

北京青少年法律援助与研究中心
Beijing Children's Legal Aid and Research Center

Organization's name: Beijing Children's Legal Aid and Research Center

Organization's acronym: BCLARC

Year established: 1999

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Organization's introduction:

The Center, officially known as the Beijing Children's Legal Aid and Research Center, was established in 1999 and gained official registration in 2003. It is the first non-governmental organization dedicated to promoting the legal rights of children in China, and was granted special consultative status with the United Nations in 2011 by the United Nations Economic and Social Council.

The aim of the Center is to protect the rights and interests of children, to encourage lawyers' participation in this great cause, to establish a nationwide collaborative network for the protection of children, to promote the study of children's law in China, and to advocate for the improvement of related legislation.

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To achieve these goals, the Center has developed a comprehensive and professional model for the protection of children through over 20 years of exploration and effort, including :

- (1) offering legal consultations and referrals by setting up a free, confidential, 24/7, 365-day-a-year hotline for children who need help. In 2022, this hotline processed over 4000 requests for help;
- (2) providing free legal aid for children by representing the cases. In 2022, the Center provided free legal aid for cases involving the violation of children's rights and served as legal representatives for more than 100 children nationwide;
- (3) conducting evidence-based research on children's legal issues by holding seminars with the stakeholders of child rights protection, publishing reports, journals and manuals related to children's rights;
- (4) participate and advocating for child protection legal reform by suggesting and assisting central and local legislative departments in drafting laws and legislative documents;
- (5) spreading legal knowledge and awareness of child protection to children, parents, teachers, and other relevant individuals through offline lectures, online courses, publishing legal videos, and creating legal handbooks;
- (6) encouraging the joint participation of child protection organizations, lawyers, psychological counselors, and social workers, establishing a network of professionals and organizations related to child rights protection.

Non-governmental Organization Report on China's Compliance with the Convention on the Rights of the Child

As a non-governmental organization engaged in legal aid and research for children, our report will focus on the implementation of child protection in China, especially in the field of child protection legislation and judicial practice. The report will uphold the principle of objectivity and neutrality, sharing and analyzing the progress, deficiencies, and challenges of child protection work in today's China. The report will integrate China's legislative and judicial practices for children, as well as our Center's practical experience.

1. The overall legislation development for child protection in China
Our Center has participated comprehensively in the process of China's legislation on the protection of children. In 2018, the director of the center, Mr. Lihua Tong, was commissioned by the Chinese legislative department to participate in the drafting of expert proposals for the revision of the Law on the Protection of Minors, which was passed in 2020 and officially implemented on 2021 Children's Day; In 2022, our Center was commissioned again by the Standing Committee of the Beijing Municipal People's Congress to draft expert proposals for the *Beijing Municipal Regulations on the Protection of Minors*. Based on thorough research, we submitted a proposal consisting of 160 articles, and

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most of them have been accepted by the new revision implemented on Children's Day in 2023.

As an important part of comprehensively advancing the rule of law, China has revised and passed several specialized laws and provisions related to the protection of children in recent years, such as,

- (1) the revision of the Criminal Procedure Law in 2018 established a "special procedure for minors";
- (2) the Civil Code implemented in 2021 improved national guardianship responsibilities;
- (3) the 2021 revision of the Law on the Protection of Minors constructed a comprehensive child rights protection system and related mechanisms;
- (4) the 2021 revision of the Law on the Prevention of Juvenile Delinquency scientifically improved the principles and mechanisms for preventing juvenile delinquency.

In a great measure, the above legislative activities have made a significant progress in strengthening the protection of the basic rights of children within the Convention. The development of legislation for the protection of children reflects China's national governance capabilities in children's affairs, and solidifies the foundation of protection for children.

2. China's effort on protecting children from sexual abuse and crimes. Sexual abuse and crimes are the common challenges faced by the

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protection of children in the whole world. In recent years, the related legislation in China has been increasingly developed, including,

(1) The newly revised Law on the Protection of Minors stipulates many specific systems for protecting children from sexual assault and crimes, including mandatory reporting, information inquiry, and employment prohibition and so on.

(2) The Criminal Law Amendment has added related charges and clarified specific circumstances for heavier punishment for certain crimes.

