重践踏咯男同志的**虚荣心**嘞。”  
From my perspective, in the long term, this [concept] will severely trample on the men's **vanity** (G8 February 5, 2012).

“意思是老公辞职在家头带娃娃？那不得行哈。我觉得可以请**保姆**吧。或者找**父母**帮...”

Does it mean that my husband quits his job and takes care of our baby? It cannot be like that. I think we can hire a **nanny** instead. Otherwise ask for **parents'** help [...] (G1 January 7, 2012).

“**灰常反对**！无论怎么样，男主内是我比较不能接受的。...可以请人照顾孩子咯。”

**Extremely opposed!** In every case, I cannot accept men taking responsibility of the house and family. [...] I can **hire somebody** to take care of the baby (G3 January 8, 2012).

“这种问题都要问，我觉得**中国国情**“男主内，女主外”不太可能呀。和我的个人意志都**没有关系**。”

Is it necessary to ask this kind of question? I think under **the condition of China**, ‘men taking responsibility of the house and family, while women go out making money’ is impossible. There is **no connection to** my personal will (G9 February 5, 2012).

The concept that men are supposed to go out to make money, while women are more responsible for housework still intensely influences women's lives, which can also be called a collective value of marriage. For one thing, it is deeply rooted in the Chinese social structure, which creates men's identities of “dominance,” “vanity,” and so forth. For another thing, society provides the channels for women to compromise, such as hiring a “nanny” or asking for “parents’ help.” This is the condition of China, even though some women realize the fact of gender inequality, but have no alternative or willingness to change.

### *6.2.2 Reactions to the New Policy*

The interviews above have displayed the feelings of the informants about marriage selection and value. Later, the researcher focused on the reactions to the third amendment of China's marriage law, particularly property division in the case of divorce. Specifically, the researcher wanted to analyze how the interviewees felt about the new policy. What would they like to change?

Regarding changes of house ownership and the high price of real estate, the majority of them expressed that they could accept article 7. Since they believed:

“如果（房子）全是男方家出的钱，房子归他，还是比较公平。”

If the man's family paid for all of it (the house), it is comparatively fair that the house belongs to him (G9 February 5, 2012).

“大家都AA制，也蛮好滴，哪个都不占哪个的。”

It is good that everyone goes dutch. Everybody benefits from it (G4 January 14, 2012).

They thought that since the marriage law was judged by money and property, then it was logical to be totally economically equal. But they harshly criticized article 10 and clearly pointed out the bottom line. For example, they said:

“既然【我】出了钱【贷款】，我就一定要产权，保底呀！人人求自保。”

Now that [I] paid [the mortgage], I will definitely ask for the ownership of the house. Breaking Even! Everybody pays to protect themselves (G6 January 15, 2012).

“要让我出钱，就必须【在产权证上】加我名字。”

Ask me to pay, then you must add my name [to the property ownership certificate] (G3 January 8, 2012).

Apparently, the majority of these women have accepted the fact of privatization of individual property, and compromised to change the traditional marriage convention that it is men/his family who buy a house. Instead, they more or less tended to have absolute equality in the property, such as mentioned above, “breaking even,” “goes dutch,” or “if I paid, then I would ask for the proper share of house ownership.” Moreover, since they were afraid of suffering from poverty after a divorce, more and more women also started to consider buying a house or paying the deposit (G2 January 8, 2012; G9 February 5, 2012). For example, one informant mentioned that she

and her family would like to buy a house if her future husband accepted (G2 January 8, 2012).

However, when the researcher asked how they felt deep down about the whole matter of property division in China's marriage law in the case of divorce, the unmarried women shared feelings of insecurity and worry. For instance, some of them said:

“我亏大了！我们又要生娃，上班，做家务。等到四十，人老珠黄时。老公要离婚，【女人】还要被踢出门，什么补偿，保障都没有。”

I lose a lot! We need to give birth to babies, work, and do housework. Once we are forty, we get old like a pearl becoming yellow. If a husband wants to divorce, [women] will be kicked out of the door without any compensation and guarantee (G4 January 14, 2012).

