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Discretion and the Conditional Non-Prosecution of Juveniles

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Abstract

Conditional non-prosecution has been added to China's Criminal Procedure Law amended in 2012, which is a special litigation system to protect minors who commit a crime and make the restorative justice come true. As a breakthrough legislation in China's contemporary criminal prosecution system, this system reflects that China's criminal legislation is constantly changing the traditional severity and mechanicality, developing in the direction of leniency and rationality, and at the same time being in line with the international principle of protecting the rights of minors. However, there are still certain problems in the application of the system, such as ambiguous norms and the application rate of this system is not so high as expected; There also have problems such as competition between non-prosecution and conditional non-prosecution. We should actively explore how to guide and standardize the discretion of the procuratorate, which is an important way to ensure the normal operation of the conditional non-prosecution system.

KeyWords

conditional non-prosecution; prosecutorial discretion; manifestations of repentance; Particularity of minors

1 Introduction

The 2012 revision of the Criminal Procedure Law introduced the mechanism of conditional non-prosecution within juvenile proceedings, embodying the law's protective orientation toward minors. Article 282 provides that, where a minor is suspected of committing an offense under Chapters IV, V, or VI of the Criminal Law, carries a potential sentence of no more than one year's imprisonment, meets the statutory conditions for prosecution, and demonstrates genuine repentance, the People's Procuratorate may render a decision of conditional non-prosecution. In effect, while retaining the framework of relative non-prosecution, the Criminal Procedure Law broadens prosecutorial discretion vis-à-vis minors by institutionalizing this special mechanism.

Nevertheless, the operation of conditional non-prosecution raises a number of unresolved theoretical and practical challenges that call for closer scrutiny. Foremost among these is the ambiguity generated by the procuratorate's dual position: vested simultaneously with quasi-adjudicative authority and traditional prosecutorial power, the institution risks sliding into functional overreach or, at the very least, blurring the boundary between prosecution and adjudication. Closely related is the contested legal character of the "conditions" imposed under this mechanism. Are these conditions to be understood as administrative supervisory measures? The answer to this question carries significant implications for the scope of prosecutorial discretion, the intensity of judicial oversight, and the degree of legal protection afforded to juveniles.



A further difficulty lies in the translation of legislative aspirations into prosecutorial practice. Although the law mandates a normative commitment to the special protection of minors, the extent to which procurators can genuinely internalize this commitment remains uncertain. Empirical evidence suggests that, despite the statutory framework, conditional non-prosecution has remained underutilized, a phenomenon that may reflect prosecutorial conservatism, resource limitations, or a broader culture of risk aversion within the justice system. Addressing such “reluctant application” requires not only doctrinal clarification but also institutional innovation, including clearer guidelines, enhanced training, and robust accountability mechanisms.

Equally pressing is the question of how discretion should be exercised in distinguishing between relative non-prosecution and conditional non-prosecution. Without principled criteria, the boundary between these alternatives risks becoming opaque, undermining both fairness and transparency. Finally, the effective safeguarding of participatory rights for all stakeholders—juvenile suspects, victims, families, and relevant community institutions—remains a critical concern. If these rights are inadequately protected, the legitimacy of the entire mechanism may be compromised.

This article engages with these dilemmas by examining the structural tensions embedded in prosecutorial discretion under the conditional non-prosecution regime. It argues that resolving these challenges requires a dual approach: the development of a coherent normative framework to discipline discretion, and the design of institutional safeguards that render discretion both transparent and accountable. By advancing new perspectives on the principled exercise of prosecutorial discretion, the analysis contributes to ongoing debates about the future of juvenile justice and the evolving role of the procuratorate within China’s criminal process.

