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On the Improvement of Sentencing Negotiation Procedures in the Leniency System for Admitting Guilt and Accepting Punishment

——Enlightenment from the Criminal Justice Spirit of the Soviet-Zone

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Abstract: The sentencing negotiation procedure under China's leniency system for admission of guilt and acceptance of punishment (hereinafter referred to as plea leniency system) with its uniquely Chinese characteristics of "negotiation." has been highly anticipated by both academia and judicial practitioners. However, in current judicial practice, this procedure still faces significant challenges, including procedural ambiguity that undermines genuine negotiation and the prosecution's absolute dominance, which exacerbates the imbalance between the prosecution and the defense. For the sentencing negotiation procedure to establish a firm foundation amid these difficulties, it must strike a balance between key aspects in its development, ensuring that it fulfills legislative objectives while preserving its distinctive features. From a developmental perspective, the judicial spirit of the people's justice system in the Soviet-Zone, the criminal policy of combining punishment with leniency, and the practical needs of sentencing negotiation align perfectly. Drawing inspiration from the legal traditions of the Soviet-Zone, the introduction of a public hearing mechanism and a substantive dialogue approach could help mitigate the imbalance between prosecution and defense and address the issue of formalized negotiations in the plea leniency system.

Keywords: Leniency system for admitting guilt and accepting punishment; Sentencing negotiation; Soviet-zone rule of law; Prosecutorial dominance

1 Framing the Issues: From Procedural Ambiguity to Intensifying Prosecution-Defense Disparities

The characteristics of the plea leniency system are widely recognised by academics as being of a negotiation nature. From the pilot of the system in 2016 to the legislative establishment after the revision of the Criminal Procedure Law in 2018, the plea leniency system has been widely promoted and popularised with the expectation of "becoming

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a negotiation-based judicial system with Chinese characteristics", with the application rate of the plea leniency system exceeding 85% in 2024, and the rate of acceptance of sentencing recommendations reaching 96.6 % (Supreme People's Procuratorate, 2025).

Plea leniency system is key to influencing the overall rate of application of the system, safeguarding the rights of offenders, and achieving effective resolution and diversion of cases. The 2019 *Guiding Opinions on the Application of the Leniency System for Admitting Guilt and Accepting Punishment (hereinafter referred to as the Guiding Opinions)*, jointly issued by the Supreme People's Court, Supreme People's Procuratorate, and three ministerial-level authorities, stipulates in principle the procedure of negotiation on sentencing, whereby the People's Procuratorate shall fully listen to the views of the defence and try to reach consensus before proposing a recommendation on sentencing, with the content of the negotiation including the main sentence, the additional sentence and the application of probation, etc.; in 2021, the Supreme People's Procuratorate issued successively the *Guiding Opinions of the People's Procuratorates on Handling Plea and Conviction Cases and Carrying Out Sentencing Recommendations (hereinafter referred to as the Guiding Opinions on Sentencing)* and the *Provisions on Simultaneous Audio- and Video-recording of Hearing of Plea and Conviction Cases Handled by the People's Procuratorates (hereinafter referred to as the Provisions on Video-recording)*, in which the "solicitation of input" has been codified as a standalone chapter in the aforementioned Guiding Opinions on Sentencing, while the preconditions for negotiations, procedural modalities, and substantive scope are further particularized. Meanwhile, the Provisions on Video-recording mandate that prosecuting authorities document the entire negotiation process through audio-visual recording. This regulatory development demonstrates the gradual proliferation of sentencing negotiation norms in recent years, with the procedural framework undergoing exploratory refinement and systematic enhancement.

However, in judicial practice, sentencing negotiations often adopt a paternalistic model (Sun, 2021) , with the procuratorate exercising absolute dominance. The negotiation process is controlled by the procuratorate, the sentencing recommendation is formulated and finalized by it, and the defense assumes a largely passive role, often lacking substantive participation in the negotiation process. Ideally, sentencing negotiation should be a form of equal dialogue—a process wherein the procuratorate, the suspect or defendant, and their legal representative (either an advocate or a duty lawyer) engage in discussions, communication, and mutual compromise. This mechanism is predicated on a high degree of respect for the procedural subjectivity of criminal suspects and defendants (Chen, 2020). Stripped of its idealized veneer, the sentencing negotiation process may ultimately amount to little more than a hollow formality—a "one-voice" system orchestrated solely by the procuratorial organs.