“怎么不担心？到时候如果中年离婚了，男的还可以找年轻漂亮的女孩，而中年女人都没人要。这不是社会潜规则吗？”

Why not worry? If we get divorced in middle age, the guys can still find beautiful young ladies, while nobody wants to have middle aged women. Isn't it the unwritten social rule? (G2 January 8, 2012)

The phrase “be kicked out of the door” shows the fear and negative emotions the women harbor. It implies that without house ownership, women land themselves in a passive position in the marital relationship. Specifically, they worried about getting divorced without any compensation or protection. Furthermore, the women's worries about this are not random. This kind of fear of divorce is based on the “unwritten social rule,” in which divorced women cannot find a new husband, while divorced men face a much easier situation in marrying again.

“那这样我干嘛结婚。结婚和同居一样嘛。【同居】还可以少很多麻烦。”

In this case, why should I get married? Marriage is the same as cohabitation. [Cohabitation] also has fewer troubles (G3 January 8, 2012).

Additionally, two women expressed that they would actually consider having a long-term cohabitation relationship instead of marriage, since there is no big difference between marriage and cohabitation when it comes to

property division (G3 January 8, 2012; G10 February 12, 2012). Thus, the new family model of cohabitation may become more and more popular among younger urban women.

### *6.2.3 Evaluation: Fear and Resistance*

The self-esteem identity aims at encouraging positive emotional elements in marriage selection and concept in order to resolve the problems of marriage difficulties and marital deterioration. However, the deliberate attempts to manipulate identity do not always succeed (Brown 2010: 459). The hierarchical character of interactions, such as traditional convention, also influences the aggregation of authentic identity (Brown 2010: 463). Particularly, the interview texts bear many signs of resistance to this identity.

First of all, according to the interviews about ideal husbands, there is an overall image that these unmarried urban women in China are more and more involved in the working field in order to be economically independent. However, according to the interviews about marriage selection and concept, they are still dependent and attach themselves to conjugal partners when it concerns marriage and family life. In particular, in their opinion, the roles of family members are still clearly divided by gender. Men are supposed to earn money to support the family, while women are responsible for housework. Thus, the men's income and economic status are still very important for women in the selection of husbands. And the ideal husbands should also keep the dominant identity inside relationships.

Second, the interviews show that these unmarried urban women are reluctant to accept the new amendment of the marriage law, since women are deprived property compensation. And it arouses feelings of insecurity among many women. The fear of being "kicked out of the door" without any compensation or suffering from "unwritten social rules" that expose the difficulty many divorced women have remarrying, pushes women to seek more economic security. Inevitably, the fear leads to some negative reactions from these women, such as the references to "go dutch" and "break even." These reactions ask for a totally equal division of economy, particularly the housing issue. It is based on "How much I pay equals how much I gain." In this case, it emphasizes even more the economic element of marriage and family, and is actually a contradiction of the identity goal.

Thirdly, since fear both insures and resists the new amendment of the marriage law, the new kinds of alternative family models, such as cohabitation, may prevail among the young women. Shared residence does not guarantee shared family experiences, particularly when it comes to the provision of intimacy, emotional support, or involvement in practical care-

giving tasks (Tillman & Nam 2008: 370). Therefore, cohabitation also deviates from the original goals of building a self-esteem identity, which aims to solve the problem of delayed marriage and increased mistresses.

Generally, negotiating the identity of self-esteem in unmarried women's inner selves in urban China has to some degree failed, since the women showed fear and resistance in the interviews. These unmarried urban young women tend to be more "economic" and "realistic" when it comes to marriage. The inner insecurity and fear make them care more about partners' economic status. Also, the traditional marriage convention still largely influences these women's identity as they believe that men are supposed to land a more dominant position both economically and mentally, while women are designed to be more dependent on men in the relationship.

#### *6.2.4 Why Failure?*

From the evaluation above, the third amendment of the marriage law failed to create a self-esteem identity among these unmarried urban women, meanwhile the "marry up" convention still largely influences women's identity building. According to Brown, social experience not only explains the failure itself, but also the subsequent nostalgia (2010: 466). Thus it remains to examine the contradictions between the new identity and traditional marriage conventions.

