

Lost in Legislation

Hong Kong's Drug Mules Caught in the Gap Between Crime and Victimhood



The Case of Binita

Binita, a young South Asian woman, was approached by a seemingly respectable job consultant named Farah, who offered her a job opportunity as a beautician in Hong Kong. On the day of her departure, Farah gave Binita a bag with cleaning products to bring to the salon in Hong Kong. Upon arrival, Binita was intercepted at the airport customs and officers found 1.4 kg of cocaine concealed in the soap bars.

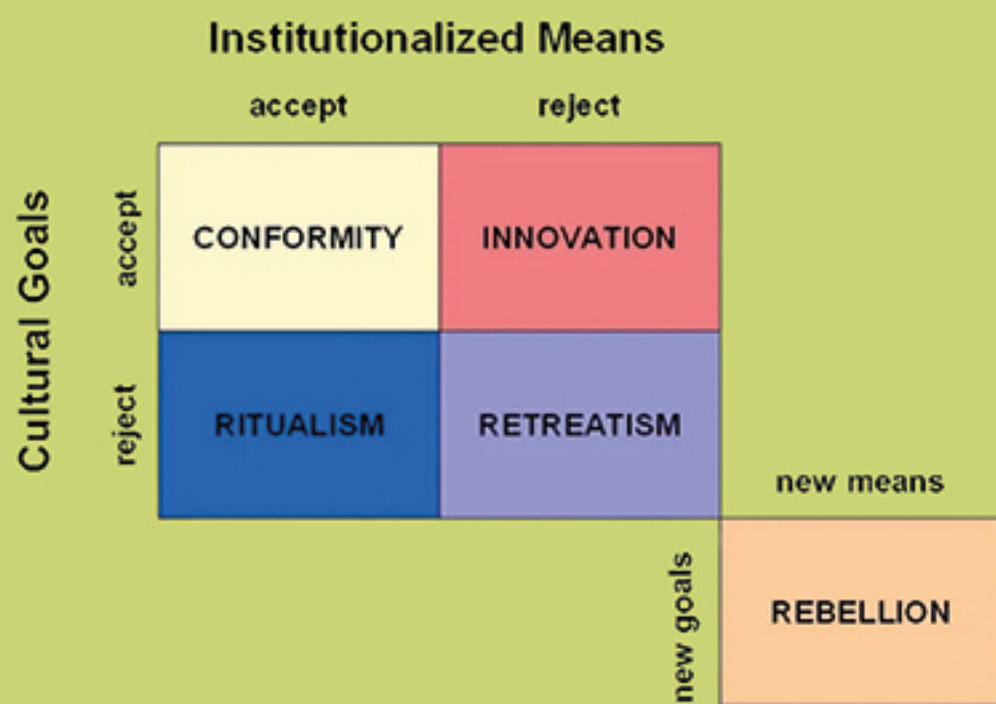
She was convicted of **drug trafficking** and sentenced to 24 years in prison. Authorities did not classify her as a victim of **human trafficking**. Patricia Ho challenged the decision through a Judicial Review.

03 ROBERT MERTON'S STRAIN THEORY

Economically vulnerable individuals face strain when they cannot achieve financial stability through legitimate means (Rosenfeld, 1989).

This leads them to accept risky opportunities, such as drug trafficking, as a way to achieve financial goals. They often **innovate** by rejecting legitimate means but accepting societal goals, making them susceptible to scams promising quick financial gains.

Robert K. Merton's Deviance Typology



04 FALLACIES OF THE SYSTEM

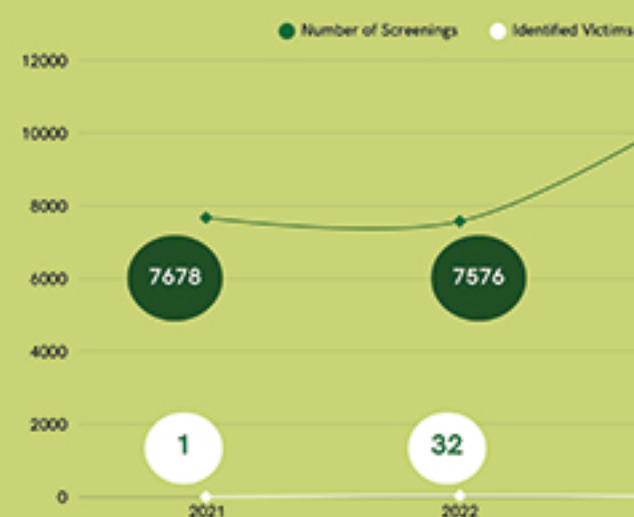
Wrongful Criminalization of Victims

Trafficking victims, often coerced into drug trafficking, are prosecuted as criminals instead of being recognized as **victims**, facing harsh penalties and criminal records that hinder future opportunities.

