

## A Study on the Justice Treatment of Delinquent Juvenile From a Child-Friendly Perspective

LI Bo<sup>[a]</sup>; YU Yin<sup>[b],\*</sup>; PAN Liuyi<sup>[c]</sup>; HU Anyi<sup>[c]</sup>

<sup>[a]</sup> Research assistant, School of Zhejiang DongFang Polytechnic, Wenzhou, China.

<sup>[b]</sup> Lecturer, School of Zhejiang Dongfang Polytechnic, Wenzhou, China.

<sup>[c]</sup> Student, School of Zhejiang Dongfang Polytechnic, Wenzhou, China.

\*Corresponding author.

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### Abstract

The delinquent juvenile refers to the juvenile who has been involved in crime or has bad behavior, serious bad behavior. At present, the construction of child-friendly cities is in full swing, but from this perspective, the problem of “friendly intervention” for delinquent teenagers has rarely been paid attention to. Including the “friendly” policy support for judicial treatment is not strong enough, the “friendly” measures lack pertinence and innovative design, the crime of juvenile intervention “friendly” coordination situation has not been formed, which is not conducive to the education correction of juvenile crime, but also the “child friendly” construction shortcomings. To this end, it is necessary to pay attention to the concept of juvenile justice, can not know the value of the concept, but it is empty and silent. On this basis, further digging the idea core and law, and on the basis of logic law, putting forward the path and countermeasures.

**Key words:** Child Friendliness; Juvenile delinquency; Education correction; Judicial treatment

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The delinquent juvenile refers to the juvenile who has been involved in crime or has bad behavior or serious bad behavior. At present, there are some consensus views on how to deal with juvenile delinquency in theory and

practice. Considering the physical and mental particularity of minors, they should insist on education, rehabilitation and rescue. The judicial treatment system for delinquent minors should be applied and follow the emphasis on protection, recovery and active prevention. The juvenile justice system for delinquency should go beyond simple punishment and reflect the “child-friendly” side, and take it as a guide to cover various “flexible” governance measures. However, whether in theory or practice, the problem of juvenile delinquency and wrong behavior still needs to be further studied, especially in the practical sense. How to effectively transform the theoretical results into practical help actions, which not only needs to analyze its feasibility from the theoretical point of view, but also needs to be criticized and adjusted based on practical practices and perspectives.

At present, the construction of child-friendly cities is in full swing, but from this perspective, the problem of “friendly intervention” for delinquent teenagers has rarely been paid attention to. Taking A city as an example, since 2022, A city has focused on the “six friendly issues” of children’s policies, services, rights, space, environment and industry, comprehensively built the “1639” work system, coordinated and promoted 122 specific tasks in 30 actions. In 2023, the construction of child-friendly cities will focus on improving quality and expanding coverage. A city also will launch a new batch of 34 policy measures, promote the construction of 40 key projects, and create 260 child-friendly pilot units. However, looking at the “list”, its “friendly” measures for delinquent teenagers are relatively few and weak. As a special group of children, delinquent teenagers go astray because of their parents’ divorce, family education, economic problems, emotional frustration, psychological imbalance and other reasons. Child-friendly construction should not ignore these young people, but should also make efforts from the weak spot, make up for the shortcomings, and give the neediest groups “timely” care.

## 1. BASIC CONCEPT AND CONSENSUS OF JUDICIAL TREATMENT FOR DELINQUENT JUVENILE

Based on the research of welfare value and concept, laws and regulations are introduced to protect vulnerable groups, the problem of dealing with delinquent juveniles is one of the key issues. It is also the continuous cognition of the concept of welfare that has further reached the consensus that the delinquent juvenile should be corrected by social education. In the context of governance modernization, this is the starting point of theory and practice. To this end, it is necessary to review the basic concept and practice of judicial treatment in order to further promote the study of the law presented under the theme of modernization.

### 1.1 Derived from the value of child welfare

The concept of child welfare is the summary and refinement of a series of contents related to the life, freedom, development and protection of rights of minors. It is also a common requirement for the country, society, family and other subjects. Different views and values of child welfare will affect the orientation and paradigm choice of child welfare laws and policies, as well as the standards of child welfare protection and corresponding legal and policy indicators. Juvenile justice must be committed to the continuous development and improvement of children's welfare, and promote the maximization of children's interests. Article 1 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty states: "The juvenile justice system shall uphold the rights and safety of juveniles and promote their physical and mental well-being, and imprisonment shall be used only as a last resort."