Specifically, the traditional marriage custom emphasizes that grooms are expected to provide marital housing, while a bride and her parents can consider the ability to provide or contribute to the purchase of marital housing an extra bonus to enhance the daughter's marriagiability and comfort, such as electrical appliances, furniture, and other items (Fong 2002: 1104). Due to the extremely high housing prices, urban women actually follow this convention to strive for their rights and interests in the marriage. In China, instead of alimony, the joint after-marriage property is the main compensation for divorced women (Ma February 20, 2012). For instance, if a couple get divorced, the woman also has part-ownership of the house as compensation. This "marry up" convention is actually a bargaining chip or privilege for women, during both the courtship and marriage. However, the amendments to article 7 and article 10 totally privatized individual property, which gave women no legal rights to share in the division of housing property in the case of divorce. It deprived women of the privilege that was attached to traditional marriage conventions, and granted more powers to men.

Some feminist scholars argued that since men and women have different social resources, the neutrally-gendered, equal law is more beneficial to men when it is implemented (Ma August 18, 2011b). And the legislation purposely or accidentally ignored the feminine point of view by designing

neutrally-gendered provisions, which result in different effects among men and women in its execution (Ma & Tong, et al. 2006: 43). Namely, in *China Women's News*, Ma points out:

“The women’s property is movable and consumable property, which is shared by both parties in the family. But men’s property is immovable property, which will appreciate in many cases. In the regulation of the new amendment, the so-called gender equal rule will actually result in women’s loss and men’s gain in the case of divorce. Consequently, the divorced women will end up leaving the property with a small amount of money, and cannot even afford to buy a new apartment (Ma August 25, 2011c).”

Also, it has emerged that the problem about the down payment and house ownership is more and more controversial. With the substantial rise of house prices in many big cities, it is more difficult for young people to get accommodation. Considering the combination of the Chinese marriage convention and the economic reality, many young couples have gotten an apartment on the condition that men pay the down payment, while both parties take the mortgage from banks together. However, according to the new amendment in article 10, if one party took the down payment, no matter whether the other party participated in the repayment or not, the property right of the house always belongs to the registered owner. Thus, it led to disadvantages for women. For example, if women participated in paying off the loans, they actually would have lost their opportunity and capacity to purchase a house (Ma August 25, 2011c). Also, in the discussion from *Baidu Tieba*, one of the biggest Internet search engines and most popular forums in China, many network citizens complain about the problem of article 10. A netizen among them called Xinyuner198651 made one of the most typical comments. She said:

“In reality, it is a gendered unequal regulation, since many young men only pay a small amount of a down payment to the realty estate company before marriage, and both husband and wife share the majority part of the mortgage after the marriage. Now the property rights favor men...it is so unfair! ”

August 19, 2011

Generally, the new amendment aims at challenging the traditional marriage convention by building up young women's self-esteem in order to solve marital problems and moral deterioration. However, the property division in the case of divorce has not considered carefully the disadvantage of women's economic status under the economic reform and the specific troubles in the traditional convention in China (Ma & Tong, et al. 2006: 44). Therefore, it also deprives many women of marital protection or compensation and places women in a disadvantaged position in the case of divorce. Particularly, when it comes to dealing with the ownership of houses in urban cities, divorced urban women would probably face a lower standard of living, such as losing house ownership.

Moreover, due to sex discrimination, occupational segregation, and sexual harassment, women who seek jobs to support themselves and their families are disadvantaged in the labor market (Pearce 1983: 70). In China a large number of women in many occupations are still subject to discrimination, including discriminatory hiring practice, limited opportunities for promotion, the lack of social insurance benefits, early compulsory retirement age, and various forms of harassment (Yang & Li 2009: 297). This career uncertainty and bias make women even more vulnerable in the case of divorce. And divorced women may also suffer from a big drop in income in China, which leads them to become a poor "*nü huzhu*" (see above). Consequently, the changes in the marriage law may cause the problems of the "feminization of poverty" in China.

Furthermore, since the degree of correlation between financial security and self-esteem implies that people with money feel better about themselves than those without, and impoverished people are perceived to be of less value to outside observers as well, so the "feminization of poverty" may also lead to psychological problems for women, such as negative self-image (Atwood & Genovese 1997: 25). Regarding the interviews, the lack in compensation in the marriage law in China has already aroused some feelings of insecurity among the unmarried urban women, which may even intensify the creation of a negative self-image. Thus, the changes in the marriage law not only failed to build up a self-esteem identity in order to resolve social problems, but might also cause further problems based on feelings of insecurity among unmarried urban women.

