PROFILE SERIES

CHINA:

FAMILY PLANNING POLICY AND PRACTICE IN THE PEOPLE'S REPUBLIC OF CHINA

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NOTE: This paper has been particularly written to address the information needs and issues of concern to U.S. Asylum Officers and other Immigration Officers. As such, it may not be exhaustive in its coverage of human rights issues within the country. To facilitate timely access, certain information may be repeated in several sections of this paper.

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I. CURRENT OVERVIEW OF CHINAI. CURRENT OVERVIEW OF CHINA

1.1 Facts[1]1.1 Facts[1]

Official Name:	People's Republic of China
Capital:	Beijing (Peking)
Population:	1,190,431,106 (July 1994 est.)
Administrative Divisions:	23 provinces (sheng, singular and plural), 5 autonomous regions* (zizhiqu, singular and plural), and 3 municipalities** (shi, singular and plural); Anhui, Beijing Shi**, Fujian, Gansu, Guangdong, Guangxi*, Guizhou, Hainan, Hebei, Heilongjiang, Henan, Hubei, Hunan, Jiangsu, Jiangxi, Jilin, Liaoning, Nei Mongol*, Ningxia*, Qinghai, Shaanxi, Shandong, Shanghai Shi**, Shanxi, Sichuan, Tianjin Shi**, Xinjiang*, Xizang* (Tibet), Yunnan, Zhejiang (*note:* China considers Taiwan its 23rd province)
Religions:	Daoism (Taoism), Buddhism, Muslim 2-3%, Christian 1% (est.) (*note:* officially atheist, but traditionally pragmatic and eclectic)
Ethnic Divisions:	Han Chinese 91.9%, Zhuang, Uygur, Hui, Yi, Tibetan, Miao, Manchu, Mongol, Buyi, Korean, and other nationalities 8.1%
Official Languages:	Standard Chinese or Mandarin (Putonghua, based on the Beijing dialect), Yue (Cantonese), Wu (Shanghainese), Minbei (Fuzhou), Minnan (Hokkien-Taiwanese), Xiang, Gan, Hakka dialects, minority languages (see ethnic divisions, above)

[1] U.S. Central Intelligence Agency, "China," *The World Factbook 1994* (Washington, D.C.: 1994), p. 83-85.

II. FAMILY PLANNING PROGRAMII. FAMILY PLANNING PROGRAM

2.1 Background2.1 Background

China's family planning program represents one of the world's most comprehensive and controversial efforts to achieve rapid population stabilization. China experts differ in their assessment of the extent of coercion in the family planning program. There is general agreement, however, on the use of coercion in parts of China, including Fujian province.

A recent informal review of asylum applications by the U.S. Department of State's Bureau of Democracy, Human Rights and Labor reported that approximately 75 per cent of Chinese asylum seekers come from Fujian Province. In view of this, available information pertaining specifically to the family planning program in Fujian Province has been included in this report.

2.2 Definition and Evolution of China's Population Policy2.2 Definition and Evolution of China's Population Policy

2.2.1 *National Policy*.2.1 *National Policy*

China's 1982 Constitution stipulates that the state should promote the practice of family planning (art. 25), and that both husband and wife have an obligation to practice family planning (art. 49).[2]

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[2] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 49. "China," *Europa World Year Book 1991* (London: Europa Publications Ltd., 32nd ed., 1991), p. 726.

History and Development of National PolicyHistory and Development of National Policy

Since 1979, the Chinese Government has been advocating a one-child policy which encourages all couples to have one child, allows certain couples (i.e., those having only one daughter) to have a second child with appropriate birth spacing, and strictly forbids third and higher-order childbearing.[3]

In early 1983, a PRC State Council Bulletin announced a new nationwide policy. The provisions of this policy (which is still in effect) are as follows:[4]

- Women with one child are required to have an IUD inserted.
- Couples with two or more children are required to have one partner sterilized.
- Women pregnant without official permission are required to have an abortion.

In 1984, a modified policy was set forth by the Party Central Committee in a statement called Document No. 7. While certain parts of this document have been quoted or paraphrased in public sources, the full text has not been published. According to Aird, the publicly-available provisions of Document No. 7 "contain an interesting contradiction." The provisions call for the moderation of coercive tactics while requiring the attainment of the same population targets and the use of the same methods outlined in the 1983 policy. The predictable result has been confusion among family planning cadres.[5] In addition:

serious economic, fiscal, and political obstacles emerged in the countryside to block

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[3] Greenhalgh, Susan; Chuzhu, Zhu; Nan, Li, *Restraining Population Growth in Three Chinese Villages: 1988-93* (New York: The Population Council, Research Division, Working Papers No. 55, 1993), p. 9.

[4] An exception to this national policy has been made in minority nationality areas.

[5] Aird, John S., *Slaughter of the Innocents: Coercive Birth Control in China* (Washington, D.C.: AEI Press, 1990), p. 36-37. Greenhalgh, Susan, "Shifts in China's Population Policy, 1984-1986: Views from the Central, Provincial, and Local Levels," *Population and Development Review* (New York: Vol. 12, No. 3, September 1986), p. 492-494.

> the achievement of the ambitious demographic goals set out by the "one-child-per-couple" policy introduced in 1979...As implementation faltered [in the mid-1980s], fertility began to rise.[6]

According to Greenhalgh, "substantial evidence suggests that China's birth planning program...[became] more lenient" from 1984 to 1986. This period of relaxed implementation was followed by a renewed emphasis on family planning.[7] "The tightening of the implementation of birth restrictions and required sterilization, IUD insertion, and abortion has been based on instructions in China's Communist Party Central Committee Document No. 13 of 1986."[8] According to Aird and Banister, "there has been a consistent trend toward tightening of controls" and an "escalation in coercion" since the mid-1980s.[9]

In May 1991, China's State Council and the Central Committee of the Communist Party reinforced the 1986 instructions by jointly issuing their *Decision on Stepping Up Family*

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[6] Greenhalgh, Susan; Chuzhu, Zhu; Nan, Li, *Restraining Population Growth in Three Chinese Villages: 1988-93* (New York: The Population Council, Research Division, Working Papers No. 55, 1993), p. 4.

[7] Greenhalgh, Susan, "Shifts in China's Population Policy, 1984-1986: Views from the Central, Provincial, and Local Levels," *Population and Development Review* (New York: Vol. 12, No. 3, September 1986), p. 491.

