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China's Juvenile Delinquency Prevention Law

The Law and the Philosophy

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The present study introduces and discusses the Juvenile Delinquency Prevention Law of the People's Republic of China. The law was promulgated in the context of Chinese socioeconomic reforms and legal reforms in response to the rising delinquency since the early 1980s. The study explains the social and political background of the law with respect to the patterns of delinquency in China. The law has several main features that reflect the Chinese philosophical underpinnings of crime prevention and control, and the study discusses the connection between the law and the traditional Chinese philosophy and thinking. Finally, the study discusses the challenges to the enforcement of the law in Chinese society, which has lacked a legal tradition in its history.

Keywords: *China; Juvenile Delinquency Prevention Law; juvenile delinquency; juvenile justice; Chinese criminal justice*

During the past two and half decades of China's modernization and economic development, crime rates, especially delinquency rates, have increased dramatically. Among a variety of responses to the rising delinquency, an important measure has been the enacting of new laws to curb the surging waves of crime and delinquency. On June 28, 1999, the Tenth Standing Committee Conference of the Ninth National People's Congress passed the Juvenile Delinquency Prevention Law (JDPL), which became effective on November 1, 1999. The law stipulates educational measures for preventing delinquency, defines administrative measures for carrying out the prevention, addresses rehabilitation of minor and status offenses, proposes juvenile rights and responsibilities for preventing delinquency, stipulates correctional measures and processing procedures for juvenile offenders, and defines legal liabilities for parents, law enforcement agencies, and enterprises in preventing delinquency. A growing body of literature has addressed important issues in juvenile delinquency and juvenile justice under the profound social change and legal reforms in China (Biddulph, 1993; Chang, 1992; Chen, 1989; Curran & Cook, 1993; Fei, Mui, & Chang, 1987; Kuan & Brosseau, 1992; Wang, 1991; X. S. Zhao, 1996). However, little detailed discussion about the law

has appeared in Western literature. Given the unique features of the law and its relation to Chinese philosophy and practice in social control, it is valuable to provide a full description and explanation of the law for understanding Chinese thinking and practice in preventing and controlling juvenile delinquency.¹ The discussion will provide a better understanding of law making under China's context.

The present study first describes and interprets the social and legal context in which the law was promulgated. Secondly, it introduces and describes the content of the law. Thirdly, the study provides explanations of the philosophical basis for the law. The law represents a legal effort of the Chinese authorities to control surging waves of delinquency and reflects the shift to the "rule of law" that began in the 1980s. The law focuses on education as a major measure for delinquency prevention because traditionally the Chinese have believed in the power of education in shaping and influencing people's thoughts and behavior; all thoughts and behaviors are believed to be mutable in response to proper education. The law also uses legal power to mobilize social forces and sources to prevent delinquency, reflecting the unique features of China's social and political systems.

Finally, the study discusses the enforcement of the law in China's social, political, and legal settings. Although the law was adopted and became effective in 1999, its enforcement is still in question. A critical issue is how to establish the authority and legitimacy of the law and effectively enforce it in a society that has long lacked a legal tradition.

Social and Legal Contexts of the Juvenile Delinquency Prevention Law

The JDPL was developed and promulgated in the context of profound economic and legal reform. The economic reform that began in the late 1970s has achieved remarkable success in promoting economic growth. From 1990 to 2004, China's real gross domestic product increased an average of 9.3% annually, which resulted in China's economy becoming the sixth largest in the world (China Statistical Yearbook Editorial Committee, 1990-2004). A large and growing body of research has documented fundamental transformations in China's stratification system, housing patterns, population distribution across regions, and cultural attitudes. As in other countries that have experienced rapid social changes, the "disruptive and disintegrative processes that are an integral part of social transformation" (Karstedt & Bussmann, 2000, p. 1; Liu & Messner, 2001) have also been evident in China's social change. Particularly, these include increased inequality (Cao & Dai, 2001), changing cultural beliefs and norms (Rojek, 2001), disruption of traditional social control mechanisms (Feng, 2001), decreased social integration (Lu & Miethe, 2001), massive migration of the rural population into urban areas (Ma, 2001), and an altered age structure of the population (Curran, 1998; Deng & Cordilia, 1999; Rojek, 1996).

