



September 2013

Refugee Documentation Centre

Country Marriage Pack

China

Disclaimer

Country Marriage Packs (CMPs) are prepared by researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. CMPs contain a selection of representative links to and excerpts from sources under a number of categories for use as Country of Origin Information. Please note that CMPs are not, and do not purport to be, exhaustive with regard to conditions in the countries surveyed or conclusive as to the merit of any particular claim to refugee status or protection.

1. Types of Marriage

Civil Marriage

Marriage Visa World states:

“Whilst your Chinese wife is excited about planning the marriage ceremony you should make her aware that under both Canadian and Chinese Marriage Law, only the civil registration of your marriage will be recognised as legal and only a legal marriage will allow you to bring your Chinese wife back to Canada” (Marriage Visa World (Undated) *China Marriage Visa*)

The *Marriage Law of the People’s Republic of China* state:

“Article 7 Both the man and the woman desiring to contract a marriage shall register in person with the marriage registration office. If the proposed marriage is found to conform with the provisions of this Law, the couple shall be allowed to register and issued marriage certificates. The husband-and-wife relationship shall be established as soon as they acquire the marriage certificates.” (People's Republic of China (1 January 1981) *Marriage Law of the People's Republic of China*)

Religious Marriage

See “Civil Marriage”.

Traditional/Other Marriage

A report by the *United Kingdom Border Agency* states:

“On 28 April 2003, the Standing Committee of the NPC voted to amend the Marriage Law. In addition to making bigamy a criminal offence punishable by two years’ imprisonment” (United Kingdom Border Agency (15 November 2010) Country of Origin Information Report – China)

Proxy Marriage

No information on the above issue could be found among sources available.

2. Formalities of Marriage (Consent, Minimum Age and Registration of Marriage)

The *Marriage Law of the People’s Republic of China* states:

“Article 5 No marriage shall be contracted before the man has reached 22 years of age and the woman 20 years of age. Late marriage and late childbirth shall be encouraged.

Article 6 No marriage may be contracted under any of the following circumstances:

if the man and the woman are lineal relatives by blood, or collateral relatives by blood up to the third degree of kinship; or

if the man or the woman is suffering from leprosy, a cure not having been effected, or from any other disease which is regarded by medical science as rendering a person unfit for marriage.

Article 7 Both the man and the woman desiring to contract a marriage shall register in person with the marriage registration office. If the proposed marriage is found to conform with the provisions of this Law, the couple shall be allowed to register and issued marriage certificates. The husband-and-wife relationship shall be established as soon as they acquire the marriage certificates.

Article 8 After a marriage has been registered, the woman may become a member of the man's family or vice versa, depending on the agreed wishes of the two parties.” (People's Republic of China (1 January 1981) *Marriage Law of the People's Republic of China*)

A report by *China.Org* states:

“Under the current marriage law of the People's Republic of China, marriage registration is administered by the local offices of civil affairs. If one of the partners is a Chinese citizen, the appropriate marriage registration office shall be the one designated by the province, autonomous region, or municipality directly under the Central Government, and the one that is stationed in the locality where the residency (hukou) of the Chinese citizen is registered. If both partners are foreigners, the registration office shall be the one located in

the city where one of them lives or both of them live. Generally speaking, at least one of the partners must reside in China. Two foreigners on a temporary visit with tourist visas shall not be able to register to marry in China.”
(China.Org (Undated) *Foreign-Related Marriage And Divorce In China*)

A report by the *Australian Refugee Review Tribunal* states:

“The Regulation on Marriage Registration will come into effect from Oct. 1, replacing the Regulation on Administration of Marriage Registration that has been carried out for about nine years. According to the new regulations, marriage registration offices will work in the spirit of serving the people, simplifying procedures for marriage in future.

...

