



The challenge of Defining Child Sexual Abuse in the Developing Child Protection System in China

Ilan Katz² · Xiaoyuan Shang^{1,2} · Yawen Cui¹

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Abstract

China is in the process of developing a comprehensive child protection system, including processes for preventing and responding to child sexual abuse (CSA). Underpinning the new system are changes in the legal provisions dealing with different aspects of CSA. A clear definition of CSA is important for developing effective policies and processes for responding to different types of sexual abuse. Drawing on legal documents, media reports and a review of empirical research on the prevalence and incidence of CSA in China, the article discusses the components of a comprehensive definition of CSA, including the nature of the incident, the characteristics of the abuser and victim and the context in which abuse takes place. The definition has to be sensitive to the legal and cultural history and context of China. The article compares the legal definition with definitions used by epidemiologists and other researchers, and then discusses the continuing gaps and challenges for the emerging system to fully protect children subject to CSA. These include the gendered nature of some provisions, challenges in defining “child” in the context of CSA and addressing the issue of “informed consent” in research and legislation.

Keywords Policy · Sexual abuse · Social service/child welfare · Children’s rights · Child well-being · Child protection

Introduction

Child sexual abuse is a “wicked problem” in China and internationally. Preventing abuse, identifying who has been abused, supporting victims and their families, and prosecuting perpetrators are all complex matters which have challenged policy makers and practitioners in most countries internationally.

✉ Xiaoyuan Shang
shangxy@hotmail.com

¹ School of Social Development and Public Policy, Beijing Normal University, Beijing, China

² Social Policy Research Centre, UNSW, Sydney, Australia

International experience shows that reported cases of child sexual abuse may increase rapidly as economies develop and mass media engages with the topic (Wei, 2014). In this regard, China has witnessed the fastest economic growth in the world over the last two decades, and increasingly cases of child sexual abuse are being exposed in social media, highlighting growing community concern. Although a range of terms describing child sexual abuse are commonly used in mass media and academic research, their definitions are ambiguous, and there is still no universally accepted definition of child sexual abuse in China (Wang & Gui, 2014).

Chinese culture and legislation, like those of most East Asian countries, has traditionally been based on collectivist principles (Connolly & Katz, 2019; Sawrikar & Katz, 2017), where families were considered more important than individuals, and family “face” or reputation was of paramount concern. This traditional patriarchal system was destroyed during the Cultural Revolution and the Mao Zedong era, but has been partially restored during the “opening up” period starting in 1979. Partly because of the culture of relying on families and work places for welfare, unlike many East Asian Countries, China did not develop a child protection system (CPS) until recently (Shang & Katz, 2014), only developing a comprehensive legislative basis for the CPS in 2015 (Shang & Tong, 2017, also see Shang et al. in this volume). The new child protection system is changing this orientation, and China is moving rapidly towards a much more individualistic approach, in which the individual rights of victims of CSA can sometimes override the primary value of families.

The language used in relation to child sexual abuse in the mass media has been influenced by laws, policies and academic language. However, it is crucial that the meaning of “child sexual abuse” is clarified for policy and practice in the emerging child protection system in China. Adopting an accepted, standardised and universally accepted definition of “child sexual abuse” is important for quantifying the incidence and severity of child sexual abuse, to take action to prevent the abuse, to establish standards and codes of conduct, to provide children with sex education as well as to deal with cases in law and to provide social support (Li & Xie, 2012; Mathews & Collin-Vézina, 2019). This article attempts to examine the definition of “child sexual abuse” in the context of mainland China from a multidisciplinary perspective.

The Complexities of Defining Child Sexual Abuse

Child abuse can be viewed from multiple dimensions, including child development (physical and emotional), epidemiology, law, social policy and psychology. Each of these disciplines is influenced by time and place, affecting codes of conduct, cultural norms and moral standards (Mathews & Collin-Vézina, 2019). In most countries, the definition of child sexual abuse and related behaviours are stipulated by law, which constitutes the minimum standards of behaviour that must be observed or violations are subject to legal sanctions.

In contemporary Chinese language, many expressions have meanings similar to child sexual abuse and commonly used terms vary by context. Legal and policy documents refer to “sexual assault of minors” or “minors” sexual assault”; “child sexual

abuse” is often used in social policy and epidemiological studies, where past studies also sometimes used “childhood sexual abuse”. In mass media, the terms “sexual assault of children” or “child sexual assault” are often used. “Sexual violence against children” is sometimes used in international policy documents from the World Health Organization and the United Nations (ECPAT International, 2016).

