

FIGHT FOR HER GROUP

Anti-trafficking and Forced Prostitution (Article 6)

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I. Statistics and Phenomenon

In January 2022, a woman with psychosocial disabilities who gave birth to eight children was found chained at home, which attracted national attention via social media. It turned out that she was a victim of trafficking, highlighting the inadequacy of the Chinese government's temporary assistance system.

Afterwards, the Chinese government launched a one-year special campaign to crack down on the crime of trafficking in women and children. Within half a year, more than 900 cases were exposed, and more than 1810 missing abducted women and children were recovered. However, this is far from the whole picture.

A real name informer reported the Inner Mongolia and Guizhou Public Security Bureaus for their nonfeasance when handling the trafficking case of his mother. The policemen declared that “buying and selling of daughter-in-law has been legal for more than ten years here.”ⁱ An anti-trafficking volunteer who provided clues of trafficking to local authorities reported police delay in investigations. Their excuses included that the buyer did not cooperate with the blood collection, or the case had passed the statute of limitation. According to him, almost no suspects answered the government’s call and confessed their crime voluntarily.

Moreover, in face of deeply embedded gender inequality and inadequate rights protection for people with disabilities in rural China, it’s very likely that trafficking will continue as the campaign-style enforcement phases out.

We feel deeply concerned that women with disabilities are at high risk of human trafficking. An analysis of 616 judicial case files involving trafficking in women from 2017 to 2020 shows that 20% of the 1,252 women trafficked in China had disabilities, and most intellectual or psychosocial disabilities. And more than 60% of the women with intellectual or psychosocial disabilities were abducted by strangers passing by in outdoor locations such as roadsides, stations, and fields.ⁱⁱ Another study of 1,038 first-instance judgments involving the crime of *trafficking in women and children* from January 2000 to July 2017 shows that 26.7% of the victims suffered from varying degrees of psychosocial disabilities. Among the identifiable origins and destinations, rural areas dominate with 71.7% and 91.5% respectively.ⁱⁱⁱ

We studied 221 criminal judgments in cases of trafficking of females with intellectual or psychosocial disabilities from 2017-2021. The cases involved 469 times of trafficking, while nearly 30% of the victims were trafficked multiple times, mainly because the sellers concealed the intellectual or psychosocial disabilities of the

trafficked women, leading the buyers to request “returns” upon discovering their conditions. A small number of victims were beaten, confined, molested, raped, or died due to delayed medical treatment¹¹. More than 10 % have one or more children, and almost none of the buyers are prosecuted for rape. It took 5 years on average, or 20 years in maximum before the rescue was carried out. Some research suggested even longer time before the rescue, 21.82 years on average^{iv}, and 74 years in maximum.^v

As seen in the above verdicts, there are long-standing trafficking gangs in mainland China that target women with intellectual or psychosocial disabilities¹², with 21 trials in 2017 and 2018 alone. Most of the trafficked women came from Henan, Anhui, Yunnan, Guangxi, and Guangdong Province, and were mostly trafficked to Henan, Anhui, Hebei, Shandong, and Jiangxi Province. In the verdicts, the resettlement and rescue conditions of nearly 70% of the remaining female victims are unknown, and only limited case files specified that the victims entered aid stations, psychiatric hospitals for treatment, or returned to their original families.

II. Problems and Gaps

Although Chinese government has taken measures to combat trafficking, some critical challenges remain unaddressed:

i. Lack of legislation and inadequate judicial remedies

Up to now, China’s Criminal Law has no special legislation on human trafficking. There is only Article 240 stipulates the crime of abducting and trafficking of women and children, in which the criterion for conviction is “to abduct, kidnap, buy, traffic, transport or transfer a woman or child for the purpose of selling”.^{vi} The offence does not extend to the circumstance of the perpetrators “taking in” women for forced marriage and childbirth.