## 7. Conclusion

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*This is the last chapter of the thesis, which consists of two parts. In the first section, it gives a summary and discussion of the findings in relation to the research questions. In the second section, it reflects upon some suggestions for further research.*

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### 7.1 Summary and Discussion of the Findings

The thesis showed how the changes in the marriage law influence women's identity and evaluated the authenticity of the new identities among unmarried urban women. Namely, the changes in China's marriage law in the last 60 years, particularly in property division in the case of divorce, have been described. The underlying logics of governmentality on marriage have been analyzed. The new identities of women have been interpreted and the authenticity of the creation of new identities has been inspected.

As a result, the Chinese government maintained the underlying logics of cultivating individualism and self-governing in family and marriage by bestowing more rights on individuals and defining the boundaries of the nation-state's interference. Following this hidden logic of governmentality on marriage, the revisions and amendments to the marriage law have been used to change the social experiences of women in China, such as property division in the case of divorce, in order to forge the collective identities of self-reliance and self-esteem, which aim at releasing the female labor force and solving the social problems of marital difficulties and moral deterioration. Moreover, based on the interviews in this study, the self-reliance identity has been successfully accepted and assimilated by unmarried urban women in China. However, the self-esteem identity has aroused resistance in the women's inner selves, and to some degree failed to be assimilated. Thus, the thesis inspected reasons for the failure from a feminist perspective. It concluded that since the traditional marriage convention was a main way for women in China to gain compensation and protection in marriage, unmarried urban women could hardly validate the new amendment of the marriage law, which tried to break down the convention and indirectly weakened women's rights and benefits in marriage. Additionally, the interviews also manifested insecure feelings in the young women's inner selves, which might lead to more marital problems, such as the popularity of cohabitation.



The findings in the thesis imply two meanings for the policymakers in China. For one thing, it is necessary for the Chinese government to reflect upon the ways it presents a social problem. For instance, the problem of delayed marriage occurs in urban China because men and their families cannot afford to buy an apartment. Is that really women's fault? Or is it the exorbitant prices of realty estate in China? Which is the more urgent problem to solve? Also, when it comes to criticizing the mistress boom or materialsim among young women, is it only because of women's moral deterioration? Or should rich or married men also take some responsibility for seduction and disloyalty? Does society give women and men the same opportunity to compete with each other fairly? Consequently, what we see from the policy is that the representations of these problems in the policies, given by the Chinese government, shift the majority of the blame to women and sacrifice women's rights and protection in order to solve the problem. For another thing, it also exposes the lack of feminism or feminist considerations among Chinese decision-makers, particularly among the legislators of the marriage law. It is doubtful whether these judges give any consideration to women's rights and empowerment. At least from the third amendment of the marriage law, it proves that feminism in China still has a long way to go.

## **7.2 Suggestions for Further Research**

The topic is very interesting, but as the word number is limited a few studies can be conducted for further research. For example, this study focuses on unmarried urban women in China, inspecting the authenticity of their identities under the changes of the marriage law. While other groups or generations of women can also be investigated, such as married women and divorced women, it might give different pictures of the marital concept and women's identity.

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## Interviews

Ma, interview with a professor from Peking University and legislation committee member of Marry Law, notes taken during the interview, February 20, 2012.

G1, interview with an unmarried urban woman, Chengdu, notes taken during the interview, January 7, 2012.

G2, interview with an unmarried urban woman, Chengdu, records taken during the interview, January 8, 2012.

G3, interview with an unmarried urban woman, Chengdu, records taken during the interview, January 8, 2012.

G4, interview with an unmarried urban woman, Chengdu, records taken during the interview, January 14, 2012.

G5, interview with an unmarried urban woman, Chengdu, records taken during the interview, January 14, 2012.

G6, interview with an unmarried urban woman, Chengdu, records taken during the interview, January 15, 2012.

G7, interview with an unmarried urban woman, Chengdu, records taken during the interview, January 25, 2012.

G8, interview with an unmarried urban woman, Chengdu, records taken during the interview, February 4, 2012.

G9, interview with an unmarried urban woman, Chengdu, notes taken during the interview, February 5, 2012.

