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IRB – Immigration and Refugee Board of Canada

China: Family planning regulations and their implementation, including applying to have a third child, both nationally and provincially, particularly in Fujian and Guangdong (2017–October 2020) [CHN200325.E]

Research Directorate, Immigration and Refugee Board of Canada

1. National Family Planning Regulations

Sources report that, in 2016, China changed its family planning policies to allow married couples to have two children, instead of one (Senior Scientist 4 Sept. 2020; Professor 9 Sept. 2020; Freedom House 4 Mar. 2020, Sec. G3). In a telephone interview with the Research Directorate, a professor of social science at the Hong Kong University of Science and Technology, who has conducted research on population policy in Asia, stated that there have always been specific provisions, which vary by province and prefecture, allowing different groups to have additional children; however, the default is a two-child policy (Professor 22 Sept. 2020). The 2019 annual report by the US Congressional-Executive Commission on China (CECC) notes that couples can apply to have a third child if they meet certain conditions specified by different provincial regulations, and that conditions governing the number of children one is allowed to have can include exemptions for ethnic minorities, couples who have remarried, and couples who have children with disabilities (US 18 Nov. 2019, 125).

A 2016 amendment to the *Population and Family Planning Law of the People's Republic of China* provides the following:

[translation]

During the eighteenth meeting of the Twelfth Standing Committee of the National People's Congress, it was decided that the following amendments would be applied to the *Population and Family Planning Law of the People's Republic of China*:

1. Article 18 Clause 1 shall be separated into two clauses; Clause 1 and Clause 2 shall be amended as follows:
 "The State recommends that couples have two children."
 "Couples who meet the requirements stipulated in the laws and regulations may request to arrange for the birth of an additional child. The specific procedures [for making such a request] shall be stipulated by the people's congress of the province, autonomous region or directly controlled municipality, or by its standing committee."
 An additional clause shall be added; Clause 4 is as follows: "In the event of inconsistencies in the provisions for additional childbirths that result from a difference in the location (province, autonomous region or directly controlled municipality) of the household registrations of the husband and wife, the principle of benefiting the parties concerned shall apply."
2. Article 20 shall be amended as follows: "Couples of childbearing age shall select measures of their own choosing for family planning, contraception and birth control to prevent and reduce the number of unwanted pregnancies." (China 2016)

2. Implementation of Family Planning Regulations

2.1 National Implementation of Family Planning Regulations

Sources report that restrictions and penalties for having more than two children remain in place (Senior Scientist 4 Sept. 2020; *WSJ* 29 Apr. 2018; US 18 Nov. 2019, 123), as stipulated by the family planning legislation (*WSJ* 29 Apr. 2018; US 18 Nov. 2019, 123).

The Professor indicated that social compensation fees are the primary punishment for violations of the family planning law (Professor 22 Sept. 2020). An October 2019 Australian Department of Foreign Affairs and Trade (DFAT) country information report on China indicates that those who violate family planning policies, including the birth of a second child prior to the adoption of the two-child law in January 2016, are required to pay a social compensation fee (Australia 3 Oct. 2019, para. 3.197, 3.199). Similarly, the US Department of State's *Country Reports on Human Rights Practices for 2019* states that families with three or more children are required to pay a social compensation fee (US 11 Mar. 2020, 68). Sources report that, in 2019, a couple in Shandong province had

their bank account frozen for failing to pay a social maintenance fee of 64,626 yuan (CNY) [C\$12,639] for having a third child (*The Week* 18 Feb. 2019; *SCMP* 13 Feb. 2019). A June 2020 article by the *Global Times*, a newspaper published by the Communist Party's *People's Daily* (Reuters 15 Aug. 2019), states that a couple in Panyu district, Guangzhou in Guangdong Province were required to pay a social maintenance fee of 320,000 CNY [C\$62,736] for the birth of a third child and their bank accounts were frozen (*Global Times* 11 June 2020). Sources report that contravening the family planning policy can be punishable by "high" or "heavy" fines and job layoff (Freedom House 4 Mar. 2020, Sec. G3; US 18 Nov. 2019, 123), as well as by decreased government benefits, and "occasionally detention" (Freedom House 4 Mar. 2020, Sec. G3).