Traditional Chinese social control relies on informal social control. The Chinese legal cultural tradition centers on Confucian philosophy and emphasizes *li* (moral code) over *fa* (legal code). Moral education and persuasion along with dense social networks in villages and neighborhoods are the basic control mechanisms. In pre-reform years, the Maoist model of social control continued this tradition (Edwards, 1977; Leng & Chiu, 1985; Ogden, 1992; Rojek, 1989). Families, neighborhood committees, and work units are central agents in social control of crime and delinquency (Zhang et al., 1996), and the social change brought by the economic reform has significantly disrupted these mechanisms of informal control (Liu, 2001). This has led to significant rises in crime and delinquency.

According to official statistics, from 1978 to 2003 homicide rates more than doubled, rape increased 30%, and assault increased 7.5 times. These increases in violent crimes are substantial, but they pale in comparison to those for property crimes. Robbery soared 4.5 times, and larceny increased 8 times. Fraud, only reported up to 2002, has gone up almost 14 times. Grand larceny (3000 yuan or more), for which data were only published up to 1999, increased 90 times (China Law Yearbook Editorial Committee, 1987-2003). Youth (18 to 25) and juvenile (younger than 18) offenses have also been rising. In 1979, the percentage of combined youth and juvenile offenses accounted for 47.6% of total official crime. It rose to 69.7% in 1990. Since then, the percentage has remained at similar levels (Bakken, 1993; China Law Yearbook Editorial Committee, 1987-2003).²

In the early 1980s, the Chinese Communist Party (CCP) distributed a report prepared by the Party's Propaganda Department on the youth crime problem and instructed all levels of party leadership to strengthen the effort of educating juveniles and dealing with the youth crime problem (Feng, 2001). A widely publicized response to rising crime and delinquency by the government was to establish a "comprehensive strategy," which called for various social institutions and government agencies to organize a combined effort to deal with it (for details, see Feng, 2001). The strategy assigns prevention to punishment, continuing the traditional measure of education and relying on grass roots organizations. In the meantime, under the general context of legal reform in China, using legal power to reinforce the traditional social control has been recognized as important.

The legal reform is part of the wide social reforms that have occurred. Economic reform and the open door policy made it necessary to enact laws for working with foreign investment and enterprises. After the turmoil of the Cultural Revolution, reformers called for the shift from "rule of man" to "rule of law." China never established a modern and stable legal system under Mao's regime. During the Cultural Revolution of 1966 to 1976, there were virtually no laws and no legal system; there were routine "revolutions" and "class struggles" rather than the enactment and enforcement of legal statutes (Zhang & Messner, 1999, p. 434). After Mao's death, China's new leadership initiated legal reforms, as the economic reform and open door policy were implemented in the late 1970s and early 1980s. Although the shift

was limited and slow, it represented an effort where the Chinese began using legal measures and seeking a new balance between legal order and political control (Zhang, et al., 1996). According to an initial statistic, the China National People's Congress promulgated approximately 185 laws during the 19 years between 1978 and 1997, which is 7 times the total number of promulgated laws (about 26) during the 27 years from 1950 to 1977 (see Young, Chen, & Gan, 1998, for a detailed bibliography of these promulgated laws of 1950-1997).

