China's Bribery Offenses System's Logical Inconsistencies & Strategies for Improving the Allocation of Penalties

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Abstract: Over the years, China has developed a comparatively comprehensive normative framework for bribery offenses and punishments. The current laws regarding bribery offenses, however, have shown numerous issues with logical self-consistency, which has an impact on the consistency of judicial application and the severity of the penalties. The hierarchy of offenses is unclear, the regulation of new forms of bribery is inadequate, the crimes and penalties are out of balance, the application of property penalties is not standardized, the qualification penalties are nonexistent, and other issues are discovered by sorting out the current legislative framework and penal configuration of bribery offenses in China and thoroughly analyzing its inherent logical conflicts. It is suggested to create a three-tiered offence system, improve the supplementary offenses to control new bribery behaviors, and encourage the equitable distribution of penalties for bribery offenses in order to achieve logical self-consistency. This is based on the two dimensions of reforming the offence system into a group of offenses and reforming the accuracy of penalty allocation.

Keywords:criminal allocation; bribery offenses,;system of offenses; optimization

Introduction

The efficiency of corruption governance, which includes bribery offenses as a central concern, is closely linked to the realization of modernization of the national governance system and governance ability. Chapter VIII of the Criminal Law, "Corruption and Bribery Offenses," is the core of the system of offenses, while Chapter III, "Offenses of Undermining the Order of the Socialist Market Economy," is the supplement. However, as the economy and society have developed rapidly, the provisions of China's criminal law on bribery offenses have evolved from being harsh to being fine and from being single to multiple. However, the issues with the current bribery offense laws in terms of logical self-consistency and penal balance are becoming more and more apparent as a result of the quick economic and social development as well as the ongoing evolution of corruption patterns. In order to improve the overall efficacy of the anti-corruption legal system, it is crucial to methodically examine the logical contradiction between China's bribery offense system and penalty structure, investigate the underlying causes, and propose specific optimization avenues.

1.The present offense system structure and penalty structure of bribery offenses in China

The nation's social justice and rule of law have been severely damaged by bribery offenses, which are the primary expression of corruption. A comparatively comprehensive system of offenses and punishments has been established by the bribing offenses sections of China's criminal code. In order to provide a theoretical framework for the following chapters, which will identify the issues and propose an optimization path, this chapter will methodically sort out the legislative status quo of the Chinese bribery offence system, analyze its internal logical characteristics, and thoroughly examine the particular situation of the penalty configuration.

1.1 The offense system's legislative sorting

The subject's identity serves as the border for China's current criminal law regulation of bribery offenses, which adopts a binary legislative model of "subject + behavior" and forms a parallel legislative pattern of "functional bribery" and "non-functional bribery." With Chapter VIII of the Criminal Law, "Corruption and Bribery Offenses," serving as the foundation and Chapter III, "Offenses against the Socialist Market Economic Order," as the supplement, a system of offenses has been formed using the binary legislative model of "subject + behavior." Bribery offenses of state officials and bribery offenses of non-state officials are the two main categories in accordance with the different nature of criminal subjects and behaviors.20 The Criminal Law Amendment (XII), which went into effect in 2004, has raised the penalty for active bribery offenses, rationalized the penalty settings for active and passive bribery offenses, and modified the individual expressions for special self-surrender. This reflects the legislator's most recent trend of bribery offenses and has significantly altered the current more prominent situation in the fight against corruption. It has altered the imbalance between active and passive bribery, which is more noticeable in the current battle against corruption, as well as the issue of inadequate investigation and punishment of active bribery offenses.