[8] Banister, Judith, *China's Family Planning Program: Successes and Problems: Speech to the Ministerial Seminar on Population and Development, Canberra, Australia, November 1993* (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 3. See also: Aird, John S., *Affidavit* (Silver Spring, Maryland: 6 August 1993), p. 2. Greenhalgh, Susan, "Shifts in China's Population Policy, 1984-1986: Views from the Central, Provincial, and Local Levels," *Population and Development Review* (New York: Vol. 12, No. 3, September 1986), p. 494.

[9] Aird, John S., *Affidavit* (Silver Spring, Maryland: 6 August 1993), p. 2. Banister, Judith, *China's Family Planning Program: Successes and Problems: Speech to the Ministerial Seminar on Population and Development, Canberra, Australia, November 1993* (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 3. N.B. Susan Greenhalgh has indicated that she "strongly" disagrees with the assertion that the tightening of the policy has been "consistent." In her view the situation has been much more "variable and complex." See: *Letter from Susan Greenhalgh, Associate Professor, Anthropology Department, University of California, Irvine to John Evans, Director, U.S.I.N.S. Resource Information Center* (Wallkill, New York: 15 August 1994), p. 3.

Planning Work and Strictly Controlling Population Growth.[10] This 1991 document urges a "stepping up" of efforts to implement the family planning policy, particularly in rural areas.[11] It calls for a "mobilization of the entire Party, indeed the entire society." According to Greenhalgh, there is considerable evidence that China's leaders did indeed renew their emphasis on strict fertility control.[12]

> A major crackdown was instituted by the central authorities in the Spring of 1991. It has continued up to the present and is supposed to last at least until the year 2000...[13]

Marriage LawsMarriage Laws

The 1980 Marriage Law forbids marriage before the ages of twenty-two for men and twenty for women, and encourages married couples to wait several years before having a child. Socio-economic reforms and the increase in the number of women of child-bearing age have heightened concern about fertility levels, however, and both the national and provincial governments have called for stricter implementation of the 1980 Marriage Law.[14]

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[10] Banister, Judith, *China's Family Planning Program: Successes and Problems: Speech to the Ministerial Seminar on Population and Development, Canberra, Australia, November 1993* (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 3.

[11] See Section 2.4.3, below, on the implementation of this policy in rural and urban areas.

[12] Greenhalgh, Susan; Chuzhu, Zhu; Nan, Li, *Restraining Population Growth in Three Chinese Villages: 1988-93* (New York: The Population Council, Research Division, Working Papers No. 55, 1993), p. 3.

[13] Aird, John S., *Affidavit* (Silver Spring, Maryland: 6 August 1993), p. 2. See also: Banister, Judith; Harbaugh, Christina Wu; Jamison, Ellen, *Population and Migration Characteristics of Fujian Province, China*, CIR Staff Paper No. 70 (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 5.

[14] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 50. Hull, Terence, *"Recent Population Policy in China": A Briefing Paper for the Australian International Development Assistance Bureau* (Sydney: Australian

> According to a spokesperson for the State Family Planning Commission in mid-1987, "[a]ll departments concerned must take effective measures to handle cases of newlyweds below the legal marriage [age] (including those who have married without registering with the authorities)."[15]

In China, cohabitation and early marriage are not only discouraged, they are punishable by law.

> In early 1988, a "Circular on Earnestly Implementing the Marriage Law and Strictly Prohibiting Marriage in Violation of the Law" was issued jointly by the State Family Planning Commission, the Ministry of Civil Affairs, the Judiciary and the National Federation of Women's Associations. The circular suggests solutions to the problems associated with disregard of the marriage law. "Those who marry early before the legal marriage age and have early childbirth and those who allow their children to practice cohabitation without registration will be criticized and educated even to the extent of being disciplined by their work units...Those who violate the law must be punished accordingly."[16]

Article 12 of the 1980 Marriage Law includes an "explicit requirement to practice family planning...[which] states: `Both husband and wife shall have the duty to practice family planning.'"[17]

International Development Assistance Bureau, Sector Report 1991 No. 4, 27 June 1991), p. 8-9. Hardee-Cleveland, Karen; Banister, Judith, "Fertility Policy and Implementation in China, 1986-88," *Population and Development Review* (New York: Vol. 14, No. 2, June 1988), p. 269-70.

[15] Hardee-Cleveland, Karen; Banister, Judith, "Fertility Policy and Implementation in China, 1986-88," *Population and Development Review* (New York: Vol. 14, No. 2, June 1988), p. 269.

[16] Hardee-Cleveland, Karen; Banister, Judith, "Fertility Policy and Implementation in China, 1986-88," *Population and Development Review* (New York: Vol. 14, No. 2, June 1988), p. 270.

[17] Hardee-Cleveland, Karen; Banister, Judith, "Fertility Policy and Implementation in China, 1986-88," *Population and Development Review* (New York: Vol. 14, No. 2, June 1988), p. 272.

Eugenics LawsEugenics Laws

In late December 1993, China's Minister of Public Health presented draft legislation to the National People's Congress which advocates the use of government-ordered sterilizations and abortions to prevent infectious diseases and birth defects. In response to widespread foreign criticism of the draft legislation, the Chinese Government announced that its modified *Draft Natal and Health Care Law* "would [only] require certain couples to postpone marriage or take long-term contraceptive measures after marriage,"[18] including those couples with reproductive, mental, infectious, or serious hereditary diseases. According to John Aird, the *Draft Natal and Health Care Law* has been "quietly shelved" and is no longer on the agenda of the standing committee of the National People's Congress.[19]

> Several Chinese provinces have laws which require the sterilization of people with intellectual disability or mental illness. Most provinces require the consent of a parent or guardian before the operation is carried out. There have, however, been allegations that this may not always be the case in practice.[20]

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[18] Mufson, Steven, "China Softens Bill on Eugenics," *Washington Post* (Washington, D.C.: 10 December 1993), p. A17.

[19] *Letter from John S. Aird to Ted Albers, Resource Information Officer, U.S.I.N.S. Resource Information Center* (Silver Spring, Maryland: 30 September 1994), p. 6-7.

[20] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 52.

