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# The issue of trafficking in women and young girls in China and the Chinese criminal justice

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by

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**Abstract:** The scope of this article is to demonstrate many of the causal roots and social deprivation associated with China that drive and sustain trafficking worldwide. However, due to the hidden nature and challenges of trafficking in persons in the PRC, the study will not cover all the forms of trafficking. This essay aims at analysing problematising the situation of women and young girls and at highlighting the inequalities in the Chinese context that makes women and infant girls vulnerable to trafficking. It centres on the gravity of the present-day situation starting with a brief history of human trafficking in the territory.

## Premise

The People's Republic of China has one of the highest volumes of human trafficking in the world, especially in the sex and bride market. According to the United States Department of State, China is a country of origin, transit, and destination for the trafficking of women, men, and children<sup>1</sup> and, in realising its annual TIP Report, has placed the PRC as one of the worst offenders of human trafficking<sup>2</sup>. Chinese women, men, and children are trafficked within China's borders mainly for sexual exploitation, forced marriage, forced begging, and forced labour in coal mines, factories, and brick kilns<sup>3</sup>. Other causes leading China in the lowest tier is the use of forced labour among drug addicts, ethnic minorities, and the imposed repatriation of North Koreans victims knowing that such returnees will face

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<sup>1</sup> United States Department of States' Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report June 2018*, p. 138.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ivi*, p. 141.

prison, forced labour, or even execution<sup>4</sup>. As reported by the Global Slavery Index, by 2016 China had seen more than 3.8 million people living in situations of modern slavery within its own borders<sup>5</sup>. The rapid economic rise over the past half century has led China to be the second largest economy<sup>6</sup> as well as the second largest importer<sup>7</sup> in the world, creating a continuing demand for cheap labourers. During 2016, cases of forced child labour were found in a garment factory in Changshu (Jiangsu Province) where minors were forced to work overtime and subjected to beating if they refused, having also their passports and mobile phones confiscated to prevent them from escaping<sup>8</sup>. The exploitation of forced labourers also occurred in several electronics facilities supplying major companies such as Acer, Apple, HP, Sony, and many other brands<sup>9</sup>. Another exemplary case arose in May 2017 with the discovery of seven exploited Filipino women deceived by Chinese brokers and forced to work on farms while instead they were promised marriages to local Chinese individuals and better lives<sup>10</sup>.

The complexity of China's trafficking dynamics is connected to its labour migration from rural to urban areas which can camouflage forced migratory flows into trafficking under the "supposed consent" of the migrant or the irregular migration movement from inland provinces to neighbouring countries in the Asia-Pacific region for sexual exploitation under the guise of legitimate employment opportunities<sup>11</sup>.

As reported by the United States Department of State, China has also drawn international attention for its State-imposed forced labour methods, known as *Láodòng Gǎizào* 劳动改造 (re-education or reform through labour, hereafter RTL), a punitive system where individuals are subjected to extra-judicial detention involving forced labour, from which the State reportedly profited. Finally, in 2013 the National People's Congress ratified a decision to abolish RTL and by 2015 the

<sup>4</sup> Gardiner Harris, *China Is Among Worst Human Trafficking Offenders*, *State Dept. Says*, *The New York Times*, 27 June 2017 <https://www.nytimes.com/2017/06/27/world/asia/china-human-trafficking.html>, accessed 21/10/2018.

<sup>5</sup> Global Slavery Index, website, available at <https://www.globallslaveryindex.org/2018/findings/country-studies/china/>, accessed 21/10/2018.

<sup>6</sup> Focus Economics, website, available at <https://www.focus-economics.com/blog/the-largest-economies-in-the-world>, accessed 21/10/2018.

<sup>7</sup> Visual Capitalist, website, available at <http://www.visualcapitalist.com/visualizing-the-worlds-largest-importers-in-2017/>, accessed 21/10/2018.

<sup>8</sup> Chen Xiaoli, website, *Undercover Video Reveals Child Labor in Changshu*, "ShanghaiDaily.com", 2016, available at <https://www.shine.cn/archive/viral/omg/Undercover-Video-Reveals-Child-Labor-in-Changshu/shdaily.shtml>, accessed 21/10/2018.

<sup>9</sup> Kate Hodal - Peter Bengtsen, website, *Chinese factory supplying major laptop brands accused of student labour abuses*, "The Guardian", 2017, available at <https://www.theguardian.com/global-development/2017/oct/06/laptop-firms-accused-of-labour-abuses-against-chinese-students-sony-hp-acer>, accessed 21/10/2018.

<sup>10</sup> ABS-CBN, website, *6 Chinese arrested for human trafficking*, 23<sup>th</sup> May 2017, available at: <http://news.abs-cbn.com/news/05/23/17/6-chinese-arrested-for-human-trafficking>, accessed 21/10/2018.

<sup>11</sup> United States Department of States' Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report 2010*, p. 112.

government had closed most RTL facilities. However, a 2017 report by the US-China Economic and Security Review Commission alleged that facilities are still operative and that the government only converted RTL facilities into state-sponsored drug rehabilitation centres or so-called *Shōuróng Jiàoyù* 收容教育 “custody and education centres” to which, deprived of any charge or trial, people are sent and alleged forced labour continues<sup>12</sup>.

Given this premise, the scope of this article is to demonstrate many of the causal roots and social deprivation associated with China that drive and sustain trafficking worldwide. However, due to the hidden nature and challenges of trafficking in persons in the PRC, the study will not cover all the forms of trafficking. The aim is to analyse and problematise the situation of women and young girls and to highlight the inequalities in the Chinese context that makes women and infant girls vulnerable to trafficking. It centres on the gravity of the present-day situation starting with a brief history of human trafficking in the territory.

### History of Human Trafficking Evolution in China

According to Watson, prior to the establishment of the PRC in 1949, China had “one of the largest and most comprehensive markets for the exchange of human beings in the world”<sup>13</sup>. From the Qing Dynasty to the early twentieth century, the sale of people was a tolerated system to help families to dispose of unwanted children, borrow reproductive or child-rearing services, or buy sons into their households<sup>14</sup>. During that time, there were no organised traffickers, but the trade of persons was perpetuated by household heads who were the patriarchal decision makers in buying and selling their children, concubines, servants, wives and slaves<sup>15</sup>. Infanticide and abandonment of females resulted in a skewed gender ratio that triggered the sale of women as concubines, slave or servants, infant daughters-in-law, wives, or prostitutes to meet the increased demand of single men (see section 3). Women could be procured from markets whereas others were transferred from one family to another through an exchange of marriage price<sup>16</sup>. Even the sale of a child was legalised by the Qing Code through the sign of a “white contract” (drafted

<sup>12</sup> Amnesty International, website, *China's 'Re-education Through Labour' camps: Replacing one system of repression with another?*, December 2013, available at <https://www.amnesty.org/en/latest/news/2013/12/china-s-re-education-through-labour-camps-replacing-one-system-repression-another/>, accessed 21/10/2018. See also Caijing Magazine Global Times, website, *Education without trial*, June 2014, available at <http://www.globaltimes.cn/content/863879.shtml>, accessed 21/10/2018.

