

**Flygtningenævnets baggrundsmateriale**

<b>Bilagsnr.:</b>	<b>308</b>
Land:	Kina
Kilde:	Immigration and Refugee Board of Canada
Titel:	China: Treatment of “illegal” or “black” children born outside the family planning policy; whether unregistered children are denied access to education, health care and other services.
Udgivet:	1. oktober 2012
Optaget på baggrundsmaterialet:	20. december 2012

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<b>Title</b>	China: Treatment of "illegal" or "black" children born outside the family planning policy; whether unregistered children are denied access to education, health care and other services
<b>Publisher</b>	Immigration and Refugee Board of Canada
<b>Country</b>	China
<b>Publication Date</b>	1 October 2012
<b>Citation / Document Symbol</b>	CHN104186.E
<b>Related Document</b>	Chine : information sur le traitement réservé aux enfants « illégaux » ou « noirs » nés hors du cadre de la politique de planification familiale; information indiquant si on refuse aux enfants non enregistrés l'accès à l'éducation, aux soins de santé et à d'autres services
<b>Cite as</b>	Immigration and Refugee Board of Canada, <i>China: Treatment of "illegal" or "black" children born outside the family planning policy; whether unregistered children are denied access to education, health care and other services</i> , 1 October 2012, CHN104186.E, available at: <a href="http://www.unhcr.org/refworld/docid/50a9f9b02.html">http://www.unhcr.org/refworld/docid/50a9f9b02.html</a> [accessed 11 December 2012]
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Immigration and  
Refugee Board of CanadaCommission de l'immigration  
et du statut de réfugié du Canada

## China: Treatment of "illegal" or "black" children born outside the family planning policy; whether unregistered children are denied access to education, health care and other services

### 1. Situation

China's national population and family planning regulations permit married couples to have one child, with exceptions to this rule established at the provincial level (China 2002, Art. 18). Citizens who have unauthorized, or "out-of-plan," children are required to pay a fine known as the "social maintenance fee" (ibid. 2002, Art. 41). The fine is reported to be up to 10 times the local average annual income in some localities (*The Economist* 19 Aug. 2010; *Global Times* 23 Aug. 2010). The state media source *China Daily* reported in 2010 that the fine is typically eight or nine times the average annual income and that some parents do not report unauthorized births in order to avoid paying the fines (30 Aug. 2010).

Sources report that parents who fail to pay the fee will not be able to obtain household registration, or *hukou*, for their child (*The Economist* 23 June 2012; US 10 Oct. 2011, 113; *South China Morning Post* 25 July 2012). Additionally, Chinese Human Rights Defenders (CHRD), an international NGO that provides logistical support and capacity building to human rights advocates and monitors human rights developments in China (n.d.), writes that the Ministry of Public Security, which is responsible for household registration, does not issue *hukou* to children whose parents have violated family planning policy, for example, by failing to obtain a birth permit or completing other required procedures, or by having a child out of wedlock (21 Dec. 2010, 26). A Beijing lawyer specializing in household registration, interviewed by Radio Free Asia (RFA), notes that the practice of denying *hukou* to unauthorized children is not legal but indicates that it is widely applied at local levels (RFA 14 June 2010).

There are no accurate estimates of the number of unregistered children in China (*The Globe and Mail* 1 Nov. 2010; CHRD 21 Dec. 2010, 26; RFA 14 June 2010). The lawyer interviewed by RFA suggested that the problem is "pretty widespread" (ibid.). According to CHRD, the government of Fujian province estimated in 2008 that there were at least 183,000 unregistered children in the province (21 Dec. 2010, 26). Sources report that in advance of the 2010 national census, the government allowed unregistered children to apply for household registration and obtain their *hukou* upon payment of a reduced fine, in order to encourage participation in the census (*Global Times* 23 Aug. 2010; *The Globe and Mail* 1 Nov. 2010; *Shanghai Daily* 6 Nov. 2010).

