The Right to Leave and Return and Chinese Migration Law

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Certificate of Authorship/Originality

I certify that the work in this thesis has not previously been submitted for a degree nor has it been submitted as part of requirements for a degree except as fully acknowledged within the text.

I also certify that the thesis has been written by me. Any help that I have received in my research work and the preparation of the thesis itself has been acknowledged. In addition, I certify that all information sources and literature used are indicated in the thesis.

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84. Detailed Rules for the Implementation of Provisional Regulations of Quality Guarantee Deposit for Travel Agencies 1995 (PRC) (Lvxingshe Zhiliang Baozhengjin Zanxing Guiding Shishi Xize), promulgated by China National Tourism Administration on 1 January 1995

85. Detailed Rules for the Implementation of Rules on the Control of Intermediary Agencies for Self-funded Overseas Study (for Trial Implementation) 1999 (PRC) (Zifei Chuguo Liuxue Zhongji Fuwu Guanli Guiding Shishi Xize (Shixing)), promulgated by the Ministry of Education, the Ministry of Public Security and State Administration of Industry and Commerce on 24 August 1999

86. Detailed Rules for the Implementation of the Law on the Control of Entry and Exit of Aliens 1986 (PRC) (Waiguoren Rujing Chujing Guanlifa Shishi Xize), made pursuant to the Law on the Control of Exit and Entry of Aliens 1985 (PRC), promulgated by the Ministry of Public Security and the Ministry of Foreign Affairs, and approved by the State Council on 27 December 1994


89. Detailed Rules for the Implementation of the Laws on the Administration of Tax Collection 1993 (PRC) (Suishou Zhengguan Fa Shishi Xize), promulgated by the State Council on 4 August 1993

91. **Detailed Rules of the Implementation of Regulations on the Administration of Travel Agencies 2003 (PRC)** (Lvxingshe Guanli Tiaoli Shishi Xize), promulgated by China National Tourism Administration on 10 June 2003


94. **Directive of the State Council on Establishing Regular Household Registration System 1955** (Guowuyuan Guanyu Jingchang Hukou Dengji Zhidu De Zhishi), promulgated by the State Council of the PRC on 22 June 1955


96. **Explanation of Some Matters on the Implementation of Chapter Six of Measures on the Control over Chinese Citizens Travelling to or from the Region of Taiwan 1992 (PRC)** (Guanyu Zhixing Zhongguo Gongmin Wanglai Taiwan Diqu Guanli Banfa Ruogan Wenti De Tongzhi), promulgated by the Ministry of Public Security on 20 June 1992

97. **Explanation of Some Matters on Implementation of Measures on the Control over Chinese Citizens Travelling to or from the Region of Taiwan 1992 (PRC)** (Guanyu Zhixing Zhongguo Gongmin Wanglai Taiwan Diqu Guanli Banfa Ruogan Wenti De Tongzhi), promulgated by the Ministry of Public Security on 9 May 1992

98. **Explanation of Some Matters on Implementation of Provisional Measures on the Control over Chinese Citizens Travelling for Private Affairs to or from the Regions of Hong Kong or Macao 1986 (PRC)** (Guanyu Zhixing Zhongguo Gongmin Wanglai Gangao Diqu Zanxing Guanli Banfa Ruogan Wenti De Shuoming), promulgated by the Ministry of Public Security on 13 February 1995


100. **Explanation of the Law on Administrative License (Draft) 2003 (PRC)** (Guanyu Xingzheng Xukefa (Caoan) De Shuoming), promulgated by the Standing Committee of the National People’s Congress on 23 August 2003

102. General Principles of the Civil Law 1986 (PRC) (Minfa Tongze), promulgated by the National People’s Congress on 12 April 1986 and effective on 1 January 1987

103. Implementation Opinion of Shanghai Municipality on Provisional Regulations of the Establishment and Administration of Sino-Foreign Equity or Cooperative Joint Venture Employment Agencies 2002 (Shanghai) (Shanghaishi Guanyu Jianli He Guanli Zhongwai Hezi Hezuo Zhongjie Jigou Guanli Zanxing Guiding De Shishi Yijian), promulgated pursuant to Provisional Regulations of the Establishment and Administration of Sino-Foreign Equity or Cooperative Joint Venture Employment Agencies 2002 (PRC) on 23 April 2002


105. Instruction to Application for the License for a Overseas Employment Intermediary Agencies 2003 (Beijing) (Beijingshi Guanyu Shenqing Jingwai Jiuye Zhongjie Jigou Xukezheng De Shuoming), issued by Beijing Municipality Labour and Social Security Bureau in 2003

106. Interpretation by the Standing Committee of the National People’s Congress Regarding Clause 4 Article 22 and Category (3) of Clause 2 Article 24 of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China 1999 (PRC) (Quanguo Renda Changweihui Guanyu Xianggang Tebie Xingzheng Qu Jiben Fa Di 22 Tiao Di 2 Kuan Di 3 Xiang De Jieshi), promulgated by the Standing Committee of the National People’s Congress on 26 June 1999

107. Law of Administration Penalty 1996 (PRC) (Xingzheng Chufa Fa), made pursuant to the Constitution of the PRC 1993, promulgated by the Standing Committee of the National People’s Congress

