

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	601
Land:	Kina
Kilde:	Immigration and Refugee Board of Canada (IRB)
Titel:	China: Information on birth registration for children born out of wedlock; whether the name of the father appears on the birth certificate if the child is born out of wedlock; what information may appear on the birth certificate if the father is unknown; whether the father's name may be added to the child's birth certificate by referring to the father's Resident Identity Card, particularly relating to Henan Province birth certificates (2010-June 2016)
Udgivet:	29. juni 2016
Optaget på baggrundsmaterialet:	12. marts 2021



Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

China: Information on birth registration for children born out of wedlock; whether the name of the father appears on the birth certificate if the child is born out of wedlock; what information may appear on the birth certificate if the father is unknown; whether the father's name may be added to the child's birth certificate by referring to the father's Resident Identity Card, particularly relating to Henan Province birth certificates (2010-June 2016)

Publisher [Canada: Immigration and Refugee Board of Canada](#)

Publication
Date 29 June 2016

Citation /
Document CHN105545.E
Symbol

Related Document (s) [Chine : information sur l'enregistrement de la naissance des enfants nés hors mariage; information indiquant si le nom du père figure sur le certificat de naissance lorsque l'enfant est né hors mariage; information sur les renseignements qui peuvent figurer sur le certificat de naissance lorsque le père est inconnu; information indiquant si le nom du père peut être ajouté sur le certificat de naissance de l'enfant en se reportant à la carte d'identité de résident du père, notamment pour ce qui est des certificats de naissance dans la province du Henan \(2010-juin 2016\)](#)

Cite as Canada: Immigration and Refugee Board of Canada, *China: Information on birth registration for children born out of wedlock; whether the name of the father appears on the birth certificate if the child is born out of wedlock; what information may appear on the birth certificate if the father is unknown; whether the father's name may be added to the child's birth certificate by referring to the father's Resident Identity Card, particularly relating to Henan Province birth certificates (2010-June 2016)*, 29 June 2016, CHN105545.E, available at: <https://www.refworld.org/docid/5821defa4.html> [accessed 12 March 2021]

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1. Overview of Birth Registration Requirements

1.1 Birth Permit

Sources report that a "birth permit" [also known as a "birth service certificate," "family planning certificate" or "family planning service permit"] is required before the birth of a child in China (The Telegraph 2 Jan. 2016; Women of China 16 Oct. 2013). In correspondence with the Research Directorate, a PhD candidate in the Department of Politics and International Relations at the University of Leicester whose research focuses on identity documentation in China, explained that "unlike a birth certificate in other countries, which indicates [that] birth registration has taken place, in China this certificate means that the state authorises a birth," adding that the document is obtained through the Population and Family Planning Commission "usually when the mother is pregnant but this can take place afterwards" (PhD candidate 24 June 2016).

According to British newspaper, The Telegraph, this permit grants access to prenatal care and consent to legally register the child after birth (2 Jan. 2016). An article translated by Women of China [1] likewise states that, "without the permit, a new baby will not be allowed to register with the household and will not have access to education and other social welfare benefits" (Women of China 16 Oct. 2013). NewsChina Magazine, the English-language version of Beijing-based China Newsweek magazine (NewsChina Magazine n.d.), specifies that such a birth permit must be "issued by a neighbourhood committee before a child can be registered with the local public security bureau [police station]" (ibid. Oct. 2014).

The Telegraph notes that "[h]aving a baby as an unmarried woman ... is not only hugely taboo, it's technically against policy" (2 Jan. 2016). NewsChina Magazine likewise states that having a child out of wedlock in China is "essentially" an illegal violation of China's family planning policies (Oct. 2014). Sources report that marriage certificate is required to obtain a birth permit (All Girls Allowed 22 Sept. 2011; The Independent 4 July 2015). According to the BBC, women who cannot produce a marriage certificate upon giving birth are in violation of family planning policies and are frequently fined with "social maintenance fees" (2 Nov. 2015).

