Questions

1. What information is there available about forced abortions in Guangdong?
2. The applicant implied that she has had an operation in the past to prevent further pregnancy. Is this operation routinely done after giving birth?
3. What is the water stream test?
4. Is there a social contribution fee imposed on parents when a second child is born?
5. Is there any information available about what would happen if this fee is not paid? Is there any evidence that a house would be “pulled down”?
6. What is the general view (if there is one) by local authorities regarding families with more than one child in Guangdong?

RESPONSE

1. What information is there available about forced abortions in Guangdong?

Sources report that Guangdong authorities in some areas of the province have been directed to carry out abortions to meet family planning targets. However, definitive information was not found in the sources consulted on any of forced abortions being carried out in Guangdong. Although the Chinese central government’s law prohibits the use of physical coercion to compel persons to submit to abortion or sterilisation, reports of forced abortions continued in some provinces.
In Guangdong

Although reports of abortions in Guangdong province have continued into the 2000s, the extent of any forced abortions could not be ascertained from the information in the sources consulted.

Article 26 of the 2002 Guangdong Family Planning Regulations unspecified “remedial measures” to be taken when a woman becomes pregnant outside the provisions of the regulations (Population and Family Planning Regulations of the Province of Guangdong, 6th revision by the 35th Session of the Standing Committee of the Ninth People’s Congress of the Province of Guangdong on 25 July 2002, Article 26 (Translation by Public Works and Government Services, Canada) – Attachment 1).

Reports of abortions in Guangdong are outlined below.

According to news articles cited by the Canadian Immigration and Refugee Board, authorities in the Huaiji region of Guangdong were reportedly ordered to perform abortions and sterilisations by the end of 2001:

Authorities were reported to have ordered that 20,000 abortions and sterilizations be performed by the end of 2001 in the Huaiji region of Guangdong (The Irish Times 5 Sept. 2001; NRO 16 Aug. 2001; The Telegraph 15 Aug. 2001). Although the one-child policy was reported to no longer be “strictly applied in many rural areas,” the edict was issued “after census officials revealed that the average family in Huaiji has five or more children” (ibid.) According to a 5 August 2000 article, not only would abortions be performed on women with “unauthorised” pregnancies, but doctors had also been ordered to sterilize women immediately following officially approved pregnancies (ibid.). Ann Noonan, the policy director of the Laogai Research Foundation, a US-based non-profit organization that conducts research on human rights issues in China, stated in a 16 August 2001 article that, in order to meet the imposed quota, nearly 100 per cent of all pregnancies would need to be aborted (NRO). A 5 September 2001 article in the Irish Times stated that, as a result of this imposed quota, in recent months, women of childbearing-age in Huaiji had either been sterilized or fitted with contraceptive devices and women who had been discovered to be pregnant with a second child without permission had been required to undergo an abortion and then sterilization (Immigration and Refugee Board of Canada 2002, CHN38921.E – China: The “out-of-plan” birth penalties meted out to residents of Guangdong province generally, or Guangzhou City in particular, arising as a result of the national census of 1-15 November 2000, 22 April – Attachment 2).

However, in 2001 a Washington Post article on reported forced abortions and sterilisations in a county of Guangdong province also reflected the different interpretations of such incidents. The article stated that:

A team of investigators from the Population Research Institute, a Virginia-based organization that opposes population control, said it interviewed women in a UNFPA county in Guangdong province last year [2001] who stated that forced abortions and sterilizations continued. The government and UNFPA denied the allegations.

An independent team sent by Secretary of State Colin L. Powell in May visited five UNFPA counties and found no evidence of coercive abortions or involuntary sterilizations. It concluded China’s family planning program remains coercive, but noted “some relaxation” in the UNFPA counties and urged Bush to continue funding UNFPA.
In rejecting that recommendation, the Bush administration noted that even in the UNFPA counties, the government imposes “crushing fines” on couples who have unapproved children. It argued the fines are so high they force women to have abortions (Pan, Philip P. 2002, ‘China’s one-child policy now a double standard limits and penalties applied unevenly’, Washington Post, E-Mail subscription: JCS Information Digest, 20 August – Attachment 3).


On the same Jieshi township report the Laogai Research Foundation wrote:

The Laogai Research Foundation recently obtained a document of Jieshi Town, Guangdong Province from 2003. This Document No. 43 shows how the local government has harshly implemented China’s family planning law. Jieshi, located in the northern part of Lufeng City, Guangdong Province, has an area of 124 km and a population of 200,000. Document No. 43 of Jieshi Township, issued on August 26, 2003, gave orders that the fall 2003 family planning assignment should begin on August 26, and within 35 days (ending of September 30), certain goals must be achieved: to sterilize 1,369, fit 818 with an IUD, induce labor for 108, and carry out 163 abortions. During this period, each five days there should be a count and each ten days there should be an evaluation, and there must be a 100% success rate. Party secretaries and village heads who failed to fulfill this task would have their salaries cut by half, and other responsible cadres would suffer the withholding of their entire salary.

One regulation of Document No. 43 stipulates: “sterilized women will be compensated with 50 yuan, and women who undergo late-term abortions will be compensated with 300 yuan”. The document also demands “in the countryside, sterilization for all women with two girls, and induced labor for late-term pregnancy. Overcome difficulties with creativity, so that all fall actions can be implemented successfully, and the ground can be set for yearly population control planning” (Better Ten Graves Than One Extra Birth 2004, The Laogai Research Foundation, Washington, D.C., pp. 55-56 – Attachment 4).

