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Sentencing Reforms in China: Towards the Standardisation of Sentencing

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SENTENCING REFORMS IN CHINA: TOWARDS THE STANDARDISATION OF SENTENCING

The last three decades have seen a wave of reforms of sentencing in many jurisdictions in Europe, North America, Australia, and elsewhere. Most have been efforts to reduce sentencing disparities, among different goals of sentencing. Without exception, China has launched sentencing reforms in recent years. The major purposes of the sentencing reforms are to control unwarranted disparities and enhance public confidence in sentencing.

I. THE PRINCIPAL REASONS FOR SENTENCING REFORM

A. Vagueness of Criminal Law

The first major factor in the background to recent sentencing reforms is a concern about vagueness of Criminal Law. The sentencing reforms were premised on the need to reduce vagueness in Criminal Law.

The current Chinese criminal code was adopted by the Second Session of the Fifth National People's Congress on July 1, 1979 and substantially amended by the Fifth Session of the Eighth National People's Congress on March 14, 1997. Like most civil law countries, the Chinese Criminal Code is vast and includes all crimes and punishments. It is divided into a general part and a specific part. The latter contains all the criminal offences under Chinese law. Each article typically contains both the name of the offence, and the applicable penalty for convicted offenders. This situation results in a very wide range

of sentences, and the vagueness of Criminal Law. In other words, the Chinese criminal law is quite indeterminate, which provides little further guidance. So judges are given no meaningful guidance on what to consider in sentencing. As a result, there is a lack of a uniform set of standards to guide the courts in sentencing and substantial disproportionality in sentences given for various offences. Therefore, the current Chinese criminal laws which set only maximum or minimum penalties and provide little further guidance fail to satisfy the requirements of legality. Judges and other legal professionals are facing a widespread and serious problem – irrational and inconsistent sentencing. Under this circumstance, the momentum of reform in sentencing was brought about.

B. Need to Curtail Judicial Sentencing Discretion

With a broad panoply of sanctions available, judges are left with wide and unstructured discretion in determining the nature and duration of sentences. Such broad discretion is difficult to control, allows greater scope for the prejudices of the individual judge to operate, leads to widely differing sentences in practice, and generates a sense of unfairness among offenders because judges' sentencing philosophies vary, often reflecting their political ideologies and demographic characteristics. In addition, due to the enormous number and range of aggravating and mitigating circumstances that have been held to be relevant to sentencing, judges generally enjoy wide discretion in imposing punishment. This also results in a large amount of disparity in sentencing. For example, Lu et al. examined legal rulings between 1993 and 2002 in 67 cases with 136 offenders for four types of sexual assault cases: rape, abduction of women, sexual assault, and forcing women into prostitution. This study revealed a wide variety of criminal sentences meted out for these crimes against women. Most sentences fell within the legal limits. However, there were a few cases that were sentenced above or below the legal boundaries. These decisions were found in cases with noted aggravating or mitigating circumstances, or in cases tried under old Chinese Law (Lu, Liu, & Crowther, 2006).

While judicial discretion can lead to inconsistency and, hence, injustice, sentencing guidelines are an appropriate response to curtail judicial discretion. Restricting the sentencing discretion of the courts does not infringe the principle of judicial independence since unlimited sentencing discretion does not form part of that principle. On this view, the legislature has the function of setting the limits of state intervention by sentencing, and the role of the judiciary is to use their discretion to select the appropriate sentence in individual cases (Ashworth, 1992).

C. Inconsistency in the Sentences Imposed

Consistency in sentencing is a fundamental element of fairness and justice in any system of criminal justice. It demands that similar crimes committed in similar circumstances by offenders whose circumstances are similar should attract similar sentences. Consistency in sentencing is thus important not only to the offender, but also to those directly affected by the crime.

Inconsistency in sentencing has been a problem in many jurisdictions. In many countries, the concern about apparent inconsistency in sentencing has become widespread. China is facing the same problem. Traditionally, criminal trials in China focused on the issue of guilt, without much attention to the crafting of an appropriate sentence. Therefore, sentencing practice operates mainly on a case by case basis in the criminal courts, with reference to the sentencers' experience in criminal cases. However, sentencing is a complex process. An increasing range of factors must be taken into account before the appropriate sentence in a case can be made – these include possible aggravating and mitigating factors, background information on the offender, the impact on the victim, and the growing array of disposals available to sentencers. It is so complicated that it is very difficult for judges to follow and navigate. Thus the spur to reform has been provided by some obviously disparate sentencing practices that have given rise to inconsistency in sentencing. The idea of consistency has formed a part of the engine of sentencing reform.

