

Research on the Right to Repent in the System of Leniency for Guilty Plea

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Abstract

The right of recusal serves as a remedy enabling the accused to unilaterally negate the legally binding agreement between prosecution and defense, playing a crucial role in the leniency system for guilty pleas. This study examines the right of recusal within this framework, outlining its legal attributes, functional positioning, and institutional coordination. It analyzes three key challenges-institutional flaws, imbalanced negotiation mechanisms, and formalized trial review processes-through three dimensions: rights, power, and procedures. By examining real-world cases, the paper evaluates judicial resource consumption and corrective effectiveness in exercising this right across both minor and major offenses.

Keywords

Leniency System for Guilty Plea; Right of Repentance; Consultative Justice; Abuse of Rights.

1. Introduction

1.1. Research Background and Significance

Article 15 of the Criminal Procedure Law revised in 2018 stipulates: "If a criminal suspect or defendant voluntarily and truthfully confesses to their crimes and is willing to accept punishment, they may be treated leniently according to law." This provision legally established the system of leniency for guilty pleas and penalties for the first time. As an integral part of China's criminal litigation system, the introduction of this mechanism holds significant importance.[1] From the perspective of human rights protection, the system prioritizes the voluntariness of those prosecuted, granting them rights to information, defense, and withdrawal of plea, thereby strengthening human rights safeguards and promoting procedural justice. Regarding judicial efficiency, optimizing resource allocation has become a key focus of judicial reform amid the growing number of criminal cases. The leniency system streamlines trial processes through expedited procedures, summary trials, and simplified ordinary procedures, significantly shortening litigation cycles. This not only alleviates the pressure of "overcrowded courts" but also allows limited judicial resources to be directed toward major, complex, and difficult cases. While voluntary confession and acceptance of punishment form the core of the leniency system, various subjective and objective factors may lead to regret. To address this, the 2019 "Guiding Opinions on Applying the Leniency System for Guilty Pleas and Penalties" (hereinafter referred to as the "Guiding Opinions") explicitly grants the right to withdraw or retract a guilty plea in Part XI, essentially granting the accused the right to retraction. While enhancing judicial efficiency remains one of the goals of the leniency system,

it must never come at the expense of fairness. The right of recusal empowers defendants with procedural options, ensuring the system remains distinct from coercive plea bargaining. This mechanism effectively balances efficiency and justice while avoiding prioritizing efficiency over rights[3]. However, the simplified provisions regarding this right in the "Guiding Opinions" have led to practical challenges. On one hand, insufficient restrictions on exercising this right risk abuse by accused individuals, potentially undermining judicial efficiency. On the other hand, inadequate regulations governing prosecutorial powers and judicial review mechanisms fail to adequately protect accused parties' recusal rights. Building upon the framework of the leniency system for guilty pleas and penalty acceptance, this paper analyzes the shortcomings of the recusal right and proposes multidimensional improvement strategies.

The theoretical value of the topic selection lies in its deepening of the criminal procedural rights system, the theory of value balance and the logic of the plea bargaining system; the practical value is reflected in the precise protection of the rights of the accused, the effective restriction of public power, the reasonable balance between efficiency and justice, and the solution to the problem of institutional connection.

1.2. Research Status

Guo Song argues that the leniency system for guilty pleas cannot directly guarantee the voluntary nature of the accused's plea. The establishment of a right to withdraw as a remedy helps address insincere confessions and balances power with rights, making it a self-determination right rooted in the accused's free will and personal choice.[2] Qin Zongwen contends that the right to withdraw embodies the unity of rights and obligations. As a legally binding agreement resulting from mutual consultation, the written confession typically does not grant the accused this right.[3]

He Jing argues that the current legal provisions regarding the right to withdraw in the leniency system for guilty pleas and penalty acceptance are inadequately restrictive, leading to abuse of this right by defendants and resulting in severe waste of judicial resources.[4] Fan Xueyong et al. analyzed the issue from a motivational perspective, revealing that defendants often exercise the right to withdraw not primarily for legal redress but rather to pursue other potential benefits.[5]

Regarding issues in exercising the right of withdrawal, scholars have proposed improvement approaches from various dimensions. Chen Weidong argues that the exercise of withdrawal rights should be subject to certain restrictions, specifically allowing it only before the first-instance court's judgment, as otherwise it would undermine legal solemnity and the commitment responsibility for plea bargaining.[6] Bian Jianlin maintains that reasonable limitations on withdrawal rights are essential for achieving litigation efficiency, advocating that the accused may only exercise this right when facing involuntary plea bargaining or significant procedural violations with evident errors. [7]Chen Yilun explores two dimensions of restricting the accused's withdrawal rights: emphasizing the need for clear and legitimate grounds for exercising withdrawal rights; second, categorizing withdrawal reasons into statutory grounds such as involuntary consent, lack of effective legal assistance from duty lawyers, and new factual/evidentiary developments.[8]

According to the results of literature review, domestic research focuses on the legal basis, practical problems and improvement paths of the right of retraction, but lacks systematic empirical analysis on the abuse and restriction of the right of retraction. The selected topic can make up for the current shortcomings of research and promote the in-depth development of related research.

