

Judicial Dilemma and Improvement Path of Non-Prosecution or Non-Penalization for Cult Crimes — A Perspective on Article 9, Paragraph 1 of the Judicial Interpretation on Cult Crimes

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Abstract. Through judicial interpretation, China has established a legal basis for the non-prosecution or non-penalization of cult crimes. This is a systemic arrangement based on the particularity of cult crime governance, with rational applicability and in line with the governance logic of belief-based crimes. However, due to the sensitivity of cult crimes, judicial authorities still prefer strict control over the extent of sentencing concessions for individuals with potential criminal liability. Being prosecuted has become the mainstream in current judicial practice, which is related to cognitive biases among judicial personnel regarding cult crimes, the low application standards for non-prosecution or non-penalization, and insufficient institutional supply. It is necessary to improve the top-level design, raise the application standards, establish evaluation mechanisms, and explore cooperation in education and transformation to optimize the non-prosecution or non-penalization work for cult crimes.

Keywords: cult crimes, non-prosecution or non-penalization, incentives, evaluation, education and transformation

1. Issue Raised

On January 25, 2017, the Supreme People's Court and the Supreme People's Procuratorate promulgated the "Interpretation on Several Issues Concerning the Application of Law in Handling Criminal Cases of Organizing and Utilizing Evil Cult Organizations to Undermine Law Enforcement" (hereinafter referred to as the Judicial Interpretation on Cult Crimes). Article 9, Paragraph 1 of the Interpretation states: "Where an organization or individual utilizes evil cult organizations to undermine the implementation of state laws and administrative regulations, and meets the circumstances specified in Article 4 of this Interpretation, if the offender sincerely repents and unequivocally expresses withdrawal from the evil cult organization and undertaking no further cult activities, the case may be not prosecuted or the criminal punishment may be exempted." This provision reflects the judicial policy of allowing cult crime offenders to obtain exemption from criminal penalties by renouncing their involvement with cult organizations. This is consistent with the principle of "uniting to educate and salvage the vast majority while cracking down on a very small number" in the anti-cult struggle, which conforms to the inherent requirements of China's new era anti-cult work. However, in practice, due to the long-term and repetitive nature of cult members' "education and transformation" work [1], especially out of concern that cult members may not truly achieve separation from the cult organization after not being prosecuted or exempted from criminal penalties, judicial personnel remain cautious in applying this provision.

The author found through the Case Law Network [2] that in more than 400 first-instance cases judged by the courts for the crime of organizing, using Huidaomen, cult organizations, and using superstition to undermine law enforcement, there were 83 second-instance cases, none of which were exempted from criminal punishment. For example, in a cult case judged in 2018, in this case, the J province S county court found that the defendants, Geng and Zhou, among others, who had been administratively punished for engaging in cult activities within two years, engaged in cult activities again, all of whom constituted the crime of organizing and using cult organizations to undermine law enforcement. During the trial, Geng, Zhou, and the other defendants all pleaded guilty, expressed sincere remorse, and explicitly stated their willingness to withdraw from the cult organization and no longer engage in cult activities. The court legally determined that the circumstances of the several defendants were relatively minor, sentencing each to detention ranging from 2 to 5 months and suspended their sentences. [3]Setting aside the legal effects of whether the case can be exempted from criminal punishment and the suspension of detention, this case, as a microcosm of judicial practice, together with many similar cases, reflects the awkward situation in the application of Article 9, Paragraph 1 of the Interpretation

on Several Issues Concerning the Application of Law in Handling Criminal Cases of Organizing, Using Cult Organizations to Undermine Law Enforcement and Other Criminal Acts. Due to the sensitivity and political nature of cult crimes, although the conditions stipulated in the judicial interpretation for not prosecuting or exempting from criminal punishment have been met, judicial organs may still refuse to apply this provision and instead sentence cult members to probation.

2. Nature, Logic, and Specificity of Cult Crimes

While different countries may have different definitions of cult crimes, within the context of China, the profile of cult criminal behavior is relatively clear. Analyzing the essence and logic of cult crimes is conducive to our accurate understanding of this long-standing, complex, and global crime governance issue. Moreover, exploring the specificity of cult crimes can lead us to better crime governance models.