One of the most obvious consequences of inconsistent sentencing is a loss of equality and fairness. Another consequence of inconsistency is a loss of public faith in and support for the criminal justice system. The sources of disparity in sentencing are very complicated and stem from a conjunction of many related factors rather than in a single or separate cause. Obviously, there is no simple or straightforward solution to this problem. However, many people including judges and other legal professionals believe, in order to increase consistency, fairness and transparency in sentencing, that developing a proper and coherent sentencing guideline for the Judiciary is a necessary solution.

II. THE MAIN APPROACHES TO SENTENCING REFORM

China is committed to substantial reform of the criminal justice system, to remove inconsistency in sentencing and to improve cooperation between different agencies. Recent years have seen the development of further methods of fostering consistency in sentencing that involve legal compulsion. The government has already moved towards its aim by enforcing, or at least providing a framework for consistent sentencing practices. Some experiments and new approaches have captured a significant amount of attention.

A. Developing the People's Courts sentencing guideline

In the past, China lacked a uniform set of standards to guide the courts in sentencing which has resulted in inconsistency in sentencing. In October 2005, the Supreme People's Court (SPC) issued its Second Five-Year (2004-2008) Judicial Reform Plan. Among the primary goals of this reform, improving judicial procedure, ensuring judicial fairness and neutrality, increasing judicial efficiency and credibility are regarded as the most important goals (Bulletin of the Supreme People's Court, para. 3). In order to respect and protect human rights and insure justice and fairness, each criminal offender should be punished appropriately. Therefore, the adoption of a sentencing guideline became one of the major tasks for the courts. In June 2008, the Supreme People's Court passed the "People's Courts Sentencing Guideline."

The sentencing guideline first sets out the guiding principles of sentencing that judges must apply when determining appropriate penalties in each case, including the principle of legality, the principle of proportionality, and the principle of equality before the law. For example, one of the factors judges must consider when sentencing is proportionality: that is, ensuring that offences of similar seriousness receive similar punishments and that offences of different seriousness receive punishments correspondingly ranked in severity. In addition, the guideline requires that sentencing should be based on the current Chinese criminal policy of “Tempering Justice with Mercy.” This policy is somewhat like the twin-track approach to sentencing used in Western countries—that is, reserving custody for people who commit serious crimes and punishing less serious offenders with community-based alternatives. Following this policy, some crimes (especially violent or sexual offences) may be punished severely, whereas others are treated leniently.

The sentencing guideline also contains a model for the structuring of the sentencing decision. This model is usually referred to as the “notion of normal punishments.” Its purpose is to reduce unwarranted disparity in sentencing by structuring the decision so that the courts can have a firm starting point for their decisions. Normal punishments (the starting range) are assessed on the basis primarily of two factors: (1) the seriousness of harm and risk involved in the offences; (2) the culpability manifested in the offence.

The guideline requires judges to pay special attention to the uniformity of sentencing practice. It means that, unless special reasons are at hand, the response to the offence should be a “normal punishment,” in other words the same penal sanction is imposed most frequently in similar cases. This sentencing model included a step-by-step process: (1) the guideline calls on judges to evaluate all the facts that may impinge on the sentence; (2) judges determine a normal punishment based on the basic facts of a crime; (3) judges must consider all of the aggravating or mitigating factors to make their final decision. It is not highly technical, so judges can follow easily.

The guideline also contains a list of specific aggravated and mitigating factors to consider when sentencing for specific offences. Judges

add or subtract levels of sentencing based on various factors, ranging from the use of a gun to an offender's age and role in the crime. Aggravating factors, such as individual's criminal history and recidivism, may result in a higher penalty. For example, a repeat offender may obtain a penalty increased by 10 percent to 40 percent. Mitigating factors, such as youth, diminished responsibility, being an accessory offender, attempt and discontinuance, confession, and offsetting guilt by merit are associated with more lenient sentencing (lower rates and length of prison sentencing). For example, an accessory offender may receive a sentence reduced by 30 percent to 70 percent. In certain circumstances, judges may consider victims' responsibility and interests before determining an appropriate sentence. If the offender was provoked by the victim, or has shown remorse for the offence by making reparation for any injury, loss or damage or in any other manner, he may receive a reduced penalty. Under the guideline, the judge is required to provide substantial and sufficient reasons for departure in order to improve transparency in sentencing.