<sup>13</sup> Watson, James L. 1980. “Transactions in People: The Chinese Market in Slaves, Servants, and Heirs”, in *Asian and African System of Slavery*. Berkeley and Los Angeles: University of California Press, p. 223.

<sup>14</sup> Ransmeier, Johanna S. 2017. *Sold People: Traffickers and Family Life in North China*. Cambridge Massachusetts: Harvard Press University, p. 2.

<sup>15</sup> Watson, Rubie S. 1991. “Wives, Concubines and Maids: Servitude and Kinship in the Hong Kong Region, 1900-1940”. In Watson - Patricia E, *Marriage and Inequality in Chinese Society*. Berkeley and Los Angeles, University of California Press, pp. 231–255.

<sup>16</sup> Ransmeier, *op. cit.*, p. 24.

privately) or “red contract” (registered and stamped with the local magistrate’s red seal) to document the sale that specified the rights of both buyer and seller<sup>17</sup>. The statute of the Qing Code (大清律例, *Dà Qīng Lǜ Lì* 1644-1912) during the Qing Empire, forbade many forms of the sale of persons, but it also included provisions that allowed the practice to continue. To justify the selling of children, families and traffickers the excuse of starvation was often used and that motives were only benevolent towards the child; in these cases, they were acquitted by magistrates<sup>18</sup>. Following the research of Ransmeier, the Qing Code contained numerous laws to limit these practices:

Statute 79 proscribed any person from selling stray children of unidentified origin into slavery<sup>19</sup>;

Statute 367 forbade any person from selling a wife by criminalising the sale of marriage through a dowry (*mǎixiū mǎixiū* 买休卖休) as well as the sale of prostitution (*màichàng* 卖唱)<sup>20</sup>;

Statute 275 prohibited abduction *lüè* 掠 and abduction for the purpose of selling (*lüèmai* 掠卖). Illegal also was selling commoners (*liáng rén* 良人) or wives to be forced into slavery or prostitutes and even the act of deceiving for the purpose of sale was outlawed (*lüè rén lüè mai* 掠人掠卖)<sup>21</sup>.

In addition:

Statute 115 imposed the strokes of the heavy bamboo as form of punishment for a head of household if he arranged the marriage between a slave and a daughter of honourable birth<sup>22</sup>.

Before the transition from Imperial to Republican era, the issue of “buying and selling human beings” (*mǎimai rénkǒu* 买卖人口) was first submitted as a memorial to the Throne in 1906 from Viceroy Zhou Fu<sup>23</sup> asking the court to join the modern world by prohibiting human trafficking and adding that “foreign nations look upon those that tolerated slavery as barbarous peoples”<sup>24</sup>. Three years later, another official delivered the same cause and requested the Throne to prohibit slavery on the basis that it was fundamentally incompatible with the government’s reform agenda. Censor Wu Wei Ping wrote:

We are about to establish a constitutional regime throughout the Empire [...] It is inconsistent with good government that the poor and unfortunate, [...] should be bought and sold and

<sup>17</sup> *Ivi*, p. 57. See also Watson, *op. cit.*, p. 234.

<sup>18</sup> Ransmeier, *op. cit.*, p. 5.

<sup>19</sup> Jones, William C., Tianquan Cheng, and Yongling Jiang. 1994. English version, *The Great Qing Code*. Oxford: Clarendon Press, art. 79.

<sup>20</sup> *Ivi*, art. 367.

<sup>21</sup> *Ivi*, art. 275.

<sup>22</sup> *Ivi*, art. 115.

<sup>23</sup> Zhou Fu is a high-ranking official in the Qing bureaucracy who governed the three Provinces along the Yangtze River.

<sup>24</sup> Williams, E.T. 1910. *The Abolition of Slavery in the Chinese Empire*, pp. 794-795.

allowed to sink into the degradation of slavery, to be oppressed and cruelly ill-treated and denied all human rights<sup>25</sup>.

Because both memorials dealt with the same issue, the Constitutional Commission worked on them jointly and agreed that slavery would only weaken and endanger the legitimacy of the government in the eyes of other countries if such practices were not prohibited<sup>26</sup>. The Constitutional Commission proposed ten regulations for the abolition of slavery and after the approval of the Emperor, the imperial edict of 1910 was promulgated to abolish slavery and realise the legal equality of persons in the territory. The edict criminalised the sale and purchase of human being including the sale of one's self or children on account of poverty and nullified all legal contracts<sup>27</sup>.

The shift to the Republican era from 1912 to 1949 was accompanied by government willingness to cooperate with international community on a broad spectrum of transnational issues<sup>28</sup>. Although it was unable to ensure legislative implementation and enforcement, it did mark a starting point on the adoption of national legal reforms. For instance, during the early Republic, a revised version of the Qing Code was actually used as the provisional criminal code of China.

Subsequently, legislative reforms took place after 1928 following the Nationalist Party's consolidation of control over most of China and establishment of a central government in Nanjing. Under the leadership of Chiang Kai-shek, the post-1928 Republican government realised how law could be a powerful tool for the creation of a strong and centralised state<sup>29</sup>. Between 1928 and 1935, Republican lawmakers issued, amended, and promulgated numerous laws amongst which can be found the basic codes establishing a new legal order in China<sup>30</sup> and the full legal equality of all persons. Finally, the Criminal Code of the Republican government criminalised, in art. 298, the trafficking of women by abduction for various purposes such as forced marriage with another person or for lucrative gain and if carried "*with the intent that an indecent act may be committed against her or that carnal knowledge may be had of her*"<sup>31</sup>. Although there were improved efforts to curtail the sale of human beings,

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<sup>25</sup> The American Journal of International Law, *Report to the Throne of the Imperial Chinese Commission on Constitutional Government Recommending the Abolition of Slavery, together with the Imperial Rescript Approving the Report and Ten Regulations for its Enforcement*, Vol. 4, No. 4, Supplement: Official Documents, Cambridge University Press, 1910, p. 360-361. Also available at [https://www.jstor.org/stable/2212089?seq=3#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/2212089?seq=3#metadata_info_tab_contents), accessed 25/10/2018.

<sup>26</sup> *Ivi*, pp. 361-362.

<sup>27</sup> Meijer, M.J. 1976. *The Introduction of Modern Criminal Law in China*, ABC-CLIO, LLC.

<sup>28</sup> Kirby, William C. 2000. *The Internationalization of China: Foreign Relations at Home and Abroad in the Republican Era*, in Frederic Wakeman Jr. - Richard Louis Edmonds, "Reappraising Republican China". Oxford: Oxford University Press, p. 179.

