

The Right to Leave and Return and Chinese Migration Law

By

Guofu Liu

LLB, LLM

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University of Technology, Sydney

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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.

.....
Guofu Liu

.....
Date

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49. *Circular of the Ministry of Public Security, the Ministry of Education, the Ministry of Labour and Social Insurance, the State Administration of Industry and Commerce for Rectifying and Regulating Exit and Entry Intermediary Agencies* 2000 (PRC) (Gonganbu Jiaoyubu Laodong He Shehui Baozhangbu Guojia Gongshang Xingzheng Guanli Ju Guanyu Qingli Zhengdun Churujing Zhongjie Jigou De Tongzhi), promulgated and as effective as 27 November 2000
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 60. *Circular of the State Council on Strengthening the Management of Activities of Intermediary Agencies of Exit and Entry for Private Affairs 2000* (PRC) (*Guowuyuan Guanyu Jiaqiang Yinsi Churujing Zhongjie Huodong Guanli De Tongzhi*), promulgated by the State Council in 2000, Guofa [2000] No. 25
 61. *Circular of the State Council on the Implementation of the Law on Administrative Sanctions 1994* (PRC) (*Guowuyuan Guanyu Shishi Xingzheng Chufa Fa De Tongzhi*), promulgated by the State Council on 9 October 1994
 62. *Circular of the State Council on the Unified Responsibility of the Ministry of Public Security Regarding the Administration of the Exit and Entry for Private Purpose of Citizens 1956* (PRC) (*Guowuyuan Guanyu Woguo Gongmin Yinsi Chuguo De Guanli Gongzuo You Gonganbu Tongyi Zhangwo De Tongzhi*), promulgated by the State Council on 14 November 1956
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69. *Circular on Simplifying the Formality of Undergoing Temporary Residence Registration in the Mainland of Taiwan Residents* 1992 (PRC) (*Guanyu Jianhua Banli Taiwan Jumin Zai Dalu Zanzhu Shouxu De Tongzhi*), promulgated by the Ministry of Public Security on 17 June 1992
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71. *Circular on Some Matters of Implementation and Carrying Out Regulations on the Administration for Overseas Employment Intermediary Agencies (Amendment)* 2002 (*Guanyu Guance Shishi Jingwai Jiuye Zhongjie Guanli Guiding Youguan Wenti De Tongzhi (Xiuding)*), promulgated by the Ministry of Labour and Social Security on 24 June 2002
72. *Circular on Some Noteworthy Issues of Moslem Foreign Affairs* 1990 (PRC) (*Guanyu Yishilanjiao Shewai Gongzuo Zhong Ying Zhuyi De Jige Wenti De Tongzhi*), promulgated by the State Council Bureau for Religious Affairs in 1990
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74. *Circular on the Prohibition on Handling with Notarial Certificate of Permanent Residence Certificate for Taiwan Compatriots* 1993 (PRC) (*Guanyu Bude Banli Taibao Dingjuzheng Gongzheng De Tongzhi*), promulgated by the Ministry of Justice on 20 October 1993, Sifatong [1993] 113
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80. *Detailed Rules for Implementing of the Law on the Control of Exit and Entry of Citizens (Amendment)* 1994 (PRC) (*Gongmin Churujing Guanli Fa Shishi Xize Xiuding*), made pursuant to the *Law on the Control of Exit and Entry of Citizens* 1985 (PRC), promulgated by the Ministry of Public Security, the Ministry of Foreign Affairs and the Ministry of Communications, and approved by the State Council on 15 July 1994.
81. *Detailed Rules for the Implementation of Law of National Security* 1994 (PRC) (*Guojia Anquan Fa Shishi Xize*), promulgated by the State Council on 4 June 1994
82. *Detailed Rules for the Implementation of Measures for the Administration on Agency Services for Self-funded Studying Abroad (for Trial Implementation)* 1999 (Beijing) (*Beijingshi Zifei Chuguo Liuxue Zhongjie Fuwu Guanli Banfa (Shixing)*) made pursuant to *Measures for the Administration on Agency Services for Self-funded Studying Abroad* 1999 (PRC), promulgated by the Bureau of Education (Beijing), the Bureau of Public Security (Beijing) and the Administration of Industry and Commerce (Beijing)
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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 Zhongjie 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
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87. *Detailed Rules for the Implementation of the Law on the Control of Entry and Exit of Aliens (Amendment)* 1994 (PRC) (*Waiguoren Rujing Chujing Guanlifa Shishi Xize Xiuding*), 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 on 15 July 1994, and approved by the State Council on 13 July 1994
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92. *Detailed Rules of the Implementation on Protection of the Rights and Interests of Chinese and Family Members of Overseas Chinese 1993* (PRC) (*Guiqiao Qiaojuan Quanyi Baohufa Shishi Xize*), made pursuant to *Law on Protection of the Rights and Interests of Returned Overseas Chinese and Family Members of Overseas Chinese Law 1990* (PRC), promulgated by the State Council on 19 July 1993
93. *Detailed Rules of the Implementation on the Administration of Domestic Resident Individuals to Purchase Foreign Exchange for Private Purpose 2002* (PRC) (*Jingnei Jumin Geren Yinsi Gouhui Guanli Shishi Xize*)
94. *Directive of the State Council on Establishing Regular Household Registration System 1955* (*Guowuyuan Guanyu Jianli Jingchang Hukou Dengji Zhidu De Zhishi*), promulgated by the State Council of the PRC on 22 June 1955
95. *Explanation of the Ministry of Public Security on Some Issues on Implementation of Law on the Control of Exit and Entry of Citizens and Its Detailed Rules for the Implementation 1987* (PRC) (*Gonganbu Guanyu Zhixing Zhongguo Gongmin Chujing Rujing Guanli Fa Ji Shishi Xize Ruogan Wenti De Shuoming*), promulgated by the Ministry of Public Security on 19 February 1987
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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 19 February 1987
99. *Explanation of the Enforcement of the Amendment of Two Detailed Rules of the Implementation 1995* (PRC) (*Zhixing Liangge Shishi Xize Xiuding Neirong 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
101. *Explanations of the Sixth Bureau of the Ministry of Public Security on Issues of Providing Comments of Employed The organization Where the Applicant is Services of Citizens Exiting Abroad 1989* (PRC) (*Gonganbu Liuju Guanyu Gongmin Shenqing Chuguo Tijiao Suozai Gongzuo Danwei Yijian Wenti De Shuomin*), promulgated by the Sixth Bureau of the Ministry of Public Security on 11 March 1989

