

# The Development Process of Juvenile Delinquency Litigation System and Procedure in China

Yuchen Ma

Shanghai International Studies University, Shanghai, 201620, China

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**Abstract:** With the continuous growth of social economy, social relations have become more and more complicated. Minors, as a group in social relations, are not fully mature psychologically and physically, which leads to their wrong cognition or understanding when they come into contact with some new things, which leads to a series of problems. Juvenile delinquency has aroused the concern of the whole society, and the crime situation is not optimistic, showing an increase in the number, which has a far-reaching impact on the construction of a harmonious society. Due to the lack of organic connection between substantive provisions and procedural requirements, and the unclear boundary between ordinary procedures and special procedures in application, it is particularly necessary to update concepts and constantly improve relevant systems in understanding and implementing juvenile criminal proceedings. From the perspective of existing problems and practical needs, this paper discusses the development process of juvenile criminal litigation system and procedures in China, with a view to improving the juvenile criminal litigation system at the legislative level and providing theoretical support for juvenile criminal litigation procedures.

## 1. Introduction

In recent years, the high incidence of juvenile delinquency has made us pay more attention to it. Because of the immature psychological and intellectual growth of minors, they still do not have full capacity for behavior, so how to protect the legitimate rights and interests of minors is particularly important [1]. The juvenile criminal litigation system is mainly a series of litigation systems adopted by the national judicial organs when dealing with juvenile criminal cases under the age of 18 [2]. Different from adults, minors are not mature in physiology and psychology, so they cannot follow the unified criminal procedure system. In judicial practice, the reason why juvenile criminal cases appear one after another is not because they don't know the national laws, on the contrary, they are very clear about the national laws and regulations, and even use these regulations to escape legal sanctions [3]. It is urgent to improve the criminal procedure of minors, further strengthen the education and protection of minors and correct crimes. The Criminal Procedure Law has made some special provisions on juvenile criminal cases, which has raised the legal protection of juvenile criminal suspects to a new height [4]. According to the basic characteristics of juvenile delinquency, legal researchers should carefully analyze the current situation and existing problems of juvenile criminal litigation system, and constantly improve and perfect these problems in order to effectively protect the legitimate rights and interests of minors [5].

The procedure of juvenile criminal cases is a special procedure in criminal proceedings, which plays a more important role than that of adults. Whether a country can develop for a long time and always stand firm depends entirely on whether minors have sound personality, thought and psychology [6]. Although the total amount and proportion of juvenile delinquency in China are decreasing year by year, with the growth of economy, new crimes of juvenile delinquency are constantly emerging [7]. Because minors' psychology and physiology are not fully mature, they have a wrong cognition or understanding when they come into contact with some new things, which leads to a series of problems, that is, juvenile criminal cases are common, and the problem of juvenile delinquency is becoming more and more prominent [8]. With the continuous development and change of social form, the traditional criminal procedure law has the system and management regulations, and the law lacks sound management and restraint on minors [9]. This paper discusses

the development process of the juvenile criminal litigation system and procedure in China, with a view to improving the juvenile criminal litigation system at the legislative level and providing theoretical support for the juvenile criminal litigation system.

## **2. Necessity of Establishing the Procedure of Juvenile Criminal Cases**

In recent years, the proportion of crimes committed by them has reached 50% only at the stage of being over 14 years old and under 16 years old, and it is still rising, and the age of crime is also declining. However, the policy of “education and protection” carried out by criminal procedure for juvenile offenders can not put an end to this phenomenon. Compared with other criminal cases, juvenile criminal cases have strong particularity, so they must be treated differently [10]. Compared with adults, minors are vulnerable to adverse effects in social interaction. However, their ability to re-recognize external things and their world outlook, outlook on life and values are very plastic. In handling juvenile criminal cases, it is necessary to rely on specialized agencies or full-time personnel to handle them.

