

HUMAN TRAFFICKING

Trends and Developments

During the Commission's 2016 reporting year, China remained a country of origin¹ and destination² for the trafficking of men, women, and children, as defined under the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol).³ According to United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), men, women, and children reportedly were trafficked within China's borders for forced labor, forced marriage, and sexual exploitation.⁴ UN-ACT specifically highlighted the problems of forced marriage as well as forced begging and street performing in China.⁵ In addition to domestic human trafficking,⁶ cross-border trafficking was a significant concern.⁷ The International Organization for Migration (IOM) and International Labour Organization (ILO) reported that international criminal networks were driving an increase in human trafficking of Chinese nationals, particularly women, to Southeast Asia, Europe, and Africa.⁸ UN-ACT also reported that anecdotal evidence pointed to an increase in cross-border trafficking from China to Southeast Asia.⁹ The Commission observed media reports of an increase in the trafficking of women from Burma (Myanmar), Cambodia, Vietnam, and Nepal to China for forced marriage or sexual exploitation.¹⁰

Experts noted a dearth of accurate statistics on the scale of human trafficking in the region due to a variety of factors, including the hidden and often disorganized nature of the crime, governments' collusion with human traffickers, confusion over the definition of human trafficking, and the use of problematic methodologies in data collection.¹¹

FORCED LABOR AND NORTH KOREAN WORKERS IN CHINA

This past year, the Commission observed reports of North Korean laborers in China working under conditions experts described as forced or slave labor.¹² According to a September 2015 report by Marzuki Darusman, the United Nations Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (DPRK), in recent years the DPRK government sent over 50,000 North Korean nationals to work abroad in conditions that "amount[ed] to forced labor."¹³ The Asan Institute for Policy Studies estimated in 2013 that 19,000 such workers were in China.¹⁴ According to Greg Scarlatoiu, Executive Director of the Committee for Human Rights in North Korea, the overseas workers earned between US\$150 and US\$230 million per year for the DPRK government.¹⁵ North Korean workers reportedly worked long hours in substandard conditions for low pay, and in some cases workers received no pay.¹⁶ According to the UN report, DPRK security agents accompanied the workers abroad, restricted their freedom of movement, confiscated their passports, and subjected them to constant surveillance.¹⁷ The U.S. State Department and the UN TIP Protocol include forced labor within their respective definitions of human trafficking.¹⁸ [For more information on North Korean refu-

gees and the risk of human trafficking, see Risk Factors in this section and Section II—North Korean Refugees in China.]

FORCED LABOR IN ADMINISTRATIVE DETENTION CENTERS

Although the Chinese government abolished the reeducation through labor (RTL) system in 2013,¹⁹ similar forms of arbitrary detention employing forced labor remain in place. The RTL system was a form of administrative punishment in which detainees were detained without trial²⁰ and subjected to forced labor.²¹ RTL detainee labor constituted human trafficking as defined by the UN TIP Protocol.²² Following the abolition of RTL, authorities have reportedly continued to use similar forms of administrative detention, including “custody and education” and compulsory drug detoxification,²³ in which detainees perform forced labor.²⁴ Zhang Sujun, Vice Minister of the Ministry of Justice, said in November 2014 that most RTL facilities were converted to compulsory drug detoxification centers,²⁵ and in June 2015 he reported that the number of individuals held in detoxification centers had increased by about 29 percent compared to the previous year.²⁶ In February 2016, the China National Narcotics Control Commission (CNNCC) reported that although the number of drug users remained stable in 2015, the total number of individuals investigated and detained for drug use increased compared to 2014.²⁷ CNNCC did not report the number of suspected drug users being held in compulsory drug detoxification centers.²⁸

Risk Factors

China’s ongoing human trafficking problem stems from a variety of social, economic, and political factors. According to UN-ACT, internal migrant workers in China were vulnerable to being trafficked for forced labor.²⁹ Migrant workers’ children, often unable to migrate with their parents, were reportedly at risk for forced labor, forced marriage, and sexual exploitation.³⁰ Individuals with disabilities were at risk for forced labor and forced begging.³¹ The IOM and ILO reported that poor rural women were vulnerable to trafficking from China to Southeast Asia, Europe, and Africa.³² Poverty and political instability contributed to human trafficking from Southeast Asia to China for forced labor and sexual exploitation.³³

North Korean refugees who escaped into China also remained at risk of human trafficking. The Chinese government continued to treat North Korean refugees as economic migrants, repatriating all undocumented North Korean migrants.³⁴ Although border crossings have reportedly decreased in recent years,³⁵ the majority of North Koreans who crossed the border into China were women, and their reliance on smugglers left them vulnerable to trafficking for forced marriage and sexual exploitation.³⁶ A UN report noted that female North Korean workers sent to China were also at risk of sexual exploitation.³⁷ [For more information, see Section II—North Korean Refugees in China.]

China’s sex ratio imbalance—exacerbated by government-imposed birth limits and in keeping with a traditional bias for sons³⁸—created a demand for marriageable women that may contribute to human trafficking for forced marriage and sexual exploi-

tation.³⁹ According to estimates by the National Bureau of Statistics of China, in 2015, China had 33.66 million more men than women.⁴⁰ The official sex ratio at birth, while lower than previous years,⁴¹ remained high at approximately 113.5 boys born for every 100 girls.⁴² According to demographers, a typical sex ratio at birth is within the range of 103 to 107 boys born for every 100 girls.⁴³ In December 2015, the Chinese government adjusted its population policy to allow all married couples to have two children.⁴⁴ Experts disagreed over the extent to which this new policy would further reduce the sex ratio imbalance.⁴⁵ [For more information on China's population policies, see Section II—Population Control.]