According to article 385 of the Criminal Law,[1] "a State official takes advantage of the convenience of his position to solicit the property of another person, or illegally accepts the property of another person in order to seek benefits for another person" is the fundamental component of the passive bribery offense. This includes the three essential components of "taking advantage of the convenience of his position," "soliciting or accepting property," and "seeking benefits for another person." The three fundamental components of "using the facilities of one's position," "soliciting or accepting property," and "seeking benefits for others" are established in this article. Article 386 also lists "particularly large amounts" and "particularly serious circumstances" as aggravating circumstances for the passive bribery offense. State organs, state-owned businesses, institutions, people's associations, and other units are all included in the scope of the offense of unit passive bribery, which is established under Article 387. In order to address the regulatory gap of close relatives or other close individuals of State authorities using influence to receive unfair benefits, Article 388 establishes the crime of passive bribery with the use of influence. Unlike passive bribery, active bribery is defined as "giving property to a State official in order to seek an undue advantage" in article 389 of the Criminal Law.[2] The subjective objective of "giving property" and the subjective goal of "seeking an undue advantage" are two of the offense's constituent elements. The objective behavior of "giving property" and the subjective goal of "seeking an undue advantage" are the components of the offense. Aggravating conditions for the crime of active bribery are covered by Article 390. It is important to note that, among other things, Article 390 establishes the crime of active bribery of an influential person, which serves as a counter to the crime of passive bribery through the use of influence. This reflects the legislator's goal of addressing the bribery offense chain holistically.

Regarding the bribery offenses against non-State officials, article 163 of the Criminal Code defines the offense of passive bribery of non-State officials. This refers to the behavior of an employee of a business, organization, or other unit who uses their official position to unlawfully accept another person's property or belongings in order to benefit themselves. A system of offenses analogous to the offence of bribery of public officials is established by Article 164, which correspondingly establishes the offence of active bribery of non-State authorities.

Furthermore, the Criminal Code's article 392 defines the crime of procuring bribery, which covers the acquisition of bribes for State officials in the presence of

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[1] Article 385 of the Criminal Law of China: "Where a state functionary, by taking advantage of his official position, solicits property from another person, or unlawfully accepts property from another person in order to procure benefits for that person, he commits the offence of accepting bribes. Where a state functionary, in economic dealings, contravenes state regulations by accepting rebates or handling fees under any pretext for his own personal gain, he shall be treated as having accepted bribes."

[2] Article 389 of the Criminal Law of China: "Where property is given to a state functionary for the purpose of obtaining improper benefits, it shall constitute the crime of bribery. In economic dealings, where property is given to a state official in contravention of state regulations, and the amount is substantial, or where rebates or commission fees are given to a state official under various pretexts in contravention of state regulations, such acts shall be treated as bribery. Where property is given to a state official due to extortion and no improper advantage is obtained, it shall not constitute bribery."

aggravating circumstances. This offense represents the legislator's crackdown on the intermediary links of bribery and serves as a "bridge" in the chain of bribery offenses. By extending the topic of active bribery to a unit and expanding the scope of active bribery offenses, Article 393 allows for the offense of active bribery by a unit.

1.2 The system of offenses' logical features

The three-part conceptual framework of "identity-conduct-legal interest" forms the basis of the current criminal classification system. It is based on the subject's identification, directed by the directionality of the conduct, and focused on protecting legal interests. Three distinguishing features of this structure are the symmetrical construction of conduct patterns, the dual differentiation of offenders, and the central positioning of legal interest protection. These characteristics show the value orientation of criminal policy as well as the legislature's comprehension of the fundamentals of bribery offenses.

1.2.1 The subject of action's dualistic differentiation

Due to the disparate legal definitions of public office bribery and commercial bribery under China's Criminal Law, the dual classification of offenders takes the form of a division between state and non-state officials. The chapter on "Crimes of Embezzlement and Bribery," which primarily protects the integrity of official action, codifies bribery offenses affecting state employees. On the other hand, the chapter on "Crimes Against the Socialist Market Economy Order," which emphasizes the preservation of fair competition in the market economy, covers bribery offenses involving non-state actors. Although there is some logic to this dual-subject arrangement, systemic coordination is also hampered. For example, the term "state functionary" is not sufficiently defined, which makes it difficult to determine the status of some people in real-world situations and, as a result, influences the use of criminal charges.

