

The Practice and Improvement of Criminal Reconciliation in Grassroots People's Courts

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Abstract: The People's Court of District S has been actively exploring the mechanism of criminal reconciliation in public prosecution cases since early 2010, and in the past three years, criminal reconciliation cases have achieved certain legal and social effects, but also revealed some shortcomings and shortcomings in the application of procedures. However, this legislation is unable to meet the realistic needs of criminal judicial practice, especially the grassroots criminal judicial practice, and there are problems of application, mode and limit, etc. In future judicial practice, it is necessary to enhance the operability of the initiation of the procedure, improve the standardization of the conduct of the procedure, increase the possibility of equal application, and establish supporting mechanisms to guarantee the function of reconciliation. In future judicial practice, there is a need to enhance the operation of the procedure, improve the regulation of the procedure, enhance the possibility of equal application, and establish supporting mechanisms to guarantee the full play of the function of reconciliation.

1. Introduction

As early as 1996, Article 172 of China's Criminal Procedure Law already made preliminary provisions on the criminal reconciliation system: "The people's court may conduct mediation in cases of private prosecution; the private prosecutor may reconcile with the defendant himself or withdraw his private prosecution before the verdict is announced. Conciliation shall not apply to the cases specified in Article 170, item 3 of this Law [6]." This provision only applies criminal reconciliation to cases of private criminal prosecution and does not provide for specific procedures for criminal reconciliation. However, in trial practice, the term "criminal settlement" is applied to some of the public prosecution cases. It is not uncommon to see the phenomenon of the victim or his family members obtaining the understanding of the victim or the victim's family through compensation and apology as an important basis for judging the mitigation, reduction or exemption from criminal punishment of the victim and the application of non-custodial sentences, which has been effective in repairing the broken relationship between the victim and the victim and compensating for the victim's economic losses, but has never been legally issued. This not only affects the unity and seriousness of justice, but also affects the enthusiasm of applying criminal

reconciliation everywhere. This time, the Criminal Procedure Law has been overhauled, and "the procedure of public prosecution cases settled by the parties" has been listed as a new content, and criminal reconciliation has been recognized by law for many years, which is of positive significance for regulating judicial practice and ensuring the effectiveness of case processing. However, there are still many differences and conflicts between legislation and trial practice, which brings many inconveniences to trial practice. Therefore, improving China's criminal settlement system has important and far-reaching significance in realizing the realism, convenience and operability of trials, in effectively safeguarding the legitimate rights and interests of the parties, in fully embodying the principles of litigation effectiveness and litigation economy, and in realizing the unity of the legal and social effects of criminal trials[7].

2. The Imperfect Combination of "Legal Effect" and "Social Effect" - an Analysis of the Characteristics of the Practice

Based on the analysis of cases in which the victim has expressed understanding of the perpetrator's criminal conduct and requested leniency for the perpetrator. The analysis is based on cases in which the victim has expressed understanding for the perpetrator's crime and requested leniency for the perpetrator.

As a court in the central urban area of the Economic Zone on the West Coast of the Taiwan Strait, the Siming District People's Court has dared to take the lead and actively explored the mechanism of criminal reconciliation work in public prosecution cases in the trial segment. As early as in early 2010, the court began to explore the reconciliation work in public prosecution criminal cases in the sentencing segment, and its experience and practice in criminal reconciliation trial practice is also typical in the country. (See table 1) From 2010 to the present, the Court has concluded a total of 3,699 criminal cases involving 5,348 persons, and has applied "criminal reconciliation" to 228 cases involving 287 persons, with an application rate of 6.16 percent. (See table 2) Of the 410 criminal cases concluded between 1 January 2013 and April 2013 after the introduction of the new Criminal Procedure Law, 15 cases of "criminal reconciliation" were applied, representing an application rate of 3.66%. However, these 15 cases did not strictly apply the relevant provisions of the new law on criminal reconciliation, and therefore were not "criminal reconciliation" in the true sense [1].