Anti-Trafficking Efforts

The Chinese government increased punishments for buyers of trafficked women and children under domestic law, but the number of human trafficking convictions fell. On November 1, 2015, an amendment to the PRC Criminal Law took effect⁴⁶ that included a change to Article 241 regarding buyers of trafficked women and children.⁴⁷ Previously, buyers could avoid criminal liability if they did not harm the victim or prevent authorities from rescuing the victim.⁴⁸ The amended law provides that buyers will face criminal liability,⁴⁹ although they may receive lighter or reduced punishments.⁵⁰ In March 2016, the Supreme People's Court announced that in 2015, courts nationwide handled 853 human trafficking cases and convicted 1,362 individuals.⁵¹ This represented an almost 56-percent decline in the number of cases and a nearly 63-percent decline in the number of convictions compared to 2010.⁵² [For information on how the definition of human trafficking under Chinese law contributes to the unreliability of government trafficking statistics, see Anti-Trafficking Challenges in this section.]

During this reporting year, the Chinese government continued to participate in regional efforts to combat human trafficking. In November 2015, the governments of China and Cambodia drafted a Memorandum of Understanding to address the trafficking of Cambodian women to China for forced marriage.⁵³ The Chinese government continued its involvement in the Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT),⁵⁴ participating in a joint workshop of COMMIT and the Association of Southeast Asian Nations (ASEAN) in December 2015.⁵⁵

Anti-Trafficking Challenges

Although the PRC Criminal Law prohibits human trafficking,⁵⁶ China's domestic legislation remains inconsistent with UN TIP Protocol standards.⁵⁷ The UN TIP Protocol definition of human trafficking involves three components: the action of recruitment, transfer, harboring, or receipt of persons; the means of force, coercion, fraud, deception, or control; and "the purpose of exploitation," including sexual exploitation or forced labor.⁵⁸ The definition of trafficking under Chinese law⁵⁹ does not clearly cover all forms of trafficking covered under Article 3 of the UN TIP Protocol,⁶⁰ such as certain types of non-physical coercion⁶¹ or offenses against male victims.⁶² Although the China Action Plan to Combat Trafficking in Persons (2013–2020), issued by the State Council in January

2013, revised the Chinese term for trafficking to include all persons (*guaimai renkou*),⁶³ the amended PRC Criminal Law, which took effect on November 1, 2015, referred to only women and children (*guaimai funu ertong*).⁶⁴

The PRC Criminal Law is also overly broad compared with the UN TIP Protocol in that its definition of trafficking includes the purchase or abduction of children for subsequent sale without specifying the end purpose of these actions.⁶⁵ Under the UN TIP Protocol, illegal adoptions are considered trafficking only if the end purpose of the sale is exploitation, such as sexual exploitation or forced labor.⁶⁶ According to the U.S. State Department, the inconsistencies between China's legal definition of human trafficking and international standards contributed to the unreliability of data in official reports and statistics on the number of trafficking cases China's criminal justice system handles.⁶⁷

Hong Kong

During the reporting year, Hong Kong was a destination for human trafficking, with migrant domestic workers particularly at risk of exploitation for forced labor.⁶⁸ According to the Hong Kong Census and Statistics Department's 2015 annual digest, as of 2014, there were over 330,000 migrant domestic workers working in households in Hong Kong, the majority of whom came from the Philippines and Indonesia.⁶⁹ In December 2015, the UN Committee against Torture noted its concern "over numerous reports of cases of exploitation of migrant domestic workers."⁷⁰ In March 2016, the migrants' rights non-governmental organization Justice Centre Hong Kong (JCHK)⁷¹ released findings from a survey of over 1,000 migrant domestic workers, finding that 17 percent of respondents were working under conditions of forced labor.⁷² JCHK also found that 66.3 percent of respondents showed "strong signs of exploitation" such as excessive working hours.⁷³

The UN Committee against Torture as well as domestic and international non-governmental organizations expressed concern that Hong Kong's laws did not adequately address human trafficking.⁷⁴ While China acceded to the UN TIP Protocol in 2010, the Chinese central government has not extended the Protocol to apply to Hong Kong.⁷⁵ Moreover, the definition of human trafficking in Hong Kong's Crimes Ordinance covered only the cross-border movement of persons "for the purpose of prostitution," not forced labor or other forms of trafficking.⁷⁶ The UN Committee against Torture and JCHK further noted that two regulations—requiring migrant domestic workers to live with their employers⁷⁷ and to leave Hong Kong within two weeks of termination of a contract⁷⁸—contributed to migrants' risk of exploitation for forced labor.⁷⁹

In January 2016, one alleged victim of human trafficking challenged the Hong Kong government in court, arguing that Hong Kong's Bill of Rights Ordinance requires the Hong Kong government to enact stronger anti-trafficking legislation.⁸⁰ The man who brought the legal challenge reportedly took a position in Hong Kong as a domestic worker, but his employer instead forced him to work in an office from 2007 to 2010.⁸¹ During this time, his employer and the employer's family physically abused him, withheld his passport, and refused to pay him.⁸² A labor tribunal reportedly

awarded the man less than 15 percent of the HK\$220,000 (US\$28,000) he claimed the employer owed him.⁸³ The Hong Kong High Court heard testimony about the case in January 2016.⁸⁴ As of August 2016, the Commission had not observed any further information on the status of the legal challenge. [For more information on Hong Kong, see Section VI—Developments in Hong Kong and Macau.]