## 2. Treatment of Unregistered Children

Unregistered children, sometimes referred to as "black" children, are described in an Agence France-Presse article as having "no legal status" (24 Oct. 2011). The Laogai Research Foundation, a Washington, DC-based organization that documents human rights violations in China relating to population control and forced labour (n.d.b), states that unregistered children are "treated as non-persons by the State" (n.d.a). According to CHRD, a child without a hukou "cannot apply for an ID card and thus does not have a legal identity, is not a citizen and consequently is deprived of the rights accorded to other Chinese citizens" (21 Dec. 2010, 26).

Sources indicate that "black" children may encounter difficulties in accessing, or may be unable to access:

- identification documents (RFA 14 June 2010; CHRD 21 Dec. 2010, 26);
- health insurance (RFA 14 June 2010; *China Daily* 28 Aug. 2012) and health care (*South China Morning Post* 25 July 2012);
- social benefits (RFA 14 June 2010; Save the Children 2010, 9) or services (CHRD 21 Dec. 2010, 26);
- employment (RFA 14 June 2010; *South China Morning Post* 25 July 2012; CHRD 21 Dec. 2010, 26); and
- education (China.org.cn 13 Apr. 2011; *The Economist* 23 June 2012; *The Globe and Mail* 1 Nov. 2010).

### 2.1 Education

The director of Renmin University's population studies centre in Beijing, in an interview with the *Globe and Mail*, estimated that up to four percent of elementary and middle school-aged children in the country, likely unregistered or migrant children, were not attending school at all (1 Nov. 2010). The international children's rights NGO Save the Children reports in its 2010 annual review of its China program that after opening a children's activity centre in Urumqi, Xinjiang province, its workers discovered at least 23 students who were unable to attend school because they had no household registration and were therefore ineligible to receive minimum social benefits and unable to pay for school tuition (2010, 9).

The Hong Kong-based newspaper *South China Morning Post* explains that

[s]ome schools will take ["black" children] for a substantial fee, but it does not buy an equal education. They may be taught by different teachers and even have to wear different uniforms. (25 July 2012).

Online news source China.org.cn reports that a rural family in Henan province with six daughters had its hukou withdrawn in 2000, creating "many difficulties" for the children to access education (13 Apr. 2011). CHRD cites a Chinese-language news article from *China Youth Daily* that reported in December 2008 on a 15-year-old girl in Beijing who had never attended school because she was a second child whose parents could not afford to pay the fine for an unauthorized birth, and therefore had no hukou (21 Dec. 2012, 26-27).

For additional information on hukou and access to social benefits and services, please see Response to Information Request CHN103882.E of 20 August 2012.

### 2.3 Other Treatment

In 2011, Chinese media reported that family planning officials in Hunan had "confiscated" illegal children from their parents and sent them to orphanages, where they were given up for adoption (*The Economist* 21 July 2011; Reuters 10 May 2011). The local officials reportedly received payment for delivering the children (ibid.; *The Economist* 21 July 2011).

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.

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#### Additional Sources Consulted

**Oral sources:** Academics specializing in China at the following institutions were unable to provide information for this Response: Brown University, Council of Foreign Relations, Harvard University. Attempts to contact representatives specializing in China at the following organizations were unsuccessful: Oxford University, Women's Rights Without Borders, University of Washington, Xavier University.

**Internet sites, including:** Al Jazeera; All Girls Allowed; Amnesty International; *The Atlantic*; Australia Refugee Review Tribunal; Canadian Broadcasting Corporation; China Aid; Chinese Human Rights Defenders; CNN; Council on Foreign Relations; Factiva; *The Guardian*; Human Rights Watch; Shanghai Academy of Social Sciences; SOS Children's Villages; United Nations — Office of the High Commissioner for Human Rights, Refworld; United States Department of State; University of Hong Kong; Women's Rights Without Borders; Xinhua News Agency.

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