



Original Article

The Influence of the Soviet Law Model on Criminal Procedure Law in China

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Received 13 January 2024

Revised 20 February 2024; Accepted 25 March 2024

Abstract: The first Criminal Procedure Law (CPL) of China, issued in 1979, was greatly influenced by the Soviet Criminal Procedure Law in multiple dimensions, including the framework, concepts, principles, and specific institutions. Although the Chinese CPL has changed a lot after three amendments in 1996, 2012 and 2018, respectively, the influence of the Soviet Law can still be noticed in many aspects of the current law. This paper will explore how Soviet Law has shaped Chinese CPL into the way it is. Part I will explore the historical development of Chinese CPL, indicating the close relationship between Chinese law and Soviet Law. Part II will compare Chinese CPLs with the Soviet (and its successor, Russia) CPLs, trying to identify their similarities and differences. Part III will draw some tentative conclusions from the comparison and predict the continuing influence of the Russian law model on Chinese CPL in the future. This paper will primarily rely on comparative study and historical analysis. The legal framework, legal terms, theories, principles, and specific institutions will be examined to illustrate the significant influence of the Soviet Law on Chinese Criminal Procedure Law. This study helps to better understand the evolution of Chinese criminal procedure law and predict its further development more accurately.

Keywords: Criminal Procedure Law, Soviet Law Model, Chinese Law, Socialist Legal System.

1. Introduction

Over nearly a century, the development history of modern China's criminal justice and procedure law system has always been accompanied by societal changes, ideological

impact, and other diverse factors. Due to those diverse factors, including political reasons, cultural traditions, and society value considerations, contemporary Chinese CPLs and the criminal justice system embody typical Chinese and socialist characteristics. Under the

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<https://doi.org/10.25073/2588-1167/vnuls.4609>

guidance of democratic principles, contemporary China CPLs focus on the practical issues and the genuine needs of the general public. Centered around the Criminal Procedure Code, China currently possesses a comprehensive and high-quality criminal legal system to regulate criminal procedural activities. This system includes The Organization Law of the People's Courts, The Law on Procurators, The Law on Judges, The Law on Lawyers, The Supervision Law of the People's Republic of China and more. Before attaining its current institutional accomplishments, China underwent numerous rounds of institutional experiments and explorations from the early 20th century, with the contribution of intellectual power and research results of numerous scholars. Before delving into the specific shaping influence of Soviet law on Chinese criminal procedure, it is crucial to gain insight into the historical processes of China's criminal justice system.

The ancient Chinese legal system did not differentiate between civil and criminal matters, and it often combined substantive and procedural norms, with a greater emphasis on substantive norms [1]. In 653 AD, the Tang Dynasty's legal code was enacted, known as The Tang Code (唐律疏议, Tang Lü Shu Yi), consisting of 12 sections. Among these, the sections titled "Arrest and Flight" (捕亡律, Bu Wang Lü) and "Judgement and Prison" (断狱, Duan Yu Lü) contained provisions related to procedural matters. The former governed the pursuit and capture of fugitives, while the latter addressed trial procedures, execution, and prison management [2].

In 1902, during the late Qing Dynasty, under the guidance of Shen Jiaben, China initiated a journey of legal reform. At this time, they translated several criminal procedure codes from various countries, including Japan, the United States, and France [3]. These translations provided the groundwork for the establishment of China's initial procedural code, Criminal and Civil Procedure Law and the completion of The 1911 Draft of Criminal Procedure Law [4]. Although The 1911 Draft of Criminal Procedure

Law was not put into practice due to the swift decline of the Qing Dynasty, it was later referenced by the subsequent government of the Republic of China (ROC government). In February 1949, following the establishment of the People's Republic of China, the Central Committee of the Chinese Communist Party issued a legal document to invalidate the six codes previously utilized by the ROC government. Since the 1950s, China's criminal procedure law has undergone a significant transformation as the country began comprehensive learning from Soviet law.