Table 1: Application Rate of "Criminal Reconciliation" from 2010 to 2013

Total Number of Criminal Cases	Number of Criminal Reconciliation	Application Rate
3699	228	6.16%

Table 2: Number and Percentage of Criminal Reconciliation Cases in Different Stages

Investigation Stage	Review and prosecution stage	Trial Stage	Cross-stage
140/41.4%	1/0.4%	84/36.8%	3/1.3%

2.1. Criminal Reconciliation is Mainly at the Investigation and Trial Stages

After a crime has been committed, both parties show a strong willingness to reconcile, so that most cases are settled before they are accepted by the court. Of the 228 cases in which criminal reconciliation was applied, 140 cases were settled at the investigation stage, accounting for 61.4% of all reconciled cases, 84 cases were settled at the trial stage, accounting for 36.8%, and only one case was settled at the examination and prosecution stage, while another three cases were settled across the investigation and examination and prosecution stages and finally at the trial stage. The other three cases were settled at the trial stage after crossing the investigation and prosecution stages. However, the main task of the investigation stage is to collect evidence of crime, identify the

facts of crime and apprehend suspects, and if criminal settlement is carried out too early in the investigation stage it will relax the pursuit of solving cases and lose the incentive to protect the property rights and interests of the state and others [10]. The purpose of criminal reconciliation is to save judicial resources, improve judicial efficiency and maintain social stability, and all this must be based on lawfulness, and if the content of the reconciliation is illegal, it undermines the seriousness of the law and runs counter to the legislative purpose. The amendment to the Criminal Procedure Law is a strict legal regulation of this right of the public security organs, which means that the courts will take on the function of criminal reconciliation more often in the future.

2.2. Third-party Intervention and Mediation as the Main Mode

First, after the parties reach an agreement on compensation, the victim issues a letter of understanding or expresses understanding in court; second, the victim expresses understanding after mediation by the trial judge; third, "acquaintances". After the intervention and mediation, the victim issues a letter of understanding or the parties reach a settlement agreement [3]. Due to the existence of antagonism, revenge psychology, and conflict of interest, the success rate of reconciliation between the two parties is low, therefore, the intervention of a third party plays an important role in the successful conclusion of criminal reconciliation. The presence of a neutral third party, who can witness and supervise the involuntariness and legality of the settlement, will reduce the possibility of any party committing immoral acts, and also reduce the possibility of a party backtracking on the basis of being involuntary or deceived. 228 cases in which the victim's friends, relatives, units, etc. appeared instead of the victim, communicated, negotiated, paid compensation, apologized and obtained understanding with the victim 159 cases, accounting for 69.73% of all cases (see table 3).

Table 3: Forms and Number of Settlement

Forms of Settlement	Judicial mediation	Third-party mediation	Self-settlement
Number	66	159	3

2.3. Economic Compensation is the Most Important Means to Reach Criminal Settlement

Economic compensation accounts for the absolute number of criminal settlements, up to 209 cases, accounting for 91.67% of all cases; there are 4 cases, accounting for 1.75%, in which the victim is also the aggressor and the two sides express mutual understanding, 5 cases, accounting for 2.19%; 3 cases, accounting for 1.31%, in which the aggressor obtained understanding after apologizing. In addition, 7 cases (3.07%), the victim did not disclose the reason for understanding the perpetrator (see table 4). Economic compensation can make up for the material losses caused by the crime, solve the real difficulties of the victim, and also play a role in spiritual comfort to a certain extent, but in fact, the realization of economic compensation is only the most superficial function of criminal reconciliation, in the long run, the spiritual and emotional communication between the victim and the victim, and the fundamental resolution of the conflict between the two sides in the psychological sense is the ultimate purpose pursued by the criminal reconciliation system[15].

Table 4: Number and proportion of economic compensation methods

Non-immediate Performance	Mutual Understanding	Understanding by Apologizing	No reason Disclosed
4/1.75%	5/2.19%	3/1.31%	7/3.07%