<sup>29</sup> Mühlhahn, Klaus. 2009. *Criminal Justice in China: A History*, Harvard: Harvard University Press, p. 62.

<sup>30</sup> Promulgated laws include the Civil Code of 1929 and 1939; the Code of Civil Procedures of 1930 and the revised code of 1935; the Criminal Code of 1928 and its revision in 1935; the Code of Criminal Procedures of 1928 and the revised code of 1935.

<sup>31</sup> Criminal code of the Republic of China, 1935, art. 298 (1) (2). While women obtained greater autonomy through these laws, there were also unintended legal lacunae, for instance, art. 298 of the

brokers and local intermediaries were able to find new solutions to bypass the restrictive controls and perpetuate the supply of domestic, reproductive, and sexual activities, while local courts advocated leniency in the prosecution process<sup>32</sup>.

The establishment of the Maoist era, from 1949 to 1977, saw a drastic decrease in the practice of trafficking following the enforcement of the household registration system, the 1950 Marriage Law<sup>33</sup> (*hūnyīnfǎ* 婚姻法), the closure of brothels, and the eradication of prostitution, which exponentially reduced women's vulnerability to brokers and significantly mitigated the trafficking practice<sup>34</sup>. However, the post-Mao era from 1978 to the present day saw a rise in trafficking due to the high demand for domestic, reproductive and sexual services; among several issues, the introduction of the One-Child policy (*dúshēng zǐnǚ zhèngcè* 独生子女政策, hereafter OCP) or family planning policy reignited incentives for trafficked women. The fuelling of trafficked victims' vulnerability is also embedded within the country's internal migration which is strictly regulated by the *hùkǒu registration system* (户口) limiting migrants' access to governmental benefits, employment opportunities, and social or other services in the cities.

### Trafficking in women: a question of gender inequality and its effects

Human trafficking of women in China has become a lucrative business that is expanding due to several factors: the continuous persistence of cultural traditions devaluing women, the aggressive implementation of the OCP, and a defective legal system maybe also caused by its overly broad definition on trafficking and the continuing misalignment of Chinese anti-trafficking efforts with international standards. This shows that the government is only enhancing the aspect of gender as a vulnerability factor for women through its policies and culture. Studies have shown also that both trafficking and prostitution are "gendered systems" as a consequence "from structural inequality between women and men", continuing by noting how "men create the demand and women are the supply"<sup>35</sup>.

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Criminal Code of 1935 did not recognise any kind of selling of adult women that did not involve the use of force.

<sup>32</sup> Ransmeier, *op. cit.*, p. 173.

<sup>33</sup> National People's Congress *Quánguó rénmin dàibiāodàhuì* 全国人民代表大会, Marriage Law of People's Republic of China *Zhōnghuá rénmin gōnghéguó xíngfǎ* 中华人民共和国婚姻法, art. 1 abolished "the feudal marriage system based on the arbitrary and compulsory arrangements and supreme act of man over woman, and in the disregard of the interests of children", while art. 2 specified prohibited practices under its reach. These included "bigamy, concubinage, child betrothal, interference with the re-marriage of widows and the exaction of money or gifts in connection with marriage". Through the adoption of the Marriage Law, women obtained the right to divorce. Available at [http://www.npc.gov.cn/npc/lfzt/rlys/2014-10/24/content\\_1882723.htm](http://www.npc.gov.cn/npc/lfzt/rlys/2014-10/24/content_1882723.htm), accessed 29/10/2018.

<sup>34</sup> Henriot, Christian. 1995. "La Fermeture: The Abolition of Prostitution in Shanghai, 1949-58", in *The China Quarterly*, No. 142. Cambridge University Press on behalf of the School of Oriental and African Studies, pp. 467-486.

<sup>35</sup> Vijayarasa, Ramona. 2015. *Sex, Slavery and the Trafficked Woman: Myths and Misconceptions about Trafficking and its Victims*. Ashgate Publishing Limited, p. 133.

In spite of the Chinese government efforts to comply with the minimum standards in the elimination of trafficking, it fails to adequately protect Chinese and foreign victims of trafficking. Besides, women's vulnerability is also often seen as they enter a market economy still attached to the traditional views of women and their role in society, limiting their access to labour markets. It is certainly true that global awareness is steadily growing, but unfortunately, the level of knowledge remains very low and increases the vulnerability of potential victims, particularly of female victims. The discussion of women and gender vulnerability in sex and bride trafficking is therefore highly important. This is not only in terms of discussing how the gender relation structures in society is fuelling trafficking of women, but more importantly if gender inequality is causing increasing trafficking of women in China and transnationally. Up until the twentieth century, it was assumed that women had to be subject to the authority of the males. Their inferiority is not only deeply embedded in the Chinese culture, but also it is reflected in the Five Classics of a moral acceptance in objectifying women<sup>36</sup>. The Confucian view of a woman was:

inferior by nature, she was dark as the moon and changeable as water, jealous, narrow minded and insinuating. She was indiscreet, unintelligent, and dominated by emotion. Her beauty was a snare for the unwary male, the ruination of states<sup>37</sup>.

China's feudal patriarchal and patrilineal system constantly exposed women to subordination by their family's male-dominant figure<sup>38</sup>. The role of women during the Qing was especially marked by a rigid set of legal rules and social values, more so, if considering Confucian virtues such as filial piety, righteousness, and female chastity. Watson also argued that during the Qing and Republican period, Chinese women "belonged to" rather than "belonged in" the family because women were considered as property of the male-dominated household<sup>39</sup>. Only during the Republican period, did gender equality and gender relations become central projections of a changing and progressive China defining, for the first time, an ideological departure from the Confucian view of social hierarchy based on positions, roles, and gender<sup>40</sup>.

One of the most prominent examples to affirm the principle of gender equality was the right to divorce; under the new civil law the Republican government both

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<sup>36</sup> Canonical literary text ascribed to Confucius. Tiefenbrun, Susan and Christie J. Edwards. 2008. "Gendecide and the Cultural Context of Sex Trafficking in China", *Fordham International Law Journal*. The Berkeley Electronic Press, Volume 32, Issue 3, art. 1, p. 734.

<sup>37</sup> Guisso, Richard W. 1981. "Thunder Over the Lake: The Five Classics and the Perception of Women in Early China", in Richard W. Guisso and Stanley Johannesen, *Women in China: Current Directions in Historical Scholarship*. Philo Press, p. 59.

<sup>38</sup> Tiefenbrun and Edwards, *op. cit.*, p. 5.

<sup>39</sup> Watson, James L. 1980. "Asian and African System of Slavery", in *Transactions in People: The Chinese Market in Slaves, Servants, and Heirs*. Berkeley and Los Angeles: University of California Press, p. 227.

