

Ling Han

Child Trafficking in China

A Human Rights-Based Perspective

 Springer

Child Trafficking in China

Ling Han

Child Trafficking in China

A Human Rights-Based Perspective

 Springer

Ling Han
Law School (Lawyers College)
Guangzhou University
Guangzhou, China

ISBN 978-981-97-3716-1 ISBN 978-981-97-3717-8 (eBook)
<https://doi.org/10.1007/978-981-97-3717-8>

© The Editor(s) (if applicable) and The Author(s), under exclusive license to Springer Nature Singapore Pte Ltd. 2024

This work is subject to copyright. All rights are solely and exclusively licensed by the Publisher, whether the whole or part of the material is concerned, specifically the rights of translation, reprinting, reuse of illustrations, recitation, broadcasting, reproduction on microfilms or in any other physical way, and transmission or information storage and retrieval, electronic adaptation, computer software, or by similar or dissimilar methodology now known or hereafter developed.

The use of general descriptive names, registered names, trademarks, service marks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use.

The publisher, the authors and the editors are safe to assume that the advice and information in this book are believed to be true and accurate at the date of publication. Neither the publisher nor the authors or the editors give a warranty, expressed or implied, with respect to the material contained herein or for any errors or omissions that may have been made. The publisher remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.

This Springer imprint is published by the registered company Springer Nature Singapore Pte Ltd.
The registered company address is: 152 Beach Road, #21-01/04 Gateway East, Singapore 189721, Singapore

If disposing of this product, please recycle the paper.

Preface

In the crisp autumn of 2005, my mother and I embarked on a train journey across half of China, spanning 2565 km, to my university. It was a first for me—being so far from home and spending two full days on a train. As we entered Fujian Province, our train slowed, meandering for hours through hills lush with banana trees. Sitting by the window, the endless greenery unfolded before me, but soon, monotony set in. Breaking the silence, my mother remarked, “No wonder those girls sold to rural Fujian couldn’t escape. Look at this endless expanse”. Her gaze turned to me, filled with concern, “Be careful at university. Don’t trust strangers, and never wander off campus alone. In a place like this, one could disappear without a trace. If you were sold here, you would never escape”. Growing up in the late 80s and early 90s China, such cautionary tales were not uncommon, echoing the protective instincts of many families.

In October 2022, Sun Yue, the sister of a child who was trafficked, published a book titled “Reunion”. This poignant work details her family’s agonising 14-year search for their son, who was abducted at the tender age of four. Sun Haiyang, the father of the abducted child, became a well-known figure in China following the 2014 release of the highly acclaimed film “Dearest (亲爱的)”, which drew attention to his plight. His story captured the nation’s heart once more when his son, Sun Zhuo, was discovered after a relentless 14-year search. Sun Zhuo had been sold to a family over 1700 km away from his home in Shenzhen and was living under a false name. The Sun family’s ordeal is emblematic of the harrowing experiences faced by countless Chinese parents who have lost their children to traffickers and have dedicated years to searching for them. Despite the overwhelming odds, the Suns were among the fortunate few who experienced the joy of being reunited with their missing child.

Thanks to the “Skynet Project” launched in 2001, incidents of child trafficking akin to the case of Sun Zhuo are now reported with less frequency compared to past years. However, instances of successful or attempted child abductions continue to be documented, with evidence often captured on video by both private and public surveillance systems. In addition, the sale of children for illegal adoption is not far from our life. During the second year of my doctoral research, I engaged in a brief discussion about my project with a new Ph.D. candidate from China, whom I had

met at a social gathering. Her reaction underscored the gravity of the issue: “This is a serious problem. Do you know? One of my cousins, a boy, was acquired by my uncle”. This anecdote was not unique in my experience. In my childhood, in the neighbourhood of my grandparents’ residence, there was a girl with dwarfism named Maomao, approximately ten years my senior. Our childish games often involved comparing the sizes of our hands with hers, her tiny hands reminding us of a doll’s. Following her marriage to a young man afflicted with polio, they had adopted a daughter from an impoverished family the subsequent year. These stories, among others, vividly illustrate the persistent undercurrents of societal challenges we face.