2.4. Minor Crimes or Minor Crimes as the Main Scope of Application

Since the law does not explicitly provide for criminal reconciliation in public prosecution cases, the practice departments dare not break through the legal provisions, therefore, criminal reconciliation cases are generally selected for minor crimes between private prosecution and public prosecution (the most typical case is a minor injury case) or civil disputes arising from chance, and the majority of minor crimes or minor criminal cases are sentenced to probation at the trial stage, and a few felony cases are settled with lighter sentences. Among the 228 cases, only 44 cases, or 19.3%, had statutory minimum sentences of three years or more in prison. As for the charges, they were mainly distributed in the second, third, fourth, fifth and sixth chapters of the Criminal Law, focusing on intentional injury, dangerous driving, traffic collision, rape, provocation and nuisance, etc. Among them, 22 cases of negligence (including 20 cases of traffic collision and 2 cases of negligent causing serious injury), 206 cases of intentional crime, and mainly cases of intentional minor injury, and the rest mainly involved dangerous driving, provocation and nuisance, and The rest were mainly related to crimes such as dangerous driving, provocation, mobbing and assault (see table 5).

Table 5: Distribution of intentional crime cases

Intentional Injury	Dangerous Driving	Rape	Provocation & Disorder	Theft	Others
103	22	17	16	8	40

3. "To the Left" or "To the Right" Is not a Simple Choice - The Practice of Controversy to Explores

Since January 1, 2013, five months since the implementation of the new Criminal Procedure Law, the aforementioned analysis of the 15 cases using "trial of criminal reconciliation ", not strictly apply the new law on the relevant provisions of criminal reconciliation, so not really in the sense of "criminal reconciliation procedures [4]. Therefore, they are not really cases tried by "criminal settlement procedures. Why is this so? Although the new Criminal Procedure Law and the subsequent interpretation of the criminal procedure has established for us the conditions of application of criminal reconciliation, the scope of cases and other standard procedural provisions, but these provisions relative to the colorful judicial practice, or not specific enough, in practice we still encountered a lot of problems, the application of criminal reconciliation procedures there are still many controversies.

3.1. The Issue of Whether Criminal Settlement Procedures can be Initiated - the Issue of Application

3.1.1. The Problem of Unclear Conditions and Narrow Scope of Application

According to paragraph 1 of Article 277 of the Criminal Procedure Law, the prerequisite for the application of criminal reconciliation is "arising from a civil dispute", but "civil dispute" is not the same as "civil dispute". However, "civil dispute" is not the same as "civil dispute", and there is no clear definition of it in China's legislation, so "civil dispute" does not belong to the criminal law term, and its specific connotation and scope are uncertain, and there are different interpretations in practice. One view is that the provision is intended to give some "specific civil disputes arising from the behavior" to the opportunity to settle, because there is not a precise word to describe this "specific civil disputes" so the legislator called it "civil disputes The specificity of this kind of behavior lies in the fact that the lawmakers call it "civil dispute" because there is no precise term to

describe this "specific civil dispute". The specificity of the act is that the purpose of the act is not to commit a criminal offense but to resolve a civil dispute. Another viewpoint further distinguishes between "civil disputes" and "civil disputes", which is that if the violation of personal rights, personality rights and property rights arising from civil disputes are included in the scope of criminal settlement, the scope is too broad and dangerous. This view is that if the scope of criminal reconciliation can be applied to violations of personal rights, personality rights and property rights arising from civil disputes, the scope will be too wide and dangerous. Therefore, we only need to set a reasonable limit on the basis of civil disputes, and the limit should be set to civil disputes that occur when there is some factual connection between the parties, such factual connection includes blood connection, geographical connection, life connection, etc. The third viewpoint defines "civil disputes" as civil disputes with less influence from the perspective of social protection function of criminal law [5]. Different interpretations determine the different scope of application of criminal reconciliation procedures in China. Therefore, the clarification of the concept of "civil dispute" is of great practical significance and practical urgency.