(3) In May 2023, the Supreme People's Court and the Supreme People's Procuratorate jointly issued the *Interpretation on Several Issues Concerning the Application of Laws in Handling Criminal Cases of Rape and Molestation of Minors*, which emphasized a series of strict criminal justice measures of cracking down on sexual crimes against children.

However, it is also important to fully realize that although the legal system has been increasingly improved, in judicial practice, children may still face many complex problems during the process of safeguarding their rights when they encounter sexual abuse. Therefore, we recommend that,

(1) the government continues to increase the training of judicial personnel, improving their sensitivities and professional abilities to handle such cases, to reduce secondary harm to child victims;

(2) the government should continue to support and develop more professional child protection non-governmental organization, cultivate professional teams including lawyers, social workers, and psychological counselors, providing effective and comprehensive assistance to child victims and their families who lack such support;

(3) the government should continue to formulate corresponding laws and policies, and actively leverage the key role of big platform companies in the governance of online sexual exploitation and abuse.

3. Student bullying and campus violence prevention and control

China. Bullying among students exists in various countries around the world. Since 2016, the Chinese government has begun to pay attention to the governance of student bullying and campus violence issues and enacted a series of policies, regulations and laws, including,

(1) In April 2016, the Education Supervision Office of the State Council issued the *Notice on Carrying out Special Management of Campus Bullying*, which was the first time in a national policy document that explicitly proposed the prevention and control of campus bullying;

(2) In November 2016, nine ministries including the Ministry of Education issued the *Guiding Opinions on the Prevention and Control of Bullying and Violence among Primary and Secondary*

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School Students, proposing systematic solutions to the problem of campus bullying;

(3) In December 2017, the Ministry of Education and ten other departments issued the document *Strengthening the Comprehensive Management Plan for Primary and Secondary School Students' Bullying*, which clarified that schools should establish and improve a coordination mechanism for preventing and controlling student bullying;

(4) The newly revised Law on the Protection of Minors in 2020 clearly stipulates the definition of student bullying and gives instruction on how schools prevent student bullying;

(5) In 2021, the Ministry of Education issued the *Regulations on the Protection of Minors in Schools*, which made clear provisions on the discovery, education, investigation, reporting, and other aspects of student bullying incidents.

From the perspective of China's law and policy formulation, the country has already established a relatively sound legislative system for the prevention and treatment of student bullying. According to the *White Paper on Juvenile Procuratorial Work (2022)* issued by the Supreme People's Procuratorate of China, the number of school bullying and violent crimes in China has continued to decline from 2020 to 2022.

We sincerely suggest that in the future, the government should continue to strictly supervise the implementation of relevant systems, and provide

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more guidance and training for teachers and administrators in schools. In addition, we hope that the government continue to collaborate with social organizations, professional institutions, and other social forces with corresponding qualifications through purchasing services, to provide professional services such as legal consultation, psychological counseling, and behavioral correction for students to support the handling of bullying issues.

4. The protection of child rights online in China. According to *t Report on the Internet Usage of Children in China in 2021* released by the Central Committee of the Communist Youth League's Department of Protection of Minors and the China Internet Network Information Center (CNNIC), the number of child internet users in China has reached 191 million in 2021, with a penetration rate of 96.8%.

The internet has brought new opportunities for children to exercise their rights to communicate, connect, learn, access information and express their opinions on matters that affect them and their communities. However, it also brings unprecedented challenges on the protection of child rights online.

As the proportion of children using the internet continues to rise, and the age at which they first begin using the internet continues to drop, building a safe and healthy online environment has become an important issue in China. In recent years, China has continuously strengthened its protection

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of children in the digital realm by enacting laws and policies, including,

(1) the *Regulations on the Protection of Children's Personal Information on the Internet* implemented in 2019, regulates the collection, storage, use, transfer, and disclosure of children's personal information online and gives special protection to children's personal information;

(2) The Law on the Protection of Minors includes a specialized chapter on online protection, which comprehensively regulates the improvement of children's digital literacy, the strengthening of content regulation for children, the protection of children's personal information, and the prevention and treatment of internet addiction;

(3) the *Regulations on the Protection of Minors in the Internet* currently under public consultation explicitly assigns legal responsibilities for the relevant parties, including the government, families, schools, digital platform companies, and also other internet users.

It should be noted that, through a significant number of consulting cases and research studies in child online protection, we have found that large digital platform companies have profound influence on child users. They own a new, comprehensive and highly invasive power by making platform rules, possessing children's data, recommending information based on algorithms and the "information cocoon" effect.

