

The Reconstruction Logic and Institutional Realization of the Substantiation of Court Hearings in China's Commutation of Sentence and Parole Cases

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Abstract

The manuscript discusses the importance of sentence commutation and parole cases as an essential stage in the execution of criminal judgments, related to both judicial justice and trial authority. To clarify this issue, this article mainly adopts a literature research method to systematically review the research on China's establishment of parole and commutation since its inception, and uses case studies to provide examples to illustrate the existing situations. The author argues that substantive hearings for these cases can remove the issue of "paper-pushing" and strengthen procedural justice, transparency, and judicial justice. The manuscript suggests that the current "tripartite" linear model for parole hearings should be transitioned to a deliberative mode with statements from both prosecution and defense to achieve a substantive hearing. The author proposes that the "tripartite trial structure" reform should be the starting point for reconsidering the legal identity and rights of the participating subjects and their responsibilities.

Keywords: commutation, parole, court hearing, judicial justice

1. Introduction

The system of sentence reduction and parole, as one of the important elements of criminal enforcement in China, has been in place for several decades. The "trinity" model, including prison application, court hearing and procuratorate supervision, is not interactive enough, and the one-way, written application for review is linear in structure. The offender, as the most direct stakeholder in the procedure to commute sentences and obtain parole, lacks full litigation rights and can only passively accept the results. The corrupt phenomenon of "using the prison guard to pick the prison lock" has been repeatedly prohibited, but substantive hearings of parole and commutation cases are faced with a "structural" dilemma. The statement "Opinions on Strengthening the Substantive Hearing of Commutation of Sentence and Parole Cases" jointly issued by the two ministries on December 1, 2021, is intended to improve the quality of cases by way of substantive hearings and ensure the transparency of hearings and the fairness of the corresponding results. However, the "Opinions" lack clear provisions on the specific duties of each participating body. How should the procuratorial authorities perform their supervisory duties to meet the requirements that court hearings be substantive? What role should the prosecutor play in the substantive hearing? What kind of litigation rights should they enjoy? What are the new and different requirements for the presence of prison officials in court? In what way should the people's court organize the trial for sentence reduction and parole cases? These uncertainties will inevitably lead to difficulties in the effective operation of court hearings for sentence reductions and parole cases and may lead to the intentions of the "Opinions" falling short. The implementation of substantive hearings for sentence reduction and parole cases should also respond to adjustments to the definition of the identities of the main participants and to the model judicial structure to overcome various existing shortcomings. This article is oriented toward explaining the implications and requirements of court hearings and discusses four elements in the judicial mode, definition of the identity of the participants and specific powers of the hearings for sentence reduction and parole cases to provide insights into the generation of substantive hearings.

2. Overview of the Sentence Reduction and Parole System

The system of the commutation of sentences and parole originated in developed countries with the rule of law, and the birth of the system had a great impact on the reformation and reintegration of former inmates. Because of the positive

significance for the burden of supervision in prisons and opportunities for saving resources, the parole system has been gradually implemented and established in many countries around the world. As one scholar puts it, "The explicit provision of sentence remission as a sentence enforcement system in the criminal law is very helpful in encouraging offenders who are serving their sentences to actively reform, seriously repent their crimes and become new people." (Gao Mingxuan 1994) Another scholar says, "The basic idea of the parole system is that criminals are encouraged to actively repent and become new by such preferential measures as early release." (Li Guifang 1992) The core value of sentence reduction and parole is to induce criminals to confess their crimes and actively reform to become citizens who maintain the stability of social order, thus reducing crime after they return to society.

2.1 The Origin of the Commutation and Parole System

The fact that man cannot physically exterminate all his fellow citizens who have broken the law, and that most of them must rejoin society, however reluctantly, is an important source for the creation of the parole system. The British Prison Act of 1898 provides for a system of remission, which is a reward for "productive and good behavior" and is therefore seen as a potential tool for controlling the behavior of offenders. (Michael Cavadino 2002) There are two different views on the origin of parole. Some believe that parole originated with Arthur Phillip's "release ticket system"; others believe that parole originated with the "point system" created on Norfolk Island, Australia, by Alexander McNulty, who has been called the "Father of Parole" (Claes Butlers 1991). The parole system in China first appeared in the Qing Dynasty in the Draft Qing Prison Law and was subsequently provided for in the Provisional New Penal Law and the Criminal Law of the Republic of China. New China's parole system can be traced back to the revolutionary base period with the "provisional statute of the labor reformatory", "regulations on the implementation of extraprison" and other documents. The "labor reform regulations" promulgated after the founding of the country unified provisions for the reduction of sentences and parole, and in 1979, the criminal law code was established, which marks the moment the system for the reduction of sentences and parole became an important way to change the execution of sentences in China. Subsequently, criminal procedure law, the Judicial Interpretation of the Commutation of Sentences and Parole and other judicial interpretations made clearer provisions for the legal text, trial jurisdiction, trial period, review materials, and trial organization, etc., and the system for the commutation of sentences and parole was continuously improved.

2.2 The Nature of Commutation of Sentences and Parole

There are different views on the nature of the criminal law enforcement system, represented by administrative power, judicial power, comprehensive power and dual attributes. Among them, administrative power claims that sentence reduction and parole falls under its own jurisdiction. As one scholar says, "Implementation of a sentence is a kind of judicial administrative activity, and the power of implementation belongs to the category of administrative power without the nature of judicial power, which is the fundamental difference between activities that engage with the offender in prison and activities involving conviction and sentencing." (Chen Xingliang 2003) Criminal trial power is the power enjoyed by the judiciary to convict and sentence defendants. The two are different in nature, content and operation. Criminal trial power and implementation power belong to different penal powers. Criminal trial power does not necessarily include the power to reduce sentences or grant parole, and the power to reduce sentences and grant parole is not a natural appendage of criminal trial power. (Liu Zhongwei 2005) Excluding administrative power, the other three views do not deny that the judicial power also has the right to engage in parole and commutation of sentences. As a component of the criminal procedure, parole hearings and the commutation of sentences should be decided by the people's court according to the request of the prison department; the prison only enjoys the right to initiate the procedure but not the right to decide the result of applications for parole and reduction of sentences. This principle reflects how the legislation assigns attributes to judicial power and is also the theoretical root of the state's proposal for substantive hearings for parole and sentence reduction applications.

2.3 The Basic Model of China's Sentence Reduction and Parole System and Its Problems

2.3.1 The "Tripartite" Linear Model

At present, China's procedure for commuting sentences and hearing parole cases adopts a linear tripartite model, that is, the prison puts forward a proposal requesting the people's court to hear and rule on a recommendation for parole, and the people's procuratorate supervises the process in accordance with the law. Although there are provisions for court hearings, in practice, the court hearing is reduced to a "request for early adjudication." As one scholar reports, "The judge has actually been reduced to an administrative functionary; the so-called sentence reduction and parole hearing procedures, in essence, are turned into a process of administrative approval." (Zhang Yaping 2014) The power of the court is based only on the action delegated by prosecutorial authorities to issue the relevant legal instruments. (Yang Guozhang 2006) Although this system reflects the logic of checks and balances, using power in one office to restrain power in another, with social supervision tasked with the responsibility to restrain the abuse of power, the dominant

power enjoyed by the prison department over the rehabilitation of criminals serving their sentences determines the limited strength of any following judicial trial and supervision.

