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## CHILDREN

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Interactions between children and the law have never received as much attention from social scientists as they are receiving today. In the past three decades, psychological research has burgeoned on issues such as child maltreatment, adoption and custody matters, children's eyewitness testimony, and juvenile crime. In each of these realms, psychologists have described children's relevant competencies, illustrated erroneous assumptions made about children by laws and courts, and used this new knowledge to bring about innovations in policy, practice, and law. In turn, these innovations have improved the lives of children and increased the likelihood that justice will prevail in legal situations involving children and youth.

### Child Maltreatment

There are around three million official reports of child maltreatment each year in the United States, which bring many children into the legal system. Social scientists have investigated a number of issues relevant to child victimization, many of them controversial. Even defining child abuse is complex and variable across time, political milieu, culture, and country. Nonetheless, sexual abuse, physical abuse, emotional or psychological abuse, and neglect are widely accepted categories of maltreatment. Psychologists have researched the characteristics, etiology, outcomes, and treatments for each of these forms of child maltreatment. For example, there are a variety of motivations for maltreatment perpetrated by parents, including ignorance of appropriate parenting methods, poor anger management skills, and financial inability to provide food, clothing, shelter, or medical

care. Understanding such motivations is the first step in understanding how to rehabilitate abusive parents.

Psychologists are particularly interested in identifying effective methods to prevent child maltreatment before it happens. One approach is to identify characteristics of both at-risk perpetrators and victims so that one can target preventions appropriately. For example, researchers have found that parents most at risk for mistreating their children are often distressed themselves, have a lack of social support, are unable to empathize with their children, and have unrealistic expectations of children's developmental capabilities and behavior. One can use assessment tools to screen caretakers for these risk factors so that they can be directed into parenting programs. Another approach in investigating prevention methods is to test the effectiveness of laws devised to protect children from maltreatment. For example, mandated reporting laws require many professionals who work with children in the United States to report signs of child maltreatment to authorities. Researchers have found that not all people consider the same acts to be abusive and that reporting tendencies are influenced by factors such as perpetrator gender, abuse setting, and abuse severity. Thus, although research suggests that such laws are effective in decreasing child maltreatment nationwide, these laws might not be successful in helping all children equally.

Other laws aimed at prevention include sex offender registration and community notification laws, which require perpetrators of sexual abuse, after they have finished serving their prison sentences, to register publicly as sex offenders everywhere they subsequently live. These laws are controversial because of civil rights issues, and there is no solid evidence that they really reduce child maltreatment. Other prevention programs and policies include widespread child-abuse awareness programs in school systems. Although such programs may increase children's knowledge about sexual abuse, there is little evidence that they decrease victimizations.

### Foster Care and Adoption

When parents or others abuse and endanger children in their homes, courts may remove them and place

them in temporary foster homes or, in extreme cases, terminate parental rights so that the children can be adopted into new homes. Children involved with the legal system through foster care or adoption face major life changes that are contingent on policy and law.

When officials place children into temporary foster care in the United States, government emphasis on parental rights requires that the primary goal be eventually to return them to their birth homes. Before children can return home, courts can require parents to complete services targeted at establishing adequate parenting skills (for example, therapy, parenting classes, and substance abuse rehabilitation). Thus, the court assumes that parents can be taught how to care for their children and that these services will teach them to do so. Social scientists test these assumptions and help design such programs, many of which are successful.

While temporarily removed from the home, officials might place children in kinship foster care (with family members such as aunts or grandmothers), nonkinship foster care, group homes, or residential schools. Courts assume that when possible, kinship foster care is in the best interest of the child. Research supporting this assumption has found that children in kinship care experience more stability and are more likely to visit with their birth parents than children in nonkinship care are. Other research, however, has found that children placed in kinship care do not receive as many services and their cases are less well monitored, even though they experience deficiencies in physical and mental health similar to those of children in nonkinship care. Also, kinship care decisions are not made equally for all children: Children who have disabilities or special needs are more likely to be placed in nonkinship care, while children of color, older children, and children with parents who have substance abuse problems are more likely to be placed into kinship care.