(1) Procedural Ambiguity and the Absence of Substantive Negotiation

Sentencing negotiations have yet to receive explicit legislative recognition, and the existing procedure by which procuratorial authorities solicit the opinions of the suspect, the accused, the defense, or the duty lawyer within the plea leniency system can be described as neither negotiation in name nor in substance. Under Articles 173 and 174 of the Criminal Procedure Law, when criminal suspects option for the plea leniency system, prosecutorial authorities are statutorily obligated to solicit substantive input from the defense regarding four critical dimensions: evidentiary facts, criminal charges, sentencing parameters, and procedural applications. Articles 173 and 174 of the Criminal Procedure Law refrain from formally characterizing the "solicitation of defense input" as substantive sentencing negotiations. While the term "negotiation" is invoked in Article 33 of the Guiding Opinions, which stipulates that "Before the People's Procuratorate makes a sentencing recommendation ... Consensus as far as possible". Neither provision

delineates mandatory procedural standards for such consultations. This procedural indeterminacy vests prosecutorial authorities with unfettered discretion to unilaterally determine the modalities, sequencing, and substantive scope of bargaining interactions, effectively institutionalizing a prosecutorial prerogative model devoid of statutory safeguards for authentic defense participation.

Negotiation is defined as a deliberative process of mutual consultation to reach a consensual agreement. However, in judicial practice, the consultation modalities employed by prosecutorial authorities predominantly manifest as interrogation-driven approaches (Liu, 2019) and pro forma approval mechanisms (Wu, 2020). These practices not only conflate adversarial examination procedures with purported consultative processes but also substitute substantive dialogue with formulaic question-and-answer sequences, thereby institutionalizing an unequal bargaining dynamic that contravenes the principle of procedural parity under Articles 173 and 174 of the *Criminal Procedure Law*. As a result, the nature of negotiation in the plea leniency system has been weakened, with criminal suspects playing a continuously passive role in the negotiation process, making it difficult to guarantee the voluntariness and truthfulness of their pleas and penalties, and leaving little room for negotiation on sentencing, so that "agreement" in the true sense of the word is impossible to be reached. Therefore, such so-called "negotiation" should be more accurately termed "quasi-negotiation" or "consultation".

(2) "Prosecution-Led" Distortion Aggravating the Imbalance Between Prosecution and Defense

The first manifestation is the absolute domination of the negotiation process, the participation of the main parties is obviously insufficient, showing that the procuratorate's "Excessive Concentration of Power" the pattern of negotiation. According to the *Guiding Opinions on Sentencing and Provisions on Video-recording issued* successively by the Supreme People's Procuratorate in 2021, the procedural framework for procuratorial organs to solicit opinions from relevant parties during criminal case reviews can be systematically summarized as depicted in the figure below:

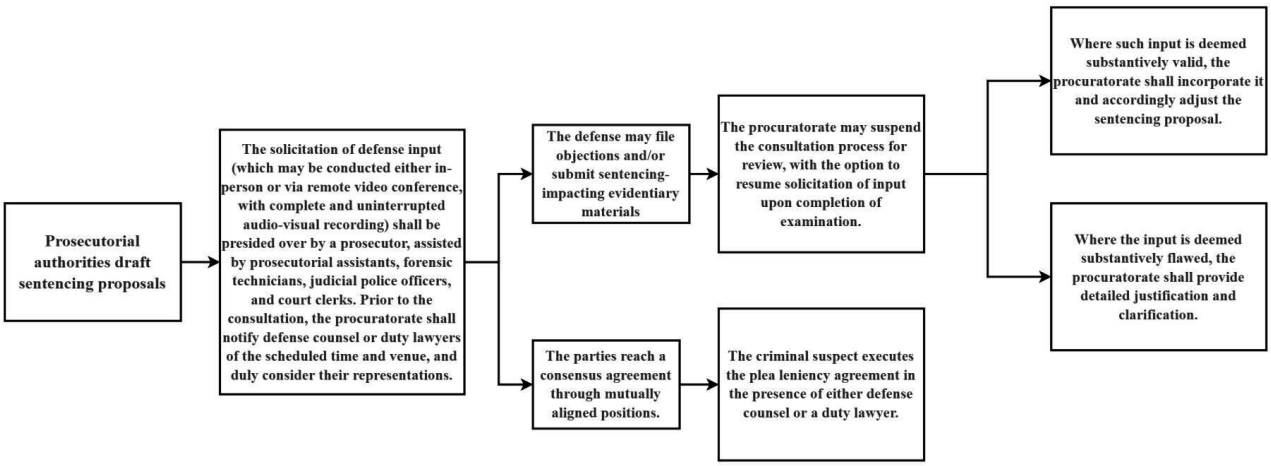

Figure 1 Flowchart of the procuratorate's "solicitation of defense input" procedure

Within the prosecutorial-led sentencing negotiation process, the procuratorate unilaterally determines the timing and venue of negotiations. These procedures operate as one-sided opinion solicitation mechanisms, wherein prosecutors retain discretionary authority to suspend or proceed with negotiations in cases of diverging positions between the parties. Following an internal prosecutorial review, the defense must be formally notified of the final decision regarding the adoption (or rejection) of their input. The participants in the negotiation process primarily include prosecutors,

prosecutorial assistants, forensic personnel, judicial police officers, and clerks, almost all of whom are members of the prosecution. Neither the *Guiding Opinions on Sentencing nor the Provisions on Video-recording* explicitly provide remedies for substantive disagreements between the parties, nor do they clarify the involvement of victims or third-party supervisors in the negotiation process. Throughout the entire negotiation process, the prosecution not only holds an advantage in terms of professional expertise and familiarity with the case but also exercises extensive discretion and control over the negotiation procedure. Even the number of participants from the prosecution side far exceeds that of the defense. As a result, the balance of power between the prosecution and the defense becomes severely distorted, reducing the negotiation to nothing more than a "surrender under siege."

Secondly, it is manifested in the encroachment of prosecutorial power over judicial authority, as the pre-determinative effect of sentencing recommendations virtually deprives the suspect of any substantive bargaining space. According to Article 201 of the Criminal Procedure Law, the People's Court "shall generally" adopt the sentencing recommendations of the People's Procuratorate. Some scholars argue that, in effect, the prosecutor has usurped a part of the judge's adjudicative authority and holds a dominant position in the plea leniency procedure (Yan, 2019). When the prosecution becomes the dominant party and, to some extent, the adjudicator in the sentencing negotiation process, it effectively brings the "trial" forward. The relationship between the prosecution and defense is no longer the traditional parallel adversarial structure, but rather a top-down "directive" model. The defendant loses their rightful position as the primary participant in the negotiation and no longer has the legitimacy to engage in sentencing negotiations.

2 Developmental Trajectory of the Plea Leniency Sentencing Negotiation Procedure

Developmental Trajectory refers to the key issues and priorities that need attention during the development process. It explores the fundamental characteristics that the sentencing negotiation procedure should retain as it evolves, or in other words, the aspects that are currently underdeveloped and should be emphasized in the future. It primarily encompasses two dimensions: firstly, the fulfillment of legislative intent, and secondly, the maintenance of its inherent characteristics. The fulfillment of the legislative purpose represents the foundational intent behind the establishment of the procedure. If a procedure fails to achieve its intended objectives or to realize the fundamental goals envisioned, it indicates that the operation of the procedure is in a "problematic" state, at the very least. The normative characteristics of the procedure are intrinsically connected to the fulfillment of legislative intent, the former being derived from the latter. Such characteristics endow the procedure with a distinctive identity that maintains its essential character as "the procedure itself", thereby preventing conflation with other procedural mechanisms. Building upon this foundation, in order to solve the real problems and pitfalls in the development of the plea leniency sentencing negotiation process, it is necessary to take stock of the foundations of sentencing negotiation, to identify the unique characteristics that it should retain, and to use them as a "repair guideline".