2. Chapter II the Legal Basis of the Right to Repent in the Leniency System for Guilty Pleas

2.1. Legal Attributes of the Right of Retraction

The legal nature of the right to retraction in the leniency system for guilty pleas can be interpreted from two dimensions: procedural rights and remedial rights. From a procedural perspective, the right to retraction refers to the defendant's unilateral revocation of mutual agreement during negotiation or after signing a plea bargain, which is essentially a formative right. Article 39 of the "Guiding Opinions" stipulates: "If a defendant voluntarily waives their right to plead guilty and accept punishment, or later retracts the agreement, the case shall be retried according to ordinary procedures when legally required." In other words, the defendant can unilaterally revoke the agreement without needing approval from investigative or prosecutorial authorities. As a procedural right, exercising this right not only invalidates the guilty plea agreement and converts the case into an ordinary one, but also indirectly affects subsequent evidence review and judicial discretion. Regarding remedial rights, the introduction of the leniency system has increased risks for investigative and prosecutorial agencies to coerce defendants through this mechanism. The right to retraction serves as a corrective remedy for involuntary confessions, evidentiary flaws, and procedural violations, effectively addressing power imbalance between public authority and defendants' rights during negotiations. Taking involuntary confessions as an example, the "Guiding Opinions" require voluntary consent for guilty pleas. If threats, inducements, deception, or cognitive errors exist in the defendant's plea process, exercising the right to retraction can achieve remedial purposes and prevent coerced admissions.

2.2. The Functional Orientation of the Right to Regret

As a crucial component of the leniency system for guilty pleas and plea bargaining, the right to retract a guilty plea was established with dual objectives: safeguarding rights and ensuring judicial balance. From the perspective of rights protection, simplifying procedures and enhancing judicial efficiency were key purposes of this system. Without a right to retract as a remedy mechanism, defendants might be compelled to accept unfair agreements during investigation or prosecution stages-such as admitting fabricated charges under coercion-thereby transforming the leniency system into a tool for forced confessions. Regarding judicial balance, under the current legal framework, prosecutors' sentencing recommendations significantly influence final verdicts, while defendants' guilty pleas serve as primary grounds for these recommendations. The inclusion of a right to retract compels prosecutors to strictly adhere to the "solid and sufficient evidence" standard during negotiations, thereby constraining prosecutorial power. Additionally, Article 39 of the Judicial Guidelines stipulates that "judges shall verify the voluntariness and authenticity of defendants' guilty pleas, confirming whether they committed crimes and demonstrated genuine remorse." This shifts judicial review from formal compliance to substantive examination, promoting the return of judicial authority to its core role in adjudication.

2.3. Connection between the Right of Retraction and Related Systems

Article 227 of the Criminal Procedure Law stipulates that a defendant dissatisfied with a first-instance judgment has the right to appeal. While both the right to appeal and the right to retract a guilty plea are remedial rights, they differ in application. The right to retract applies exclusively to defendants in criminal cases, whereas the right to appeal is broader, extending to private prosecutors, private plaintiffs, and legal representatives of defendants. The right to retract can be exercised throughout the criminal proceedings-including investigation, prosecution review, and trial stages-while the right to appeal is limited to post-first-instance judgments. The right to retract can be exercised against investigative authorities, prosecutorial

agencies, or judicial bodies without hierarchical restrictions, whereas the right to appeal is restricted to higher-level judicial authorities. As Yan Zhaohua noted: "Retraction refers to the motive behind accepting guilt and punishment after such acceptance, while the latter represents its result and manifestation." [9] In terms of institutional coordination, if a defendant does not retract during the first instance and the court adopts the sentencing recommendation, the defendant may still appeal, provided it meets the requirement of "no justifiable grounds for appeal." The standardized implementation of the leniency system for guilty pleas depends on effective duty lawyers. If duty lawyers fail to fulfill their defense obligations, leading to involuntary guilty pleas, the right to retract serves as a remedy for invalid defense. Upon court confirmation of the lawyer's negligence, the original plea agreement shall be deemed invalid, and the case shall revert to ordinary procedures.

3. The Practical Dilemma and Cause of the Exercise of the Right of Retraction

3.1. Institutional Defects

The design of the right to repent system in the leniency system for guilty plea is not perfect, and there are many defects, which is also the main problem of the application of the right to repent.

(1) Absence of Time Limitations. The exercise of the right to withdraw a guilty plea primarily serves two purposes: remedial and non-remedial. The former includes involuntary, false, or unlawful admissions of guilt, unclear facts, misapplication of law, and court rulings deviating from sentencing recommendations. The latter mainly involves opportunistic sentence reduction attempts and seeking extended prison terms. Non-remedial withdrawal constitutes abuse of rights, which not only delays criminal proceedings but also leads to significant judicial resource waste. Therefore, restrictions on exercising this right are essential. However, current practices lack sufficient limitations. Temporal constraints apply across all stages—from investigation and prosecution review to trial and first-instance judgment—where delayed withdrawal has increasingly detrimental effects on procedural progress. The absence of time limits results in prolonged delays for defendants to exercise their right to withdraw.

(2) Ambiguous statutory grounds. Article 53 of the "Guiding Opinions" merely stipulates that "if a defendant retracts their guilty plea and withdrawal of punishment, the People's Court shall review the grounds for such withdrawal based on facts ascertained during trial." While reviewing grounds for withdrawal constitutes a crucial responsibility of judicial authorities, the current system lacks clear standards for legitimate reasons. This has led to excessive judicial discretion in practice, resulting in significant disparities in sentencing outcomes across similar cases. The inadequacy of statutory grounds for exercising the right to withdraw convictions further heightens risks of abuse of this fundamental right.