2 The Dilemmas of the Conditional Non-Prosecution System for Juveniles

2.1 Theoretical Risks in China’s Current System of Conditional Non-Prosecution for Juveniles

Conditional non-prosecution refers to a discretionary prosecution mechanism under which the procuratorate, in cases where a juvenile suspect has already committed a crime and the conditions for prosecution are formally satisfied, temporarily refrains from initiating public prosecution. This decision is made in light of the facts of the offense, the circumstances of the crime, the degree of social harm, and the suspect’s conduct after the offense. At the same time, the juvenile is required to fulfill certain obligations within a prescribed period, and the procuratorate will ultimately decide whether to proceed with prosecution based on the fulfillment of those obligations.[1]

The legal framework governing the conditional non-prosecution of juveniles remains underdeveloped and conceptually vague. Article 282 of China’s Criminal Procedure Law stipulates the conditions under which this mechanism may be applied to minors, representing a significant legislative innovation in recognizing juveniles as a distinct category within criminal procedure. Nevertheless, the provision is couched in imprecise

cise terms, creating interpretive ambiguities that jeopardize both its practical application and the normative objectives underlying conditional non-prosecution.

First, the categorization of offenses eligible for conditional non-prosecution is neither sufficiently rigorous nor adequately comprehensive. The Criminal Procedure Law adopts the “chapter-based” classification from the Criminal Law, premised on the legal interests infringed, and restricts eligibility to three domains: offenses against personal and democratic rights, property offenses, and offenses disrupting social order. This approach reflects the statistical concentration of juvenile delinquency in these areas, while excluding offenses deemed to cause particularly grave social harm or those legally incapable of being committed by minors. However, such categorical exclusion disregards intra-category variations in culpability and social harm. For instance, certain instances of juvenile drag racing may involve limited harm and be more appropriately addressed through supervision rather than prosecution, yet these cases are excluded as crimes endangering public security. This suggests that the positive enumeration adopted by the legislature is overly narrow and insufficient to accommodate the demands of judicial practice.

Second, the standard for assessing “demonstrated repentance” remains unsettled. While the Criminal Procedure Law identifies repentance as a prerequisite for conditional non-prosecution, neither statutory provisions nor judicial interpretations provide a clear definition of its scope. [2] Repentance, in principle, should denote an offender’s genuine remorse and willingness to reform following the commission of a socially harmful act, a subjective disposition that must be inferred from external behavior. In practice, however, substantial uncertainties persist: what specific conduct constitutes repentance, to what degree it must be established, and whether juvenile offenders should be evaluated under standards distinct from those applicable to adults. Moreover, the assessment is further complicated by regional disparities, cultural variation, and individual characteristics such as age and cognitive development. These factors render the application of a uniform standard highly problematic in judicial practice.

Finally, the criteria for fact-finding are inconsistent. Here, “fact-finding” refers to prosecutorial discretion in determining whether a juvenile offender has demonstrated repentance. In practice, indicators such as voluntary restitution, active compensation, truthful confession, apology, and the victim’s forgiveness are commonly taken as evidence of remorse. Yet the difficulty lies in determining which acts are sufficient to establish repentance and whether prosecutorial discretion effectively operates as a “veto power.” For example, does the absence of compensation or restitution automatically negate repentance? The answer, in principle, should be negative. However, in the absence of explicit legislative guidance, such determinations remain uncertain and risk arbitrary application.

2.2 Risk of Abuse: The Dangers of Concentrated Prosecutorial Power in Applying Conditional Non-Prosecution

As Montesquieu famously warned, “all power has a tendency to corrupt, because there is a dark element in the human heart.”[4] In the application of conditional non-prosecution, the procuratorate occupies a dual role as both “player” and “referee.” Such a concentration of functions implies that if prosecutorial discretion is abused, it may result in outcomes that seriously undermine fairness and justice. A historical example



can be found in China's early experience with the discretionary power of non-prosecution: in the absence of effective institutional checks, procuratorates nearly chose not to prosecute corruption cases en masse, which constitutes a paradigmatic instance of prosecutorial overreach. Within the framework of conditional non-prosecution, the risk of abuse today arises primarily from the indeterminacy of its legal provisions.¹

First, the requirement that the offense be "punishable by less than one year of imprisonment" has been widely interpreted in scholarly discourse as referring to the sentence actually to be imposed, rather than the statutory penalty range. This interpretation necessitates a comprehensive assessment of all the circumstances of the case, thereby greatly expanding prosecutorial discretion. As this forms the very core of the procuratorate's quasi-adjudicatory power, it is also the aspect most in need of strict regulation. To prevent discretion from being exercised either excessively leniently or excessively harshly, stronger oversight and clearer, more objective standards are essential.

