



Australian Government

Refugee Review Tribunal

Country Advice

China

China – CHN36011 – Fujian Province –
Fuqing City – Family planning – Social
compensation fee – Black children –
Illegitimate children

12 January 2010

1. How is the social compensation fee calculated for unmarried couples from Fuqing City (in Fujian Province) whose child is born outside of China?

Article 39 of *The Population and Family Planning Regulations of Fujian Province* states that the social compensation fee for having a child out of wedlock is between four to six times the average annual disposable income of either a rural or urban resident. The regulations also state that if an individual's annual income is higher than the average disposable income of an urban resident or net income of a rural resident then their personal income would be the basis for calculating the social compensation fee. ¹This information is confirmed in a report by the Immigration and Refugee Board of Canada, dated 23 June 2009. ²

Couples from Fuqing city would most likely be classified as urban residents. The Fujian Statistical Yearbook 2008 states that in 2007 the annual disposable per capita income for urban residents in Fujian was 15,505 Yuan. (Please note a subscription is necessary to access the Fujian Statistical Yearbook 2009. ³) A currency conversion website states that 15,505 Yuan converts to approximately \$2,444AUD. ⁴ According to these figures the social compensation fee an urban resident who has a child out of wedlock in Fujian would approximately be between \$9,776 and \$14,664AUD.

Available information indicates that Chinese nationals returning to China are generally required to pay the standard family planning fees for children born in breach of family planning regulations. Advice from the Department of Foreign Affairs and Trade (DFAT)

¹ *Population and Family Planning Regulation of Fujian Province* (Promulgated 26 July 2002, Effective 1 September 2002), source: US Department of State 2007, *China: Profile of Asylum Claims and Country Conditions*, Political Asylum Research and Documentation Service website, May, pp. 97 – 98 http://www.pards.org/paccc/china_may_2007.doc – Accessed 4 March 2008 – Attachment 1.

² Immigration and Refugee Board of Canada 2009, CHN103135.E - *China: treatment of pregnant, unmarried women by state authorities, particularly in Guangdong and Fujian; whether unmarried women are obliged to undergo pregnancy tests by family planning officials (2005 - April 2009)*, 23 June http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=452415 - Accessed 12 January 2010 - Attachment 2.

³ 'Fujian Statistical Yearbook 2008: 5:12 Basic Indicators of Urban Household in Selected Years' 2008, Fujian Provisional Bureau of Statistics website <http://www.stats-fj.gov.cn/tongjijianjian/dz08/index1e.htm> – Accessed 13 October 2009 – Attachment 3.

⁴ 'Convert this amount: 15,505 > From this currency: CNY China Yuan Renminbi> To this currency: AUD Australian Dollars > Go', Xe website <http://www.xe.com/ucc/convert.cgi?Amount=15505.00&From=CNY&To=AUD> - Accessed 12 January 2010 - Attachment 4.

indicates that there are two circumstances in which couples returning to China are exempt from family planning fees for having an unauthorised second child. The first exemption applies to couples who have a permanent residency rights in another country, also known as “Overseas Chinese”. The second exemption applies to Chinese nationals who have returned to China with a second child after studying overseas.⁵ It is unclear if these exemptions would also apply to individuals who fall into one of the above categories and have a child out of wedlock.

2. What impact does the failure to register a child have on the child (eg. access to services)? What would the cost of private services be?

DFAT advice indicates that unregistered children are not entitled to public education or health care. Unregistered children are thus required to pay for private education and medical services. No recent information was found in the English language sources consulted regarding the cost of private education and more specifically the cost of private primary education in Fujian or China. DFAT advice indicates that the fees charged by private education providers are usually higher than public schools and vary according to different schools. Information from DFAT also suggests that private health care differs in price depending upon the treatment required. An April 2004 DFAT report states that private education and health clinics operate in Fujian and will enrol unregistered children. The report states that “their fees are not excessive by Chinese standards”. DFAT advice dated August 2007 and September 2005 also noted that access to public health services is not an issue for unregistered children as China does not have a national health insurance system.⁶

3. Is the child likely to face any social/state discrimination/ harm on the basis of being born outside China or out of wedlock, even if his parents pay a social compensation fee to have him registered? If so, what type of harm/ discrimination is he likely to face?

Article 19 of *The Marriage Law of the People’s Republic of China* states “children born out of wedlock shall enjoy the same rights as children born in wedlock”. The article states that “no-one may harm or discriminate against them”.⁷ However, the following advice from DFAT on children born out of wedlock indicates that they may be subject to social discrimination:

⁵ Department of Foreign Affairs and Trade 2007, *DFAT Report No. 746 – China: RRT Information Request: CHN32483*, 6 December – Attachment 5; Department of Foreign Affairs and Trade 2007, *DFAT Report 691 – China: RRT Information Request: CHN32173*, 31 August – Attachment 6; DIMIA Country Information Service 2006, *Country Information Report No.06/54 – China: Return of failed asylum seekers: family planning policies in Liaoning province*, (sourced from DFAT advice of 22 September 2006), 26 September – Attachment 7; Department of Foreign Affairs and Trade 2005, *DFAT Report 404 – China: RRT Information Request: CHN17471*, 6 September – Attachment 8.

