

**Refugee Review Tribunal  
AUSTRALIA**

**RRT RESEARCH RESPONSE**

**Research Response Number:** CHN33498  
**Country:** China  
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Keywords: China – Family planning in Jiangsu and Beijing

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**Questions**

- 1. Please provide information on the one-child/family planning policy in Jiangsu Province, including on sterilisation and the loss of employment as penalties for breaching the policy?**
- 2. Please provide brief information on the one-child/family planning policy in Beijing including on sterilisation and the loss of employment as penalties for breaching the policy?**
- 3. Additional Information**

**RESPONSE**

- 1. Please provide information on the one-child/family planning policy in Jiangsu Province, including on sterilisation and the loss of employment as penalties for breaching the policy?**

Reports consulted suggest that Jiangsu has a strict family planning policy under which most urban and rural residents are only permitted to have one child per couple. The legal requirements under which a couple can request to have a second child are not provided in the Jiangsu family planning regulations. The Jiangsu family planning regulations indicate that couples who are in breach of the one child policy incur a social compensation fine and other work place penalties. However, the regulations do not provide specific information as to which work place penalties may be implemented. No information was found regarding the enforcement of forced sterilisation in Jiangsu as a family planning penalty (Gu, B., Wang, F., Guo, Z. & Zhang, E. 2007, 'China's Local and National Fertility Policies at the End of the Twentieth Century', *Population and Development Review*, vol 33. no. 1, p.133 Attachment 1; Hardee, K., Xie, Z & Gu, B. 2003 'Family Planning and Women's Lives in Rural China', *International Family Planning Perspectives*, vol 30, no 2, p.69 – Attachment 2; *The Jiangsu Region's Population and Family Planning Regulations* (Promulgated 29 December 2001, Effective 1 September

2002), Official Family Planning website of Jiangsu Provincial Government (Chinese language version) <http://www.jsfpc.gov.cn/> – Accessed 30 June 2008 – Attachment 3).

Information on family planning in Jiangsu has been provided under the following categories: Regulations and Reports.

## **Regulations**

A full English language version of the Jiangsu family planning regulations was not found in the sources consulted. However, a Chinese language version of the current Jiangsu family planning regulations was located on the official family planning website for Jiangsu province. A Mandarin speaking Tribunal officer has provided an unofficial translation of some relevant sections of the regulations. A Google translation of the Chinese language version was also obtained. The Chinese language version, Google translation<sup>1</sup> and Unofficial translation of *The Jiangsu Region's Population and Family Planning Regulations 2002* can be found in the following attached document (*The Jiangsu Region's Population and Family Planning Regulations* (Promulgated 29 December 2001, Effective 1 September 2002), Official Family Planning website of Jiangsu Provincial Government (Chinese language version) <http://www.jsfpc.gov.cn/> – Accessed 30 June 2008 – Attachment 3).

The unofficial translation of the Jiangsu family planning regulations provides the following information on the obligation of couples to practice family planning and the right to request to have a second child in unspecified legal circumstances:

**Section 17** Citizens have the right to give birth, and the **obligation to, according to law, practise family planning**. In the implementation of family planning, both the husband and wife have mutual responsibility.

**Section 18** To reinforce the prevailing birth control policies, the Country encourages late marriage by citizens, advocates the birth of one child by each couple. [People who] meet the legal requirements, conditions set under regulations, can request arrangement to give birth to a second child. Details of the implementation would be set by the People's Congress or its standing commission of the province, autonomous region, city directly under the central government.

Minority ethnic group should also implement family planning. Details of the implementation would be set by the People's Congress or its standing commission of the province, autonomous region, city directly under the central government.

**Section 19** The principal means for the implementation of family planning is by contraception (Unofficial translation of *The Jiangsu Region's Population and Family Planning Regulations* (Promulgated 29 December 2001, Effective 1 September 2002), Official Family Planning website of Jiangsu Provincial Government (Chinese language version) <http://www.jsfpc.gov.cn/> – Accessed 30 June 2008 – Attachment 3).

