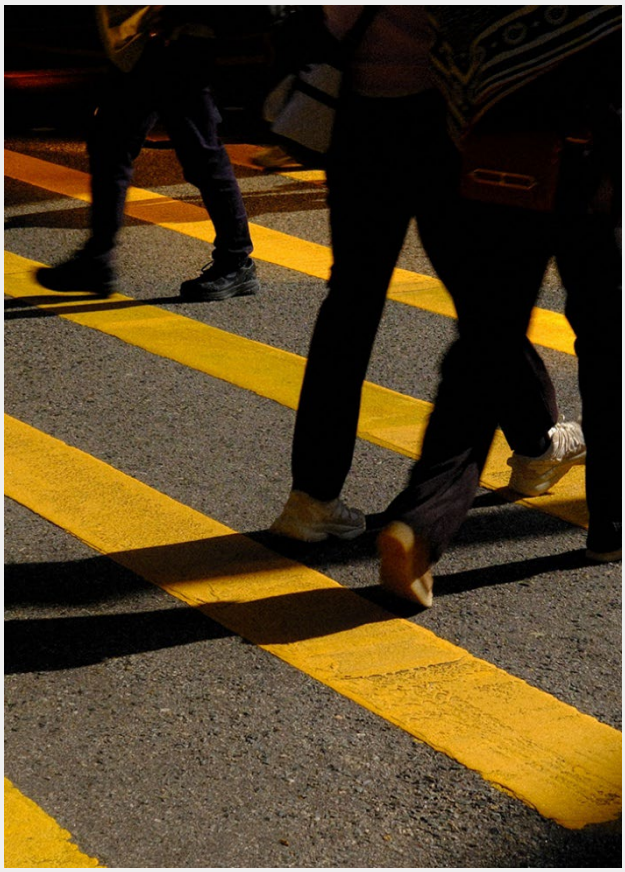

# SENTENCING FOR SEXUAL OFFENCES INVOLVING CHILDREN IN HONG KONG 1990-2025

An Empirical Analysis of Judicial Reasoning and the Case for Strengthening Child Protection in Hong Kong

Puja Kapai and Charlotte Cheung Choi Nam

Aug 2026

## About the Law and Social Justice Clinic, Faculty of Law, University of Hong Kong

The Law and Social Justice Clinic (LSJ Clinic) is offered as part of the course *Law and Social Justice at the Intersections of Gender, Race, Religion, and Sexuality* (LSJ) taught by Professor Puja Kapai at the Faculty of Law of the University of Hong Kong (HKU). The course adopts an interdisciplinary approach informed by intersectionality and feminist theory to critiquing the role of international and domestic human rights norms and frameworks in achieving social justice. It considers the possibilities and limits of social justice solutions derived through existing frameworks that commonly inform law, policy and practice. LSJ draws on comparative approaches to illuminate alternative methodologies to address the justice gap. As part of the course's experiential learning and research assessment components, students are offered a unique opportunity to engage in community-grounded, policy-relevant research developed by or with the input of one of the LSJ Clinic's Community Partner Organisations. The LSJ Clinic is designed with the aim of supporting community partner organisations in developing or executing legal research aligned with the LSJ course objectives and producing related outputs as a collaborative endeavour.

## About TALK Hong Kong

We exist to prevent child sexual abuse and support survivors in Hong Kong.

We believe that protecting children from sexual abuse is a responsibility that rests with adults. By providing education and training, we aim to empower adults with the knowledge and confidence they need to take action and create a safer world for children. TALK Hong Kong began in 2019 as a peer support group, built on the belief that no one should face the trauma of Child Sexual Abuse (CSA) alone. In 2023, we became an official charity, dedicated to creating a safer future for children.

Through research, public awareness, and prevention training, we strive to shed light on the devastating impact of CSA and empower communities to prevent it.

TALK Hong Kong collaborated with the LSJ Clinic at HKU as its Community Partner Organisation for the academic year 2025-2026.

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# Executive Summary

Commissioned by TALK Hong Kong, this comprehensive report was co-authored by Charlotte Cheung Choi Nam and Professor Puja Kapai of the University of Hong Kong's Faculty of Law as a collaborative output for a project housed under the Law and Social Justice Clinic 2025-2026.

This research study presents a longitudinal analysis of judicial decisions and sentencing practices, using a mixed-methods empirical legal research design, combining quantitative analysis of sentencing outcomes with qualitative content analysis of judicial reasoning in reported and publicly accessible decisions on sexual offences involving children between 1990 and 2025.

### Objectives

- **Analyse Sentencing Patterns:** Systematically map historical child sexual abuse (CSA) sentencing trends within Hong Kong courts.
- **Examine Serious Offences:** Critically assess the cases and criteria for sentencing in respect of six specific sexual offences carrying the statutory maximum penalties of life imprisonment, focusing closely on the 2015–2025 decade.
- **Evaluate against criminal justice objectives:** Examine whether current judicial penalties satisfy public justice objectives, including deterrence and retribution.
- **Propose Areas for Reform:** Evidence-informed, victim-centred, structurally embedded policy changes and statutory improvements.

### Methodology

- **Mixed-methods empirical legal research design:** Quantitative analysis of sentencing outcomes with qualitative content analysis of judicial reasoning in reported and publicly accessible decisions on sexual offences involving children;
- **Scope of case law:** Reviewed 401 individual CSA court judgments delivered in Hong Kong between 1968 and 2025.
- **Rigorous Filtering:** Inclusion criteria based on statutory coverage, namely, Crimes Ordinance (Cap. 200) (hereafter "CO") and Prevention of Child Pornography Ordinance (Cap. 579). Excluded cases involving victims older than 16, the standard protective cut-off age for these serious offences.
- **Quantitative and qualitative data extraction:** Extracted replicable variables from each judgment; coded cases by offence type, sentence, aggravating and mitigating factors, judicial reasoning, and special characteristics arising from the cases.
- **Data Review and Analysis:** Compared sentence, aggravating and mitigating factors across cases and time periods, identified recurring patterns, disparities, and thresholds.
- **Consistency:** Integrated appellate data and sourced records exclusively via LexisNexis to ensure absolute data uniformity.

### Findings

- **Maximum Penalties Rarely Imposed:** Life imprisonment was only ever imposed on two occasions (*Fong Lung Fai* and *Chan Chuen*), in outlier cases over 50 years ago.
- **Consistency in the form of Persistent Leniency:** Despite the sampled cases focusing on sexual offences with the maximum penalties, only two cases from over the decade 2015-2025 attracted penalties close to the maximum (an 18-year rape sentence in 2021) were anomalous, followed by sharp drops (a 1-year term in 2023) while between 1990 and 2025, average sentences for the six

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gravest penetrative offences clustered low, spanning between 4.61 to 9.82 years.

- **Aggravating factors appear susceptible to judicial subjectivity:** Courts reference the ten *Tsang Chiu Tak* pillars but apply highly variable, subjective weight to victim trauma.

### Discussion

- **Statutory Maximums Rarely Applied:** Cases like *HKSAR v Kwan Hoi* demonstrate judicial failure to utilise upper statutory boundaries for grave conduct such maximums were designed to address to secure deterrence and retribution goals.
- **Gender Disparities in Sentencing:** Buggery with a female minor (s.118D) yields lower sentences than male homosexual buggery (s.118C), reinforcing societal stigma and patriarchal attitudes towards particular sexual acts.
- **Asymmetrical Protection:** Male victims are shielded under buggery provisions only up to age 16, whereas females are protected until they are 21.
- **Fallacy of Minor Consent:** Sentences are mitigated for "consensual" acts. This ignores inherent adult-minor and gendered power imbalances.
- **Statutory Gaps:** Sexual acts between women remain uncodified under the Crimes Ordinance, leaving female victims of same-sex sexual abuse without parallel legal protections.

### Recommendations

- **Found a Sentencing Council:** Establish an independent body to issue presumptively binding, official sentencing guidelines to ensure consistency and effective use of the sentencing spectrum to reflect gravity of the offence and ensuring deterrence, retribution and safeguarding objectives. Build on existing secondary texts such as *Sentencing in Hong Kong* to supply explicit starting points for relevant sex offences involving children. Presently, only four of the eighteen offences analysed have specific metrics for guidance.
- **Statutory Law Reform:** Reform the law to address gaps pertaining to sexual abuse perpetrated against girls by female perpetrators; standardise sentencing for buggery with girls and boys, and enact guidance on the relevance of consent in sexual acts involving minors.
- **Codify Intersectional Vulnerability:** Enact provision to require courts to account for intersectional vulnerabilities that make particular children targets for sexual abuse, for example, a child's mental disability, cognitive impairment, gender, socioeconomic background, absolute caregiver dependence, or other relevant marginalised status, as severe aggravating factors.

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# Foreword: About this Collaboration

The Law and Social Justice Clinic (LSJ Clinic), offered as part of the course *Law and Social Justice at the Intersections of Gender, Race, Religion, and Sexuality*, provides students with a unique opportunity to engage in community-grounded, policy-relevant research. The LSJ Clinic is designed with the aim of supporting community partner organisations in developing or executing legal research aligned with the LSJ course objectives and producing related research outputs as a collaborative endeavour. The Clinic operates in partnership with non-governmental organisations ("Community Partner Organisations") whose work sits at the frontline of advocacy, service provision, and law reform. NGO partners identify emergent or urgent areas of concern that would benefit from academic inquiry, deeper contextual understanding, or the development of an evidentiary foundation through legal research to support the advancement of policy or legislative proposals and innovative tools to address social justice challenges.

Working collaboratively, the Clinic team and the NGO co-design a research brief grounded in the organisation's needs and informed by the current state of the field. Students are then allocated to Clinic projects and guided through a rigorous research process that includes formulating research questions, defining research objectives, and selecting appropriate methodologies. These projects typically involve comprehensive literature reviews and comparative jurisdictional analyses that help illuminate approaches, lessons, and trajectories relevant to Hong Kong's own legal and socio-political landscape.

Depending on the nature of the research and the NGO's preferred level of engagement, students may also participate in meetings that enhance their understanding of lived experiences, operational challenges, and systemic barriers faced by communities directly affected by the issues under study. This collaborative model strengthens both the academic integrity and the practical relevance of the student research in terms of community-oriented impact as a potential catalyst for change.

Drafts of the research papers are first submitted to the course convenor and subsequently shared with the Community Partner Organisation and selected peers enrolled in the course for structured review and feedback. Students revise their work in response to this feedback, ensuring that the final product reflects both scholarly rigour and real-world applicability. Upon completion of course requirements, students, the course professor, and the Community Partner engage in further dialogue about the research findings and consider the most effective form in which the research material should be developed for dissemination, including publication in various formats, or otherwise utilised to inform policy and legal reform, training and frontline practices in the field.

The research paper that follows is an output of the LSJ Clinic. It represents work commissioned by TALK Hong Kong, a registered s. 88 charity dedicated to addressing and preventing child sexual abuse. With guidance from Founder Taura Edgar on the scope of inquiry and key thematic priorities, LSJ Clinic student **Charlotte Cheung Choi Nam**, under the supervision of and in collaboration with Course Convenor **Professor Puja Kapai**, supported the research and the development of the following paper. The paper reflects the integration of academic scholarship, comparative legal research, and practitioner insights, with the aim of contributing to broader understanding and evidence-based advocacy on issues central to safeguarding children and strengthening Hong Kong's response to child sexual abuse.

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# Introduction

Over the last two decades, child sexual abuse has become the subject of intense scrutiny across multiple jurisdictions, prompted by public inquiries, survivor-led movements and growing recognition of the profound and lifelong harms associated with sexual victimisation during childhood. Major inquiries, including the United Kingdom's Independent Inquiry into Child Sexual Abuse[1] and Australia's Royal Commission into Institutional Responses to Child Sexual Abuse[2], have highlighted not only the prevalence of child sexual abuse but also systemic failures by state institutions, schools, religious organisations and other entities to recognise, prevent and respond effectively to abuse. These inquiries have reinforced the importance of criminal justice responses that appropriately reflect the gravity of offences against children and recognise the lasting psychological, social and developmental consequences suffered by victims.

The literature consistently demonstrates that child sexual abuse differs from many other forms of offending because of its distinctive features of power imbalance, vulnerability, coercion and betrayal. Children are frequently abused by persons occupying positions of trust, authority or caregiving responsibility, and disclosure is often delayed for many years due to fear, shame, dependency and concerns about not being believed. Research has shown that victim responses during and after abuse frequently diverge from popular assumptions regarding resistance, immediate reporting or avoidance of perpetrators, giving rise to misconceptions that continue to influence public and legal understandings of victim behaviour. As observed in Hong Kong and elsewhere, these misconceptions may contribute to victim-blaming attitudes and undermine confidence in justice systems among survivors of abuse, many of whose experiences with the legal process have resulted in secondary trauma.

A growing body of scholarship argues that sentencing in child sexual abuse cases performs an important expressive function beyond the punishment of individual offenders. Sentences communicate the value that a society places upon children's bodily integrity, dignity and safety, while signalling collective condemnation of conduct that exploits the inherent vulnerability of children. In this regard, sentencing serves not only to punish the offender but also to affirm social norms and reinforce public confidence in the justice system. Courts in many common law jurisdictions have therefore increasingly characterised deterrence and denunciation as primary sentencing objectives in serious child sexual abuse cases.

At the same time, scholars caution against a purely punitive approach to sentencing. Contemporary criminal justice theory emphasises proportionality as the central organising principle of sentencing, requiring punishment to reflect both the seriousness of the offending conduct and the culpability of the offender. This principle seeks to balance the interests of victims, offenders and the broader community, recognising that sentencing legitimacy depends upon consistency, transparency and adherence to established legal principles. Accordingly, effective sentencing frameworks must reconcile the competing imperatives of denunciation and deterrence with fairness, proportionality and individualised justice.

The victim-centred justice literature further suggests that sentencing outcomes carry symbolic significance for survivors of abuse. While criminal proceedings are not designed primarily as therapeutic mechanisms, sentences may contribute to victims' perceptions that the harms they suffered have been recognised and taken seriously by the state. Conversely, sentences that appear disconnected from the gravity of the offending may reinforce perceptions of institutional indifference and discourage future reporting. This concern is particularly significant in child sexual abuse cases, where underreporting remains pervasive and where many victims already face substantial psychological and social barriers to disclosure.

[1] IICSA: report of the Independent Inquiry into Child Sexual Abuse, 2023, https://www.gov.uk/government/publications/iicsa-report-of-the-independent-inquiry-into-child-sexual-abuse
[2] Criminal Justice Report, Royal Commission into Institutional Responses to Child Sexual Abuse, 2017, https://www.childabuseroyalcommission.gov.au/criminal-justice

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Recent scholarship also highlights the importance of sentencing consistency. Jurisdictions such as England and Wales, Australia, New Zealand and Canada have increasingly adopted sentencing guidelines or structured sentencing frameworks designed to promote greater uniformity, transparency and predictability in judicial decision-making. Such approaches recognise that unwarranted disparities in sentencing can undermine public trust and weaken the deterrent and denunciatory functions that courts frequently identify as central in cases involving sexual offending against children. The absence of formal guidelines may create uncertainty regarding appropriate sentencing ranges and contribute to variability in the weight accorded to aggravating and mitigating factors.

These concerns resonate strongly in Hong Kong. Although appellate courts have repeatedly emphasised the seriousness of child sexual abuse and the need for deterrent sentences, little empirical research has systematically examined whether sentencing outcomes reflect these stated principles in practice. Existing analyses have largely focused on individual appellate decisions or appear in the form of thematic treatises organising starting points and principles of sentencing by offence rather than victim characteristics or governing principles when dealing with particular groups of victims in relation to specific offences as such. These works do not offer a perspective on the broader sentencing patterns. Consequently, limited evidence exists regarding the extent to which sentencing practice demonstrates consistency, reflects contemporary understandings of harm arising from child sexual abuse, or fulfils the criminal justice objectives that courts themselves identify as central to such cases.