2.1 Legislative Objectives to Be Fulfilled

(1)Alleviate Case-handling Pressures on Judicial Authorities

"Caseload-personnel imbalance" (cases overwhelm, personnel are scarce) has led to escalating operational pressures on judicial authorities. On one hand, the overall caseload remains staggering in scale. According to the Supreme

People's Court's annual work reports over the past three years, the number of first-instance criminal cases concluded by courts at all levels reached 1.256 million in 2022, 1.243 million in 2023, and 1.2 million in 2024, respectively, with all figures surpassing one million. On the other hand, under the background of the quota system reform, judicial personnel are becoming increasingly streamlined and efficient. On the other hand, against the backdrop of the quota system reform, judicial personnel have been streamlined toward greater efficiency. Under the pilot framework of the quota system, judges and prosecutors account for below 39% of centrally allocated judicial staff, judicial assistants comprise approximately 46%, and administrative judicial personnel make up around 15% (Chen, 2016). While judges focus on handling an overwhelming volume of adjudicative work, the shortage of judicial assistants and administrative personnel often requires them to take on additional administrative and procedural tasks. Moreover, frontline judges must devote significant effort to fact-finding in first-instance trials, further intensifying their workload.

The sentencing negotiation procedure is designed to alleviate judicial workload by reducing the prosecution-defense adversarial dynamic through consultative processes. By encouraging the active participation of criminal suspects and fostering their voluntary cooperation in the litigation process, this mechanism can effectively ease the workload of judicial personnel and expedite case processing.

(2)Adapting to the Trend of Penal Leniency and Promoting the Diversion of Simple and Complex Cases

The structure of criminal cases in China has undergone significant changes. While the overall number of cases has increased, the incidence of serious violent crimes has been declining year by year. In contrast, the proportion of minor and non-violent offenses—such as routine traffic violations and aiding information network criminal activities—now constitutes a growing proportion of cases, gradually shaping a crime landscape predominantly characterized by the latter category.

Under emerging circumstances, the traditional differentiated case management mechanisms and the prioritization of criminal justice objectives face mounting pressures. Specifically regarding the former, taking ordinary procedures and summary procedures as examples, these two primarily differ only in judicial panel composition and prescribed timelines. The summary procedures retain essential trial formalities, while their applicability remains constrained by statutory limitations. Consequently, the underlying principles of case differentiation have not been substantively implemented, rendering the system maladapted to the contemporary reality of surging caseloads; traditional criminal justice objectives have historically prioritized "punishing crime" over "protecting human rights". However, the necessity of retributive justice has weakened in contemporary practice. The increasing proportion of minor and non-severe criminal offenses means that more offenders are eligible for probation, allowing them to reintegrate into the community and return to normal life. Consequently, the application rates of severe custodial sentences and capital punishment have declined. From a global perspective, the restoration of damaged social relationships has become a new paradigm, which also explains the rise of restorative justice. Case diversion and the repair of social relations have prompted states to design a series of streamlined procedures to address cost and efficiency concerns. However, the success of these efforts hinges on the minimum level of cooperation from criminal suspects and defendants (Wei, 2016). This, in turn, necessitates that sentencing negotiations, within the framework of the plea leniency system, rely on mechanisms of incentive and benefit exchange to secure such minimal cooperation.

2.2 Unique Characteristics Requiring Preservation

(1) Inheriting "Chinese Characteristics"

The plea leniency system is a historical continuation of the criminal policy of "leniency for those who confess" and