<sup>40</sup> The principle of full legal equality was affirmed in the following versions of the constitution of the Republican period. However, gender discrimination was not explicitly referenced until 1946, when art. 7 of the Constitution of the Republic of China, adopted on 25 December 1946, specifically prohibited distinction on the basis of sex, religion, race, class or party affiliation.

husband and wife had the equal right to initiate divorce proceedings<sup>41</sup>, giving women greater legal status than they had been previously allowed and shaping equal “power relations in the family”<sup>42</sup>, however, it did not recognise any kind of selling of adult women that did not involve the use of force, as in cases of abductions<sup>43</sup>. Therefore, it excluded from the scope of criminalisation of trafficking in women, during Republican China, the initial act of recruitment such as use of threats, coercion, fraud, deception, or even the abuse of power or of a position of vulnerability. Under Mao Zedong’s rule (1949-1978) to alleviate women from the male-dominant power, they were granted the legal right to vote, employment, marriage, education, and inheritance rights. Even the problem of prostitution under the Communism notably decreased<sup>44</sup>.

Nevertheless, the transition from a planned economy under Communism to a free market economy in 1979 under Deng Xiaoping regrettably brought a setback to women’s equality, the re-emergence of prostitution, and the abduction of women for sexual exploitation and forced marriages<sup>45</sup>. It was also through the introduction of the OCP that China further experienced an increase of demographic crises that arguably rose to the level of *gendercide*. Couples who fail to comply with the policy regularly face demotion or loss of jobs, extreme fines, loss of benefits, or access to social services. At times, even homes and personal property might be demolished or confiscated for unpaid fines. So, to meet the standards of the OCP and to ensure the desired son, especially in rural households (though since 1984 the policy has been more lenient in rural areas permitting to give birth to more than one child if the first-born is a girl<sup>46</sup>), countless Chinese families have committed sex-selective abortions, infanticide of their baby girls, non-registration (black children *hēi háizi* 黑孩子) or abandonment, generating a scarcity of females<sup>47</sup>. Cases have been reported in the rural Yunnan province in which, rather than just abandon their babies, many women drown or even murder their girl child or sell them on the black market to smugglers<sup>48</sup>. Babies are, then, sold to wealthier or childless parents in eastern China who do not want to wait for the adoption system or rural farmers to help with the farm and the housework.

Even after the institutionalisation of the Two-Child Policy in 1 January 2016 the sex-selective abortion of baby girls, especially second daughters, did not come to an

<sup>41</sup> The Civil Code of the Republic of China, Book IV on Family Law, art. 1052.

<sup>42</sup> Diamant, Neil J. 2000. “Re-Examining the Impact of the 1950 Marriage Law: State Improvisation, Local Initiative and Rural Family Change”, in *The China Quarterly*. Cambridge University Press on behalf of the School of Oriental and African Studies, No. 161, p. 191.

<sup>43</sup> Criminal Code 1935, *op. cit.*, art. 298.

<sup>44</sup> Ju, Hong et al. 2006. “Female Criminal Victimization and Criminal Justice Response in China”, *British Justice Criminology*, p. 859.

<sup>45</sup> *Ibid.*

<sup>46</sup> Tsai, Kellee S. 1996. “Women and the State in Post-1949 Rural China”, in *Contemporary China: The Consequences of Change, Journal of International Affairs*, Vol. 49, No. 2, p. 513.

<sup>47</sup> Tiefenbrun, Susan. 2008. “Human Trafficking in China”, *University of St. Thomas Law Journal*, Vol. 6, Issue 1, art. 14, p. 732.

<sup>48</sup> Tiefenbrun and Edwards, *op. cit.*, p. 8.

end<sup>49</sup>. We can clearly witness how the role of the restrictive birth planning regulations, under the Chinese government, violate Chinese women's reproductive rights under art. 16 of CEDAW which calls for States parties to the Convention to take all necessary actions to guarantee, following the principle of gender equality between women and men, “same rights to decide freely and responsibly on the number and spacing of their children<sup>50</sup>”. At present, according to a report by World Economic Forum, China ranked 100<sup>th</sup> out of 144 countries for gender parity in 2017<sup>51</sup>.

### Forced marriage and bride trafficking

In principle, bride trafficking appears when social practices or political policies generate a scarcity in women, insufficient to the number of men, and so bride trafficking fills that void. Under the birth limitation policy and the traditional male-child preference in China, the skewed sex ratio of 117 boys to 100 girls is fuelling the demand for prostitution and for foreign women as brides for single Chinese men, especially for those living in rural areas<sup>52</sup>. Due to the increased migration of women from villages to more developed coastal areas of eastern China, rural men have no other choice but to resort in purchasing a trafficked bride, and some girls are even raised in remote villages to be child brides for farmers<sup>53</sup>. Research shows that most of the trafficked victims are from Henan, Anhui, Hunan, Sichuan, Guizhou, and Yunnan provinces<sup>54</sup>, and they are sold into forced marriages in Zhejiang, Shandong, Jiangsu, and Inner Mongolia. According to the 2017 Report of the Congressional-Executive Commission on China<sup>55</sup>, women from other countries (such as Cambodia, Myanmar, Nepal, Vietnam, Laos, Mongolia, Russia, North Korea as well as countries in Africa and the Americas<sup>56</sup>) are also at risk of being sold into forced

<sup>49</sup> Women's rights without Frontiers reported in 2017 the case of a Chinese woman from Anhui Province who died after her husband pressured her into aborting four pregnancies in a year because of his desire for a male child.

<sup>50</sup> Convention on the Elimination of All Forms of Discrimination against Women, 18<sup>th</sup> December 1979, G.A. Res. 34/180, 34 UN GAOR, Supplement no. 46, U.N. Doc A/34/46, 1979, art. 16.

<sup>51</sup> Human Rights Watch, *World Report 2018*, p. 146.

<sup>52</sup> Littlejohn, Reggie. 2018. website, *World Day Against Trafficking in Persons: Gendercide and Sexual Slavery in China*, Women's rights without Frontiers *nǚquán wújiāngjiè 女权无疆界*, July, available at <https://www.womensrightswithoutfrontiers.org/blog/world-day-against-trafficking-in-persons-gendercide-and-sexual-slavery-in-china/>, accessed 01/11/2018. See also U.S TIP Report 2018, *op. cit.*, p. 142.

<sup>53</sup> Rosenthal, Elisabeth. 2003. website, *Bias for Boys Leads to Sale of Baby Girls in China*, “The New York Times”, July, available at <https://www.nytimes.com/2003/07/20/world/bias-for-boys-leads-to-sale-of-baby-girls-in-china.html>, accessed 01/11/2018.

<sup>54</sup> United States Department of States' Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report 2008*.