Against this backdrop, this study undertakes a comprehensive empirical examination of sentencing practices in child sexual abuse cases in Hong Kong. By analysing judicial decisions spanning several decades, with particular emphasis on the period from 2015 to 2025, the study seeks to identify sentencing patterns, assess their alignment with recognised sentencing objectives, and evaluate whether existing approaches adequately reflect the seriousness, harmfulness and public significance of offences involving the sexual abuse of children. Building on the findings, the discussion section elucidates the key patterns that emerge and the relevant principles that determined the approach of the courts in select cases with a view to evaluating the patterns against sentencing objectives and principles of justice. With this empirical foundation, the study concludes with some key recommendations in relation to areas of reform to bring Hong Kong into alignment with its stated goals for sentencing and public justice as well as safeguarding of children and developments across common law jurisdictions globally.

# Methodology

## Research Design

This study employs a mixed-methods empirical legal research design to examine sentencing practices in child sexual abuse ("CSA") cases before the Hong Kong courts. Empirical legal research combines doctrinal analysis of legal materials with systematic collection and evaluation of data derived from judicial decisions. In contrast to traditional doctrinal scholarship, which focuses primarily on legal principles and appellate authority, empirical legal research permits the identification of broader trends, patterns and inconsistencies that may not be apparent from individual judgments alone.

The study adopts both quantitative and qualitative methods. Quantitative analysis facilitates systematic examination of sentencing outcomes, offence-specific sentencing ranges, the use of aggravating and mitigating factors, and changes in sentencing practice over time. Qualitative content analysis, in turn, enables closer examination of judicial reasoning, sentencing rationales and the factors influencing the exercise of judicial discretion. The combined methodology provides both breadth and depth in evaluating whether current sentencing practices align with established criminal justice objectives, including deterrence, denunciation, proportionality, public protection and individualised justice.

The study is informed by the growing international recognition that sentencing outcomes constitute a critical indicator of a criminal justice system's response to child sexual abuse. It therefore seeks not merely to describe sentencing practices but

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to evaluate whether those practices reflect contemporary understandings of the seriousness and harmfulness of child sexual abuse and the broader public interest in victim protection and accountability towards the most vulnerable groups among us.

## Data Collection, Scope and Case Selection

The dataset comprised 401 reported and publicly accessible judicial decisions involving sexual offences committed against children (child sexual abuse ("CSA") offences) in Hong Kong between 1968 and 2025 delivered by Hong Kong courts between 1968 and 2025.

All cases were sourced through LexisNexis, a widely used legal research database containing Hong Kong judgments and law reports and were identified through systematic searches to include decisions arising under both the Crimes Ordinance (Cap. 200) ("CO")and the Prevention of Child Pornography Ordinance (Cap. 579).

The decision to rely upon a single database was made deliberately to maximise consistency in search methodology, retrieval criteria, indexing practices and reporting standards. Employing a single database reduced the risk of duplicative retrievals and eliminated discrepancies arising from differences in search algorithms, metadata tagging and reporting conventions across multiple platforms. The resulting dataset was therefore generated through a uniform and replicable search methodology.

The study acknowledges, however, that reliance upon LexisNexis may have resulted in the omission of certain judgments reported exclusively through Westlaw. While LexisNexis hosts a substantial body of Hong Kong case law, including judgments reported in the *Hong Kong Cases*, *Hong Kong Public Law Reports* and *Hong Kong Family Law Reports*, the *Authorized Hong Kong Law Reports and Digest* and the *Authorised Hong Kong Court of Final Appeal Reports* are maintained through Westlaw.

Accordingly, it is possible that a limited number of judgments were not captured through the present search strategy. Nevertheless, substantial overlap exists between the case law databases maintained by LexisNexis and Westlaw, particularly in relation to reported criminal decisions. Given the large sample size, the extensive temporal coverage of the dataset, and the significant overlap between reporting platforms, LexisNexis provides a sufficiently comprehensive and reliable source for identifying sentencing patterns and judicial approaches in CSA cases across the study period.

The study focused exclusively on cases involving victims under the age of sixteen since this corresponds to the age of protection applicable to many of the most serious sexual offences against children under Hong Kong law, including the six offences carrying maximum penalties of life imprisonment examined in detail in this study. Restricting the dataset to victims below this age ensured analytical consistency and facilitated meaningful comparison across offence categories while avoiding the complexities that need to be carefully attended to in discussing cases involving victims between the ages of 16 to 18, given the inconsistencies in legal protections for this group depending on sexual offence type, the role of consent, etc.

Both trial and appellate decisions were included in the dataset. While appellate judgments frequently concern legal principles rather than sentence determination alone, they often contain important information concerning sentencing ranges, aggravating and mitigating factors, sentencing benchmarks, and judicial guidance relevant to lower courts. Their inclusion therefore enabled both a doctrinal and empirical examination of sentencing practices and the principles informing them.

Cases were included where they involved offences under the Crimes Ordinance (Cap. 200) ("CO") or the Prevention of Child Pornography Ordinance (Cap. 579) and where sufficient information was available regarding the nature of the offending conduct and sentencing outcome. Cases were excluded where the victim was above the age of sixteen at the time of the offence; sentencing information was unavailable; the reported judgment did not contain sufficient factual detail to permit coding and analysis; or the proceedings primarily concerned procedural matters unrelated to sentencing.

Applying these criteria yielded a final dataset of 401 judgments spanning a period of more than five decades. It is important to bear in mind that this dataset only drew on reported judgments, which is not the same as the number of cases that were tried in relation to these offences in the period covered by this study.

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## Data Collection and Coding

A structured coding framework was developed to facilitate systematic extraction and analysis of sentencing data from each judgment.

For each case, data were extracted across multiple variables whenever available, including:

| Case Characteristics | Offence Variables | Sentencing Variables | Judicial Reasoning Variables |
|---|---|---|---|
| year of judgment; | statutory offence(s); | sentence imposed; | references to deterrence; |
| court level; | number of charges; | starting point adopted by the court; | references to retribution; |
| victim age; | nature of sexual conduct; | discounts applied; | references to rehabilitation; |
| victim gender; | presence of penetration; | concurrent or consecutive sentence structure; | references to public protection; |
| offender age; | duration of offending; | suspended or immediate custodial sentence; | discussion of victim impact; |
| offender gender; | abuse of trust or authority; | treatment of aggravating factors; | discussion of consent; |
| relationship between offender and victim; | use of violence, threats or coercion. | treatment of mitigating factors. | discussion of delayed reporting; |
| number of victims involved. | | | references to precedent or sentencing guidance. |

To enhance consistency, coding categories were developed iteratively through pilot reviews of judgments prior to full-scale data extraction. Coding was subsequently applied uniformly across all cases using predefined criteria.

## Quantitative Analysis

Quantitative analysis was undertaken to identify sentencing patterns and trends across offences and time periods.

Sentencing outcomes were examined both cumulatively and by decade to identify shifts in sentencing practice over time. Particular attention was paid to the period between 2015 and 2025, which represents the principal focus of the study and coincides with significant developments in public awareness concerning sexual violence, child safeguarding and institutional accountability both locally and internationally.

The analysis considered average sentence lengths; median sentence lengths; minimum and maximum sentences; sentencing trends across time periods; differences between offence categories; and variation in treatment of aggravating and mitigating factors.

Special emphasis was placed upon six offences carrying statutory maximum sentences of life imprisonment. Examining offences that represent the most serious forms of child sexual abuse enabled assessment of whether sentencing practices effectively utilise the available sentencing range and whether sentences imposed reflect the gravity of offending contemplated by the legislature.

## Qualitative Analysis

Quantitative findings were supplemented through qualitative content analysis of judicial reasoning.

This aspect of the research focused on identifying recurring themes and interpretive frameworks employed by courts when sentencing child sexual abuse offences. Particular attention was paid to: judicial conceptualisations of harm; treatment of child vulnerability; references to deterrence and denunciation; approaches to victim impact; treatment of apparent consent

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by minors; consideration of grooming behaviour and abuse of trust; reliance upon appellate guidance; justifications for sentence aggravation or mitigation.

The objective was not solely to determine what sentences were imposed but to understand how sentencing decisions were justified and whether judicial reasoning reflected contemporary understandings of child sexual abuse.

The qualitative analysis further enabled examination of the extent to which sentencing outcomes appeared shaped by broader assumptions concerning childhood, victimhood, gender, sexuality and agency.

## Limitations

Several methodological limitations should be noted.

First, the study is confined to reported and publicly accessible judgments. Cases resolved through guilty pleas, summary proceedings, negotiated resolutions, or other procedural mechanisms that did not produce a publicly available judgment are necessarily absent from the dataset. The findings should therefore be understood as reflecting judicial decisions available within the public legal record rather than the entirety of CSA prosecutions during the study period.

Secondly, while appellate judgments provide important guidance regarding sentencing principles, reported cases may disproportionately feature legally significant, unusual or contested matters and may not always reflect routine sentencing practices at first instance.

Thirdly, although substantial efforts were undertaken to ensure comprehensive coverage through LexisNexis, some judgments available exclusively through alternative reporting services may not have been captured. However, given the extensive overlap between reporting platforms and the broad scope of the resulting dataset, this limitation is unlikely to materially affect the overall trends identified in the study.

Notwithstanding these limitations, the dataset represents one of the most comprehensive collections of Hong Kong child sexual abuse sentencing decisions assembled to date and provides a robust empirical basis for examining sentencing practices, judicial reasoning and the achievement of criminal justice objectives in cases involving sexual offences against children.

## Unit of Analysis

A recurring issue in sentencing studies is whether the analysis is conducted at the level of the **judgment**, the **offender**, the **victim**, or the **charge**. The principal unit of analysis for this study was the individual judgment. However, where a judgment involved multiple charges or multiple victims, additional coding captured offence-specific and victim-specific characteristics to permit analysis of aggravating and mitigating features arising within a single proceeding.

## Conceptual Framework Deployed: Evaluating Justice in Child Sexual Abuse Sentencing

The sentencing of CSA offences requires courts to reconcile multiple and sometimes competing objectives of the criminal law. Traditionally, sentencing scholarship has identified deterrence, retribution, rehabilitation, incapacitation and restitution as core purposes of punishment. However, contemporary scholarship and major public inquiries into child sexual abuse increasingly recognise that sentencing performs a broader social function, extending beyond the punishment of individual offenders to encompass victim recognition, public protection and the maintenance of public confidence in the administration of justice.[3]

[3] Crime and Policing Act 2026: Independent Inquiry into Child Sexual Abuse recommendations factsheet, https://www.gov.uk/government/publications/crime-and-policing-act-2026-factsheets/crime-and-policing-act-2026-independent-inquiry-into-child-sexual-abuse-recommendations-factsheet, 19 May 2026, Last accessed 31 July 2026 (hereafter "CSA Recommendations Factsheet").

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Recent comparative developments have highlighted the limitations of assessing criminal justice responses exclusively through conventional sentencing metrics. The Australian Royal Commission into Institutional Responses to Child Sexual Abuse emphasised that a criminal justice system must operate in a manner that secures justice not only for society as a whole but also for complainants and accused persons.[4] Similarly, the United Kingdom's Independent Inquiry into Child Sexual Abuse underscored the importance of legal processes that recognise the lived experiences of victims and respond appropriately to the distinctive dynamics of child sexual abuse.[5]

Drawing upon these developments, this study evaluates sentencing outcomes through three interconnected normative benchmarks: justice to the victim, justice to the accused and justice to the public. Together, these benchmarks provide a framework through which sentencing practices may be assessed not merely for legal consistency but for their capacity to fulfil the broader objectives of criminal justice in cases involving sexual offences against children.

## Justice to the Victim

The first benchmark concerns the extent to which sentencing practices recognise the seriousness of the harm suffered by child victims and adequately account for the vulnerabilities that render children uniquely susceptible to sexual abuse.

Contemporary research consistently demonstrates that child sexual abuse is characterised by profound power imbalances, coercion, manipulation, grooming and breaches of trust. The effects of abuse frequently extend far beyond the immediate offending conduct, producing long-term psychological, emotional, developmental and social consequences. Victims often experience shame, self-blame, difficulties in interpersonal relationships, mental health challenges and barriers to educational and occupational participation that may persist throughout adulthood. The experiences documented by victim-survivors before the Independent Inquiry into Child Sexual Abuse and other inquiries further reveal the enduring harms associated with child sexual abuse and the sense of injustice produced when those harms are inadequately acknowledged by legal institutions.[6]

Within this framework, sentencing serves an important expressive function. Although criminal proceedings are not designed as therapeutic interventions, sentences nevertheless convey societal recognition of the harm suffered and communicate condemnation of conduct that violates the bodily integrity, dignity and autonomy of children. Sentencing outcomes that fail to reflect the gravity of the abuse risk undermining victim confidence in the justice system and reinforcing perceptions that the suffering experienced by victims has not been taken seriously.

This benchmark therefore assesses the extent to which judicial reasoning and sentencing outcomes recognise factors such as child vulnerability, abuse of trust, grooming behaviour, persistent offending, victim impact and other circumstances that heighten the seriousness of offending against children. Particular attention is paid to whether courts appropriately characterise and respond to the structural inequalities and power disparities inherent in adult-child sexual abuse.

## Justice to the Accused

The second benchmark concerns justice to the accused and reflects the fundamental principle that criminal punishment must remain proportionate, fair and consistent with due process.

The rule of law requires that sentencing be based upon established legal principles rather than public emotion, moral panic or political pressure. Sentences must be proportionate to both the seriousness of the offence and the culpability of the offender. This principle forms the cornerstone of modern sentencing theory and serves as a safeguard against arbitrary or excessive punishment. Even in cases involving particularly grave crimes such as child sexual abuse, the offender remains entitled to the protections afforded by the criminal law, including procedural fairness and individualised consideration of the circumstances of the offence and offender.[7]

[4] Understanding Child Sexual Abuse in Institutional Contexts, https://www.childabuseroyalcommission.gov.au/understanding-child-sexual-abuse-institutional-contexts, 15 December 2017, Last accessed 31 July 2026 (hereafter "Understanding CSA"). Royal Commission Into Institutional Responses Against Child Sexual Abuse, https://www.royalcommission.gov.au/child-abuse/criminal-justice, last accessed 31 July 2026 (hereafter "Royal Commission CSA").
[5] Report on the Independent Inquiry into Child Sexual Abuse, October 2022, https://assets.publishing.service.gov.uk/media/634febd6d3bf7f618eda953d/the-report-independent-inquiry-into-child-sexual-abuse-october-2022.pdf, last accessed 331 July 2026 (hereafter "Independent Inquiry CSA").
[6] CSA Recommendations Factsheet and Independent Inquiry CSA.
[7] Von Hirsch, Andrew, and Andrew Ashworth. Proportionate Sentencing: Exploring the Principles. Oxford University Press, 2005 (hereafter "Proportionate Sentencing").

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Justice to the accused therefore requires careful consideration of legally relevant mitigating and aggravating factors, consistency in sentencing approaches and adherence to established principles governing judicial discretion. A system that prioritises deterrence or denunciation to the exclusion of proportionality risks losing legitimacy and undermining public confidence in the fairness of criminal justice processes.

For the purposes of this study, this benchmark examines whether sentencing practices display internal coherence and whether judicial reasoning demonstrates principled engagement with considerations of culpability, proportionality and fairness. It also assesses the extent to which sentencing outcomes reflect a consistent application of aggravating and mitigating factors across similar cases.

## Justice to the Public

The third benchmark concerns justice to the public and encompasses the broader societal interests served by criminal sentencing.

Courts have long recognised that in cases involving child sexual abuse, sentencing must address not only the wrongdoing committed against an individual victim but also the wider harm done to society. Children are among the most vulnerable members of the community and the law's response to offences against them carries significant implications for public safety, deterrence and community confidence in the justice system.