As part of the legal reform and as a response to deal with increasing delinquency and other juvenile cases, Chinese authorities have developed a juvenile justice system to handle juvenile cases effectively. In 1984, a special court was established in Shanghai that had a collegial panel to hear juvenile cases. It was viewed as the first juvenile court in China (G. Zhao, 2001). Since then, China has developed a large juvenile justice system to deal with juvenile cases. As 2000 official data show, at that time there were more than 3,000 people's procuratorates and about 6,000 procurators who worked on juvenile cases. There were more than 3,000 juvenile courts with more than 15,000 judges (G. Zhao, 2001). Given the lack of a legal tradition and the long-time lack of a juvenile justice system (Leng & Chiu, 1985), there was significant variation in the practice of juvenile justice, and mistreatment and even abuse of juvenile cases were often observed (Wong, 2001; G. Zhao, 2001). To address these concerns, Chinese authorities have made efforts to standardize and formalize the practice of juvenile justice. For example, the 1996 revised Criminal Procedure Law and the 1997 revised Criminal Law clearly stipulate the legal procedures for handling juvenile cases and the legal liability of juvenile offenders in terms of their ages.

In October 1985, the CCP Central Committee issued a document to emphasize the importance of educating juveniles and proposed the enactment of new laws to protect juveniles from adverse influences in their social environment. Following this instruction, the people's congresses in most provinces enacted regulations for protecting juveniles in the following years. The National People's Congress then passed the Juvenile Protection Law (JPL) in 1991.

The 1991 JPL was specifically promulgated for juvenile justice. Its main objective is the protection and definition of juvenile legal rights and interests.³ According to the law, juveniles are defined as Chinese citizens who are younger than 18. Among the legal rights are the right to receive the 9-year compulsory education, to not be discriminated against in terms of gender or disability, to not receive corporal punishment in school, to not be employed when younger than 16, to not have personal information disclosed to the public, and to not be exposed to pornographic materials (chaps. II, III, and IV). The law also stipulates that no organization or individual may conceal, destroy, or discard mail of any juvenile (art. 31).

Judicial protection is also stipulated in the law. For delinquent juveniles, the law defines education as a main measure and punishment as a subsidiary measure. Under this principle, juveniles are placed separately from adults when in custody, and juvenile offenders are housed separately from adults for punishment; juvenile trials are

not open to the public; information from juvenile cases may not be disclosed to the public; juvenile offenders are not to be discriminated against for their right of inheritance; and juvenile offenders are not to be discriminated against for their education or employment on their release (chap. V).

The law states that families, schools, government agencies, and other social organizations assume the responsibility of protecting juvenile rights. Any violations of protected rights are subject to legal liabilities with administrative and legal sanctions (chap. VI). For example, article 51 stipulates that whoever sells, rents, or disseminates pornographic books, newspapers, magazines, or audio-visual products to minors will receive severe sanctions. Consistent with the principles of JPL, the government also ratified the United Nation's Standard Minimum Rules for the Administration of Juvenile Justice, known as the Beijing Rules.

The Juvenile Delinquency Prevention Law

To control rising delinquency and youth crime, the CCP recognized that it was not effective to focus solely on juvenile protection. There was an urgent need to build a system for delinquency prevention. The Justice Committee of the National People's Congress, along with other related agencies, began to formulate the JDPL in 1994. After several years of discussions and revisions, the law was passed and enacted in 1999. It is an on-going legal effort to standardize and formalize the practice of juvenile justice in a systematic manner.

The JDPL includes 8 chapters and 57 articles.⁴ As the name indicates, the focus of the law is on the prevention of juvenile delinquency. The first chapter defines the general principles and guidelines for juvenile delinquency prevention in 5 articles. The law emphasizes the education and protection of juveniles in preventing delinquency. This emphasis is consistent with the Chinese principle "education first and punishment second," which is also emphasized in other laws (G. Zhao, 2001). The law also realizes that delinquent behavior starts in early childhood and requires early prevention and intervention (chap. I, art. 2).