2.2.2 *Policy in Fujian Province*.2.2 *Policy in Fujian Province*

In a general discussion of China's family planning program, Banister has stated that there is "a decade and a half of powerful evidence showing that compulsion is [and continues to be] a major element of the Chinese program."[21] Aird asserts that Fujian province is not an exception to this rule, and that "...there have been [recent] vigorous attempts to enforce the one-child limit in rural areas, including those in Fujian province."[22]

During a 1990 conference in Fujian, it was reported that the province's population density was double the national average, while its per-capita amount of cultivated land was less than half the national average. The conference:

> called for a strengthening of family planning work at all levels...[and] concluded: "We should make extensive efforts to advocate marrying and having children at an older age and insist that a couple should have only one child. Those (including rural families having only one girl) who are allowed to have a second child, should also be kept under close supervision." The conference paper also mentioned "punishing those who have a second child without prior approval...tighten[ing] control over family planning work among the floating population...striv[ing] to prevent people from having children secretly."[23]

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[21] Banister, Judith, *China's Family Planning Program: Successes and Problems: Speech to the Ministerial Seminar on Population and Development, Canberra, Australia, November 1993* (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 1.

[22] Aird, John S., *Affidavit* (Silver Spring, Maryland: 6 August 1993), p. 3-6. See also Section 2.4.3, below, on the implementation of this policy in rural areas.

[23] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 31.

2.3 Results of the Policy in Terms of Fertility Levels2.3 Results of the Policy in Terms of Fertility Levels

> In April 1993 Peng Peiyun, Minister-in-Charge of China's State Birth Planning Commission (SBPC), announced the results of a new nationwide fertility survey showing that birth rates had dropped to replacement level in 1992. The new figures suggested that fertility had fallen almost 25 per cent--from 2.46 to about 1.90 births per woman--since 1987...Minister Peng attributed the decline to increased emphasis on birth planning by leaders at all levels, supported by rapid economic development, which lowered fertility aspirations.[24]

This conclusion, that "socioeconomic development and the family planning program have been mutually reinforcing in bringing about fertility decline," is supported by Greenhalgh, Harbaugh, and Banister.[25]

> Socioeconomic development has certainly played a part in bringing about China's fertility decline. For instance, many millions of families have probably chosen to have fewer children in response to the sharp drop in infant and child mortality, the improved societal position of women, increased education and literacy, industrialization, and urbanization. China's lowest birth rates are found in the more urbanized and developed provinces of the northeast, north, and eastern areas along the coast...Higher birth rates are seen in the less developed, mostly inland provinces, and the highest birth rates are in minority group and economically backward provinces.[26]

While recognizing the role of socio-economic development, all of these experts also

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[24] Greenhalgh, Susan; Chuzhu, Zhu; Nan, Li, *Restraining Population Growth in Three Chinese Villages: 1988-93* (New York: The Population Council, Research Division, Working Papers No. 55, 1993), p. 1.

[25] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 4. Greenhalgh, Susan; Chuzhu, Zhu; Nan, Li, *Restraining Population Growth in Three Chinese Villages: 1988-93* (New York: The Population Council, Research Division, Working Papers No. 55, 1993), p. 23.

[26] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 5.

emphasize the role of the family planning program in initiating fertility decline and sustaining remarkably low levels of fertility for a country at China's level of development. Banister and Aird also attribute the fertility decline to the continued use of coercion and an "escalation of compulsion" in the last several years.[27]

2.4 Implementation of the Family Planning Program2.4 Implementation of the Family Planning Program

2.4.1 *Implementation on the National Level*4.1 *Implementation on the National Level*

China's family planning program is administered by the State Family Planning Commission (SFPC). To attain optimum fertility levels, an annual nationwide goal for the number of `authorized' births is set. Each province, prefecture, county, town, district, and work unit is allocated a certain number of births. At the work unit level, the number of allocated births may be small, and the work unit may need to ask couples to wait before having children.[28] As discussed in more detail in Sections 2.4.4 and 2.4.5, below, couples are closely monitored and may be penalized for unauthorized births.

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[27] Banister, Judith, *China's Family Planning Program: Successes and Problems: Speech to the Ministerial Seminar on Population and Development, Canberra, Australia, November 1993* (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 5. Aird, John S., *Foreign Assistance to Coercive Family Planning in China: A Response to "Recent Population Policy in China" [by Terence Hull] Australian International Development Assistance Bureau, Sector Report 1991 No. 4* (Silver Spring, Maryland: John S. Aird, May 1992), p. 35-42. Aird, John S., *Slaughter of the Innocents: Coercive Birth Control in China* (Washington, D.C.: AEI Press, 1990), p. 59-87. Greenhalgh, Susan, "Shifts in China's Population Policy, 1984-1986: Views from the Central, Provincial, and Local Levels," *Population and Development Review* (New York: Vol. 12, No. 3, September 1986), p. 491.

[28] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 49.

2.4.2 *Fujian Province*.4.2 *Fujian Province*

The U.S. Department of State Consulate General in Guangzhou (the capital of Guangdong Province, to Fujian's south) has found relatively lax implementation of the family planning regulations in Fujian province. This conclusion is based on the Consulate General's interviews with thousands of visa applicants, including the dependents of asylees. The Consulate General observes that:

> there is no evidence of persecution in Fujian of those with more than one child...Fujian regulations lack transparency and enforcement is arbitrary...Fujian officials described central and provincial regulations as "flexible" and suggested numerous exceptions to penalties prescribed by family planning guidelines...Visa interviews at the post confirm widespread exceptions to child limitations and inconsistent application of the law...[While] many violators pay nominal fines, [the post] has seen no evidence of more draconian measures such as forced abortion or property confiscation.[29]

Aird, however, has indicated that Fujian province is not an exception to the rule, and that "...there have been [recent] vigorous attempts to enforce the one-child limit in rural areas, including those in Fujian province."[30] Additionally, Greenhalgh states that:

> during periods of strengthened central-level control over rural reproductive life, such as the present...local variation tends to fade away, to be replaced by the appearance of similar (though not identical) mechanisms of reproductive control in villages all over the country.[31]

The subsequent discussion of the implementation of the family planning program can be

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[29] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 32.

[30] Aird, John S., *Affidavit* (Silver Spring, Maryland: 6 August 1993), p. 3-6.

[31] Greenhalgh, Susan; Chuzhu, Zhu; Nan, Li, *Restraining Population Growth in Three Chinese Villages: 1988-93* (New York: The Population Council, Research Division, Working Papers No. 55, 1993), p. 6.

expected to apply to Fujian province.