All countries in the world generally take the idea of child welfare as the guide to construct their juvenile judicial treatment system. For example, the Children and Adolescents Act 1969 of the United Kingdom is a manifestation of the acceptance of the child welfare model in the juvenile criminal justice system. The law clearly constructs the juvenile criminal justice system with the social welfare model, and points out that the juvenile crime problem should be solved by non-judicial and non-incarceration methods such as supervision, treatment and social welfare. Rather than simply imposing custodial sentences on minors. In the United States, the Minnesota Act requires that pretrial triage programs should be established for offenders and meet the following objectives: to provide alternatives to trial for eligible offenders, emphasizing restorative justice; Reduce the cost and case pressure of juvenile courts and juvenile justice; Reduce the recidivism rate of shunted juvenile; Promoting victims' access to compensation; Develop credible alternatives for eligible offenders in the juvenile justice system.

In order to improve the juvenile justice system, we should further highlight the concept of children's welfare as the value guide, and realize the protection of minors' rights and interests and maximize their interests as the goal. In conclusion, the concept of "child friendliness" is necessary, and it cannot be separated from the "welfare" of children as the core, and the deployment and construction of all measures, which naturally extend to the level of delinquent teenagers.

### 1.2 Practice social education correction

If the punishment system for delinquent juveniles is only a simple punishment, it will lead to their isolation from the society and easily lead to new crimes. Therefore, professional intervention should be introduced to avoid adverse effects. On the one hand, different intervention methods should be designed according to the treatment classification to improve the pertinence and effectiveness of intervention. On the other hand, the psychological behavior of minors is often affected by external adverse factors, so the intervention should be targeted.

The initial goal of judicial treatment is that the state uses punishment and other means to promote retributive justice and realize the utilitarian purpose of social defense. With the deepening of the diversification of social governance, the development of civil society has changed the traditional state monopoly model of social governance. From the perspective of social dynamic operation and joint logic, public governance must respond to the needs of social development, apply the law of social development to achieve this goal, and transcend the single state standard and means. From the perspective of juvenile crime management, juvenile justice should pay attention to social protection, and realize the trinity integration model of family, school and society through social guidance.

In the theory of sociology of crime, Tarde's imitation theory of crime holds that social relations are an interactive relationship between individuals, and therefore subject to the basic social fact of "imitation", which also plays a leading role in the organization and development of social life. For example, many important behaviors in social life are the result of mutual imitation and are governed by imitation. Therefore, we should pay attention to the development of juvenile groups when dealing with juvenile delinquency. The legal consequences of adult crime seem clearer than those of juvenile crime, and criminal intent is more of a standard criminological concept. The management of juvenile delinquency emphasizes more on the compensation and repair of the damage to society and others, and the optimization of the juvenile justice system should also pay attention to the repair of the damage of this relationship.

In addition, studies generally show that compared with ordinary minors, the rational judgment ability of delinquent minors is obviously insufficient, and they

are more easily affected by intuition and emotions, and have greater impulsivity. In the evaluation of their own behavior, juvenile delinquents are usually unable to judge the consequences of criminal behavior and painful punishment. Therefore, the judicial treatment system for delinquent juveniles should focus on the correction of their re-socialization, rather than simply deterring by punishment. After all, the deterrence of punishment mainly lies in the balance between adverse consequences and illegal behavior, but this balance is negligible in the face of impulse.

## 2. THE CONCEPT OF CHILD-FRIENDLY VALUE AND THE LAW OF DEALING WITH DELINQUENT JUVENILES

The concept of judicial restoration has typical significance, and it has been emphasized and widely applied up to now. Based on the perspective of education and correction of juvenile delinquents, the concept of child friendliness can not be justified without the concept. It can be said that for some children with wrong thoughts, deviant behaviors, and even illegal crimes, the so-called child friendship cannot be separated from education correction, nor can it be separated from the research and practice of the concept of judicial restoration.

In this sense, the study of value concepts is not idle or full of nonsense. Only with a deep understanding of what the concept of judicial rehabilitation is and how it should be implemented, can it be possible to put forward real building ideas in a child-friendly context. Before this, we need to explore the logic and law of the treatment of delinquent juveniles under this idea.

