



The Limitations of Lowering the Age of Criminal Responsibility in Preventing Juvenile Crime

--- An Analysis Based on the Case of Bullying and Murder by a Middle School Student in Handan

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Abstract. The Eleventh Amendment to the Criminal Law includes minors aged 12-14 as subjects of criminal prosecution. This paper examines the impact of lowering the age of criminal responsibility on juvenile crime from various perspectives, combining social hot topics. First, by analyzing the legislative background and current social situation, the paper discusses the rationality of lowering the age of criminal responsibility, emphasizing its necessity for protecting minors' rights and promoting social security. Second, the paper analyzes the limitations of lowering the age of criminal responsibility, including issues related to the effectiveness of legal enforcement and social public opinion responses. Finally, focusing on the prevention of juvenile crime, the paper proposes a series of strategies and suggestions to achieve the goal of preventing juvenile crime from the root, considering multiple levels such as family, school, and society. The importance of a comprehensive approach is emphasized. From a criminological perspective, this paper discusses the importance and implementation paths of preventing juvenile crime, providing references and insights for solving juvenile crime issues.

Keywords: Eleventh Amendment to the Criminal Law, Juvenile Crime, Age of Criminal Responsibility, Crime Prevention

1 Introduction

Recently, there was a shocking incident in Handan where three middle school students murdered a classmate, which has drawn widespread attention from the media and the public. On the day of the incident, these three students lured the victim to a vegetable greenhouse, robbed the victim of their cellphone, and forced the victim to transfer over 100 RMB in change from their phone to them. Subsequently, these three students killed their classmate, and the victim's ordeal was deeply disturbing. It later came to light that these three students frequently bullied and insulted classmates at school, demonstrating their cruelty and malicious behavior.

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To effectively prevent juvenile crime and prevent such heinous incidents from recurring, the Eleventh Amendment to the Criminal Law stipulates that minors aged 12-14 should be subject to criminal prosecution. According to the provisions of the Criminal Law Amendment, following a review by the prosecution, it was determined that the three middle school students, aged over 12 but under 14 at the time of the crime, intentionally caused the death of the victim under particularly malicious circumstances, warranting criminal liability. On April 8, 2024, after review by the Supreme People's Procuratorate, it was decided to formally prosecute the three suspects.

However, observations from recent cases indicate that this provision has not effectively deterred criminal behavior among minors, as serious juvenile crimes continue to occur frequently. This prompts reasonable consideration: while this provision primarily serves a punitive role after juvenile crimes have been committed, its effectiveness in preventing juvenile crime is minimal. Could this be a limitation of lowering the age of criminal responsibility? How should this limitation be addressed? Ensuring that the provision to lower the age of criminal responsibility aligns with the legislators' intentions and effectively achieves its purpose may require additional supplementary measures.

2 Analysis of the Legitimacy of Lowering the Age of Criminal Responsibility

In China, multiple laws exhibit a protective stance towards minors, emphasizing education as primary and punishment as supplementary. Specifically, the "Law on the Protection of Minors" has been amended to include principles most favorable to minors, adding chapters on "Internet Protection" and "Government Protection." This further enhances the protection mechanisms for minors by coordinating efforts among families, schools, society, the internet, and the government. Additionally, other laws applicable to all citizens include specific provisions and protections for minors. For example, amendments to the "Criminal Procedure Law" introduce various special systems such as conditional non-prosecution and special procedures for juvenile suspects, offering new pre-trial diversion and decriminalization avenues.^[1]

Despite these legal provisions aimed at preventing juvenile crime, they also provide opportunities for younger minors to evade legal sanctions, effectively becoming a "get-out-of-jail-free card" for criminals of that age. This has sparked debates regarding protection versus indulgence. Minors exploiting their age advantage to repeatedly commit offenses undermine the purpose of laws intended to protect vulnerable minors from harm, rather than shield criminal minors from punishment.

2.1 Conformity with the Principle of Unity of Subjective and Objective Aspects in Criminal Law

Taking the case of the vicious juvenile crime in Handan as an example, where three students lied to the police to cover up the facts, it is evident they understood clearly that their actions violated the law and infringed upon the rights of others. According

to the principle of unity of subjective and objective aspects in criminal law, criminal liability requires both subjective intent and objective action. In this case, the three students objectively committed the murder of their classmate and subjectively understood their actions as unlawful infringement. Thus, it aligns with the principle of unity of subjective and objective aspects. Moreover, according to criminal law, the determination of "intent" does not require a comprehensive understanding of every detail of the criminal event; it suffices that the actor perceives the risk posed to the victim and intentionally acts upon it.

