

## 4 China: Social Work and Health in the Penitentiary System

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This chapter mainly introduces the development of social work services in the penitentiary system in China and is structured as follows: the structure of the prison system, the prison population, and social work in prison.

### *1. The Prison System in China*

In a strict sense, the term ‘prison’ refers to a facility where inmates serving life sentences, fixed-term sentences, or death sentences with a two-year reprieve execute their sentences in accordance with the Criminal Law and the Criminal Procedure Law, which are the rules for China. Criminals are subjected to punishment, rehabilitation, education, and labour in an effort to make them law-abiding citizens. The Ministry of Justice is the primary administrative body, and the Prison Service is responsible for prisons.

### *2. Historical Development of the Prison System*

Prisons have been around for thousands of years in China. There have been slave state prisons, feudal state prisons, capitalist state prisons, and socialist state prisons. When China was a slave society, punishment and its execution focused on vengeance and prisons had the task of housing criminals awaiting execution and conviction. Since the Qin dynasty (221 BC to 207 BC), China has been a centralised feudal society, and the methods, and purposes of prison sentences and their guiding ideology changed significantly compared to when the country was a slave society, further strengthening the dictatorial function as a tool to protect the ruling class’s privileged interests. Life, liberty, and bodily punishment were the bulk of the feudal penal system, and the five old penalties of slavery were replaced by the five new, more humanitarian penalties of feudalism (flogging, caning, imprisonment, exile, and death). Modern China’s prison system was improved by the Western prison system, which pioneered the use of educational sentences as a guiding ideology for prison sentences. China

proposed learning from the advanced experience of Western countries in terms of the training of prison officials and the education and rehabilitation of prisoners, but this was not implemented in practice. The first New China Prison Law was passed in 1994. Article states that prisons must combine punishment, reform, education, and work to convert criminals into law-abiding citizens. Chinese prisons practice resocialisation. Chinese jails utilise politics, labour reform, and prison administration to reform convicts (Qin XF, 2018).

Since the reform and opening-up of the country in 1978, the central government of China has reformed its prisons (Li YQ, 2019). The promulgation and implementation of the Prison Law improved China's criminal law system and was a major achievement in the reform of the prison legal system, a milestone in the history of the new China. In 2012, under the new era of the comprehensive rule of the law, prison work has been comprehensively reformed, strengthening the reform of internal prison management, improving the execution system, pushing forward the reform of the education and rehabilitation of offenders, continuously promoting the reform and development, improving the political and operational quality of the people's prison police, and gradually forming a new concept of solitary confinement. A Chinese-style communist prison labour resocialisation, management systems, working mechanisms, and working methods are being established.

### 3. *Legal Framework*

The People's Republic of China's Prison Law, passed at the eleventh meeting of the Standing Committee of the Eighth National People's Congress on 29 December 1994, is the nation's first prison code. It marks the establishment of China's prison legal system and is a major milestone in the country's history. The Constitution is the foundational law of the nation, and it has supreme legal authority. The Constitution's Article 28 declares clearly that 'the State shall punish and reform criminals'. The Constitution's clauses served as the foundation upon which China built its prison legal system, and these clauses also serve as the legal source of prison administration. The National People's Congress and its Standing Committee adopted the normative laws governing prison administration in accordance with prescribed processes. The Criminal Law, Criminal Procedure Law, Prison Law, People's Police Law, State Compensation Law, and Law on the Protection of Minors are among them. The Prison Law is the primary legal foundation for the prison legal system, while the Crim-

inal Law and the Criminal Procedure Law offer the fundamental legal framework for prison administration. These three laws combined make up the current Chinese legal framework for the imposition of penalties (Feng WG, 2019).

#### 4. *Organisational Structure*

China's present prison system consists of three main organisational approaches, due to the historical legacy of circumstances and the imbalance of economic development in different regions. The first is functional organisation. A functional organisational structure is still used in most jails. With this organisational structure, the leadership supervises jail administration; each department performs its duty and oversees specific operations. The second is a project-based structure. The project team manages personnel and administrative matters within the prison's authority and responsibility. This organisational structure is utilised for multi-department, specialised, or lengthy tasks. The Prison Offender Rewards and Punishments Committee uses a project-based organisational structure. The third approach is section hierarchy. This model evolved in Chinese prison management and has a two-, three-, and four-level structure. Each aspect in this framework works as part of the whole, not independently, to develop a more effective management system.