(3) Ignoring the penalty gradient: The current system does not set up differentiated repentance rules for minor crimes and serious crimes. Due to "light punishment and low cost", minor crimes become a high-risk area of repentance. The accused with light punishment will use the right of repentance at will, which affects judicial efficiency.

3.2. The Balance of the Prosecution and Defense Negotiation Mechanism is Unbalanced

The introduction of the concept of negotiation in the leniency system for guilty plea and punishment makes the negotiation between different subjects become the key. At present, the leniency system for guilty plea and punishment is faced with the problem of imbalance in the negotiation mechanism between control and defense, which is not conducive to the protection of the rights of the prosecuted.

(1) Prosecutorial authorities exhibit excessive dominance. As the primary implementers of plea bargaining procedures, their regulatory authority directly impacts defendants' procedural trust. Some prosecutorial agencies have reduced negotiations to a one-way process of notification and signing of plea agreements, failing to provide defendants with adequate space for objection expression. For instance, during the negotiation initiation phase, prosecutors merely inform about leniency for guilty pleas without explaining legal consequences of refusal. In sentencing recommendations, they offer fixed ranges without disclosing calculation bases, and outright reject defendants' mitigating claims regarding victim negligence or meritorious service without verification. The "command-style negotiation" compels defendants to sign agreements out of fear of harsher penalties, only to later retract commitments due to psychological imbalance or new evidence discovery. The core appeal of plea bargaining lies in dual benefits: substantive leniency and procedural simplification. In practice, some prosecutorial agencies issue vague verbal commitments—such as stating "lenient punishment" in agreements or promising "shortened review periods" that remain unfulfilled due to case complexity. Defendants who discover unmet leniency benefits after signing agreements often cite fraud or coercion as grounds for withdrawal. While the rationality of sentencing recommendations serves as the primary motivation for defendants to plead guilty, some prosecutorial agencies mechanically apply rules and ignore individual case differences. For example, they fail to incorporate tiered leniency principles when calculating cumulative penalties for plea bargaining, voluntary surrender, and compensation scenarios. They also neglect reference to similar cases when handling novel types of cases, resulting in significant discrepancies between recommended ranges and defendants' expectations. The leniency for plea bargaining is limited to sentence duration while ignoring the type of punishment. It is common for the accused to regret the sentencing recommendation because it does not match their expectations.

(2) The diluted role of duty lawyers. As the primary legal advocate for defendants in plea bargaining procedures, duty lawyers are responsible for ensuring voluntary and informed consent. When they fail to actively participate in negotiations, defendants may mistakenly sign plea agreements due to inadequate legal awareness. In practice, constrained by time and resources, duty lawyers often fulfill only ceremonial obligations like "witnessing signatures" without substantive legal guidance. Some lawyers review case files before negotiations but lack understanding of evidentiary standards and sentencing guidelines. During discussions, they merely read agreement contents without explaining legal consequences. [10] Post-signing communication remains insufficient, leading to misunderstandings about the legal implications of plea agreements. This "formal defense" leaves defendants at informational disadvantage when signing agreements, making them prone to retract commitments citing lack of voluntariness or unawareness if leniency falls short or evidence is questionable. The implicit connection between duty lawyer appointments and prosecutorial influence undermines their independence. To avoid offending prosecutors, some duty lawyers compromise by cooperating with negotiation procedures while failing to adequately address defendants' legitimate concerns regarding evidence authenticity or requests for greater leniency. Plea bargaining requires comprehensive judgment of both substantive law and procedural law, demanding high professional competence from duty lawyers. However, most current duty lawyers are young attorneys or trainees lacking criminal defense experience, rendering them incapable of accurately assessing case risks or resolving defendants' legal inquiries. The accused signed the written statement because he trusted the professional opinion of the lawyer on duty. If the lawyer's opinion was found to be wrong afterwards, he might renege on it on the grounds of "material misunderstanding", resulting in the abuse of the right to renege.

3.3. Formalization of Trial Review

Judicial organs shoulder the responsibility of examination. In practice, judicial organs often take efficiency first or cooperate with each other, and the examination of reasons for repentance is only a formality, resulting in the accused having no reason to appeal or unreasonable excessive appeals.

(1) Voluntary review relies on written materials. Voluntariness is the core requirement for plea bargaining, yet judicial authorities predominantly depend on evidence such as signed confession agreements and witness statements from duty lawyers during review, without conducting substantive investigations into potential coercion or inducement. For instance, when a defendant proposes negotiations, prosecutors may threaten "increased sentencing if no guilty plea is made." Judicial authorities merely require the prosecution to provide explanatory statements without obtaining negotiation recordings or interviewing duty lawyers, rendering involuntary withdrawal of consent unverifiable. Judicial review of sentencing recommendations often becomes overly lenient due to respect for prosecutorial-indictorial agreements, focusing solely on obvious impropriety while ignoring minor irregularities. When defendants withdraw due to minor sentencing irregularities, judicial authorities typically dismiss their claims without just cause, resulting in rights infringement. After withdrawal, cases must transition from plea bargaining procedures to regular trials, but practical issues arise: judicial authorities fail to request supplementary investigations, causing trials to revolve around original charges; or neglect to reassign defense counsel, leaving defendants without legal assistance. These procedural barriers make withdrawal costs prohibitively high, forcing defendants to relinquish their legitimate right to reconsider.

