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The Pilot Project and its Implementation of Community Correction in China

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Community correction is an execution mode of non-imprisonment criminal punishments, and it refers to the execution of placing the criminals meeting statutory requirements in communities, and special organs of the state, with the assistance of the relevant social organizations, non-governmental organizations and social volunteers, correct their criminal psychology and bad habits within the period determined by the judgment, ruling or decision, and help them return to society successfully. The essay introduces the pilot project of community correction and its implementation in China. Compared with occidental countries, the community correction system in China is established much later at the beginning of 21st century, and now covers more than thirty provinces in China. The essay mainly focuses on the subjects, tasks, government organs responsible for the work of community correction and working system as well as the staff of the community correction system.

Keywords: Community Correction; Correction System; Chinese Correction Reform.

Research area: law.

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1. The pilot project of community correction system in China

1.1. The background of community correction system

Community Correction, as an ideology and system to execute sentence, is developed from the occident in 1960s to 1970s. In 1967, the US presidential commission pointed out in the Report of Law Enforcement and Judicial Administration that crimes

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and teenager ill behaviors are the embodiment of social organizations and organs failure in proper function, and thus the missions of correction includes the building or reconstruction of social connection and restriction in order to provide opportunities of employment and education for people who have committed crimes.

At present, the definition of community correction in China is not established yet, whereas a widely acknowledged and comparatively authoritative one is regulated in the *Notification of Pilot Program of Community Correction* issued by the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice in July, 2003: community correction is a kind of sentence execution opposite to "imprisonment correction" which is executed in prison. Community correction refers to correct the evil psychological and behavioral habits of the criminals who conform to the circumstances of community correction and help them back to the society within the period of sentence, ruling or decision, with the assistance of relevant social organization or civil organization and volunteers.

1.2. The pilot project of community correction system in China

Although it is regulated in the Criminal Law, Criminal Procedure Law and other relevant laws and regulations of PRC that the subjects of community correction is the criminal who is sentenced to or is granted one of the following punishments: public surveillance, deprivation of political rights, probation, parole or temporarily serves a sentence outside the prison, community correction is still not mature enough as a criminal ideology or punishment system. Compared with occidental countries, community correction system started quite late. For one side, the application scope of community correction legislated in the criminal law and criminal procedural law only include the above five categories of sentence with the restraint of the doctrine of sever punishment and Criminal Law Omnipotent view rooted in the field of legislation and justice. Statistic data show that the total number of criminals being sentenced in all levels of court in 2001 reached 751,146, among who 9481(1.26%) criminals were sentenced to public surveillance; the application rate of probation is 14.71% in 2001; in 2000, 23,550 criminals were granted parole; the criminals temporarily serves a sentence outside the prison only dominated 1.13% of the criminals in incarceration in 2001. On the contrary, among 68,533 defendants in the US in 2001, 74% were sentenced probation, and 4% were merely sentenced to a fine. For another side, due to the vague division of labor and responsibilities between organs of public security and justice,

as well as the lack of fund and staff, the execution of community correction usually become a formality without real function.

At the beginning of 21 century, with the influence of worldwide reform trend of criminal justice system and the guidance of “people-oriented” Scientific Development Concept, community correction was put on the agenda of China’s reform of criminal justice system and ideas: in August, 2002, Shanghai officially established the pilot project of community correction in Caoyang Community of Putuo District, Xietu Community of Xuhui District and Baoshan Community of Zhabei District. By August 2004, the project was promoted to the whole Shanghai city. In June 2003, the pilot project of community correction is implemented in 47 Communities in Dongcheng District, Fangshan District and Miyun County as well as other villages in Beijing City. By May 2004, the scale is extended to 9 districts and counties including Xicheng District.