#### 5. *Types of Prisons*

Prisons are grouped and categorised based on what kind of prison they are in order to individualise punishments, prevent criminals from influencing each other, and conduct focused rehabilitative efforts. The basic prison types are as follows (Zou Y, 1991): male and female prisons, based on the sex of the offender; juvenile and adult prisons, based on the age of the offender; first-time and repeat offenders, based on whether the offender has previously received a prison sentence or not; negligence and intentional prisons, based on the form of guilt; political and ordinary criminal prisons, based on to the nature of the crime; and special prisons and ordinary prisons, based on their position in the criminal justice system. In addition, there are transitional jails (intermediate prisons), medical prisons, and other sorts of prisons.

## 6. *Prison System Governance*

China's prison management is central and provincial, and the provinces are mainly responsible. Article 10 of the Prison Law states that 'the judicial, administrative department of the State Council shall be responsible for prison activity across the country' and that the Ministry of Justice's Prison Administration Bureau is responsible for prison operations nationwide.

The Ministry of Justice is responsible for drafting, formulating, and issuing administrative regulations on prison work for the State Council, such as formulating development goals and implementation plans for prison work nationwide; coordinating the relationship between the prison system and other central state organs; approving the establishment, abolition, and relocation of prisons; and implementing State Council documents, resolutions, and instructions regarding prisons. The prison administration manages prisons and administers national laws, administrative regulations, and administrative rules on prison work; formulates budgetary, production, and investment plans for prison work; and inspects and directs prisons' work supervising and reforming offenders. The Provincial Department of Justice and the prison administration have similar tasks. Provincial prison administrations lead prisons as execution organs.

Internal prison operations are based on supervision, reform, labour, and administration. The Party Committee oversees a system of jail governors and political commissars. 'A division of labour between prison governors and political commissars under the leadership of the party committee' or 'prison governors under the leadership of the party committee' is how prisons are currently being run. The prison leadership team consists of Party Committee members: one prison director, two deputy prison directors, one political commissar, one deputy political commissar, one disciplinary committee secretary, and one political office director (or trade union chairman).

## 7. *The Core Problems of the Current Prison System*

The purpose of prisons is that perpetrators are treated, undergo training, and are prepared for life after imprisonment, so that they no longer commit crimes. However, there is little scrutiny of how successful prisons are in deterring people from committing further crimes. Those studies that do exist tend to suggest that imprisonment increases the likelihood of recidivism. While imprisoned, an inmate's social network often falls away.

Opportunities on the job market are slim. The conviction is permanently on their criminal record, which many employers want to see. In the worst case, those who are not fortunate enough to own property are left homeless after their imprisonment. Prisons are often drug swamps too. Many inmates are already addicted to drugs when they enter prison, and the problem can be exacerbated in prison. Everyday life in prison is characterised by violence. The proportion of people who commit or attempt suicide in prison is seven times higher than in the general population. More measures are needed to solve these problems.

## 8. *The Prison Population*

### 8.1. *Incarceration Rates – Male/Female Ratio – Age Structure*

As of 2018, there were 1.71 million inmates in China's prisons, a rate of 121 per 100,000 people. 8.4% of these inmates were female criminals and 0.8% were juvenile offenders (Zhou Y, 2021). Despite the lack of a national picture of crimes perpetrated by the elderly, several localities observed a rising tendency (Gao J, 2018). If all convicted and indeterminate offenders were considered, China's jail rates would certainly be far higher.

### 8.2. *Social and Health Issues*

In recent years, the prison system built under the conventional planned economy has become incompatible with the changing situation, causing the following issues. First, liberal sentencing has increased the number of inmates and the state's financial burden. Second, prisons are closed institutions where behaviour is rigorously controlled and convicts are isolated from the world. The greater the gap between closed prisons and normal social life, the less effective prisons are at rehabilitating offenders. Third, the huge number of criminals in jail has led to the integration of criminal components, establishing prison subculture, which is in opposition to the institution's original aim. The offender absorbs the informal attitudes, habits, and conventions of the offender community and becomes immune to society's dominant ideals and prison restrictions, reducing their positive effects (Yang HN, et al, 1999).

According to previous studies, the health of some prisoners and the management of diseases in prisons are not optimal, especially in the fol-

lowing areas. Firstly, elderly prisoners and those with a history of drug addiction are currently the main groupings of unwell inmates. Illness primarily affects elderly prisoners and drug users (Zhang GR, 2021). Secondly, as the prison reform progresses, the inmates' work is getting more intensive and concentrated. The chance and frequency of accidents in chemical plants and hard labour workshops have increased, leading to an increase in inmate illnesses and the risk of infectious diseases (Li YF, 2021). Finally, jails lack suitable psychological counselling institutes, and existing centres are understaffed, making it difficult to immediately address inmates' psychological problems (Ye YH, et al, 2020).