According to the unofficial translation of the Jiangsu family planning regulations individuals in breach of the family planning regulations will be liable for a Social Compensation Fee and will also face unspecified disciplinary action from their workplace. No further information

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<sup>1</sup> (Note: Google translations can often be poor and can contain errors – as such they give only a rough indication of the contents of a document. For any further reliance on this information, a better translation should be obtained)

was found in the sources consulted regarding the specific work place penalties for family planning breaches in Jiangsu:

**Section 41** Citizens who fail to give birth to children in accordance with Section 18 of this Act shall, according to legal provision, pay a social maintenance fee.

For those who fail to pay the required social maintenance fee by the due date, an additional overdue delayed amount shall be charged from the due date. If payment is still not made, the family planning administration department that makes the fee decision will apply to the court for mandatory enforcement of the order.

**Section 42** If the person who incurs the social maintenance fee according to Section 41 of this Act is a Government employee, administrative disciplinary action should also be imposed on that person according to legal provisions. Employees of other units or organisations shall be disciplined by their own units or organizations.

**Section 43** Those who impede the execution of duties by the family planning administration department and its staff will be educated to refrain and stopped from so doing by the family planning administration department. Actions which constitute any breach of public security orders will be penalised according to public security management. Criminal liability will be claimed for actions which constitute criminal offences.

**Section 44** If any citizens, legal persons, and other organizations regard that an administration department, in the implementation of planned birth control management, has contravened their legal rights, they can, according to law, apply for judicial review or initiate legal actions (*Unofficial translation of The Jiangsu Region's Population and Family Planning Regulations* (Promulgated 29 December 2001, Effective 1 September 2002), Official Family Planning website of Jiangsu Provincial Government (Chinese language version) <http://www.jsfpc.gov.cn/> – Accessed 30 June 2008 – Attachment 3).

## Reports

A March 2007 report titled *China's Local and National Fertility Policies at the End of the Twentieth Century* indicates that Jiangsu is in a minority group of provinces in China in which “almost all residents are expected to follow the one-child-per-couple policy”. The majority of provinces allow rural couples to have more than one child under certain conditions. The relevant section of the report follows:

According to the fertility policies in effect at the provincial level, the 31 mainland Chinese provincial-level administrative regions can be classified as follows. First, there is an urban–rural differentiation. For Chinese with an urban (nonagricultural) household registration status, one child per couple is the rule. Second, for the majority of the Chinese population with rural or agricultural household registration status, provincial-level fertility policy can be grouped into three categories: 1) One-child policy; in six provinces, Beijing, Tianjin, Shanghai, Chongqing, **Jiangsu**, and Sichuan, **almost all residents are expected to follow the one-child-per-couple policy**. 2) “1.5-children” policy; in 19 provinces, rural residents are allowed to have a second child after a specified birth interval if the first birth is a girl. 3) Two-children policy; in five provinces, Hainan, Ningxia, Qinghai, Yunnan, and Xinjiang, all rural couples are allowed to have two children (Gu, B., Wang, F., Guo, Z. & Zhang, E. 2007, ‘China's Local and National Fertility Policies at the End of the Twentieth Century’, *Population and Development Review*, vol 33. no. 1, p.133 – Attachment 1).

Amnesty International provides the following report on the mistreatment of a couple in 2006 who challenged a family planning fine in Ganyu county, Jiangsu. The husband has been described by Amnesty International as a ‘rights activist’:

Shi Fukui had become well-known locally, particularly after he challenged the decision of the Ganyu county family planning committee to fine him and his wife for having a second child without permission. The couple considered the fine to be disproportionately high (RMB16,000, approx US\$2,000, rather than the local legal limit of RMB10,000) and believed that the extra money would be pocketed by local officials. When they disputed the decision, the family planning committee reportedly increased the fine to over RMB28,000 (approx. US\$3,600).

On 8 July 2006, local gang members, apparently instigated by family-planning officials, abducted Shi Fukui’s wife from the family home, throwing the couple’s baby son to the ground in the process. She was detained at the local family planning office, but released later the same day after Shi Fukui’s brother, who lives in Canada, called the office threatening to publicise the case internationally and sue the local authorities for breaking Chinese law (Amnesty International 2007, *CHINA: Fear for safety Shi Fukui*, ASA17/017/2007, 19 April – Attachment 4).