A second assumption regarding foster care placement is that children should remain with siblings when possible. The courts promote, and even mandate in some states, either placement with siblings or sibling visitations when placement together is not possible, yet there are no established guidelines to determine which type of siblings (biological siblings, legal siblings, half siblings, step siblings) have these

rights. Research illustrates that sibling placement can result in fewer adjustment and behavioral problems, but not under all circumstances (for instance, when siblings are not close in age, when one sibling needs special services).

If the court finds parents unwilling, unfit, or unable to care for their children, a judge can terminate parental rights to free a child for adoption. Researchers examining children's adjustment to adoption have found that adopted children are, in fact, less at risk for developing psychological problems than nonadopted children who remain in foster care. When compared with nonadopted children who are living with at least one biological parent, however, adopted children are more at risk for developing psychological and behavioral problems. Factors that appear to influence adjustment to adoption include children's ability to understand adoption and children's self-perceptions as adopted children, both of which are contingent on individual differences, such as age and cognitive abilities.

### **Divorce and Child Custody Decisions**

Children also enter the legal system when they are at the center of family dissolution brought about by their parents' divorces. Social scientists have found that divorce can increase children's risk for maladjustment and behavior problems, but it is unclear whether this increased risk is the result of divorce or of living with parents engaged in an unhappy marriage before the divorce. It is also difficult to determine how different aspects of divorce (for example, physical separation from one parent, financial changes within the family, changes in parent-child relationships) influence children's well-being. Importantly, some children benefit from divorce, particularly when their parents' marriages were highly contentious. In addition, although divorce often brings about many immediate negative life changes, as time goes on, children generally adjust adequately.

Custody is sometimes a central point of contention in divorce cases. Courts today encourage parents to work out mutually acceptable custody arrangements themselves or through mediation if possible. When this fails and custody cases reach the courtroom,

judges must decide whether to grant joint custody to both parents or full custody to one parent. Joint custody assumes that divorced parents are able to cooperate with each other to raise their children, which not all divorcees are willing to do. The legal system assumes that judges can decide what is in the best interest of the child. In short, this means that judges determine what living arrangements will be the most appropriate for children, based on testimony from families, friends, and professionals, such as psychologists and doctors.

Unfortunately, there are few empirically supported guidelines specifically to guide judges in the difficult task of choosing which parents should have custody. Even so, research has addressed some factors believed to be important in custody decisions. For example, a common assumption in custody cases is that children have a parental preference and that it should be heeded. Some scholars argue that children who are allowed to participate in placement decisions will be happier with the outcome. Others contend that asking children to choose one parent over the other can leave children with harmful feelings of conflict and guilt.

### Children as Witnesses

Children also enter the legal system when they have witnessed or been victims of crimes and must give reports about their experiences in pretrial forensic interviews or in courtrooms. Much research has focused on the accuracy and suggestibility of children's eyewitness testimony. Compared with older children and adults, young children (particularly preschoolers) are more suggestible. Yet even young children can be quite accurate witnesses if questioned under optimal conditions. For example, children are less suggestible and provide information that is more accurate when they are interviewed in a socially supportive rather than intimidating manner. Furthermore, children who are asked developmentally appropriate, open-ended, nonmisleading questions provide more accurate testimony compared with children who are asked complex, misleading questions. Current research focuses on how accuracy and suggestibility are influenced by trauma and stress, and on individual differences

among children, such as physiological reactivity to stress.

Scholars have used findings from such research to formulate "best practice" recommendations for forensic interview techniques. In many communities in the United States, empirically supported forensic interview protocols are used as part of multidisciplinary team investigations of child abuse involving police, prosecuting attorneys, social service professionals, and medical professionals. Often, these investigations are coordinated at facilities called *children's advocacy centers*, which officials establish to meet the goals of reducing the number of interviews given to child witnesses and decreasing children's stress.

Because there is often little corroborative evidence in cases involving child witnesses, especially in child sexual abuse cases, social service and legal professionals must often make decisions about whether to pursue an investigation based largely on a child's report. Similarly, if a case goes to trial, jurors' and judges' decisions about a defendant's guilt are dependent on children's testimony. Psychological research on the perceived credibility of children's testimony reveals that adults are generally not very skilled at discerning children's actual accuracy, and therefore perceptions of credibility are influenced by a host of other factors, such as victim characteristics, case characteristics, and individual differences among jurors. For example, jurors perceive younger children and children with mild intellectual disabilities as more credible than older children and children without disabilities because they are believed to be particularly honest, sexually naive, and lacking in cognitive abilities necessary for fabricating false charges. In addition, they sometimes hold older children and children of color more responsible for their abuse than younger children and white children.