While acknowledging the potential biases inherent in personal narratives, I am compelled to delve deeper into this issue using scientific research methods and more reliable data sources. Given the clandestine nature of child trafficking, it is clear that determining the full scale of this issue within the entire country is an impractical goal. Rather, my research aims to unearth more nuanced insights: identifying those at greatest risk of becoming victims of child trafficking and understanding the reasons behind their vulnerability. Furthermore, it seeks to pinpoint the gaps in current protective measures for children against such crimes

Guangzhou, China

Ling Han

Acknowledgements

This book's existence owes much to the support and encouragement of numerous individuals, whose contributions have been invaluable. I am particularly indebted to the University of Padova, the Human Rights Centre, and the Fondazione Cassa di Risparmio di Padova e Rovigo for their financial support throughout my university studies, three years of research, and the early phases of my career during the pandemic.

Special thanks are extended to my supervisors, Prof. Yang Songcai and Prof. Paolo De Stefani. Their guidance transcended the academic realm, offering friendship alongside professional mentorship. From them, I learnt the importance of diligence, meticulous attention to detail in teaching, a commitment to thoroughness and precision in research, and the maintenance of integrity in challenging circumstances.

I am also grateful to Prof. Adam Possamai for his supervision during my visiting study at Western Sydney University. His advice on article writing was instrumental in my initial foray into academic publishing.

My appreciation also goes to the Human Rights Centre of the University of Padua, along with all the professors and colleagues associated with the Centre. I am particularly thankful to Prof. Marco Mascia, my mentor in human rights studies since 2008, and Prof. Pietro de Perini, who offered early “warnings” about the challenges of the research journey. The generous assistance provided by my colleagues Benedetta, Donatella, and Luca at the Centre has been indispensable.

The completion of this book would not have been as seamless without the contributions from Yang Shanglin, Dang Zhenmin, He Shuya, Lin Minzhi, Lin Ziqi, and Luo Zhimin at Guangzhou University, who assisted in updating the data. My affiliation with Guangzhou University has afforded me a sanctuary for continuing my research and sharing my knowledge with the next generation.

My journey has also been supported by a network of friends who provided emotional sustenance. Claudia and her parents offered me a home in Italy. In Sydney, my friends Geoff, Lin, Keat, and Amy extended warm care. The joy brought to me by Da Zhang Wei and my friends from DM48 during stressful times, along with the valuable advice and encouragement from Desirée, has been a source of strength.

Lastly, but most importantly, the unwavering support of my family—especially my mother, father, and dear grandmother—has been the cornerstone of my achievements. Their belief in my choices has been a constant source of encouragement.

Contents

1	The Crime of Human Trafficking: An Introduction	1
1	A Brief History of Child Trafficking in China	3
2	The Issue of Definition and Translation	9
	References	19
2	Addressing Child Trafficking Adopting a Human Rights-Based Approach	25
1	The Legal Framework Addressing Child Trafficking	26
2	State's Obligations Under International Law	45
3	Human Rights Issues in the Child Trafficking Cycle	53
	References	59
3	Status Quo of Child Trafficking in China as Reflected in Judicial Cases	63
1	Scale and Routes of Trafficking in China	63
2	Modern Patterns of Child Trafficking in China	73
3	Conclusion	97
	References	98
4	Child Trafficking in China as Human Rights Issues	101
1	Human Rights Issues as Causative Factors	102
2	Human Rights Abuses During the Trafficking Cycle	132
3	Human Rights Challenges After the Trafficking Cycle and Rescue	145
4	Conclusion	151
	References	153

- 5 China’s National Policy and Practices in Combating Child Trafficking: Good Practices** 155
 - 1 National Plans of Action on Combating Trafficking in Children and Women 156
 - 2 “3Ps” Mechanism in Practice 160
 - 3 Civil Involvement 167
 - References 176
- 6 Filling Policy Gaps from Human Rights-Based Approach** 177
 - 1 Prosecution 179
 - 2 Protection 183
 - 3 Prevention 192
 - 4 Conclusion 198
 - References 199
- Concluding Remarks** 201
- Appendix A** 203
- Appendix B** 205
- Appendix C** 207
- List of Cited Law, Regulations and Policy Papers of China** 209
- List of Cited Documents of International and Regional Organisations** 215