is fundamentally rooted in China's legal tradition (Lu, 2017). It is not a mere transplantation or direct adoption of plea bargaining, but rather a system developed with a localized foundation. Therefore, its evolution should align with China's legal realities and maintain its distinctive national characteristics. The principle of "Leniency for Confession, Severity for Resistance" (tanbai congkuan, kangju congyan, 坦白从宽、抗拒从严) has been a widely recognized criminal policy in China since the 1950s. After the Third Plenary Session of the 11th Central Committee, the policy of "Combining Punishment with Leniency" (chengban yu kuanda xiang jiehe, 惩办与宽大相结合) was further developed and played a significant role in long-term crime governance. Entering the 21st century, the emphasis on "Severity for Resistance" has gradually been phased out amid the growing focus on judicial fairness, human rights protection, and social relationship restoration. In response to societal expectations, the principle of balancing leniency and severity emerged as a rational refinement of China's criminal justice approach. The plea leniency system continues the core spirit of China's criminal policy evolution, inheriting the principles of " Leniency for Confession " and "Balancing Leniency with Severity" (kuanyan xiangji, 宽严相济) Sentencing negotiations should also be structured with these considerations as their foundational basis. Sentencing negotiation procedures embody the Confucian-inspired "dispute prevention" doctrine (wu song, 无讼) and "conflict dissolution" praxis (xi su, 息诉) from China's traditional legal culture, while integrating the contractual principles of "harmonious conciliation" (gui he, 贵和) (Supreme People's Procuratorate, 2025). This cultural heritage constitutes the historical foundation for the institutional evolution of sentencing negotiations. The mechanism achieves social stability (xi su zhi xiaoguo, 息诉之效果) through mediated dispute resolution (tiao chu, 调处), coupled with legal education to prevent recidivism—objectives consistently pursued by successive governance systems to restore social relations and maintain national order. When implemented authentically, sentencing negotiations resolve disputes efficiently through equitable dialogue. However, if reduced to procedural formalism, they risk exacerbating judicial burdens rather than mitigating disputes. The "harmonious conciliation" principle requires voluntary (zi yuan xing, 自愿性) and equal (ping deng xing, 平等性) bargaining to achieve mutually beneficial outcomes.

(2) Substantive Negotiability

Sentencing negotiation procedures should embody "substantive negotiation." One of the core issues in improving the leniency system for admitting guilt and accepting punishment is the establishment of a Chinese-style negotiated procedure for leniency in plea agreements. There is a certain consensus in academia that relatively independent sentencing negotiation procedures should be established (Sun, 2021). While prosecutorial authorities should play a leading role in sentencing negotiations, this does not grant them absolute control over the initiation of the procedure. Basic formal requirements must govern all aspects of the process, including the timing, location, mode of negotiation, and the formulation and finalization of sentencing proposals.

The first is the element of participants, encompassing both the scope and status of involved parties. According to the Guiding Opinions, during the negotiation of sentencing proposals, prosecutors must solicit opinions from the criminal suspect, the defendant, the defense counsel or duty lawyer, as well as the victim. Thus, the negotiating parties include the prosecution, the defense, and the victim. However, in judicial practice, the negotiation is typically conducted solely between the prosecuting authority and the criminal suspect, without direct court participation. The people's courts serve only as post-negotiation reviewers and "shall generally" adopt the sentencing proposals submitted by the procuratorate. This institutional arrangement effectively grants prosecuting organs partial adjudicative power in sentencing negotiations, leading academic circles to criticize the process as "pre-trial adjudication" or "quasi-court proceedings" that lacks genuine consultative nature. The guarantee of equal participant status constitutes a prerequisite for meaningful

negotiations. While civil legal relations presume equality between negotiating parties, such absolute parity cannot be replicated in criminal proceedings where inherent status disparities exist. The "relative equality" pursued in sentencing negotiations should therefore focus on minimizing information asymmetry and resource disparities between the parties.

The second element is the subjective requirement, where sentencing negotiations must involve the voluntariness of the parties, and the outcome of the negotiation should be reached through mutual "agreement". Currently, the initiation of sentencing negotiations is prosecutor-driven. When an "agreement" is reached, leading to the formation of a sentencing recommendation and a confession and acceptance of punishment statement, the prosecution does not need to obtain a signature or endorsement from the other party. These aspects indicate the "unilateral nature" of the sentencing negotiation process. In an entirely unilateral setting, the voluntariness and validity of negotiations become inherently compromised. If the procuratorate merely "listens without adopting" proposed terms, the criminal suspect has no room for negotiation or reconsideration. In the view of many prosecutors, the proposal of a sentencing recommendation is seen as a "favor" extended to the criminal suspect. Even if the latter rejects it, the one who ultimately suffers is the criminal suspect, as they have very limited influence over the prosecution's decisions.