The above terms are used to refer to various forms of child sexual abuse, including categories of acts, such as the rape of a child aged under 14 years, indecent assault of a child and luring a child into prostitution and other crimes specifically prohibited by law. Other relevant acts include child sexual exploitation, child pornography and online child sexual assault.

Defining child sexual abuse needs to consider three elements: the definition of a “child”, “abuse” and “sexual behaviours that constitute abuse”.

Defining a Child as a Victim of Sexual Abuse

Two main factors which are key to defining child sexual abuse are the developmental stage of the child and the power relationship between the victim/survivor and the perpetrator. Child abuse victim/survivors are children whose physical and emotional development is not yet mature, and their exposure to sexual behaviours risks long-term negative effects on their physical and mental health. Secondly, by definition, children are incapable of making decisions based on informed consent because they do not have sufficient physical and/or emotional maturity to understand the implications of sexual activity and make voluntary decisions without coercion or threat. Defining a child takes account of their degree of physical and emotional maturity, as well as cultural customs and accepted social norms concerning what it means to be a child. Definitions of “child” can be based on purely chronological measures or can include assessments of the child’s capacity for decision-making.

Sexually Abusive Behaviour

Sexual incidents are defined by a range of disciplines, including epidemiology, social sciences, also in law, regulations or policies. Sexual activities which are defined as abusive refer to behaviours by the abuser for the purpose of satisfying their sexual desire. Sexual abuse can involve physical and emotional elements and could be perpetrated in person or remotely.

Contact sexual incidents include sexual penetration (such as attempted or forced sexual intercourse or anal sex with a child) or sexual contact (such as deliberate rubbing of sexual organs against the child’s body, forcing the child to touch the offender’s sexual organ). Non-contact sexual behaviours/acts include showing the child pornography, filming, exposure and voyeurism. CSA also involves other activities such as trafficking and exploitation of children for sexual purposes.

Definition of Child Abuse

In summary, child abuse involves three components:

- An unequal power relationship between the abuser and the victim.
- The victim is by definition vulnerable and likely to suffer harm due to the activity because of their age.
- The victim is not able to give informed consent to the sexual activity, because of their age.

Although different disciplines have varying definitions of child sexual abuse, within the development of the emerging child protection system in China, the legal definition underpins all the activities and processes within the system. This is particularly true in China where social policy more generally is heavily based on legal definitions and processes. This article examines the definitions of child sexual abuse used in Chinese laws and regulations and those used in academic research, highlighting the similarities and differences between the academic and legal definitions.

Legal Definitions

Sexual crimes against children are not identified as a category in the *Criminal Law of the People's Republic of China*.¹ There is no specific legislation relating to child sexual abuse (Su, 2015), with criminal laws concerning child sexual abuse scattered among different legislative frameworks.

Child sexual abuse is defined in judicial interpretations from government departments as the “crime of sexual assault of minors”. In 2013, the *Opinions on Punishing Crime of Sexual Assault of Minors According to Law* were promulgated jointly by the Supreme People's Court (SPC), Supreme People's Procuratorate (SPP) (the public prosecutor's department, or the body of public prosecutors, different levels of courts), Ministry of Public Security (MPS) and Ministry of Justice (MOJ). It first proposed the overarching concept:

The crimes of sexual assault of minors mentioned in the Opinions include the rape of minors, coercive indecent assault and harassment of women, indecency against children, the crime of organising, forcing, luring, sheltering, or procuring other persons to engage in prostitution, the crime of luring a girl under the age of 14 to engage in prostitution, and the crime of paid sex with a girl under the age of 14 as stipulated in Article 236, Article 237, Article 358, Article 359 and Article 360 (2) of *Criminal Law of the People's Republic of China*.²

In addition, Article 364 of the *Criminal Law of the People's Republic of China* covers sexual crimes against children in a broad sense (Chen, 2006):

¹ Except where noted, the Criminal Law referred to in this paper is the *Amendment (X) to the Criminal Law of the People's Republic of China* (revised in 2017).

² The crime of ‘paid sex with a girl under the age of 14’ was added in 1997, but it was controversial in practice and was abolished in the *Amendment (IX) to the Criminal Law of the People's Republic of China* in 2015.