In May 2022, the police of Guangxi Zhuang Autonomous Region rescued a woman who had been tricked and abducted to the mountain area and lost personal freedom for ten years. They have a daughter without marriage registration. Mandated by local authorities to report information during the COVID-19 pandemic, the man bought her

¹¹ In 2016, an unidentified woman with dementia was abducted at a long-distance bus station in Guoyang, Anhui Province. She was trafficked five times in just two months, all because the buyers took her to a hospital and found she had liver cancer, returned her, and demanded a refund. None of the 15 people involved in the trafficking and purchase process helped her to receive medical treatment and the hospital also failed to identify her as being trafficked. The woman died of the disease finally. See China Judgements Online (中国裁判文书网) : Judgment (2016) Wan 1622 Xing Chu No. 433. ((2016) 皖 1622 刑初 433 号判决书)

¹² For example, at the beginning of 2018, Zhengzhou railway police arrested five members of a criminal gang who abducted and trafficked women with intellectual or psychosocial disabilities and rescued three female human trafficking victims with intellectual disabilities. They usually wander around the railway stations, subway entrance and other crowded places in Guangzhou. After finding women with intellectual or psychosocial disabilities, they will coax them into the rented houses under the pretext of introducing jobs and partners, control their personal freedom by violent means, and sell them when they find buyers. http://fzsb.hinews.cn/html/2018-12/21/content_6_4.htm

a mobile phone. It was until then that she had the chance to ask her relatives for help. However, the local police did not file a case of human trafficking because they determined that there was no buying and selling.^{vii}

It is particularly difficult for trafficked women to seek divorce. A public search of 245 divorce litigation judgment documents involving trafficking shows that 209 court decisions did not recognize trafficking, failing to fulfill the obligation of investigation. Among them, 143 women wasn't granted a divorce and 51 women had to file two lawsuits before success. There are also 19 women who were verified having been trafficked, but the court still refused to grant a divorce.

On April 7th this year, the first-instance verdict in the case of the chained woman sparked nationwide controversy. After fact-finding of human trafficking, the court still acknowledged that she is the wife and family member of the buyer. As a result, the buyer was not charged with rape. In addition, the case has passed the statute of limitations for indicting the defendant with the crime of buying trafficked women.

According to the Chinese criminal law, the maximum penalty for the crime of buying trafficked women is three years, and the statute of limitations for prosecution is only five years, which means that the crime cost of buying women is very low. Despite the Chinese jurisprudence circle and the public have voices for "equivalent penalties for buyers and traffickers", legislators have not accepted their opinions.

ii. Current legislation focuses on detection, investigation, rescue, and prosecution, and with little emphasis on assistance, resettlement, rehabilitation, re-integration for the victims.

China's Law on the Protection of Women's Rights and Interests only stipulate in article 24 that the assistance and resettlement work are demanded, without details regarding the protection, assistance and services trafficking survivors are entitled to.^{viii}

National anti-trafficking plan and implementation rules have laid out more specific requirements, most of them are principles than practical guidance, leading to low feasibility for relevant implementers to follow. For example, even though it stipulates that civil affairs department should provide temporary assistance and resettlement for survivors who cannot return home immediately, and health departments should provide safe, effective, convenient, and cheap medical services, but the criteria, procedures, measures are not specified.

In 2009, "Certain Opinions on Providing Relief for Criminal Victims" proposed by Supreme People's Court of China, which stipulates that if victims and their families cannot be compensated by the offenders, the related authorities should provide appropriate financial aids to alleviate their difficulties. However, trafficking survivors who are not subject to severe forms of violence, are deemed ineligible for this type of

compensation. And the subsidies are normally insufficient for addressing any immediate problems. The condition becomes harsher for rural women with disabilities.

iii. Current assistance system hasn't reached the marginalized communities where women with disabilities are more vulnerable to human trafficking.

This includes women with disabilities in villages/towns where no rescue stations are available, as well as foreigners who are trafficked to China (many of whom from neighboring countries of China, especially Southeast Asia). The national action plan prescribes support in terms of rescue, relocation, resettlement, rehabilitation, legal aid, education, training, and employment, but these means of support are only applicable to survivors who are Chinese citizens. For many survivors of transnational trafficking, the services they are eligible for are much more limited. In these years, rising number of Chinese citizens are being trafficked to Southeast Asia, among which many are women. It's important that the government take concrete steps to expand services to both rural areas, and the survivors of transnational trafficking.

