

May 29, 2002

The Honorable Colin L. Powell  
Secretary of State  
Washington, D.C. 20520

Dear Secretary Powell,

We have just completed an intensive 14 day visit (May 13-26) to the People's Republic of China. Prior to our trip, we met in Washington with *inter alia* members of Congress and/or their staff, Madame Thoraya Obaid, Executive Director of the UNFPA, U.S. Government officials and representatives of the Population Research Institute. During the trip, we talked extensively with Minister Zhang Weiqing, Chairman of the State Family Planning Commission, with UNFPA officials in Beijing, with non-governmental organizations in Beijing, and with a variety of PRC health officials, as well as ordinary Chinese citizens in five of the 32 counties in which the SFPC conducts, with UNFPA support, a special family planning program.

There follow our findings and recommendations:

**First Finding**

We find no evidence that UNFPA has knowingly supported or participated in the management of a program of coercive abortion or involuntary sterilization in the PRC.

**First Recommendation**

We therefore recommend that not more than \$34 million which has already been appropriated be released to UNFPA.

**Second Finding**

We find that notwithstanding some relaxation in the 32 counties in which UNFPA is involved the population programs of the PRC retain coercive elements in law and in practice.

**Second Recommendation**

We therefore recommend that unless and until all forms of coercion in the PRC law and in practice are eliminated, no U.S. Government funds be allocated for population programs in the PRC.

**Third Finding**

We find that with a population of 1.3 billion, PRC leaders view population control as a high priority and remain nervous as they face many imponderables concerning population growth and socioeconomic change. Decisions made now and in the future by the PRC could have unintended consequences. Moreover, PRC population matters affect major U.S. policy concerns and will continue to do so for the foreseeable future.

**Third Recommendation**

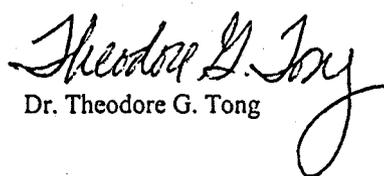
We therefore recommend that appropriate resources be allocated to monitor and evaluate PRC population control programs.

In closing, we wish to express our appreciation to those officials of the State Department, American Embassy Beijing, American Consulate General Shanghai, and American Consulate General Guangzhou who facilitated our efforts and who scrupulously avoided any effort to shape our opinions.

Sincerely,

  
Ambassador (Ret.) William A. Brown

  
Ms. Bonnie L. Glick

  
Dr. Theodore G. Tong



United States Department of State

Washington, D.C. 20520

July 22, 2002

Attached is a summary of the findings and recommendations regarding the question "Does the UNFPA support or participate in the management of a program of coercive abortion or involuntary sterilization in China?"

Senate Leadership and Chairmen/Ranking Members of the Department's Appropriations and Authorizing Committees are receiving under cover of a letter from the Secretary of State a complete summary and discussion of our findings/recommendations on this issue.

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Regarding the question: "Does UNFPA support or participate in the management of a program of coercive abortion or involuntary sterilization?"

### First Finding Discussion

"We find no evidence that UNFPA has knowingly supported or participated in the management of a program of coercive abortion or involuntary sterilization in the PRC."

During our meeting in Washington with Madame Thoraya Ahmed Obaid, Executive Director of the UNFPA (and concurrently UN Under Secretary General), she emphasized that UNFPA firmly opposes coercive abortion and involuntary sterilization in the PRC or anywhere else. Moreover, she stated that should such a case be alleged in any of the 32 PRC counties in which UNFPA has a joint family planning program, the case would be immediately investigated and if such allegation proved true, UNFPA would cease its family planning program in the PRC.

During our extended meeting in Beijing with Minister Zhang Weiqing, Chairman of the State Family Planning Commission<sup>1</sup> (Exhibit 2), he asserted that although there had been cases of coercion before the implementation of the joint program with UNFPA in 32 counties, no such cases had occurred in those counties since the program began. In that connection he invited us (as well as Congressman Christopher Smith, Population Research Institute (PRI) President Steven Mosher and anyone else from the US) to visit the 32 counties, go anywhere, meet anyone we wanted, and see for ourselves that there is no coercive abortion or involuntary sterilization.