According to the law of China, in order to effectively prevent minors from committing crimes, when handling related cases, either the judges who are familiar with the physical and psychological characteristics of the juvenile offenders are responsible for handling them, or the relevant people's jurors set up a juvenile court specifically for the juvenile offenders in accordance with the law. Judicial personnel handling criminal cases can fully grasp the physical and mental characteristics of minors and have high professionalism. Minors are in an important growth stage of life and a rebellious period of youth. Their body and mind are not yet mature, their awareness of society and law is relatively weak, and they lack a certain understanding. At this time, they still lack the awareness and ability of self-protection [11]. For juvenile offenders, the existing judicial procedures in China are far from enough to protect their legitimate rights and interests. For example, the conditional non-prosecution system in the Criminal Procedure Law has strict applicable conditions for minors, and the scope of applicable crimes is narrow and the threshold is still relatively high.

In today's materialistic society, the criminal behavior of minors has become a social criticism. To some extent, minors are also victims when they become criminals. In this case, the state should strengthen the improvement and perfection of the criminal procedure system for minors, and at the same time, it should constantly give minors more rights and provide comprehensive and powerful safeguard measures. To further establish and improve the criminal proceedings of minors is of great significance for promoting the reform of the judicial system in China, establishing a judicial system specifically for minors, and improving the corresponding procedural measures, so that all measures against juvenile offenders can be carried out in accordance with the law and procedures, and it is of great significance to influence, educate and save juvenile offenders.

## **3. The Development Process of Juvenile Criminal Litigation System and Procedure**

As a special procedure, the content of “juvenile criminal case litigation procedure” is different from ordinary litigation procedure. Because the procedure of juvenile criminal cases is more fully embodied than the general procedure in protecting the rights of criminal suspects, defendants, victims and other litigation subjects, it not only embodies the “special care” of the state for minors, but also stipulates the “special treatment” of minors in criminal proceedings [12]. In 1899, the United States enacted the Juvenile Court Act, which established the first juvenile court in the world, thus creating a milestone in dealing with juvenile crimes. In 1984, the first juvenile court appeared in China, which was responsible for hearing juvenile criminal cases. In the following decades, relevant laws, regulations and systems were constantly established and improved. In 1991, the Law on the Protection of Minors was officially promulgated, and for the first time, the principles of education, probation and so on were clearly implemented in the form of legislation to protect minors who violated the law. In 1999, the Law on the Prevention of Juvenile Delinquency was promulgated, which also adhered to the principle of giving priority to education and made it clear that the litigation rights of juvenile groups should be guaranteed in the handling of such cases. The

Criminal Procedure Law, which came into effect on January 1, 2013, further improved the procedure of juvenile criminal cases.

The procedure of juvenile criminal cases refers to a series of proceedings applicable to minors who commit criminal activities and need to be investigated for legal responsibility according to law. The procedure of juvenile criminal cases appeared for the first time in the Criminal Procedure Law of 2012 (because this part was not amended in the Criminal Procedure Law of 2018, but the order of articles was adjusted, which will be called the Criminal Procedure Law of 2018), which is a special procedure and independent. The Criminal Procedure Law of China in 2018 also stipulates that the conditional non-prosecution system can be applied to minor litigation cases under certain conditions. In short, following the provisions of the Criminal Procedure Law on minors, China law has set up a series of special protection procedures different from those of adults. Although China has issued normative legal documents, it is found that China has never built a perfect judicial system framework. Coupled with the lack of coordination and communication between various departments, it is impossible to achieve reunification. The 11th Amendment to the Criminal Law, which came into effect on March 1st, 2021, stipulates that under “special circumstances and special procedures”, minors over the age of 12 but under the age of 14 shall also bear criminal responsibility according to law if they commit serious violent crimes, and stipulate the responsibilities of parents and guardians, adding relevant provisions on providing special corrective education to the minors according to law when necessary.

#### **4. On the Procedure of Juvenile Criminal Cases**

##### **4.1 Problems of Social Investigation System**

Social investigation system is a special system used by China law to protect minors. However, due to the lack of experience in using this system in practice, the provisions of the law on this system are not very precise. If the procuratorial organ finds that there are doubts in the case and investigates the responsibility of the relevant presiding officer, it may shirk the responsibility by using the investigation reports of other institutions. Considering the particularity of juvenile delinquency, China has gradually established the investigation system, examination system and corresponding trial system, and basically formed the judicial system of juvenile delinquency, but it has not raised juvenile delinquency to the level of criminal proceedings.

