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# Responses to Information Requests

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1 October 2019

## CHN106235.E

China: Whether Family Planning authorities, including in Guangdong and Fujian provinces, enforce the two-child policy through forced abortions, sterilization, and other birth control methods; information on measures taken against parents who fail to register additional children, including fines (2017-August 2019)

Research Directorate, Immigration and Refugee Board of Canada

## 1. Overview

According to sources, an aging population [and a declining birthrate (AP 18 Feb. 2019; US 10 Oct. 2018, 143)] led to the implementation of the two-child policy in 2016 (AP 18 Feb. 2019; Australia 21 Dec. 2017, 29). In correspondence with the Research Directorate, a senior scientist with the Department of Obstetrics and Gynecology at the University of Wisconsin-Madison, who has written about family

planning policy in China, stated that the government has begun to adjust its population policy in recognition of the seriousness of the "population crisis" (Senior Scientist 15 Mar. 2019).

Sources indicate that in 2017, regions [up to thirty-one provinces, regions and municipalities (CGTN 19 July 2018)] started to offer incentives to parents who give birth to a second child, including longer maternity leave, subsidies (*China Daily* 5 Sept. 2018; CGTN 19 July 2018) and "flexible work hours" for new mothers (*China Daily* 5 Sept. 2018). According to sources, however, policy adjustments are "too slow" to reverse the [declining] population trend (Senior Scientist 15 Mar. 2019; *The Wall Street Journal* 29 Apr. 2018). Sources explain that this is due to the reluctance of officials to make drastic changes (*The Wall Street Journal* 29 Apr. 2018) or "political inertia" (Senior Scientist 15 Mar. 2019). In a telephone interview with the Research Directorate, an associate dean at Hong Kong University of Science and Technology, who conducts research on the links between population and policy in Asia, indicated that the family planning apparatus is being dismantled and becoming less important (Associate Dean 1 Aug. 2019). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

## 2. Legislation

For an updated version of the Regulations on Population and Family Planning for the provinces of Guangdong and Fujian, and the Regulations on Population and Family Planning and the Rules for Implementation of Population and Family Planning Regulations for Hebei Province, with their corresponding translation into English, see Response to Information Request CHN106271 of April 2019.

## 3. Enforcement of the Two-Child Policy

According to the 2018 annual report of the US Congressional-Executive Commission on China (CECC), official speeches and government reports from provinces across China, including Fujian and Guangdong, "continued to promote the implementation of harsh and invasive family planning measures" (US 10 Oct. 2018, 145). The Associate Dean indicated that despite the change in demographic landscape, the two-child policy is still being "strongly" enforced and that people in

China are only being encouraged to have the number of children that they are allowed (Associate Dean 1 Aug. 2019). Similarly, the Associated Press (AP) reports that despite the encouragement from Chinese leaders for couples to have more children, local government officials are eager for revenues from "social maintenance fee[s]" [also called "social compensation fees" (Australia 21 Dec. 2017, 30), "social support fee" (Caoshi n.d.), or "social support payment" (Caoshi 30 Apr. 2018)] and have a vested interest in "maintaining the rules that justify their jobs and authority" (AP 18 Feb. 2019). According to Jin Wei, a journalist quoted in the AP article, "[t]he low birthrate has everyone on edge, yet the local governments care only about collecting fees" (AP 18 Feb. 2019).

The Associate Dean stated that for some corrupt officials in certain regions, the "social maintenance fee" is a "good money generating service" (Associate Dean 1 Aug. 2018). The Senior Scientist similarly indicated that local governments are "very motivated" to implement the family planning policy due to profits, "even if violence is used" (Senior Scientist 15 Mar. 2019). Sources indicate that "social maintenance fees," meant to compensate for the resources used by the "extra" child (Associate Dean 1 Aug. 2019; AP 18 Feb. 2019), represent an estimated fifteen to thirty percent of local government's discretionary funding, and can be used for various purposes, including salaries and travel expenses (AP 18 Feb. 2019).

Sources indicate that the "social maintenance fee" is the most common form of penalty (Australia 21 Dec. 2017, 30; Associate Dean 1 Aug. 2019). A *Country Information Report* on China by Australia's Department of Foreign Affairs and Trade (DFAT) indicates that authorities calculate the "social compensation fee" based on the "'last year's local disposable annual income per capita' in urban places, and 'the net annual income per capita' in rural places," and that those income differ "according to the county, city or district." (Australia 21 Dec. 2017, 30). The Associate Dean similarly indicated that the calculation of the "social compensation fee" varies by location, but it is most commonly based on the local income, and in some places where the individual income is significant, the calculation is based on the individual income (Associate Dean 1 Aug. 2019). According to *Global Times*, a state-run newspaper (US 10 Oct. 2018, 147), citing an article by the *Beijing Daily*, a Chinese-language party-run newspaper (HKFP 28 Oct. 2017), the "social maintenance fee" in Liaoning Province is "up to 10 times [the] per capita disposable income," which is the highest among all the provinces, while in provinces such as Hunan, Shanxi and

Guizhou, the "social maintenance fee" is calculated according to families' salaries (*Global Times* 3 Aug. 2017). A "proposal" for the collection of "social compensation fees" in 2018 issued by the People's Government of Caoshi Town, Hunan Province, provided by the Senior Scientist, and its English translation, are attached to this Response (Attachment 1).