2.1. Essence and Logic of Cult Crimes

According to the Judicial Interpretation on Cult Crimes, a cult organization refers to an “illegal organization that, under the guise of religion, qigong, or other names, deifies and promotes key figures, uses superstition and fallacies to deceive and delude others, develops and controls members, and harms society.” [4] It can be seen that cult organizations mainly use deception and brainwashing methods to deceive and manipulate others through “deification,” “superstition,” “deception,” and “delusion,” thereby engaging in harmful behaviors to society. From this concept, the essence of cult crimes is faith-based, and their logic of crime is to continuously instill a large amount of anti-scientific thinking into the target audience, forming absolute obedience of believers to the cult organization and its leader, which eventually develops into criminal behavior. For example, in the Shandong Zhaoyuan “Almighty God” cult murder case, Zhang, initially introduced to the cult by picking up cult books, met cult member Lv in 2008. Under Lv’s influence, Zhang recruited his parents, sister, and brother into the “Almighty God” organization and relocated the whole family to Zhaoyuan. Eventually, Lv even moved in with Zhang’s family. By May 2014 when the case occurred, Zhang’s entire family was firmly tied to the cult. This typical case reflects the hierarchical control of cults over their followers. From cult members’ exposure to cult ideology to their deep involvement, the control exerted by cults over their followers’ minds is progressive.

2.2. Specificity of Cult Crimes

The genesis of any crime is influenced by both certain social conditions and individual factors. Compared to general crimes, the causes of cult crimes are relatively complex and diverse. Moreover, because cult crimes are faith-based, the difficulty of “transforming” cult members is generally higher, and the methods of governance are more special compared to ordinary crimes. From empirical cases, the specificity of cult crimes manifests in terms of the perpetrators, causes, outcomes, and correction.

Firstly, the perpetrators of cult crimes are mostly female. Unlike general crimes, cult crimes originate from superstition. Those involved in superstitious activities often have ample leisure time, a void in their spiritual world, or expectations of improving their living conditions. Reports indicate that nearly 70% of cult organization members globally were female in 2017. [5] Currently, in China, the average life expectancy of elderly women exceeds that of men, full-time homemakers are predominantly female, and rural left-behind populations and empty-nest elderly are also mostly female. Some of these women are socially disconnected, some have poor living conditions, and some have ample free time. When cult organizations appear in false forms such as square dancing, training classes, employment assistance, and providing “warmth,” these women are easily attracted. The predominance of female cult organization members is closely related to China’s social and historical conditions.

Secondly, the causes of cult crimes are diverse. From the mechanism of cult crime formation, as a faith-based crime, cult crimes have multiple causes, which are reflected in factors such as the perpetrator’s family, psychology, social interaction, and self-awareness. An analysis of the criminal reasons for 160 female cult criminals found that most of these criminals come from rural areas, have low levels of education, poor discernment abilities, narrow social circles, and are deceived into joining cult organizations in adverse social environments, where they are subjected to long-term mental control by cult organizations. [6] In practice, many women, out of hope for the health of family members, wishes for their children’s happiness, or desires for a happy marriage, actively or passively embark on the path of cult crimes. To a certain extent, these cult members are both disruptors of social order and unfortunate “victims.”

Furthermore, the correction of cult members is long-term. During the COVID-19 pandemic, the proliferation of cult rhetoric such as “doomsday prophecies” has been rampant, with cult activities unusually active. Scholars found in 211 publicly available cult crime verdicts from 2020 that the situation where the courts determined the defendants to have “relatively minor circumstances” was the most common. Among the 281 defendants, 211 confessed and repented, with 35.2% of them receiving probation. Moreover, among these probationers, over one-fifth were repeat offenders. “As for cult crime defendants who are repeat offenders, while they may formally admit guilt, they essentially continue to reoffend.” [7] These situations indicate the repetitive nature of faith-based crimes. Even with lenient probationary measures, without a sound community correction system and comprehensive anti-cult mechanisms, the goal of crime control cannot be achieved. Of particular concern is that, amid “population aging” and rural “empty-

nesting,” the elderly have become susceptible to cults. They are more deeply immersed and heavily influenced by mental control, making them harder to rehabilitate. The restraining effect of criminal records on these groups has been significantly weakened.