The JDPL is a development and extension of the JPL. It retains the principle of juvenile protection stipulated in the JPL and extends it to delinquency prevention, rehabilitation of juvenile offenders, and prevention of recidivism in delinquency. The law clearly defines what minor delinquent behaviors should be prevented, what serious delinquent acts deserve rehabilitation and correction, and how juvenile offenders should be rehabilitated. Interestingly, the law also stipulates juvenile responsibilities in preventing delinquency, including their responsibilities in obeying the law, legal statutes, and other social norms, reporting any problems of abuse or abandonment, and reporting any observed delinquent behaviors (chap. V). Thus, although juveniles are to be protected from involvement in delinquency they also have responsibilities in preventing delinquency.

The JDPL, along with the JPL, provide guidelines for the operation of the juvenile justice system. Although these guidelines are still very general and abstract, they represent the Chinese effort to standardize and formalize the practice of juvenile justice.

Similar to other Chinese crime control measures, the law calls for a comprehensive and systematic strategy (total-society strategy) to prevent delinquency (for the development of this strategy, see Feng, 2001; for the operational system of the strategy, see Zhang et al., 1996). The strategy involves a concerted effort by various social sectors (all official agencies and social organizations) to prevent delinquency under the uniform leadership and organization of the government at various levels. All social sectors should be aware of their responsibility to be involved in creating a healthy and preventative environment for juvenile development, thus preventing delinquency.

The law defines the responsibilities and duties of the government at various levels as designing and proposing a working protocol for delinquency prevention, organizing and coordinating official and social agencies and organizations (e.g., police, schools, and mass media) to implement delinquency prevention, monitoring and assessing the enforcement of this law and the implementation of the governmental working protocol, and setting up successful cases and models in delinquency prevention and recommending them for modeling and learning (chap. I, art. 4). Finally, chapter 1 of the law requires studies of the unique biological and psychological characteristics of juveniles to implement targeted and focused education to prevent delinquency. It also calls for research on the strategy of delinquency prevention in terms of these unique juvenile characteristics (chap. I, art. 5). These requirements and requests for research-based education and prevention are fairly new compared to the JPL.

Following the Chinese principle, the 8 articles in chapter 2 stipulate education as a major measure in delinquency prevention. The law clearly defines delinquency prevention as an educational task along with other educational programs for all juveniles. The purpose of such education is to strengthen juvenile legal awareness, increase their knowledge and understanding of the adverse consequences of delinquency for themselves, their families, and society, assist them to be knowledgeable about the legal liability of delinquency and crime, and help them to establish attitudes and positive values toward law-abiding behavior (chap. II, art. 6). Schools are stipulated as a major institution to carry out the educational aspect of delinquency prevention with assistance and support from parents, criminal justice agencies, the Communist Youth League, Communist Young Pioneers, and other social organizations. This education is to be part of school curriculums, and schools are to be evaluated in regard to their implementation of such education (chap. II, arts. 6-13).

In addition to schools, juvenile activity centers, vocational training agencies, and urban or rural neighborhood committees are also to implement such education as part of their routine functions (chap. II, arts. 11-13). The education should be targeted and carried out in diverse and effective ways such as exhibitions and lectures.

Traditionally, the Chinese have believed that crime must be nipped in the bud. For Chinese, it is necessary to implement early prevention and intervention before violations

develop into full-scale crimes (Clark, 1989; Munro, 1977; Troyer, 1989). Therefore, the following chapter (arts. 14-33) addresses the prevention of status offenses and minor delinquency that may lead to future serious criminal involvement. The law enumerates several types of status offenses and minor delinquencies to be prevented. They include truancy, running away from home, carrying weapons, fighting, begging with force, stealing, vandalizing, gambling, owning pornography, entering nonjuvenile entertainment places, and harming the public order or morality. It is first time that a Chinese law has clearly defined status offenses and acts of minor delinquency.

The law defines parents as the primary agents in preventing status offenses and minor delinquency. Eight articles stipulate what parents must do to educate and supervise their children's behaviors in preventing involvement in delinquency. Parental legal responsibilities range from educating children not to drink and smoke to not allowing children to live alone. These stipulations are a continuation of what is defined in the 1991 JPL. The JPL also stipulates that parents should prevent minors from smoking, drinking excessively, and gambling.