According to Freedom House, "forced abortions and sterilizations are less common than in the past but continue to occur" (Freedom House 4 Feb. 2019). The Senior Scientist similarly stated that forced abortion and sterilisation in China are still carried out, and mandatory birth control continues to exist (Senior Scientist 15 Mar. 2019). The US CECC report, citing Chinese domestic media and local government reports, indicates that some local authorities "imposed targets" and "instructed family planning officials to carry out the invasive 'three inspections' (intrauterine device (IUD), pregnancy, and health inspections) and 'four procedures' (IUD insertion, first trimester abortion, mid- to late-term abortion, and sterilization)" (US 10 Oct. 2018, 145). The same source cites a report produced by the Longhui County Health and Family Planning Bureau in Hunan, which indicates that 204 IUD insertions, 19 sterilizations, and 67 abortions were carried out by county authorities in the winter of 2017 (US 10 Oct. 2018, 145).

#### **4. Measures Taken Against Parents Who Violated Family Planning Regulations, Including Fines**

The Paper, a state-funded Chinese news website (*Foreign Policy* 23 July 2014), indicates that, based on a search of China Judgements Online [1] using the keywords "'social maintenance fee'" and "'enforcement action,'" it is [translation] "more prevalent" for family planning authorities to successfully apply in court for enforcement action against families who owe overdue social compensation fees (The Paper 13 Feb. 2019). The search, conducted in February 2019, indicates that there has been 163 rulings since the beginning of 2019, and the courts sided with the family planning authorities in 148 rulings (The Paper 13 Feb. 2019). The same source states that the highest number of applications were filed in Hebei (40 rulings), Jiangxi (30 rulings) and Hunan (22 rulings) (The Paper 13 Feb. 2019). Of the five rulings that were made public for Fujian Province, three were withdrawn after family planning authorities successfully applied for "enforcement action," which usually indicates that the parties paid the "social maintenance fee" after an application was

filed (The Paper 13 Feb. 2019). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the Senior Scientist, parents who do not pay the "social maintenance fee" on time will have their saving accounts frozen by the court and will be listed as "dishonest judgment debtors" [2], which will prevent them from finding a new job or travelling by plane or train (Senior Scientist 15 Mar. 2019). Sources indicate that a couple in Shandong province was ordered to pay a "social maintenance fee" of 64,626 Chinese yuan (CNY) [C\$12,307] for having their third child in January 2017 and had their bank account of 22,957 CNY [C\$4,372] frozen in 2019 after failing to pay the "fee" within the deadline (AP 18 Feb. 2019; *Beijing News* 12 Feb. 2019).

According to the Associate Dean, civil servants who violate the family planning policy, including those who work for state-owned enterprises, can lose their jobs or promotions (Associate Dean 1 Aug. 2019). Sources report that a government official in Guangdong faces dismissal from his job for having a second child on 15 November 2015 in the US (*Global Times* 13 Dec. 2017; US 10 Oct. 2018, 147). The US CECC report, citing The Paper, indicates that the local official was waiting for a final decision on his case as of 11 December 2017 (US 10 Oct. 2018, 147). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources indicate that the Central government asked provinces, including Guangdong [and Fujian (SCMP 14 Mar. 2018)] to revise regulations allowing job terminations for individuals who violate family planning regulations (SCMP 14 Mar. 2018; US 10 Oct. 2018, 147). The US CECC report, citing The Paper, states that as of April 2018, some provincial authorities amended their family planning regulations accordingly, while others indicated that "they had plans to do so" (US 10 Oct. 2018, 147). For information on the amendments to the Regulations on Population and Family Planning for the provinces of Guangdong and Fujian, see Response to Information Request CHN106271 of April 2019.

## **5. Format of Official Documents Issued to Individuals Who Violated Family Planning Regulation**

According to the Associate Dean, while noting that he has only seen documents from areas where he has worked, primarily in Shenzhen in Guangdong province, the appearance of official documents issued to individuals who have violated family planning regulations are different in format "almost everywhere" (Associate Dean 1 Aug. 2019).

