



RESPONSES TO INFORMATION REQUESTS (RIRs)

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The Board		8 July 2010
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Biographies		
Employment		China: Information contained in birth and notarial certificates; reasons why a person would obtain a notarial certificate rather than a notarized copy of the original birth record
Legal and Policy References		Research Directorate, Immigration and Refugee Board of Canada, Ottawa
Organization Chart		
Publications		Birth certificates
Tribunal		
Decisions	In 24 June 2010 correspondence with the Research Directorate, an official at the Canadian Embassy in Beijing provided a sample birth certificate issued by the Ministry of Health of the People's Republic of China called a "Medical Certificate of Birth" (China n.d), which is attached to this Response.	
Forms		
Immigration Appeal Division		
Immigration Division	The Official provided the following information regarding this official birth certificate:	
Refugee Protection Division		
Statistics	The green official birth certificate was introduced country-wide in 1996 based on the Law of the Peoples Republic of China on Maternal and Infant Health Care. It is the official birth [certificate] accepted by the Public Security Bureau as medical evidence for household registration for [a] new-born baby, and as the medical evidence for a new-born baby to be granted nationality. (Canada 24 June 2010)	
Research		
Research Program		
National Documentation Packages	The international children's development non-governmental organization (NGO) Plan International corroborates that medical birth certificates "ha[ve] been issued by the Ministry of Public Health through the hospital or facility where the child is born" since 1996 (Plan International n.d.). Media reports concur that birth certificates are provided by the hospitals where babies are delivered (SNS 21 Feb. 2010; <i>Shanghai Daily</i> 10 Dec. 2009; Xinhua 5 Nov. 2005). In addition, Plan International states that "every birth in China has to be registered in the police station covering the parents' household" (Plan International n.d.). The NGO also notes that "township governments were responsible for rural birth registration and the public security departments for urban registration" from 1953 to 2006 (Plan International n.d.).	
Issue Papers and Country Fact Sheets		
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Media Relations	A 20 October 2004 news article by the Chinese news agency Xinhua reported that a new version birth certificate would be first issued on 1 December 2004 and used across the country starting from 1 July 2005, replacing the version in use since 1996 (Xinhua 20 Oct. 2004a). The article states:	
Proactive Disclosure		

According to the law, birth certificates issued by delivery institutions are legal medical documents to testify newborn babies' postnatal condition and blood

relations, as well as for applying for nationality, residence registration and identification cards. (ibid.)

A Xinhua article notes that these new certificates have an electronic watermark and bar-code to prevent forgeries (ibid. 20 Oct. 2004b). The Canadian Embassy Official also stated that "[b]irth Certificates have security features including watermarks, UV and typographical features, and these have been updated every three to four years" (Canada 24 June 2010).

The Canadian Embassy Official also stated that the following details appear on such certificates:

- Name, gender and date and time of birth
- Place of birth and gestational week of birth
- Health status at birth, including length and weight
- Mother's name, age, ethnicity and nationality
- Mother's ID card number
- Father's name, age, ethnicity and nationality
- Father's ID card number
- Location of birth (hospital, home etc.)
- Name of the facility
- Birth certificate number, place of issue and wet seal of issuing authority. (ibid.)

The Canadian Embassy Official stated the following about notarized copies of official birth certificates, as opposed to notarial birth certificates:

A notarized birth certificate copy is a document including a photocopy of the official birth certificate, together with an attestation by the notary that the copy is a true copy of the official birth certificate. An English language translation will also be included. (Canada 24 June 2010)

Notarial birth certificates

The website of the United States (US) Consulate in the city of Shenzhen in Liaoning Province provides the following details on documents available through notarial offices:

All Chinese documentation to be used abroad is processed through the notary offices and issued in the form of notarial certificates. Notarial offices are located in all major Chinese cities and in rural county seats. These offices are part of the Ministry of Justice structure, but are separate from the people's court system.

Notaries in China do not perform the same functions as their American counterparts. Chinese notaries affix their signatures and office seal to certificates that attest to the probity of claims made by the applicants. By regulation, notaries are empowered to issue certificates only after they conclude that the applicant's claims are true. Notarial certificates of birth, death, marriage, divorce, no criminal record and pre-1981 adoptions are, at best, secondary evidence of the events they purport to document. Although these certificates are secondary evidence, they are used because primary evidence is not standardized, is easily forged, and difficult to evaluate. Notarial certificates are easier to interpret than primary evidence and theoretically represent an expert judgment on the part of the notarial official as to

the facts documented.

The certificates can be based upon primary evidence, secondary evidence, testimony of the applicant or other parties, or investigation by the notary. For most notarial certificates of birth or adoption, the primary underlying documentation is the household register (HHR) which appears to be extremely susceptible to fraud and manipulation, especially if the holder of the HHR lives outside of a major metropolitan area. Notarial certificates rarely cite the basis for their issuance. (US n.d.)

