



Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

China: Treatment of "illegal," or "black," children born outside the one-child family planning policy; whether unregistered children are denied access to education, health care and other social services (2003-2007)

Publisher [Immigration and Refugee Board of Canada](#)

Author Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Publication
Date 26 June 2007

Citation /
Document
Symbol CHN102496.E

Cite as Immigration and Refugee Board of Canada, *China: Treatment of "illegal," or "black," children born outside the one-child family planning policy; whether unregistered children are denied access to education, health care and other social services (2003-2007)*, 26 June 2007, CHN102496.E, available at:
<http://www.refworld.org/docid/46c403821f.html> [accessed 9 May 2013]

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Background

In general, China's family planning regulations limit parents in urban areas to one child and those in rural areas to two, if the first child is a girl (*China Daily* 2 Mar. 2007; *The Christian Science Monitor* 27 Feb. 2007; *The Guardian* 24 Jan. 2007; IPS 21 Mar. 2006). Couples exceeding their birth quota may face penalties, including "stiff" fines (*The Guardian* 16 Dec. 2004; Wang 2005, 224; Freedom House 2006). For example, in the province of Guangdong, urban couples with "one more child than permitted" may have to pay up to six times the average annual per capita disposable income of their city or district, while rural parents may have to pay up to six times the average per capita net income of their township (China 25 July 2002). As a result, many births in China are not registered (*The Guardian* 16 Dec. 2004; Wang 2005, 224; Johnson 2004, 120).

Referred to as "black" children, or *Hei Haizi* (LegAlert 1 Mar. 2007; ACCORD 17 Mar. 2006, 15; France 27 Jan. 2003, 10), unregistered children in China are believed to count in the millions (ibid.;

LegAlert 1 Mar. 2007; *The Guardian* 16 Dec. 2004). In his book *Organizing Through Division and Exclusion: China's Hukou System*, Fei-Ling Wang, a professor at the Sam Nunn School of International Affairs (Georgia Institute of Technology n.d.), writes that "in some villages [in China], 'hidden' [unregistered] children could number as many as one per every 10-15 households" (Wang 2005, 224). The majority of the unregistered children are believed to be females from the country's rural areas (France 27 Jan. 2003, 10; see also UN 24 Nov. 2005; *London Daily Telegraph* 27 Dec. 2005). China's migrant population is also thought to account for many unregistered births (*Brooklyn Journal of International Law* 27 Dec. 2004, 357; see also *China Daily* 2 Mar. 2007). In a 2005 report of the United Nations (UN) Committee on the Rights of the Child, the Committee states its concern that

[i]n part because of existing family planning policies, all children are not systematically registered immediately after birth in mainland China, and that this disproportionately affects girls, children with disabilities and children born in some rural areas (24 Nov. 2005, para. 42).

In 11 May 2007 correspondence, a professor of International Affairs specializing in Asian politics at the Georgia Institute of Technology states that

[i]t is still quite common [in China] for unplanned, hence "unapproved," children to be unregistered. In some places, very recently, there are moves to register them as well, [and] disregard the family planning issue (especially if an excuse and good *guanxi* [informal networking or connections] can be found). But the parents, especially in the remote rural areas, are not very forthcoming [in registering their children] because the fear of fines, etc. may still be real.

Treatment of persons born outside family planning regulations

As a consequence of not being registered at birth, "black" children are not entered into their family's *hukou* [household registration] records (Wang 2005, 71). According to an expert on China who lives in Germany, cited in the report on China of the 10th Country of Origin Information Seminar in Budapest, Chinese authorities often do not allow "black" children to register and do not issue them identity documents (ACCORD 17 Mar. 2006, 15; see also *Brooklyn Journal of International Law* 27 Dec. 2004, 355). An 11 August 2005 article in *Reproductive Health*, a "peer-reviewed online journal focusing on all aspects of human reproduction" (*Reproductive Health* n.d.), similarly notes that children born outside of China's family planning regulations may not be registered by the authorities or be "treated equally," unless their parents pay a fine (ibid. 11 Aug. 2005, 3). Without registration, "black children" may not be able to access medical care, education or employment, particularly in urban areas (ibid.; see also France 27 Jan. 2003, 10; Johnson 2004, 121; *Brooklyn Journal of International Law* 27 Dec. 2004, 356). They may also not have access to other state benefits and services, or be entitled to land allotments (Johnson 2004, 121).

However, according to a 2003 report by France's Commission des Recours des Réfugiés, corrupt family planning officials and direct payments to teachers and doctors may allow "black" children to be integrated into society (France 27 Jan. 2003, 11). The professor of International Affairs at the Georgia Institute of Technology similarly notes in his correspondence that

[u]nregistered children [in China] generally can't have much access to state-provided or community-provided benefits including subsidized education. But they may now have increased access on pay as you go basis. (11 May 2007)

In her book *Wanting a Daughter, Needing a Son*, Kay Ann Johnson, professor of Asian studies and politics at Hampshire College, Massachusetts, states that whether an unregistered child is able to obtain a *hukou*, "and with what consequences," depends on local practice (Johnson 2004, 121). The author notes that in many places in China, it is "relatively easy" to purchase a *hukou*, though these *hukou* may not be recognized in all places as equivalent to the regular *hukou* (ibid.). She further indicates that in some places, *hukou*-less children may be able to attend school without additional fees and obtain medical care (ibid, 122).

According to the expert on China from Germany, cited in the China report of the 10th European Country of Origin Information Seminar, the "stigma of being a 'black' [person] can be reduced by marriage to a person possessing citizen's rights" (ACCORD 17 Mar. 2006, 16). The China expert also indicates that, although "black children" are a disadvantaged group, "[t]here is no reason that ... [they] should face a higher risk of violence than others;" they face problems similar to such socially excluded groups as farmers and migrants (ibid.).

In March 2006, however, news sources reported that over the past four years, family planning officials in Gaoping County [Hunan Province] had "violently removed" twelve unregistered children, some "illegally" adopted, from their homes (*South China Morning Post* 22 Mar. 2006; ibid. 21 Mar. 2006; AsiaNews 21 Mar. 2006). According to the sources, the family planning officials demanded that fines be paid for the children's return (ibid.; *South China Morning Post* 22 Mar. 2006; ibid. 21 Mar. 2006). One child was apparently returned to his parents after a month (ibid.; ibid. 22 Mar. 2006; AsiaNews 21 Mar. 2006); however, information on the return of the other children could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

In her book *Wanting a Daughter, Needing a Son*, Johnson states that

the discrimination "hidden [unregistered] children" face is serious and widespread enough to constitute a new social problem, creating a class of mostly female children who lack the full protection of the law and equal access to basic social entitlements (2004, 122).

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 additional sources consulted in researching this Information Request.

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Oral sources: A researcher at the Institute for International Studies at the University of Technology in Sydney, Australia provided the Research Directorate with published materials. A professor of Asian studies and politics at Hampshire College, Massachusetts, did not provide information within the time constraints of this Response.

Internet sites, including: Amnesty International (AI), *Asia Times* [Hong Kong], Association For Asian Research (AFAR), British Broadcasting Corporation (BBC), Center for Reproductive Rights, China Information Centre, European Country of Origin Information Network (ecoi.net), Factiva, Human Rights in China (HRIC), Human Rights Watch (HRW), Laogai Research Foundation, Radio Free Asia (RFA), United Kingdom Home Office, United States – Congressional Executive Committee on China (CECC), United States Department of State.

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