



# China: Effects of the implementation of the new Family Planning Policy on ethnic minorities and children born outside the country, including access to social services and benefits, in Guangdong, Fujian, and Hebei; whether the previous Family Planning Policy is being applied retroactively to those who have violated the policy, including in Guangdong, Fujian, and Hebei (October 2015-August 2017)

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## 1. Family Planning Regulations

For the text of the Family Planning Regulations for Guangdong, Fujian, and Hebei, see Response to Information Request CHN105983 of October 2017. For information on the new Family Planning Policy, see Response to Information Request CHN105499 of May 2016.

Information on the implementation of the new Family Planning Policy in Guangdong, Fujian, and Hebei was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to sources, in October 2015, China announced changes to its Family Planning Policy that would allow couples to have two children (Amnesty International 24 Feb. 2016, 120; Germany 14 Dec. 2015, 5). According to sources, this policy came into effect in January 2016 (US 3 Mar. 2017, 54; Freedom House 2017). A 2016 report by Sixth Tone, a digital news source that reports on "issues and events from across China" and belongs to the state-funded Shanghai United Media Group (Sixth Tone n.d.), notes that China "left it up to provinces to work out the details" of implementing the new policy (ibid. 9 Aug. 2016).

According to Freedom House's *Freedom in the World 2017* report for China,

[w]hile the authorities will continue to regulate reproduction, the change means that fewer families are likely to encounter the punitive aspects of the system, such as high fines, job dismissal, reduced government benefits, and occasionally detention. Abuses such as forced abortions and sterilizations are less common than in the past. (2017)

However, a 2016 Xinhua report by the Xinhua News Agency cites a "top health official" as stating that "China's family planning policy will not change in the foreseeable future" and while there is no timeline for "the full relaxation of the policy," continued improvements and adjustments will be made (Xinhua News Agency 8 Mar. 2016). A 2016 report by the Congressional-Executive Commission on China (CECC), which "monitor[s] the acts of the People's Republic of China which reflect compliance with or violation of human rights" and is composed of representatives of the US government (US n.d.), notes that government officials used "heavy fines, job termination, arbitrary detention, and coerced abortion" to enforce family planning policies (ibid. 6 Oct. 2016, 28). A 2017 report by the *Global Times*, a Chinese English-language daily newspaper (*Global Times* n.d.), citing the *Beijing Daily*, reports that, according to the updated family planning regulations, some provinces "impose social maintenance fees in accordance with their salaries" and that "[g]overnment officials in at least 14 provinces in China would face dismissal or punishment if they violate the family planning policy" (ibid. 3 Aug. 2017). The CECC report notes that the province of Fujian was among those that "continued to promote 'family planning work'" through "harsh and invasive family planning measures" (US 6 Oct. 2016, 150).

The US Department of State's *Country Reports on Human Rights Practices for 2016* states that "[t]he revised law permits married couples to have two children and allows couples to apply for permission to have a third child if they meet conditions stipulated in local and provincial regulations" (US 3 Mar. 2017, 54). The same source also indicates that

[t]he National Health and Family Planning Commission reported that all provinces eliminated an earlier requirement to seek approval for a birth before a first child was conceived, but provinces could still require parents to "register pregnancies" prior to giving birth, which could be used as a de facto permit system in some provinces. (ibid.)

The same source adds that "[r]egulations requiring women who violate the family-planning policy to terminate their pregnancies still exist and were enforced in some provinces," while noting that "[s]ome provinces, such as Guangdong, removed provisions from provincial-level regulations requiring 'remedial measures' [an official euphemism for abortion] but inserted them instead into the revised regulations of major municipalities, such as Shenzhen" (ibid., 55).

According to Sixth Tone,

[a]fter the revision of China's family planning laws at the start of this year, 29 of the 31 provinces and

autonomous regions had adapted their local family planning policies to allow two children per couple, according to statistics from state newspaper Legal Daily. However, seven of the 29 still state in their local policies that companies can fire employees for giving birth to more children than the national law allows. (Sixth Tone 4 Nov. 2016)

The same source states that these provinces include Fujian and Guangdong (ibid.).

## 1.1 Guangdong

The information in the following paragraph on the situation of remarried couples in Guangdong comes from two separate 2016 articles by Sixth Tone:

In July 2016, Sixth Tone reported that

[s]ome couples in southern China's Guangdong province are facing a painful dilemma: keep their jobs, or keep their unborn babies. With the introduction of the two-child policy in January, remarried couples in many Chinese provinces are now allowed to have more children, but Guangdong's regulations have yet to change. (Sixth Tone 22 July 2016)

The article provides the example of a pregnant woman in Meizhou City, Guangdong Province, who was "warned by her employer that she would be fired if she didn't abort her child" (ibid.). The article notes that "[e]lsewhere in China, remarried couples can have one child, regardless of the number of children they've had in previous marriages, or two children if the couple has one or no children from previous marriages," stating that the "family planning authority in Guangdong has postponed issuing new rules a few times already" (ibid.). The same source quotes Qiao Xiaochun, a professor at the Institute of Population Research at Peking University, as saying that he "doesn't know why Guangdong has yet to update its family planning policies" and that "it can't be out of a concern for population growth, as elsewhere in China these policies are being relaxed for remarried couples as well" (ibid.). The same article also notes that in Foshan, Guangdong Province, "families that have more children than are allowed face a fine of 260,000 yuan (\$39,000)" (ibid.). Another article by the same source reports that a couple in Guangdong "thought they were entitled to have another child under the two-child policy, [but] an omission in the province's regulations regarding couples in their second marriages" allowed their employers to give them "an ultimatum: abort, or face fines and dismissal" (Sixth Tone 9 Aug. 2016). The same source adds that another pregnant woman "called the Guangdong family planning office, and they reassured her that it would be fine for her to have a second child," and that "a new regulation would be published in March [2016]" (ibid.). The Guangdong family planning office announced on 2 August 2016 that employers should "back down from policing remarried couples' pregnancies" (ibid.). One woman is quoted as stating that because "[n]o policy has come out on paper" they "still don't have the protection of law" (ibid.). Further information on the implementation of the new Family Planning Policy in Guangdong could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Information on the implementation of the new Family Planning Policy in Fujian and Hebei could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