On the situation of forced abortions and sterilisations in Guangdong in 1999 DFAT provided information on forced abortions and sterilisations to an Australian Senate committee in June 1999 in the following terms:

In September 1997, our post in Guangzhou reported that it was difficult to ascertain with any certainty the extent to which local authorities resort to intimidation and coercion in their attempts to implement family planning policy. In June 1997 a Western mission in Guangzhou had conducted its own study into family planning practices and concluded that there was very little evidence in Guangdong Province forced sterilisations or abortions. Our post noted that in Guangdong violations of family planning regulations were regarded as civil, not criminal, matters. People who breached the regulations were fined and, if employed by state-owned enterprises, might lose subsidised housing and employment. The amount of a fine depended on the circumstances of the family, and could vary from RMB100 to
RMB7000 or more. The post believed that people in breach of the regulations were not routinely denied passports or travel documents: there had been a number of instances where families with up to four children had presented applications to the post for entry to Australia (Department of Foreign Affairs and Trade 1999, *Family Planning in China*, Senate Foreign Affairs, Defence and Trade Legislation Committee, DFAT answer to questions on notice, Budget estimates hearing,, 9 June, Hansard Page 310, 313, 314 – Attachment 6).

It continued:

…In Guangdong, id (sic) all attempts at persuasion failed, those unwilling to undergo abortions had been able to proceed to give birth: more than one-third of unplanned pregnancies proceeded to term. Our post assessed that the SFPC [State Family Planning Commission] was putting considerable pressure on Guangdong Province to tighten up its hitherto relatively relaxed approach to family planning particularly in the rural regions. The provincial family planning commission advised that coercion had no place in its program, rather individuals were encouraged and persuaded to stick to the rules (Department of Foreign Affairs and Trade 1999, *Family Planning in China*, Senate Foreign Affairs, Defence and Trade Legislation Committee, DFAT answer to questions on notice, Budget estimates hearing,, 9 June, Hansard Page 310, 313, 314 – Attachment 6).


Other information on forced abortions and forced sterilisations in Guangdong is in:

- Immigration and Refugee Board of Canada 2005, *CHN43165.E – China: Any reports of forced abortions and forced sterilization within the regions of Guangzhou (Guangdong Province) and Fuzhou (Fujian Province) covered by the urban hukou; any reports of an easing or a tightening of family planning regulations since 2002 (2002-2005)*, 21 February – Attachment 8).

**General information**

The US State Department reports that Chinese law standardises the implementation of family planning policies in China, however, enforcement varies significantly between regions. The policy is more strictly applied in the cities. In rural areas the policy is more relaxed. The central government’s policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilisation, although reports of physical coercion to meet birth targets continued (US Department of State 2007, ‘[Introduction]’, ‘Arbitrary Interference with Privacy, Family, Home, or Correspondence’ in *Country Reports on Human Rights Practices for 2006 – China*, 6 March – Attachment 9).

According to sources cited by the Canadian Immigration and Refugee Board, China’s one-child policy has led to human rights abuses including forced abortions and sterilisations (Immigration and Refugee Board of Canada 2007, *CHN102495.E – China: Whether forced abortions or sterilizations are still occuring; prevalence and location of forced abortions or sterilizations; reports of forced sterilization of men (2005 – 2007)*, 10 May [http://www.irb-
The US State Department reported that:


Kahn writes in The New York Times that:

Coercive measures, including forced abortions and sterilizations, were common in the 1980s, when the so-called one-child policy was first strictly enforced. More recently, many parts of China have been relying more on financial penalties and incentives to limit the growth of its population, which is 1.3 billion.

But local officials who fail to meet annual population control targets can still come under bureaucratic pressure to reduce births or face demotion or removal from office (Kahn, Joseph 2007, ‘Harsh Birth Control Steps Fuel Violence in China’, The New York Times, 22 May – Attachment 12).

Sources cited by the Canadian Immigration and Refugee Board also note that, generally, the Chinese government has made efforts to end coercion in implementing family planning policies by prohibiting the use of force and introducing financial rewards for one-child families. Some sources also cited by the Canadian office reported that forced sterilisation and abortions continued to occur, particularly in rural areas. The worst documented case of family planning abuse in recent years was in 2005 in the city of Linyi, Shandong Province (Immigration and Refugee Board of Canada 2005, CHN100627.E – China: Reports of forced abortions or sterilization in the province of Liaoning, including information about the circumstances surrounding any that may have taken place (2003 – 2005), 19 October – Attachment 13).

On pregnant women moving from their hometown to avoid abortion a 2005 news article states:

Peasants pregnant with their second or third child typically escape from their hometown to avoid forced abortion by the local population and family planning officers. The rich don’t need to escape. Instead, they simply pay the fine. According to the International Herald Leader, a businessman in Zhejiang Province paid a 0.4 million RMB ($80,000) fine for his second child (‘The privilege of China’s wealthiest: A legal second child’ 2005, Pacific News Service, source: International Herald Leader, 31 August http://news.pacificnews.
Other information on forced abortions/sterilisation in China may be found in:


2. The applicant implied that she has had an operation in the past to prevent further pregnancy. Is this operation routinely done after giving birth?

