

The Thai Parental Responsibility Law as a Deterrent on Juvenile Delinquency

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Abstract

The parental responsibility law or the Child Protection Act of 2003 was enacted in 2003, but the impact of the law on juvenile delinquency remains unclear. Based on deterrence theory and control theory, if the law works effectively, parents would closely take care and be more responsible of their children because they are afraid of legal sanctions imposed by the law, which would help strengthen the social bonds between them and decrease the juvenile delinquent behaviors. Parents' perceptions of legal sanctions derived from the law are expected to serve as a deterrent effect in shaping their child rearing styles that can lead to a reduction of juvenile crime and delinquency. The intended impact of the law may include not only the decrease of juvenile crime rates but also the better parenting strategies and treatments for children. However, the capacity of the criminal justice system to implement the law is a crucial factor to create a deterrent effect on juvenile delinquent behaviors through parental responsibilities. A more effective enforcement of the law may be necessary to deal with the increasing problem of juvenile delinquency in Thailand.

Keywords: Parental responsibility law, Juvenile Delinquency, Deterrence, Social bonds

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Introduction

The parental responsibility law has been enacted in Thailand since 2003, but there is no evaluation research exploring its impact on juvenile delinquency. To examine the impact of the law, the research question is to ask whether the parental responsibility law has certain effects on juvenile delinquency in Thailand. Based on deterrence theory, if the law effectively works, parents will take care and be more responsible of their children because they are afraid of legal sanctions imposed by the law, then the juvenile crime rates may decrease. According to research on family and crime, family factors, such as parental monitoring and attachment, are related to juvenile delinquency (Gottfredson & Hirschi, 1990; Rankin & Wells, 1990). This paper will first explain the parental responsibility laws and their main principles, then introduce the Thai parental responsibility law, and finally elaborate the concepts of deterrence theory, which is the main focus of this paper.

What are parental responsibility laws?

Parental responsibility laws refer to laws that impose criminal and/or civil responsibilities on parents for the delinquent behavior of their children. These laws aim to involve parents in the lives of their children by holding them criminally and/or civilly responsible for their children's actions. The purpose of these laws is to ensure that parents provide necessities for their children in their custody and to make sure that they do not abandon or abuse their children (Tomaszewski, 2005). The concept of the laws was rooted in the theoretical framework of control theories (Hirschi, 1969; Gottfredson & Hirschi, 1990) stating that parents' roles are essential in controlling children's behaviors through proper attachment, involvement, commitment, and belief and effective parenting. Penalties for violation of these laws vary across the country. The penalties include increased participation by parents in juvenile court proceedings; participation in treatment, counseling, community services, or other diversion programs; financial responsibility for court costs and restitution payments; financial responsibility for treatment, detention, and supervisory costs; and criminal responsibility such as fine and imprisonment (Tomaszewski, 2005). Generally, parents will be held criminally liable when it is found that they do not exercise reasonable care, supervision, protection, and control over their children. The problems with parental responsibility laws are the vagueness of what parental responsibility truly means and lack of research evaluating the effectiveness of parental responsibility laws.

The parental responsibility law in Thailand

The parental responsibility law in Thailand, called “The Child Protection Act of 2003,” was enacted on September 24, 2003. The law is used as a strategy to combat the increase of youth crime in the society. The main objective of the Act is the protection and definition of juvenile legal rights and interests. In addition, the Act also focuses on delinquency prevention by calling for a comprehensive and systematic strategy to prevent juvenile delinquency.

The Act has improved guidelines of juvenile protection in order to make them proper for the modern society. However, the major change in the renewed juvenile law is that it includes criminal responsibility on parents for their children’s illegal actions. The Act imposes duties on parents to provide necessities, such as protection, education, and healthcare, for their children and prohibits parents from neglecting and abandoning their children. Parents who fail to exercise reasonable protection, supervision, and control over their children will be criminally punished. It is believed that parents are responsible for taking sufficient care of their children. Therefore, when their children have done something legally wrong, the parents are also responsible for those wrong actions of their children.