For minors aged 12-14 as stipulated by the Criminal Law Amendment, although their legal awareness may be less developed and their mental faculties not fully matured, they are likely to recognize whether their actions are illegal. Therefore, lowering the age of criminal responsibility not only upholds the principle of unity of subjective and objective aspects but also serves as a deterrent through punitive measures, effectively preventing serious juvenile crimes. The decision of the Supreme People's Procuratorate to approve the prosecution of the three suspects in Handan based on the Criminal Law Amendment indicates that lowering the age of criminal responsibility is justified in judicial practice.

2.2 Balancing the Rights of Defendants and Victims

As mentioned earlier, China's legal framework includes protections for minors and upholds a criminal policy of "education as primary, punishment as supplementary." However, excessive protection of minors may deviate from legislative intent and expose loopholes. Applying a broad concept of "crime" within the framework of this criminal policy emphasizes education's importance while neglecting the necessity of punishment. Under this broad concept, serious crimes are diluted by numerous minor offenses. Therefore, vigilance is required to prevent this criminal policy from exceeding the boundaries of criminal law and turning tolerance for juvenile offenders into indulgence.

Lowering the age of criminal responsibility can reduce opportunities for underage individuals to evade legal sanctions due to age restrictions, effectively addressing the emotional distress of victims and their families. The essence of punishment under the law, even when emphasizing education and prevention, inherently carries punitive implications. Therefore, emphasizing education does not necessarily imply leniency in punishment or exemption from criminal consequences.^[2] This approach can effectively deter juvenile crime by enforcing the notion that age does not absolve one from legal accountability.

2.3 Rationality of Malicious Age Filling Rules Applicable in China

First, setting 14 years old as the sole standard for criminal responsibility is bound to spark controversy. Mental maturity and awareness of criminal behavior are highly subjective criteria, and if we rely solely on the objective condition of being 14 years old to create a generalized framework, many problems will arise. The current regulations need to be updated promptly to adapt to current trends. Rigidly adhering to the

concept of mental age is no longer in line with modern demands for rights protection. Establishing a fixed minimum age for criminal responsibility cannot address all issues. For instance, in cases of violent crimes committed by minors who have not yet reached the age of criminal responsibility but exhibit significant malicious intent and extreme misconduct, simply using 14 years old as the threshold for determining criminality is not accurate. The subjective malice and danger posed by such individuals cannot be adequately measured. An absolute standard for the age of criminal responsibility cannot provide a reasonable solution for these situations.

Second, some scholars argue that the "malicious completion of age" rule contradicts the principle of restraint in criminal law. They believe that the "malicious completion of age" rule expands discretionary power, which may undermine the principle of restraint when applied to minors. The principle of restraint in criminal law means that legislative bodies should only designate certain behaviors as criminal offenses when absolutely necessary, and no other appropriate alternatives exist to replace punishment. In this regard, I believe that in cases of juvenile crime, when young minors who can clearly discern right from wrong commit crimes that cause significant harm to protected legal interests, such actions justify punishment. On the one hand, the violated legal interests deserve protection through criminal penalties, and punishment is necessary to address such harmful behavior. On the other hand, it also satisfies the need for punishment, as these legal interests cannot be adequately protected through existing legal systems or other means. Therefore, using the degree of "malice" to compensate for the lack of age does not violate the principle of restraint in criminal law. Rather, it is a proactive measure that upholds this principle while enhancing the preventive function of criminal law.

3 Limitations of Lowering the Age of Criminal Responsibility

The approach proposed by the "Criminal Law Amendment (XI)" to lower the age of criminal responsibility has its rationale, but relying solely on legislative or regulatory changes may not achieve the goal of preventing juvenile crime. Data indicates that since the enactment of the "Criminal Law Amendment (XI)," the number of crimes committed by minors has not decreased; instead, it has shown an upward trend. This suggests that the measure of lowering the age of criminal responsibility has had little effect on preventing juvenile crime. From this, we can analyze that increasing the severity of post-crime punishment cannot compensate for the serious consequences of criminal behavior. Strengthening preventive measures before crimes occur is the correct path. Furthermore, China adheres to the principle of prioritizing education over punishment. The provisions of the "Criminal Law Amendment (XI)" regarding the lowering of the age of criminal responsibility may conflict with this principle, which is also a topic worthy of discussion.

