

Fondation Scelles

Connaître, Comprendre, Combattre
l'Exploitation Sexuelle

Excerpt from the book:

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Cautionary note: The terms 'child prostitution' and 'prostituted children' are used in this text to denote children that are sexually exploited and sexually trafficked. The connotative manner in which these definitions are perceived and analyzed may differ due to linguistic, cultural, and perceptual differences.

CHINA

	POPULATION 1,409,5 million		GDP PER CAPITA 8,827 USD
	POLITICAL SYSTEM Single Party Republic		HUMAN DEVELOPMENT INDEX 90 th rank among 187 countries
	GENDER INEQUALITY INDEX 37 th rank among 147 countries		CORRUPTION PERCEPTIONS INDEX 77 th rank among 180 countries

The 2018 *Global Slavery Index* estimates that more than 3,8 million persons live in modern slavery conditions in China. There are no recent precise official figures on the number of victims of sexual exploitation in China. According to two studies completed by the World Health Organization (WHO) in 2010 and by the United Nations (UN) in 2013, the number of prostituted persons in China was assessed to be between 4 and 6 million (*Fondation Scelles*, 2016; *South China Morning Post*, January 12, 2018). Another study conducted by *Asia Catalyst* in 2013 provided an estimate of 2.68 million victims and 26.5 million sex buyers (*Fondation Scelles*, 2016). According to the Communist Party of China, there would be between 3 and 4 million prostituted persons within the territorial borders (*Fondation Scelles*, 2014).

China is a country of origin, transit, and destination for thousands of Chinese victims and others originating from neighbouring countries. The particularity of this Asian country is the male overpopulation due to the

former one child policy and massive infanticide of female babies. This results in an increased demand for young women of neighbouring countries and the development of forced marriages, domestic servitude and sexual exploitation.

According to Professor Pan Suiming, Director of the Institute of Research on Sexuality and Gender of the Renmin University of China in Beijing, current estimates suggest that by 2020, around 17% of Chinese men aged 18 to 61 will have solicited the services of a prostituted person during their lifetime (*Sixth Tone*, November 30, 2017).

The legal framework pertaining to sexual exploitation

The Chinese criminal code has a rigorous approach towards human trafficking for sexual exploitation purposes, defining it as "the kidnapping, purchase, sale, transport of women or children" (*People's Republic of China, Criminal Code*,

art 240). Thus, it entirely excludes men as potential victims of this crime, which is punished by a minimum sentence of 10 years imprisonment.

Article 358 establishes forced prostitution as a criminal offence and prescribes the penalty of a 5-10 year prison sentence for procurers.

Prostitution is illegal in China. It is governed by provisions of administrative law, specifically the Law of the People's Republic of China on Penalties for Administration of Public Security, or the Administrative Penalty Law of 2005 (art. 66 and 67). Consequently, a prostituted person, her procurer and sex buyers are penalized. Prostitution was officially banned shortly after the Communist Party's accession to power in 1949, which considered that a person who sells their body was inevitably forced to do so, whether it be through an exploitation network or for economic reasons. The Rules on the Control and Repression Concerning Public Security of the People's Republic of China, adopted in October 1957, constitute the first laws forbidding prostitution. Thereafter, more severe penalties against prostituted persons and the sex buyers were introduced in the Criminal Code in 1979. Brothels gradually closed down. In the 1980's and during the introduction of liberalism in China, prostitution slowly reappeared in clandestinely. Prostitution is increasingly more visible today.

Article 66 of the Administrative Penalty Law stipulates that fines incurred by prostituted persons go from 500 to 5,000 yuans (CNY) (USD 74.5 to USD 745). Re-Education Through Labor camps, where prostituted persons, sex buyers and other "small offenders" were sent, were officially closed by the end of 2013 (ECPAT International, *Defence for Children-ECPAT Netherlands*, September 2015). Nevertheless, public safety organs still have the ability to

place adult prostituted persons and their sex buyers in administrative custody for ten to fifteen days (*Public Security Administration Punishment Law*, August 28, 2005). Prostituted persons and sex buyers can also be required to participate in a mandatory program through the Custody and Education System for a duration of six months to two years, with the triple objective of education, participation in community service, and the control of sexually transmitted diseases (ECPAT International, *Defence for Children-ECPAT Netherlands*, September 2015; *Fondation Scelles*, 2016).