2.3.2 The "Structural" Dilemma Facing China's Sentence Reduction and Parole System

The linear, tripartite structure means that the system is designed to omit confrontation; the concept of checks and balances with the restraint of social supervision does not come into play, as each party's role is predetermined by the procedural design. The processing of parole cases thus faces a "structural" dilemma in which the procedure for parole cases has the form of a court hearing but the lack interaction among the tripartite elements means that there is no discussion between the prosecution and the defense, nor even a court hearing. The social effects of rehabilitation are questioned, corruption involving bribery of prison officials in exchange for rehabilitation recommendations is rampant, and the legal supervision over rehabilitation is weak.

2.3.2.1 The Social Effect of Uncertainty

The purpose of sentence reduction and parole is to educate and correct criminals and promote their repentance and rehabilitation. The implementation of the system has legal and social effects. Based on the phenomenon of parolees being released from prison to commit crimes again, parole was once jokingly referred to as "letting the tiger back into the mountain". However, the reasons for recidivism are complicated and should not be blamed entirely on the failure of prison rehabilitation. Regardless, the current standards for the rehabilitation of offenders have led to the phenomenon of false repentance, in which offenders are not the reformed citizens that they appear to be. It is also difficult to determine whether an offender's internal repentance and the results of their tests corroborate each other. The current rehabilitation model is "points-based", and all the efforts of the offender are aimed at obtaining assessment points to obtain sentence reduction or parole. Although the purpose of prison rehabilitation is to make offenders confess and repent their crimes and return to society as soon as possible, the heavily structured living arrangements in prison makes offenders become accustomed to institutionalized life, and many offenders have adapted to and become dependent on the prison lifestyle, directly impairing their ability to adapt to society after they return.

2.3.2.2 Repeated Judicial Corruption

Objectively speaking, prison corruption has always existed. In particular, prison officials may be constrained by the target proportions for offenders awarded sentence reduction and parole. In practice, some places may falsify paperwork to meet the quotas of commuted sentences, parolees, or, conversely, limit the number of commutations and parolees. The annual work reports of two highest authoritative bodies (the Supreme People's Court (SPC) and Supreme People's Procuratorate (SPP)) objectively reflect that the illegal commutation of sentences and recommendation of parole occurs frequently and consistently. Judicial corruption due to the commutation of sentences and approval parole cases is far greater than corruption in the judicial trial process. Faced with various corruption problems in the execution of criminal law, the state has not only issued a number of regulations to restrain this behavior but also launched a number of special investigations and rectification activities through political and legal teams, but it has not been able to eliminate such phenomena.

2.3.2.3 Weak Legal Oversight

The existence of corruption in prison commutation and parole cases is related to the ineffective supervision of prison law enforcement. The key weak link is the ability of prison administrators to use their right to initiate commutations and parole suggestions to corrupt and bend the law. The corruption phenomenon of bribing the prison guard to pick the prison lock is prohibited repeatedly because current supervision mechanisms fail to prevent the growth of internal connections, transactions of money and power, the transfer of benefits, and the commingling of public and private interests. The court may be able to guarantee the judicial fairness of the parole hearing, but after the commutation has already been issued, the conditions of the law cannot be met; policy may attempt to control the situation, but it cannot solve "backroom operations" and the resulting tendencies toward rent-seeking and abuse of power.

2.3.2.4 Lack of Procedural Transparency and Procedural Disclosure Needs to Be Strengthened

Judicial transparency is an important indicator of the fairness of litigation activities, with the aim of maintaining the fluid functioning of the judicial system and the fairness of the procedure and results of judicial activities. Transparency is the source of the public's sense of the reliability of the country's legal system and judicial credibility. (Fan Chongyi 2003) The lack of transparency in the process of commutation and parole in China has always troubled state authorities and has been the focus of attention of successive judicial reforms. As one scholar notes, "Without openness there is no justice; darkness is a breeding ground for corruption and injustice, while sunlight is the best antiseptic." (Berman 1990) The prison department needs to go through "one evaluation, three reviews and one public announcement" before submitting their parole decision to the people's court. This means that there is a collective evaluation by the subdistrict, which then reports to the prison administration for review, before it is passed to the parole board for review and public

announcement; the final review is by the prison director, with the aim of limiting the emergence of corruption cases through the participation of different departments. However, given the confidentiality of the specific materials and the closed nature of internal management, there are doubts as to whether the relevant materials actually reflect the rehabilitation of each offender on parole or who receives commutation.

2.4 Reform of the Sentence Reduction and Parole System in the Torrent of the "Rule of Law"

The "structural" dilemma facing the sentence reduction and parole system has led to a variety of problems, and many special investigations and corrections have revealed situations in which the symptoms are not the root cause. Faced with the phenomenon of judicial corruption due to the human manipulation of sentence reductions and parole¹, the top legal reformers of the country have made a series of adjustments to trial procedures, assessment criteria, restrictions and other aspects to prevent violations of the law and judicial corruption and effectively improve the credibility of the sentence reduction and parole system.

2.4.1 Standardize the Procedures for Hearing Cases of Sentence Reduction and Parole

The standardized "rule of procedure" has always been the focus of the law to reduce the arbitrariness of the "rule of man". To standardize the procedures for handling sentence reductions and parole cases, the Opinions of the Supreme People's Court on Implementing the Criminal Policy of Leniency and Strictness promulgated by the Supreme People's Court in February 2010 established for the first time that sentence reductions and parole cases should be heard in court and submitted in writing; in principle, commutation suggestions for offenders of crimes of office and major violent crimes should always be heard in court. But at that time, the provisions of the trial procedure still lacked specific and operable protocols. In practice, most cases are still assessed through written statements, and the number of cases actually heard in court is very small. Then the Supreme People's Court issued the "Regulations of the Supreme People's Court on the Trial Procedures of Cases of Sentence Reduction and Parole" in 2014, which further made clear provisions for the trial procedures, including pretrial, trial and posttrial aspects, and clarified the basic requirements of the relevant participants in the trial, providing clear guidelines for parole hearings and paving the way for the substantive trial. The reform of trial procedures has paved the necessary foundation.