Second, the standard of "demonstrated repentance" is highly ambiguous in judicial practice. The Criminal Procedure Law lists repentance as a precondition for conditional non-prosecution, yet neither legislation nor judicial interpretation has provided a precise definition. In the author's view, repentance should be understood as the genuine remorse of the offender following a socially harmful act, accompanied by a sincere intention to reform. If prosecutors misapply this standard and extend conditional non-prosecution to juvenile offenders who lack genuine repentance, the mechanism ceases to function as a protective measure. Instead, it risks being transformed into a form of indulgence, thereby fostering recidivism and even corrupting the very subjects it was designed to protect.

2.3 Underuse of Conditional Non-Prosecution: An Empirical Study of the Haidian District People's Procuratorate, Beijing

The phenomenon of "underuse" should not be literally interpreted as prosecutors refraining from applying conditional non-prosecution out of indolence. Rather, it denotes situations in which prosecutors, despite the existence of subjective or objective grounds warranting its application, nevertheless refrain from doing so. Empirical data from the Haidian District People's Procuratorate in Beijing illustrate this tendency. According to a research report jointly prepared by the procuratorate and its affiliated research group, within a one-year period the procuratorate reviewed 125 juvenile cases. Of these, conditional non-prosecution was granted in only 20 cases, while 55 cases proceeded to prosecution. Among the 55 prosecuted juveniles, prosecutors recommended sentences of more than one year's imprisonment in 24 cases, yet the courts ultimately imposed such sentences in only 19 cases. [5]Notably, in 36 cases the courts imposed sentences of less than one year's imprisonment, despite the procuratorate's prior decision not to apply conditional non-prosecution. Excluding six cases in which the procuratorate explicitly found no evidence of repentance, prosecutors cited reasons such as failure to compensate, lack of victim forgiveness, high risk of reoffending, absence of demonstrable repentance, and lack of appropriate supervisory mechanisms. This data indicates a cautious prosecutorial attitude toward conditional non-prosecution, but such "underuse" is difficult to reconcile with the restorative aims of juvenile justice.

The causes of this phenomenon are both subjective and objective. Subjectively, many prosecutors fail

¹ According to the Supreme People's Procuratorate's 1992 Work Report, among 18,510 corruption cases filed that year, 16,779 were not prosecuted.

to fully appreciate the special nature of juvenile sentencing, which results in disproportionately severe charging decisions when exercising what may be characterized as “quasi-adjudicatory” authority. At its root, this reflects a limited grasp of the normative values underlying conditional non-prosecution and their role in guiding prosecutorial discretion. Conduct is the external expression of thought: only when prosecutors genuinely recognize that the mechanism must be applied in light of the unique characteristics of juveniles—taking into account their developmental trajectory and consistent behavioral record—will statutory sentencing norms cease to function as an unduly high threshold for its application.

Objectively, policies and performance metrics such as “prosecution rates” and “accountability for wrongful cases” exert undue influence on prosecutorial decision-making, thereby undermining the independence of prosecutorial discretion. In 2019, China formally prohibited the imposition of unreasonable assessment indicators such as mandatory prosecution rates or conviction rates. Yet in practice, both “prosecution rates” and “non-prosecution rates” continue to serve as informal benchmarks, improperly constraining prosecutorial discretion. While oversight of discretionary authority is legitimate, tethering prosecutorial decisions to administrative performance metrics risks subordinating judicial judgment to policy imperatives. For example, when higher authorities set quotas for prosecution and non-prosecution within a fixed time frame, and link these quotas to career advancement or welfare benefits, prosecutors are incentivized to align their decisions with such metrics. This not only distorts the operation of conditional non-prosecution but also directly compromises judicial independence. [6]Prosecutors, as judicial actors, must apply legal mechanisms in accordance with principles of independence, free from external interference.

