

# Prison Law of the People's Republic of China

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## Chapter I General Provisions

Article 1 This Law is formulated in accordance with the Constitution for the purpose of correctly executing criminal punishments, punishing and reforming prisoners, preventing and reducing crimes.

Article 2 A prison is an organ of the State for executing criminal punishments.

Criminal punishments of prisoners sentenced to death penalty with a two-year suspension of execution, life imprisonment, or fixed-term imprisonment shall be executed in prisons under the Criminal Law and the Criminal Procedure Law.

Article 3 A prison shall, with regard to prisoners, implement the principle of combining punishment with reform and combining education with labour, in order to transform them into law-abiding citizens.

Article 4 A prison shall exercise supervision and control over prisoners according to law, and shall, in accordance with the needs of reforming prisoners, organize prisoners to engage in productive labour and conduct ideological, cultural and technical education among prisoners.

Article 5 Activities in prison administration, execution of criminal punishments, and education and reform of prisoners conducted according to law by the people's police of a prison shall be protected by law.

Article 6 A people's procuratorate shall exercise supervision in accordance with the law over the legality of activities conducted by prisons in execution of criminal punishments.

Article 7 Human dignity of a prisoner shall not be humiliated, and his personal safety, lawful properties, and rights to defence, petition, complaint and accusation as well as other rights which have not been deprived of or restricted according to law shall not be violated.

A prisoner must strictly observe laws, regulations, and rules and discipline of the prison, subject himself to control, accept education and take part in labour.

Article 8 The State shall ensure the expenditures of a prison for the reform of prisoners. The prisons' expenditures for the people's police, for the reform of prisoners, for the living expenses of prisoners, for the administration and installations of the prison, and other special expenses shall be included into the State budget.

The State shall provide production facilities and production expenses necessary for prisoners to do labour.

Article 9 Lands, mineral resources and other natural resources used by a prison

according to law as well as properties of a prison shall be protected by law; no organizations or individuals shall seize or undermine them.

Article 10 The department of judicial administration under the State Council shall be in charge of the work of prisons in the whole country. Chapter II Prison

Article 11 The establishment, abolition or move of a prison shall be subject to the approval of the department of judicial administration under the State Council.

Article 12 A prison shall install one warden, several deputy wardens, and, in light of the actual needs, set up necessary working organs and provide other administrative personnel.

The administrative personnel in a prison are the people's police.

Article 13 The people's police of a prison shall strictly abide by the Constitution and the law, be loyal to their duties, enforce the law impartially, strictly observe discipline and be honest and upright.

Article 14 The people's police of a prison shall not commit any of the following acts:

(1) to demand, accept or seize money or goods from prisoners or their relatives;

(2) to release a prisoner without authorization or through dereliction of duty to cause a prisoner to flee from the prison ;

(3) to use torture to coerce a confession, or to use corporal punishment, or to maltreat a prisoner;

(4) to humiliate the human dignity of a prisoner;

(5) to beat or connive at others to beat a prisoner;

(6) to utilize a prisoner to provide labour services for personal gains;

(7) to privately deliver a letter or an article for a prisoner in violation of regulations;

(8) to illegally surrender the functions and powers to supervise and control prisoners to another person; or

(9) other law-breaking acts.

If the people's police of a prison commit any act specified in the preceding paragraph and the case constitutes a crime, the offenders shall be investigated for criminal responsibility; if the case does not constitute a crime, the offenders shall be given administrative sanctions.

Chapter III Execution of Criminal Punishments

## Section 1 Putting in Prison

Article 15 With respect to a criminal who is sentenced to death penalty with a two-year suspension of execution, life imprisonment or fixed-term imprisonment, the people's court shall serve the notice of execution of the sentence and the written judgment on the public security organ where the criminal is in custody. The public security organ shall hand the criminals over to a prison for execution of the punishment within one month from the date of receiving the notice of execution of the sentence and the written judgment.

Before a criminal is handed over for execution of the criminal punishment, if the remaining term of his sentence is not more than one year, the criminal punishment shall be executed by the detention house instead.

Article 16 A people's court shall, in handing over a criminal for execution of the criminal punishment, serve on the prison a copy of the bill of prosecution from the people's procuratorate together with the written judgment, the notice of execution and the registration form of closing the case from the people's court. The prison shall not put the criminal in prison without receiving the above-mentioned documents; if such documents are incomplete or have errors in the records, the people's court which passed the effective judgment shall, without delay, make them complete or correct; if any of the above-mentioned circumstances may lead to wrongful imprisonment of a person, the prison shall not accept him.