The expressive and denunciatory functions of sentencing are particularly important in CSA cases. Sentences communicate societal condemnation of conduct that exploits the vulnerability of children and affirm collective commitments to their protection. They also serve a deterrent purpose by signalling the consequences of offending behaviour and reinforcing social norms concerning the treatment of children. These principles have been consistently emphasised across appellate courts in Hong Kong and other common law jurisdictions as primary sentencing considerations in serious sexual offences involving children.

Recent international inquiries further highlight the importance of public confidence in legal institutions. Both the Australian Royal Commission and Independent Inquiry into Child Sexual Abuse found that institutional failures to respond appropriately to child sexual abuse contributed significantly to public mistrust and inhibited reporting by victims. Effective sentencing practices therefore play a broader role in demonstrating institutional accountability and reinforcing confidence that serious offences against children will attract appropriately serious consequences.[8]

This benchmark evaluates whether sentencing outcomes advance the objectives of deterrence, denunciation, safeguarding and public confidence. Particular attention is paid to the extent to which courts utilise the sentencing spectrum available under statute and whether sentencing patterns reflect contemporary understandings of the seriousness and harmfulness of child sexual abuse.

## Applying the Framework

These three dimensions of justice are neither mutually exclusive nor inherently contradictory. Rather, they represent complementary aspects of a legitimate sentencing system. A sentence that appropriately recognises victim harm while remaining proportionate to offender culpability simultaneously advances broader public interests in deterrence, accountability and confidence in the administration of justice.

Accordingly, the findings of this study are assessed through the lens of these three normative benchmarks. In doing so, the report seeks to evaluate not only what sentences Hong Kong courts impose in child sexual abuse cases, but whether those sentences adequately fulfill the interconnected objectives of victim recognition, proportional punishment and public justice that contemporary criminal justice systems increasingly regard as essential to an effective response to the sexual abuse of children.

[8] CSA Recommendations Factsheet and Independent Inquiry CSA.

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# Literature Review: Contemporary Perspectives on Justice, Accountability and Public Protection

Classical sentencing scholarship has generally treated proportionality as the primary organising principle of punishment. Ashworth and von Hirsch argue that sentencing legitimacy depends upon the imposition of sanctions that are proportionate to both the seriousness of the offending conduct and the culpability of the offender. Within this framework, deterrence remains a legitimate sentencing objective but cannot justify punishment that exceeds what is deserved. Consistency, transparency and predictability are therefore integral features of a legitimate sentencing system because they constrain arbitrary exercises of discretion and reinforce public confidence in the administration of justice.[9]

In cases involving child sexual abuse, however, the application of these principles has become increasingly informed by advances in psychological, criminological and victimological research. Studies consistently demonstrate that CSA is characterised by distinctive features including profound power imbalances, grooming behaviours, manipulation, dependency and betrayal of trust. Contrary to popular assumptions, disclosure commonly occurs years or even decades after the abuse.[10] Victims frequently maintain contact with perpetrators, fail to report offences immediately, minimise or compartmentalise their experiences, or display behaviours that appear counterintuitive to those unfamiliar with trauma responses. These realities have prompted growing criticism of legal approaches that continue to rely upon stereotypical assumptions concerning victim behaviour.[11]

Recent public inquiries have fundamentally reshaped international understandings of justice in CSA cases. The United Kingdom's Independent Inquiry into Child Sexual Abuse documented widespread institutional failures to protect children and found that victims routinely encountered disbelief, blame and procedural barriers when engaging with criminal justice systems. The Inquiry concluded that justice responses must place greater weight upon the lived experiences of victims and survivors and better reflect the long-term harms associated with child sexual abuse.[12]

Similarly, Australia's Royal Commission into Institutional Responses to Child Sexual Abuse advanced an important reconceptualisation of criminal justice objectives. Rather than treating victim interests as incidental to prosecution, the Commission emphasised that criminal justice systems must simultaneously pursue justice for society, justice for complainants and justice for accused persons. The Commission identified numerous structural barriers impeding access to justice, including delayed disclosure, evidential difficulties, institutional cultures of secrecy, and misconceptions regarding victim responses to abuse. It called upon justice systems to adopt procedures capable of responding more effectively to the realities of child sexual victimisation.[13]

These developments have contributed to growing recognition that sentencing performs an important role in victim-centred justice. Although criminal courts do not exist primarily to provide therapeutic outcomes, sentencing decisions nevertheless carry substantial symbolic significance. For many survivors, sentence severity serves as an indication of whether the legal system adequately recognises the gravity of the abuse suffered. Sentences that appear disconnected from the seriousness

[9] Proportionate Sentencing.
[10] Independent Inquiry CSA.
[11] Kapai Puja, Metoo as Catharsis for Hong Kong's Victims of Childhood Sexual Abuse: Confronting Cultures of Silence and Shame and Creating Conditions for Substantive Change, In Ann M. Noel and David B. Oppenheimer (eds.), The global #metoo movement: how social media propelled a historic movement and the law responded, Full Court Press, 2020, Chapter 25 (hereafter, "Kapai").
[12] Independent Inquiry CSA, *ibid.,* and Report on the Independent Inquiry into CSA, Conclusion and Recommendations for Change, Part G, Justice System's Response to CSA, G.2, Criminal Justice System, available at, https://www.iicsa.org.uk/reports-recommendations/publications/inquiry/final-report/ii-inquirys-conclusions-and-recommendations-change/part-g-justice-system-response-child-sexual-abuse/g2-criminal-justice-system.html, last visited 31 July 2026.
[13] Royal Commission, Criminal Justice Report, August 2017, available at, https://www.childabuseroyalcommission.gov.au/criminal-justice, last accessed, 31 July 2026.

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of the offending behaviour risk reinforcing perceptions of institutional indifference and may further erode trust amongst victims already reluctant to engage with the criminal justice process.

The emergence of the #MeToo movement has further intensified scrutiny of legal responses to sexual violence. In Hong Kong, #MeToo exposed the persistence of victim-blaming attitudes, cultural stigma surrounding sexual victimisation and widespread scepticism towards delayed disclosures of abuse. As Kapai observes, victims frequently encounter social and institutional pressures that discourage reporting and undermine confidence in formal justice mechanisms. Such conditions are particularly significant in CSA cases, where the perpetrator is often a trusted adult exercising authority, influence or control over the child victim. The persistence of these structural barriers raises important questions concerning the extent to which sentencing practices adequately account for the realities of abuse and fulfil their expressive function in affirming societal condemnation of offences against children.[14]

Against this backdrop, many jurisdictions have increasingly turned towards structured sentencing guidance. England and Wales, Australia, Canada and New Zealand have developed various forms of sentencing frameworks designed to enhance consistency, transparency and proportionality in serious sexual offence cases. These reforms reflect growing concern that excessive variability in sentencing weakens deterrent and denunciatory objectives while undermining public confidence in the justice system. The movement towards sentencing guidelines therefore represents not a departure from judicial discretion but an effort to ensure that discretion is exercised in a principled and predictable manner that reflects contemporary understandings of harm, vulnerability and public protection.[15] In Hong Kong, the subject of a sentencing council has been broached but largely considered unnecessary.[16]

The Hong Kong context remains relatively underexplored in this regard. While appellate courts have repeatedly emphasised deterrence and the seriousness of offences involving children, little empirical research has examined whether sentencing practices consistently reflect these principles. The present study addresses this gap by systematically evaluating sentencing patterns in CSA cases over several decades and assessing the extent to which current sentencing practices advance the interconnected goals of proportionality, deterrence, victim recognition, public protection and public confidence in the administration of justice.

[14] Kapai.
[15] Revised sentencing guidelines for child sexual offences published, 17 May 2022, available at, https://www.judiciary.uk/guidance-and-resources/revised-sentencing-guidelines-for-child-sexual-offences-published/, last accessed 31 July 2026. *See also*, Sentencing Guidelines for Use in Crown Court, available at, https://sentencingcouncil.org.uk/guidelines/crown-court/?s&collection=sexual-offences, last accessed 31 July 2026.
[16] https://www.thestandard.com.hk/news/article/182344/Sentencing-commission-not-for-Hong-Kong-Grenville-Cross

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# Findings

There are 53 offences in total across the Crimes Ordinance ('CO') and the Prevention of Child Pornography Ordinance ('PCPO') which could potentially involve child victims. Of these offences, 28 involved CSA cases in respect of which sentencing data was available for the period 1968-2025.

**Table 1. Sexual offences involving CSA cases with available sentencing data**

| | |
|---|---|
| **Crimes Ordinance (Cap. 200)** | |
| Section 47 | Incest by men |
| Section 118 | Rape |
| Section 118A | Non-consensual buggery |
| Section 118C | Homosexual buggery with or by man under 16 |
| Section 118D | Buggery with girl under 21 |
| Section 119 | Procurement by threats |
| Section 120 | Procurement by false pretences |
| Section 121 | Administering drugs to obtain or facilitate unlawful sexual act |
| Section 122 | Indecent assault |
| Section 123 | Intercourse with girl under 13 |
| Section 124 | Intercourse with girl under 16 |
| Section 125 | Intercourse with mentally incapacitated person |
| Section 130 | Control over persons for purpose of unlawful sexual intercourse or prostitution |
| Section 131 | Causing prostitution |
| Section 132 | Procurement of girl under 21 |
| Section 134 | Detention for intercourse or in vice establishment |
| Section 137 | Living on earnings of prostitution of others |
| Section 138A | Use, procurement or offer of persons under 18 for making pornography or for live pornographic performances |
| Section 141 | Permitting young person to resort to or be on premises or vessel for intercourse, prostitution, buggery or homosexual act |
| Section 146 | Indecent conduct towards child under 16 |
| Section 147 | Soliciting for an immoral purpose |
| Section 148 | Indecency in public |
| Section 159AAB | Voyeurism |
| Section 159AAC | Unlawful recording or observation of intimate parts |
| Section 159AAE | Publication or threatened publication of intimate images without consent |
| **Prevention of Child Pornography Ordinance (Cap. 579)** | |
| Section 3(1) | Making child pornography |
| Section 3(2) | Publishing child pornography |
| Section 3(3) | Possession of child pornography |

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## Offences Carrying Maximum Penalty

Among the 28 offences, 6 carry a maximum penalty of life imprisonment (see Table 2) – the heaviest criminal penalty under Hong Kong law. As reflected by the legislative intent, these crimes are of the gravest nature and offenders should face appropriate consequences accordingly. This section of the study focuses on analysing the sentences imposed and factors considered in CSA cases related to these 6 offences.

**Table 2. The Six Offences carrying maximum penalty of imprisonment for life**

| **Sexual Offence** | | | **Maximum Penalty** |
|---|---|---|---|
| Crimes Ordinance (Cap. 200) | Section 47* | Incest by men | Imprisonment for life |
| | Section 118 | Rape | |
| | Section 118A | Non-consensual buggery | |
| | Section 118C** | Homosexual buggery with or by man under 16 | |
| | Section 118D | Buggery with girl under 21 | |
| | Section 123 | Intercourse with girl under 13 | |

* Note: For section 47, maximum penalty is imprisonment for life if victim is aged under 13; maximum penalty is 20 years of imprisonment if victim is aged under 16 but above 13

** Note: For section 118C, the Court of Appeal in HKSAR v Yeung Ho Nam[17] ruled that the proper sentencing approach should be the same as for unlawful heterosexual intercourse – maximum penalty should be life imprisonment for victims aged under 13, and 5 years for victims aged under 16 but above 13

## Indeterminate Sentences

Throughout the sentencing history of CSA cases in Hong Kong, life imprisonment has only been imposed in two cases: *Fong Lung Fai v The Queen*[18] and *The Queen v Chan Chuen.*[19] In *Fong Lung Fai*, the defendant committed indecent assault and carnal knowledge of girls under thirteen (equivalent to unlawful intercourse with girl under 13) against more than ten girls aged 5 to 13. In *Chan Chuen*, the offender committed 8 counts of rape against girls aged between 8 and 13. These were the only two occasions where courts were satisfied that circumstances were sufficiently grievous to justify imposing life sentences. These are cases from 50 to 60 years ago.

*Throughout the sentencing history of CSA cases in Hong Kong, life imprisonment has only been imposed in **two** cases…from 50-60 years ago.*

[17] [2019] HKCA 384
[18] [1968] HKCA 10
[19] [1974] HKCFI 89

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## Overview of Sentencing in CSA Cases

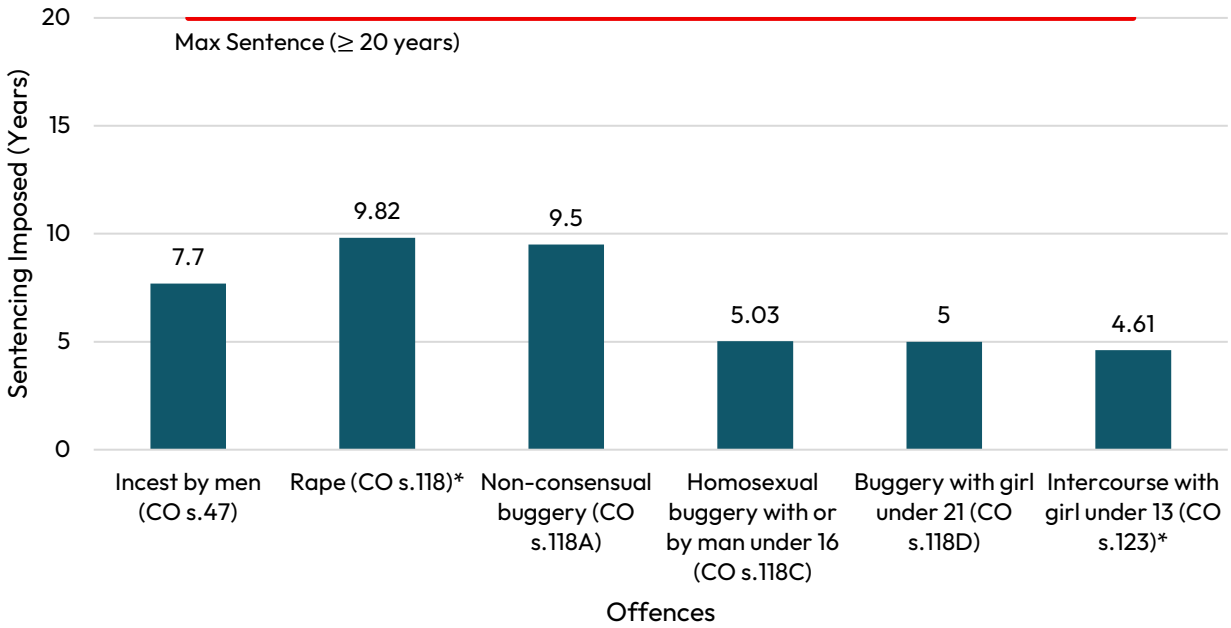
Figure 1 shows the average years of imprisonment imposed for the 6 offences between 1990 and 2025. It demonstrates that sentencing for the 6 offences consistently falls on the low end, far below the statutory maximum, largely failing to reflect the gravity of these sexual crimes against children. The red line at the top represents the maximum sentence (≥20 years, effectively life imprisonment) for the 6 offences. None of the average sentences imposed approaches this threshold, even the highest average (9.82 years imprisonment for the offence of rape) is well below the maximum.

Several categories reflect outcomes on the lower end of the sentencing range. For instance, buggery with a girl under 21 (CO s.118D) and intercourse with girl under 13 (CO s.123) both carry life imprisonment as their maximum sentences, yet their averages over the period covered hover around 5 years (5 and 4.61 years respectively), which represents roughly 20–25% of the maximum possible term. This could be attributed to the one third discount applied for guilty pleas which were recorded for nearly all of the cases involving intercourse with a girl under 13.