3 The Necessity of Further Regulating Prosecutorial Discretion: A Value Analysis

Value guidance is an indispensable element in formulating subsequent countermeasures. Only by subjectively recognizing the normative value of the conditional non-prosecution system can one fully grasp the rationale behind the choice of responses to practical challenges. The effective operation and application of any legal system must rest upon norms as the foundation and values as the orientation. Clarifying the value basis of the system is therefore pivotal for addressing difficulties and proposing viable solutions. This further implies that, in responding to such challenges, proposed approaches should be firmly anchored in the values the system is designed to realize. In doing so, the conditional non-prosecution system can faithfully embody the original legislative intent, secure lawful and rational operation, and ultimately achieve its intended judicial function. Accordingly, guiding prosecutorial discretion through value orientation constitutes a critical step toward ensuring the effective implementation of the conditional non-prosecution system.

3.1 Guiding Principle: Criminal Law as a Measure of Last Resort

The principle of restraint constitutes a cornerstone of contemporary criminal law policy, reflecting the normative orientation that penal intervention should remain exceptional rather than routine. No legal system committed to the rule of law can afford to disregard this value-laden function. Restraint operates not merely as an abstract legislative commitment but must be consistently translated into concrete judicial practice,



thereby serving as a binding normative compass for decision-making. Within the conditional non-prosecution framework, this principle requires the prosecutorial adoption of a “prudence in punishment” approach, whereby the exercise of prosecutorial discretion is calibrated to the unique vulnerabilities of juvenile offenders. The rationale lies in the heightened need to avoid the criminogenic effects of stigmatization and the lifelong disadvantages that may follow from premature criminal labeling. In this context, prosecutorial authorities are called upon to actively privilege educational and rehabilitative alternatives over punitive measures, employing criminal sanctions strictly as an ultima ratio. Only in those rare and exceptional instances where other interventions have demonstrably failed, or where the gravity of the offense compels a response, should recourse be made to formal prosecution.

3.2 Institutional Objective: Realizing Restorative Justice for Juveniles

A central institutional objective of juvenile justice policy is the pursuit of restorative justice, with a strong emphasis on education, rehabilitation, and reintegration. This orientation stems from a recognition that juveniles, as future members of society, possess both the capacity for change and the potential for positive contribution, notwithstanding mistakes made during a period of incomplete moral and cognitive development. Rather than imposing retributive sanctions, prosecutorial intervention should therefore seek to foster accountability, repair social harm, and promote re-socialization. The conditional non-prosecution system provides an institutional vehicle for realizing these objectives through the imposition of individualized and proportionate conditions. Such conditions—ranging from community service and victim-offender mediation to participation in counseling or educational programs—are designed to combine supervision with guidance, thereby balancing societal interests in accountability with the developmental needs of the juvenile. In doing so, the system moves beyond mere avoidance of punishment; it actively facilitates the restoration of broken social relationships and enhances the prospects of juvenile offenders’ successful reintegration into society.