Article 67 of the Administrative Penalty Law provides for 5 to 15 days of detention depending on circumstances and a fine of CNY 5,000 (USD 745) to any person who seduces, hosts or connects any other person destined to be involved in prostitution.

In the special administrative regions of Macao and Hong Kong, the existing legal regime concerning prostitution differs from the regime of mainland China. Indeed, prostitution in private places is legal, however solicitation and procuring are criminalized (*Fondation Scelles*, 2014).

The Ministry of Public Security (MPS) publishes data on investigations and convictions relative to human trafficking on its national territory. In 2016, the Ministry investigated 1,004 cases of human trafficking and 2,036 suspects were arrested. The government convicted 1,302 persons for non specific human trafficking and 435 persons for human trafficking for sexual exploitation purposes (*US Department of State*, June 2017). The MPS has not provided any data on the number of investigations opened for the offence of human trafficking in 2017 and 2018.

The Supreme People's Court (SPC) reported the prosecution of 1,146 cases of human trafficking that resulted in 1,556 convictions (compared to 1,756 in 2016) 1,097 of which were for the trafficking of

women and children, and 420 for forced prostitution (*US Department of State*, June 2018).

According to Professor P. Suiming, the number of cases linked to prostitution drastically decreased after 2001. With the exception of a small increase during the Beijing Olympic Games, the number of cases has been decreasing to this day. In 2015, less than 75,000 cases linked to prostitution were recorded, a decline of two thirds in from 2001 (*Sixth Tone*, November 30, 2017).

The state of Chinese prostitution: a growing threat

Chinese society remains patriarchal and unequal. The market economy disadvantaged Chinese women and encouraged gender based income disparities. In 1990, urban women earned on average 78% of what men earned (65% for rural women). This figure today has plummeted to 67.3% (*South China Morning Post*, January 12, 2018).

The vast majority of Chinese victims of prostitution are extremely poor, uneducated and unskilled rural women, wives abandoned by their husbands or whose relatives are gravely ill or even women who have lost their employment. The last few years have seen the comeback of *ernai* ("second wife") as rich man "gift" themselves with students (*South China Morning Post*, January 12, 2018).

China is a country of origin for thousands of victims exploited in neighbouring Asian countries, and also in European and African countries where many Chinese procuring networks have established themselves.

Secondly, China is a country of destination for thousands of sexually exploited victims within its territory. Traffickers use various methods to attract and recruit their victims in prostitution,

notably though false employment offers. Victims exposed to the risk of human trafficking for sexual exploitation purposes and forced marriages are Chinese women, but also women originating from neighbouring countries (North Korea, Vietnam, Cambodia, Laos, Tibet, Myanmar) and other countries of the Americas and Africa (*Walk Free Foundation*, 2018).

A large number of North Korean women each year leave their country to find refuge in China, with traffickers often facilitating the trip with the intention of exploiting them. As soon as they cross the border, they are sold against their will to poor peasants and forced into cyber pornography or prostitution (*South China Morning Post*, July 2, 2017). The situation of these victims is particularly alarming because, once arrested by the Chinese authorities, they are detained and forcibly repatriated to North Korea where they face extremely harsh sentences (*Fondation Scelles*, 2014). One of China's distinctive characteristics lies in the significant gender imbalance linked to the long-standing one-child policy. Many Chinese men, particularly in the most remote provinces, seek to marry foreign young women who they can buy with a few thousands yuans. The Chinese Academy of Social Sciences estimates that by 2020 there will be around 30 to 40 million more Chinese men than Chinese women of marriageable age (*ABC News*, April 20, 2018). Thus, the past few years have brought to light significant cross-border trafficking which consists in bringing in foreign women, sometimes minors, to sell them to single men. The phenomenon of "bride trafficking," traffic of young Vietnamese women from Lào Cai to the Chinese border (*UNICEF Viet Nam, Lao Cai People's Committee*, 2016) or young Mongolian women to Yunnan or Beijing (*ECPAT International, Defence for Children-ECPAT Netherlands*, September 2015),