1.2.2 Designing symmetrical behavior patterns

The reciprocal relationship between accepting and providing bribes is an example of the symmetrical design of behavioral patterns. Reciprocal offenses are divided into "fully reciprocal offenses" and "partially reciprocal offenses" according to criminal law theory; China's bribery crime laws mainly reflect this reasoning. The crimes of receiving and giving bribes make up a traditional reciprocal relationship in the context of public office bribery. Accepting bribes from non-state actors and giving bribes to non-state actors also have a similar relationship in the context of commercial bribery. Although bribery offenses are typically seen as reciprocal crimes, it should be highlighted that a state official's bribery does not always indicate that the recipient will also bribe. Giving property to a state official does not amount to bribery if it only violates the incorruptibility of official duties. Only when it concurrently violates the impartiality of official duties does it qualify as bribery.

1.2.3 Legal interest protection's fundamental positioning

Although their definitions are the same, several academics in our nation have independently stated the protected legal interests of the bribery offenses of offering and accepting bribes. For instance, Professor Guangquan Zhou , in discussing the protected legal interest of the offence of accepting bribes, noted: "The foremost protected legal interest of this offence is the impartiality of official conduct. Concurrently, even where official duties are performed impartially, should a public official associated with such duties accept bribes, public confidence in the administration of public affairs would be undermined, thereby jeopardising the proper exercise of official functions or creating such a risk. To safeguard the impartiality and incorruptibility of official duties, the protected legal interest of this offence should be interpreted as society's trust in the fairness of official conduct (the trust protection theory). " Concurrently, Professor Guangquan Zhou , in discussing the protected legal interest of the offence of bribery, noted: "The legal interest infringed by this offence is the integrity of official conduct and society's trust in such integrity." Accordingly, the protected legal interests of the offenses of bribery and accepting bribes are indistinguishable. Diverse debates over the protected legal interests of bribery offenses continue from the standpoint of legal interest protection. Nonetheless, the dominant perspective maintains that the principal legal interest violated by the crime of receiving bribes is the integrity of public officials' obligations or the incorruptibility of official action. Furthermore, the conventional criminal law theory that emphasizes "the integrity of public officials' official conduct" is giving way to the "incorruptibility of official conduct" theory as the primary focus of legal interest protection in China. This forbids exchanging tangible advantages for maintaining the integrity of official behavior. The focus on the fundamentals of "power-for-money transactions" in legislation reflects this change. For example, the existence of an agreement including a transaction of this kind is sufficient to establish the crime of bribery, rather than the need for real harm to the public interest.However, depending only on "non-bribability" as the primary legal interest protection has proven insufficient due to the multiplicity of bribery techniques. For example, in "emotional investment-type" bribery, the bribe-giver may develop relationships over time rather than making precise demands right away. "Baiting the hook for a big catch" is a pattern of behavior that challenges conventional ideas of legal interests.

1.3 The present situation of sentencing guidelines

China has "greater emphasis on status than conduct" and "greater focus on punishment than prevention" in its criminal penalties for bribery offenses, which are mostly jail sentences with financial and disqualification penalties added. The three tiers of penalties—principal penalties, extra penalties, and sentence considerations—combine to create the system of sanctions for bribery offenses.

1.3.1 Principal penalty

The primary penalty under the statute for bribery offenses is incarceration; the range of sentences varies based on the type and seriousness of the offense. Accepting bribes is punishable by up to three years in prison or criminal detention, as well as a fine. If there are aggravating circumstances, the punishment could include a fine or property confiscation in addition to a maximum sentence of ten years in jail. Property seizure and imprisonment for more than ten years, life in prison, or even the death penalty may be applied in cases of extreme severity. Offering bribes carries relatively minor consequences; the minimum sentence is criminal detention or a fixed-term jail sentence of no more than five years, plus a fine. A fixed-term prison sentence of at least five years but not more than ten years, together with a fine, is the punishment in cases when the situation is serious or results in a major damage to state interests. China's criminal policy stance of "strict governance of officials" is reflected in this sentence pattern, which penalizes bribe-taking more harshly than bribe-giving. It has, nevertheless, also spurred discussion about the appropriateness of punishment.

