The Dilemma and Solution of Juvenile Delinquency – Reflection on the Murder of a 13-year-old Boy in China

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Received: May 6, 2024      Accepted: June 6, 2024     Online Published: June 20, 2024
doi:10.5539/jpl.v17n3p49                  URL: https://doi.org/10.5539/jpl.v17n3p49

Abstract
On March 10, 2024, a 13-year-old junior high school student in Handan City, Hebei Province, China was killed and buried by three classmates under the age of 14. The method of committing the crime was cruel and had a negative social impact, once again bringing topics such as "juvenile delinquency" and "lowering the age of criminal responsibility" to the hot search. Since entering the new era, with the rapid development of the social economy, minors have shown an overall trend of "precocious puberty". The problem of juvenile delinquency and violence has also become increasingly severe, causing adverse social impacts. According to data released by the Supreme People's Procuratorate of China, juvenile delinquency in China is characterized by a sharp increase in the number of crimes, a clear trend towards younger age groups, and cruel criminal methods. The Eleventh Amendment to the Criminal Law, which came into effect in March 2021, lowered the age of criminal responsibility and individually lowered the statutory minimum age of criminal responsibility to 12 years old. Therefore, this case may become the first case to hold young minors accountable for crimes after the age of criminal responsibility has been lowered, which is of great significance to the construction of the rule of law and judicial practice. In practice, we should clarify the situation of "heinous circumstances" stipulated in the Amendment to the Criminal Law (XI), and establish an independent juvenile justice system to comprehensively and effectively correct and prevent the misconduct and illegal behavior of minors, rather than simply lowering the age of criminal responsibility. At the same time, reduce excessive interference of online public opinion in judicial trials.

Keywords: juvenile delinquency, juvenile delinquency, age of criminal responsibility

1. Background of Juvenile Delinquency
On March 10, 2024, three middle school students in Handan, Hebei, China bullied their classmates and brutally killed Wang, burying his body in a vegetable greenhouse. The three suspect had very strong psychological quality, and the main criminal was not identified until the surveillance video was called out. After finding the body, it was found that the victim was completely unrecognizable. The case quickly spread online and sparked widespread discussion among netizens, with false statements such as "the deceased was buried alive", "the case had adult accomplices", and "the victim dug a pit 2 meters away from the burial ground" spreading online.

After the case occurred, the public security organs immediately carried out investigation work. On March 11, 2024, all suspect involved in the case were arrested, and criminal coercive measures have been taken according to law; On March 15th, three middle school students suspected of killing their classmates were arrested by torture; On March 18, the police responded to the murder of Wang Moumou, a junior high school student: the suspect was premeditated. At the same time, the official refuted rumors that "the deceased was buried alive" and "there was an adult accomplice in the case", and confirmed that the victim was buried in a deep pit of 56 centimeters, and the online transmission of 2 meters was false information.

In April 2024, the Supreme People's Procuratorate reviewed and decided to approve the prosecution of suspect Zhang, Li and Ma according to law. After examination, the procuratorial organ believed that three suspect had reached the age of 12 but not the age of 14 when they committed the crime, and they killed the victim intentionally. If the circumstances were serious, they should be investigated for criminal responsibility.

In recent years, there have been increasing incidents of juvenile delinquency. According to the data released by the
Supreme People's Procuratorate, from 2020 to 2022, the number of suspects of juvenile delinquency accepted, reviewed and arrested by the procuratorial organ was 37681, 55379 and 49070 respectively, and the number of suspects of juvenile delinquency accepted, reviewed and prosecuted was 54954, 73998 and 78467 respectively, showing an overall upward trend. In 2022, the number of arrests and prosecutions under review increased by 30.2% and 42.8% respectively compared to 2020.

Figure 1. Suspected juvenile delinquency from 2020 to 2022
Note: From 2020 to 2022, we will accept the review and prosecution and review and arrest of minor suspect.

The proportion of juvenile delinquency is increasing. From 2020 to 2022, there will be 5259, 8169 and 8710 suspects of juvenile suspect between the ages of 14 and 16 who have been reviewed and prosecuted by the procuratorial organ, accounting for 9.57%, 11.04% and 11.1% of the total number of juvenile suspect who have been reviewed and prosecuted.

