

Lowering the age of criminal responsibility:

How harm-focused public discourse overrode the official narrative in China

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Introduction

Research questions:

What caused the Chinese government to lower the age of criminal responsibility (ACR)?

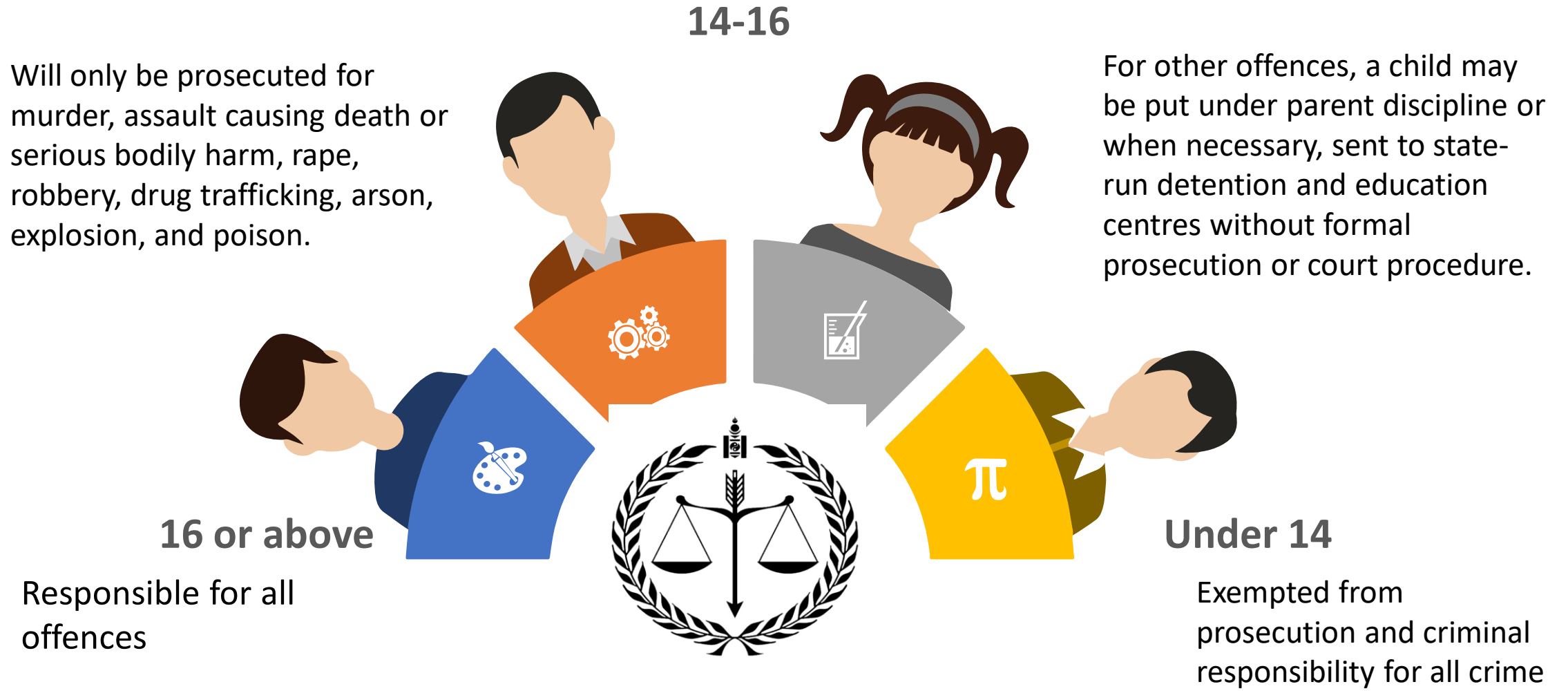
What the decision means for the Chinese penal system?

Methods:

NLP analysis with Python;

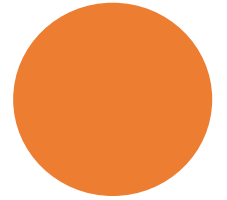
Comparison of official news reports, commercial news reports and social media posts about ACR between 2017 and 2020.

Backgrounds: Age of Criminal Responsibility in China before the 2021 Reform



Backgrounds: The 2021 Reform

- Eleventh Amendment to the Criminal Code 1997
- Children aged between 12 and 14 will be prosecuted if:
 - They commit the crime of **murder or intentional assault**;
 - The victim is **dead or seriously injured and disabled** due to the **extraordinary cruelty** of the offender's act;
 - The circumstances are **extremely serious**; **AND**
 - **The Supreme People's Procuratorate approves** the decision of prosecution.



