

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT 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.

Questions

- 1. Please provide information on the current situation for ordinary congregation members of underground Catholic churches in China.**
- 2. What is the current situation for ordinary congregation members of underground Catholic churches in Fujian province?**
- 3. What would be the consequences for a PRC citizen who departed China illegally and who does not have a travel document if he were to return as a failed asylum seeker?**

RESPONSE

- 1. Please provide information on the current situation for ordinary congregation members of underground Catholic churches in China.**

The US Department of State report on human rights practices in China for 2006 refers to “Crackdowns against unregistered Protestants and Catholics, Muslims, and Tibetan Buddhists (see Tibet Addendum)” continuing in China, and indicates that “Harassment of unregistered Catholic bishops, priests, and laypersons, including government surveillance and detentions, continued.” The report refers to “reports that a number of Catholic priests, lay leaders, and laypersons were beaten or otherwise abused”, to authorities reportedly pressuring “unregistered clergy and laypersons to renounce ordinations approved by the Holy See, join the official church, or face a variety of punishments including fines, job loss, and detentions”, and to officials detaining “a total of seven Catholic clerics and 90 laypersons” in Hebei province. It is stated in the report that:

As in previous years, there were reports that a number of Catholic priests, lay leaders, and laypersons were beaten or otherwise abused. In some localities, authorities reportedly pressured unregistered clergy and laypersons to renounce ordinations approved by the Holy See, join the official church, or face a variety of punishments including fines, job loss, and detentions. On September 11, Bishop Wu Qinjing, who was ordained in October 2005 with

approval from the Holy See but without government permission, was detained for five days and forced to sign a document stating that his ordination was illegal.

Harassment of unregistered Catholic bishops, priests, and laypersons, including government surveillance and detentions, continued. On July 2, authorities detained unregistered Bishop Jia Zhiguo for the tenth time since 2004; he was released on September 27. Bishop Yao Liang, who is 82 years old, was arrested on July 30 and remained under detention at year's end. There was no new information about unregistered Bishop Su Zhimin, who has been unaccounted for since his reported detention in 1997. In June an unverified press report circulated that Bishop Su had died in custody. The government did not respond to requests for information in the case. Bishop An Shuxin, Bishop Su's auxiliary bishop, was released on August 24, after 10 years in prison. Officials permitted Bishop An's release when he accepted recognition by the government and did not force him to register with the Catholic Patriotic Association (CPA). In late September unregistered Catholic priests Shao Zhoumin and Jiang Sunian were detained in Shenzhen upon their return from Europe. Sources also reported that Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Qunjun remained detained in Hebei Province. According to the foreign-based Cardinal Kung Foundation, the whereabouts of Bishop Zhao Zhendong, who was detained in December 2004, remained unknown. In Hebei Province, officials detained a total of seven Catholic clerics and 90 laypersons.

The government and the Holy See have not established diplomatic relations and there was no Vatican representative on the Mainland. The role of the pope in selecting bishops, the status of underground Catholic clerics, and Vatican recognition of Taiwan remained obstacles to improved relations.

The report also notes that "Local authorities' handling of unregistered religious groups, especially Protestant "house churches," varied widely. In certain regions government supervision of religious activity was minimal, and registered and unregistered Protestant and Catholic churches existed openly side-by-side and were treated similarly by the authorities. In such areas many congregants worshipped in both types of churches; congregants in unregistered churches were also able to procure Bibles at official churches" (US Department of State 2007, *Country Reports on Human Rights Practices for 2006 – China (includes Tibet, Hong Kong, and Macau)*, March, Section 2(c) – Attachment 1).