Whoever disseminates pornographic materials including books, periodicals, movies, video-audio tapes and pictures ... Whoever produces or duplicates pornographic audio-video products including movies and video-tapes and arranges for their show ... Whoever disseminates pornographic materials to a minor under the age of 18 ... shall be given a heavier punishment.

In recent years, the dissemination of pornographic materials to children and the use of children to make pornographic films have been more frequently reported, but these phenomena have not received adequate attention.

Legal and Regulatory Age Requirements for Victims of Child Sexual Abuse

Chinese law mainly uses the term “minor”, and occasionally “child”, but the age range varies for these two terms and the Criminal Law itself does not directly define the age range of “child”. In the Criminal Law 2017, eight Articles mention the term of “minor”,³ five articles mention the term of “child”,⁴ and two articles mention the term of “girl under the age of 14”.⁵ For the age range of the term “minor”, the *General Rules of the Civil Law of the People’s Republic of China (2017)* and the *Law of the People’s Republic of China on the Protection of Minors (2020)* have given a clear definition, i.e. “a citizen under the age of 18”. This is consistent with the age range of the term “child” defined in the *United Nations Convention of the Rights of the Child*.

In 2016, the *Explanation from the SPC on Several Issues for Specific Applicable Laws in Trial of Crime of Trafficking in Women and Children* stipulates that (SPC, 2016):

A child specified in Article 240 and Article 241 of the Criminal Law refer to a person under the age of 14. Specifically, those under one year old are infants, and those over one year old but under six years old are young children.

According to this Explanation, the “child” in the Criminal Law refers to a person under the age of 14.

Rape and “Age of Consent”

Article 236 of the Criminal Law stipulates that:

Whoever rapes a woman by violence, coercion or any other means shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years. Whoever has sexual intercourse with a girl under the age of 14 shall be deemed to have committed rape and shall be given a heavier punishment.

³ Article 244, Article 260, Article 262, Article 301, Article 347, Article 353, Article 358, Article 364.

⁴ Article 237, Article 240, Article 241, Article 242, Article 416.

⁵ Article 236, Article 359.

The Criminal Law stipulates stricter protection for young children to consider the physical development of children. Common rape crime is deemed through penetrative sex, while the rape of a girl under the age of 14 can be deemed through any contact of sexual organs between the perpetrator and a female victim (Zhou, 2019).

Importantly, the crime of rape does not cover boys in Chinese law (Luo, 2020; Zhu, 2014). The definition of criminal rape reflects the traditional concept of sexual behaviour and sexual intercourse in judicial practice in China (genital penetration by a male in a female). Further, if the perpetrator inserts his genitals into another orifice, it is generally deemed as an act of indecent assault in judicial practice.

As indicated above, the act of “having sexual intercourse” with a girl under the age of 14 is deemed to constitute “rape” (i.e. statutory rape). It can be inferred therefore that the age of 14 approximates the concept of “age of consent” (Luo, 2020, 2021). In addition, even if consent is obtained from the girl or money and property is paid for this purpose, this is not considered “consent” in legislation (Chen, 2014; Zhou et al., 2014).

If the perpetrator knows the victim is a young girl his act is deemed to be rape (Zhou et al., 2010). However, when a victim is 12–14 years old, the perpetrator is not deemed to know that the victim is a young girl and is convicted of rape only when the victim has the characteristics of a young girl in terms of “physical development, speech and deportment, dressing feature and daily routine”. Such double definition of “a child who is known as a young girl” is based on the complexity of judicial practice. The law therefore anticipates that there may be situations in which it is impossible for the general population and perpetrators to judge whether or not some girls aged 12–14 years are “young girls”. However, such situations are rare (Luo, 2020, 2021).

Legal Protection of Boys as Victims of Child Sexual Abuse

In the *Criminal Law of the People’s Republic of China*, the protection of sexual rights of male minors is limited (Zhu, 2014). The most obvious omission is that only females are defined as victims of rape and therefore male minors cannot be considered as victims in rape cases. Similarly, Article 236 (2) of the Criminal Law concerning girls under the age of 14 does not extend to boys (Luo, 2020).