Article 17 A prison shall give physical examination to the criminals who are handed over for execution of their criminal punishments. A criminal sentenced to life imprisonment or fixed-term imprisonment may, after physical examination, temporarily not be put in prison under either of the following circumstances:

(1) if a criminal is seriously ill and needs to be released on parole for medical treatment; or

(2) if a criminal is a pregnant woman or a woman who is breast-feeding her own baby.

With respect to a criminal temporarily not to be put in prison as provided in the preceding paragraph, the decision on temporary execution outside prison shall be made by the people's court which handed the criminal over for the execution. With respect to any such criminal whose temporary execution of the sentence outside prison constitutes a danger to the society, he shall be put in prison. If a criminal temporarily serves his sentence outside prison, the public security organ in the place of the criminal's residence shall execute the criminal punishment. After the circumstances specified in the preceding paragraph under which a criminal is temporarily not put in prison disappeared, the criminal who has not completed the execution of his original term of sentence shall be handed over to a prison for imprisonment by the public security organ.

Article 18 When a criminal is put in prison, his or her body and the articles brought with him or her shall strictly be checked. The non-daily necessities shall be taken care of by the prison for the criminal or with the agreement of the criminal be returned to his or her families, and contraband goods shall be confiscated.

A female criminal shall be checked by a people's policewoman.

Article 19 A criminal may not bring his or her child with him or her to serve sentence in prison.

Article 20 After a criminal is put in prison, the prison shall inform the criminal's family members. A written notice shall be sent out within five days from the date when the criminal is put in prison.

## Section 2 Handling of Petitions, Complaints and Accusations Made by Prisoners

Article 21 If a prisoner is not satisfied with the effective judgment, he may file a petition. A people's procuratorate or a people's court shall without delay handle the petitions filed by prisoners.

Article 22 A prison shall without delay handle the complaints or accusations made by prisoners, or transfer the above material to a public security organ or a people's procuratorate for handling. The public security organ or the people's procuratorate shall inform the prison of the result of its handling.

Article 23 A prison shall transfer without delay the petitions, complaints and accusations made by prisoners and shall not withhold them.

Article 24 In the course of execution of the criminal punishment, if a prison believes on the basis of a prisoner's petition that the judgment may be wrongfully made, it shall refer the matter to a people's procuratorate or a people's court for handling. The people's procuratorate or the people's court shall notify the prison of the result of its handling within six months from the date of receiving the prison's written recommendation for handling.

## Section 3 Execution Outside Prison

Article 25 If a prisoner sentenced to life imprisonment or fixed-term imprisonment serving his sentence in prison complies with the conditions for execution outside prison as provided by the Criminal Procedure Law, he may be permitted to temporarily serve his sentence outside prison.

Article 26 For temporary execution outside prison, a written recommendation shall be made by a prison and submitted for approval to the administrative organ of prisons of the province, autonomous region or municipality directly under the Central Government. The organ granting the approval shall notify the public security organ and the people's court making the original judgment of the decision

on the approval of the temporary execution outside prison, and send a duplicate of its decision to the people's procuratorate.

If a people's procuratorate considers that it is improper to apply temporary execution outside prison to the prisoner, the people's procuratorate shall send its written opinions within one month from the date of receiving the notice to the organ that approved the temporary execution outside prison. The said organ shall, upon receiving the written opinions from the people's procuratorate, conduct forthwith reexamination and re-verification of its decision.

Article 27 If a prisoner temporarily serves his sentence outside prison, the public security organ in the place of the prisoner's residence shall execute his sentence. The prison that originally held the prisoner in custody shall promptly inform such public security organ of the prisoner's performances of reform in prison.

Article 28 After the circumstances causing temporary execution outside prison disappeared, if the prisoner has not completed his term of sentence, the public security organ in charge of the execution shall without delay inform the prison to put the prisoner back into prison; if a prisoner has completed his term of sentence, the prison that originally held the prisoner in custody shall handle the formalities for the release. If a prisoner died during the period of temporary execution outside prison, the public security organ shall, without delay, inform the prison that originally held the prisoner in custody about the death.