During our meeting with UNFPA Country Office Representative Siri Tellier and her associates she emphasized that UNFPA does its best -- with limited resources -- to monitor its joint program in the 32 counties and thus far has found no coercive abortion or involuntary sterilization since the program was established in 1998. In her Powerpoint presentation there were several slides (Exhibit 3) highlighting the assertions that since 1985, UNFPA worldwide has not promoted abortion, that the policy is "not to provide assistance for abortion, abortion services, or abortion-related equipment and supplies as a method of family planning." She noted that regarding coercive abortions or sterilizations, "Our standard is, that any such coercion should be extremely rare, that SFPC should clearly and widely disseminate its opposition to coercion and vigilantly monitor, and that transgressions by its staff, if any, be punished, preferably visibly so. If we found suggestions that this standard was not followed, we would investigate and, if credible, we would withdraw assistance immediately."

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<sup>1</sup> *Jihua Shengyu Weiyuanhui*. Terminological note: The term State Family Planning Commission (SFPC) is the official English language translation used by that institution, by the *Xinhua* News Agency, and by foreign agencies including those of the US Government and the United Nations. However, in Chinese, the word family is not included in this term and the term does *not* connote "family planning" in the Western sense of voluntary planning by family members. Rather, the connotation is one of planning mandated by the State. We would therefore prefer a translation rendered "State Planned-Birth Commission (SP-BC)" or "State Birth Planning Commission (SBPC)." However, we have used the accepted translation for this commission throughout this report.

In support of these assertions Ms. Tellier also provided us copies in English and (all but one) Chinese of the following documents:

- “The Seven Prohibitions,” a notice issued in 1995 by the SFPC as it began negotiations with the UNFPA on a joint program in 32 counties. This document, which we subsequently saw posted in view in several county SFPC field offices, and substations, states among other things that it is forbidden “to prevent legal births on the grounds of fulfilling the population plan,” or to “organize pregnancy tests on unmarried young women.” (Exhibit 4)
- The “Project Document Between the Government of the People’s Republic of China and the United Nations Population Fund” signed on September 11, 1998 after three years of difficult negotiations. This document sets forth joint reproductive health/family planning and other projects in 32 counties during the period mid 1998-2000 and has been since extended. Paragraph 9 reads, “Given the ICPD’s emphasis [i.e., the emphasis of the International Conference on Population and Development’s 1994 Cairo Conference] on responsible voluntary decisions about childbearing and methods of family planning choice, UNFPA will work with the Government to ensure that the widest range of reproductive health and family planning services are provided in the project counties **without any form of coercion**. Similarly, UNFPA and the Government will work together to help those counties adopt an integrated approach; one that will combine the promotion of family planning with economic development, universal education, improvement of women’s status and provision of quality family planning and reproductive health services, and will ensure that implementation of the family planning programme is **not in the form of imposing birth quotas and acceptor targets on family planning providers.**[emphasis added]” (Exhibit 5)
- The Reproductive Health /Family Planning Project CPR/98/PO1 addressed to “people of reproductive age” in the 32 counties and bearing the logos of the SFPC and UNFPA which states, *inter alia* that the SFPC and UNFPA will work together to ensure that the joint program proceed “without any form of coercion” and “remove the birth quotas and targets.” (Exhibit 6) We saw the Chinese version of this document in many SFPC stations and sub-stations. We also saw later adaptations of the expression “no birth quotas, no targets” in posters in family planning stations and substations.
- A letter (English copy only) dated February 1, 2001 from UNFPA Executive Director Thoraya Ahmed Obaid to Minister Zhang Weiqing expressing “reservations on aspects” of The Population and Family Planning Law adopted on December 29, 2001 (which goes into effect September 1, 2002 ) “that contradict ICPD principles and recommendations.” The UNFPA comments attached to Madame Obaid’s letter state, “In particular, articles 18, 41 and 42 pertaining to advocating one child per couple and social compensation fee are contrary to the principles of free choice in the matter of family size as expressed in the ICPD’s Programme of Action. On these matters, the UNFPA expresses its concerns and intends to seek further clarifications from Chinese authorities. It should be noted that the Fund does not support any measures, including national legislation, which are not in line with the principles of the ICPD. Paragraph 7.12 states, in part:

'The principle of informed free choice is essential to the long-term success of family-planning programmes. Any form of coercion has no part to play.' As had been the practice, the UNFPA will bring its concerns to the attention of the Chinese authorities any further variances with the ICPD principles that are observed." (Exhibit 7)

During our visits to five of the 32 counties we asked many SFPC officials, doctors of the local hospitals under the Ministry of Health, county administrative officials, and ordinary Chinese in spontaneous/no-notice encounters on the street, in a school, or in factories whether they were aware of any recent coercive abortions or involuntary sterilizations. All answered in the negative although some admitted that prior to the joint SFPC/UNFPA program there had been such cases (Exhibits 8, 9, 10).