According to an article dated 12 April 2007 on the Forum 18 website, "The most egregious problems that confront the Catholic community in China today involve local officials cracking down on the clerics and lay members of the so-called "underground" Catholic Church." It is stated in the article that:

The most egregious problems that confront the Catholic community in China today involve local officials cracking down on the clerics and lay members of the so-called "underground" Catholic Church. According to the Cardinal Kung Foundation, whose founder, Joseph Kung, is a nephew of former Cardinal Ignatius Pei-Min Kung (who had served 30 years in prison between 1955 and 1985), as of March 2007, five bishops and 14 priests in the underground church were in prison, eight bishops were under house arrest or surveillance, and two others were in hiding. The problem of local officials attacking religious freedom is a long-standing problem, and affects all China's religious communities (see F18News 1 September 2005 http://www.forum18.org/Archive.php?article_id=641) (Hornemann, Magda 2007, 'CHINA: China's Catholics, the Holy See and religious freedom', Forum 18 website, 12 April http://www.forum18.org/Archive.php?article_id=942 – Accessed 2 May 2007 – Attachment 2).

An *Associated Press Newswires* article dated 30 December 2006 indicates that “AsiaNews, a missionary news service close to the Vatican, reported Friday that nine priests from the underground Catholic church in north China’s Hebei province were arrested by police Wednesday as they gathered to pray near the city of Baoding.” The article refers to “A senior official in China’s state-sanctioned Catholic church” denying that “his association was cracking down on churches loyal to the Vatican following” the “unconfirmed media report that nine priests were arrested this week.” The article also indicates that “China’s government bars Catholics from having contact with the Vatican and allows worship only in government-monitored churches. Millions remain loyal to the Pope and worship in secret, but priests and members of their congregations are frequently detained and harassed” (‘Top official at Chinese Catholic church denies crackdown on underground priests’ 2006, *Associated Press Newswires*, 30 December – Attachment 3).

The 2006 annual report of the Congressional-Executive Commission on China includes information regarding the Chinese government’s treatment of unregistered Catholic laypersons during the year:

Government repression of unregistered Catholics increased in the past year... Based on NGO reports, officials in Hebei and Zhejiang provinces detained a total of 38 unregistered clerics and 90 unregistered laypersons in 13 incidents during the past year, while the preceding year officials detained 11 clerics in 5 incidents... Twelve of the 13 detention incidents reported since October 2005 occurred in Hebei province, where the unregistered Catholic community is particularly strong... The other reported detention incident occurred in Zhejiang province... Officials in Fujian province demolished an unregistered Catholic church in September...

The report also notes that “The government targets Catholic bishops who lead large unregistered communities for the most severe punishment” (Congressional-Executive Commission on China 2006, ‘Congressional-Executive Commission on China Annual Report 2006’, GECC website, 20 September, p. 86 <http://www.cecc.gov/pages/annualRpt/annualRpt06/CECCannRpt2006.pdf> - Accessed 16 January 2007 – Attachment 4).

The US Department of State report on religious freedom in China for 2006 indicates that “treatment of unregistered groups varied regionally. For example, some local officials in Henan Province often mistreated unregistered Protestants, and some local officials in Hebei Province tightly controlled Roman Catholics loyal to the Vatican. In many localities, however, officials worked closely with registered religious groups to accomplish religious and social goals.” The report notes that “Some local authorities continued a selective crackdown on unregistered religious groups, and the Central Government did not oppose this crackdown. Police closed unregistered mosques and temples, as well as some Catholic churches and Protestant “house churches,” many with significant memberships, properties, financial resources, and networks.” There were also reports “that the Government organized campaigns to compel” unregistered Catholic and Protestant leaders “to register, resulting in continued and, in some cases, increased pressure to register their congregations. Officials organizing registration campaigns collected the names, addresses, and sometimes the fingerprints of church leaders and worshippers. On some occasions, church officials were detained when they arrived for meetings called by authorities to discuss registration” (US Department of State 2006, *International Religious Freedom Report 2006 – China (includes Tibet, Hong Kong, and Macau)*, September, Introduction & Section II – Attachment 5).

