

Modernization of Prison System in Modern China and Its Enlightenment

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Abstract

The modernization of the prison system in modern China is an important aspect of the modernization of the legal system. The improvement of prison system since the late Qing Dynasty has been further developed in the Republic of China. Although the process of modernization of prison system is slow, there are many unsatisfactory aspects. But after all, it began to introduce the concept of Western progress, revise prison laws, and build a number of new prisons, which opened the way of modern prison modernization in China, and also marked the beginning of China's prison system construction from traditional to modern.

Keywords

Modern times, Prison system, Modernization, Enlightenment.

1. Introduction

The management system idea of a country, especially the political system idea such as prison system, will certainly be rooted in the grand background of national conditions. The management system and concept can be reformed and innovated, but can not be separated from the traditional cultural background and actual national conditions. Prisons in feudal China were the product of intimidation and revenge. Prisons are regarded as places to humiliate people and punish crimes through physical punishment and imprisonment. The dark and corrupt prison system persecutes many innocent people. Prisoners are not the object of reform, but the object of slavery and wealth. Therefore, prisons in feudal China were extremely harsh and dark. With the improvement of prisons in the late Qing Dynasty, the reform of prison modernization in China was carried out and developed in the period of the Republic of China.

2. Improvement of Prison System in the Late Qing Dynasty

With the invasion of capitalist countries after the Opium War, the judicial system of the Qing Dynasty began to be semi-colonized. Some insightful people realized that Japan could withdraw the consular jurisdiction imposed by Western powers after Meiji Restoration, first of all, based on the improvement of prisons. After investigating and studying the prison systems of Europe, America, Japan and Russia, the people of insight in the Qing Dynasty finally chose Japan as the object of imitation. At that time, the Qing government chose Japan as its teacher after deep consideration. First, through Meiji Restoration, Japan embarked on the road of enriching the country and strengthening the army. Second, Japan succeeded in its improvement, mainly by following the example of European countries and implementing constitutional monarchy. Third, there are many similarities between Japanese culture and Chinese culture, which makes learning from Japan more efficient and more in line with China's national conditions. Therefore, the Qing Dynasty began to reform the prison system. The guiding ideology of the improvement

of the prison system in the Qing Dynasty was "using the middle school as the body and Western learning as the use". It was based on the maintenance of the feudal throne, monarchy and feudal ethics, while using western science and technology and institutional experience. The main reform proposals are four aspects: revising prison laws and building model prisons.

2.1. Revision of Prison Laws

In 1902, the Qing government set up a revised law hall and appointed Shen Jiaben, Wu Tingfang and other ministers to revise the law. Shen Jiaben and others organize translations of Western and Japanese prison laws and works on prison science, such as Japanese Prison Law, Prison Science and Belgian Prison Rules. In 1908, the Qing government hired Koizumi Koizumi, a famous Japanese prison scientist, to draft the Prison Law of the Qing Dynasty, which was completed in 1910. The Draft Prison Law of the Qing Dynasty consists of 14 chapters and 241 articles, including provisions on imprisonment, detention, servitude, education and instruction, maintenance, medical care, death, reception and letters, reward and punishment, property custody, amnesty, commutation and parole, release, etc. Since the 1911 Revolution overthrew the rule of the Qing government, the Draft Prison Law of the Qing Dynasty was not promulgated and implemented. Although the draft was not formally promulgated, it was directly or indirectly inherited from the Prison Rules of the Republic of China in 1913, the Prison Rules of 1928 and the Penal Code of Prisons in 1946. Both Sun Xiong and Zhao Chen, prison scientists of the Republic of China, made high comments on the Draft Prison Law of the Qing Dynasty. They believed that the Draft adopted the advanced ideas and systems of execution in western countries at that time in terms of style, structure and stripe content, and it was a law synchronized with the advanced countries in execution at that time.