In sum, based on what we heard, saw, and read, we find no evidence that UNFPA has knowingly supported or participated in the management of a program of coercive abortion or involuntary sterilization in the PRC. Indeed, UNFPA has registered its strong opposition to such practices. However, from our perspective UNFPA's Beijing office lacks adequate resources to monitor and evaluate this important issue satisfactorily.

## Second Finding: Coercive Elements in Practice and Law

“We find that notwithstanding some relaxation in the 32 counties in which UNFPA is involved the population control programs of the PRC retain coercive elements in law and practice.”

### Discussion:

A linguistic/terminological note: In all the PRC Chinese versions of the documents exchanged with the UNFPA the term “coercion” is rendered *qiangpo* (强迫). While we yield to linguistic experts, our sense is that *qiangpo* carries a distinct connotation of applying physical force to either persons or property, whereas in American usage coercion connotes applying physical and/or mental pressure.<sup>1</sup> This distinction, if real, is important, especially when discussing the “social compensation fees” (sometimes translated as “fees for society to bring up children”), which the PRC levies on those who have “out of plan” births, e.g. more than two children. The PRC authorities argue that these fees are a “disincentive” or a “necessary form of economic restraint” rather than a form of coercion, whereas our team looks upon them as a coercive element in a practice that will shortly have a new legal basis when the Law on Population and Birth Planning goes into effect on September 1, 2002. (Exhibit 11)

Even though *qiangpo* measures were nominally banned as of 1984, there is ample evidence that coercive practices, including coerced abortion and involuntary sterilization, were widespread in PRC population control programs as of 1995, when the PRC began to negotiate a joint program with the UNFPA in 32 counties. Chinese officials admitted to us that such practices did occur in the past, but stressed that they are now moving from an “administrative” approach to one which is “client-oriented” and emphasizes “informed choice” on contraception. Indeed, the SFPC’s issuance of the “Seven Prohibitions” in 1995 demonstrates that such practices were still in use then.

We were told that SFPC-UNFPA negotiations over the joint program took three years, of which three months were spent on three paragraphs that center on birth control quotas and targets, as well as coercive issues. Nevertheless, ample evidence exists of heavy-handed abusive and coercive practices outside the 32 counties since 1995:

- The June 10, 1998 testimony before the House Subcommittee on International Operations and Human Rights within the House International Relations Committee of former SFPC official in Fujian Province Gao Xiaoduan and the documents/forms she submitted, including a December 20, 1997 Notice of Non-Permission to Bear [More] Children, which was issued to a couple that already had two children, with the warning that failure to comply would be handled “severely” (a code expression for coercive abortion/involuntary sterilization). (Exhibit 12)

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<sup>1</sup> Note: “It may be actual, direct, or positive, as where physical force is used to compel act against one’s will, or implied, legal, or constructive, as where one party is constrained by subjugation to other to do what his free will would refuse.” Black’s Law Dictionary, Sixth Edition, 1990, p. 258.

- A 1999 Xinhua Agency piece on “Basic Situation on Resolution of Problems Occurring in Family Planning Work in Linguan County in Anhui Province and at Pingyu County in Henan Province”, as well as a 1999 piece “Basic Situation of Resolving Cases Exposed by Tellers and Calls from the Masses by SFPC in 1999” (Exhibit 13) reporting demotion/dismissal and expulsion from the Communist Party of officials who violated birth planning laws and regulations in 1998 and 1999.
- The March 2000 “Decision of the Communist Party of China Central Committee and the State Council on Strengthening Population and Family Planning Work and Stabilizing a Low Birthrate”, Text of the CPCC, State Council Decision on Family Planning, Xinhua (Beijing 20000507000012, as translated for FBIS) (See Appendix Two, March 2000, “Decision” of Perspective Series Chinese State Birth Planning in the 1990s and Beyond, Susan Greenhalgh, Edwin Winckler, INS Resource Information Center, Exhibit 14). Paragraph 9 of Section III states in part, “In the current stage, fees for society to bring up children should be collected from families that have violated family planning policies, and this is a kind of necessary economic restraint on them. The rate of such fees should be fixed in a unified manner by various provinces, regions, and municipalities. The fees for society to bring up children collected should be handed over to the financial departments.”
- The continued emergence of asylum seekers, especially from Fujian Province, appearing before the Immigration and Naturalization Service, many of whom have been granted asylum on the grounds of coercion or fear of coercion should they be returned to the PRC.
- Two consular cases reported in 2001 where under close questioning SFPC officials applying for U.S. visas freely admitted having engaged in coercive abortions (in counties outside the 32 counties of the SFPC-UNFPA joint program).
- The passage on December 29, 2001, of the PRC State Law on Population and Birth Planning, which goes into effect on September 1, 2002. (Exhibit 11, above)