Notes to Section II—Human Trafficking

¹ See, e.g., Office To Monitor and Combat Trafficking in Persons, U.S. Department of State, “Trafficking in Persons Report,” June 2016, 130; International Organization for Migration and International Labour Organization, “Overview: Project Activities Throughout the Year and the Way Forward,” EU-China Dialogue on Migration and Mobility Support Project Newsletter, Issue 2, January 2016, 4; “Brussels Warns That Mass Migration to EU May Exacerbate Human Trafficking,” Deutsche Welle, 19 May 16.

² See, e.g., United Nations Office of Drugs and Crime, “Protecting Peace and Prosperity in Southeast Asia: Synchronizing Economic and Security Agendas,” February 2016, 26; Taylor O’Connell and Ben Sokhean, “Human Trafficking Up, Spurred by Migration,” Cambodia Daily, 26 February 16; Pratchya Dulal, “When Danger Lurks Close to One’s Home,” Kathmandu Post, 15 December 15.

³ UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 00, entered into force 25 December 03, art. 3(a). This protocol is also commonly referred to as the Palermo Protocol because it was adopted in Palermo, Italy, in 2000. China acceded to the Protocol on February 8, 2010. United Nations Treaty Collection, Chapter XVIII, Penal Matters, 12.a, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, last visited 10 June 16. For information on how international standards regarding forced labor fit into the framework of the UN TIP Protocol, see International Labour Organization, International Labour Office, “Human Trafficking and Forced Labour Exploitation: Guidance for Legislation and Law Enforcement,” 2005, 10; International Labour Organization, International Labour Office, “Hard To See, Harder To Count: Survey Guidelines To Estimate Forced Labour of Adults and Children,” 2012, 12, 19.

⁴ “China,” United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), last visited 15 April 16.

⁵ *Ibid.*

⁶ See, e.g., Jun Mai, “Women Held in a China Pigsty To Be Sold as Brides by Trafficking Gang Had Mental Impairments,” South China Morning Post, 15 October 15; Mimi Lau, “Diary of a Sex Slave: Police Rescue 5 Girls, Including a 12-Year-Old, From Sex Ring in West China; Five More Still Missing,” South China Morning Post, 2 November 15.

⁷ See, e.g., International Organization for Migration and International Labour Organization, “Overview: Project Activities Throughout the Year and the Way Forward,” EU-China Dialogue on Migration and Mobility Support Project Newsletter, Issue 2, January 2016, 4; “China,” United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), last visited 15 April 16; Gopal Sharma, “Rise in Nepali Women Trafficked to China, South Korea—Rights Commission,” Thomson Reuters Foundation, 27 April 16.

⁸ International Organization for Migration and International Labour Organization, “Overview: Project Activities Throughout the Year and the Way Forward,” EU-China Dialogue on Migration and Mobility Support Project Newsletter, Issue 2, January 2016, 4.

⁹ “China,” United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), last visited 15 April 16.

¹⁰ Soe Maung and Swan Ye Htut, “Police Colonel Addresses Child Abduction Rumours, Human Trafficking,” Myanmar Times, 3 February 16; Saing Soenthrith and Aria Danaparamita, “Trilateral Agreement Signed To Combat Human Trafficking,” Cambodia Daily, 18 January 16; Taylor O’Connell and Ben Sokhean, “Human Trafficking Up, Spurred by Migration,” Cambodia Daily, 26 February 16; Lucy Nguyen, “Vietnamese Woman Jumps Out of Car in China To Escape Human Traffickers,” Thanh Nien News, 15 March 16; Gopal Sharma, “Rise in Nepali Women Trafficked to China, South Korea—Rights Commission,” Thomson Reuters Foundation, 27 April 16.

¹¹ See, e.g., Jessie Brunner, East-West Center, “Inaccurate Numbers, Inadequate Polices: Enhancing Data To Evaluate the Prevalence of Human Trafficking in ASEAN,” 2015, vi–vii; Dan Southerland, “Progress in Fight Against Human Trafficking in Asia Hard To Measure,” Radio Free Asia, 6 April 16; Janie A. Chuang, “Exploitation Creep and the Unmaking of Human Trafficking Law,” American Journal of International Law, Vol. 108, No. 4 (October 2014), 609–10; United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), “UN-ACT Research Strategy: Vulnerabilities, Trends and Impact,” 2015, 1. For publication date of UN-ACT report, see United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), “Research,” last visited 23 July 16.

¹² See, e.g., Michael Larkin, “Interview: Behind North Korea’s Use of ‘Slave Labor,’” The Diplomat, 8 October 15; Edith M. Lederer, “UN Investigator: North Koreans Doing Forced Labor Abroad,” Associated Press, 28 October 15; “North Koreans Endure ‘Forced Labor’ in China To Earn Money for the Regime,” Radio Free Asia, 6 November 15.

¹³ UN General Assembly, Situation of Human Rights in the Democratic People’s Republic of Korea, A/70/362, 8 September 15, paras. 24, 26. See also Shin Chang-Hoon and Go Myong-Hyun, Asan Institute for Policy Studies, “Beyond the UN COI Report on Human Rights in DPRK,” 11 December 14, 21–30; International Network for the Human Rights of North Korean Overseas Labor, “The Conditions of the North Korean Overseas Labor,” December 2012, 19–21.