recently revealed the methods used by traffickers on both sides of the border to attract their victims. Sold by their families or recruited by coercion or deception (false promises of employment or false love stories), women often find themselves in situations of domestic and/or sexual servitude and remain in China against their will. Confronted with criminal groups and corrupted public authorities, some associations attempt to locate, identify, and rescue these victims (*South China Morning Post*, July 2, 2017).

A phenomenon named 'soft drink prostitution' has been developing since 2016 near universities, and rapidly spread through social networks (*What's on Weibo*, January 8, 2018). This is a practice whereby men park outside some university campuses. They place on the roof or hood of their cars a bottle, meaning they are looking for students involved in prostitution. If a man displays a bottle of mineral water, it signifies that he is willing to pay CNY 200 (USD 30) for the purchase of a sex act, while a green tea bottle represents CNY 300 (USD 45) and a can of Red Bull corresponds to CNY 600 (USD 90) (*UNICEF Viet Nam, Lao Cai People's Committee*, 2016).

Lastly, while the Chinese government is engaged in a campaign against online pornography, it nevertheless remains lenient towards prostitution on the Internet. Indeed, platforms on which sexual services are advertised have developed rapidly over the past few years. According to Chinese regulation, these platforms have the responsibility to monitor and preserve their content pertaining to "damaging content" which "spread obscenity, pornography, gambling activities, violence, murder or fear, or incitement to commit crimes". Yet, it appears difficult for the authorities to determine the platforms' responsibility for ambiguous ads or offers of prostitution (*Foreign Policy*, April 12, 2016).

Sexual exploitation of minors

China today has 274 million children, close to 25% of whom are living below the poverty line (*ECPAT International, Defence for Children-ECPAT Netherlands*, September 2015). While disparities between rural and urban areas continue to increase, migratory flows towards urban centres have considerably impacted the lives of millions of children. Some migrate with their parents or stay behind in rural areas under the guardianship of relatives, while others migrate alone, exposing themselves to extreme vulnerability and precariousness (*ECPAT International, Defence for Children-ECPAT Netherlands*, September 2015).

Limited information is available regarding the sexual exploitation of minors in China. Nonetheless, local NGOs highlight that the large majority of victims from the prostitution system as well as sex tourism are young girls from rural provinces (*ECPAT International, Defence for Children-ECPAT Netherlands*, September 2015). The Global Slavery Index stresses that children placed in the care of relatives following the departure of their parents to economic centres are particularly vulnerable and exposed to risks of abduction and sexual exploitation. The report also signals that many adolescent girls from neighbouring countries (Vietnam, Russian Federation and Mongolia), are also victims of human trafficking for sexual exploitation purposes and forced marriages in China (*Walk Free Foundation*, 2018; *ECPAT International, Defence for Children-ECPAT Netherlands*, September 2015).

Chinese law makes it a criminal offence to act "indecently" towards a child (art. 237). Article 236 of the Penal Code provides that any person having sexual relations with a minor under 14 years of age is considered to have committed rape

and shall be liable to a penalty of at least 10 years imprisonment, and under certain aggravating circumstances, life imprisonment or even the death penalty.

In section VII of the same code, article 358 condemns any person who forces girls under the age of 14 into prostitution to a minimum of 10 years to life imprisonment. Article 360 states that: “anyone who visits a prostituted young girl under the age of 14 is liable to a term of imprisonment of five years or more and to a fine.” In August 2015, the National Congress approved a proposal from civil society activists reclassifying the offence of sexual relations with juvenile prostituted persons as rape. Thus, a term of life imprisonment or, in certain cases, the death penalty may be required (*Foreign Policy*, February 2, 2016).