According to an article by Dr. Thomas Weyrauch in the report of the 10th European Country of Origin Information Seminar on China dated 17 March 2006, “in cases of unregistered religious or spiritual groups, low tolerance or persecution are the guidelines of politics: persecution is very likely, especially for Catholics loyal to the Holy See, Protestant house-churches and practising Falun Gong adherents.” The article also indicates that “In some regions in China the authorities may exercise strict control; in other regions such religious activities may be tolerated. But you can be very sure that most of the provinces are very strict in dealing with this matter, especially in persecuting so-called ‘illegal sects and cults’” (Weyrauch, Dr. Thomas, ‘Important Aspects on Human Rights in the People’s Republic of China’, in ‘10th European Country of Origin Information Seminar 1-2 December 2005, Budapest: China’ 2006, ECOI website, 17 March http://www.ecoi.net/pub/bp269_COI-SE-Budapest200512-China-Report-Final.pdf - Accessed 20 March 2006, pp. 19-20 – Attachment 6).

A Human Rights Watch report dated 1 March 2006, in commenting on the state of religious freedom for Catholics in China, indicates that “It is notable that when meetings of Catholic congregants remained small, discreet, and apolitical, officials often turned a blind eye. Reported detentions followed the celebration of masses that attracted large numbers, for public celebration of important Catholic feast days and during pastoral retreats” (Human Rights Watch 2006, *China: A Year After New Regulations, Religious Rights Still Restricted*, 1 March – Attachment 7).

An Immigration and Refugee Board of Canada response to information request dated 7 September 2005 provides information on the situation of Catholics, including those who belong to unregistered Catholic churches, in China. It is stated in the report that;

According to the Connecticut-based Cardinal Kung Foundation, which promotes the Roman Catholic Church in China, each one of the bishops of the unregistered Church is “either in jail, under house arrest, under strict surveillance, or in hiding” (Cardinal Kung Foundation n.d.)... Priests of the Church have also been targeted for arrests (Cardinal Kung Foundation n.d.). In July 2002, three priests from the unregistered Church in Baoding, Hebei, were reportedly sentenced to three years in a labour camp under anti-cult laws (ibid.). Freedom House reports that according to Human Rights Watch (HRW), these laws have been used by authorities to sentence members of religious groups other than the Falun Gong, which has been the principal target of anti-cult laws (Freedom House 23 Aug. 2004).

The Cardinal Kung Foundation also states that a variety of penalties ranging from fines and house arrest to imprisonment and labour camp internment have been imposed on those belonging to the unofficial Church (n.d.). Raids and the demolition of unregistered churches by authorities have also been reported: The BBC noted that authorities had bulldozed a church in 2002 (24 Dec. 2003) while the Cardinal Kung Foundation reported on a church demolition that took place in June 2003 (n.d.). Agence France-Presse (AFP), with information obtained from the Hong Kong-based Information Center for Human Rights and Democracy, reported that in December 2004 police officers had conducted a raid on an unregistered church in Zhejiang Province, dismantling a makeshift set-up for Christmas service, though not damaging the church itself (27 Dec.2004).

However, the executive secretary of the Hong Kong Christian Council stated in correspondence to the Research Directorate that the current view of the central government is that unregistered Christian groups should be discouraged but also tolerated (Executive secretary 1 Sept. 2005a). Julius Jia Zhiguo, a bishop of the unofficial Church in Hebei, whose movements have reportedly been restricted by police since 1995, also told the *Washington*

Post that conditions overall for unregistered Catholics were improving (29 Apr. 2005). According to the executive secretary, arrests of leaders take place occasionally, not as a result of religious policies, but when unregistered religious meetings “become too aggressive or high-profile” or when local officials attempt to extort money from unregistered churches (Executive secretary 1 Sept. 2005a). In fact, in his estimation, financial extortion accounts for most of the reported arrests of church leaders, particularly in central China (*ibid.*)...

Other sources note that the treatment of Catholics in the unofficial Church in China varies from place to place (*Washington Post* 29 Apr. 2005; see also Chan and Carlson 2005, 16; *International Religious Freedom Report* 15 Sep. 2004, Sec. 2) (Immigration and Refugee Board of Canada 2005, CHN100386.E – *China: Situation of Catholics and treatment by authorities, particularly in Fujian and Guangdong (2001-2005)*, 7 September – Attachment 8).

The following RRT research responses provide information on the situation of underground Catholic churches in China. A research response dated 23 February 2007 includes information on the treatment of underground Catholics by the Chinese authorities (RRT Country Research 2007, *Research Response CHN31415*, 23 February – Attachment 9).