A 2003 article titled *Family Planning and Women’s Lives in Rural China* notes the strict enforcement of the one child policy in Jiangsu:

Jiangsu, which has strictly enforced the one-child policy (with exceptions) since 1979, is in the highest of three levels for family planning performance (in terms of both contraceptive prevalence and the total fertility rate) in the country (Hardee, K., Xie, Z & Gu, B. 2003 ‘Family Planning and Women’s Lives in Rural China’, *International Family Planning Perspectives*, vol 30, no 2, p.69 – Attachment 2).

Jiangsu’s strict one child policy is also reported in a 2001 report, co-authored by Susan Greenhalgh, Professor of Anthropology at the University of California:

One-child with very few exceptions for second children: Shanghai, Beijing, Tianjin, Jiangsu, part of Sichuan, all residents of urban areas across China (Greenhalgh, S. & Winkler, E. 2001, *Chinese State Birth Planning in the 1990s and Beyond*, Resource Information Center, Immigration and Naturalization Service (INS), US Department of Justice, Perspective Series, September, p.44 & 45 – Attachment 5).

No reports were found in the sources consulted regarding the forced sterilisation of individuals in breach of family planning regulations in Jiangsu. The only information located in the sources consulted on forced sterilisation in Jiangsu is the following reference to the sterilisation of “mentally challenged teenagers” from the US Department of State *Country Reports on Human Rights Practices 2007 – China*:

A media ban was also issued after a Nanjing newspaper publicized the forced sterilization of mentally challenged teenagers in Nantong, Jiangsu Province (US Department of State 2008, *Country Reports on Human Rights Practices 2007 – China*, 11 March, Section 5 – Attachment 6).

**2. Please provide brief information on the one-child/family planning policy in Beijing including on sterilisation and the loss of employment as penalties for breaching the policy?**

The *Beijing Municipal Population and Family Planning Ordinance 2003* stipulates the circumstances in which couples can have a second child in Beijing and the penalties for breaches to the policy. Penalties include the imposition of a social compensation fine and also disciplinary action by the workplace. A Google translation of the *Beijing Municipal Population and Family Planning Ordinance 2003* suggests that individuals “during the year” may not be promoted and may be removed from “first class” positions. It is unclear if these workplace penalties refer to state or private company employees. No information was found in the sources consulted regarding forced sterilisation in Beijing. The following document contains both the Chinese language version and the Google translation of the *Beijing Municipal Population and Family Planning Ordinance 2003* (*Beijing Municipal Population and Family Planning Ordinance* (Promulgated 18 September 2003, Effective 1 September 2003), Beijing Municipal Commission of Population and Family Planning website (Chinese language version with Google translation)

<http://www.bjfc.gov.cn/article/detail.asp?unid=6485> – Accessed 1 July 2008 – Attachment 7).

A Chinese language version of the *Beijing Municipal Population and Family Planning Ordinance* was located on the Beijing Municipal Commission of Population and Family Planning website. A Google translation of the document provides the following information regarding the requirement of couples to practise family planning and the circumstances in which a couple can apply to have a second child (Note: Google translations can often be poor and can contain errors – as such they give only a rough indication of the contents of a document. For any further reliance on this information, a better translation should be obtained):

**Article 15** of the reproductive rights of citizens, shall have the obligation to practice family planning, both spouses in the implementation of family planning in the shoulder common responsibility. Family planning citizens the legitimate rights and interests protected by law.

**Article 16** of encouraging citizens to later marriage, Late Childbearing. Women over 23 years of age, men over 25 years of age at first marriage for later marriage for. Married women over the age of 24 early education for Late Childbearing.