The sentencing guideline may apply to all crimes which are punishable with a certain period of detention in prison, especially for certain categories of offences, such as traffic crime, intentional injury, robbery, theft and drug crimes. The guideline sets detailed criteria for those crimes and assigns numerical weights to a series of sentencing factors. However, for crimes punishable by life imprisonment or the death penalty, judges retain full sentencing discretion.

The sentencing guideline is still in the process of being tested, it has not been implemented nationwide yet. In June 2008, experiments on the adoption of the sentencing guideline began in Xiamen, Shenzhen, Beijing (Haidian district), Shanghai (Pudong district), Jiangyan (Jiangsu), Nanchang, Xi'an (Pilin district) and in some other localities. In June 2009, the experiment was implemented in courts from all the provinces (in each province an intermediate court and 3 basic courts were involved). In 2010, it was formally implemented by all courts.

Generally speaking, the sentencing guideline advocates greater "clarity, certainty, and predictability" in sentencing and serves as a template for structuring judicial discretion. It formulates the general

standards and principles of sentencing, but it is not binding on judges and does not mechanise the sentencing process, but acts as an additional factor that judges must consider in exercising their sentencing discretion. The sentencing guideline generally allows for sentencing within a narrow range, however the scope of judges' discretion in determining the appropriate level of the penalty is still quite wide in each case. It allows judges to exercise discretion by moving up or down within a particular statutory provision.

The sentencing guideline can certainly make sentencing more consistent, transparent, and predictable, and make judges more accountable for their decisions because it sets up sentencing ranges that would be appropriate in the majority of cases falling within particular categories of crimes and offences, and provides accused persons with greater predictability about sentencing decisions. Therefore, it can substantially achieve its goal of steering courts towards certain sentences for certain types of offences and offenders. The sentencing guideline has brought a fundamental new orientation towards achieving consistent sentencing, in which the ideologies of legality and proportionality are retained and the mandatory guideline will become the major framework for practices of sentencing in China. Though unwarranted disparities may remain, this will certainly bring about some positive outcomes, such as the avoidance of discrimination in sentencing on demographic grounds, and the furtherance of fairness in sentencing.

Though the guideline was designed to reduce sentencing disparity under the current indeterminate sentencing scheme, pressure to reform the sentencing system still exists. Some judges have voiced criticism that the guideline places excessive emphasis on quantifiable factors such as monetary loss and drug quantity, and not enough emphasis on other considerations. Moreover, it is too restrictive of judicial behaviour, especially in the context of formal social responses to a wide range of human misconduct. On the one hand, they agree with the proposition that consistency in sentencing is an important value, on the other hand, they are committed to the ideology of "individualisation" and insist on the need for flexibility in individual cases because each offender's personality and background are different, "no two cases are

alike” and “each case has to be decided on its own facts” (Ashworth et al. 1984 : 20-24). Therefore, each sentencing decision is a totally unique decision, which must be made on its own merits.

Even if criticised, the sentencing guideline reflects China’s effort to achieve consistency by ensuring that the sentence is within the range for similar offences. The sentencing guideline is intended as a tool to enhance sentencing consistency, while preserving the important element of judicial discretion. It means that legality values can be protected without abolishing judicial discretion. So the balance between sentencing consistency and the free exercise of judicial discretion can be maintained. Perhaps more importantly, the sentencing guideline provides judges with an approach to follow. The significance of this approach is that it is to check abuses of judges’ power, provide guarantees to improve the quality of sentencing and meet international standards of justice and fairness.

B. Changing Sentencing Procedures

Sentencing procedures have been the site of some of the most impressive reforms in Chinese criminal justice. In October, 2006, the Standing Committee of the National People’s Congress, China’s top legislature, amended the organic law on the people’s court which came into effect on January 1, 2007: “Death penalty sentences, with the exception of those decided by the Supreme People’s Court, shall be submitted to the Supreme People’s Court for review and approval” (P.R.C. Organic Law of the People’s Courts, 2006). The amendment deprives the provincial courts of the right to ratify death sentences, stipulating that death penalties handed down by provincial courts must be reviewed and ratified by the Supreme People’s Court. Moreover, in July 2006, the Supreme People’s Court required that all death penalty cases be made subject to appellate hearings before being submitted to the Supreme Court for final review, ending the previous practice of documentary review. It means that prosecutors, judges and defence lawyers will meet face-to-face. If necessary, important witnesses should be asked to attend the court session.