108. Law of Civil Procedure 1991 (PRC) (Minshi Shusong Fa), promulgated by the National People’s Congress on 9 April 1991

109. Law of Criminal (Amendment) 1997 (PRC) (Xing Fa (Xiuding)), promulgated by the National People’s Congress on 14 March 1997

110. Law of Criminal Procedure (Amendment) 1996 (PRC) (Xingshi Shusong Fa (Xiuding)), promulgated by the National People’s Congress in accordance with the Law of Criminal Procedure 1979 on 17 March 1996

111. Law of National Security 1993 (PRC) (Guojia Anquan Fa), promulgated by the Standing Committee of the National People’s Congress on 22 February 1993

112. Law of Nationality 1980 (PRC) promulgated by the National People’s Congress on 10 September 1980

113. Law of the Legislation 2000 (PRC) (Lifa Fa), promulgated by the National People’s Congress on 15 March 2000 and effective on 1 July 2000

114. Law of the Organ of the State Council 1982 (PRC) (Guowuyuan Zuzhi Fa), promulgated by National People’s Congress on 10 December 1982

115. Law on Administrative License 2003 (PRC) (Xingzheng Xuke Fa), promulgated by the Standing Committee of the National People’s Congress on 27 August 2003 and effective on 1 July 2004

116. Law on Administrative Procedure 1989 (PRC) (Xingzheng Shusong Fa), promulgated by the Standing Committee of the National People’s Congress on 4 April 1989 and effective on 1 October 1990

117. Law on Administrative Review 1999 (PRC) (Xingzheng Fuyi Fa), promulgated by the Standing Committee of the National People’s Congress on 29 April 1999 and effective on 1 October 1999
118. Law on Administrative Supervision 1997 (PRC) (*Xingzheng Jiancha Fa*), promulgated by the Standing Committee of the National People’s Congress on 9 May 1997

119. Law on Protection of the Rights and Interests of Returned Overseas Chinese and Family Members of Overseas Chinese 1990 (PRC) (*Guiqiao Qiaojuan Quanyi Baohu Fa*), promulgated by the Standing Committee of the National People’s Congress on 7 September 1990


121. Law on State Compensation 1994 (PRC) (*Guojia Peichang Fa*), promulgated by the Standing Committee of the National People’s Congress on 12 May 1994 and effective on 1 January 1995

122. Law on the Administration of Tax Collection (Amendment) 2001 (PRC) (*Suishou Zhengguan Fa (Xiuding)*), promulgated by the Standing Committee of National People’s Congress on 28 April 2001 pursuant to the Law on the Administration of Tax Collection 1992 (PRC)

123. Law on the Control of the Entry and Exit of Aliens 1985 (PRC) (*Waiguoren Rujing Chujing Guanli Fa*), promulgated by the Standing Committee of National People’s Congress on 22 November 1985 and effective on 1 February 1986

124. Law on the Control of Exit and Entry of Citizens 1985 (PRC) (*Gongmin Chujing Rujing Guanli Fa*), promulgated by the Standing Committee of National People’s Congress on 22 November 1985 and effective on 1 February 1986


126. Measures for the Administration on Exit and Entry Agency Service for Private Affairs (for Trial Implementation) 2001 (PRC) (*Yinsi Churujing Zhongjie Huodong Gunali Banfa Ruogan Guiding (Shixing)*), promulgated by the Ministry of Public Security and the State Administration of Industry and Commerce


129. Measures for the Control of Intermediary Agencies for Self-funded Overseas Study (for Trial Implementation) 1999 (Beijing) (*Beijingshi Zifei Chuguo Lixue Zhongjie Fuwu Guanli Banfa (Shixing)*), promulgated by Beijing Municipality Committee of Education, Beijing Municipality Public Security Bureau and Beijing Municipality Administration of Industry and Commerce on 2 November 1999

130. Measures for the Implementation on Examination and Approval of Exit Abroad (Including Hong Kong or Macao) and Invitation Aliens to China of Employees of National Pilot Enterprises Group (for Trial Implementation Implementation) 1992 (PRC) (*Guangyu Guojia Shidian Qiye Jituan Renyuan Chuguo (Han Gangao) He Yaoqing Laihua Shixiang Shenpi De Shishi Banfa (Shixing)*), promulgated by the State Council Foreign Affairs Office, State Planning Committee, State Commission for Restructuring the Economy System, State Council Production Office on 31 March 1992

131. Measures for the Implementation on Examination and Approval of Sending Employees to Temporarily Exiting Abroad (Including Hong Kong or Macao) and Inviting Aliens to China by Industry
Enterprises of the Ownership by the Whole People (For Trial Implementation) 1993 (PRC) (Quannin Suoyouzhi Gongye Qiye Panqian Linshi Chuguo (jing) Renyuan He Yaoqing Waiguo Jingmao Renyuan Laihua Shenpi De Shishi Banfa (Shixing)), promulgated by State Council Foreign Affairs Office, State Council Hong Kong or Macao Affairs Office, State Commission of Economy and Trade and State Commission for Restructuring the Economy System on 29 June 1993


133. Measures of Administration on Citizens Tours Abroad 2002 (PRC) (Zhongguo Gongmin Chuguo Lvyou Guanli Banfa), promulgated by the State Council