Thus, the following sections of this article will delve into a detailed analysis of how the Soviet legal model specifically shaped Chinese CPLs. The third part will encompass a comparative analysis between Soviet CPLs and the three amendments to Chinese CPLs; it will further scrutinize the current Chinese CPLs in comparison with the Russian counterpart, aiming to pinpoint commonalities and disparities. In the concluding section, leveraging the insights from our prior analysis, we will draw trend-based conclusions and endeavor to forecast the influence of the Russian legal model on the future trajectory of Chinese CPLs.

2. The Molding Role of the Soviet Legal System on Chinese CPLs

In the 1950s, Soviet law began exerting a substantial influence on China. Both in terms of international relations and domestic developments, for the newly established socialist China, the Soviet Union served as a valuable guiding example as it also pursued a socialist path. The newly established China faced the significant challenge of lacking international recognition due to the dominance of capitalist nations in global discourse. Domestically, China was under a period of post-war recovery, and there was a pressing need to establish a socialist legal system. China's situation at that time was very similar to that of the Soviet Union when it was first established. Liu Shaoqi, the Chairman

of the Standing Committee of the National People's Congress, emphasized in his report on the 1954 Constitution Draft that "the path we have taken is the path Soviet Union has taken" [5].

In 1954, China enacted its first Constitution, and during the same year, it enacted The Organization Law of the People's Courts and The Organization Law of the People's Procuratorates. These three legal documents were formulated with a strong reference to the Soviet legal system. They stipulated some basic principles and institutions of criminal proceedings. For example, they outlined distinct roles for the People's Courts, People's Procuratorates, and public security organs in the exercise of adjudication, prosecution, and investigation powers. And they also emphasized the People's Courts shall conduct trials independently and are subject only to the law; all citizens are treated equally before the application of the law; the principle that trials are open to the public; the accused has the right to defense; and citizens of all ethnicities have the right to use their own languages and scripts in legal proceedings. Furthermore, these three legal documents encompassed guidelines for processes such as people's assessor, collegial bench, final judgment after two trials, as well as detention and arrest [6].

Simultaneously, Chinese scholars specializing in criminal procedural law travelled to the Soviet Union to study legal theory, translating Soviet criminal procedural laws, writings, and textbooks. Renowned Soviet legal professors were also dispatched to China to teach legal courses [7]. Under the comprehensive influence of Soviet law, China formulated The 1957 Draft of Criminal Procedure Law and The 1963 Draft of Criminal Procedure Law. Both drafts largely preserved the fundamental structure and principles of Soviet criminal procedural law. Unfortunately, the two drafts were not officially promulgated due to historical reasons. Subsequently, the Legislative Affairs Commission of the National People's Congress Standing Committee revisited The 1963 Draft of

Criminal Procedure Law and, based on it, formulated The 1979 Chinese Criminal Procedure Law, which is the first Chinese CPL, was passed on July 1, 1979, and took effect on January 1, 1980 [8]. The 1979 Chinese Criminal Procedure Law incorporated a significant portion of the Soviet legal system and shares an inseparable connection with Soviet criminal procedural law. In the following sections, we will use the Soviet criminal procedural law and The 1979 Chinese Criminal Procedure Law as a basis for textual analysis to explore how the Soviet legal model profoundly and comprehensively shaped China's criminal procedural law.

Looking back at history, it is evident that during the thirty years from 1950 to 1980, China extensively learned from the Soviet Union in various aspects, including theory, principles, and institutional content, even before enacting its formal Criminal Procedure Law. The embryonic form of China's criminal justice system had already taken shape during this period, bearing a distinct imprint of the Soviet Union. In the subsequent decades, although China made three revisions to the Criminal Procedure Law, the initial Soviet legal heritage has persisted within the Chinese criminal procedural legal system, profoundly influencing contemporary practices in Chinese criminal procedure.