Operations to prevent further pregnancies

For the prevention of further pregnancies the Guangdong Family Planning regulations applicable from the 1990s to the present encourage women to insert an Intra Uterine Device (IUD) after the first child and for women with more than one child to have a tubal ligation.\(^1\)

In respect of the late 1990s operations for preventing further pregnancies were outlined in Article 17 of the 1986 Guangdong Family Planning Regulations, revised in 1992:

*Article 17. The couples who are reproductive but have not got the birth quota should take the safe birth control measures. The reproductive women who have one child are promoted to insert IUD, one side of the reproductive couples who have children adopt tubal ligation or vasoligation. The unplanned [sic] pregnant women have to take the remedial measure as soon as possible (Guangdong Family Planning Regulation, 2nd revision by the 29th Session of the Standing Committee of the 7th Guangdong People’s Congress, Article 17 (Unofficial translation for the RRT by Ms. Penny Kane) – Attachment 17).*

From 2002, operations to prevent further pregnancies are outlined under Articles 25-26 of the 2002 Guangdong Family Planning Regulations:

*Article 25: Contraception shall be the primary component of family planning. Operations for the purpose of contraception and birth control shall be conducted in such a way as to ensure the safety of the person being operation upon.*

*In order to prevent and decrease the number of unwanted pregnancies, the family planning administrative department at each level of government shall create the prerequisite conditions and advise couples of child-bearing age in how to make an informed choice about contraceptive measures. The first choice for a women of child-bearing age who has given birth to one child shall be an intrauterine device. Where there are already two or more children, the first choice shall be a ligation for either the husband or wife.*

Article 26: Couples of child-bearing ages shall consciously implement family planning measures for contraception and birth control and accept guidance in the field of family planning technical services.

Where a woman becomes pregnant outside the provisions of these Regulations, **remedial measures** shall be taken as early as possible ([Population and Family Planning Regulations of the Province of Guangdong](https://example.com), 6th revision by the 35th Session of the Standing Committee of the Ninth People’s Congress of the Province of Guangdong on 25 July 2002, Articles 25-26 (Translation by Public Works and Government Services, Canada) – Attachment 1).

**Is the operation routinely performed after birth?**

Information in the sources consulted varies as to whether operations to prevent further births are routinely performed after birth.

According to the Canadian Immigration and Refugee Board, in the context of authorities in the Huaiji region of Guangdong being reportedly ordered to perform abortions and sterilisations by the end of 2001, wrote:

> …Although the one-child policy was reported to no longer be “strictly applied in many rural areas,” the edict was issued “after census officials revealed that the average family in Huaiji has five or more children” (ibid.) According to a 5 August 2000 article, not only would abortions be performed on women with “unauthorised” pregnancies, but **doctors had also been ordered to sterilize women immediately following officially approved pregnancies** (ibid.)…(Immigration and Refugee Board of Canada 2002, CHN38921.E – China: The “out-of-plan” birth penalties meted out to residents of Guangdong province generally, or Guangzhou City in particular, arising as a result of the national census of 1-15 November 2000, 22 April – Attachment 2).

However, it is to be noted that the quoted article of 5 August 2000 was not cited in the Canadian information.

In an August 2002 news article Pan wrote:

> Under China’s one-child policy, couples in this rural county in Jiangxi province once needed a permit to have a baby. **Women as a rule were fitted with IUDs after their first child, sterilized after their second.**

**But times have changed.** Yushui abolished the permits several years ago and let women make their own decisions about birth control. It stopped setting birth quotas and sterilization targets for family planning workers, too. The only punishment now for having an extra child here is a fine, and even that is only occasionally collected in full (Pan, Philip P. 2002, ‘China’s one-child policy now a double standard limits and penalties applied unevenly’, *Washington Post*, E-Mail subscription: JCS Information Digest, 20 August – Attachment 3).

In an April 2007 article it is stated that:

In urban areas, the central government recently **relaxed** its strict laws mandating birth control in order to restrict families to one child. The government also insists that it has **banned coercive birth-control practices** in the countryside **commonly** employed by bureaucrats eager to comply with Beijing’s population-control goals — and those practices have declined dramatically since the 1980s. The central government recognizes that coercive birth control is

Elegant continues:

Despite the growing consensus calling for change, however, Beijing continues to make enforcement of the policy one of the two main yardsticks by which the performance of local bureaucrats — and hence their prospects for advancement — are judged. (The other is tax collection.) It is this pressure from above to comply with population quotas that prompts local officials to adopt measures such as forced abortion (sometimes heart-rendingly late in term), forced sterilization and the like, says Nicolas Becquelin of New York-based Human Rights in China.

“The occurrence of these cases is largely confined to poor or ethnic areas of China” says Becquelin, noting that in such areas the central government often seems to fear that if restrictions on population growth are lifted there will be an immediate population explosion. That would be highly unwelcome economically — with [Communist Party] cadres fearing that the new mouths would either be trapped in poverty at home or join the flood tide of rural migrants swamping the cities (Elegant, Simon 2007, ‘Why Forced Abortions Persist in China’, UN Wire, source: Time http://www.smartbrief.com/alchemy/servlet/encodeServlet?issueId=9D11AECA-732E-416E-8985-6BC94F221E5F&lmid=4609079 – Accessed 2 May 2007 – Attachment 11).

According to the US Department of State although the central government formally prohibits physical coercion to compel persons to submit to abortion or sterilisation, “some cases” resulted in forced abortion or sterilisation (US Department of State 2007, ‘[Introduction]’, ‘Arbitrary Interference with Privacy, Family, Home, or Correspondence’ in Country Reports on Human Rights Practices for 2006 – China, 6 March – Attachment 9).