135. Measures of Examination and Approval of Intermediary Agencies of Introducing Foreign Professional Talents to Work in China 1996 (PRC) (Waiguo Zhuanye Rencai Laihua Gongzuo Zhongjie Jigou Shenpi Banfa), promulgated by the State Administration of Foreign Experts Affairs on 30 May 1996

136. Measures of Examination and Approval of Sending Individuals to be Employed in Hong Kong and Macao for a Long Term 1991 (PRC) (Guanyu Paiwang Gangao Diqu Chuzheng Zhongguo Renyuan De Shenpi Baifa), promulgated by the State Council Hong Kong and Macao Office on 10 August 1991

137. Measures of Examination and Approval of Traveling to Hong Kong or Macao for Permanent Residence of Inland Residents 2004 (PRC) (2004 Nian Neidi Jumin Fu Gangao Diqiu Dingju Shenpi Banfa), promulgated by the Ministry of Public Security in December 2003


142. Measures on Administration of Passport and Other Travel Abroad Documents of Officials Employed by the CPC, governments, Courts, Procuratorial Courts, Justice Departments and Public Security Departments 2003 (PRC) (Dangzheng Sifa Gongan Anquan Ganbu Huzhao Ji Qita Chuguo Zhongjian Guanli Banfa), promulgated by the Central Committee of Communist Party of China in August 2003


144. Measures on Procedures for Contract Workers Sent Abroad Leaving the Country (Amendment) 2002 (PRC) (Waipai Laowu Renyuan Chengcu Banfa), amended pursuant to Provisional Measures on
Procedures for Contract Workers Sent Abroad Leaving the Country 1996 (PRC), promulgated by the Ministry of Foreign Trade and Economy Cooperation on 1 April 2002
146.Measures on the Administration of Chinese Citizens’ Tours Abroad at Their Own Expense (Amendment) 2002 (PRC) (Zhongguo Gongmin Zifei Chuguo Lvyou Guanli Banfa), promulgated by the State Council on 1 July 2002
147.Measures on the Administration of Exit and Entry Intermediary Agencies for Private Affairs 2001 (PRC) (Yinsi Churujing Zhongjie Huodong Guanli Banfa Ruogan Guiding), jointly promulgated by the Ministry of Public Security and State Administration of Industry and Commerce on 17 July 2001 and effective 17 July 2002
152.Operational Norms on the Control of Examination and Approval of Traveling to Hong Kong or Macao for Permanent Residence of Inland Residents 1997 (PRC) (Neidi Gongmin Fu Gangao Diqu Dingju Shenpi Guanli Gongzuo Guifan), promulgated by the Ministry of Public Security in May 1997
153.Opinions for Encouraging Enterprises to Develop Business Overseas 1999 (PRC) (Guli Qiye Fazhan Haiwai Yewu De Jianyi), promulgated by the General Office of the State Council
154.Opinions of the State Council Overseas Chinese Affairs Office, Exit and Entry Administration under the Ministry of Public Security and Department of Consular Affairs under the Ministry of Foreign Affairs on Returning to China for Permanent Residence of Overseas Chinese 1991 (PRC) (Guowuyuan Quo ban Gongan Luiju Waijiaobu Lingshi Guanyu Guowai Zhongguo Gongmin Shenqing Huiguodui De Yijian), jointly promulgated by State Council Overseas Chinese Affairs Office, the Bureau of Exit and Entry Administration under the Ministry of Public Security and Department of Consular Affairs under the Ministry of Foreign Affairs on 27 February 1991
155.Opinions on Well Handling with the Work of Taiwan Compatriots Traveling to Motherland to Visit the Relatives 1987 (PRC) (Guanyu Zuohao Tai bao Lai Zuguo Dalu Tanqin Gongzuo De Yijian), promulgated by the Leading Panel of Taiwan Affairs under the Central Committee of Communist Party of China in 1987, Zhongbanfa [1987] 14
157. Proclamation of the Ministry of Public Security, the Central People’s Government on the Control over Passengers Traveling to and from the Regions of Hong Kong or Macao 1951 (PRC) (Zhongyang Renmin Zhengfu Gonganbu Guanyu Wanglai Xianggang Aomen Lyke Guanli De Bugao), promulgated by the Ministry of Public Security on 2 August 1951 and effective on 1 September 1951

158. Provisional Detailed Rules of the Implementation of the Stipulations on Sending Term, Group and Individuals to be Trained Abroad 1990 (PRC) (Guanyu Paiqian Tuanzu He Renyuan Fu Guowai Peixun De Guanding De Zanxing Shishi Xize), promulgated by the State Council Introducation of Foreign Intellectuality Leading Panel Office on 15 April 1990

159. Provisional Measures for Citizens Travelling on Private Affairs to or from the Regions of Hong Kong or Macao 1986 (PRC) (Zhongguo Gongmin Yin Sishi Wanglai Xianggang Diqu Huozhe Aomeng Diqu De Zanxing Guanli Banfa), promulgated by the Ministry of Public Security and Approved by the State Council on 25 December 1986