Figure 2. Acceptance of examination and prosecution of minor suspect aged 14-16 in 2020-2022
Note: Acceptance, review and prosecution of minor suspect aged 14-16 from 2020 to 2022.
2. The Dilemma of Juvenile Delinquency

2.1 How to Determine the Heinous Circumstances Stipulated in Article 17 of the Criminal Law

In 1997, the current Criminal Law of China was implemented. According to Article 17, individuals who have reached the age of sixteen and committed crimes shall bear criminal responsibility. Individuals who have reached the age of fourteen but not the age of sixteen and commit eight serious crimes, including intentional homicide, intentional injury resulting in serious injury or death, rape, etc., shall bear criminal responsibility. For individuals under the age of fourteen who commit serious violent crimes, according to the provisions of the Criminal Law at that time, they shall not bear criminal responsibility. According to the new situation and changes in social development and criminal offenses, in response to the strong emotional demands of the public, and to prevent the failure of criminal accountability for extremely serious acts committed against young minors, the "Amendment to the Criminal Law (11)", which came into effect in March 2021, adds a new paragraph 3 to Article 17 of the Criminal Law, which stipulates: "If a person who has reached the age of 12 but not the age of 14 commits the crime of intentional homicide or intentional injury, causing death or serious disability through particularly cruel means, and the circumstances are severe, and is approved for prosecution by the Supreme People's Procuratorate, they shall bear criminal responsibility."

The 2024 murder case of a middle school student in Handan, Hebei Province, China once again brought the topic of juvenile delinquency to the forefront of the hot search, becoming the first case after the criminal law lowered the age of criminal responsibility for juvenile delinquency. The reason for making such modifications is that legislators have carefully considered the new situation and problems in the prevention and control of juvenile delinquency, and made a legislative decision - not only appropriately reducing the age of criminal responsibility, but also adding control measures for the approval of prosecution decisions by the highest prosecutor's office in the process, ensuring that prosecution standards are applied in accordance with the law, strictly, and uniformly. At the same time, China's Criminal Law also stipulates strict application conditions, limiting the approval and prosecution criteria to "intentional homicide or intentional injury, causing death or serious disability through particularly cruel means, and the circumstances are heinous."

Although the new provisions in legislation have provided preliminary solutions for juvenile delinquency in practice, and it has been determined whether criminal responsibility should be pursued for the murder case of young minors in Handan City, Hebei Province, China, with the continuous improvement of China's legal system and the rapid development of juvenile delinquency methods, there are still many controversies on how to apply this legal provision in judicial practice. How to determine the objective standard of "heinous circumstances" in this article and how to limit the subjective discretion of judges in judging heinous circumstances are all the problems we are facing now. Insufficient legal provisions can lead to difficulties in the application of specific cases, so it is important to establish objective and unified standards.

2.2 Should the Age of Criminal Responsibility Be Reduced without Limitation

The Eleventh Amendment to the Criminal Law, which came into effect in March 2021, reduces the criminal responsibility of minors to 12 years old, breaking the long-standing tradition of China's minimum criminal responsibility age of 14 years old. On March 10, 2024, the junior high school students in Handan City, Hebei Province, China were killed. The three suspect were young and the means of killing and destroying the body were cruel, which once again triggered a heated discussion on the age of criminal responsibility of minors in China's criminal law from all walks of life.

There may be different views in the criminal law community on whether the age of criminal responsibility should be lowered. On the one hand, some people believe that with the progress of society and the early psychological development of minors, the age of criminal responsibility should be appropriately lowered to better maintain social order and protect the rights and interests of citizens. On the other hand, some people believe that the mental development of minors is not yet fully mature, and they lack sufficient judgment and self-control ability, so it is not advisable to hold them criminally responsible too early.

In fact, the punishment measures stipulated in the Criminal Law have a certain punitive effect on minors, but the effect on preventing juvenile delinquency is not particularly significant: on the one hand, the overall punishment is designed based on the concept of "retribution", and its core function or main purpose is to punish, deter, rather than educate. There is great doubt about how much deterrent effect this punishment oriented punishment can play on the "long life path" of young minors, and its functions in preventing recidivism and protecting society have also been proven to have little effect by many criminological empirical studies. On the other hand, the punishment execution method designed with adults as samples and isolated from society is not suitable for the physical and mental characteristics of minors, and may even provide "assistance" for them to commit crimes again in the future.
In short, the reasons for juvenile delinquency are complex and diverse, resulting from the combined influence of various adverse environmental and social risk factors when the physical and mental development is not yet mature. Relying on simple punishment to deal with it is undoubtedly a simplification of complex problems and difficult to achieve results. Therefore, whether to lower the age of criminal responsibility should comprehensively consider the physical and mental health status of minors, the degree of harm to society, and the current judicial system's ability to respond. The law should not be constantly modified due to the occurrence of individual cases, which is not conducive to maintaining the authority of the law and the fairness of the judiciary.

Outside the criminal law, it is still within the law. Our country adheres to the principle of "education as the mainstay, punishment as a supplement" for minors, and emphasizes the equal importance of education correction and punishment for young offenders. Therefore, for juvenile delinquency, measures that are consistent with their age and physical and mental characteristics, can make them pay the price for their behavior, bear responsibility, and clearly have a "future oriented" education correction function should be taken.