##### **4.2 Problems of Conditional Non-Prosecution System**

Conditional non-prosecution system in China's Criminal Procedure Law in 2018 can be said to be a sign of the progress of the rule of law in China. However, as a new system of legislation, it still lacks a lot of experience in practice, so there are many shortcomings. The provisions of the restrictive content in this system are very similar to those of probation and parole, which also shows that the laws of China are vague about the restrictive content in the conditional non-prosecution system, and there is no special provision for the physical and mental characteristics of minors, which makes no positive impact on their educational reform. The purpose of the system of sealing juvenile criminal records is to avoid labeling minors as criminals to the greatest extent, so as to help them return to society smoothly. However, there is a prerequisite for the application of this system, that is, imprisonment of less than five years, which leads to the exclusion of some minors from the scope of application and makes them labeled as criminals.

#### **5. Suggestions for Improving the Procedure of Juvenile Criminal Cases**

##### **5.1 Refine the Social Investigation System**

As far as the social investigation system is concerned, it mainly refers to that in formal cases involving minors, when handling minors, the case-handling unit should not only clearly check the specific situation of the case, but also understand the relevant information of the case in detail. In judicial practice, in principle, social investigation should be conducted by public security organs or

organizations entrusted by them, which can provide reference for investigating cases and lay a foundation for subsequent trials. Although the implementation of social investigation system is mainly based on public security organs and units, there are many factors involved in the investigation, which not only provides a reliable basis for educating minors, but also provides an effective way to correct juvenile delinquency. Unclear responsibility subject of social investigation system for juvenile criminal suspects will affect the further implementation of the system, affect the efficiency of judicial organs in handling cases, and is not conducive to the protection of juvenile criminal suspects. It is very important to clarify the responsibility subject. In view of the social investigation methods, we should take field investigation as the main method, supplemented by writing, and choose flexible investigation methods based on the actual situation.

## **5.2 Moderate Relaxation of Non Prosecution Conditions**

In the world, the application of this system in China is extremely strict, but in order to implement the policy of education and probation, we should appropriately expand the charges that can be applied to this system. In the new criminal procedure law, although the system of non-prosecution for minors' accessories is put forward, its application conditions are harsh, which leads to a great reduction in cases that can meet the conditions of non-prosecution. The current law has strict restrictions on charges and terms of imprisonment, which makes the system only applicable to a small number of juvenile offenders, with a narrow coverage and unable to fully realize its legislative purpose. Seal-up only means not providing criminal records to individuals or units, but their criminal records still exist. In order to enable juvenile offenders to reintegrate into society again, the state should appropriately and conditionally eliminate criminal records when conditions are ripe. In order to help juvenile offenders return to society smoothly and healthily, we should relax the charges and sentences appropriately, so as to achieve the purpose of educating and protecting juvenile offenders.

## **6. Conclusions**

With the emergence of the problem of juvenile delinquency, the society has paid a lot of attention to juvenile criminal cases, which is not only a legal problem, but also a problem faced by the whole society. At present, the regulations on juvenile litigation system in China are still in the exploratory stage. Although relevant regulations have been put forward in the new criminal procedure law, the handling of juvenile criminal cases in different regions is also very different, and there is a lack of uniform implementation standards. The current criminal procedure law makes the procedure of juvenile criminal cases a separate chapter, and at the same time, it adds a series of unique protection systems. However, to really solve this problem, we need to constantly improve the legislative system in China and further improve the procedure of juvenile criminal cases in China. When trying cases of juvenile delinquency, we should learn lessons and sum up experience in time. From the perspective of protecting the healthy and happy growth of minors, we should constantly improve the juvenile criminal procedure system based on the immature psychological and physical characteristics of minors, which can provide more legitimate rights and interests for juvenile suspects.

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