The provincial courts obtained authority to issue final verdicts on death sentences for serious crimes including homicide, rape, robbery and bombing in 1983, amid a strike-hard national campaign against a soaring crime rate. This has resulted in “insufficient supervision” of death sentences because it means that provincial courts handle both death sentence appeals and conduct final reviews, which may easily cause miscarriages of justice. Additionally, it easily brings about inconsistency because provincial courts may have different interpretations of which crimes are punishable by the death penalty, and handle similar cases in various ways. This has meant that someone convicted in one province may receive the death penalty while in another province the same crime would have resulted in a prison sentence (People’s Daily, 2006). On recovering the power to review and ratify all death sentences, the Supreme People’s Court can improve its final approval system and unify death penalty application criteria for local courts across the vast country.

In the criminal code of the PRC, the death penalty is one of the five principal punishments and the number of crimes punishable by death is 68, including economic and property offences such as smuggling and embezzlement. So China may execute more offenders than all other countries combined. The actual numbers have not been revealed, but it is estimated that about 3,000 people are sentenced to death each year.

The new judicial process gives the defendants in death sentence cases one more chance to have their opinions heard, so it is an important procedural step not only to make judgements more prudently but also to prevent wrongful convictions. It distinguishes between the review of a death sentence and a convicted person’s appeal of the verdict. The former will be handled by the Supreme People’s Court while the latter remains in the jurisdiction of the provincial courts. Following this new process, courts will use the death penalty more prudently and strictly. This is conducive to improving the protection of human rights, safeguarding legal consistency and promoting judicial justice. Just as the SPC chief justice stated: “strengthening supervision over lower court decisions” and “unifying death penalty standards across the country [are] important for improving human rights and ensuring fair trials”

(China Daily, 2007). It is believed to be the most important reform on capital punishment in China in more than 20 years. It has changed trial courts' sentencing practices in a system committed to capital punishment. This influence is especially potent because under the change not only has the quality of trials of death penalty cases been improved and guaranteed, but also the number of people sentenced to death by Chinese courts has dropped significantly. In 2007 China's annual rate of death sentences fell by as much as 30% (People's Daily, 2008) after revising its procedure for reviewing capital cases.

III. THE POTENTIAL CHALLENGES TO SENTENCING REFORM

A. Lack of Complete Judicial Independence

A key concern to the recent sentencing reform is lack of judicial independence. Judicial independence is a fundamental principle of impartiality and freedom from influence when administering justice, a principle that demarcates sentencing as a sphere that is the province of the courts (Ashworth, 1992). Its essence surely lies close to neutrality and impartiality as values in the administration of the law: a judge should be in a position to administer the law without fear or favour and maintain a certain distance from other organs of the state as well as the public. Just as "Basic Principles on the Independence of the Judiciary" states: "The judiciary shall decide matters before them with impartiality on the basis of facts, in accordance with the law, without any improper influence or pressure." ("Basic Principles on the Independence of the Judiciary," 1985).

Although the direct involvement of the Party and government in the outcomes of specific cases has been decreasing for about thirty years since the construction of the Chinese legal system, there are still some fundamental flaws under the current Chinese socio-political system. Some basic facts that must be understood about the judicial system are: (1) in some areas, the authoritarianism of the Party-state continues. The court system is led by the Chinese Communist Party and local governments. The Chinese Communist Party exercises significant influence over the judicial system via its political-legal committees

and power to appoint judges. The courts are dependent on local governments for funding. So judges lack job security and power to adjudicate court cases. (2) Because Chinese courts are really part of the state bureaucracy they typically lack the political authority to enforce their decisions. Judges' autonomy to decide cases based on the law and evidence remains circumscribed. As a result courts have weak judicial authority. As Dicks noted, Chinese courts did not enjoy exclusive legal jurisdiction over some cases. Courts' legal authorities were frequently interfered with by the jurisdictional claims of other authorities, making it difficult to transition from the traditional discretionary practices to the use of legal precedent, which presumably allow more transparency, consistency and predictability in legal rulings (Dicks, 1995). (3) The internal operation of the courts also weakens the independence of individual judges. Lower courts often ask higher level courts for instructions on how to dispose of specific cases, thereby negating the function of the appeal; decisions are often made by the Adjudication Committees (Lubman, 2000). These committees at all levels of courts have the authority to override the judges' decision and decide cases. They often involve the decisive influence of judges who have not participated in the trial of a matter, so that the trial process and decision-making are separated.