<sup>55</sup> Congressional-Executive Commission on China 2017 Annual Report, One Hundred Fifteenth Congress First Session, U.S. Government Publishing Office Washington, October 2017. Available at <https://www.cecc.gov/publications/annual-reports/2017-annual-report>, accessed 01/11/2018.

<sup>56</sup> Fetterly, Madeline. 2014. website, *Sex Trafficking and China's One Child Policy Among the consequences of China's one child policy: a growing market for trafficked women*, “The Diplomat”,

marriages and sexual exploitation in China. For example, in 2015, the Cambodian government rescued 85 trafficked brides who were returned to their country, and they are just few of the thousands still imprisoned in this illegal market. As Phil Robertson, deputy director of Human Rights Watch's Asia division, has stated: "for every woman who escapes her captivity in China and returns to Cambodia, there are dozens more that never make it out"<sup>57</sup>. Another case occurred in 2016 when authorities in eastern China confirmed that a pregnant 12-year-old girl had been abducted from Vietnam and sold as a bride-to-be to an older man by a woman<sup>58</sup>. While in 2017, it was reported that the 17-year-old May Khine Oo after being drugged on a train by a couple, was sold twice to forced marriage in China during the next 13 years. She managed to escape after contacting a student group via the Chinese app messaging service, leaving her two children behind<sup>59</sup>. According to Women's Rights without Frontier, China approximately estimates a number of 30 to 40 million "bare branches"<sup>60</sup> and the pressure and expectation of the community for men to get a wife has not helped to combat bride trafficking. In order to marry a woman, the matter of costs has become an obstacle; in fact, Chinese men usually pay an expensive traditional bride price for local women, similar to a dowry. However, when men cannot afford it, they turn to traffickers to purchase kidnapped brides from other areas because is a cheaper solution in the "marriage squeeze"<sup>61</sup>. What is interesting and contradictory at the same time is that, in spite of the high demand for women in rural areas, there is a common practice of rural families to give away their baby girls, creating a vicious circle of gender imbalance in many parts of China. The situation of bride trafficking demonstrates that the patriarchal Confucian structures

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November, available at <https://thediplomat.com/2014/11/sex-trafficking-and-chinas-one-child-policy/>, accessed 01/11/2018. See also Congressional-Executive Commission on China, *Annual Report 2018*, One Hundred Fifteenth Congress Second Session, October 2018, U.S. Government Publishing Office, p. 178.

<sup>57</sup> Sen David. 2015. website, *Maids, bride return after abuse abroad*, "The Phnom Pehn Post", November 2015, available at <https://www.phnompenhpost.com/national/maids-bride-return-after-abuse-abroad>, accessed 01/11/2018.

<sup>58</sup> Li, Jane. website, *Pregnant 12-year-old confirmed by Chinese authorities to have been abducted from Vietnam*, "South China Morning Post", October 2016, article available at <https://www.scmp.com/news/china/society/article/2027054/pregnant-12-year-old-confirmed-chinese-authorities-have-been>, accessed 01/11/2018.

<sup>59</sup> South China Morning Post, website, *This Myanmar woman escaped a life of forced marriages in China and left two children behind Trafficked to China to marry, a Myanmar woman hopes to save others from same fate*, August 2017, article available at <https://www.scmp.com/news/asia/southeast-asia/article/2108092/myanmar-woman-escaped-life-forced-marriages-china-and-left>, accessed 01/11/2018.

<sup>60</sup> Bare branches *guāng gun-er* 光棍儿 refer to young adult males who will never marry because they cannot find spouses and, therefore, being unable to reproduce and carry on the family line. Bare branches tend to share similar characteristics such as belonging to the lowest socioeconomic class, being underemployed or unemployed, and they live with other bare branches, creating a distinctive bachelor subculture.

<sup>61</sup> IOM - June JH Lee, *Human Trafficking in East Asia: Current Trends, Data Collection, and Knowledge Gaps, Data and research on human trafficking: A global survey*, Offprint of the Special Issue of International Migration Vol. 43 (1/2) 2005, IOM, Geneva, p. 177.

are prevalent and still a strong influence on Chinese society behaviour that exacerbate gender imbalance and increase trafficking in women and young girls.

### **Forced sexual exploitation and the sex industry**

The trafficking in women for sexual exploitation (*guāimài fùnǚ* 拐卖妇女) and in the sex industry emerged in the wake of economic reforms. During the Mao era, prostitutes were sent to labour camps for education, formally called Women's Labour Training Centres (*fùnǚ láodòng jiàoyǎngsuǒ* 妇女劳动教养所<sup>62</sup>). In 1958, the Chinese Communist Party proudly declared to the world that prostitution had been eradicated, and this success was a symbol of China's transformation into a modern nation<sup>63</sup>. However, after 1978, the intensification of internal migration precipitated the rise in prostitution and the sex market.

Not surprisingly, most of the victims of modern society come from disillusioned and vulnerable circumstances. Once their targets from neighbouring countries reach the destination country, the traffickers take away their passport or any other identity document to impede victims from running away. Fear through the use of threats and violence, rape, and threats against family members are other coercive methods to make victims submissive and fearful. These tactics consent traffickers to deploy these victims to meet the sexual demand, and the outcome is engaging in underground work such street prostitution, brothels, or being sold as involuntary brides.

Since the economic reform of 1978, brothels have been operating in massage parlours, hair or beauty salons, and nightclub/KTV lounges. Visitors to these places are mainly middle-aged businessmen, male government officials, entrepreneurs, policemen, and foreign investors. Street prostitution and brothels only differ in location and in the process used to attract customers: with street prostitution, women "work" on the streets until a customer approach them; by contrast, brothels are easier access for customers as women are restricted in one area. It is confirmed that every year numerous cases of North Korean women rely on brokers to facilitate their travel in the territory, only to end up sold into a Chinese household or forced into the sex work<sup>64</sup>.

The UN Commission of Inquiry Report examined cases of North Korean women trafficked into forced marriages or sexually exploitation by their presumably husbands or other associates<sup>65</sup>. Moreover, studies also found Chinese children,

<sup>62</sup> Henriot, Christian. 1995. "La Fermeture: The Abolition of Prostitution in Shanghai, 1949-58", in *The China Quarterly*, No. 142. Cambridge University Press on behalf of the School of Oriental and African Studies, p. 476.

<sup>63</sup> Zheng, Tiantian. 2010. *Sex Trafficking, Human Rights and Social Justice*. New York: Routledge Taylor & Francis Group, p. 85.

<sup>64</sup> Human Rights Council, *Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea*, A/HRC/25/CRP.1, February 2014, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/108/71/PDF/G1410871.pdf?OpenElement> accessed 03/11/2018.