Across all 6 offences, the average sentence does not exceed 10 years, with the overall range spanning between 4.61 and 9.82 years. This can be framed as clustering in the mid-to-low single digits in terms of the number of years of imprisonment imposed which raises the question what types of sexual offences involving children warrant the imposition of the life imprisonment term. The data available in the limited instances in which a higher sentence is imposed may be indicative but not representative of a general principle. In general, however, the data signal that sentences imposed in this period trend low-to-medium within the single digit sentencing range for penetrative sexual offences against young children, even when the offences are characterised as ones which attract the maximum penalty stipulated.

*...sentencing for the 6 offences which attract the statutory maximum in the most serious cases, consistently falls in the low to medium range, far below the statutory maximum...*

**Figure 1. Mean of sentencing data for the 6 offences carrying the maximum penalty (1990 to 2025)**




* Note: Data from *Fong Lung Fai* and *Chan Chuen* were excluded for CO sections 118 and 123. These two cases were from more than 50 years ago and were unusually high outliers and their inclusion would distort the average and misrepresent the typical data from the last 30 years which is the period we are concerned with whereas.

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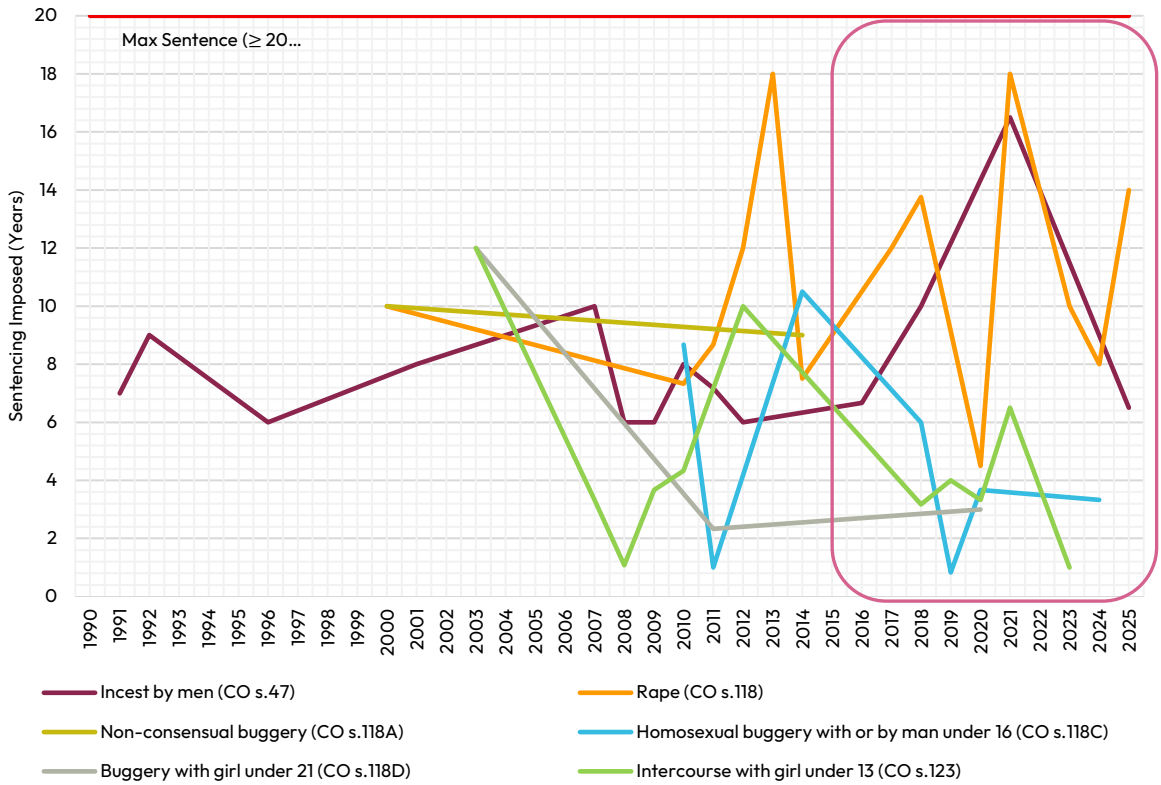
Figure 2 provides an overview of sentencing decisions for the 6 offences in the recent 35 years and allows a comparison with the statutory maximum (represented by the red line at the top). Sentences for each offence vary considerably from year to year. The trend for rape (orange line) shows two sharp peaks (sentences for 18 years imposed in 2013 and 2021) with 14 years imposed on two occasions. Similarly, barring two instances when a 12 years sentence was imposed, one for buggery with a girl under 21 and another for intercourse with a girl under 13 (light green), a sentence of 10 years for homosexual buggery with or by man under 16 (light blue), and a sentence of around 16 years and an earlier one of 10 years for incest by a man, the remaining sentences across the full sample of 98 cases range between 2 and 9 tears with lows dipping to 1 year in some years despite the offences' severity.

Apart from rape and incest by men which show rare spikes and comparatively harsher penalties, sentences of other offences frequently cluster within the range of 4-10 years, well below a sentence that would be commensurate with the degree of severity envisaged by the maximum sentence despite the wide-ranging contextual factors that indicate gravity in relation to the specific circumstances of the case.

None of the sentencing patterns for any of the 6 offences display a consistent upward trajectory toward harsher penalties over time, even as societal awareness of CSA has grown and is now more nuanced or as some of the factors in the case would warrant when considered against the proposed analytical framework.

Characterised by swings likely attributed to distinct aggravating factors and general trend of low-to-mid range sentencing outcomes far below statutory maximum in most years, the graph illustrates the judicial tendency towards imposing low-to-mid range sentences across the most serious CSA offences bar the three outlier sentences for rape and incest by men.

**Figure 2. Sentencing trends for offences carrying the maximum penalty (1990 to 2025)**

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# Graphs Showcasing Sentencing Trends for Specific Offences

Figures 3-8 illustrate the sentencing trends of the 6 offences individually from 1990 to 2025.

These separate graphs display actual sentences imposed for each CSA case and enable direct visual comparison between such sentencing outcomes and the maximum penalty for these offences. They reveal patterns of variability and demonstrate that the thresholds of the imposed sentences have largely remained well below the statutory maximum over the decades.

**Figure 3. Sentencing trends for incest by men from 1990 to 2025 (n=14)**

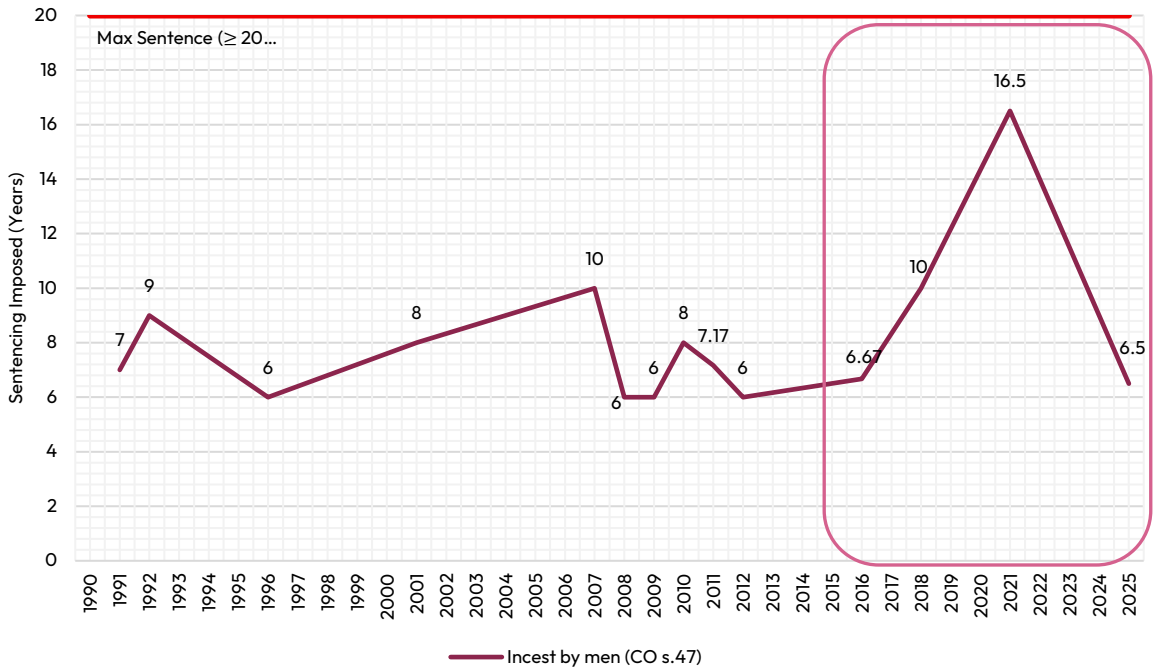


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**Figure 4. Sentencing trends for rape from 1990 to 2025 (n=13)**

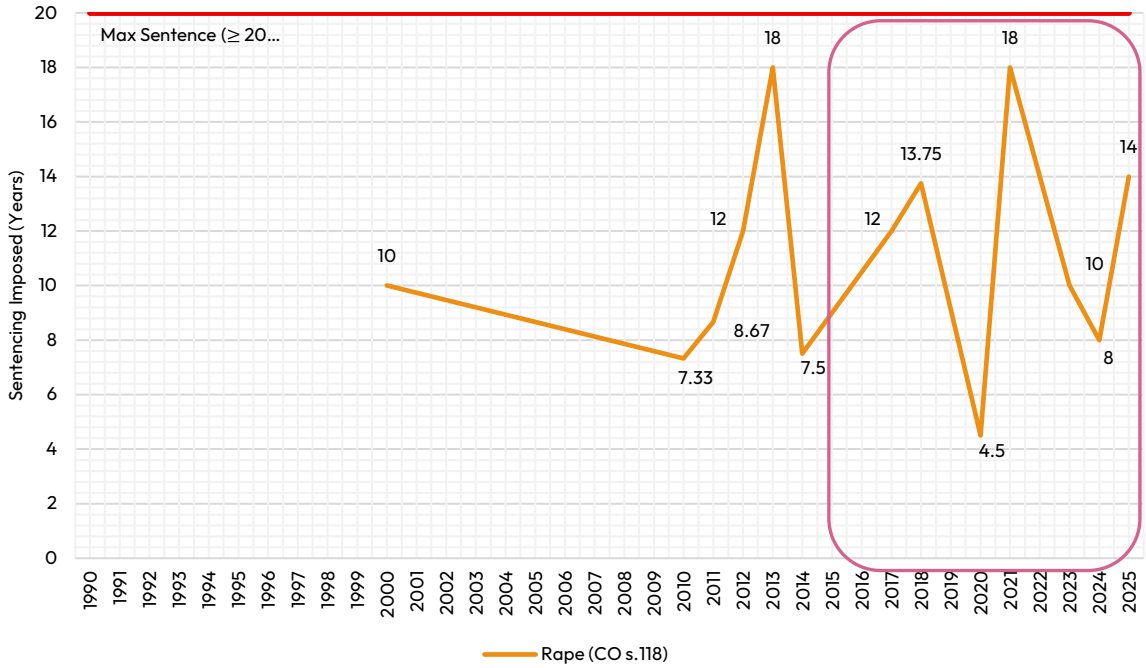


**Figure 5. Sentencing trends for non-consensual buggery from 1990 to 2025 (n=2)**

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**Figure 6. Sentencing data for homosexual buggery with or by man under 16 from 1990 to 2025 (n=7)**

