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China: Family planning laws, enforcement and exceptions; reports of forced abortions or sterilization of men and women particularly in the provinces of Guangdong and Fujian (2007 - May 2010)

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China has had policies regulating family planning for over 30 years (New York Times 18 Mar. 2010; MarketWatch 18 Mar. 2010). The United States (US) Department of State's Country Reports on Human Rights Practices for 2009 notes that Chinese legislation prohibits the use of "physical coercion" to force people to obey family planning policies (US 11 Mar. 2010, Sec. 1f). However, sources note that China has been criticized for "coercive abortions and sterilizations" (AI 22 Apr. 2010; US 11 Mar. 2010, Intr.). According to the New York Times, in March 2008, in an interview with the state-run China Daily, the Chinese minister responsible for family planning declared that China would not make major changes to family planning policies for at last another ten years (New York Times 11 Mar. 2008). Chinese officials have had to refute speculation that the policy will soon be modified (ibid; MarketWatch 18 Mar. 2010) or abolished (ibid.; Reuters 2 mar. 2008).

Laws and regulations

Family planning in China is governed by the 2002 Population and Family Planning Law (AI 22 Apr. 2010; China 2002). According to Amnesty International (AI), the law was introduced to "standardize family planning policies across the country and to safeguard individuals' rights" (AI 22 Apr. 2010). According to a 8 January 2010 Country of Origin Report on China by the United Kingdom's (UK) Border Agency, the Chinese National Population and Family Planning Commission (NPFPC) issued new regulations in January 2007 which "reaffirmed the family planning policy and the eugenics goal of promoting population quality" (UK 8 Jan. 2010, Sec. 28.08). The regulations state:

... it is a must to never waver over the implementation of the fundamental national policy of family planning and stabilization of the existing fertility policy; never waver over the practice of holding top leaders of the CPC committees and governments to take direct leadership and responsibility for population and family planning programme; never waver over devotion of institutional and personnel resources to population and family planning programme; and never waver over innovation of systems, mechanisms, means and approaches for population and family planning programme. (China 17 Jan. 2007, Sec. III)
Enforcement and Exceptions

According to the US Congressional-Executive Commission on China's (CECC) *Annual Report 2009*, those found in violation of the family planning policy "are routinely punished with fines, and in some cases, subjected to forced sterilization, forced abortion, arbitrary detention, and torture" (US 10 Oct. 2009, 151).

Sources report that enforcement of family planning policies varies by region; rural areas are less restrictive than urban centres (AI 22 Apr. 2010; MarketWatch 18 Mar. 2010). Sources also state that the implementation of policies is often driven by local authorities seeking to meet birth quotas (AI 22 Apr. 2010; *Times Online* 17 Apr. 2010; *New York Times* 11 Mar. 2008). Migrant workers may be observed more closely because authorities are often concerned that their movements permit them to more easily contravene family planning policies (*China Daily* 24 June 2009). The Beijing-based *China Daily* reports that according to the NPFPC, "almost 65 percent of all 'illegal' babies have been born to migrants" in the past ten years (ibid.).

Those who breach the family policies regulations may be fined (MarketWatch 18 Mar. 2010; BBC 16 Jan. 2009; Freedom House 2010; Reuters 1 June 2007). According to Reuters, those who cannot pay the fines may have their property seized (ibid.). MarketWatch, an online component of the *Wall Street Journal*’s digital news network (*Wall Street Journal* n.d.), states "residents of Guangdong province ... found in violation of the policy may be required to pay a fine that could be up to six times the family's income in the previous year" (18 Mar. 2010).

Reuters reports that some local officials have come to rely on family planning fines as a source of revenue which encourages them "to turn a blind eye to violators and then strike them with heavy fines" (1 June 2007). However, some wealthier citizens simply pay the fine to have more children (MarketWatch 18 Mar. 2010; *The New York Times* 18 Mar. 2010; *Libération* 1 Aug. 2009).

Sources indicate that authorities allow subsequent children for members of certain groups such as farming families if the first child is a girl or is disabled (*The New York Times* 18 Mar. 2010; *Libération* 1 Aug. 2009). Members of some ethnic minorities may be allowed additional children (MarketWatch 18 Mar. 2010; BBC 16 Jan. 2009; *Libération* 1 Aug. 2009). A 4 March 2010 article by *The Economist* provides more details on these exceptions:

In most Chinese cities couples are usually allowed to have only one child—the policy in its pure form. But in the countryside, where 55% of China’s population lives, there are three variants of the one-child policy. In the coastal provinces some 40% of couples are permitted a second child if their first is a girl. In central and southern provinces everyone is permitted a second child either if the first is a girl or if the parents suffer “hardship”, a criterion determined by local officials. In the far west and Inner Mongolia, the provinces do not really operate a one-child policy at all. Minorities are permitted second—sometimes even third—children, whatever the sex of the first-born. (*The Economist* 4 Mar. 2010)

In some regions, "double-single" couples, where both parents are themselves single children, are allowed to have two children (*The New York Times* 18 Mar. 2010; MarketWatch 18 Mar. 2010; *Libération* 1 Aug. 2009). According to the *New York Times*, this policy is in effect throughout the country except in Henan, the province with the largest population (*The New York Times* 18 Mar. 2010). This article also notes that Guangdong Province was the first province to begin allowing "double-singles" to have two children in 1986 (ibid.). The article also notes that "the government still makes it harder to have a second child. For the first, parents must produce a clutch of documents. For the second, so must the grandparents" (ibid.). According to the *New York Times*, the city of Shanghai established a "double-singles" policy in 2004 (ibid.). Sources report that since 2009, the city has encouraged those who are eligible for this policy to take advantage of it as
Shanghai has a low birth rate and an aging population (Libération 1 Aug. 2009; BBC 24 July 2009).