Reluctance and reservation in the Official Narrative: Leading Figures' comments

- Head of Youth Crime, Supreme People's Procuratorate (**May 2016**)

*"We need more research and evidence to decide whether to lower the age of criminal responsibility...The ultimate cause of youth crime lies with the society. Young offenders may threaten the safety of the public, but they are also the victims of **adverse social context**".*

- Chair of the Youth Justice Group, Chinese Society of Criminal Justice (**November 2016**)

*"Lowering the age of criminal responsibility is not the solution to youth crime...It's more like looking away from **the real problems** in parenting, school education and social governance".*

Youth crime and the left-behind children in China

- Migrant workers in urban China being denied reasonable living conditions
- Education inequality
- No support scheme in rural China for their children until recently
- 61 million; 20% of China's under 18 population; 70% of the youth offences in China (Shi, 2014)
- The victimization rate is also high among the left-behind children (Chen et al. 2017)



Evolution of the Chinese penal system

- Abolition of extrajudicial punishments under the influence of the rule of law
- Re-education camps for petty offenders, prostitutes and drug addicts are all abolished
- The only remaining institution of this kind is the detention and education centres for children who have committed a crime but cannot be prosecuted due to their age.
- Rarely used in practice due to the doubts about their legitimacy and efficacy.



Reluctance and Reservation in the Official Narrative: News Reports between 2017 and 2020

‘There is a malfunctioned family behind every young offender... Youth offending is not just the children’s fault. We should not punish the children for the failure of parents and the society’.

‘The special circumstances of left-behind children have to be taken into consideration’.

‘What we need to do is to replace detention centres with specialised correction schools, not lower age of criminal responsibility’.

‘Media always report the sensational stories, making the public feel that youth crime is increasing. This is not true. Between 2009 and 2017, the crime rate of young persons dropped by 12%... Such irresponsible reporting has to stop’.

correction
prevention school
specialised family
guardians parents
mature
mental compensation

Commercial news between 2017 and 2020

- 'If a person's nature is evil, it will show regardless of age'.
- 'The presumption that some children are too young therefore cannot commit a crime is problematic'.
- England / the abolition of doli incapax rule for those aged between 10 and 13

killing
family criminal
mental undertaking
presumption
world nature
correction harm

School bullying and China's 'James Bulger' story

- Media reported school bullying stories
- Academic evidence (Wang et al. 2019; Zhu and Chan, 2015) 34-66%; 54.9%
- The murder of a 10-year-old girl by her 13-year-old neighbour in 2019



Social media

- 'A young life is destroyed! Death penalty is not enough to justify the families' pains'.
- 'Don't say punishing a young offender serves no purpose for the society! It serves a purpose for the victim's families!'
- 'Revenge may be a primitive thought, but the victim is hurt, the offender has to be punished, just to comfort the victim and reassure the society'.
- 'First think about the welfare of Chinese people, human rights and international trend come after that.'

victim
killing criminal
families death penalty
data harm prevention
rape imprisonment

Testing the Public's reactions 2016

➤ People's Daily 2016 November 16

'The appropriate age of criminal responsibility should not be determined by extreme, isolated cases. The public should not jump at the conclusion that youth offending is increasing just based on media report. The real causes of youth offending lie with the family, school and society. Blindly pursuing punishment equals evading social responsibility.'

A word cloud of public reactions to the article. The words are arranged in a roughly triangular shape, with 'scum' at the top, 'naive' and 'joke' in the middle, and 'fair', 'cruel', and 'horrible' at the bottom. Other words include 'innocent', 'nonsense', 'protective ring', and 'fake expert'.

scum
naive joke
fair cruel horrible
innocent protective ring
nonsense fake expert

Testing the public reactions 2020

➤ **People's Daily** 2020 May 23

'Representative of the National People's Congress suggests that the age of criminal responsibility should be reduced to 13. What do you think? Representative Xiao argues that as the living condition improves, children aged 13 are mature enough to tell right from wrong.'

approve

good ten maturity

irrelevant joint liability

thanks severe punishment

girls consequences

revenge

Challenges that may arise from the Party's compromise

- It's still not very clear what will happen to children aged 12 and 16 who commit less serious crimes therefore exempted from prosecution
- The Eleventh Amendment to Criminal Code replaced 'state-run detention and education centres' with 'specialised correction and education', but there is no specification about which institutions are responsible for providing such correction and education.
- Possibility 1: State-run special schools (Yu, 2020)
- Possibility 2: NGOs and social workers (Chen, 2018)

References

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