Article 18 of this law states: The State shall further stabilize the current childbirth policies urging citizens to get married at a later date and upholding a single-child policy for married couples. Nevertheless, husbands and wives may apply for giving birth to a second child, provided that they are qualified to do so, as determined by the law, decrees, and specific rules in this regard, including rules laid down by a relevant provincial, autonomous region, or municipal people’s congress or its standing committee. People of ethnic minorities shall also undergo family planning, in accordance with specific rules laid down by a relevant provincial, autonomous region, or municipal people’s congress, or its standing committee.

Article 41 states: Citizens who give birth to a child in violation of Article 18 of this law may be ordered to pay a premium to fund set up for bringing up children in society. Those who fail to pay such a premium in full amount, or before a deadline, may also be ordered to pay a surcharge dating from the day the deadline expires, as

provided for in the state regulations. Those who refuse to pay such a premium, or a surcharge, may be ordered to pay both by a people's court after an administrative department in charge of family planning applies to the court for such action.

Article 42 states: A state functionary ordered to pay, in accordance with Article 41 of this law, a premium to a fund set up for bringing up children in society, may also be punished administratively, as provided for in the law, while other personnel ordered to pay such a premium may be punished by their own unit or organization.

As elsewhere noted in her February 2002 letter to SFPC Chairman Zhang Weiqing, UNFPA Executive Director Thoraya Obaid expresses concern about these articles which stipulate the "one child per couple" and "social compensation fees" and are therefore "contrary to the principles of free choice in the matter of family size as expressed in the ICPD Programme of Action."

During our meetings with local SFPC, Ministry of Health officials and magistrates, while admitting that coercive practices had taken place in the past, they denied that coercive abortions, involuntary sterilization, or indeed any other coercive practices were taking place in their jurisdictions. As previously noted, they denied that the social compensation fees (or "society raising children fees") were coercive or that they were a significant source of revenue for the counties. Moreover, the deputy county magistrates asserted that although these fees are set by the province or municipality, they had the leeway to lower, stretch out, or even waive the fees for couples who were unable to pay them. The fact remains, however, that on the books these fees for the first "out of plan" child are often set at two to three times the couple's annual salary for the previous year, a level which for many must be so punitive as to be, in our view, coercive. Moreover, when we asked whether any couples had taken such cases to the local courts, the answer was always negative; rather, the case was reported to have been resolved administratively, which left us with a sense of opacity rather than transparency.

It is noteworthy that while the propaganda and educational posters and notices in the local SFPC clinics stress "informed choice" for contraceptive methods and the absence of birth control targets, quotas, or *qiangpo*, some of the older, sterner propaganda slogans can still be seen outside the SFPC premises on nearby walls. These slogans, many now faded but still readable, call for "resolutely" implementing population control, "sternly" implementing the one-child policy, and "severely" preventing out-of-plan births. As we drove through towns, we saw numerous instances of these slogans, although faded, still present on town walls.

### Third Finding: Chinese Decisions on Population Control, Now and in the Future

"We find that with a population of 1.3 billion, PRC leaders view population control as a high priority and remain nervous as they face many imponderables concerning population growth and socio-economic change. Decisions made now and in the future by the PRC could have unintended consequences. Moreover, PRC population matters affect major U.S. policy concerns and will continue to do so for the foreseeable future."

#### Discussion:

With regard to the imponderables, there are numerous tracks to consider.

- Economic Growth: Can China sustain its economic growth at a 7% economic growth rate? While we are not economists, it is well and widely known that economies go through cycles. China will certainly, at some point in time, go through a down-cycle. What will happen both to government control and its ability to feed its population are unknown. China might easily see an economic downturn. Our travels in rural China suggest that entry into WTO may have adverse effects on the small farmer. China's economic boom was due in large part to Deng Xiaoping's land reform. Small farm economies, however, have begun to stagnate and with an upsurge in cheap farm imports due to WTO accession, those economies may suffer with repercussions felt in the cities.
- Fertility Rate: Can China sustain its total fertility rate at 1.8 children/woman or lower? What if Chinese census data are incorrect? What if the population of China is significantly greater than 1.3 billion? Some of the research elite with whom we met voiced concerns about the validity of the census, particularly if there has been a significant undercount of the "floating" population.