2.4.3 *"Coercion" and the Chinese Family Planning Program*.4.3 *"Coercion" and the Chinese Family Planning Program*

Definition of CoercionDefinition of Coercion

The contentious discussion about China's family planning program and the differences among China experts stem, to a certain extent, from differences of opinion as to the proper definitions of the terms "coercion" and "social pressure." Some state that the family planning program is not coercive, and that there is a fundamental disagreement among researchers about the proper way to define "coercion." Other China experts, however, assert that the definition of coercion is not the issue, and that there is strong, substantial evidence of the coerciveness of the program.

State Policy and Local ImplementationState Policy and Local Implementation

While the Chinese Government maintains that the coercive elements of the family planning program are the result of the isolated excesses of local officials in remote rural areas, Aird, who bases much of his research on translations of Chinese news sources, insists that the coercive implementation is sanctioned by the highest governmental authorities. According to him, Chinese authorities, when faced with foreign criticism, attempt to publicly distance themselves from the policy by blaming abuses on local implementors.[32]

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[32] Aird, John S., *Affidavit* (Silver Spring, Maryland: 6 August 1993), p. 3.

Implementation of the Policy in Urban and Rural AreasImplementation of the Policy in Urban and Rural Areas

The one-child policy has been more successful in urban than in rural areas. This success can be attributed to stricter governmental control, more stringent enforcement, and differing attitudes about fertility.[33]

> Economic and other incentives provided to couples with one child and the attitudes of urban couples, particularly of women who have achieved a high level of education and who are career oriented, have also contributed to adherence to the one child policy.[34]

Han Chinese, particularly employees of government-owned entities, universities, hospitals, and local administrations, are subject to very strict controls.

In rural areas, however, the policy has been resisted, and a two-child policy (or `one-and-a-half-child policy' as it is commonly known) has emerged in many places. This policy imposes a one-child limit on couples with a first-born son, but permits a second child for those with a first-born daughter.[35]

This `one-and-a-half-child policy' applies to Han Chinese couples in sixteen provinces,

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[33] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 49.

[34] Department of Immigration and Ethnic Affairs, Country Information Service (Australia), *Comments by Australian Department of Immigration and Ethnic Affairs, Country Information Service on INS Resource Information Center Draft Country Profile on Family Planning Policy and Practice in China* (Canberra: Department of Immigration and Ethnic Affairs, Country Information Service, 25 August 1994), p. 2.

[35] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 36. For a detailed discussion of this *de facto* policy in rural areas and the factors influencing it, see Greenhalgh, Susan, *Negotiating Birth Control in Village China*

including Zhejiang and Fujian.[36] "Only six provinces have received permission to announce a rural two-child policy, in which rural Han Chinese couples are typically allowed to have two children."[37] These provinces include Guangdong and Hainan.

> However, since the current crackdown in family planning began in earnest in the spring of 1991, there have been vigorous attempts to enforce the one-child limit in rural areas, including those in Fujian Province...and to tighten up on the provisions for a second child in specified "hardship" cases. Mandatory sterilization of couples with two or more children, IUD insertion for women with one child, and abortion for unauthorized pregnancies is now being implemented more strictly with the help of a newly constructed national network of birth control, clinics, and the surveillance of the recently greatly expanded ranks of the Chinese Family Planning Association....local efforts to implement these rules...includ[e] the imposition of heavy fines for violations, mandatory late-term abortions, punitive sterilizations, and the destruction of violator's houses and personal property.[38]

Legal Redress from Family Planning RegulationsLegal Redress from Family Planning Regulations

According to the U.S. Department of State, Chinese officials have indicated that "the `Administrative Procedures Law' provides a legal basis for individual citizens to seek legal redress against local family planning officials who exceed the law in implementing birth control policy."[39]

(New York: The Population Council, Research Division, Working Papers No. 38, 1992), p. 1-38.

[36] Banister, Judith, "The Size, Control, and Composition of China's Population," *The Chinese and their Future: Beijing, Taipei, and Hong Kong* (Washington, D.C.: AEI Press, 1994), p. 121, 122.

[37] Banister, Judith, "The Size, Control, and Composition of China's Population," *The Chinese and their Future: Beijing, Taipei, and Hong Kong* (Washington, D.C.: AEI Press, 1994), p. 121.

[38] Aird, John S., *Affidavit* (Silver Spring, Maryland: 6 August 1993), p. 4, 5.

[39] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 29.

While Chinese officials maintain that local cadres are disciplined, or re-trained, for abusing their authority, they have been unable to provide any examples or documented cases of such actions.[40] According to Aird:

> [t]he central government claims that it opposes all coercion and that local cadres caught using coercion are punished, but it has failed to cite a single specific instance in which such punishments have been imposed. Moreover, the provincial family planning regulations do not include warnings against the use of coercive tactics, nor do they specify penalties for cadres who use such tactics.[41]

2.4.4 *Incentives/Enforcement Measures*.4.4 *Incentives/Enforcement Measures*

Several methods have been used in the implementation of the Chinese family planning program: public education, inexpensive access to contraceptives, economic incentives and disincentives, psychological pressure, and coercive measures.[42]

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[40] U.S. Department of State, "China," *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, February 1995), p. 561. Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 51.

[41] Aird, John S., *Affidavit* (Silver Spring, Maryland: 6 August 1993), p. 2-3.

[42] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 28. Banister, Judith, *China's Family Planning Program: Successes and Problems: Speech to the Ministerial Seminar on Population and Development, Canberra, Australia, November 1993* (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 1.

IncentivesIncentives

The Chinese Government offers incentives to couples to persuade them to sign a pledge to have only one child. While these incentives are locally administered and may vary from locality to locality, they can include free health care, education, and social insurance benefits for the single child. The pregnant woman may be granted maternity leave with full salary, bonuses, and subsidies, and those who voluntarily agree to sterilization may be granted a vacation or a food subsidy bonus. In rural areas, couples with only one child may be awarded extra contracted land; those in urban areas may enjoy privileges in housing, medical care, and education.[43]

Disincentives/PenaltiesDisincentives/Penalties

"The Chinese authorities...describe fines and disincentives imposed on people having second or subsequent children as attempts to recoup the costs to society of those children, not punishment."[44] Yet, disciplinary measures against those who violate the policy can include stiff fines, withholding of social services, demotion and other administrative punishments, and loss of employment. In certain rare instances, "unpaid fines can result in confiscation of personal property, or even destruction, such as tearing down of houses," and individuals may face "multiple sources of pressure."[45]

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[43] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 51. Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 90.