¹⁴ Shin Chang-Hoon and Go Myong-Hyun, Asan Institute for Policy Studies, “Beyond the UN COI Report on Human Rights in DPRK,” 11 December 14, 30.

¹⁵ Michael Larkin, “Interview: Behind North Korea’s Use of ‘Slave Labor,’” The Diplomat, 8 October 15.

¹⁶ *Ibid.*; Brian Padden, “Activists Seek Better Conditions for North Korean Migrant Laborers,” Voice of America, 23 December 15; “North Koreans Endure ‘Forced Labor’ in China To Earn Money for the Regime,” Radio Free Asia, 6 November 15; UN General Assembly, Situation of

Human Rights in the Democratic People's Republic of Korea, A/70/362, 8 September 15, para. 27.

¹⁷ UN General Assembly, Situation of Human Rights in the Democratic People's Republic of Korea, A/70/362, 8 September 15, para. 27. See also Seol Song Ah, "North Korean Restaurants in Dandong Failing To Pay Workers' Salaries," Daily NK, 28 March 16; Brian Padden, "Activists Seek Better Conditions for North Korean Migrant Laborers," Voice of America, 23 December 15.

¹⁸ U.S. Department of State, "What Is Modern Slavery?" last visited 11 April 16; UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 00, entered into force 25 December 03, art. 3(a). For information on how international standards regarding forced labor fit into the framework of the UN TIP Protocol, see International Labour Organization, International Labour Office, "Human Trafficking and Forced Labour Exploitation: Guidance for Legislation and Law Enforcement," 2005, 7–15; International Labour Organization, International Labour Office, "Hard To See, Harder To Count: Survey Guidelines To Estimate Forced Labour of Adults and Children," Second Edition, 2012, 12, 19.

¹⁹ National People's Congress Standing Committee, Decision on Abolishing Laws and Regulations Regarding Reeducation Through Labor [Quanguo renmin daibiao dahui changwu weiyuanhui guanyu feizhi youguan laodong jiaoyang falu guiding de jue ding], issued and effective, 28 December 13; Office To Monitor and Combat Trafficking in Persons, U.S. Department of State, "Trafficking in Persons Report," June 2016, 130.

²⁰ Amnesty International, "Changing the Soup but Not the Medicine?: Abolishing Re-Education Through Labour in China," ASA 17/042/2013, 17 December 13, 5; Human Rights Watch, "China: Fully Abolish Re-Education Through Labor," 8 January 13; State Council, Decision on the Issue of Reeducation Through Labor [Guowuyuan guanyu laodong jiaoyang wenti de jue ding], issued 3 August 57, item 3; State Council, Supplementary Provisions on Reeducation Through Labor [Guowuyuan guanyu laodong jiaoyang de buchong guiding], issued 29 November 79, items 1–2.

²¹ Amnesty International, "Changing the Soup but Not the Medicine?: Abolishing Re-Education Through Labour in China," ASA 17/042/2013, 17 December 13, 17–18; Human Rights Watch, "China: Fully Abolish Re-Education Through Labor," 8 January 13; State Council, Decision on the Issue of Reeducation Through Labor [Guowuyuan guanyu laodong jiaoyang wenti de jue ding], issued 3 August 57, item 2.

²² UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 00, entered into force 25 December 03, art. 3(a). Reeducation through labor (RTL) inmate labor can be viewed as constituting trafficking under Article 3(a) of the UN TIP Protocol, as RTL facility authorities engaged in the "harbouring" and "receipt of persons, by means of the threat or use of force . . . for the purpose of exploitation." According to Article 3(a), exploitation includes "forced labour." ILO Convention (No. 29) Concerning Forced or Compulsory Labour, 28 June 30, art. 2. Article 2.1 of the Forced or Compulsory Labour Convention defines "forced or compulsory labour" as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Article 2.2(c) makes an exception for "Any work or service extracted from any person as a consequence of a conviction in a court of law . . ." As RTL inmates were detained without trial, this exception did not apply. For more information on conditions RTL inmates faced, including "the threat or use of force," see, e.g., Amnesty International, "Changing the Soup but Not the Medicine?: Abolishing Re-Education Through Labour in China," ASA 17/042/2013, 17 December 13, 17–33; Human Rights Watch, "China: Fully Abolish Re-Education Through Labor," 8 January 13. See also Office To Monitor and Combat Trafficking in Persons, U.S. Department of State, "Trafficking in Persons Report," June 2016, 130.

²³ Amnesty International, "China: Submission to the United Nations Committee Against Torture," 28 October 15, 17; Alexandra Harney et al., "U.S. Downplayed Evidence of Abuses in Chinese Detention Camps," Reuters, 30 December 15; Chi Yin and Jerome A. Cohen, "Lack of Due Process Mars China's War on Drugs," East Asia Forum, 20 July 15; Huang Qi, 64 Tianwang, "He Peng of Xichang, Sichuan, Escorted From Two Sessions, Sent to Drug Detoxification Center" [Sichuan xichang he peng lianghui yafan song jiedusuo], 14 March 16. For relevant legal provisions, see PRC Narcotics Law [Zhonghua renmin gongheguo jindu fa], passed 29 December 07, effective 1 June 08, arts. 38, 41, 43, 47; State Council, Drug Detoxification Regulations [Jiedu tiaoli], issued 26 June 11; Ministry of Justice, Judicial and Administrative Bureaus Compulsory Drug Detoxification Work Regulations [Sifa xingzheng jiguan qiangzhi geli jiedu gongzuo guiding], issued 3 April 13, effective 1 June 13; State Council, Measures on Custody and Education of Prostitutes [Maiyin piaochang renyuan shourong jiaoyu banfa], issued 4 September 93, amended 8 January 11.