In terms of rescue stations, up until 2021, under the Ministry of Civil Affairs there are 140 residential mental health facilities and 1562 residential rescue stations across the country^{ix}. These facilities are insufficient in compared with the large population of China. Our review of latest research reveal that most rescue stations are underfunded and understaffed, with very limited capacity in screening the mental health conditions and provide rehabilitation services for the beneficiaries.^{xxixiii} And because many service recipients cannot identify their families, the retention rate remains high (in some cases more than 60%).^{xiii} According to the Chinese government, these stations are allegedly responsible for supporting trafficking survivors, especially those whose original families cannot be identified. However, we have found most rescue stations target homeless individuals instead of trafficking survivors (many of whom with psychosocial disabilities), contradicting the government's narrative.

iv. Data are not publicly available and civil society cooperation is inadequate.

The China National Plan of Action to Combat Trafficking in Women and Children (2008-2012) and the Implementation Rules for China's National Plan of Action on Combating Trafficking in Women and Children (2008-2012) clearly stipulate that periodic and final evaluation of the implementation shall be conducted during the plan.^{xiv} However, the government doesn't publicize any reports the progress and final outcomes of the national action plan. In the China National Program for Women's Development and China National Program for Child Development, limited information on government's progress in combat trafficking are provided, and no relevant data was released regarding marginalized groups including rural women with disabilities³. Even with existing China's Action Plan Against Human Trafficking

³ No search result can be found on central government's website (<https://www.gov.cn/>) and National Bureau of

(2021-2030), there's no clear indication or promise of resource allocation, rendering the plan a blank check.

In terms of collaboration with civil society or international organizations, the government has had several initiatives, but the sustainability and scalability of these initiatives remain unclear to the public. For example, the government assigned several piloted rescue stations for trafficking survivors under partnerships with UNIAP, including rescue stations in Guangdong Province, Guiyang City, and Kunming City, but there has been limited news or public report on these initiatives, and the government didn't provide relevant information in latest state party report. We are doubtful that this can be a vanity project for government's self-claimed endeavors in combating trafficking.

In the "Safeguards Measure" section of the latest action plan, the government stipulates "encourage social organizations, charity organizations, companies, and personal donors, seek international aids, in support of implementing anti-trafficking public welfare programs." Whereas the government constrains the space and access for most international organizations and civil society organizations to engage in anti-trafficking programs, because the government perceives them as threats and are unwilling share any information or data with partners of such nature.

For example, during the chained woman incident, some volunteer groups tried to collect and follow up on clues of human trafficking. Soon they were disbanded due to threats and crackdowns from the national security officials, and many netizens who spoke out for the chained woman were harassed by the police. Feminist activist WY went to visit the chained woman but was arrested by the local police in the name of picking quarrels and provoking trouble. So far, the case has not progressed.

III. Suggestions in Response

i. Strengthening assistance system

In view of the fact that many homeless women without timely assistance have been trafficked, the Chinese government should strengthen the financial and human resources of relief stations to help homeless women finding families or returning to society. The government should clearly mandate the rescue stations in supporting survivors of trafficking. The existing assistance system should also expand to rural areas of China, receive capacity building in serving trafficking survivors, and collecting data on cases involving human trafficking.

ii. Special legislation on human trafficking

Statistics (<http://www.stats.gov.cn/>).

The Chinese government should enact anti-trafficking special legislation, adding forced marriage to the crime of trafficking, ensuring that the marriage concluded by buying a trafficked woman is invalid from the beginning, and charging the act of forced childbearing with the crime of rape.

iii. Education and law enforcement in rural areas

Anti-trafficking and anti-domestic violence campaigning in rural areas should be included in the performance assessment of the officials. They should also be severely punished for failing to promptly respond to or intervene in cases of human trafficking and other rights violations especially implicating women with disabilities.

iv. Public participation and supervision

It should be guaranteed that individuals and organizations from civil society could report case leads, supervise the whole process of law enforcement and rehabilitation, and participate in the formulation of relevant legislation and public policies.

v. Monitoring and evaluation

The Chinese government should clearly set up monitoring and evaluation timeline for the implementation of the national action plan, and the accountability system for it.

