



Behind Public Opinion: A Study on the Legislative Revision of the Crime of Child Abduction in China

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Abstract

The crime of child abduction seriously infringes on the physical and mental health of minors, and also brings a devastating blow to the victim's family, which seriously violates the legal principles of protecting minors and protecting human rights, and should be severely punished by criminal law. However, the public opinion aroused by Wu's child abduction case reflects that the punishment result of the crime is contrary to social expectations. In judicial practice, there are blank charges for the crime of child abduction, resulting in different judgments in the same case; There is a mismatch between the severity of punishment and the harm to society; The current provisions do not cover issues such as complex circumstances in practice. Based on extraterritorial experience and legal analysis, this paper proposes to add a description of the crime to clarify the composition of the crime. Adjust and add aggravating circumstances such as "separating children from their families or guardians for a long period of time" and "committing acts such as slavery, abuse, or sexual exploitation after abduction", to form an orderly sentencing system to respond to complex judicial needs.

Keywords: Chinese Criminal Law; Child Abduction; Amendments to the Law

Introduction

The movie "Dear" records the long journey of the families of abducted children, and the parents who persist in despair have moved countless audiences at home and abroad. In 2021, the abduction case of Sun and Fu, one of the prototypes of the movie, was solved, and the popularity of the film and the special nature of involving minors have made this case widely concerned. In June 2022, Sun's father published online the procuratorate's sentencing recommendation for five years in prison for Wu's child abduction, and raised questions and dissatisfaction with the low sentencing. For a while, public opinion was in an uproar; "The sentence is shorter than the time for the child to be abducted?" "He didn't kidnap a child!" Why is there such a big difference in punishment between trafficking and abduction?" Even some radical opinions are in the dust. It can be seen that it is

difficult for both the victims and the general public to accept the outcome of this case, and the public generally believes that the cost of crime is too low due to simple moral values.

Compared with the crime of child abduction and trafficking, the crime of child abduction has received very different attention in criminal law theory and judicial practice. The scarcity of articles on the crime of child abduction on mainstream research platforms in China contrasts with the current state of thriving research on child trafficking. In judicial practice, there are no judicial interpretations or case guidance related to the crime of child abduction, and occasional discussions are only for the purpose of distinguishing between "trafficking" and "abduction". It is precisely for this reason that the crime of child abduction is regarded as a supplementary crime to the crime of child abduction and trafficking (when the purpose

of the perpetrator cannot be proved to be profitable), and it has long been in a marginal position, resulting in the judiciary losing its voice in the response to public opinion in a high-profile case, facing passivity in society, and making the normative function of the criminal law under scrutiny. Returning to Sun's case, even though the court has sentenced Wu to five years in prison for child abduction, there are still many discussions and questions to be answered behind the case: Does the current legislation on child abduction fully meet the practical needs of a fair handling of similar cases? What is the difference between the legal interests violated by the crime of child abduction and the crime of child trafficking?

Causes of Public Opinion: The Disconnect Between Legislation and Practice on the Crime of Child Abduction

Reunion is not the final chapter, behind the controversy caused by Sun's case is the conflict between legal reason and reason, and the rule of law pursues the agreement of heavenly reason, national law, and human feelings. In this case full of emotion and justice, it is frequently mentioned that college students were sentenced to 10 years for digging birds' eggs, and human traffickers abducted children but only hoped for five years. This series of events and developments have triggered extensive controversy and discussion from public opinion to legal academia, all pointing to one question: how to balance law and human feelings?

The Logic of the Conviction and Sentencing of Wu's Conduct: In this case, from the "death penalty" shouted by the crowd in front of the court to the "five years" of the final verdict, it can be seen that the final verdict of the case is quite different from the expectations of the victims and even the general public, which is that although there are only slight differences in the names of the "crimes of child abduction" and "child trafficking", the sentence for the crime of child abduction is five years imprisonment, and the death penalty for the crime of child abduction and trafficking is particularly serious.

Therefore, the focus of the dispute in this case is "Should Wu's conduct be evaluated as the crime of child abduction or child abduction?" The key to distinguishing between the two is whether the perpetrator abducts children for the purpose of selling or making profits. In this case, the defendant Wu separated the victim from the family out of the desire to make up for the regret of his relatives not being able to have children, and after review, it was not found that Wu obtained money or other forms of benefits through this act, so his conduct was finally found to be the crime of child abduction. Even if Sun's father and even the general public believe that due to the old age, the traditional trading habits of cash transactions, and other reasons, even if Wu has an

unascertainable transaction relationship with the two so-called "breadwinners", the court's trial judgment is based on the facts and the law as the criterion, and when the evidence is insufficient, it can only be determined to be abduction according to the principle of "in favor of the defendant when in doubt". As for the crime of child abduction, Wu has been sentenced to the highest penalty in this case.