Nevertheless, the Penal Code does not make any specific reference to prostitution of boys or girls aged 14 to 18 years old. Solely the Law of the People’s Republic of China on the Protection of Minors of 1991, in article 53, specifies that the one who lures, incites, or forces a minor into prostitution must be punished more severely than one who is accused of prostitution involving adult victims...

According to the international NGO *End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes* (ECPAT), the law clearly defines a distinction between a rape on minor girls under the age of 14 and the solicitation of a prostituted person under the age of 14. Consequently, the sentences imposed to the perpetrators vary.

A number of media outlets denounced the convictions handed by the local courts who decided that sexual relations with a minor under the age of 14 do not qualify as rape if the perpetrator was unaware of the age of the child, and if the relation was

seemingly “consensual.” To decide whether these two conditions can be accepted as aggravating circumstances is evaluated on a case-to-case basis and largely depends upon the court responsible for the case, which is not specified by the law. If established that the offender has paid for such a relationship, he may be prosecuted for a visiting a minor prostituted person (*ECPAT International, Defence for Children-ECPAT Netherlands*, September 2015). Hence, in 2012, Chinese public officials in the Shaanxi province were tried for having paid for sexual relations with a 12-year-old girl (*Wall Street Journal (blog)*, March 13, 2012). The local court regarded this as a question of “sexual relations with a prostituted child” instead of using the legal classification of rape of a minor (*ECPAT International, Defence for Children-ECPAT Netherlands*, September 2015).

This approach is extremely controversial as it creates legal loopholes for criminals and raises significant reactions from the population. Besides the suggestion that a young minor could consent to a sexual relation with an adult, it moreover signifies that a minor could have the option to freely choose to be a prostituted person... (*Foreign Policy*, February 2, 2016).

In practice, the prostitution of minors is growing. Few prosecutions result in convictions as corruption is so prevalent, some cases have highlighted the involvement and complicity of police officers in exchange of sexual relations (*ECPAT International, Defence for Children-ECPAT Netherlands*, September 2015).

Similar sentences in Hong Kong

Hong Kong’s criminal law possesses its own framework, despite very similar definitions and sentences to Chinese law. Articles 123, 124 and 132 of chapter 200 of the Ordinance of Hong Kong on criminal offences (*Crimes Ordinance*, Chapter 200, 1997) provide that “unlawful sexual

intercourse” with a girl below the age of 13 can lead to a life sentence whereas the same act with a minor below the age of 16 only carries a maximum penalty of 5 years imprisonment. Concerning young girls between the ages of 16 and 18, Hong Kong laws have set the age of consent at 16, therefore the qualification of the sexual intercourse is left to the discretion of the judge on a case-to-case basis. Article 135, the main provision on criminal offences relative to the sexual exploitation of children, specifies that “whoever induces or encourages prostitution or an illegal sexual act with a girl or boy under the age of 16 is liable to a term of imprisonment of 10 years”.

The Chinese government faced with HIV/AIDS

China has a relatively low prevalence rate of HIV/AIDS, corresponding to 0.037% (Avert, October 10, 2018). Nonetheless, the country has been confronted by a rising epidemic since the 2000s. More than 820,000 persons are infected by HIV/AIDS in China and approximately 20,000 new cases were reported in the second trimester of 2018 (BBC, September 29, 2018).

In the past, this virus was generally spread through infected blood transfusions, but today the vast majority of new cases are infected through sexual acts due to a lack or failure of protection (*Health Europa*, October 1, 2018).

Although the strongest progression of HIV/AIDS transmission was registered in homosexual men, the transmission amongst prostituted persons and their sex buyers is equally as critical. According to WHO, injection drug users (44%) in addition with prostituted persons and their sex buyers (19.6%) represent the majority of infected persons by HIV/AIDS in China (*Health Europa*, October 1, 2018).