### 8.3. *Human Rights Issues*

Before the reform and opening up, a turning point in China's protection of human rights, the country paid less attention to prisoners' human rights due to economic development limits. After the reform and opening up, the economy grew and China began to focus on prisoner rights. In 1991, China produced its first white paper on human rights, followed by others on protection and progress. In 1992, China's white paper on reforming criminals stated, 'People can be reformed, and most criminals can be reformed.' China follows humanitarian standards when rehabilitating offenders. It guarantees offenders' living conditions, respects human dignity, and bans humiliation. China's Constitution, Prison Law, Criminal Law, Criminal Procedure Law, People's Police Law, State Compensation Law, and other laws guarantee inmates' human rights. From these legal provisions, we can see that the human rights of prisoners are mainly guaranteed in three aspects in China: the purpose of human rights protection; combining education and rehabilitation, with education being the main focus; and the rights of prisoners (including prisoners' political and economic rights, prisoners' right to dignity and equality, prisoners' right to education, prisoners' right to physical and mental health, the right to sanitation, and the right to continue improving after release (Fan LCZ, 2020)).

### 8.4. *Social Work in Prisons*

Though social work has a history of more than 100 years, the formal development of social work really only began following the reform and

opening of China. The development of social work in China went through three main stages. Firstly, social work was introduced in China, from 1922 to 1952; secondly, social work education was abolished, from 1952 to 1988; and thirdly, social work was reconstructed and reintroduced from 1988 onwards (Xia X, et al, 2002). The continuity of social work in China was thus affected and, from 1988, the concept of social work was a blank slate. However, since 1988, social work has developed rapidly in China.

Correctional social work is carried out in prisons. Under the professional values of social work, professionals or volunteers apply social work theories, knowledge, methods, and techniques to provide offenders (or people at risk of committing crimes) and their families with psychological counselling, behavioural correction, information, employment training, life care, and social environment improvement services during trial, imprisonment, and community correction. A social service aims to reduce crime, alter behaviour, and adjust to social life (Zeng Y, 2020).

Social workers can provide the following services in prisons: (i) Helping inmates adjust to prison life, including familiarising them with the prison environment, helping them kick bad habits, helping them resolve life problems, and limiting cross-contamination of criminal ideas and conduct; (ii) Correctional social workers can provide therapeutic and corrective counselling for inmates in ideology, psychological personality, behavioural patterns, and lifestyle, including civic education, psychological and emotional counselling, vocational skills training, and interpersonal awareness and ability enhancement; (iii) Helping convicts grasp societal changes, establish family relationships, and build social networks.

### 8.5. Medical Services

Article 54 of the Prison Law of the People's Republic of China requires all jails to establish medical institutes specialising in health, epidemic prevention, and medical treatment for prisoners. These institutions provide prison medical and health services. 'Prisons must provide sanitary and living conditions for inmates to ensure their health and life. The prison's health strategy must include inmate health care.' The Prison Law must be observed when creating a prison hospital that provides sanitary and epidemic prevention and medical care to convicts. At this stage, every prison in every province has set up a three-tier health care guarantee system, consisting of a basic infirmary, a prison hospital, and a provincial hospital. This provides a strong guarantee for the life and health of the inmates and

enhances the supervision of those serving their sentences. Jail health care reflects the needs of the staff, the target group, and the facility.

#### 8.6. *Labour Integration Projects*

In a growing society, prisons imprison, punish, and rehabilitate offenders so they can acknowledge their mistakes, reform, and reintegrate. Prison labour rehabilitation involves giving inmates productive jobs. Prison police assign jobs to inmates based on their expertise, such as electrician, turner, millwright, carpenter, tiler, etc. Supervision, education, and work help rehabilitate convicts. By law, the prison must supervise inmates, organise productive activities based on their rehabilitation needs, and provide ideological, cultural, and technical education.

#### 8.7. *Education*

Educational rehabilitation refers to mandatory ideological, cultural, and technical instruction for Chinese prisoners. Educational reformation is an obligatory, basic sort of reformation meant to transform offenders into new individuals.

The education and reformation of offenders should adhere to the principles of individual education, classification education, and reasoning. The process should combine collective education with individual education while also combining education within the prison with social education and introducing social resources to the maximum extent possible, for example, to enable offenders to keep abreast of the social development situation and lay the foundation for life after prison. Through educational and reform activities, prisons help criminals realise their illegal behaviour and its dangers. They then utilise a variety of methods to remedy vices.