Deterrence theory and the Thai parental responsibility law

In this section, the key concepts of deterrence theory and how they are related to the Thai responsibility law will be discussed. Historically, deterrence theory rooted in the classical school of criminology became popular in the 1970s (Logan, 1972; Salem & Bowers, 1970; Tittle & Rowe, 1973). According to the first and the most prominent classical criminologists, Cesare Beccaria (1764), individuals are rational beings who naturally pursue their own interests and people choose to engage in crime because of the pursuit of self-interests. Therefore, the threat of swift, certain, and proportionately severe punishments can deter criminal behavior. Consistent with Beccaria, Jeremy Bentham (1789), another prominent classical criminologist proposed the concept of human as a calculator of pleasure and pain. In other words, individual behavior is driven by the pursuit of pleasure or benefits and the avoidance of pain or costs. Classical theorists generally contend that punishments should be used as deterrence to prevent crime. Accordingly, deterrence theorists agree that individuals are rational and pursue their own interests. Human beings basically try to maximize their pleasure and minimize their pain. Therefore, people are willing to engage in crime if they believe they would have some benefits. Thus, deterrence theorists suggest that the best way to prevent crime is through punishments that are swift, certain, and appropriately severe.

Building on the classical framework, the three core principals of deterrence theory include celerity, certainty, and severity of punishment. First, celerity refers to swiftness of punishment in which offenders are punished soon after committing crime (Nagin & Pogarsky, 2001). Therefore, punishments can deter crime when people believe that they tend to get punished shortly after they commit a crime. Secondly, certainty involves that crime is consistently followed by punishment. People who perceive that they are likely to be detected, arrested, and punished after committing a crime will mostly not engage in crime (Erickson, Gibbs, & Jensen, 1977). Lastly, severity of punishment involves the proportion of punishments that should be enough to offset benefits of crime (Ball, 1955). This means that punishments do not need to be severe for all types of crime. Severity of punishment is effective in deterring crime when people perceive that the severity of punishment for a crime outweighs the benefits of the crime.

In addition, deterrence theory distinguishes two types of deterrence: specific and general deterrence. Specific deterrence involves the idea that punishment is expected to reduce the crime of those specific persons who are punished (Gibbs, 1975). Therefore, those who being punished for a crime hardly tend to commit further crime. Whereas, general deterrence refers to the idea that punishment deters crime among people in the general population who are not punished (Logan, 1972). People probably feel that they might be caught and punished if they commit crime. It is assumed that punishment will specifically dissuade the offender from repeating the crime and generally prevent people who never commit any crime from committing crime (Bell, 1955).

Deterrence is one of the purposes of criminal punishment. The other goals of criminal punishment include retribution making the offenders pay for the guilt they made, restraint denying the offenders the chance to commit further offenses, rehabilitation providing education and treatment programs to the offenders to eradicate criminal tendencies, and restoration which focuses on the treatments for victims of crime (Golash, 2005). It has been confirmed that deterrence is essential to preserve society (Bell, 1955). Based on deterrence theory, the Thai parental responsibility law has been implemented as a deterrent for dealing with juvenile crime. The law is related to the deterrent concepts of certainty and severity since legal punishments are included.

According to the Child Protection Act of 2003, there are two common types of punishments included in the Act: fine and imprisonment. The penalties for parents who fail to provide reasonable care and supervision to their children are demeanor sanctions including

a fine no greater than 30,000 baths (\$900) and/or a six-month prison term. These sanctions are legal threat intended to have some deterrent effect on parents who are doing a poor job in taking care of their children. As proposed by deterrence theorists, different types and magnitudes of punishment can result in different deterrent effects on crime prevention (Bell, 1955). Prison is seen to be more severe than other types of penalty, not including death penalty. Therefore, imprisonment should pose a greater threat on potential criminals than other types of criminal penalty, including jail, fine, and probation, and it should have a larger effect on crime prevention than others (Ericson & Gibbs, 1979).

Theoretically, when such parents are aware of the legal threat imposed by the Act, they will pay more attention on their children lives and provide sufficient care to their children, supervise and monitor them, and punish them when they have done something wrong. Legal sanctions in the revised law should be considered as an increase of certainty and severity of punishment for parents since the previous juvenile laws did not impose any legal penalty on irresponsible parents. Although the Act imposes just misdemeanor sanctions on negligent parents, it is expected to be effective and achieve the intended goals of deterrence.

As discussed earlier, deterrence concepts can have both specific and general deterrent effects. The Child Protection Act of 2003 is intended to place certain general deterrent effects on people in the general rather than to attempt to actually punish parents of the delinquent children. The Act generally attempts to scare negligent parents by the threat of criminal sanctions. However, it is also expected to have specific deterrence on the parents who have been punished for violating the law. However, the deterrent effects would not be effective if the criminal justice agencies, particularly police, do not rigorously enforce the law (Nagin, 1998).

