

Responses to adversity, vulnerability, risk and offending in Shanghai: A Summary Report



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Contents

Acknowledgements	1
Introduction	3
Responses to adversity, vulnerability, risk and offending.....	5
The role of social work.....	5
The civil system	6
The juvenile justice system.....	6
Procuratorate.....	7
Juvenile Court	8
Examples of interventions and disposals	9
Opportunities and Challenges	12
Conclusion	13
References	14

This summary report discusses approaches to social work, social services and social justice in China, with a specific focus on Shanghai. In doing so, there are clear similarities and differences to Scotland. It is based on discussions at the Children and Adolescents: Social Work, Social Services and Social Justice Symposium held at the East China University of Political Science and Law and visits to youth justice services during a visit by CYCJ, Equally Safe in Higher Education and University of Strathclyde's School of Social Work and Social Policy to Shanghai in October 2018.

Introduction

Facilitated in partnership between the University of Strathclyde and East China University of Political Science and Law, in October 2018 five representatives from the Centre for Youth & Criminal Justice (CYCJ), Equally Safe in Higher Education and School of Social Work and Social Policy travelled to Shanghai. The purpose of this visit was to share information on the respective approaches to social work, social services and social justice in Scotland and China, to identify areas of commonality and difference, explore what we could learn from each other, and where further joint working may be possible.

The trip included:

- A visit to the Taicang Youth Affairs and Service Centre which provides office facilities, consultation rooms and groupwork spaces for a range of non-governmental organisations. During our trip we visited one such award-winning organisation called Set Sail.
- Visit to the multi-award winning Jiading New Spring School youth school providing education and protection for children involved in offending and for homeless children in Shanghai. In addition, this is the site of the district's Juvenile Legal Education Centre.
- The Children and Adolescents: Social Work, Social Services and Social Justice Symposium, which was attended by almost 50 researchers, youth judges, youth procurators, youth justice social workers and child protection agencies. The symposium combined a series of inputs on practice in Scotland and China regarding responses to adversity; vulnerability; risk and offending; the age of criminal responsibility; sexual offending and technology; and state intervention and legitimacy, alongside opportunities for discussion.



The following provides a summary of the information gained from these activities. Efforts have been made to ensure the accuracy of the information contained in this report through sense and accuracy checking with participants at the Symposium and consulting relevant literature.

Responses to adversity, vulnerability, risk and offending

The role of social work

Following the introduction of social work education in China over 100 years ago, for a substantial period social work was not deemed to be required given the social and political landscape in China. It was not until 1986 that social work was reintroduced and officially recognised as a university discipline. Shanghai is dubbed the “birth place of juvenile justice”, with the involvement of social work in juvenile justice beginning in 2003. This has gone through three phases: 2003-2009 (the emergence period) which yielded sporadic rather than systemic involvement of social work in juvenile justice at a local level; 2009-2015 (the systematic, exploration period) which yielded a more widespread focus on social work involvement and the policy and procedures needed to underpin practice; and since 2015 nationally an increased emphasis has been placed on partnership working, with the functions of social work having been outlined by the Supreme Procurator. These include:

- The protection of children’s rights during the justice process, for example through the provision of appropriate adults during police interviews if parents or guardians are not present;
- The provision of assistance and support to young people involved in offending and victims of crime, with for example children involved in sexual offending being offered multi-agency supports in one place and where they can also be interviewed once to satisfy the requirements of all legal departments;
- The provision of preventative services and “correctional services” to address the causes and consequences of offending behaviour, as well as reducing reoffending;
- Addressing drug abuse and drug trafficking offences.

Responses to children who are experiencing adversity or vulnerability, considered to be “at risk” or involved in offending behaviour are differentiated between the civil system and the criminal juvenile justice systems.

The civil system

The civil system addresses matters relating to family law, guardianship and child welfare. In respect of child protection and where the removal of children from their parents' care is necessary, implementation - although legislatively enshrined - is challenging. A 2016 study of 54 cases where children were removed from their parents' care under the National Guardianship System identified that challenges included confusion over state and agencies responsibilities; reluctance to override parental rights; and lack of early identification and intervention. To address these challenges, it has been suggested that four areas of change are needed:

- Increased supervision of parents in fulfilling their guardianship duties;
- Increased intervention to support parents and guardians who require assistance;
- Greater willingness to remove children in situations where their needs cannot be met by their parents;
- The development of a substitute system of care for those children who cannot remain with their parents or return home.

The juvenile justice system

Many minor behaviours committed by children are not punishable under criminal law in China such as school truancy, running away, minor thefts and disobeying parents. These behaviours would largely be the responsibility of parents to deal with or treated as 'public order violations' and subject to administrative penalties and handled by the Public Security Police (Zhao, Zhang, & Liu, 2015). The more significant laws dealing with juveniles found to be in breach of the criminal law are contained in the Criminal Code and Criminal Procedure Code, among others.