⁶ Department of Foreign Affairs and Trade 2007, *DFAT Report No. 746 – China: RRT Information Request CHN32483*, 6 December – Attachment 5; Department of Foreign Affairs and Trade 2007, *DFAT Report 691 – RRT Information Request: CHN32173*, 31 August – Attachment 6; Department of Foreign Affairs and Trade 2005, *DFAT Report 404 ‘RRT Information Request: CHN17471*, 6 September – Attachment 8; Department of Foreign Affairs and Trade 2004, *DFAT Report 330 – RRT Information Request: CHN16967*, 15 October – Attachment 9; Department of Foreign Affairs and Trade 2004, *DFAT Report 287 – RRT Information Request: CHN16609*, 22 April – Attachment 10.

⁷ *Marriage Law of the People’s Republic of China* (Promulgated 10 September 1980, Effective 1 January 1981), China Court website, Article 25 <http://en.chinacourt.org/public/detail.php?id=181> – Accessed 19 February 2009 – Attachment 11.

- In October 2004 DFAT advised that “being a child out of wedlock still attracts some degree of social stigma”. The report states that “children might be subject to bullying or teasing at school, but are unlikely to suffer serious social disadvantage”.⁸
- An October 2004 report by Dr Alice de Jonge, Lecturer in Asian Business Law at Monash University, states that:

Chinese society is still deeply prejudiced against illegitimate children.⁹

The above reports do not specify if societal attitudes towards illegitimate children differ if the child has household unregistered. No more recent information was found in the sources consulted regarding societal attitudes to children born out of wedlock. No information was found in the sources consulted regarding societal or state discrimination towards Chinese nationals born overseas.

4. What forms of discrimination or harm is a child born out of wedlock likely to face in Fuqing City, including social and state sanctioned discrimination?

No information was found in the English language sources consulted regarding discrimination towards children born out of wedlock on Fuqing. For information on the social compensation fees applied to out of wedlock births in Fujian please refer to Question one of this response.

List of Attachments

1. *Population and Family Planning Regulation of Fujian Province* (Promulgated 26 July 2002, Effective 1 September 2002), source: US Department of State 2007, *China: Profile of Asylum Claims and Country Conditions*, Political Asylum Research and Documentation Service website, May http://www.pards.org/paccc/china_may_2007.doc – Accessed 4 March 2008.
2. Immigration and Refugee Board of Canada 2009, *CHN103135.E - China: treatment of pregnant, unmarried women by state authorities, particularly in Guangdong and Fujian; whether unmarried women are obliged to undergo pregnancy tests by family planning officials (2005 - April 2009)*, 23 June http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=452415 - Accessed 12 January 2010.
3. ‘Fujian Statistical Yearbook 2008: 5:12 Basic Indicators of Urban Household in Selected Years’ 2008, Fujian Provisional Bureau of Statistics website <http://www.stats-fj.gov.cn/tongjijianjian/dz08/index1e.htm> – Accessed 13 October 2009.
4. ‘Convert this amount: 15, 505 > From this currency: CNY China Yuan Renminbi> To this currency: AUD Australian Dollars > Go’, Xe website <http://www.xe.com/ucc/convert.cgi?Amount=15505.00&From=CNY&To=AUD> - Accessed 12 January 2010.

⁸ Department of Foreign Affairs and Trade 2004, *DFAT Report 330 – RRT Information Request: CHN16967*, 15 October – Attachment 9.

⁹Jonge, A. 2004, ‘Advice of China’s Family Planning Law(s) and Regulations with special reference to the position of unmarried mothers’, October - Attachment 12

5. Department of Foreign Affairs and Trade 2007, *DFAT Report No. 746 – China: RRT Information Request: CHN32483*, 6 December.
6. Department of Foreign Affairs and Trade 2007, *DFAT Report 691 – China: RRT Information Request: CHN32173*, 31 August.
7. DIMIA Country Information Service 2006, *Country Information Report No.06/54 – China: Return of failed asylum seekers: family planning policies in Liaoning province*, (sourced from DFAT advice of 22 September 2006), 26 September. (CISNET China CX162297)
8. Department of Foreign Affairs and Trade 2005, *DFAT Report 404 – China: RRT Information Request: CHN17471*, 6 September.
9. Department of Foreign Affairs and Trade 2004, *DFAT Report 330 – RRT Information Request: CHN16967*, 15 October.
10. Department of Foreign Affairs and Trade 2004, *DFAT Report 287 – RRT Information Request: CHN16609*, 22 April.
11. *Marriage Law of the People’s Republic of China* (Promulgated 10 September 1980, Effective 1 January 1981), China Court website <http://en.chinacourt.org/public/detail.php?id=181> – Accessed 19 February 2009.
12. Jonge, A. 2004, ‘Advice of China’s Family Planning Law(s) and Regulations with special reference to the position of unmarried mothers’, October. (CISNET China CX213527)