The biggest change of the newly issued regulations is to stipulate clearly that couples on the Chinese mainland who apply for marriage registration only need to provide “Hukou” documents and identity cards and sign a statement affirming their single status and no near relation, while procedures for submitting marital status letters from their working units and premarital health examination certificates are annulled. Through simplifying procedures such regulations avert the tediousness of marriage registration as well as the mental and physical consumption of couples to be, and make marriage registration a truly joyful occasion” (Australian Refugee Review Tribunal (18 December 2007) *China: 1. What is the process involved in registering a marriage in China and obtaining a marriage certificate? 2. Are couples required to give notice to the registry office to have their marriage registered or can they just turn up and register their marriage? 3. Are they required to fill out any forms or submit any documents?*)

According to the *United States Department of State*:

“To delay childbearing the law sets the minimum marriage age for women at 20 and for men at 22. It continued to be illegal in almost all provinces for a single woman to have a child, with fines levied for violations. The law states that family-planning bureaus conduct pregnancy tests on married women and provide them with unspecified “follow-up” services. Some provinces fined women who did not undergo periodic pregnancy tests.” (United States Department of State (19 April 2013) *2012 Country Reports on Human Rights Practices – China (includes Tibet, Hong Kong, and Macau)*)

The report goes on to state:

“The law forbids the marriage of persons with certain acute mental illnesses, such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of healthy births. (Ibid)

The *Consulate General of the United States – Chengdu, China* states;

“Marriages in China are registered according to the laws of China, regardless of the nationality of those being married. Marriage registration procedures are administered by the marriage registration office of the local civil affairs bureau (Minzhengju) in each jurisdiction. People planning to get married should visit

one of these offices for specific information. There may be a fee for this visit. The appropriate civil affairs office will be the one in the jurisdiction in which the Chinese citizen is registered (the location of his or her hukou).

Certain categories of Chinese citizens, such as diplomats, security officials, and others whose work is considered to be crucial to the state, are not legally free to marry foreigners.” (Consulate General of the United States – Chengdu, China (Undated) *Getting Married in China*)

The same report also states:

“The Chinese partner to the marriage will be asked to submit the following:

- a certificate of marriageability (obtainable from the office which has physical control of his or her file)
- household registration book
- health certificate (obtainable from a regional level local hospital)
- Chinese ID (shenfen zheng)

All English-language documents must be translated into Chinese. Translation of documents usually takes about a month, but can be completed within 10 days at double the original cost. Translations should be obtained from and certified by one of the Municipal Public Notary offices.” (Ibid)

The *Consulate General of the United States – Guangzhou – China* states under What are the requirements to marry in China?:

“Regulations for marriage in China may differ significantly amongst different provinces, cities and townships. Please contact the specific Chinese Civil Affairs Office in the city you or your fiancé/fiancée will register your marriage for the most current requirements.

U.S. citizens are usually asked to submit the following:

- A valid passport with a valid Chinese visa;
- If both parties are non-Chinese citizens, at least one must present a current Chinese residence permit;
- A notarized "Affidavit of Marriageability" also referred to as a Single Statement. This affidavit is available at the Consulate and is a sworn statement or affirmation that you are legally free to marry. You must make an appointment for notarial services. The notarial fee is USD \$50.00.
- If you have been previously married, you will be asked to submit an original or certified copy of your final divorce or annulment decree; or death certificate, if you are widowed.;
- Three marriage photos of the couple (taken together), red background;
- Registration fee.” (Consulate General of the United States – Guangzhou – China (Undated) *What are the requirements to marry in China?*)

The same document also states:

“All marriages in China must be registered with the Chinese Civil Affairs Office (民政局 Min Zheng Ju), within the city or town where you or your fiancé/fiancée are registered. Persons planning to marry should visit or call the appropriate office for complete details on registering your marriage.

Marriage certificates are usually issued on the same day the registration takes place. Marriages that are legal in the jurisdiction in which they were performed are legal in the United States. It is not necessary to register your marriage at the Embassy or in the United States, nor do you need to re-marry in the United States.” (Ibid)

Gov.UK has an online questionnaire which outlines the procedures on getting married in various countries, including China.

It is available at: <https://www.gov.uk/marriage-abroad>

3. Divorce

The *Marriage Law of the People’s Republic of China* with regard to divorce state;

“Article 24 Divorce shall be granted if husband and wife both desire it. Both parties shall apply to the marriage registration office for divorce. The marriage registration office, after clearly establishing that divorce is desired by both parties and that appropriate arrangements have been made for the care of any children and the disposition of property, shall issue the divorce certificates without delay.

Article 25 If one party alone desires a divorce, the organization concerned may carry out mediation or the party may appeal directly to a people’s court to start divorce proceedings.

In dealing with a divorce case, the people’s court should carry out mediation; divorce shall be granted if mediation fails because mutual affection no longer exists.

