

# *Construction of an Evidence-Centered Criminal Charging System*

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**Abstract:** In recent years, our country has achieved remarkable success in promoting the construction of the criminal evidence system. The introduction and implementation of a series of legal systems have provided a more solid institutional guarantee for criminal judicial practice. However, in the face of increasingly complex and changeable criminal patterns and judicial challenges, there is still room for improvement in the existing criminal evidence system, and some key issues urgently need to be addressed. Against this backdrop, building a formal accusation system with evidence at its core has become a central topic and an urgent need in the current criminal justice reform. By optimizing all aspects such as evidence collection, examination, and application, it is ensured that the trial of each criminal case is based on conclusive evidence. This not only effectively combats crimes but also fully protects human rights, achieving a harmonious unity of judicial justice and efficiency.

## **1. Introduction**

As the cornerstone and soul of the criminal justice system, the criminal evidence system profoundly influences the fairness and efficiency of criminal litigation. In recent years, China has achieved remarkable progress in advancing the construction of its criminal evidence system. The introduction and implementation of a series of legal systems have provided a more solid institutional guarantee for criminal justice practices.<sup>[1]</sup> However, facing the increasingly complex and changing forms of crime and judicial challenges, the existing criminal evidence system still has room for improvement, with some key issues urgently needing resolution. Against this backdrop, constructing an evidence-centered criminal charging system has become a core issue and urgent need in the current criminal justice reform.<sup>[2]</sup> By optimizing each link in evidence collection, review, and application, this system aims to ensure that every criminal case is tried on the basis of irrefutable evidence, effectively combating crime while fully protecting human rights and achieving a harmonious unity of judicial justice and efficiency.<sup>[3]</sup>

## **2. Necessity of Constructing a New Criminal Charging System**

The criminal charging system must conform to the basic values of criminal litigation, fully reflecting the value orientation of the Criminal Procedure Law in discovering truth and protecting human rights.<sup>[4]</sup> Evidence is the lifeblood of criminal litigation, and establishing an evidence-centered criminal charging system helps better adapt to the requirements of judicial reform, give play to the human rights protection role of the pre-trial filtering mechanism, correct the wrong perception of presumption of guilt, and implement the judicial requirement of basing decisions on facts.

### **2.1 Balancing Crime Control and Human Rights Protection**

Crime control and human rights protection are the two functions of criminal litigation, neither of which can be neglected.<sup>[5]</sup> However, in past judicial practices, case-handling personnel often focused more on crime control and ignored human rights protection. They used physical and coercive methods to extract confessions from criminal suspects and prioritized substance over procedure when collecting evidence, seriously violating citizens' legitimate rights and causing many unjust, false, and erroneous cases.<sup>[6]</sup> Constructing an evidence-centered new criminal charging system sets higher requirements for evidence competence and probative force, giving play to the procuratorial organ's pre-trial filtering role. It resolutely excludes illegal evidence obtained through torture and illegal evidence collection by investigative organs, establishes an objective evidence-based review model, and makes decisions of "doubtful non-arrest" and "doubtful non-prosecution" for cases where facts are unclear and evidence is insufficient after excluding illegal evidence, preventing criminal cases from proceeding to trial with flaws and effectively protecting the litigation rights of criminal suspects and defendants.

### **2.2 Facilitating the Construction of a New Prosecution-Defense-Adjudication Relationship for an Adjudication-Centered Litigation System**

Case filing, investigation, and prosecution review, as pre-trial procedures in criminal litigation, are independent stages but closely related.<sup>[7]</sup> The task of investigation is to collect, fix, and preserve case evidence in preparation for prosecution review. Prosecution review involves examining the competence and probative force of evidence obtained during the investigation stage through a combination of on-site review and documentary review. Constructing an evidence-centered new criminal charging system by excluding illegal evidence can enhance investigators' procedural awareness, improve the quality of evidence collection, restrict investigative powers, and correspondingly enhance defense rights, preventing an imbalance in the strength between prosecution and defense.<sup>[8]</sup> Under the evidence-centered criminal charging system, all three parties—prosecution, defense, and adjudication—will pay more attention to evidence application and review. This shared focus on evidence helps promote the harmonious development of the prosecution-defense-adjudication relationship. On the one hand, both prosecution and defense will pay more attention to evidence collection and organization to better conduct cross-examination and debate during the trial.<sup>[9]</sup> On the other hand, the adjudication organ will also pay more attention to evidence review and judgment to ensure the fairness and accuracy of judgments. This relationship of mutual cooperation and mutual restriction helps form a healthier and more stable prosecution-defense-adjudication dynamic.

## 2.3 Ensuring Efficient Case Handling by Procuratorial Organs and Improving Case Handling Efficiency

Procuratorial organs are legal supervision organs as stipulated by the Constitution, shouldering the responsibility of legal supervision. To ensure that every case reflects fairness, justice, and human rights protection, procuratorial organs must strictly review each piece of evidence in accordance with the principle of evidence-based adjudication during the prosecution review stage. Being "evidence-centered" prompts procuratorial case-handling personnel to reconstruct the crime scene through investigation files, explore and apply objective evidence, and extract objective evidence from verbal evidence during review, optimizing evidence collection methods to ensure the comprehensiveness and accuracy of evidence and improving case-handling efficiency. Additionally, it can strengthen the procuratorial guidance of the investigative model, construct a new type of procuratorial-investigative relationship, improve case-solving efficiency, and comply with procedural law provisions.<sup>[10]</sup> Constructing an evidence-centered new criminal charging system eliminates flawed and illegal evidence from the source, ensuring case quality.