2.1. Criminal Procedure Theories

In the 1950s, the translated work *Soviet Criminal Procedure* by the Criminal Law Research Office of the Renmin University of China significantly impacted the academic field of Chinese criminal procedural law. Within this work, there was a discussion related to Soviet criminal procedural theory that stated: "The worldview of the Communist Party has a decisive significance for the development of the entire ideological system and culture of the Soviet society. This worldview should be the foundation for all scientific departments". According to the viewpoints presented in this book, the concept of a classless and non-partisan

science is nonexistent and has never existed. Soviet criminal procedural science is characterized as a science with a party character. This science is rooted in communist principles, as well as the theories of Lenin and Stalin regarding the dictatorship of the proletariat, the functions of the Soviet state, and its tasks during that period [9]. Furthermore, Soviet criminal procedural science, along with any kind of science of law, is considered part of the superstructure upon the socialist foundation. Based on this perspective, Soviet criminal procedural law stipulates that its fundamental task is to ensure fair trials in criminal cases, with the aim to protect the socialist state, the citizens' rights and safety, maintain socialist legal order, and prevent conspiracies that threaten social stability. Additionally, criminal judgments are expected to have an educational impact on society [10]. In accordance with the socialist nature of the Soviet Union, the essence of criminal procedural law is also with a class character. The formulation of Soviet criminal procedural law serves the realization of the state's will and the promotion of social stability and unity.

Soviet criminal procedural theories substantially influenced The 1979 Chinese Criminal Procedure Law. This legal document specified the guiding ideology for the formulation of China's Criminal Procedure Law based on Marxism-Leninism, Mao Zedong Thought, the Constitution, and the practical experiences of implementing the people's democratic dictatorship led by the proletariat [11]. It also outlined the aims of the Chinese CPLs, which include ensuring the accurate and timely determination of criminal facts and the correct application of the law to punish criminals and protect the innocent from criminal prosecution. These objectives are aimed at upholding the socialist legal system, protecting the personal and democratic rights of citizens, and ensuring the smooth progress of the socialist revolution and construction [12]. Although the textual expressions may differ, the essence of both the Chinese and Soviet CPLs is to protect

the proletarian dictatorship, maintain social order, and uphold the socialist system through crime control. Their commonality is considering criminals who disrupt social stability and the system as underminers, and imposing sanctions on them through crime control measures is justifiable. It explains the potential risk of neglecting human rights protections in some of the criminal procedural institutions in China and the Soviet Union. They tend to prioritize crime control to achieve the ultimate goal of criminal proceedings, often making the protection of citizens' rights as a secondary consideration during the prosecution of crimes.

2.2. Criminal Procedure Principles

The author found a valuable Chinese translated version of a lecture manuscript, which was a record of the lecture delivered by the Soviet criminal procedural law scholar B.E. Chugunov to the faculty and students of China University of Political Science and Law (CUPL) in 1957. In this book, B.E. Chugunov analyzed the following principles of Soviet criminal procedure: 1) Adherence to socialist legality; 2) Participation of people's assessors in all trials; 3) Election of judges; 4) Citizens of all ethnicities have the right to use their own languages and scripts in legal proceedings; 5) Open court hearings; 6) Guarantee of the accused's right to defense; 7) Independence of judges, who are only subjected to the law; 8) Investigative agencies, adjudicative authorities, and procuratorates exercise their powers in accordance with the national public interests; 9) The principle of directness and verbalism; 10) Continuous court hearings; 11) The principle of debate; 12) Presumption of innocence; 13) The principle of ascertaining the objective truth; 14) Judges evaluate the evidence based on inner belief; 15) Equality of citizens before the application of laws; 16) Ensuring the rights of participants in legal proceedings [13]. B.E. Chugunov pointed out that except for principles 11, 12, and 13, which had some controversies, all other principles were considered fundamental

principles of criminal procedure of the Soviet Union by the academic community. Regarding the principle of debate, there were doubts about whether it applied to the investigative and prosecutorial stages. Some scholars initially denied its function as a fundamental principle, but later, they acknowledged it [9]. Similarly, Soviet scholars had conflicting views on the presumption of innocence and the principle of ascertaining the objective truth. M.A. Cheltsov, for instance, wrote, "From the perspective of the main purpose of proceedings, we must admit the most important task is to ensure the court establish the true circumstances of the crime to punish criminals" [13]. His statement suggests that the presumption of innocence, which safeguards the rights of the accused, may not have been considered the most important principle in achieving the litigation objective, although he later acknowledged its significance. As for the principle of ascertaining the objective truth, some Soviet scholars argued that it was a litigation aim rather than a procedural principle [13], while others believed that requiring the court to render judgments consistent with the objective truth was nearly an impossible task for criminal proceedings [14].