On contraception in China a China Daily article cited a 2001 National Population and Family Planning Commission of China survey which found sterilisation was the most prevalent form of contraception (38.1% women and 7.9% men – total 46%). The IUD was the next most common form of contraception, marginally lower at 45.6% (Sivelle, Kristina 2005, ‘Chinese women and their contraceptive choices’, China Daily, 18 January http://www.chinadaily.com.cn/english/doc/2005-01/18/content_410003.htm – Accessed 24 July 2007 – Attachment 18).

The 2005 China Daily article states:

The high rate of sterilization in China can best be understood when put in context, which includes the “one-child” policy.


3. What is the water stream test?

No information was found in the sources consulted on a test specifically named a “water stream test” which related to women who had an abortion, tubal ligation or an IUD inserted. However, it may refer to hysterosalpingography (uterosalpingography) which involves injecting a fluid to check if the Fallopian tubes are obstructed. There is also an urodynamics bladder test, which might be thought to be a water stream test, that is taken with a full bladder. The sources consulted did not refer to the latter test being taken to see if a tubal ligation has been reversed.

In the Concise Colour Medical Dictionary hysterosalpingography (uterosalpingography) is defined as:


According to the Healthline website a hysterosalpingography (uterosalpingography) is an x-ray of the uterus and Fallopian tubes for which a contrast dye is injected through the cervix. One reason why the test is performed is to check for obstruction of the Fallopian tubes (‘Hysterosalpingography’ 2004, Healthline website, 19 July http://www.healthline.com/adamcontent/hysterosalpingography?utm_term=hysterosalpingography&utm_medium=mw&utm_campaign=article – Accessed 14 August 2007 – Attachment 22).

The Healthline information states that the test is performed as follows:

You are instructed to lie on a table in the radiology department and pull your knees to your chest. This is called the lithotomy position. A speculum is then inserted into the vagina, and the cervix is cleaned.

A catheter is inserted through the cervix, and dye is injected, filling the uterus and fallopian tubes. The dye makes the genital organs and their cavities more visible with an x-ray, which is then performed. Any abnormalities are noted (‘Hysterosalpingography’ 2004, Healthline website, 19 July http://www.healthline.com/adamcontent/hysterosalpingography?utm_term=hysterosalpingography&utm_medium=mw&utm_campaign=article – Accessed 14 August 2007 – Attachment 22).
The Advanced Fertility Center of Chicago website stated that the test is performed in the following way:

- The woman lies on the table on her back and brings her feet up into a “frog leg” position.
- The doctor places a speculum in the vagina and visualizes the cervix.
- Either a soft, thin catheter is placed through the cervical opening into the uterine cavity or an instrument called a tenaculum is placed on the cervix and then a narrow metal cannula is inserted through the cervical opening.
- **Contrast is slowly injected through the cannula or catheter into the uterine cavity. An x-ray picture is taken as the uterine cavity is filling and then additional contrast is injected so that the tubes should fill and begin to spill into the abdominal cavity. Additional x-rays are taken as this “fill and spill” occurs.**
- When both tubes are demonstrated to be patent (or blocked), the woman is usually asked to roll to one side or the other slightly to give a slightly oblique x-ray image which may help to further delineate her anatomy.
- The procedure is now complete. The instruments are removed from the cervix and vagina. The woman usually remains on the table for several minutes to recover from the cramping which usually accompanies injection of the contrast.
- After several minutes the woman can get dressed and leave the hospital. (‘Hysterosalpingogram (HSG)’ (undated), Advanced Fertility Center of Chicago website [http://www.advancedfertility.com/hsg.htm](http://www.advancedfertility.com/hsg.htm) – Accessed 14 August 2007 – Attachment 23).

On the results of the test the information on the Healthline website states:

**Normal Values**

Normally, all genital structures are present and without abnormality or defect. **Contrast dye can normally be seen leaking out the fallopian tubes into the abdominal cavity.**

What abnormal results mean

Abnormal results may indicate any of the following:

- Uterine tumors
- Intrauterine adhesion
- Developmental disorders
- **Obstruction of the fallopian tubes**
- Traumatic injury
- Tubal adhesions
- Presence of foreign bodies
- Pregnancy outside the uterus (ectopic pregnancy)

A US anthropologist, who has researched family planning in China, responded to questions concerning a RRT case involving a Chinese woman who claimed that every year from 1987
until 2005 she was forced to have a check-up of her Fallopian tubes. In this check-up, the doctor injected water into the tubes to see if it can pass through. The anthropologist stated:

I’m sorry to disappoint you, but I have not been working as closely on these nitty-gritty aspects of China’s birth planning program as I was some time ago. I find this woman’s claim plausible, but I really have no information of any use to you, or even anyone to send you to (Greenhalgh, Susan 2007, Email to RRT Research & Information ‘Re: Information Request about a Family Planning Procedure in China (Ref:CHN32206)’, 14 August – Attachment 24).

The urodynamics test might be considered to be a “water stream test”. However, no information was found in the sources consulted referred the test being taken in connection with Fallopian tubes. According to information on the Royal Women’s Hospital in Carlton, Victoria, website it is a test which, with a comfortably full bladder, looks at the behaviour of the bladder. Patient information on the website states:

The test will take approximately 30 minutes to complete. It is not painful, but you may find it a little embarrassing. You will be asked to empty your bladder in private, into a special toilet. **Fine tubes** will be inserted into your bladder and vagina or back passage which will record pressure readings in your bladder throughout the test. **Your bladder will be filled with sterile water until you feel the need to urinate.** You will be directed to cough at various stages during the test. At the end of the test, you will be allowed to empty your bladder again (‘Urodynamics bladder test’ 2006, The Royal Women’s Hospital website, 18 April [http://www.rwh.org.au/womensinfo/factsheets.cfm?doc_id=7204](http://www.rwh.org.au/womensinfo/factsheets.cfm?doc_id=7204) – Accessed 19 July 2007 – Attachment 25).