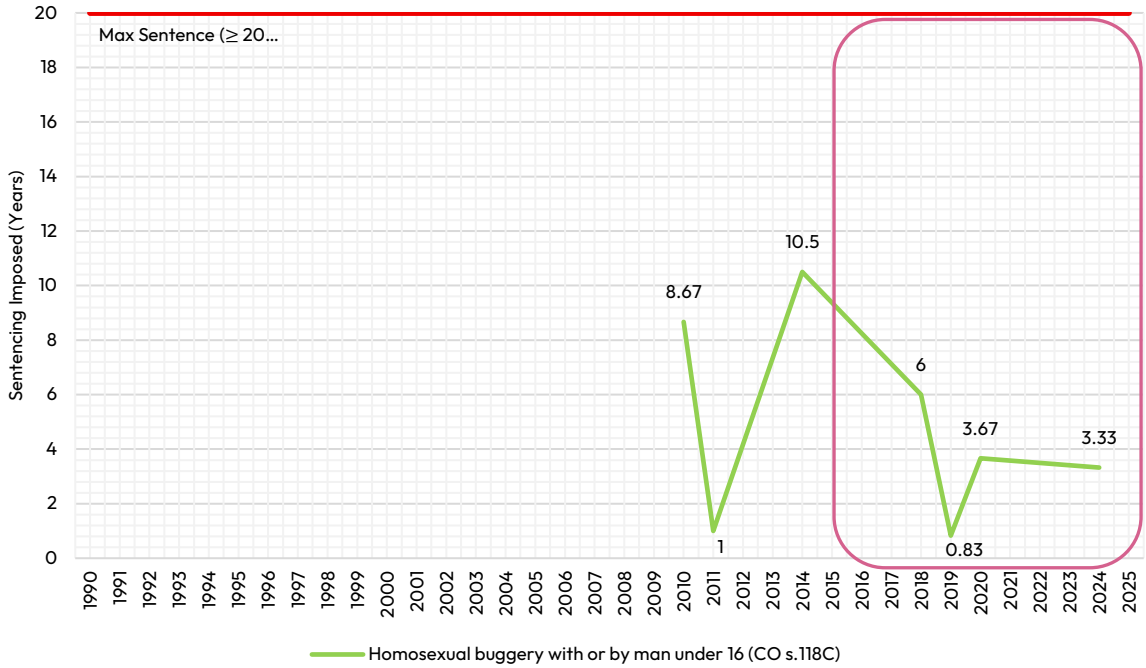


**Figure 7. Sentencing trends for buggery with girl under 21 from 1990 to 2025 (n=3)**

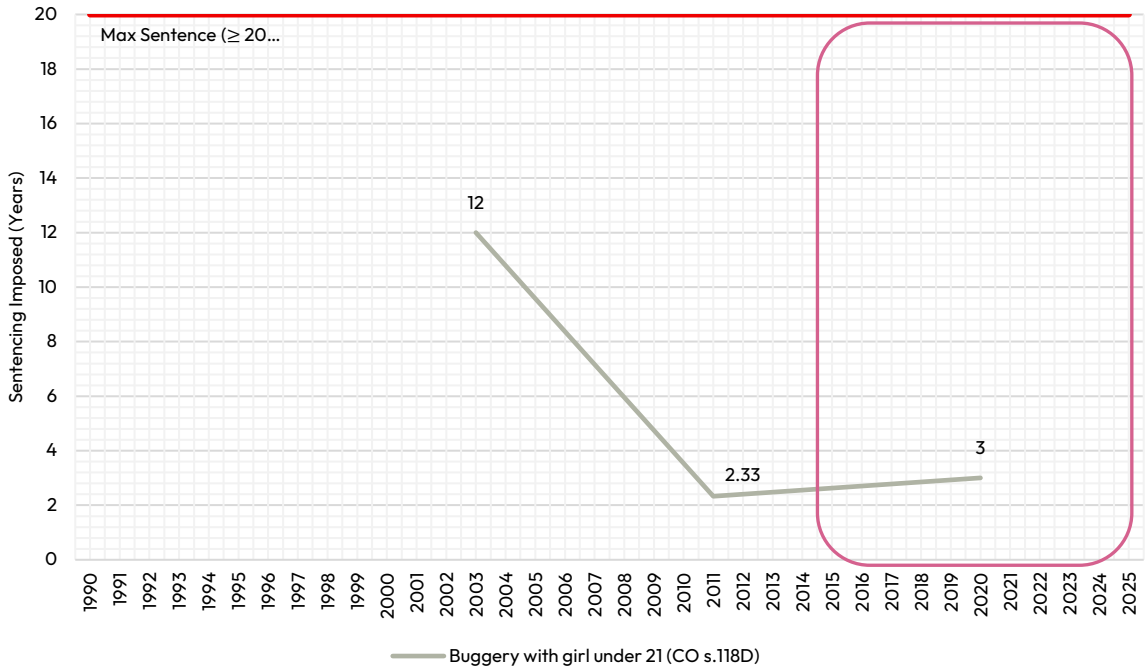


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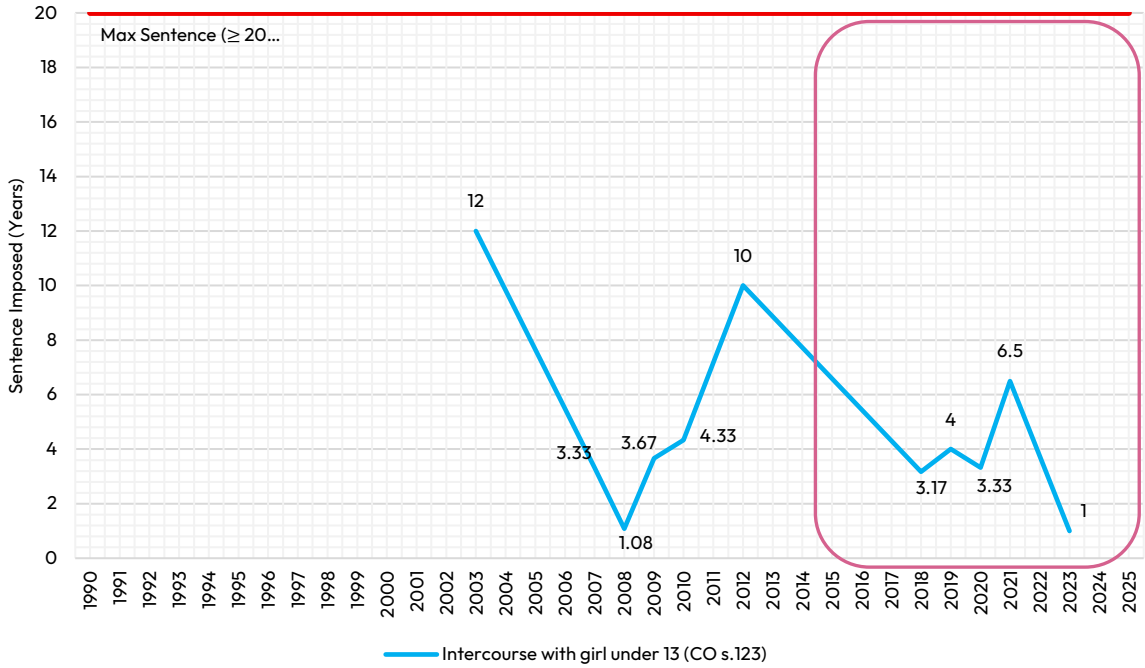
**Figure 8. Sentencing trends for intercourse with girl under 13 from 1990 to 2025 (n=11)**




## Sentencing Trends for CSA Cases in the Past Decade (2015-2025)

Figure 9 illustrates sentencing trends of 4 of the gravest CSA offences in Hong Kong from 2015 to 2025 (excluding sentencing for sections 118A and 118D due to the lack of data pertaining to these sections in this period). While the past decade was marked by heightened societal awareness, calls for stronger child protection mechanisms and child safeguarding measures as well as movements toward reform, sentencing patterns denote inconsistency and perceivable imbalance between the three-pronged framework of victim justice, public justice and individualised justice, with leniency towards perpetrators undergirding the persistently low sentencing in sexual offences against children. This reflects that the sentencing mechanism for CSA cases remains underdeveloped, underutilised and fundamentally at odds with the objectives of criminal justice systems more broadly and with knowledge and understanding about the long term, harmful impact of these offences on children of all ages.

Patterns reflected from Figure 9 generally align with those depicted in Figure 2, meaning while year-to-year disparities persist, between 2015-2025, the sentences continue to fall on the low end. Of course, these patterns must be triangulated against the specific facts and sentencing considerations that inform the overall sentencing outcomes. However, it is still necessary to collate these trends within the larger context of the scourge of child sexual abuse and consider what the body of sentencing law is signalling.

Specific observations are discernible from the more recent sentencing trends if we dive in deeper. First, a few heightened but fleeting peaks can be observed from the sentencing trends pertaining to rape and incest. Unlike the broader 1990-2025 trends where peaks are scattered and rarely exceed 12-14 years, Figure 5 shows a rape case resulted in an 18-year sentence in 2021 (significant in its proximity to the maximum) and 16.5 years for an incest case (Figure 3) in the same year. Nonetheless, these appear to be anomalies (dictated by the particular circumstances of the case which warranted the imposition of such significant and harsh sentences) followed by sharp drops (e.g., 6.5 years in a 2025 rape case and 3.17 years in a 2019 incest case), contrasting with Figure 2's comprehensive representation of all sentencing which reflects more muted fluctuations in earlier decades. Another observation is the consistently low sentences for certain CSA offences. For instance, sentencing for intercourse with girl under 13 and non-consensual buggery dip to the lowest sentencing thresholds (e.g., 1 year in 2023 for intercourse under 13 (Figure 8) and 0.83 years in 2019 for non-consensual buggery (Figure 4)), lower than many pre-2015

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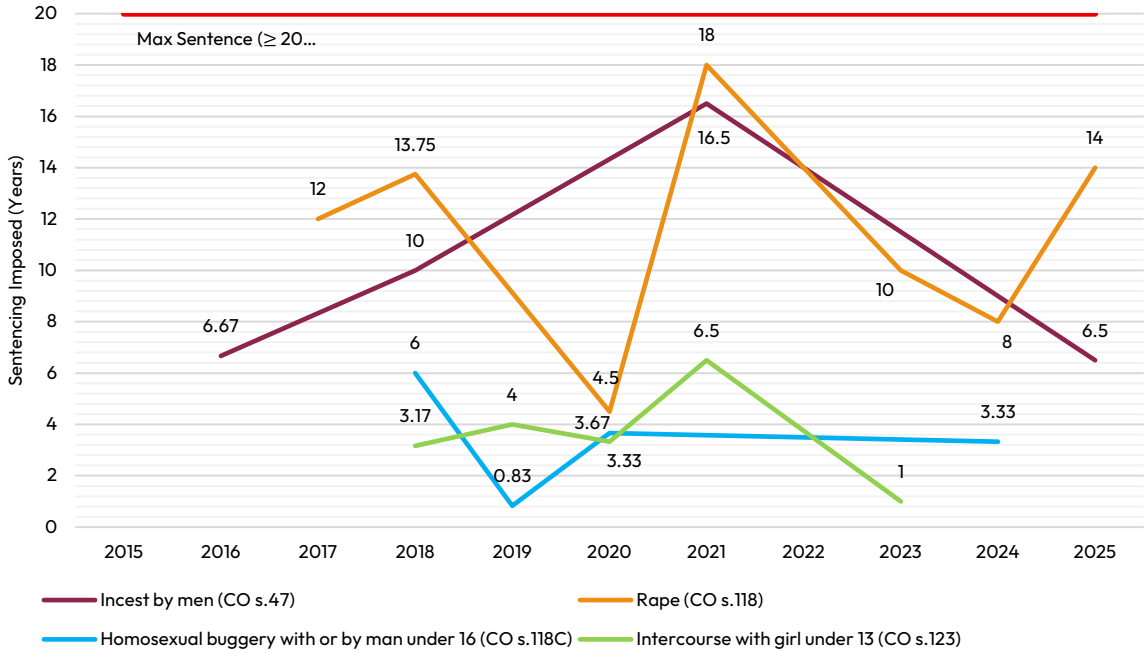
dips in Figure 2 (which often stayed above 1 and generally between 2-4 years), highlighting a lack of upward adjustment despite clear calls for improved child protection and the rampant protection and prevention gaps.

*... sentencing patterns denote inconsistency and perceivable imbalance between the three-pronged framework of victim justice, public justice and individualised justice, with leniency towards perpetrators undergirding the persistently low sentencing in sexual offences against children ...*

**Figure 9. Sentencing trends for the offences carrying the maximum penalty between 2015-2025**

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# Aggravating Factors

This section explores the role of aggravating factors in sentencing in CSA cases. In *HKSAR v Tsang Chiu Tak*[20], the Court of Appeal laid down ten factors for sentencing consideration, which were widely adopted in subsequent CSA cases[21]:

**Table 3. Aggravating factors adopted by Hong Kong courts in CSA cases**

| | |
|---|---|
| (1) | The ***age difference*** between the defendant and the victim |
| (2) | The relationship between the defendant and the victim, including whether the defendant had ***taken advantage of his position or status*** to commit the offence and whether there was a ***breach of trust*** at the time of the offence |
| (3) | Whether the defendant had used ***threats or inducements*** to make the victim succumb, falling prey to his licentious exploitation |
| (4) | The ***number of occasions*** of committing the offences and the ***duration*** of the offences |
| (5) | Whether inappropriate and unnecessary ***violence*** was involved in committing the offences and whether any ***harm or discomfort*** was caused to the victim |
| (6) | Whether any suitable ***safety measures*** were taken in committing the offences and whether any ***hazard to the health and safety*** of the victim and the public was caused |
| (7) | Whether the offences have caused ***physical or psychological traumas*** to the victim |
| (8) | Whether the offences have impacted on the ***family members*** of the victim |
| (9) | Was the defendant involved in other inappropriate behaviours such as ***inviting/permitting other people to watch*** or ***take photos/videos*** |
| (10) | Whether the defendant is psychologically imbalanced or ***paedophilic*** and the ***likelihood of re-offending*** |

These factors were found to have been attributed varied weight in respect of the 6 offences. The most significant factor for incest by men (CO s.47) and rape (CO s.118) is the psychological harm caused to victims (Factor 7 from Table 3). The most significant factor for non-consensual buggery (CO s.118A) is the repeated occasions and prolonged duration of offence (Factor 4). The most significant factor for homosexual buggery with or by man under 16 (CO s.118C) and buggery with a girl under 21 (CO s.118D) is the disparity of age between the victim and the defendant (Factor 1). The most significant aggravating factor for intercourse with a girl under 13 (CO s.123) is that the defendant (aged 50) did not use precautionary measures to ensure safety of the victim from pregnancy or disease during the intercourse (Factor 6) rather than the significance of the abuse of trust or the defendant's age. The weight of these considerations (or inadequacy thereof) also raises serious questions about the lack of a trauma-informed approach to determining harm and how it should feature as a factor in the balance to achieve the goals of retribution, deterrence, victim-centred and public justice that is aligned with principles of individualised justice.

*The most significant factor for intercourse with a girl under 13 (CO s.123) is that the defendant (aged 50) did not use precautionary measures to ensure safety of the victim from pregnancy or disease during the intercourse rather than the significance of the abuse of trust or the defendant's age.*

[20] [2012] HKCA 239, [2013] 1 HKLRD 427
[21] See for example *HKSAR v Yu Chun Sing* [2018] HKCFI 1218 [22]; *HKSAR v Lee Hon Wah & Anor* [2010] HKCA 584 [43]

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# Discussion

## Case Studies

While Figures 3-9 show that sentences imposed on the cases involving the 6 offences attracting the maximum penalty of life imprisonment rarely carried this higher end of the sentence (apart from the very few outlier cases indicated above in the discussion), with most sentences falling toward the lower-to-mid range of the full spectrum, the following case studies highlight that the sentencing approach of Hong Kong courts generally fail to adopt the full range of the possible sentences that could be imposed to reflect various guiding principles that underpin criminal justice sentencing, especially as they may apply in respect of such sexual offences for particular groups of victims to achieve the necessary deterrent but also, retributive and public justice effects for justice-seeking individuals.

In *HKSAR v Kwan Hoi* [22], the defendant was convicted of two counts of buggery and one of unlawful sexual intercourse against the victim when she was aged between 3 and 5 years old. He was a 68-year-old neighbour of the victim and was sometimes asked by her father to look after her. The trial judge adopted a starting point of 12 years for each charge and sentenced the defendant to a total of 13 years of imprisonment. The trial judge emphasised the 'unusually grave aggravating factors' of this case when passing sentences, including the very tender age of the victim and abuse of trust. Indeed, the sentence passed in *Kwan Hoi* falls on the high side when compared to other section 118D cases, where sentencing ranged between 2 years 4 months to 4 years. The starting point of 12 years, when compared to the other section 118D cases (typically 4 years), was comparatively harsh as well. Nonetheless, the trial judge ordered the sentences pertaining to all the charges to be served concurrently save for one year to be served consecutively, resulting in a total term of 13 years. Does this satisfactorily account for the various principles of justice that need to be addressed in this instance given the wrongfulness of the defendant's conduct, which, in the judge's words, was 'debauched conduct of the gravest nature'? Given the ceiling for both sections 118D and 123 is life imprisonment, this case should arguably have attracted a far heavier sentence. At the very least, it raises the question of what additional aggravating factors would lead the court to adopt a higher sentence if not considered suitable for this particular set of facts. It is important to note that the defendant's old age here is a critical factor in determining the prospects and impact of a heavier sentence. However, was the balance appropriately struck in this case between justice to the victim, justice to the defendant and public justice?

In *R v Yeung Kam Fat*[23], the defendant committed 8 counts of incest against his three daughters when they were under the age of 18. He was sentenced to a total of 13 years by the trial judge. The Court of Appeal allowed his appeal against sentence, holding that the trial judge did not 'stand back sufficiently' when considering the totality of the sentences, and imposed a totality of ten years' imprisonment instead. Considering the egregious nature of incest, aggravating factors including the fact that the defendant impregnated his second daughter and had to arrange for the child to be aborted and sought to use his son to persuade his second and third daughters not to testify against him, given the maximum penalty for incest, the fact that there were 3 victims and a complete abuse of trust, a term of 13 years does not seem manifestly excessive. Arguably, it appears more likely to be grossly insufficient. No mitigating factors were found applicable other than the defendant's guilty plea. The trial judge's failure to 'stand back sufficiently' is the only reason given by the court in reducing the sentence by 3 years. However, it is important to evaluate this sentence against the fact that a term of 10 years is relatively long compared to sentencing in other incest cases, which commonly falls within the range of 6-8 years where no unusual circumstances are present.

In more recent cases, for instance, in *HKSAR v Choi Cheuk Yin, Howard*[24], the defendant, 19 years old, was charged under s. 118 for a count of rape against his ex-girlfriend, then 16 years old. He was sentenced to 4 years and 6 months imprisonment having failed to use safety measures, ejaculating, subjecting the victim to additional indignity and the psychological trauma that resulted for the victim.

In *HKSAR v TTC*[25], where the defendant perpetrated incest against his young victim and was charged under s. 47, despite the repeated offences, prolonged duration of the abuse, young age of the victim (14-16 years), the significant age disparity, the failure to use safety measures, psychological trauma caused to victim and the clear breach of trust, the Court of Appeal

[22] [2003] HKCA 128, [2003] 4 HKC 312.
[23] [1992] HKCA 169, [1992] 1 HKC 62.
[24] [2020] HKCU 3679.
[25] [2025] HKCU 3002.

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adopted a starting point of 9 years and 9 months and imposed a sentence of 6 years and 6 months, accounting for a guilty plea.