**Article 17** a couple birth of a child. One of the following situations, by the husband and wife for the area, above the county level family planning approved by the executive branch, the second child birth:

- (A) there is only one child, the designated medical institutions that non-genetic diagnosis of invalidity, not for the normal growth of the labour force;
- (B) both spouses are only child, and only one child;
- (C) married five years or more sterile, the designated medical institutions for proof of Sterility, a child legally adopted after pregnancy;
- (D) remarried couples only one child;

- (5) transferred from the border city of minority workers, the redeployment before the local family planning administrative departments above the county level to allow approval of the second birth of their children;
- (6) the two brothers or two or more of all rural residents, only a couple have fertility, birth and only one child, the other brothers did not adopt the children of others;
- (7) of rural residents to the men and women without children-married and settled down in writing that voluntary maintenance of the elderly (sister of the woman's home care for one person only);
- (8) suburb districts and counties of rural residents, one of the spouses as second-class B above disabled soldiers, or one with disabilities for the loss of the ability to work;
- (9) in the mountain area of permanent residence and agricultural production as the main sources of livelihood of the rural population, only one girl, the practical difficulties of life there.

There are other special circumstances require re-birth of a child, subject to approval of the city family planning administrative departments.

In accordance with Article 18 of the Regulations to allow the second birth of their children, birth spacing of not less than four years, or the woman's age not less than 28 years of age (*Beijing Municipal Population and Family Planning Ordinance* (Promulgated 18 September 2003, Effective 1 September 2003), Beijing Municipal Commission of Population and Family Planning website (Chinese language version with Google translation) <http://www.bjfc.gov.cn/article/detail.asp?unid=6485> – Accessed 1 July 2008 – Attachment 7).

The *Beijing Municipal Population and Family Planning Ordinance* also stipulates penalties for violations of the family planning regulations. The following Google translation provides the regulation penalties. The translation indicates the penalties include the levying of a social compensation fine and work place disciplinary action (Note: Google translations can often be poor and can contain errors – as such they give only a rough indication of the contents of a document. For any further reliance on this information, a better translation should be obtained):

**Article 38** in contravention of this Ordinance, laws and regulations have been provided, in accordance with relevant regulations violation.

**Article 39** of the Regulations of the couples have children, according to the law should pay Social Support Expenditure. Social Support Expenditure on the specific method, the municipal people's governments enacted.

This has been the enjoyment of the Article 21, Article 22 provides the incentives and preferential treatment of the husband and wife, and then the birth of a child, and stop its incentives and preferential treatment, receive a refund incentive fee to recover the “one-child parents glorious card” .

**Article 40** of organs, social organizations, enterprises, organizations cause of the **workers in violation of these regulations childbirth, by the unit subject to additional administrative or disciplinary action**; maternity hospital fees and medical expenses themselves, their wages during maternity leave to stop benefits; 3 During the year may not be as advanced individuals, not to mention the post of first-class and removed.

Rural residents in violation of the provisions of the birth, in rural welfare to be appropriate restrictions on the appointment of cadres, should be dismissed.

**Article 41** couples of childbearing age, one or two provinces account for, subject to birth, the couple and their children's account is not approved by Beijing.

**Article 42** did not complete the objectives of the management responsibilities of family planning agencies, social organizations, enterprises, institutions, that may not be as advanced (civilized) units, and in accordance with the objectives of management accountability regulations (*Beijing Municipal Population and Family Planning Ordinance* (Promulgated 18 September 2003, Effective 1 September 2003), Beijing Municipal Commission of Population and Family Planning website (Chinese language version with Google translation) <http://www.bjfc.gov.cn/article/detail.asp?unid=6485> – Accessed 1 July 2008 – Attachment 7).

No information was found in the sources consulted regarding forced sterilisation in Beijing.

### **3. Additional Information**

#### **Forced Sterilisation**

Research Response CHN33083 dated 31 March 2008 provides information on forced sterilisation in China. The response suggests that while the use of coercive family planning practises in China is declining, instances of forced sterilisation continue to be reported (RRT Research & Information 2008, *Research Response CHN33083*, 31 March – Attachment 8).

#### **Loss of Employment**

Available information indicates that in some Chinese provinces family planning breaches can lead to a loss of employment for government employees.

