

## U. S. Citizenship and Immigration Services

[TEXT ONLY](#) [HOME](#) [WHAT'S NEW](#) [FAQS](#) [SEARCH](#) [GLOSSARY](#) [FEEDBACK](#) [TRANSLATE](#) [PRINT/PAGE](#)

### Immigration Services and Benefits Programs

#### Overview

National Customer  
Service Center  
(NCSC)

Emergency Travel

Naturalization

Citizenship

Green Cards (LPR)

Temporary Visitors

Employer  
Information

Inter-Country  
Adoptions

Temporary Protected  
Status

Trafficking in  
Persons

#### Asylum

Overview

History

Asylum FAQ

Two Paths  
to Asylum

Affirmative Asylum  
at a Glance

Affirmative Asylum  
Process

Types of Asylum  
Decisions

Coercive Family  
Planning

## China

<b>Response to Information Request Number:</b>	CHN02002.ZNY
<b>Date:</b>	June 12, 2002
<b>Subject:</b>	China: Information on Treatment of Returning Peasants and Workers Who Violated the One-child Family Planning Policy While Abroad
<b>From:</b>	INS Resource Information Center
<b>Keywords:</b>	China / Family allowances / Family benefits / Family planning / Reproductive rights / Rural women / Social assistance

#### Query:

Does the relatively lax enforcement of the one-child policy for those returning with a second (or third) child apply to all overseas Chinese, or only to professionals who left China legally? Specifically, would peasants or workers also be treated leniently if they were suspected of having left China illegally in order to evade family planning regulations?

#### Response:

##### SUMMARY

According to sources contacted by the Resource Information Center (RIC), Chinese authorities seem to be dealing relatively leniently with citizens who return to China with two or more children, particularly students and professionals. If they are punished at all for violating family planning policies, it is generally with fines rather than more severe measures, although the fines can be steep. Experts consulted by the RIC had little information about whether this lenience extends to workers and peasants.

Some critics of China's strict family planning policies allege, however, that local officials in some areas have punished returning overseas violators of the one-child policy with forced

**Reasonable Fear  
Screenings**

**Asylum Adjustment**

**Resource  
Information Center**

**Training Materials**

**Refugees**

**Humanitarian Parole**

**SAVE (Verification  
Program)**

sterilizations and other physical abuse. While it is not clear whether these harsher penalties have been applied disproportionately to returning workers and peasants, in general the use of fines rather than more extreme punitive measures seems to be the norm in China.

#### TREATMENT OF RETURNING WORKERS AND PEASANTS

According to a China Desk officer at the U.S. State Department, anecdotal evidence suggests that workers and peasants are often forced to pay fines when they return to China after having more than one child abroad (U.S. DOS 11 Jun 2002).

Fines can equal several years' wages for an average worker, according to the U.S. State Department's March 2002 report on China's human rights record in 2001. The report said that other punishments for couples who violate local family planning policies include withholding of social services, higher tuition costs when children go to school, demotion, and, at times, loss of jobs (U.S. DOS Mar 2002).

Some couples failing to pay fines have had homes or other property confiscated or destroyed by local officials, the State Department report added. The report also noted that corruption relating to the collection of family planning fines "is a widespread problem" (U.S. DOS Mar 2002). The report did not, however, address specifically the treatment of workers and peasants who return to China with more than one child.

The State Department's China Desk said that there is little evidence that workers and peasants have been targeted specifically because they are suspected of having left China illegally to evade the one-child policy (U.S. DOS 11 Jun 2002).

A University of California (Irvine) anthropologist who is an expert on China's family planning program, and who co-wrote a 2001 RIC report on the topic, said she has little information about whether returning workers and peasants who violated birth control policies while abroad receive the same lenient treatment as students and professionals. She noted that, in general, Chinese citizens who have "above-quota" children while abroad generally are treated more leniently than those who violate quotas inside China (Expert 11, 12 Jun 2002).

The 2001 RIC report co-authored by the expert notes that "[t]he question frequently arises whether Chinese couples who have an unauthorized child while residing abroad are likely to face penalties upon returning to China. The evidence available suggests that, in many if not most cases, the answer is no" (RIC Sep 2001). The report, however, discussed this question largely in relation to returning students and other educated Chinese, as opposed to workers and peasants.