Only the crime of *indecent assault of children* defined in Article 237 is applicable to the protection of male victims (Su, 2015). Minors over 14 years of age are no longer considered to be children in a legal sense, and the protection of their sexual rights is the same as that of adults. In the Amendment to the Criminal Law in 2015, the crimes of coercive indecent assault of others, the offence of “harassment of women” and “indecent assault of children” expanded the scope of the definition of indecent assault, and the new definition may now protect male minors between 14 and 18 years (Luo, 2020; Zhu, 2014).

However, according to the law, victims of *the crime of sexual assault of minors* are children under the age of 14, rather than minors under the age of 18 as defined in the *Law of the People’s Republic of China on the Protection of Minors*.

Legal Provisions on Acts of Sexual Assault of Minors

The *Opinions on Punishing the Crime of Sexual Assault of Minors According to Law* (SPC et al., 2013) defines acts of sexual assault of minors as including the following: rape, coercive indecent assault and “harassment of women”, indecent assault of children, organising, forcing, luring, sheltering or procuring other persons to engage in prostitution, luring a girl under the age of 14 to engage in prostitution.

Coercive Indecent Assault and Harassment of Women and Children

Article 237 of the Criminal Law stipulates that the “crime of coercive indecent assault and harassment of women, and the crime of indecency against children”.

The crime of coercive indecent assault applies to an act or acts perpetrated against males and females aged 14 years or above. The crime of coercive harassment mainly refers to obscene and immoral behaviours other than indecent assault perpetrated against women, which damages the dignity of women.

However, the definition of “indecent assault” is not specified in the law. Generally, indecent assault is deemed to be obscene behaviours other than sexual intercourse that stimulate or satisfy the perpetrator’s sexual desire (Su, 2015). The meaning of indecent assault is interpreted with reference to the moral standards of sexual behaviour as determined by the mainstream sexual norms in Chinese society.

The legal evolution of the crime of indecent assault of children can be traced back to the crime of hooliganism stipulated in Article 160 of the Criminal Law 1979. In 1984, the SPC and SPP jointly issued the *Explanation on Several Issues for Specific Applicable Laws in Dealing with Hooliganism Cases* to standardise the scope of the crime of hooliganism. It detailed a list of hooliganism cases and acts of sexual assault of minors including “having anal sex with young children” and “having anal sex with juveniles”. Subsequently, the Criminal Law amended in 1997 divided Article 160 into the crimes of coercive indecent assault and harassment of women, picking quarrels and provoking troubles, and indecent assault of children (Zhang & Jiang, 2019).

In 2018, the SPP issued a series of Guiding Cases⁶ which described *Indecent assault with non-physical contact* as a crime of indecent assault of children in light of the high incidence of online sexual assault of children. The crime of indecent assault with non-physical contact involves asking children to take photos and videos of naked and sensitive body parts by cajolement, coercion or any other means for viewing to stimulate and satisfy sexual desire, which seriously infringes on the personal dignity and mental health of children. This definition was the basis for criminalising indecent assault with non-physical contact and indecent assault with physical contact in China (Wang et al., 2019).

⁶ Guiding cases are similar to case precedents in western courts, see <https://www.chinajusticeobserver.com/a/highlights-of-chinas-guiding-case-system-guiding-cases-similar-cases-series-1#:~:text=The%20Guiding%20Cases%20may%20further%20specify%20the%20standard,of%20new%20types%20or%20being%20difficult%20and%20complicated.>

Acts of indecent assault of children that do not constitute a crime are not investigated for criminal liability but are subject to public security administrative penalties (2005). Article 44 of the Law of the People's Republic of China on Public Security Administration stipulates punishments for acts of indecent assault. Individuals who indecently assault minors under the age of 14 are given a harsher penalty (Zhou, 2019).

The crime of organising, forcing, luring, sheltering or procuring other persons to engage in prostitution

Several other crimes are stipulated as acts of sexual assault of children and are related to the definition of "child sexual exploitation". These charges are defined in the *Criminal Law of the People's Republic of China*.

- Article 358 defines the crime of organising, forcing or assisting in organising prostitution.
- Articles 359 and Article 361 define the crime of luring, sheltering or procuring other persons to engage in prostitution and the crime of luring a girl under the age of 14 to engage in prostitution in.
- Article 363 defines the crime of producing, duplicating, publishing, selling or disseminating pornographic materials for the purpose of profit and the crime of providing for another person to publish pornographic books or periodicals.
- Article 364 defines the crime of disseminating pornographic materials and the crime of arranging for shows of pornographic audio–video products in.
- Article 365 defines the crime of arranging for pornographic performances in.