#### Section 4 Commutation of Punishment and Release on Parole

Article 29 If a prisoner sentenced to life imprisonment or fixed-term imprisonment has shown true repentance or rendered meritorious service during the term of imprisonment, his sentence may be commuted on the basis of the result of the assessment made by the prison. If a prisoner has rendered one of the following major meritorious services, his sentence shall be commuted:

- (1) having stopped a grave criminal activity of another person;
- (2) having reported a grave criminal activity inside or outside prison which has been ascertained to be true;
- (3) having made an invention or a major technical innovation;
- (4) having risked his or her life to save others in daily production or life;
- (5) having made remarkable performances in fighting against natural calamities or in avoiding or removing grave accidents; or
- (6) having made other major contributions to the State or the society.

Article 30 A recommendation for commutation of a sentence shall be made by a

prison to a people's court. The people's court shall within one month from the date of receiving the written recommendation examine it and make a ruling thereon; if the case is complicated or the circumstances are special, the said period may be extended by one month. A duplicate of the ruling on commutation of a sentence shall be sent to the people's procuratorate.

Article 31 Where a prisoner sentenced to death penalty with a two-year suspension of execution conforms with the conditions for commutation to life imprisonment or fixed-term imprisonment as provided by the law during the period of suspension of execution of his death penalty, the prison holding the prisoner in custody shall make a timely recommendation for commutation upon expiration of the two-year suspension of execution and report it first to the administrative organ of prisons of the province, autonomous region or the municipality directly under the Central Government for examination and verification, and then submit the matter to the higher people's court for a ruling.

Article 32 Where a prisoner sentenced to life imprisonment or fixed-term imprisonment conforms to the conditions for release on parole as provided by the law, the prison shall, on the basis of the result of its assessment, make a recommendation for release on parole to the people's court. The people's court shall, within one month from the date of receiving the written recommendation, examine it and make a ruling thereon; if the case is complicated or the circumstances are special, the said period may be extended by one month. A duplicate of the ruling on parole shall be sent to the people's procuratorate.

Article 33 Where a people's court has made a ruling on parole, the prison shall parole the prisoner as scheduled and issue him a certificate of parole.

A parolee shall be supervised by a public security organ. Where a parolee during the period of parole commits any acts in violation of laws, administrative rules and regulations or the regulations of the public security department under the State Council on the supervision and control of parolees, if such acts do not constitute a new crime, the public security organ may make a written recommendation for the cancellation of parole to the people's court. The people's court shall within one month from the date of receiving the written recommendation examine it and make a ruling thereon. Where the people's court has ruled to cancel the parole, the parolee shall be handed over to the prison for custody by the public security organ.

Article 34 If a prisoner does not satisfy the conditions for commutation or parole as provided by the law, the prisoner shall not be commuted or paroled on any ground. If a people's procuratorate considers that a ruling on commutation or parole made by a people's court is improper, it may lodge a protest within the time limit specified by the Criminal Procedure Law. With respect to the case protested by the people's procuratorate, the people's court shall try it anew.

## Section 5 Release and Resettlement

Article 35 If a prisoner has completed service of his sentence, the prison shall release him as scheduled and issue him a certificate of release.

Article 36 After a prisoner is released, the public security organ shall make residence registration for him on the strength of his certificate of release.

Article 37 With respect to a person released after serving his sentence, the local people's government shall assist him in resettling down.

If a person released after serving his sentence has lost his ability to do labour, and has no statutory supporters or basic source of income, the local people's government shall offer him relief.

Article 38 A person released after serving his sentence shall enjoy equal rights with other citizens in accordance with the law.

#### Chapter IV Prison Administration

##### Section 1 Separate Custody and Separate Control

Article 39 A prison shall practise separate custody and separate control with respect to male adult prisoners, female adult prisoners and juvenile delinquents. In respect of the reform of juvenile delinquents and female prisoners, special consideration shall be given to their physiological and psychological characteristics.

A prison shall, with respect to prisoners, carry out separate custody and varied control on the basis of their types of crimes and punishments, terms of sentences and performances of reform.

Article 40 Female prisoners shall be under the direct control of people's policewomen.

##### Section 2 Guard

Article 41 The people's armed police forces shall be in charge of the armed guard of prisons. The specific measures shall be prescribed by the State Council and the Central Military Commission.

Article 42 If a prison discovers that a prisoner in custody has escaped, the prison shall capture him as soon as possible. If the prison can not immediately capture the escaped prisoner, it shall notify the public security organ without delay. The public security organ shall be responsible for the pursuit and capture of the escaped prisoner, and the prison shall closely coordinate with the public security organ.