Juror characteristics, such as gender, also influence children's perceived accuracy. Specifically, compared with men, women on average have more empathy for child victims, react more negatively to child sexual abuse, and believe children more. In turn, women tend to be more punitive than men in their case judgments. Defendant characteristics, such as having a record of past offenses, can also increase the likelihood of

convictions. Courtroom factors can also influence jurors' judgments. Although courtroom innovations, such as allowing children to testify via closed-circuit television rather than in open court, can reduce children's stress, and have positive effects on children's accuracy, such innovations may actually lower jurors' belief in children's testimony. That is, children appear more relaxed when testifying in alternative manners, violating jurors' expectations that actual child victims will be upset during testimony. Expert testimony from psychologists can be useful in educating jurors about such issues. New research is beginning to explore jurors' reactions to other forms of child maltreatment, such as physical abuse and infanticide.

### **Children as Offenders**

Adolescents also enter the legal system as offenders. Social scientists have responded by investigating factors that lead to juvenile violence and delinquency, interventions to reduce teen violence, the mismatches between juveniles' competencies and their treatment within the legal system, and adults' perceptions of juvenile offenders. For example, research reveals a causal link between early childhood maltreatment and subsequent juvenile delinquency, misconduct, and violence. That relation, however, is moderated and mediated by many complex variables, including maltreatment type, the juvenile's age and developmental level, family stability, parental domestic violence, negative parenting strategies, and so on. Understanding these factors allows psychologists to identify the maltreated children who are at greatest risk for future violent and criminal behavior, so that they can target interventions at the children with the most to gain. Providing a broad range of interventions at child, family, and community levels might ameliorate many of the potential negative consequences of childhood maltreatment, including delinquency.

More than a century ago, family and juvenile courts were established to handle youthful offenders because of society's assumption that juveniles differ from adults in a variety of ways, including cognitive and emotional abilities and rehabilitative potential. Today, however, more and more cases involving

adolescent offenders are moved to adult criminal courts. This is driven by exaggerated societal fear of juvenile crime and shifting assumptions that, like adults, juveniles can fully appreciate the crimes they have committed and the consequences they face. In response, psychologists have illustrated that earlier assumptions were accurate: Adults and adolescents differ in a variety of ways relevant to adjudication, such as the ability to assess risks associated with illegal behaviors and the ability to understand charges against them, their legal rights, and court procedures. These competencies are influenced by individual characteristics, such as age, emotional maturity, cognitive capacity, risk perception, peer influence, and so forth. Generally, research reveals that judges are being too hasty in transferring many juvenile offenders to adult court given their actual levels of cognitive and emotional competence.

Because juvenile cases in adult courts are typically tried before juries rather than juvenile or family court judges, research has begun to explore jurors' perceptions of juvenile offenders. There is evidence, for example, that some jurors perceive juvenile offenders to be wayward youth who are immature and amenable to rehabilitation but that other jurors perceive them as competent "superpredators" whom the law should punish. Jurors endorsing the wayward-youth stereotype may be less punitive toward juveniles than are jurors endorsing the superpredator stereotype.

### **Other Issues**

Although social scientists have learned a great deal about legally relevant issues that arise in the situations described above, children and youth come into contact with the law in numerous other ways, and there is much research left to be done. For example, the past decade has borne witness to important changes in welfare laws that directly influence children. Past welfare laws assumed that it was better to provide a poor, single mother with monetary assistance than have her work and not be able to raise her children. Recent laws, however, limit the amount of time people can draw welfare, sending many single parents back to work. What has been the impact of these laws? Early

evidence suggests that children's lives can be positively influenced by seeing their caretakers work, that day care is often a stimulating environment for young children, and that healthy parent-child relationships and positive home environments can counteract many potentially negative effects of decreased parent-child contact. Thus, single parents can work without hindering their children's development, but this is likely to be the case only when parents have access to good jobs and appropriate day care alternatives.