In July 2003, the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Public Security and the Ministry of Justice jointly issued the *Notification of Pilot Program of Community Correction*, and decided to implement the pilot project in Beijing, Tianjin, Shanghai, Jiangsu, Zhejiang and Shandong provinces. With a year’s effort, the first round of pilot project was carried out in 310 Communitys in 35 districts or cities. In August 2004, 12 provinces (cities or districts) including Hebei, Neimenggu, Heilongjiang, Anhui, Hubei, Hunan, Guangdong, Guangxi, Hainan, Sichuan, Guizhou and Chongqing are listed as the second round of pilot project of community correction. And the scope as well as the scale of project was extended to half of the districts in China. 2005, it is further extended to 18 provinces. In 2009, the central committee decided to carry out the project in the whole nation. So far, the community correction system is officially adopted into our nation’s criminal law system. *The Amendment (VIII) to the Criminal Law of the People’s Republic of China* was passed by the Standing Committee of the National People’s Congress in February, 2011, which stipulates that a criminal on a probation, parole or a public surveillance shall be subject to community correction, and it is also the first time that community correction system is legislated in China’s basic law, which shows that it is imperative that non-incarceration punishment will be expanded further. At the same time, the community correction was carried out in more and more districts. By the end of 2011, the project has covered 31 provinces (districts and cities) as well as 335 areas (cities), 2683 counties (districts or cities), 36408 villages (Communities) of Production and Construction Corps of Xinjiang,

which occupied 89% of all the villages (communities) and 100% in provinces such as Beijing; overall 882 thousand criminals have been put to community correction and 482 thousand have been released from the correction, thus at present 400 thousand criminals are being corrected. Meanwhile, the working system and staff composed of both professionals and ordinary people for community correction are built preliminarily. In December 2010, the Ministry of Justice established administrative organization of community correction to guide and supervise the implementation of community correction in the nation. Up to December, 2011, 28 provinces (districts or cities) established administrative organizations for community correction, and the staff in the organizations amounted 38 thousand with another 38 thousand fulltime social workers and 240 thousand volunteers.

2. Community correction in China

In the purpose of meeting the requirement of judicial reform and the continuity of the working for community correction, in July 2003, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice jointly issued the *Measures for the Implementation of Community Correction* (the *Measures*). The Measures regulated strict procedure of delivering and accepting, basic surveillance requirements, conditions and procedures of surveillance punishment, public security administration punishment and criminal punishment, including warning, public security punishment, cancellation of parole or probation, and taking the criminal who is temporarily serve a sentence outside of prison into custody and so on. And six circumstances for warning, five circumstances to cancel probation or parole and eight circumstances for taking the criminal who is temporarily serve a sentence outside of prison back into custody are listed respectively.

2.1. Subjects

In accordance with the notification and advice on the pilot project of community correction approved by the Central Committee, the subjects of community correction are as follows: criminals who are sentenced to public surveillance, probation, temporary serving of sentence outside a prison, given a ruling on parole, or deprived of political rights and serve sentences in the society. Practically, judicial administrative organs have set various administrative and correcting measures targeting at different subjects, which achieved good effect.

2.2. Tasks

The Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice pointed out in the *Notification of Pilot Program of Community Correction* that the major tasks of community correction is:

(1) In accordance with the Criminal Law, Criminal Procedure Law and other relevant laws and regulations, strengthen the administration and supervision on the criminals on community correction and ensure the smooth implementation of the punishment.

(2) Through various methods, strengthen ideological education, legal education and social morality education on the criminals serving sentences in communities, correct their ill psychology and behavior, enhance their awareness of repentance, and become a law-abiding citizen.

(3) Provide assistance for the criminals servicing sentences in communities to overcome difficulties and problems in terms of employment, life, law and psychology so as to help them successfully return to and integrate into the society.

2.3. Governmental organs and their responsibilities

In accordance of the *Measures* and other documents, the work division and responsibilities are listed as follows:

The people's courts—make judgments, rulings or decisions against the defendants and criminals who meet the applicable circumstances for community correction.

The people's procuratorates—conduct legal supervision over all law enforcement links of community correction.

Administrative organs of justice—be responsible for guiding, managing and organizing the implementation of community correction. As for the guiding and managing, the Ministry of Justice guides and manages the work in the whole nation while the provincial, municipal, county administrative organs of justice take responsibilities in the corresponding areas. As for the organization and application, Community correction institutions under administrative organs of justice at the county level shall supervise, manage, educate and assist persons subject to community correction. Justice offices shall undertake routine work on community correction.

