

The Research on Peng Zhen's Thoughts of Democracy and Legal System: Chinese Lawyers and Criminal Defense

Jiani Huang^{a,*}

Law School, Shanxi University of Finance and Economics, Taiyuan030006, China

^ad15536827527@163.com

*Corresponding author

Keywords: Criminal defense, fairness and justice, lawyer system, legal dignity, public security law

Abstract: Comrade Peng Zhen is one of the founders of China's socialist legal system. He devoted himself to the legislative work of China and personally presided over the formulation of China's first "Criminal Law" and the first "Criminal Procedure Law (Trial)", which has made many achievements in criminal legislation. In his works, a large number of criminal defense lawyers and their duties are involved, reflecting the social value of lawyers' criminal defense. Looking at the changes in the social value of lawyers' criminal defense from the historical track, we can grasp the general rudder of historical development. Lawyers are in the process of pursuing the maximization of the interests of the parties to achieve social order, in which it must be clear about their status and responsibilities. A credible law can create a good social atmosphere in which improve the status of lawyers and give them more rights. Peng Zhen once mentioned: "To be a lawyer, you can't talk casually unless you know the truth.", reminding lawyers to always grasp the bottom line of the law and avoiding the risk of defense. The social value of lawyers' criminal defense is embodied in the Constitution. What's more, it is also embodied in the procedural and physical aspects. It needs its own continuous improvement and the cooperation of the three organs of the public prosecution law, so that the social order can be realized and the social value of lawyers' criminal defense can be realized.

1. Introduction

The accurate prediction of power load is of great significance for the electric power production and the safe operation of the power grid and the national economy [1]. Short term load forecasting is an important part of energy management system. The prediction error directly affects the analysis results of subsequent safety check of power grid, which is of great significance for dynamic state estimation, load scheduling and cost reduction [2-4]. Traditional prediction methods are based on linear regression, such as time series method, analysis method and pattern recognition method has defects of respectively [5].

Peng Zhen believes that the implementation of the defense system is a sophisticated means of reducing the occurrence of wrongful cases, fully reflecting the idea of "Equality before the law" in the Constitution and the principle of "the defendant has the right to be defended" in criminal legislation. As we all know, China is a country where the people are the masters of the country. Criminals who are fighting against the cause of socialism should go through the necessary judicial procedures. The implementation of a criminal defense system is conducive to reducing the occurrence of wrongful cases. However, in the past, the idea that no one can be found guilty without the judgment of the people's court has not implemented the people's minds. Not only the masses and even the staff of the public prosecution law are subjectively biased against criminal suspects and defendants, resulting in a large number of false and wrongful cases and making the social value of the law damaged. Lawyers in the law have the occurrence of wrongful cases and safeguarded the dignity of the law are reduced in a extent; lawyers as far as the state has eased the contradictions between the people and maintained social stability. Faced with reality, China must pay attention to

procedural justice, guarantee lawyers' right to defend, perfect the defense system as much as possible, better resolve conflicts, effectively punish crimes, maintain the fundamental interests of the party and the state, and reflect the fairness and justice of the law.



Figure 1. Peng Zhen's Memorial Hall in Wenying Park, Taiyuan, China

2. Chinese lawyer development track

2.1 The Lawyer System was Introduced to China in the Late Qing Dynasty

The Chinese lawyer system is the product of the reform of the Qing Dynasty and the imitation of the Western system. Although there are also "litigators" in ancient China, they have different substantive meanings from foreign lawyers' systems and do not have independent legal status. China's first "lawyer's law" was the "Prisoner's Rule" that was produced in Taiwan in 1900. Although the Japanese governor, the Japanese governor, promulgated it in law, it opened the precedent of the Chinese lawyer system legislation. The lawyer system was introduced to China at this stage, which formal significance is greater than the substantive meaning. In practice, it only has the meaning of being a sign of modern civilization.