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 Rencai 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
104. *Implementing Measures on Protection of the Rights and Interests of Returned Overseas Chinese and Family Members of Overseas Chinese 2002 (Guangdong) (Guangdongsheng Guanyu Guiqiao Qiaojuan Quanyi Baohufa Shishi Banfa)*, made pursuant to *Law on Protection of the Rights and Interests of Returned Overseas Chinese and Members of Overseas Chinese 2000 (PRC)*, promulgated by the People's Congress of Guangdong Province
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 4 Kuan He Di 24 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 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
120. *Law on Protection of the Rights and Interests of Returned Overseas Chinese and the Family Members of Overseas Chinese (Amendment)* 2000 (PRC) (*Guiqiao Qiaojuan Quanyi Baohu Fa (Xiuding)*), promulgated by the Standing Committee of the National People's Congress according to *Law on the Protection of the Rights and Interests of Returned Overseas Chinese and the Family Members of Overseas Chinese* 1990 (PRC) on 31 October 2000
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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
125. *Legal Rights and Interests of Overseas Labours* 2002 (PRC) (*Haiwai Laogong Hefa Quanyi De Tongzhi*), promulgated by the Ministry of Foreign Trade and Economy Cooperation in January 2002
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
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128. *Measures for the Control of Exit and Entry Taiwan Regions of Chinese Citizens* 1992 (PRC) (*Zhongguo Gongmin Wanglai Taiwan Diqu Guanli Banfa*), jointly promulgated by the Ministry of Public Security, the Ministry of Foreign Affairs and the Ministry of Communication on 1 May 1992
129. *Measures for the Control of Intermediary Agencies for Self-funded Overseas Study (for Trial Implementation)* 1999 (Beijing) (*Beijingshi Zifei Chuguo Liuxue 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 Temporally Exiting Abroad (Including Hong Kong or Macao) and Inviting Aliens to China by Industry*