The Legitimacy of the Judgment in this Case: The law is a combination of reason and emotion, even though Sun's 16 years of abduction have brought great suffering to Sun's family, whether it is abduction or abduction, it has led to the separation of children and families. However, the construction of a country under the rule of law not only requires a legal system and its implementation in the criminal sense, but also emphasizes the supreme authority of the law and the fairness, stability, universality, openness and equality of the law. In the handling of this case, the judicial organs adhered to the principle of the supremacy of law and the principle of due process, and implemented the principle of judicial rule of law in accordance with rigorous evidence and procedures, which is based on facts and the law as the criterion. That is, in the face of the speculations raised by Sun's father and other members of the public that "the actor may make a profit" and "the actor profited from it", he still insisted on only using the facts related to the case as the basis, and not on subjective assumptions. In addition, in the course of the trial, he acted in strict accordance with the provisions of the law, and under the tremendous pressure of public opinion in this case, he insisted on taking the law as the sole criterion and yardstick for handling the case, and firmly defended the authority and dignity of the law.

The Need for Legislative Amendments: However, the rule of law also requires good law and good governance, and its connotation is not only to have a complete legal system, but also to abandon bad laws, promote good laws, and use the good values of civilization and progress to dominate and command legal norms. The emotions brought about by Sun's abduction case are intertwined with the law, reminding us that we should reflect and seek improvements, so that the law can better balance justice and human feelings.

The object of protection of the crime of child abduction is the family relationship of others and the legitimate rights and interests of children, but in this case, Wu's conduct caused Sun to be separated from his biological parents without knowing it, violated Sun's right to personal freedom, and undermined the happiness and ideal life of Sun's family, and had an indelible practical impact on the real life of the two children's families. The contradictory situation in which biological parents are struggling to find their own victims, and adoptive parents may be "criminals" who hurt their biological parents, makes children face complex family

relationships and ethical problems. Even if the perpetrator only has the purpose of “raising” and “loving” the child, his or her behavior is still a violation of other people’s families and ideal lives, and a serious violation of the human rights of others.

In essence, after the perpetrator successfully exposes the victim from the family or the custody of the guardian, the time when the minor is separated from the family and the encounter he will face will be completely uncontrollable. Children lack the ability to survive, and after being abducted, their lives and growth depend almost entirely on the perpetrators, and if they are abducted, they beat, abuse, enslave, or abuse minors, or even abandon abducted children, and do not take care of children, and other vicious behaviors, will cause minors to suffer secondary or even long-term harm from being abducted. However, if the perpetrator does not cause a certain amount of harm to the child, it is difficult to combine the punishment for crimes such as abuse and intentional injury with the crime of child abduction, resulting in a light crime in a situation where the circumstances are relatively minor.

Justice is the basis for the existence and evaluation of law, and law arises from people’s pursuit of justice, and will also develop and progress in the process of realizing justice. The justice pursued by human beings includes both formal justice and substantive justice, and the judgment in this case is in line with the pursuit and implementation of formal justice, but in the final analysis, for a pair of vicissitudes of life, a broken family, and a confused child, this justice is slightly unsatisfactory. Sun’s father believes that Wu’s five years cannot make up for his weathered fourteen years. This contradiction reflects the subjectivity and objectivity of justice. The law achieves justice through the mechanism of commendation and punishment, and when the punishment mechanism of the law is difficult to work or difficult to meet people’s psychological expectations, it is necessary to adjust the law according to the development of objective facts.

Breaking Through Doubts: Analysis of the Causes of the Legislative Problem of Child Abduction

In the case of Sun’s abduction, the “crime of child abduction” has entered the public eye, and the question of whether the sentence for the crime of child abduction is too light has set off a wave of discussion in society, and more people have focused on the mental trauma of the victim and his family and the perspective of the criminal’s exculpation. On the road to the construction of a society under the rule of law, triggering discussion is a process of popularizing the law and interpreting the law, and it is also a process of promoting the revision of the law.

