

HONG KONG, SPECIAL ADMINISTRATIVE REGION OF THE 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	27 Dec 1995
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography			
Protocol to Prevent, Suppress and Punish Trafficking in Persons			
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		1 Sep 1997	

In Hong Kong, there are five laws that refer directly or indirectly to missing children:

1. Offences Against the Person Ordinance of 1865, amended in 1997;
2. Juvenile Offender Ordinance of 1933, amended in 1973;
3. Protection of Children and Juvenile Ordinance of 1951, amended in 1993;
4. Crime Ordinance of 1972; and
5. Child Abduction and Custody Ordinance of 1997, amended in 2014.

General Child Protection

Hong Kong has not directly incorporated the full UN Convention of the Rights of the Child (CRC) into domestic legislation but has created numerous Ordinances to help protect children from abuse and abduction.¹ The Protection of Children and Juvenile Ordinance of 1951 provides the outline of how the Social Welfare Department and the Courts help protect children. The Hong Kong Police Force also created specialized Child Protection Policy Units aimed at combating domestic violence, child abuse, sexual violence, elder abuse, and child sexual abuse material.²

General Missing Child Issues

While the government has not outlined a clear response to missing children cases, the media has reported that there are instances of possible child abductions occurring in Hong Kong conducted by

¹ Family Clic, Law and Technology Centre - The University of Hong Kong, *How Hong Kong enforces the Convention*, at <http://familyclic.hk/en/topics/Child-and-youth-affairs/Childrens-protection-and-welfare/Childrens-constitutional-rights/#content> (last visited Feb. 8, 2018).

² *Id.*

trafficking gangs from mainland China.³ The abducted children are taken to the mainland for purposes of forced labor, adoption, or sexual exploitation.⁴

Definition of “Missing Child”

There is no specific definition of “missing child” in Hong Kong’s legislation. Under the Juvenile Offenders Ordinance of 1933, “child” (兒童) means a person who is, in the opinion of the court having cognizance of any case in relation to such person, under the age of 14 years while a “juvenile” (少年) is considered 15 to 17 years old.⁵

The Protection of Children and Juvenile Ordinance of 1951 provides a definition for “a child or juvenile in need of care or protection in Section 34(2):⁶

For the purposes of this Ordinance, a child or juvenile in need of care or protection means a child or juvenile-

- (a) who has been or is being assaulted, ill-treated, neglected, or sexually abused; or
- (b) whose health, development, or welfare has been or is being neglected or avoidably impaired; or
- (c) whose health, development, or welfare appears likely to be neglected or avoidably impaired; or
- (d) who is beyond control, to the extent that harm may be caused to him or to others, and who requires care or protection.

Abandonment

The Offences Against the Person Ordinance of 1865 explains that any person who is over the age of 16 years and is responsible for a child, may not assault, ill-treat, neglect, abandon, or expose a child to any suffering or injury to the child’s health.⁷

Kidnapping and Abduction

The Crimes Ordinance of 1972 criminalizes the abduction of an unmarried girl under age 16 and provides a penalty of 10 years imprisonment, as well as abduction of an unmarried girl under age 18 for sexual intercourse which carries a penalty of imprisonment for seven years.⁸ There is no mention of protection of boys in these provisions. However, Section 26 of the Protection of Children and Juvenile Ordinance of 1951 criminalizes the abduction of a child or juvenile regardless of gender and provides a penalty of two years imprisonment.⁹

³ *Mainland Chinese Children Abduction Gang Hits Hong Kong*, ORIENTAL DAILY, Nov. 24, 2013, at <https://badcanto.wordpress.com/2013/11/24/mainland-chinese-children-abduction-gang-hits-hong-kong/> (last visited Mar. 8, 2018) (on file with the International Centre for Missing & Exploited Children).

⁴ *Id.*

⁵ Juvenile Offenders Ordinance of 1933, at <https://www.elegislation.gov.hk/hk/cap213!en> (last visited Mar. 8, 2018) (on file with the International Centre for Missing & Exploited Children).

⁶ Protection of Children and Juvenile Ordinance of 1951, Section 34 (2), at <https://www.elegislation.gov.hk/hk/cap213!en> (last visited Mar. 8, 2018) (on file with the International Centre for Missing & Exploited Children).

⁷ Offences Against the Person Ordinance of 1865, Section 27, at <https://www.elegislation.gov.hk/hk/cap212> (last visited Mar. 8, 2018) (on file with the International Centre for Missing & Exploited Children).

⁸ Crimes Ordinance of 1972, Articles 126 and 127, at <https://www.elegislation.gov.hk/hk/cap200> (last visited Mar. 8, 2018) (on file with the International Centre for Missing & Exploited Children).