2.4.2 Refine the Assessment Basis for Sentence Reduction and Parole

Scientific and standardized scoring on assessments are direct ways to make offenders "reform and change for the better" through development and reformation. Regaining freedom is the direct motivation for offenders to actively accept guidance on reforming their behavior, and the criteria for earning sentence reduction and the fairness of the procedure are their main concerns. Therefore, it is important to set up an optimal pipeline toward sentence reduction and combine it with other means of development to give appropriate and continuous stimulation to inmates so that they accept social norms. As one author states, "Sentence reduction is a key technique to achieve reasonable adjustment of sentence strength, which requires the use of reasonable score configuration and quantitative criteria, and the comprehensive use of multiple assessment tools." (Wang Lirong 2001) China's prison sector has transformed from a crude holding place for criminals to a refined, rigorous system for the rehabilitation of inmates serving their sentences, moving from the initial arbitrary rule of individual confinement to institutionalized management. The Ministry of Justice first issued the "Regulations of the Ministry of Justice on Scoring Assessments for the Reward and Punishment of Offenders" in August 1990. With the changes in the situation facing prisons and the cancellation of labor rehabilitation programs, the original provisions were in urgent need of amendment, so the Ministry of Justice issued the "Regulations of the Ministry of Justice on the Scoring Assessment of Offenders" in August 2016 to unify the assessment scoring standards. These were later further refined and issued in August 2021 as the "Prison point assessment of offender work regulations". The specific assessment requirements for prison education and rehabilitation of offenders have been made clearer, to a certain extent, to overcome the various unfair situations that exist in prison management. The reason for making parole hearings more substantive is not only that the "points-based" assessment cannot truly reflect the authenticity of the offender's repentance but also that the irregularities behind the points assessment cannot be detected through the review

¹ Li Dongming opened the Longquan Mining and Smelting Plant in 1987 to carry out illegal mining, and then in 2001, the "7.17 Guangxi Nandan Overflow Accident" occurred, resulting in the death of 81 people, which was not reported to the relevant state departments in a timely manner, but was concealed. He was sentenced to 20 years in prison for illegal mining, a major liability accident, obstruction of justice, witness tampering and bribery, but actually served only 4 years in prison, i.e., he was released from prison by means of bribery and other means to obtain a sentence reduction and eventually, medical parole. Afterwards, 16 people were held criminally responsible for creating a den of prison corruption. See Lu Ming: "Guangxi's richest man, Li Dongming, died of illness, had concealed 81 mining accidents, but said he wanted to do good in his life," <https://baijiahao.baidu.com/s?id=1638645988001346611&wfr=spider&for=pc>, last accessed February 23, 2022 February 23, 2022.

of paper materials.

2.4.3 Restrictions on the Applicable Circumstances to Sentence Reduction, Parole

Criminal punishment must be matched to the intensity of the criminal behavior to reflect the principle of compatibility between crime and punishment; when the intensity of the punishment is sufficient to control and prevent crime, the corresponding sentence can be reduced based on good performance, indicating achievement of the dual purpose of personal correction and prevention of future crime. The reduction of a sentence weakens the strength of the original penalty, generating a corresponding social cost, so judges must take into account in advance the normal emotions of social retribution for crime and impose necessary limits on reductions.

2.4.3.1 Differentiated Sentence Reduction and Parole Restrictions Based on Crime

The legal benefits available to different offenders and the dangers they pose to other lives are different, but the concessions obtained when serving prison time may not be related to these considerations. The 2011 Amendment to the Criminal Law (VIII) responds to this situation by limiting the conditions for the commutation of sentences for eight types of serious and socially dangerous crimes: intentional homicide, rape, robbery, kidnapping, arson, terrorism, possession of dangerous substances and organized violence. In June 2019, the Supreme People's Court issued the "Supplementary Provisions of the Supreme People's Court on the Specific Application of Law in Handling Cases of Commutation of Sentence and Parole", which strictly scrutinizes the application of sentence reductions to corruption and bribery offenders.

2.4.3.2 Strengthen Supervision and Deepen Anticorruption

In response to the problem of corruption in cases of sentence reduction and parole, in February 2014, the Political and Legal Affairs Commission of the Central Committee of the Communist Party of China issued the "Opinions on Strictly Regulating the Commutation of Sentences, Parole and Temporary Release from Prison and Effectively Preventing Judicial Corruption", which focuses on the commutation of sentences for "powerful" and "rich" people. The Committee made provisions and at the same time put forward corresponding requirements to prevent the dishonest application of parole. In January 2017, the Supreme People's Court issued the "Provisions of the Supreme People's Court on the Specific Application of Law in Handling Cases of Commutation of Sentence and Parole," which set forth more stringent requirements for the application of sentence reduction and parole.² However, "due to the closed nature of the prison declaration process and the unilateral nature of the source, it is difficult for the court to examine the contents beyond the materials, and even the authenticity of the materials cannot be verified.(Li Zheng 2020)" Many system reforms have nevertheless failed to overcome problems such as sentences served only on paper because of early parole. Therefore, the substantive reform of court hearings for sentence reduction and parole cases has become a real necessity.

3. Commutation of Sentences, Parole and the Substantiation of the Hearing

The shortcomings of the hearings in parole cases become visible as reduced sentences that impede the realization of justice, and "hearing-centered" judicial reform is proposed to "ensure that the trial plays a decisive role in ascertaining the facts, identifying evidence, protecting the right to appeal, and fair adjudication. The first procedures in litigation become the preparation activities for trial (such as investigation and prosecution); the second procedures become the implementation of the trial results (such as implementation), all need to serve the trial."(Zhang Jianwei 2015) Substantive hearings for sentence reductions and parole cases have specific implications, meanings, and requirements and face many challenges.

3.1 The Basic Implications of the Substantive Parole and Commutation Court Hearing

The courtroom is a basic requirement for case trials and hearings against the background of "trial-centered" judicial reform. The courtroom itself is not a synonym or replacement for "trial-centered", as the judicial philosophy at play is more similar to "trial-centeredness". However, even "trial-centeredness" must be concretized. For the courtroom to truly become the decisive link of the entire hearing, it is necessary to prevent "pretrial" and "nontrial" activities from generating toothless courtrooms so that the trial is a formality.(Chen Guangzhong and Wei Xiaona 2015) The four prominent features of a substantive hearing include the presentation of evidence in the courtroom, presentation of the facts of the case in the courtroom, a defense statement announced or submitted in the courtroom, and the formation of reasons for the decision announced in the courtroom. With direct speech, the appearance of witnesses is a guarantee to

² For example, the range of sentence reductions has the corresponding restrictions: for repentance or meritorious performance, a reduction from not more than one year of fixed-term imprisonment to not more than nine months of fixed-term imprisonment; for repentance and meritorious performance or significant meritorious performance, a reduction from a general term of not more than two years to not more than one year and six months of fixed-term imprisonment.

ensure that all kinds of evidence are reviewed and cross-examination, debate and court rulings, etc., are realized in the courtroom. A trial-centered philosophy ensures that the criminal litigation activities involved in the investigation, prosecution and subsequent time served should be present for the pretrial, trial and posttrial operations of the hearing as the various links between these phases will directly affect the quality and effectiveness of the trial. A material record of the court trial in the case of commutations and parole has multiple positive implications.

3.2 The Significance of the Substantiation of Court Hearings in Commutation and Parole Cases

The phenomena of "serving a sentence on paper" and "buying a pass out of jail" have seriously affected the realization of justice. To this end, in the country's regular deployment of random inspection for commutation and parole cases, the Supreme Prosecutor has ordered inspectors to focus on the existence of illegal and irregular behavior in the execution of temporary release from prison as a target for rectification.(Jiang Xiaotian 2022) On this basis, combined with the actual, new requirements for substantive hearings of commutation and parole cases, the launch of these substantive hearings is a timely response to current needs.Substantive Review of Parole and Commutation Cases refers to the judicial review of parole and commutation cases, where judges not only focus on the legality and compliance of procedures, but also pay attention to the substance of the case, such as the performance and rehabilitation of the individual being punished, in order to better reflect the humanization of the law and the social education function. The purpose of substantive review of parole and commutation cases is to better achieve the purpose of punishment, promote the education, rehabilitation, and social reconstruction of individuals being punished.