Article 26 If the spouse of a soldier in active service desires a divorce, the soldier’s consent must be obtained.

Article 27 A husband may not apply for a divorce when his wife is pregnant or within one year after the birth of the child. This restriction shall not apply in cases where the wife applies for a divorce, or when the people’s court deems it necessary to accept the divorce application made by the husband.

Article 28 If, after divorce, both parties desire to resume their husband-and-wife relationship, they shall apply for registration of remarriage with the marriage registration office. The marriage registration office shall allow them to register.

Article 29 The relationship between parents and children shall not come to an end with the parents divorce. After divorce, whether the children are put in the custody of the father or the mother, they shall remain the children of both parents.

After divorce, both parents shall still have the right and duty to bring up and educate their children.

In principle, the mother shall have the custody of a breast-fed infant after

divorce. If a dispute arises between the two parents over the custody of their child who has been weaned and they fail to reach an agreement, the people's court shall make a judgment in accordance with the rights and interests of the child and the actual conditions of both parents.

Article 30 If, after divorce, one parent has been given custody of a child, the other parent shall bear part or the whole of the child's necessary living and educational expenses. The two parents shall seek agreement regarding the amount and duration of such payment. If they fail to reach an agreement, the people's court shall make a judgment.

The agreement or court judgment on the payment of a child's living and educational expenses shall not prevent the child from making a reasonable request, when necessary, to either parent for an amount exceeding what was decided upon in the said agreement or judgment.

Article 31 At the time of divorce, the husband and the wife shall seek agreement regarding the disposition of their jointly possessed property. If they fail to reach an agreement, the people's court shall make a judgment, taking into consideration the actual circumstances of the property and the rights and interests of the wife and the child.

Article 32 At the time of divorce, debts incurred jointly by the husband and the wife during their married life shall be paid out of their jointly possessed property. If such property is insufficient to pay the debts, the two parties shall discuss alternative ways of payment. If they fail to reach an agreement, the people's court shall make a judgment. Debts incurred separately by the husband or the wife shall be paid by the party who incurred them.

Article 33 If, at the time of divorce, one party has difficulty in supporting himself or herself, the other party shall render appropriate financial assistance. Specific arrangements shall be worked out by both parties through consultation. If they fail to reach an agreement, the people's court shall make a judgment.” (People's Republic of China (1 January 1981) *Marriage Law of the People's Republic of China*)

The *United Kingdom Border Agency* state, quoting from the Center for Reproductive Rights report of January 2011:

“Husbands and wives can file for divorce jointly or separately, and a woman's right to seek a divorce is protected from interference. Grounds for divorce may include bigamy or cohabitation; domestic violence, maltreatment, or desertion; gambling or drug addiction; and other serious actions that destroy marital affections. Restrictions are placed on the ability of a husband to seek divorce. A husband cannot apply for a divorce while his wife is pregnant, within one year after the birth of a child, or within six months of a miscarriage or the termination of a pregnancy as required by the government's family planning policy. These rules apply unless a people's court determines that it is necessary to accept the husband's divorce request. A woman's ability to seek divorce during any of these periods is not restricted.

Couples who did not register their marriage in accordance with the Marriage Law may be regarded as a married couple for the purpose of divorce proceedings if they fulfilled the criteria for marriage prior to the enactment of

the Regulations on Marriage Registration on February 1, 1994; otherwise, the court is to treat such relationships as cohabitation. Where both spouses wish to divorce, the marriage registration office will issue divorce certificates after confirming the intentions of both parties and verifying that arrangements exist for the division of property and the care of children. When only one spouse desires a divorce, he or she may either request mediation or appeal to a people's court to initiate divorce proceedings." (United Kingdom Border Agency (12 October 2012) *Country of Origin Information (COI) Report – China*)

The same report also states:

"In some of China's prosperous cities, potential grooms have reportedly been vetted to assess their financial stability; with those more favourable owning their own property and having a lucrative income. In response to this, China's Supreme Court ruled that the person who buys the family home, or the parents who advance them the money, will get to keep the property in the case of a divorce." (Ibid)

4. Marriage between Non Nationals and Nationals

Marriage between Non National and Nationals

The Provisions for the *Registration of Marriage between Chinese Citizens and Foreigners* state:

"Chinese citizens and foreigners who apply for marriage registration shall respectively hold the following certificates:

A) For Chinese citizens:

- (1) certificates of the applicant's residence registration;
- (2) certificate signed and issued either by the people's government at the county level or above which is stationed in the locality where the applicant has his/her residence registration, or by a government department, a school, an institution, or an enterprise at the county level or above, which is the applicant's place of work; the certificate indicates the applicant's name, sex, date of birth, nationality, marital status (single, divorced, bereft of spouse - the same below), occupation, nature of work, name of the person to marry.