Confusion in the Protection of Legal Interests: Clarifying the provisions of the Criminal Law to protect legal interests is the primary task of accurately interpreting the charges and testing the appropriateness of the sentence. The protection of the legal interests of this crime is an issue of long-term discussion in academic and practical circles, which is roughly reflected in whether the legal interests of this crime are related to the personal freedom of minors and the right of parents to supervise and protect their children. In essence, the huge gap between the judgment and the public’s expectations comes from a misunderstanding of legal interests.

One group of views holds that the legal interests should include the personal liberty of minors, but when the object of this crime is an infant or young child who is unconscious and capable of free movement, there is no way to speak of the legal interest of personal liberty. Moreover, according to the extended understanding of this view, the crime can be regarded as a continuing offence. In cases such as Sun’s case, where a child is stolen or abducted for the purpose of adoption and raised with the family, the family members who know the origin of the child and raise it together should also be established as an accomplice. On the other hand, it is an act to reduce the infringement of legal interests and avoid secondary harm to the abducted child, and if it is determined to be an accomplice, it will deviate from the essential nature of the crime. Furthermore, in some cases there is a case where the victim promises, i.e. the child consents or voluntarily asks the perpetrator to remove him from his or her original place of life. Although a child is a person with no or limited capacity for civil conduct, his consent does not affect the establishment of the offence. However, for children who have a certain capacity to commit or who are truly in special circumstances, if the promise is an expression of the child’s true intentions, the criminal act will not have the objective elements of infringing on personal freedom. Where in practice, an actor who abducts a child and uses coercion or threats to restrict the child’s personal freedom, and commits both the crimes of child abduction and illegal detention, cannot simply be understood backwards to understand that the legal interests of the crime of child abduction include personal freedom.

The storm of public opinion in this case stems from the public’s misunderstanding that the legal interests of this crime include family relations and even parental custody. In fact, from the perspective of system interpretation, the legislative amendment to adjust the crime of child abduction from the chapter on crimes against the family to the chapter on crimes against citizens’ personal rights and democratic rights is “not a simple position shift, which is enough to show the change in the attitude of legislators towards the protection of legal interests” [1]. That is, the protection of child abduction does not emphasize family relationships,

but personal legal interests. Even if a child is separated from his or her family or guardian, it will inevitably cause serious damage to the guardian's right to supervise and protect, but this is determined by the special nature of the object of the crime. That is, trafficking, intentional homicide or even kidnapping of minors may cause such harms. Correspondingly, it cannot be one-sidedly determined that guardianship and protection rights are intentional homicide, kidnapping, and the protection of legal interests of the crime of abduction discussed in this article just because of the special nature of the object of the crime. In summary, the criminal law of the offence should focus on the direct protection of the interests of the child, rather than on the question of guardianship. Children's right to protection corresponds to the right to guardianship and protection at the family level, but it does not in any way mean that parental rights and obligations are positively recognized in the crime of child abduction.

Defects in the Formulation of the Charges: The blank offence of child abduction in the legislation is the fundamental reason why the offence of child abduction has become a supplementary offence to the offence of child abduction. Simple charges will lead to the judge's inaccurate grasp of the crime and related crimes due to the overly concise description, and there will be a certain deviation in the understanding of objective behavior. For example, Section 240 of the child trafficking offence would "abduct ... The act of picking up or transporting children" is an objective content of conduct, and abduction is a category of criteria for determining the crime of abduction. In the Criminal Law, only the crime of child abduction has an overview of the act of abduction, but the lack of an enumerative and categorical summary of this crime makes the application of the crime of child abduction and trafficking in the same law unclear.

In light of Sun's case, the principle of legality has been implemented in judicial work. As one of the basic principles of the current criminal law, the principle of legality of crimes is the basis for China's criminal justice activities to be carried out strictly in accordance with the law, to fully limit the abuse of public power, and to ensure the realization of citizens' rights to liberties. However, with the astonishing speed of development of modern society, the forms and methods of crime are constantly being updated, and the criminal law, as a legal norm, has its own limitations and lags, and should be adjusted to meet the needs of the real society. The blank description of the crime of child abduction leaves more room for discretion in judicial practice in determining the criminal purpose and objective conduct of the crime. Therefore, the simple crime of child abduction will not only cause uncertainty in its own content, but also increase the obstacle to the understanding of the related criminal acts, which is

not in line with the principle of legality, and the criminal law should amend the form of description of the crime of this crime.