Therefore, we suggest that the government continue to take the impact of large digital platforms on child rights seriously and enact legislation to promote these companies to play a positive role in safeguarding child rights. For example, establishing internal child rights protection mechanisms, to provide more products and services that are beneficial to children's physical and mental health; jointing professional child protection organization carries out work related to child-friendly assessment, children protection system development and children's online literacy cultivation.

5. The mandatory reporting system towards the infringement children's rights. The newly revised Law on the Protection of Minors stipulates that state organs, resident (village) committees, units and their staff who have close contact with children have a duty to report when they discover that the physical and mental health of children has been infringed or suspected of being infringed upon, or when they discover that children are facing other dangerous situations. They are required to immediately report to the public security, civil affairs, and education departments, or they would be legal responsible or even punished for their fail to report.

In order to better implement this requirement, the Procuratorate and Municipal Health Commission in several cities have jointly established a mandatory reporting "red-orange-yellow" warning in the electronic medical record system of hospitals and other medical institutions. When a

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girl under the age of 14 is found to be pregnant in hospital, the system will automatically trigger a red warning, reminding the treating doctor to report to the police or the related authorities. If the doctor refuse or delay to report, the electronic medical record system will automatically report. These supporting measures have greatly enabled the effective landing and functioning of the mandatory reporting system.

6. The unified national system for querying information on illegal conducts or crimes against children and employment prohibition in such records. The system was previously explored through various judicial practice and policies, which has been elevated to national legislation by the newly revised Law on the Protection of Minors. It stipulates that the state should establish an information query system for illegal criminals involved in sexual assault, abuse, trafficking, and violent crimes, and provide free query services to units in close contact with children.

This system requires the units in close contact with children to check with the police and the procuratorate whether their job applicants have records of these illegal crimes. Applicants found with such records shall not be hired. Besides, these units shall regularly query whether their employees have such illegal criminal records every year. If their employees have been found engaging in the aforementioned crimes, they shall be dismissed in a timely manner.

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This system can effectively prevent children from suffering violent crimes from the teaching and administrative staff in school, and eliminate the potential dangers as much as possible from people in close contact with children.

7. Special child protection requirements in accommodation industry in China. The newly revised Law on the Protection of Minors stipulates that accommodation providers such as hotels, inns, and hostels shall inquire about the contact information of parents or other guardians and the relationship between the occupants when accommodating children, or when accommodating children and adults together; if any suspected illegal activities are found, they shall immediately report to the police and promptly contact the parents or other guardians of the children.

If accommodation providers violate the provision, the market supervision and management, emergency management, public security and other departments shall order them to make corrections within a prescribed time limit and give warnings according to their respective responsibilities; those who refuse to make corrections or cause serious consequences shall be ordered to suspend business for rectification or have their business license and relevant permits revoked, and shall be fined not less than 10,000 CNY but not more than 100,000 CNY.

In order to implement this requirement under Law on the Protection of Minors, the Ministry of Public Security has formulated the “Five Musts”

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policy for accommodation providers receiving children. They are the following,

- (1) Must verify the identity of children check in the hotel, and truthfully register and submit relevant information;
- (2) Must inquire about the contact information of children's parents or other guardians, and record it for future reference;
- (3) Must inquire about the identity and relationship of the occupants, and record it for future reference;
- (4) Must strengthen security inspections and visitor management, in order to prevent illegal harm to children;
- (5) Must report suspicious situations to the police immediately, contact children's parents or other guardians in a timely manner, and take corresponding security measures.

8. Finally, we suggest that the government should continue to strengthen the supervision and enforcement of relevant laws and regulations; continue to enhance the professional training of law enforcement personnel; continue to improve the legal system for child protection to promote judicial justice; continue to carry out legal popularization activities to enhance the legal knowledge of the whole society; and continue to support the development of professional child protection organizations to play a better role in protecting children.

We understand that protection of children is an eternal career, and the rapid development of the environment has brought many complex

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challenges to children's rights. The development of history is a process of constantly emerging new problems and gradually solving them. For more than 20 years, the Center has actively promoted and deeply participated in the development of this career. We sincerely hope that these legal policies will be better promoted and implemented, and that children can grow up healthy and happy in China.