## 2. Effects on Ethnic Minorities

Under the previous policy, China's Ministry of Foreign Affairs provides the following:

In areas inhabited by minority peoples, each ethnic group may work out different regulations in accordance with its wish, population, natural resources, economy, culture and customs: In general a couple may have a second baby, or a third child in some places. As for ethnic minorities with extremely small populations, a couple may have as many children as they want. (China n.d.)

Amnesty International reports that, under the new Family Planning Policy, "[p]olicies allowing rural

households and ethnic minorities under certain circumstances to have additional children would continue" (24 Feb. 2016, 120). Freedom House states that "[e]thnic minorities are still permitted to have up to three children" (2017).

Further information on the impacts of the new Family Planning Policy on ethnic minorities in Guangdong, Fujian, and Hebei could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### 3. Children Born Outside the Country

Information on the impact of the implementation of the new Family Planning Policy on children born outside the country could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### 4. Impact for Parents who Violated the Family Planning Policy

Amnesty International reports that the government "announced that it would take steps to regularize the status of China's 13 million undocumented children born in contravention of the old policy" (24 Feb. 2016, 120). In a briefing note, the German Federal Office for Migration and Refugees stated that with the change in policy, "[a]bout 13 million Chinese citizens born illegally as the second child of married couples in violation of China's one-child family planning policy ('black children') will now be officially registered" and that "[f]or the first time, these people can receive 'Hukou' documents allowing them school attendance and unrestricted access to social services including medical care," although it was not known when this provision would enter into force (Germany 14 Dec. 2015, 5).

According to a report published on the official government news portal China.org.cn,

[i]f a family's second child was born before midnight on Dec. 31 [2015], in a family that already has a child and doesn't meet the requirements which allow them to have two children, the baby would be deemed illegal as the one-child policy was still in effect, and its parents would have to pay a heavy fine. However, if the baby was born after midnight on Jan. 1 [2016], there would be no problem at all, as the new law allows all Chinese couples to have two children. (China.org.cn 5 Jan. 2016)

A June 2016 report by the Xinhua News Agency indicates that "Chinese police provided about 746,000 unregistered citizens with household registration permits, a crucial document entitling them to social welfare, in the first five months of this year, according to the Ministry of Public Security," including

orphans and second children born illegally under the one-child policy, the homeless and those who have yet to apply for one or who have simply lost theirs. Parents who violated [the] family planning policy often refrained from getting hukou for their children in order to avoid fines. (9 June 2016)

The CECC report indicates that "[p]rovincial-level authorities also made efforts to address the issue of 'illegal residents' by loosening *hukou* registration requirements," noting that "Guangdong province authorities no longer required 'social compensation fee' payments from family planning policy violators as a precondition for obtaining *hukou*; instead, authorities will collect" payments after hukou registration (US 6 Oct. 2016, 153, italics in original). According to the same report,

[i]n January 2016, the State Council issued the Opinion on Resolving Issues of Hukou Registration for Individuals Without Hukou, which specified eight types of 'illegal residents' newly eligible to register for *hukou* without preconditions. Unregistered individuals whose parents failed to pay 'social compensation fees,' however, were not included in this list. Some parents, fearing that authorities might forcibly collect social compensation fees from them retroactively, remain deterred from registering their children born in violation of family planning policies. (ibid., 28)

The same source also notes that "[a]uthorities in some localities denied household registration (*hukou*) to children whose parents violated local family planning requirements" (ibid.). *Country Reports 2016* states

that "[u]nder the law and in practice, there continued to be financial and administrative penalties for births that exceed birth limits or otherwise violate regulations," explaining that the law

requires each woman with an unauthorized pregnancy to abort or pay the social compensation fee, which can reach 10 times a person's annual disposable income. Those with financial means often paid the fee so that their children born in violation of the birth restrictions would have access to services. Some parents avoided the fee by hiding a child born in violation of the law with friends or relatives. (US 3 Mar. 2017, 54)

The children of single mothers or unwed couples "are considered 'outside of the policy' and subject to the social compensation fee and the denial of legal documents, such as birth documents and the 'hukou' residence permit" (ibid.). The same source states that

[c]itizenship is derived from parents. Parents must register their children in compliance with the national household registration system within one month of birth. Unregistered children could not access public services, including education. No data was available on the number of unregistered births. In 2010 the official census estimated there were 13 million individuals without official documentation, many of whom likely were 'ghost' children whose births were concealed from local officials because they violated the population control policy. Some local officials denied such children household registration and identification documents, particularly if their families could not pay the social compensation fees. (ibid., 57)

For further information on undocumented (also called "illegal" or "black") children, see Response to Information Request CHN105636 of October 2016.

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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**Internet sites, including:** Al Jazeera; BBC; CBC; *The Economist*; Factiva; *The Guardian*; Human Rights Watch; IRIN; United Nations – Refworld.

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