Finally, cult crimes yield diverse outcomes. Cult crimes exhibit diverse outcomes. This diversity refers to the varying antisocial characteristics exhibited by cult members after being ensnared by cult ideologies. For instance, some zealously propagate cult ideologies, incite others to join, criticize government policies, and disrupt social order. The “Zhang, Zhang Dong, Lv intentional homicide case utilizing cult organizations to undermine law enforcement (Shandong Zhaoyuan ‘Almighty God’ cult murder case)” is a typical example of this. Apart from evolving into violent crimes, some cult members may merely propagate cult ideologies, while others may keep their beliefs to themselves without outward propagation. For example, in County M of Province S, although there haven’t been any cult crime cases in nearly seven years, there are still a considerable number of cult followers under the management of the local public security agencies. Among them, one follower is the mother of a village branch secretary, who has long been engrossed in her faith at home but does not actively propagate it externally.

3. Transition in the Governance of Cult Crimes: From Overcriminalization to “Non-prosecution or Exemption from Criminal Penalties”

Crime governance is the process by which state agencies prevent, combat, and control criminal behavior through a series of measures. Based on media reports and typical anti-cult cases disclosed by the Supreme People’s Court and the Supreme People’s Procuratorate, the current approach of judicial authorities to governance of cult crimes mainly focuses on cracking down on cult members. While effective for cult crimes that seriously disrupt social order, this approach faces a dilemma when dealing with situations where a large and easily misled population of special belief followers cause relatively minor harm: despite investing significant judicial resources to convict and grant probation to cult members, the expected crime control effects are not achieved. “Non-prosecution or exemption from criminal penalties” may be a new governance approach.

3.1. Ineffectiveness of the Punitive Crime Governance Model under Light Sentencing Background

Through laws and regulations such as the Criminal Law of the People’s Republic of China, the Law of the People’s Republic of China on Assembly, Procession and Demonstration, the Law of the People’s Republic of China on Public Security Administration Punishments, the National Security Law of the People’s Republic of China, and the Decision of the Standing Committee of the National People’s Congress on Banning Cult Organizations and Preventing and Punishing Cult Activities, China has basically formed a relatively sound legal system for preventing and punishing cult activities. The governance of cult crimes has entered the track of the rule of law, and timely criminal responsibility is imposed on some cult members who severely disrupt social order, achieving remarkable results in combating cult crimes. However, an overemphasis on combating crimes has led to the governance of cult crimes falling into the misconception of mainly focusing on crime control.

As mentioned earlier, some research data has shown that a considerable number of cult members convicted of having “relatively minor circumstances” continue to engage in cult activities, which aligns with the long-term correctional characteristics of cult members. However, these situations also indicate that those cult cases that were initially upgraded to probationary measures, while consuming judicial resources, have not actually produced effective governance outcomes. In practice, the majority of women and elderly individuals who have mistakenly entered the “wrong path” are affected. A considerable number of them meet the conditions for “non-prosecution or exemption from criminal penalties.” However, after being upgraded to probationary measures, they continue to believe in cults, revealing a malfunctioning punitive governance system. Emphasizing a punitive crime governance model alone, due to its lack of resilience and failure to fully consider the complex causes of cult crimes, performs poorly in salvaging cult members and fails to meet the needs of cult crime governance. It is believed that dealing with cult issues does not mean simply treating cult members as criminals, and governance of cult crimes cannot be achieved solely by prosecuting cult members. With the increasing number of female and elderly cult followers and the changing crime structure, it is necessary to show some tolerance to those “kind and unfortunate” cult members from a judicial perspective. Shifting the direction of criminal justice from punitive to caring, incentivizing, and cooperative justice, increasing the level of judicial leniency and social tolerance, and appropriately “repositioning” criminal law governance in response to changes in criminal phenomena is more appropriate. [8]