In reality, there are some cases of serious injury or death caused by intentional injury. In such cases, if there are no mitigating circumstances such as surrender or accessory, the defendant may be sentenced to more than three years or even more than ten years in prison or more. However, in this type of cases, the victims and their families are more willing to receive compensation, especially those who are disabled as a result, and their subsequent lives are in great need of corresponding material security. As a result, there is a desire between the parties to take what they need through the criminal settlement process, but unfortunately, this is not allowed under the provisions of the Criminal Procedure Law. Second, there are crimes outside of Chapter 4 and 5 that require criminal settlement. For example, in the case of intentional crimes such as dangerous driving, the only difference between the latter and traffic accidents is that the damage is more serious, which makes it unreasonable to apply criminal reconciliation to felonies but not to misdemeanors. For example, the same problem exists when the crime of picking quarrels and provoking trouble and the crime of mob fighting are compared with the crime of intentional injury, the current two crimes caused by the injury does not reach more than serious injury is still punished by committing the two crimes, not applicable to criminal reconciliation; but when caused more than serious injury, it should be punished by the crime of intentional injury, but can be applied. Again, the Criminal Procedure Law, Article 277, paragraph 3, "if the suspect or defendant has intentionally committed a crime within five years, the procedures set forth in this chapter shall not apply", whether the intentional crime has been adjudicated, and whether the five-year period includes the period of serving a sentence, there are different understandings in practice[14]. If the crime is recognized as a crime without a court judgment, it is contrary to the principle of "crime and punishment". If a court decision is required, the question arises as to whether the five-year period is interrupted by the serving of a sentence. If it is not interrupted, it will result in the phenomenon that criminal reconciliation cannot be applied to lesser crimes, while reconciliation can be applied to more serious crimes.

3.2. The Question of how to Initiate Criminal Settlement Procedures - the Question of Mode

3.2.1. The Problem of Initiation Mode

Article 278 of the Criminal Procedure Law affirms the mode of self-reconciliation of the parties, but the reality is that, according to the current law, the victim cannot meet with the suspect or defendant in custody, and the victimizer and the victim lack effective communication channels, and most of them are still in an antagonistic state and lack mutual trust. Even though both parties have the will to reconcile, they are unable to reach agreement through effective communication. As victims, they certainly hope to obtain more compensation; as defendants, they inevitably have such

misgivings: when the judiciary has not yet intervened, if they readily agree to pay the amount of compensation, whether the judiciary recognizes it, and whether they will end up with a double loss? Therefore, in practice, most of the parties have the will to reconcile, but due to a variety of concerns and has not reached the "Criminal Procedure Law" of the "parties to reconcile the" situation. This has brought us some confusion in practice. In the parties have not filed a formal application and both expressed a willingness to reconcile or when only one party has a willingness to reconcile, the judicial authorities can or should take the initiative to propose to the parties to reconcile? As mentioned earlier, there is no corresponding incentive mechanism for the social effect of reconciliation, and judges are not motivated to apply criminal reconciliation, and few judges are willing to take the initiative to suggest to the parties to apply criminal reconciliation procedures in the absence of mandatory provisions in the law [11].

3.2.2. The Court's Role in the Positioning of the Problem

Look at the provisions of Article 278: "the parties to the settlement, the public security organs, people's procuratorates, people's courts should listen to the parties and other relevant personnel, the voluntary nature of the settlement, the legality of the review, and preside over the production of the settlement agreement." This provision only clarifies that the court can preside over the production of the settlement agreement, and does not express whether the court can take the initiative to facilitate the reconciliation of the victim and the victimizer, or at the request of the parties to facilitate the reconciliation. So, in the practice of the operation of the criminal settlement system, the court can take the initiative to facilitate the parties to reach a settlement? There is a view that the people's court should not preside over mediation, the reason is: the lack of neutrality of the people's court will make the voluntary nature of the settlement agreement is questioned, especially when the victim has reached a settlement agreement with the victimizer and backtracked, will make its work into a passive situation; secondly, in practice, if the settlement agreement is not reached in the end, generally still by the case officer presiding over the mediation continue to deal with the case, this This practice will affect the fairness of the litigation, and will also make the parties distrustful and resistant to the outcome [8].

3.2.3. The Problem of Operation Mode

After the criminal settlement procedure is initiated, according to the provisions of the Criminal Procedure Law, the people's court may invite people's mediators, defenders, litigation agents, relatives and friends of the parties to participate in facilitating the settlement between the parties. "As far as the formation of a consensual agreement is concerned, it is only truly reasonable if the meaning of the parties permeates all aspects of the settlement process and outcome [2]. Therefore, criminal settlement should, in principle, be conducted with the direct participation of both parties. However, due to various objective and subjective conditions, some parties cannot be present in person or cannot actually participate in the settlement process, and in this case, the settlement can be conducted directly by other participants. In practice, the intervention of social forces is very important to criminal reconciliation, especially in cases where the conflict is relatively aggravated, without the intervention and facilitation of some civil society forces, it is difficult to reach the result of reconciliation.