Lack of complete judicial independence has created a huge discrepancy. While a large number of Chinese laws have strong provisions for protecting individual rights and interests, in reality such provisions have not been carried out strictly, sometimes because of the Party and the government's interference.

B. Lack of Sentencing Information Systems

A second concern derives from lack of sentencing information systems. In order to keep consistency in sentencing, it is very important to have a sentencing information system. Sentencing information systems provide judges with a readily accessible source of information on existing sentencing practice that can be used to inform sentencing decision making and increase consistency within and between judges. For example, in Australia, four data bases are maintained, including

the “Penalty Statistics” data base, giving information on sentencing practice; the “Sentencing Law” data base, which lists the available options and any legislative restrictions on sentence; a data base containing appellate judgments; and a data base of local sentencing facilities (Chan, 1989). The data base can yield an overall distribution of sentences and also furnish more detailed information about the use of a particular sanction. Its purpose is to orient rather than to constrain and to help sentencers towards consistency rather than seeking to impose it on them.

Usually, the sentencing judge needs three kinds of information: (1) statistical information about the *penalties* (the ranges of normal punishment); (2) information about the *typical cases* (descriptions of normal offences); (3) the *criteria* that should be taken into account when the case at hand is compared with the normal (typical) offence: What aggravating or mitigating features would justify a departure from the normal sentence? (Lappi-Seppala, 2002) However, China does not have a sentencing information system currently. This is one obvious barrier to the achievement of consistent sentencing practices because individual judges may not know what the practices of other judges are. They cannot consult precedents to guide their sentencing. As a result, it is not uncommon for similar crimes to be punished differently. Through a sentencing information system, judges passing sentence can easily access information about sentencing precedents and statistics to obtain a sufficiently clear and detailed picture. Furthermore, in order to contribute to national consistency the data base should not be limited to just one place.

C. Political Needs

China is a socialist country. Although the Chinese legal system has been built from scratch – thousands of laws have been passed, judges trained, and courthouses built over the past three decades, the politicisation of the Chinese legal system is still quite obvious.

The courts are subject to the impact of powerful political factors. There can be little doubt that the recent sentencing reforms in China are motivated in large part by political concerns. Obviously, the cur-

rent sentencing reforms follow the Party and government policy to construct a harmonious society. The reform work was guided by a new doctrine termed the “Three Supremes”: Supremacy of the Cause of the Party, Supremacy of the Interests of the People, and Supremacy of the Constitution and Law, in that order of importance. Wang Shengjun, President of the Supreme People’s Court, stressed three bases for a court ruling: the law, the level of security in society and the “society and people’s feeling.”

In addition, China is implementing the policy on crime of “Tempering Justice with Mercy,” which is regarded as a rectification of the “hard-strike” movement implemented for over 20 years. The policy has become a tool of general policy because it is closely related to the construction of a harmonious society. It is believed that the policy is conducive to the resolution of social conflicts, safeguarding of social stability, and the promotion of social harmony. So following this policy, some crimes may be punished severely, others are treated leniently. For example, for some criminal cases, if the defendant admits to committing the crime and makes compensation and is forgiven by the victims, he may be given a lenient sentence or not be prosecuted at all.

Therefore, courts were frequently criticised to be overly political. Too often they were influenced by political or other extra-legal factors and spent insufficient time and effort thinking about the sentence. The level of penalties was determined by the prevailing political culture and by the extent to which political decision-making on crime was directed by general politics. Trends in the past 30 years have seen the emergence of law and order as a key political issue. So, to some extent the current sentencing reforms are being used as the key political response to social change in China. Political expediency may complicate court ruling and even distort the operation of criminal proceedings.

D. The Influence of the Media and the Public

Beyond direct political intervention, multiple other factors may take precedence over the law in sentencing. A dynamic that can sway

justice in favour of public opinion and attention via the media has also been shown to impact on judicial considerations.