Patients referred for an urodynamics assessment are:

Patients with a complex picture of stress incontinence and urge incontinence.  
Women who have failed conservative treatment.  
Prior to surgery for stress incontinence.  
Women who have had previous continence surgery.  
Patients with symptoms of impaired bladder emptying.  
Prior to surgery for marked pelvic organ prolapse to exclude occult stress incontinence or impaired bladder emptying.  

4. **Is there a social contribution fee imposed on parents when a second child is born?**

[In the sources consulted the social contribution fee is referred to as the social compensation fee, the social support fee and may also be referred to as a social maintenance fee].

Social Compensation Fees are levied in Guangdong for out-of-plan children according to the parent’s income.
Extra children

Social compensation fees are imposed on a couple for a child whose birth is not in accordance with family planning regulations. Guangdong regulations outline the circumstances in which an extra child, including when the first child is a girl, is allowed.

The conditions where a couple may have another child are outlined in Article 19 of the 2002 regulations:

Article 19: A couple who already have a child may arrange to have another child after the prescribed interval of time if one of the following situations obtains and if both husband and wife apply together and if the family planning operational agency of the township, ethnic township, town or neighbourhood or a directly subordinate forestry centre gives its approval:

(a) A children’s health and disability medical determination organization in a regional or higher-level city determines that the first child has a debilitating disease or handicap and cannot grow into a normal working person but considers the parents medically capable of having another [healthy] child.

(b) There is a remarriage, and the husband or wife has one child while the other party has never had a child.

(c) Both husband and wife have one child each from a previous marriage but, because it was determined at the time of divorce by a court ruling or divorce agreement that minor children would stay with the former spouse, the newly constituted family has no children.

(d) A wife becomes pregnant after the couple has adopted a child as the result of a determination of infertility by a county or higher-level medical or health facility.

(e) Both husband and wife are from “single child” families.

(f) Either the husband or wife has worked continuously for at least five years in an underground mining job or in an undersea job and continues to do the same work.

(g) The household registration of both husband and wife is as village committee residents (hereafter referred to as “rural residents”), and the couple has just one child, who is a girl.

Where an application to give birth to another child on the basis of the preceding paragraphs is approved, this shall be recorded to the next higher family planning administrative department for their records (Population and Family Planning Regulations of the Province of Guangdong, 6th revision by the 35th Session of the Standing Committee of the Ninth People’s Congress of the Province of Guangdong on 25 July 2002, Article 19 (Translation by Public Works and Government Services, Canada) – Attachment 1).

In respect of the late 1990s the conditions for having a second child are set out in Articles 8-10 of the 1986 Guangdong Family Planning Regulations, revised in 1992:

Article 8. The couple including the state cadres, workers and residents in the cities and towns may only give birth one child. Those who tally with one of the following situations and make their own application and are approved by the family planning departments in the counties, cities and districts under the jurisdiction of the municipal government may be arranged to have another child according to the planned population quota and birth space.
a. Those who have the first child suffering from the nongenetic diseases and disabling for the normal labourer, who is identified by the family planning technical group at the county level or above;

b. One side of the remarried couple has only given birth to one child and the other side has not or both sides of the remarried couple who have given birth to one child before remarriage and the child have [sic] been judged to the ex-spouse at divorce according to the law and no child in the remarried family;

c. Those who have been identified sterility [sic] and are pregnant after adopting a child according to the law;

d. The only sons marry with only daughters;

e. Those who have worked in the mine [sic], under the well [sic] or sea for 5 years or above and now still working in these fields.

Article 9. The couples in the rural areas are encouraged [sic] to have one child. Those who apply for having two children must be arranged as a whole by the people’s government in the village and towns according to the planned population quota and birth space. Those who conform to one of the items a. to d. or those who have given birth to a daughter first may be given priority to have the second child.

Article 10. Those who will have the second child must be spaced for 4 years or above after giving birth to the first child (Guangdong Family Planning Regulation, 2nd revision by the 29th Session of the Standing Committee of the 7th Guangdong People’s Congress, Articles 8-10 (Unofficial translation for the RRT by Ms. Penny Kane) – Attachment 17).

For information on “illegal” or “black” children born outside the family planning (one-child) policy see:

- RRT Research & Information 2007, Research Response CHN32065, 6 August, quest. 4/ pp.8-11 – Attachment 27).


Social contribution fees

The 2002 Guangdong Family Planning Regulations outline the social contribution fee payable for out-of-plan children. The regulations state:

Article 55: Where a birth is not in conformity with these Regulations, a social support fee shall be levied in accordance with the following provisions:

(a) For urban residents who have one more child than permitted, a one-time social support fee equal to three to six times the average per capita disposable income of urban residents
in the local county (city, district) for the preceding year shall be imposed on both husband and wife. Where the actual income of the parties in question exceeds the average per capita disposable income of urban residents in the local county (city, region) for the preceding year, a further social support fee shall be levied on the excess portion that is at least equal to but no more than twice the excess amount. For urban residents who have two or more children than permitted, a social support fee shall be levied that is based on the amount levied for one out-of-plan child and multiplied by the total number of out-of-plan children.