Abbreviations

AI	Artificial Intelligence
ASEAN	Association of Southeast Asian Nations
BBHJ	Bao Bei Hui Jia (Baby Coming Home)
CCCPC	Central Propaganda Department of the Central Committee of the Communist Party of China
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
CRC	Convention on the Rights of the Child
CRC-OPSC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
CRPD	Convention on the Rights of Persons with Disabilities
ECOSOC	United Nations Economic and Social Council
GMS	Greater Mekong Sub-region
GRP	Gross Regional Product
ICAT	Inter-Agency Coordination Group against Trafficking in Persons
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ILC	International Law Commission
ILO	International Labour Organization
IMCS	Inter-ministerial Joint Conference System for Anti-Trafficking in Women and Children
IOM	International Organization for Migration
MPS	Ministry of Public Security
NPA	National Plan of Action
OHCHR	United Nations Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Co-operation in Europe

PRC	People's Republic of China
SAAR	South Asian Association for Regional Cooperation
SPA	Subregional Plan of Action
UNAIDS	United Nations Joint Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific, and Cultural Organisation
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crimes
WHO	World Health Organization

List of Figures

Chapter 2

Fig. 1 The cycle of child trafficking 54

Chapter 3

Fig. 1 Chronological analysis of documented child trafficking case detections in the present study (n = 2172) 70

Fig. 2 Distribution of the origins of trafficked children in China (N = 1960) 70

Fig. 3 Distribution of the destination for trafficked children in China (N = 2043) 71

Fig. 4 Victim flows of child trafficking in China: main regional nexus ... 72

Fig. 5 Victim flows of child trafficking in China: the rural–urban nexus (n = 1253) 73

Fig. 6 Modes of child trafficking: distribution of victims in China (n = 2270) 78

Fig. 7 Modes of child trafficking: distribution of victims in cases detected in each region of China (n = 2270) 79

Fig. 8 Demographic distribution of trafficked children in China by gender (n = 2270) 80

Fig. 9 Demographic distribution of trafficked children in China by gender and age group (n = 1998) 81

Fig. 10 Gender distribution of victims across different trafficking modes 81

Fig. 11 Regional distribution of detected child trafficking victims in China by gender 82

Fig. 12 Demographic distribution of trafficked children in China by age (n = 1998) 83

Fig. 13 Age-specific distribution and modes of child trafficking in China (n = 2261) 83

Fig. 14 Comparative analysis of highest prices of victims by mode and gender (n = 2065) 85

Fig. 15 Comparative analysis of highest prices of victims by age and gender (n = 1703) 86

Fig. 16 Rescue results (n = 2270) 87

Fig. 17 Number of cases by duration of trafficking (n = 1792) 87

Fig. 18 Gender distribution of convicted offenders: comparative data (n = 2735). *Source UNODC, Global Report on Trafficking in Persons 2022, p. 58 90

Fig. 19 Age Distribution of individuals convicted for child trafficking (n = 2186) 91

Fig. 20 Educational levels of individuals convicted in child trafficking cases (n = 1711) 91

Fig. 21 Ethnic composition of convicted traffickers (n = 2083) 92

Fig. 22 Relationships of traffickers to their victims (n = 2412) 93

Chapter 5

Fig. 1 “H”-shaped operating model of BBHJ 169

Chapter 1

The Crime of Human Trafficking: An Introduction



As is well known, human trafficking—including the trafficking of children—represents a serious crime and a violation of human rights that affects every country. Like the illicit trafficking of drugs and firearms, human trafficking is often carried out by transnational organised criminal groups at a low cost. Due to its clandestine nature, estimating the number of victims is enormously challenging. The United Nations Office on Drugs and Crime (UNODC) reported that approximately 25,000 cases of human trafficking were detected globally in 2016, with 30% of the victims being children (UNODC 2018); however, these figures are believed to be only the tip of the iceberg (Kragten-Heerdink et al. 2018; Liu 2010; Rafferty 2007; Savona and Stefanizzi 2007; UNODC 2006; Laczko and Gozdzia 2005).

China, as one of the most populous countries globally, is not immune to human trafficking. The country has participated actively in numerous international, regional, and bilateral agreements aimed at combatting trafficking in women and children. It is often recognised as both an origin and destination for cross-border trafficking in persons (UNODC 2006, 2016, 2018). Chinese women and girls are frequently trafficked from China to wealthy countries, seeking better lives but instead finding themselves in debt bondage to traffickers. In some cases, they are forced into the sex industry or sweatshops to pay off their debts. China is also known as a destination country for human trafficking, with women and children from Southeast Asian countries being trafficked into China for exploitation in arranged or forced marriages, prostitution, labour, illegal adoption, and other forms of exploitation.