In contrast, in the case of *HKSAR v A*[26], the defendant who raped his daughter between the ages of 10 and 22 over the years received a measurably higher sentence of 13 years and 9 months. However, given the egregious breach of trust, prolonged period of abuse, lack of any use of precautionary measures to protect the victim and given her young age when the sexual abuse began and the resultant psychological trauma, the question remains what additional factors would warrant the maximum sentence. This is similar to the sentence of 14 years imposed in the case of HKSAR v LC[27], where a stepfather committed multiple rapes against 2 victims aged 13 to 14 years (with a starting point of 7 years for each count of rape), accounting for the breach of trust, age disparity between them, the prolonged duration of abuse as well as the failure to use safety measures, the impact of the psychological trauma caused to victims and on other family members and additional offences of engaging in sexual intercourse with the victims' mother in their presence. The court also noted the defendant's paedophilic tendencies and high risk of offending. Although these additional offences resulted in a total sentence of 22 years, the sentence for rape was 14 years based on the charges for the rapes against the two victims under s. 118.

## Questions Raised by the Data: Gender

While the data reveals that sentencing for homosexual buggery with or by a man under 16 (s.118C) and buggery with a girl under 21 (s.118D) both average approximately 5 years, sentencing for s.118D is generally lower (around 2-3 years) apart from in one case where an extremely young victim is involved (Appendix, Table 9). This suggests potential disparities in sentencing for similar acts that have a disproportionate impact for female victims in terms of justice. It also prompts an inquiry into whether buggery is viewed as more stigmatising when involving male victims compared to female victims, and whether this stems from homophobic or patriarchal attitudes and whether the fact that the victim is a child, male or female, has been adequately factored in. This disparity highlights the significance of de-gender the offence of anal penetration to eliminate harmful gender-based distinctions in sentencing. Since such acts are traumatic regardless of the victim's gender, there is a need to question why penalties vary and advocate for uniform considerations in determining the harm, severity of the offences and aggravating factors to take into consideration. These must be premised informed by notions of inherent dignity and bodily integrity of all persons and be harm-based assessments rather than implicitly influenced by concerns around the victim or perpetrator's sexuality.

Homosexual buggery with or by a man under 16 (s.118C) and buggery with a girl under 21 (s.118D) have differing age thresholds for protection. This disparity raises questions about why male victims are not protected up until the age of 21 like female victims in analogous buggery offences. Conversely, this also raises the question of why consensual anal penetration involving females is not lowered to 16 for consistency. This suggests potential inconsistencies in child protection standards based on gender and sexuality as well as patriarchal and homophobic attitudes that police certain types of sexual conduct carried out by particular groups and individuals.

The data reveals that sentencing for non-consensual buggery (s.118A) averages around 9.5 years, while offences framed with a 'consensual' element (e.g., homosexual buggery with or by a man under 16 (s.118C) and buggery with a girl under 21 (s.118D)) average approximately 5 years. This invariably raises important questions about how the 'consensual' element is framed in these offences, considering that the victims are minors and the appropriateness of lower sentences imposed for purportedly 'consensual' acts on the part of minors, given the inherent power imbalances and developmental vulnerabilities of child victims.

The absence of data on lesbian sexual acts in the graphs underscores a gap in the CO, as such conduct between female couples is not specifically criminalised or covered under equivalent provisions like those for male homosexual buggery (s.118C). This raises the question of why homosexual conduct between lesbian couples is not addressed as an offence under the CO, potentially leaving female child victims of same-sex abuse without parallel legal protections. It prompts further inquiry into whether this omission reflects outdated gender and sexuality biases in legislation and the need for gender-neutral reforms to ensure comprehensive coverage for all CSA situations regardless of individual moralities around sexuality and particular sexual conduct.

[26] [2018] HKCU 3422 [2018] HKCFI 2165.

[27] [2025] HKCU 1318 [2025] HKCA 300.

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# Recommendations

## Sentencing Guidelines

As mentioned above, there are no binding sentencing guidelines which Hong Kong courts draw on when determining sentences. Appellate courts are not statutorily required to use precise starting points or provide guidelines either. This is said to account for greater flexibility in the adoption and application of guidelines.[28]

Cross & Cheung's *Sentencing in Hong Kong*[29] is the only authoritative, albeit unofficial, instrument consulted by judges and practitioners regarding sentencing in criminal cases. However, it is of limited assistance due to the lack of concrete guidelines on appropriate starting points or range of sentence in relation to criminal offences. In its Appendix, *Sentencing in Hong Kong* sets out guidelines on quantum of sentence for 199 offences including (i) the maximum penalty, (ii) some case laws (occasionally including brief facts and significant aggravating factors), and (iii) the 'customary sentence'. Among these 199 offences, 18 are the subject of focus in this study (i.e. offences involving CSA cases with available sentencing data). Of these 18 offences, concrete guidelines on customary starting points or range of sentences are provided only in respect of 4 offences (see Table 4). For the remaining 14 offences, there is limited guidance beyond broad indications that 'a substantial term of imprisonment is invariably appropriate'[30] or 'no tariff exists, but sentences of imprisonment are the norm.'[31]

**Table 4. 'Customary sentence' provided in *Sentencing in Hong Kong***

| Sexual Offence | Customary Sentence |
|---|---|
| Incest by men (CO s.47) | Depending upon the age of the victim, sentence has regularly run from ***imprisonment of between six and ten years***. The offence will be aggravated if the intercourse occurred over a long period, if force is used, if pregnancy results, or if the victim is very young. |
| Rape (CO s.118) | ***A starting point of at least 5 years' imprisonment*** is invariably appropriate. If aggravating factors are present, the sentence can quite easily escalate to 10 years' imprisonment, and beyond. |
| Procuring unlawful sexual act by threat or intimidation (CO s.119) | A substantial sentence of imprisonment will invariably be appropriate, with a ***starting point in the region of 5 years' imprisonment***, and rising higher if aggravating factors are present. |
| Unlawful sexual intercourse with an underage girl (CO ss.123 and 124) | The exact age of the girl is relevant to sentence, as also is the age of the accused. A very serious view will invariably be taken if the girl is aged under 13 years. If older, ***a sentence of imprisonment of between 6 and 18 months*** will fall for consideration. If both the girl and the accused are young, the court may be able to adopt a more lenient approach, particularly if they are in a committed relationship. |

Based on the key findings and analyses presented in this study, it is evident that sentences imposed in CSA cases fail to reflect even these guidelines despite the inclusion of examples of instances of severe CSA involving these 4 offences. Without binding sentencing guidelines, the prospects for a systematic approach to sentencing signalling the variations in degrees of severity, propelled by the need to adequately strike a balance between victim-centred justice, individualised justice for the defendant and public justice seem elusive. Moreover, the constraints of sentencing measures when outdated notions of purported consent of minors remains a relevant consideration in mitigating the sentence makes this even more important to reconsider. The overarching outcomes here threaten to grossly undermine the effective protection of children and the deterrence and anti-recidivist objectives of the law.

[28] Simon NM Young, 'Reviews - Sentencing in Hong Kong' (2005) 35 Hong Kong LJ 773, 774–775.
[29] Cross and Cheung (n 1).
[30] Ibid para App-176.
[31] Ibid para App-195.

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## Comparison with England and Wales

The Sentencing Council for England and Wales (the 'Sentencing Council') issued the Sexual Offences Definitive Guideline ('SODG') on 12 December 2013, which came into force on 1 April 2014. The SODG covers over 50 sexual offences, with 22 specifically related to CSA.

Unlike *Sentencing in Hong Kong*, the SODG is an official, 'presumptively binding' instrument.[32] It was issued by the Sentencing Council, a public body under the Ministry of Justice. Judges and magistrates in courts across England and Wales are under a statutory duty to follow the SODG. Section 59(1) of the Sentencing Act 2020 states that courts must follow any relevant sentencing guidelines unless it is 'contrary to the interests of justice to do so'. Although judges and magistrates have discretion to depart from sentencing guidelines, they are required to justify the basis for their decision to impose a sentence outside the recommended range. The justification for sentencing outside the range is subject to scrutiny by appellate courts.[33] Moreover, the SODG provides clear and concrete guidance by setting out (i) the offence range (the range of sentences appropriate for each type of offence), (ii) how offences are divided into different categories of harm and culpability according to varying degrees of seriousness, (iii) the starting point and category range (sentences appropriate for each category), and (iv) aggravating and mitigating factors for courts to adjust the sentence within the range.

# Recommendation 1: Establish a Hong Kong Sentencing Council and Develop Child Sexual Abuse Sentencing Guidelines

The findings of this study strongly support the establishment of a specialised Sentencing Council or equivalent statutory body with responsibility for developing binding sentencing guidelines. While appellate judgments provide some guidance, the data demonstrates considerable variability in sentencing outcomes across similar factual scenarios and offences, including offences carrying identical statutory maximum penalties.

Any sentencing framework developed for CSA offences should:

- establish offence-specific sentencing ranges;
- identify clear starting points based on levels of harm and culpability;
- provide structured guidance on aggravating and mitigating factors;
- require judges to provide reasons where sentences depart substantially from recommended ranges; and
- reflect contemporary understandings of the nature and impact of child sexual abuse.

Such guidelines would not eliminate judicial discretion. Rather, they would promote consistency, transparency and proportionality while preserving the court's ability to respond to the particular circumstances of individual cases.

Most importantly, a structured sentencing framework would assist courts in appropriately balancing justice to the victim, justice to the accused and justice to the public.

# Recommendation 2: Recognise Child Sexual Abuse as an Inherently Serious Form of Harm

The findings reveal that psychological harm was not consistently treated as a central aggravating factor despite overwhelming evidence demonstrating that child sexual abuse frequently generates profound and lifelong consequences for victims.

Sentencing reform should therefore expressly recognise that:

- child sexual abuse causes significant harm irrespective of the presence or absence of physical injury;

[32] Julian V Roberts, 'Sentencing Guidelines and Judicial Discretion: Evolution of the Duty of Courts to Comply in England and Wales' (2011) 51 The British Journal of Criminology 997, 998.
[33] Ibid.

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- delayed disclosure should not be interpreted as indicative of reduced harm;
- grooming, manipulation and abuse of trust frequently magnify victimisation;
- developmental, emotional and relational harms should be treated as serious consequences of offending.

Guidelines should proceed from the *presumption* that sexual offending against children causes substantial harm and should require any departure from that assumption to be specifically justified. This would better align sentencing practices with contemporary trauma-informed approaches adopted internationally.

## Recommendation 3: Strengthen the Treatment of Abuse of Trust and Authority

A recurring feature of the dataset is the prevalence of sexual offending committed by persons occupying positions of authority, care or trust. The abuse of trust paradigm should therefore be elevated from merely one aggravating factor among many to a particularly significant aggravating consideration where the offender:

- is a parent, step-parent or family member;
- occupies a caregiving role;
- acts as a teacher, social worker, coach, religious leader or other trusted adult;
- exploits institutional authority or dependency relationships.

In such cases, courts should recognise that the offending involves not only sexual violation but also exploitation of power and betrayal of a relationship upon which the child relied for protection.

## Intersectional Challenge Faced by Victims

Identities like race, class, gender, sexuality, ethnicity and age operate not as unitary, mutually exclusive entities but as reciprocally constructing phenomena that shape complex social inequalities.[34] A single-axis analysis may distort lived experiences of those who are multiply burdened and fails to recognise the specific disadvantages they face as a class.[35] The young age of children per se makes them vulnerable, but where child victims experience intersectional marginality, they are more likely to be susceptible to CSA or child sexual exploitation (CSE). Courts should take intersectional disadvantages and their impacts on marginalised child victims, particularly in rendering them more vulnerable to CSA or CSE, as indicative of the perpetrators' calculated approach to target these groups for sexual abuse and therefore, as significant aggravating factors where applicable.

### Children with mental impairment

Children with mental impairment are particularly defenceless against perpetrators. The cognitive and communication impairments hinder their recognition of abusive conduct and their ability to disclose incidents.[36] Moreover, many of the victims rely heavily on caregivers for basic care, mobility, or communication. In the case where the abuser is the caregiver, this dependence makes it more difficult to resist or report abuse due to inability to identify the sexual acts as abuse, or where recognised, fear of losing support or of retaliation or punishment.[37]

In *HKSAR v SYS*[38], the defendant was convicted of two counts of incest against his daughter, a mentally incapacitated person ('MIP') aged 16 at the time of the offence. He was sentenced to a term of 10 years, which falls on the high side of the

[34] Michael D Baumtrog and Harmony Peach, 'They Can't Be Believed: Children, Intersectionality, and Epistemic Injustice' (2019) 15 Journal of Global Ethics 213, 224.
[35] Kimberle Crenshaw, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' 1989 University of Chicago Legal Forum 139-141.
[36] National Disability Authority, 'A Review of the Literature on Qualitative Studies of Sexual Abuse and People with Disabilities' (2009) <https://nda.ie/uploads/publications/UCDReview-of-the-Literature-on-_Sexual-Abuse-and-People-with-Disabilities.pdf> accessed December 12, 2025, 18.
[37] Ibid, 11.
[38] [2018] HKCA 574

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sentence range for incest cases (4 years - 16 years 6 months) (see Table 5 in the Appendix). Other aggravating factors in this case included multiple occasions of sexual abuse and transmission of sexually transmitted diseases ('STDs'). Although it is impossible to discern what weight judges attributed to these intersectional factors which rendered the child victim particularly susceptible to repeat instances of sexual abuse given her complete dependence on the defendant, her trusted caretaker, it was evidently taken into account when determining the sentence. Whether the 10 years imposed reflects adequately the heightened vulnerability of the child victim and the opportunist nature of the fathers' actions in addition to being her trusted caregiver remains in question. In such circumstances, a sentencing guideline which appropriately identifies the factors that reflect the minimum starting point where such intersectional vulnerabilities and targeted victimisation by an adult who abused their position of trust would be a progressive move towards better aligning sentencing outcomes with a victim-centered, public and deterrence-oriented approach to justice.

In *HKSAR v Chak Kong Fai*[39], the defendant was convicted of 11 counts of sexual abuse including rape, attempted rape, attempted unlawful sexual intercourse with an MIP with autism and mild cognitive impairment and 8 counts of indecent assault against the victim when she was aged between 15 and 16. The sentence for the rape count was 10 years, which is moderate considering the sentencing range for rape cases (4 years 6 months - 18 years) (see Table 6 in the Appendix). This case is characteristic of classic abuse of trust where caregivers exploit the near-total dependence of children with mental disability. In this case, the defendant was the social worker responsible of taking care of the victim. Although the case did not involve multiple victims, the sentence imposed could have been higher considering the defendant's exploitation of the victim's intersectional vulnerabilities that made her an 'ideal' target for the defendant's repeated abuse which banked on the victim's silence and dependence.

From this set of case studies, although it is clear that the courts do account for the vulnerabilities that put particular groups of children at heightened risks of vulnerability to abuse, specifically children with mental disabilities, the nature and patterns of abuse suggest the need for greater weight to be accorded to such aggravating factors given the exploitation is calculated, recurrent in nature and reliant on the victim's continued trust and silence and the aggravated harm experienced by victims.

## Recommendation 4: Adopt an Explicitly Intersectional Sentencing Framework

The findings demonstrate that certain groups of children are rendered particularly vulnerable to sexual abuse as a result of intersecting disadvantages.

Sentencing guidelines should specifically recognise heightened vulnerability where victims are:

- children with physical, intellectual or developmental disabilities;
- children with mental impairments;
- children in institutional care;
- migrant children;
- children experiencing poverty or family instability;
- children otherwise dependent upon the offender.

The exploitation of such vulnerabilities should be recognised as indicative of heightened culpability because it frequently reflects targeted and opportunistic offending behaviour. This approach would move sentencing beyond a narrow assessment of the offending act and toward a more complete appreciation of how power operates in child sexual abuse.

## Recommendation 5: Reconsider the Role of Purported Consent in Cases Involving Children

The analysis highlights the continued influence of concepts associated with apparent consent in some offences involving children.

[39] [2023] HKCA 202

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Modern understandings of child sexual abuse recognise that children's developmental immaturity, dependency on adults and susceptibility to manipulation fundamentally limit the reliability and meaningfulness of apparent consent within exploitative relationships.