3.1 Ineffectiveness in Crime Prevention

Comparing data from 2017 to 2021, the proportion of individuals under 16 years old handled by procuratorial organs for review and arrest increased by 30.6%, and the proportion of those under 16 years old prosecuted increased by 24.2%.^[3] This indicates that the current situation of juvenile crime in China remains severe. Analysis of the "White Papers on Prosecution Work for Minors" published by the Supreme People's Procuratorate from 2020 to 2022 shows a consistent increase in the number of minors prosecuted. The crimes primarily involve violent offenses. Therefore, attempting to address serious juvenile crimes by simply legislating to lower the age of criminal responsibility has not curbed the trend towards younger and more violent crimes among minors. It reflects unintended consequences in judicial statistics.

Most juvenile crimes in recent years are characterized by impulsiveness and lack of premeditation. The causes that trigger these crimes are often trivial, and the crimes are usually committed impulsively without clear division of roles among the perpetrators. The reasons behind these crimes include poor self-control of minors, inability to resist peer pressure in today's society, and blind association with others who lead them into criminal activities. Therefore, lowering the age of criminal responsibility can only increase the punishment for suspects after the crime has occurred, which does not eliminate the root causes of criminal tendencies and thus does not achieve effective governance.

3.2 Impracticality of Further Lowering the Age of Criminal Responsibility

Based on the analysis above, further lowering the age of criminal responsibility only serves to punish underage offenders and console the families of victims, but it has minimal deterrent effect on minors. The legislative intent behind lowering the age of responsibility was to reduce the juvenile crime rate, not primarily to punish juvenile offenders.

Minors fundamentally differ from adults, and the age of criminal responsibility serves as a benchmark to distinguish between criminal minors and adults, reflecting the basic stance of legislators on the view of children. Continuously lowering the age of criminal responsibility would imply treating children under 12 as adults in specific circumstances, negating their differences from adults and abandoning education in favor of punishment. Such an approach is untenable and does not align with societal views. Another critical criterion distinguishing minors from adults is "social age," which assesses whether an individual has entered adult society and assumes adult responsibilities. In contemporary society, the age at which individuals complete education, begin working, or get married has generally increased rather than decreased. Thus, the societal notion of adulthood is delayed rather than advanced.

Overall, blindly lowering the age of criminal responsibility will not have a significant effect on preventing juvenile crime. Moreover, further reducing the age of criminal responsibility would neither meet the actual needs of society nor align with prevailing social values.

3.3 Contravention of the Principle of Maximizing the Interests of the Child

Article 3 of the UN Convention on the Rights of the Child (1989) explicitly establishes the "best interests of the child" principle, ^[4]emphasizing that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts, administrative authorities, or legislative bodies, the primary consideration should be the child's best interests. China's latest amended "Law on the Protection of Minors" in 2020 also mandates that all matters concerning minors must follow the principle most favorable to the child.

Therefore, applying punishment to minors, especially young minors, and labeling them as "criminals" may lead rebellious adolescents to interrupt their self-development and maturation process, potentially evolving them into true criminals. "Punishing without teaching" may satisfy general desires for retribution but is not rational or wise. Punishing juvenile offenders only serves to render a somewhat fair judgment on the outcomes that have already occurred but does not contribute to achieving societal defense goals.^[5] When conflicts arise between protecting the interests of minors and safeguarding societal interests, focusing on the education and correction of juvenile offenders according to the principle most favorable to the child may unify child protection and crime prevention.

4 Optimized Paths for Preventing Juvenile Crime

As stated above, simply lowering the age of criminal responsibility does not significantly impact the prevention of juvenile crime. To effectively reduce juvenile crime from its roots, it is necessary to strengthen preventive measures. Punishing juvenile offenders is not the goal of legal reforms; rather, the foremost task is to lower the rate of juvenile crime and guide minors towards healthy growth. To achieve this, efforts from schools, parents, and society as a whole are required to enhance legal education for minors and cultivate legal thinking. At every stage of a minor's development, they should be guided onto the right path to prevent criminal behavior from occurring.