With the exception of the crime of luring a girl under the age of 14 to engage in prostitution, none of the above crimes are specifically defined with reference to the sexual assault of children. However, all above articles stipulate that a harsher punishment shall be given if minors are involved in the crime of organising, forcing, luring, sheltering or procuring other persons to engage in prostitution. If a girl under the age of 14 is involved, this constitutes the crime of luring a girl under the age of 14 to engage in prostitution. Similarly, Article 2 of the *Opinions on Punishing Crime of Child Sexual Abuse According to Law* (SPC et al., 2013) also reaffirms the principle that "Crimes of sexual assault of minors shall be severely punished according to law". Additional punishment generally means no more than 20 per cent of the baseline punishment.

Summary

Chinese legal definitions of sexual assault of minors cover rape, coercive indecent assault against others and indecent assault of children. The legal definition of child rape victims are girls under the age of 14. The legal definition of indecent assault of children is all children under the age of 14. Minors over the age of 14 are afforded the same protections as adult victims.

Chinese legal definitions of sexual exploitation of minors include the crime of “luring a girl under the age of 14 to engage in prostitution” and stipulate a harsher punishment for the crime of organising, forcing, luring, sheltering or procuring other persons to engage in prostitution if minors are involved.

These legal definitions of sexual assault of minors adopt a heteronormative understanding of rape as based on the traditional concept of marriage and sexual intercourse. As a result, boys are afforded less legal protection from intrusive sexual assault compared to girls. Male minors over the age of 14 have the same legal protections as adults who are sexually assaulted.

Legal Definitions of Power Relations in the Sexual Assault of Minors

In China, the law explicitly defines unequal power relations between perpetrators and victims with respect to the sexual assault of minors. The first basis for an unequal power relationship is age or disability status (such as children under the age of 12 or 14, minors who have significant impairments or intellectual disability). The second basis for an unequal power relationship is economic status. For example, the perpetrator can use money and property to lure the victim to perform a sexual act. The third basis for an unequal power relationship is the status of “persons with special responsibilities for young girls” (such as guardians of minors, state functionaries or persons pretending to be state functionaries) (Luo, 2020). These persons face a harsher punishment if they forcibly have sexual intercourse with minors by taking advantage of their dominant position or the powerless position of victims. The fourth basis for an unequal power relationship is the use of violent means (i.e. having sexual intercourse with young girls or committing indecent assault of children by violence, coercion, anaesthesia or any other means) (Luo, 2020). The fifth basis for an unequal relationship relates to children in a particularly vulnerable position because of their personal circumstances. For example, the law indicates that left-behind children in rural areas (i.e. children whose parents have migrated to urban areas for work) need special protection (SPC et al., 2013).

The law stipulates a harsher punishment for perpetrators who commit the crime of sexual assault under the first, third, fourth and fifth power relationship mentioned above (SPC et al., 2013).

In contrast, a person aged 14–16 years who has occasionally had sexual intercourse with a young girl and does not use enticement or violence would not be deemed to commit a crime if the circumstances were minor (e.g. no violence or coercion occurred) and the consequences were not considered serious (Luo, 2020; SPC et al., 2013).

Informed Consent

In China, the concept of “age of consent” confirms that girls under the age of 14 are deemed not to have sexual autonomy; therefore they cannot (legally) give informed consent, and thus sex with a minor precludes informed consent (Luo, 2020).

Summary of Legal Definitions

In China, comprehensive formal legal statements on child sexual abuse refer to the sexual assault of minors. The definition includes various acts of sexual assault against minors such as child sexual abuse within the family, rape of a young girl, indecent assault of children, luring a girl under the age of 14 to engage in prostitution, paid sex with a girl under the age of 14, sexual exploitation of children, producing and disseminating child pornography and child sexual violence.

Taking account of the victim's age (and the concept of "age of consent"), the sexual assault of minors refers to children under 14 years of age and includes the crimes of rape, indecent assault and harassing offences. Adults having sexual intercourse with girls under the age of 12 are deemed to commit the crime of rape. Sexual intercourse with a girl between the ages of 12 and 14 is considered rape if the perpetrator knows the girl is under the age of 14. The crime of indecent assault of children applies to children under the age of 14.