Legislative reform should therefore ensure that sentencing frameworks place greater emphasis on:

- vulnerability;
- age disparity;
- power imbalances;
- grooming;
- coercive and manipulative dynamics.

This would better reflect contemporary child protection principles and the evolving international recognition that children's apparent participation in sexual activity cannot be assessed through adult paradigms of autonomy and consent.

## Recommendation 6: Introduce Mandatory Sentencing Data Collection and Monitoring

One striking challenge encountered during this study was the absence of a centralised sentencing database permitting systematic evaluation of sentencing outcomes.

The Judiciary, Department of Justice or a future Sentencing Council should maintain a comprehensive sentencing database capturing:

- offence type;
- victim characteristics;
- aggravating and mitigating factors;
- starting point adopted;
- final sentence imposed;
- appellate interventions.

Regular publication of sentencing statistics would improve transparency, facilitate future law reform and permit ongoing evaluation of whether sentencing practices are achieving their intended goals. Evidence-based policy making depends upon evidence-based monitoring.

## Recommendation 7: Advance Gender-Neutral and Harm-Based Sexual Offences Reform

The findings expose inconsistencies in the treatment of anal penetration offences and differential protection thresholds based upon the gender of victims and the characterization of sexual conduct.

The current law reform should continue the move toward:

- gender-neutral offence definitions;
- harm-based approaches to sexual offending;
- equal protection irrespective of victim sex, gender or sexuality;
- coherent age-based protections that prioritise child safeguarding over historically contingent distinctions grounded in gender or sexual orientation.

A modern sexual offences framework should focus on vulnerability, coercion, exploitation and harm rather than assumptions embedded in outdated distinctions concerning sexuality or gender.

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# Conclusion

This study represents one of the most comprehensive empirical examinations of child sexual abuse sentencing practices in Hong Kong to date. Drawing upon a dataset of 401 reported judicial decisions spanning more than five decades, it combines quantitative analysis of sentencing outcomes with qualitative examination of judicial reasoning to evaluate whether current sentencing practices fulfil the core objectives of criminal justice in cases involving sexual offences against children.

The findings reveal a system characterised by substantial variability in sentencing outcomes, limited utilisation of the upper reaches of available statutory penalties and an absence of structured sentencing guidance capable of promoting consistency across similar cases. While individual judgments frequently demonstrate careful consideration of relevant aggravating and mitigating factors, the broader sentencing patterns suggest that the system lacks a coherent framework through which the seriousness of child sexual abuse is systematically translated into sentencing outcomes.

Viewed through the lens of justice to the victim, the findings raise significant concerns. Child sexual abuse is increasingly recognised internationally as a form of victimisation capable of producing profound and enduring psychological, emotional, developmental and social harm. Yet the data suggests that the gravity of these harms is not always reflected consistently in sentencing outcomes. In particular, the comparatively limited weight afforded to trauma, prolonged abuse, grooming behaviour, exploitation of dependency and the lifelong consequences of abuse raises questions regarding the extent to which current sentencing practices adequately recognise the experiences of victims.

At the same time, the findings do not suggest that sentencing should become purely punitive. Justice to the accused remains a fundamental requirement of any legitimate criminal justice system. The principle of proportionality requires individualised assessment and careful consideration of culpability, mitigation and the circumstances of each case. The objective of reform is therefore not to remove discretion but to ensure that discretion is exercised within a more transparent, principled and consistent framework.

The findings are particularly significant when viewed through the lens of justice to the public. Sentencing serves an important denunciatory and expressive function. The criminal law communicates societal condemnation of conduct that violates the bodily integrity, dignity and autonomy of children. Where sentencing outcomes appear disconnected from contemporary understandings of the seriousness and harmfulness of child sexual abuse, confidence in the criminal justice system may be undermined and the deterrent and protective objectives of sentencing weakened.

The study further identifies broader structural concerns, including inconsistent treatment of abuse of trust, insufficient recognition of intersectional vulnerabilities, uncertainty surrounding the role of purported consent in offences involving children, and gender-based inconsistencies embedded within parts of the current legislative framework. These findings suggest that sentencing reform and substantive sexual offences reform should be understood as interconnected rather than separate endeavours.

International developments demonstrate an increasing movement toward structured sentencing frameworks, trauma-informed approaches to victim harm, stronger recognition of coercive and exploitative dynamics, and greater emphasis on consistency and transparency in sentencing decisions. Hong Kong has an opportunity to align itself with these emerging standards. The establishment of a sentencing council, the development of offence-specific sentencing guidelines and the adoption of a more harm-based and child-centred approach to sexual offences would represent important steps toward achieving that objective.

The question is whether the sentencing framework as presently constituted adequately reflects the gravity of the offending, recognises the realities of child victimisation, protects the public interest and promotes confidence that the legal system responds appropriately to some of the most serious violations that can be committed against children. The evidence presented in this report suggests that, while important protections exist, significant work remains to be done if Hong Kong's sentencing framework is to fully meet those objectives and align with contemporary international understandings of effective and victim-centred responses to child sexual abuse without losing sight of the balance that needs to be struck in relation to the rights of the defendants. However, there is invariably a power dynamic that is leveraged in the identification and targeting of children for sexual abuse. A strong set of sentencing principles should resoundingly ensure that the public remain confident that sexual offences against children will attract penalties across the full range of the sentencing spectrum prescribed under the law and be commensurate with the harm and trauma inflicted on the child victims.

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# References

**Secondary Sources**

Baumtrog MD and Peach H, 'They Can't Be Believed: Children, Intersectionality, and Epistemic Injustice' (2019) 15 Journal of Global Ethics 213

Crenshaw K, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' 1989 University of Chicago Legal Forum

Crime and Policing Act 2026: Independent Inquiry into Child Sexual Abuse recommendations factsheet, https://www.gov.uk/government/publications/crime-and-policing-act-2026-factsheets/crime-and-policing-act-2026-independent-inquiry-into-child-sexual-abuse-recommendations-factsheet, 19 May 2026, Last accessed 31 July 2026

Cross IG and Cheung PWS, *Sentencing in Hong Kong* (11th edn, LexisNexis 2024)

Henderson R, 'The Purposes of Punishment,' *Alaska Criminal Law* (2022)

Kapai P, Metoo as Catharsis for Hong Kong's Victims of Childhood Sexual Abuse: Confronting Cultures of Silence and Shame and Creating Conditions for Substantive Change, In Ann M. Noel and David B. Oppenheimer (eds.), The global #metoo movement: how social media propelled a historic movement and the law responded, Full Court Press, 2020, Chapter 25.

National Disability Authority, 'A Review of the Literature on Qualitative Studies of Sexual Abuse and People with Disabilities' (2009) <https://nda.ie/uploads/publications/UCDReview-of-the-Literature-on-_Sexual-Abuse-and-People-with-Disabilities.pdf> accessed December 12, 2025

Report on the Independent Inquiry into Child Sexual Abuse, October 2022, https://assets.publishing.service.gov.uk/media/634febd6d3bf7f618eda953d/the-report-independent-inquiry-into-child-sexual-abuse-october-2022.pdf, last accessed 331 July 2026

Revised sentencing guidelines for child sexual offences published, 17 May 2022, available at, https://www.judiciary.uk/guidance-and-resources/revised-sentencing-guidelines-for-child-sexual-offences-published/, last accessed 31 July 2026.

Roberts JV, "Sentencing Guidelines and Judicial Discretion: Evolution of the Duty of Courts to Comply in England and Wales" (2011) 51 The British Journal of Criminology 997

Sentencing commission not for Hong Kong: Grenville Cross, The Standard, 2 November 2021, available at, https://www.thestandard.com.hk/news/article/182344/

Sentencing Guidelines for Use in Crown Court, available at, https://sentencingcouncil.org.uk/guidelines/crown-court/?s&collection=sexual-offences, last accessed 31 July 2026.

Understanding Child Sexual Abuse in Institutional Contexts, https://www.childabuseroyalcommission.gov.au/understanding-child-sexual-abuse-institutional-contexts, 15 December 2017, Last accessed 31 July 2026 (hereafter "Understanding CSA"). Royal Commission Into Institutional Responses Against Child Sexual Abuse, https://www.royalcommission.gov.au/child-abuse/criminal-justice, last accessed 31 July 2026

'Understanding What Makes Kids Vulnerable to Being Sexually Abused' (*Stop It Now*) <https://www.stopitnow.org/ohc-content/understanding-what-makes-kids-vulnerable-to-being-sexually-abused> accessed December 12, 2025

Von Hirsch, Andrew, and Andrew Ashworth. Proportionate Sentencing: Exploring the Principles. Oxford University Press, 2005

Young SNM, 'Reviews - Sentencing in Hong Kong' (2005) 35 Hong Kong LJ 773

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**Cases**

*Fong Lung Fai v The Queen* [1968] HKCA 10

*HKSAR v Chak Kong Fai* [2023] HKCA 202

*HKSAR v Kwan Hoi* [2003] HKCA 128, [2003] 4 HKC 312

*HKSAR v Lee Hon Wah & Anor* [2010] HKCA 584

*HKSAR v SYS* [2018] HKCA 574

*HKSAR v Tsang Chiu Tak* [2012] HKCA 239, [2013] 1 HKLRD 427

*HKSAR v Yeung Ho Nam* [2019] HKCA 384

*HKSAR v Yu Chun Sing* [2018] HKCFI 1218

*R v Yeung Kam Fat* [1992] HKCA 169, [1992] 1 HKC 62

*Secretary for Justice v Leung Yuet Hung* [2014] HKCA 241, [2014] 3 HKLRD 304

*The Queen v Chan Chuen* [1974] HKCFI 89

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# Appendix

## Cases

**Table 5. Sentence imposed for CSA cases of incest by men (CO s.47), organised by severity of sentence imposed | Number of cases: 18**

| Case Name | Year | Victim Age | Judge(s) | Sentence Imposed (for s.47) | Aggravating Factors | Median | Sentence Range |
|---|---|---|---|---|---|---|---|
| *HKSAR v CCW* | 2016 | 13-14 | Hon Zervos J | / (Probation of 3 years) | / | / | 4 years - 16 years 6 months |
| *HKSAR v Ma Kwun Ho* | 2011 | 15 | Hon M Poon J | 4 years 6 months | - Breach of trust<br>- Young age of victim<br>- The public view such cases with contempt and disgust<br>- Psychological trauma caused to victim<br>- No use of safety measures | Lower bracket: ≤ 10 years | |
| *HKSAR v Lam Chung Tak, Jemy* | 2008 | 10-11 | Hon Stuart-Moore VP and Yeung JA | 6 years (total: 9 years) | - Breach of trust<br>- Repeated offence<br>- Psychological trauma caused to victim<br>- Young age of victim | | |
| *R v Chui Wai Man* | 1996 | 14 | Yang CJ, Bokhary JA and Sears J | 6 years | / | | |
| *HKSAR v Ting Kan Ngai* | 2009 | 11-12 | Deputy High Court Judge Line | 6 years | / | | |
| *HKSAR v Lai XX* | 2012 | 12 | Yeung VP, Cheung and Chu JJA | 6 years (total: 6 years 4 months) | - Breach of trust<br>- Young age of victim<br>- Defendant did not stop when victim indicated she was in pain | | |
| *HKSAR v Wong Shih Kao* | 2010 | 11 | Hon M Poon J | 6 years 2 months (total: 6 years 9 months) | - Abuse and exploitation of relationship<br>- Ejaculation | | |
| *HKSAR v TTC* | 2025 | 14-16 | Hon Madam Justice Poon, JA | 6 years 6 months | - Repeated offence, prolonged duration<br>- Young age of victim<br>- No use of safety measure | | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | - Disparity of age between victim and defendant<br>- Psychological trauma caused to victim<br>- Breach of trust | | |
| *HKSAR v HKW* | 2016 | 8-16 | Hon M Poon J | 6 years 8 months<br>(total: 10 years) | - Breach of trust<br>- Repeated offence, prolonged duration<br>- No use of safety measure<br>- Psychological trauma caused to victim | | |
| *R v Hui Yee Chun* | 1991 | 10 | Hon Yang CJ, Silke VP and Power JA | 7 years | - Young age of victim<br>- Prolonged duration<br>- Resulted in Pregnancy | | |
| *HKSAR v L WH* | 2011 | 11 | Andrew Chan J | 7 years 2 months | - Breach of trust<br>- Psychological trauma caused to victim<br>- Young age of victim | | |
| *HKSAR v C W K* | 2018 | X (12-15)<br>Y (10-12) | DHCJ Keith | 7 years 4 months<br>(total: 16 years 8 months) | - Disparity of age between victim and defendant<br>- Breach of trust<br>- Resulted in pregnancy<br>- Psychological trauma caused to victim<br>- No use of safety measure, ejaculation | | |
| *HKSAR v FLH* | 2001 | 12 | Woo JA and Tong J | 8 years | - Repeated offence (defendant instructed victim not to tell anyone after each act of intercourse)<br>- Resulted in pregnancy<br>- Psychological trauma caused to victim | | |
| *HKSAR v Ho Ka-fat* | 2010 | 11-12 | Tang VP, Cheung and Yuen JJA | 8 years (attempt)<br>(total: 11 years) | / | | |
| *R v Yeung Kam Fat* | 1992 | / | Hon Silke VP, Penlington, JA and Barnett J | 9 years<br>(total: 10 years) | - Frequent intervals<br>- Prolonged duration<br>- Resulted in pregnancy<br>- No use of safety measures<br>- Defendant committed similar offences against more than one girl | | |
| *HKSAR v Chan Hang Yuk* | 2007 | 10 or 11 | Hon Stuart-Moore and Tang VPP | 10 years | - Young age of victim<br>- Defendant abused and exploited his position as a father | | |

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| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | - Defendant misled victim by telling her that all families did this<br>- Psychological trauma caused to victim | | |
| *HKSAR v SYS* | 2018 | 16 | Yeung VP, Poon and Pang JJA | 10 years | - Victim is a mentally incapacitated person<br>- Repeated offences<br>- No use of safety measures, ejaculation, transmitted sexually transmitted disease ('STD')<br>- Someone harassed X in the hope of preventing her from further disclosing the matter | | |
| *HKSAR v A* | 2021 | 11-22 | Hon Zervos JA | 16 years 6 months (total: 17 years 6 months) | - Breach of trust<br>- Prolonged duration<br>- No use of safety measure<br>- Psychological trauma caused to victim<br>- Filming of sexual acts (used as means of control) | Middle bracket: ≤ 20 years | |
| None | | | | | | Upper bracket: > 20 years | |

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**Table 6. Sentence imposed for CSA cases of rape (CO s.118), organised by severity of sentence imposed | Number of cases: 26**

| Case Name | Year | Victim Age | Judge(s) | Sentence Imposed (for s.118A) | Aggravating Factors | Median | Sentence Range |
|---|---|---|---|---|---|---|---|
| *HKSAR v Choi Cheuk Yin, Howard* | 2020 | 16 | Hon Wong J | 4 years 6 months | - No use of safety measures, ejaculation<br>- Psychological trauma caused to victim<br>- Defendant subjected the victim to additional indignity | Lower bracket: ≤ 10 years | 4 years 6 months - life imprisonment |
| *HKSAR v Ng Ka Kin* | 2012 | 13 | Yeung VP and Chu JA | 5 years (attempt) (total: 5 years 8 months) | - Exploitation of position and influence as the victim's elder and superior to abuse her<br>- Repeated offence<br>- Defendant made extremely shameless remarks toward the victim<br>- Defendant attempted to bribe the victim with money so that she would not expose his misconduct | | |
| *HKSAR v Ho Man Ho* | 2011 | 16 | Cheung and Kwan JJA and Chu J | 5 years 6 months | - Young age of victim<br>- No use of safety measures | | |
| *HKSAR v Au Wing Kit* | 2012 | 16 | Yeung VP, Yuen and Chu JJA | 6 years (attempt) (total: 15 years) | - Involves a number of victims<br>- Defendant committed various perverse sexual acts toward the victims during the abuse<br>- Psychological trauma caused to victim<br>- No use of safety measures<br>- Filming of sexual acts<br>- Defendant threatened victims with the photographs and videos taken during intercourse<br>- Defendant has paedophilic, abusive tendencies and a perverse and antisocial personality | | |
| *HKSAR v So Tsz Yeung* | 2014 | 16 | Yeung VP, Chu JA and Poon J | 6 years 6 months | - No use of safety measure, ejaculation<br>- Frequent intervals, repeated offence<br>- Breach of trust (but does not constitute special aggravating factor)<br>- Violence | | |