The US Central Intelligence Agency (CIA)'s World Factbook reports that according to 2010 estimates, the average number of children per woman in China is 1.54 (US n.d.). In comparison, the average in Canada is 1.58 children per woman (ibid.).

**Forced abortions and sterilizations**

Sources report that forced abortions and forced sterilizations still occur in China (AI 22 Apr. 2010; US 11 Mar. 2010, Sec. 1f; Freedom House 2010) although Freedom House states that "compulsory abortion and sterilization by local officials are less common than in the past" (Freedom House 2010). The use of forced abortion and sterilization is banned by Chinese law; however, sources report some local officials resort to coercion due to pressure to meet government-regulated birth targets (AI 22 Apr. 2010; US 11 Mar. 2010, Sec. 1f; CHRD 5 Nov. 2008, 8). A report by the Chinese Human Rights Defenders (CHRD), a network of Chinese and international human rights activists (CHRD n.d.), indicates that relatives of women facing sanctions may be "questioned, fined, detained, beaten or have their property confiscated" unless they help persuade the women to comply (CHRD 5 Nov. 2008, 8). Sources report that officials are rarely prosecuted or punished for those types of abuses (AI 22 Apr. 2010; CHRD 5 Nov. 2008, 8).

Freedom House reports that "[a]ccording to official websites, authorities in some areas of Yunnan and Fujian mandated the use of abortion in 2009" (2010). Country Reports 2009 states that, "[s]everal provinces--Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin, Liaoning, and Ningxia--require 'termination of pregnancy' if the pregnancy violates provincial family-planning regulations (US 11 Mar. 2010, Sec. 1f). As well, Country Reports 2009 adds that ten provinces, which include Guizhou, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan in addition to Fujian and Guangdong provinces, "require unspecified 'remedial measures' to deal with unauthorized pregnancies" (ibid.). According to the CECC's Annual Report 2009, the term "remedial measures" (bujiu cuoshi), found in official reports from local governments, "is used synonymously with compulsory abortion" (US 10 Oct. 2009, 153).

Information on the forced sterilization of men was scarce among the sources consulted by the Research Directorate. However, a 2 June 2010 article by Xinhuanet, translated by the Women of China website, which is operated by the All-China's Women Federation (ACWF) states that 37.5 million Chinese men (7.39 percent) have had vasectomies in comparison to the 221.5 million women who have had tubal ligation.

**Guangdong and Fujian**

According to the Xinhuanet article,

[t]he Family Planning Regulations of Guangdong Province advise women of childbearing age with one child to use intrauterine contraceptive devices, and either the wife or husband in a couple with two children to undergo sterilization (Xinhuanet 2 June 2010).

Several sources report that in April 2010, according to Chinese media, officials in Puning City in Guangdong conducted a campaign to sterilize almost 10,000 people who had violated family planning rules (Sky News 23 Apr. 2010; AI 22 Apr. 2010; Times Online 17 Apr. 2010). Sources reported that relatives of those being targeted for sterilization were detained to persuade the targeted individuals to comply, although such action is a contravention of official Chinese policy (AI 22 Apr. 2010; Times Online 17 Apr. 2010). According to Times Online, the website of British newspapers The Times and The Sunday Times, officials in Puning were under
pressure due to the city's high birth rate (ibid.). The article quoted one man as agreeing to undergo the procedure (ibid.).

Sources report that in 2009, three women acting as surrogate mothers were forced to undergo abortions in Guangzhou (US 11 Mar. 2010, Sec. 1f; Reuters 30 Apr. 2009). The CECC's Annual Report 2009 states that a woman in Shenzen in Guangdong province was forced to undergo an abortion six days before the due date of a second child because the officially mandated waiting period for her to have a second child had not been observed (US 10 Oct. 2009, 153). The report provided details on several other cases of forced abortion (ibid., 153-156).

According to a December 2009 online article by the Beijing-based Global Times, Fujian province announced it would implement a "real-name abortion system" by starting to require women to show their identity cards for abortions (29 Dec. 2009). The policy was being implemented "in order to monitor abortion trends and improve family planning policies" and counter illegal gender-based abortions (Global Times 29 Dec. 2009). The article also states that "[t]he province will continue implementing the family planning policy, and crack down on illegal child bearing", without providing further details (ibid.).

According to the CECC's Annual Report 2009, in February 2009, the government of Fujian province's Anxi county ordered officials "to seek court authorization to carry out 'coercive measures' when family planning violators fail to pay fines" (US 10 Oct. 2009, 152). The report also states that in 2009 officials in some areas of Fujian province "employed abortion as an official policy instrument" (ibid., 154). According to the report, officials in Fujian's Xianyou county forced a seven-month pregnant unmarried woman to undergo an abortion and detained the mother of a woman who was nine months pregnant with a second child to pressure the daughter to have an abortion (ibid., 154-155).

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

References


Additional Sources Consulted

Oral sources: Two academics who have published extensively on family planning polices in China did not provide information. Another specialist was unable to provide information within the time constraints of this Response. Attempts to contact two other specialists and a representative at the Chinese office of the United Nations Population Fund (UNFPA) were unsuccessful.


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