Finally, the behavioral requirement. It requires communication, exchange of opinions, and discussion, rather than merely listening to opinions, and should not be equated with the "question-and-answer" interrogation model. Under the current sentencing negotiation model, the opportunity, timing, and duration of the defendant's speech are all controlled by the prosecution. The prosecution is both a participant and the facilitator of the negotiation. This " dual role as referee and player" approach undermines the genuine nature of negotiation. Negotiations should adopt a model of communication, exchange of views, or deliberation, where both parties enjoy equal discursive power to ensure full exchange of opinions. Furthermore, the moderator of such negotiations should be a neutral third party.

3 The Relevance of the Soviet-Zone Criminal Justice Spirit to the Refinement of Sentencing Negotiation Procedures

Academic circles have proposed various "blueprint models" for refining China's plea leniency system of sentencing negotiation, including the U.S. plea bargaining system and Germany's negotiated procedures in penal orders. However, both face distinct localization challenges within China's unique criminal justice context and may not align with the country's practical realities. The refinement of sentencing negotiation procedures must be premised on fulfilling legislative intent while preserving the procedures' distinctive characteristics. This necessitates seeking solutions through China's traditional criminal justice heritage, where more viable pathways for improvement may be identified.

3.1 The Compatibility Between the Soviet-Zone Criminal Justice Spirit and the "Negotiation" Concept

The Soviet-Zone Criminal Justice Spirit emerged during the Soviet Red Political Power period. Within the brief three-year existence of the Chinese Soviet Republic, a relatively complete national judicial apparatus was established, forming a progressively refined New Democratic legal system that profoundly influenced the development of China's criminal justice institutions.

(1)The People's Judicial Spirit of the Soviet-Zone Aligns with the Criminal Justice Objective of Safeguarding Human Rights

The term "people's justice" was first proposed by Dong Biwu. "The fundamental spirit of people's justice is to integrate the views of Marx, Engels, Lenin, Stalin, and Mao Zedong thought into judicial work." The "Constitution Outline" from the Soviet-Zone period clearly stipulated that "under Soviet power, all workers, peasants, Red Army soldiers, and all laboring people have the right to elect representatives to hold the management of state power," and "discuss and decide all political matters of the state and local affairs (Peng, 2010)." The judicial system must embody the people's agentive status, safeguard their fundamental interests, and empower them as active participants in judicial processes. Criminal suspects, who have not been convicted through trial, should not be considered criminals or enemies of the people. They should enjoy basic rights, including the right to negotiate from a relatively equal stance.

Within the Soviet-Zone criminal justice system, public participation permeated all stages of criminal proceedings. Trials were mandatorily conducted publicly, with local residents electing representatives to observe proceedings. Judges were required to solicit input from the majority community of opinions during adjudication. This participatory approach is exemplified by the 1932 Ruijin Yang Jiacai homicide and corpse desecration case, where sentencing determinations were significantly influenced by testimonies from women's representatives of the masses.

The people-centered philosophy and the consideration of public interests inherent in the Soviet-Zone People's Judicial Spirit align with the criminal justice objectives of human rights protection It can be said that the sentencing negotiation process is an extension of the spirit of people's justice. By incorporating negotiations to hear the views of the criminal suspect and the victim, it aims to satisfy the interests of all parties, respond to public opinion, and reflect the will of the people. This transforms what would traditionally be a highly adversarial criminal prosecution process into a collaborative and efficient judicial model based on the premise of safeguarding human rights.

(2)The Criminal Policy of "Combining Punishment with Leniency" in the Soviet-Zone Embodies the Essence of Negotiation

The essence of sentencing negotiations inherently manifests the "leniency" policy. This principle was already embedded in the Soviet-Zone's criminal justice policy of "Combining Punishment with Leniency", as evidenced by the Regulations on Self-Confession and Rehabilitation for Counterrevolutionaries promulgated by the Hunan-Jiangxi Soviet Government in April 1932. Article 3 stipulated:"Ordinary workers, Red Army combatants, farm laborers, poor peasants, middle peasants, and independent laborers—provided they are not diehard counterrevolutionary leaders—who were coerced or deceived into joining counterrevolutionary organizations/activities, shall in principle be granted a path to rehabilitation through self-confession procedures."Soviet-Zone criminal justice implemented lenient treatment for offenders demonstrating self-confession and rehabilitation, manifesting judicial wisdom in social rehabilitation during the revolutionary war era. The establishment of the sentencing negotiation procedure aims to achieve a unified balance among legal, social, and political effects, embodying the principles of restorative justice. Through this process, criminal suspects can actively cooperate with prosecutorial efforts while also securing an expedited reintegration into society. Meanwhile, the damaged social relationships can be restored more efficiently.