161. Provisional Measures for the Administration of China National Tourism Administration on Organization of Tour to Thailand, Singapore and Malaysia 1990 (PRC) (Guojia Lvyouju Guanyu Zuzhi Woguo Gongmin Fu Dongnanya Sanguo Lvyou De Zaoxing Guanli Banfa), promulgated by China National Tourism Administration on 5 December 1990

162. Provisional Measures for the Procedures of Exiting Abroad Examination and Approval and Handling with Passport of Labours Sending Abroad 1990 (PRC) (Guanyu Waipai Laowu Renyuan Chuguo Shenpi Shouxu He Banli Huzhao De Zanxing Banfa), Promulgated by the Ministry of Foreign Economic Cooperation and Trade, the Ministry of Labour, the Ministry of Foreign Affairs and the Ministry of Public Security on 14 December 1990


166. Provisional Measures of the Reserve Funds of Foreign Labour Cooperation (Amendment) 2003 (PRC) (Du iwai Laowu Hezuo Beiyoujing Zanxing Banfa) (Xiuding), promulgated by the Ministry of Commerce on 21 August 2003


169. Provisional Measures on Procedures for Contract Workers Sent Abroad Leaving the Country and Undergoing Passport Application 1990 (PRC) (Guanyu Paiqian Laowu Chujing He Banli Huzhao
Chengxu De Zanxing Banfa), jointly promulgated by the Ministry of Foreign Trade and Economic Cooperation, the Ministry of Labour, the Ministry of Foreign Affairs and the Ministry of Public Security, approved by the State Council on 14 December 1990

170. Provisional Measures on Procedures for Contract Workers Sent Abroad Leaving the Country 1996 (PRC) (Guanyu Banli Waipai Laowu Renyuan Chuguo De Zanxing Guiding), jointly promulgated by the Ministry of Foreign Trade and Economy Cooperation, the Ministry of Foreign Affairs and the Ministry of Public Security approved by the State Council on 20 December 1996


172. Provisional Measures on the Administration of Chinese Citizens’ Tours Abroad at Their Own Expense 1997 (PRC) (Zhongguo Gongmin Zifei Chugu Lvyou Guanli Zanxing Banfa), promulgated by China National Tourism Administration and the Ministry of Public Security and approved by the State Council on 1 July 1997

173. Provisional Measures on the Administration of Dispatching Groups and Personals to Other Countries for Training 1993 (PRC) (Guanyu Panqian Tuanzu He Renyuan Fu Guo Jingwai Peixun De Zanxing Guanli Banfa), jointly promulgated by the State Administration of Foreign Experts Affairs and the Ministry of Foreign Affairs on 20 October 1993


177. Provisional Measures on the Administration of Foreign labour and cooperation 1993 (PRC) (Duiwai Laowu Hezuo Guanli Zanxing Banfa), promulgated by the Ministry of Foreign Trade and Economic Cooperation on 5 November 1993


181. Provisional Measures on the Control over Inland Residents Traveling for Such Business, Training, Employment as Non-Public Affairs to or from Hong Kong Special Administration Regions 1998 (PRC) (Neidi Jumin Congshi Shangwu Peixun Jiuye Deng Feigongwu Huodong Wanglai Xianggang Tebie Xingzhengqu De Zanxing Guanli Banfa), promulgated by the Ministry of Public Security on 19 March 1998 and effective on 30 March 1998


184. Provisional Measures on Travel of Aliens in China 1954 (PRC) (Waiguo Qiaomin Lvxing Zanxing Banfa), promulgated by the Ministry of Public Security on 10 August 1954


186. Provisional Regulations of Administration of Foreign Holding and Foreign Self-funded Travel Agencies 2003 (PRC) (Waiguo Konggu Waishang Duzi Lvxingshe Zanxing Guiding), jointly promulgated by China National Tourism Administration and the Ministry of Commerce on 12 June 2003 and effective on 11 July 2003

187. Provisional Regulations of Quality Guarantee Deposit 1995 (PRC) (Lvxingshe Zhiliang Baozhengjin Zanxing Guiding), promulgated by China National Tourism Administration on 1 January 1995

188. Provisional Regulations of the Establishment and Administration of Sino-Foreign Equity or Cooperative Joint Venture Employment Agencies 2001 (PRC) (Sheli He Guanli Zhongwai Hezi Hezuo Jingwai Jiuye Zhongjie Jigou Zanxing Guiding), promulgated by the Ministry of Labour and Social Security and the State Administration for Industry and Commerce on 9 October and effective on 1 December 2001


198. Provisions on Registration of Marriages Between Chinese Citizens and Foreigners 1983 (PRC) (Zhongguo Gongmin Yu Waiguoren Hunyin Dengji Banfa), promulgated by the Ministry of Civil Affairs and approved by the State Council


200. Public Circular on Issues Concerning Compatriots in the Region of Hong Kong or Macao Traveling to and from with Compatriots in the Region of Hong Kong or Macao Returning Certificate 1979 (Guangdong) (Guangdongshen Guanyu Qianfa Gangao Tongbao Huixiangzheng Ruogan Wenti De Gonggao), promulgated by the Guangdong Bureau of Public Security in 1979

201. Regulation of Inspection of Exit and Entry Borders 1995 (PRC) (Chujing Rujing Bianfang Jiancha Tiaoli), promulgated by the State Council on 1 September 1995