G10, interview with an unmarried urban woman, Chengdu, notes taken during the interview, February 12, 2012.

**Appendix 1:**  
**The Marriage Law of the People's Republic of China**

《中华人民共和国婚姻法》

Source: Xinhua News Agency, Beijing, April 28, 2001 (新华社北京 4 月 28 日 2001)

《全国人民代表大会常务委员会关于修改〈中华人民共和国婚姻法〉的决定》已由中华人民共和国第九届全国人民代表大会常务委员会第二十一次会议于 2001 年 4 月 28 日通过，现予公布，自公布之日起施行。

目录

- 第一章总则
- 第二章结婚
- 第三章家庭关系
- 第四章离婚
- 第五章救助措施与法律责任
- 第六章附则

第一章 总则

第一条 本法是婚姻家庭关系的基本准则。

第二条 实行婚姻自由、一夫一妻、男女平等的婚姻制度。保护妇女、儿童和老人的合法权益。实行计划生育。

第三条 禁止包办、买卖婚姻和其他干涉婚姻自由的行为。禁止借婚姻索取财。禁止重婚。禁止有配偶者与他人同居。禁止家庭暴力。禁止家庭成员间的虐待和遗弃。

第四条 夫妻应当互相忠实，互相尊重；家庭成员间应当敬老爱幼，互相帮助，维护平等、和睦、文明的婚姻家庭关系。

第二章 结婚



第五条 结婚必须男女双方完全自愿，不许任何一方对他方加以强迫或任何第三者加以干涉。

第六条 结婚年龄，男不得早于二十二周岁，女不得早于二十周岁。晚婚晚育应予鼓励。

第七条 有下列情形之一的，禁止结婚：

- （一）直系血亲和三代以内的旁系血亲；
- （二）患有医学上认为不应当结婚的疾病。

第八条 要求结婚的男女双方必须亲自到婚姻登记机关进行结婚登记。符合本法规定的，予以登记，发给结婚证。取得结婚证，即确立夫妻关系。未办理结婚登记的，应当补办登记。

第九条 登记结婚后，根据男女双方约定，女方可以成为男方家庭的成员，男方可以成为女方家庭的成员。

第十条 有下列情形之一的，婚姻无效：

- （一）重婚的；
- （二）有禁止结婚的亲属关系的；
- （三）婚前患有医学上认为不应当结婚的疾病，婚后尚未治愈的；
- （四）未到法定婚龄的。

第十一条 因胁迫结婚的，受胁迫的一方可以向婚姻登记机关或人民法院请求撤销该婚姻。受胁迫的一方撤销婚姻的请求，应当自结婚登记之日起一年内提。被非法限制人身自由的当事人请求撤销婚姻的，应当自恢复人身自由之日起一年内提出。

第十二条 无效或被撤销的婚姻，自始无效。当事人不具有夫妻的权利和义务。同居期间所得的财产，由当事人协议处理；协议不成时，由人民法院根据照顾无过错方的原则判决。对重婚导致的婚姻无效的财产处理，不得侵害合法婚姻当事人的财产权益。当事人所生的子女，适用本法有关父母子女的规定。

### 第三章 家庭关系

第十三条 夫妻在家庭中地位平等。

第十四条 夫妻双方都有各用自己姓名的权利。

第十五条 夫妻双方都有参加生产、工作、学习和社会活动的自由，一方不得对他方加以限制或干涉。

第十六条 夫妻双方都有实行计划生育的义务。

第十七条 夫妻在婚姻关系存续期间所得的下列财产，归夫妻共同所有：

- (一) 工资、奖金；
- (二) 生产、经营的收益；
- (三) 知识产权的收益；
- (四) 继承或赠与所得的财产，但本法第十八条第三项规定的除外；
- (五) 其他应当归共同所有的财产。夫妻对共同所有的财产，有平等的处理。

第十八条 有下列情形之一的，为夫妻一方的财产：

- (一) 一方的婚前财产；
- (二) 一方因身体受到伤害获得的医疗费、残疾人生活补助费等费用；
- (三) 遗嘱或赠与合同中确定只归夫或妻一方的财产；
- (四) 一方专用的生活用品；
- (五) 其他应当归一方的财产。