⁹ Protection of Children and Juvenile Ordinance of 1951, *supra* note 6 at Section 26.

Parental Abduction

On 1 September 1997 Hong Kong signed and acceded to the *1980 Hague Convention on Civil Aspects of International Child Abduction*.¹⁰ Hong Kong implemented the Child Abduction and Custody Ordinance of 1997, which outlines the responsibilities of the Central Authority – the Secretary for Justice of the Hong Kong Special Administrative Region – International Law Division within the Department of Justice.¹¹

Under the Child Abduction and Custody Ordinance, “an authorized officer may detain a child being removed out of Hong Kong in breach of recovery order.”¹² The recovery order must have been issued by the Court of First Instance and provided to the Director of Immigration.¹³

The Family and Child Protective Services of Hong Kong is responsible for safeguarding the interest of the children affected by custody/guardianship disputes referred by the courts.¹⁴

As part of the entry and exit controls, any child aged 11 and above requires an identity card, and for the issuance of a passport any unmarried child below 18 years of age must show the parents identity cards and their consent.¹⁵

Reporting Mechanism

The public can call the general emergency number 999 to report a missing child to the Hong Kong Police. The police force has five regional Missing Persons Units.¹⁶

The non-governmental organization (NGO) Against Child Abuse manages a hotline – 2755 1122 – that the public can call to report suspected cases of child abuse or ask for assistance with parenting difficulties.¹⁷ It does not appear that the NGO receives reports on missing children.

Investigation of Missing Child Cases

The Hong Kong Police Force is the main law enforcement agency in Hong Kong. The force has a Missing Persons Unit in each of five regional headquarters. These units are responsible for investigating, coordinating, and disseminating all information on missing persons.¹⁸ It is unclear whether the Missing Persons Unit has specific internal policies to outline the steps of an investigation of a missing person, or a missing child, case.

Any person can report a missing person to the Missing Persons Unit by:¹⁹

- Calling one of the Regional Missing Persons Units,

¹⁰ Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, *Status Table – Declarations/Notifications/Reservations*, at <https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=918&disp=type> (last visited Feb. 8, 2018).

¹¹ Cap. 512 Child Abduction and Custody Ordinance, at <https://www.elegislation.gov.hk/hk/cap512> (last visited Mar. 14, 2018).

¹² Child Abduction and Custody Ordinance of 1997, Section 19 – Authorized officer may detain child being removed out of Hong Kong in breach of recovery order (on file with the International Centre for Missing & Exploited Children).

¹³ *Id.*

¹⁴ Social Welfare Department, The Government of the Hong Kong Special Administrative Region, *Family and Child Protective Services*, at http://www.swd.gov.hk/en/index/site_pubsvc/page_family/sub_listofserv/id_familyandc/ (last visited Feb. 8, 2018) (on file with the International Centre for Missing & Exploited Children).

¹⁵ Immigration Department, The Government of the Hong Kong Special Administrative Region, *Hong Kong Identity Cards*, at http://www.immd.gov.hk/eng/services/hkid/general_info.html, Hong Kong Application for HKSAR Passport: http://www.immd.gov.hk/eng/service/travel_document/apply_for_hksar_passport.html#secondTab (last visited Feb. 8, 2018).

¹⁶ Hong Kong Police Force, *Missing Persons*, at http://www.police.gov.hk/ppp_en/06_appeals_public/missing/mpu.html (last visited Feb. 8, 2018).

¹⁷ Against Child Abuse, *Child Protection and Crisis Intervention*, at <http://www.aca.org.hk/top-cpci-en.htm#V-01bPARlZ8> (last visited Feb. 8, 2018).

¹⁸ Hong Kong Police Force, *supra* note 16.

¹⁹ *Id.*

- Sending a letter via postal service;
- Emailing crimeinformation@police.gov.hk;
- Sending a fax to the Crime Information Faxline (852) 2520-2828; or
- Calling 999 with urgent information.

When reporting a missing person, the following information should be provided:²⁰

- A recent photograph and physical description (*i.e.*, hair, clothes as last seen, weight, height, distinguishing features such as scars) of the missing person;
- A contact list of friends or associates with addresses, phone numbers, email accounts, or ICQ numbers;
- Details of when and where the individual was last seen or heard from;
- Likely destinations (*e.g.*, favorite places, work locations, or places with past connections); and
- Any medical records or prescription requirements.²¹

Only the missing person can cancel a missing person report by contacting the duty officer at any of the five regional stations.²²

It is unclear if the Missing Persons Unit initiates an immediate investigation when a child has been reported as missing.

Case Management System

Research could not determine whether the Missing Persons Unit has a case management system to assist in their investigations.