²⁴ Ministry of Justice, Judicial and Administrative Bureaus Compulsory Drug Detoxification Work Regulations [Sifa xingzheng jiguan qiangzhi geli jiedu gongzuo guiding], issued 3 April 13, effective 1 June 13, art. 43; Alexandra Harney et al., "U.S. Downplayed Evidence of Abuses in Chinese Detention Camps," Reuters, 30 December 15. See also Human Rights Watch, "Where Darkness Knows No Limits: Incarceration, Ill-Treatment, and Forced Labor as Drug Rehabilitation in China," January 2010, 27–31; Asia Catalyst, "Custody and Education: Arbitrary Detention for Female Sex Workers in China," December 2013, 8, 25–27.

²⁵ Sun Ying, "Ministry of Justice: Vast Majority of Nation's Former Reeducation Through Labor Centers Have Been Turned Into Compulsory Drug Detoxification Centers" [Sifabu: quanguo jue da duoshu yuan laojiao changsuo zhuan wei qiangzhi geli jiedu changsuo], China National Radio, 5 November 14.

²⁶ Sun Chunying, “Establish and Improve Judicial-Administrative Drug Detoxification System With Chinese Characteristics” [Jianli he wanshan zhongguo tese sifa xingzheng jiedu zhidu], *Legal Daily*, 1 June 15.

²⁷ China National Narcotics Control Commission, “2015 Report on Narcotics Trends in China” [2015 nian zhongguo dupin xingshi baogao], 18 February 16, reprinted in *China Narcotics Net*, 18 February 16.

²⁸ *Ibid.*

²⁹ United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), “China,” last visited 7 April 16.

³⁰ Lucy Hornby, “FT Seasonal Appeal: China’s Missing Children,” *Financial Times*, 2 December 15.

³¹ Office To Monitor and Combat Trafficking in Persons, U.S. Department of State, “Trafficking in Persons Report,” June 2016, 130; Supreme People’s Procuratorate and China Disabled Persons’ Federation, *Opinion on Procuratorial Work To Ensure Protection of the Legal Rights and Interests of Persons With Disabilities* [Guanyu zai jiancha gongzuo zhong qieshi weihu canji ren hefa quanyi de yijian], issued 8 December 15, para. 4.

³² International Organization for Migration and International Labour Organization, “Overview: Project Activities Throughout the Year and the Way Forward,” *EU-China Dialogue on Migration and Mobility Support Project Newsletter*, Issue 2, January 2016, 4.

³³ UN Office on Drugs and Crime, “Protecting Peace and Prosperity in Southeast Asia: Synchronizing Economic and Security Agendas,” February 2016, 21; Anemi Wick, “Trafficked Vietnamese Brides” [Bei guaimai de yuenan xinniang], *Deutsche Welle*, 13 February 16; Andrew R.C. Marshall, “Led by China, Mekong Nations Take on Golden Triangle Narco-Empire,” *Reuters*, 15 March 16; Get It Right This Time: A Victims-Centered Trafficking in Persons Report, Hearing of the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, Committee on Foreign Affairs, U.S. House of Representatives, 22 March 16, Testimony of Matthew Smith, Executive Director of Fortify Rights. See also United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), “COMMIT SOM/IMM Concluded,” 5 May 15.

³⁴ UN Committee against Torture, *Concluding Observations on the Fifth Periodic Report of China*, adopted by the Committee at its 1391st and 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, paras. 46–47; Human Rights Watch, “World Report 2016: Events of 2015,” 2016, 430.

³⁵ Anna Fifield, “Just About the Only Way To Escape North Korea Is if a Relative Has Already Escaped,” *Washington Post*, 31 March 16; Human Rights Watch, “North Korea—World Report 2016: Events of 2015,” 2016, 429–30; Chun Su-jin and Kim So-hee, “More Elite Flee Though Pyongyang Tightens Up,” *Korea JoongAng Daily*, 13 April 16.

³⁶ Elizabeth Shim, “More North Korean Women Risking Arrest, Abuse To Sneak Into China for Work,” *United Press International*, 19 November 15; Human Rights Watch, “World Report 2016: Events of 2015,” 2016, 429–30.

³⁷ UN General Assembly, *Situation of Human Rights in the Democratic People’s Republic of Korea*, A/70/362, 8 September 15, para. 42.

³⁸ Dan Southerland, “Progress in Fight Against Human Trafficking in Asia Hard To Measure,” *Radio Free Asia*, 6 April 16; Liberty Asia and Thomson Reuters Foundation, “From Every Angle: Using the Law To Combat Human Trafficking in Southeast Asia,” November 2014, 44; Population Reference Bureau, “PRB Discuss Online: Will China Relax Its One-Child Policy?” 22 February 11.

³⁹ Dan Southerland, “Progress in Fight Against Human Trafficking in Asia Hard To Measure,” *Radio Free Asia*, 6 April 16; Get It Right This Time: A Victims-Centered Trafficking in Persons Report, Hearing of the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, Committee on Foreign Affairs, U.S. House of Representatives, 22 March 16, Testimony of Mark Lagon, President, Freedom House; Liberty Asia and Thomson Reuters Foundation, “From Every Angle: Using the Law To Combat Human Trafficking in Southeast Asia,” November 2014, 44.