Legal interpretations of the crime of sexual assault cover a range of acts, including rape of a young girl, sexual assault and harassment of children, however what constitutes "sexual indecency" or harassment is not specified. In practice, legal arguments are made by citing similar cases. For example, the general crime of indecent assault of children is interpreted as acts perpetrated for the purpose of sexual stimulation or sexual satisfaction via obscene acts on children other than sexual intercourse. Sexual assault also includes non-contact acts perpetrated online, such as asking children to take photos and videos of nude and sensitive body parts by cajolment, coercion or any other means for their viewing to stimulate and satisfy the sexual desire. The crime of indecent assault of children also includes the direct viewing and touching of children's sensitive body parts.

Public Health and Social Research Definitions

Most studies on child sexual abuse in China have been conducted from epidemiological and public health perspectives. Epidemiological research has focused on the incidence or prevalence of child sexual abuse using large population-based studies. In epidemiological studies, researchers have usually employed surveys (mostly retrospective) to determine the incidence of child sexual abuse in the surveyed population (Li & Xie, 2012). The definitions used in these studies overlap with the legal definitions, albeit with some significant differences.

To examine the volume of research material available on the topic of child sexual abuse in China, a literature search was conducted using the China National Knowledge Infrastructure, national literature database⁷ in 2018. Literature types were limited to "journal" and "dissertation", and the time span was limited to 20 years (1998–2018). A total of 171 journal articles and 19 dissertations were retrieved with the search terms "child" or "minors" or "childhood" and "sexual abuse" or "sexual

⁷ <https://oversea.cnki.net/index/Support/en/Introduction.html>

Table 1 Age range for child sexual abuse victims defined in epidemiological studies on child sexual abuse

Age limit	Number of studies and study participants' age range
Under 18	5
Under 16	14
Under 14	1
Under 7	1

assault” in the title. The number of publications of interest reduced to 21⁸ when the following screening criteria were applied: (1) the publication explicitly defined child sexual abuse, covering at least the age of the child and the specific behaviours of sexual abuse; (2) the research included an empirical field investigation; and (3) the research largely adopted an epidemiological or similar public health research perspective.

Definitions of Age and Gender of the Child in the Epidemiological Literature

The terms used in the 21 studies include “childhood/child sexual abuse” in Chinese, while only “child sexual abuse” was used in English. From a Chinese linguistic perspective, “childhood sexual abuse” is more accurate.

In the definitions of child sexual abuse, the scope of children included males and females at risk of sexual abuse and was not limited to a single gender in any study. In the field surveys/empirical data collection, some studies limited the scope to a single gender, with 12 studies including males and females, four studies included females only and four studies included males only.

The studies surveyed children of different ages: 14 studies focused on children under 16 years,⁹ five studies included children under 18 years, one study included children under 14 years, and one study limited the scope to sexual abuse experienced up to primary school age (about 12 to 14 years). Table 1 provides details of the age range for the 21 studies included in this analysis.

The age of perpetrators also varied between studies. Five studies limited the scope to adult perpetrators, while the other 16 studies did not specify any age limit. Most studies did not clearly state the unequal relationship between the abuser and the victim.

Definitions of Sexual Abuse in Public Health Studies

Chinese scholars employ widely used international measures of abuse to examine child sexual abuse. Scales include the Child Abuse and Trauma Scale (CATS,

⁸ See appendix at the end of this article.

⁹ One paper limited the age of child sexual abuse to under 18 years old in the definition, but in the study the age limit was 16 years old.

Table 2 Definitions of sexual abuse behaviours in epidemiological studies on child sexual abuse

