

**Refugee Review Tribunal  
AUSTRALIA**

**RRT RESEARCH RESPONSE**

**Research Response Number:** CHN35055  
**Country:** China  
**Date:** 19 June 2009

Keywords: China – Fujian – Mandatory pregnancy checks – Family planning fines – Padstow Chinese Congregational Church.

This response was prepared by the Research & Information Services Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. This research response may not, under any circumstance, be cited in a decision or any other document. Anyone wishing to use this information may only cite the primary source material contained herein.

---

**Questions**

- 1. Did China's one child policy regulations require mandatory pregnancy checks in Fujian in 1998 and if so, what were the fines for failing to undergo such a test?**
- 2. How much would an individual have been fined for having an out of plan child in 1998?**
- 3. How much is the fine presently for having a second out of plan child?**
- 4. Please provide any available information about the Padstow Chinese Congregational Church, in particular whether its members actively proselytise.**

**RESPONSE**

- 1. Did China's one child policy regulations require mandatory pregnancy checks in Fujian in 1998 and if so, what were the fines for failing to undergo such a test?**

Information regarding mandatory family planning checks in 1998 has been provided under the following two subheadings:

- Family Planning Regulations, and
- General Reports.

**Family Planning Regulations**

The *Fujian Family Planning Regulations 1991* do not specify a requirement for mandatory pregnancy checks or report penalties for not undertaking pregnancy checks. However, the regulations do indicate that local organisations are expected to "be well informed" about the birth control practices of women of child bearing age. Article 24 of the regulations state that:

Villagers (Residents) committees and other base level organizations should be well-informed about women of child-bearing age with regard to their marriage, child-bearing, birth-control practices, etc. and do a good job of scientific management.

All units and villagers (residents) committees should implement population plans in accordance with regulations on child-bearing. These plans should be published and subject to public scrutiny.

All citizens have the obligation to assist in doing a good job of family planning (Immigration and Refugee Board of Canada 1999, *China: Text of the Fujian Province Family Planning Regulations of 10 July 1991*, 25 November – Attachment 1).

National family planning legislation was first promulgated in China on 29 December 2001. The legislation did not come into effect until 1 September 2002. Article 33 of the national legislation states that birth planning organs should “develop pregnancy checkups and follow-up (suifang) service work for married women of childbearing age”. The legislation does not stipulate penalties for not undertaking pregnancy examinations (Winckler, E. 2002, ‘People’s Republic of China Law on Population and Birth Planning (Documents)’, *Population and Development Review*, Vol. 28, No. 3 – Attachment 2).

The current family planning regulations for Fujian province state that “the couple that are capable of giving birth to a child should take on long-term effective contraceptive measures and accept the examination and inspection of pregnancy and childbirth”. The regulations do not state that fines or penalties apply to individuals who do not undertake pregnancy inspections. The regulations provide the following relevant information:

**Article 18** The couple that are capable of giving birth to a child should take on long-term effective contraceptive measures and accept the examination and inspection of pregnancy and childbirth. Specific measures shall be formulated by the family planning administrative department of the province and submitted to the provincial people’s government for approval and then put into practice.

...**Article 22** Local people’s governments at all levels should rationally allocate and comprehensively utilize health resources, establish and improve family planning technical service network comprising family planning technical service organs and medical and public health organs that provide such services and improve technical service facilities and conditions and raise the standard of technical services.

Family planning technical service organs and medical and public health organs that provide such services should – within their respective area of responsibility and among targeting people of childbearing age – conduct publicity and education on basic knowledge about population and family planning, provide pregnancy checkups and follow-up service work for married women of child-bearing age, offer advice and guidance and provide technical services in respect of family planning and reproductive health (*Population and Family Planning Regulations of Fujian Province* (Promulgated 26 July 2002, Effective 1 September 2002), UNHCR website, pp.6–7 – Attachment 3).