⁴⁰ National Bureau of Statistics of China, “2015 National Economy Steadily Progressing and Stable” [2015 nian guomin jingji yunxin wen zhong you jin, wen zhong you hao], 19 January 16.

⁴¹ Hu Hao, “China’s Sex Ratio at Birth Falls Sixth [Year] in a Row” [Woguo chusheng renkou xingbie bi liu lian jiang], *Xinhua*, 4 February 15; Chen Xianling, “China’s Sex Ratio Highest in the World, [In] 34 Years 30 Million ‘Extra’ Men Born” [Woguo xingbie bi pian gao shijie di yi 34 nian “duo” chu 3000 wan nanxing], *Southern Metropolitan Daily*, 11 February 15; “China’s Sex Ratio at Birth Declines 4 Years in a Row,” *Xinhua*, 5 March 13.

⁴² National Bureau of Statistics of China, “2015 National Economy Steadily Progressing and Stable” [2015 nian guomin jingji yunxin wen zhong you jin, wen zhong you hao], 19 January 16.

⁴³ See, e.g., UN Department of Economic and Social Affairs, “The World’s Women 2015: Trends and Statistics,” 2015, 6; Christophe Z. Guilmoto, “Skewed Sex Ratios at Birth and Future Marriage Squeeze in China and India, 2005–2100,” *Demography*, Vol. 49 (2012), 77–78; Stuart Basten and Georgia Verropoulou, “‘Maternity Migration’ and the Increased Sex Ratio at Birth in Hong Kong SAR,” *Population Studies*, Vol. 67, No. 3 (2013), 325; Population Control in China: State-Sponsored Violence Against Women and Children, Hearing of the Congressional-Executive Commission on China, 30 April 15, Testimony of Dr. Nicholas Eberstadt, Henry Wendt Chair in Political Economy, American Enterprise Institute for Public Policy Research, 2.

⁴⁴ National People’s Congress Standing Committee, *Decision Regarding Amending the Population and Family Planning Law* [Quanguo renda changweihui guanyu xiugai renkou yu jihua shengyu fa de jue ding], issued 27 December 15.

⁴⁵ Shen Lu and Katie Hunt, “China’s One-Child Policy Goes but Heartache Remains,” *CNN*, 31 December 15; “Sex Ratio Imbalance in China Giving Many Men ‘Difficulty With Marriage’”

[Zhongguo dalu nannu bili shiheng ling daliang nanxing “hunpei nan”], Radio Free Asia, 19 January 16; Dan Southerland, “Progress in Fight Against Human Trafficking in Asia Hard To Measure,” Radio Free Asia, 6 April 16.

⁴⁶National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xing fa xiuzheng’an (jiu)], issued 29 August 15, effective 1 November 15.

⁴⁷Ibid., item 15.

⁴⁸PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, art. 241; International Organization for Migration and International Labour Organization, “Recent Migration-Related Policy Developments,” EU-China Dialogue on Migration and Mobility Support Project Newsletter, Issue 2, January 2016, 2.

⁴⁹“Xinhua Insight: Infant Trafficking Rooted in Poverty, Ignorance of Law,” Xinhua, 24 January 16; “It’s a Crime, I Tell Ya: Major Changes in China’s Criminal Law Amendment 9,” China Law Translate (blog), 27 September 15; International Organization for Migration and International Labour Organization, “Recent Migration-Related Policy Developments,” EU-China Dialogue on Migration and Mobility Support Project Newsletter, Issue 2, January 2016, 2; Chen Liping, “Pointing Out Seven Major Highlights of the Criminal Law Amendment (Nine) Draft” [Dian] xing fa xiuzheng’an (jiu) cao’an de qi da liangdian], Legal Daily, 28 October 14.

⁵⁰National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xing fa xiuzheng’an (jiu)], issued 29 August 15, effective 1 November 15, item 15. This wording is slightly different from earlier drafts of the amendment. The first draft provided that buyers of trafficked women who did not prevent the women from returning home and buyers of children who had not harmed them could receive a light or reduced punishment, or be “exempt” from punishment. The second draft provided that buyers could receive a light or reduced punishment in cases involving trafficked children, or be “exempt” from punishment in cases that involved trafficked women. National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) (Draft) [Zhonghua renmin gongheguo xing fa xiuzheng’an (jiu) (cao’an)], 3 November 14, item 13; National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) (Draft) (Second Reading) [Zhonghua renmin gongheguo xing fa xiuzheng’an (jiu) (cao’an) (er ci shen yi gao)], 6 July 15, item 15.

⁵¹Xu Jun, “High Incidence of Trafficking in Women and Children Beginning To Be Contained” [Guaimai funu ertong fanzui gaofa taishi chubu ezh], People’s Daily, 8 March 16.

⁵²Ibid.

⁵³Chhay Channyda, “China-Kingdom MOU Targets Illicit Bride Market,” 12 March 16; Caitlin Richards, United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), “Cambodia and China Partnering To Protect Vulnerable Migrant Women,” UN-ACT (blog), 10 December 15.

⁵⁴Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region, signed 29 October 04, reprinted in UN Action for Cooperation against Trafficking in Persons, last visited 14 July 16. The six signatories to the MOU were Cambodia, China, Lao PDR, Burma (Myanmar), Thailand, and Vietnam.