3.2.1 Substantive Hearings Help to Change the Phenomenon of the Virtualization of the Court's Status

As one scholar argues, "Whether to reduce the sentence of a criminal or issue parole, these decisions are still essentially based on the materials reported by the penalty enforcement organs. The court hearings in many cases are formalities, often failing to identify key facts and solve fundamental problems, and while they may sometimes appear sensational, they have poor practical results." On the surface, the decision is made by the court; in fact, because decisions are based on the report from the penalty enforcement organs on which offenders to offer parole, this situation produces a trial that is functionally a formality.(Chen Weidong 2021) The introduction of the reform to parole hearings strengthens the central role of the court in ascertaining the facts and helps to systematically reverse the gradual erosion of the court's legitimacy and power.

3.2.2 Courtroom Substantiation Helps Change the Absence of Full Hearings

Under the existing trial model, which is treated as a formality, the courtroom trial is not used accurately or fairly. The process of cross-examination and certification of core evidence is inadequate, and it is often difficult to truly ascertain the core facts of whether the offender has truly confessed and repented his or her crime and whether he or she meets the conditions for sentence reduction or parole. As one scholar says, "The basis of the decision does not come from the cross-examination in court but from the case file materials of the investigative authorities, and the trial activity becomes a demonstration to confirm the results of the investigation."(Yang Zhengwan 2106) Strengthened, substantive hearings for sentence reduction and parole cases change the established methods of investigation by taking the onus from prison officials and moving it to the courtroom, which can better assess the various accusations against the offender and decrease the phenomenon of show trials.

3.3 Challenges to Implementing Substantive Hearings for Commutations and Parole Cases

The desire for substantive hearings for commutations and parole cases reflects the people-centered judicial philosophy upheld by the state and is also a reflection of the state authorities' commitment to justice and innovation and their willingness to take up the responsibility of issuing reform. However, this move is bound to bring many new challenges to courts, procuratorates, prisons and offenders.

3.3.1 Dramatic Increase in Workload

The proposed reform to reduce complexity and generate simplicity is a response to the previous "litigation explosion", and is premised on balancing justice and efficiency while trying to effectively reduce the workload of judicial departments. The substantive hearing for parole and commutation cases will directly increase the workload of the various case departments. The people's court, in particular, "needs to know and understand each offender from the beginning, and this repetitive work will certainly cause a waste of judicial resources.(Gao Gao Hong 2005)" In addition to the large number of first- and second-instance cases that the people's courts need to hear each year, there are also a number of cases submitted for sentence commutations and parole; however, "our courts have not established a special body to hear sentence commutation and parole cases, and there is a lack of specialized trial personnel who are proficient in the delivery of sentences."(Park, Y.G, 2012) This further aggravates the workload of the people's courts. To effectively relieve the pressure of handling cases, the state has set up an information-based case handling platform with a view to facilitating the connection between courts and penalty enforcement organs, enabling them to collaborate on

handling cases with real-time exchange of data through the platform. This has eased the workload of the case department to a certain extent, but the increased workload of courtroom officials is still inevitable.

3.3.2 The Challenge of Professionalism

The reform of the hearing is not only an adjustment of the trial mode but also the adjustment of the business skills of the case officer; the only way to win in court is to master more exquisite courtroom skills. Although parole cases are not a new initiative, the relevant departments involved in the hearings for such cases have also accumulated corresponding experience. However, a substantive court hearing will have a direct impact on the past practice of formalities. This situation will encounter challenges. The relevant departments, especially the prison department, need to re-examine their functions in court and make targeted adjustments, such as offering guidance and training to prison officers before court appearances and visualizing the specifics of the rehabilitation and education of offenders.

3.3.3 The Issue of Witness Appearances

Adherence to the principle of direct verbal accounts is the most direct manifestation of the substantive trial. As one scholar notes, "The principle of a direct trial, that is, the principle of requiring 'appearance at the court,' can be considered the most important principle governing the trial process." (Lin Yuxiong 2007) And "words ensure the clarity and novelty of the impression of the trial and the expeditiousness of the proceedings." (Cherizov 1955) Another notes, "Only the information of the proceedings as stated and referred to in speech can be used as a basis for the decision." (Klaus Rokossin 2003) The presence of witnesses in court is the most basic requirement for the materialization of a legitimate trial that ascertains the truth. However, at a time when the rate of witness attendance is low, the selection and attendance of witnesses is a problem that must be faced. Even if witnesses are present in court, they may face problems such as inconsistency between the account of the prison police and the declared offender's defense, leaving them unclear which party's content should prevail. What prevails if the relevant defense is inconsistent with the relevant materials? Should additional investigation occur and another trial be organized? The solution to these problems fundamentally lies in the establishment of the "hearsay rule".

3.3.4 The Issue of a Procedural Rights Guarantee for Offenders

The enjoyment of full procedural rights, especially the right to a defense, is the basis for the participation of the offender in the substantive trial. To support the interests of the accused, it is necessary to support the system of public defenders. (Zhu Caizhen 1929) The idea of obedience or submission should not be the basis for the substantiation of the trial; a substantive trial should be conditioned by the substantiation of the defense. (Zhang Jianwei 2015) When the handling of the case is no longer a formality of written approval, many issues behind the report can be investigated in the courtroom. The offender's burden of proving that he or she has served his or her sentence and reformed will multiply. Whether their rights as supervised subjects can be guaranteed will directly affect the final outcome of their cases. From this perspective alone, even offenders may be resistant to substantive hearings for parole cases; after all, their past "rights-given" identity was converted to "rights-claiming" subjecthood. How they can claim their right to parole or sentence reduction and no longer just the "right to wait and see" is an important realistic problem.

4. Response to the Substantiation of Court Hearings in Commutation and Parole Cases

The substantive hearings for sentence commutation and parole cases is intended to establish the judicial authority of the people's courts to commute sentences and issue parole. These hearings allow the courts to change the status quo of "sentence commutation and parole procedures attributed to judicial authority being alienated into an 'administrative-centered' work model, (Jiangsu Changzhou People's Procuratorate Group 2019)" and give play to the "targeting function" of the people's courts in parole cases. The actual "targeting function" prevents the court from being led by the nose with only the materials submitted by the prison department. To change the disease of show trials in parole and commutation cases, it is necessary to accurately define the identity of the relevant court participants in the current model and reorganize their court duties.

4.1 *The Definition of the Identity of the Prosecutor's Office and the Adjustment of Its Duties Under the Trial Substantiation Model*

The role of prosecutors in the enforcement process varies, as it is typically either supervisory or directive. As a result of historical and other factors, different legal systems differ in determining the role of their prosecutors in enforcement proceedings.