1.3.2 Additional penalty

Fines and property seizure make up the majority of additional penalties. The 2015 Criminal Law Amendment IX made major changes to the bribery penalty system by changing the previous clause that said fines "may be imposed concurrently" to state that they "shall be imposed concurrently." In addition, certain monetary thresholds were eliminated, and a system of abstract fines was adopted. Although the mandatory aspect of fines was reinforced by this amendment, varied application criteria have led to significant differences in fine amounts in actual situations. Property seizure is mainly used as a punishment for really significant bribery offenses. In reality, though, the hazy line separating "proceeds of crime" from "lawfully acquired property" sometimes results in conflicts while enforcement is being carried out.

1.3.3 Sentencing factors

China's Criminal Law and judicial interpretations include a number of elements that impact the harshness of punishments for bribery offenses when it comes to sentencing considerations. Statutory mitigating factors include "voluntary surrender," "meritorious service," and "truthful confession"; statutory aggravating circumstances include "extorting bribes," "repeatedly accepting bribes," and "securing improper benefits for others." In accordance with the criminal policy of dismantling bribery alliances, the "special leniency clause" established by the Ninth Amendment to the Criminal Law states that bribe-givers who willingly reveal their bribery operations prior to prosecution may have their punishment lowered or avoided. However, this unequal treatment has also resulted in a "world of difference" in the punishments meted out to bribe-takers and bribe-givers, causing a sharp variance in sentencing.

2.Logical inconsistencies and issues with China's offence system and penalty structure for bribery offenses

Despite the fact that China's bribery offenses system was first established, its underlying structural flaws are becoming increasingly apparent due to the country's rapid economic and social development as well as the ongoing evolution of corruption patterns. This chapter will systematically analyze the irrationality and systemic shortcomings of the current bribery offence system's penalty configuration, expose the systemic conundrums and practical issues at their core, and offer a problem-oriented approach to the discussion of the optimization path that follows.

2.1 Systemic flaws in the offenses system

Over time, China's bribery offenses system has developed into a rather complicated set of rules. However, the absence of scientific top-level design and systematic integration has resulted in significant issues like unclear subject definitions, regulatory blind spots, and confusion in the hierarchy of offenses, all of which have severely limited the anti-corruption legal system's overall efficacy.

2.1.1 The order of offenses is unclear

Although the identity of the subject and the opposability of the behavior serve as the primary classification criteria for the current "flat and fragmented" distribution of bribery offenses in China, there is no progressive hierarchical design that goes from the degree of legal interests violated to the mode of behavior, and no graded system of offenses based on the type of behavior and the extent of harm has been established. First, from the perspective of legislative technology, the current Criminal Law divides bribery offenses into various chapters: Chapter VIII, "Corruption and Bribery Offenses," primarily outlines bribery offenses committed by state officials, while Chapter III, "Offenses against the Socialist Market Economic Order," primarily outlines bribery offenses committed by non-state officials. "Offenses against the Socialist Market Economic Order" is covered in Chapter III. Because of this legislative paradigm that separates offenses based on the subject's identity, bribery activities of the same kind are subject to entirely distinct criminal assessments. Second, the application of the offenses is confusing due to the absence of a clear logical hierarchy among them in judicial practice. The line between passive bribery by use of influence and regular passive bribery is blurred when using this offense as an example. This hierarchical confusion directly results in two extreme tendencies: the "amount-only theory," which uses the amount of money involved in the case as the only criterion for choosing the offence, and the "pocket crime" tendency. The second is the propensity for "pocket offence," in which bribery that is hard to qualify for is unwillingly covered by general prohibitions. The fundamental issue is that the existing laws do not establish a "core-periphery" framework of offenses that are grounded in the rent-seeking[3] character of bribery. Theoretically, bribery offenses ought to focus on money transactions and power dynamics, and they ought to be categorized into various levels based on the extent of power participation and behavior. However, there is no logical connection between the current legislation's straightforward juxtaposition of state and non-state staff bribery, mechanical division, and unit bribery and individual bribery. When handling complicated bribery cases, such cross-bribery involving both public officials and business people, where the justice is sometimes caught in an offense selection conundrum, this systemic problem is most noticeable.