A research response dated 24 October 2005 provides information about the presence of the underground Catholic Church in Hebei province and the attitude of the authorities to it (RRT Country Research 2005, *Research Response CHN17609*, 24 October – Attachment 10). A further research response dated 21 October 2005 looks at how the underground Catholic Church is viewed by the authorities in Fujian province and Hubei province (RRT Country Research 2005, *Research Response CHN17603*, 21 October – Attachment 11).

2. What is the current situation for ordinary congregation members of underground Catholic churches in Fujian province?

The Immigration and Refugee Board of Canada response to information request dated 7 September 2005 comments on the situation of Catholics in Fujian province. It is stated in the response to information request that:

Human Rights in China (HRIC) commented in 4 August 2005 correspondence to the Research Directorate that the treatment of Christians is poor in southern China, particularly in the rural areas, though the organization could not elaborate, citing a lack of available information. In 2002, the Cardinal Kung Foundation reported that unregistered Catholics were arrested while attending catechism classes in Fujian (n.d.). In 2003, a group of seminarians in Changle, near Fuzhou, were also arrested while reading the book containing the day’s service during a picnic (Cardinal Kung Foundation n.d.). Most recently, in July 2005 Father Lin Daixian, along with nine parishioners and one seminarian, was arrested while conducting mass in a private home in Fuzhou (*ibid.*, 28 July 2005). According to a Cardinal Kung Foundation press release, as at 28 July 2005, Father Lin was being held at the Pingtan detention centre (*ibid.*).

However, the executive secretary of the Hong Kong Christian Council commented that Fujian and Guangdong have “the most liberal policy on religion in China, especially on Christianity” (Executive secretary 1 Sept. 2005a). In his travels, the executive secretary has met with local authorities who, he said, usually tolerate activities of unregistered Christian groups (*ibid.*). While authorities are of a more tolerant nature in rural areas than in urban centres, they would usually take steps to discourage religious activity if it had a link to groups from outside China (*ibid.*). The executive secretary stated that he is aware of a number of unregistered churches that have been allowed to function for years (*ibid.*). Though he has received a few reports of

arrests of Catholic priests in the years 2003 to 2005, the executive secretary noted that overall, Christians in Fujian and Guangdong “enjoy one of the most liberal polic[ies] on religious freedom in China” (ibid.). Further information on the treatment of Catholics specifically in Fujian and Guangdong could not be found among the sources consulted by the Research Directorate (Immigration and Refugee Board of Canada 2005, *CHN100386.E – China: Situation of Catholics and treatment by authorities, particularly in Fujian and Guangdong (2001-2005)*, 7 September – Attachment 8).

Two recent articles also provide information regarding underground Catholics in Fujian province. An article dated 14 January 2007 indicates that in Nanping in Fujian province, “A state-controlled Catholic Church draws new members, as does a parallel but underground Catholic Church that’s loyal to the Vatican.” According to the article:

While the Communist Party still controls China firmly, it partially relaxed its grip on religious activity. In pockets of China, such as here, religion thrives. Groups loosely aligned with different Protestant denominations battle for the hearts of followers, again operating social services such as kindergartens and retirement homes. A state-controlled Catholic Church draws new members, as does a parallel but underground Catholic Church that’s loyal to the Vatican. Word is that Oriental Lightning, a quasi-Christian cult, also has moved into the area (Johnson, Tim 2007, ‘In China, Christianity rises again; RELIGION’, *The Miami Herald*, 14 January – Attachment 12).

Another article dated 7 January 2007 refers to the comments of an asylum seeker in Canada who said that he had suffered religious persecution “as an underground Catholic in Fujian province. Two years ago, he says, officials busted his group and imprisoned some members while others went into hiding.” It is stated in the article that:

He recounted how the worshippers met randomly in small venues or homes of parishioners, gathering after dark.

They spoke in code – using “boss” for priest and “come for a drink” for going to mass – and spread the word of the next gathering via clandestine cellphone calls to avoid detection.