3.2. A New Governance Model: “Non-prosecution or Exemption from Criminal Penalties”

Article 1 of the Criminal Law of the People’s Republic of China clearly states that the purpose of criminal law is to punish crimes and protect the people. However, punishing crimes should not and cannot be the primary purpose of criminal law. The main purpose of criminal law should still be grounded in protecting the people because punishing crimes is merely one way to protect them. Protecting the people includes not only safeguarding “the interests of the general public from criminal harm, protecting innocent individuals from criminal prosecution, and ensuring that criminals are not pursued beyond the law” [9], but also protecting the expected benefits granted by the law to criminals that can be handled leniently. Overemphasizing punishment and refusing to apply the provisions of “non-prosecution or exemption from criminal penalties,” and treating individuals who may have committed crimes as criminals, contradicts the purpose of criminal law.

Considering the provisions of Articles 2, 4, and 9 of the judicial interpretation of cult crimes, it is evident that the object referred to in Article 9, Paragraph 1 of this judicial interpretation, which states “may not prosecute or exempt from criminal penalties,” only refers to individuals with minimal social harm, few items produced, disseminated, or held to promote cults, or who have extorted money or caused minimal economic losses. Those cult members with deeper subjective malice, cruel criminal methods, and greater social harm are naturally excluded from the scope of application of this provision. This means that policymakers, considering the special nature of cult crimes and the stage of religious belief of cult members, as well as the consequences of the crimes, have established this provision with the aim of implementing diversionary treatment for cult members, reducing the number of cult members prosecuted, which undoubtedly aligns with the purpose of criminal law. Transitioning from prosecuting to not prosecuting, this change in governance mode not only scientifically adjusts to the structural changes in cult crimes but also holds significant social significance.

One aspect is to implement a balanced approach in criminal justice policy. The National Conference on Political and Legal Work in 2005 clearly stated that “balancing severity with leniency is the basic criminal policy we have formed in the long-term practice of maintaining social order” [10]. As we enter a new era, we emphasize social harmony more than ever. In 2010, the Supreme People’s Court issued the “Opinions on Implementing a Balanced Approach in Criminal Policy,” proposing that for “defendants with relatively minor subjective malice and low personal danger, punishment may be mitigated or exempted according to the law,” emphasizing that the people’s courts should promote the construction of a harmonious society through judicial activism. Against the backdrop of comprehensively promoting the leniency system for pleading guilty and admitting guilt, the Supreme People’s Procuratorate further proposed the concept of proactive prosecutorial justice, emphasizing handling every case with caution and adopting a proactive attitude in judicial prosecution. Due to the deceptive and misleading nature of cults and considering the suitability of punishment, we have to adopt a differentiated approach to cult members. Providing incentives such as non-prosecution or exemption from criminal penalties for first-time offenders, occasional offenders, or those involved in minor crimes among cult members helps ensure the correct implementation of the law and promotes social harmony. This governance model, centered on the people, effectively responds to the substantive demands of the parties involved in a diverse and flexible manner, enabling the general public to feel fairness and justice in a differentiated society.[11]

Another aspect is to meet the needs of grassroots social governance. According to publicly available information, from the 1980s to the present, China has identified 24 cult organizations. [12] In the new era, these cult organizations continue to spread to rural areas, eroding the anti-cult frontlines in rural areas, with rural youth and vulnerable groups becoming key focuses of anti-cult efforts. In 2020, the non-prosecution case of Qiong in E County, S Province, for undermining law enforcement through a cult organization, was selected by the Supreme People’s Procuratorate as a typical case of prosecutorial handling of cult crimes. During the handling of this case, the local procuratorate accurately grasped the core idea of Article 9, Paragraph 1 of the judicial interpretation on cult crimes, deciding to legally not prosecute Qiong, whose crime was minor, who pleaded guilty, expressed remorse, and was willing to withdraw from the cult organization and had the potential for education and transformation. Later, the procuratorate publicly announced the non-prosecution decision in the township where the crime occurred, with the non-prosecuted individual sharing their experience. The procuratorate promptly issued prosecutorial recommendations to relevant departments. This proactive judicial approach, which complements punitive justice, reduces conflicts in the anti-cult struggle, dismantles cult organizations, alleviates rural social contradictions, aids in the education and transformation of cult members, and positively influences the education and transformation of other cult members, significantly enhancing social governance effectiveness.