Compared to the extensive system of criminal procedural principles established in the Soviet Union, the fundamental principles set forth in The 1979 Chinese Criminal Procedure Law were more concise and refined. Articles 3 to 10 establish the following principles: 1) Division of exclusive authority among public security organs, procuratorates, and courts; 2) Organs must rely on the masses; 3) Basing judgments on facts and take law as the criterion; 4) Equality before the law; 5) Divided responsibilities, mutual cooperation and restraint among public security organs, procuratorates, and courts; 6) Use of ethnic languages and scripts in legal proceedings; 7) Cases in the People's Courts shall be heard in public; 8) The accused has the right to obtain the defense; 9) Protection of the litigation rights of participants [15]. Among these, the criminal procedural principles with Chinese characteristics are 2, 3,

and 4; other principles are more or less influenced by the Soviet Union. Mao Zedong Thought is the guiding ideology of the Chinese Communist Party, which includes the principles of upholding the people's democratic dictatorship and the mass line. Therefore, this ideology was reflected in China's first Criminal Procedure Law as the principle of relying on the masses in criminal procedural activities. Moreover, The 1979 Chinese Criminal Procedure Law was formulated in the context of China emerging from the shadow and low point of the Cultural Revolution. The legislators, having learned lessons from the past, included the principle of basing judgments on facts and adhering to the law to avoid the disasters that occurred during the Cultural Revolution [16]. Regarding the principle of division of responsibilities, cooperation and restraint, it presents a specific way to balance and supervise the operation of powers among the public security organs, procuratorates, and courts, but it differs significantly from the separation of powers in the United States. Because China's criminal procedural principle mainly emphasizes the checks and balances among three organs, which pertain to the internal division of judicial powers rather than the external separation of executive, judicial, and legislative powers.

2.3. Criminal Procedure Institutions

First, the Soviet Union divided the criminal proceedings into different phases, and China's Criminal Procedure Law largely inherited this feature. From the structure of the Soviet Criminal Procedure Code, we can see that criminal proceedings are roughly divided into 7 stages: initiation of criminal cases, investigation, prosecution, court trial, appeal of non-final judgments, review of final judgments, and execution [9]. On the other hand, China's 1979 Criminal Procedure Law specifies the following stages: case filing, investigation, prosecution, first and second instance of trials, death penalty review, trial supervision, and execution [17]. Among these, both of them took the case filing

as a separate phase, but the death sentence review procedure is unique to China and was not present in the Soviet Criminal Procedure Law. It originates from China's historical legal tradition, where extreme caution was exercised in cases involving the death penalty. In ancient China, the execution of the death penalty required multiple levels of approval and had to be reported to the highest ruler. Modern Chinese criminal procedural law draws from this tradition by stipulating the death penalty review procedure.

Second, China and the Soviet Union had a similar structure of strong state power-oriented criminal procedural systems at that time. As mentioned earlier, in terms of the purpose of criminal proceedings, China and the Soviet Union are fundamentally aligned-maintaining socialist order through crime control. Crime is seen as the most extreme activity that disrupts social order and is not tolerated. The structure of criminal proceedings is designed to serve the purpose, and the purpose determines the structure of criminal procedures. Therefore, both China and the Soviet Union inevitably exhibit a structure that emphasizes the crackdown on crime. Even today, after three amendments, China's criminal procedural law has gradually turned into an adversary system, but the strong state power-oriented factors continue to affect the implementation effectiveness of specific institutions. However, it is currently at a changing crossroads; with the arrival of the "misdemeanor era" in China and the increasing awareness of human rights among the public, the future direction of Chinese criminal proceedings remains uncertain.