“And when we came together, it was always with fear and anxiety ... to worship in secret because we didn’t know when we would be reported on,” he says through an interpreter... (Dabu, Christl 2007, ‘Catholics in China, the unofficial story; First Person In the underground church, mass might be a ‘private party’ where the priest is ‘boss’ First Person’, *The Toronto Star*, 7 January – Attachment 13).

The annual report of the Congressional-Executive Commission on China for 2006 indicates that officials in Fujian province had “demolished an unregistered Catholic church in September” (Congressional-Executive Commission on China 2006, ‘Congressional-Executive Commission on China Annual Report 2006’, GECC website, 20 September, p. 86 <http://www.cecc.gov/pages/annualRpt/annualRpt06/CECCannRpt2006.pdf> - Accessed 16 January 2007 – Attachment 4).

The following RRT research responses include information on the situation of underground Catholic churches in Fujian. An ‘attachments only’ research response dated 18 January 2007 includes documents on the treatment of Catholic members of an underground church by the Chinese authorities in Fuqing (RRT Country Research 2007, *Research Response CHN31217*, 18 January – Attachment 14).

A research response dated 16 June 2006 provides information on the situation of underground Christians, including Catholics, in Fujian (RRT Country Research 2006, *Research Response CHN30274*, 16 June – Attachment 15).

The previously mentioned research response dated 21 October 2005 looks at how the underground Catholic Church is viewed by the authorities in Fujian Province (RRT Country Research 2005, *Research Response CHN17603*, 21 October – Attachment 11).

Another research response dated 29 August 2005 includes information and lists documents in relation to Catholics in Fujian (RRT Country Research 2005, *Research Response CHN17483*, 29 August – Attachment 16).

3. What would be the consequences for a PRC citizen who departed China illegally and who does not have a travel document if he were to return as a failed asylum seeker?

A recent DFAT advice dated 20 March 2007 provides information on the possible treatment by the Chinese authorities of a failed Chinese asylum seeker who was named and widely reported on in the Australian media, and who might be imputed “to be for example, a Falun Gong practitioner, underground Christian or political dissident”. It is stated in the DFAT advice that:

R.1. Advice provided in our reftel (CX161676) would remain applicable in these circumstances.

R.2. In terms of the possible treatment the person might receive on return to China, it is not particularly important how the person comes to the attention of Chinese authorities. As advised in reftel, it is not possible to comment definitively on how Chinese authorities would treat returnees to China who were failed asylum seekers. If Chinese authorities believed them to be a member of one of these groups (Falun Gong, underground church, political dissidents), it would be likely that authorities would interview them and might keep them under surveillance or detain them for a short period. Authorities may record the failed asylum attempt in the person’s dossier (“dang an”), which could impede the person’s attempts to obtain employment (particularly government employment) or engage in further education. If the person was a high-profile activist in Australia (for example a prominent Falun Gong leader, or someone known for publicly criticising the Chinese leadership) it is likely that the authorities would treat them more severely (longer-term surveillance, administrative detention) than if the person was a low-profile member of one of these groups.

R.3. Media publicity of the mere fact that the person had applied [sic] for asylum would not necessarily lead to harsher treatment [sic] for the person on return. Our impression is that these days Chinese authorities view seeking to remain in Australia through a protection application as more commonplace behaviour rather than a sign of political disloyalty. Authorities could, however, treat the person more severely if he or she was quoted publicly as criticising China’s regime or senior leadership in the media. If, for example, the person had been an active, outspoken member of one of these groups and had publicly called for the end of Communist Party rule in China, he or she would be more likely to be put under surveillance and possibly detained on return to China. At the extreme, the person could be criminally prosecuted, for example under Article 105 of China’s Criminal Law, which prohibits “incit[ing] others by spreading rumours or slander or any other means to subvert State power or overthrow the socialist system” (DIAC Country Information Service 2007, *Country Information Report No. CHN8980 – China: Publication of client details*, (sourced from DFAT advice of 20 March 2007), 22 March – Attachment 17).