Public security organs—in a timely manner and pursuant to law, punish criminals subject to community correction who violate any provision on public security administration or commit new crimes.

Department of civil affairs—guarantee the basic living of criminals subject to community correction, take the work of community correction into the community construction and administration, and guide the active participation of neighborhood committee.

Department of labor and social security—actively provide employment training opportunities for community correction subjects and help recommend jobs.

Other relevant departments, village committee (or neighborhood committee), units, schools, family members or guardian and guarantor of the subjects shall assist the work of community correction institutions. Social workers and volunteers shall join the work under the organization and guidance of community correction institutions.

2.4. Working system

The major working system is composed of 10 sub-systems, including accepting system, declaration system, supervision and administration system, education system, assessment, reward and punishment system, termination system, file management system, guardian system, social security system, assistance system.

2.4.1. Accepting system

The acceptance of criminals subject to community correction is an important part of the primary work in community correction, and it ensures community correction is started pursuant to law without any missing. For the criminals sentenced to public surveillance or granted probation or parole, the administrative organ of justice at the county level shall make preparation work upon receiving the notification of community correction for certain criminal from the people's court, and inform it with the Justice offices that undertake the routine work on community correction. The administrative organ of justice at the county level shall carefully check and register and serve a return of service within three working days after receiving such legal documentation. The county-level administrative organ of justice shall check the identity of and accept the documentation of the person subject to community correction if the person comes to register within the prescribed time limit, or register the person in advance and connect relevant organs to deliver the documentation if the person comes in advance. After the registration, the administrative organ of justice shall notify the person to receive community correction at the designated office of justice within three days and notify the justice offices. The justice offices shall implement community correction in accordance with the notification from the administrative organ of justice.

Where the administrative organ of justice finds that the person subject to community correction fails to register within the prescribed time limit, it shall organize a search in a timely manner, and notify the decision-making organ. The people's court that approves the person subject to community correction to temporarily serve a sentence outside of prison shall check the person's residence and notify the county-level administrative organ of justice. The public security organs or the prison administrative organs that approve the person subject to community correction to temporarily serve a sentence outside of prison shall check the person's residence and notify the county-level administrative organ of justice.

2.4.2. Announcement system

The announcement of community correction is an important measure that shows the features of the execution of community correction, it has great significance to demonstrate the seriousness of the punishment execution, enhance the awareness of the person subject to community correction, clear the responsibilities of the justice offices, the relevant departments, villagers' (residents') committees, entities where persons subject to community correction work, schools where such persons study and their family members, guardians or sureties.

In accordance with the *Measures for the Implementation of Community Correction*, before the announcement of community correction, the justice offices should notify the time of announcement to the person sentenced to community correction, his family members, guardians or sureties, the representatives from the villagers' (residents') committees, the units where the person work or study and other member of the correction group. The announcement shall take place in proper place, hang the symbol of the office of justice, and display a solemn environment. The offices of justice shall announce the main content of the written judgment, written ruling, written decision, enforcement notice and other relevant legal documentation; the time limit for community correction, the provisions that the person subject to community correction shall abide by, the matters to be prohibited and the legal consequences of violations; the legal and restricted rights of the person subject to community correction; the composition and functions of the members of the community correction group, and other relevant matters.

2.4.3. Supervision and administration system

Community correction is an execution mode of non-imprisonment criminal punishments, thus it is in essence a kind of punishment execution. The supervision and

administration is an important basis of community correction. The person sentenced to community correction serves his/her sentence in a community, thus various factors may stimulate recidivism, and therefore, strict supervision and administration is an inevitable demand of punishment execution and the premise and guarantee to protect the community security as well as to prevent recidivism.