3.3. The Question of Whether Criminal Settlement Should have a Bottom Line - the Question of Limits

3.3.1. Limits of the Parties' Right to Dispose in Criminal Settlement

Since a criminal settlement agreement is a contract between two parties, the parties' right to dispose of it should be respected by the law. However, should there be any limitation on such right of disposal? In the criminal settlement, the victim and the victimizer are the game in the game, as a rational economic person, both are aiming at maximizing their own interests, the victim's position in the criminal settlement game and the initial psychological expectation often lead to their roaming price, and the different economic ability of the defendant may lead to the difference of several times of compensation, and the extreme even appeared in the case of minor injury compensation far more than the death. In addition, in practice, there is the phenomenon of the victim being threatened by the perpetrator and coerced into making a settlement at a very low cost. Although the settlement in criminal proceedings is based on the consent of the parties, this consent needs to be reviewed and approved by the state public authority and has the effect of not pursuing or reducing the penalty and other public law effects, therefore, how the judicial authority presides over or supervises the criminal settlement is the focal point of the limits of the parties' disposition.

3.3.2. Limits of Penalty Leniency in Criminal Settlements

Should the amount of compensation be proportional to the level of leniency? Should a set of quantitative standards for compensation be developed as in the case of sentencing standardization? But if so, the rich may be able to pay more money to compensate and thus receive a more lenient punishment, while the poor may not be able to pay or underpay compensation to receive similar lenient punishment, which may cause inequality in the application of the law. From this point of view, it has violated the "principle of equality in the application of law". However, "if we pursue absolute equality in penalties without distinction, it may lead to de facto inequality. So, how to avoid this misinterpretation and the problems that arise in operation? The author believes that the courts should still guide and regulate the limits of compensation in criminal settlements, which depends on further improvement of the procedures.

4. The Public Expectation of "Fairness" and "Justice"-Practice Demand Response

4.1 Enhance the Operability of the Procedure

(1) Clarification of the Scope of Application

The three views on "civil disputes" in academic circles all have their own advantages and shortcomings. However, the common feature is that none of them has found a clear standard to define "civil disputes". In the trial practice, the scope of civil disputes has not been specifically defined, but has been expanding with the social development. In order to fundamentally solve the problem, the legislator must choose the most realistic definition among various doctrines according to his own legislative intent. In the author's opinion, before the legislation clearly defines "civil disputes", the trial practice can define "civil disputes" by referring to "civil disputes", which have certain similarities. From the word meaning, "civil disputes" means disputes arising from the daily life of the people, and civil disputes also include disputes arising from the daily life of natural persons, which has certain reference value for the definition of "civil disputes". Of course, I do not agree that "civil dispute" is equivalent to "civil dispute", but is only an expedient measure to temporarily unify the application standard of criminal settlement.

(2) Further expansion of the Scope of Application

Before the legislation is clarified, cases of intentional crimes in the fourth and fifth chapters of the Criminal Law that have a statutory minimum sentence of three years of imprisonment or more but may be sentenced to three years of imprisonment in combination with other criminal circumstances should be included in the scope of application of criminal reconciliation. With reference to the provisions of the Criminal Law on recidivism, the provisions of Article 277 of the Criminal Procedure Law should be interpreted in terms of the "time of release from prison" rather than the time of the crime: if a suspect or defendant has intentionally committed a crime within five years, the procedures stipulated in this chapter shall not apply. Thus resolving the confusion that felonies are applicable while misdemeanors are not. However, it should also refer to the spirit of legislation that does not count crimes committed by minors as recidivism, and does not restrict the application of criminal reconciliation procedures to perpetrators who were minors at the time of the crime.

