

PEOPLE'S REPUBLIC OF CHINA

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child	29 Aug 1990	2 Mar 1992 ¹	27 Dec 1995
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	30 Sep 2000	3 Dec 2002	21 Nov 2006
Protocol to Prevent, Suppress and Punish Trafficking in Persons		8 Feb 2010 ²	
UN Optional Protocol on the Involvement of Children in Armed Conflict	15 Mar 2001	20 Feb 2008	
UN Convention for the Protection of All Persons from Enforced Disappearance			
Hague Convention on International Child Abduction		Applies only to Hong Kong and Macao (successions) ³	

In China, there are three laws that refer directly or indirectly to missing children:

1. Criminal Law of the People's Republic of China of 1979, amended as of 1997;
2. Law of the People's Republic of China on the Protection of Minors of 1991; and
3. Exit-Entry Administration Law of the People's Republic of China of 2012.

General Child Protection

The Ministry of Public Security, China's principal police and security authority, is primarily responsible for the safety of children. There is no government bureau that specifically deals with child protection issues.

¹ China's Reservation: "[T]he People's Republic of China shall fulfill its obligations provided by article 6 of the Convention under the prerequisite that the Convention accords with the provisions of article 25 concerning family planning of the Constitution of the People's Republic of China and in conformity with the provisions of article 2 of the Law of Minor Children of the People's Republic of China."

² China Reservation and Declaration upon accession: "Reservation: China shall not be bound by paragraph 2 of Article 15 of the Protocol. Declaration: Unless otherwise notified by the Government, the Protocol shall not apply to the Hong Kong." On 8 February 2010, China made the following declaration, made upon its accession to the Protocol, in respect of Hong Kong and Macao: "In accordance with the provisions of Article 138 of the Basic Law of the Macao Special Administrative Region of the People's Republic of China and Article 153 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, China decides that the Protocol shall apply to the Macao, and unless otherwise notified by the Government, shall not apply to the Hong Kong."

³ This Convention applies to the Special Administrative Regions of Hong Kong ("Hong Kong") and Macao only, as a result of extensions made by the United Kingdom of Great Britain and Northern Ireland ("UK") and Portugal, respectively. When Hong Kong and Macao were restored to the People's Republic of China ("China") on 1 July 1997 and 20 December 1999, respectively, China declared that the Convention will continue to apply for Hong Kong and Macao.

The Law on the Protection of Minors of the People's Republic of China of 1991 is the primary law protecting the physical and mental health of minors, safeguarding their lawful rights and interests, and promoting their all-round development. The law protects against the discrimination of females as well as the abandonment of infants.⁴

General Missing Child Issues

Of the children in China who are believed to be missing as a result of kidnapping and human trafficking, boys, ages 0-14, are disproportionately more likely to be victims than girls of the same age.⁵ In contrast, among the age group of 14-18, girls are more susceptible to human trafficking than boys.⁶ Families without boys may seek to buy or adopt young boys from kidnappers, traffickers, or adoption agencies.⁷ Based on cases handled by Chinese law enforcement, kidnappings may be perpetrated by criminal organizations that are national, highly organized, and involve multiple rings with hundreds of members that move children over great distances and between numerous handlers.⁸ This ensures that kidnapped children are nearly impossible to trace, and as a result, most kidnapped and trafficked children are never reunited with their families.⁹

Missing children also may end up as *liulang* people in Chinese cities.¹⁰ “Liulang” is a Chinese term that means being homeless, being away from home involuntarily, or being unidentifiable because of loss of memory or illness.¹¹ Although there are no specific written guidelines on how law enforcement should respond to missing children, China has some policies specifically focused on the rescue and assistance of *liulang* children. The 2009 amendment to the State Council of PRC Order No. 381 stipulated that in dealing with *liulang* people, minors’ special needs and vulnerability to exploitation should be addressed; when necessary, minors should be kept separately from other homeless people.¹²

Definition of “Missing Child”

There is no specific definition of “missing child” in China’s legislation. Article 2 of the Law on the Protection of Minors of 1991 defines a “minor” as “under the age of eighteen.”¹³

Runaways

Articles 14, 16, 19, and 20 of The People's Republic of China Prevention of Juvenile Delinquency Law features some guidelines concerning child runaways.¹⁴ For instance, Article 14 notes that parents and guardians should advise juveniles to avoid staying out at night or being truant from school.¹⁵ Further, middle schools and primary schools are responsible for contacting the juvenile's parents or guardians

⁴ Law of the People's Republic of China on the Protection of Minors, Chapter II Article 10, at http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383869.htm (last visited Mar. 8, 2018).