## General Reports

The US Department of State (USDOS) *Country Reports on Human Rights Practices 1999-China* states that the provincial family planning regulations for “at least one” province in China require women to undertake quarterly examinations to check intrauterine birth control

devices. The report does not mention fines or penalties for women who do not undertake these examinations. The USDOS provide the following relevant information:

The national family planning policy is implemented through provincial and local regulations. According to local regulations in at least one province, women who do not qualify for a Family Planning Certificate that allows them to have a child must use an intrauterine loop or implant. The regulations further require that women who use an intrauterine device undergo quarterly exams to ensure that it remains properly in place (US Department of State 2000, *Country Reports on Human Rights Practices 1999 – China*, 25 February, pp. 28 – 30 – Attachment 4).

The USDOS *Country Reports on Human Rights Practices 2000 – China* states that “women of childbearing age are required periodically to undergo pregnancy tests, and couples are required to “practice effective contraceptive measures” (US Department of State 2001, *Country Reports on Human Rights Practices 2000 – China*, February, Section 1.f – Attachment 5).

A September 2001 report produced by Susan Greenhalgh (Professor of Anthropology, University of California) and Edwin Winckler (Research Associate, East Asian Institute, Columbia University) describes the implementation of “mandatory gynaecological exams” in China during the 1990’s. The report states that:

At the client level, program officials have taken several steps. First, they have instituted mandatory gynaecological exams – at least annual, usually semi-annual, and sometimes even quarterly. During these examinations, medical personnel check for reproductive health problems, monitor contraceptive use, and detect unauthorized pregnancies sooner than might otherwise have occurred (Greenhalgh, S. & Winckler, E. 2001, *Chinese State Birth Planning in the 1990s and Beyond*, US Department of Justice, Immigration and Naturalization Service, September, p.19 – Attachment 6).

A 2001 report by the Immigration and Refugee Board of Canada (IRB) provides information on mandatory quarterly pregnancy tests. The report states that:

A March 1998 report prepared by the China Population Information and Research Center and Family Health International entitled *The Effect of Family Planning on Women’s Lives: The Case of the People’s Republic of China* stated that in the context of offering quality care to women, the family planning program had established a series of “women’s checks” or IUD checks in family planning clinics. These tests involved mandatory quarterly examinations consisting of pregnancy and ultrasound checks. The report makes no mention of unmarried women being forced to undergo pregnancy tests. Research for the report was carried out in Jiangsu and Anhui provinces (Immigration and Refugee Board of Canada 2001, *CHN36803.E – China: Whether unmarried women are obliged to undergo pregnancy tests by family planning officials*, 30 March – Attachment 7).

On 10 June 1998 a United States congress subcommittee on International Operations and Human Rights held a hearing on forced abortion and sterilisation in China. A transcript of the hearing includes the testimony of Ms Gao Xiao, who claims to have worked as a family planning administrator in Fujian province from 1984 to 1998. Ms Gao states in her testimony that women were issued “pregnancy test notices” by family planning officials and that women were fined for failing to undertake pregnancy examination tests. The following is an extract of Ms Gao’s testimony to the sub-committee:

This is the document that we issue to people who already have given birth to a son. It's the birth-not-allowed notices. Such notices are sent to the couple when the data concludes that they do not meet the requirement of the policy and are not allowed to have any further children. Any couple who has already given birth to a son will receive this notice and such notices are made public. The purpose of this is to make it known to everyone that the couple, if they are having a second child, is in violation of the policy, therefore, facilitating supervision of the couple. We also issue control device inspection and pregnancy test notices.

According to the specific data on each woman, every woman of childbearing age is notified that she has to have a contraceptive device reliability and pregnancy examinations when necessary. Should she fail to present herself in a timely manner for these examinations, she will not only be forced to pay a fine, but our supervision team will apprehend her and force her to have such an examination (US Congressional Committee on International Relations 1998 'Forced Abortion and Sterilization in China: The View from the Inside. Hearing before the Subcommittee on International Operations and Human Rights' 10 June, pp.17 – 19 – Attachment 8).

An article dated 9 June 2001 on the World Net Daily website reports that on 23 April 2001 *The South China Morning Post* "reported that birth-control officers in Guangzhou province had incarcerated the relatives of migrant workers who failed to return home for family planning checks" (LoBaido, A. 2001, 'Beijing hunts for the 'evil ones'', World Net Daily website, 9 June [http://www.worldnetdaily.com/news/article.asp?ARTICLE\\_ID=23171](http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=23171) – Accessed 1 November 2005 – Attachment 9).