(2) The authenticity review has been weakened. The judicial organs have generally weakened the authenticity of the plea, that is, whether the plea is consistent with the facts, and failed to strictly check the contradictions between the defendant's confession and material evidence, written evidence and witness testimony. As a result, the judicial authority is damaged when the "false plea" is exposed through repentance.

4. The Perfecting Path of the Right of Retraction: Three-Dimensional Coordination Mechanism

4.1. Dimension of Rights: Hierarchical Restriction of the Right to Regret

(1) Time-based Restriction. If the right to withdraw a guilty plea in the leniency system were unrestricted, it would inevitably increase litigation costs and exacerbate the conflict between rights protection and resource consumption. Therefore, time-based restrictions should be imposed on the exercise of this right. The first-instance trial process can serve as a reference point, dividing the withdrawal period into three phases: pre-trial, during trial, and post-trial. Before the first-instance trial, which primarily involves investigation and prosecution review, the facts remain unclear, and the defendant's withdrawal has minimal impact on subsequent procedures. During the prosecution review stage, where only the procuratorial organ is involved (with occasional participation from investigative authorities), the defendant's withdrawal affects litigation processes within controllable limits. Thus, the defendant may freely exercise this right without restriction before the first-instance trial. During the trial phase, withdrawal directly impacts proceedings and sentencing recommendations, consuming significant judicial resources. Formal restrictions should be implemented: withdrawal must be justified through written documentation, such as facing severe threats. No supporting materials are required during the trial phase. Post-trial withdrawal concerns the outcome of the first-instance trial, which has already undergone investigation, prosecution review, and adjudication. The likelihood of rights infringement through guilty plea leniency has significantly diminished. Strict limitations should apply to post-trial withdrawal. Defendants must provide both clear

justification and preliminary supporting evidence. The court of second instance shall examine the reasons and materials submitted. If the reasons and materials are insufficient to support the exercise of the right of retraction, the court of second instance may reject the appeal without trial.

(2) Statutory Grounds for Withdrawal. Compared to cases handled through ordinary procedures, plea bargaining cases exhibit weaker adversarial dynamics and stronger negotiation elements during the prosecution-defendant interaction phase. The negotiated outcome constitutes a mutual agreement between the prosecution and the accused. If the accused unreasonably exercises the right of withdrawal without just cause, it not only contradicts the principle of judicial negotiation but also leads to significant waste of judicial resources. Therefore, statutory grounds for exercising the right of withdrawal should be established and its application restricted. Based on previous research, statutory grounds primarily include: failure to commit a crime, non-criminal conduct or lack of criminal liability, involuntary, insincere, or unlawful plea bargaining, inconsistency between charges and verdicts, inadequate defense, disproportionately severe sentencing, unclear factual determinations or legal misapplication in judgments, violation of procedural rules under the Criminal Procedure Law, and new facts or evidence that significantly impact sentencing[9]. These statutory grounds cover multiple aspects including criminal facts, sentencing ranges, and legal application. They not only provide effective safeguards for the accused's withdrawal rights but also prevent abuse while enhancing judicial efficiency. The review of statutory grounds is equally crucial. In practice, some accused may misuse withdrawal rights as a pretext for legal remedy rather than genuine appeal. Specialized institutions should be tasked with reviewing withdrawal grounds, including verifying their statutory compliance, authenticity, and sufficiency. If the reason is not a legal reason, or the reason is untrue or insufficient, the judicial organ may reject the claim of the accused to exercise the right of repentance.

(3) Differential Criminal Sentencing. The leniency system for guilty pleas applies to all criminal cases without distinction based on charges or penalty severity. However, the exercise of the right to retract a guilty plea should be restricted at the sentencing level, as penalty intensity is closely tied to case complexity and harmfulness. For cases with lighter penalties-such as those potentially exempting from punishment or involving imprisonment under one year-the right to retract should be limited. These cases typically involve straightforward facts, and the right to retract may be restricted to one instance during first-instance proceedings, requiring the accused to submit preliminary materials. After first-instance trials, the accused generally cannot retract the plea unless they provide sufficient evidence proving their innocence or altering the verdict. For cases potentially warranting imprisonment between one and three years, restrictions on retracting the plea should be more cautious, focusing on post-trial periods with specific requirements regarding timing and grounds for withdrawal. Cases involving prison terms exceeding three years or heavier penalties should not restrict the right to retract. Such complex cases carry higher risks of wrongful convictions, as finalized judgments could deprive defendants of long-term liberty or even life rights. Retaining the right to retract in such cases ensures judicial fairness by safeguarding fundamental human rights.