2.2. Reform of Prison Management Institutions

In the feudal dynasty of China, judicature and administration were not separated. Trial and execution were integrated. The judicial organs had both the power to execute penalties. The chief executive at all levels directly manages the prison, and the chief executive is the officer who manages the prison. The feudal emperor was not only the supreme chief executive, but also the supreme judge and prison administrator. The reform in the late Qing Dynasty changed this system. The basic idea is to imitate the "separation of powers" in western countries and to separate the judiciary from the administration. In 1906, the Qing government ordered that the Ministry of Criminal Justice be changed into the Ministry of Justice to take charge of the national judicial administration. The Prison Department under the Ministry of Justice is responsible for prisons throughout the country. This system has played a catalytic role in prison improvement.

2.3. Building Model Prisons

Through the analysis of prison buildings in western countries and Japan, the Qing government put forward that in order to improve the prison system in China, we must first learn the method of the construction of the prison, and in the shortest possible time, build model prisons throughout the country to show the civilization of the prison system. From 1907 to 1911, the new prisons that have been built or are being built in China include the model prisons of Jingshi, Hubei and Fengtian. In addition, the model prisons in Guangxi, Henan and Anhui provinces are under preparation.

2.4. Training Prison Management Talents

Prison improvement is in urgent need of prison management personnel. In 1907, the Qing government ordered Beijing Normal University and provincial law and politics schools to set up prison specialty, compile prison specialty courses, select higher law and politics students, specialize in prison theory and prison management skills, and hire Mr. Kohezijiro to lecture on prison science. This is the beginning of training prison management talents through formal education in China.

The prison reform in the late Qing Dynasty was the beginning of the prison reform in China. It marks the beginning of the disintegration of China's feudal prison system, which lasted for more than two thousand years. It also marks the beginning of China's prison modernization process, so it has important historical significance. In the late Qing Dynasty, although there were still some defects of feudal prisons, it opened a new chapter in the construction of modern prison administration. The various prison improvement measures implemented by the Qing government had a great impact on the subsequent prison legislation and judicial practice in China.

3. The Development of Prison System in the Period of the Republic of China

The modernization of prison system in the Republic of China continued to accelerate on the basis of the late Qing Dynasty. Although warlord warfare and social unrest affected the modernization process of prison system during this period, on the whole, the prison system of the Republic of China basically operated according to the modernized design of the late Qing Dynasty.

3.1. The Legal System of Prisons in the Republic of China

On the issue of prison law, the Beiyang government inherited all kinds of laws formulated in the late Qing Dynasty, and then revised the New Criminal Law of the Great Qing Dynasty promulgated in the late Qing Dynasty but implemented in the future into the Interim New Criminal Law of the Republic of China. In 1913, on the basis of the Draft Prison Law of the late Qing Dynasty, the Beiyang Government amended and promulgated the Prison Rules of the Republic of China. This is the basic regulations of the Beiyang government on the prison system and the first relatively complete prison code officially promulgated by China. It has certain historical significance. In addition, the Beiyang government has enacted some other regulations concerning prisons. Generally speaking, these regulations can be divided into two categories, one is about the management system of criminals. One is about the system of selecting, appointing, assessing, rewarding and punishing prison administrators. During the period of the Nanjing National Government, the Ministry of Justice and Administration followed the prison laws of the Beiyang Government and made only a few amendments.

3.2. Reform of Prison Administration in the Republic of China

The Beiyang government changed the Ministry of Law to the Ministry of Justice at the end of the Qing Dynasty to manage the judicial administration. The Ministry of Justice has a Prison Department, which is specially responsible for the management of prison affairs throughout the country. However, the general affairs department of the Ministry of Justice is responsible for the appointment and removal of prison managers, rewards and punishments, which forms the pattern of prison management by the prison department and the general affairs department together. There are often contradictions between the two organizations in order to compete for power. In addition, the Government of the Republic of China attaches great importance to the selection and appointment of prison administrators. Most senior prison administrators have studied abroad or participated in international exchanges and visits. For example, Xu Shiying participated in the Universal Prison Conference held in Washington in 1910 and served as the first Chief Justice Officer of the Beiyang Government in 1912. His inauguration "demonstrates the government's commitment to establishing a modern judicial system, as well as its determination to improve prisons". Wang Yuanzeng, the first warden of Beijing Normal Prison, was also an important figure in the history of Chinese prisons. He studied prison knowledge in Japan and visited the prison system in Western countries. Yan Jingyao, a sociologist in the Republic of China, represented China at the 10th International Prison Conference and traveled to France, Britain and other countries.