The US Department of State *Country Reports on Human Rights Practices 2004 – China* reports that "some provincial regulations provide for fines if women do not undergo periodic pregnancy tests. For example, in Hebei the range was \$24 to \$60 (RMB 200 to 500), and in Henan it was \$6 to \$60 (RMB 50 to 500)" (US Department of State 2005, *Country Reports on Human Rights Practices 2004 – China*, 28 February, Section 2.f – Attachment 10).

## **2. How much would an individual have been fined for having an out of plan child in 1998?**

The *Fujian Family Planning Regulations 1991* state that couples who have one child additional to family planning regulations must pay a fine of "two to three times their combined total income for the previous year". Article 36 of the regulations state that:

Couples who bear children without planning will have to pay an "unplanned parenthood fine":

(1) Couples who bear the first child before the stipulated time in violation of family planning regulations or who fail to observe the provisions governing the interval between bearing the first and second children will pay a fine of 60% to 100 % of their combined total income for the previous year;

...(2) Couples who bear one child in excess of the prescribed number in violation of family planning regulations will pay a fine of two to three times their combined total income for the previous year;

(3) Couples who bear two children in excess of the prescribed number in violation of family planning regulations will pay a fine of four to six times their combined total income for the previous year. The fine will be duly increased for those who bear three or more children in excess of the prescribed number.

Those who adopt children illegally will be dealt with in the same manner as those who bear children without planning.

The “unplanned parenthood fine” can be levied in one lump sum (Immigration and Refugee Board of Canada 1999, *China: Text of the Fujian Province Family Planning Regulations of 10 July 1991*, 25 November – Attachment 1).

The USDOS *Country Reports on Human Rights Practices 1999* states that in “Quanzhou, Fujian province, the fine for violating birth quotas is three times a couple’s annual salary, to be paid over a 12 to 13 year period”. The USDOS report also states that corruption in relation to family planning fines in China is a “widespread problem”. The following are the relevant extracts from the report:

...According to the State Family Planning Commission (SFPC) 1996 Family Planning Manual, over 24 million fines were assessed between 1985 and 1993 for children born outside family planning rules. In Quanzhou, Fujian province, the fine for violating birth quotas is three times a couple’s annual salary, to be paid over a 12 to 13 year period.

...Corruption related to family planning fines is a widespread problem. In March the press reported that one city in Henan province had punished 879 party members and government officials for corruption in family planning. One study reported in January that a survey of nine towns in Jiangsu province revealed that a total of \$717,000 (5.907 million rmb) in “unplanned-birth fees” had been levied in 1997. The study reported that the collection of unfair and unregulated unplanned-birth fees “aroused the resentment of the masses” (US Department of State 2000, *Country Reports on Human Rights Practices 1999 – China*, 25 February, pp. 29 – 30 – Attachment 4).

### **3. How much is the fine presently for having a second out of plan child?**

Article 39 of the *Population and Family Planning Regulations of Fujian Province 2002* outlines the social compensation fees levied against individuals for family planning breaches. The fines vary depending on whether the individual is an urban or rural resident and if their personal income exceeds average income levels. The regulations indicate that the fine for an urban resident on an average income who has a second child out of plan is two to three times the average annual disposable income of urban residents. The regulations states that:

Anyone who violates this Regulation by one of the acts listed below shall be ordered to pay the corresponding number of times of the average annual disposable income of the urban residents or the net average annual income of the rural peasants of the county in the previous year when the child is born in violation of this regulation as social compensation fee by family planning administrative department of the county or by township people’s government or urban neighborhood office appointed by such administrative department:

(1) A social compensation of zero point six to one time shall be imposed on those who give birth to a child ahead of the schedule;

(2) A social compensation of two to three times shall be imposed on those who give birth to the first additional child. A social compensation of four to six times shall be imposed on those who give birth to the second additional child. A much more heavy social compensation fee shall be imposed on those who give birth to the third or more additional child.

(3) A social compensation of four to six times shall be imposed on those who give birth to a child born out of an extramarital affair. A much more heavy social compensation fee shall be imposed on those who give birth to the second child born out of an extramarital affair.