There is extensive literature on transnational trafficking in persons, investigating it from a variety of disciplinary perspectives, such as studies conducted by Burke (2022), Villa (2019), Lee (2013), Shelley (2010, 2013), Winterdy et al. (2011), Cameron and Newman (2008), Ebbe and Das (2007), Obotaka (2006), and many others. Moreover, there are also numerous studies focused on specific regions or countries, including Europe (Antonopoulos et al. 2019; Wylie and McRedmond 2010; Surtees 2008; Englund et al. 2008), Africa (Hoffman and Abidde 2021; Iroanya 2018; Cohen 2003), Asia (Yea 2019; UN-ACT 2016; Mendoza et al. 2016; Spires

2015; Gu 2007; Rosenberg 2003), and America (Chisolm-Straker and Stoklosa 2017; Marcus et al. 2016; Palmiotta 2014). However, the academic investigation into child trafficking in China remains relatively limited. Research by Chinese scholars has predominantly centred on the legal and sociological dimensions, including legislative frameworks (Liu 2003, 2010; Yang 2008; Zhao and Meng 2014). Other inquiries have delved into the criminological aspects of child trafficking, exploring its characteristics, underlying causes (Gao 2010; Li et al. 2013; Liu 2000; Shen 2016; Xing 2017), as well as its criminal investigation (Huang 2009). In many of these studies, children are only a subgroup of a broader topic, such as the trafficking of women or human trafficking.

Considering the differences between victims across various gender and age groups, it is reasonable to assert that child trafficking and the trafficking of women differ in their underlying causes, patterns of criminal activity, and consequences. Therefore, this necessitates divergent strategies for their eradication. However, the empirical investigation into child trafficking within China remains notably sparse, with the majority of studies being confined to a limited geographical area or a small number of cases (Zhou et al. 2023; Shen 2016; Yuan and Yang 2001; Yang 2000; Li 2000). Notably, in recent years, there has been a noticeable shift towards the adoption of quantitative analysis methods in this field of research. Among such endeavours, Li Gang and colleagues have undertaken pivotal studies examining the geographic and spatiotemporal characteristics of child trafficking, utilising data sourced from the NGO “Bao Bei Hui Jia (BBHJ)”. These studies have delved into the geographical nuances of child trafficking in China, encompassing victim demographics, temporal and spatial variations of the crime, and victim trafficking flows (Li et al. 2017a; b). Wang et al. (2018) expanded upon this research to analyse the child trafficking network at both the provincial and city levels, employing the same data source.

Further contributions to this field have been made by scholars analysing national data on court judgements, accessible via “China Judgements Online”,¹ the sole official national online database of court judgements. This dataset underpinned two interconnected studies analysing 447 court verdicts issued between 2013 and 2015 concerning child trafficking. The first study offered a comprehensive overview of the crime’s characteristics (Xing et al. 2017), while the second scrutinised incidents of child sale perpetrated by parents (Xing 2017). Additionally, Xin and Cai (2018) utilised this judicial database to investigate the characteristics, patterns, and contributory factors of child trafficking in China. Common findings across these studies highlight that most victims of child trafficking are younger than 3 years; boys are more frequently trafficked than girls; and the predominant motive behind trafficking is illegal adoption.

A significant majority of Chinese scholars addressing human trafficking have proposed strategies to prevent and counteract this crime (See, e.g., Wang et al. 2018; Lin 2015; Yuan and Yang 2001; Li 2000; Yang 2000). Among these recommendations are the imposition of stringent penalties and intensified crackdowns, poverty alleviation, heightened awareness among those most vulnerable, bolstered law enforcement

¹ See <http://wenshu.court.gov.cn>.

capabilities, and increased inter-sectoral collaboration. Nevertheless, only a minimal number of studies have undertaken a thorough examination of the victims' vulnerabilities both prior to and subsequent to their trafficking, an analysis critical for the formulation of effective policies aimed at both crime prevention and victim protection (UNICEF Innocenti Research Centre 2009; UNODC 2009a). Furthermore, merely a select few investigations have approached the issue from a human rights perspective (Shen et al. 2013; Yuan and Yang 2001) akin to international studies. A couple of global inquiries offer a comprehensive approach, tackling prevention, protection, and prosecution in a unified manner (Rijken 2009; Obokata 2006).