第十九条 夫妻可以约定婚姻关系存续期间所得的财产以及婚前财产归各自所、共同所有或部分各自所有、部分共同所有。约定应当采用书面形式。没有约定或约定不明确的，适用本法第十七条、第十八条的规定。夫妻对婚姻关系存续期间所得的财产以及婚前财产的约定，对双方具有约束力。夫妻对婚姻关系存续期间所得的财产约定归各自所有的，夫或妻一方对外所负的债务，第三人知道该约定的，以夫或妻一方所有的财产清偿。

第二十条 夫妻有互相扶养的义务。一方不履行扶养义务时，需要扶养的一方，有要求对方付给扶养费的权利。

第二十一条 父母对子女有抚养教育的义务；子女对父母有赡养扶助的义务。父母不履行抚养义务时，未成年的或不能独立生活的子女，有要求父母付给抚养费的权利。子女不履行赡养义务时，无劳动能力的或生活困难的父母，有要求子女付给赡养费的权利。禁止溺婴、弃婴和其他残害婴儿的行为。

第二十二条 子女可以随父姓，可以随母姓。

第二十三条 父母有保护和教育未成年子女的权利和义务。在未成年子女对国、集体或他人造成损害时，父母有承担民事责任的义务。

第二十四条 夫妻有相互继承遗产的权利。父母和子女有相互继承遗产的权利。

第二十五条 非婚生子女享有与婚生子女同等的权利，任何人不得加以危害和歧视。不直接抚养非婚生子女的生父或生母，应当负担子女的生活费和教育费，直至子女能独立生活为止。

第二十六条 国家保护合法的收养关系。养父母和养子女间的权利和义务，适用本法对父母子女关系的有关规定。养子女和生父母间的权利和义务，因收养关系的成立而消除。

第二十七条 继父母与继子女间，不得虐待或歧视。继父或继母和受其抚养教育的继子女间的权利和义务，适用本法对父母子女关系的有关规定。

第二十八条 有负担能力的祖父母、外祖父母，对于父母已经死亡或父母无力抚养的未成年的孙子女、外孙子女，有抚养的义务。有负担能力的孙子女、外孙子女，对于子女已经死亡或子女无力赡养的祖父母、外祖父母有赡养的义务。

第二十九条 有负担能力的兄、姐，对于父母已经死亡或父母无力抚养的未成年的弟、妹，有扶养的义务。由兄、姐扶养长大的有负担能力的弟、妹，对于缺乏劳动能力又缺乏生活来源的兄、姐，有扶养的义务。

第三十条 子女应当尊重父母的婚姻权利，不得干涉父母再婚以及婚后的生活。子女对父母的赡养义务，不因父母的婚姻关系变化而终止。

## 第四章 离婚

第三十一条 男女双方自愿离婚的，准予离婚。双方必须到婚姻登记机关申请离婚。婚姻登记机关查明双方确实是自愿并对子女和财产问题已有适当处理时，发给离婚证。

第三十二条 男女一方要求离婚的，可由有关部门进行调解或直接向人民法院提出离婚诉讼。人民法院审理离婚案件，应当进行调解；如感情确已破裂，调解无效，应准予离婚。有下列情形之一的，调解无效的，应准予离婚：

（一）重婚或有配偶者与他人同居的；

(二) 实施家庭暴力或虐待、遗弃家庭成员的；  
(三) 有赌博、吸毒等恶习屡教不改的；  
(四) 因感情不和分居满二年的；  
(五) 其他导致夫妻感情破裂的情形。一方被宣告失踪，另一方提出离婚诉讼的应准予离婚。

第三十三条 现役军人的配偶要求离婚，须得军人同意，但军人一方有重大过错的除外。

第三十四条 女方在怀孕期间、分娩后一年内或中止妊娠后六个月内，男方不得提出离婚。女方提出离婚的，或人民法院认为确有必要受理男方离婚请求的，不在此限。

第三十五条 离婚后，男女双方自愿恢复夫妻关系的，必须到婚姻登记机关进行复婚登记。

第三十六条 父母与子女间的关系，不因父母离婚而消除。离婚后，子女无论由父或母直接抚养，仍是父母双方的子女。离婚后，父母对于子女仍有抚养和教育的权利和义务。离婚后，哺乳期内的子女，以随哺乳的母亲抚养为原则。哺乳期后的子女，如双方因抚养问题发生争执不能达成协议时，由人民法院根据子女的权益和双方的具体情况判决。