4.1.1 Definition of the Prosecution

Soviet influence on China led to the model of procuratorial supervision, but the formalization of legal supervision and the marginalization of the role of procuratorial organs in the reform of legal procedures in China are obvious. Participation in court hearings of parole and commutation cases as only legal supervisors cannot truly meet the

requirements of the substantive reform of court hearings. To strengthen the legal supervision of procuratorial organs, a more accurate definition of their identity, which strengthens their prosecutorial function from the traditional practice of the past, is necessary for a substantive hearing. The "Chinese problem" of the "tripartite litigation structure + legitimate supervision" requires a reconstruction of roles to become compliant with the substantive hearing for parole cases. As one scholar argues, "The essence of procuratorial power is the right of public prosecution, and its basic function is public prosecution.(Chen Weidong 2002)" The prosecutor's presence in court is not only necessary to fulfill supervisory duties but also compelled by the effective exercise of prosecutorial power. Another scholar states, "Transforming generalized prosecutorial supervision into a specific litigation function"(Zeng Jiaoyan 2019) not only will not impact or detract from its responsibilities of legal supervision but will also further strengthen the power of prosecutorial authority at the hearing stage.

4.1.2 Adaptation of the Procuratorate's Responsibilities under the Substantive Mode of Courtroom Hearings

The current mechanism obstructing the substantiation of parole hearings is the absence of a true debate in the courtroom structure, with two opposing sides. The judge interrogates criminals and witnesses and verifies the evidence for sentence reduction or parole; prosecutors and administrative agencies follow the judge's prompt to attain additional interrogation (inquiry) material and comments. This kind of "litigation" model is far from the requirements of the substantive hearing. It is imperative to adapt the supervisory duties of the procuratorial authorities in cases of sentence reduction and parole.

4.1.2.1 Legal Supervision Duties of the Procuratorial Organs and the Creation of a Litigating Function

Substantive hearings for commutations and parole need to ensure that the procedure follows the general laws for litigation, with the basic requirement including the structure of litigation itself. That is, the disputing parties around the issue at hand must be present to provide each piece of evidence, cross-examination and debate to allow the judge to make an appropriate decision in accordance with the facts of the case and the law. Therefore, the procuratorial organs "in the litigation activities for sentence commutation and parole must be sent to court or present a position in writing to express their views, to focus on "prickly" questioning rather than approval, and to focus on confrontation rather than concurrence."(Chen Weidong 2012) The prosecutor's supervisory role in litigation is the exercise of the right to prosecute. The essence of procuratorial power is the right to prosecute, and its basic function is to prosecute.(Chen Weidong 2002) The supervision of procuratorial organs in the process of monitoring offender behavior in time served is the continuation and maintenance of its prosecutorial function, and this prosecutorial function should be returned to the court hearing in parole cases.

4.1.2.2 Concretize the Courtroom Litigation Function of the Prosecution

To change past practices in which the "only points cited are to the points of the sentence" for the show trial mode, it is necessary to refine the litigation function of the prosecution in the trial.

First, strengthen the procuratorate's function of cross-examination of evidentiary materials.

According to the "Supreme People's Court on the procedure for hearing cases of commutation of sentence, parole," Article 2 provides that when the people's court accepts cases of commutation and parole, they shall examine the related materials transferred by the prison administration.³ Procuratorial authorities sent to court should prepare related materials as the most important for developing the corresponding cross-examination. This requires the procuratorial authorities in the trial to refine the type of evidence, sources of evidence, the content of the evidence, the fulfillment of the property penalty and other aspects of the review and publish the corresponding cross-examination. Second, the right of the procuratorial authorities to read the file materials and the right to out-of-court investigation and verification should be clarified.

An offender's application to the people's court for a commutation of sentence or parole hearing has a similar motive as a first appeal—it is to change the original sentence and has an impact on the procuratorial authority's right to seek a sentence. The only difference between commutation and parole cases and the appeal trial is that they do not involve the sentencing of guilt or innocence. The commutation of a sentence can lead to a change in the prosecutor's right to seek a sentence for the original charge. As one scholar argues, "The procuratorial authorities should be given the right to review the materials and decide whether to submit to the court ruling on sentence reduction or parole, and the right to

³ (a) the proposal for commutation of sentence or parole; (b) copies of the final court decision, proof of time served, and successive rulings on commutations; (c) specific facts in written documents that demonstrate the offender has truly repented or been meritorious or significantly meritorious;

(d) offender evaluation and appraisal forms, awards and punishment approval forms, etc.; (e) other materials that should be transferred according to the needs of the case.

investigate the legality and legitimacy of the decision to change the sentence as necessary."(Chen Ruihua, Huang Yong and Chu Fumin 2012) After the people's court accepts the case, all relevant materials should be transferred to the procuratorial organs for their review of the file in preparation to participate in the court hearing.

4.1.2.3 The Transition from the Supervision of Legality at the Trial Stage to the Supervision of Legality at the Pretrial and Trial Stages in Their Entirety

In past judicial practice, the procuratorial organs in the commutation of sentences and parole cases were mainly limited to confirming the execution of the sentence and serving as the trial organ to supervise the legality of the procedure. Even this function was not comprehensive. As a legal supervisory organ, "the legal supervision of the people's procuratorate has a 'whole process' leading role, which is reflected in the whole process of criminal litigation, from filing, investigation, and prosecution to the execution of each link, but they also supervise each matter from the acceptance of material sources and review until the final initiation of corrective action against illegal acts, even including the entire process of the criminal investigation."(Zhang Jianwei 2019) A scholar states, "A distinctive feature of the exercise of public power is that it must be backed by coercive force.(E. Bodenheimer,2017)" And China's current "power to safeguard the means of legal supervision of the procuratorial organs has not been established, leaving a vacuum of power. Consequently, there is a need to enhance the power attributed to legal supervision and expand its scope.(Zhang Jianwei 2019)" The implementation of process supervision needs to start from the source of prison management, including the review of the management system that produces the offender's record, the inspection of the proper implementation of the system, the supervision of the report on the rehabilitation of the prisoner, and the processing of objections to the claim of rehabilitation.

4.2 Definition of the Status and Extension of the Rights of Prisoners Under the Substantive Mode of Court Hearings

The offender, as the bearer of the sentence and recipient of the result of commutation or parole has his or her own interests as a stakeholder in the proceedings, but in these major judicial procedures to determine their freedom, they are currently a passive absence, which is, it must be said, a manifestation of procedural injustice. The offender does not enjoy the right to take the initiative to ask the people's court for early commutation or a parole hearing, nor does he or she enjoy the right to object to the results. This "nonright" view actually deviates from the basic principle of the unity of rights and obligations. As one scholar says, "the authority for sentence reduction is located in an absolute state power; the offender belongs to the recipients of this state power, with no right to object. This situation is not only an easy path to the abuse of state power, but also a condition where the offender is extremely vulnerable to unequal treatment."(Zeng Jiaoyan 2019) As the direct beneficiaries of the system, offenders who have their sentences commuted or who are paroled should enjoy fuller litigation rights in the promotion of substantive court proceedings rather than being passive recipients of the results.