Article 43 A prison shall set up guard installations in accordance with the needs of supervision and control. The guard segregation zone around a prison shall be delimited. No one shall, without permission, enter into such zone.

Article 44 State organs, public organizations, enterprises, institutions and grass-roots organizations in the neighbourhood of a prison or its operation areas shall assist the prison in its security work.

### Section 3 Use of Restraint Implements and Weapons

Article 45 Under any of the following circumstances, a prison may use restraint implements:

- (1) if a prisoner commits any acts of escape;
- (2) if a prisoner commits any acts of violence;
- (3) if a prisoner is on the way of escort; or
- (4) if a prisoner commits other dangerous acts against which it is necessary to take precautions.

After the circumstances specified in the preceding paragraph disappeared, restraint implements shall not be used.

Article 46 Personnel on duty of the people's police or the people's armed police forces may, under any of the following circumstances, which can not be checked without the use of weapons, use weapons in accordance with the relevant regulations of the State:

- (1) if any prisoner is assembling a crowd to make a riot or rebellion;
- (2) if any prisoner is escaping or resisting arrest;
- (3) if any prisoner is committing physical assault or destruction with a lethal weapon or other dangerous articles to endanger the safety of another person's life or property;
- (4) if any prisoner is being seized and rescued by force; or
- (5) if any prisoner is seizing a weapon by force.

Personnel who have used weapons shall report the situations in accordance with the relevant regulations of the State.

### Section 4 Correspondence and Meeting with Visitors

Article 47 A prisoner may, during the service of his sentence, correspond with others, but their correspondence shall be examined by the prison. If the prison discovers that the contents of a letter present a hindrance to the reform of the prisoner, the prison may detain the letter. Letters from a prisoner to the higher

authorities of the prison or to the judicial organs shall be free from examination.

Article 48 A prisoner may, in accordance with the relevant regulations, meet with his relatives and guardians during the service of his sentence.

Article 49 Goods or money to be received by a prisoner shall be subject to the approval and examination of the prison. Section 5 Life and Health

Article 50 The living standard of prisoners shall be measured by the quantity of material objects, and it shall be set by the State.

Article 51 The beddings and clothing of prisoners shall be uniformly rationed and provided by the prison.

Article 52 Considerations shall be given to the special habits and customs of prisoners of minority ethnic groups.

Article 53 Wards of a prison shall be firm, ventilated, possible for the natural light to come in, clean and warm.

Article 54 A prison shall set up medical organs and living and sanitary facilities, and institute regulations on the life and sanitation of prisoners. Medical and health care of prisoners shall be put into the public health and epidemic prevention programme of the area in which the prison is located.

Article 55 If a prisoner dies during imprisonment, the prison shall immediately inform the prisoner's family members, the people's procuratorate and the people's court. If a prisoner dies from a disease, the prison shall make a medical appraisal. If the people's procuratorate suspects the prison's medical appraisal, it may make an appraisal anew on the cause of the death. If the family members of the prisoner suspect the prison's medical appraisal, they may raise their suspicion to the people's procuratorate. If a prisoner dies an abnormal death, the people's procuratorate shall immediately conduct examinations and make an appraisal on the cause of the death.

## Section 6 Rewards and Punishments

Article 56 A prison shall establish a routine check-up system for prisoners. The result of such check-ups shall be taken as the basis for awarding or punishing prisoners.

Article 57 If a prisoner is under one of the following circumstances, the prison may commend or award him, or record a merit for him:

(1) if a prisoner observes the rules and discipline of the prison, studies hard, takes an active part in labour and shows admission of guilt and acceptance of the judgement;

- (2) if a prisoner has stopped any law-breaking or criminal activities;
- (3) if a prisoner has overfulfilled his production task;
- (4) if a prisoner has made achievements in saving on raw materials or caring for public property;
- (5) if a prisoner has achieved certain success in technical renovation or passing on his production skill;
- (6) if a prisoner has made contributions in preventing or removing a disastrous accident; or
- (7) if a prisoner has made other contributions to the State and the society.

Where a prisoner sentenced to fixed-term imprisonment is under one of the circumstances specified in the preceding paragraph, if he has served more than a half of the original term of his sentence, and has always shown good performances during imprisonment and if his leaving from the prison will no longer endanger the society, the prison may, in light of the circumstances, permit him to leave the prison for the purpose of visiting his family members or relatives.