### 2.1 The kernel of the idea of judicial restoration

Restorative justice is not only a judicial concept, but also a disposal plan. It focuses on the restoration of social relations destroyed by criminal acts, and emphasizes that the perpetrator, the victim and other social subjects affected by crime should participate in the settlement of criminal disputes, and solve criminal disputes in a way of dialogue. For the delinquent juvenile, if the criminal responsibility is strictly investigated, although certain punishment effect can be achieved, considering the young age of the delinquent juvenile, it is easy to cause psychological harm to them. This kind of psychological damage may accompany its life and become its eternal psychological shadow. Therefore, we should strengthen the humanistic care for minors in the judicial process, implement the policy of “education, probation, rescue”, adhere to the principle of “education is first, punishment is auxiliary”, and give non-penal and non-incarceration treatment as far as possible. “Education, reform, rescue” is not only the purpose of juvenile criminal proceedings, but also the common responsibility of the whole society.

Among them, “education” is a planned, organized, purposeful and coercive influence activity carried out on delinquent teenagers. “Influence” is to understand the guilty youth with emotion, move to reason, with goodwill persuasion, so that the guilty youth’s thinking and behavior gradually develop to a good side. “Saving” is to help minors involved in crimes to return to society and start a new life through education and probation.

The judicial organs should not only comprehensively investigate the causes of juvenile delinquency and social risk, but also pay attention to the physical and mental characteristics, conduct and moral level, growth and living environment of minors and other factors affecting their crimes, and give priority to the possibility of salvation. The application of restorative justice concepts in juvenile justice is widely recognized. In the United Kingdom, under the Juvenile Justice and Criminal Evidence Act 1999, all first-time juvenile offenders who enter a guilty plea in the Juvenile court are referred to the Juvenile Offenders Board unless they are to be sentenced to imprisonment or the prosecution is to be dropped. The committee will meet with the juveniles and discuss with them agreements to increase responsibility, repair the damage caused by the crime and facilitate their reintegration into society. For example, Article 45 of the German Juvenile Court Act also stipulates that if the minor is slightly responsible and the public interest in pursuing the crime is not obvious, the prosecutor’s office may not pursue the crime with the consent of the court. If the minor has already carried out the punishment of education, such as reconciliation with the victim, the procuratorate considers that no punishment is necessary, it may also be exempted from prosecution.

### 2.2 The logical law of idea-oriented: the application of scientific classification

China’s Law on the Protection of Minors establishes the policy of “education, influence and rescue” for juvenile criminals, which reflects the dialectical unity of the two goals of juvenile welfare protection and responsibility burden. Therefore, adhering to the “child-friendly” concept in the classification of juvenile delinquency is actually implementing the principle of maximizing the interests of minors in the “Protection of Minors”. In order to achieve this goal, it is necessary to identify the different levels and differences of the protection needs of delinquent minors for welfare protection and responsibility.

This also gives methodological enlightenment, typical is applied to the classification of science. Specifically, first, it is graded according to the scope of application. The first category mainly refers to minors who have violated the administration of public security or committed criminal acts, and the second category mainly refers to minors who have carried out the bad acts stipulated in the Law on the Prevention of Juvenile Delinquency but have not yet committed violations of

the administration of public security or criminal acts. The reason for this classification is that on the one hand, the two types of delinquent juveniles have different degrees of delinquency. Based on the principle of child welfare and the principle of maximizing the interests of minors, the judicial treatment of the second type of delinquent juveniles should be a high degree of welfare protection measures and a relatively low degree of limited liability burden. On the other hand, because of the difference in the severity of the wrong perception and the possibility of remorse between the delinquents in the first and second categories, different schemes should be adopted in terms of state intervention. For example, based on the results of the professional evaluation, it can decide to apply the admonishment of the school, the admonishment of the police, the order of the judge, the transfer to a special school, and the detention and rehabilitation. Second, it is graded according to the applicable objects. The first category mainly refers to delinquent juveniles under the age of 12, and the second category mainly refers to delinquent juveniles who have reached the age of 12 but are under the age of 18. The reason why it is classified according to age is that the difference of age usually affects the level of mental development of juvenile offenders, and the corresponding treatment methods should be different. Delinquent juveniles under the age of 12 have not yet entered adolescence, and their personal attachment to the family is very strong, so in principle, they should not be separated from the family environment and accept a series of interventions with the cooperation of the family.