Offices of justice shall, in accordance with the personal life and work of the persons subject to community correction and the actual circumstances of the communities where they reside, take appropriate measures such as on-site inspection, communications and contact and information-based verification to obtain information on the activities of the persons subject to community correction in a timely manner. During key time periods and the periods of major activities or under particular circumstances, the offices of justice shall obtain, in a timely manner, the relevant information on the persons subject to community correction, and may require the persons subject to community correction to make reports and statements at the work place as required. Where any person subject to community correction breaks supervision, the office of justice shall make report in a timely manner to the administrative organ of justice at the county level to organize pursuit and investigations.

Specifically, the following requirements are established in the *Measures*:

(1) The persons subject to community correction shall, on a regular basis, report to the office of justice information on the compliance with discipline and laws, the acceptance of supervision and administration, as well as the participation in education and study, community services and social activities. In the case of any change in residence, work change, a major family change or contact with any person that may have adverse effect on the correction thereof, the person subject to community correction shall make reports in a timely manner. The person subject to community correction who is released on bail for medical treatment shall report to the office of justice his or her health conditions on a monthly basis, and submit the illness reexamination information to the office of justice every three months.

(2) Where the person subject to community correction needs to leave the city or county for reasonable excuse such as medical treatment or major family changes, approval must be obtained and the time shall be restrained in one month.

(3) Where the person subject to community correction needs to enter a particular region or place to which access is subject to approval as determined in an order of the people's court, approval must be obtained from the county-level administrative organ of justice.

(4) Where the person subject to community correction needs to change the place of residence due to a change of residence, the person shall file a written application one month in advance, the county-level administrative organ of justice for shall make a decision.

2.4.4. Education system

Correction through education includes the following aspects:

(1) Ideological education: The persons subject to community correction shall participate in education and learning programs on public morality, legal knowledge and current events and policies, and enhance legal concepts, moral integrity and repentance awareness. The persons subject to community correction shall participate in education and learning programs for not less than eight hours each month.

(2) Community services: The persons subject to community correction with the work capacity shall participate in community service, restore social relations, and cultivate a sense of social responsibility, collective ideas and discipline awareness. The persons subject to community correction shall participate in community service for not less than eight hours each month.

(3) Personal education and psychological correction: According to the psychological status, behavioral features and other specific circumstances of the persons subject to community correction, appropriate measures shall be taken to offer individual education and psychological guidance, so as to correct their illegal and criminal mentality and enhance their ability to adapt to society.

(4) Examination and categorization: Offices of justice shall record in a timely manner information on the acceptance of supervision and administration as well as participation in education and learning programs and community service by the persons subject to community correction, examine their performance on the acceptance of community correction on a regular basis, and conduct management through categorization of the persons subject to community correction according to examination results.

2.4.5. Assessment, reward and penalty system

The offices of justice shall build assessment system. For those criminals who have awareness of repentance or meritorious performance, compliment, material award or commutation shall be given; for those who do not observe administration or break the regulations and bring bad influence social morality, warning, public security

punishment, taking back to custody, cancellation of probation or parole shall be given; commutation, taking back to custody, cancellation of probation and parole shall be proposed by offices of justice, passed by community correction group, and approved by the organs that make the decision of community correction. The public security organ shall timely deal with the person that break the public security regulations or recidivate, and the judicial administrative organs shall coordinate with the public security organs.

2.4.6. Termination system

The term of community correction is the same as the term sentenced, probation period for suspension of sentence, or the term of temporary execution of the sentence outside prison, the community correction shall be terminated upon the expiration of the term of community correction. The termination of community correction is the last procedure of community correction system, which is of great significance that the identity of the criminal sentenced to community correction change into an ordinary citizen whose legal rights will no longer be limited.

