

Chinese Community Correction System and “De-labeling” - On the Jurisprudential Basis of Community Correction System from the Perspective of Label Theory

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Abstract: The community correction system is relatively mature in Western countries such as the UK and the USA. In recent years, it has gradually emerged in China and has been pushed from the pilot to the whole country. It has had an important impact on the transformation of the execution of punishment in China. And its development can not be separated from the strong support of label theory in criminology. The label theory cuts into the causes of crime from the interaction between the individual and the society, explains the causal relationship between the primary deviant behavior and the secondary deviant behavior, and holds that the penalty is a “label” for the perpetrator of the crime within the maximum scope of society. As a non-custodial punishment, the community correction system reflects the change of the execution mode of the penalty. Its implementation is based on the label theory. Compared with the traditional prison sentence, it has the effect of diluting the “label” and the implementation of community correction. It is the process of “de-labeling” from the community residents and the community correction objects themselves. The negative reaction of other people in the society to the deviant behavior and the change of the self-image of the perpetrator are two key links in the process of criminal label formation. Therefore, the community correction system should mainly aim at removing the prejudice of the community residents against the community correction offenders and improving the community correction offenders’ recognition of self-worth. And the community correction system should give full play to the influence of lightening the label.

Keywords: Community Correction System, Label Theory, Interaction Relationship, Non-custodial Punishment, “De-Labeling”

1. Introduction

Community correction is the general term of all ways of managing and educating criminals in the community environment. This approach does not isolate criminals from society, but uses social resources to educate criminals. [1] This system originated in western countries and has been gradually popularized and prevalent in western countries since the 1970s and 1980s. In recent years, community correction has become an inevitable trend in China. From 2003, the pilot work of community correction in China began to implement community correction according to law in the *Amendment (VIII) to the criminal Law of the PRC* (People’s Republic of China). Community correction is an alternative to

imprisonment and corrects and educates criminals to return to society. [2] The community correction system has been gradually developed and finally established in China. At present, this system has been extended to the whole country. As a non-custodial execution method, it has an important impact on the transformation of the execution of punishment in China. Undoubtedly, the establishment of any criminal law system is inseparable from its theoretical foundation. In the process of development and perfection, the community correction system has been deeply influenced by many criminal laws and criminological theories. The label theory in criminology provides a powerful theoretical support for the development of community correction systems and promotes the rise of community corrections.

2. Label Theory: Conversion of the Perspective of Criminal Cause Analysis

The label theory in criminology originally originated from an important theory in modern sociology—symbolic interaction theory, also known as symbolic interaction theory. American sociologist H·G·Blumer is a representative of this theory. He believes that human beings create and use symbols to represent the world around them. They can both regard themselves as objects and put any objects in interactive situations. [3] According to the symbolic interaction theory, human actions have social meanings, and interactions between people are mediated by various symbols, that is, by interpreting the meanings contained in the symbols representing the actions of the actors, in this way to achieve interaction.

The symbolic interaction theory is progressively related to the label theory. The latter is more clear in terms of organization, and also uses the former research methods and core concepts. It can be said that the result of further evolution and refinement of the former is the latter. The pioneer of the label theory was the criminologist Frank Tannenbaum, who wrote the label theory in the book *Crime and Society* in 1938 by studying the conflict between teenagers and adults in urban communities." According to his point of view, society is the maker of crime. For those who have deviant behavior, society will react negatively to them. The deviants gradually recognize this negative reaction, and thus recognize that they are criminals and embark on a criminal path. [4] In his book *Crime and Society*, he was pointed out that crime is made by the society, the following is a result of community for adolescents with bad behavior gave negative response, teenagers on the negative response after approval, crime produced in after they have been labeled. [5]

Based on the process of absorbing social labeling, Lemert proposed the general deviation theory in 1951. He believes that criminal behaviors and deviant behaviors originate from various factors in life, including biological factors, psychological factors, social factors and so on, and calls the people involved in criminal behaviors or deviant behaviors "primary deviant actors". Others in society will have a negative reaction to such deviant behavior and will show a tendency to change from a negative reaction to behavior to a negative reaction to the perpetrator. Then some "primary deviant actors" who are unwilling or unable to stop the criminal behavior will accept the negative evaluation of others in some respects and change their self-image according to the evaluation. This change of image is also regarded as a self-protection move. In Limer's theory, these actors who accepted the self-image of the deviant were called "secondary deviant actors", and such actors often devote themselves to the deviant behavior of the routine. At this time, the deviant behavior is no longer caused by various factors in life, but directly caused by the self-image of the actor. [6] Many other scholars believe that many perpetrators do not believe that

they are committing a real crime, they usually adopt various ways to maintain their innocent image. Therefore, it is necessary to exert certain pressure to force the offender to accept his self-image, which depends in part on the number of others who define him as the offender. After the procedure of arresting or prosecuting the perpetrator, it can be officially declared as a criminal in the largest part of society. The process of declaring a person as a criminal is used as a technology of social control. In some respects, the criminal trial is a "social status derogatory ritual". After the actor is labeled as guilty, the social status is greatly reduced. The label also equates to a stigma "branding." [7]