Author summary	Specific behaviours	No	%
Non-contact sexual abuse			
Verbal sexual harassment	<ul style="list-style-type: none"> “Verbal sexual harassment” “Someone spoke dirty language to you” “Someone once told you a dirty story” 	3	14
Sexually suggestive acts	<ul style="list-style-type: none"> “Sexual advances to children” “The abuser sexually flirts with the victim to make the child sexually aroused” “The abuser makes the victim sexually flirt with the abuser to make the abuser sexually aroused” 	10	48
Watch pornography	<ul style="list-style-type: none"> “Have the child view obscene books or videos” “Have the child watch pornographic film” “Someone once showed you pornography” 	6	29
Involve the child in making pornography	<ul style="list-style-type: none"> “Force child to make pornographic images or videos” 	1	5
Expose private parts to child	<ul style="list-style-type: none"> “(Intentionally) expose genitals in front of child” “Indecent exposure” “Expose private parts” 	19	90
Play with genitals or masturbate in front of child	<ul style="list-style-type: none"> “Play with genitals in front of child” (4 papers) “Masturbation in front of child” (11 papers) 	13	62
Voyeurism	<ul style="list-style-type: none"> “Look at child’s breasts or genitals” (2 papers) “Voyeurism” (1 paper) 	3	14
Witness sexual activity	<ul style="list-style-type: none"> “Force child to watch others having sex” “Witness adult sexual behaviour” 	4	19
Contact sexual abuse			
Kiss, touch and undress	<ul style="list-style-type: none"> Kiss, touch the body and take off clothes 	2	10

Table 2 (continued)

Author summary	Specific behaviours	No	%
Touch (or fondle or caress) a child's private (or sensitive) parts	"Touch or fondle child's sensitive body parts (including breasts or sexual organs/external genitals)" (11 papers)	20	95
	"Touch or fondle child's body (including sexual organs)" (7 papers)		
	"Someone fondled your sensitive body parts" (1 paper)		
	"Someone touched or hit your chest or lower body" (1 paper)		
	"Caress" (1 paper)		
Force a child to touch abuser's private parts	"Force child to touch his/her genitals" (5 papers)	18	86
	"Force child to make sexual advances and touch his/her body sexually" (10 papers)		
	"Force child to touch or fondle his/her sensitive body parts (including breasts or genitals)" (1 paper)		
	"Forced hand job" (1 paper)		
	"Caress" (1 paper)		
Rub genitals against child's body	"(Intentionally) rub genitals against a child's body"	16	76
	"Touch child's genitals (or external genitals or sexual organs) with mouth" (16 papers)	17	81
Touch (or "kiss") a child's private parts with mouth	"Someone once played with, caressed or kissed your reproductive organ" (1 paper)		
	"Force child to touch his/her genitals (or external genitals) with mouth" (16 papers)	17	81
Force a child to touch abuser's genitals with mouth	"Forced oral sex" (1 paper)		
	"Place a foreign body in the child's vagina"	2	10
Failed attempt to have intercourse (or anal sex)	"Attempted to have intercourse or anal sex with the child (but failed)"	18	86
	"Attempted to have intercourse with the child"		
Forced sex (or anal sex)	"Forced intercourse or anal sex with the child (and achieved the purpose)" or "Forced intercourse with the child" or "Sexual intercourse"	21	100

Sanders & Becker-Lausen, 1995), the Comprehensive Childhood Abuse Inventory (CCAI, Kathryn et al., 1999) and the Childhood Trauma Questionnaire Short Form (CTQ-SF, Li & Xie, 2012; Wang & He, 2012). Some Chinese scholars also create their own definition of CSA, conducting field surveys and studies based on these definitions, for example, Sun's survey on the sexual abuse of boys (Sun et al., 2004).

Most studies use two categories for the specific sexual behaviours involved in child sexual abuse: contact and non-contact sexual abuse. The sexual specific behaviours covered in the 21 studies, and their occurrence are shown in Table 2.

Consent in Public Health Research on Child Sexual Abuse

Many public health studies of child sexual abuse do not include all situations that legally constitute child sexual assault.

Where studies refer to an absence of informed consent, most (15 papers) describe it as “when the child is reluctant”, “when the child is reluctant or involuntary/unwilling” or “forced”. One paper ^[34] further stated that “[s]exual behaviour by immature children or adolescents without full understanding is also deemed reluctant” (Sun et al., 2004). Another paper defined it more strictly as “regardless of whether the individual is voluntary or forced” (Yang et al., 2014), and another suggested that “sexual play in childhood should be excluded” (Li, 2008). Five papers did not explicitly describe informed consent.

Summary of Definitions Applied in Public Health and Social Research

The definitions of child sexual abuse applied in the 21 public health and social research studies identified through the literature search generally refer to the following elements: the child's age, whether the child gives informed consent (whether the child participates voluntarily or is forced) and specific sexual behaviours. Some studies also specify the abuser's age.