The Article 29 and Article 30 in the *Measures* clearly stipulate the termination of community correction. Firstly, the preparatory work before the termination shall be done. The criminal subject to community correction shall make a personal summary, and the office of justice shall conduct a written appraisal based on his or her performance during community correction, as well as the examination opinions and community opinions, and put forward proposals on resettlement, assistance and education regarding the criminal. Secondly, the announcement of termination shall be public. The announcement shall be presided over by the personnel of the office of justice and proceed in an open manner under the prescribed procedures at a solemn atmosphere. Participants of the announcement include the relevant departments, villagers' (residents') committees, the representatives of the people, the entities where the persons subject to community correction work, and their family members, guardians or sureties. Thirdly, the announcement of termination shall be clear and specific. The announcement matters shall include: announcing appraisal conclusion regarding the criminals subject to community correction; announcing the expiry of the term for community correction and, pursuant to law, the termination of community correction; announcing the expiry of the enforcement period and termination of public surveillance for the criminals sentenced to public surveillance; announcing the expiry of The probation period for suspension of sentence and the non-implementation

of the original punishment for the criminal granted probation; and announcing the expiry of the probation period for parole and the completion of the enforcement of the original punishment for criminals granted parole. Fourthly, the termination procedure shall be completed pursuant to law. The county-level administrative organ of justice shall issue the community correction termination certificate to the criminals subject to community correction. Where the imprisonment term of the criminals subject to community correction who are approved to serve sentences outside of prison expires, the prison or detention house shall handle the formalities for releasing the convict upon the serving of the full sentence pursuant to law. Fifth, notification shall be sent to relevant departments. The county-level administrative organ of justice shall issue the community correction termination certificate to the criminals subject to community correction; and notify the decision-making organ in writing, and at the same time, send a copy to the people's procuratorate and county-level public security organ. Sixthly, the resettlement, assistance and education work shall be done well. The offices of justice shall notify the criminal subject to community correction the relevant regulation of resettlement, assistance and education, and communicate with the department responsible for resettlement, assistance and education in advance, send the documentation and handover the person properly so as to achieve seamless connection between community correction and resettlement, assistance and education.

2.4.7. File management system

The office of justice shall establish files for the each subject of community correction. The file shall include: the written judgment, written ruling, written decision, enforcement notice, parole certificate or any other legal documentation; registration form of the subject of community correction; correction plan; thinking report, assessment; legal documentation on reception, supervision, examination and approval, punishment, commitment to custody and termination of community correction. If the community correction is terminated upon expiration of the term, the offices of justice will reserve the file for ten years. If the criminal subject to community correction is taken back into custody or recidivate, the file will be send to the organs responsible for enforcement.

2.4.8. Guardian system

The offices of justice shall sign guardian agreement with units or residents' committee that have the guardian capacity for the subject of community correction and urge them to implement guardian responsibilities.

2.4.9. Social security system

The department of Labor and Social Security shall provide training opportunities and employment guidance for the subjects of community correction without the ability of self-employment. The subjects on more than three months' community correction and conforming to the circumstances of Minimum Subsistence Allowance shall be brought into the subjects of Urban and Rural Minimum Subsistence Allowance and enjoy the minimum subsistence allowance pursuant to present regulations. The offices of justice shall provide relevant information for the department of labor and social security and department of civil affairs.

2.4.10. Assistance system

The subjects of community correction are criminals, but meanwhile they are people who need special care from the society. Assisting the subjects of community correction is to help them back into the society. The assisting system is a social adaptive assistance for the subjects of community correction on the basis of supervision, administration, education and correction.

The judicial administrative organs shall coordinated with relevant departments and units to develop profession training and employment guidance according to the needs of the subjects on community correction. The judicial administrative at all level shall actively promote the adoption of community correction into the social administrative service system, implement relevant policies and measures, coordinate with other organs to solve the employment, education, minimum subsistence allowance, temporary assistance, social insurance, and create conditions for the subjects back to society. A communication and coordination system shall be built between the department of civil affairs, finance, human resource, social security, tax, and commerce. The integrated application of social resources shall be strengthened, various social forces including enterprises, institutions, and volunteers shall be mobilized so as to improve the effect of assistance.

3. Staff of community correction

Community correction is a serious execution of punishment that requires a professional, specialized and standardized law enforcement group. Meanwhile, considering the social features, the community correction shall take full advantage of social forces.