The label theory emerged in the 1930s and formed in the 1960s. It reached its peak in the mid-1970s and quickly became the main theory in the field of criminology. In the present, there are still many controversies in the theory, but many viewpoints have a basically consistent core concept: in the process of people becoming deviant and continuing to implement the deviant behavior, labeling is the key facilitating factor, which is the process of negative evaluation by the authority, family, relatives and friends for those who commit crimes or deviant behaviors. People who violate existing rules may be tagged as deviants. Labeling behavior not only has a certain positive function – the social control, but also has a certain negative function - the criminal effect. Label theory focuses more on the criminal effect of the labeling behavior. Those who are labeled as deviants are rejected and alienated by the society, and the effect of label deviance is long-lasting, deviants are no longer considered to be normal members of the society. [8] The focus of this theory is to explain the reasons for the transition of primary deviant or criminal behavior into secondary deviant or criminal behavior, and to shift the perspective of research from the perpetrator or criminal behavior itself to the social control mechanism, emphasizing that "the occurrence of deviant behavior is not an actor. The reason for itself is not caused by the surrounding social environment, but it is defined by the social environment." [9] From the interaction between the individual and the society, the discussion of the causes of crime is a unique perspective for investigating crime, and to some extent subverts the traditional criminological theory. Label theory reveals that "scientific legislation and rational justice are themselves the basic path to reduce crime and prevent recidivism." Of course, it cannot be ignored that label theory also has its own limitations. It has also been questioned and criticized by some scholars. For example, label theory ignores the subjective process of deviant people and overemphasizes the importance of the official formal labeling process. That is to say, the theory has not paid enough attention to the subject of criminal behavior-criminals, and it has over-emphasized that some behaviors of the outside world have led to crime. [10] In addition, the criminal label is not only a negative negative impact, it bears the important role of deterrence crime, it is obviously unrealistic to completely remove it, and even if the criminal label is removed, it is impossible to truly eliminate the crime. However, label theory has an important enlightening effect on the study of contemporary criminology

theory and the development and improvement of relevant criminal law system, and has a profound impact on the transformation of the way of penalty execution.

3. Community Correction: The Transformation of Penalty Execution Mode

In the 20th century, with the internationalization of criminal non-penalization and non-custodial punishment, Western countries have carried out penal reforms. On the one hand, the penalty structure was becoming lighter, and on the other hand, the types of penalty were changing: social service or public labor and other new types of punishment appeared. In Western countries such as the United Kingdom and the United States, the community correction of this non-custodial sentence is relatively mature, the prison sentence structure is generally "pyramid type", the non-custodial sentence is based on the tower, and the prison sentence only accounts for a small part of the top. In these countries, the penalties of community correction are abundant, the execution procedures and execution agencies are detailed, and the legislation is relatively complete, which provides a strong legal support for the practice of community correction in reality. Community correction can be seen as a non-custodial sentence has received considerable attention.

In recent years, with the continuous promotion of community correction work in China, the effectiveness of correction has been affirmed by all sectors of society. [11] Compared with Western countries, China's community correction system still needs to be improved. There are also many problems in the actual implementation process. At present, although the community correction system in China has been pushed from the pilot to the whole country. However, imprisonment still plays a dominant role in our current penal system, and the application scope of the community correction system is relatively narrow, which is also closely related to the late start of the community correction system in China.

Even so, the achievements of the development of China's community correction system are still worthy of recognition, and progress has been relatively rapid for more than a decade. in the *Amendment (VIII) to the Criminal law of the PRC*, which was passed in February 2011, the community correction system was used as an alternative method of imprisonment. The legal status of community correction was first confirmed by the Criminal Law. And then the Criminal Procedure Law of PRC (2012 Amendment) passed in March 2012, the amendment once again from the procedural law aspects of community correction rules, through these two basic law the provisions of the criminal in our country is no longer just stay in the practice of community correction pilot level, but with a clear legal basis. In addition, the supreme people's court, the supreme people's procuratorate, the ministry of public security and the ministry of justice jointly issued the *Measures for the Implementation of Community Correction* in January 2012, which refined and standardized

community corrections. At present, although the "Community Correction Law" has not been formally promulgated, it has published a draft for comment, which specifies the management system and procedures for community correction, the supervision and management of community corrections personnel, and education assistance.