The Sentencing Standard is Single: From the Shen Cong case to the Sun Zhuo case, there are many parents looking for relatives gathered in front of the trial court of every child abduction and abduction case, and they have no time to study the difference between "abduction" and "abduction" on society, and only count the years of struggle to find their children. For parents looking for relatives, no matter what the subjective purpose of the perpetrator is when committing the crime, the result is that the child and the parents are separated for 5 years, 10 years, 15 years, or even a lifetime. Sun's father could not understand that "a five-year prison sentence is already the highest punishment for the crime of child trafficking", because his child, like Shen Cong, was forced to lose his parents and be separated from his family for more than ten years. All parents expect that the punishment of the offender responds to the experience of the child's separation, whether it is emotional or material loss, and even that the punishment of the offender is increased for moral and emotional reasons. Putting all this aside, does a single sentencing circumstance meet the requirements of proportionality of criminal responsibility and punishment?

From the perspective of current judicial practice in my country, the verdicts of some cases involving the crime of child abduction have the situation that the abduction period is long but the sentence is light, which is not in line with the principle of proportionality between crime, responsibility and punishment. The Criminal Law stipulates three levels of sentencing for the crime of trafficking in women and children according to different criminal circumstances and harmful consequences, and the highest statutory sentence is death penalty. This legislative setting provides a clear and feasible legal basis for the crackdown on the crime of trafficking in women and children in judicial practice, and meets the general expectations of the public. Although the crime of child abduction is essentially different from the crime of trafficking in women and children, and its subjective malice and objective social harm are relatively small, this does not mean that there are no acts of child abduction that should be focused on and severely punished.

As mentioned above, if there are acts that violate the legitimate rights and interests of children, such as enslavement, abuse, or even sexual abuse of abducted children, which are often difficult to regulate with a separate crime, the penalty for the original crime of abducting children cannot meet the needs of a complete evaluation of the behavior. Trafficking in persons is a serious crime in all countries, and most countries have stipulated heavier

penalties. At present, my country has set up a separate crime for abduction. Judging from the current laws, it is hoped that abduction and trafficking will be linked in sentencing, that is, the former shall be sentenced to a fixed-term imprisonment of no more than 5 years, and the latter shall not be less than 5 years. Therefore, the crime of abducting children can also refer to the objective provisions of the crime of abducting women and children, add provisions for serious circumstances, and set different sentencing ranges according to different criminal circumstances and harmful consequences.

Legislative Response: The Legislative Amendment Strategy for the Crime of Child Abduction is Proposed

Clarify the Legal Benefits and Localization Amendments in Combination with Extraterritorial Provisions: The provisions on the crime of child abduction in various countries around the world can be broadly divided into three types

Specifically provide for aggravating circumstances and the conditions for upgrading the statutory sentence for "child abduction".

Both Switzerland and Germany criminal law provide for aggravating circumstances and conditions for the increase of statutory penalties for child abduction. In Germany, for example, the abduction of persons under the age of 18 by violence, obvious threats of malice or trickery, or the abduction of children who are not among their relatives is punishable by up to five years of liberty or a fine for the crimes of "abduction of persons" and "abduction of minors", and by one and not more than 10 years if the crime results in the risk of death or serious injury to the victim, serious damage to the physical or mental development, or for the purpose of obtaining remuneration or benefits.

Different statutory penalties are not set for differences in the purpose of selling, etc "Netherlands"; criminal law imposes heavy penalties for the sale of human beings for profit, but does not provide for escalated statutory penalties for crimes committed against minors. However, for abduction, the abduction of minors is punishable by imprisonment for up to six years or a fine of four degrees. Anyone who commits trickery, violence, or threats against a minor, or who is under the age of 12, shall be sentenced to imprisonment for a term not exceeding 9 years or a fine of five degrees [2]. It also stipulates that as long as a minor is taken away against the will of his parents or guardians, regardless of whether the consent of the minor is obtained, whether or not it is for the purpose of marriage, it constitutes the crime of abduction.

Statutory penalties are set separately for different purposes, but there is not much difference in punishment.

The criminal laws of Japan and South Korea adopt this approach, and Korea stipulates the crime of "slightly inducing or inducing minors", and those who control minors by coercion or inducement are sentenced to up to 10 years in prison. Whoever commits the acts described above for the purpose of indecency or other such acts is to be sentenced to fixed-term imprisonment of not less than 1 year but not more than 10 years. Whoever commits the acts described above for the purpose of labor exploitation, sex trafficking, sexual exploitation, or organ harvesting shall be sentenced to fixed-term imprisonment of not less than 2 years but not more than 15 years. Whoever commits the acts described above for the purpose of transporting them out of the country, or transports minors out of the country after committing the acts described above, is to be sentenced to fixed-term imprisonment of not less than 2 years but not more than 15 years [3].