Third, the Soviet Union had a significant influence on China's views on evidence. As mentioned earlier, Soviet criminal procedure adhered to the principle of objective truth, while China did not explicitly include this principle in its 1979 Criminal Procedure Law, but it had a substantial impact on China's theories of evidence law. The theoretical foundation of the principle of objective truth is materialist epistemology. Since the 1950s, Chinese scholars have consistently applied materialist

epistemology to interpret the process of proving facts in criminal proceedings. Representative viewpoints argued: "case facts exist as objective truths independent of the will of public security and judicial personnel; they can only be recognized and ascertained but not altered. It should be emphasized that the objective practice is not only the basis for public security and judicial personnel to collect and apply evidence to determine facts but also the sole criterion for examining whether the facts are correctly identified" [19]. It reflects that China's criminal procedural law has always adhered to the inherited principle of objective truth learned from the Soviet Union.

Fourth, China's prosecutorial system bears significant similarities to that of the Soviet Union. The 1954 Organization Law of the People's Procuratorates defined the functions of the People's Procuratorates as follows: initiating public prosecutions in criminal cases, supervising the legality of investigations and judicial activities, supervising the execution of criminal judgments, initiating litigation in important civil cases related to state and public interests, and supervising whether state officials and citizens comply with the law [20]. When drafting this law, lawmakers explicitly applied Lenin's guiding thoughts about the powers of prosecutorial organs, emphasizing the procuratorial powers in China are aimed at maintaining the unity of the state's legal system. It determined the nature of China's procuratorates as state legal supervision organs [16]. Soviet scholars once wrote, "The activities of general supervision, which the procurator carries out by overseeing the work of all agencies and the behavior of all citizens for compliance with the law, are closely related to his activities in the judicial sphere - pursuing criminal liability against anyone who meets the criminal elements for breaching the law" [9]. China's procuratorates, like their Soviet counterparts, are entitled to both legal supervision and prosecution rights. In a sense, these two legal functions sometimes create internal tensions,

which have also led to some issues in China's prosecutorial system today.

3. Three Revisions to China CPLs Compared with Soviet (Russia) CPLs

As time passed, the 1979 Chinese CPL became outdated and unable to keep pace with the development of society. After the start of reform and opening-up, China's economy began to take off, and the country gradually shifted its focus towards economic development, leading to the fading of ideological discourse in the whole of Chinese society. Especially since 1992, following the collapse of the Soviet Union, the trend of emulating the Soviet Union has been no longer mainstream. Instead, learning from the common law system and keeping up with international standards are becoming major tasks for Chinese CPL. Driven by various demands, China underwent its first amendment to CPL in 1996 after a gap of 16 years. Subsequently, two amendments were made in 2012 and 2018. While the 1979 CPL was essentially a replica of the Soviet criminal procedure law [21], these three amendments gradually freed the Chinese CPL from Soviet influence and pushed it in a more distinctively and typically Chinese way.

3.1. The First Amendment in 1996

The 1996 Amendment to the Chinese CPL was formulated and implemented under the leadership of scholars. Professor Chen Guangzhong, a renowned Chinese CPL scholar and then-president of the CUPL, led a small group of outstanding experts and professors in drafting the amendments, of which two-thirds were ultimately adopted by the authorities. This revision was primarily based on research on comparative law. The expert drafting team, through overseas visits and the study of foreign literature and documentation, incorporated good institutions from abroad into the Chinese legal system [21]. This revision covered various aspects of the 1979 CPL, and this article will

primarily focus on the following vital modifications.