If the actual annual income of the parties concerned exceeds the average annual disposable income of the urban residents or the net average annual income of the rural peasants of the county in the previous year, the actual income shall be used as the base to calculate the number of the social compensation fees.

The decision in writing to impose social compensation fee shall be made by the family planning administrative department of the county. Such department may appoint the people's government of township or town or the urban neighborhood office to make such decisions (*Population and Family Planning Regulations of Fujian Province* (Promulgated 26 July 2002, Effective 1 September 2002), UNHCR website, pp. 6 – 7 – Attachment 3).

In October 2004 the Department of Foreign Affairs and Trade (DFAT) also reported that the fee in Fujian for a second child born out of plan is two to three times the average rural or urban per capita annual income. The report states that:

Fujian Province Population Regulations (available at [www.fujian.gov.cn](http://www.fujian.gov.cn)) stipulate (in article 39) that the fee for the first "out of plan" or "in excess of the plan" birth is between two and three times the county or township per capita annual income; the fee for the second such birth is between four and six times the per capita annual income; and the third and any subsequent births will require payment of an additional (unspecified) fee (Department of Foreign Affairs and Trade 2004, *DFAT Report No. 327 – RRT Information Request: CHN17017*, 7 October – Attachment 11).

The USDOS 2007 *China Profile of Asylum Claims and Country Conditions* provides general information on family planning fines in Fujian. The report states that as fines are calculated according to county level income statistics they can vary throughout the province. The report provides the following information:

There is wide variation in the amount of social compensation fees, and the severity of hardship they impose, for out-of-plan births. According to the FPBPC [Fujian Province Birth Planning Committee], social compensation fees are based on net per capita income levels for rural households and disposable per capita income for urban households (the 'baseline'). The exact figure is based on county-level statistics, so the baseline varies throughout the province. For households with incomes significantly greater than the relevant income baselines, the local birth planning commission can increase the social compensation fees. Social compensation fees range from the baseline or less for unmarried couple that has a child to greater than six times the baseline for couples with four children or more and are determined by the local birth planning committee in the city or county where the couple resides. In 2003, urban disposable income in Changle City and Lianjiang County was approximately 10,500 renminbi (about \$1210) and rural net income per capita was approximately 4,401 renminbi (about \$530). In 2004, Changle City and Lianjiang county urban disposable per capita income was 11,437 renminbi (about \$1380) and rural net income per capita was 4,815 renminbi (about \$580).

According to the FPBPC, couples unable to pay the fee immediately may be allowed to pay in installments. Local birth planning committees have the power to sue families that refuse to pay the requisite fees, but they cannot garnish wages. The FPBPC asserts that parents cannot be sterilized if they are unable or refuse to pay the fee (US Department of State 2007, *China: Profile of Asylum Claims and Country Conditions*, Political Asylum Research and Documentation Service website, May, pp. 43 – 44

[http://www.pards.org/paccc/china\\_may\\_2007.doc](http://www.pards.org/paccc/china_may_2007.doc) – Accessed 4 March 2008 – Attachment 12).

On 8 August 2008 DFAT provided advice on family planning fines in Jiangsu province. While this information is not specific to Fujian province it does provide an indication of recent levels of family planning fines in terms of US dollars. DFAT also advised that there is no time limitation on when family planning fines can be imposed on individuals. DFAT provide the following information:

The official sanction for violating the one-child policy is a fine, or as JPFPC [Jiangsu Population and Family Planning Commission] prefer to describe it, a “social fostering fee” (on the basis that the extra child consumes additional social resources and national investment). In Jiangsu, where a couple give birth to one out-of-plan child, the fine is prescribed as four times the provincial per capita disposable income of the previous calendar year. In 2007, the figure for Jiangsu was RMB16, 378 (or US\$2,154). Accordingly, a fine of US\$8,616 would be imposed on the parents of a child born out-of-plan in 2007 in Jiangsu province. If two out-of-plan children are born, the fine imposed will be five times per capita disposable income. If the annual income of husband or wife is greater than double the per capita disposable income amount for Jiangsu, then the Government will impose a further fine of one to two times that part of actual income which exceeds the Jiangsu per capita disposable income figure

... There is no time-limit prescribed pursuant to which financial penalties may be imposed. Lin stated that the JPFPC regarded the fine not merely as punitive, but as a cost to be recovered for the extra social resources invested in out-of-plan children and therefore time-frames were open-ended. If couples were not financially capable of paying the fee, they may apply for payment by installments (Department of Foreign Affairs and Trade 2008, *DFAT Report No.861 – RRT Information Request: CHN33538*, 8 August – Attachment 13).

