



Refugee Documentation Centre (Ireland)
LEGAL AID BOARD

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Information re the treatment of children born outside marriage in China. Possibility of the Chinese authorities detecting such a child if family deported to China.

The *United States Department of States* annual report on China states:

“In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to have a child. In November 2007, Hunan Province adopted new penalties for children conceived out of wedlock, requiring violators to pay 6 to 8 percent of their income from the previous year, in addition to the standard social compensation fee. The law states that family planning bureaus will conduct pregnancy tests on married women and provide them with unspecified "follow-up" services. Some provinces fined women who did not undergo periodic pregnancy tests. For example, in Hebei Province fines ranged from RMB 200 to RMB 500 (approximately \$29 to \$73), and in Henan Province fines ranged from RMB 50 to RMB 500 (\$7 to \$73).”
(United States Department of State (25 February 2009) *China: Country Report on Human Rights Practices 2008*)

A 2009 query response from the *Immigration and Refugee Board of Canada* states:

“Article 55 (d) of the Population and Family Planning Regulations of the Province of Guangdong states that “[i]n the case of a first birth out of wedlock, a social support fee shall be imposed that is twice the amount” of the fee imposed on married couples who have one more child than is permitted (China 25 July 2002). When an unwed mother has a second child, the fee imposed is between three to six times the amount levied on married couples who have one more child than is permitted (ibid.). In a 16 October 2008 *People's Daily* article, the Director of the Guangdong population and family planning committee indicated that the province experienced a rise in births in the first eight months of 2008 and that the government had ordered authorities to “properly enforce” family planning policies.

According to Article 14 of the Population and Family Planning Regulations of the Province of Fujian, a woman is not allowed to give birth out of wedlock (China 30 July 2002). In the case of an unmarried woman who bears a child, Article 39 sets out the application of a social maintenance fee equivalent to four to six times the average annual disposable income of the residents of the county where the woman resides (ibid.). The fine is higher for a second or subsequent child born out of wedlock (ibid.).

A 2006 article by the Xinhua News Agency cites a professor from the China University of Political Science and Law as saying that the children of unmarried women have the same rights as those of married women (14 Oct. 2006). The article in *Reproductive Health* corroborates that the law "prohibits discrimination against children born outside marriage;" however, it also states that "children from illegal pregnancies may not be registered or treated equally until their parents pay the fines imposed as punishment" (*Reproductive Health* 11 Aug. 2005, 3). In a 2008 *New York Times* article on single mothers in China, an interviewee indicated that she married so that her son could obtain the identification needed to receive social services and attend school, since he was prohibited from registering for hukou or getting a residency permit in Beijing (6 Apr. 2008). Another interviewee indicated that the Public Security Bureau in Shanghai allows for the children of unmarried mothers to register for hukou (*The New York Times* 6 Apr. 2008)." (Immigration and Refugee Board of Canada (23 June 2009) *CHN103135.E China: treatment of pregnant, unmarried women by state authorities, particularly in Guangdong and Fujian; whether unmarried women are obliged to undergo pregnancy tests by family planning officials (2005 - April 2009)*)

A 2005 query response from the *Immigration and Refugee Board of Canada* states:

"Article 18 of the 2002 Guangdong family planning regulations stipulates that "[c]itizens shall be encouraged to delay marrying and bearing children, and [the principle of] couples having [just] one child shall be advocated" (PRC 25 July 2002). The provisions contained in the regulations are said to apply to returned overseas Chinese and their families, to those whose household registration is for Guangdong but who live outside of the province, and to couples whose child is born in the province, but of which one spouse is a resident of Hong Kong, Macau, or Taiwan or is a foreigner (*ibid.*, Art. 24). Article 55 stipulates that, in cases where urban or rural residents have one more child than is permitted, a social support fee will be charged to both the mother and the father in the amount of "three to six times the average [annual] per capita net income" of residents in the local county or township (*ibid.*, Art. 55)." (Immigration and Refugee Board of Canada (25 August 2005) *China: Penalties faced by couples returning from overseas who are in violation of family planning regulations (2001-2005)*)

And:

"While implementation of family planning regulations varies from region to region, a China specialist at the United States (US) Department of State is quoted in a 2004 US Citizenship and Immigration Services (USCIS) report as saying that he had received no reports of couples experiencing difficulties upon returning to Fujian and Guangdong after having had children overseas (US 21 Jan. 2004). A University of California (Irvine) anthropologist who has researched the subject of family planning in China told the USCIS that "[i]n general, people who return to China from abroad are actively welcomed back to the 'motherland,' and children born outside China largely forgiven" (US 21 Jan. 2004)." (*Ibid*)

Another report from the *Immigration and Refugee Board of Canada* states:

"As a consequence of not being registered at birth, "black" children are not entered into their family's *hukou* [household registration] records (Wang 2005, 71). According to an expert on China who lives in Germany, cited in the report on China of the 10th Country of Origin Information Seminar in Budapest,

Chinese authorities often do not allow "black" children to register and do not issue them identity documents (ACCORD 17 Mar. 2006, 15; see also *Brooklyn Journal of International Law* 27 Dec. 2004, 355). An 11 August 2005 article in *Reproductive Health*, a "peer-reviewed online journal focusing on all aspects of human reproduction" (*Reproductive Health* n.d.), similarly notes that children born outside of China's family planning regulations may not be registered by the authorities or be "treated equally," unless their parents pay a fine (ibid. 11 Aug. 2005, 3). Without registration, "black children" may not be able to access medical care, education or employment, particularly in urban areas (ibid.; see also France 27 Jan. 2003, 10; Johnson 2004, 121; *Brooklyn Journal of International Law* 27 Dec. 2004, 356). They may also not have access to other state benefits and services, or be entitled to land allotments (Johnson 2004, 121)." (Immigration and Refugee Board of Canada (26 June 2007) *China: Treatment of "illegal," or "black," children born outside the one-child family planning policy...*)

An article from *China Daily* states:

"According to the draft amendment, offenders will be fined three to five times their annual incomes - on top of the standard fine - for each child after the first unauthorized birth. People who have illegitimate children will face an additional fine of six to eight times their income in the previous year." (*China Daily* (26 July 2007) "Hunan to Impose Fines on 'One Child' Violators")

The *United Kingdom Home Office* reports:

"As reported by Elina Hemminki, Zhuochun Wu, Guiying Cao and Kirsi Viisainen, writing in a report on illegal births and abortions in China, published in the journal *Reproductive Health* in August 2005, "The Chinese family planning regulations do not include the concept of an 'illegal child' (i.e. a child born out of an 'illegal pregnancy'), and the law prohibits discrimination against children born outside marriage. However, children from illegal pregnancies may not be registered or treated equally until their parents pay the fines imposed as punishment." (United Kingdom Home Office (August 2007) *Country Report – China*, pp.115)

Another article from *China Daily* reports:

"The problems Chen faces are common to many single mothers in China. A recent survey done by the Shenyang city government shows that 57.3 percent of single parent families are faced with economic difficulties, and 43 percent of single parent families have monthly incomes below 300 yuan (about US\$36). Most of these families are headed by single mothers and have and much lower living standards than before divorce. Another bitter situation for single mothers is housing problem. When families are broken, single mothers often live in the homes of their own parents or rent cheap house, which make the family feel uncomfortable. Education is the most import issue for single mother families. Single mothers tend to pamper their children as compensation for the incomplete family love." (*China Daily* (18 December 2004) "Single Chinese mothers beset with troubles")

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I hope this information is useful for your purpose.

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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