Firstly, the 1996 Amendment stipulated a new principle: "No one shall be declared guilty without the lawful judgment of the people's court" [22]. This principle sparked debates among scholars in China. Some argued that this principle was consistent with the relevant Soviet provision in terms of its content and logic. It could be considered the principle of presumption of innocence [23]. Others believed it should be interpreted based on the original meaning of the presumption of innocence, implying that everyone should be presumed innocent until proven guilty. From this perspective, the wording of the principle, which states "shall not be deemed guilty", might not be equivalent to "presumed innocent". Therefore, this principle only emphasizes the exclusive authority of the court to convict; the presumption of innocence was not established in China [23]. Through textual interpretation, it can be discovered that Chinese and Soviet legal texts expressed the same meaning, but scholars in China and the Soviet Union had different understandings. Soviet scholars believed that if the defendant has not been judged guilty by the court, they should not be considered guilty but presumed innocent [24]. And Soviet scholars had acknowledged that the presumption of innocence was a fundamental principle in Soviet CPL. Even today, this issue is still in debate; a more authoritative conclusion is that China does not strictly adhere to either the presumption of guilt or the presumption of innocence but operates on the principle that "guilt is determined by evidence". In other words, a defendant is deemed guilty based on existing and sufficient evidence of guilt; otherwise, the defendant is innocent [25]. This conclusion is reasonable and in line with the practical circumstances in China. Although the definition of the presumption of innocence may not be entirely clear, Article 12 of the 1996 Amendment can be seen as a step forward in protecting the rights of defendants compared to the absence of such provisions in the 1979 CPL.

Furthermore, the 1996 Amendment introduced innovations in the areas of defense and the trial system. With regards to the defense, compared to the 1979 CPL, where lawyers did not appear during the investigation stage, the 1996 Amendment allowed lawyers to provide legal assistance to defendants during the investigation. The timing of when the defence could begin was similar in China and the Soviet Union, as both experienced a reform process that shifted lawyer involvement timing from the prosecution stage to the investigation stage [26]. In the trial system, there were three main innovations. *First*, the provision for substantive examination of cases by judges before trial was removed, with the law now only specifying that judges should conduct procedural and formal reviews. It was done to curb situations where judges made prejudgments prior to the actual trial. *Second*, it enhanced the adversarial nature of the proceedings by weakening the dominant role of judges in the court. Previously, influenced by Soviet law, Chinese judges had the authority to investigate facts both inside and outside the court. Under the judge's command, the prosecution and defense acted as cooperators in the trial, with limited autonomy. As a result, the pre-1996 Chinese criminal procedure structure was referred to as an "inquisitorial" or even a "super-inquisitorial" model by scholars [21]. *Third*, to protect the defendant's right to a speedy trial, a simplified trial procedure was introduced. Allowing single-judge trials in cases where: 1) the facts are clear, and the evidence is sufficient in public prosecutions that could result in a sentence of three years or less of imprisonment, detention, surveillance, or a single fine, where the People's Procuratorate recommends or agrees to the use of the simplified procedure; 2) cases accepted at complaint only; 3) misdemeanor cases initiated by victims with evidence [27].

3.2. The Second Amendment in 2012

Between 1996 and 2012, China underwent significant changes in its society. The 1996 CPL

could no longer keep pace with social development. *Firstly*, China made two important amendments to the Constitution Law in 1999 and 2004, emphasizing the construction of the rule of law with a socialist character. "The state shall respect and safeguard human rights" was incorporated into the Constitution. *Secondly*, China signed and ratified a series of international conventions, necessitating alignment between the Chinese CPL and international criminal justice standards. *Thirdly*, China's judicial reform theory and practice deepened, with many successful experiences and valuable insights [28]. Therefore, the revision of the CPL was put on the agenda again in 2012. The 2012 amendment process differed from the first time when scholars drafted it. It was drafted by the Legislative Affairs Commission of the National People's Congress Standing Committee, and it involved research from various state institutions, including the Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Justice. It also incorporated the opinions of National People's Congress deputies, lawyers, and professors. This amendment involved various aspects, including evidence rules, the right to defense and so on.