1.2 Medical Birth Certificate

The website of Chodorow Law Offices, a China-based immigration law firm (Chodorow Law Offices n.d.a), provides an image of a certificate issued by China's Ministry of Health titled "birth certificate," which states that "'the Medical Certificate of Birth' ... is a legal medical certificate of people born in the People's Republic of China ... it is referred to upon civil registration" (ibid. n.d.b). According to Global Times, a state-owned newspaper whose English-language edition focuses on domestic news in China (Foreign Policy 31 Oct. 2011), after a child is born, a medical certificate of birth is issued; it is "a statutory document with details of the babies' age, relationships and nationality, and are required when applying for hukou, or household registration documents" (Global Times 21 Nov. 2013). According to the PhD candidate, the medical certificate of birth is obtained through the Public Health Department (PhD candidate 13 June 2016). For more information on birth certificates, including notarial birth certificates, refer to Response to Information Request CHN103503.

1.3 Hukou Registration

In correspondence with the Research Directorate, the PhD candidate at the University of Leicester explained that

"[n]either the birth [permit] certificate from the Population and Family Planning Commission, nor the Medical Birth Certificate, in themselves, are functional civil documents beyond their role in the birth registration process. In other words, they cannot attest legal identity or nationality; they only are of use within their capacity to enable birth registration. Birth registration is only complete upon the registration in the police station (paichusuo), and the hukou is the only documentary evidence to attest birth registration. With any one missing document, a child may not be registered. (ibid.)

Sources state that "birth certificates" are required to obtain a hukou, which is necessary in order to access social services such as education and healthcare (BBC 2 Nov. 2015; Xinhua News Agency 2 Dec. 2013; All Girls Allowed 23 Jan. 2014). The PhD candidate specified that only with the certificates issued by the Population and Family Planning Commission and by the Public Health Department can "the mother or parents" [...] apply for their child's hukou from the Public Security Bureau at their local police station (paichusuo)," (PhD candidate 13 June 2016). In addition, the source stated that

[t]he child must be registered [for the hukou] in the police station where one of the parents is registered. Usually parents must also provide their hukous or ID cards and marriage certificate. (ibid.)

2. Obtaining Birth Certificates for Children Born Out of Wedlock

The BBC states that "[s]ingle women without a valid 'reproduction permit' from the government are routinely denied birth certificates for their children" (BBC 2 Nov. 2015). However, according to sources, in 2013, Hubei Province made it easier to obtain birth certificates for children born out of wedlock (BBC 2 Nov. 2015; All Girls Allowed 23 Jan. 2014; Global Times 21 Nov. 2013). According The Guardian, "it is thought to be the first province to guarantee this right, rather than leaving it to officials' discretion" (20 January 2014). Sources indicate that under the new policy in Hebei Province, marriage licenses would no longer be required to obtain birth certificates (Xinhua News Agency 2 Dec. 2013; Global Times 21 Nov. 2013). Global Times specifies that this policy applies to medical certificates of birth (ibid.)

Global Times also provided the following details on the changes to the Hubei Province policy:

In the cases of single parents, or babies born with assisted reproductive technology or no intact information on the father, the mother can make a written explanation with a signature, and that will be sufficient to apply for a birth certificate. Local health authorities will need to check the authenticity of the materials before issuing certifications, according to the new guidelines.

The new guidelines also regulate that the organs responsible for issuing the medical certificates of birth cannot set preconditions such as the existence of marriage certificates and birth service certificates, and they are banned from receiving any fees for the certificates.

...

Parents have to prepare the documents including an announcement of the relationship with the babies, as well as other evidence such as DNA test results and the parents ID and household registration. (ibid.)

Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Hukous for Children Born out of Wedlock

A lawyer from Zhejiang Province, is quoted by Global Times as saying that "'local governments make individual policies'" with regards to granting hukous to children born to unmarried parents (8 July 2015). The PhD candidate also added that,

[i]n previous years, local governments had latitude over how they could implement birth registration. With this latitude local governments could use birth registration as a way to make profit. Illegal charges by local governments for certificates were prevalent. In addition, there has

been the involvement of multiple bureaucracies at each level of governance, meaning the process is complex.

As birth registration has been tied to birthing restrictions, denial of birth registration was prevalent to children born without state permission, particularly in some provinces and administrative regions. (13 June 2016)

Some sources note that in addition to paying social compensation fees for having a child out of wedlock, other measures may be required to obtain a hukou for children born out of wedlock, such as paternal DNA tests (The Telegraph 2 Jan. 2016; Global Times 8 July 2015; NewsChina Magazine Oct. 2014). According to Global Times, reporting on the situation in Beijing, "if the child is born out of wedlock, the parents can still get a hukou for the baby as long as they present the results of a paternity test to prove that the child belongs to both parents" (Global Times 8 July 2015).