Furthermore, deterrence theorists previously focused mostly on the impact of formal sanctions on crime, but they have also been interested in informal sanctions recently. Rational individuals tend to calculate all relevant costs and benefits before making any decisions. Thus, the complete deterrence model should consist of individual perceptions of both legal and non-legal costs of being caught when committing crime. Non-legal costs include embarrassment, shame, and other informal effects (Grasmick & Bursik, 1990; Williams & Hawkins, 1986). There is evidence reporting that perception of non-legal costs is negatively related to crime (Pratt, Cullen, Blevins, Daigle, & Madenson, 2006). In addition, it has been suggested that formal punishment probably better deter crime when cooperating with informal sanctions (Nagin, 1998; Zimring & Hawkins, 1973). Therefore, informal sanctions or

non-legal costs including embarrassment, social degradation, loss of employment, and loss of friends may also play an important role in encouraging parents to take care of their children since most Thai people have traditionally close relationships with others in their community. Parents may perceive that they would feel embarrassed, lose their jobs and friends, and be socially degraded when their children are arrested and charged with a criminal offense. They would be also charged with a crime of improper or negligent parental supervision. Therefore, these non legal costs may also have certain effects on parenting strategies.

In addition, this law may also have some effects on children who no longer want their parents to be in troubles. Generally, if children morally concern about their parents and do not want their parent get punished by the Act, they will not cause any trouble, especially committing crime. According to control theories, this might effectively work among children who are highly attached to their parents (Hirschi, 1969). Hopefully, the Act may have the direct deterrent effect on parents and the indirect deterrent effect on the youth based on the deterrent effect of informal sanctions.

Another aspect of deterrence theory relevant to the Thai responsibility law is perceptions of the threat of being punished are influenced not only by the experience of being caught but also by the experience of punishment avoidance as proposed by Stafford and Warr (1993). It is noted that both punishment and punishment avoidance can have direct and indirect effects on criminal involvement. Therefore, the law will not have any deterrent effects if parents perceive that they tend to be able to avoid being punished or if they learn that other parents who have violated the law are not punished. When they realize that they are able to avoid punishments, they are less likely to perceive the threat of legal punishments and, thus no longer taking care of their children. According to the perceptual deterrence concepts, the law will not have a deterrent effect, if parents do not perceive its threat. To increase sanction risk and severity perceptions, the criminal justice system needs to be able to implement the law effectively and rigorously (Nagin, 1998).

Empirical research on deterrence theory

Deterrence concepts have been widely tested since they were renewed in the late 1960s by Becker (1968) who proposed the economic perspectives on deterrence theory. Considerable deterrence research can be categorized into three main types of studies: ecological, interrupted time-series, and perceptual studies (Nagin, 1998). The ecological studies involve using variations in crime rates and punishment levels across time and space to

measure deterrent effects (Sampson & Cohen, 1988). The interrupted time-series technique is employed to examine whether a specific intervention or law at one period of time have an effect on crime rates at a subsequent period of time (Kovandzic, Marvell, & Vieraitis, 2005; Ross, 1973). Whereas, the perceptual studies involve the links between perceived certainty and severity of punishment to self-reported crime data assembled from surveys (Nagin, 1998; Paternoster, 1987). The first two types of study relying on official data were primary deterrence studies prior to 1980, while the perceptual approach focusing on the use of self-reported data obtained from cross-sectional surveys, panel surveys, and scenario-based surveys has been widely used to test deterrent effects since 1980s (Nagin, 1998; Grasmick & Bryjak, 1980; Paternoster, 1987; Saltzman, Paternoster, Waldo, & Chiricos, 1982).

Deterrence theory has been challenged and developed over the past few decades because considerable deterrence research suggests that deterrence effects of punishment on crime are moderate or even weak (Pratt et al., 2006). Also, it was found that deterrence measures, such as increased police size/police per capita, arrest ratios and clearance rates, stricter sentencing policies, and other “get tough” policies, were among the weakest macro-level predictors of crime (Pratt & Cullen, 2005). More importantly, some scholars have suggested that legal punishments cause more crime (Braithwaite, 2002; Sherman, 1993). Perceptual deterrence theory has been developed due to the weaknesses in the traditional deterrence theory. It is believed that the threat of legal punishment will work effectively when people perceive it. The perceptual approach has been largely used to test deterrent concepts since 1980s (Nagin, 1998). However, it has been criticized that perceptions that are unstable overtime are a consequence rather than a cause of crime (Lundman, 1986; Minor & Harry, 1982; Paternoster, 1987). Therefore, the current perceptions of punishments can be influenced by the effect of prior delinquent behavior, referred as “experiential effect” (Paternoster, 1987; Saltzman et al., 1982).

