



**China – Researched and compiled by the Refugee Documentation Centre of Ireland on 27 November 2014**

**Would an unmarried Chinese woman experience any problems applying for an ID card for her Irish-born child if they were returned to China?**

An Immigration and Refugee Board of Canada response to a request for information on the treatment of children born outside China's family planning policy, in a section headed "Situation", states:

"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. Citizens who have unauthorized, or 'out-of-plan,' children are required to pay a fine known as the 'social maintenance fee'. The fine is reported to be up to 10 times the local average annual income in some localities. 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. Sources report that parents who fail to pay the fee will not be able to obtain household registration, or *hukou*, for their child. 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, 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. 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." (Immigration and Refugee Board of Canada (1 October 2012) CHN104186.E – *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*)

A submission by the China Violence Against Women Concern Group to the United Nations Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), in "Chapter Six: Article 16 (Family Life and Marriage)" (paragraph 41), refers to restrictions resulting from the Chinese government's family planning policy as follows:

"These restrictions also affect the reproductive rights of unmarried women as the acquisition of a birth permit requires a marriage certificate, residence records and identification cards. Unmarried women are therefore not eligible for these birth permits (regardless of whether they become pregnant or seek to do artificial insemination). Provinces also levy such penalties on unwed mothers (even where they are only expecting their first child), forcing them to incur enormous economic and psychological pressures. In some cases, the payment of such penalties requires that both parents appear and certify the

identity of themselves and their child; in many cases of absent fathers, these payments are not accepted and any attempts to register the child (to gain access to social services) rejected. Children born of unmarried women therefore face significant systematic discrimination.” (China Violence Against Women Concern Group (29 August 2014) *Submission by the China Violence Against Women Concern Group to the Committee on the Elimination of All Forms of Discrimination Against Women*, pp.15-16)

See also CEDAW submission by the Network of Chinese Human Rights Defenders & a Coalition of NGOs which, in Paragraph 41, states:

“Women with children born out-of-quota face additional financial burdens and social barricades in raising the children due to the difficulty in getting birth certificate and household registration (*hukou*) for their babies, since government authorities refuse to register children who were born without birth permits. Without a *hukou*, a child has no legal identity, cannot obtain a national ID card, and thus does not have any recognized rights accorded to Chinese citizens, including access to subsidies in education, healthcare, and other social services, as well as, later in life, opportunities for higher education and certain types of employment.” (The Network of Chinese Human Rights Defenders & a Coalition of NGOs (30 September 2014) *Civil Society Report Submitted to the Committee on the Elimination of Discrimination Against Women*, p.14)

A 2010 report published by the Chinese Human Rights Defenders states:

“If a woman gets pregnant before she is married, then the birth is considered out-of-quota, and she will be required to pay a fine, or pressured by family planning officers to undergo an abortion. If the woman decides to give birth to the child, then it will be extremely difficult for the child to be registered with a *hukou*. A ‘*hukou*’ is a residency permit, or a household registration record, that identifies a person as a resident of a certain area and determines the kind of social services one is eligible for and the kinds of local regulations and rules one is subjected to. This will have a ripple effect on the child’s (and the mother’s) life, and often lead to increased discrimination and hardship for both mother and child.” (Chinese Human Rights Defenders (CHRD) (21 December 2010) “*I Don’t Have a Choice over My Own Body*”, p.13)

In a section titled “Discrimination against one-child policy violators and their children” this report states:

“Children whose parents have violated the policy are often denied *hukous* unless the parents pay the required fines or comply with other demands of family planning officials. The management of the *hukou* system is the domain of the Ministry of Public Security and it refuses to issue *hukous* to children without birth permits, children of unmarried parents, and children whose parents for some reasons have not completed the required procedures. Without a *hukou*, a child 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. Children who are denied *hukous* face great difficulties in accessing education, social services, and gaining employment throughout their lives.” (ibid, p.26)

The 2013 US Department of State country report on China, in a section titled “Women” (sub-section headed “Reproductive Rights”) notes that:

“It continued to be illegal in almost all provinces for a single woman to have a child, with fines levied for violations.” (US Department of State (27 February 2014) 2013 Country Reports on Human Rights Practices – China, p.56)

An Australian Government Refugee Review Tribunal country advice document refers to information obtained from the Australian Department of Foreign Affairs and Trade as follows:

“The Department of Foreign Affairs and Trade (DFAT) was contacted on 14 January 2010 requesting information relating to the official procedures that need to be undertaken for children born overseas when their parents return to China . DFAT responded with the following advice.