2.3 The Impact of Online Public Opinion on Judicial Trials

Online public opinion can to some extent supervise judicial personnel to handle cases openly, fairly, and objectively. However, due to the openness and anonymity of the internet, netizens have relatively free speech, which leads to disorderly online public opinion and false case information, resulting in netizens making incorrect judgments. At the same time, due to the rapid spread of the internet, some netizens' casual remarks can make other netizens follow the trend and even make extremist remarks, making public opinion biased and irrational judgments on cases, which is detrimental to judicial fairness. For example, in the development process of public opinion on the murder case of middle school students in Handan, Hebei, some media platforms neglected the authenticity and accuracy of the news when pursuing click through rates and attention, leading to the spread of rumors. In order to attract attention and gain traffic, marketing accounts often publish content with strong commercial purposes and biases, exaggerating, distorting, and even false information. At the same time, the public often lacks sufficient judgment when facing emergencies and is easily influenced by rumors. The false statements such as "the victim was buried in a deep pit of 2 meters" and "premeditated crime" quickly spread on the internet, and public opinion was biased, which to some extent hindered the judicial process and damaged the fairness and justice of the judiciary.

Therefore, online public opinion will to some extent affect the judicial independence of courts. Article 131 of the Constitution of the People's Republic of China stipulates: "The people's courts independently exercise their judicial power in accordance with the law and are not subject to interference from administrative organs, social organizations, or individuals." However, the public opinion pressure on social media platforms by netizens may more or less interfere with the independent exercise of judicial power by judicial personnel. Meanwhile, online public opinion can damage the authority and credibility of the judiciary. The key to judicial activities is to prioritize facts, evidence, and procedures, and exercise judicial power independently in accordance with the law. However, in reality, some online media often pursue timeliness and sensationalism when reporting news. When expressing certain knowledge and opinions, they lack factual basis, procedural constraints, and technical means of proof, which may lead to different conclusions between court rulings and online public opinion. Once there is a deviation between the judiciary and public opinion, some courts are forced to make trials that conform to public opinion, which weakens judicial authority and lowers the credibility of the law.

3. Practical Ways out for Juvenile Delinquency

3.1 Clarify the Objective Criteria for the Severity of the Plot

Judge Hu Yunteng believes that the determination of "heinous circumstances" in criminal law provisions can be approached from three aspects. The first is to grasp the subjective malignancy of young minors. If young minors bully, repeatedly bully others, or even refuse to correct themselves, once they engage in the above two behaviors, they can be prosecuted; If someone commits murder or injury after being bullied and unable to bear it anymore, it generally does not belong to a bad plot. The second is to grasp from the perspective of social influence. If the killing or injury behavior of a young minor causes extremely widespread social impact, it can be considered as a heinous circumstance. The third is to grasp from the consequences. If multiple people are killed or injured, or if parents or other relatives are killed or infants and young children are harmed by extremely cruel means, it can be considered as a "heinous circumstance".

The author believes that "bad circumstances" is a comprehensive judgment of the subjective and objective factors of the suspect. In addition to considering the behavior, means and consequences of juvenile offenders, it is also necessary to consider their own personal danger and the attitude and correctability of confession and punishment.
When the age of criminal responsibility is reached, it is included in criminal justice, and vice versa, it is subject to harmful behaviors to society but do not constitute crimes should receive appropriate punishment, education, and at the same time, we will promote the establishment of a juvenile justice system. Minors who have committed serious campus bullying, create a harmonious and safe campus environment, and prevent juvenile delinquency. At the same time, we will increase publicity and education, strengthen psychological education for students, and prevent the spread of criminal behavior.

3.2 Establish an Independent Juvenile Justice System, rather than Simply Lowering the Age of Criminal Responsibility

Law has authority, generality, and universality. The age of criminal responsibility cannot be arbitrarily lowered with the occurrence of individual cases, which is not conducive to protecting the rigidity of the law and the development and transformation of the basic concepts of Juvenile Basic Law. The author believes that the best way to save minors is not through punishment, but through prevention and education methods to reduce the crime rate of minors. Long term practice has proven that blindly lowering the age of criminal responsibility and labeling minors as criminals too early is not the most effective method. Moreover, age is not the only criterion for judging whether minors have behavioral ability, especially with the diversification of information channels and early physical and mental maturity, which leads to the continuous advancement of their cognitive ability, identification ability, and moral reasoning ability. Minors are becoming increasingly precocious, and the trend of juvenile delinquency is becoming more apparent. Although the Eleventh Amendment of our country lowers the age of criminal responsibility to twelve years old and limits the scope of punishment to intentional homicide and intentional injury crimes, and whether minors bear criminal responsibility still needs to be approved and prosecuted by the Supreme People's Procuratorate and the Supreme People's Court, it reflects the flexible setting of our country's legislation. However, due to the rigidity and authority of the law, as well as the continuous development and changes in society, age cannot always be lowered with the occurrence of individual cases. As minors are specially protected, their education and reform cannot be ignored. The government and education departments should increase publicity and education, strengthen psychological education for students, prevent campus bullying, create a harmonious and safe campus environment, and prevent juvenile delinquency. At the same time, we will promote the establishment of a juvenile justice system. Minors who have committed serious harmful behaviors to society but do not constitute crimes should receive appropriate punishment, education, and reform. We will adhere to the principle of tolerance but not indulgence in the punishment of minors, provide fairness to victims, and play a warning and education role for juvenile offenders.