3.3 Institutional Requirement: Realizing the Principle of Procedural Economy

Another salient institutional requirement underpinning conditional non-prosecution lies in the advancement of procedural economy. Comparative experience demonstrates that diversionary mechanisms—such as the pretrial diversion programs in the United States or the suspended prosecution framework in Japan—are not only oriented toward rehabilitation but also function as pragmatic tools for reducing the caseload burden on judicial institutions. In the Chinese context, this concern is particularly pressing. Alongside rapid economic development, crime rates have increased, and juvenile delinquency has exhibited a notable upward trend. Statistical data indicate that juvenile cases account for approximately one-eighth to one-ninth of all criminal proceedings, thereby consuming significant judicial resources and generating disproportionate pressure on grassroots prosecutorial and judicial organs. Against this backdrop, the conditional non-prosecution system operates as an essential diversionary channel. By filtering out a substantial number of juvenile cases from the trial docket, it relieves systemic strain, enhances the efficiency of judicial administration, and enables scarce resources to be allocated toward cases of greater social urgency. Thus, beyond its rehabilitative promise, conditional non-prosecution serves a vital systemic function by reinforcing the sustainability and effectiveness of the broader criminal justice apparatus.

4 Regulating Prosecutorial Discretion in Conditional Non-Prosecution: Schemes and Risk Elimination

Before addressing the broader institutional challenges inherent in the operation of conditional non-prosecution, it is crucial to first grapple with the latent ambiguity surrounding its normative foundations. Without clear standards, prosecutorial discretion in initiating conditional non-prosecution risks drifting into arbitrariness, thereby undermining both the legitimacy and the effectiveness of the system. Establishing normative clarity is thus a necessary first step in any effort to strengthen the institutional design of this mechanism.

At a minimum, prosecutorial discretion should be constrained by two core standards. The first concerns the anticipated severity of punishment: conditional non-prosecution should only be considered in cases where the likely sentence, absent diversion, falls within a relatively lenient range. This requirement ensures proportionality and prevents diversion from being misapplied to cases of serious criminality, where public confidence in the justice system could be jeopardized. The second standard relates to the demonstration of genuine repentance: juvenile offenders must exhibit a credible willingness to accept responsibility for their conduct and engage constructively with corrective measures. By embedding these constraints at the normative level, prosecutorial discretion is transformed from an unstructured prerogative into a guided decision-making process, one that balances rehabilitative ideals with the demands of fairness, proportionality, and transparency.

Only once such normative guardrails have been firmly established can scholars and policymakers proceed to address the broader systemic difficulties of conditional non-prosecution—such as uneven implementation across jurisdictions, resource limitations in supervision programs, and tensions between prosecutorial efficiency and restorative objectives. In this sense, the clarification of standards functions not merely as a preliminary step, but as a precondition for ensuring that the system evolves into a robust and credible component of juvenile justice policy.

4.1 Further Specification of the Standards for Conditional Non-Prosecution

First, the standard of “possible sentence of not more than one year of imprisonment” should be refined. In exercising discretion under the conditional non-prosecution regime, prosecutors must adhere to the normative requirement of protecting the special status of juveniles, even where the law grants them broad discretionary powers. More concretely, when assessing the likely sentence that a juvenile offender may face, prosecutorial discretion should be exercised in light of the juvenile’s unique legal and social status, ensuring that the determination of the declaratory sentence remains both reasonable and proportionate. In addition, prosecutors should take into account the juvenile’s consistent behavior, personal background, and other relevant circumstances, so that the sentencing assessment is not only reasonable but also consistent with the underlying value commitments of the system.



Second, the scope of applicable offenses should be expanded by shifting from a positive-list approach to a negative-exclusion model. Under the current Criminal Procedure Law of China, the conditional non-prosecution mechanism is confined to offenses enumerated in a positive list, categorized by the nature of the protected legal interest—namely, only offenses falling under Chapters IV, V, and VI of the Criminal Law are eligible. Such a formulation, however, unduly narrows the scope of application and undermines both case diversion and the pursuit of restorative justice. A more appropriate approach would be to replace the positive-list model with a negative-exclusion framework, under which conditional non-prosecution is broadly applicable except for certain categories of crimes involving grave subjective malice or serious social harm. For instance, the statutory text could be supplemented with a proviso excluding offenses such as crimes endangering national security, crimes impairing national defense interests, or corruption and bribery offenses.