3.2 The "Negotiated Approach" Application of the Soviet-Zone Criminal Justice Spirit

(1)Introducing a Public Observation System to Safeguard Equitable Negotiations

The significant disparity in the status of prosecution and defense is a crucial factor affecting the effectiveness and

legitimacy of sentencing negotiations. This disparity primarily manifests in two aspects: asymmetry of information between the prosecution and the defense, and the prosecution's absolute dominance in the process. The absence of a neutral third party to oversee and balance the negotiation process has resulted in the prosecution's overwhelming control, reducing sentencing negotiations to a mere "beneficial policy" rather than a genuine negotiation mechanism.

Consequently, the public observation system from Soviet-Zone criminal justice could serve as a reference framework for mitigating prosecution-defense disparities and ensuring equitable negotiations. First and foremost, it must be clarified that the involvement of judges in the sentencing negotiation process is not feasible. If judges were to directly participate as neutral third parties, the nature of sentencing negotiations would essentially equate to a trial. Since judicial involvement in negotiations would render a subsequent trial unnecessary, the sentencing recommendation would, in effect, carry the weight of a formal judgment. Therefore, it is neither reasonable nor appropriate for judges to act as third-party participants in sentencing negotiations. Pursuant to Provisional Regulations on Judicial Organization and Adjudication in the Soviet-Zone legal system, "all Soviet citizens shall be permitted to observe public trials." While the Soviet-Zone's public observation system primarily operated during such trials, contemporary sentencing negotiations equally necessitate an impartial deliberative environment. Based on this, for criminal cases that are legally permissible for public disclosure and where the parties voluntarily agree to openness, the venue for sentencing negotiations should be chosen outside of detention centers and in locations where public observation is allowed. Conducting negotiations within detention facilities inherently creates an unequal setting for the defendant, which may undermine the voluntariness of the process and impact the fairness of negotiations. Furthermore, by drawing an analogy to the selection mechanism of people's assessors, qualified citizen representatives may be designated as neutral third parties to observe and monitor sentencing negotiations, with established feedback channels to formalize such oversight. In this way, the sentencing negotiation process would become more open and transparent, thereby enhancing its credibility. This measure would also help safeguard the defendant's right to fair treatment to a certain extent and reduce instances where the prosecution unilaterally "listens without adopting" or merely "goes through the motions," thus ensuring that sentencing negotiations genuinely embody the essence of negotiation.

(2)Expanding Opinion-Gathering Mechanisms to Ensure the Effectiveness of Negotiations

Currently, sentencing negotiations in criminal proceedings predominantly follow a "question-and-answer" format, wherein the suspect's scope of expression is largely confined to the parameters predetermined by the prosecution. As a result, the exchange of negotiation opinions remains insufficiently comprehensive. In the judicial system of the Soviet-Zone, public participation was comprehensive and substantial. The people were actively involved in all aspects of the judicial process, and even during court trials, they were granted ample opportunities to express their opinions, which were duly considered and accepted by the judges. People in the Soviet-Zone also have the habit of using mediation measures to resolve disputes, following the principles of voluntariness and legality. A tiered mediation system was implemented across villages, townships, and districts, incorporating diverse forms including civil mediation, mass organization mediation, government mediation, and judicial mediation. Through these grassroots-focused approaches, numerous disputes were resolved at the local level, all predicated on effective communication. Expanding the modalities of hearing to opinions is necessary—discussions, free alternating presentations, and dialogic exchanges all constitute viable approaches for substantive opinion solicitation. Moreover, statements by the suspect shall not be subject to time restrictions, and negotiations shall terminate only upon achieving full bilateral deliberation, thereby preventing procedural conflation between sentencing consultations and investigative questioning.

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