2.1.2 Insufficient oversight of emerging bribery schemes

The old "property"-centered laws on bribery offenses are facing significant obstacles due to the digital transformation of the business and society as well as the iterative upgrading of corruption techniques. The emergence of new types of corruption, like "emotional investment-type" bribery, virtual property bribery, and option bribery, highlights how lagged legal regulation is.

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[3] Rent-seeking refers to the unlawful practice whereby government officials or other individuals in positions of power exploit their authority or influence to secure improper benefits for others, originating from the economic theory of rent-seeking.

When a bribe-giver maintains a "friendly relationship" with a public official over an extended period of time under the pretense of human contact, transferring benefits in the name of weddings, funerals, and other festivities without immediately proposing specific requests for favors, this is referred to as "emotional investment-type" passive bribery. While "emotional investment-type" passive bribery is difficult to identify as a passive bribery offence under the current criminal law due to the lack of a clear request, the existing criminal law requires the perpetrator to seek benefits for others. As a result, there are insufficient legal efforts to combat this behavior.

Bribery of virtual property includes new types of property including online gaming gear and digital money. The current criminal law will restrict the object of bribery to "property" and "property interests." Although this has been broadened by judicial interpretation, data rights and interests are not explicitly included. Instead, network virtual property will fall under the purview of regulation, creating legal gaps and leading to judicial practice on virtual property bribery. It is challenging to define and penalize virtual property bribery behavior in judicial practice. Using the time gap to avoid legal repercussions, the more subtle form of "option bribery" takes the form of an agreement to cash in the benefits at a specific future date (such as after retirement). There is still a lack of resources to handle the more complex option agreements, even though the Criminal Law Amendment (IX) adds the clause about "accepting bribes after the fact" but only applies to "seeking benefits for the requestor while in office and accepting property after leaving office."

2.2 The irrationality of penalty distribution

Penalties for bribery offenses in China have structural flaws that weaken their deterrent and preventive effects. These flaws include the unorthodox application of property penalties, the imbalance between crime and punishment, and functional deficiencies. Enhancing the anti-corruption criminal rule of law requires a thorough examination of these irrational phenomena.

2.2.1 Penalties and offenses are not uniform

The existing prison system has glaring fundamental inequities. First, one of the main issues is the irrational internal punishment gradient for the passive bribery offense. The judicial interpretation sets the standard of "a particularly large amount" at more than 3 million yuan, which is clearly out of line with the current level of economic development. As a result, "major cases" and "minor cases" have emerged in judicial practice. Article 386 of the Criminal Law stipulates that "a particularly large amount or a particularly serious circumstance" is a requirement for the statutory upgrading of the sentence. The punishments for "major cases" and "minor cases" differ too much in the practice of the law. Even more noticeable is the difference between the punishments for active and passive bribery. The Criminal Law stipulates that the basic penalty for active bribery is limited to less than five years in prison, while the basic penalty for passive bribery is limited to less than three years in prison. This penalty appears to be more severe than that for active bribery. However, because there are numerous aggravating circumstances, the final punishment for passive bribery is significantly more than that for active bribery in actual sentencing. Although there are undoubtedly criminal policy considerations behind this discrepancy, an excessive amount of it results in an excessively low cost for the active bribery offense; this enormous disparity also makes it difficult for the judiciary to establish a fair system of accountability, which is not helpful for the basic suppression of the corruption ecosystem.

2.2.2 Applications of penalties and seized property judgments that are irregular

Property penalties play a crucial role in punishing bribery offenses, but China's current laws and judicial practices regarding their application are characterized by a number of unresolved issues, including imprecise standards and poor execution. "The provisions on the types of penalties lay the foundation for the smooth realisation of a balanced relationship between crime and punishment."