Admittedly, Chinese propaganda campaigns have been very powerful and China's economic transformation has had a deep impact on the attitudes of many young women. Indeed, many of the young women we interviewed in five counties stated that they would be satisfied to have only one child. Nevertheless, in our view, the overall PRC state birth planning policy contains many elements which are coercive (and which may have a disproportionately negative affect on rural families which traditionally feel a need for multiple children, particularly sons, to work their farmland). Moreover, as of September 1, 2002, those coercive elements will have an additional legal foundation based on a national law.

- HIV/AIDS: The PRC is poorly prepared to cope with HIV/AIDS. Although many officials deny the existence of HIV/AIDS in their jurisdictions, the reality of the number of Chinese citizens carrying the disease has potentially grave consequences for the world community. In each county we visited, health officials denied the existence of even one case of HIV/AIDS in their counties. "Perhaps elsewhere in China, but not here," was a chorus with which we became familiar. This denial will hurt China in the long-run, and it should do a better job of monitoring and reporting the prevalence of HIV/AIDS. It is in the US interest that China develop an effective HIV/AIDS program to address this matter with utmost urgency.
- Eugenics: There is a constant echo of improving the "quality" of the population and improving the "quality" of births, and this partially explains the prevalence of abortion on demand. Healthcare providers in several substations told us that if women are sick and taking cold medicine (specifically something like Contac), they can come to a health station and request an abortion. We were told that SFPC clinics screen for five health conditions which pose a teratogen

risk or threat to the fetus: Herpes Simplex, Toxoplasmosis, Cytomegalovirus, another kind of Herpes, and German Measles (Rubella). Chinese officials told us that a "quality" birth is a mistranslation of the essence of the policy. They explain that it refers to the quality of life for these children – ideally, parents should have fewer children, later in life, when they have more resources to spend on raising these children. The children, therefore, have better access to education, healthcare, resources, etc., and they stand a better chance of having a high "quality" of life. That said, the issue of genetic testing remains a troubling one. Before obtaining permission to marry, couples are screened genetically to determine whether they are at risk to have a deformed child. This screening is per the Law on Maternal and Infant Healthcare circa June 1, 1995 (Exhibit 15) Permission to marry can be denied, at least temporarily, until said conditions are remedied.

- Social Security/Aging Population: In China there is an absence of an adequate social security system. The chorus we heard from some rural women was that they do not need to have more than one child because they are not concerned about who will take care of them when they retire. The answer, for them, was that the State will provide. There are nursing homes that will adequately cover their needs, therefore, they do not need to have multiple children to care for them in their old age. However, a different chorus echoed by some government officials and government propaganda, particularly in large cities like Shanghai, is that there may not be sufficient resources to care for the aged – there is actually an effort underway under some circumstances to encourage couples to have more than one child in order to care for aging parents. As a sign of one of the unpredictable consequences, the mood in Shanghai is one in which, given the prosperity of the city, people do not want to have multiple births – many are hesitant to have any children at all. The fertility rate in Shanghai is 0.7 – well below the national average. Who will care for the elderly in Shanghai in 20-30 years? (Current population of Shanghai Municipality is approximately 17 million, including 3 million migrants.)

The unpredictability of the future in China is cause of great concern and should weigh heavily on the minds of US policymakers. We saw the result of China's initiation of the one-child policy which has led to the unintended consequence of unwanted baby girls. The result is a demographic problem of huge proportions as seen in the country's gender ratio showing 116 boy babies registered for every 100 girl babies. We saw happy American families formed in the US Consulate General in Guangzhou – it is there that adoptive parents receive travel papers for their new baby daughters to the tune of 5000 American adoptions each year.

### **Third Recommendation**

We therefore recommend that appropriate resources be allocated to monitor and evaluate PRC population control programs. If this is important to US policy, the US government should be prepared to provide the resources. A possibility is to use Chinese language-trained officers from the Embassy and Consulates General for monitoring population control throughout China. UNFPA is stretched to its extremes and is unable to monitor even its own 32 program counties effectively. China's control of its own population ranks high on the PRC's list of issues of national security concern. China's populating control programs, therefore, should be high on the US list of national security concerns.