The Canadian Embassy Official provided the following information on notarial birth certificates specifically:

The notarial certificate of birth is a document produced at the applicant's request by a civil law notary in [the People's Republic of China]. Typically a notarial certificate of birth will state the applicant's name, date o[f] birth, place of birth and parents' names, together with the name of the notary, place and date of notarization. It will usually include a photograph of the applicant with a wet seal of the notary. In most cases, the Chinese language version will be accompanied by an English language translation. Notaries will also issue a notarial kinship certificate which may include a statement about siblings. (Canada 24 June 2010)

The Canadian Embassy Official provided the following information on why a Chinese citizen would obtain a notarial certificate rather than a notarized copy of the original birth record.

China is a civil law country, which means that notaries in China are civil law notaries rather than the notaries public with which we are familiar in Canada. As such, they have an additional function, which is to create legal documents relating to non-contentious issues in family and property law. Notarial certificates have a presumption of truth in the Chinese legal system, and are made on the basis of various kinds of evidence that can be brought before the notary, from original documents to the oral statement of the applicant.

A Chinese Citizen might obtain a notarial certificate rather than a notarized copy for various reasons. For Chinese Citizens born before 1996, there is no standard official birth certificate and birth records may be difficult to obtain. Some notaries may require DNA and other documents before agreeing to issue a notarial certificate. Others may issue one simply on the basis of the applicant's attestation. For Chinese Citizens born after 1996, many obtain a notarial certificate to submit with an immigration application simply because this is the normal thing to do. There may also be a saving in translation costs. (Canada 24 June 2010)

Authenticity

The Canadian Embassy Official also provided the following information on issues of authenticity regarding notarial birth certificates and official birth certificates:

None of the civil documents submitted in evidence of birth are considered reliable by Canadian visa officers in China.

Notarial certificates are given little weight by visa officers because they are unverifiable. Furthermore, we have no practical recourse against notaries who issue notarial certificates based on falsehoods.

Counterfeit official birth certificates are frequently seen at Canadian missions in China. In any contentious matter, we attempt to verify the birth certificate with the issuing authority. However, we have also seen instances where an official birth certificate has correct security features and is verified as authentic by the issuing authority, but we find out by other means that it is improperly issued.

Household registers have few security features and little evidentiary value: pages may be counterfeit, obtained on the basis of other counterfeit documents, or otherwise improperly issued. In our experience, many applicants do not in fact live where they are registered or with the persons with whom they are registered for reasons that have nothing to do with immigration. Migrant workers in China, for example, usually live thousands of miles from their official place of residence.

In view of these challenges, Visa Offices in China routinely request DNA testing whenever there is a concern about family relationships or other information on birth records. (Canada 24 June 2010)

However, the website of the US Consulate states the following on the authenticity of notarial certificates issued from Chinese notarial offices (*Gong Zheng Chu*):

Notarial certificates of birth (Chu Sheng Gong Zheng Shu or Chu Sheng Zheng Ming Shu) for persons living in or recently departed from China are generally reliable, but are best used in conjunction with other evidence. They are most often based upon an AHHR, (Household Record) which is easily susceptible to fraud, especially in villages. Notarial birth certificates for persons long departed from China are most likely based merely upon the testimony of interested parties. (US n.d.)

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

Canada. 24 June 2010. Canadian Embassy, Beijing. Correspondence with an official.

China. N.d. Ministry of Health of the People's Republic of China. "Birth Certificate." Sample provided by an official at the Canadian Embassy in Beijing.

Plan International. N.d. "China - Universal Birth Registration." <<http://plan-international.org/birthregistration/resources/country-case-studies/china>> [Accessed 17 June 2010]

Shanghai Daily. 10 December 2009. "Court Accepts Father's Suit in Stolen Baby Case." (Factiva)

States News Service (SNS) [Washington, DC]. 21 February 2010. "Paternity Tests Needed after Deliveries." (Factiva)

United States (US). N.d. Consulate General of the United States of America, Shenyang, China. "Civil Records in China." <http://shenyang.usembassy-china.org.cn/civil_records_china.html> [Accessed 18 May 2010]

Xinhua News Agency. 5 November 2005. "Chinese Parents Name Their Son with English Letter, Causing Controversy." (Factiva)

_____. 20 October 2004a. "New Birth Certificate Issued to Fight Forgeries." <http://news.xinhuanet.com/english/2004-10/20/content_2116526.htm> [Accessed 18 June 2010]

_____. 20 October 2004b. "New Birth Certificate to be in Use in December." <http://news.xinhuanet.com/english/2004-10/20/content_2115992.htm> [Accessed 18 June 2010]

Additional Sources Consulted

Oral Sources: Attempts to contact representatives of the Embassies of the People's Republic of China in Ottawa and in Washington, DC and the Consulates in Vancouver and Toronto were unsuccessful within the time constraints of this Response.

Internet sources, including: Australia - Refugee Review Tribunal (RRT), European Country of Origin Network (ecoi.net), People's Republic of China - Consulate-General of the People's Republic of China in Toronto, People's Republic of China - Consulate-General of the People's Republic of China in Vancouver, People's Republic of China - Embassy of the People's Republic of China in Canada (Ottawa), People's Republic of China - Embassy of the People's Republic of China in the United States of America, United Kingdom (UK) Home Office, United Nations (UN) Refworld.

Attachment

China. N.d. Ministry of Health of the People's Republic of China. "Birth Certificate." Sample provided by an official at the Canadian Embassy in Beijing.

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