⁵⁵United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), “UN-ACT Project Updates,” UN-ACT Newsletter, January 2016; “Police To Attend Anti-Trafficking Meeting,” Myanmar Times, 13 October 15.

⁵⁶PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, art. 240.

⁵⁷Topics that need to be addressed in domestic legislation to bring it into compliance with the UN TIP Protocol include the protection and rehabilitation of victims of trafficking (see UN TIP Protocol, Article 6.3), the addition of non-physical forms of coercion into the legal definition of trafficking (see UN TIP Protocol, Article 3(a)), and the trafficking of men (covered under the definition of “trafficking in persons” in Article 3(a) of the UN TIP Protocol). See UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 00, entered into force 25 December 03.

⁵⁸United Nations Office on Drugs and Crime, “What Is Human Trafficking?” last visited 22 June 16; UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (UN TIP Protocol), adopted by General Assembly resolution 55/25 of 15 November 00, entered into force 25 December 03, art. 3(a, c, d). Note that for children under age 18, the means described in Article 3(a) are not required for an action to constitute human trafficking. For information on how international standards regarding forced labor fit into the framework of the UN TIP Protocol, see International Labour Office, International Labour Organization, “Human Trafficking and Forced Labour Exploitation: Guidance for Legislation and Law Enforcement,” 2005, 7–15; International Labour Office, International Labour Organization, “Hard To See, Harder To Count: Survey Guidelines To Estimate Forced Labour of Adults and Children,” Second Edition, 2012, 12, 19.

⁵⁹PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, art. 240. The PRC Criminal Law defines trafficking as “abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a woman or child, for the purpose of selling the victim.”

⁶⁰UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized

Crime (UN TIP Protocol), adopted by General Assembly resolution 55/25 of 15 November 00, entered into force 25 December 03, art. 3(a). See also United Nations Office on Drugs and Crime, “What Is Human Trafficking?” last visited 22 June 16.

⁶¹PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, arts. 240, 244, 358. For additional information on this topic, see Office To Monitor and Combat Trafficking in Persons, U.S. Department of State, “Trafficking in Persons Report,” 19 June 13, 130. According to this report, “it remains unclear whether [articles 240, 244, and 358] have prohibited the use of common non-physical forms of coercion, such as threats of financial or reputational harm, or whether acts such as recruiting, providing, or obtaining persons for compelled prostitution are covered.”

⁶²PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, art. 240. The PRC Criminal Law defines trafficking as “abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a woman or child, for the purpose of selling the victim.”

⁶³State Council General Office, “China Action Plan To Combat Trafficking in Persons (2013–2020)” [Zhongguo fandui guaimai renkou xingdong jihua (2013–2020 nian)], 2 March 13.

⁶⁴National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xing fa xiuzheng’an (jiu)], issued 29 August 15, effective 1 November 15; PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, art. 240. The amendment did not include a change to Article 240 of the PRC Criminal Law, which defines human trafficking using the term “trafficking in women and children” (*guaimai funu ertong*). Item 15 of the PRC Criminal Law Amendment revising Article 241 of the PRC Criminal Law refers only to women and children.

⁶⁵PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, art. 240. The PRC Criminal Law defines trafficking as “abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a woman or child, for the purpose of selling the victim.”

⁶⁶UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (UN TIP Protocol), adopted by General Assembly resolution 55/25 of 15 November 00, entered into force 25 December 03, art. 3(a, c). The end result of exploitation is one of the required elements of a trafficking case under Article 3 of the UN TIP Protocol. See also UN General Assembly, Report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on the Work of Its First to Eleventh Sessions, Addendum, Interpretive Notes for the Official Records (*Travaux Préparatoires*) of the Negotiation of the United Nations Convention against Transnational Organized Crime and Protocols Thereto, A/55/383/Add. 1, 3 November 00, para. 66.

⁶⁷Office To Monitor and Combat Trafficking in Persons, U.S. Department of State, “Trafficking in Persons Report,” June 2016, 131. For examples of the conflation of illegal adoption with human trafficking during the Commission’s 2016 reporting year, see, e.g., “Key Figure in Guangxi Cross-Border Infant Trafficking Case Executed” [Guangxi teda kuaguo fan ying an zhu fan bei zhixing sixing], Legal Daily, reprinted in People’s Daily, 17 August 16; Xu Jun, “High Incidence of Trafficking in Women and Children Beginning To Be Contained” [Guaimai funu ertong fanzui gaofa taishi chubu ezhi], People’s Daily, 8 March 16; “Xinhua Insight: Infant Trafficking Rooted in Poverty, Ignorance of Law,” Xinhua, 24 January 16; “Death Penalty Implemented for Trafficker of 22 Children” [Guaimai 22 ming ertong zuifan bei zhixing sixing], Xinhua, 29 January 16.

⁶⁸UN Office on Drugs and Crime, “Protecting Peace and Prosperity in Southeast Asia: Synchronizing Economic and Security Agendas,” February 2016, 34; Justice Centre Hong Kong, “Coming Clean: The Prevalence of Forced Labour and Human Trafficking for the Purpose of Forced Labour Amongst Migrant Domestic Workers in Hong Kong,” March 2016, 6–7, 52, 64; Office To Monitor and Combat Trafficking in Persons, U.S. Department of State, “Trafficking in Persons Report,” June 2016, 194.