[44] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 49.

[45] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and*

Urban and rural couples (including state workers and staff) who have an unauthorized child may be penalized 10 per cent of their monthly wages for seven consecutive years. Those who adopt an unauthorized child or give up their own unauthorized child for adoption are subject to the same penalties. For those with two unauthorized children, the penalty may be 20 per cent of their monthly wages for fourteen consecutive years. Like incentives, disincentives and penalties are locally administered and may vary from locality to locality.[46]

> For those working for the public sector, financial disincentives for violating family planning regulations are often large in comparison to family income. Most couples, with one or both partners working outside agriculture, cannot risk the financial hardships that would follow the birth of an unauthorized second child.[47]

Couples working in state organizations can face other penalties as well for an unauthorized child. Neither spouse may apply for a day care or hardship subsidy. They may not receive pay increases or quarterly and annual bonuses for three years and may not be promoted. In addition, the wife may not be given benefits during her maternity leave.

The U.S. Department of State's Bureau of Democracy, Human Rights and Labor has reviewed cases where an applicant has submitted papers from employers ordering fines and discharge for disobeying family planning policy. "Guangdong and Fujian province officials have stated categorically that documents imposing penalties for family planning violations can be

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Comments on Asylum Applications (Washington, D.C.: 20 December 1994), p. 28.

[46] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 97-99. Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 51.

[47] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 115.

issued only by family planning units" (and therefore that those purportedly issued by work units are fraudulent).[48] Aird questions whether it is possible to state so categorically that such is the case, however, as work units are given a good deal of latitude in devising their own enforcement mechanisms. He also states that there is no simple way to distinguish between valid and forged documents.[49]

Among couples that have signed one-child certificates, those who nevertheless go on to have a second child are asked to return their certificates and reimburse their one-child health care allowances and awards. Couples who receive permission to have a second child are also asked to return their one-child certificate. After obtaining approval to give birth to a second child, they become ineligible for benefits from the one-child program.[50]

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[48] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 29.

[49] Aird, John S., *Comments on Draft Profile* (Silver Spring, Maryland: 30 August 1994), p. 3-5. Document available at the USINS-RIC, Washington, D.C.

[50] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 97-99.

2.4.5 *Monitoring/Psychological Pressure*.4.5 *Monitoring/Psychological Pressure*

Although the economic reforms launched in the late 1970s have loosened political controls, compared to other countries China still maintains a high degree of control over its citizens' daily lives, particularly in urban areas. "The work unit, along with the neighborhood watch committee, is charged with monitoring activities and attitudes."[51] This system enables family planning officials to monitor and control marriage age, birth spacing, unauthorized IUD removal, and number of births. "Married women are monitored regularly by village, neighborhood, and workplace family planning personnel to achieve compliance with the regulations."[52] In addition, each woman's contraceptive use, menstrual cycles, and pregnancies are routinely monitored. Increased internal migration, however, has begun to disrupt this monitoring system.[53]

> Couples who continue with unauthorized pregnancies can come under extreme and prejudicial pressure from their work unit and family planning workers to terminate the pregnancy.[54]

Aird cites three examples of psychological pressure: the mass mobilization of women for abortion, sterilization and IUD insertion, wherein women have little choice but to comply; the

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[51] U.S. Department of State, "China," *Country Reports on Human Rights Practices for 1993* (Washington, D.C.: U.S. Government Printing Office, February 1994), p. 609.

[52] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 36.

[53] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 2, 34. See also: U.S. Department of State, "China," *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, February 1995), p. 561.

[54] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to*

requirement that women with unauthorized pregnancies attend `study classes,' "where they are pressured and threatened by the presiding cadres and not allowed to return to their families until they consent to an abortion"; and "heart-to-heart" talks "with cadres who repeatedly visit the homes of women who refuse IUD insertion, sterilization, or abortion until they and their families break under the strain and comply."[55]

In certain instances, the psychological pressure can include the withholding of benefits to families with more than one child:

> As a State Party to the *Convention on the Rights of the Child*, China has an obligation to ensure that adequate food, health care and education are provided to children. The denial of normal health and education facilities to "extra" children, especially where the parents' own resources are not adequate to provide these privately, controverts those obligations.[56]

2.4.6 *Physical Measures: IUD Insertion, Sterilization and Abortion*.4.6 *Physical Measures: IUD Insertion, Sterilization and Abortion*

In early 1983, a PRC State Council Bulletin announced a new nationwide policy. The provisions of this policy (which is still in effect) are as follows:[57]

- Women with one child would be required to have an IUD inserted.
- Couples with two or more children would be required to have one partner

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China (Canberra: Australian Government Publishing Service, 1993), p. 52.

[55] Aird, John S., *Slaughter of the Innocents: Coercive Birth Control in China* (Washington, D.C.: AEI Press, 1990), p. 17.

[56] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 51.

[57] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 22. Aird, John S., *Slaughter of the Innocents: Coercive Birth Control in China* (Washington, D.C.: AEI Press, 1990), p. 33.

sterilized.

. Women pregnant without official permission would be required to have an abortion.

In 1986, the enforcement of birth restrictions, required sterilization, IUD insertion, and abortion was tightened based on instructions in China's Communist Party Central Committee Document No. 13 of 1986.[58]

In May 1991, China's State Council and the Central Committee of the Communist Party reinforced the 1986 instructions by jointly issuing their *Decision on Stepping Up Family Planning Work and Strictly Controlling Population Growth*.[59]

Sterilization became the principal form of birth control, and the number of sterilizations (tubal ligations and vasectomies) increased from 7.0 million in 1979 to 20.8 million in 1983. Approximately 80 per cent of these sterilizations were tubal ligations performed on women. The number of IUD insertions, sterilizations, and abortions peaked nationwide in 1983,[60] but then "returned to pre 1983 levels in 1984."[61]

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[58] Banister, Judith, *China's Family Planning Program: Successes and Problems: Speech to the Ministerial Seminar on Population and Development, Canberra, Australia, November 1993* (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 3. Aird, John S., *Affidavit* (Silver Spring, Maryland: 6 August 1993), p. 2. Greenhalgh, Susan, "Shifts in China's Population Policy, 1984-1986: Views from the Central, Provincial, and Local Levels," *Population and Development Review* (New York: Vol. 12, No. 3, September 1986), p. 494.

[59] Banister, Judith, *China's Family Planning Program: Successes and Problems: Speech to the Ministerial Seminar on Population and Development, Canberra, Australia, November 1993* (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 3.