Article 58 If a prisoner has committed one of the following acts obstructing the order of supervision and control, the prison may give him a warning, demerit-recording or solitary confinement:

- (1) assembling a crowd to make a stir and to disturb the order of the prison;
- (2) abusing or beating the people's police;
- (3) bullying other prisoners;
- (4) stealing, gambling, coming to blows, or stirring up fights and causing troubles;
- (5) refusing to do labour though he has the ability to work or being slack in work and refusing to mend his ways even after education;
- (6) escaping from doing labour by means of self-injury or self-mutilation;
- (7) intentionally violating the operation rules in productive labour or intentionally destroying tools of production; or
- (8) other acts violating the rules and discipline of the prison.

The term of solitary confinement imposed on a prisoner as stipulated by the preceding paragraph shall be from seven to fifteen days.

If a prisoner has committed an act specified in the first paragraph during the service of his sentence, and if the case constitutes a crime, he shall be investigated for criminal responsibility according to law.

## Section 7 Handling of Crimes Committed by Prisoners During the Term of Imprisonment

Article 59 If a prisoner intentionally commits a crime during the service of his sentence, he shall be given a heavier punishment according to law.

Article 60 A criminal case committed by a prisoner in the prison shall be investigated by the prison. On the conclusion of the investigation, a recommendation for prosecution or a recommendation for exemption from prosecution written by the prison together with the case file and the evidence shall be handed over to a people's procuratorate .

## Chapter V Education and Reform of Prisoners

Article 61 In the education and reform of prisoners, the principle of suiting education to different persons and cases and persuading prisoners through reasoning shall be implemented and the method of combining collective education with individual education and combining education by the prison with education by the society adopted.

Article 62 A prison shall carry out ideological education among prisoners in legality, morality, current situations, policies and outlook on their futures.

Article 63 A prison shall, in light of different conditions of prisoners, carry out literacy education, primary education and junior secondary education. If a prisoner has passed due examinations, the educational department shall issue him the corresponding certificate of education.

Article 64 A prison shall carry out occupational and technical education among prisoners in accordance with the needs of production in the prison and of employment after their release. If a prisoner has passed due examination and verification, the labour department shall issue him the corresponding certificate of technical grade.

Article 65 A prison shall encourage prisoners to study on their own. If a prisoner has passed due examinations, the relevant department shall issue him the corresponding certificate.

Article 66 The cultural, occupational and technical education of prisoners shall be included into the educational plan of the area where the prison is located. A prison shall have necessary educational facilities such as class-rooms and reading-rooms.

Article 67 A prison shall organize prisoners to conduct proper sport activities and

cultural recreations.

Article 68 State organs, public organizations, units of armed forces, enterprises, institutions, personage of various circles and family members or relatives of prisoners shall assist prisons in doing a good job in the education and reform of prisoners.

Article 69 An able-bodied prisoner must do labour.

Article 70 A prison shall, in the light of the individual conditions of prisoners, rationally organize them to do labour so as to correct their bad habits, to cultivate their habits of working, to acquire production skills and to create conditions for employment after their release.

Article 71 With regard to the working hours of prisoners, a prison shall make reference to the State's relevant regulations on working hours; under special circumstances such as seasonal production, the working hours may be readjusted.

Prisoners shall have the right to rest on statutory festivals and holidays.

Article 72 Prisons shall, in accordance with the relevant regulations, pay remunerations to the prisoners who take part in labour, and implement relevant regulations of the State on labour protection.

Article 73 If a prisoner is injured, disabled or dead in the course of doing labour, the prison shall handle the matter with reference to relevant regulations of the State on labour insurance.

## Chapter VI Education and Reform of Juvenile Delinquents

Article 74 Criminal punishments on juvenile delinquents shall be executed in the reformatories for juvenile delinquents.

Article 75 The focus in the execution of criminal punishments on juvenile delinquents shall be on education and reform. Labour for juvenile delinquents shall conform to the characteristics of minors and its main objectives shall be to acquire an elementary education and production skills.

A prison shall coordinate with the State, society and educational institutions such as schools in providing necessary conditions for juvenile delinquents to receive compulsory education.

Article 76 If a juvenile delinquent has reached the age of 18 and the remaining term of his sentence does not exceed two years, he may still be kept in the reformatory for juvenile delinquents for the execution of the remaining term of his sentence.

Article 77 If matters relating to the control, education and reform of juvenile

delinquents are not covered by this Chapter, the relevant provisions of this Law shall apply.

#### Chapter VII Supplementary Provisions

Article 78 This Law shall go into effect as of the date of promulgation.