4.2. Power Dimension: Reconstruction of the Rights and Responsibilities of Prosecution, Defense and Trial

(1) Prosecutorial Authorities. First, transparency in negotiation. The plea bargaining process is the core component of the leniency system for guilty pleas and penalties. However, prosecutors' inherent dominance in investigative and prosecutorial processes often leads to excessive negotiation pressure on defendants, creating risks of forced or perfunctory negotiations that undermine the system's effectiveness and may result in defendant renegeing. Currently, prosecutors typically initiate negotiations unilaterally, leaving defendants with no proactive

channels to request participation. Legislation should explicitly grant defendants and their defense counsel the right to request negotiation initiation. For instance, during the review and prosecution phase, defendants could submit written negotiation applications outlining their willingness to plead guilty and leniency requests. Prosecutors must provide written responses within statutory deadlines, including justification. Effective defense participation is crucial for balancing prosecutorial and defense interests. To prevent superficial negotiations, defense lawyers should be granted the right to raise objections. If they deem negotiations involve coercion or fraud, they may challenge the process and request renegotiation. All negotiations should be recorded and archived alongside case files to prevent verbal commitments from being broken. To avoid prosecutors acting as both "player" and "referee," neutral third parties beyond public supervisors or duty lawyers should participate in supervision. For example, in major complex cases, public supervisors could observe negotiation sessions to monitor voluntariness and legality. Supervisory opinions should be formally documented, mandatory audio-video recordings maintained, and defendants permitted to request evidence disclosure. In this way, the arbitrary expansion of procuratorial power can be restricted by external forces and the credibility of consultation procedures can be enhanced.

Secondly, standardizing sentencing recommendations. As the outcome of prosecution-defense negotiations and a bridge connecting these discussions with judicial proceedings, sentencing recommendations should address their insufficient consultative nature. Prosecutors need to move beyond unilateral decision-making by disclosing evidence and explaining the basis for preliminary recommendations-including benchmark sentences, mitigating factors, and legal provisions-after evidence presentation. Defendants may raise objections and present defense arguments. When consensus is reached through multiple rounds of negotiation, both parties must sign a written agreement documenting the process. If no agreement is reached, prosecutors must state "no consensus reached" in the indictment to inform judicial review. Practical considerations: New evidence or factual changes may cause original recommendations to deviate from fairness. Prosecutors should be permitted to adjust recommendations proactively before verdicts. Additionally, if defendants propose new mitigating factors like compensation agreements, prosecutors may increase leniency after verification. Conversely, false confessions could warrant reduced leniency or even withdrawal of recommendations. Establishing a standardized benchmark system is crucial. Building on the Supreme People's Court and Supreme People's Procuratorate's "Guidelines on Sentencing for Common Crimes (Trial Implementation)", prosecutors should refine sentencing rules. For common offenses like theft and fraud, tiered sentencing models should be implemented with clear calculation standards: guilty pleas can reduce base sentences by 10%-30%, while restitution payments add another 10%. Furthermore, following unified legal application principles, a case reference database should be established to standardize sentencing practices through guiding precedents. This can reduce the arbitrariness of sentencing recommendations and enhance the predictability of the results for the accused.

(2) Judicial Authorities. First, review the voluntariness of prosecution-defendant negotiations. The original intent of the leniency system for guilty pleas and penalties is to ensure accused individuals voluntarily accept punishment. Confessions or penalties obtained through coercion, deception, or significant misunderstanding not only contradict the system's purpose but may also lead to accused individuals' regret, thereby undermining judicial efficiency. Authorities should conduct voluntariness reviews of prosecution-defendant negotiations in accordance with Article 174 of the Criminal Procedure Law and Article 18 of the Judicial Guidelines. Three key aspects require examination: awareness of rights, freedom of will, and cognitive capacity appropriateness. This can be verified through reviewing signed "Guilty Plea and Penalty Agreement" records, duty lawyer witness statements, and other written materials, while comprehensively assessing whether the prosecution fully informed the accused of litigation

rights, legal consequences of guilty pleas, and procedural options. The defendant's in-court statements regarding "understanding the agreement content" during trial proceedings should also be considered. Freedom of will refers to the accused's voluntary acceptance without external pressure. This can be assessed by examining interrogation recordings, medical records, and evidence collection methods (e.g., torture, threats, inducements), as well as the accused's relationship with victims and the actual participation of duty lawyers in negotiations. For special groups including minors, individuals with mental disorders, and those with limited education, cognitive appropriateness becomes a critical focus. Authorities must verify their understanding of the leniency system and may initiate forensic psychiatric evaluations or notify legal guardians or suitable adults to witness proceedings when necessary. The review of the voluntary nature of control and negotiation can effectively solve the problem of involuntary nature in the process of guilty plea and reduce the exercise of the right to regret, so as to guarantee judicial efficiency.

The authenticity review of plea bargaining outcomes. The leniency system for guilty pleas and penalty acceptance simplifies trial procedures while embodying efficiency-oriented values, though this does not diminish the evidentiary requirements for reviewing authorities. Plea bargaining results must be authentic, meaning the content of guilty pleas and penalty acceptance aligns with case facts. Judicial authorities should adhere to the principle of evidence-based adjudication, examining three aspects: the stability and rationality of confessions, mutual corroboration of evidence, and exclusion of reasonable doubt. When a defendant pleads guilty and accepts punishment, this may occur during investigation, prosecution review, or trial stages. Authorities should analyze and compare statements from different phases, focusing on whether there are contradictions or inconsistencies in confessions, and assess whether temporal, spatial, and methodological details in confessions conform to common sense. Criminal case evidence includes physical evidence, documentary evidence, witness testimonies, expert opinions, etc. Mutual corroboration among different types of evidence serves as crucial verification for assessing the authenticity of plea content. For instance, if a defendant claims "stabbing the victim with scissors," investigators must verify whether the weapon was collected, whether biological samples exist on the scissors, and whether the wound morphology matches the scissors' design. In specific cases where only the defendant's confession exists without other objective evidence, or when objective evidence clearly contradicts the defendant's plea, the reviewing authority should deem the guilty plea inauthentic and exclude it as admissible evidence.