A third aspect is to promote the restoration of social relations. Cults spread rumors and use anti-humanistic culture to control believers mentally, causing them to deviate from normal social order, abandon common social values, and thus harm individuals and social order. Through searches on the Legal Case Database [13], it can be found that there have been a total of 454 first-instance criminal cases sentenced for crimes of organizing, using, or inciting cults, or using superstition to undermine law enforcement, with an average sentence of 3 years and 6 months. Among them, there were 97 cases sentenced to imprisonment for less than 3 years, accounting for 21.3%, 1 case sentenced to control, and 2 cases sentenced to detention. There were a total of 11 cases sentenced to probation, accounting for 2.42%. This indicates that at least one-fifth of the defendants in open cult crime cases have “relatively minor offenses.” Among these cases, there are many cult members who have committed fewer acts of disturbing social order and have caused less harm. If, under the premise of sincere repentance, relevant departments provide positive restoration measures such as follow-up ideological assistance, regular visits, apology ceremonies, and participation in legal education, and finally judicial organs release the maximum goodwill through “non-prosecution or exemption from criminal penalties,” it can greatly promote the restoration of social relations damaged by criminal acts. Moreover, by applying these incentive legal systems, judicial authorities provide guidance and positive incentives to criminals.

4. Challenges in the Practice of “Non-Prosecution or Exemption from Criminal Penalties” Clause

Both Article 9, Paragraph 1 and Article 9, Paragraph 2, Item 1 of the judicial interpretation of cult crimes require that the actor sincerely repent and clearly express their withdrawal from cult organizations and refrain from engaging in cult activities. However, even if cult members meet the conditions for non-prosecution or exemption from criminal penalties stipulated in Article 9, Paragraph 1, judicial authorities still prefer to apply Article 9, Paragraph 2, Item 1, deeming the circumstances to be minor and granting probation. In the reality where judicial authorities prefer to impose penalties on cult members, it is necessary to further examine the various reasons constraining judicial personnel from applying Article 9, Paragraph 1 of the judicial interpretation of cult crimes.

4.1. Cognitive Bias of Judicial Personnel Towards Cult Crimes

The intention behind not prosecuting or exempting cult members from criminal penalties is commendable. However, in practice, the judiciary still predominantly adopts a stance of conviction and sentencing, leading to difficulties in the continuous and innovative application of Article 9, Paragraph 1 of the judicial interpretation of cult crimes. General Secretary Xi Jinping has emphasized that the key lies in implementing policies after their formulation, stating that issuing a good document is only the first step of a long journey. [14] Only with genuine institutional recognition and confidence can the system effectively ensure implementation. In the process of handling cult crime cases, I have observed that some judicial personnel are biased from the outset, subjectively imagining cult members as “unforgivable” and categorizing them as deserving severe punishment. Some scholars also argue that cult members pose a greater personal danger compared to ordinary people, suggesting that the threshold and starting point for statutory penalties should be lowered when convicting them. [15] In fact, cult crimes not only exhibit characteristics of political crimes but also involve individuals’ mental states and value orientations, representing pathological phenomena in the realm of psychology. [16] Moreover, the vast majority of cult criminals are led astray onto the path of crime by deception, with some criminals not exhibiting overtly political reactionary behaviors. It is necessary to apply the clause of “non-prosecution or exemption from criminal penalties” to those cult criminals with minor offenses. Cognitive bias has become the primary reason why judicial authorities are reluctant to apply Article 9, Paragraph 1 of the judicial interpretation of cult crimes.