⁵ Analysis of the status of trafficked children in China: Half of them were sold by relatives, CAIXIN.COM, Jun. 23, 2015, at <http://m.opinion.caixin.com/m/2015-06-23/100821499.html> (last visited Apr. 4, 2018) (on file with the International Centre for Missing & Exploited Children).

⁶ *Id.*

⁷ *Id.*

⁸ Charles Custer, *China's Missing Children*, FOREIGN POLICY, Oct. 10, 2011, at <http://foreignpolicy.com/2011/10/10/chinas-missing-children/> (last visited Mar. 8, 2018).

⁹ *Id.*

¹⁰ Suggestions on Eliminating the Phenomenon of Children's Wandering and Begging, CHINA FREE PRESS, Nov. 19, 2007, at <http://www.canyu.org/n86c11.aspx> (last visited Mar. 4, 2018).

¹¹ The term *liúlàng* is defined as homeless, vagrant, unsettled. See, Pin Pin Chinese English Dictionary, at <http://dictionary.pinpinchinese.com/definitions/t/%E6%B5%81%E6%B5%AA-liulang> (last visited Mar. 4, 2018).

¹² Notice on Further Strengthening Relief Management of Urban Street Vagrants and Beggars and Wandering Minors' Rescue and Protection Work, Ministry of Civil Affairs of the People's Republic of China, at <http://www.mca.gov.cn/article/zw/gk/fvfg/shsw/200908/20090800033873.shtml> (last visited Mar. 5, 2018).

¹³ Law of the People's Republic of China on the Protection of Minors, *supra* note 4.

¹⁴ Law of the People's Republic of China on Prevention of Juvenile Delinquency, at http://www.npc.gov.cn/englishnpc/Law/2007-12/11/content_1383561.htm (last visited Mar. 5, 2018).

¹⁵ *Id.* at Article 14.

if they are truant. When a juvenile stays out at night without permission, the parents, guardians or boarding school must look for them without delay or ask law enforcement for assistance.¹⁶ Under Article 19, parents or guardians may not permit juveniles under the age of 16 to live on their own.¹⁷

Article 20 states that the parents or guardians of juveniles may not compel the juveniles to run away from home nor may they discard their duty of guardianship. It further requires that when juveniles do run away from home, that their parents or guardians must look for them without delay and/or request assistance from the public security organs.¹⁸

Article 43 of the law highlights the responsibility of the Civil Affairs Department in protecting “minors who wander about and go begging or those who flee from their homes.”¹⁹ The minors are returned to their parents or guardians unless their identities cannot be confirmed and thus the minors become the responsibility of the welfare organizations under the civil affairs department.

Abandonment

Article 41 of the Law of the People’s Republic of China on Prevention of Juvenile Delinquency specifies juveniles who have been abandoned or maltreated by their parents or guardians may ask the public security organs, and other designated agencies for protection and the agencies must take measures to help the juvenile, immediately if needed.²⁰ However, there is no specific definition of “abandonment.”

Article 261 of the Criminal Law of the People’s Republic of China of 1979 (Criminal Law) criminalizes the abandonment of minor dependents incapable of self-support.

Kidnapping and Abduction

Articles 240, 241, and 242 of the Criminal Law of the People’s Republic of China provide that the sentence for abducting children or deliberately interfering with the rescue of abducted children should be imprisonment of three years or under, five to ten years, or more than 10 years or the death penalty, depending on the degree of culpability.²¹

Article 240 describes various categories of abduction:

Whoever abducts and trafficks a woman or child shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined; if he falls under any of the following categories, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined or sentenced to confiscation of property; if the circumstances are especially serious, he shall be sentenced to death and also to confiscation of property:

- (1) being a ringleader of a gang engaged in abducting and trafficking in women and children;
- (2) abducting and trafficking in three or more women and/or children;
- (3) raping the woman who is abducted and trafficked;
- (4) enticing or forcing the woman who is abducted and trafficked to engage in prostitution, or selling such woman to any other person who would force her to engage in prostitution;

¹⁶ *Id.* at Article 16.

¹⁷ *Id.* at Article 19.

¹⁸ *Id.* at Article 20.

¹⁹ *Id.* at Article 43.

²⁰ *Id.* at Article 41.

²¹ Criminal Law of the Republic of China, Oct. 1997 amended 2011, Article 240, at <https://www.cecc.gov/resources/legal-provisions/criminal-law-of-the-peoples-republic-of-china> (last visited Mar. 14, 2018) (on file with the International Centre for Missing & Exploited Children).

- (5) kidnapping a woman or child by means of violence, coercion or anesthesia for the purpose of selling the victim;
- (6) stealing a baby or an infant for the purpose of selling the victim;
- (7) causing serious injury or death to the woman or child who is abducted and trafficked or to their relatives or any other serious consequences; or
- (8) selling a woman or a child outside of the territory of China.