4.2.1 Definition of the Status of Persons Whose Sentences May Be Commuted or Paroled

Offenders who plead guilty to the law, sincerely repent their crimes and are well reformed or have made meritorious achievements (including significant meritorious achievements) can have their actual prison sentences shortened and regain their freedom through the implementation of sentence reduction and parole. Freedom is one of the most basic human rights of human beings, and the restoration of personal freedom through sentence reduction and parole should be regarded as an important right of offenders, not the unilateral power of the executive authorities. Therefore, offenders should enjoy the right to claim their sentence reduction or parole according to their objective performance. As an offender who is granted a hearing for sentence reduction or parole, his or her identity should be switched from the previous status of "rights recipient" to a status as "rights claimer". Only when the request for a reduction of the sentence is located within the offender's legal rights and a court mechanism is built to counterbalance state power with the citizen offender will the sentence reduction case itself have the possibility of attaining the desired substantive review.(Zeng Jiaoyan 2019) That is, the offender should be the applicant for commutation of their sentence or parole and the initiator of court proceedings; they may propose to the people's court the matter of a hearing on their right to a commutation or parole. The prison department, on the other hand, should be the provider of materials for the offender's claim of the right to commutation or parole, just as the traffic police in traffic accident cases provide the corresponding materials determining accident liability for the people involved. If sentence reduction and parole is a right of the offender combined with evidence of their own good performance, then the prison administration should give full protection to the offender to exercise their right, and not use the claim of the right to a parole hearing to the detriment of the offender. This reconfiguration of the identity and duties of the prison authorities in the commutation cases does not lead to a reduction in its supervisory functions but better enables it to avoid various violations of due process and rights in the hearings for commutations or parole.

4.2.2 Extension of the Rights of Prisoners Whose Sentences May Be Commuted or Paroled

The "expansion of the offender's right to request" a hearing to derogate from the current "individualization of sentences"

should become the rightful meaning of the substantive hearing for parole and sentence reduction cases. The offender obtains a favorable return on his or her request for parole in response to positive rehabilitation and other good performance; this "benefit" is granted to what may be regarded as a role with a negative identity when parole is an "honor" in a system that views "the reward of honor [as] always inexhaustible, a million dollars." (Cesare Beccaria 2008) This adjusted model needs to give the offender full procedural rights; otherwise, a model imbalanced in favor of the prosecution will further reduce the space for possible sentence reduction and will have a significant impact on the motivation and initiative of the offender to accept rehabilitation.

4.2.2.1 Granting the Right to Apply for Sentence Reduction and Parole Hearing Procedures to Offenders

On the one hand, the judicial power attached to sentence reduction and parole requires that the offender be given the right to apply for sentence reduction and parole procedures to fit the substantiation of court hearings. Commutation of parole should not simply be seen as a goodwill favor for the good performance of the offender. The controversy parole as a "reward" or "right" has always existed, and some commentators believe that a right that exists as a kind of benefit needs to be based on the explicit provisions of the law. There is no law expressly providing that parole is a right of the offender, so advocates of the current system hold that the view that parole is a right of criminals has neither legal basis nor practical experience. (Zhang Xinmin 2009) This view actually ignores the existence of many kinds of rights, only one of which is the existence of rights in the form of express provisions of the law. There are some important rights that exist objectively even though there are no express legal provisions encoding them. The offender, as the bearer of the outcome of the hearing, currently has no right to speak, which is illegal.

On the other hand, the administrative and judicial affairs covered by the prison department in their power to monitor sentences should be clarified. The procedure for requesting judicial hearings for sentence reduction and parole should be returned to the judicial litigation model, in which the prison assists the offender who is serving the sentence. As one of the four pillars of penal power (the power to make, seek, measure and implement sentences) (Qiu Xinglong and Xu Zhangrun 1988), the right to implement sentences has the dual attributes of judicial and administrative power, even though administrative power is active while judicial power is passive. The prison department, as the holder of the right to implement sentences, has the responsibility to perform its duties. The prison currently requests that the court hear parole cases, which seems to be the embodiment of its active duty, but in fact, this power is also mixed with administrative and judicial affairs during the implementation of the sentence. Of course, the prison department, as a supervisory institution, has the duty to take the initiative to assist offenders in declaring their materials based on its administrative authority. The extrapolation of the offender's right to submit an application for sentence commutation or parole within the prison to his right to apply to the people's court for a trial will inevitably lead to a restriction of prison powers "to advocate trial-centrism, which essentially means re-examining the litigation stage theory or even discarding it, which is not a small movement, I'm afraid." (Zhang Jianwei 2015) Even just from the standardization of prison management, especially to prevent the phenomenon of some prison personnel acting on the assumption of the right to submit applications for parole and offenders "relying on the prison guard to pick the prison lock", the control of corruption has positive significance.

4.2.2.2 Restoration of Procedural Rights to Offenders, such as the Right to Be Heard in Court and the Right to Defense

The right of criminal defense, as the most basic litigation right of the people involved in criminal cases, should not be deprived or unduly restricted in the entire criminal procedure. Since the processing of parole and commutation cases must be implemented by means of court hearings, judicial acts must involve adjudication, and adjudication must be based on the judicial authority hearing the dispute between the two parties and reaching a conclusion, i.e., "judicial adjudication is to make binding decisions on the allocation of rights during the period of the parties concerned." (David Mille and Vernon Bogdanor 1992) The right to sentence includes the right to make a sentence, the right to seek a sentence, the right to measure a sentence and the right to implement a sentence. (Qiu Xinglong, Xu Zhangrun, 1988) The neglect of the right of the offender to a defense in the implementation stage is not a deliberate limitation by jurisprudence but the result of the usual cognitive misconceptions: the criminal judgment in force assumes that the case has had the facts ascertained, and to ensure the authority and finality of the judgment, it cannot be changed without a specific procedure. The prison administrator who implements the sentence does not have the power to change the judgment, which reflects the value position of substantive justice but ignores the procedural justice that should be maintained in criminal enforcement. Since procedural violations are possible, it is necessary to give the offender the right of defense to remedy procedural violations and to achieve visible justice through the process of judicial adjudication. Furthermore, in the four stages of investigation, prosecution, trial and sentencing, the right to defense is granted in the first three stages but not for the sentencing stage, which is against the requirement that criminal defense is present through the whole process.

4.3 The Definition of the Identity of the Prison Department and the Adjustment of Its Responsibilities under the Substantial Trial Model

The matter of the application for commutation or parole is not only about the personal freedom of the offender but also related to the prison's own interests. It has the dual effect of motivating offenders to actively reform and reducing the pressure on prison supervision. However, this is not a justification for the system of sentence reduction but only the objective effect of the application of the system. The substantive hearing in court is predicated on an adversarial two-factor deliberation, and it is difficult to constitute the two-factor form required for the substantive hearing when the prison is the responsible party submitting the application. The identity of the prison service must be redefined.

4.3.1 Defining the Identity of the Prison Sector

The prison administration, as the supervisor of the offender's rehabilitation, has absolute say on the "life and death" of the offender, i.e., the assessment of the offender's sentence reduction and merit award, and absolute say on the selection of which offenders become parole applicants. Not every repentant offender can be granted parole, and the decision of who can be granted such care rests with the prison administration, which formulate their own rules of internal management. The offender has to apply according to the conditions in the internal rules of each prison, and there is no uniform standard as to whether the relevant rules are reasonable. As a result, it is difficult for the court to examine the relevant materials provided by the prison. To solve this persistent problem, the identity of the prison administration in the court trial needs to be precisely defined. The current practice of initiating a hearing in the people's court by the prison administration should be amended, with the right to request commutation or parole given back to the prisoner and the prison involved only as an assistant to the offender to provide relevant documentation and to appear in court as a witness. The prison is not a witness who has no interest in sentence reduction or parole, as it is directly related to the management of the prison. This special status makes it all the more important to assist the offender in providing evidence of the rehabilitation situation.