4.1 Strengthening Legal Education in Schools, Enhancing the Role of School Guidance

Schools play a crucial role in instilling a legal concept and reinforcing legal awareness among minors. However, some schools only superficially conduct legal education, lacking professionalism and sufficient coverage to deeply educate students on laws that minors are prone to violate. Moreover, some school curricula inadequately analyze the causes and consequences of crimes, failing to instill a respectful fear of the law in students and a conscious effort to prevent crime.

Schools have the obligation to help students deeply understand the severity of criminal responsibility. Students should be familiarized with the criteria for criminal responsibility at ages 12-14 and the associated charges, while understanding the implications of a criminal record on their future. This approach can make them more aware of the dangers of criminal behavior and achieve the goal of crime prevention.

"Legal education entering campuses" is more than just a slogan; schools should abandon a perfunctory attitude and innovate more actively in legal education. For example, schools can collaborate with judicial authorities to train teachers, ensuring they have a thorough understanding of the law. Furthermore, the approach to legal education should move beyond mere lectures to include various competitions and debates, actively involving students in legal education to deepen their understanding of the law and enhance its effectiveness.^[6]

4.2 Implementing Family Education, Strengthening Parental Supervision Responsibilities

In the case involving three middle school students in Handan who murdered a classmate, the students' actions were shocking, but the behavior of their parents was even more perplexing. When the victim went missing, instead of cooperating in the search, the parents of the three students were resistant, even refusing to open the door under the excuse of being afraid their children would be frightened. When they did finally open the door, they continued to make excuses. Such parents clearly failed to fulfill their responsibility to properly guide and supervise their children. Additionally, after the incident, the victim's father revealed, "There was a period when my child resisted going to school. We just thought it was normal for children to be playful, but that was actually his cry for help." This suggests that the negligence of the parents, failing to provide adequate care and attention to the minor, was a major factor in this tragedy.

Furthermore, the role of parents in setting an example is crucial for the healthy development of minors. Family feuds and grudges should never be passed down to children. Many minors who commit crimes come from single-parent families, where the lack of proper care and education due to parental divorce leads them to feel undervalued and socially isolated. This makes them more vulnerable to negative influences, potentially leading them astray and into bad habits. Without proper guidance and sufficient affection, minors are likely to be negatively impacted by adults in society. In crimes committed by both minors and adults, minors are more easily manipulated and enticed by adults. Moreover, without appropriate guidance during adolescence, they may develop antisocial, extreme, and rebellious tendencies, ultimately leading them down the path of criminal behavior. Therefore, family education is a critical factor in preventing juvenile crime.

The Law on the Protection of Minors emphasizes the protective role of the family and clearly outlines the guardianship duties that parents or other guardians should fulfill. However, there are challenges in its practical enforcement. For example, whether parents are truly assuming their roles as guardians remains to be assessed. Thus, relevant authorities need to strengthen supervision. Judicial bodies, in the process of handling cases, should, when discovering instances where a minor's crime or victimization is due to negligence or dereliction of duty by the guardians, promptly work with relevant departments to organize monitoring and family education guidance, and order the guardians to receive family education training.

Moreover, after a juvenile commits a crime, increasing the civil liability of the parents can serve a dual purpose. On one hand, it can help compensate the victim and

their family for the harm caused. On the other hand, it encourages parents to take an active role in fulfilling their supervisory responsibilities and disciplining their children. This approach would be more effective in achieving the goal of preventing juvenile delinquency.

4.3 Promoting the Construction of a Comprehensive Social Protection System and Intensifying Legal Propaganda Efforts

By analyzing characteristics of juvenile crime cases, it's evident that the majority have low educational levels, with up to 90% having only completed junior high school education, and 20% currently enrolled. ^[7]In the recent Handan case involving three middle school students, their low educational attainment was a significant factor contributing to their lack of legal awareness. It can be inferred that there is an inverse relationship between education level and crime rate, indicating that education plays a significant role in deterring crime. Therefore, enhancing the educational attainment of minors is urgently needed.