202. Regulations for Encouragement of Investment by Overseas Chinese and Compatriots from Hong Kong or Macao 1990 (PRC) (Guli Huaqiao Gangao Tongbao Touzi De Guiding), promulgated by the State Council

203. Regulations for Labour Cooperation with Hong Kong Region 1996 (PRC) (Yu Xianggang Diqu Laowu Hezuo De Guanding), promulgated by the State Council on 5 September 1996


205. Regulations of Overseas Chinese Contributions or Donations 1997 (Shanghai) (Shanghaishi Huaqiao Juanzheng Tiaoli), promulgated by Shanghai Municipality People’s Government

206. Regulations on Border Inspection 1965 (PRC) (Bianfang Jiancha Tiaoli), promulgated by the State Council on 30 April 1965


208. Regulations on Passport and Visa 1980 (PRC) (Zhonghua Renmin Gongheguo Huzhao Qianzheng Tiaoli), promulgated by the State Council 13 May 1980

209. Regulations on the Record-keeping for Regulations and Rules 2001 (PRC) (Fagui Guizhang Beian Tiaoli), promulgated by the State Council on 14 December 2001 and effective on 1 January 2002

210. Regulations on Simplifying the Procedure of Examination and Approval of the Chinese Staff Employed in Foreign Investment Enterprises Going Abroad (or to Hong Kong or Macao) 1993 (PRC) (Jianhua Waishang Touzi Qiye Zhong Fang Renyuan Chuguo (Huoze Gangao) Shouxu De Guiding), promulgated by the Special Economic Zones Office of the State Council, and approved by the State Council

211. Regulations on the Administration for Overseas Employment Intermediary Agencies (Amendment) 2002 (PRC) (Jingwai Jiuyue Zhongjie Guanli Guiding (Xiuding)), jointly promulgated by the
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214. Regulations on the Administration of Labour Market 2000 (PRC) (Laodong Shichang Guanli Guiding), effective on 8 December 2000
215. Regulations on the Administration of Skilled Personnel Market 2001 (PRC) (Rencai Shichang Guanli Guiding), effective on 1 October 2001
216. Regulations on the Administration of Travel Agencies (Amendment) 1996 (PRC) (Lvxingshe Guanli Tiaoli), promulgated by the State Council on 15 October 1996
217. Regulations on the Administrative Legislation Procedure 1989 (PRC), promulgated by the Standing Committee of the National People’s Congress on 4 April 1989, and effective as of 1 October 1990
218. Regulations on the Administrative of Travel Agencies (Amendment) 2001 (PRC) (Lvxingshe Guanli Tiaoli), amended pursuant to Travel Agencies Administrative Measures 1996 (PRC), promulgated by the State Council on 11 December 2001 and effective on 1 January 2002
220. Regulations on the Procedure for the Formulation of Administrative Regulations 2001 (PRC) (Xingzheng Fagui Zhiding Chengxu Tiaoli), promulgated by the State Council on 16 November 2001 and effective on 1 January 2002
221. Reiteration of Strictly Forbidding of Sending Young Women to Abroad to Do Erotic Service by the Name of Working 1997 (PRC) (Guanyu Congshen Yanjing Yi Waipai Laowu Deng Minyi Xiang Jingwai Paiqian Nv Qingnian Congshi Seqing Fuwu De Tongzhi), promulgated by the Ministry of Foreign Trade and Economy Cooperation. No. [1997] 803
222. Related rules on Strengthening Examination and Approval of Exit China for Public Affairs (Extract) 1993 (PRC) (Guanyu Jiaqian Yingong Lingshi Chuguofing Shenpi He Guanli Gongzu De Youguan Guiding (Zhaibian)), promulgated by the General Office of the Central Committee of Communist Party of China and the General Office of the State Council
223. Reply of the Department of Consular under the Ministry of Foreign Affairs to Some Questions on Passport Affairs (Excepts) 1993 (PRC) (Waijiaobu Lingshisi Guanyu Huzhao Gongzu De Jige Wenti De Dafu (Jiexuan)), promulgated by the Department of Consular Affairs under the Ministry Foreign Affairs
224. Rules Governing the Implementation of the Measures for the Administration on Agency Services for Exit and Entry for Private Affairs 2002 (Beijing) (Beijingshi Guanyu Shishi Yinsi Churujing Zhongjie Huodong Guanli Banfa Ruogan Guiding (Shixing)), made pursuant to the Measures for the Administration on Agency Services for Exit and Entry for Private Affairs 2001 (PRC), promulgated by the Bureau of Public Security (Beijing) and the Administration of Industry and Commerce (Beijing) on 1 January 2002
225. Rules of Providing Convenience of Enter and Residence with Senior Talents and Investors of Foreign Nationalities 2003 (PRC) (Guanyu Wei Waiguoji Gaochenci Rencai He Touzizhe Tigong Rujing Ji Bianli De Guiding), jointly promulgated by the Ministry of Public Security, the Ministry of Foreign Affairs, the Ministry of Education, the Ministry of Technology and Science, the Ministry of Personnel, the Ministry of Labour and Social Insurance, the Ministry of Foreign Economic Relations and Trade, State Council Overseas Affairs Office and State Bureau for Foreign Experts in April 2003
226. Rules of Some Matters of the Application of Inland Residents Traveling to Taiwan for Visiting Relatives 1988 (PRC) (Guanyu Neidi Gongmin Shenqing Qu Taiwan Diqu Tanqing Deng Wenti De Guiding), promulgated by the Ministry of Public Security on 16 November 1988