Whether in the West or in China, the development of community correction systems is inseparable from the relevant criminal or criminological theories that flourish in the context of the times. As an alternative method of execution to imprisonment, compared with the traditional concept of heavy retribution, community correction system more reflects the guiding ideology of punishment aimed at education and reform, and focuses more on correcting criminals and returning them to society. In order to allow the perpetrators to better integrate into the society after the execution of the penalty, it is not excluded by the majority of people in the society. It is necessary to dilute the "label" color of punishment, which is exactly the spirit embodied by the crime labeling theory behind the community correction system. As an important force in safeguarding judicial justice and realizing social democracy and the rule of law, lawyers will play an increasingly important role in promoting social governance innovation and improving governance. [12]

4. "De-labeling" in Community Correction System

As mentioned above, the "crime label" has a great negative guiding effect on the primary deviant or criminal behavior evolved into a secondary deviant or criminal behavior. The process of conviction, sentencing and execution of penalties is to label the perpetrator as "criminal" in the greatest scope of society, which can be said to be the deepest "labeling process". The traditional way of imprisoning imprisonment makes the perpetrator almost completely isolated from the society during the prison sentence, which leads to the "rupture of the connection between the offender and the work, family and normal social life". [13] The public can't really understand the situation of the offender's education and transformation, and it is difficult to feel the correction effect of the penalty on the offender. Therefore, it is difficult to psychologically accept the perpetrator of the sentence. This is the shortcoming of the traditional execution of imprisonment in the psychological correction of the offender and social return. According to the provisions of Article 258 of the Criminal Procedure Law, the community correction system is mainly to change the execution mode of penalty for some criminals who have less personal danger, so as to reduce the labeling effect of the original imprisonment penalty. Of course, even the community correction as a non-custodial sentence is still a kind of punishment execution. It is obviously unrealistic and idealistic to completely achieve the effect of "removing the label". Therefore, it can only be said that the community correction system provides a trend and possibility of "de-labeling" for prisoners. In the process of forming the

criminal label, the negative reaction of other people to deviant behavior and the change of self-image are two key links. The “de-labeling” of community correction also starts from the two aspects of other people in society and the behavior itself. Because the management of the behavior of the community correction system mainly relies on the community environment and the power in the community, the “other people in the society” also mainly refers to the community residents.

4.1. Removing Prejudice of Community Residents Towards Corrected Objects

Even if the primary deviant or offender is engaged in illegal activities, it is reasonable and necessary for the community residents to form a negative evaluation of the illegal behaviors carried out by the corrective objects. But the crux of the problem is that the negative evaluation of behavior is often completely transformed into a negative evaluation of the object of correction, and can not eliminate prejudice. Therefore, how to guide the community residents to form an objective understanding of the correction objects themselves and reduce the rejection of the community correction activities is the key to the “de-labeling” of the community correction system. Article 3, paragraphs 2 and 3 of the *Measures for the Implementation of Community Correction* respectively stipulate: “Social workers and volunteers participate in community corrections under the guidance of the organization of community correctional institutions.” “Related departments, village (residential) committees, Community corrections personnel, school, family members or guardians, guarantors, etc. assist community corrections agencies in community corrections. The purpose of this provision is to mobilize community workers, volunteers, and other relevant departments and personnel to participate in community corrections.” In order to reduce the prejudice of the community residents to correct the object. Only when more community members are truly involved in the community correction work, can the terrain subtly change the objective understanding of the correction object, realize the implementation effect of community correction more profoundly, and break the shackle of “labeling”.

4.2. Enhance the Awareness of Self-worth in Community Correction Objects

“People become what they describe them to be,” Tannenbaum said. [14] According to the label theory, primary deviant actors will change their self-image based on their own negative evaluations, making the self-image more consistent with the “label” of others. To some extent, the change of self-image is a means of self-protection, partly due to the inferiority of the actor, and lacks confidence in reintegrating into normal social life.

According to the relevant provisions of Articles 9, 15 and 16 of the Community Correction Measures, the judicial institute should formulate a personalized correction program for the correction object, pay attention to targeted supervision,

education and assistance, and the correctional object with labor ability has the obligation to participate in community service. This series of activities helps to correct the psychological correction of the subject, promotes its reflection on repentance, and can re-recognize its own value in the process of participating in community service, and alleviate the influence of the negative “label” of others on themselves.

5. Conclusion

Label theory provides theoretical support for the community correction system, and the development of community correction system also confirms the value and significance of label theory. According to the label theory, the “de-labeling” in the community correction system is an inevitable trend. “De-labeling” is a long-term process. In this process, it needs not only the efforts of the community correction offenders themselves, but also the support and help of families, communities, social organizations and social policies. The practice of community corrections is not only to enhance the ability of the offenders, to tap their potential, but also to protect the rights of them to equality with the public. The social adaptation and re-criminal risk of community prisoners are affected by the number of prison sentences, the number of family reunions, and the degree of education; social adaptability has a certain influence on the risk of re-offending, and is an important factor affecting the occurrence of re-offending. [15] It should be noted that the essence of community correction system is penalty punishment measures, and its own punitive is not to be ignored. Even in the current era of advocating “leniency of punishment”, the traditional concept of retribution should not be ignored. Community correction system should not set the ideal goal of completely removing the label, but should dilute the impact of the label, punitive and helpful for the corrective object, and give full play to the community correction as a substitute for non-custodial punishment.

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