The Professor indicated that while forced sterilization and abortion are illegal in China, family planning officials have been known to insist on forced sterilization and abortion in the past (Professor 22 Sept. 2020). In correspondence with the Research Directorate, a senior scientist at the University of Wisconsin-Madison, who has conducted research on China's family planning policy, indicated that couples who have a third child are fined or forced to have an abortion (Senior Scientist 4 Sept. 2020). Sources report that women continue to face coerced abortions and sterilizations (Australia 3 Oct. 2019, para. 3.193, 3.203; Freedom House 4 Mar. 2020, Sec. G3).

According to sources, coercive practices occur less frequently since the adoption of the two-child policy (Australia 3 Oct. 2019, para. 3.203; Freedom House 4 Mar. 2020, Sec. G3). US *Country Reports 2019* notes that "[s]tate media claimed the number of coerced abortions had declined in recent years in the wake of loosened regulations, including the implementation of the two-child policy" (US 11 Mar. 2020, 66).

A March 2018 article by the *South China Morning Post* (*SCMP*), an English-language newspaper based in Hong Kong, reports that, in October 2017, a National People's Congress (NPC) subcommittee requested that officials in five provinces: Fujian, Guangdong, Hainan, Jiangxi, and Yunnan revise regulations permitting companies to terminate employees who have additional children (*SCMP* 14 Mar. 2018). Sources report that approximately 30 provincial, regional, and municipal authorities have amended their family planning regulations to remove the requirement that state employees should be terminated for contravening the two-child policy (*The Times* 7 Jan. 2020, *Global Times* 6 Jan. 2020). The *Global Times* notes that revised regulations regarding penalties imposed for "excessive" births differ among the various authorities involved (*Global Times* 6 Jan. 2020).

2.2 Provincial Implementation of Family Planning Regulations

Sources report that the second-child policy is a national policy and that no province is an exception from the national rule (Senior Scientist 4 Sept. 2020; Professor 9 Sept. 2020). The Professor noted that China's family planning regulations are very decentralized and that different counties have different frameworks for penalties and for specific arrangements for certain groups who are permitted to have additional children (Professor 22 Sept. 2020). Similarly, the Australian DFAT report notes that lower levels of government oversee the implementation of the two-child policy and that "[i]nterpretation and implementation of the policy varies enormously across China" (Australia 3 Oct. 2019, para. 3.196). According to a February 2017 US Library of Congress Global Legal Monitor article on the revised 2016 provincial family planning regulations, provincial-level people's congresses were responsible for amending their legislation and regulations in order to implement the new "two-child law," including specifying who is entitled to have more than two children and the social maintenance fees imposed on couples who have more than two children but are not entitled to (US 6 Feb. 2017). The same source indicates that, as of February 2017, 29 out of the 31 autonomous regions and municipalities had amended their regulations in order to implement the "two-child law" (US 6 Feb. 2017). According to the Library of Congress article, "[t]he latest version of the Xinjiang regulations that could be located was last revised in 2010" and, as of December 2016, Tibet was in the process of developing its first family planning regulations (US 6 Feb. 2017).

US *Country Reports 2019* indicates that regulations requiring women who contravene family planning legislation to terminate their pregnancies remain in place and are imposed in some provinces, including Hubei, Hunan, and Liaoning (US 11 Mar. 2020, 68).

A 2018 article by the *Wall Street Journal* (*WSJ*) notes that "[l]ocal-government agents enforce the law with fines and state employers often pressure women to abide by the birth limits" (*WSJ* 29 Apr. 2018). The Professor reported that social compensation fees are set at the provincial, county, or municipal level and that they are often a multiplier of the average income, which varies by province and municipality (Professor 22 Sept. 2020).

The Australian DFAT report indicates that, in Fujian province, social compensation fees will be imposed on couples who have an unlawful child and that "[t]he actual application of SCFs [social compensation fees] varies across Fujian and is subject to local discretion" (Australia 3 Oct. 2019, para. 3.212). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

For English translations of amended versions of the Regulations on Population and Family Planning for the provinces of Guangdong and Fujian, as well as the Population and Family Planning Regulations and the Rules for Implementation of Population and Family Planning Regulations for Hebei Province, see Response to Information Request CHN106271 of April 2019.

3. Implementation of Family Planning Regulations When Applying to Have a Third Child

Information on the implementation of family planning regulations when applying to have a third child was scarce among the sources consulted by the Research Directorate within the time constraints of this Response. The Professor noted that "ordinary" people do not qualify to have a third child and that there are very few people who are not

minorities who are eligible to have a third child because the criteria are very specific (Professor 22 Sept. 2020). The same source noted that if a person meets one of the criteria to have a third child, each instance will be judged individually on its own merit and based on the local regulations and policies (Professor 22 Sept. 2020).