⁶⁹Census and Statistics Department, Hong Kong Special Administrative Region, “Hong Kong Annual Digest of Statistics” [Xianggang tongji niankan], October 2015, 43. See also Justice Centre Hong Kong, “Coming Clean: The Prevalence of Forced Labour and Human Trafficking for the Purpose of Forced Labour Amongst Migrant Domestic Workers in Hong Kong,” March 2016, 6, 20. Note that the Hong Kong government refers to migrant domestic workers as “foreign domestic helpers.”

⁷⁰UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China With Respect to Hong Kong, China, adopted by the Committee at its 1392nd and 1393rd Meetings (3 December 2015), CAT/C/CHN-HKG/CO/5, 3 February 16, para. 20.

⁷¹Justice Centre Hong Kong, “Who We Are,” last visited 15 July 16.

⁷²Justice Centre Hong Kong, “Coming Clean: The Prevalence of Forced Labour and Human Trafficking for the Purpose of Forced Labour Amongst Migrant Domestic Workers in Hong Kong,” March 2016, 7, 33, 52.

⁷³*Ibid.*, 7, 54.

⁷⁴UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China With Respect to Hong Kong, China, adopted by the Committee at its 1392nd and 1393rd Meetings (3 December 2015), CAT/C/CHN-HKG/CO/5, 3 February 16, para. 20; Justice Centre

Hong Kong, “Coming Clean: The Prevalence of Forced Labour and Human Trafficking for the Purpose of Forced Labour Amongst Migrant Domestic Workers in Hong Kong,” March 2016, 26; Liberty Asia and Reed Smith Richards Butler, “Legal Overview of Human Trafficking in Hong Kong,” 2015, 7–8.

⁷⁵ United Nations Treaty Collection, Chapter XVIII, 12.a., Penal Matters, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, last visited 23 July 16. See also UN Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Seventh and Eighth Periodic Reports of China, adopted by the Committee at its 59th session (20 October–7 November 2014), CEDAW/C/CHN/CO/7–8, 14 November 14, para. 56.

⁷⁶ Legislative Council of the Hong Kong Special Administrative Region, Crimes Ordinance (Cap. 200) [Di 200 zhang xingshi zuixing tiaoli], amended 2 August 12, sec. 129(1); Hong Kong Bar Association, “Hong Kong Bar Association’s Submission to the United Nations Committee Against Torture,” 17 October 15, para. 22; Liberty Asia and Reed Smith Richards Butler, “Legal Overview of Human Trafficking in Hong Kong,” 2015, 15.

⁷⁷ Hong Kong Special Administrative Region Government, Immigration Department, Visa/Extension of Stay Application Form for Domestic Helper From Abroad, last visited 18 July 16, 6(ii); Hong Kong Special Administrative Region Government, Immigration Department, Employment Contract (for a Domestic Helper Recruited From Abroad), last visited 18 July 16, 3; Hong Kong Special Administrative Region Government, Immigration Department, “Foreign Domestic Helpers,” last visited 18 July 16, Q30. See also Danny Lee, “Hong Kong Domestic Helpers Arrested in Crackdown on ‘Live-Out’ Maids,” South China Morning Post, 29 January 15.

⁷⁸ Hong Kong Special Administrative Region Government, Immigration Department, Visa/Extension of Stay Application Form for Domestic Helper From Abroad, last visited 18 July 16, 6(vi); Hong Kong Special Administrative Region Government, Immigration Department, “Conditions of Employment for Foreign Domestic Helpers: A General Guide to the Helper,” last visited 18 July 16, 3; Hong Kong Special Administrative Region Government, Immigration Department, “Foreign Domestic Helpers,” last visited 18 July 16, Q33, Q44. See also Adrienne Chum, “Helping Hands: The Two-Week Rule,” HK Magazine, 30 July 15.

⁷⁹ UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China With Respect to Hong Kong, China, adopted by the Committee at its 1392nd and 1393rd Meetings (3 December 2015), CAT/C/CHN-HKG/CO/5, 3 February 16, para. 20; Justice Centre Hong Kong, “Coming Clean: The Prevalence of Forced Labour and Human Trafficking for the Purpose of Forced Labour Amongst Migrant Domestic Workers in Hong Kong,” March 2016, 23.

⁸⁰ Adam Severson, “Reviewing Hong Kong’s Human Trafficking Case,” Justice Centre Hong Kong (blog), 15 January 16; Justice Centre Hong Kong, “Coming Clean: The Prevalence of Forced Labour and Human Trafficking for the Purpose of Forced Labour Amongst Migrant Domestic Workers in Hong Kong,” March 2016, 26; Eddie Lee, “South Asian in Judicial Review Had To Return to Hong Kong for Unpaid Wages, High Court Hears,” South China Morning Post, 15 January 16; Legislative Council of the Hong Kong Special Administrative Region, Hong Kong Bill of Rights Ordinance (Cap. 383) [Di 383 zhang xianggang renquan fa’an tiaoli], amended 30 June 97, sec. 8, art. 4. See also Astrid Zwegnert, “Trafficking Victim To Challenge Hong Kong’s Lack of Forced Labor Law in Court,” Thomson Reuters Foundation, 16 July 15.

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⁸³ “Man Tricked Into Working in Hong Kong, Then Forced To Work Unpaid, Beaten: Lawyers,” Agence France-Presse, reprinted in Straits Times, 12 January 16; Eddie Lee, “South Asian in Judicial Review Had To Return to Hong Kong for Unpaid Wages, High Court Hears,” South China Morning Post, 15 January 16.

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