## 5.1 Guangdong Province

The following government-issued documents and their corresponding translation into English, describing measures taken against parents in Guangdong Province, are attached to this Response:

- A 2 May 2017 "Administrative Ruling" of the Higher People's Court of Guangdong Province dismissing the application for a [translation] "re-adjudication" of a "social maintenance fee" of 129,084 CNY [C\$24,313] on the birth of a second child (Attachment 2).
- A 23 January 2018 "Notice of Termination of Labour Relations" issued by the Lianjiang City Maternity and Child Health Care Institute on the birth of a second child (Attachment 3).
- A 7 January 2019 "Administrative Execution Ruling" of the Nanhai District People's Court in Foshan City, Guangdong, allowing the application of the Nanhai District Health and Family Planning Bureau to enforce the payment of a "social maintenance fee" of 103,636 CNY [C\$19,528] on an individual who failed to pay the fine by the deadline (Attachment 4).
- A 8 January 2018 "Administrative Execution Ruling" of the Nanhai District People's Court in Foshan City, Guangdong, allowing the application of the Nanhai District Health and Family Planning Bureau to enforce the payment of a "social maintenance fee" of 112,963 CNY [C\$21,009] on an individual who failed to pay the fine by the deadline (Attachment 5).

## 5.2 Fujian Province

The following government-issued documents and their corresponding translation into English, describing measures taken against parents in Fujian Province, are attached to this Response:

- A 14 March 2018 "Notice of Payment Required from Litigant" and a 15 March 2018 "Order to Report Assets" issued by the People's Court of Jianyang District, Nanping City, addressed to the same litigant (Attachment 6 and 7).
- A 9 March 2018 "Notice of Execution" issued by the People's Court of Jianyang District, Nanping City, ordering the litigant to pay 50,000

CNY [C\$9,398] to the Nanping City Health and Family Planning Bureau, Jianyang District, and 650 CNY [C\$122] for the "execution application fee" (Attachment 8).

### **5.3 Henan Province, Hunan, Jianxi and Shandong Province**

The following government-issued documents and their corresponding translation into English, describing measures taken against parents in the Provinces of Henan, Hunan, Jianxi and Shandong, are attached to this Response:

- A 10 July 2018 "Notice of Collection for Social Support Fees" issued by the Boxing County Health and Family Planning Bureau, Shandong Province, for 86,514 CNY [C\$16,246] (Attachment 9).
- A 25 June 2018 "Executive Written Verdict" issued by the People's Court of Wuyuan County, Jianxi Province, approving enforcement action against a couple who did not pay the social compensation fee of 61,831 CNY [C\$11,616] within the deadline (Attachment 10).
- A 30 April 2018 "Notice of Social Support Payment Required for Violation of Birth Laws" issued by the Caoshi Town, Hengdong County Family Planning Enforcement General Office, Hunan Province, for the amount of 32,000 CNY [C\$6,012] for giving birth to a second child (Attachment 11).
- A 23 April 2018 "Notice of Collection for Social Support Fees" issued by the Shangcai County Health and Family Planning Commission in Henan Province, for the amount of 31,749 CNY [C\$5,966] from each of the parent for the birth of their third child on 29 April 2017 (Attachment 12).
- An undated "Notice of Social Support Payment Required for Violation of Birth Laws" issued by the Caoshi Town, Hengdong County Family Planning Enforcement General Office, Hunan Province, for the amount of 12,000 CNY [C\$2,254] for giving birth to the [translation] first "supernumerary" child (Attachment 13).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

#### **Notes**

[1] China Judgements Online is an online platform of the Supreme People's Court that contains all judgements by Chinese courts (The University of Melbourne 17 July 2019). As of 29 August 2016, all "judgment documents" such as "payment orders" and "state compensation decisions" must be posted on the website within seven days (The University of Melbourne 17 July 2019).

[2] According to a judicial interpretation on the enforcement of judgments in civil cases released by the Supreme People's Court, cited by the US Law Library of Congress, once a person is on the list of "Dishonest Judgement Debtors," the person has restrictions on spending, and will not be allowed to purchase plane or high-speed train tickets, real estate, non-business related vehicles, "expensive" insurance products or send his or her children to "expensive" private schools (US 26 Apr. 2017).

## References

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## Additional Sources Consulted

**Oral sources:** Marie Stopes International; professor of humanities who researches politics and the criminal justice system in China; professor of political science who researches human rights and politics in china, including with regards to family planning policies.

**Internet sites, including:** BBC News; Beijing – The Standing Committee of Beijing Municipal People's Congress; China Family Planning Association; Chinese Human Rights Defenders; China – National Bureau of Statistics; eoi.net; ETToday; Fujian – Provincial People's Government Office of Legislative Affairs; Guangdong – Health and Family Planning Commission; Hebei – Health Commission; Hunan – People's Government; Laixi City – Subdistrict Office; Jiangxi – Provincial Family Planning

Service System; Nanjing University of Science and Technology Hospital; *The New York Times*; People's Daily Online; Liaoning – People's Government, The Standing Committee of Liaoning Provincial People's Congress; Shanghai – Municipal People's Congress; UN – RefWorld; Voice of America.

## Attachments

Caoshi. N.d. "Proposal of Caoshi Town for Collection of Social Support Fees in 2018." Provided by the Senior Scientist at the Department of Obstetrics and Gynecology, University of Wisconsin-Madison. Translated by the Translation Bureau, Public Services and Procurement Canada.

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