第三十七条 离婚后，一方抚养的子女，另一方应负担必要的生活费和教育费的一部或全部，负担费用的多少和期限的长短，由双方协议；协议不成时，由人民法院判决。关于子女生活费和教育费的协议或判决，不妨碍子女在必要时向父母任何一方提出超过协议或判决原定数额的合理要求。

第三十八条 离婚后，不直接抚养子女的父或母，有探望子女的权利，另一方有协助的义务。行使探望权利的方式、时间由当事人协议；协议不成时，由人民法院判决。父或母探望子女，不利于子女身心健康的，由人民法院依法中止探望的权利；中止的事由消失后，应当恢复探望的权利。

第三十九条 离婚时，夫妻的共同财产由双方协议处理；协议不成时，由人民法院根据财产的具体情况，照顾子女和女方权益的原则判决。夫或妻在家庭土地承包经营中享有的权益等，应当依法予以保护。

第四十条 夫妻书面约定婚姻关系存续期间所得的财产归各自所有，一方因抚育子女、照料老人、协助另一方工作等付出较多义务的，离婚时有权向另一方请求补偿，另一方应当予以补偿。

第四十一条 离婚时，原为夫妻共同生活所负的债务，应当共同偿还。共同财产不足清偿的，或财产归各自所有的，由双方协议清偿；协议不成时，由人民法院判决。

第四十二条 离婚时，如一方生活困难，另一方应从其住房等个人财产中给予适当帮助。具体办法由双方协议；协议不成时，由人民法院判决。

## 第五章 救助措施与法律责任

第四十三条 实施家庭暴力或虐待家庭成员，受害人有权提出请求，居民委员会、村民委员会以及所在单位应当予以劝阻、调解。对正在实施的家庭暴力，受害人有权提出请求，居民委员会、村民委员会应当予以劝阻；公安机关应当予以制止。实施家庭暴力或虐待家庭成员，受害人提出请求的，公安机关应当依照治安管理处罚的法律规定予以行政处罚。

第四十四条 对遗弃家庭成员，受害人有权提出请求，居民委员会、村民委员会以及所在单位应当予以劝阻、调解。对遗弃家庭成员，受害人提出请求的，人民法院应当依法作出支付扶养费、抚养费、赡养费的判决。

第四十五条 对重婚的，对实施家庭暴力或虐待、遗弃家庭成员构成犯罪的，依法追究刑事责任。受害人可以依照刑事诉讼法的有关规定，向人民法院自诉；公安机关应当依法侦查，人民检察院应当依法提起公诉。

第四十六条 有下列情形之一的，导致离婚的，无过错方有权请求损害赔偿：

- （一）重婚的；
- （二）有配偶者与他人同居的；
- （三）实施家庭暴力的；
- （四）虐待、遗弃家庭成员的。

第四十七条 离婚时，一方隐藏、转移、变卖、毁损夫妻共同财产，或伪造债务企图侵占另一方财产的，分割夫妻共同财产时，对隐藏、转移、变卖、毁损夫妻共同财产或伪造债务的一方，可以少分或不分。离婚后，另一方发现有上述行为的，可以向人民法院提起诉讼，请求再次分

割夫妻共同财产。人民法院对前款规定的妨害民事诉讼的行为，依照民事诉讼法的规定予以制裁。

第四十八条 对拒不执行有关抚养费、抚养费、赡养费、财产分割、遗产继承、探望子女等判决或裁定的，由人民法院依法强制执行。有关个人和单位应负协助执行的责任。

第四十九条 其他法律对有关婚姻家庭的违法行为和法律责任另有规定的，依照其规定。

## 第六章 附则

第五十条 民族自治地方的人民代表大会有权结合当地民族婚姻家庭的具体情况，制定变通规定。自治州、自治县制定的变通规定，报省、自治区、直辖市人民代表大会常务委员会批准后生效。自治区制定的变通规定，报全国人民代表大会常务委员会批准后生效。

第五十一条 本法自 1981 年 1 月 1 日起施行。1950 年 5 月 1 日颁行的《中华人民共和国婚姻法》，自本法施行之日起废止。