B) For foreigners:

- (1) the applicant's passport or other documents certifying his/her identity and citizenship;
- (2) "Residence Permit for Foreigners" signed and issued by the public security department, or identification certificate issued by foreign affairs department, or entry permit and residence permit for foreigners who come to China for a short stay;
- (3) marital status certification issued by the notary office of the applicant's country and confirmed by both the Ministry of Foreign Affairs (or a department authorized by the Ministry of Foreign Affairs) of the applicant's country and the Chinese embassy or consulate in the said foreign country; or marital status certification issued by the embassy or consulate of the said foreign country in China.

C) For resident foreigners in China:

(1) the applicant's passport, or identification certificate or nationality certificate used to substitute for passport (those who have no nationality may be exempted from presenting their nationality certificates);
(2) "Residence Permit for Foreigners" signed and issued by the public security department;
(3) certificate signed and issued either by the people's government at the county level or above, which is stationed in the locality where the applicant has his/her residence registration, or by a government department, a school, an institution, or an enterprise at the county level or above, which is the applicant's place of work; the certificate indicates the applicant's name, sex, date of birth, marital status, occupation, name of the person to marry. In addition, both the man and the woman applying for marriage registration shall also present the pre-marital health check-up report signed and issued by a hospital designated by the marriage registration department." (Chinese Legislative Body (26 August 1983) *Provisions for the Registration of Marriage between Chinese Citizens and Foreigners*)

The *Chinese Government Official Web Portal* state on their page *How to get married in China?*:

"The Sino-foreign couple must go together, in person to the appropriate marriage registration office and submit a (1) completed marriage registration application form (available at the marriage registration office). (The appropriate marriage registration office will be the one in the jurisdiction in which the Chinese partner is registered [the location of the hukou].)" (Chinese Government Official Web Portal (30 August 2005) *How to get married in China?*)

Marriage Between Two Non Nationals

A report by *China.org* states:

"A marriage in China between a foreigner and a Chinese citizen or between two foreigners is considered a "foreign-related marriage". According to Article 147 of the General Principles of the Civil Law of the People's Republic of China, marriage of a Chinese citizen to a foreigner shall be bound by the law of the place where they get married. Therefore, partners contemplating a foreign-related marriage in China must follow the procedures stipulated by Chinese law. Marriages in China, regardless of the nationality of those being married, are registered according to the laws of China. It is important to understand that neither diplomats nor consulate officials of the foreigner's own country, nor clergy of any country, have the authority to perform marriages in China" (China Org (2003) *Foreign-Related Marriage And Divorce In China*)

According to the *General Principles of the Civil Law of the People's Republic of China*;

"Article 147. The marriage of a citizen of the People's Republic of China to a foreigner shall be bound by the law of the place where they get married, while a divorce shall be bound by the law of the place where a court accepts the

case” (National Legislative Body (12 April 2986) *General Principles of the Civil Law of the People’s Republic of China*)

According to the *United States Embassy in Guangzhou* in China:

“In order to marry, at least one member of the couple must reside in China. Two foreigners on tourist visas are unlikely to be able to register to marry.” (United States Embassy in Guangzhou (Undated) *Marriage in China*)

The United Kingdom Foreign and Commonwealth Office state under *Marriage to a non-Chinese national in China*:

“If two British citizens (or a British citizen and a third country national) wish to marry in China, they both need to complete Notices of Intention to Marry and obtain two CNIs, one for each party. (A third country national needs to get an equivalent CNI from their own Embassy.) Each CNI attracts the same fee. In addition to a CNI, we can issue a letter confirming that your marriage in China is likely to be recognised in the UK. There is an additional fee for this letter.” (United Kingdom Foreign and Commonwealth Office (15 April 2013) *Marriage in China*)

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Marriage Visa World
UNFPA
UNHCR Refworld
United Kingdom Border Agency
United Kingdom Foreign and Commonwealth Office
United States Department of State