227. Rules of the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Public Security, the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of Finance on Implementation Measures of Forced Expelling Aliens 1992 (PRC) (Zuigao Renmin Fayuan Zuigao Renmin Jianchayuan Gongganbu Waijiaobu Sifabu Caizhengbu Guanyu Qiangzhi Waiguoren Chujing De Zhixing Banfa De Guiding), promulgated by Supreme People’s Court, Supreme People’s Procuratorate, the Ministry of Public Security, the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of Finance on 31 July 1992

228. Rules of the Organization Department under the Central Committee of Communist Party of China on Some Issues of Exiting Abroad or to Hong Kong or Macao of Party Member 1981 (PRC) (Zhonggong Zhongyang Zuzhibu Guanyu Gongchandangyuan Yinsishi Chuguo Hua Qu Gangao Diqu De Ruogang Wenti De Guiding), promulgated by the Organization Department under the Central Committee of Communist Party of China on 11 September 1981

229. Rules of the Organization Department under the Central Committee of Communist Youth League of China on Some Issues of Exiting Abroad or to Hong Kong or Macao of League Member 1981 (PRC) (Gongqingtuan Zhongyang Zuzhibu Guanyu Gongqingtuanyuan Yinsishi Chuguo Hua Qu Gangao Diqu De Ruogang Wenti De Guiding), promulgated by the Organization Department under the Central Committee of Communist Youth League of China on 21 September 1981


234. Some Regulations on the Reform of Current Administration of Exit and Entry 1984 (PRC) (Guanyu Gaige Xianxing Ruchujing Guanli Banfa De Ruogang Guiding), promulgated by the Ministry of Public Security on 28 November 1984, Gongfa(Jing) [84] 189


236. Some Rules on the Implementation of Measures on the Administration of Exit and Entry Intermediary Agencies for Private Affairs (for Trial Implementation) 2002 (Beijing) (Guanyu Yifa Xianzhi Waiguoren He Zhongguo Gongmin Chujing Wenti De Ruogang Juding), promulgated by Beijing Municipality Public Security Bureau and Beijing Municipality Administration of Industry and Commerce on 1 January 2002 and effective on 1 January 2002

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List of Other States and Region’s Statutes

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2. *Australian Migration Act* 1958 (Cth)
3. *Australian Migration Series Instruction*

Taiwan, China
5. *Enforcement Regulations of the Nationality Law* 2001 (ROC) (*Guoji Fa Shixing Xize*)
8. *Immigration Law* 1999 (ROC) (*Ruchuguo Ji Yimin Fa*)
9. *Key Points of Establishment of Review Committee of Non-permission and Banning from Exit and Entry, the Ministry of Interior (Amendment)* 2000 (ROC) (*Neizhengbu Buyu Xuke Ji Jingzhi Ruchuguo Anjian Shencha Weiyuanhui Shezhi Yaodian*)
11. *Martial Act* of 1934 (ROC) (*Jieyan Fa*)
13. *Measures of Visas of Foreign Passport* 1951 (ROC) (*Waiguo Huzhao Qianzheng Banfa*)
14. *Measures on the Administration of Exit of Military Service Person and Reservists in the Region of Taiwan* 1957 (ROC) (*Taiwan Diqu Yinan Ji Houbei Junren Chujing Chuli Banfa*)
17. *Provisional Measures of Issuing Passport Exiting Abroad* 1929 (ROC) (*Chuguo Huzhao Zanxing Banfa*)
19. *Regulations of the Taiwan Province on the Registration of the Exit of the Servicemen, Government Employees, Teachers and Travelers of the Taiwan Province* 1949 (ROC) (*Taiwan Sheng Chujing Jun Gong Jiao Renyuan Ji Liye Dengji Banfa*)
20. *Regulations on Guidance and Management on Migration Service Organizations and Their Employees* 1999 (ROC) (*Yimin Yewu Jigou Jiqi Congye Renyuan Fudao Guanli Banfa*)
22. *Regulations on Permission of Exit and Entry of Nationals (Amendment)* 2003 (ROC) (*Guomin Ruchuguo Xuke Banfa (Xiuding]*)
23. *Regulations on Permission of Hong Kong Permanent Residents Enter into and Permanently Resident in Taiwan Areas (Amendment)* 2002 (ROC) (*Xianggang Aomen Jumin Jinru Taiwan Diqu Ji Juli Dingu Xuke Banfa (Xiuding]*)

25. **Regulations on the Entry and Exit in Taiwan during the Rebellion Suppression Period 1957 (ROC)** (Kanluan Shiqi Taiwan Diqu Rujing Chujing Guanli Banfa)

26. **Regulations on the Entry Permission of Mainland Permanent Residents to Taiwan Areas (Amendment) 2002 (ROC)** (Dalu Diqu Renmin Jinru Taiwan Diqu Xuke Banfa (Xiuding))

27. **Regulations on the Entry Permission of Taiwan Permanent Residents to Mainland Areas 1993 (ROC)** (Taiwan Diqu Renmin Jinru Dalu Diqu Xuke Banfa)

