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# **Enhance Judicial Systems and Mechanisms for Impartial Law Enforcement and Strengthen Judicial Safeguards for Human Rights**

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The *Resolution of the Central Committee of the Communist Party of China on Further Deepening Reform Comprehensively to Advance Chinese Modernization* (hereinafter referred to as the “*Resolution*”) was reviewed and adopted at the Third Plenary Session of the 20<sup>th</sup> CPC Central Committee. It has made comprehensive arrangements for improving the system of socialist rule of law with Chinese characteristics, which has great practical significance and far-reaching historical significance. The rule of law is an important guarantee for Chinese modernization. Strengthening law enforcement and the judicial protection of human rights is the purpose of improving the system and mechanism of fair law enforcement and justice. The judicial organs shall implement all arrangements for “strengthening law enforcement and judicial protection of human rights” in their work, adhere to the people-centered approach in the entire process and all aspects of law enforcement and justice, and strive to allow the people to feel fairness and justice in every judicial case.

## **I. Respecting and Protecting Human Rights is a Main Theme Throughout the Reform of the Judicial System and Mechanism**

Since the 18<sup>th</sup> CPC National Congress, remarkable results have been achieved in building the judicial protection system and mechanism for human rights. The people’s courts have continued to deepen the reform of the trial-centered criminal procedure system to make court trials substantialized. They have also comprehensively implemented the principle of evidence-based adjudication and continuously established and improved effective mechanisms for preventing and promptly correcting unjust, false, and wrong cases. Additionally, they have carried out the pilot work in an orderly manner to ensure access to full coverage of lawyers’ defense in criminal cases. The courts have strengthened judicial protection of personality rights by implementing the system of injunctions against infringements of personality rights. They have implemented the *Law on the Protection of Women’s Rights and Interests* and the *Anti-domestic Violence Law* and issued opinions on strengthening personal safety protection orders. Furthermore, they have also seriously implemented the *State Compensation Law* and strengthened judicial assistance work.

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## **II. Strengthening Supervision and Restraint is the Key to Strengthening the Judicial Protection of Human Rights**

### **A. Improve the supervision system and mechanism of law-enforcement and judicial organs**

The *Resolution* states: “We shall improve the system and mechanism in which the supervisory organs, public security organs, procuratorates, courts, and judicial administrative organs each perform their duties, and the supervisory power, investigative power, procuratorial power, judicial power, and executive power cooperate and restrain each other. By doing this, we can ensure that the entire process of law enforcement and justice is carried out under effective supervision.” This is the first time that the CPC has included the supervisory authorities in the law-enforcement and judicial supervision and restraint system, which fully reflects that the CPC Central Committee attaches great importance to improving the system and mechanism of fair law enforcement and justice.

Since the Fourth Plenary Session of the 18<sup>th</sup> CPC Central Committee, the reform of the trial-centered criminal procedure system has been deepened, and a number of major wrongful cases have been corrected by law. However, institutional and mechanism factors that affect the realization of fairness and justice still exist, the supervision system is not strict enough, and the constraints and supervision of law-enforcing and judicial power are not in place. We shall further improve the system and mechanism of mutual cooperation and restraint, improve the orderly connection between the supervision investigation procedure and the criminal procedure, comprehensively implement reform of the trial-centered litigation system, and ensure that all aspects of law-enforcement and judicial process are carried out under effective restraint and supervision.

### **B. Standardize compulsory measures by law, improve work mechanisms, and strengthen supervision by the law-enforcement and judicial authorities and the general public**

Compulsory measures play an important role in stopping illegal and criminal acts, preventing the destruction of evidence, avoiding harm, and controlling the expansion of danger. However, in law-enforcement and judicial practices, the abuse of administrative or criminal compulsory measures that infringe upon the personal, property, and other rights of citizens, legal persons, and other organizations still exists to a certain extent. The *Resolution* proposes to improve the work mechanisms such as ex-ante review, ongoing oversight, and ex-post redress. This requires law-enforcement and judicial organs to strengthen ex-ante review to ensure that compulsory measures are carried out in accordance with the statutory powers, scope, conditions, and procedures. In terms of improving the ongoing oversight work mechanism, no matter at which link, as soon as inappropriate compulsory measures are found, infringement

shall be stopped immediately. As for improving the ex-post redress work mechanism, law-enforcement and judicial organs shall achieve fairness and justice by revoking or changing compulsory measures.