Although China has implemented universal nine-year compulsory education, early dropout rates remain prevalent in underdeveloped remote areas. Relevant authorities can provide economic assistance to families facing such circumstances to facilitate minors' return to school. It's imperative to deeply promote the integration of law into villages and homes, establishing a coordinated mechanism involving government, judiciary, schools, and families.

Simultaneously, there is a need to strengthen public opinion guidance on juvenile crime, advocating for positive, upwardly mobile values. Utilizing media and online platforms positively to shape minors' values and behaviors, and reducing the promotion and glamorization of violence and crime, is crucial. Publicizing the dangers of juvenile crime can raise public awareness of the issue.

4.4 Active Fulfillment of Duties by Public Authorities to Standardize Juvenile Behavior

Firstly, administrative departments responsible for protecting minors often operate independently, lacking effective communication and societal involvement, thereby struggling to form a united front. Therefore, collaborative efforts between civil affairs departments, education departments, organizations for minor protection, and township governments are essential. These collaborations should emphasize communication and leverage each other's strengths. For instance, minor protection organizations can collaborate with education departments to provide diverse extracurricular activities and cultural entertainment, fostering minors' sense of social responsibility and teamwork while integrating legal education into these activities.

Furthermore, minors may face pressure from family, school, and societal aspects, with mental health issues potentially becoming a latent factor in crime. Schools can liaise with the government to offer richer psychological support and counseling services to students, helping them effectively cope with stress and emotional issues, which is a critical measure in preventing juvenile crime.

Secondly, as a legal supervisory body, prosecuting authorities hold a special responsibility. They can gradually implement pilot projects for unified handling of juvenile prosecution cases, establishing juvenile prosecutor's offices. Consolidating relevant cases allows for efficient handling and accumulates experience in addressing issues affecting minors, thereby promoting steady improvements in juvenile justice. Starting from the root causes of issues affecting minors, this approach provides valuable experiences for various societal sectors and offers clearer directions for preventing juvenile crime.^[8]

5 Conclusion

The growth of minors determines the future development of our country. However, the juvenile crime rate has remained persistently high. The Amendment XI of the Criminal Law aimed to change this situation legislatively, but relevant data shows its effects have not been significant. The chilling case in Handan where three middle school students murdered their classmate serves as a stark reminder that strengthening legal education for minors is urgently needed.

The factors leading minors astray towards criminal behavior are not solely individual; every aspect of their upbringing contributes to their choices. Therefore, to effectively prevent juvenile crime at its roots, we must address the various factors that may influence them towards crime. This includes enhancing the guiding role of schools, ensuring parental supervision, and establishing a comprehensive social protection system. By strengthening legal awareness among minors through school and family education, we can collectively nurture their healthy development and prevent such tragic cases from occurring again.

References

1. Wang Guangcong. Welfare-Oriented Reform of the Criminal Policy of "Education First, Punishment Second" [J]. *Juvenile Delinquency Issues*, 2019(6): 53.
2. Su Qing. A Restatement of the Criminal Policy of "Education First, Punishment Second" in Juvenile Crime [J]. *Juvenile Delinquency Issues*, 2018(4): 11.
3. Peng Xiaoyuan. Comparative Analysis of Lowering the Age of Criminal Responsibility in the Amendment (XI) to the Criminal Law [J]. *Legal Expo*, 2023(12): 66.
4. The "Best Interest of the Child" principle originates from Article 3 of the United Nations Convention on the Rights of the Child (CRC), which states that "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration."
5. Ma Xiao. A Theoretical Review and Optimized Application of Punishing Juvenile Crime for Minors Aged 12-14—Further Discussion on Article 1 of the Amendment (XI) to the Criminal Law [J]. *Journal of Shandong Youth University of Political Science*, 2023(1): 49.
6. Guo Xuejiao. Causes and Correction Paths of the Juvenile Crime Trend of Lower Age [J]. *Legal Expo*, 2024(3): 18.

7. Wang Jing. Construction of a Comprehensive Protection System for Juveniles: A Prevention Perspective on Juvenile Crime [J]. Legal Expo, 2023(26): 51.
8. Wang Chenyu, Wang Mengyao, Wang Ruochong, Tan Yuxin, Duan Ying. Causes of Serious Juvenile Crimes and Measures for Punishment and Prevention [J]. Legal Expo, 2022(5): 20.

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