Questions remain about many other issues involving children and law, including the impact of age-related laws affecting adolescents in the domains of curfew, alcohol consumption, labor, education, smoking, movie ratings, and children's rights to make medical decisions. For example, adolescents often seek the right to make medical decisions for themselves, such as seeking abortion. In many jurisdictions, however, children under the age of 18 must have parental approval to seek or refuse all medical treatments, including abortion. Common exceptions to these laws, such as not requiring parental approval for teenagers to obtain treatment for sexually transmitted diseases, are motivated by the desire to benefit society as a whole rather than to honor the rights and wishes of adolescents. Laws across these varied domains reflect many contradictions in assumptions about the abilities of young persons. In some jurisdictions, teenagers can operate cars and get married when they are as young as age fifteen, be sentenced to life in prison (and until recently, to death) at age sixteen or even younger, and be sent to war at age eighteen but cannot buy a beer until age twenty-one. More communication between social science and the law could resolve such issues.

### Conclusion

Children and the law will continue to intersect in interesting and complicated ways, so there will always be a need for methodologically sound research testing the assumptions behind and the effects of law as related to children and youth. This research has the potential to improve the lives of children and the effectiveness of laws. However, politicians and policy makers who create the laws, judges who interpret them, and professionals, such as lawyers and police

officers, who implement them, must learn from the research.

—Barbara A. Oudekerk and Bette L. Bottoms

**See also** Adoption; Child Abuse; Divorce and Separation; Family Relationships, Doctrinal Issues in; Family Relationships, Economics of; Family Relationships, Sociology of; Family Violence; Juries, Psychology of; Juvenile Crime, Courts, and Corrections; Psychology, Use in Courts; Sex Offenders; Witness Testimony, Psychology of

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## CHILE

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The academic and judicial study and elaboration of law in Chile has one distinguishing feature: a marked formal and legalistic tradition oriented almost exclusively toward rules and procedures. Scholars introduced the first systematic multidisciplinary approach to the study of law in the 1960s with the "law and development" movement. Several university law faculties, consistent with this movement, created the Instituto de Docencia e Investigación Jurídica (Institute of Legal Teaching and Research). The institute was responsible for implementing reform in the teaching of law at the universities, including active questioning in classes and new academic materials. It also sought to orient academic activity toward empirical research.

As in other parts of the world, the law and development movement did not prosper in Chile. Traditional law schools resisted the ambitious reform that it supported. Moreover, the 1973 assassination of President Salvador Allende and subsequent coup d'état consolidated the return in legal education to models strongly committed to the legalistic study of law.

The second force for multidisciplinary legal studies began in the 1970s. It was closely linked to a group of Chilean economists trained at the University of Chicago. They gained high government posts in the Augusto Pinochet military regime (1974–1990) and used economic analysis in designing legal rules. Certain law faculties since the mid-1990s have accepted this approach by incorporating courses in law and economics into their study plans.

Since 1988, the nonprofit Corporación de Promoción Universitaria (Corporation for University Advancement),

with its studies about Chilean legal culture, have provided a third example of law and society activities in Chile. The Corporation has had an important impact on the multiple judicial reforms that have taken place in Chile. In particular, the Corporation supported a significant number of sociological and economic empirical studies of the penal justice system prior to attempted reforms, which revealed serious weaknesses in the penal process.

Today, law and society scholarship is still an incipient phenomenon in Chile. In general, law schools do not have courses related to this perspective on law. The most vigorous development of law and society approaches exists in the activities of certain research centers linked to public policy design, such as the Research Center of the Diego Portales University Law Faculty, the University and Chile, and the Corporation for University Advancement. Finally, since the mid-1990s there has been an increase in scholarly writing about critical legal studies, although this is less pronounced in the area of gender relations, minority rights, or underprivileged groups.

—*Iñigo de la Maza*

*See also* Chicago School of Law and Economics; Economic Development, Law and; Education, Legal; Transplants, Legal Exports as

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## CHINA

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John C. H. Wu (Wu Jingxiong, 1899–1986) introduced the most representative works concerning Roscoe Pound's (1870–1964) sociological jurisprudence to Chinese readers between 1924 and 1926. This marked the beginning of sociological studies about law in China and led to the tendency of confusing