In Article 241, the penalty for buying abducted children is three years or less imprisonment, or criminal detention, or surveillance. Those who buy or sell abducted children are to be punished according to Article 240 above; however, those who buy abducted children, but do not abuse the children or obstruct efforts to rescue them, may not be investigated for criminal liability.²² Those who use force or coercion to obstruct the rescue of these “bought children” by state employees should be punished with imprisonment of not more than three years, criminal detention, or a fine.²³

Article 262 addresses abduction or kidnapping of children under age 14 and provides a penalty of five years or less imprisonment or criminal detention.

Article 416 states, “State government officials charged with the responsibility of rescuing abducted or kidnapped women and children, who fail to act on the request of the abducted or kidnapped women or children or members of their family or on information received from members of the public, resulting in serious consequences, shall be punished with imprisonment or criminal detention of less than five years.”

Parental Abduction

China is not a signatory to the Hague Convention on International Child Abduction.

China’s Exit and Entry Administration Law of 2012 outlines how Chinese citizens and non-citizens can enter and leave the country.²⁴ There is a need for a visa and validated documents by local governments when entering and exiting the country. The law does not reference any provisions regarding children leaving the country without a parent or a single parent. However, the Ministry of Public Security requires that a minor’s (under the age of 16) passport application should be supervised by parents/guardians (it is unclear whether this requirement is mandatory).²⁵ Additionally, a birth certificate or other proof of parental/guardian relationship should be submitted along with the application.²⁶

Reporting Mechanism

The Ministry of Public Security launched a mechanism in 2011 to ensure efficient and effective responses to reports of missing children and encourage collaboration among law enforcement agencies searching for missing children.²⁷ The mechanism allows security workers, patrol officers, and traffic police to jointly control roads in areas where traffickers are suspected to be operating in order to prevent children from being abducted.²⁸

²² *Id.* at Article 241.

²³ *Id.* at Articles 242 and 277.

²⁴ Exit and Entry Administration Law of the People’s Republic of China of 2012, at http://english.gov.cn/archive/laws_regulations/2014/09/22/content_281474988553532.htm (last visited Apr. 3, 2018).

²⁵ Consulate General of the People’s Republic of China in Chicago, *Application of passport, travel documents required materials*, at <http://www.chinaconsulatechicago.org/chn/qzhz/hz/t1240699.htm> (last visited Mar. 7, 2018) (on file with the International Centre for Missing & Exploited Children)

²⁶ *Id.*

²⁷ China vows efficiency in search for missing children, CHINA.ORG, Jun. 2, 2011, at http://www.china.org.cn/china/2011-06/02/content_22700126.htm (last visited Apr. 3, 2018).

²⁸ *Id.*

Any missing child can be reported through the general emergency number 110; however, it is unclear how the information is passed on to the security workers, patrol officers and traffic police.²⁹ It also is unclear if there are national dedicated hotlines where the public can report a child missing, seek assistance or protection, and report any violation of children's rights.

Investigation of Missing Child Cases

Generally, in China a person is not considered missing until they have been unreachable for 24 hours.³⁰ Before the 24-hour waiting period expires, law enforcement, under the Ministry of Public Security, may record the missing person case but typically does not take action unless evidence suggests that the person is in danger.³¹ However, if the missing person is under the age of 18, the case is considered immediately actionable.³² Under the reporting mechanism put in place in 2011 by the Ministry of Public Security, investigative departments are required to initiate investigations of missing children cases "as fast as they can."³³

The People's Police Law of People's Republic of China of 1995 states under Article 35 that it is unlawful for any person to obstruct the police in investigating cases and refuse entry into relevant residence for search and rescue.³⁴ However, there is no specific provision regarding the investigation of missing children or missing persons cases.

Further, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice jointly issued the Opinions on Punishing the Crimes of Abducting and Trafficking in Women and Children in 2010.³⁵ The Opinions outline the various roles and responsibilities for the different departments and organizations.

Article 8 of the Opinions mentions that the police shall file a criminal case and conduct investigation immediately upon:

- receiving a report, complaint, or information of trafficking of women and children;
- receiving a report of the disappearance of children, or women between 14–18;
- receiving a report of missing women above 18 who may have been trafficked;
- finding that wandering, begging children may be trafficked;
- finding of "purchase" and "sale" of abducted women and children; and
- finding of any other crime or case that involves trafficking of woman and children.³⁶

²⁹ Travel China Guide, *Useful Telephone Numbers in China*, at <https://www.travelchinaguide.com/essential/useful-telephone.htm> (last visited Mar. 19, 2018)

³⁰ Charles Custer, *Missing, kidnapped, trafficked: China has a problem with its children*, THE GUARDIAN, Mar. 12, 2015, at <https://www.theguardian.com/commentisfree/2015/mar/12/missing-kidnapped-trafficked-china-children> (last visited Mar. 8, 2018).