### **3. PROBLEMS FACING JUVENILE JUSTICE IN THE CONTEXT OF CHILD FRIENDLINESS**

In the context of the construction of child-friendly cities, various departments and units have implemented friendly measures, but it is obvious that delinquent teenagers have received very little attention. Many delinquent teenagers go astray due to environmental impact, the role of labels and other reasons. The government and society have the obligation to guide the delinquent youth to return from their mistakes, and the construction of child-friendly cities should not only be “icing on the cake”, but should also be “timely” and fall on the real weak points.

#### **3.1 “Friendly” policies do not do enough to support judicial treatment**

Since 2022, A city has introduced a total of 196 “child friendly” policy initiatives, 11 construction work guidelines, and a new batch of 34 policy initiatives in 2023. A comprehensive review of the above policies shows that almost all policies focus on the growth life cycle of general children, such as pregnancy, birth and

rearing, respectively from the community, schools, hospitals, parks, enterprises and other aspects of guidance and exploration. In the III “policy-friendly” blueprint, although some policies start from judicial protection, such as the first “one school one lecturer” system of sexual assault prevention education in the province, and the improvement of the legal service guarantee liaison mechanism for minors in the industry.

However, in general, “friendly” policies for delinquent juveniles can still be described as “scarce”, and some current policies, including the establishment of entry inquiries and “one-stop” case-handling protection, are mainly optimized from the perspective of procedures, which is a small breakthrough. More importantly, in the substantive policy design, especially in the child-friendly background, the education, correction, help and education of juvenile delinquents should be deeply and effectively carried out, which needs to be unified policy guidance from a higher level.

#### **3.2 “Friendly” initiatives lack focus and innovative design**

This is mainly reflected in the space and service level. Since 2022, A city has promoted the construction of 190 child-friendly pilot units and planned to promote the construction of 105 key projects. Another 260 child-friendly pilot units are expected to be added this year, including innovative designs such as “digital mystery Hall, colorful zebra crossing, and children’s climbing wall”. In order to further reflect the construction of friendly and high-quality children, the city has also specially implemented the “three major actions” of caring for orphans and practically unsupported children, rehabilitation services for disabled children, and classified protection for children in difficulties, and has clarified the long-term help mechanism for special groups.

However, these targeted designs do not fully consider the problem of dealing with delinquent juveniles. In terms of space, there is A lack of special help and education base for delinquent teenagers. City A and County R have innovatively built “Kwai Garden” help base, but it is difficult to maintain due to venue, funds, projects, epidemic and other reasons. In terms of services, there is no targeted and innovative measure design, and the “friendly” project of the judicial department is more inclined to carry out lectures, research and practice on the rule of law for ordinary children, and strengthen the protection of the rights and interests of minors, and lacks attention and support for the problem of delinquent juveniles.

#### **3.3 The situation of “friendly” coordination of juvenile intervention has not been formed**

At present, in the process of building A child-friendly city, multiple forces continue to pour in, forming a “political and social enterprise” co-construction model. Child

protection and child-friendly service projects have been included in the government's guiding catalogue for the purchase of services from social forces, the establishment of child-friendly social organization alliances and charity funds has been explored, and a model of "joint investment by state-owned and private funds and joint construction by public and private organizations" has been formed, a total of 169 social organizations serving children have been cultivated and built, and the city's township and street social work stations have achieved full coverage of children's work teams. Explore and formulate a list of 17 policy measures such as child-friendly guidelines and the establishment of the most beautiful family double alliance double service mechanism.

This synergy does not extend to the problem of delinquent teenagers. According to the survey, the resources and information needed for juvenile justice intervention are scattered in all units and departments, because for the prevention of juvenile crime with bad behaviors, at least the public security departments, education departments, schools, social work organizations and other units need to provide information. However, the information sharing mechanism of these units is far from being established, and even some county and urban public security departments have not set up "juvenile police", although the special team is set up in the procuratorate, but because the departments involved are too scattered, the procuratorate has greater difficulty in collecting information, coupled with some procuratorial departments have not investigated the limited manpower, and affairs, resulting in further information problems.

#### **4. THE OPTIMIZATION PATH OF THE JUVENILE JUSTICE SYSTEM FOR CRIMINAL ERROR**

On the road of common wealth, "no child is left behind", especially for bad behavior and children involved in crime, the government, society, home and school should attach great importance to and coordinate correction to make up for the shortcomings of "child friendly" construction. For the above problems, it is necessary to pay attention to the concept of juvenile justice, can not know the value of the concept, but it is empty and silent. On this basis, further dig the idea core and law, on the basis of logic law, put forward the path and countermeasures.