Compared with the above provisions, the crime of child abduction in China has the following characteristics: (i) there are no provisions on aggravating circumstances, and neither the length of abduction nor the result of the abduction is recognized by legislation as aggravating circumstances, but in practice there are a large number of acts that are obviously harmful to society, such as "abducting multiple children" and "stealing infants and young children"; ii. The penalties for the existence of a purpose to sell vary widely. In China, the basic penalty for child trafficking is between five and ten years in prison, which is double the crime of child abduction. Those who are subject to aggravating circumstances or especially serious circumstances may be sentenced to fixed-term imprisonment of not less than 10 years, or even the death penalty up to a maximum of 10 years. This is very different from the crime of child abduction, referring to Japan's regulations, whether the sentence is for profit or not is only three years apart, and the difference in punishment range is small. In the case of China, through the purposive interpretation, the perpetrator of a crime for the purpose of selling may be driven by profits, and the child victim is at greater risk. For reasons such as general prevention, special prevention, and abstract dangerousness, it is reasonable to provide a higher statutory sentence for trafficking. However, regardless of whether or not there is an illegal profit purpose, the basic legal interests of abduction and trafficking are the same, and both are the legitimate rights and interests of children. If there is a huge disparity in the punishment outcome due to the overriding subjective element of purpose, it will lead to a greater risk of subjective imputation.

Furthermore, the Convention on the Rights of the Child, the Law on the Protection of Minors and other relevant laws

have clearly defined the protection of children's rights to survival, development and protection. Abduction directly infringes on minors' right to protection and the safety of their living places, and most judicial cases also involve violations of the rights to education, survival and development. The crime of abduction undermines the continuous and stable security enjoyed by minors, and strips minors from the raising, education, and protection of their parents or other guardians, which is an infringement of children's exclusive personal rights and interests, and may in turn bring risks to minors' lives, freedoms, bodies, development, and other aspects, and seriously harm their rights and interests. The crime of child abduction essentially emphasizes the inviolability of individual rights and interests, and the negative impact on family relations and parental feelings should be the natural result of criminal acts. Therefore, the expression "separation from the family or guardian" in the law should be used as a concrete manifestation of the child's loss of rights and interests such as the right to protection at the family level, and help determine whether the crime has been completed or attempted, and does not have the function of making the criminal act typical.

Supplement the Description of the Charges Based on the Principle of Legality Of Crimes: According to the principle of legality of crimes, the provisions on the composition of crimes must be clear. If the subjective elements are missing, it is easy for judicial personnel to make subjective assumptions in practice, and it is inevitable that the perpetrator will be convicted by analogy. For example, when the pregnant woman Zhang was in the hospital, she thought that Wang's son looked similar to her son, and mistakenly took Wang's son home. This kind of conduct, because Zhang lacks the purpose of abduction, should not be found to be a crime. Moreover, the purposes of abduction are diverse, and different crimes can be constituted according to different criminal purposes. If a child is abducted for the purpose of selling, it violates the child's personal freedom and personal dignity and constitutes the crime of child trafficking; The abduction of a child for the purpose of extorting property is the use of a child as a hostage, which constitutes the crime of kidnapping; The purpose of forced begging constitutes the crime of forcing minors to beg, and the act of abduction is implicated in the conduct for the purpose of the crime. Convictions for pure abduction are rare. Where a child is innocent and young, lacks the ability to distinguish between right and wrong, and does not bear criminal responsibility, abduction is used as a tool for crime to instigate violations and crimes, such as drug trafficking, robbery, etc., and the perpetrator constitutes an indirect principal offender, and the perpetrator may be punished concurrently for the crime of abducting a child and the crime committed. Therefore, the purpose of the crime of child abduction should be clarified

in legislation, so as to clarify the accurate handling of different acts of the crime of child abduction, and avoid the phenomenon of different judgments in the same case caused by a large space for judicial freedom of adjudication.

At the beginning of the amendment, it should be made clear that the amendment of the crime must not deviate from the core connotation of "abduction" and "deception", that is, the coercive force contained in "abduction" must not reach the degree of dominance of "controlling others by force, coercion and other coercive methods" as defined in the crime of kidnapping; "Deception" refers to the degree to which the victim is placed under the control of the perpetrator's power and is separated from the original family relationship or guardianship relationship, and if the victim is only formally attached to the perpetrator but is not controlled by his physical or psychological strength, the degree of "deception" as referred to in this crime cannot be reached. Conduct a relatively specific description of the charges of this crime, and enumerate certain specific forms of conduct, so as to make the norms more clear and concrete, avoid arbitrariness and arbitrariness of the judiciary, and enhance the possibility of prediction by the public [4].