³¹ This is a common practice in China, although not written into law. See, Zhang Yuanli: *adult missing "24 hours before the filing"*, STAR NEWS, Feb. 23, 2016, at <http://www.shobserver.com/news/detail?id=11850> (last visited Apr. 3, 2018).

³² Zhang Yuanli: *adult missing "24 hours before the filing"*, STAR NEWS, Feb. 23, 2016, at <http://www.shobserver.com/news/detail?id=11850> (last visited Apr. 3, 2018). See also, *Missing Children should be immediately report to the police, no need to wait 24 hours before filing*, Mar 20, 2018, ZHEJIANG NEWS, at http://zjnews.zjol.com.cn/zjnews/hznews/201803/t20180320_6837204.shtml (last visited Apr. 3, 2018) (on file with the International Centre for Missing & Exploited Children).

³³ China vows efficiency in search for missing children, *supra* note 27.

³⁴ Police Law of the People's Republic of China, at http://www.npc.gov.cn/wxzl/gongbao/2000-12/05/content_5004633.htm (last visited Apr. 3, 2018).

³⁵ *Opinions on Punishing the Crime of Trafficking in Women and Children according to Law (Full Text)*, at http://www.china.com.cn/policy/txt/2010-04/02/content_19739775.htm (last visited Apr. 3, 2018).

³⁶ Supreme People's Court Supreme People's Procuratorate Ministry of Public Security Ministry of Justice, *Opinions on Punishing Trafficking in Women and Children by Law*, 2010, at http://www.china.com.cn/policy/txt/2010-04/02/content_19739775.htm (last visited Apr. 3, 2018).

Further, Article 9 explains that the public security authorities shall file a case and take emergency measures accordingly upon a finding of suspected trafficking or abduction of women and children, regardless of whether the case is within its regular jurisdiction.³⁷

Case Management System

No information could be found regarding a case management system for missing child cases. It is unclear how local law enforcement, social welfare organizations, and the Ministry of Public Security record a reported missing child and the process of an investigation.

National Database

The Ministry of Public Security has operated a DNA database for abducted children since 2009.³⁸ The database aims to help law enforcement identify kidnapped and trafficked children through DNA and return them to their homes. The following five types of DNA are collected and stored in the database:

- parents whose children have been confirmed kidnapped;
- parents whose children are lost and request the test;
- abducted children who have been rescued by the police;
- children suspected of being abducted or who cannot give a home address; and
- homeless children.³⁹

The Ministry of Civil Affairs has operated a public, online database of children rescued from kidnapping since 2015.⁴⁰ Often when law enforcement discovers kidnapped or trafficked children, they do not have enough information to locate the children's birth parents because the children are too young to remember and the offenders do not know or provide the information.⁴¹ The database provides a name and photo for every recovered child along with information on where the child was kidnapped, which social welfare agency is caring for them, and how searching parents can contact the agency.⁴² Visitors can search the database for children by name, gender, and age.⁴³ The Ministry of Public Security's protocol on child abduction cases requires that a rescued child's information be entered into this database and their DNA collected and checked against and entered into the Ministry of Public Security's DNA database.⁴⁴

It has been reported that the Ministry of Public Security is developing a nationwide missing persons information system, though no further information or data has been disclosed.⁴⁵

³⁷ Opinions on Punishing the Crime of Trafficking in Women and Children according to Law, *supra* note 35.

³⁸ Lucy Hornby, *China's missing children*, FINANCIAL TIMES, Dec. 2, 2015, at <http://www.ft.com/cms/s/2/9704cbdc-8eaa-11e5-8be4-3506bf20cc2b.html#slide0> (last visited Apr. 3, 2018).

³⁹ John Oates, *China launches DNA database to track trafficked kids*, THE REGISTER, May 1, 2009, at http://www.theregister.co.uk/2009/05/01/china_dna_database/ (last visited Apr. 3, 2018). See also, *China Upgrades Anti-trafficking operations*, CCTV.COM, Nov. 3, 2013, at <http://english.cntv.cn/program/newsupdate/20130311/100077.shtml> (last visited Apr. 3, 2018).

⁴⁰ The Ministry of Civil Affairs, *National Database of Kidnapped Children*, at <http://qgdgqx.mca.gov.cn/wsxx/wsxx/toMain.do> (last visited Apr. 3, 2018).

⁴¹ *Searching For Birthparents – How Can It Be Done*, Research-China.Org, Dec. 8, 2007, at <http://research-china.blogspot.com/2007/12/searching-for-birthparents-how-can-it.html> (last visited Mar. 8, 2018).