[60] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 21-3. Aird, John S., *Slaughter of the Innocents: Coercive Birth Control in China* (Washington, D.C.: AEI Press, 1990), p. 33. Hardee-Cleveland, Karen; Banister, Judith, "Fertility Policy and Implementation in China, 1986-88," *Population and Development Review* (New York: Vol. 14, No. 2, June 1988), p. 275-77.

[61] *Letter from Loraine West and Christina Harbaugh, Eurasia Branch, Center for International Research,*

Since 1983, insertion of IUDs and tubal ligations have been the two primary methods of contraception used in China. By the end of 1991, a cumulative total of 75.0 million IUD insertions and 74.8 million tubal ligations had been performed; 16.8 million IUD insertions and 9.3 million tubal ligations were performed in 1991 alone. IUDs and tubal ligations constituted 80 per cent of contraceptive use in that year. 1991 statistics from China's Ministry of Public Health also reveal that the number of tubal ligations exceeded the number of vasectomies by an approximate ratio of 3:1.[62]

The 1983 policy caused a distinct shift in the contraceptive mix and resulted in a four-fold increase in the number of sterilizations: from 5 million (1982) to 21 million (1983). By the end of 1983, the following changes had occurred: more than 50 per cent of Chinese couples with two or more living children had one partner sterilized; sterilization comprised 50 per cent of contraceptive use, while IUD usage declined to 41 per cent (IUDs and sterilizations together thus accounting for 91 per cent of all contraceptive use); tubal ligations exceeded vasectomies by a 3:1 ratio with vasectomies accounting for only 13 per cent of total contraceptive use. The level and pattern of contraceptive use has not changed significantly since 1983.[63]

In the early 1980s, the number of abortions increased significantly and peaked at approximately 14 million per annum in 1983. "Abortion has continued to be a strong element of

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Population Division, Bureau of the Census to John Evans, Director, U.S.I.N.S. Resource Information Center (Washington, D.C.: 19 August 1994), p. 1.

[62] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 21-3. Harbaugh, Christina Wu, telephone interview, 27 July 1994.

[63] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 21-3. Aird, John S., *Slaughter of the Innocents: Coercive Birth Control in China* (Washington, D.C.: AEI Press, 1990), p. 33.

the family planning program and the number of reported induced abortions has fluctuated between 9 million and 13 million per year."[64]

In certain instances, psychological coercion has been used to ensure compliance with mandated IUD insertion, sterilization, and abortion. The use of psychological coercion has been discussed in Section 2.4.5, above. As previously stated, in China, insertion of an IUD may be mandated, and unauthorized removal of an IUD is punishable by law.[65]

In China, permission to have an IUD removed legally has to be granted by local authorities. Removal may be authorized for medical reasons, when a couple has received permission to have a second child, or when one partner has agreed to sterilization.

It should be noted that the insertion of an IUD may have adverse health effects. Certain women are unable to carry IUDs, and the IUD may be physically expelled by their bodies or cause internal complications. In view of these health risks, some unauthorized IUD removals may stem from legitimate health concerns rather than from a deliberate attempt to circumvent family planning regulations. Chinese IUDs, however, "are deliberately designed to be tamper-proof," and non-clinical removal can be dangerous.[66] Despite these hazards, women may have

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[64] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 25. See also: U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 31. Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 22. Aird, John S., *Slaughter of the Innocents: Coercive Birth Control in China* (Washington, D.C.: AEI Press, 1990), p. 33.

[65] Hardee-Cleveland, Karen; Banister, Judith, "Fertility Policy and Implementation in China, 1986-88," *Population and Development Review* (New York: Vol. 14, No. 2, June 1988), p. 277.

[66] Greenhalgh, Susan, *Negotiating Birth Control in Village China* (New York: The Population Council, Research Division, Working Papers No. 38, 1992), p. 11. "IUDs in China are inserted without the nylon `tails' used elsewhere in the world to facilitate checking to see that they are still in place. In the 1980s this led to the use of x-ray examinations for the same purpose, exposing women to much unnecessary radiation. The reason the `tails' are not used is that the

their IUDs illegally removed to allow them to become pregnant.[67]

While Chinese officials maintain that refusal to submit to a sterilization order would be punished by means of a fine, married couples may be subjected to psychological pressure to have one partner submit to sterilization.

In China, abortion may be required whether the pregnancy is deliberate (non-use of contraceptives or surreptitious IUD removal) or not (contraceptive failure).[68] Women with unauthorized pregnancies, particularly those who already have two children, may be placed under extreme psychological pressure to have an abortion. Moreover, an undetermined number of these mandated abortions take place within the second and third trimesters, and may endanger the health of the mother.[69]

IUDs are often inserted without the consent of the women, who could have them removed more easily and safely by `illegal' operators if the tails were attached. Without them, the illegal operators have to invade the uterine cavity, which often results in injuries and infection and sometimes in death." *Letter from John S. Aird to Ted Albers, Resource Information Officer, U.S.I.N.S. Resource Information Center* (Silver Spring, Maryland: 30 September 1994), p. 10, 11.

[67] "IUD removal without official permission is `illegal' in China and...women can have their IUDs removed on their own option only by resorting to `illegal' operators, often at risk to their health." *Letter from John S. Aird to Ted Albers, Resource Information Officer, U.S.I.N.S. Resource Information Center* (Silver Spring, Maryland: 30 September 1994), p. 11.

[68] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 27. See also Table 7 on p. 28 of *China's Family Planning Program: Inputs and Outcomes* on reported causes of abortions.

[69] *Letter from Susan Greenhalgh, Associate Professor, Anthropology Department, University of California, Irvine to John Evans, Director, U.S.I.N.S. Resource Information Center* (Wallkill, New York: 15 August 1994), p. 5.

2.4.7 *Sex-selective Abortions/Sonograms/Female Infanticide*.4.7 *Sex-selective Abortions/Sonograms/Female Infanticide*

According to both the U.S. Department of State and the Australian Human Rights Delegation to China, strict enforcement of the one-child policy has increased the number of (voluntary) sex-selective abortions and the incidence of female infanticide. Female infancticide is illegal in China, but the Government has been unable to stop it. Insistence that local units meet population goals has exacerbated the problem, particularly in rural areas where sons are prized.[70]

In these instances, the sex of the fetus is determined through amniocentesis or sonogram and the female fetus aborted. Most of these abortions probably take place within the second trimester of pregnancy; some doubtless also occur in the third. In cases of live births, the female infant may be deliberately killed on delivery, though this practice is probably very rare.[71] According to the Australian Human Rights Delegation, "there is...evidence that some Chinese officials and doctors have participated in infanticide (with or without the parents' consent) and in abortions so late in pregnancy that it is tantamount to infanticide."[72]

The Chinese Government has stated that it is tightening access to sonogram results.[73] The

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[70] U.S. Department of State, "China," *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, February 1995), p. 561, 562. Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 52.

