



RESPONSES TO INFORMATION REQUESTS (RIRs)

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China: Information on the 2002 family planning regulations for the provinces of Fujian and Guangdong, including their impact on married and unmarried women, on couples returning from overseas, and on rural families in Guangdong who are now subject to a single *hukou* classification system; copies of the regulations (2002-2004)

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In a telephone interview with the Research Directorate, the representative for the United Nations Population Fund (UNFPA) in China commented that, while provincial family planning regulations prior to 2002 were considered to be administrative guidelines, provincial regulations enacted in 2002 or after have the status of law (18 Feb. 2005). According to the UNFPA representative, the organization's analyses of trends in population and family planning policies in China would indicate that provincial regulations are becoming "flexible" and "their implementation is equally getting progressively more in line with international standards" (16 Feb. 2005). Corroborating information could not be found among the sources consulted by the Research Directorate.

Family Planning Regulations for the Province of Guangdong

New population and family planning regulations for the province of Guangdong went into effect on 1 September 2002 (PRC 25 July 2002). A translated version of the regulations is attached to this Response.

Information on the impact of the 2002 regulations on married and unmarried women was scarce among the sources consulted by the Research Directorate. According to Article 25 of the regulations, women of child-bearing age who have given birth to one child should make the intrauterine device their first choice for contraception (PRC 25 July 2002). Article 55(d) stipulates that, "[i]n the case of a first birth out of wedlock, a social support fee that is twice the amount" of the fee imposed on married couples who have one more child than is permitted, will be levied (*ibid.*). While one province, Jilin, has legalized the birth of a child to unmarried women, the *Shanghai Star* reported that Guangdong had indicated it would not follow suit (3 Jan. 2003). Under the national Population and Family Planning Law, births to single women are considered as "unplanned" and are subject to penalties (*ibid.*). However, Article 3 of the 2002 Guangdong regulations states that "[p]opulation and family planning work shall be coordinated with increasing educational and employment opportunities for women, improving women's health and raising the status of women" (PRC 25 July 2002).

The provisions contained in the Guangdong family planning regulations apply to returned overseas Chinese and their families, to those whose household registration is for Guangdong but who live outside of the province, and to couples whose child is born in the province, but of which one spouse is a resident of Hong Kong, Macau, or Taiwan or is a foreigner (PRC 25 July 2002, Art. 24).

In the case of rural families who "voluntarily transfer their household registration to become urban residents, birth regulations for urban residents shall be applied from the day" of the transfer, "except in the case of a married woman of child-bearing age for whom arrangements to have a second child are made before

the change of household registration and who is already pregnant" at the time of the transfer (PRC 25 July 2002, Art. 21). Article 55 stipulates that a social support fee "three to six times the average [annual] per capita net income" of residents in the local county or township will be applied to urban and rural residents who have one more child than is permitted (*ibid.*). However, Article 40 sets out preferential measures for rural households with an only child or with two daughters, including "priority consideration" in employment, housing, poverty alleviation and schooling (*ibid.*).

The province of Guangdong, in "reaffirm[ing] its stance on the one-child policy", reportedly disciplined 47 family planning officials in July 2004 after investigations uncovered their involvement in fraudulent practices that included issuing fake birth permits and other certificates in return for bribes (*China Daily* 29 July 2004). The Guangdong Provincial Commission of Family Planning reminded officials to abide by the family planning regulations (*ibid.*). Article 59 of the Guangdong regulations lists a number of acts for which family planning personnel can face legal action or administrative discipline (PRC 25 July 2002).

In a 1 November 2004 article, *China Daily* reported that a "population development strategy research group," made up of academics, economists, demographers and policy officials, was set up by provincial authorities in September 2004 to gauge future population trends in Guangdong, including the scope of urban migration. The group was to report its findings to the provincial government by the end of 2004 (*China Daily* 1 Nov. 2004). The deputy director of the province's family planning commission noted that Guangdong would modify its urban household registration system based on the research results (*ibid.*). No further information on the research group could be found among the sources consulted by the Research Directorate.

Family Planning Regulations for the Province of Fujian

New family planning regulations for the province of Fujian came into effect on 1 September 2002 (PRC 26 July 2002). An unofficial English translation of the regulations, provided by the UNFPA in Beijing, is attached to this Response.

Information on the impact of the 2002 regulations on married and unmarried women and on couples returning to Fujian from abroad was scarce among the sources consulted by the Research Directorate. According to Article 14 of the regulations, a woman is not allowed to give birth outside of wedlock (PRC 26 July 2002). In the case of unmarried couples who have children, Article 39 sets out the application of a social compensation fee equivalent to four to six times the average annual disposable income of the residents of the county where the couples reside (*ibid.*).

Articles 35 and 36 of the regulations stipulate a set of "rewards and favourable treatment," such as exemption from paying school fees and an increase in the annual retirement pension, for rural couples who have two daughters and have undergone a sterilization operation (PRC 26 July 2002). In a 12 August 2004 article, the BBC reported that around 100,000 girls in the province had been exempted to that point from paying school fees, while around 200 million yuan (\$24 million U.S.) in insurance had been provided to 490,000 rural households with daughters.

According to Article 11 of the regulations, Chinese citizens returning from overseas, including couples in which one spouse is a resident of Fujian and the other is a resident of Hong Kong or Macao, may have a second child in certain circumstances (PRC 26 July 2002).

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 additional sources consulted in researching this Information Request.

References

BBC. 12 August 2004. "Chinese Given Perks to Have Girls." <<http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/asia-pacific/3557898.stm>> [Accessed 15 Nov. 2004]

China Daily. 1 November 2004. "Researchers Tackle Population Problem." China Internet Information Center <<http://www.china.org.cn>> [Accessed 22 Nov. 2004]

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People's Republic of China. 26 July 2002. Population and Family Planning Regulations of Fujian Province. Translation by the United Nations Population Fund (UNFPA), Beijing, 14 pp.

_____. 25 July 2002. Population and Family Planning Regulations of the Province of Guangdong. Translation by the Multilingual Translation Directorate, Translation Bureau, Public Works and Government Services, Canada, 17 pp.

Shanghai Star . 3 January 2003. "Having a Child Without Being Married." China Internet Information Center <<http://www.china.org.cn>> [Accessed 22 Nov. 2004]

United Nations Population Fund (UNFPA), Beijing. 18 February 2005. Telephone interview with the representative in China.

_____. 16 February 2005. Correspondence from the representative in China.

Additional Sources Consulted

Oral sources: Department of Immigration and Multicultural and Indigenous Affairs (Australia), Human Rights in China, United Kingdom Home Office, United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), United States Department of Homeland Security.

Two oral sources did not provide information within the time constraints of this Response.

Internet sites, including: All-China Women's Federation, Asia Times, Center for Reproductive Law and Policy, International Planned Parenthood Foundation, Population Reference Bureau, Radio Free Asia, National Family Planning and Population Commission (China), United Kingdom Home Office, World Health Organization (WHO).

Attachments

People's Republic of China. 26 July 2002. Population and Family Planning Regulations of Fujian Province. Translation by the United Nations Population Fund (UNFPA), Beijing, 14 pp.

_____. 25 July 2002. Population and Family Planning Regulations of the Province of Guangdong. Translation by the Multilingual Translation Directorate, Translation Bureau, Public Works and Government Services, Canada, 17 pp.

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 [Top of Page](#)

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