⁴² The Ministry of Civil Affairs, *supra* note 40.

⁴³ *National database opens to bring abducted children home*, CHINA DAILY, Sep. 21, 2015, at <http://en.people.cn/n/2015/0921/c90882-8952940.html> (last visited Mar. 8, 2018). See also, *China Launches Automatic Fingerprint ID system*, MARTIN SIMAMORA PRESS, Jun. 6, 2012, at <http://plaza.gov.blogspot.com/2012/06/china-launches-automatic-fingerprint-id.html> (last visited Apr. 3, 2018).

⁴⁴ *Id.*

⁴⁵ *What you should know about abducted children*, SOHU.COM, Aug. 11, 2017, at https://m.sohu.com/a/164095194_99954080/?pvid=000115_3w_a (last visited Apr. 4, 2018) (on file with the International Centre for Missing & Exploited Children).

Additionally, there is a well-developed birth and death registration system, a fingerprint database, and a natural disaster management database in China.⁴⁶ The TUANYUAN (Reunion) system was launched in 2016. It is connected with the alert system, closed circuit television (CCTV), and more than 19 media platforms and 21 apps.⁴⁷

Alert Mechanism

China has missing child alert systems that are currently under development.

The first system, the pre-alert *China's Child Safety Emergency Response* (CCSER), was initially launched in November 2015 and relaunched in February 2016 by the syndication agency Child Safety Technology Fund.⁴⁸ The system operates on WeChat, the most popular mobile text and voice messaging communication service application in China with 600 million active users.⁴⁹ When a child is believed to be missing, a WeChat user can immediately report the incident along with information about the child to the missing children database on CCSER and in turn CCSER alerts all users. The Ministry of Public Security is also notified. In addition, the app utilizes an algorithm that can calculate the distance the missing child may have gone depending on walking speed or use of transportation.⁵⁰

China also launched a rapid emergency child alert system on 9 May 2016.⁵¹ The alert system, developed by the Ministry of Public Security with technical support from Alibaba, operates on Sina Weibo, a Chinese online micro-blog and social networking website similar to Twitter.⁵² Similar to CCSER, the system stores a database of missing children; photos and descriptions are uploaded to the app by 5,000 anti-trafficking police when they receive new reports of missing children. Within several seconds of the information being issued, users receive pop-up alerts as long as they are within a certain distance of the most recent sighting of the missing child. By 15 May, less than a week after its launch, the system had already attracted over 110,000 followers.⁵³

In addition to Alibaba and Sina Weibo, other Internet Service Providers (ISPs) are expected to join the new rapid emergency child alert system and improve its efficiency and efficacy. In May 2016, Homelink, a leading domestic realtor, announced that its 6,000 branches across the country would serve as emergency alert stations for children who may become separated from their parents.⁵⁴ The company pledged to train its staff to keep children safe while waiting for police to send them home with the hopes of preventing children from being harmed and to deter child traffickers.⁵⁵

Awareness-Raising Initiatives

Many non-governmental organizations (NGOs) in China assist children, provide support and advocacy for children and families, and raise awareness of poverty, health, and well-being. Some of the most well-known NGOs engaged in this work include: the All-China Women's Federation,⁵⁶ Levi Strauss

⁴⁶ Immigration and Refugee Board of Canada, *China: Information contained in birth and notarial certificates; reasons why a person would obtain a notarial certificate rather than a notarized copy of the original birth record*, Jul. 8, 2010, at <http://www.unhcr.org/refworld/docid/4dd20c572.html> (last visited Apr. 3, 2018); *China's Natural Disaster Management Database* 132, 2012, THE WORLD BANK, at https://issuu.com/world.bank.publications/docs/gfdrr_g20_high (last visited Apr. 3, 2018).

⁴⁷ "Reunion" system found 1274 missing children since it was first online, XINHUA NET, May 17, 2017, at http://www.xinhuanet.com/2017-05/17/c_1120989846.htm (last visited Apr. 3, 2018).

⁴⁸ *Missing children alert platform on line today*, Nov. 23, 2015, at <http://gongyi.qq.com/a/20151123/032566.htm> (last visited Apr. 3, 2018).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *China's AMBER System in Operation*, CRI ENGLISH.COM, May 17, 2016, at <http://english.cri.cn/12394/2016/05/17/4083s927935.htm> (last visited Apr. 3, 2018).

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Women of China, at <http://www.womenofchina.cn/about.htm> (last visited Apr. 3, 2018).

Foundation,⁵⁷ Winrock International,⁵⁸ and the Ford Foundation.⁵⁹ International NGOs such as UNICEF⁶⁰ and Save the Children⁶¹ work in China to build awareness on children's rights and to provide safe places for children to socialize without risk.