[71] Aird, John S., *Slaughter of the Innocents: Coercive Birth Control in China* (Washington, D.C.: AEI Press, 1990), p. 91-92. *Letter from Susan Greenhalgh, Associate Professor, Anthropology Department, University of California, Irvine to John Evans, Director, U.S.I.N.S. Resource Information Center* (Wallkill, New York: 15 August 1994), p. 5.

[72] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 52. See also: Aird, John S., *Slaughter of the Innocents: Coercive Birth Control in China* (Washington, D.C.: AEI Press, 1990), p. 91-92.

[73] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to*

abortions mandated by family planning authorities notwithstanding, the Chinese government has been strongly opposed to sex-selective abortions and female infanticide, and has been working unsuccessfully to eradicate both practices.[74] According to Greenhalgh, "falling fertility has been accompanied--indeed, accomplished by--rising sex ratios at birth."[75]

Sex-selective abortion and female infanticide have contributed to a significant gap in the ratio of reported male and female births. "The 1987 one per cent sample and the 1990 census both found that there were 110 boys per hundred girls ages 0-4."[76]

In the past, it has been surmised that the skewed sex ratios were simply a reflection of the underreporting of female births. According to the U.S. Bureau of the Census, however:

> this explanation is losing ground...[because] the elevated sex ratios...have been traced through several surveys and censuses. It appears that most of the missing girls are not alive, which may suggest rising female infant mortality in the 1980s. In addition, about half of the missing girls appear to be accounted for by sex-selective abortion.[77]

China (Canberra: Australian Government Publishing Service, 1993), p. 52.

[74] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 52.

[75] Greenhalgh, Susan; Chuzhu, Zhu; Nan, Li, *Restraining Population Growth in Three Chinese Villages: 1988-93* (New York: The Population Council, Research Division, Working Papers No. 55, 1993), p. 35.

[76] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 30, 31.

[77] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 30, 31.

2.5 Floating Population and Treatment of Returnees2.5 Floating Population and Treatment of Returnees

2.5.1 *Floating Population*.5.1 *Floating Population*

China has a permanent population registration system that records the location of each person's official residence. Permanent or long-term moves should be recorded in this register.[78]

In the past, official permission was required to change one's residence or locale. In recent years, however, economic reforms have made short-term, internal migration much easier to accomplish. This increased population movement is neither recorded in the permanent population registration system nor reflected in the census definition of migration. The U.S. Department of State's Bureau of Democracy, Human Rights and Labor reports that internal flight is "thus conceivable and practicable" for persons with sufficient financial resources. Their report indicates that many asylum applicants have admitted to a period of internal flight within China prior to flight to the U.S.[79] The Australian Department of Immigration and Ethnic Affairs cautions, however, that "[a]lthough there appears to have been a relaxation in the household registration system, nevertheless, internal flight options for sustained periods are really not feasible."[80]

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[78] Banister, Judith; Harbaugh, Christina Wu; Jamison, Ellen, *Population and Migration Characteristics of Fujian Province, China*, CIR Staff Paper No. 70 (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 9, 10.

[79] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 7.

[80] Department of Immigration and Ethnic Affairs, Country Information Service (Australia), *Comments by Australian Department of Immigration and Ethnic Affairs, Country Information Service, on INS Resource Information Center Draft Country Profile on Family Planning Policy and Practice in China* (Canberra: 25 August 1994), p. 2. The Lawyers Committee for Human Rights concurs: "The fact that some degree of internal migration is possible in China is

Those who have evaded residence controls, or have no permanent household registration, are referred to as the "floating population." These individuals leave their location of permanent registration and move around for days, weeks, or months without changing their location of permanent residence. Others may move to another town, city, or another rural location for business or other reasons. Many of these persons are registered as temporary residents. Exceptions to the rule include commuters, persons who are constantly on the move, those who have been at their current residence location for less than one month, and those who simply evade the authorities.[81]

The floating population currently numbers between 50 and 80 million, constituting approximately 4-7 per cent of China's population. A certain percentage of this floating population is comprised of pregnant women who leave their homes and villages under false pretenses (such as having to care for an ailing relative) to escape the detection of an unauthorized pregnancy or for surreptitious removal of their IUD.[82] In some cases, a woman may leave, either alone or with her husband, to live in a makeshift slum on the outskirts of a city.[83]

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not relevant to the determination of an asylum claim based on opposition to the one-child family planning program. The issue of internal migration is only relevant in cases where an asylum seeker may avoid persecution by relocating to another part of his country." *Letter from Scott Stofel, Lawyers Committee for Human Rights to John Evans, Director, U.S.I.N.S. Resource Information Center* (New York: 26 September 1994), p. 3.

[81] Banister, Judith; Harbaugh, Christina Wu; Jamison, Ellen, *Population and Migration Characteristics of Fujian Province, China*, CIR Staff Paper No. 70 (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 14. Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 33, 34.

[82] A Canadian government document quotes the *Far Eastern Economic Review* as reporting that migrants account for one-eighth of the births which fall outside of the one-child policy (10 March 1994, p. 27). Immigration and Refugee Board, Documentation, Information and Research Branch, *China: One-Child Policy Update* (Ottawa: January 1995), p. 26.

[83] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington,

According to Harbaugh and Banister:

[t]here have been numerous newspaper articles, radio broadcasts, videos, journal articles, speeches, urgent circulars, and regulations complaining that the fertility of female members of the floating population is out of control...These women are known in PRC literature as the "excess birth guerrillas"...One Chinese source stated: "According to statistics of the relevant department, the births to the floating population throughout the country constitute 10 percent of the total number of births; furthermore, they are births outside the plan. Thus, a major focus of family planning effort in China at present is to attempt to control the fertility of the mobile population."[84]

Later in the same report, Harbaugh and Banister add that:

In the short run, the effect of the migration of these women or couples is to raise their fertility because the couples are evading China's family planning program. However, much of today's rural-to-urban migration tends to hold the fertility of these migrants at a low level as they come under tighter urban fertility restrictions. In the long run, rural-to-urban migration is expected to have a net effect of reducing fertility in China. This is not only because fertility controls are more rigid and effective in urban areas, but also because urban conditions are conducive to a low-fertility lifestyle.[85]

D.C.: U.S. Bureau of the Census, January 1994), p. 33, 34.