Schools are another primary agent that have legal responsibilities for preventing status offenses and minor delinquency. As the law stipulates, schools are to take various measures to educate and guide students to be nondelinquent (chap. III, arts. 23-25). The law requires law enforcement agencies and other social organizations such as neighborhood committees to be responsible for security and safety in school areas. No adult entertainment businesses are permitted in school areas (chap. III, arts. 26-28). Mass media enterprises such as publishers, movie makers, broadcasting business, and TV stations have legal responsibilities regarding the dissemination of materials and information that contain violence, pornography, gambling, and other content that harms juveniles' normal development and growth. Any adult entertainment business must have clear rules and signs prohibiting juvenile engagement (chap. III, arts. 29-33).

Chapter 4 addresses the rehabilitation of juveniles who commit more serious offenses that do not warrant criminal punishment. The law numerates nine types of such offenses, including instigating gang fights, repeatedly carrying controlled weapons, repeatedly engaging in aggravated assault or repeatedly begging with force, disseminating pornographic materials and products, engaging in prostitution-related activities, repeatedly committing theft, repeatedly gambling, abusing drugs, and other serious harmful offenses (chap. IV, art. 34).

For juveniles who are involved in any of these more serious offenses, the law stipulates informal and formal rehabilitation measures. The major informal measure is the collaborative effort of parents and schools to enforce serious education, discipline, and supervision (chap. IV, art. 35). The formal measure is to send these troubled juveniles to work-study schools on the request of parents and schools and approval from governmental departments of education. It remains an administrative rather than a judicial measure in dealing with delinquents. These schools were designed as special programs of education for troubled juveniles, and their principle is rehabilitation through education and strict discipline. They were initiated in 1955,

and there were more than 80 such schools nationwide in 2000 (G. Zhao, 2001). The law stipulates that juveniles who are sent to work-study schools have the same right to receive a normal education with the same school curriculums. They also receive intensive law education and targeted rehabilitation. They are to have equal opportunities and rights for schooling, employment, and so on that other juveniles enjoy. Prejudice and discrimination are prohibited.

Chapter 5 defines juvenile self-prevention of delinquency, including juvenile responsibilities and rights to prevent involvement in delinquency. The responsibilities include obeying laws and regulations, establishing a sense of self-respect, self-discipline, and self-development, strengthening tendencies toward law-abiding behavior and self-protection, and enhancing awareness of resisting instigation and inducement to crime (chap. V, art. 40). Juveniles have the right to report abusive parental behaviors and request protection. Any agency that has received such a request is to have effective responses and measures (chap. V, art. 41). Juveniles also have the right to report those who instigate or induce them to criminal behaviors. Such a report can be submitted through parents or the school administration or directly by the juvenile to criminal justice agencies. Criminal justice agencies are to handle the report effectively without any delay and to protect the juvenile from any criminal retaliation and revenge (chap. V, arts. 42-43).

The next chapter regards the prevention of juvenile recidivism and targets juvenile offenders who have received criminal penalties. The law defines the principles of justice proceedings and rehabilitation of these offenders. The basic principle is education, with punishment as a supplemental measure. Juvenile criminal cases should be processed with protection of the juveniles (Ch. VI, art. 44) kept in mind. The law upholds the principles that are defined in the 1996 Criminal Procedure Law and the 1997 Criminal Law and stipulates that a juvenile court should consist of a legal staff, including a judge, who have solid knowledge of juvenile characteristics. For juvenile suspects who are aged 14 to 16, the hearing and trial are closed to the public. Trials of juvenile suspects who are 16 to 17 years old are closed to the general public. Mass media such as television and newspapers are forbidden to reveal the name, address, photo, or other personal identification of a juvenile who has been processed. Juvenile custody and incarceration are to be separate from adults. During incarceration, juveniles have the right to receive education appropriate to the normal school curriculum and law education, and the correctional institution is to provide this education.