National Database

The Hong Kong Police Force has a criminal database, but it is unclear how the information is shared among the different regional headquarters and all police officers.²³ The public can request to receive information from the database, but it is unclear if the database contains any information related to missing persons.²⁴

Alert Mechanism

Hong Kong does not have a rapid emergency child alert system in place. However, the Hong Kong Police Force displays missing persons photos on their website.²⁵

Awareness-Raising Initiatives

There are many organizations in Hong Kong that work to build awareness of sexual abuse, healthy child development, and the rights of children generally. The Hong Kong Committee on Children's Rights focuses on engaging children and, in collaboration with the NGO Against Child Abuse, has organized a series of activities to promote awareness of children's rights.²⁶ The Boys and Girls Club Association of Hong Kong²⁷ and Hong Kong Children and Youth Services²⁸ provide pre- and after-school care where they educate children on online safety.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Hong Kong Police Force, *Statistics*, at http://www.police.gov.hk/ppp_en/09_statistics/index.html (last visited Feb. 8, 2018)

²⁴ Hong Kong Police Force, *Access to Statistics*, at http://www.police.gov.hk/ppp_en/09_statistics/as.html (last visited Feb. 8, 2018).

²⁵ Hong Kong Police Force, *supra* note 16.

²⁶ The Hong Kong Committee on Children's Rights, *About Us*, at <http://www.childrenrights.org.hk/v2/web/index.php?page=01aboutus00&lang=en> (last visited Feb. 8, 2018).

²⁷ The Boys and Girls Club Association of Hong Kong, at <http://www.bgca.org.hk/?locale=en-US> (last visited Feb. 8, 2018).

²⁸ Hong Kong Children and Youth Services, at <http://www.cys.org.hk/eng/default.asp> (last visited Feb. 8, 2018).

Unfortunately, there appears to be no organization focusing on missing children issues and no organizations educating the public on the risks and dangers of going missing.

Trafficking

According to the 2017 US Department of State's Trafficking in Persons Report, Hong Kong is on the Tier 2 Watch List, which means it does not fully meet the minimum standards for the elimination of trafficking, but it is making significant efforts to do so.²⁹

Hong Kong continues to be a destination, transit, and source territory for men, women, and children subjected to labor and sex trafficking. Victims often are from mainland China, Indonesia, the Philippines, Thailand, and elsewhere in Southeast Asia.³⁰ Criminal syndicates sometimes lure women from other countries to Hong Kong with the false promise of employment and then force them into prostitution. Traffickers also may coerce sex trafficking victims with threats to reveal images or videos of them in sexual encounters.³¹ Children in Hong Kong also are vulnerable to commercial sexual exploitation due to the continued practice of "compensated dating"³² – most often this is when teenage students provide companionship and sexual favors in exchange for money and gifts to improve their standard of living.³³

Section 129 of the Criminal Ordinance criminalizes "bringing another person into, or taking another person out of, Hong Kong for the purpose of prostitution" with a penalty of up to ten years' imprisonment.³⁴ Although China has signed the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, it does not apply to Hong Kong.³⁵ The Hong Kong Government has publicly mentioned they do not believe a dedicated trafficking law is needed as there are minimal instances in the country.³⁶

In July 2016, the government introduced a new victim identification and referral mechanism for law enforcement and immigration officials.³⁷ The identification and referral mechanism was implemented following a pilot period. The government also helps to fund six NGO-run shelters and three government-operated shelters for victims of trafficking and other forms of abuse.³⁸ Some of the shelters funded by the government are specially equipped to provide services to child victims.³⁹

While the government has drafted a national action plan focused on human trafficking, it has not yet been published or implemented.⁴⁰

²⁹ US Department of State, 2017 Trafficking in Persons Report – Hong Kong, at <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271202.htm> (last visited Mar. 8, 2018) (on file with the International Centre for Missing & Exploited Children).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Compensated dating in Hong Kong*, TIMEOUT, May 24, 2016, at <https://www.timeout.com/hong-kong/blog/compensated-dating-in-hong-kong-052416> (last visited Mar. 14, 2018).

³⁴ Crimes Ordinance, Section 129 – Exploitation of others for sexual purposes, at https://www.elegislation.gov.hk/hk/cap200?xpid=ID_1438402823519_002 (last visited Mar. 15, 2018).

³⁵ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, *Chart of Signatures and Ratifications*, at https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18&lang=en (last visited Mar. 15, 2018).

³⁶ *Hong Kong does not need laws against human trafficking, says government: victims are routinely criminalized, says Bar Association*, SOUTH CHINA MORNING POST, Jun. 11, 2016, at <http://www.scmp.com/news/hong-kong/law-crime/article/1972513/hong-kong-does-not-need-laws-against-human-trafficking-says> (last visited Feb. 8, 2018) (on file with the International Centre for Missing & Exploited Children).

³⁷ US Department of State, *supra* note 29.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*