Finally, the review of the legality of the outcome of prosecution-defendant negotiations. As the principal authority for conviction and sentencing, judicial organs must examine the sentencing recommendations proposed by procuratorial organs and decide whether to adopt them through adjudication based on the review results. For cases involving plea bargaining, the sentencing recommendation represents the outcome of multi-party prosecution-defense negotiations. Judicial organs should review the legality of the negotiation outcomes from aspects such as procedural legality, appropriateness of sentencing recommendations, and exclusion of conflicts of interest. The review of procedural legality includes assessing whether the negotiating parties are qualified, whether the negotiation process is documented, and whether statutory procedures are violated. Taking qualification of negotiating parties as an example, duty lawyers participating in prosecution-defense negotiations must possess professional qualifications and be fully engaged throughout the process. If a duty lawyer lacks professional qualifications, the negotiation outcome would be deemed illegal. The review of the appropriateness of sentencing recommendations involves substantive examination by judicial organs of procuratorial authorities' sentencing proposals, including whether the basis for sentencing is sufficient, whether the sentencing range complies with legal provisions, and whether there is excessive negotiation. For instance, in specific cases, if procuratorial organs

exceed statutory leniency ranges in sentencing recommendations to obtain defendants' plea bargaining, it violates the principle of proportionality between crime and punishment. Judicial organs may recommend adjustments to procuratorial organs under Article 201 of the Criminal Procedure Law. If the procuratorial organs refuse to adjust or the adjustment remains inappropriate, the court may disregard the sentencing recommendation and render a judgment according to law. The review of conflicts of interest involves examining whether there are circumstances that harm national interests, public interests, or legitimate rights and interests of others, such as defendants using plea bargaining to cover up other crimes.

(3) Procedure Reversal Safeguards. When a defendant who has pleaded guilty and accepted punishment later retracts the plea, the original procedure lacks clear remedial mechanisms, potentially leading to "procedural stagnation" or "rights infringement." To address this, two measures should be implemented: mandating the reassignment of defense counsel and supplementing key evidence through supplementary investigation. If a defendant who has withdrawn their plea has not retained legal representation, the court must compulsorily assign a public defender to ensure their right to defense remains unaffected by procedural reversal. For instance, if a defendant who had no lawyer due to financial hardship retracts the plea after accepting guilt, the court must immediately appoint a lawyer to prevent subsequent litigation rights from being compromised due to "lack of defense." If the withdrawal is based on new evidence or doubts about existing evidence, the trial court may require the prosecution to conduct supplementary investigations to verify critical facts. For example, if a defendant claims "being out of town during the incident" and provides new travel records, the court may order the prosecution to retrieve surveillance footage or witness statements from that location to re-examine case details.

4.3. Program Dimension: Reform of the On-Duty Lawyer Mechanism

(1) Substantiation of Legal Functions. According to the "Work Measures", duty lawyers' rights in defense include the right to present opinions, the right to be present during plea bargaining, the right to meet with clients, and the right to review case files. To ensure effective defense, it is necessary to further clarify the rights of duty lawyers. Taking the right to be present as an example, the "Work Measures" defines this right narrowly, limiting it to witnessing when the accused signs a plea agreement. As professional defense personnel, duty lawyers primarily serve to provide effective legal representation for defendants and supervise whether investigative and prosecutorial authorities fulfill their legal obligations. Limiting the right to witness only at agreement signing undermines defendant rights protection. The scope should be expanded to allow duty lawyers' participation in prosecution-defense negotiations. For instance, when investigative, prosecutorial, or judicial authorities consult the accused regarding plea procedures, duty lawyers should remain present throughout to provide legal consultation[10]. After the accused agrees to plead guilty, duty lawyers must participate in subsequent interrogations and prosecution-defense discussions while offering effective defense. The right to meet clients constitutes a fundamental entitlement for duty lawyers to interact with defendants. Although Article 39 of the Criminal Procedure Law grants defense lawyers autonomous meeting rights, duty lawyers' meeting rights remain incomplete compared to defense lawyers. The current provision of meeting rights through application lacks sufficient safeguards for voluntary plea agreements, increasing risks of client reversal. It is recommended to adopt the Criminal Procedure Law's approach by granting duty lawyers more comprehensive meeting rights.

(2) Cross-Phase Coordination. Defense representation in plea bargaining cases spans multiple stages: investigation, prosecution review, and trial. The assigned defense counsel varies across phases: detention center-based counsel during investigation, procuratorial office-based counsel during prosecution review, and court-appointed counsel during trial. The absence of a

coordination mechanism between these phases leads to inconsistent priorities and objectives, increasing the risk of defendants' withdrawal from litigation. While the "Work Guidelines" permit cross-phase representation, clear regulations remain for phase transitions. To safeguard defendants' rights, authority over cross-phase representation should be delegated to the accused. For example, after an investigation agency assigns a defense counsel, they must seek the defendant's consent before continuing representation. If consent is granted, the counsel participates in subsequent prosecution review. If denied, the procuratorate appoints a new counsel. Counsel not involved in subsequent phases must properly transfer case files and defense records, ensuring the new counsel fully understands previous defense strategies and negotiation outcomes. At the same time, investigation, procuratorial and judicial organs should also establish a ledger of defense lawyers on duty to ensure that the defense of lawyers on duty at all stages can be effectively connected and the rights and interests of the accused can be effectively protected.

