

Immigration Court: BIA**Case:** *Matter of Chang*, 20 I&N Dec. 38 (BIA 1989)**Date:** May 12, 1989**Adjudicated by:** BIA**Tags:** Asylum, persecution, political opinion, China, one-child policy,**Question Presented:** Does one-child policy and required sterilization constitute persecution on account of political opinion?**Holdings:** “We do not find that the ‘one couple, one child’ policy of the Chinese Government is on its face persecutive.”**Rationale:** “For China to fail to take steps to prevent births might well mean that many millions of people would be condemned to, at best, the most marginal existence.” (43f.)

- This claim would only work if the policy were targeting certain religious or ethnic groups, or that it was being used to punish people for their political opinions.

Facts: Citizen of China who applied for asylum because he was anti-Communist. Made the case that he was persecuted because he and his wife were ordered to be sterilized so they wouldn't have more kids (they had two). Argues that he has a reasonable fear of persecution as a member of a PSG – persons who actually oppose the gov't policy of one child per family. Also, eligible for withholding of deportation because likely to be sterilized if he returns.**History of the Case:**

- **IJ (1986):** Entered without inspection and declared deportable.
- **BIA (1989):** Appeal dismissed without oral argument.

Quotes:

- “This does not mean that all who show that they opposed the policy, but were subjected to it anyway, have demonstrated that they are being ‘punished’ for their opinions. Rather, there must be evidence that the governmental action arises for a reason other than general population control (e.g., evidence of disparate, more severe treatment for those who publicly oppose the policy).” (44f.)
- “His testimony was simply not sufficiently detailed to provide a plausible and coherent account of the basis of his asylum claim and was contradicted by other information in the record.” (45)

- “If a law or policy is not inherently persecutive (as would be, for example, a law enacted to punish individuals because of their religious beliefs), one cannot demonstrate that it is a persecutive measure simply with evidence that it is applied to all persons, including those who do not agree with it.” (45)
- “The resolution of the constitutional issues that could arise if the populations underlying the implementation of the ‘one couple, one child’ policy in China were to occur in the United States is a matter of speculation that it is hoped this country need never address. However, the fact that a citizen of another country may not enjoy the same constitutional protections as a citizen of the United States does not mean that he is therefore persecuted on account of one of the five grounds enumerated...” (46)