According to WHO, China has adopted a rather pragmatic approach to this situation for several years now (*Bulletin of the World Health Organization*, April 2006). The government is committed to strengthening HIV/AIDS prevention and treatment. The Prime Minister Li Keqiang acknowledged in 2017 before the National Health Assembly that it was an absolutely essential aspect in improving general public health (*The Lancet – Public Health*, July 1, 2018). Beginning with the implementation of free HIV/AIDS screenings and treatment using methadone in 2003, the Chinese government has continued to provide universal equal access to medicines that fight HIV/AIDS. Since 2014, 99% of programs fighting HIV/AIDS are financed by the national government (*The Lancet – Public Health*, July 1, 2018).

Although, in practice, China faces difficulties implementing health programs as the country is confronted by important logistical challenges. Additionally, the central government’s policy is often not effectively deployed at the local level (*Bulletin of the World Health Organization*, April 2006).

Lastly, the Chinese population lacks information regarding risks, means of prevention and treatments. In 2016 the government announced that middle and high school students were to attend mandatory sex health and education classes (Avert, October 10, 2018). Nevertheless, these ambitions have not kept pace with health care reforms as these classes are often not mandatory in all schools. A survey published in 2017 indicated that 44% of Chinese university students had never received any sexual education prior to starting university (*Reproductive Health*, August 2017).

These HIV/AIDS prevention programs remain limited due to the criminalization of certain populations at risk of incarceration.

Their access to prevention and care is therefore much more restricted (Avert, October 10, 2018). With regard to prostituted persons, the government's response seems to focus on the maintenance of law and order through repression at the expense of risk prevention and treatment of the virus. The social stigma remains dominant towards this group, even within the health system, which in turns prevents them from accessing the most basic care.

Few opportunities for popular initiatives in an authoritarian China

The Chinese government represses the work of activists and human rights lawyers. As a result of the presidential appointment of Xi Jinping in 2012, the situation has deteriorated. Since summer 2015, more than 300 lawyers and activists have been arrested, summoned and detained by the police. According to the *China Human Rights Lawyers Concern Group* based in Hong Kong, some have disappeared. In 2016, the NGO *Beijing Zhongze Women's Legal Counseling and Service Center*, founder of the campaign for the removal of the concept of "underage prostitution" in Chinese law, was forced by the Chinese authorities to close down definitively (*Foreign Policy*, February 2, 2016).

Moreover, the government currently blocks the reception of foreign funds sent to the majority of local associations. They are slowly pressured to put an end to their activities. Today, it remains extremely difficult for an NGO to operate in China, and even more so for those trying to help prostituted persons (*The Times Literary Supplement*, June 1, 2017). Although the fight against human trafficking for sexual exploitation purposes falls under its authority, it is absolutely urgent that the government refrain from obstructing NGOs, which, at their own level, do extremely

important work, and yet are devalued by it.

In 2017, during the Asia House Bagri Foundation's literary festival, the writer Lizia Zhang presented her new novel *Lotus*, which addresses the themes of gender, equality, sexual exploitation and the lives of Chinese prostituted women (*The Times Literary Supplement*, June 1, 2017). The author was inspired by the life story of her grandmother, who was prostituted in the 1930s. Following the investigation of prostitution venues in different Chinese cities and the interviews of numerous victims, L. Zhang retraced the paths and conditions that lead to prostitution: extreme poverty, violence, rural exodus, profound and widening inequalities between genders in a fundamentally patriarchal society, capitalism, sexual liberation and the commercialization of the "woman-object"... She also examined the profiles of consumers of sexual acts and the reasons that push them to seek a prostituted person.

The legalization of prostitution in China is not subject to debate in the public and media spheres. Nevertheless, in this specific context, some personalities such as Professor P. Suiming agree that ending the arrest and detention of prostituted persons, or even adopting a "more lenient" attitude towards them would already constitute an important step towards protecting these victims (*Sixth Tone*, November 30, 2017).

For a more egalitarian China

With regards to prosecutions and convictions, it is clear that the government is not doing enough to protect victims of sexual exploitation and to punish their procurers. Today, solely a few cases result in prosecutions or convictions of traffickers, who are often only sentenced to a few days' detention and a minimal fine. It is a known fact that some officials accept bribes or sexual services in exchange for their

silence, and that the families of victims sometimes accept money from traffickers in exchange of their promises not to file a complaint or testify (*Foreign Policy*, February 2, 2016). The government should make a stronger commitment to the fight against corruption in the country.