4.2. Low Standards for the Application of “Non-Prosecution or Exemption from Criminal Penalties”

One of the prerequisites for judicial authorities to decide not to prosecute or exempt cult members from criminal penalties is that “the actor sincerely repents and clearly expresses their withdrawal from cult organizations and refrains from engaging in cult activities.” The Legislative Affairs Commission of the Standing Committee of the National People’s Congress (NPC) stipulates in “Legislative Technical Norms (Trial) (I)” 12.3 that when a sentence involves two or more parallel relationships, commas should be used between parallel levels with intrinsic connections. This implies that the comma can be synonymously replaced with “and”. Therefore, the correct understanding of this provision should be that it only requires the actor to clearly express to the judicial authorities their withdrawal from cult organizations and cessation of cult activities. The cessation of cult activities does not depend on whether the actor actually takes actions to leave the cult organization. In practice, the judiciary also judges whether the actor has the potential for incentives based on this understanding. [17] However, as mentioned earlier, cults have a recurring nature. Can judicial authorities confidently downgrade the penalties to exemption from punishment based solely on the actor’s written commitment? This is worth pondering.

In contrast to the conditional non-prosecution system for minors, not only does the Criminal Procedure Law stipulate the examination period requirements for applying the conditional non-prosecution system for minors and the obligations that juvenile criminal suspects and defendants should fulfill, but the “Rules of Criminal Procedure of the People’s Procuratorates” also stipulate that procuratorial organs can require juvenile criminal suspects and defendants who are subject to conditional non-prosecution to undergo correction and education. It is precisely the strict application standards that ensure the operability and standardization of the conditional non-prosecution work for minors, making it suitable for extensive promotion. In practice, the significant reduction or exemption from punishment for cult crimes is minimal, and there are fewer cases of non-prosecution. This is closely related to the low application standards. To avoid the hidden risks of cult members returning to their beliefs after being not prosecuted or exempted from criminal penalties, even if they meet the conditions for non-prosecution or exemption from criminal penalties, judicial personnel have no choice but to lean towards prosecuting and sentencing cult members.

4.3. Insufficient Institutional Supply

The level of institutionalization is an important factor restricting the effectiveness of institutional governance, and good policies inevitably require good supporting measures. Although the Supreme People’s Court and the Supreme People’s Procuratorate have provided legal basis for the implementation of “non-prosecution or exemption from criminal penalties” for cult crimes through judicial interpretations, relevant work has stagnated, which is somewhat related to the absence of corresponding judicial supporting systems.

Firstly, there is a lack of evaluation mechanisms. “Evaluation” is an incentive management tool and system that can compel the evaluated to act according to the preset goals of the manager. [18] Cult members’ fervent belief in cults is a result of long-term mental control and group pressure, and this mental illness itself is recurrent. Therefore, determining whether cult members have the potential for “non-prosecution or exemption from criminal penalties” and how effective the transformation is after “non-prosecution or exemption from criminal penalties” requires long-term repeated evaluation. Moreover, through such periodic evaluations, the effect of procedural incentives can also be achieved. However, the incentive guarantee for cult crimes is initially inadequate, as the Supreme People’s Court and the Supreme People’s Procuratorate have not designed corresponding evaluation systems. In sharp contrast, the Supreme People’s Procuratorate, to promote corporate compliance, “widely used a series of substantive and procedural incentive measures such as compliance non-prosecution, compliance leniency recommendations, third-party evaluation mechanisms, and compliance execution linkage,[19]” and established a third-party supervision and evaluation mechanism for corporate compliance with eight departments, deploying efforts to promote corporate compliance. Similarly, the

Supreme People's Procuratorate, to promote conditional non-prosecution for minors, has incorporated the conditional non-prosecution rate into the performance appraisal index and begun to explore the establishment of a bidirectional evaluation mechanism for education and guidance on family education. The work of transforming cult members is long-term and cannot be resolved simply by "exempting from punishment." Exploring multiple cooperative mechanisms, analogous to corporate criminal compliance non-prosecution or conditional non-prosecution systems for minors, it is essential to establish an evaluation mechanism for non-prosecution of cult crimes.