"Guardian of the Baby"⁶² is a series of educational programs sponsored by People's Daily, China Women's Federation, and 360 Co., which provides elementary school children with basic safety education, including how to identify potential human traffickers and avoid being endangered by their schemes. The program was officially launched on 23 November 2014 and has been carried out in more than 100 elementary schools.⁶³ 360 Mobile Guardian Reunion also launched a series of public service initiatives to enhance the awareness of primary and secondary schools on children's safety.⁶⁴ Project volunteers strive to teach parents how to prevent children from going missing and how to seek help if a child is lost.⁶⁵

In addition to the efforts led by NGOs, many parents and families are leading their own efforts to search for their children and raise awareness of missing children. There is an "ecosystem" of Internet services, like "Baby Come Home," that collect information, photos, and other information from parents of missing children and help them publicize it; such websites include zgxrqsw.com, cnxunren.com and shizongertong.com.⁶⁶ Thousands of people are now turning to social media in an effort to find missing children as social media has become a powerful tool for reconnecting children and parents.⁶⁷ These social media services also collect photos and reports of street children from the public so that parents of kidnapped and missing children can browse them, looking for their own children. As many of these parents meet and connect online, they have begun to organize events together to distribute posters, hand out fliers, and distribute playing cards with missing children's photos to raise awareness of the issue and find their children.⁶⁸

China observes International (National) Children's Day on June 1 each year in order to promote children's welfare and children's rights.⁶⁹

Trafficking

According to the US State Department Trafficking in Persons (TIP) Report, China is a Tier 3 country, which means that China does not fully meet the minimum standards laid out in the Trafficking Victims Protection Act (TVPA) for the elimination of trafficking and is not making significant efforts to do so.⁷⁰

⁵⁷ Levi Strauss Foundation, at <http://www.levistrauss.com/levi-strauss-foundation/> (last visited Apr. 3, 2018).

⁵⁸ Winrock International, *China*, at <http://www.winrock.org/country/China/> (last visited Apr. 3, 2018).

⁵⁹ Ford Foundation China, at <https://www.fordfoundation.org/library/regional-brochures/ford-foundation-china/> (last visited Apr. 3, 2018).

⁶⁰ UNICEF, *UNICEF in China*, at <http://www.unicef.cn/en/> (last visited Apr. 3, 2018).

⁶¹ Save the Children, *About China*, at <http://www.savethechildren.org/site/c.8rKLIXMGlpI4E/b.8649613/k.B5C5/China.htm> (last visited Apr. 3, 2018).

⁶² "Guardian baby" safe classroom brought to campus to help children build immune system, SCIENCE.CHINA.COM, Jun. 15, 2015, at http://science.china.com.cn/2015-06/15/content_7992103.htm (last visited Apr. 3, 2018).

⁶³ *Id.*

⁶⁴ 360 Mobile Guardian Reunion: Anti-trafficking is the Major Concern for Parents During the Spring Festival, CCTIME.COM, Feb. 12, 2018, at <http://www.cctime.com/html/2018-2-12/1361293.htm> (last visited Mar. 8, 2018) (English Version on file with the International Centre for Missing & Exploited Children).

⁶⁵ *Id.*

⁶⁶ Charles Custer, *supra* note 8.

⁶⁷ China's Social Media Search For Stolen Children, BBC TRENDING, Jan. 25, 2016, at <http://www.bbc.com/news/blogs-trending-35383319> (last visited Mar. 8, 2018).

⁶⁸ Charles Custer, *supra* note 8. See also, *Abducted, Found and Home Again*, ILOOKCHINA, Jun. 3, 2011, at <https://ilookchina.net/tag/baby-come-home/> (last visited Apr. 3, 2018).

⁶⁹ Everything you need to know about Children's Day, TIMEOUT BEIJING, May 31, 2017, at http://www.timeoutbeijing.com/family/features/Family-Family_blog/158972/Everything-you-need-to-know-about-Children%E2%80%99s-Day.html (last visited Apr. 10, 2018).

⁷⁰ US State Department, 2017 Trafficking in Persons Report – China, at <https://www.state.gov/documents/organization/271341.pdf> (last visited Apr. 3, 2018) (on file with the International Centre for Missing & Exploited Children).