This study illuminates a form of trafficking that, despite its prevalence in China, has remained largely overlooked in wider discourse. The focus here is on intra-state child trafficking, a phenomenon not sufficiently addressed by previous international research. Child trafficking within China exhibits distinct characteristics and complexities that set it apart from the transnational trafficking of women and children. These distinctive features have their origins in ancient Chinese history. In this chapter, both the historical and factual contexts of child trafficking in China will be scrutinised, alongside key concepts fundamental to understanding this research.

1 A Brief History of Child Trafficking in China

The issue of child trafficking, a subset of human trafficking, emerged as a concern in international politics at the outset of the twentieth century (Gallagher 2010, p. 13). Initially, the primary focus was on the trafficking of women and children for prostitution, commonly referred to as "White Slave Traffic." This term described slavery-like practices involving the recruitment and trade of women and young girls for prostitution (Gallagher 2010; Obokata 2006). The International Agreement for the Suppression of the White Slave Traffic of 1904, the first Convention against White Slavery, aimed to protect women and girls from being procured abroad for "immoral purposes." The subsequent International Convention for the Suppression of the White Slave Traffic of 1910 also addressed the trafficking of women and girls, with an emphasis on the process of procurement and transportation.

While "White Slave Traffic" serves as a direct predecessor to current international trafficking concerns, the roots of child trafficking in China can be traced back to the abduction of children into slavery and illegal adoption. Compared to contemporary transnational human trafficking, trafficking in China has a much longer history. The such crime has afflicted the Chinese populace since ancient times. Traditionally, efforts to prohibit child trafficking in China have centred on domestic cases. The earliest Chinese penal law against human trafficking dates back to the Tang Dynasty (618–907 AD), with similar prohibitions found as early as the Eastern Han Dynasty (25–220 AD). Despite the existence of slavery alongside bans on human trafficking until the twentieth century, it was only after the fall of the Qing government that slavery was formally abolished. Nonetheless, the phenomenon of child trafficking persisted beyond the collapse of the feudal system. Following a period of war and

political instability from 1912 to 1979, child trafficking has re-emerged as a significant concern in China since the 1980s. In its modern guise, the presence of slavery is no longer a requisite for the crime to be constituted. However, certain features, such as the “abduction” and “sale” of children, have been inherited, with children being forcibly abducted and sold, or sold by their own parents.

Despite the Chinese government’s concerted efforts to address the crime of child trafficking, including police crackdowns on criminal networks and the imposition of increasingly severe penalties, the tragedies have continued to affect Chinese families and society at large. Civil society organisations also play an active role in combating the crime and supporting victims. Nevertheless, the question of how to effectively prevent and counteract child trafficking remains a topic of ongoing, vibrant discussion in China.

A. Slavery, the sale of people and trafficking bans in ascent China

The phenomenon of child trafficking in China, and the legal frameworks established to criminalise the practice, are deeply entrenched in the nation’s history, exhibiting unique characteristics. Contemporary research identifies human trafficking in China as a legacy of the feudal slavery system (see Ge 2019; Yao and Guo 2008; Song 2004; Yu 2000; Ma 1997). Within the feudal caste system, individuals outside the ruling echelons were categorised into two principal groups: “commoners (良民 *liang min*)” encompassing gentries, peasants, labourers, and merchants; and “outcasts (贱民 *jian min*)” comprising slave servants, maid concubines, prostitutes, courtesans, and others deprived of full personal freedom (Huang 2013; Ma 1997). The elite, including monarchs, nobility, and affluent commoners, were permitted to employ servants, maids, and concubines.

As elucidated in Ma’s (1997) examination of human trade in ancient China, the elite have been significant patrons of human trafficking since the Han Dynasty. The demand for enslaved servants by the upper classes went hand in hand with the extreme poverty of their subjects, fuelling a vast black market in the trade of human beings. The early Han period, marked by extensive warfare and catastrophes, saw individuals resorting to selling their children and spouses for sustenance. Emperor Gaozu of Han (202–195 BC) notably issued an edict permitting those in desperate straits to sell their offspring (Wang 2014; Ma 1997). Some unscrupulous people took the opportunity to make money from human trafficking by abducting women and children or buying them from desperately poor people at low prices and selling them to wealthy homes. These people were called “*ren fan zi*”—literally “human dealers”, commonly translated as “human traffickers”—and they often colluded with the gentry and bandits (Ma 1997).