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| *HKSAR v Chung Chi Wing* | 2010 | 13 | Hon Hartmann JA and Lunn J | 7 years 4 months | - Planning of the crime (defendant targeted the young pupils emerging at a school at the end of the day, and lured the victim into the vehicle)<br>- Young age of victim<br>- No use of safety measures, ejaculation<br>- Defendant assaulted the victim in order to gain physical dominance | | |
| *HKSAR v Chiu Kai Pong* | 2024 | 15 | Hon Pang JA | 7 years 6 months | - Disparity of age between victim and defendant<br>- Breach of trust<br>- Psychological trauma caused to victim<br>- No use of safety measures<br>- Victim had an unspoken fear of losing her place to stay<br>- Defendant committed indecent assault against the same victim a few days before the present offence occurred | | |
| *Secretary for Justice v Leung Yuet Hung* | 2014 | 12 | Hon Yeung Ag. CJHC, Stock VP and Lunn JA | 7 years 6 months (attempt) | - Young age of victim<br>- Violence and use of weapon<br>- Threat (implicit in asking victim for her name, school and whether she wished to be taken away by him)<br>- Defendant gained access to private premises by false pretences<br>- No safety measures | | |
| *HKSAR v Tsang Chiu Yu* | 2012 | 14 | Yeung VP and Chu JA | 8 years | - Involves planned crime<br>- Defendant clearly targeted young and naïve girls because as he thinks they could be easily manipulated<br>- Young age of victim<br>- Psychological trauma caused to victim<br>- Defendant took photos of victim's breasts and private parts<br>- Impact to family members of victim<br>- Defendant is a recidivist of sexual crimes who poses great danger to society and innocent girls | | |

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| *香港特別行政區 訴 葉嘉城* | 2024 | 14 | Kwok J | 8 years<br>(total: 8 years 6 months) | - Disparity of age between victim and defendant<br>- Exploitation of victims' ignorance and curiosity using alcohol and cannabis<br>- Involves planned crime<br>- Repeated offence<br>- No use of safety measures, ejaculation<br>- Psychological trauma caused to victims | | |
| *HKSAR v L Y Y* | 2018 | 12-14 | A Wong J | 8 years (attempt)<br>(total: 12 years) | - Defendant committed the crimes against his biological daughter<br>- Young age of victim<br>- Repeated offence<br>- Victim is entirely dependent on defendant for upbringing (she does not have other relatives in Hong Kong)<br>- Breach of trust<br>- Psychological trauma caused to victim | | |
| *HKSAR v Chow Chung Kan* | 2011 | 13 | Yeung and Yuen JJA | 8 years 8 months<br>(total: 9 years 6 months) | - Involves grooming of victim<br>- Defendant committed extremely indecent and degrading sexual acts against victim<br>- Defendant is clearly the ringleader in the crimes<br>- Involves planned crime<br>- Use of violence during abuse<br>- Defendant threatened to kill the victim and to post the photographs and videos taken during intercourse online | | |
| *HKSAR v C W K* | 2018 | X (12-15)<br>Y (10-12) | DHCJ Keith | 9 years 4 months<br>(total: 16 years 8 months) | - Disparity of age between victim and defendant<br>- Breach of trust<br>- Resulted in pregnancy<br>- Psychological trauma caused to victim<br>- No use of safety measure, ejaculation | | |
| *HKSAR v Hui Ka-sang* | 2000 | 16 | Hon Stuart-Moore VP, Wong and Woo, JJA | 10 years | - Repeated rapes and sexual perversion<br>- Very young victim | | |
| *HKSAR v Chak Kong Fai* | 2023 | 16 | Hon Macrae Acting CJHC and Zervos JA | 10 years<br>(total: 15 years) | - Grave breach of trust (as social worker with the care and responsibility of the victim) | | |

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| | | | | | - Victim is a mentally incapacitated person ('MIP'), who is highly vulnerable and susceptible to abuse<br>- Defendant threatened and intimated victim to make her succumb<br>- No use of safety measure<br>- Physical and psychological trauma caused to victim<br>- Impact on victim's family members<br>- Multiple offences, prolonged duration | | |
| *HKSAR v W C T* | 2017 | 13-15 | DHCJ Johnny Chan | 10 years 6 months | - Gross breach of trust (defendant is victim's father)<br>- Young age of victim<br>- Psychological trauma caused to victim<br>- Repeated offence | Middle bracket: ≤ 20 years | |
| *HKSAR v LK* | 2018 | 12 | Deputy Judge ST Poon | 11 years 6 months | - Young age of victim<br>- Exploitation of position and power (as father of victim)<br>- Prolonger duration<br>- Threats (of suicide and harming of others) to make victim succumb<br>- Psychological trauma caused to victim | | |
| *HKSAR v Tsang Chiu Tak* | 2012 | 15 | Cheung CJHC, Tang VP and Cheung JA | 12 years | - Young age of victim<br>- Repeated offence<br>- Breach of trust (as victim's 'sworn father')<br>- Defendant got victim's mother to sell out her daughter and coerce her to have sex with him<br>- No use of safety measures<br>- Psychological trauma caused to victim<br>- Defendant's act broke victim's family (her mother was sent to jail; victim needs to take care of her moderately mentally retarded younger brother) | | |
| *HKSAR v LKS* | 2017 | 12 | Yeung VP and Poon JA | 12 years | - Exploitation of position and power as victim's father to abuse her<br>- Young age of victim | | |

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| | | | | | - Resulted in pregnancy<br>- Use of violence<br>- Threatened victim (to attack or abuse her younger brother) to make her succumb<br>- Impact on victim's family member<br>- Lack of remorse from defendant<br>- Psychological trauma caused to victim | | |
| *HKSAR v T.S.O.* | 2025 | 8-9 | Tam J | 12 years<br>(total: 13 years) | - Grave breach of trust, exploitation of position against biological daughter<br>- Disparity of age between victim and defendant<br>- No use of safety measures<br>- Psychological trauma caused to victim<br>- Repeated offence, prolonged duration<br>- Similar criminal conviction | | |
| *HKSAR v HJD* | 2018 | 15 | A Wong J | 12 years<br>(total: 14 years 6 months) | - Defendant abused his own biological daughter<br>- Young age of victim<br>- Repeated offence<br>- Victim is at least economically dependent on defendant<br>- Breach of trust<br>- Psychological trauma caused to victim<br>- Defendant told victim not to tell others about the incidents for at least 3 times | | |
| *HKSAR v A* | 2018 | 10-22 | Hon Wong J | 13 years 9 months | - Gross breach of trust (defendant is victim's father)<br>- Young age of victim<br>- Multiple occasions, prolonged duration<br>- No use of safety measure<br>- Psychological trauma caused to victim | | |
| *HKSAR v L.C.* | 2025 | 13-14 | Derek Pang, Poon and Anthea Pang JJA | 14 years<br>(total: 22 years) | - Disparity of age between victim and defendant<br>- Breach of trust (as victim's stepfather)<br>- Prolonged duration<br>- No use of safety measures<br>- Psychological trauma caused to victim<br>- Defendant performed various intercourse with victims' mother in front of them | | |

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| | | | | | - Impact on family members<br>- Paedophilic, high risk of offending | | |
| *HKSAR v Ki Kwan Keung* | 2013 | X (12-14)<br>Y (10-11) | Hon Stock VP, Yeung VP and Barnes J | 18 years | - Gross breach of trust<br>- Young age of victim<br>- No use of safety measures<br>- Resulted in pregnancy (and abortion)<br>- Presence of victim's mother during the rape<br>- Repeated offence | | |
| *HKSAR v Y.H.L.* | 2021 | 10-12 | Yeung VP, Chu JA and Pang J | 18 years | - Defendant committed crimes against her biological daughter<br>- Multiple occasions, prolonged duration<br>- Psychological trauma caused to victim<br>- Total lack of remorse<br>- Defendant forced the victim to testify twice in court and subjected her to his prolonged cross-examination | | |
| *The Queen v Chan Chuen* | 1974 | Multiple victims, aged 8 to 13 | Briggs CJ | Life imprisonment | - Violence and use of weapon<br>- Caused severe bruising to the neck and injuries to the private parts of victims<br>- Defendant is unstable, there is high risk of reoffending | Upper bracket:<br>> 20 years | |

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## Crimes Ordinance Provisions on Sexual Offences

| Offence | | Provision | Maximum Sentence | Summary or Indictable Offence?[40] | Elements of the offence |
|---|---|---|---|---|---|
| 1. | Incest by man | CO, s 47(1)[41] | Life imprisonment if the girl is under 13 years of age<br><br>20 years imprisonment if the girl is between 13 and 16 years of age<br><br>14 years imprisonment for all other cases<br><br>Aggravating factors[42]<br><br>1. physical or psychological suffering from the offence;<br><br>2. the incest taking place at frequent intervals or over a long period;<br><br>3. the use of threats or violence, or the girl being otherwise terrified of her father; | Indictable | 1. A man has sexual intercourse with a woman who is to his knowledge his granddaughter, daughter, sister or mother.<br><br>• The consent of the Secretary of Justice is required for prosecution of this offence.<br><br>• The defendant **knew** the female was his granddaughter, daughter, sister or mother at the time of the sexual intercourse. A defense may be raised if the defendant is honestly mistaken about the identity of the woman.<br><br>2. Consent of the woman is immaterial.[43] |

[40] In most of the circumstances, summary offences can only be tried in Magistrates' Courts. Most indictable offences can be tried in the Magistrates' Courts, the District Court or the Court of First Instance of the High Court. The choice of venue of the trial of an indictable offence rests on the prosecution, who will normally consider the complexity of the case and the likely sentence to be imposed on the offender upon conviction. The time limit for prosecution of a summary offence is generally within 6 months of the commission of the offence (unless otherwise specified in the legislation creating the offence). For an indictable offence, there is no formal time limit for the commencement of a prosecution.
[41] Crimes Ordinance (Cap. 200), (hereafter "CO").
[42] See *HKSAR v Li Kin Ho* [1999] 3 HKLRD 452
[43] Section 47(2) of CO

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| | | | 4. the incest being accompanied by perversions abhorrent to the girl, such as buggery or fellatio;<br><br>5. the girl becoming pregnant; and<br><br>6. the commission of similar offences against more than one girl.<br><br>If an offender is convicted of this offence against any woman under 21 years of age, the Court has the power to divest the offender of all authority over such female. If the offender is the guardian of such woman, the Court can remove the offender from such guardianship, and in any such case to appoint any person or persons to be the guardian or guardians of such woman during her minority or any less period. | | |
| 2. | Rape | CO, s 118 | Life imprisonment<br><br>Rape against children will attract a heavy sentence and immediate imprisonment is invariably imposed.<br><br>Rape committed by teenagers, particularly those of a less serious nature, might not attract an unduly | Indictable | 1. A man has unlawful sexual intercourse with a woman who at the time of the intercourse does not consent to it. At the time he knows that she does not consent to the intercourse or he is reckless as to whether she consents to it. |

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| | | | harsh sentence. It should be accepted that teenagers are imaginative and curious towards "sex" and an imprisonment term may not be appropriate. | | (a) Whether a man knows a woman has consented or not is based on his subjective genuine belief.[44]<br><br>(b) The reasonableness of this belief can factor into whether a jury thinks that it is genuine. However, it is not conclusive by itself.[45]<br><br>2. Consent can be withdrawn during intercourse.[46]<br><br>3. To amount to rape, there must be penetration of the vagina by the penis. Thus, rape can only be committed by a male upon a female in Hong Kong.<br><br>(a) Penetration of other parts of the victim's body (e.g. mouth or anus) does not amount to rape, but may constitute other sexual offences.[47]<br><br>1. Where a person has been raped by more than one man on the same occasion, all the accused should be charged in one count of rape, with no mention of persons aiding and abetting. Several accused may be convicted where the jury is satisfied only that each played a guilty part, but not as to who committed the physical act. |
| 3. | Non-Consensual buggery | CO, s 118A | Life imprisonment | Indictable | 1. A man commits buggery on another person; [48] and |

[44] DPP v Morgan [1976] AC 182, [1975] 2 All ER 347
[45] Section 118(4) of CO, *DPP v Morgan* [1976] AC 182, [1975] 2 All ER 347
[46] *R v Kaitamaki* [1985] AC 147: Penetration is viewed as a continuing act. A man will be liable for rape if he does not hold a genuine belief that the victim has consented while he is penetrating her vagina with his penis. If the man knows that a woman withdrew consent during the act of penetration, he must withdraw at that point or be liable for rape.
[47] *R v Kaitamaki* [1985] AC 147, Section 65E of the Criminal Procedure Ordinance (Cap. 221)
[48] *R v Courtie [1984] AC 463* [1984] 1 All ER 740

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| | | | | | (a) "Buggery" is defined as sexual intercourse by way of penetration of the anus by a penis.<br><br>(b) This offence is not limited to homosexual buggery.<br><br>2. At the time the defendant knows that the victim does not consent to buggery or was reckless as to whether the victim consented to it.<br><br>• In deciding whether there is a genuine or mistaken belief as to the consent of the victim, the Court will consider whether there are any evidence or special factors which give rise to an issue of genuine belief, such as whether the parties have been sex partners and whether they have a history of buggery and intercourse.[49] |
| 4. | Homosexual buggery with or by a man under 16 | CO, s 118C | Life imprisonment.<br><br>However, the Court of Appeal ruled that the proper sentencing approach for an offence against s.118C should be the same as for unlawful heterosexual intercourse.[50]<br><br>1. Life imprisonment if the victim was under 13 years old | Indictable | 1. A man who commits buggery with a man under the age of 16.<br><br>4. It is no longer an offence for a man under the age of 16 to commit buggery with another man following *Yeung Chu Wing v Secretary for Justice* [2019] 3 HKLRD 238. |

[49] See *HKSAR v Man Kin Yiu* [2008] 1 HKCLRT 341
[50] See *HKSAR v Yeung Ho Nam (No 1)* [2020] 1 HKLRD 91

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| | | | 5 years imprisonment if the victim was under 16 but above 13 years old. | | |
| 5. | Buggery with girl under 21 | CO, s 118D | Life imprisonment | Indictable | 1. A man commits buggery with a girl under the age of 21.<br><br>(c) "Buggery" is defined as sexual intercourse by way of penetration of the anus by a penis[51].<br><br>(d) This offence is not limited to homosexual buggery.<br><br>(e) This offence is a strict liability offence, meaning that the fact that the girl consented or that the defendant believed the girl was over 21 years of age are not valid defenses.[52] |
| 6. | Sexual Intercourse with a girl under 13 | CO, s 123 | Life imprisonment | Indictable | 1. A male has unlawful sexual intercourse with a girl under the age of 13.<br><br>2. A male under 14 is incapable of sexual intercourse. but he can be implicated in a capacity other than that of the principal offender.<br><br>• This offence is a strict liability offence, meaning that the fact that the girl consented or that the defendant believed the girl was over 13 years of age (even if reasonable) are not valid defenses.[53] |

[51] *R v Courtie* [1984] AC 463, [1984] 1 All ER 740
[52] *So Wai Lun v HKSAR* (2006) 9 HKCFAR 530
[53] *So Wai Lun v HKSAR* (2006) 9 HKCFAR 530, [2006] HKCU 1195

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