(b) **For rural residents** who have one more child than permitted, a one-time social support fee equal to three to six times the average per capita net income in the local township, ethnic township or town in the preceding year shall be imposed on both husband and wife. Where the actual net income of the parties in question in the preceding year exceeds the average per capita net income of the local township, ethnic township or town for the preceding year, an additional social support fee shall be levied on the excess portion that is equal to but no more than twice the excess amount. For rural residents who have two or more children than permitted, a social support fee shall be levied that is based on the amount levied for one out-of-plan child and multiplied by the total number of out-of-plan children.

(c) Where the interval between births is too short, a social support fee shall be imposed that is at least equal to but no more than twice the amount calculated in either (a) or (b) of this article.

(d) In the case of a first birth out of wedlock, a social support fee shall be imposed that is twice the amount calculated according to (a) or (b) of this article. In the case of two or more births out of wedlock, a social support fee between three to six times the amount calculated according to (a) or (b) of this article shall be imposed. Where a birth occurs in a bigamous relationship, a social support fee shall be levied that is six to nine times the amount calculated according to (a) or (b) of this article. Illegal adoptions shall be dealt with according to the provisions of preceding articles (*Population and Family Planning Regulations of the Province of Guangdong*, 6th revision by the 35th Session of the Standing Committee of the Ninth People's Congress of the Province of Guangdong on 25 July 2002, Article 55 (Translation by Public Works and Government Services, Canada) – Attachment 1).

Although DFAT has advised that in cases of severe financial hardship parents may be exempt from paying the social compensation fee, the Guangdong Family Planning Commission has also indicated that it does not waive penalties (DIAC Country Information Service 2003, *Country Information Report No. 07/03 – One Child Policy*, (sourced from DFAT advice of 7 January 2003), 9 January – Attachment 29; Department of Foreign Affairs and Trade 2004, *DFAT Report 330 – RRT Information Request CHN16967*, 15 October – Attachment 30).

5. **Is there any information available about what would happen if this fee is not paid? Is there any evidence that a house would be “pulled down”?**

The Guangdong Family Planning Regulations state that if the social compensation fee is not paid the “family planning administrative department” shall apply to the courts to enforce payment. Although sources indicate that houses have been pulled down for non-payment of the fee in China no information was found in the sources consulted that this has happened in Guangdong. There is 1997 information that houses and property were destroyed in Guangdong as a form of punishment for out-of-plan births.
Non-payment of the social compensation fee

On the inability of a person not paying the social compensation fee, Article 49 of the 2002 Guangdong Family Planning Regulations state that:

Article 49: Where a birth is not in conformity with these Regulations, a social support fee [also known as “social compensation fee”] shall be levied. The family planning administrative department at the level of county or non-districted local city shall request the people’s government of the county, ethnic county or town or neighbourhood office or a farm or forestry centre directly under a country or higher jurisdictional level to make the decision about levying said charge. The specific work shall be carried out by the subordinate family planning operational agency, and the village (residents) committee and pertinent work-units shall assist in the execution of this work.

If the party in question has real difficulty paying the social support fee in one lump sum, an application to pay instalments may be submitted in conformity with the law to the body that decided on levying the fee, but the period during which the instalments may be paid shall not exceed three years.

Where a migrant gives birth in a matter that contravenes these Regulations, the collection of the social support fee shall be done in accordance with national regulations.

Payment to the national treasury of social support fees and late payment fines shall be managed under a two-track revenue and expenditure control system. No entity or individual shall retain, divert, embezzle or pocket said funds (Population and Family Planning Regulations of the Province of Guangdong, 6th revision by the 35th Session of the Standing Committee of the Ninth People’s Congress of the Province of Guangdong on 25 July 2002, Article 49 (Translation by Public Works and Government Services, Canada) – Attachment 1).

Also Article 64 of the 2002 regulations provides:

Article 64: Where a party in question has not paid the full amount of a social support fee by the stipulated deadline, an additional late payment fee, calculated from the date on which the amount is considered to be in arrears, shall be levied in accordance with national regulations pertaining thereto. If the amount continues to be unpaid, the family planning administrative department that made the decision to collect the fee shall apply in a lawful manner to a people’s court to enforce payment (Population and Family Planning Regulations of the Province of Guangdong, 6th revision by the 35th Session of the Standing Committee of the Ninth People’s Congress of the Province of Guangdong on 25 July 2002, Article 64 (Translation by Public Works and Government Services, Canada) – Attachment 1).

Articles 41-42 of the national law on population and birth planning on non-payment of the social compensation fee, as translated by Winckler, states:

ARTICLE 41 Citizens who give birth to a child in violation of Article 18 of this Law should pay a social compensation fee (shehui fuyang fei, literally “social bringing-up fee”).

Those who do not pay the full amount of the social compensation fee within the stipulated time period shall, from the date of default, be levied a late-payment penalty according to relevant State stipulations. [In the case of] those who still do not pay, the birth planning administrative department that decided to levy [the social compensation fee] shall petition the people’s court for enforcement (qiangzhi zhixing, literally “forceful implementation”), according to the law.
ARTICLE 42 Among personnel (renyuan) who pay a social compensation fee in accordance with Article 41 of this Law, those who are State staff (guojia gongzuo renyuan) should also be given administrative punishment (xingcheng chufen) according to the law. Other personnel [who are not State staff] should also [in addition to the social compensation fee] be given disciplinary punishment (jilu chufen) by their own unit or organization (Winckler, Edwin A. 2002, ‘People’s Republic of China law on population and birth planning. (Documents)’, Population and Development Review, 1 September, Articles 41-41 – Attachment 31).