28. **Regulations on the Entry Permission of Taiwan Permanent Residents to Mainland Areas (Amendment) 2002 (ROC)** (Taiwan Diqu Renmin Jinru Dalu Diqu Xuke Banfa (Xiuding))

29. **Regulations on the Exit and Entry Means of Nationals with Registered Permanent Residence and Hong Kong or Macau Permanent Residence 2001 (ROC)** (Jianjuyou Huji Guomin Ji Xianggang Huo Aomen Jumin Shenfenzhe Ruchu Guo Fangshi)

30. **Regulations on the Relationship between Residents in Taiwan Areas and Mainland Areas 1992 (ROC)** (Taiwan Diqu Yu Dalu Diqu Renmin Guanxi Tiaoli)

31. **Regulations on the Relationship between Residents in Taiwan Areas and Mainland Areas (Amendment) 1995 (ROC)** (Taiwan Diqu Yu Dalu Diqu Renmin Guanxi Tiaoli (Xiuding))

32. **Regulations on the Relationship between Residents in Taiwan Areas and Mainland Areas (Amendment) 2002 (ROC)** (Taiwan Diqu Yu Dalu Diqu Renmin Guanxi Tiaoli (Xiuding))

**The USA**

33. **Act of Cuban Liberal and Democratic Solidarity 1996 (USA)**

34. **Passport Act of 1926 (USA)**

35. **U.S. Code of Federal Regulations Title 22 – Foreign Relations**

**Vietnam**


41. **Circular on Guiding the Granting of Non-Vietnamese Nationality Certificates 1999**

42. **Circular on Prescribing the Regime of Collection, Remittance and Use Management of Fees for Granting Passports, Visas and Papers on Entry, Exit, Transit and Residence in Vietnam 2003 (Vietnam)**

43. **Civil Code of Socialist Republic of Vietnam 1995**

44. **Constitution of Socialist Republic of Vietnam 1992**
45. Decision No. 210/QD-TTg of 27 October 1999 on the Policy Towards Vietnamese Living Abroad (Vietnam)
47. Decision on Carrying Cash in Foreign Exchanges and Vietnamese Dong Through Border Gates 1999 (Vietnam)
55. Joint Circular of the Ministry of Finance, the Ministry of Justice and the Ministry of Foreign Affairs Guiding the Collection, Payment, Management and Use of Fees for Granting, Restoration or Relinquishment of Vietnamese Nationality and for Granting of Vietnamese Nationality Certificates or Vietnamese Nationality Loss Certificates 1998 (Vietnam)
56. Key Points of Establishment of Review Committee of Non-permission and Banning from Exit and Entry, the Ministry of Interior (Amendment) 2000 (Vietnam)
57. Law of Nationality 1988 (Vietnam)
58. Ordinance of Standing Committee of National Assembly on Entry, Exit and Residence of Foreigners in Vietnam 2000 (Vietnam)
59. Ordinance on Entry, Exit, Residence and Travel of Foreigners in Vietnam 1992 (Vietnam)
60. Regulation of the Ministry of Education and Training on Administration of Overseas Students in Vietnam 1999 (Vietnam)
61. Vietnam Provisionally Stipulating a Number of Measures to Prevent and Handle Violations in the Field of Sending Labourers and Experts to Work Abroad 1999 (Vietnam)
List of International Instruments

3. *American Declaration of the Rights and Duties of Man* 1948, AMDRM
5. *Charter of United Nations*, entered into force on 24 October 1945, Charter of UN
7. *Convention on the Reduction of Stateless* 1961, enter into force on 13/12/1975, 989 UNTS 175, CRS
15. *European Convention on the Legal Status of Migrant Workers* 1977, enter into force on 01 May 1993, ETS No. 93
17. *European Social Charter 1961*, enter into force on 26 February 1965, ETS No.35
19. *General Comment No. 27 of the HRC on Freedom of movement (Art.12):* 02/11/99., adopted on 2 November 1999 by Human Rights Committee, CCPR/C/21/Rev.1/Add.9, General Comment No.27 of HRC on Freedom of Movement (Article 12)
20. *General Comment No.31 [80] of HRC: the Nature of the General Legal Obligation Imposed on States parties to the Covenant*, adopted on 29 March 2004 (2187 meeting) by Human Rights Committee, CCPR/C/21/Rev.1/Add.13, General Comment No.31 of HRC on Freedom of Movement (Article 12)

22. *International Convention on the Protection of the Rights of All Migrant Workers and Their Families* 1990, 3 month after 20 ratification, UNGA Res. 45/158