Finally, the criterion of “demonstrating remorse” should be reasonably defined. In the author’s view, the establishment and degree of a remorse standard ought to be guided by the functional objectives of the system and evaluated in light of its normative values. The Criminal Procedure Law, having already provided for relative non-prosecution, introduced conditional non-prosecution precisely to further advance restorative justice and to facilitate the reintegration of juvenile offenders into society and into normal life. In this sense, the threshold for demonstrating remorse should not be set excessively high or unduly stringent.

The standard should incorporate both affirmative and exclusionary criteria. Affirmative criteria refer to the range of circumstances that may serve as evidence of genuine remorse. For example, if the offender voluntarily terminates an ongoing criminal act, actively assists the victim, takes measures to prevent further harm, voluntarily surrenders, truthfully confesses, offers an apology, admits the charged facts, accepts criminal punishment, undertakes civil liability, returns illicit gains, or willingly accepts education and reform, such conduct may generally be taken as proof of remorse. The Provisional Regulations on Conditional Non-Prosecution for Juveniles issued by the Jiangsu Provincial People’s Procuratorate illustrate this approach: Article 1(3) provides that where a juvenile suspect complies with relevant requirements, cooperates with judicial authorities and educational measures, and meets any one of several enumerated conditions, he or she may be deemed to have demonstrated remorse. Importantly, because the threshold for establishing remorse should not be set excessively high or rigid, the presence of any single qualifying condition should suffice.

In addition to affirmative and positive indicia, exclusionary or negative criteria should also be established. According to judicial interpretations issued by the Supreme People’s Procuratorate, where a juvenile suspect meets the statutory requirements under Article 271(1) of the Criminal Procedure Law, the procuratorate is generally obliged to apply conditional non-prosecution. Only in exceptional circumstances—where applying conditional non-prosecution would compromise judicial fairness or preclude a reasonable criminal-law evaluation—may the procuratorate decline to apply the measure. Such exceptional cases include, for example, juvenile recidivism or situations in which the juvenile serves as the principal organizer of a criminal group. Nevertheless, in light of the principle of special protection for juveniles, such exclusionary standards must not be drawn too strictly, so as to avoid inflicting disguised harm upon minors or undermining the objectives of special prevention and restorative justice.

4.2 Preventing Abuse of Discretion: Multi-Actor Internal and External Oversight

Power inherently tends to expand, and such expansion carries the risk of judicial corruption, which undermines the rule-of-law efforts in China and runs counter to the country's judicial ethos. Given the potential for abuse of prosecutorial discretion, it is necessary to establish clear mechanisms for both internal and external oversight, as well as remedies available to relevant parties, to ensure that conditional non-prosecution is implemented in a reasonable and lawful manner.

First, strengthen internal supervision within prosecutorial authorities. As supervisory bodies in China, prosecutorial authorities themselves are responsible for oversight but may face risks of inadequate supervision when reviewing their own decisions not to prosecute. To mitigate such risks, it is necessary to enhance internal checks and balances within the procuratorial system, particularly emphasizing the supervisory relationship between higher- and lower-level procuratorates. However, in practice, a key challenge lies in implementing such hierarchical supervision in a manner that balances efficiency and fairness. One possible approach is to establish a quarterly filing system for deferred prosecution cases. Under this system, higher-level procuratorates would conduct concentrated reviews of deferred prosecution cases from lower-level offices at fixed intervals, thereby quantifying and systematizing internal oversight.

Second, implement effective hearing procedures. The establishment of hearing procedures allows all relevant parties to participate meaningfully in case processing, enabling the procuratorate to better understand the positions of each party. This procedural insight can serve as an important factual reference for exercising prosecutorial discretion. By incorporating hearing procedures, the scope of discretionary power is appropriately constrained, enhancing the fairness and procedural integrity of case handling. Moreover, including the police and victims as participants in the hearing provides a more objective understanding of the behavior and circumstances of juvenile suspects, which can inform subsequent decisions regarding reconciliation or conditional prosecution.