In September 2004 DFAT advised that in Guangdong sanctions relating to family planning can be avoided by payment of a fee to the local authorities, parts of which may be above or below the table. These fees are generally not excessive by middle-class Chinese standards, though they vary from locality to locality (Department of Foreign Affairs and Trade 2004, DFAT Report 317 – RRT Information Request: CHN16905, 2 September – Attachment 32).

In May 2007 the International Herald Tribune reported that in January 2007 government officials and the Communist Party in Beijing issued a joint directive ordering stronger enforcement of the country’s population planning laws. The national directive clearly emphasised the need to rely on positive financial incentives to reward compliance with birth control policies, not coercive measures. The director of China’s national family planning council reportedly suggested that authorities would waive fines for poor citizens (Minzner, Carl 2007, ‘The anger boils over Corruption in China’, International Herald Tribune, 30 May – Attachment 33).

Destruction of houses

Sources indicate that at times homes have been demolished or confiscated in China for non-payment of family planning fines. Specific information on this happening in Guangdong was not found in the sources consulted. There is 1997 information that houses and property were destroyed in Guangdong as a means of punishment for out-of-plan births.

Stratfor’s Global Intelligence Brief states:

Historically, rural unrest over the one-child policy is linked to corrupt government officials who have abused the policy to collect fines and confiscate property. Beijing had to send in police and military units in May to quell riots in Guangxi province sparked by nighttime raids on women allegedly pregnant in violation of the policy, whose property was to be confiscated as penalty. The angry locals had attacked police stations (‘China: The One-Child Policy Dilemma’ 2007, Global Intelligence Brief, Stratfor, 9 July – Attachment 34).

According to the US State Department:

Social compensation fees are set and assessed at the local level. The law requires family planning officials to obtain court approval before taking “forcible” action, such as detaining family members or confiscating and destroying property of families who refuse to pay social compensation fees. However, in practice this requirement was not always followed (US Department of State 2007, ‘Arbitrary Interference with Privacy, Family, Home, or Correspondence’ in Country Reports on Human Rights Practices for 2006 – China, 6 March – Attachment 9).
An International Organization for Migration (IOM) publication notes:

General poverty in Chinese inland communities and the traditional preference for male children exacerbated by the Government’s one-child policy have been described as the main causes behind the rampant bride trafficking and kidnapping of male babies for adoption in China. If a woman already has a child, she is often forced to have an abortion or be sterilized. Couples failing to comply with the one-child policy regularly face demotion or loss of jobs, extreme fines, or loss of benefits or access to social services. At times, even homes and personal property have been demolished or confiscated for unpaid fines (Methodist Resolution Supporting Human Rights in China, 2004). In addition, gender discrimination at work is unofficial yet common, and in some areas domestic violence is culturally accepted. Those young girls trafficked out of southern China are reported to be from an ethnic minority (ILO 2002) (Lee, June J. H. ‘Human Trafficking in East Asia: Current Trends, Data Collection, and Knowledge Gaps’ in Laczko, Frank and Gozdziak, Elzbieta (eds) 2005, Data Research on Human Trafficking: A Global Survey, International Organization for Migration, Geneva, p.178 – Attachment 35).


The Laogai Research Foundation wrote:

Fines and detention centers are not the only means at the disposal of local family planning cadres. Many violators of population-control policy are poor and live in the countryside. They are simply unable to pay the social-maintenance fees, even with livestock or other property. In these and other cases, family planning officials resort to destroying or demolishing a violator’s home. “House smashing” is a common occurrence. Not only does it give cadres an opportunity to punish violators, it is also a highly visible form of punishment. Observing such extreme acts of punishment influences other villagers, a form of “killing the chicken to scare the monkey”.


6. What is the general view (if there is one) by local authorities regarding families with more than one child in Guangdong.

With respect to Guangdong province country information indicates that provincial regulations are strictly enforced, particularly in the cities. Sanctions might be avoided by a payment of a fee to local authorities or for pregnant women to leave their local area to give birth to a child. However, there have been calls to ease the one-child policy in Guangdong. In Guangzhou,
the capital of Guangdong province, family planning provisions were recently relaxed. In China, however, interpretation and application of regulations vary from place to place.

In October 2004 the Guangdong provincial Family Planning Commission advised DFAT:

**Question D**

Guangdong provincial Family Planning Commission has told us that provincial regulations are **strictly enforced**.

If the applicant’s child was recognised as a Chinese national and returned with the mother to Guangzhou the applicant would be required to pay a fee. According to article 55 of the Guangdong Family Planning regulations (available at [www.gdpic.gov.cn](http://www.gdpic.gov.cn)), the fee imposed on a single mother giving birth to a child is two times the local annual disposable income. Article 50 states that **people with “excess births”** shall not be employed by government, state-owned enterprises, state-dominated share holding companies and collectively owned enterprises within five years of the birth and shall not enjoy medical welfare nor shall they receive bonuses or other welfare related to collectively-owned enterprises within seven years of the birth. The reference to “excess births” includes children born outside of marriage.

E. The Guangdong Province family planning regulations do not mention conditions under which the penalty for an out of plan can be waived. The Family Planning Commission has told us it does not waive penalties (Department of Foreign Affairs and Trade 2004, *DFAT Report 330 – RRT Information Request CHN16967*, 15 October – Attachment 30).