The media play a significant role in relaying, shaping and distorting public opinion, working as a conduit of information between the justice system and the public. The media are in a position to inform the public about sentencing decisions and practices, and to encourage public debate. As such, they are able to guide and comment upon public opinion in relation to sentencing outcomes and practices, and to affect public confidence levels in the criminal justice system (The New South Wales Law Reform Commission, 2007).

Public opinion is a key variable in shaping the response to crime and disorder. The impact public opinion may exert on sentencing law is clearly evident across the jurisdictions surveyed. In all of them, laws such as “three strikes” provisions and increased mandatory minimum and maximum sentences have been introduced as legislative responses to a perceived punitive public (Freiberg, 2008). Indeed, China also has the same situations. Public opinion on law and order has been the major influence on penal policy and particularly on levels of punishment because the “demand of the people” has become the basic principle of people’s court routine in China. Therefore, a key objective of current government policy is to reduce crime and fear of crime and to thereby promote confidence in the rule of law. For example, the majority of the Chinese public, for cultural and historical reasons, still supports the use of the death sentence as a deterrent against crimes. Many people still believe in the old principle that “paying for a crime with one’s life is the best way to deter other people from committing the same crimes.” So while the impetus for reform of the death punishment system is growing, it is unlikely that China will relinquish the use of the death penalty because of the perception that public opinion would be hostile. Since the 1980s the public mood in China has been more favourable to punishment as the main response to criminal behaviour. Therefore, even if the death sentence is not the surest way of increasing public protection and deterring crimes, governments are still likely to receive credit for using it.

Generally speaking, the public perception is a powerful tool, often acting as a catalyst for reform and influencing the levels of sentencing. Public responses to sentencing, although not entitled to influence any particular case, have an important impact on the sentencing process. Judges must be aware that, if they do not satisfy public expectations, they risk undermining public confidence in the administration of justice. For the sake of criminal justice generally, judges attempt to impose sentences that respond to public opinion. Therefore, it is undisputed that public confidence in all aspects of the criminal justice system is crucial to its effective functioning. This in turn highlights the difficulties that courts are facing when they are engaged in sentencing.

IV. CONCLUSIONS

China is undergoing broad reforms in sentencing. The reforms involve a sentencing guideline and reviewing procedure for death sentence cases. In 2008, the Supreme People's Court developed its own guideline and ordered some courts throughout China to test new sentencing procedures. This is an important effort to achieve uniformity of sentencing practice. Not only the sentencing rules, but the construction of the entire penal structure reflects the aims and values of the reform, which ensures proportionality and consistency in sentencing, and enhances public confidence in the criminal justice system.

The restoration of the power of reviewing death sentences to the Supreme People's Court in 2007 is another important development in China's criminal justice system. It is more than a procedural change, but rather an important step to restrict capital punishment. This change not only reflects China's explicit desire to reduce the number of executions, but also to provide procedural guarantees to improve the quality of sentencing and safeguarding justice and fairness. Additionally, the 8th Amendment to the Criminal Code of the PRC, which came into effect on May 1, 2012 makes a further contribution to the reduction of the number of capital punishment cases, because it has reduced the number of crimes punishable by death from 68 to 53.

In sum, the reform has brought a fundamental new orientation towards sentencing, in which the ideologies of legality and proportional-

ity are retained, and the mandatory guideline will become the major framework for sentencing practices in China. China is on the right road, but the criminal justice system in China is still immature, it needs time to develop and become perfect.

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REFORMA WYDAWANIA WYROKÓW W CHINACH: KU NORMALIZACJI
ORZECZNICTWA

Streszczenie

W ostatnich latach przeprowadzono w Chinach reformę orzecznictwa. Celem reformy jest ograniczenie zjawiska nierówności i braku konsekwencji w wydawaniu wyroków. W artykule zarysowano podstawę do dalszej dyskusji na temat reformy orzecznictwa w ChRL. Opisano okoliczności oraz problemy, które doprowadziły w ostatnich latach do powstania ruchu na rzecz reformy orzecznictwa, przedstawiając m.in. niektóre postawy wobec tej reformy oraz trudności i napięcia związane z dotychczasową i obecną praktyką orzekania w ChRL. Uważa się,

że reforma zaowocuje pozytywną zmianą w zakresie racjonalności i sprawiedliwości wydawania wyroków, jak również i w kwestii ochrony praw człowieka, choć czas pokaże, na ile oczekiwania te zostaną zrealizowane w praktyce.