<sup>65</sup> Zheng, *op. cit.*, p. 138.

including the “left-behind children” (those in care of family relatives in rural villages), and girls from Russia, Mongolia, and Vietnam trafficked into exploitative conditions and forced marriage<sup>66</sup>. China has adopted an abolitionist policy stance that deems prostitution a form of violence against women, in fact over the past decades, China has published several laws to ban prostitution and prosecute the third party involved. These legislative policies rely on the belief that no women would choose prostitution voluntarily because it strips of their “natural” and legal rights. Therefore, the extant trafficking literature and Chinese anti-trafficking law classify all women forced in prostitution as trafficked victims. These series of laws include<sup>67</sup>:

- The first Criminal Law adopted in 1979<sup>68</sup>;
- the 1983 Decision of the Standing Committee of the National People’s Congress on Severely Punishing Criminals Who Gravely Endanger Public Security (the 1983 Decision)<sup>69</sup>;
- the 1991 Decision on Strictly Forbidding the Selling and Buying of Sex<sup>70</sup>;
- the 1991 Decision on the Severe Punishment of Criminals Who Abduct and Traffic in or Kidnap Women and Children<sup>71</sup>;
- the 1992 Law on Protecting the Rights and Interests of Women (Women’s Law)<sup>72</sup>;
- the Revised Criminal Law of 1997 (paragraph 6);
- the 1999 Entertainment Regulations<sup>73</sup>.

<sup>66</sup> ECPAT, *Global Study on Sexual Exploitation of Children in Travel and Tourism Country-Specific Report China 2015*, executive summary. Available at <http://www.ecpat.org/wp-content/uploads/2016/10/3.-SECTT-CHINA.pdf>, accessed 03/11/2018.

<sup>67</sup> Dewey, Susan, Tiantian Zheng and Treena Orchard. 2016. *Sex Workers and Criminalization in North America and China: Ethical and Legal Issues in Exclusionary Regimes*. New York: Springer, p. 9.

<sup>68</sup> Fifth National People’s Congress (Second Session), Criminal Law of the People’s Republic of China 中华人民共和国刑法1979年 (the “1979 Criminal Law”), adopted on 1 July 1979 and came into effect on 1 January 1980.

<sup>69</sup> Standing Committee of the Sixth National People’s Congress, Decision of the Standing Committee of the National People’s Congress on Severely Punishing Criminals Who Gravely Endanger Public Security 人民代表大会常务委员会关于严惩严重危害社会治安的犯罪分子的决定 (the 1983 Decision), promulgated and entered into force on 2<sup>nd</sup> September 1983. It has since been annulled by the passage of China’s revised Criminal Law in 1997.

<sup>70</sup> Liu, Min. 2011. *Migration, Prostitution and Human Trafficking: The Voice of Chinese Women*, New Jersey: Transaction Publishers, p. 177.

<sup>71</sup> Congressional Executive Commission on China, 全国人民代表大会常务委员会关于严惩拐卖、绑架妇女、儿童的犯罪分子的决定, 1991. Available at <https://www.cecc.gov/resources/legal-provisions/decision-regarding-the-severe-punishment-of-criminals-who-abduct-and>.

<sup>72</sup> Fifth Session of the Seventh National People’s Congress, 1992, art. 2 states “*The state shall protect the special rights and interests enjoyed by women according to law, and gradually perfect its social security system with respect to women. Discrimination against, maltreatment of, or cruel treatment in any manner causing injury even death of women shall be prohibited*”. While art. 8 of this document also has the state guaranteeing that women enjoy equal political rights with men. Available at [http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content\\_1383859.htm](http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383859.htm).

<sup>73</sup> Jeffreys, Elaine. 2012. *Prostitution Scandals in China: Policing, Media and Society*. New York: Routledge Taylor & Francis Group, p. 26.

These provisions aim to forbid syndicates or third parties from providing prostitution in women, or any attempt to coordinate and partake in felonious behaviours with prostitutes<sup>74</sup>. Unfortunately, even if we assume these are comprehensive legal strategies, there are several challenges weakening the effectiveness of these legal obligations. By far, the most prevalent quandary in China, that increases trafficking in women both at transnational and national level, is corruption (*tānwū fǔbài* 贪污腐败). Like in other countries, corruption and complicity among states' officials have eased trafficking operations inside the nation. An example appears when the Chinese media reported in July 2012 the involvement of local government officials and businessmen in the kidnapping and commercial sexual exploitation of eight girls under the age of 14<sup>75</sup>.

### Response to trafficking in persons and Domestic Law enforcement

In the last decade, the government has taken measures and responsibility to strengthen women's rights, such as the implementation of the *China National Plan of Action on Combating Human Trafficking in Women and Children 2008-2012*<sup>76</sup> (中国反对拐卖妇女儿童行动计划 2008-2012年). However, due to lack of concrete evidence, we cannot estimate whether it has been implemented or not and if it has had any effect at all. In order for the State Council to take additional steps to bring government efforts into compliance with international standards, in January 2013 it issued a revised version of its predecessor, the *China Action Plan to Combat Trafficking in Persons 2013-2020*<sup>77</sup> (中国反对拐卖人口行动计划 2013-2020年). The Action Plan basically calls the government to strengthen international cooperation<sup>78</sup>; improve anti-trafficking laws, regulations, and policy systems<sup>79</sup>; raise anti-trafficking funds through multiple channels<sup>80</sup>; and increase efforts in

<sup>74</sup> Zheng, *op. cit.*, p. 89.

<sup>75</sup> United States Department of States' Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report 2013*. Available at <https://www.state.gov/j/tip/rls/tiprpt/countries/2013/215439.htm>, accessed 04/11/2018.

<sup>76</sup> The Central People's Government of the People's Republic of China *zhōnghuá rénmin gònghéguó zhōngyāng rénmin zhèngfǔ* 中华人民共和国中央人民政府, *China National Plan of Action on Combating Human Trafficking in Women and Children 2008-2012 zhōngguó fǎnduì guǎimài fùnǚ értóng xíngdòngjìhuà* 中国反对拐卖妇女儿童行动计划2008-2012年, 2007. Available at [http://www.gov.cn/zwgk/2007-12/20/content\\_839479.htm](http://www.gov.cn/zwgk/2007-12/20/content_839479.htm), accessed 05/11/2018. The English version is available on the UN-ACT website at <http://un-act.org/publication/china-national-plan-of-action-on-combating-trafficking-in-women-and-children-2008-2012/>, accessed 05/11/2018.

<sup>77</sup> The Central People's Government of the People's Republic of China *zhōnghuá rénmin gònghéguó zhōngyāng rénmin zhèngfǔ* 中华人民共和国中央人民政府, *China Action Plan to Combat Trafficking in Persons 2013-2020 zhōngguó fǎnduì guǎimài rénkǒu xíngdòngjìhuà* 中国反对拐卖人口行动计划2013-2020年, 2013. Available at [http://www.gov.cn/zwgk/2013-03/08/content\\_2349019.htm](http://www.gov.cn/zwgk/2013-03/08/content_2349019.htm), accessed 05/11/2018.