The most frequently applied (10 papers) operational definition was that of Chen et al. (2004). They define child sexual abuse as any of the following sexual activities involving a child under 16 years as a reluctant participant: the abuser (1) exposes genitalia to child; (2) masturbates in front of the child; (3) makes sexual advances to child; (4) touches or fondles child's sensitive body parts (including breasts or genitals); (5) forces child to make sexual advances and touch the abuser's body sexually; (6) deliberately rubs genitals against child's body; (7) touches child's genitals with mouth; (8) forces child to touch sexual organ of abuser with mouth; (9) attempts to have sex with child; (10) uses force to have sex with child; (11) attempts to have anal sex with child; and (12) uses force to have anal sex with child. The first three of these 12 behaviours constitute non-contact sexual abuse and the last nine constitute contact sexual abuse. These acts of sexual abuse are also defined by Chinese law as sexual assault of minors.

Comparison Between Legal and Public Health Definitions

The definitions applied in public health studies on child sexual abuse set a higher age limit for victims (under 18 or 16 years) as compared to the 14 year age limit in Chinese laws.

The criteria for determining indecent assault are associated with social norms. The moral standards of sexual behaviours and the degree of acceptable behaviour are determined by a society's mainstream culture. According to these studies, non-contact sexual assault, contact sexual assault and insertion sexual assault defined in current public health and social research all comprise child sexual abuse in current mainstream Chinese culture and in Chinese law. The definitions of child sexual abuse applied in epidemiological studies do not go beyond the scope of behaviours defined by law.

Child sexual abuse in China specifically refers to the harm done by a guardian to a child in their care. The definition of perpetrator is wider than that of abusers. Many cases of sexual assault reported by schools in China in recent years do not constitute sexual abuse in the narrow sense of abuse by a guardian according to Chinese law, but nevertheless constitute sexual assault on minors.

Many of the studies on child sexual abuse included the criterion of informed consent for all study subjects, regardless of whether the child had reached the age of 14 when they are deemed to have capacity to consent. This suggests that the studies identified may have excluded acts that, by law, constitute the sexual assault of a minor if the child is under the age of 14.

Discussion

This article has summarised and compared the legal and epidemiological definitions of CSA in the Chinese context. Defining child abuse, including CSA, is notoriously difficult, depending on a range of cultural and operational factors. Nevertheless it is important to move towards a common definition in the Chinese context, given the emerging child protection system and the need for both a legal underpinning of the system and a clear evidence base on which to develop effective policies and practice to prevent CSA and protect victims of abuse. The analysis has shown that CSA legislation is complex and challenging for the Chinese legal system.

China is also a unique position internationally in that it has a well-developed legal system, and yet until very recently had not had a comprehensive child protection system underpinned by law. Until very recently, therefore, the legal system had no definition of child abuse or in particular CSA, and the definition has had to evolve from a complex range of legal provisions relating to assault, harassment, indecent exposure, exploitation etc.

The analysis has found that in general these definitions are quite similar but that there are some key differences, and that there remain challenges in both the legal and epidemiological definitions.

China is in the process of developing a comprehensive child protection system, and a key element of this system is protection and prevention of child sexual abuse. Although there have been some significant developments in this process to date, there are still a number of gaps in legal underpinning of the new system. In particular, the law has a gender bias which is a legacy from traditional Chinese legal definitions, and it also does not have a clear age range for CSA. In addition, like many countries, China struggles with the concept of informed consent, and the particular circumstances under which young people are able to give consent to sex. China places particular emphasis on the notion of guardianship and the relation between the perpetrator and the victim. Again, this is a legacy from previous laws, with the potential for inadequate protection of victims where the perpetrator is not a parent.

In epidemiological research in China, the main deficit appears to be that many studies have not adequately taken into account the fact that children under 14 cannot give fully informed consent to sex.

It is possible that an inclusive definition of CSA, shared by legal and academic sources, will never be fully achieved, and there is no complete agreement internationally on the specific operationalization of CSA definitions. This is partly because some of the parameters of such a definition, including questions of informed consent, the age of criminal responsibility and the thresholds of abuse, are to some extent culturally determined. Further, as the findings from this research demonstrate, culture is not static, and in China and many other countries, the cultural norms around sexual abuse and its acceptance by society are rapidly evolving. Thus it is likely that the debates around exactly what constitutes CSA in China will continue.

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Declarations

Conflict of interest The authors declare no competing interests.

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