The DFAT advice (CX161676) referred to in the above-mentioned document includes the following information regarding the attitude of the Chinese authorities to returnees to China who were failed asylum seekers:

It is not possible to comment definitively on how Chinese authorities would treat returnees to China who were failed asylum seekers. It would be very likely that Chinese authorities would interview them and might keep them under surveillance and detain them for a short period. Any further action would depend on the circumstances of the individual cases. Authorities maintain a dossier on every PRC citizen and we would expect authorities would record the person's failed asylum attempt in this file. This conceivably [sic] could impede the person's attempts to obtain employment (particularly government employment) or engage in further education.

The DFAT advice also provides information on the treatment failed asylum seekers whose claims were based on Christian beliefs might expect from the Chinese authorities. According to the advice:

BJ551458L (CX160293) provided advice on the treatment of members of underground churches in China and that advice is applicable also to this question. Those whose Christian activity was through membership of registered churches in China are less likely to face any repercussions, however it would depend on the circumstances of each case (DIAC Country Information Service 2006, *Country Information Report No. 06/53 – China: Return of failed asylum seekers*, (sourced from DFAT advice of 14 September 2006), 15 September – Attachment 18).

The further DFAT advice (CX160293) referred to above includes information on the treatment of underground church groups by the Chinese authorities. It is stated in the DFAT advice that:

In general, Chinese authorities view politically active Uighurs as more threatening than members of underground church groups. Chinese authorities are particularly concerned about politically active Uighurs because they view Uighur political activity as having separatist objectives. Underground church groups are by and large tolerated by the authorities.

In occasional cases where an underground church leader has come to the attention of the Chinese authorities, on return to China the authorities might take the person in for questioning. In rare cases the person might face further consequences (for example administrative or criminal detention), depending on the circumstances of the case. For example, a prominent leader of an underground church group which was known for proselytising might be more likely to face more serious consequences than an ordinary member of an underground church group (DIAC Country Information Service 2006, *Country Information Report No. 06/42 – China: Failed asylum seeker return decision (CISQUEST ref 8639)*, (sourced from DFAT advice of 7 August 2006), 25 August – Attachment 19).

The UK Home Office country report on China dated 22 December 2006 provides information on exit and entry procedures in China. The report indicates that “Article 322 of the Criminal Law covers the penalties for illegal emigration. It states “Whoever violates the laws and regulations controlling secret crossing of the national boundary (border), and when the circumstances are serious, shall be sentenced to not more than one year of fixed-term imprisonment and criminal detention or control.”” In relation to “financial penalties for returnees”, Article 52 indicates that “In imposing a fine, the amount of the fine shall be determined according to the circumstances of the crime.” Article 53 covers how and when a fine is to be paid.

In relation to the treatment of returnees, the report includes the following information:

As reported by the *New York Times* on 11 June 2006:

“There is some dispute about what happens to those who are repatriated to China, in part because there have been so few... A Department of Homeland Security spokesman told me, ‘We have no reports of people who have been sent back to China being persecuted.’ Others, though, are not so sanguine. Two years ago, Richard Posner, a judge on the U.S. Court of Appeals for the Seventh Circuit, vacated a de-portation order for a Chinese youth because the immigration judge did not consider the evidence – numerous human rights reports from both U.S. and British organizations – that the asylum seeker might well be sent to jail or a labor camp if returned to China. Posner was concerned that the Chinese youth might be tortured upon his return, though he also conceded that ‘the treatment of repatriated Chinese by their government is to a considerable extent a mystery.’ In-deed, one Chinese legal scholar I spoke with, Daniel Yu, said that while there is a law on the books in China that calls for a short jail sentence if a person leaves the country illegally, more than likely whatever punishment there might be is at the discretion of local officials.”

The report also comments on the treatment of Tibetan and Uighur returnees to China (UK Home Office 2006, *Country of Origin Information Report – China*, 22 December, Paragraphs 39.01-39.07, 39.12-39.19 – Attachment 20).

The answer to Question 5 of a RRT research response dated 4 December 2006 provides information on whether Chinese who overstay in Australia or seek protection face difficulties on their return to China. The research response lists previous research responses that look at this issue (RRT Country Research 2006, *Research Response CHN30936*, 4 December – Attachment 21).