Finally, introduce algorithmic assistance in decision-making. Opinions issued by the Supreme People's Court emphasize the necessity of deeply integrating artificial intelligence (AI) into judicial practice and note that the comprehensive development of "smart courts" is a key pathway toward achieving high-level digital justice. In the contemporary era, the advancement of AI is inevitable, and the judicial system must adopt corresponding measures to leverage its advantages while mitigating potential drawbacks. AI can assist judicial authorities in making fair and reasonable decisions, and it can also serve as an additional layer of oversight to prevent abuse of power. In China, AI has already been piloted in some jurisdictions, although challenges remain. Looking ahead, AI could be envisioned as an auxiliary tool for supporting prosecutorial discretion and enhancing supervisory mechanisms, thereby achieving an integrated balance between efficiency and fairness.

4.3 Preventing the Risk of Passive Prosecution: Integrating Objective and Subjective Measures

The phenomenon of “reluctant application” primarily stems from two dimensions. Subjectively, some procuratorial officials fail to guide their conduct in line with the normative values of the conditional non-prosecution system. As a result, they may deviate from its intended purpose, neglecting the principle of “education as the priority, punishment as the supplement,” and failing to extend special protection to juveniles as a distinct group. Objectively, past policies—such as the emphasis on “prosecution rates” and “accountability for wrongful cases”—have created institutional barriers. These policies foster concerns among prosecutors when considering conditional non-prosecution, generating hesitation in its application.

From a subjective perspective, it is essential that procuratorial personnel at all levels and across regions fully understand the normative rationale of the conditional non-prosecution system. The concepts and goals of restorative justice should be internalized by case handlers, enabling them to appreciate that the system was created as a groundbreaking mechanism to educate, assist, and supervise juvenile offenders with the aim of promoting their re-socialization. Only by grasping its foundational purposes and value orientation can prosecutors genuinely overcome “reluctant application.”

From an objective perspective, policy-making authorities should firmly abandon unreasonable evaluation criteria. Policies must not exert excessive influence on judicial practice, undermine prosecutorial independence, or deter the proper application of the conditional non-prosecution system, as this would harm both the rights of juvenile offenders and the broader goal of social reconciliation. Moreover, mechanisms such as wrongful-case accountability and the “lifetime responsibility system” further restrict prosecutorial discretion. Overly rigid assessment standards, stringent liability rules, and “one-vote veto” clauses create an atmosphere of apprehension during the supervision period following conditional non-prosecution. For instance, if a conditionally non-prosecuted juvenile absconds, reoffends, or triggers victim petitions, prosecutors may fear negative evaluations or personal liability—even when their decision was reasonable and lawful. Such risks discourage the use of the conditional non-prosecution system and undermine its intended function.

5 Concluding Remarks and Reflections

The establishment of the conditional non-prosecution system for juveniles marks an important step in advancing the special protection of minors within China’s criminal justice framework. Accordingly, particular attention must be paid to the procuratorate, both as the primary authority responsible for initiating and implementing this procedure, and as the institution vested with prosecutorial discretion. It is crucial not only to prevent the abuse of such discretion, but also to guard against its “reluctant application” resulting from subjective or objective constraints faced by procuratorial personnel.

For a new system to take root in the soil of Chinese judicial practice, operational standards must first be clarified and institutionalized on an objective level. At the same time, on a subjective level, the value orientation of the system must be internalized by procurators, embedding its normative purpose within their pro-

fessional consciousness. Only then can the conditional non-prosecution system mature into a well-functioning judicial policy—one that ensures legal practitioners not merely “have laws to apply,” but also possess a clear understanding of when and how such laws should be applied, thereby realizing the system’s intended functions.

Moreover, the combined model of establishing subjective value orientation and clarifying objective normative boundaries may also radiate into other areas of criminal procedure. By ensuring that judicial conduct in the criminal field is consistently guided by appropriate institutional values and concretized through coherent institutional logic, this approach may offer new perspectives for reinforcing the value foundations of future criminal law reforms in China.

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