Secondly, there is inadequate collaboration in transformation. The control of cult members during the judicial stage can be divided into public prosecution control and trial control. However, whether it is procuratorial organs or judicial organs, they are still confined to a mechanical judicial mindset of cracking down on cult crimes strictly, and there is no effective positive interaction with party committees, governments, propaganda departments, grassroots organizations, and relevant social groups. [20] In practice, the general control procedures for cult crimes can be divided into three stages. In the first stage, when cult members first encounter cult ideology, grassroots party committees, public security, and township communities take measures to intervene, remove propaganda materials, and control the further erosion of cult ideology through conversion and stabilization measures. In the second stage, when cult members are deeply immersed in cult fallacies, engage in anti-social activities, and pose considerable social dangers, judicial organs begin to intervene and initiate criminal proceedings to punish cult members. In the third stage, after sentencing, in prison, and returning to society, prison management departments, relevant organizations, and social forces continue to carry out education, transformation, and stabilization. If based on the purpose of punitive governance, there is no problem with the operation of these three stages in a closed loop. However, if the work of "non-prosecution or exemption from criminal penalties" is to be carried out, there is a fragmentation phenomenon in the collaboration between judicial organs and other departments and personnel. For example, the educational transformation of cult members by procuratorial organs still remains at the level of individual case visits, coordination, consultation, and reporting. There is insufficient sharing and cooperation of resources with public security and grassroots organizations, delayed initiation of procedures, and decisions not to prosecute may still require a series of processes such as mutual struggle, compromise, and bargaining with other departments. [21] In the trial work of cult crime cases, the courts need to strengthen the participation of transformation experts in the trial, and there is still room for discussion on how to make use of people's jurors.

5. Perfecting the Path of "Non-Prosecution or Exemption from Criminal Penalties" for Cult Crimes

While enhancing innovative legal supply, it is equally important to open up the "meridians" of institutional implementation. Otherwise, innovation that remains at the level of legal texts is meaningless. From a practical perspective, there is still room and necessity for improvement in judicial practices regarding cult crimes. To achieve a reasonable balance between prosecution and exemption from prosecution, it is necessary to use judicial discretion effectively and ensure the coordination of relevant systems.

5.1. Further Perfecting the Top-Level Design

Currently, neither the performance assessment of procuratorial organs nor people's courts can accurately monitor the work of non-prosecution or exemption from criminal penalties for cult crimes at the grassroots level, nor are there corresponding reward or punishment measures arranged. If grassroots judicial organs continue to maintain the judicial logic of "no incidents," it will be difficult to change the current situation of selective justice. Therefore, it is necessary to rely on strong top-level promotion to cultivate the ability of grassroots judicial organs to implement active justice. On one hand, efforts should be made to actively incorporate the core ideas of Article 9 of the Judicial Interpretation on Cult Crimes into the Criminal Law and the Criminal Procedure Law, and implement the judicial policy of "non-prosecution or exemption from criminal penalties" in cult crime governance through legal means, providing higher-level legal support to judicial organs. On the other hand, negative evaluation indicators for cult crime cases with lenient sentences should be established, and superior judicial organs should conduct key reviews of cases involving imprisonment for less than one year and concurrent probation. Furthermore, it is necessary to correctly guide judicial personnel to understand the nature of cult crimes, encourage them to flexibly apply the law, and implement a criminal justice policy of combining severity with leniency.