[84] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 34.

[85] Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 120.

Floating Population in Fujian ProvinceFloating Population in Fujian Province

Short-term, or temporary, movement into Fujian Province consists of "both people from other provinces *and* people within Fujian Province who are living away from their permanent registration location and are registered as temporary residents" of Fujian Province.[86] Approximately 774,000 such persons are living in Fujian Province. 89 per cent of these temporary residents are reportedly economic migrants.[87]

According to the U.S. Bureau of the Census, net inter-provincial long-term movement has been negligible. 36 per cent of long-term migrants into Fujian come from the adjacent provinces of Jiangxi, Zheijiang, and Guangdong, and 47 per cent of migration from Fujian was to these provinces.[88]

The U.S. Bureau of the Census reports that changes in *permanent* residence within Fujian province are negligible.[89]

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[86] *Letter from Loraine West and Christina Harbaugh, Eurasia Branch, Center for International Research, Population Division, Bureau of the Census to John Evans, Director, U.S.I.N.S. Resource Information Center* (Washington, D.C.: 19 August 1994), p. 1.

[87] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 7. Banister, Judith; Harbaugh, Christina Wu; Jamison, Ellen, *Population and Migration Characteristics of Fujian Province, China*, CIR Staff Paper No. 70 (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 14. *Letter from Loraine West and Christina Harbaugh, Eurasia Branch, Center for International Research, Population Division, Bureau of the Census to John Evans, Director, U.S.I.N.S. Resource Information Center* (Washington, D.C.: 19 August 1994), p. 1.

[88] Banister, Judith; Harbaugh, Christina Wu; Jamison, Ellen, *Population and Migration Characteristics of Fujian Province, China*, CIR Staff Paper No. 70 (Washington, D.C.: U.S. Bureau of the Census, Center for International Research, November 1993), p. 12.

[89] "However, temporary migrants have increased in recent years and many of these register their change in temporary residence. In 1991, 3 per cent of the population were temporary residents living away from their registration location. This number is not large but should not be characterized as negligible." *Letter from Loraine West and Christina Wu Harbaugh, Eurasia Branch, Center for International Research, Population Division, Bureau of the Census to John Evans, Director, U.S.I.N.S. Resource Information Center* (Washington, D.C.: 19 August 1994), p. 1.

Unregistered/Unauthorized ChildrenUnregistered/Unauthorized Children

> There are between two to four million `black' or unregistered children in China. These are the children of China's `unauthorized' transient population (totalling possibly in the tens of millions) who have moved from their place of residence, generally in search of better employment prospects, but in many cases because they were not allowed to have a second or third child in their home town or village. These children do not have health or education rights and belong to one of the poorest groups in China.[90]

2.5.2 *Treatment of Returnees*.5.2 *Treatment of Returnees*

> Couples, especially scholars from urban areas in China who have been living in the US for several years, occasionally seek asylum based on claimed fear that a second child, already born here or which has been conceived here, would prompt their city, university or other work unit to fire one or both spouses from jobs or impose heavy penalties for violating the one-child rule.[91]

The U.S. Department of State's Bureau of Democracy, Human Rights and Labor reports, based on its interviews and observations in Shanghai and Fujian province, that couples returning from abroad with more than one child are only subject to modest fines. According to a senior Shanghai family planning official, these fines are based on the additional social costs, including health, education, housing and utilities, for the extra child.

> This official stated that work units are not authorized to fire couples or otherwise take administrative action after the fact against such couples, but they can take labor-related action against employees who become pregnant without permission.

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[90] Department of Foreign Affairs and Trade (Australia), *Report of the Second Australian Human Rights Delegation to China* (Canberra: Australian Government Publishing Service, 1993), p. 52. See also: Banister, Judith; Harbaugh, Christina Wu, *China's Family Planning Program: Inputs and Outcomes* (Washington, D.C.: U.S. Bureau of the Census, January 1994), p. 120.

[91] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 30.

For example, a woman can be fired for taking unauthorized (i.e. maternity) leave.[92]

In discussing couples returning from government-sponsored study abroad, a university official in Shanghai indicated that these couples are `excused' from penalties. One Fujian university professor characterized extra children as a "bonus" of study abroad.[93]

> In the Eastwood (February 1993) and Mermaid (May 1993) cases, involving smuggled Chinese, most of whom were sent back, the Fujian Government told USG [U.S. Government] officials that most returnees were released within three weeks of arrival in China, after payment of a 10,000 RMB fine and pending procedural factors including 1) verification of returnee's identity, 2) confirmation of domicile and legal status, and 3) investigation of circumstances leading to illegal departure. There are no reports of lower level local authorities harassing returnees after their release. Individuals who were still detained several months after return included five smugglers and six criminals wanted for other crimes.
>
> In the case of three boats intercepted off Mexico in 1993, the official Chinese press reported that 95 percent of returnees were allowed to return home within approximately one week after "receiving education in the legal system and paying fines..." Detainees were allowed to receive family visitors.
>
> These indications that returnees are not subjected to criminal imprisonment also appeared to hold in regard to 118 illegal migrants repatriated from the United States to Fujian. During a visit to Fujian Province, including Changle County, members of a high-level USG law enforcement delegation similarly found no evidence of any pattern of harassment or criminal imprisonment (other than detention for initial screening and a fine). However, there have been cases of repeat emigrants serving administrative sentences of one year of imprisonment in re-education through labor camps.[94]

The Lawyers Committee for Human Rights refers to reports which suggest that some of

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[92] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 20 December 1994), p. 30.

[93] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 30.

[94] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *China - Country Conditions and Comments on Asylum Applications* (Washington, D.C.: 20 December 1994), p. 9.

the returnees from the Golden Venture and other illegal emigrants were fined as much as $3,000. They also report that some returnees were subject to reeducation through labor.[95]

[95] Lawyers Committee for Human Rights, *Critique: Review of the Department of State's Country Reports on Human Rights Practices for 1993* (New York: July 1994), p. 54.

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