<sup>78</sup> *Ivi*, para 2 (6.2).

<sup>79</sup> *Ivi*, para 2 (4).

<sup>80</sup> *Ivi*, para 3 (2).

prevention<sup>81</sup> and protection<sup>82</sup>. To date, the Ministry of Public Security (MPS) maintains directives on anti-trafficking interagency process and guides the implementation of the National Action Plan on Combatting Human Trafficking. Although, it did not report the amount of anti-trafficking funding activities in maintenance of the action plan, an approximate assessment was reported in 2016 to be more than 55 million RMB (\$8.5 million)<sup>83</sup>. As previously anticipated, the only available legislative measures provided by the Chinese government are the 1979 Criminal Law and the 1997 Criminal Law, a revised version of the former.

### Criminal law of 1979

In July 1979, the National People's Congress, China's highest legislative body, adopted the Criminal Law of the PRC<sup>84</sup> (hereafter the "1979 Criminal Law"). Finally, after a thirty-year absence of a statutory mechanism to specify criminal conducts and equivalent punishments by the state, the offense of trafficking in persons first appeared in art. 141 of the 1979 Criminal Law, which sentenced, whoever engaged in abduction for the purposes of trafficking, for a fixed-term imprisonment of 5 years, while for *serious cases*, the offender could be sentenced for more than 5 years<sup>85</sup> (拐卖人口的, 处五年以下有期徒刑; 情节严重的, 处五年以上有期徒刑). However, as we can see, the article fails to provide a definition of the offense of trafficking in human beings and the criteria used to determine serious circumstances. Moreover, the 1979 Criminal Law did not include forced prostitution as a competence of art. 141 since it was not gender specific and also because art. 140 already targeted the perpetrators who forced women into prostitution. On the same subject, art. 169 criminalised the offenses of luring or sheltering women in prostitution for the purpose of profit, but it is unclear whether it applied to all cases of prostitution or only in cases of forced prostitution. In addition, unlike art. 140 and art. 141 categorised under Chapter 4 "*on offenses of infringing on the personal or democratic rights of the citizens*", art. 169 approaches prostitution more as a problem of obstructing the administration of public order rather than the deprivation of personal liberties as in cases of forced prostitution.

Translation further generated confusion on the interpretation of art. 140 and art. 141 on the traffic in human beings. Whereas, the official English translation of the 1979 Criminal Law enacted the offense of "*abduction for purposes of trafficking in*

<sup>81</sup> *Ivi*, para 2 (5).

<sup>82</sup> *Ivi*, para 2 (2).

<sup>83</sup> U.S Trafficking Report 2018, *op. cit.*

<sup>84</sup> Fifth National People's Congress (Second Session), *op.cit.*

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全国人民代表大会, 中华人民共和国刑法, 1979年7月1日第五届全国人民代表大会第二次会议通过  
 1979年7月6日全国人民代表大会常务委员会委员长令第五号公布  
 自1980年1月1日起施行. Available at [http://www.npc.gov.cn/wxzl/wxzl/2000-12/06/content\\_4379.htm](http://www.npc.gov.cn/wxzl/wxzl/2000-12/06/content_4379.htm). The English translation is available at [http://www.opbw.org/nat\\_imp/leg\\_reg/China/CRIMINAL\\_LAW.pdf](http://www.opbw.org/nat_imp/leg_reg/China/CRIMINAL_LAW.pdf), accessed 07/11/2018.

human beings”, the original Chinese text *guāimài rénkǒu* 拐卖人口 represented a much more restricted scope of criminal activity limited to the act of abduction, sale of individuals and to the specific exploitation of women for forced prostitution<sup>86</sup>.

On the basis of the two provisions, the concept of criminal responsibility focused on the offenses committed: the abduction and sale of trafficked victims in art. 141 during the earlier stages of trafficking would be considered separately from the subsequent role played by other individuals in the exploitation of victims of art. 140. Therefore, under art. 140, criminal activity by pimps or brothel-owners in forcing women into prostitution would be considered distinctly and sanctioned differently from those who initiated abduction or sale of the victim. Whereas, art. 141 prescribed the penalty of imprisonment of five years or less for perpetrators of human trafficking, with the exception of serious cases, those who forced women to engage in prostitution could be imprisoned from three to ten years. This provision created ambiguity because a trafficker who abducts and sells a woman could be treated more leniently by the law by claiming to have no responsibility in her resultant situation, even if it was reasonable to believe that forced prostitution was the final result of her sale and transfer.

### **Criminal law of 1997**

In 1997, China’s criminal law was significantly revised to provide wider coverage of crimes through the expansion from 192 to 452 articles in criminal law. The 1997 revised Criminal Law sought to improve many of the limited definition of trafficking and criminalise more associated offenses, such as obstructing the rescue of victims<sup>87</sup>. The revisions also sanctioned more stringent punishments and specified what situations constituted serious crimes enough to increase penalties.

To date, the Criminal Law was amended in 2015 to revise some of the trafficking provisions<sup>88</sup>. The most significant article dealing with human trafficking can be found in art. 240 which states “by abducting and trafficking in a woman or child is meant any of the following acts: abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a woman or child, for the purpose of selling the victim”. In contrast to the gender-neutral scope of art. 141 of the 1979 Criminal Law, the present definition excludes adult male victims from its scope.

Additionally, compared to the 1979 Criminal Law, the statutory penalties are more stringent and may also include life imprisonment and the death penalty for

<sup>86</sup> *Guāimài rénkǒu* 拐卖人口 only recognises the abduction, kidnapping and sale of the victims as actions of trafficking, whereas as we know, the international standard is actually much more expansive by including other actions such as transporting, transferring, harbouring and receipt of persons in the definition for trafficking.

<sup>87</sup> Criminal Law of the People's Republic of China, adopted by the Second Session of the Fifth National People's Congress on July 1, 1979 and amended by the Fifth Session of the Eighth National People's Congress on 14<sup>th</sup> March 1997, art. 242. Available at <https://www.fmprc.gov.cn/ce/cgvienna/eng/dbtyw/jdwt/crimelaw/t209043.htm> , accessed 09/11/2018.