- i Weibo. Real-name informer reports police nonfeasance in trafficking case. Accessed via: <https://weibo.com/ttarticle/p/show?id=2309404779341409288588>
- ii The Abducted Women: 1252 Lives with Price. Journalism Workshop of Renmin University of China. (《被拐的她们: 1252 段被标价的人生》, 中国人民大学 RUC 新闻工作坊) Accessed via: <https://mp.weixin.qq.com/s/A2FCLvMlaecqJhVVnO2Hg>
- iii Huang Zhongliang, Weng Wenguo, Zhai Binxu. Characteristics of Trafficking Women in Crimes and Governance Strategies in China: An Analysis Based on 1038 Judicial Documents [J]. Journal of People's Public Security University of China (Social Sciences Edition), 2019, 33(05):19-27. (黄忠良, 翁文国, 翟彬旭. 我国拐卖妇女犯罪特点及治理策略——基于 1038 份裁判文书的分析[J]. 中国人民公安大学学报(社会科学版), 2019, 33(05):19-27.)
- iv Fu Yu. A Probe into the Governance of Abduction and Trafficking of Children in China—— Based on 1813 Cases in G Province [J]. Journal of People's Public Security University of China (Social Sciences Edition). 2023(01):13-26. (付余. 我国拐卖儿童犯罪的治理问题探究——以 G 省 1813 个案件为样本[J]. 中国人民公安大学学报(社会科学版), 2023, 39(01):13-26.
- v Li Gang, Wang Huijuan, Tan Ran, et al. Spatiotemporal characteristics and formation mechanism of child trafficking in China based on "successful cases". Geographical Research, 2017, 36(12): 2505-2520. (李钢等. "中国拐卖儿童犯罪的时空特征与形成机制——基于"成功案例"的管窥." 地理研究 36.12(2017):16.)
- vi National People's Congress of China. Criminal Law of the People's Republic of China (2020 Amendment). Accessed via: https://www.pkulaw.com/en_law/39c1b78830b970eabdfb.html
- vii Lingshan Police. Woman trafficked into deep mountain for 10 years since 17. 2022. Accessed via: https://www.sohu.com/a/551450254_121117477
- viii National People's Congress of China. China's Law on the Protection of Women's Rights and Interests. Accessed via: <http://www.npc.gov.cn/npc/c30834/202210/d80092ae46b24946b30b3a880c2f2be5.shtml>
- ix Ministry of Civil Affairs. Statistical Communiqué On Civil Affairs Work. 2021. Accessed via: <https://images3.mca.gov.cn/www2017/file/202208/2021mzsyfztjgb.pdf>
- x Lv Zhiqiang. Research on the Relief of Homeless Mental Patients in Suzhou ——Based on the Investigation and Reflection of Suzhou Relief and Management Station [D]. Suzhou University. 2021. DOI:10.27351/d.cnki.gszhu.2021.002814. (吕志强. 苏州市流浪精神障碍患者救助研究[D]. 苏州大学, 2021. DOI:10.27351/d.cnki.gszhu.2021.002814.)
- xi Peng Shuying, Liu Ning. Clinical characteristics of homeless patients with mental disorder and treatment interventions. Modern Diagnosis and Treatment [J], 2017, 28(19):2. (彭述英, 刘宁. 流浪精神障碍病人临床特征分析与治疗干预对策[J]. 现代诊断与治疗, 2017, 28(19):2.)
- xii Li Dan. Reflections on Treatment for Homeless Patients with Mental Disorders. Medical Journal of Chinese People's Health [J], 2013, 25(21):2. (李丹. 对 101 例流浪救助精神障碍患者的治疗与思考[J]. 中国民康医学, 2013, 25(21):2.)
- xiii Zheng Junhua et al. Current situation about the mental health institutions of Chengdu received vagrant with mental disorders. Sichuan Mental Health, 2017, 30(5):4. (郑俊华, 魏传峰, 帅久红, 等. 成都市定点精神卫生机构救治住院流浪乞讨精神障碍患者的现状[J]. 四川精神卫生, 2017, 30(5):4.)
- xiv General Office of the State Council. National Plan of Action to Combat Trafficking in Women and Children (2008-2012). 2008. Accessed via: http://www.gov.cn/zhengce/content/2008-03/28/content_6184.htm; The Publicity Department of the Communist Party of China. Implementation Rules for China's National Plan of Action on Combating Trafficking in Women and Children (2008-2012). 2009. Accessed via: <https://www.notip.org.cn/2019/8280.html>