#### 8.8. *External Help through Families and Support Groups*

Family support for offenders means the offender's family provides material, emotional, and informational support. These materials can help a prisoner cope with frustrations and emergencies. The Regulations on Offender Access to Communication state that family support providers are relatives and guardians. Parental, sibling, and spousal support are all im-



portant when it comes to family. Family meetings (including remote video meetings), phone calls, shared meals, mail, remittances, and affectionate support are important to offenders. Offenders outside prison only have family support. Positive and timely family assistance allows criminals to receive affection, boost their confidence and stress resistance, effectively cope with serving their sentence, and resocialise (Liao WH, 2021).

#### 8.9. *Participation of Non-Profit Organisations in Prison Social Work*

The UK and the US have systems that allow social workers to intervene in court as professionals. Although social work's role has been recognised in China, social workers are not yet seen as professionals in court. Judicial, theoretical, and public awareness of social work is low. Social work is still considered a tool for judicial administrative oversight. Very few non-profit organisations in China are committed to rehabilitating convicts, and the pathways for them to intervene are still being explored. Non-profits can rehabilitate convicts through community rehabilitation, employment acceptance, social aid and education, and post-event supervision (Jiang T, 2007).

#### 8.10. *Reintegration/Rehabilitation/Reentry*

Resocialisation occurs when a person's behaviour violates the social code of conduct and moral norms or deviates from the mainstream social model. In a narrower sense, resocialisation is represented by prisons and refers to coercive rehabilitation, where the perpetrator is forced to undergo social rehabilitation to reshape society, correct behavioural deviations, and restrict personal freedom. This is usually done with professional correctional and management staff, in a special place and with special mechanisms.

General and exceptional recidivism are types of reoffending. General recidivism is broader than recidivism and isn't limited by sentence or time served. Socially detrimental recidivism can be punished harshly. Some national laws add culpability for recidivism. China has no general recidivism provisions, but it does have some provisions for special cases, such as those convicted of a specific offense who commit it again, known as 'special recidivists'. Article 356 of the Criminal Code states that if a convicted drug smuggler, trafficker, transporter, manufacturer, or illegal possessor

performs the same offense again, the penalty is increased. Statutory aggravating circumstances include reoffending.

### *8.11. What are the Barriers for Social Work in the Prisons?*

Social rehabilitation law is incomplete. The legal framework of social correctional work for criminals lacks essential rules and regulations. There is no written special law; only the Prison Law, Section 5, Articles 36, 37, and 38 of 'release and resettlement' establish general, non-specific requirements.

Social support or rehabilitation is lacking. Social rehabilitation requires coordination and communication between several departments, including public safety, courts, prisons, resettlement, community, labour, and personnel.

Social rehabilitation efforts lack depth. There are three main forms of social help and education in China. Firstly, social help and education personnel come to the prison to give reports, speeches, policy propaganda, etc. Secondly, the relatives of criminals, colleagues, and friends from the criminals' original unit come to the prison to do persuasion and probation work, and they sign a help and education agreement, which confirms mutual cooperation and joint responsibility for the education and reform of criminals. Thirdly, the prison forms an arrangement with the offender's government, which sends correctional workers to the prison.

Social rehabilitation is harder. The courts, prisons, public security guards, resettlement and rehabilitation, and community work are not coordinated enough, so relevant information cannot be shared. As a result, foreign criminals in other provinces are difficult to catch, and released prisoners are difficult to cross-check.

### *8.12. How Can These Challenges be Addressed?*

The focus needs to be on solving the key challenges of social help in our jails, doing a good job, and enhancing the efficacy of help and education work. Education should be supported, as well as legal and moral education for mental health. Employment should also be promoted. Criminals should be included in local vocational skills training and provided with employment support, vocational coaching, and other services. Social insurance should be implemented. The prison system and community correc-

tion departments should communicate and coordinate with social security departments. Prison and community offenders can adopt basic medical insurance and other medical security policies and enjoy unemployment insurance treatment. Enough living aid should be provided. The prison system and community correction departments should contact and work with civil affairs departments to help prisoners and community offenders with basic living needs.

### 8.13. *Improving Prison Social Work*

Social support and education are the most effective ways for social forces to help convicts. Full-time law enforcement teams within the workforce are required, but it is also important to widely mobilise social workers and volunteers, as well as social organisations, schools, family members, and other social forces, to do a good job in terms of prison education and rehabilitation, and community correction work. Within the work method, it is necessary to fully recognise the role of professional organisations and professionals and encourage the comprehensive use of sociology, psychology, pedagogy, law, social work, and other disciplines. In terms of system and mechanism, it's important to rely on villages, grassroots groups, all relevant departments, appropriate rules and measures, and the smooth return of offenders to society (Li YQ, 2015).

In conclusion, social work in China's penitentiary system is still at a relatively preliminary stage, and many aspects of work need to be improved, especially in medical care, education, vocational training, psychological counselling, social support, etc.

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