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132. *Measures for the Implementation on Preventing Defaulting Taxpayer from Exiting Abroad* 1997 (PRC) (*Jingzhi Weifushuizhe Chujing Shishi Banfa*), promulgated by the Ministry of Public Security and State Tax Administration on 20 February 1997
133. *Measures of Administration on Citizens Tours Abroad* 2002 (PRC) (*Zhongguo Gongmin Chuguo Lvyou Guanli Banfa*), promulgated by the State Council
134. *Measures of Beijing Municipal People's Government on Formulation of Rules and Regulations* 2002 (Beijing) (*Beijingshi Renmin Zhengfu Guizhang Zhiding Banfa*), promulgated by Beijing Municipal People's Government on 21 May 2002 and effective on 1 June 2002
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
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138. *Measures of Examination, Approval and Circulation of a Circular of the Lists of Individuals Prohibited from Entering China* 1992 (PRC) (*Buzhun Rujing Mindan Shenpi Tongbao Banfa De Tongzhi*), promulgated by the Ministry of Public Security on 17 February 1992
139. *Measures of Purchasing Travel Agencies Responsibility Insurance of Travel Agencies* 2001 (PRC) (*Lvxingshe Toubao Lvxingshe Zeren Baoxian Guiding*), promulgated by State National Administration of Tourism on 15 May 2001
140. *Measures of Taiyuan Municipal People's Government on Legislation* 2002 (Taiyuan) (*Taiyuanshi Lifa Tiaoli*), promulgated by Taiyuan Municipal People's Congress on 24 May 2002
141. *Measures of the General Office of the Central Committee of Chinese Communist Party and the General Office of the State Council on Adjusting Examination and Approval Power of Sending Individuals Exit Abroad Temporarily and Inviting Aliens to Visit China* 1993 (PRC) (*Zhonggong Zhongyang Bangongting Guowuyuan Bangongting Guanyu Tiaozheng Paiqian Linshi Chuguo Renyuan He Yaoqing Waiguo Renyuan Laihua Shenpi Quanxian De Banfa*)
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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
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150. *Operational Manual of the Processing of Aliens Visas* 1995 (PRC) (*Shenli Waiguoren Qianzheng Chaozuo Shouce*), promulgated by the Ministry of Public Security in 1995
151. *Operational Norms of Application, Examination and Approval of Exiting Abroad and Passport For Private Affairs of Citizens* 1996 (PRC) (*Gongmin Yinsishi Chuguo Huzhao Shenqing Shenpi Guanli Gongzuo Guifan*), promulgated by the Ministry of Public Security on 3rd December 1996
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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 Qiaoban Gonganbu Liuju Waijiaobu Lingshisi Guanyu Lvju Guowai Zhongguo Gongmin Shenqing Huiguo Dingju 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
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156. *Part Seven of Overseas Talents of Outline of Program of National Talents Forster from 2002 to 2005 (2002-2005 Nian Quanguo Rencai Duiwu Jianshe Guihua Gangyao)*, promulgated by the General Office of the Central Committee of the CPC and the General Office of the State Council in 2002

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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
163. *Provisional Measures of the Administration of Intermediary Agencies of Introducing Foreign Professional Talents to Work in China* 1995 (PRC) (*Waiguo Zhuanye Rencai Laihua Gongzuo Zhongjie Jigou Zanxing Guanli Banfa*), jointly promulgated by State Administration of Foreign Experts Affairs and State Administration of Industry and Commerce on 25 August 1995
164. *Provisional Measures of the Beijing Municipality for Promotion the Establishment of Sino-Foreign Joint Venture Skilled Personnel Intermediary Agencies* 2002 (Beijing) (*Beijingshi Guli Sheli Zhongwai Heying Rencai Zhongjie Fuwu Jigou Zanxing Banfa*), jointly promulgated by Beijing Municipal Bureau of Personnel, Beijing Administration of Industry and Commerce, Beijing Committee of Foreign Trade and Economic Cooperation on 14 June 2002
165. *Provisional Measures of the Reserve Funds of Foreign Labour Cooperation* 2001 (PRC) (*Duiwai Laowu Hezuo Beiyongjing Zanxing Banfa*), promulgated by the Ministry of Foreign Trade and Economic Cooperation on 27 November 2001
166. *Provisional Measures of the Reserve Funds of Foreign Labour Cooperation (Amendment)* 2003 (PRC) (*Duiwai Laowu Hezuo Beiyongjing Zanxing Banfa*) (*Xiuding*), promulgated by the Ministry of Commerce on 21 August 2003
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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*