First of all, there are no precise standards used to determine fines. In actuality, there are significant variations in the amount of fines imposed in various situations because the Criminal Law only allows for "concurrent fines" and does not specify how the amount of fines is calculated. Second, property confiscation is used too leniently. Although property may be seized in whole or in part under Article 59 of the Criminal Law, this provision does not clearly distinguish between property that is legitimate and property that is the profits of crime. These issues are further compounded by flaws in the system that is in place to enforce property sanctions. The major issue of "empty sentences" for property sentences arises from the fact that many bribery offenders transfer and conceal their property prior to sentencing due to the absence of an efficient system for property inquiry and preservation.

2.2.3 The punitive function's failure

One of the main problems with the existing penal system is the lack of a qualifying penalty. In China, the primary qualifying penalty is the forfeiture of political rights, which is rarely associated with bribery offenses unless the perpetrator receives a death sentence or life in prison. Other bribery offenses do not result in the deprivation of political rights. It may be because "the legislator tacitly assumes that civil servants who commit corruption offenses will naturally be purged from the civil service, so there is no need to add a separate provision on deprivation of political rights." This makes it difficult to achieve a special preventive effect because many bribery offenders are able to re-enter the relevant professions after their sentences have been served.

3. The criminal justice system's path to optimization and the penalty structure for bribery offenses in China

A systematic and scientific optimization plan must be developed following a thorough analysis of the issues with China's criminal justice system and the penalty structure for bribery offenses. The effectiveness of the governance of bribery offenses is directly tied to the realization of modernization of the national governance system and governance capacity. In order to create a more stringent and effective bribery offence governance system, this chapter will offer a workable improvement path from the two dimensions of the reform of the offence system and the precise reform of the penalty configuration, based on the prior analysis of the current structure and logical conflicts.

3.1 Modification of the way offenses are grouped in the offense system

3.1.1 The legislative model of clusters of offenses is introduced, and a three-tiered system of clusters of offenses is constructed

As some academics have noted, "The amount should not be the only variable that determines the social harm of bribery... It should be more concerned about what kind of public power the public official sold, and what the bribe giver bought as a result." This suggests that the Chinese bribery offense system needs to be structurally redesigned from a systemic perspective. Through a clear relationship between the levels of offenses, it should strengthen the scientific application of justice by establishing "power seeking rent" as the central component of the three-tier crime group system. The first level for the core group of crimes - duty-type bribery offenses, to state officials as the subject includes the basic types of crimes directly infringing on the integrity of the act of duty, covering the crime of passive bribery, active bribery, good offices bribery and other traditional crimes, highlighting the "rent-seeking rights - transfer of benefits It highlights the regulation of "rent-seeking and benefit-transferring" core behaviors. It should be noted that the criteria for the identification of State officials should be clarified, and it is recommended that the "substantive authority criterion" be adopted, focusing on the nature of the authority actually exercised by the perpetrator rather than the mere form of his or her status. For personnel of mixed ownership enterprises, the relevant provisions of the Law on State-owned Assets of Enterprises can be referred to, in accordance with the double standard of "proportion of state-owned capital holding + actual control" for the definition; the second level is the group of related offenses - non-functional bribery offenses, which is based on the principle of "fair market competition order". The second tier is the related offence group - non-office-based bribery offenses, which takes "fair market competition order" and "indirect protection of the integrity of office behaviour" as the legal interests, and focuses on the regulation of bribery behaviors occurring in the commercial field and influencing office behaviors through non-rights channels. For example, the offenses of passive bribery of non-State officials, active bribery of non-State officials and passive bribery through the use of influence; the third tier is a group of fringe offenses - derivative bribery offenses, which includes auxiliary offenses such as introduction of bribery and active bribery of influential persons, and highlights the regulation of non-core behaviors such as assistance and introduction in the chain of bribery offenses.

In terms of specific construction, it is advised that the offence groups' structure be created in accordance with the three-dimensional framework of "subject - mode of conduct - object of conduct" and that each offence group have two levels of basic and aggravated composition. For instance, the offence of passive bribery should be divided into "passive bribery in breach of duty" and "passive bribery not in breach of duty," with the former carrying heavier statutory penalties. At the same time, the Criminal Law should be amended to include the "aggravated penalty clause for breach of duty" in order to increase the severity of punishment for those who willfully violate their duties in order to obtain benefits for others, as well as to reflect the harsh punishment for the abuse of power.