The RRT was also advised in 2004 on the enforcement of family planning in Guangdong by an academic at the Australian National University as follows:

1 How strictly is the family planning policy currently enforced in Guangdong province?

**In a large city like Guangzhou** the family planning policy is quite strictly enforced for residents who hold a Guangzhou registration (hukou). However, what is strictly examined by authorities is how many children a woman and her partner have given birth to. In this case, the child is presumably her first and only child, and thus its birth does not violate the urban one-child policy. The woman therefore would not encounter any trouble in this respect.

**In the countryside of Guangdong**, unlike Guangzhou city, women who want an extra child in violation of the family planning policy simply go home to their natal village when they become obviously pregnant, and then return with the new born baby. They and their husbands know in advance how much the fine is, and they have saved up for it. They simply pay the fine and the extra child is then registered locally: this has become almost like a “birth tax”. I know about this personally: families in the countryside near Guangzhou have told me they themselves and many of their neighbours have done this.

It is possible, of course, though not necessarily likely, that an official in the city of Guangzhou might find some minor regulation or other to object to properly registering the child with a Guangzhou hukou once the woman returns. In such circumstances, the purpose in China today is normally to extract some revenue from the woman. If so, she would need to pay a fine (fee) amounting to as much as several hundred Australian dollars to get her child properly registered (Unger, Jonathan 2004, E-mail to RRT Country Research: “Re: Question on treatment of single mothers in Guangzhou”, 21 September – Attachment 37).

In September 2004 DFAT advised that in Guangdong sanctions relating to family planning can be avoided by payment of a fee to the local authorities, parts of which may be above or
below the table. These fees are generally not excessive by middle-class Chinese standards, though they vary from locality to locality (Department of Foreign Affairs and Trade 2004, *DFAT Report 317 – RRT Information Request: CHN16905*, 2 September – Attachment 32).

A May 2007 news article refers to Guangdong on payments made by the wealthy to have more children:

The fines imposed on people who violate the policy vary from place to place, but in wealthy coastal provinces like Guangdong in south China it can reach 200,000 yuan ($25,800) per child. The Chinese press has reported on a Guangdong family which paid 780,000 yuan ($100,000) in order to have several children (Bezlova, Antoaneta 2007, ‘China: One-child policy falters as rich couples opt for fines’, *Inter Press Service*, 9 May – Attachment 38).

A recent July 2007 *South China Morning Post* article reported a call for the relaxation of the one-child policy in Guangdong. The current policy is said to hinder the province’s development (Huifeng, He and Chung-yan, Chow 2007, ‘One-child policy is not one-size-fits-all’, *South China Morning Post*, 15 July – Attachment 39).

In relation to Guangzhou, the capital of Guangdong province, it was reported in July 2007 that the authorities were relaxing family planning provisions for its urban citizens. It was encouraging one-child families to have a second child to deal with economic and social problems associated with the city’s rapidly aging population (‘China: The One-Child Policy Dilemma’ 2007, *Stratfor Global Intelligence Brief*, 9 July – Attachment 34; Caixiong, Zheng 2007, ‘City eases ‘one child’ policy’, *China Daily*, 5 July [http://www.chinadaily.com.cn/china/2007-07/05/content_910262.htm](http://www.chinadaily.com.cn/china/2007-07/05/content_910262.htm) – Accessed 19 July 2007 – Attachment 40).

DFAT, however, in response to a question on family planning regulations, has noted that the interpretation and application of regulations widely varied:

… But, as with any regulations in China, requirements, interpretation and application of regulations vary widely from place to place or even between different officials at the same office …(Department of Foreign Affairs and Trade 2007, *DFAT Report No. 604 – RRT Information Request CHN31325*, 19 February – Attachment 41).

**List of Sources Consulted**

**Internet Sources:**
- Human Rights in China (HRIC) [http://www.hrichina.org/public/index](http://www.hrichina.org/public/index)
- World Health Organisation (WHO) [http://www.who.int/topics/en/](http://www.who.int/topics/en/)

**Databases:**
- FACTIVA (news database)
BACIS (DIAC 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
Dorland’s Illustrated Medical Dictionary 1988, W. B. Saunders, 27th ed., Philadelphia

List of Attachments

1. *Population and Family Planning Regulations of the Province of Guangdong*, 6th revision by the 35th Session of the Standing Committee of the Ninth People’s Congress of the Province of Guangdong on 25 July 2002 (Translation by Public Works and Government Services, Canada).

2. Immigration and Refugee Board of Canada 2002, CHN38921.E – China: The “out-of-plan” birth penalties meted out to residents of Guangdong province generally, or Guangzhou City in particular, arising as a result of the national census of 1-15 November 2000, 22 April. (REFINFO)


8. Immigration and Refugee Board of Canada 2005, CHN43165.E – China: Any reports of forced abortions and forced sterilization within the regions of Guangzhou (Guangdong Province) and Fuzhou (Fujian Province) covered by the urban hukou; any reports of an easing or a tightening of family planning regulations since 2002 (2002-2005), 21 February. (REFINFO)


13. Immigration and Refugee Board of Canada 2005, CHN100627.E – China: Reports of forced abortions or sterilization in the province of Liaoning, including information about the circumstances surrounding any that may have taken place (2003 – 2005), 19 October. (REFINFO)


17. Guangdong Family Planning Regulation, 2nd revision by the 29th Session of the Standing Committee of the 7th Guangdong People’s Congress (Unofficial translation for the RRT by Ms. Penny Kane). (CISNET China CX4354)


24. Greenhalgh, Susan 2007, Email to RRT Research & Information ‘Re: Information Request about a Family Planning Procedure in China (Ref:CHN32206)’, 14 August.