(3) Professional Competency Development. The leniency system for guilty pleas and plea bargaining involves complex legal norms, with defense processes in such cases differing significantly from adversarial proceedings in ordinary criminal cases. This system emphasizes negotiation during defense, requiring duty lawyers to demonstrate exceptional professional competence and negotiation skills. To align with the system's characteristics, it is essential to refine access criteria, training programs, performance evaluations, and exit mechanisms for duty lawyers. For instance, those providing general legal consultations must have over one year of criminal defense experience, while those involved in substantive defense require at least two years. Additionally, workload management should be optimized. Duty lawyers provide "one-to-many" services with heavy workloads, while the leniency system's simplified procedures demand judicial efficiency-requiring lawyers to complete defense tasks within limited timeframes, which further increases their pressure. The "Work Guidelines" categorize duty modes into on-site, telephone, and online platforms, introducing remote duty as a new approach that partially alleviates stress. However, resource shortages persist. Establishing incentive mechanisms could enhance lawyers' and law firms' engagement in leniency cases. Finally, duty lawyers' compensation standards should be improved. Their subsidies remain significantly lower than those for criminal defense attorneys. Drawing from criminal aid case models, reasonable increases to duty lawyers' compensation in leniency cases are recommended.

(4) Establishing a Training Framework. During plea bargaining sessions, duty lawyers often struggle with communication strategies and sentencing negotiation experience, typically limited to "reciting legal provisions" or "verifying signatures," which fails to effectively assist defendants in securing reasonable leniency. The training system should focus on two key areas: negotiation techniques and evidence analysis. Regarding negotiation skills, duty lawyers must recognize their role as advocates for defendants' interests rather than passive observers. This requires enhancing their proactive awareness and capability to raise sentencing objections. When sentencing recommendations significantly exceed those of comparable cases, they should advise defendants to reject signing the plea agreement. Additionally, lawyers should learn stress-relief techniques to ease clients' anxiety. Through role-playing simulations, they practice formulating sentencing adjustments tailored to case specifics. For evidence analysis, training emphasizes the "three attributes" review process (authenticity, relevance, and legality), ensuring lawyers fully understand that plea agreements still require corroborated evidence.

5. Empirical Test and Feasibility Analysis

5.1. Typical Case Simulation

(1) Minor Offense Cases. Drunk driving cases, characterized by relatively straightforward circumstances and concentrated evidence types such as breath alcohol tests, blood test reports, and vehicle trajectories, represent the most frequently applied category of minor offenses under the leniency system for guilty pleas. This study selected 100 drunk driving cases from a basic-level court between 2021 and 2023 as samples, simulating scenarios where 10% exercised the right to withdraw their plea. The analysis focused on judicial resource consumption and error correction effectiveness. After exercising the withdrawal right, cases underwent three procedural phases: case reversal, re-examination, and second adjudication. During the case reversal phase, prosecutors had to withdraw the original plea agreement and re-examine evidence, particularly verifying the legality of blood test reports, compliance with breath testing protocols, and continuity of vehicle trajectories—averaging 3-5 working days compared to the original one-day process. In the re-examination phase, courts organized pre-trial conferences to hear both sides' arguments. If suspects raised new defenses (e.g., "testing equipment malfunction" or "non-operational driving"), trial time increased by an average of 2 hours. For the second adjudication phase, if the original charges were upheld, the judgment document required detailed explanations of invalid withdrawal reasons. For instance, if blood test results met drunk driving standards, the judgment lengthened by approximately 50%; if withdrawal was valid due to non-compliant breath testing, supplementary investigation or charge amendment would be initiated, extending the trial period by an average of 15 days. Among the simulated 10 withdrawal cases, only 1 case was found to have procedural flaws during re-examination and ultimately dismissed; 9 cases maintained original judgments due to invalid withdrawal reasons. The error correction rate stood at 20%, meaning each corrected wrongful case consumed about 15 working days of judicial resources. It can be seen that in cases of minor crimes, the consumption of judicial resources and the effect of error correction of the right to repent are basically balanced, especially for the prevention of errors caused by procedural defects.

(2) Major Crime Cases. Using three 2022 intentional injury cases in a province as samples, this study analyzes the role of the right to retract plea in serious crimes. Case 1: Party A caused severe injuries by pushing B during an argument. After pleading guilty and accepting punishment, A claimed "B's collision with the table corner was not due to direct pushing but accidental." Re-examining surveillance footage confirmed B voluntarily collided with the table corner after falling, establishing no direct causal link between A's actions and the injury. The charge was revised to negligent infliction of serious injury, reducing the sentence from three years to one year. Case 2: Party C was charged with participating in a group assault causing minor injuries to D. After pleading guilty, C argued "I didn't carry weapons-they belonged to others." Prosecutors supplemented witness testimonies proving C only used bare hands, leading to withdrawal of the weapon-related charges and a sentence reduction from two years to one year. Case 3: Party W assaulted his wife during domestic disputes causing minor injuries. After pleading guilty, W claimed "the victim persistently insulted and provoked me." Court review of neighborhood committee mediation records confirmed the victim's fault, adjusting the sentence from one year and six months to one year (with probation). In all three cases, the right to retract plea triggered re-evaluation of key facts including "causal relationship," "nature of conduct," and "victim's fault," preventing potential misjudgment of lesser offenses or imbalanced liability. This demonstrates the core value of the right to retract plea in major crimes: addressing information asymmetry in plea negotiations through procedural reversals to achieve precise adjudication.