In the recent substantive hearing of eight cases of sentence reduction and two cases of parole by the Shenzhen Intermediate People's Court⁴, the relevant prison staff appeared in court as witnesses to explain the prison rehabilitation of the offender and selected an offender from the same prison to testify as a witness. This attempt is undoubtedly beneficial to the promotion of the substantive hearing of the case, but the operation of basic matters such as the definition and selection of witnesses is still in the exploratory stages. In particular, the presence of a fellow inmate as a witness is an area deserving further attention because the inmates live together and the testifying inmate knows about the situation of the reformed offender. However, the existence of close relations between the inmates can affect the authenticity of the relevant testimony. In particular, the purpose of such a court hearing is obviously already oriented—a trial with a favorable outcome for the offender. It is difficult for the witness to suggest anything other than the approval of the corresponding sentence reduction and parole matters, and the corresponding results are themselves closely related to the validation of the prison's own assessment. Therefore, the testimony and the witness itself are at stake, and testifying under such circumstances makes it more important to examine the truthfulness of the testimony. Based on this special situation, in addition to improving the method and criteria for the selection of witnesses, it is necessary to guarantee the independence of witnesses who testify.

4.3.2 Prison Duties in the Courtroom Substantiation Model

The substantive hearing of parole commutation cases has a dual purpose: both to gain an accurate understanding of the rehabilitation of the specifically presented offender and to comprehensively review the reasonableness and fairness of the prison department's relevant educational and rehabilitation measures and management assessment behaviors. For this assessment, the court must use the offender's application, the recommendations of the procuratorial authorities and the specific circumstances verified in the court hearing to make a fair ruling, and through the corresponding ruling, the prison department should be guided by the outcomes of their application. It is also necessary to gradually regulate the prison department's specific education and rehabilitation measures and management assessment methods for inmates through the corresponding ruling on parole cases so that the prison's relevant management assessment measures fit the standards of sentence reduction and parole, including the spirit and requirements of the system.

4.3.2.1 Rehabilitation Assessment Materials to Assist in the Evidence System

Whether the prison department's right to request a hearing should be transferred to the offender in their own declaration to the people's court is a question about the limitation of prison power and also the expansion of the rights of offenders. This requires a fundamental clarification of the nature of the power to approve parole. The prison

⁴ The Shenzhen Intermediate Court Sounds the First Hammer in the Substantiation of Commutation and Parole Cases, https://mp.weixin.qq.com/s/42_p4cLdNyA9xlAtTbLfLg, last visited Dec. 21, 2022.

administration is the main body that enjoys the right to implement sentences, yet the right to implement sentences has the dual attributes of administrative power and judicial power. One of the prominent differences between administrative power and judicial power is initiative and passivity. The procedure for sentence reduction and parole must be based on the results found by the people's court, with obvious judicial attributes. Commutation of sentences and parole are based on points assessment, and points assessment is also the basic measure of the quality of prison rehabilitation, which is related to the stability of the prison order in supervision and the investment of national resources for sentence implementation. This chain of extended interests directly affects the prison department's position and attitude toward the results of its scoring and assessment. According to the regulations of the Ministry of Justice, prison authorities only score, assess and evaluate, and publicize in accordance with the law. In accordance with the law, the prison prepares the proposed declaration of the offender's confession of guilt and repentance, statements of recognition of merit or significant merit and other necessary information. When the right to request a parole hearing is transferred to the offender him- or herself, the many constraints he or she is subject to will certainly lead to difficulty in realizing his or her right to claim a request for a hearing, of which the most critical step is the collection of assessment materials. As a supervisory authority, the prison has the responsibility to provide evidentiary materials to prove the success of their rehabilitation. It is not appropriate to specify the extent or specific time of sentence reduction that the offender should receive in the materials submitted by the prison, and the actual result of sentence reduction should be determined by the people's court after the trial with verifiable circumstances.

4.3.2.2 Human Witness Appearance

The substantive trial should be oriented to the principle of spoken or written testimony, and the fulfillment of the principle of testimony is guaranteed by the presence of witnesses in court. Although the prison department has been sent to court in the process of hearing parole cases, the appearance of the relevant personnel are still in a mode to restate their pretrial testimony because the decision to appear in court or provide testimony, etc., is unilaterally decided by the prison administration and prepared in advance. Under these circumstances, the hearing lacks cross-examination, deliberation and other necessary aspects of the substantive trial. The prison department, as the main body that supervises and rehabilitates offenders, must assume the task of appearing as a witness in the trial. This will be different from previous court appearances; the civilian police will not only have to testify about the rehabilitation of the offender but also accept the court's challenge to the relevant facts. The prison administration may even face the adverse consequences of a denial of part of the scoring assessment results. This change involves guidance on the regulations for civilian police appearance in court. Familiarity with the rules of court is a basic requirement, in addition to the need to address the refusal of the competent civilian police to testify in court, which would prevent the normal conduct of court hearings by the failure of the corresponding competent civilian police to appear in court.

4.3.2.3 Regulatory Filing Review System

The current system of points assessment and punishment for offenders is designed first to improve the effectiveness of the work of offenders and second, to maintain the stability of the order and structure of prison rehabilitation. This does not necessarily mean the system ensures the correction of the behavior of offenders and the reform of the minds of offenders. (Zhang Heping 2010) In the context of substantive court reform, the management of the prison department and its assessment of offenders will face a more direct test. Whether the relevant system is formulated in accordance with the law and whether the implementation of the system is legal should become one of the necessary matters of trial investigation. Although the court hearing is not intended to complicate the case, in view of the special nature of the relationship between the prison department and the offender, to avoid unfairness in the prison department's assessment of the offender and ensure that those who truly confess and repent their crimes through the sentence reduction and parole system obtain the sentence reduction due, it is necessary to fully investigate the relevant facts of the rehabilitation process, rather than only the written materials of the prison. The real meaning of the court's substantive hearing should be to review the authenticity and fairness of the prison department's assessment of the offender's points. Therefore, it is necessary to trace the actual situation inside the prison through paper records. The prison department needs to accept more supervision in the implementation of the supervision and rehabilitation process, especially in the implementation of supervision. When the police supervise the content of the assessment of the subject and the reasonableness of the content, this directly affects the actual rights and interests of the subject under supervision and affects the system that supervises the subject of the substantial rehabilitation effect.