Even though they are supported by stricter laws against traffickers and more protective laws towards victims, Chinese law enforcement lacks basic training adapted to help prostituted persons. Matt Friedman, international expert on human trafficking and Director of Club Mekong, which trains companies to identify forced labour, said that police officers who come into contact with prostituted persons are “often male, and do not take the time to talk to women and to listen to their stories”. Nicholas Bequelin, Director of *Amnesty International East Asia*, states that “the general improvement of the legislative framework should be considered as the starting point rather than the result” (*Foreign Policy*, February 2, 2016).

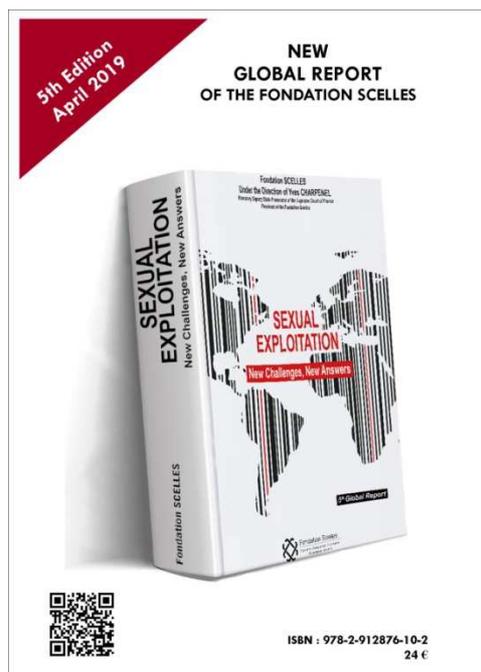
L. Zhang indicates that, since the Cultural Revolution, changes have allowed business growth and the development of capitalism, yet nothing has contributed to social well-being or gender equality. Indeed, she has noticed that “Deng Xiaoping’s reforms have offered opportunities to educated and urban women. Yet, the market economy has undermined gender equality. The government has withdrawn from its role and allowed the market to take over, but the market does not always treat women with benevolence. It is women who are most affected by this economic change: they must obtain higher grades to be admitted to university, they are laid off first, companies can even stipulate that they are only looking for young and beautiful women, they hardly participate in the political life” (*The Times Literary Supplement*, June 1, 2017).

The status of women in China is alarming, and evidently that of prostituted persons is even more so. Victims of sexual exploitation are ever more numerous, stigmatized and persecuted... Today, a few voices are fighting to be heard to defend their rights in a country that is neglecting them, and to argue that the root of this scourge is the ever-increasing inequality between genders.

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Fondation Scelles

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L'Exploitation Sexuelle

The **Fondation Jean et Jeanne Scelles**, recognized as a public utility since 1994 and as a consultative status with ECOSOC, is an independent, non-profit organization based in Paris (France) dedicated to fight the system of prostitution and the exploitation of prostituted persons, through information, analysis, advocacy, trainings, awareness initiatives and legal actions. The **Fondation Jean et Jeanne Scelles** is a co-founding member of the Coalition for the Abolition of Prostitution (CAP International) which was launched in 2013 and today brings together 28 abolitionist NGOs from 22 countries.

The **International Observatory on Sexual Exploitation** (Observatoire international de l'exploitation sexuelle) is a worldwide hub which allows for information exchange on the system of prostitution. The hub is regularly consulted by French and foreign experts including NGOs, institutions, journalists, lawyers, researchers and those involved in the defense of human rights. The goals of the **International Observatory on Sexual Exploitation** are:

- to analyze all the aspects of the phenomenon: prostitution, sex tourism, procurement, child pornography, sex buyers, human trafficking for the purpose of commercial sexual exploitation...
- to encourage reflection and to take a stand
- to inform the public who are interested in these issues

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