Where a child commits a more serious offence, the police are the first contact with the juvenile justice system. The police have considerable discretion in how to respond to behaviours, which can include issuing the child with a warning or diversion.

However, if the offence requires greater intervention, the child can be dealt with via one of two judicial bodies who are responsible for overseeing the implementation of juvenile justice: the juvenile procuratorate or the juvenile court (discussed further below).

In China, juvenile justice law is applicable to those under 18 defined as juvenile and the Convention on the Rights of the Child has been ratified by the National People's Congress, thus making it legally effective in China and a part of Chinese law. Although the general age of criminal responsibility in China is 16, should a child from the age of 14-16 commit a serious offence such as murder, intentionally causing serious injury, rape, bomb or explosive making, arson, poisoning, robbery or drug trafficking, they would be held criminally responsible. Consequently, children aged under 18 would usually be given a lesser punishment than adults convicted of a similar offence.

There is currently debate as to whether the age of criminal responsibility in China should be reduced. The intended and unintended consequences of any reduction in the age of criminal responsibility, including the individual, moral, financial, psychological, cultural and societal costs are recognised, with an understanding of child development and the experiences and needs of young people involved in offending behaviour appearing to be well established with the representatives we spoke to. However, it was reported that a series of high profile cases where offences have been committed by children under the age of 14 and the impact of social development and economic progress on children have been put forward as counter arguments. This debate looks set to continue.

Procuratorate

Less serious offences committed by children aged under 18 can be dealt with by the procuratorate. The procurator is primarily responsible for the decision to prosecute a child, with an assessment completed to inform this decision which should identify the child's needs and draw together legal documents, psychological assessment, and information from agencies including the police, law and social work, taking approximately two months. From this a decision on whether to prosecute and irrespective of this decision a plan for intervention would be developed for the young person and often their family. Such interventions may include the involvement of education and skills providers, police, social work, third sector organisations, and counselling or other support to address trauma. The implementation of this plan would be overseen by the procurator, and in cases where the child meets the requirements for being prosecuted but would not attract a sentence of more than one year imprisonment, and where repentance has been demonstrated, the child could be required to comply through a model of conditional non-prosecution, during which time

they would be monitored by a supervising agent. The role of the procurator is highly relevant in determining what will happen to a child and in monitoring their progress. Contact with the child may continue beyond the completion of any disposal or sentence. More serious offences can however be directed to the juvenile court.

Juvenile Court

The first official juvenile court was established in Shanghai's Changning district in 1984 and for some commentators marks the beginning of the Chinese youth justice system (Zhao et al., 2015). Currently there are four juvenile courts in Shanghai that have the jurisdiction to deal with youth offences. Typically in attendance at court would be the accused, their solicitor, the victim, any witnesses, the prosecutor, the clerk of court, the judicial officer, and either one, three or seven judges. Efforts have been made to improve the support to child accused appearing at court including the trial taking place sitting round a table rather in the court room and the use of instant messaging to answer questions the child may have during the court process. If the child is found guilty, with this decision being made by the judge(s), sentencing considerations for children are different to those for adults and include a greater focus on why the child committed the offence; the protection of the child; the promotion of social justice; and preventing future offending and promoting the education and rehabilitation of the child rather than punishment. To help inform sentencing decisions a social investigation report is completed by a police officer, social worker or another agency detailing the child's circumstances, family history, peer relationships, educational achievements, behaviour in school, and previous offending behaviours and any criminal record, and may also include psychological information. The judge has a range of disposals available to them including dismissal, fines, the provision of guidance or training to the child's parent(s), requiring the child to engage with education, probation and imprisonment. Deprivation of liberty should be the option of last resort, with it noted males and females are held in different institutions and there is currently a greater focus on ensuring institutions provide compulsory education and vocational training and prepare children for their reintegration to the community. It should be noted in China the number of incarcerated children for offending behaviours was estimated at 16,700 in 2011 (China Law Society, 2012). The judge will visit the child and conduct a follow up interview post-sentencing. If the sentence given does not exceed five years imprisonment, criminal records for under 18s are sealed and can only be released in limited circumstances.

Examples of interventions and disposals

We visited two intervention and support providers during our visit. Set Sail is part-funded and inspected by the Chinese Government, being staffed predominantly by volunteers (over 200) and social workers (approximately 30). The service aims to diversify the interventions and supports that are available to children and their families and encourage the pooling of resources around the child to ensure their needs are met and difficulties are addressed through greater partnership working. The service provides both preventative intervention and interventions to children already involved in offending behaviour and their families in schools, the community and in custody. For example, the service delivers China's key government-led adolescent programme for young people deemed to be "at risk" of involvement in offending, who are experiencing poverty, have left education, have parents who are involved in criminality or who are incarcerated, or incarcerated children. Similarly, the service offers a drugs education programme and an education programme on understanding the law. Other supports include case work, art-therapy, volunteering opportunities and groupwork activities. The effectiveness of the interventions was reported to be measured through a combination of service user feedback and satisfaction, pre and post intervention measures of psychological status/abilities, knowledge of the law, skills acquisition and behavioural change, and self-reported and observed progress in family relationships. This information is included in reports that are shared with the procurator or the judge to inform decision-making and monitoring.