3.3 Reducing the Impact of Public Opinion on the Judiciary

The law should respect and reflect public opinion, while social public opinion reflects and reflects public opinion. This does not mean that all social public opinion reflects public opinion. The law should respect public opinion that objectively reflects public opinion, rather than extreme, irrational, and following the trend of public opinion. Firstly, judicial organs should conduct independent trials in accordance with the law, based on facts and laws, unaffected by external power and public opinion, and use professional legal knowledge to make objective and fair
judgments. We cannot ignore objective facts, blindly comply with public opinion, and make wrong judgments due to the pressure of public opinion. Secondly, expand judicial transparency and achieve a positive interaction between the judiciary and public opinion. Timely disclose the trial process and results of cases to the public, achieve openness, fairness, and transparency of cases, implement and protect the right of the public to participate in cases, accept public supervision, and strive to make the people feel fairness and justice in every judicial case. At the same time, increasing legal interpretation and publicity efforts for the public, promoting their understanding of court trials, is conducive to shaping judicial authority and improving judicial credibility. Finally, we should strengthen the supervision of the Internet through laws, establish and improve the system of monitoring, guiding and responding to public opinion, master the leading power of responding to public opinion, respond to public opinion in a timely and rational manner, and punish those who spread rumors and incite public opinion in a timely manner.

Judges can use the real-time nature of public opinion to compensate for the backwardness of the law, and also use the professionalism of the law to compensate for the irrationality of public opinion, thus achieving a positive interaction between public opinion and the judiciary. The court should listen to the opinions of the people, reflect public opinion, and comply with public opinion while ensuring the independence, openness, fairness, and impartiality of the judiciary. The conflict between public opinion and the judiciary is essentially a conflict between reason and law. When public opinion excessively intervenes in the judiciary, it is not conducive to maintaining the authority and fairness of the judiciary. Therefore, we must find a balance point between public opinion and the judiciary, in order to promote a positive interaction between public opinion and the judiciary.

4. Summary

To borrow a sentence from Article 20- "Law cannot bow down to illegality." Juvenile crime is a social problem that exists worldwide. However, youth is not an excuse for wrongdoing, and the law should not become a "protective umbrella" for juvenile offenders to escape punishment. The case of the murder of a junior high school student in Handan City, Hebei Province, China, was approved by the Supreme People's Procuratorate, which responded to public concerns and reflected the determination of China's judicial organs to respect public opinion, maintain legal authority, and ensure judicial fairness and justice. However, with the frequent occurrence of juvenile delinquency, we should recognize that punishing minors is not the only means. We should cultivate their respect for others and themselves, strengthen school education and legal education, pay more attention to left behind children, and strengthen psychological counseling for minors. This can to some extent prevent juvenile delinquency and achieve a combination of punishment and education. The sword of law is unsheathed, and the footsteps of justice will not stop. For juvenile delinquency, we should not only focus on prevention, but also resolutely combat it. The implementation of the law lies in its implementation, ensuring that appropriate disciplinary and corrective measures are in place, which not only provides comfort to victims but also sounds the alarm for potential young minors, preventing similar tragedies from happening again. I hope that under the protection of the law, the growth environment of minors will continue to improve, and social fairness and justice will be effectively safeguarded!

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Acknowledgments

Not applicable.
Authors contributions
Not applicable.

Funding
This article is a preliminary achievement of the 2022 Humanities and Social Science Youth Fund project of the Ministry of Education, titled "Research on the Dilemma and Improvement Path of Gene Information Protection in the Context of Digital China" (Project No. 22YJC820021).

Competing interests
Not applicable.

Informed consent
Obtained.

Ethics approval
The Publication Ethics Committee of the Canadian Center of Science and Education.

The journal’s policies adhere to the Core Practices established by the Committee on Publication Ethics (COPE).

Provenance and peer review
Not commissioned; externally double-blind peer reviewed.

Data availability statement
The data that support the findings of this study are available on request from the corresponding author. The data are not publicly available due to privacy or ethical restrictions.

Data sharing statement
No additional data are available.

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