3.3. Implementing Religious Instruction to Educate Criminals

Religious teaching is the product of prisons in Western countries. During the period of the Republic of China, the concept of "influence" with religious color was likened to "a lighthouse erected in the dark ocean". In the summer of 1914, new prisons in the Republic of China allowed trained monks in Japan to teach in prisons for three hours every Sunday. In 1915, the Justice Department of the Beiyang Government allowed Christianity to preach in prisons. In Fengtian No. 1 Prison, 2-3 of every 10 inmates intentionally believe in religion. In prisons in Shandong, Jiangsu and Zhejiang provinces, various forms of religious teaching activities have been carried out. Rehabilitation books that educate criminals also intentionally adopt religious colors, such as the Rehabilitation Sutra, Suicide Rings, Escape Rites, and many Buddhist teachings. Although the effect of religious instruction on prisoners' reform is still uncertain, and the understanding of academic and practical departments is not uniform, religious instruction is still a common practice in prisons in Western countries.

In modern Chinese history, from 1937 to 1949, prisons in the Republic of China were called wartime prisons. Despite all the efforts made by the government and the attempts made to improve the prison system, and some achievements have been made, the protracted war has caused "a fatal blow to the prison system which has been generally established since the late Qing Dynasty, and has never been restored." At the same time, from the actual effect, prison improvement is not only a huge system engineering, but also requires a lot of financial resources and high-quality human resources. In this sense, the reform of prisons in the Republic of China can not achieve the desired vision. Generally speaking, the Republic of China continued the process of modernization of prison system since the late Qing Dynasty. Its prison research directly reproduced the modern concept of Japanese prison system, from which we can see the shadow of Europe. Some prison studies reached a high level.

4. Enlightenment from the Modernization of Prison System in Modern China

From the late Qing Dynasty to the Republic of China, China's prison system in the process of modernization, while absorbing advanced foreign ideas, has also joined China's experience, which gives us a lot of thinking and inspiration.

4.1. The Strength of the Country Is the Driving Force for the Modernization of the Prison System

If a weak country has no diplomacy, it will be beaten if it lags behind. This sentence is also appropriate for the modernization of China's prison system. In the ups and downs of improving prisons in the late Qing Dynasty, the Qing government was like a "trapped beast". In the face of the humiliation of the invasion of Western powers, that kind of struggle was not so much self-improvement as coercion. We clearly saw the helplessness. At the same time, the prison system at that time was really dark and cruel, lacking humanity and civilization. Therefore, the prison reform in the late Qing Dynasty was almost universally supported by the government and the people.

4.2. Emancipation of the Mind Is the Leading Force in Realizing the Modernization of Prison System

Penalty and prison are not so much a system as a culture. Man is an animal of ideas. "Men have to think, and thinking can not be separated from ideas." For example, the tradition of severe punishment and revenge is actually a cultural phenomenon of people's hatred of crime. Such cultural phenomena are everywhere. For example, at present, the public generally do not understand the humanized measures taken by prisoners in prison management. Respect for the human rights of criminals is also not very recognized. This is directly related to the general

aversion to criminals. In western countries, the public generally takes a more tolerant attitude towards criminals.

4.3. Advanced Concepts Are the Support for the Modernization of Prison System

In the international horizon, the change of penalty concept has a profound impact on a country. For example, the ideological enlightenment movement initiated in the West in the 17th and 18th centuries aroused people's rationality, enabled those enlightenment scholars to reflect deeply on the feudal autocracy in the Middle Ages, refined the spirit of law and became the "just idea" of law. In China, prison science started in the late Qing Dynasty and developed in the Republic of China. People know the concept of prison, and gradually change from severe punishment to educational punishment. They have made some breakthroughs in prison architecture, prison system and prison culture, which has promoted the modernization of prison system in modern China.

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