According to the 2017 TIP Report, the government did not report comprehensive data on how many trafficking victims were identified during the reporting period but did report that through various law enforcement investigations 432 women and 406 children had been identified.⁷¹ Ten shelters dedicated to the care of trafficking victims were reportedly maintained by the government in addition to eight shelters for foreign trafficking victims. Victims receive shelter, medical care, counseling and other services at these shelters, though rehabilitation services such as mental health services were limited.⁷²

China is a source, destination, and transit country for men, women, and children subjected to sex trafficking. In China, children are vulnerable to multiple trafficking networks.⁷³ Chinese women and girls are subjected to sex trafficking, as traffickers, organized criminal networks, and local gangs recruit them from rural areas with fraudulent employment offers, coercion by imposing large travel fees to other countries, confinement, or physically and financially threatening victims with being forced into commercial sex.⁷⁴ In other countries, women and girls are forced into sexual exploitation throughout the world in major cities, construction sites, remote mining and logging camps, and areas with large populations of migrant Chinese laborers.⁷⁵

Furthermore, the government's policies and the cultural preference for sons has created a population in which men significantly outnumber women and an increased demand for prostitution and foreign women as brides for Chinese men thus "women and girls are kidnapped or recruited through marriage brokers and transported to China, where some are subjected to commercial sex or forced labor."⁷⁶

It is estimated that there are more than 60 million left-behind children in China, many of whom are the children of migrant workers forced to leave their villages in search of employment⁷⁷, though the number of left-behind children in China has never been agreed upon. The All-China Women's Federation published a report⁷⁸ in 2013 which used the 2010 census to estimate that there are 61 million left-behind children under age 18 (37.7% of all China's rural children).⁷⁹ In 2016, the government, specifically the Ministry of Civil Affairs, the Ministry of Education, and the Ministry of Public Security, carried out a nationwide census on rural left-behind children under age 16, whose parents work away from home. The census found that there are 9.02 million left behind children in rural China.⁸⁰ The census further found that 360,000 children have no guardian.⁸¹ The discrepancy in numbers of left-behind children was explained by the Ministry of Civil Affairs pointing to a change in the definition of "left-behind children" with the age range no longer including all children under age 18

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Lijia Zhang, *One of 60 Million: Life as a 'Left-Behind' Child in China*, SOUTH CHINA MORNING POST, Jan. 21, 2018, at <http://www.scmp.com/week-asia/society/article/2128700/one-60-million-life-left-behind-child-china> (last visited Apr. 6, 2018) (on file with the International Centre for Missing & Exploited Children).

⁷⁸ All-China Women's Federation, *A Study Report on the Situation of Rural Left-Behind Children in China*, Sep. 4, 2014, at <http://gongyi.sohu.com/20140904/n404065868.shtml> (last visited Apr. 10, 2018) (on file with the International Centre for Missing & Exploited Children).

⁷⁹ Cai Yiwen and Wang Lianzhang, *How Accurate is China's 2016 Figure for Left-Behind Children?*, SIXTH TONE, Nov. 10, 2016, at <http://www.sixthtone.com/news/1540/how-accurate-is-chinas-2016-figure-for-left-behind-children%3F> (last visited Apr. 10, 2018) (on file with the International Centre for Missing & Exploited Children).

⁸⁰ *China to count left-behind children*, Mar. 29, 2016, The State Council of The People's Republic of China, at http://english.gov.cn/state_council/ministries/2016/03/29/content_281475317148546.htm (last visited Apr. 10, 2018) (on file with the International Centre for Missing & Exploited Children).

⁸¹ *China Ministry Releases Latest Data on 'Left-Behind' Children*, WOMEN VOICE, Nov. 17, 2016, at <http://www.womenofchina.cn/womenofchina/html1/survey/1611/3666-1.htm> (last visited Apr. 10, 2018) (on file with the International Centre for Missing & Exploited Children).

to now only covering children under age 16 in line with Chinese labor and civil laws.⁸² These left-behind children are far more vulnerable to living in the streets, trafficking, sexual abuse, and other forms of exploitation.⁸³ According to the 2017 TIP Report, there are reports of traffickers targeting children whose parents have migrated to the cities and left them with relatives as well as children with developmental disabilities.⁸⁴ In addition, children who have migrated to and within China with their families are particularly vulnerable to labor trafficking and may also be subjected to forced begging.⁸⁵

Article 240 of the Criminal Law criminalizes abducting and trafficking of women or children and prescribes a sentence of not less than five but not more than ten years imprisonment and a monetary fine.⁸⁶ The same provision defines “abducting and trafficking in a woman or child” to mean: abducting, kidnapping, buying, trafficking, fetching, sending, or transferring a woman or child for the purpose of selling the victim.⁸⁷

Article 241 criminalizes the purchase of women or children; Article 244 criminalizes forcing a person to work by “violence, threat or restriction of personal freedom” and prescribes punishment of three to ten years’ imprisonment⁸⁸; Article 321 of the Criminal Law criminalizes abduction and trafficking across countries; Article 358 criminalizes organizing prostitution and forced prostitution; Article 359 prohibits harboring prostitution or inducing others into prostitution and prescribes a punishment of a minimum of five years imprisonment if the victim is under 14 years of age. It is unclear if Chinese law automatically considers all children under 18 who are induced to engage in prostitution as trafficking victims regardless of the involvement of force, fraud, or coercion.