5. Conclusion

In this paper, we combine the implications and requirements of the implementation of substantive hearings for commutation and parole cases with the challenges faced by the implementation of the substantive hearing. This paper has identified the challenges faced in establishing the substantive hearing and specific responses to these critiques. However, the promotion of the sentence reduction and parole cases as a systematic project involves the adjustment of

the configuration of the powers and responsibilities of the relevant departments. As a profound institutional change, there is no ready-made previously existing Chinese experience to follow. Both the need for comprehensive efforts to further implement the principle requirements of the "division of labor, mutual cooperation, and mutual constraints" to give full play to the functional departments and the need to establish and improve supporting measures require the active refinement of the trial operating procedures to lay a solid foundation for the substantive trial. Therefore, the substantive hearing of parole cases needs to be investigated in depth from the theoretical level to sort out and summarize the existing procedures. The basic mode of dealing with the current cases of sentence reduction and parole as a model for innovation, rather than simply refining the relevant procedural rules and related technology, ensures that the hearings for sentence reduction and parole are truly substantive.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

References

- Berman. (1990). Law and Religion, translated by Liang Zhiping. *Sanlian Bookstore*, 48.
- Bob, J. (2000). The Rise of Governance and the Risk of Its Failure: A Discourse on Economic Development as an Example. Yu Keping, Governance and Good Governance. *Social Science Literature Press*, 126.
- Cesare, B. (2008). On Crime and Punishment, translated by Huang Feng. *Beijing University Press*, 108.
- Chen, G. Z., & Wei, X. N. (2015). On the Modernization and Reform of China's Judicial System. *Chinese Jurisprudence*, 1, 101-116.
- Chen, R. H., Huang, Y., & Chu, F. M. (2012). Breakthroughs and Limits of Legal Procedural Reform - A Review of the 2012 Criminal Procedure Law Revisions. *China Legal Publishing House*, 217.
- Chen, W. D. (2002). Rethinking and Reconstructing Procuratorial Power in China-An Analysis Focusing on Public Prosecution Power. *Legal Studies*, 2, 3.
- Chen, W. D. (2021). Two Thoughts on Promoting the Substantive Hearing of Commutation and Parole Cases. *People's Court Daily*, 11, 2.
- Chen, X. L. (2003). Chen Xingliang's Textbook of Criminal Law on Normative Criminal Law. *China University of Political Science and Law Press*, 254.
- Chen, Y. S. (2007). A Review of the Procedures for Commutation of Sentence and Parole in China. *Legal Business Research*, 2, 34.
- Cherizov. (1955). Soviet Criminal Procedure, translated by the Criminal Law Department of the People's University of China. *Law Press*, 122-123.
- Claes, B. (1991). An Introduction to Correction, translated by Sun Xiaolei et al. *Chinese People's Public Security University Press*, 145.
- David, M., & Vernon, B. (1992). The Blackwell Encyclopedia of Political Science (Chinese translation). *China University of Political Science and Law Press*, 6.
- E. Bodenheimer. (2017). Jurisprudence: legal philosophy and legal method, translated by Deng Zhenglai. *China University of Political Science and Law Press*, 378, 379.
- Fan, C. Y. (2003). Principles of Litigation. *Law Press*, 424.
- Gao, G. H. ed. (2005). Legal Application and Judicial Practice of Sentence Reduction and Parole: Results of the China-EU Legal and Judicial Cooperation Project. *People's Court Press*, 104.
- Gao, M. X. (1994). Principles of Criminal Law. *People's University of China Press*, 3, 567.
- Jiang, X. T. et al. (2022). Strictly prevent irregularities and violations of the law. Strengthening Substantive Review, "Southern Metropolis Daily". Retrieved from http://epaper.oeeee.com/epaper/A/html/2022-03/08/content_3708.htm# article, 8
- Jiangsu Changzhou People's Procuratorate Group. (2019). Optimization of Criminal Execution Procuratorate Work, *People's Procuratorate*, 10, 23.
- Klaus, R. (2003). Criminal Procedure Law, translated by Li qi Wu. *Law Press*, 429.
- Li, G. F. (1992). A Comparative Study of Liberal Punishment. *Jilin People's Publishing House*, 308.
- Li, Z. (2020). The Defects of China's Commutation Procedure and its Improvement. *Journal of Anhui Police Officers'*

Vocational College, 6, 65.

- Lin, Y. X. (2007). *Criminal Procedure Law (Lower Monograph Series)*, self-published by the author, 179.
- Liu, Z. W. (2005). *A Comparative Study of Parole Systems*. *Shandong University Press*, 20.
- Michael, C., & James, D. (2002). *The Penal System: an Introduction* (3rd ed.) *SAGE Publications Ltd*, 264.
- Park, Y. G. (2021). The Idea of Reforming and Innovating the System of Commutation and Parole in China. *Contemporary Jurisprudence*, 1, 149-154.
- Qiu, X. L., & Xu, Z. R. (1988). *Penology*. *Mass Publishing House*, 61.
- Sun, Li. (2011). Study on the Procedure of Sentence Reduction and Parole. *Chinese People's Public Security University Press*, 18.
- The Shenzhen Intermediate Court Sounds the First Hammer in the Substantiation of Commutation and Parole Cases. (2022). Retrieved from https://mp.weixin.qq.com/s/42_p4cLdNyA9xlAtTbLfLg, last visited Dec. 21.
- Wang, L. R. (2001). The Operation of Sentence Reduction and the Reasonable Flexibility of Penalties. *Yunnan Jurisprudence*, 1, 99.
- Yang, G. Z. (2006). New Exploration on Improving the Supervision and Restriction Mechanism of Sentence Reduction and Parole. *Rule of Law Series*, 1, 132.
- Yang, Z. W. (2016). The Unfolding of the Concept of Judgment Centrism. *Journal of Guizhou University for Nationalities (Philosophy and Social Sciences Edition)*, 1, 157.
- Zeng, J. Y. (2019). The Necessity and Possibility of the Substantiation of Commutation of Sentence in Court - From the Perspective that Commutation is a Convict's Right. *Hubei Social Science*, 1, 152.
- Zeng, J. Y. (2019). The Necessity and Possibility of the Substantiation of Commutation of Sentence. *Court - From the Perspective that Commutation is a Convict's Right," in Hubei Social Science*, 1, 153.
- Zeng, J. Y. (2019). The Necessity and Possibility of the Substantiation of Commutation of Sentence. *Court - From the Perspective that Commutation is a Convict's Right," in Hubei Social Science*, 1, 157.
- Zhang, H. P. (2010). A Study of Current Offender Scoring and Assessment Issues. *Crime and Rehabilitation Research*, 6, 51-55.
- Zhang, J. W. (2015). The Substantive Connotation and Realization of Trial Centrism. *Chinese and Foreign Law*, 4, 863.
- Zhang, J. W. (2015). The Substantive Connotation and Realization of Trial Centrism. *Chinese and Foreign Law*, 4, 871-878.
- Zhang, J. W. (2015). The Substantive Connotation and Realization of Trial Centrism. *Chinese and Foreign Law*, 4, 875.
- Zhang, J. W. (2015). The Substantive Connotation and Realization of Trial Centrism. *Chinese and Foreign Law*, 4, 866.
- Zhang, J. W. (2019). The Theory of the Leading Role of the Procuratorate. *Chinese Journal of Criminal Law*, 6, 32.
- Zhang, J. W. (2019). The Theory of the Leading Role of the Procuratorate. *Chinese Journal of Criminal Law*, 6, 36.
- Zhang, W. X. (2011). *Jurisprudence*. Higher Education Press, 138.
- Zhang, X. M. (2009). Exploring the Application and Ruling of Commutation of Sentence and Parole. *Application of Law*, 9, 68.
- Zhang, Y. P. (2014). The Evolution of the Judicialization of Commutation and Parole Procedures in France and Its Implications. *Legal and Business Studies*, 5, 135.
- Zhu, C. Z. (1929). *A New Treatise on Criminal Procedure Law*. *World Book Bureau*, 84.

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