The trafficked people were mainly women and children (Ma 1997; Yu 2000; Yao and Guo 2008). They are primarily trafficked within China, but there are some records of them being sold to neighbouring countries and overseas (Yu 2000). The trafficked persons might be sold by their husbands, parents, traffickers, or even themselves to become slaves to their buyers, including enslaved servants (奴婢), enslaved maids or concubines (侍女、侍歌), courtesans or prostitutes (家女), slaves performing dance and singing (歌舞家), and servants who work for the owner in business (家奴).

Although tenants (佃客) were free commoners, they or their family members might also become slaves of the landlord due to debt bondage. Boys were also sold as heirs (嗣子) to eunuchs or rich men who had no sons. Except for the heirs, trafficked persons lost their personal freedom and dignity. The owner usually gave slaves a new name and could trade, abuse or even kill them with impunity (Ma 1997). Usually, an indenture for the sale of the person was signed by the seller and the buyer, while sometimes, it also had signatures of referrers, witnesses, and official managers on it (Huang 2013; Ma 1997). These found deeds are evidence of official involvement in the sale of human beings.

According to current research, the first written records of the human trafficking ban date to the Tang or even the Eastern Han period of the Han Dynasty. Illegal activities of human traffickers and the flourishing black markets in human beings not only harmed the people and the local security, but also undermined the feudal order. Therefore, Emperor Guangwu of Han (25–57 AD) issued several edicts concerning the prohibition of the sale of enslaved servants and maids, the release of slaves, and the prohibition of human trafficking (Ge 2019; Ma 1997). In the “Book of Later Han—Annals of Emperor Guangwu” (范 2007), it was recorded several times that Emperor Guangwu ruled that the trafficked persons should be released without hindrance if they wished to return to their original families, and obstructors should be punished in accordance with the “Human Trafficking Law (略人法)”.² Records of penalties for human trafficking can be found in the “Book of Wei”: the death penalty was applied to those who have committed the abduction of persons, the abduction and sale of persons, and the sale of persons as slaves; 1-year penalty to who sell their own child; the death penalty also applied to who sell elders relatives in five generations; and who sell women, children and slaves should be sent into exile (Wei, pp. 2880–2881).

Based on the rules of the previous dynasties, the Tang Code—the penal code of the Tang Dynasty—provided a clear definition of the crime of “human trafficking (*lueren luemairen* 略人略卖人)”, including both the “abduction of persons (*lueren*)” and the “abduction and sale of persons (*luemairen*)”. It explained the acts and means elements of the offence, namely “abduction”, “fraudulence”, and “sale”. More specifically, the act of “abduction (*lue* 略)” could be accomplished by both violent and non-violent means, that is, fraudulence. All the “unpeaceful” means were considered violent; fraud committed against children under 10 years of age amounted to violent abduction. The article provided different levels of penalties applicable in various circumstances, taking into account whether violence was used, whether the victim consented, the class and age of the victim, whether the sale was completed, and the final situation of the victim, i.e., sold as an enslaved servant (outcastes), family soldier (部曲, a class between commoners and outcastes), wife or maid-concubine, heir, or sibling (commoners). For instance, the death penalty by hanging should be applied to those who committed violent abduction and sale of a commoner and any form

² Book of Later Han—Annals of Emperor Guangw Volume II: 甲寅，诏吏人遭饥乱及为青、徐贼所略为奴婢下妻，欲去留者，者听之。敢拘制不还，以卖人法从事。[...] 冬十二月甲寅，诏益州民自八年以来被略为奴婢者，皆一切免为庶(民)〔人〕；或依托为人下妻，欲去者，者听之；敢拘留者，比青、徐二州以略人法从事。

of abduction and sale of a commoner under ten years old as a slave, while violent abduction and sale of a commoner as a family soldier was punished with a 1500 kms exile. In the case of the non-violent sale of a commoner into slavery with the consent of the trafficked person, both offender and the victim should be exiled for 1000 kms. When the trafficked person came from a lower class, the penalise became one level lower. For instance, the violent abduction and sale of other person's family soldiers as enslaved people was punished with exile for 1500 kms instead of death by hanging, as in the case of trafficking a commoner.³ It is noteworthy that certain forms of slave trafficking and the sale of children or grandchildren by parents or grandparents were not considered "human trafficking", although they were prohibited by subsequent provisions of the same penal code.⁴ Persons who harbour the trafficked person and buy the trafficked persons with knowledge of the offence committed by the trafficker were also punishable.