The Fujian family planning regulations call for loss of, or prohibition against, government employment for those in breach of the regulations:

**Article 45** Those who give birth to a child out of the family planning or out of an extramarital affair in violation of the Regulation shall not be employed or recruited as government functionaries. If they are villagers' committee members, they shall be removed by the villagers' meeting to be confirmed by the relevant department of the county or the township people's government (*Population and Family Planning Regulation of Fujian Province*, Adopted by the 33rd Meeting of the Standing Committee of the Ninth Provincial People's Congress on 26 July 2002 – Attachment 9).

On 6 December 2007 the Department of Foreign Affairs and Trade (DFAT) advised that one of the penalties for having more than one child in Guangxi province is the loss of employment in the civil service. According to the DFAT report "Civil servants who breach the one child policy will be dismissed and will not be recruited by the government for 7 years" (Department of Foreign Affairs and Trade 2007, *DFAT Report No. 746 – China: RRT Information Request: CHN32483*, 6 December – Attachment 10).

However, 2007 DFAT advice on Shanghai family planning penalties states that it is unlikely that couples who have a second child will face job loss or demotion:

Those having a second child are not likely to suffer demotion or loss of employment, although if employed in government organisations or state-owned enterprises it could affect

one's professional opportunities (Department of Foreign Affairs and Trade 2007, *DFAT Report 691 – RRT Information Request: CHN32173*, 31 August –Attachment 11).

## **List of Sources Consulted**

### Internet Sources:

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

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

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

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

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

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

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

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

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

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

#### **International News & Politics**

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

#### **Region Specific Links**

Beijing Municipal Commission of Population and Family Planning website

<http://www.bjfc.gov.cn/>

Jiangsu government website <http://www.js.gov.cn/>

Jiangsu family planning website <http://www.jsfpc.gov.cn/>

#### **Search Engines**

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

#### **University Sites**

The University of New South Wales <http://info.library.unsw.edu.au/>

### Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

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

RRT Library Catalogue

## **List of Attachments**

1. Gu, B., Wang, F., Guo, Z. & Zhang, E. 2007, 'China's Local and National Fertility Policies at the End of the Twentieth Century', *Population and Development Review*, vol.33. no.1, pp.129 – 147.
2. Hardee, K., Xie, Z & Gu, B. 2003 'Family Planning and Women's Lives in Rural China', *International Family Planning Perspectives*, vol 30, no 2, pp.68 – 76.
3. *The Jiangsu Region's Population and Family Planning Regulations* (Promulgated 29 December 2001, Effective 1 September 2002), Official Family Planning website of

Jiangsu Provincial Government (Chinese language version) <http://www.jsfpc.gov.cn/> – Accessed 30 June 2008.

4. Amnesty International 2007, *CHINA: Fear for safety Shi Fukui*, ASA17/017/2007, 19 April. (CISNET CHINA CX175810)
5. Greenhalgh, S. & Winkler, E. 2001, *Chinese State Birth Planning in the 1990s and Beyond*, Resource Information Center, Immigration and Naturalization Service (INS), US Department of Justice, Perspective Series, September.
6. US Department of State 2008, *Country Reports on Human Rights Practices 2007 – China*, 11 March.
7. *Beijing Municipal Population and Family Planning Ordinance* (Promulgated 18 September 2003, Effective 1 September 2003), Beijing Municipal Commission of Population and Family Planning website (Chinese language version)  
<http://www.bjfc.gov.cn/article/detail.asp?unid=6485> – Accessed 1 July 2008..
8. RRT Research & Information 2008, *Research Response CHN33083*, 31 March.
9. *Population and Family Planning Regulation of Fujian Province*, Adopted by the 33rd Meeting of the Standing Committee of the Ninth Provincial People's Congress on 26 July 2002.
10. Department of Foreign Affairs and Trade 2007, *DFAT Report No. 746 – China: RRT Information Request: CHN32483*, 7 December.
11. Department of Foreign Affairs and Trade 2007, DFAT Report 691 – RRT Information Request: CHN32173, 31 August.