In contrast to the deterrent concepts, some research found that persons who have been punished are more likely to commit subsequent offenses than those who have not been punished (Paternoster & Piquero, 1995; Piquero & Pogarsky, 2002; Pogarsky & Piquero, 2003). This positive effect of punishment on future offenses may be found among the most high-rate offenders. Offenders who have been arrested and punished may increase their bets under the belief that getting caught in the first time was a bad luck. Thus, they reset their perceptions of certainty of punishment downward and believe that they would not have been unluckily caught again (Pogarsky & Piquero, 2003).

As mentioned previously, certainty, severity, and rapidness of punishment are the key concepts of deterrence used to prevent crime. However, certainty, as deterrence, has been generally found more effective than severity and rapidness (Anderson, Chiricos, & Waldo, 1977; Pratt et al., 2006). Most deterrence studies focus largely on the certainty and severity of punishment. There are only few studies have attempted to examine the effect of swiftness of punishment on crime and it was found that celerity of punishment does not reduce subsequent offending (Nagin & Pogarsky, 2001). Severity of punishment is often measured in terms of the average length of imprisonment and certainty of punishment is generally measured in terms of the arrest rate (Paternoster, 1987).

Empirically, deterrence research has found mixed results when testing the perceived certainty of punishment and crime (Pratt et al., 2006). Perceived certainty of punishment is consistently found to have certain negative effects on criminal behavior (Anderson et al., 1977; Foglia, 1997; Pratt et al., 2006). There is some evidence showing that increasing the certainty of punishment may moderately reduce crime (Logan, 1972; Tittle & Rowe, 1973). However, this effect is likely to be short-lived and limited to certain circumstances (Carr, Goldberg, & Farber, 1975; Nagin, 1998; Ross, 1973). More interestingly, when examining the existing perceived certainty by employing more rigorous analysis, it has been found that the deterrent effect of perceived certainty is weak (Paternoster, 1987; Pratt et al., 2006). It was argued that those studies that found support for the deterrent effect of perceived certainty are methodologically inadequate (Paternoster, 1987).

Regarding severity of punishments, deterrence theorists argue that perceived severity of punishment is important to make deterrence theory effective in preventing crime (Grasmick & Bryjak, 1980; Grasmick & Green, 1980). Whereas, some scholars suggest that more severe punishments cause the punished persons to commit more offenses (Agnew, 2001; Akers & Sellers, 2004). Unlike the perceived certainty of punishment, perceived severity of punishment has received little attention and most research on perceived severity found little or no support for the deterrent effect of perceived severity (Paternoster, 1987). Only few studies have found that perceived severity is significantly related to delinquency (Grasmick & Bryjak, 1980; Grasmick & Green, 1980).

Conclusion

In conclusion, parents' perceptions of both legal and non-legal costs derived from the Child Protection Act of 2003 are expected to be serve as a deterrent effect in shaping their

child rearing styles that can lead to juvenile crime and delinquency reduction. The impact may include not only the decrease of juvenile crime rates but also the better parenting strategies and treatments for children. However, it would never reach the intended goals if the law is not fully enforced since was found that the capacity of the criminal justice system to implement the law also contributes to the deterrent effects (Nagin, 1998).

One way to measure the effectiveness of the Act is to compare the juvenile crime rates before and after the law was enacted to see whether there is a change in crime rates. Crime rates and arrest rates have been employed to measure the effectiveness of several laws and policies (Jensen & Metsger, 1994; Kovandzic, Marvell, & Vieraitis, 2005; Lester, & Steward, 1996; Maltz, 1975; Sherman & Weisburd, 2000; Sterne, Pittman, & Coe, 1965; Stolzenberg & D'alessio, 1997; Wu, 1996). This method can be strengthened by the use of qualitative and ethnographic techniques, such as observations of parenting styles and interviews of parents, juvenile offenders, and police. For example, St. Jean (2007) employed ethnographic techniques, interviews, and observations to explain the findings of statistical analysis of crime rates in Chicago.

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