<sup>88</sup> Zhang, Laney. 2016. *Training Related to Combating Human Trafficking: China*, Library of Congress. Available at <https://www.loc.gov/law/help/human-trafficking/china.php> , accessed 30/05/2019.

serious crimes identifiable according to the status of the defendant in a criminal trafficking gang; the number of victims trafficked; the means used in the kidnapping; the manner in which a trafficked baby or infant was acquired; and extent of the injury caused<sup>89</sup>. Other factors also involve whether sexual assault was committed; if the victim was sold abroad; or if the trafficked woman was forced or enticed into prostitution, either directly or indirectly, by the offender<sup>90</sup>. On the other hand, although the PRC Criminal Law prohibits human trafficking its provisions do not prohibit fraudulent or coerced commercial sexual exploitation, nor do they prohibit all forms of trafficking, such as debt bondage<sup>91</sup>. In this respect, the PRC Criminal Law has a broader definition, for example, unlike the UN Trafficking Protocol, the purchase or abduction of children and its subsequent sale, the end purpose of these actions are not indicated<sup>92</sup>. Moreover, China has yet to meet the obligations to criminalise, *at the minimum*, the full range of demeanour of trafficking covered by the international definition.

The revised 1997 Criminal Law distinguishes criminal liability for the acts of selling and buying a trafficked victim, where each carries a different punitive sanction. Art. 240 condemns the act of selling a trafficked woman or child calling for a minimum sentence of five to ten years of imprisonment. In contrast, art. 241 on the purchase of an abducted woman or child only prescribes a sentence of “fixed-term imprisonment of not more than three years, criminal detention or public surveillance”.

It is quite vague what legal basis supports the reduced sentence for a buyer vs. a seller of a trafficked woman or child, especially since both actions are required for the transaction and the exchange of person to take place. In other words, if the buyer of a trafficked woman or child under art. 241 resells the victim after purchase, then, the defendant can be prosecuted on the basis of art. 240 for abduction and trafficking for the purpose of selling the victim. Per contra, such interpretation is quite challenging, not only because the action of buying a trafficked victim permits lighter sanctions than the act of selling, but also because it creates possible openings for the prosecution of offenders “to take advantage of the vagaries” of the law by claiming to have had no prior awareness of the status of the trafficked victim. The representation of art. 241 after the Ninth Amendment, simply put, is that the buyer of an abducted woman or child is “criminally punishable but may receive lighter sentence<sup>93</sup>”, this can be considered a moderate improvement assuming that before the buyer could be exempted from criminal sentence if he did not obstruct the woman from willingly returning home, harm or obstruct a child’s rescue<sup>94</sup>.

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<sup>89</sup> *Ivi*, arts. 240 (1), 240 (2), 240 (5), 240 (6), and 240 (7).

<sup>90</sup> *Ivi*, arts. 240 (3), 240 (8) and 240 (4).

<sup>91</sup> PRC Criminal Law [*Zhōnghuá rénmín gònghéguó xíngfǎ* 中华人民共和国刑法1997年], passed 1<sup>st</sup> July 79, amended 14<sup>th</sup> March 97, effective 1<sup>st</sup> October 97, last amendment on 29<sup>th</sup> August 2015, arts. 240 (4), 244, 358 (3).

<sup>92</sup> *Ibid.*, art. 240.

<sup>93</sup> Zhang, *op. cit.*

<sup>94</sup> *Ibid.*

Other law enforcements are art. 358 that criminalises forced prostitution with penalties from five to ten years imprisonment; art. 359 punishes whoever harbour, seduce, or introduce others into prostitution by imposing a maximum of five years imprisonment and a fine; while a stringent penalty is described to the alleged offender if he seduces girls younger than 14 years of age into prostitution; and art. 244 convicts with penalties from three to ten years detention, whoever forces a person “to work by violence, threat or restriction of personal freedom” and any action involving the recruitment, conveyance, and assistance<sup>95</sup>. The precise number of investigations, prosecutions, and convictions cases are still undefined, even with the statistics of the State legislative enforcement data<sup>96</sup>. However, studies showed that prosecution did not occur under section 240 of the criminal code, but, instead, were applied criteria of art. 358, in particular cases involving sexual exploitation<sup>97</sup>.

The State adopted law enforcement cooperation with foreign governments to investigate cases of trafficking in Chinese citizens in the US, Africa, and Europe<sup>98</sup>; nevertheless, in some instances, Chinese authorities tried to extradite the victims of trafficking as criminals, viz. in Europe<sup>99</sup>. The Chinese law enforcement authority also expanded its consultative partnerships with Laos and to address forced and fraudulent marriage of their citizens to Chinese individuals. To maintain its efforts to prevent trafficking, the Chinese government donated funds to television shows, social media, and distributed posters and other materials to public and community centres to raise awareness of the risks of trafficking, especially among vulnerable rural communities<sup>100</sup>.

## Conclusion

Victims of human trafficking are unknown, faceless, and displaced from society. Although significant steps have been made to combat trafficking of people, victims of this crime are still frequently rejected by the public’s concern and often forgotten, more so inside the Chinese culture. In spite of ratification of global and regional anti-trafficking frameworks and enactment of significant national laws to curb the exploitation and abuse of human trafficking, limitations of anti-trafficking law enforcement measures in the PRC are most apparent when perpetrators cannot be held accountable and trafficking remains an endemic security issue, threatening States and societies. The exploitation of women and girls in this particular setting is deeply embedded (although not only) in feudal and patriarchal assumptions regarding male dominance and supremacy, forcing women to face the constant vulnerability of their gender in contexts that involves both sexual and labour exploitation.

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<sup>95</sup> U.S Trafficking Report 2018, *op. cit.*, p. 139.

<sup>96</sup> United States Department of States’ Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report 2017*, p. 126.

<sup>97</sup> U.S Trafficking Report 2018, *op. cit.*, p. 139.

<sup>98</sup> *Ivi*, p. 140.

<sup>99</sup> *Ibid.*

<sup>100</sup> *Ibid.*

This analysis has attempted to highlight the causes and consequences that exacerbate the trafficking of both national and foreign women and young girls in the PRC and it approaches the measures adopted in order to eradicate and stop the exploitation of vulnerable victims. While there is an evident incremental action towards this issue through local NGOs, national anti-trafficking workshops, and training programs to anti-trafficking officials nationwide, a shift in values within the society is unlikely to occur soon, however, since the Chinese authority and institution commitment to promote gender parity, strengthen education, and raise awareness, women can ultimately rely on the confidence and dignity of their gender. It will be also through the adjustment of the economic system that causes women to be exploited economically that eventually every individual might be able to rely upon each other without either dependency or dominance and, hence, stop the marginalisation and exploitation of women within the country.

To respond to the illegal trend that has spread in the territory whether the Chinese government chooses to proscribe, permit, or regulate trafficking in persons, it cannot be only pursued through robust legal frameworks. It is clear, as a matter of fact, that while anti-trafficking laws are absolutely vital to maintain peace and security in the Mainland, they are not sufficient or entirely effective in eradicating the exploitation and abuse of women and children if not implemented in conjunction with international cooperation and assistance. Given the tremendous challenges the Chinese Institution is presented with, it is even more significant for the State to fully utilise regional cooperation and provide basic standards for the protection of victims not only in terms of resources, but also knowledge and competence.

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