Most importantly, this amendment introduced the principle of prohibition of coerced self-incrimination and the exclusionary rule for illegally obtained evidence into the CPL of China, which was a significant advancement. Since the 1996 amendment, China has experienced numerous wrongful convictions, many of which resulted from unlawful coercion and torture by public security organs during the investigation process. It fundamentally affected the purity and authority of China's judiciary and did not align with the requirements of procedural justice. Article 50 of the 2012 CPL stipulates: "It is strictly prohibited to extort confessions by torture or to collect evidence by threat, enticement, deception, or other unlawful means". No one shall be forced to prove his own guilt [29]. In the past, Chinese legal practice was influenced by Soviet legal theory, emphasizing the objective truth while neglecting procedural

human rights protection. The 2012 CPL's provisions prohibit collecting evidence through illegal means and forcing anyone to self-incriminate were aimed at correcting practice deviation. During this time, Russia had already taken a completely different path from China. Due to the collapse of the Soviet Union, Russia fully embraced a capitalist system. Correspondingly, Russian criminal procedural law began establishing an adversary system centered around the presumption of innocence [30]. The current Russian Criminal Procedure Code, Article 7-3, establishes the exclusionary rule for illegally obtained evidence: Violation of the norms of the present Code by the court, by the prosecutor, by the body of inquiry or by the inquirer in the course of the criminal court proceedings shall entail recognizing the proof obtained in this way as being inadmissible [31].

In terms of the right to defense, significant changes were made to the 2012 CPL. Before 2012, defense lawyers were not allowed to review all litigation materials; they could only access certain vital materials related to the facts of the case during the prosecution and trial stages. After the 2012 amendment, there were no more restrictions on the scope of document review; defense lawyers could access all case materials [32]. It's worth noting that as early as 1960, Soviet CPLs had already explicitly granted defendants the right to review case files, not entitled solely to defense lawyers [33]. However, China has not granted defendants the direct right to review case files alone. In other aspects, the 2012 CPL also introduced a reconciliation procedure for public prosecution cases [34], marking the rise of restorative justice practices in China [35]. The 2001 Criminal Procedure Code of Russia also provides for a criminal reconciliation procedure. Suppose a suspect or defendant in a criminal case reaches a settlement with the victim and compensates for the harm caused. In that case, the victim can apply to terminate criminal proceedings for minor or moderate crimes [36]. Additionally, the 2012 CPL expanded the scope of the simplified trial procedure. Previously, the simplified procedure

only applied to cases that could result in sentences of up to three years of imprisonment. In 2012, this limitation was removed [37].

3.3. *The Third Amendment in 2018*

Unlike previous revisions, the main motivations for this amendment are the reform of state institutions and the practical experience and achievements gained from previous pilot projects. In 2018, during the first session of the 13th National People's Congress of China, The Supervision Law of the People's Republic of China was passed. This law established a new state authority, the Supervisory Commission, which is responsible for supervising state officials' illegal activities and crimes and has the authority to conduct criminal investigations based on illegal conduct. In essence, it significantly reduced the authority of China's procuratorates. Although the 2018 amendment still retained the principle that the procuratorate is the legal supervision authority in China, any cases involving the illegal conduct and crimes of state officials were placed under the jurisdiction of the Supervisory Commission. As a result, the procuratorate substantially lost its investigative power in these cases, retaining only the authority to investigate certain crimes involving violations of the law by judicial personnel in criminal proceedings. To address the issue of coordinating the investigation procedures led by the Supervisory Commission and the pre-trial procedures of criminal proceedings, China carried out its third amendment to the Criminal Procedure Law in 2018. Additionally, in 2014 and 2016, China conducted pilot projects on the expedited trial procedure and the leniency system for pleading guilty and accepting punishment. Another objective of the 2018 amendment was to formalize the successful experiences of these two pilot projects and incorporate them into CPL. It explains why the previous two revisions had an interval of roughly 15 years, while this revision occurred only 6 years after the last.