The law also extends rehabilitation efforts to parents, schools, and communities (chap. VI, art. 47). It is stipulated that parents, schools, and neighborhood committees are to adopt effective measures (e.g., *Bang-jiao*) to assist criminal justice agencies in rehabilitating those juvenile offenders who are younger than 14 and exempt from criminal penalties, those who are parolees, and those who are serving noninstitutional penalties (see Zhang et al., 1996, for a detailed description of *Bang-jiao*). Neighborhood committees may invite senior residents who are respectable and willing to help with the rehabilitation. Juvenile offenders have equal rights for schooling,

employment, and other social opportunities after rehabilitation and are not to be discriminated against (chap. VI, art. 48). This legal call for community-based rehabilitation efforts is consistent with the Chinese tradition in handling offenders, especially juvenile offenders (Troyer, Clark, & Rojek, 1989).

Chapter 7 defines legal liabilities in case parents, police, businesses, mass media, and others fail to comply with the stipulations proposed in the law. These liabilities range from administrative sanctions to criminal charges. For example, the law grants police the right to warn and discipline parents who fail to supervise and monitor their children's behavior (chap. VII, art. 49). If police officers fail to obey the stipulations in article 18, administrative penalties will be imposed. If such failure leads to serious adverse consequences, criminal charges will be applied. The last chapter (chap. VIII, art. 57) of the law stipulates the effective date of the law as November 1, 1999.

In sum, the law addresses a wide variety of issues in delinquency prevention and stipulates basic principles ranging from education-centered prevention strategies to legal liabilities of various social institutions. These principles are rooted in Chinese philosophy and are a legal response to the surging waves of delinquency in China.

Philosophical Underpinnings of the JDPL

The JDPL was developed in the Chinese social and legal context. As reviewed above, it has several unique features that reflect Chinese philosophy. These features are the emphases on prevention of delinquency, protection of juveniles as "kids," education as a major measure for prevention, and the total-society strategy for prevention.

The law emphasizes delinquency prevention, which can be implemented at three levels. First, prevention should target all juveniles through legal and moral education before their involvement in delinquency (chap. II). Second, minor acts of delinquency should be prevented before serious delinquency occurs (chap. III). Finally, recidivism prevention should be conducted (chap. VI). This emphasis on delinquency prevention reflects the Chinese philosophy that "there is an inherent dynamism in all things that permits them to run a course from imperceptible beginnings to publicly observable full development" (Munro, 1977, p. 35). For crime control, the implication of this philosophy is that if bad thoughts and minor deviance are left unchecked, they will develop into full-fledged crime (Troyer, 1989). Nipping crime in the bud is common wisdom that is rooted in Chinese philosophy.

In contrast, Western legal codes are typically created in response to crime and delinquency problems, not as a response to behaviors that may lead to involvement in delinquency. Crime is not typically nipped in the bud but is confronted when it happens. The JDPL indicates important differences in philosophical thinking.

Another feature of the JDPL is the emphasis on the protection of juveniles. Following the principles of the 1991 JPL, the JDPL views juvenile protection as an important measure in delinquency prevention. Traditionally, Chinese have believed

that all human beings are born with an equal potential for being good (Dawson, 1982; Troyer, 1989). But some people become bad, mainly because of their environment, and what should be blamed is the bad influence from the environment not the person's inherent nature. This is especially true for juveniles because they are growing and have not matured completely. Therefore, the law clearly requires a clean and healthy environment for juvenile development by stipulating the legal responsibilities and liabilities of various social institutions and organizations (chap. VII). It is aimed at providing and improving the environment where juveniles grow and develop. The law prescribes behavioral rules and norms not only to guide juvenile behaviors but also to regulate institutional behaviors that constitute the environment for juveniles.