2.2 Development of the Lawyer System in the Republic of China

The Beiyang government promulgated and implemented the first one-off regulation on the lawyer system and the lawyer industry in the history of China - "Provisional Lawyers of Lawyers" on September 16, 1912, which continued the basic ideas of the establishment of the lawyer system in the late Qing Dynasty, indicating the formal establishment of the Chinese lawyer system. The Nanjing National Government further developed and maintained the continuity of the lawyer system. However, the lawyers' industry has not been given the proper autonomy, which has greatly hindered the healthy development of the Chinese lawyer industry. During this period, the social value was limited.

2.3 The Development of the Legal Profession after the Founding of New China

After the founding of New China in 1949, the CCP led China to try to establish a "new lawyer system." In July 1954, the Ministry of Justice issued the "Notice on Several Issues Concerning the Organizational System of the Trial Court", and established a trial and error counseling office to carry out lawyer work in large cities such as Beijing and Shanghai. In September of the same year, Peng Zhen led the formulation of the Constitution and the Organic Law of the People's Courts, which provided for the defendant's right to defense and established the lawyer's defense system, so that the new lawyer system began to be implemented in major cities in China and some counties and cities. The new lawyer system was actually based on the Soviet Union at the time, and the lawyers were placed in the national public service, but even so, the society still did not work at that time. Until the anti-rightist struggle, the Third Plenary Session of the Eleventh Central Committee

resumed after more than 20 years. By July of the same year, the Chinese Criminal Procedure Law was promulgated, and the law specifically listed a chapter on defense, marking the reconstruction of the legal system in the legal system. The tortuous development of the lawyer system is a reflection of China's indigenous exploration, highlighting the progress of the Chinese lawyer's defense system, and its social influence is gradually expanding.

3. The Position and Responsibility of Lawyer's Criminal Defense

3.1 Lawyers Should Accurately Locate Themselves in Criminal Defense

The lawyer's personal legal quality will have an impact on his self-awareness and the efficiency of criminal legal work. Fu Yang who is Peng Zhen' son mentioned that : "There are still various problems in the criminal defense of lawyers. For example, a few lawyers still have problems in defence work." Not only that, Peng Zhen once mentioned: "To be a lawyer, you can't talk casually unless you kown the truth." This sentence reflects that the personal qualities of lawyers are low, their understanding of their profession is inadequate, and their positioning is not accurate. Therefore, criminal defense lawyers must correct their attitudes, accurately grasp their own positioning, establish a firm legal professional ethics, do not defend the law, strictly follow the law, to avoid breaking the law and being punished by law.

3.2 The Law Gives Lawyers the Responsibility of Criminal Defense

Lawyers must perform "very prudent and very solemn". The duties of lawyers are reflected in the defense, providing legal assistance and safeguarding the legitimate rights and interests of the parties. Legal assistance is provided by lawyers from the date that the suspect is first questioned or taken to take enforcement measures. When the lawyer is in court, he should fully interpret the case materials, question the unreasonableness of the parties' statements, exclude the illegal evidence, and raise reasonable doubts about the inadequacies of the existing evidence to protect the interests of the parties. This is actually to avoid wrongful cases in criminal proceedings, and in addition to the system of law enforcement agencies, there is a system of "picking the wrong".

4. The Dignity of the Law Requires the Joint Maintenance of Public Security Organs, Procuratorial Organs and People's Courts

4.1 The Three Organs Should Cooperate, Supervise, and Restrict Each Other

Fu Yang said: "The duties of the Public Security Bureau, the Procuratorate, and the courts in criminal proceedings are first to expose and investigate crimes. At the same time, they also have the duty of 'Do not let good people suffer wrong treatment' ", indicating that public security organs, prosecutorial organs, and people's courts should expose crimes according to law. To combat criminals, but not to be good people, we need three agencies to cooperate with each, supervise , and restrict each other. The purpose is to make fewer mistakes in handling cases and effectively punish crimes.Provisions of Article 7 of the current Criminal Procedure Law also stipulates: "People's courts, people's procuratorates, and public security organs shall conduct criminal proceedings, and shall be responsible for division of labor, mutual cooperation, and mutual restraint to ensure accurate and effective enforcement of the law." The inspection and law organs should have clear division of labor, mutual cooperation and mutual supervision. The division of labor, cooperation and supervision of the three organs is to protect the procedural justice of the law and to reflect the social value of legal fairness and justice.