3.1.2 Improving and expanding the offenses: controlling emerging bribery schemes

The current offenses should be improved through legislative interpretation or changes to the criminal code, and new offenses should be developed eventually to address the issue of inadequate regulation of emerging forms of bribery. First and foremost, it is necessary to clarify the specific forms of "seeking benefits for others" and refine the essential parts of the passive bribery offense. This includes, but is not limited to, the kind and extent of the benefit, as well as specific demands. In addition, it is suggested that a paragraph be added to Article 385 of the Criminal Law to address the "emotional investment type" of passive bribery: "The long-term and repeated acceptance of property that may affect the impartiality of the act of office, the cumulative total of which reaches a larger amount, even though there is no specific matter of request, shall be punished as passive bribery." Clear "long-term" (e.g., more than a year), "multiple" (e.g., more than three times), "may affect," and other components of the standard-setting process are also in favor of the adoption of judicial interpretations. Legislative interpretation should expand the definition of "property" in the Criminal Law to include "digital assets and data interests with economic value" in relation to virtual property bribery. Additionally, the sentencing criteria should include guidelines for converting the value of virtual property. The "market price - purchase price - appraisal price" method of progressive determination has been put into place. It is suggested that the crime of "accepting bribes in anticipation of benefits" be added to the list of crimes for especially egregious option bribery. The clause states that "if a state official agrees with the requestor while in office to accept property or other benefits after leaving office, he or she shall be convicted and punished in accordance with the offence of accepting bribes, and the punishment may be heavier, as appropriate." In order to close the current legal loopholes, it is also made clear that "anticipated benefits" include, but are not limited to, employment agreements, equity awards, service contracts, and other forms of expression.

3.2 Accuracy improvements in penalty distribution

3.2.1 Using gradient design to balance the number of offenses and punishments

The range of penalties for bribery offenses in China must be judiciously adjusted based on the social hazards and circumstances of various bribery offenses in order to address the issue of offense imbalance and guarantee that the severity of the penalties is appropriate for the offenses.

"The more dangerous the offence is to the public good, the stronger the force that prompts people to commit it, and the stronger should be the means of stopping them from committing it." So she creates "a corresponding ladder of penalties, from strongest to weakest, according to the degree of social harm of the offence." According to some academics, "unbalanced penalties mean that the same situation is treated differently, which is contrary to the minimum formal justice, not to mention substantive reasonableness." As a result, the "crime and punishment fit the crime" principle should be followed when rebuilding the penalty ladder for bribery offenses. A "base sentence + moderated" sentencing model should be established, with the "degree of breach of profession" and the "size of the loss caused" added on top. To make the legal penalty ranges of various grades more clear, adjustment elements like "the degree of violation of profession" and "the size of the loss caused" should be superimposed. The first step is to rebuild the punishment level for the passive bribery offense. The benchmark of "particularly large amount" is set by the current Criminal Law at 3 million yuan, which is out of step with the degree of economic development. It is suggested that a "dynamic amount standard" be implemented, wherein a "particularly large amount" is defined as 1,000 times the annual per capita disposable income of urban residents in the area where the crime was committed. Additionally, provincial-level judicial organs should be permitted to vary by 20% to account for regional variations. Nevertheless, the "breach of duty" should be considered a separate aggravating element, and the sentence may be raised by 30–50% in the appropriate sentencing level for cases that result in large losses or negatively affect society. Second, there should be a balance in the punishments for both active and passive bribery. Even though incarceration for fewer than five years is the minimum penalty for active bribery, real sentences are typically short. A "particularly serious circumstances" level should be established under article 390 of the Criminal Law. This level could result in a sentence of more than 10 years in prison for active bribery in one of the following situations: (1) bribing more than three people; (2) bribing in the area of major projects and people's livelihoods; or (3) causing the State to suffer losses exceeding 5 million yuan.