### **III. The Fundamental Purpose is to Improve the Fair Judicial System and Mechanism and to Strengthen Law-Enforcement and the Judicial Protection of Human Rights**

The *Resolution* proposes to “adhere to a correct outlook on human rights and strengthen the law-enforcement and judicial protection of human rights.” The judiciary is the last line of defense for human rights protection.

#### **A. Investigate and punish, according to the law, criminal acts such as bending the law for personal gain, illegal detention, the use of torture to extort confessions and continuously improve the level of judicial protection of human rights**

The *Resolution* proposes to “investigate and punish, according to the law, criminal acts such as bending the law for personal gain, illegal detention, the use of torture to extort confessions” pointing out the prominent problems that need to be urgently addressed by the law-enforcement and judicial organs to strengthen human rights protection. Since the 18<sup>th</sup> CPC National Congress, the quality and ability of law-enforcement and judicial staff have generally improved and the standardization of law-enforcement and judicial work has achieved positive results. However, some people have strongly reported that some law-enforcement and judicial personnel have committed dereliction of duty that undermines the credibility of the law-enforcement and judicial organs, and crimes such as bending the law for personal gain, illegal detention, the use of torture to extort confessions that infringe on citizens’ rights occur from time to time.

To implement the requirements of the *Resolution*, judicial organs shall improve their work mechanisms as soon as possible, increase the protection of citizens’ personal and property rights, and severely investigate and punish, according to the law, crimes such as state officials’ abuse of power for personal gain and wrongful judgments to establish and maintain judicial credibility. They shall investigate and punish, by the law, illegal detention crimes committed by state officials who use their power to illegally detain others or deprive others of their freedom by other means to protect the personal dignity and freedom of the people from infringement. Also, they shall investigate and punish, according to the law, crimes of torture to extract confessions or the obtaining of evidence by violence, or where state officials use their power to get confessions from criminal suspects or defendants or use violence to force witnesses to testify. This will safeguard the legitimate rights and interests of criminal suspects, defendants, and relevant litigation participants.

#### **B. Promote access to full coverage of lawyers’ defense in criminal cases to protect the legitimate rights and interests of defendants**

Lawyer defense is a litigation right granted to criminal suspects and defendants by the Constitution, and also an important part of strengthening human rights protection in criminal proceedings. In October 2017, the Supreme People's Court and the Ministry of Justice issued the *Measures for Launching a Pilot Programme to Ensure Access to Full Coverage of Lawyers' Defense in Criminal Cases* and launched a pilot programme in eight provinces and municipalities. In December 2018, the pilot programme was expanded to the whole of China, covering all types of criminal cases. The *Legal Aid Law* was officially implemented on January 1, 2022, providing a basis for expanding the pilot work of ensuring access to full coverage of lawyers' defense in criminal cases. In October 2022, the "Two High Courts and Two Ministries" issued *Opinions on Further Expanding the Pilot Work of Ensuring Access to Full Coverage of Lawyers' Defense in Criminal Cases* to consolidate the results of the pilot programme in the trial stage, expand the programme to cover all counties, and implement the pilot programme in the review and prosecution stages.

Due to factors such as unbalanced economic and social development and uneven regional distribution of lawyers, there are still many difficulties and challenges in ensuring access to full coverage of lawyers' defense in criminal cases. To implement the tasks proposed in the *Resolution*, it is necessary to quickly establish and improve a mechanism for the cross-regional flow of legal service resources to solve the problem of legal aid in areas where legal service resources are scarce. It is recommended that governments at all levels include government procurement of legal aid services and other legal aid funds in the budget to ensure the balanced development of legal aid.

### **C. Establish a system for sealing records of minor crimes to build a harmonious society**

The *Resolution* proposes to establish a system for sealing records of minor crimes, which is an innovative reform measure for the criminal justice system.

The system of sealing juvenile criminal records has been implemented for many years, and China's current laws and regulations have made clear provisions for it. In practice, this system has played an important role in helping minors continue their studies, get employment, and return to society. As China's public security and criminal crime structure have undergone substantial changes, the proportion of serious violent crimes has continued to decline while that of minor crimes has increased significantly. The defendants in these minor criminal cases have relatively less subjective malice and threat to personal safety and have already assumed criminal responsibility and undergone education and reform. However, they still have to face adverse consequences for life because of their "criminal records." Establishing a system for sealing records of minor crimes prohibits the review and disclosure of relevant records without legal procedures and reasons. This is in line with China's criminal

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policy of combining leniency with severity and is conducive to minimizing social conflicts, building a harmonious society, and improving the level of law-enforcement and judicial protection for human rights.