Western scholars and legal professionals also recognize the importance of a clean and healthy environment for the growth and development of juveniles and for delinquency prevention. However, Western societies typically do not write this recognition into law to assign legal obligations to wider social organizations for maintaining the desired environment. Chinese law thus contains some interesting ideas about the law and societal responsibility for juvenile welfare.

The law also emphasizes education as a major measure of delinquency prevention. This emphasis is present throughout the law (chaps. 2-6) and is a reflection of the traditional Chinese belief in the power of education in shaping people's thoughts and behaviors (Zhang et al., 1996). Given the traditional belief that all human beings are born with an equal potential for moral growth, what is needed is proper training to achieve the moral growth. "In the practice of crime prevention and intervention, this belief underlies attempts to guide and instruct people through education" (Zhang et al., 1996, p. 204) to perform self-discipline and resist bad influences in the environment. Therefore, the law requires that all juvenile organizations and related agencies, including families, schools, the Young Pioneer League, the Communist Youth League, children's activity centers, youth centers, vocational education centers, justice departments, education departments, and neighborhood committees, be responsible for educating juveniles to develop appropriate moral and legal attitudes, acquire knowledge of law and justice, and develop a strong awareness of ways of preventing delinquency and crime. Such education can be done through various measures and approaches such as developing school curriculums and creating street posters.

Scholars in Western countries also recognize the importance of education; in the United States, the philosophy of juvenile justice is supposed to be *parens patriae*. Although the state should emphasize rehabilitation and informal handling of juveniles, at the same time avoiding labeling effects on them, the philosophy's major focus is on the authority of the state to intervene in family and juvenile matters. Since *Kent vs. United States* (1996) and *In re Gault* (1967), the trend has been toward the introduction of more due process rights and formality into the juvenile justice system. However, education, although recognized as an important consideration, is not considered as a central theme in legal codes. The Chinese emphasis on it should lead us to think more about its role in Western juvenile law.

Finally, the Chinese law adopts a total-society approach to delinquency prevention. This approach is derived from Mao's earlier mass line strategy for social control and has developed since 1979 under China's new pragmatic leaders (for a detailed description of the approach, see Feng, 2001; Zhang et al., 1996). The approach "basically means a concerted effort of various social sectors to prevent and control crimes under the unified leadership of the Chinese Community Party and the government through political, economic, administrative, legal, cultural, and educational means" (Feng, 2001, p. 127). It may be feasible in the political and social context of China. The law tries to mobilize a wide variety of social institutions and organizations to participate in delinquency prevention. Thus, in addition to that of criminal justice agencies, other social institutions and organizations also have legal responsibilities and liabilities because the source of delinquency lies in society, which consists of a wide variety of institutions and organizations. Therefore, the law devotes an entire chapter (chap. VII) to the prescription of the legal responsibilities and liabilities of a wide range of social institutions and organizations in their involvement in delinquency prevention.

Western societies, in contrast, tend to be seen as individualistic societies as opposed to communitarian societies (Braithwaite, 1989). Western social organization does not seem to lend itself to the total-society approach to delinquency. Nonetheless, the Chinese experience and law suggest that delinquency prevention requires an entire society to work together (as the old African saying goes, "It takes a whole village to raise a child"), and this discussion of the Chinese juvenile prevention law is a useful aid to our thinking in that regard.

Summary and Discussion

China has approximately 400 million juveniles, who account for one third of its population (G. Zhao, 2001). As China has implemented its one-child policy, children have become much more important for each family. Concern regarding the development of juveniles has risen significantly as a large number of juveniles have been involved in delinquency as a byproduct of the economic reform. Facing this unprecedented challenge, Chinese authorities have made efforts to use legal measures to protect juveniles and to combat rising youth crime. One of these efforts is the adoption of the JDPL.⁵ The law is a product of the social and legal context of China. This study explores the context and views the law as part of the ongoing Chinese effort to construct and establish a formal and stable legal system as the nation is transiting to modernization. The law is a legal reaction to rising delinquency. It is also a continued effort to standardize and formalize the practice of juvenile justice.