(3) Improvements to the Mechanism for the Commencement of Proceedings

First, the notification procedure should be improved. When a judicial authority accepts a case and finds that it meets the conditions for reconciliation, it should, when informing the parties of their procedural rights, also inform them of their right to criminal reconciliation and of the way in which the case will be handled after reconciliation. Second, the establishment of the parties to the application process to start the mechanism. After the judicial authorities fulfill their obligation to inform, the parties and their legal representatives can submit a written application for criminal reconciliation, for both sides to settle the intention is clear, the differences are not large, the two sides can be reconciled, or by other mutually recognized third person to host mediation. Third, the establishment of criminal settlement hearing procedures. In accordance with the provisions of the Criminal Procedure Law, the parties to the settlement, the people's court has an investigation and verification procedures: the parties and other relevant personnel should be heard, the voluntariness of the settlement, the legality and the defendant's personal danger to review. For this procedure may be conducted in a manner similar to a hearing.

4.2. Sound Procedures to Carry Out the Normative

(1) Limitation of the Amount of Compensation

In practice, the judicial organs can not be mandatory norms to limit the criminal settlement of the parties to the amount of financial compensation agreement, which is contrary to the "principle of self-government". However, the author believes that it is still possible to determine the compensation reference standard for some common cases on the basis of empirical analysis, taking into full consideration the victim's claim, according to the economic income of the local population, as well as the summary of previous trial experience. At the same time, both parties should be guided to conduct rational consultations and strive to reach a common agreement on criminal settlement. On the other hand, the review of the voluntariness of settlement agreements should be made substantive, normalized and standardized. The standard of compensation should consider three issues, one is the actual cost required to repair the social relationship damaged by the crime, the amount of compensation should be no less than the actual material loss suffered by the victim; the second is the necessary severity of the punishment of crime, requiring the payment of financial compensation must allow the victim to feel enough pain; the third is the actual financial capacity of the victim. The amount of compensation that may be applied in a specific case can be determined flexibly within the standard range according to the income status of the victim, and for the part of the compensation that is insufficient within the economic affordability, the victim can be considered to be replaced by giving certain acts of labor.

(2) Issue Lenient Sentencing Operation Rules

Criminal reconciliation cases on the leniency of criminal responsibility, mitigation, must be based on the current legal rules of conviction and sentencing, not only to consider the nature of the crime, the seriousness of the crime, the amount of compensation, the reason for understanding and the degree of repentance, but also according to the development of the social situation, fully consider the social security situation, the people's sense of security and the actual need to punish crime. Therefore, the courts can strengthen their communication with public security and procuratorates. Through the "three-step" sentencing method, which combines qualitative and quantitative analysis, they have standardized the methods and steps for leniency, and introduced operational rules to regulate the extent of leniency in sentencing. At the same time, a system of sentencing recommendations from procuratorial authorities should be introduced, so that a fair and balanced approach to sentencing can be better realized through reform of sentencing methods and procedures. Procedurally, it will better reflect the openness and transparency of sentencing and safeguard the fairness and justice of criminal reconciliation.

4.3. Improving the Possibility of Equal Application

4.3.1 Giving Certain Certain Certainty to the Settlement Agreement to Ensure the Performance of the Settlement Agreement

In order to ensure the social effect of the application of criminal settlement, with the consent of the victim, the victim with specific economic difficulties should be allowed to reach a settlement agreement by using non-immediate performance methods such as performing in installments and providing guarantees, so as to achieve the purpose of equal application of criminal settlement. For the civil compensation part of the criminal settlement, if the victim does not perform on time, the victim should be given the right to apply for enforcement of the settlement agreement and to pursue the liability of the relevant guarantor. The criminal part, because of the victim's compensation and the outcome of the criminal verdict there is a certain correlation, how to make the subjective and objective reasons and "default" of the victim in the criminal aspects of the corresponding adverse consequences, is a major problem before making a criminal verdict. The author believes that the two aspects can be dealt with: first, in sentencing, for the use of non-immediate performance should be appropriately narrow the range of leniency, and strict non-custodial sentences, a single additional sentence and exemption from the application of criminal penalties; second, in the implementation of the sentence, the performance of probation into the content of the investigation or in the reduction of sentence, parole to be restricted.