5.2. Learn from the Experience of Pilot Areas

(1)The Hangzhou Model. Hangzhou has pioneered the reform of leniency for guilty pleas and penalty acceptance nationwide, introducing the Hangzhou Model featuring time-layered restrictions and full participation by duty lawyers. Regarding time-layered restrictions: During the review and prosecution phase, parties may withdraw their plea without cause provided they submit written explanations, which prosecutors can reconsider to adjust the leniency. In trial stages, withdrawal is permitted only under specific circumstances, with courts rigorously verifying the authenticity of reasons. For duty lawyers' full participation: From negotiation to withdrawal phases, they must sign "participation witness records" documenting discussions and provide legal advice during withdrawals. Pilot courts have seen a 15% reduction in withdrawal rates for leniency cases involving guilty pleas and penalty acceptance.

(2)The Chengdu Model. Centered on evidence, the Chengdu Model enhances negotiation transparency through an evidence disclosure checklist system. This system categorizes evidence into three types: foundational evidence, sentencing evidence, and disputed evidence. By implementing a checklist-based disclosure process, suspects' awareness of evidence increased from 60% to 80%, negotiation transparency improved by 20%, and the rate of case reversal dropped from 25% to 17%. A typical case demonstrated that a theft suspect who had learned in advance about missing critical surveillance footage proactively claimed "not being present at the crime scene." Through supplementary investigation by prosecutors, the suspect was ultimately acquitted, preventing wrongful conviction.

5.3. Institutional Promotion Strategy

(1)Short-term measures: Revise the "Guiding Opinions" to refine rules for exercising the right of reconsideration. Distinguish between restrictions on reconsideration during the review and prosecution phase versus trial stages. Establish "Review Standards for Reconsideration Justifications", specifying that "valid reasons" include "inauthentic evidence", "procedural violations", and "contradiction with genuine intent", while excluding irrational grounds such as "mere dissatisfaction with the sentence". Specify the time limit for procuratorial authorities to conduct re-examination after reconsideration, along with supplementary investigation procedures in court proceedings.

(2)Mid-term: Promote legislation to clarify the evidentiary disclosure obligations of procuratorial organs. Evidence disclosure serves as the foundation for prosecution-defendant negotiations. Article 29 of the "Guiding Opinions" stipulates that "procuratorates may explore evidence disclosure systems tailored to specific case circumstances to safeguard suspects' right to information and ensure the authenticity and voluntariness of guilty pleas and plea agreements," thereby creating room for establishing such mechanisms. Evidence disclosure should not be a one-way "information transfer" by procuratorial organs but rather an "information exchange" between both parties. Specifically, procuratorial organs must disclose evidence proving guilt or aggravating circumstances, as well as evidence supporting innocence or mitigated charges-particularly critical physical evidence, expert opinions, and testimonial evidence. Defense parties are required to provide non-appearance certificates and self-defense evidence. Procuratorial organs must not conceal evidence favorable to the accused, as this would invalidate negotiation procedures. Evidence disclosure should commence early during the review and prosecution phase to allow defense teams sufficient time for document examination and analysis. Disclosure methods should primarily involve written submissions supplemented by oral explanations. For objective evidence like physical evidence lists and expert reports, copies shall be provided; for testimonial evidence such as witness statements, abstract transcripts shall be offered; for confidential or sensitive materials like technical investigation records, only evidence types and their probative value shall be disclosed. Additionally, establish a signed evidence disclosure checklist system between both parties to

prevent subsequent disputes. If procuratorial organs fail to fulfill disclosure obligations, defense parties may apply to judicial authorities for procedural sanctions. Upon confirmation by judicial authorities, the negotiation process may be deemed involuntary, invalidating the validity of guilty plea agreements. If disclosure of key evidence leads to wrongful conviction, it may serve as statutory grounds for appeals or retrials. In addition, procuratorial personnel who intentionally conceal evidence should be investigated for disciplinary responsibility.

(3) Long-term: Establish a national database for plea cases to support case reference. The system will integrate basic information, key evidence, reasons for reconsideration, and adjudication outcomes of such cases nationwide. Through big data analysis, it will generate a "Typical Case Database of Reconsideration" to provide judicial authorities with reference criteria for determining the rationality of reconsideration in similar cases. Regular analysis of reconsideration data will offer empirical support for institutional reforms.

6. Conclusion

6.1. Research Conclusion

Traditional criminal proceedings primarily focus on adversarial prosecution and defense. The leniency system for guilty pleas and penalties incorporates the concept of judicial negotiation, emphasizing the integration of prosecution, defense, and consultation. This approach strengthens the defendant's role as a subject and drives the criminal justice system toward greater efficiency and humanization. The right to withdraw serves as a crucial mechanism balancing efficiency and fairness, requiring coordinated improvement through "rights limitation, power checks, and procedural safeguards."

6.2. Future Outlook

Current research focuses on suspects' rights, while future studies should explore the impact of the right to withdraw on victims' interests. Mechanisms such as "informing victims of withdrawal" and "victim participation in negotiations" should be developed to achieve a balance of interests among suspects, victims, and judicial authorities. In line with the overall trend of judicial reform in the digital era, efforts should be made to integrate the right to withdraw with electronic evidence collection and big data applications in judicial processes.

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