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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 (Jing) Wai 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
174. *Provisional Measures on the Administration of Domestic Resident Individuals Foreign Exchange (Amendment)* 2003 (PRC) (*Jingnei Jumin Geren Waihui Guanli Zanxing Banfa*), Huifa [1999] No. 305
175. *Provisional Measures on the Administration of Foreign Currency Exchange Agencies* 2003 (PRC) (*Waibi Duihuai Jigou Guanli Zhaixing Banfa*), The People's Bank of China No. [2003] 6
176. *Provisional Measures on the Administration of Foreign Exchange of Individual Residents in Inland* 1998 (PRC) (*Jingnei Jumin Geren Waihui Guanli Zanxing Banfa*), promulgated by State Administration of Foreign Exchange on 1 September 1998, Huifa [1998]11
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
178. *Provisional Measures on the Administration of Foreign Organs and Domestic Intermediary Agencies of Introducing Foreign Experts Culture and Education* 1993 (PRC) (*Guanyu Dui Jieshao Waiguo Wenjiao Zhuanjia Laihua Gongzuo De Jingwai Zuzhi He Jingnei Zhongjie Jigou Guanli De Zanxing Banfa*), promulgated by State Administration of Foreign Experts Affairs on 15 June 1993
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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

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185. *Provisional Provisions of the Special Economic Zones in Guangdong Province for the Control of Personnel Entering and Leaving China* 1981 (Guangdong) (*Guangdong Sheng Jingji Tequ Renyuan Churujing Zanxing Banfa*), adopted by the 13th Session of the Standing Committee of the Fifth People's Congress of Guangdong Province on November 17, 1981 and promulgated on 24 December 1981
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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
189. *Provisional Regulations on the Administration of Ordinary Passport for Public Affairs* 1993 (PRC) (*Guanyu Yingong Huzhao Guanli De Zanxing Guiding*), promulgated by the Ministry of Public Affairs in December 1993
190. *Provisional Regulations on the Administration of Sino-Foreign Joint Venture Personnel Intermediary Agencies* 2003 (PRC) (*Zhongwai Hezi Rencai Zhongjie Jigou Guanli Zanxing Guiding*), jointly promulgated by the Ministry of Personnel, the Ministry of Commerce and State Administration of Industry and Commerce on 4 September 2003
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192. *Provisional Regulations on the Administration of Urban Household* 1951 (PRC) (*Chengshi Hukou Guanli Zanxing Tiaoli*), promulgated by the Ministry of Public of Security on 16 July 1951
193. *Provisional Rules on Attendance of Games or Competitions Abroad by Employment of Athletes* 1989 (PRC) (*Yundongyuan Shoupin Dao Guo(Jing)wai Cansai De Ruogan Guiding*), promulgated by State Commission for Physical Culture and Sports on 31 May 1989
194. *Provisional Rules on Some Issues of State Dispatched Coaches Aid for Foreign Countries* 1990 (PRC) (*Guanyu Gongpai Yuanwai Jiaolian Renyuan Ruogan Wenti De Zanxing Guiding*), promulgated by State Sport Commission on 16 November 1990
195. *Provisional Rules on the Administration of the Establishment of Sino-Foreign Equity Joint and Sino-Foreign Cooperation Job Intermediary Institutions* 2001 (PRC) (*Zhongwai Hezi Zhongwai Hezuo Zhiye Jieshao Jigou Sheli Guanli Zanxing Guiding*), jointly promulgated by the Ministry of Labour and Social Security and State Administration of Industry and Commerce on 9 October 2001

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197. *Provisional Rules on the Recognition of Overseas Training Qualification of Dispatching Groups and Personals to Other Countries for Training of the Institutions and the Mass Organs* 1993 (PRC) (*Guanyu Shiye Danwei Shehui Tuanti Zuzhi Panqian Tuanzu He Renyuan Fu Guo (Jing) Wai Peixun Gongzuo Zige Rending De Zanzing Guiding*), promulgated by State Administration of Foreign Experts Affairs in June 1993, Waizhuanfa [1993] 204
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
199. *Provisions on the Introduction of High Quality Talents Abroad 1997(Shanghai)* (*Yinjin Guowai Gaokeji Rencai Banfa*), promulgated by Shanghai People's Government on 10 April 1997
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
204. *Regulations for the Administration on Agency Services for Self-funded Studying Abroad* 1999 (PRC) (*Zifei Chuguo Liuxue Zhongjie Fuwu Guanli Guiding*), promulgated by the Ministry of Education and the Ministry of Public Security, and the State Administration of Industry and Commerce on 24 August 1999
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
207. *Regulations on Examination and Approval of Permanent Residence of Aliens in China* 2004 (*Waiguoren Zai Zhongguo Yongjiu Juliu Shenpi Guanli Banfa*), promulgated by the Ministry of Public Security, and effective as of 15 August 2004.
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 (Huozhe 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 Jiueye Zhongjie Guanli Guiding (Xiuding)*), jointly promulgated by the