In order to apply for the child’s household registration, the parents would be required to provide the following documentation: a Chinese translation of the child’s birth certificate; the parents’ household registration; ID cards; passports; certificate of marriage; and a receipt issued by the local Family Planning Committee to demonstrate that a family planning fee (also known as a social compensation fee) has been paid. This list of requirements is not comprehensive; the local authority may request more information or identification on a case-by-case basis.

Most provincial and municipal governments have stated that a family planning fee would be imposed for children born out of wedlock. The State Family Planning Commission authorises local governments to establish their own criteria when imposing family planning fees in each jurisdiction.” (Australian Government Refugee Review Tribunal (21 April 2011) *China – CHN38562 – Urumqi Riots 2009 – Han Chinese in Xinjiang – Hukou*, p.7)

An article from the Chinese English-language newspaper China Daily states:

“A single mother has sued a local public security department because authorities have refused to provide hukou, or household registration, for her out-of-wedlock child in Dongguan, Guangdong province. The 39-year-old mother, surnamed Fang, is demanding that the Dongcheng district branch of the Dongguan bureau of public security immediately allow her child to register hukou under the law. Fang went to court, with the help of local public welfare organizations, on Tuesday. 'I have to register hukou for my child because my child needs hukou to go to school next year,' said the mother, adding that she has been trying to get hukou for her child since she gave birth in 2009. But the public security bureau, acting within local family planning regulations, said Fang would have to show her marriage certificate, family planning certificates and related documents as well as information on her child's father to register her child's hukou. Born without a family planning certificate, Fang's child is illegitimate, according to local family planning regulations and rules.” (China Daily (12 June 2014) *Mother sues to reverse denial of child's hukou*)

See also China Daily article which states:

“A Beijing single mother cannot register for permanent residence, called *hukou*, for her son because she can't afford the approximately 330,000 yuan (\$53,255) social maintenance fee imposed on her for breaching the one-child policy. The situation throws a spotlight on the plight of single mothers whose children were born out of wedlock. The mother, Liu Fei (a pseudonym), took Beijing public security bureau's Fangshan branch to court on Oct 9, 2013, saying the branch's refusal to provide a *hukou* for her 8-year-old son Xiao Jie (again a pseudonym), is illegal. On Feb 14, the court dismissed Liu's complaint and she lodged an appeal 10 days later. The court insisted that paying social maintenance fees is a precondition for registration, according to the Beijing Population and Family Planning Regulations.” (China Daily (31 March 2014) *Mother fights for son's right to sign up for city residence*)

An article from the South African newspaper the Mail & Guardian states:

“China has seen a dramatic liberalisation of sexual attitudes in recent decades. But although premarital sex has become common, unmarried motherhood has remained a taboo. Only recently have attitudes begun to shift. Like others who break the country's strict family planning laws, an unmarried mother must pay a fine, even if it is her first child. But there was widespread outrage last summer when Wuhan, the capital of Hubei province, announced a massive rise in fines for births outside marriage to double the rate for married couples who breach the one-child policy.” (Mail & Guardian (24 January 2014) *China's slow thaw on single mums*)

This article also states:

“There are hints of a shift in official attitudes. Perhaps as a result of last year's controversy, Hubei has now taken one step towards fairer treatment of unmarried mothers. It has ordered health authorities to issue free birth certificates, even if the mother is not married. It is thought to be the first province to guarantee this right, rather than leaving it to officials' discretion. Children need the birth certificate to obtain a *hukou*, or household registration, which is key to accessing basic services such as health and education. Gu Baochang, an expert on demographics at Renmin University, said the announcement shows that family-planning authorities are gradually making more efforts to serve unmarried parents. 'It is not meant to encourage women to give birth outside marriage, but to protect the rights of unmarried mothers and their children,' said Lu Ying, a gender research expert from Sun Yatsen University.” (ibid)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit 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. Please read in full all documents referred to.

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