The law has several major features that have roots in Chinese philosophy and thought regarding crime prevention and control. These features include its emphasis on the prevention of delinquency, its focus on juvenile protection as a preventative measure, its emphasis on juvenile education in delinquency prevention, and the total-society

approach to delinquency prevention. To understand the law, it is necessary to understand the Chinese philosophy and the social and political context.

The law was adopted and became effective in 1999, but its enforcement is still in question. A critical issue is how to establish the authority and legitimacy of the law and effectively enforce it in a society that has lacked a legal tradition and was virtually lawless during the Cultural Revolution (1966-1976). Traditionally, the Chinese have been highly skeptical about the power of formal law in regulating people's behavior. "The Chinese traditionally preferred to stay away from the courts of law and considered litigation as strictly a last resort" (Leng & Chiu, 1985, p. 8). For Chinese, "the rule of *Li* (moral code, rite, or customary law) through moral example and persuasion is superior to the rule of *Fa* (formal law) through rigid codes and severe punishment" (Leng & Chiu, 1985, p. 8).

Mao and other Chinese communists assimilated these traditional beliefs and attitudes toward formal laws and justice systems. As has been observed, a formal justice system was never established during Mao's regime (Leng & Chiu, 1985; Liu et al., 1998; Ren, 1997). The routine practice of justice consisted of class struggles and mass movements. During the 1966 to 1976 Cultural Revolution, the poor justice system and related agencies were one of the major targets that were attacked and ruined as bourgeois institutions.

However, starting in 1976 following Mao's death, the new Chinese leadership realized the importance of laws and a stable legal system as China began carrying out economic reforms and implementing the open door policy. "The new leaders have accordingly taken a series of steps to reconstruct the legal system and have promulgated many laws in order to promote a shift from 'rule of man' to 'rule of law'" (Zhang & Messner, 1999, p. 438). "Success in this endeavor depends in great part upon the establishment of the people's faith in legality" (Eliasoph & Gruenberg, 1981, p. 669). In this historical and cultural context, the government faces the same challenge with the JDPL, that is, how to establish its authority and legitimacy and effectively enforce it.

The law calls for various social sectors to participate in delinquency prevention. The intent of such a call is understandable in terms of the Chinese tradition, but the effectiveness of the coordination of various social efforts may be in question given the weakening control of the Chinese central governments. Inconsistent messages and efforts from different social sectors may undermine the effectiveness of prevention. Abusive behaviors may also occur in some social sectors because the law grants a broad range of power and authority to various government agencies and social organizations for their participation in delinquency prevention.

Finally, although the law stipulates the importance of research on juvenile development and delinquency prevention, such research is fairly rudimentary in China. Many Chinese studies on juvenile delinquency engage in speculations, assertions, and claims without sound theoretical frameworks and solid data analysis. It is hard to imagine the effectiveness of delinquency prevention if it is not based on research or evidence. Thus, effective enforcement of the law is challenging not only law enforcement agencies and other social organizations but also the Chinese academic community.

Notes

1. A prior study briefly introduced the law as part of a general theme on juvenile justice in China (G. Zhao, 2001). The study focused on the recent development of juvenile justice in China, and its introduction to the law was very preliminary.
2. One must be cautious when using China's official crime figures. Studies have indicated a large gap between official statistics and actual crimes in China (Yu & Zhang, 1999). Such statistics are very likely to have underreported crime figures.
3. The law is stipulated in 7 chapters and 56 articles.
4. See http://www.novexcen.com/juvenile_delinquency99.html for an English translation of the full text of the law.
5. The law was promulgated by the Tenth Standing Committee Conference of the Ninth China National People's Congress on June 28, 1999.

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