These provisions in the Tang Code regarding the "abduction and sale" of people set the groundwork for China's subsequent laws against human trafficking. The penal code of China's last feudal government (Qing Dynasty: 1636–1912 AD), the Great Qing Code, retained the name of the crime of human trafficking as set forth in the Tang Code, but contained more detailed provisions and penalties (Guo 2017). The abduction and sale of slaves, the sale of one's own children and wife, as well as many other conditions, were included in the crime of "human trafficking".⁵

From 1912 to 1949, China went through a humiliating and turbulent period, characterised by colonisation, invasion, and constant war. Human trafficking was no longer a major concern for those in power. The penal codes drawn up in the late Qing and by the government of the Republic of China (1912–1949) respectively, which were modelled on the penal law of Japan and Germany, removed the crime of human trafficking (Huang 2013). However, despite the abolition of slavery by the Republican government in the first decade of the eighteenth century, the phenomenon of human trafficking did not end therewith.

B. The recurrence of child trafficking after the establishment of New China

After the founding of the People's Republic of China (PRC) in 1949, for almost three decades, the crime of child trafficking disappeared in the country. It might be due to the central government's strict control over food, household registration, and labour (Yang 2006), as well as the severe penalties for criminals (Chu 1996). However, it would be imprudent to simply assume that ancient forms of child trafficking were once eradicated in the new China. The lack of records may also be due to the absence of laws prohibiting human trafficking, or the lack of concern about trafficking as people were struggling amid conflict, poverty and political unrest at the time.

Literature about human trafficking in contemporary China always takes the period of the 1980s as a watershed, when the crime once again became a widespread public concern (See, e.g., Li et al. 2017b; Xing 2017; Shen et al. 2013; Huang 2009; Yang

³ 《唐律疏议 卷第二十》292.

⁴ 《唐律疏议 卷第二十》293, 294.

⁵ 《大清律例·刑律·贼盗中之三》.

2006; Liu 2000; Wang 1992; Xie and Jia 1989). Following the reform and opening-up policy, child trafficking in China resurged at the end of the 1970s and became widespread in the 1980s–1990s (Li 2000; Yuan and Yang 2001; Zhang 2006). Since the 1980s, hundreds of thousands of cases of child trafficking have been reported in China every year. The flourishing of the abduction and sale of children coincided with the political reform, the marketisation of the Chinese economy and the enforcement of the one-child policy. The trafficking patterns are very similar to those of the past: child victims were abducted by traffickers by means of abduction and fraudulence (Wang 1992) and sold to buyers.

In 1979, the PRC welcomed its first Criminal Law adopted by the National People's Congress after three decades of turbulence following the establishment of the new government. The crime of human trafficking was again criminalised, being enshrined in Article 141 of the Criminal Law of the People's Republic of China (hereinafter Criminal Law). The name of the crime was slightly changed from “*lueren luemairen* (略人略卖人)” to “*guaimai renkou* (拐卖人口)”. Rather than having changed the name, it is better to say that the name was translated into modern Chinese. Although the name became slightly different in Chinese due to the evolution of the language, the core elements of the crime—“abduction” and “sale”—remained unchanged. The definition of human trafficking will be better developed in the next section.

In the late 1970s, the central government realised the need to take action to curb the criminal activities of trafficking of women and children (Wang 1992, pp. 139–142). In 1983, the then President of China issued an order to crack down on crimes that endangered public security. The order imposed harsh punishment, up to the death penalty, on those who committed the crime of child trafficking.⁶ The crackdown actions continued in the 1990s with the establishment of temporary coordination offices in many provinces with the mandate to combat the trafficking of women and children (Wang 1992, p. 141). This trend of running special police operations continued until recent years.