#### **4. Please provide any available information about the Padstow Chinese Congregational Church, in particular whether its members actively proselytise.**

*Research Response CHN31886*, dated 13 June 2007 provides information on Padstow Chinese Congregational Church. The response provides information on the beliefs and practices of the church which is described as evangelical and independent in nature (RRT Research & Information 2007, *Research Response CHN31886*, 13 June – Attachment 14).

#### **List of Sources Consulted**

##### Internet Sources:

##### **Government Information & Reports**

Immigration & Refugee Board of Canada <http://www.irb.gc.ca/>

US Department of State <http://www.state.gov/>

US Department of State website <http://www.state.gov>

US Political Asylum Research and Documentation Service website <http://www.pards.org/>

UK Home Office <http://www.homeoffice.gov.uk>

##### **United Nations (UN)**

UNHCR <http://www.unhcr.ch/>

##### **Non-Government Organisations**

Amnesty International website <http://www.amnesty.org/>

Freedom House <http://www.freedomhouse.org/template.cfm?page=1>

Human Rights Watch <http://www.hrw.org/>

International Helsinki Federation for Human Rights <http://www.ihf-hr.org/welcome.php>

Human Rights Internet (HRI) website <http://www.hri.ca>

### **International News & Politics**

BBC News website <http://news.bbc.co.uk/>

World Net Daily website <http://www.wnd.com/>

### **Region Specific Links**

#### **Search Engines**

Google search engine <http://www.google.com.au/>

#### Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

### **List of Attachments**

1. Immigration and Refugee Board of Canada 1999, *China: Text of the Fujian Province Family Planning Regulations of 10 July 1991*, 25 November.
2. Winckler, E. 2002, 'People's Republic of China Law on Population and Birth Planning (Documents)', *Population and Development Review*, Vol. 28, No. 3.
3. *Population and Family Planning Regulations of Fujian Province* (Promulgated 26 July 2002, Effective 1 September 2002), UNHCR website.
4. US Department of State 2000, *Country Reports on Human Rights Practices 1999 – China*, 25 February.
5. US Department of State 2001, *Country Reports on Human Rights Practices 2000 – China*, February.
6. Greenhalgh, S. & Winckler, E. 2001, *Chinese State Birth Planning in the 1990s and Beyond*, US Department of Justice, Immigration and Naturalization Service, September.
7. Immigration and Refugee Board of Canada 2001, *CHN36803.E – China: Whether unmarried women are obliged to undergo pregnancy tests by family planning officials*, 30 March.
8. US Congressional Committee on International Relations 1998 'Forced Abortion and Sterilization in China: The View from the Inside. Hearing before the Subcommittee on International Operations and Human Rights' 10 June.
9. LoBaido, A. 2001, 'Beijing hunts for the 'evil ones'', World Net Daily website, 9 June [http://www.worldnetdaily.com/news/article.asp?article\\_id=23171](http://www.worldnetdaily.com/news/article.asp?article_id=23171) – Accessed 1 November 2005.



10. US Department of State 2005, *Country Reports on Human Rights Practices 2004 – China*, 28 February.
11. Department of Foreign Affairs and Trade 2004, *DFAT Report No. 327 – RRT Information Request: CHN17017*, 7 October.
12. US Department of State 2007, *China: Profile of Asylum Claims and Country Conditions*, Political Asylum Research and Documentation Service website, May  
[http://www.pards.org/paccc/china\\_may\\_2007.doc](http://www.pards.org/paccc/china_may_2007.doc) – Accessed 4 March 2008.
13. Department of Foreign Affairs and Trade 2008, *DFAT Report No.861 – RRT Information Request: CHN33538*, 8 August.
14. RRT Research & Information 2007, *Research Response CHN31886*, 13 June.