4.3.2. Establishment of the "State Assistance System for Criminal Victims"

After the 1960s, most European and American countries, based on the consideration of criminal policy, have established the state compensation system for the victims of crimes, in which the state, which originally has the responsibility to protect the nationals, compensates the victims instead of the perpetrators. The state compensation system is an institutional guarantee to fully compensate the interests of victims damaged by crime, and an effective measure to dissolve the conflict of interests and emotional confrontation between victims and perpetrators [9].The author believes that a corresponding victim relief mechanism can be established, that is, the county level or above (including) the government to set up special relief funds, as long as the victim meets the corresponding conditions can apply for the state special financial payment, at the same time, the victim and the public authorities to sign a guarantee agreement, the victim through the future in the community service or other work in the remuneration of the monthly repayment of the state financial settlement process to provide financial assistance. If the perpetrator fails to meet the

repayment obligation as agreed, the public authority has the right to re-initiate the relevant penalty procedure. In this way, the financial factor is excluded from the application of criminal reconciliation, which places greater emphasis on the victim's mental rehabilitation and the restoration of social relations.

4.4. Guarantee the Full Play of the Reconciliation Function

4.4.1. Broadening the Sources of Mediation Professionals

There are various sources of professional mediators in Western countries. By personnel from educational institutions, such as Belgium and the UK; by voluntary social institutions, personnel, such as New Zealand and Canada; by community workers, community volunteers or volunteer psychologists, such as the United States [13]. For criminal cases eligible for reconciliation such as those in which the parties have difficulties in reconciling on their own, if the parties apply for reconciliation, the judicial authorities may guide the parties to entrust a professional to mediate, in addition to mediation conducted by a third party approved by both parties, unless the parties clearly indicate that they do not accept; after the professional accepts the entrustment, the judicial authorities shall provide him/her with the necessary information about the case and propose a specific time limit for handling the case in conjunction with the requirements of Reconciliation time limit; mediators should be the victim's family background, economic situation, usual performance and other basic information after a comprehensive investigation within a limited period of time to organize the parties to reconcile; the parties reached a criminal settlement agreement, should be made "criminal reconciliation mediation" together with the relevant materials and transferred to the court and the court is responsible for the content of the agreement and the voluntary nature, authenticity, legality and the reasonableness of the amount of compensation The court is responsible for reviewing the content and voluntariness of the agreement, authenticity, legality and reasonableness of the amount of compensation, and presiding over the production of the settlement agreement.

4.4.2. Establishment of the Correctional System after Criminal Reconciliation

On July 10, 2003, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice issued the Notice on the Pilot Work of Community Correction, and on May 9, 2004, the Ministry of Justice issued the Interim Measures for Community Correction Work of Judicial Administrative Organs, which pointed out the direction for China's community correction work. The author believes that the existing community correction system can be combined to explore the establishment of a post-criminal reconciliation correctional system to effectively carry out the correctional work for both the victimizer and the victim. The help and education of the victim mainly includes: (1) seeking the understanding, approval and supervision of the implementation of the settlement agreement by the victim's family, friends and community members; (2) providing services including mental health, youth development, and providing opportunities for education and employment in association with many community service agencies; (3) conducting the realistic performance of the victim according to his or her compliance with the law, study, participation in public work and compliance with correctional regulations Regular assessment. The main components of victim support include: (1) seeking the understanding and approval of the victim's family, friends, community members, and others for the settlement agreement; (2) providing mental health and other resources to the victim and their primary supporters; and (3) bringing the victim's family, friends, community members, and others to the criminal settlement program and to other victims.

5. Conclusions

"From the point of view of the individual and society, questions of justice are always intertwined with considerations about utility, and with the effects of normative institutions" [12]. A criminal law with a cold and majestic face may result in a lose-lose situation for both sides of the dispute because it is too rigid, and justice in this sense may not be truly convinced by the specific parties. Simple justice may not be so high and mighty, a result acceptable to all parties to the dispute on a case-by-case basis may be the justice that people are looking forward to. Justice, to carry forward the heart of the people, the spirit of public opinion, to solve the people's problems, to truly understand the people's desire for peace, harmony and litigation-free. We certainly have enough expectations for the criminal reconciliation system, but we also need to be soberly aware of the practical difficulties that it may encounter in the process of operation. Only when we remain calm and rational enough, we can accept the contrast between what is and what should be, and we can do some more practical work to reduce this contrast, which is obviously more meaningful.

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