Although the Chinese government has adopted numerous measures to tackle child trafficking, the tragedy has never ceased to plague Chinese families and society. In modern child trafficking, children are sold to buyers for a series of purposes, including illegal adoption, forced begging, forced marriage, sexual exploitation, and conducting criminal activities (Chen 2000; Lin 2015; Liu 2010). In many cases, children were abducted violently and sold afterwards, while there were also countless cases of children being sold by their parents (Xing 2017; Li et al. 2013; Wang 1992). Child trafficking became a trending subject of literature and cinematographic works, newspaper reports, TV coverage, social media discussions, and academic research. From 1994 to 2015, at least six Chinese films have featured the stories of trafficked

⁶ Standing Committee of the National People's Congress, (1983) 关于严厉打击刑事犯罪活动的决定[Decision of the Standing Committee of the National People's Congress Regarding the Severe Punishment of Criminals Who Seriously Endanger Public Security (Expired)], Issued on 9 February 1983, invalidated by: Criminal Law of the People's Republic of China.

children and their parents.⁷ Heart-breaking stories on the silver screen mirrored the mainstreaming understanding of Chinese society to child trafficking: children were abducted and sold to someone for illegal adoption, forced street begging, or committing criminal activities, and the parents of the victim spent years and decades desperately searching for their beloved child across the country. Parents pulled out all the stops, distributing photos of their children and making enquiries on their own or in groups, while their chances of success are like looking for a needle in a haystack.

As time passes, more and more people have become involved in anti-trafficking activities. In 2007, Zhang Baoyan and her husband created the first Chinese family tracing website named *Bao Bei Hui Jia* (“Baby Coming Home” in Chinese, hereinafter BBHJ), followed by a non-governmental organisation (NGO), “BBHJ Volunteer Association”, to run the website, helping trafficked, abandoned and street children return home. Since the 2010s, social media have been one of the main battlegrounds in the fight against child trafficking. In 2011, a Chinese scholar launched a campaign “#Take a Photo, Save a Child# (#随手拍照解救乞讨儿童#)”⁸ on Weibo, one of the largest social media in China. It invited people to post photos of street begging children, hoping to rescue potential victims of child trafficking. The initiative was welcomed and followed by tens of thousands of users, and it became a trend worth remembering for Chinese civil society and social media. Since then, street begging children or beggars with children have virtually disappeared. The participation of civil society in combating child trafficking in China will be further developed in the last Chapter.

In recent years, new technologies have been developed to assist the police in the fight against child trafficking. For instance, in 2016, when this research was conceptualised, the Ministry of Public Security of China launched the first Chinese Child Abduction Emergency Alert Platform, “Tuanyuan (Reunion) 1.0”.⁹ This was followed by the launch of an anti-trafficking DNA system in the same year and a special project called “Reunion Operation” in 2020. Thanks to new technologies, including DNA testing, AI facial recognition, and video surveillance system, in June 2020, police found homes for 11,198 missing and abducted children over the years.¹⁰

⁷ The films are the followings: Wang Jin (1994) 广州来了新疆娃 [Xinjiang Kids in Guangzhou], Pearl River Film Studio; Guo Kaimin (1994) 天伦 [Tian Lun], Youth Film Studio of Beijing Film Academy; Huang Jun (1996) 陌生人 [Strangers], Children’s Film Studio; Yan Gaoshan (2014) 爱在旅途 [Journey of Love], The Commission of Politics and Legislative Affairs of CPC Xinjiang Uyghur Autonomous Region Committee, Shanghai Xiangsheng Film and TV Production and Distribution Co., Ltd, and Tianshan Film Studio; Peter Chan (2014) 亲爱的 [Dearest], Dongyang Enlight Pictures Co., Ltd; and Peng Sanyuan (2015) 失孤 [Lost and Love], China Film Group Corporation.

⁸ “Take a Photo, Save a Child”, *Human Rights in China*, 12 January 2012, retrieved from <https://www.hrchina.org/en/crf/article/6457> [accessed on 16 June 2019].

⁹ Xinhua News Agency (2016) “运用‘互联网+反拐’公安部儿童失踪信息紧急发布平台上线[Using ‘Internet + to combat trafficking’: the Chinese Child Abduction Emergency Alert Platform of the Ministry of Public Security went live]”, retrieved from http://www.cac.gov.cn/2016-05/15/m_1118868850.htm [accessed on 21/06/2019].

¹⁰ Esnc.cn (2022) “公安部:重拳打击侵犯未成年人违法犯罪行为 [MPS: Heavy-Handed Crackdown on Offences and Crimes against Minors]”, retrieved from <https://www.chinanews.com.cn/gn/2022/06-01/9768820.shtml> [accessed on 17/11/2022].