A China specialist at the U.S. Census Bureau's International Programs Center said that while she has no specific information about the treatment of returning workers and peasants who violated Chinese birth control policies while abroad, she suspects that treatment in individual cases depends on the person's dependence on the state for jobs and basic services. Workers and peasants returning to China with more than one child, particularly those who are not working in the state sector, might be able to avoid problems with local bureaucrats until they try to access local services such as schooling for their children, she said (China specialist 12 Jun 2002).

The State Department China Desk officer said that most reports about the treatment of returnees come from urban areas and that there was little information about the treatment of returnees in rural areas. This lack of information could reflect the fact that most peasants and workers who return to China after living abroad often do not resettle in rural areas, even if they have rural roots (U.S. DOS 11 Jun 2002).

In any case, the strictest family planning policies apply mainly in the cities rather than in rural areas, where 70 percent of Chinese live. Couples in urban areas "seldom" receive permission to have more than one child (U.S. DOS Mar 2002). Nevertheless, there was some evidence that the Chinese government was relaxing this policy. For example, in most major cities, parents with no siblings may have two children (U.S. DOS Mar 2002).

Family planning policies are more lenient in rural China and in ethnic minority provinces. Rural couples generally are allowed to have a second child if their first child is a girl. Meanwhile, Uighurs, Tibetans, and other ethnic minorities in some rural areas are allowed as many as four children (U.S. DOS Mar 2002).

#### DEBATE OVER WHETHER THE ONE-CHILD POLICY HAS BECOME MORE LENIENT

Some China observers question the notion that Chinese authorities are easing up in their implementation of the one-child policy.

A retired China analyst at the U.S. Census Bureau rejected suggestions that the Chinese government has formally relaxed the one-child policy in some urban areas. "Some relaxation may be taking place," he said in a telephone interview, "but it's not policy, it's weakness in the administrative structure" (Retired analyst 11 Jun 2002).

The retired analyst, who now provides expert testimony on behalf of Chinese women seeking asylum in the United States, says he has heard reports of returnees who violated the one-child policy being detained for short periods. He said that the Chinese government has little incentive to be lenient with workers and peasants who have more than one child while abroad because it wants to deter them from leaving the country in order to evade the strict birth control measures. He also stated that he has criticized the U.S. State Department for what he says is inadequate emphasis on the coercive aspect of China's

family planning policies. Testifying before the Australian Senate in October 1999, he accused the U.S. State Department of issuing "a series of documents for use by our immigration judges and INS attorneys which denied the seriousness of the coercion problem" (Commonwealth 21 Oct 1999). His testimony came at an Australian Senate committee hearing convened in part to look into the case of a pregnant Chinese woman who allegedly faced a forced abortion after being returned to China by Australian authorities, who denied her asylum claim (Commonwealth 21 Oct 1999). In the telephone interview, the retired analyst cited this case as evidence of abuses against returnees who violated the one-child policy (Retired analyst 11 Jun 2002).

Prominent human rights activist Harry Wu told the U.S. Congress in October 2001 that in the eastern Chinese city of Tianjin, which is one of four cities under direct central government control, "cadres at all levels" use forced abortion and sterilization to meet rigid birth control quotas. Testifying before the International Relations Committee of the House of Representatives, Mr. Wu, the executive director of the Washington-based Laogai Research Foundation and a Hoover Institution Fellow, said that these extreme measures are used because Tianjin holds the heads of state work units directly responsible for all births by employees in their charge (HR 17 Oct 2001).

Other observers, however, suggest that such abuses are more the exception than the rule. "Scattered evidence suggests that in some places where couples insist on having more children than allowed, cadres continue to use heavyhanded, even abusive, measures," according to the RIC report co-authored by the UCI anthropologist (RIC Sep 2001). The report added, however, that, "[t]here is no way to know how widespread such practices are" (RIC Sep 2001).

According to the State Department China Desk officer, some counties in China might indeed be stricter than others in enforcing birth control policies. In general, however, officials do not resort to anything worse than fines to punish returning workers and peasants who violated policy while abroad (U.S. DOS 11 Jun 2002).

The retired U.S. Census Bureau analyst said that sources in China have told him that the Chinese government is now less lenient even with returning students who have more than one child while abroad. The analyst believes this is because there is less concern that China is experiencing a "brain drain" of educated professionals, so officials see less need to be lenient toward students (Retired analyst 11 Jun 2002).

Amnesty International's 2002 annual human rights report for China notes that perpetrators of torture and ill-treatment, which it says are widespread in China, include, among others, birth control officials. The report, however, does not provide details on the extent of torture by birth control officials (AI Jun 2002).

This response was prepared after researching publicly accessible information currently

available to the RIC 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.

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