THE BASIC THEORY OF MODERN CHINESE CRIMINAL JUSTICE: CHALLENGES AND RECONSTRUCTION IN THE PROCESS OF MODERNIZATION

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Annotatsiya *: China's modern criminal justice system is rooted in the integration of traditional legal culture and modern spirit of the rule of law, and its basic theoretical construction needs to respond to value conflicts and institutional tensions in social transformation.By analyzing the historical path, core contradictions and theoretical framework of criminal justice modernization, this paper discusses the balance mechanism between human rights protection and social protection, and provides theoretical support for judicial practice.*

Keyword *: Modernization of criminal justice; human rights protection; social protection; procedural justice; physical justice.*

1. Introduction: The historical Context of criminal Justice modernization

The modernization process of criminal justice in China began in the late Qing Dynasty with the reform of laws and the revision of laws, which was initiated by the cultural shock of modern western criminal law, but it is different from the model promoted spontaneously by Western civil society. Due to the weak strength of civil society, China's modernization path presents external characteristics and relies on government authority to lead the change.This historical background determines that the basic theory of

criminal justice in China needs to take into account traditional legal ethics and modern principles of the rule of law, so as to avoid the “dislocation of legal culture” caused by the simple transplantation of Western systems.At present, the core contradiction facing the criminal justice system is: how to protect individual rights while maintaining social order, and realize the unity of formal rationality and substantive rationality.

2. The core contradiction of criminal justice modernization: the tension between human rights protection and social protection

(1)The root causes of value conflicts

The essence of criminal justice is to balance social protection with human rights protection.Traditional Chinese law emphasizes the "unity of etiquette and law”, with collective interests as the core, while the modern rule of law requires individual rights to take priority. This conflict of values is manifested in judicial practice as：

The imbalance between procedural justice and physical justice: excessive pursuit of crime fighting may ignore procedural legality, such as the risk of human rights violations during the investigation phase；

The challenge of social transformation: The deepening of the market economy has spawned new types of crimes, but judicial resources are limited, leading to a dilemma of efficiency and justice.

(2)Construction of theoretical framework

Unity of formal rationality and substantive rationality: Criminal justice needs to find a balance between procedural norms (such as rules of evidence) and physical results (such as adaptation to crime and punishment), so as to avoid mechanical application of laws and ignore social effects.

The priority of human rights protection: drawing on international conventions, internalize the principles of the presumption of innocence and the prohibition of torture into domestic law, strengthen judicial review mechanisms, and prevent abuse of power.

Dynamic adaptation of social protection: In response to new forms of economic crime and cybercrime, the judiciary should flexibly adjust its combat strategies, while adopting preventive legislation to reduce social risks.

3. The theoretical cornerstone of criminal justice modernization: the integration of procedural justice and physical justice

(1)The independent value of procedural justice

Procedural justice is a symbol of the modernization of criminal justice, and its core lies in：

Checks and balances of power: restrict administrative intervention through decentralized designs (such as independent trial and procuratorial supervision) to ensure judicial neutrality；

Scientific rules of evidence: introduce modern evidence theory, exclude illegal evidence, protect the defendant's right to defense, and avoid wrongful, false and wrongful cases.

Substantive requirements for substantive justice

Physical justice needs to go beyond formal laws and pay attention to：

Materialization of the principle of criminalization of criminal law: analogous interpretation is prohibited, but judges are allowed to consider social harmfulness within the statutory scope；

Personalization of sentencing: combining criminal motives, expressions of repentance and other circumstances to realize the individualization of punishment and enhance judicial credibility.

The practical path of criminal justice modernization: systematic reconstruction from concept to system

（1)Modernization of concepts: cultivating legal beliefs

Public participation: enhance citizens' awareness of the rule of law through law popularization education, so that judicial decisions can gain social **recognition** ;

Judicial personnel training: strengthen the modern concept of the rule of law for judges and prosecutors, and reduce the traditional tendency of “heavy entities and light procedures”.

(2) Modernization of the system: improving the legislative and judicial mechanisms

Legislative level：

Revise the Criminal Code to clarify the constituent elements of new types of crimes, such as data security and environmental crimes ;

Formulate the "Criminal Judicial Procedure Law" to unify the standards of investigation, prosecution, and trial, and reduce local differences.

Judicial level：

Promote “smart justice” and use big data and artificial intelligence to improve the efficiency of evidence review ;

Establish cross-departmental collaboration mechanisms, such as information sharing platforms for public security, procuratorates, and courts, to combat cross-regional crimes.

(3) Modernization of judicial operations: strengthening supervision and accountability

Internal supervision: Improve the investigation and supervision functions of procuratorial organs to prevent abuse of investigation power ;

External supervision: introduce social evaluation mechanisms, such as the impartiality review of judicial decisions by third-party institutions.

5. Conclusion: Towards a balanced criminal justice system

The basic theory of modern Chinese criminal justice needs to take human rights protection as the bottom line, social protection as the boundary, and build a rule of law framework adapted to social transformation through the integration of procedural justice and physical justice.Future research should focus on :

How to quantify and evaluate the effectiveness of judicial modernization ;

How to balance the conflict between traditional legal culture and modern principles of the rule of law.

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