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212. *Regulations on the Administration for Overseas Employment Intermediary Agencies* 1992 (PRC) (*Jingwai Jiuye Zhongjie Guanli Guiding*), promulgated by the Ministry of Labour.
213. *Regulations on the Administration of Entry, Exit, Transit, Residence and Travel of Aliens in China* 1964 (PRC) (*Waiguoren Rujing Chujing Guojing Juliu Lvxing Guanli Tiaoli*), promulgated by the State Council on 13 April 1964
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
219. *Regulations on the Procedure for Formulation of Rules* 2001 (PRC) (*Guizhang Zhiding Chengxu Tiaoli*), promulgated by the State Council on 16 November 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
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222. *Related rules on Strengthening Examination and Approval of Exit China for Public Affairs (Extract)* (PRC) 1993 (*Guanyu Jiaqian Yingong Lingshi Chuguo(jing) Shenpi He Guanli Gongzuo 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
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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

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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 Gonganbu 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 Huo Qu Gangao Diqu De Ruogang Wenti De Guiding*), promulgated by the The Organization Department under the Central Committee of Communist Party of China on 11 September 1981
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6. *Enforcement Rules of the Implementation of Regulations on Passport Abroad 1952* (ROC) (*Chuguo Huzhao Tiaoli Shixing Xize*)
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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*)
10. *Law of Nationality 2000* (ROC) (*Guoji fa*)
11. *Martial Act of 1934* (ROC) (*Jieyan Fa*)
12. *Measures of Ministry of Education of Sending Overseas Students 1943* (ROC) (*Jiaoyubu Xuanpai Liuxuesheng Banfa*)
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*)
15. *Measures on the Administration of Seafarers in the Period of Suppression 1954* (ROC) (*Kanluan Shiqi Haiyuan Guanli Banfa*)
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34. *Passport Act of 1926* (USA)
35. *U.S. Code of Federal Regulations Title 22 – Foreign Relations*

Vietnam

36. *Circular of the Ministry of Interior Providing Guidance on the Implementation of Government Decree No. 24/CP dated March 23, 1995 on Entry and Exit Proceedings* 1995 (Vietnam)
37. *Circular of the Ministry of Labour, War Invalids and Social Affairs Providing Guidance on the Implementation of Decree No.07/CP dated 20 January 1995 of the Government, on Sending Vietnamese Labourers Abroad to Work for a Limited Period of Time* 1995 (Vietnam)
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48. *Decree of the Government of Vietnam Guiding the Execution of Expulsion Penalty* 2001 (Vietnam)
49. *Decree of the Government of Vietnam on Exit and Entry of Vietnamese Citizens* 2000 (Vietnam)
50. *Decree of the Government of Vietnam on Foreign Exchange Management* 1998 (Vietnam)
51. *Decree of the Government of Vietnam on the People's Identity Card* 1999 (Vietnam)
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3. *American Declaration of the Rights and Duties of Man* 1948, AMDRM
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8. *Convention on the Rights of the Child* 1989, enter into force on 02 September 1990, 1577 UNTS 3, CRC
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13. *Draft Principles on Freedom and Non-Discrimination in respect of the Rights of Everyone to Leave Any Country, including His Own, and to Return to His Country*, adopted by the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities, Res. 2B (XV), UN Doc. E/CN.4/1846 (1963), 1963 UN Draft Principles on RLR
14. *European Convention for the Protection of Human Rights and Fundamental Freedoms* 1950, enter into force on 03 September 1953, ETS No. 5, EHR
15. *European Convention on the Legal Status of Migrant Workers* 1977, enter into force on 01 May 1993, ETS No. 93
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27. *Statute of the International Court of Justice*, ICJ
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Lists of Acronyms

Chinese institutions

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

International institutions

CPDPM	UN Sub-Commission on Prevention of Discrimination and Protection of Minorities
HRC	UN Human Rights Committee
ICHR	International Court of Human Rights
ICJ	International Court of Justice
IMF	The International Monetary Fund
IOM	The International Organization for Migration
NGO	Non-Governmental Organizations
OECD	Organization of Economic and Cooperation Development

WTO The World Trade Organisation

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
Reporteur of the Subcommittee 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.