4.2 Law Enforcement by the Three Organs Should Adhere to the Principle of Seeking Truth from Facts and Be Good at Listening to Lawyers' Opinions

4.2.1 Seek Truth from Facts

Comrade Peng Zhen said: "Some people think that even if the court finds that they made the wrong judgment, they will not change their judgment. It is said to protect the "dignity" and stability of the law. Is the dignity of the law based on insisting on mistakes?", Comrade Xiaoping Deng also said: "Practice is the sole criterion for testing truth." So we should do better when we decide criminal cases.

4.2.2 Be Good at Listening to Opinions of Counsel

Fu Yang said: "In the real work, there are comrades of law enforcement agencies who ignore the opinions of lawyers because some acts are determined by a certain meeting or a sentence from a superior or just a leader." As judges, they are more professional and have a higher level of professional knowledge to analyze problems in a unique way. In criminal law practice, lawyers attach great importance to legal procedures, however, public officials such as judges are sometimes affected by internal administrative leadership, which will affect their judgments and affect the justice of the procedure.

5. Chinese Lawyers' Problems in Criminal Proceedings

For various reasons, lawyers often have two problems in criminal proceedings that they are unwilling to involve them. One is the problem of procedural violations, and the other is the issue of confessions by torture. These two problems are harmful in the criminal procedure law. Lawyers can only solve the problem of procedural violations and extorting confessions by torture if they truly understand the truth.⁵ Acknowledgments

5.1 Illegal Procedure

Peng Zhen once said: "If the public security organs arrested people without the approval of the procuratorate, even if they have caught the right, it is illegal. The public security organs must go through the legal procedures to obtain the approval of the procuratorate, so that the mistake can be resolved." With the approval of the procuratorial organ, the public security organ will arrest the person. This violates the procedural justice and does not give the criminal suspect a fair treatment, which is likely to cause wrongful cases. Peng Zhen's thought deserves our deep thinking, which reflects that they have identified the suspect as an enemy in some extent. This has not fundamentally solved the problem and has lost the social value of fairness and justice.

5.2 Extorting a Confession by Torture

Peng Zhen has always opposed the issue of extorting confessions by torture. In 1979, he mentioned: "In the past, part of the task force controlled by Lin Biao and the 'Gang of Four' completely violated the party's investigation and study, and the evidence is not convinced. In particular, the tradition of forcibly confessing letters is strictly prohibited, and the people's personalities are arbitrarily violated. The right to engage in extorting a confession by torture has had serious consequences." Because the confession of torture caused a great adverse effect at the time, it was difficult for lawyers to play their role, which led to the destruction of the majesty of the law.

6. Conclusion

In reality, lawyers are often misunderstood and mistrusted, so that they encounter many difficulties, and the highest professional risk is the criminal defense lawyer. There is a saying that "risk and value coexist", and the charm of criminal defense is also contained. The defense in criminal proceedings is due to the lawyer's unique defense value and his ability to defend, dare, and defend. Criminal defense lawyers will provide reasonable and justified defense opinions through

evidence analysis and logical reasoning, which will help to make up for the shortcomings of the three organs and avoid the occurrence of false and wrong cases. At present, the professional requirements of criminal defense lawyers have been improved. Criminal defense lawyers can provide "effective defense" for the parties, thus winning the trust of more people. Not only that, but also help improve the overall level of criminal defense lawyers, boost the legal profession and create more value for society.

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