3.2.2 Enhancing the way property words are applied normatively

It is essential to develop unified standards for the application of fines and confiscation of property penalties in order to address the issue of irregularities in the current configuration of penalties for bribery offenses in China. Additionally, it is necessary to increase economic deprivation for corruption offenses.

It is suggested that a "two-track system of fines" be established, with the first track being a "proportional fine system" that applies to cases where the proceeds of crime can be accurately calculated and where the benchmark for fines is set at 1–5 times the proceeds of crime. The second track is a "daily fine system" that applies to cases where the proceeds of crime are difficult to calculate and where the average daily income of the defendant—which is theoretically calculated based on the average daily income of the previous three years—is used as a guide when imposing fines ranging from 30 to 300 days. The "daily fine system" is the second option. It is used in situations where it is challenging to determine the proceeds of crime and imposes a fine ranging from 30 to 300 days based on the defendant's average daily income, which is theoretically determined by averaging their daily income over the previous three years. The unjust phenomena of "the rich being irrelevant and the poor being unaffordable" can be successfully avoided by dynamically modifying the fine amount in accordance with the defendant's financial circumstances.

A clear distinction between "proceeds of crime" and "lawful property" should be made with respect to the penalty of confiscation of property, and the extent to which this penalty might be applied should be made clear. Direct proceeds of crime, property converted from profits of crime, and other property related to the crime must all be specified by judicial authorities in their rulings. A "property registration and publicity system for bribery offenses" should be established in order to increase the transparency of the source of property, and the procuratorial authorities should carry out a thorough investigation into the property status of suspects during the investigation stage. These improvements should be made to the property investigation system concurrently. Furthermore, the system for connecting the criminal trial and enforcement processes, the mechanism for protecting the enforcement of property penalties, the requirement that preservation measures be taken with regard to suspects' property during the investigation stage, and the introduction of a third-party property investigation system must all be improved.

3.2.3 Building a systematic system of qualifying penalties

A multi-level institutional architecture should be used to alleviate the absence of qualifying penalties. First, adding the penalty of "disqualification from public office" to the Criminal Law is advocated at the most fundamental level. An extra five to ten years of prohibition from holding public office may be enforced for bribery offenses carrying a term longer than three years in jail; in extreme circumstances, a lifelong ban may be imposed. In addition to creating a nationally networked database of qualifications for office, this measure should be connected to the Civil Service Law and the Supervision Law. Second, it is advised that the guidelines for implementing the career ban be enhanced at the intermediate level. It is recommended that the restriction period be increased to three to ten years and that "all professions related to criminal behavior" be included in the field of application. A lifelong review system for occupational restrictions should be put in place for certain areas like financial and medical services. Lastly, it is suggested that a "compliance observation period" be implemented at the innovation level. A compliance observation period of two to three years might be established for businesses with small bribery offenses. During this time, the establishment of an anti-corruption compliance system would be required, and if the business passed, the qualification requirements could be lowered or eliminated.

A hierarchical and ordered system of penalties can be established with the help of the aforementioned reforms, allowing for the complete implementation of the deterrent, deprivation, and corrective functions of penalties.

4.Conclusion

This paper presents a systematic optimization plan from the dimensions of reforming the offence system and precisely reforming the penalty configuration. It does this by thoroughly analyzing China's bribery offence system and penalty configuration, exposing its inherent logical conflict and lack of external adaptability. Our nation's bribery offence governance system will be able to achieve the shift from "fragmented regulation" to "systemic regulation" with the help of the development of a three-tier crime group system with "power rent-seeking" at its core, the improvement of supplemental offenses to address new forms of bribery, the encouragement of the reconstruction of the penal gradient, the standardization of property penalties, and the systematization of qualification penalties. This will assist China in transitioning from "piecemeal regulation" to "systematic governance" and from "heavy punishment deterrence" to "precision crackdown" in its governance system for bribery offenses. In the end, this change creates a long-term mechanism of "not daring to corrupt, not being able to corrupt, and not wanting to corrupt" in order to provide a strong guarantee of the rule of law for the comprehensive construction of a modern socialist country. It also improves the deterrent and preventive effects of penalties in addition to improving the scientific and accurate application of justice.

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