27. *Statute of the International Court of Justice*, ICJ


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## Chinese institutions

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<tr>
<td>BBSCA</td>
<td>Bureau of Border Security Check and Administration</td>
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<tr>
<td>BEEA</td>
<td>Bureau of Exit and Entry Administration</td>
</tr>
<tr>
<td>CCTV</td>
<td>China Central Television</td>
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<tr>
<td>Central Bank</td>
<td>The People’s Bank of China</td>
</tr>
<tr>
<td>CEPA</td>
<td>The Closer Economic Partnership Arrangement</td>
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<tr>
<td>CNTA</td>
<td>Chinese National Tourism Administration</td>
</tr>
<tr>
<td>CPC</td>
<td>Communist Party of China</td>
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<tr>
<td>HKSAR</td>
<td>Hong Kong Special Administration Region</td>
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<tr>
<td>MFA</td>
<td>Ministry of Foreign Affairs, China</td>
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<tr>
<td>MFERT</td>
<td>Ministry of Foreign Economic Relations and Trade</td>
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<tr>
<td>MLSS</td>
<td>Ministry of Labour and Social Security, China</td>
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<tr>
<td>MOC</td>
<td>Ministry of Commerce, China</td>
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<tr>
<td>MOE</td>
<td>Ministry of Education, China</td>
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<tr>
<td>MOP</td>
<td>Ministry of Personnel, China</td>
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<tr>
<td>MPS</td>
<td>Ministry of Public Security, China</td>
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<tr>
<td>MSAR</td>
<td>Macao Special Administration Region</td>
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<tr>
<td>NPC</td>
<td>National People’s Congress, China</td>
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<tr>
<td>SAFE</td>
<td>State Administration of Foreign Exchange</td>
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<tr>
<td>SAFEA</td>
<td>State Administration of Foreign Experts Affairs, China</td>
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<tr>
<td>SAIC</td>
<td>State Administration of Industry and Commerce, China</td>
</tr>
<tr>
<td>SBS</td>
<td>State Bureau of the Statistics, China</td>
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<tr>
<td>SHMO</td>
<td>State Council Hong Kong and Macao Affairs Office, China</td>
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<tr>
<td>SOCO</td>
<td>State Council for Overseas Chinese Affairs Office, China</td>
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<tr>
<td>STO</td>
<td>State Council Taiwan Affairs Office, China</td>
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## International institutions

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<th>Acronym</th>
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<tbody>
<tr>
<td>CPDPM</td>
<td>UN Sub-Commission on Prevention of Discrimination and Protection of Minorities</td>
</tr>
<tr>
<td>HRC</td>
<td>UN Human Rights Committee</td>
</tr>
<tr>
<td>ICHR</td>
<td>International Court of Human Rights</td>
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<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
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<tr>
<td>IMF</td>
<td>The International Monetary Fund</td>
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<tr>
<td>IOM</td>
<td>The International Organization for Migration</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organizations</td>
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<td>OECD</td>
<td>Organization of Economic and Cooperation Development</td>
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Regional and other countries’ institutions

AFCM  African Commission on Human and People’s Rights
AMCM  Inter-American Human Rights Commissions
AMCT  Inter-American Court of Human Rights
CPV  Communist Party of Vietnam
ECJ  European Court of Justice
EU  European Union
EUCM  European Human Rights Commissions
EUCT  European Court of Human Rights
MLWS  Ministry of Labour, War invalids and Social Affairs
OAS  The Organization of American States
SBV  State Bank of Vietnam
USCR  US Committee for Refugees

Others

1963 Ingles’ Study on RLR  Study of Discrimination in Respect of the Right of Everyone to Leave any country, including His Own, and to Return to His Country: Special Repporteur of the Subcommission on Prevention of Discrimination and Protection of Minorities
OAED  Oxford Advanced Learner’s English-Chinese Dictionary
PRC  The People’s Republic of China
RLR  The right to leave and return
ROC  The Republic of China
SARS  Severe Acute Respiratory Syndrome
USVISIT  USA Visitor and Immigration Status Indication Technology System
Abstract

The Right to leave and return (RLR) has been affirmed as a fundamental human right in several international instruments. While being a fundamental human right, each State has the sovereign right to regulate RLR in accordance with its own laws. The regulation of RLR, however, is not only an attribute of sovereignty but an issue with important political, economic and security implications for the State. Given its significance, it is understandable and desirable that States regulate RLR. The regulation must however take account of both the interests of the State and the human rights dimension of the right. This is an issue of balance.

In the case of China, the country’s communist political system has significantly affected the development of RLR and the country’s approach to it. As a rule China’s approach is restrictive. As part of its reform and ‘opening up’ policies, China has embarked on a range of reforms to liberalise RLR, but the reforms lack cohesion and focus, and remain restrictive. Given its peculiar past and complex social and economic conditions, China may have some justifications for its approach, but on balance, has more to gain from adopting a more liberal approach. The issue of RLR in China is crucial both for the future of China, and for development of RLR in the world.

China’s current policy’s on RLR still reflects a closed culture. A more open policy is not only consistent with international human rights norms, but also a useful infrastructure for the country’s place in the global economy. Great achievements over the last 25 years and encouraging developmental trends demand acceleration of reforms to protect RLR in China. A careful and well-coordinated migration strategy with a well-defined RLR focus could enhance China’s economic progress as well as its international human rights image. When designing the reform strategy, the balance of the Western experience and Chinese realities needs to be finely kept.

This thesis will explore the Chinese regulatory regime governing RLR to determine its consistency with international standards. The thesis is divided into 15 chapters. It investigates RLR in international migration law and practice; analyses RLR in the context of China, and identifies its driving factors; investigates the conditions and practical concerns relevant to the protection of RLR; and concludes with recommendations on how the Chinese regulatory regime governing RLR can be improved.