Based on Practice, Build a Discretionary System that is Important and Orderly: From a legal point of view, it is necessary to consider the objective degree of harm of the act, the culpability of the perpetrator, and the general need for prevention [5-10]. Even though the current judicial interpretation of China does not explicitly use the number of abducted children as the basis for conviction, the different number of abducted children reflects the social harmfulness of the abduction, and this can also be considered as a sentencing consideration in the legislative amendment. The purpose and length of the period for child abduction are also aspects that reflect the subjective malice and harmfulness to society of the perpetrator, and should be included in sentencing considerations [10-16].

For example, the Convention on the Civil Aspects of International Child Abduction emphasizes the return of the child to the country of habitual residence in the shortest possible time in the provisions "to ensure the prompt return of a child who has been unlawfully removed or detained in any State party" and "States Parties shall take the most expeditious procedure for that purpose". It follows that the Convention considers the length of detention of a child to be an important factor in causing unlawful harm to the child, and it is in the best interests of the child to ensure that the child's return is speedily exempt from unlawful transfer or detention. In the case of Sun's abduction, the defendant Wu had already verified that he had abducted at least two children, and that the period for abducting children was more than 10 years. Therefore, including the length of the

period during which children are abducted and the number of children in the circumstances that should be considered in sentencing can better protect the lawful rights and interests of children.

What's more, returning to the protection of the rights and interests of minors itself, after the abduction is completed, there are various subsequent behaviors of the perpetrators in practice, some of which take good care of the abducted minors, while others abuse the minors. When revising the legislation on the crime of abducting children, it should also be clearly stated that acts that seriously infringe upon the legitimate rights and interests of minors, such as abuse, slavery and sexual violence, should be used as sentencing circumstances. On the one hand, a comprehensive evaluation of criminal acts can be achieved, reflecting the subjective malice and social harm of such acts, and accurately combating crimes; on the other hand, from the perspective of crime prevention, it is necessary to avoid secondary harm to abducted children. In addition, in order to ensure that the punishment is commensurate with the crime, the additional provisions here should not require that the abuse and slavery reach the level of constituting the corresponding crime. Instead, it gives judicial personnel a certain amount of room for measurement, and the crime has the limitation of "serious circumstances", so as to exclude extremely minor or occasional beating and scolding.

In addition, for the physical and mental damage caused by criminal acts to families or guardians, the purpose of punishment can also be achieved by setting up a statutory sentence to be upgraded, and the principle of proportionality of criminal responsibility and punishment can be further maintained. Similarly, in order to avoid unusually heavy punishments, while expanding the scope of criminal law evaluation, "causing serious harm" should also be added to narrow the evaluation dimension, so that the perpetrator can be punished as his crime.

Conclusion

To sum up, the author has studied the legislative shortcomings and amendment paths of the crime of child abduction, and the amended crime of child abduction is placed in Article 262 of the Criminal Law. Article 262 stipulates: "Whoever abducts a minor by violence, coercion, deception or temptation for an illegal purpose, thereby separating the minor from his family or guardian, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; In any of the following circumstances, a sentence of between 5 and 10 years imprisonment is to be given, and a concurrent fine or confiscation of property; where the circumstances are especially serious, the sentence is life imprisonment: (1) abducting three or more minors; (2)

Abducting minors multiple times; (3) Causing minors to be separated from their families or guardians for 10 years or more; (4) Carrying out acts such as enslavement, abuse, or sexual exploitation after abduction, where the circumstances are serious; (5) Causing serious injury, death, or other serious consequences to the abducted child or their close relatives; (6) Abducting minors abroad.

"Once any law is enacted, it is already lagging behind, and when the loopholes in the law cannot be filled by hermeneutics, changing the law is a reasonable choice" [6]. Judicial dilemmas and legislative deficiencies have been lit up again and again in many practical cases. The necessity and urgency of improving legislation on the crime of child abduction has been fully reflected, not only by the handling of individual cases or by the influence of public opinion, but also by the goals of bringing domestic laws into line with international standards, improving the systematization of provisions on child abduction, and comprehensively protecting the legitimate rights and interests of children. Therefore, on the premise of comprehensively considering the legislative situation in China and the legislative provisions of foreign countries, it is necessary to carefully consider and promote the improvement of relevant laws in light of current practical issues.

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