Global Times states that "if a single woman chooses to give birth alone, or if the father goes missing and can't complete the paternity test, then the baby cannot obtain a hukou" (ibid.). However, in contrast, the PhD candidate stated that in Beijing, if the father is unknown, this information is left empty in the hukou booklet (PhD candidate 24 June 2016). She later specified that this was not necessarily the case in other provinces (ibid. 27 June 2016). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. Situation in Henan Province

Article 25 of the Henan Provincial Population and Family Planning Regulations, implemented in January 2003, states that, in situations such as an out of wedlock pregnancy, the pregnancy shall be terminated in accordance with remedial measures under the supervision of family planning technical services personnel (Henan 2003). The Regulations also state the following:

Family planning technical service centres and personnel as well as medical and health facilities and personnel lawfully providing midwifery or childbirthing services shall examine the pregnant or birthing woman's Family Planning Certificate. Where the woman is found to have no certificate allowing a birth, the basic information about the pregnant or birthing woman shall be reported to the local family planning administrative authority on the day on which the woman is admitted. (ibid., Art. 29)

The Regulations add that the family planning administrative department will administer a fine of between 200 and 500 RMB [approximately C\$39 to C\$98] to those who give birth to a child for the first time in violation of regulations governing the Family Planning Certificate as well as when [translation] "remedial measures are not taken and a pregnancy is not terminated" according to stipulations from the family planning administrative authority (ibid., Art. 37). Information on the implementation of these regulations could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

An undated document posted on the website of the Department of Public Security and produced by the administrative unit responsible for household registration [hukou] indicates that [translation] "the mother or father shall report the birth to the police station in the area where their registered permanent residence is located" (Henan n.d.). The document adds that the following documentation must be provided:

[translation]

1. Medical Certificate of Birth

2. Original and photocopy of the parents' marriage certificate (not required where the birth is out of wedlock)

3. Original and photocopy of the father's or mother's Resident's Household Registration Booklet [hukou] and Resident's Identity Card

4. Original and photocopy of the Family Planning Certificate where the birth is within Family Planning regulations; not required for birth outside Family Planning regulations (where the child is born out of wedlock, an investigation report must be produced by the community people's police officer). (ibid.)

Information on the implementation of these procedures could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5. Whether the Father's Name Appears on a Birth Certificate for Children Born Out of Wedlock or Where the Father Is Unknown

According to the PhD candidate, based on interviews she has conducted in China, if a child's parents are not married at the time of the birth, the name of the father will appear on the birth certificate, "as long as the father can be identified and he co-operates in the birth registration process. If he refuses to co-operate then it will not" [appear on the birth certificate] (PhD candidate 13 June 2016). The same source stated that "[i]t might vary from location to location, but the women that I interviewed could not do anything to ensure the father co-operated in the birth registration process" (ibid.).

An article by Women of China reports on a case in Beijing where the father of a child born out of wedlock "declined" to add his name to the child's birth certificate (Women of China 14 May 2014). According to the article, the mother was also asked by authorities to provide "information on the child's natural father and a certificate of proof of their relationship" (ibid.). Further details on the outcome of this case could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Information on whether the father's name may be added to the child's birth certificate by referring to the father's Resident Identity Card could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to NewsChina Magazine, "[t]here is no 'unknown' option when documenting the paternity of a Chinese child" (Oct. 2014). Further information on what is included on a birth certificate when the father is unknown 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.

Note

[1] The Women of China website, sponsored by All-China Women's Federation, aims to provide a "window into [China] from a woman's perspective," notably through "the English translation of articles relating to women's issues published in Chinese newspapers" (Women of China n.d.).

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Internet sites, including: Australia - Refugee Review Tribunal; Canada - Global Affairs Canada; ChinaCourt.org; China Daily; China - Legislative Affairs Office of the State Council, The National People's Congress of the People's Republic of China; Chinese Law & Policy; ecoi.net; The Epoch Times; Freedom House; The New York Times; Lawinfochina; People's Daily Online; UK - Home Office; UN - Refworld; US - Congressional-Executive Commission on China, Consulate General of the United States in Shenyang; Department of Justice, Department of State, Law Library of Congress.

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