An article dated 16 October 2006 indicates that “Deputy Bishop Shao Zhumin and Secretary General Jiang Shuonian of the underground Catholic Church” who “had visited Rome in September 2006”, had been arrested in Wenzhou, China and “formally charged with “illegal emigrate crimes.”” The article notes that “The CCP [Chinese Communist Party] has always refused passports to members of the underground Catholic Church wishing to visit the Vatican. The Human Rights Information Center press release indicated, that according to government authorities, Shao and Jiang had used false identification cards in application for their European travel visas” (Xiao, Ding 2006, ‘Chinese Authorities Formally Arrest Two Underground Priests’, *Radio Free Asia*, 16 October – Attachment 22).

The article by Dr. Thomas Weyrauch in the report of the 10th European Country of Origin Information Seminar on China dated 17 March 2006 indicates that if a “returnee (a rejected asylum seeker or a repatriated migrant) is unknown to the authorities, then persecution is not likely.” However, the article also indicates that “On the other hand, the situation differs for returnees involved in offences or actions against the Chinese government, or the CCP. Practising Falun Gong, being a member of an underground church, playing a leading role in the opposition (in exile, too) can still be a reason for persecution.” It is stated in the article that:

Forced repatriation can be problematic, especially if the Chinese authorities do not cooperate on this matter. There are cases in Germany, for instance, where the Chinese embassy refuses to issue travel documents to rejected asylum seekers.

One has to be cautious when assessing whether there is a risk of persecution upon return or not: basically, if the returnee (a rejected asylum seeker or a repatriated migrant) is unknown to the authorities, then persecution is not likely. There are legal regulations prohibiting illegal boarder [sic] crossing in the criminal law. But Chinese authorities didn't care so much in the last years, even if they know that this person asked for political asylum in foreign countries, because the authorities expect that they left China for economic reasons. Diplomats from Western countries monitored the situation of repatriated people, and they found out that in most of the cases there was no political persecution, nor criminal prosecution. On the other hand, the situation differs for returnees involved in offences or actions against the Chinese government, or the CCP. Practising Falun Gong, being a member of an underground church, playing a leading role in the opposition (in exile, too) can still be a reason for persecution.

Every Chinese should know that the telephone will be controlled, the internet will be controlled, and every media is controlled by the government and by the different secret services. See the chapter on Falun Gong for an example of a returnee who did not face persecution upon return – until authorities got knowledge of his adherence to Falun Gong (Weyrauch, Dr. Thomas, 'Important Aspects on Human Rights in the People's Republic of China', in '10th European Country of Origin Information Seminar 1-2 December 2005, Budapest: China' 2006, ECOI website, 17 March http://www.ecoi.net/pub/bp269_COI-SE-Budapest200512-China-Report-Final.pdf - Accessed 20 March 2006, p. 25 – Attachment 6).

The US Department of State 2006 report on human rights practices in China notes that "Members of underground churches, Falun Gong members, and other politically sensitive individuals sometimes were refused passports and other necessary travel documents." The report also indicates that "The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The government continued to refuse reentry to numerous citizens who were considered dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad have been allowed to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Activists residing abroad have been imprisoned upon their return to the country" (US Department of State 2007, *Country Reports on Human Rights Practices for 2006 – China (includes Tibet, Hong Kong, and Macau)*, March, Section 2(d) – Attachment 1).

A RRT research response dated 13 January 2003 (RRT Country Research 2003, *Research Response CHN14995*, 13 January – Attachment 23), refers to a DFAT response to a RRT information request (RRT Country Research 2002, Email to DFAT: 'RRT Information Request: CHN14995 – China', 12 February – Attachment 24), regarding an applicant who claimed that the Chinese Consulate in Sydney refused to renew his passport because the Chinese believed him to be a refugee applicant, and who also claimed that if he went back to China, his application for refugee status would be held against him. The DFAT report dated 13 January 2003 includes the following information:

A. APPLYING FOR REFUGEE STATUS ABROAD IN ITSELF DOES NOT NECESSARILY EXPOSE AN APPLICANT TO PERSECUTION ON RETURN. THE AUTHORITIES MIGHT MONITOR THE MOVEMENTS OF SUCH AN APPLICANT (IF AWARE OF THE APPLICANT'S RETURN AND APPLICATION STATUS), BUT ONGOING INTEREST WOULD LARGELY DEPEND ON THE APPLICANT'S SUBSEQUENT BEHAVIOUR ON RETURN (IE. WHETHER THE APPLICANT ENGAGED IN ILLEGAL ACTIVITIES). IN SOME CIRCUMSTANCES, PUBLIC SECURITY OFFICIALS MIGHT INITIATE DISCUSSIONS WITH A RETURNEE TO OBTAIN INFORMATION ON PAST ASSOCIATIONS AND ACTIVITIES.

B. THE MINISTRY OF FOREIGN AFFAIRS (MFA) HAS ADVISED US INFORMALLY THAT CHINA DOES NOT RECOGNISE “REFUGEE STATUS” ACCORDED BY OTHER COUNTRIES. MFA ADVISES THAT CHINESE EMBASSIES AND CONSULATES ABROAD CANNOT THEREFORE REFUSE TO RENEW THE PASSPORTS OF OTHERWISE ELIGIBLE CHINESE APPLICANTS ON THE GROUNDS THAT APPLICANTS HAVE ALSO APPLIED FOR REFUGEE STATUS IN AUSTRALIA.

C. THE MINISTRY OF FOREIGN AFFAIRS HAS NOT ADVISED US OF THE GROUNDS ON WHICH CHINESE EMBASSIES AND CONSULATES MAY REFUSE TO RENEW THE PASSPORTS OF APPLICANTS.

...ADDITIONAL INFORMATION

THE MINISTRY OF FOREIGN AFFAIRS HAS PROVIDED THE FOLLOWING FORMAL ADVICE ON REFUGEE STATUS AND PASSPORT RENEWAL (MINISTRY TRANSLATION):

“CHINA HAS STABLE POLITICS AND UNITED NATIONAL PEOPLES AND CHINESE PEOPLE LIVE IN PEACE AND CONTENTMENT. THERE IS NO REASON TO GIVE RISE TO REFUGEES, THEREFORE THE ISSUE OF SO CALLED ‘CHINESE CITIZENS BECOMING REFUGEES’ DOES NOT EXIST.

ACCORDING TO RELEVANT CHINESE LAW, ALL CHINESE CITIZENS OVERSEAS CAN APPLY FOR PASSPORT RENEWAL AT CHINESE EMBASSIES AND CONSULATES. FOR THAT SMALL MINORITY OF PERSONS WHO TAKE PART IN ACTIVITIES WHICH JEOPARDISE NATIONAL SECURITY, HONOUR AND NATIONAL INTEREST, CHINESE EMBASSIES AND CONSULATES WILL NOT EXTEND THEIR PASSPORTS; IF THEY CORRECT THEIR MISTAKES, STOP THE ACTIVITIES LISTED ABOVE AND PERFORM THE DUTIES OF CITIZENS, THEY CAN STILL OBTAIN PERMISSION TO HAVE THEIR PASSPORTS RENEWED OR EXTENDED” (Department of Foreign Affairs and Trade 2003, *DFAT Report 00221 – China: RRT Information Request: CHN14995*, 13 January – Attachment 25).

A RRT research response dated 22 September 2006 includes information on whether the laws that deal with illegal departure and assisting people to depart illegally are used by the Chinese government to target particular groups (RRT Country Research 2006, *Research Response CHN30681*, 22 September – Attachment 26).

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UK Home Office <http://www.homeoffice.gov.uk/>

US Department of State <http://www.state.gov/>

United Nations (UN)

UN High Commissioner for Refugees (UNHCR) website

<http://www.unhcr.org/cgi-bin/txis/vtx/rsd>

Non-Government Organisations

Human Rights Watch <http://www.hrw.org/>

Amnesty International <http://www.amnesty.org>

International News & Politics

BBC News <http://news.bbc.co.uk>

Region Specific Links

Search Engines

Copernic <http://www.copernic.com/>

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

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