A further disposal from the juvenile justice system may be to require the child to participate in formal education such as that provided by the Jiading New Spring School, which was founded in 1985. The school is funded by the Government and children attend due to involvement in offending behaviour or homelessness e.g. due to their parents moving away to the city and leaving the child, parents being incarcerated, running away from home, parents being unable or unwilling to care for the child, or kinship care arrangements breaking down. The school can provide accommodation, protection and education for up to 300 pupils up to the age of 18, often for many years, and has 30 staff, 21 of whom are teachers. At the time of our visit 30 children were resident in the school, with only five having been placed in the school due to offending behaviour.

The School aims to “pay attention to the safety of student's lives, the transformation of students' thoughts, correcting students' bad behaviour and promoting students' healthy growth, adhering to the school philosophy of caring for vulnerable groups, paying attention to

ideological transformation, strengthening behaviour formation, promoting all-round development, serving the society and satisfying parents". Interventions provided include education; the development of skills such as cooking, agriculture, labouring, gardening and hospitality; apprenticeships; and the receipt of qualifications. The children can also access on-site leisure opportunities such as tennis courts, gardens, cinema and a performance studio. Boys and girls are separated, with children of similar ages or displaying similar behaviours residing together in shared dormitories, with shared toilet and shower facilities, heavy doors and bars on the windows. Children who have contact with their families can return home at the weekend, and intervention and training to parents from social work or the procurator can be provided while the children are resident in the school. One of the challenges is where the procurator or judge does not legally require such correctional education, the child, their parent(s) and original school need to consent to this placement. However, in many cases the child and their parents do not want to do so due to stigma and loss of status. Moreover, as the child has been removed from compulsory education, returning to mainstream school on return to the community can be difficult. For those children who are homeless, efforts will be made to find their parents through the civil administration, police and education bureaus working together. Where children do not return to their families, they are supported to move on to employment and their own accommodation but contact can be maintained with the school for some years.

The School is also the site of the District Juvenile Legal Education Centre, undertaking the legal publicity and education of primary and secondary school children in the Jiading District. This is achieved through the use of electronic games to help children learn about the law and their rights and a model courtroom where they can learn about juvenile justice and the court process.



Opportunities and Challenges

Factors identified as underpinning the progress made in juvenile justice thus far in Shanghai were cited as including the development of a shared vision and purpose for juvenile justice and understanding of the needs of young people involved in offending, with the resulting emphasis on education and rehabilitation rather than punishment, child welfare and social responsibility and justice. Moreover, in the absence of legislation, policy has been utilised to strengthen services and judicial protection for juveniles and while issues remain regarding the position of social work in juvenile justice, positive developments supporting the recognition of the role and contribution of social work include the increased professionalism of social work through the degree qualification and the publication of research.

Each of the above areas remain works in progress with further identified challenges including:

- Lack of legislative basis, procedures and processes for prevention and early intervention, which is further complicated by the cultural focus on parental responsibility and the role of the family;

- Information sharing;
- Ensuring robust community alternatives are available to support detention being the option of last resort and the sustainability of non-governmental organisations;
- Variation in practice and cooperation, particularly in acceptance of the role of social work and in the availability of services and supports in more rural areas;
- The distinction between welfare and wellbeing;
- Ensuring the upholding and promotion of children's rights;
- Measuring impact;
- Scale, with China having a population of over one billion and Shanghai over 24 million, with the number of children incarcerated for offending behaviours in China in 2011 estimated at 16,700 (China Law Society, 2012).

Conclusion

The trip to Shanghai helped to provide valuable information on the role of social work, the operation of the civil system in responding to family law, guardianship and child welfare matters, and the implementation of juvenile justice, particularly the roles and responsibilities of the juvenile procuratorate and the juvenile court. The visits to Taicang Set Sail Youth Affairs and Service Centre and Jiading New Spring School helped to illuminate how interventions and support are implemented in practice. Between Scotland and China, the scale of our work; the underpinning culture and ethos; the infrastructure; and the professional expectations, codes and supports are very different. However, there are similarities in the issues faced by children and their families, the dilemmas professionals face when intervening in people's lives, and the debates about children, childhood and responsibility for behaviour are strikingly similar. This highlights opportunities for joint working in responding to these challenges, which CYCJ, the University of Strathclyde and the East China University of Political Science and Law are committed to exploring further.

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