5.2. Increasing the Standards for Applying "Non-Prosecution or Exemption from Criminal Penalties"

Incentives are a judicial means or tool, not the ultimate goal. Both prosecution and non-prosecution should have their own operational systems, constructed under common yet distinct premises to create a layered judicial system. Therefore, it is necessary to clarify the relationship between Paragraph 1 of Article 9 and the other provisions of this article, and to raise the threshold for applying "non-prosecution or exemption from criminal punishment." The criteria for non-prosecution and exemption from criminal punishment should be explicitly defined as follows: under the conditions specified in Article 4 of the judicial interpretation on cult crimes, the perpetrator must plead guilty and accept punishment, and also actively disengage from the cult. Based on this, on one hand, the potential for the cult member's education and transformation should be assessed. Further provisions can be made on whether there is potential for education and transformation and whether the criteria for non-prosecution or exemption from criminal punishment are met. Firstly, if the possible sentence is relatively severe, such as imprisonment for more than one year,

then the application should be excluded. Secondly, to avoid false promises by the perpetrator to obtain non-prosecution or exemption from criminal punishment, the cult member must exhibit positive behaviors such as publicly declaring their withdrawal from the cult and participating in community anti-cult campaigns. On the other hand, referring to the conditional non-prosecution system, a corresponding relative non-prosecution system for cult crimes can be arranged, setting a probation period and defining the standards for being considered as having disengaged from the cult, along with the related obligations of the individual during the probation period.

5.3. Establishment of a Third-Party Evaluation Mechanism for Cult Crime

As a judicial product, the overall status of “non-prosecution or exemption from criminal penalties” in cult crime cases is currently in a semi-closed state of “self-production and self-sales.” Successful cases of relatively non-prosecution of cult crimes in some areas prove that the neutrality of evaluation institutions and evaluators is the greatest guarantee for the effectiveness of evaluations and the prevention of false transformation of cult members. This provides a good foundation for judicial authorities to explore the establishment of a third-party evaluation mechanism for cult crime cases in collaboration with community correction, mental health centers, social organizations, grassroots organizations, and other institutions. Based on the characteristics of cult members’ transformation, relevant indicators should be designed, a large database of cult crime transformation personnel should be established, and a grading management system for cult members should be implemented. Additionally, it is necessary to dynamically collect information resources of cult members to ensure an accurate grasp of their development trends and characteristics. Furthermore, judicial authorities and relevant organizations should conduct regular follow-up visits and supervision before and after non-prosecution or exemption from criminal penalties.

5.4. Exploring Diversified Cooperation in Transformation

The lack of a transformation cooperation mechanism for “non-prosecution or exemption from criminal penalties” remains only a legal text on paper and lacks any operational effectiveness. Cult member education and transformation involve multiple areas such as psychological correction, ideological education, family assistance, and social assistance, and it is a systemic task involving the Party committee, administration, and judicial authorities. However, judicial personnel are not specialized in transformation work. Therefore, judicial authorities should change the fragmented transformation methods and explore feasible paths for full-process participation in transformation work. A cross-departmental cooperation model with multiple entities participating under the leadership of the Party committee should be established, along with a “Party Committee-Judicial-Administration” linkage before and after non-prosecution or exemption from criminal penalties. Adequate funding should be provided for transformation experts to participate in cult crime governance, and transformation experts should be extensively recruited to enrich the teams of people’s supervisors, hearing officers, and people’s jurors, ensuring the scientific application of “non-prosecution or exemption from criminal penalties” for cult crime cases.

6. Conclusion

Article 9, Paragraph 1 of the Judicial Interpretation on Cult Crimes not only provides discretion for judges and procurators but also demonstrates the openness of the cult crime governance system. However, if this noble intention cannot be implemented, then the greatest role this provision plays is merely to add another zombie provision. Although theoretically, any system is bound to have loopholes or shortcomings in implementation, the application issues of the Judicial Interpretation on Cult Crimes indicate not just a problem with the selection of legal rules but also the abandonment of the substantive values behind legal rules and the problem of judicial ossification. From empirical cases, the problems exposed in the cult crime judicial process involve not only cognitive issues regarding cult crimes but also specific design issues of judicial interpretations. Therefore, to fundamentally solve the problem of the difficulty in applying Article 9, Paragraph 1 of the Judicial Interpretation on Cult Crimes, it is necessary to guide criminal justice with judicial concepts, shape legal systems based on practical problems, continuously explore the governance path of cult crimes in practice, and consistently uphold the concept of rights protection, seeking new paths for cult crime governance.

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