The Supreme People’s Court (SPC) issued an Opinion in 2016 interpreting Article 240 stating that “selling and buying human beings is banned for any reason.” Further, the SPC issued a formal interpretation of the law regarding cases involving trafficking of women and children in January 2017 that specified that a person found guilty of trafficking should be convicted “according to the provisions of combined punishment for several crimes” in order to increase penalties for such crimes.⁸⁹

China also has created an operational guide for anti-trafficking as well as a protocol on how to handle child abduction cases and that these resources have been distributed to police officers.⁹⁰ In 2007, China promulgated the National Plan of Action on Combating Trafficking in Women and Children (that works as an operation guide/protocol).⁹¹ In 2009, the Ministry of Public Security set up a national anti-

⁸² Cai Yiwen and Wang Lianzhang, *supra* note 79.

⁸³ Ryan General, *Why Millions of Rural Chinese Children Have Been Abandoned by Their Parents*, NEXTSHARK, Sep. 6, 2016, at <https://nextshark.com/millions-rural-chinese-children-abandoned-parents/> (last visited Apr. 6, 2018) (on file with the International Centre for Missing & Exploited Children). See, Yuwen Wu, *The abuse of China’s ‘left-behind’ children*, BBC NEWS, Aug. 12, 2013, at <http://www.bbc.com/news/world-asia-china-23628090> (last visited Apr. 10, 2018) (on file with the International Centre for Missing & Exploited Children). See also, *Sexual abuse of children: A horror confronted*, THE ECONOMIST, Aug. 25, 2016, at <https://www.economist.com/news/china/21705848-china-has-millions-sexually-abused-children-it-beginning-acknowledge-their-suffering> (last visited Apr. 10, 2018) (on file with the International Centre for Missing & Exploited Children).

⁸⁴ US State Department, *supra* note 70.

⁸⁵ *Id.*

⁸⁶ Criminal Law of the People’s Republic of China of 1979, *supra* note 21, at Article 240.

⁸⁷ *Id.*

⁸⁸ US State Department, *supra* note 70, at 131.

⁸⁹ Supreme People’s Court Network, *Legal Interpretation (2016) No. 28, The Interpretation of the Supreme People’s Court on Several Issues concerning the Application of Law in the Trial of Cases regarding Crimes of Trafficking in Women and Children*, adopted Nov. 14, 2016, at <http://www.court.gov.cn/fabu-xiangqing-33641.html> (last visited Mar. 14, 2018) (on file with the International Centre for Missing & Exploited Children).

⁹⁰ UN-ACT, *China*, at <http://un-act.org/countries/china/> (last visited Mar. 4, 2018). See also, *National database opens to bring abducted children home*, Sep. 21, 2015, CHINA DAILY, at <http://en.people.cn/n/2015/0921/c90882-8952940.html> (last visited Feb. 7, 2018).

⁹¹ China’s National Plan of Action on Combating Trafficking in Women and Children (2008-2012), State Council of China, Dec. 13, 2017, at <http://un-act.org/publication/view/china-national-plan-of-action-on-combating-trafficking-in-women-and-children-2008-2012/> (last visited Mar. 8, 2018); See also, *Opinions on Fully Implementing China’s National Plan of Action on Combating Trafficking in Women and Children (2008-2012)*, Ministry of Public Security, at <http://un-act.org/publication/view/opinions-on-fully-implementing-chinas->

trafficking task force that concentrates on retrieving infants and toddlers passed through trafficking rings.⁹²

Additionally, the General Office of the State Council issued the Action Plan for Fighting Human Trafficking (2013-2020).⁹³ The Action Plan is intended to reduce the number of abduction-related crimes and provide rehabilitation and relocation support for trafficking victims. In addition, nation-wide anti-abduction campaigns will be conducted by public security department with public participation.⁹⁴

[national-plan-of-action-on-combating-trafficking-in-women-and-children-2008-2012-by-ministry-of-public-security/](#) (last visited Mar. 8, 2018) (on file with the International Centre for Missing & Exploited Children).

⁹² Charles Custer, *supra* note 8.

⁹³ *The Action Plan for Fighting Human Trafficking (2013-2020)*, All-China Women's Federation, Mar. 29, 2013, at <http://www.womenofchina.cn/womenofchina/html1/source/14/9734-1.htm> (last visited Apr. 10, 2018).

⁹⁴ *Id.*