Intersectionality in the Criminal Justice System

Marginalized groups (e.g., **migrants**, low-income individuals) and vulnerable populations (e.g., **children**, **women**) are disproportionately affected by trafficking. Their vulnerabilities can lead to harsher treatment within the justice system

HK TWO-TIERED IDENTIFICATION MECHANISM: DATA



THE PROBLEM

Although Hong Kong recognises human trafficking as a problem, **there is no specific law outlawing it**. That means prosecutors, judges and juries rarely take into account whether a mule is a trafficking victim.

"Through force or coercion – whatever words you want to throw in there – **she was forced to commit a crime**. That to me all fits squarely within the definition of human trafficking."
– Patricia Ho

01 HONG KONG'S DRUG MULES

"an individual who personally transports illegal drugs across borders, often as part of a larger trafficking operation. This can involve hiding drugs in personal belongings or even within their body."

In Hong Kong, drug mules tend to be **ECONOMICALLY VULNERABLE FOREIGN WOMEN** who are coerced and deceived due to their economic desperation and because women are "less likely to draw attention" from authorities. (AFP, 2022)

22.6%
Of Hong Kong's prisoners are women, the highest percentage globally, with many being foreign nationals who were coerced into drug trafficking." (AFP, 2022)

"I would estimate that about **20 per cent** of those arrested have been tricked"

– Father John Wotherspoon

The Case of Daisy

COERCED INTO TRAFFICKING

Daisy (29, from Zambia), was asked by a relative to pick up African medicine in South Africa and bring it to a friend in India. When she arrived in South Africa, a syndicate boss and corrupt local policeman came to her hotel room and told her she had to transport cocaine to Hong Kong instead. She refused and **they threatened to kill her family** in Zambia. Under duress and whilst pregnant, she ingested 43 pellets of cocaine and flew to Hong Kong.

She was arrested, convicted of **drug trafficking** and sentenced to more than 9 years imprisonment.

The Case of Samuel

DECEIVED INTO TRAFFICKING

Samuel (62, from the United States), is a priest who was contacted through Facebook by "Father Joseph" and asked to come to Hong Kong to lead a local congregation. "Father Joseph" booked flight tickets through Sao Paolo and asked Samuel to pick up items for the church, including bed sheets, he **didn't know the bed sheets had been soaked in liquid cocaine**.

Samuel was arrested for **drug trafficking**. He was released on bail and awaits his judgement.



The Palermo Protocol

United Nations Convention against Transnational Organized Crime

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

Versus

CAP. 200 Crimes Ordinance

Section 129 - Trafficking in persons to or from Hong Kong

(1) A person who takes part in bringing another person into, or taking another person out of, Hong Kong for the purpose of **prostitution** shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

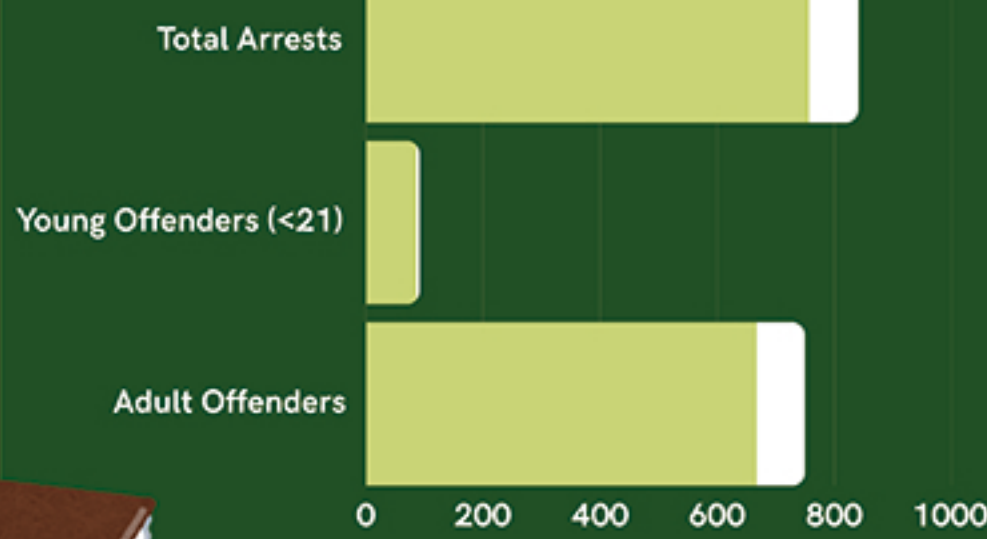
(2) It shall not be a defence to a charge under this section to prove that the other person consented to being brought into or taken out of Hong Kong whether or not she or he knew it was for the purpose of prostitution or that she or he received any advantage therefore.

"People who have been tricked into becoming drug mules are **not criminals** or members of drug syndicates, they are **innocent victims**."

Father John Wotherspoon, prison chaplain and CEO of Voice for Prisoners Hong Kong

THIS IS ESPECIALLY IMPORTANT BECAUSE...

- Drug Conviction
- Offenders Non-Convicted



Sources

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SUSTAINABLE
DEVELOPMENT

GOALS