##### **4.1 Guided by the integration into the six friendly systems, we will promote the introduction of targeted policies**

In view of the major difficulties, innovation and characteristics of juvenile justice intervention, special policies have been issued to ensure implementation. Taking A city as an example, it can be combined with the implementation of the uninspected brand of "Zheli

Flower" to further promote the work of the special class. In the context of child friendly, for the current more urgent governance problems, In particular, "supervision of places unsuitable for minors", "Supervision of the implementation of juvenile crime and mandatory reporting", "Analysis of the mental health situation of juvenile crime cases", "Special Supervision Report on dropouts and hidden dropouts", "Construction of one-stop special care and education places", "Requirements and responsibility implementation of juvenile police personnel for crime" and other issues, We should promptly investigate and research, and introduce special policies to clarify the responsibilities of juvenile justice, promote cooperation between units and departments, and between departments, and consolidate the responsibilities of public security, education departments and territorial towns (streets), such as including help work in the safety assessment of various functional units.

Through policy guidance, innovative development of six friendly systems for juvenile delinquency special programs, with this traction, to promote the city's juvenile judicial protection center in the family education, behavior correction, education promotion, employment assistance and other aspects of the substantive operation of the work, in the county and urban areas as a unit, to build a "center +N workstation" model, the position extends to the township, to create a rural workstation.

##### **4.2 Based on the project base library and innovation library, build a practical teaching brand**

According to the serious degree of delinquent behavior, the age of minors and other considerations, the delinquent juvenile should be further stratified and classified. For example, minors can be divided into criminal behaviors, law-breaking behaviors, general illegal behaviors, and bad behaviors according to the severity of their behavior, and digital technology can be used for comprehensive analysis and evaluation, and the degree of criminal and wrong behaviors can be standardized. According to the type of crime and the value of crime error, the procuratorial department should "make one case one" help and education program. At the same time, with each county and urban area as the unit, the basic database and innovation database of help and education projects are built and integrated into the municipal project database. On the one hand, the basic database to achieve the regular help and education of juvenile delinquents, joint scientific research institutions, social organizations, etc., to promote "education, employment" as the focus, to deepen the development of mining innovative projects. On the other hand, the establishment of the project library can coordinate the cross-regional implementation of the project according to the needs of the county and urban units, and different counties and urban areas can invite other regional teams or organizations to implement

specific help and education projects to achieve all-round resource sharing.

### 4.3 The “multi-cross joint” collaboration gives an opportunity to create innovative practice characteristics

Firstly, multiple joint agencies and departments across the information barrier. Promote information linkage with public security, courts, health, civil affairs, education and other units, build supervision modules such as public interest litigation, control dropout, mandatory reporting, and investigation supervision according to the characteristics of cases involved and the weak points of governance, realize resource sharing with Zhejiang Municipal Office, and smooth the collection channels of supervision clues for the protection of minors’ rights and interests. To achieve multi-dimensional joint coordination of “procuratorate + administrative agency + school + society”, for example, the practice of “resident social workers” in A city is relatively innovative, and attention should be paid to the information linkage of social organizations.

Secondly, learning from the practice of Huzhou Nanxun, Suzhou Kunshan and other advanced institutions, explore the procuratorate juvenile justice system. Jointly with well-known universities and local universities, we will create a new model of “procuratorate-school cooperation” with procuratorate, innovate and build juvenile justice research and practice centers, and explore new forms of expert teams settling in procuratorates. Article 45 of the Law on the Prevention of Juvenile Delinquency stipulates that if a minor commits an act prescribed in the criminal law and is not punished because he or she is not under the age of statutory criminal responsibility, the administrative department of education and the public security organ may decide to conduct special corrective education upon the assessment and approval of the special education Steering Committee. However, special corrective education measures cannot only send delinquent minors to special

schools. There is a need to further refine and supplement the institutional approach in the specialized corrective education system. In addition to specialized schools, the advantages of local colleges and universities should be brought into play to establish a cooperative mechanism for the judicial handling of juvenile delinquency. Through research, the joint research colleges have a research center, on the basis of the research center, the joint vocational colleges, and further cooperate to build a practice center, cooperate with the correction of criminal behavior, and promote the vocational education and employment of juvenile delinquents.

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