Regarding the leniency system for pleading guilty and acceptance of punishment, Article 15 of the 2018 CPL stipulates: If a criminal suspect or defendant voluntarily and truthfully admits to their own crimes, acknowledges the criminal facts as charged, and is willing to accept punishment, they may be treated leniently by the law [38]. In terms of procedural design, the leniency procedure primarily applies during the prosecution phase. If the criminal suspect voluntarily confesses and agrees with the sentencing recommendations put forth by the prosecutor, a written acknowledgement of guilt and agreement to punishment (leniency plea) should be signed in the presence of a defense attorney or duty lawyer [38]. During the trial phase, the law specifies that the People's Court should generally adopt the sentencing recommendations proposed by the prosecutor to preserve the negotiated outcome between the prosecution and defense [38]. Additionally, the expedited trial procedure may be applied for cases that may result in a sentence of less than three years of imprisonment and where the defendant pleads guilty and agrees with the sentence recommendations [38]. Compared to the previously established simplified trial procedure, the expedited trial procedure is even more simplified, and the courtroom investigation procedures can be omitted. These provisions collectively ensure procedural and substantive benefits for defendants who plead guilty. While China's focus has mainly been on the confession and behavior of the accused, Russia's "waiver of trial" system contains more detailed provisions. *First*, Article 316-7 of the Russian Criminal Procedure Code places certain limitations on judges' discretion. After rendering a guilty verdict, the imposed sentence must not exceed two-thirds of the maximum statutory penalty for the most severe type of punishment specified by law for the committed crime [39]. Chinese CPLs do not include such a specific limitation but rather restrict judicial discretion through the sentencing recommendations presented by prosecutors. *Second*, Article 316-8 stipulates that a judgment's narrative and reasoning sections

should include a description of the criminal behavior already admitted by the defendant and the court's conclusion regarding the criminal case. The judge's analysis and evaluation of evidence are not reflected in the judgment [39]. China does not have similar legal provisions concerning the reasoning of judgments. Despite the different provisions, the waiver of the trial system is widely applied in both China and Russia. In China, the application rate of the leniency procedure for pleading guilty and acceptance of punishments exceeds 90% [40], while in Russia, the proportion of criminal cases handled through the "waiver of trial" system increased from 37% in 2008 to 64% in 2014 [41].

4. Conclusions and Tendencies

Based on the analysis presented earlier, we can observe a particular trend in the relationship between China's criminal procedure law and the Soviet legal model: From 1950 to 1980, China's criminal procedure law extensively borrowed from the Soviet legal system, and the influence of Soviet law models was prevalent during this period. After 1980, China's criminal procedure law started to be increasingly influenced by Western countries, and the impact of the Soviet law model in China gradually faded. To be more specific: In the 1996 revision, China's criminal procedure law strengthened equal dialogue and communication between the prosecution and defense, leading to an increase of adversarial elements in the judicial process. In the 2012 revision, China introduced the exclusion of illegal evidence and the prohibition of forced self-incrimination, signalling a shift toward a more scientific and rational direction for the Chinese CPL. In 2018, China's criminal procedure law responded to the need for negotiated justice by establishing leniency procedures for pleading guilty and accepting punishment. Both adversarial and negotiated elements coexist in China's criminal justice system. It's important to note that while China's criminal procedure law has been evolving in new

directions, the initial institutional framework inspired by the Soviet model still plays a role. For example, the authority of China's procuratorate continues to encompass both legal supervision and public prosecution functions. Additionally, while China has inherited many aspects from the Soviet legal system, such as the principle of seeking objective truth and the stage-based approach to litigation, there are differences in the interpretation of certain legal institutions, as seen in the case of the presumption of innocence.

In the future, two prominent trends are expected to shape China's criminal justice system: 1) Continued development of negotiated justice: China's negotiated justice system is likely to continue to deepen and gain prominence in criminal justice practice. Balancing the coexistence of traditional adversarial proceedings and negotiated justice within the same criminal justice system may become a topic for further exploration by Chinese scholars. The relationship between these two approaches will need careful consideration. 2) The arrival of the Era of misdemeanor, with rapid technological advancements, the connotation of crime prevention and human rights protection in China's criminal procedure law is evolving. As technology progresses, the scope of crime control extends from physical to virtual spaces, posing increased challenges in combating cybercrime while safeguarding human rights. On the one hand, technological development enhances a state's crime-controlling capabilities, leading to a reduction in serious crimes but an increase in misdemeanors. Another research topic worth exploring is how to ease the pressure of the criminal justice system while protecting human rights. These emerging issues are not unique to China; they present challenges to global criminal justice. China's practical experiences, institutional solutions, and theoretical methods, while not universally applicable, can at least contribute Chinese insights to the global discourse on the development history of criminal procedure law.

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