In order to adapt to the demand of the working of community correction, a “trinity” work force integrating the law enforcement workers in judicial administrative

organs as the core force, the social workers as the auxiliary force and volunteers as the complementary force is established. In 2003, as the first pilot area, Shanghai proposed a principal working vision that “driven by the government, operated by the community, participated by various social parties”. Usually, two workers in every district or county level bureau of justice and one worker in every village-level office of justice are full-time responsible for the community correction work. At the same time, the government trains various social organizations to join in the community correction work through purchasing their service and established civilian-run social service organizations. The government purchase services from these organizations and distribute the social workers at the rate of 50:1 (subjects of community correction: social workers) to the offices of justice. Besides, Shanghai city also established volunteer organization of social assistance and education, absorbing enterprises, individuals to provide assistance and education for the subjects of community correction. Jiangsu province makes efforts to improve the social participation of the work of community correction, and recruits 2100 full-time workers mainly composed of undergraduates, “women over forty and men over fifty”, laid-off workers from enterprises, retired village secretary, director of villagers’ (residents’) committee, who assist the office of justice in the work of education, assistance and psychological correction for the subjects of community correction. At the same time, 50 thousand individuals with certain legal and political knowledge and social volunteers are recruited and registered by judicial administrative department and volunteer organization to assist the work of community correction out of their willingness. Through various channels, all the areas in China gradually established community correction work forces consisted of law enforcement officials in judicial administrative organs, social workers with essential educational background and professional qualifications and social volunteers, which meet the demand of present work and provide talent guarantee for future cause development.

The *Measures* fully affirmed the practices in different areas and clarified the work force of community correction. Article 2 stipulates that the community correction institutions under the county-level judicial administrative organs shall supervise, manage, educate and assist persons subject to community correction. Justice offices shall undertake routine work on community correction.

The *Measures* require the judicial administrative organs shall further strengthen the construction of the community correction work force, clarify the composition of staff and their responsibilities and liabilities: Firstly, establish a law enforcement work force. Through transferring positions, recruitment of civil servants and other

ways to recruit the community correction enforcement officials with firm political conviction, good behavior style, professional skills and fair enforcement. They are responsible for the execution of punishment, acceptance and deliverance of criminals, approval of projects and investigation for evidence, as well as the supervision and administration of subjects on community correction, organize the education and assistance and so on. Secondly, establish social workers work force. The government may coordinate or entrust department of human resources and social security, publicly recruit social workers that have sufficient qualification to undertake the connection and communication with the subjects on community correction in the form of “one for one” or “several for one” dialogue, psychological correction under the guidance of law enforcement officials. Thirdly, establish volunteer work force. The government may coordinate with youth league committee or volunteer organizations to publicly recruit individuals with knowledge of education, psychology, and social science to assist the work of community correction together with the social workers. Fourthly, to improve the mechanism on the employment, management, examination and encouragement of social workers and social volunteers, and to improve their abilities for doing a good job in community corrections, in order to provide diversified education for the subjects on community correction and change their attitudes from passive correction to active correction, initiative correction and effectively help them back into the society and be a law-abiding citizen.

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Разработка и внедрение пилотного проекта: исправительные работы в КНР

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Исправительные работы представляют собой вид уголовной ответственности без применения тюремного заключения. Применение уголовной ответственности в виде исправительных работ отвечает запросу общественных организаций, государственных и негосударственных органов РФ на выполнение общественно полезных работ. Такой вид уголовной ответственности способствует исправлению психологии преступников и их последующей социализации. Данная работа посвящена исследованию пилотного проекта по внедрению исправительных работ в качестве уголовной ответственности в КНР. Система исправительных работ в качестве уголовной ответственности в КНР была внедрена недавно по сравнению с западными странами – в начале 21 века – и на сегодняшний день охватывает более 30 провинций страны. Объектом исследования являются субъекты системы исправительных работ, ее виды и государственные органы, непосредственно задействованные в реализации данного пилотного проекта.

Ключевые слова: сообщество, исправление, система исправительных работ, реформа исправительной системы КНР.

Научная специальность: 12.00.00 – юридические науки.
