



# RESEARCH NOTE

Number 41, 6 June 1995  
ISSN 1323-5664

## China's One Child Policy

China's one child policy has emerged as an important issue for Australian refugee policy following the 6 December 1994 determination of Justice Sackville of the Federal Court which upheld a decision (appealed by the Immigration Minister) to grant refugee status to a couple from China on the basis of the policy. Justice Sackville determined that the couple were, for the purposes of

- A refugee is defined in the 1951 UN Convention Relating to the Status of Refugees as a person who:

owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is

unable to avail himself of the protection of that country.

Officials have attributed sharp increases in asylum claims to a 1990 executive order issued by President Bush for 'enhanced consideration' of claims based on the policy, and to favourable judicial decisions.

- Relatively few claims for asylum based on the policy have been lodged in Australia, but such claims have increased. Of the boat containing PRC nationals which arrived following the 6 December decision, 75 per cent indicated their intention to claim refugee status on the basis of their opposition to the one child policy. Five PRC family groups who arrived on an earlier boat codenamed 'Cockatoo' on 22 November have had their appeals for refugee status, on grounds of the policy, upheld.

### China's Population Growth

Year	Millions	Main event
2AD	57	China's first detailed census
1685	100	
1949	540	Communists form People's Republic of China
1953	588	First national census by communists
1957	672	Before the 'Great Leap Forward'
1961	659	After the failure of 'Great Leap Forward' and famine
1964	710	Second national census
1970	830	Family planning campaign begins
1979	975	One child policy introduced
1982	1.015	Third national census
1990	1.133	Fourth national census
1993	1.179	
1995	1.200	China's population tops the 1.2 billion mark

Source: *Geographical* June 1994

### China's Fertility Control Policies

China's population, currently estimated at 1.2 billion and to be still growing at the rate of 21 million a year, is the largest in the world and comprises one fifth of humanity.

Family planning efforts began in China in 1970, when the population reached 830 million. With full use being made of the social and economic control exercised by the Communist party apparatus through rural communes and state-run industries in cities, the average number of children per woman fell from over six in the late 1960s to about three in the late 1970s. The one child policy was introduced in 1979, through the introduction of a propaganda campaign and a system of rewards and penalties to induce couples to delay marriage and to limit their families to one child.

the refugee convention, members of 'a particular social group', which he defined as 'those having one child, who do not accept the limitations placed on them or are susceptible to being coerced or forced into being sterilised'. The Government has since introduced legislation (*Migration Legislation Amendment Bill (No 3/4) 1995*), to preclude China's fertility control policies (but not enforced sterilisation or abortion) from consideration for people claiming to be members of 'a particular social group' as a ground for refugee status. This legislation has been the subject of considerable debate and controversy.

### Issues

- unwilling to avail himself of the protection of that country.
- The United Nations High Commissioner for Refugees has advised that China's one child policy does not constitute 'persecution' for the purposes of the Convention, in that it is not inherently persecutive, and does not target any particular group. Enforced abortion or sterilisation is, however, a serious human rights abuse and could constitute 'persecution'.
- In 1994 over half of the 180 000 asylum claims lodged by nationals of the People's Republic of China in the United States were based on the one child policy. US offi-

Financial penalties (presented as measures to recoup costs to society rather than punishment) have consisted of fines of about ten per cent of family earnings for the first 14 years of the 'illegal' child's life, and denial of free health care and education to the child.

The 1980 Marriage Law stipulates that 'husband and wife are duty bound to practise family planning' and forbids marriage before age 22 for males and 20 for females. The 1982 revised Constitution states that 'the state carries out family planning, and controls the population growth in line with the plans for social and economic development'. The family planning program is officially implemented through education and propaganda, and through a system of centres which provide reproductive health and contraception services.

The Chinese Government in February this year approved a new five year family planning program, which aims to hold the population to 1.23 billion by the end of this year, and to 1.3 billion by the year 2000. It continues to advocate 'one couple, one child' as a major social and economic objective. The policy is apparently effective and generally accepted in urban areas, where the average number of births per woman has been put at about 1.3.<sup>1</sup> However in rural areas where 70 per cent of the population live the one child policy would appear to have been unsuccessful: the current birth rate has been put as high as 2.9.<sup>2</sup> In effect there has been a defacto two child policy in many areas, following evidence of increased female infanticide (and underre-

porting of births) in the 1980s. Rural couples whose first child is a girl, or disabled, or who work in dangerous occupations such as fishing, are permitted another child, but are encouraged to space the births. China's 80 million ethnic minority population, most of whom live in border regions, are exempt.

### **Family Planning or Persecution?**

The Chinese Government has argued that 'energetic' state directed education and family planning efforts are necessary to break down traditional cultural practices of early marriage, early childbirth and the favouring of sons. It has argued also that China has not had the luxury of allowing birth rates to fall with economic growth: one quarter of the annual increase in GNP in recent years has been consumed by newly added population. Chinese family planning authorities have asserted that the one child policy is non-coercive, and that abortion is not advocated as a means of birth control. They have however conceded that 'mistakes' have occurred in implementation by local officials anxious to meet population targets.

There is no consensus on how repressive are attempts to implement China's one child policy today. Journalistic accounts by Western reporters have tended to be sensationalistic and imply that the policy is strictly, universally and brutally enforced. Population and family planning researchers have pointed out that, reports of coercion aside, China's family planning has many elements that would make for an effective program in any country: inexpensive or free birth control, not making illegal any contraceptive technique, and the inculcation of social and personal responsibility. Australian foreign affairs officials have advised that, while less

frequent than in the 1980s, reports of coercion have continued in the 1990s. China is highly decentralised, the standard of officials varies, and legal redress remains inadequate.

According to Chinese family planning officials, the emphasis of the national policy over the past two years has changed from one reliant on penalties and administrative fiat to one based on incentives, education and the 'empowerment' of women. Sanctions may in any event be becoming more difficult to enforce, because of economic development and the breakdown of social controls. China is estimated to have a floating population of about 100 million, who are not covered by family planning programs, but who are expected, because they are mobile and economically driven, to delay marriage and limit family size.

#### **Note**

China's one child policy is discussed more fully in Research Paper No 25, 7 June 1995, *Boat people from China and China's one child policy: the refugee issues*.

**Adrienne Millbank  
Social Policy Group  
Parliamentary Research  
Service**

Phone: 06 277 2479  
Fax: 06 277 2407

*Views expressed in this Research Note are those of the author and do not necessarily reflect those of the Parliamentary Research Service and are not to be attributed to the Department of the Parliamentary Library. Research Notes provide concise analytical briefings on issues of interest to Senators and Members. As such they may not canvass all of the key issues.*

© Commonwealth of Australia

1. The Population Crisis Committee, *China's Family Planning Program: Challenging the Myths*. Washington DC, 1992.
2. Monica Attard & Ali Moore, 'China: Government approves new five year family planning program'. *PM*, ABC Radio National, 14 February 1995.