3.1 Implementation of Family Planning Regulations When Applying to Have a Third Child in Fujian Province

Information on the implementation of family planning regulations when applying to have a third child in Fujian Province was scarce among the sources consulted by the Research Directorate within the time constraints of this Response. The Australian DFAT reports that the province's regulation

aligns with the national two-child policy (under the Population Law) and has the following exceptions which allow a third child if: the first child has a disability; divorced couples remarry; the parents belong to an ethnic minority group; and if one half of the couple lives overseas with 'surplus' children. 'Surplus' children born overseas are able to return to China for an accumulated period of less than 18 months in two years; however, if they 'settle down' for a period of more than six months, the family may be subject to a SCF. (Australia 3 Oct. 2019, para. 3.210)

3.2 Implementation of Family Planning Regulations When Applying to Have a Third Child in Guangdong Province

Information on the implementation of family planning regulations when applying to have a third child in Guangdong Province could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

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

Australia. 3 October 2019. Department of Foreign Affairs and Trade (DFAT). [DFAT Country Information Report: People's Republic of China](#). [Accessed 15 Sept. 2020]

China. 2016. "[Decision of the Standing Committee of the National People's Congress on Amending the Population and Family Planning Law of the People's Republic of China \(Order Number Forty-One of the President\)](#)." Excerpt translated by the Translation Bureau, Public Services and Procurement Canada. [Accessed 16 Sept. 2020]

Freedom House. 4 March 2020. "China." [Freedom in the World 2020](#). [Accessed 16 Sept. 2020]

Global Times. 11 June 2020. Chen Shasha and Liu Caiyu. "[Chinese Citizens Upset with Couple Forced to Pay 320,000 Yuan for Violating the Two-Child Policy](#)." [Accessed 24 Sept. 2020]

Global Times. 6 January 2020. Wan Lin and Hu Yuwei. "[China Reduces Penalties on Violating Family Planning Policy](#)." [Accessed 24 Sept. 2020]

Professor, The Hong Kong University of Science and Technology. 22 September 2020. Telephone interview with the Research Directorate.

Professor, University of California, Irvine. 9 September 2020. Correspondence with the Research Directorate.

Reuters. 15 August 2019. "[Beijing Has Option of Forceful Intervention in Hong Kong: Global Times Tabloid](#)." [Accessed 24 Sept. 2020]

Senior Scientist, University of Wisconsin-Madison. 4 September 2020. Correspondence with the Research Directorate.

South China Morning Post (SCMP). 13 February 2019. Michelle Wong. "[China's Two-Child Policy Under Fire as Parents' Bank Account Frozen for Having Third Child](#)." [Accessed 16 Sept. 2020]

South China Morning Post (SCMP). 14 March 2018. Sidney Leng. "[China Puts an End to Its Notorious One-Child Policy Enforcer](#)." [Accessed 16 Sept. 2020]

The Times. 7 January 2020. Didi Tang. "China Eases Penalties for Breaking Two-Child Policy." (Factiva) [Accessed 24 Sept. 2020]

United States (US). 11 March 2020. Department of State. "[China \(Includes Tibet, Hong Kong, and Macau\)](#)." *Country Reports on Human Rights Practices for 2019*. [Accessed 16 Sept. 2020]

United States (US). 18 November 2019. Congressional-Executive Commission on China (CECC). [Annual Report 2019](#). [Accessed 2 Sept. 2020]

United States (US). 6 February 2017. Library of Congress. "[China 2016 Revised Provincial Family Planning](#)

[Regulations.](#) [Accessed 18 Sept. 2020]

The Wall Street Journal (WSJ). 29 April 2018. "[A Limit to China's Economic Rise: Not Enough Babies.](#)" [Accessed 15 Sept. 2020]

The Week. 18 February 2019. "[China's Leaders Want More Babies, but Local Officials Resist.](#)" [Accessed 16 Sept. 2020]

Additional Sources Consulted

Internet sites, including: Amnesty International; Asia Times; *The Atlantic*; Bertelsmann Stiftung; Bloomberg; BBC; ecoi.net; *The Economist*; Factiva; *The Guardian*; Hong Kong Free Press; Human Rights Watch; *The National Post*; *The New York Times*; Radio Free Asia; *Time*; UN – Office of the UN High Commissioner for Human Rights, Refworld; *The Washington Post*; Xinhua News Agency.

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