## 3. Assessment of Current Issues in the Evidence-Centered Criminal Charging System

The evidence-centered criminal charging system is an important part of the criminal justice field, aiming to accurately determine criminal facts through evidence and ensure judicial justice and human rights protection. However, the current system still faces several problems and challenges in practice.

### 3.1 Incomplete Evidence System

Firstly, China's current evidence rules have deficiencies in terms of types and scope of application. Firstly, existing evidence rules mainly focus on traditional evidence forms such as documentary and physical evidence, lacking clear provisions for the collection, review, and application of emerging evidence forms like electronic data and audio-visual materials.<sup>[11]</sup> Secondly, the limitations in the scope of application of current evidence rules mean that the existing evidence rule system cannot comprehensively regulate the use of various types of evidence.

Secondly, in criminal litigation, the application of evidence rules varies among different types of cases. On the one hand, procuratorial organs often adopt stricter evidence review standards for serious criminal cases to ensure the accuracy of prosecution. On the other hand, for minor cases, relatively looser evidence review standards may be applied to improve case-handling efficiency. These different review standards may lead to inconsistent judgment results in similar cases, affecting judicial fairness.<sup>[12]</sup> Additionally, in certain special cases, such as those involving minors, courts may apply more protective evidence rules to safeguard minors' rights, which may conflict with general evidence rules.

Thirdly, China's current Criminal Procedure Law has defects in the evidence preservation system. Firstly, the preservation procedure is relatively complex, requiring multiple links such as case filing, investigation, and application. This not only increases judicial costs but also may lead to evidence loss or tampering. Secondly, the preservation effect is unsatisfactory, with the implementation of preservation measures often constrained by practical difficulties. For example, for vulnerable evidence like electronic data, existing preservation measures struggle to ensure their integrity and reliability.

### 3.2 Insufficient Effectiveness in Reviewing Evidence Competence and Probative Force

Evidence is the core of criminal litigation, and courts rely on objective and reliable evidence to convict defendants during the trial stage. Procuratorial organs play a pre-trial filtering role by reviewing the competence and probative force of evidence submitted by investigative organs before prosecution.<sup>[13]</sup> However, from current judicial practices, procuratorial organs have certain deficiencies in reviewing evidence competence and probative force during the charging process.

Firstly, the review of evidence competence is often superficial. Current legal requirements for evidence qualification are too general, lacking specific and operable standards. This makes it difficult for procuratorial organs to grasp accurate boundaries during review, prone to subjective judgments that affect review fairness. The review of evidence qualification often becomes a formality, lacking strict procedural requirements. Moreover, parties and defense lawyers have fewer opportunities to participate in the review, making it difficult to fully protect their litigation rights. Furthermore, procuratorial organs do not review evidence thoroughly enough. Due to the lack of clear review standards and standardized procedures, procuratorial reviews in practice often remain superficial, unable to deeply examine the truthfulness and legality of evidence.

Secondly, procuratorial organs have insufficient filtering of illegal evidence during the prosecution review stage and face numerous difficulties in applying the illegal evidence exclusion rule. Although the CPL has established a relatively comprehensive institutional system for illegal evidence exclusion with sound provisions, its core focuses on the review and determination of illegal evidence during pre-trial conferences and trial stages. In practical judicial practice, procuratorial organs lack specific executable procedural provisions on how to exclude illegal evidence, leading to the following problems: first, it is difficult to define "illegal evidence," especially evidence obtained through threats, inducements, or deception, and determining the degree to which such evidence is illegal. Second, the boundary between illegal evidence and flawed evidence is hard to grasp—some believe flawed evidence can be used after correction, while others advocate excluding it as illegal evidence.<sup>[14]</sup> Third, the legal level neglects the exclusion of illegal physical evidence. Due to the long-standing emphasis on physical evidence, case-handling personnel subconsciously trust the reliability of almost all physical evidence without further reviewing its source and legality. Fourth, the burden of proof for the illegal evidence exclusion rule is unclear. Additionally, even after excluding illegal evidence, the integrity of the evidence chain determines the case's judgment.<sup>[15]</sup> Facing the dilemma of passively accepting not-guilty verdicts or voluntarily withdrawing prosecution, which may affect prosecutors' performance evaluations and impose significant psychological pressure, procuratorial organs often have insufficient review and filtering of illegal evidence during the prosecution review stage.

Finally, procuratorial organs have insufficient effectiveness in reviewing the probative force of evidence. Firstly, regarding physical evidence, procuratorial organs lack thoroughness of the "three characteristics" (objectivity, relevance, and legality), with insufficient awareness of verification. They usually determine the relevance and legality of physical evidence only through inspection records. However, due to differences in investigative technology levels across China, the collection, fixation, preservation, and application of objective evidence may not meet unified standards, potentially leading to evidence lacking identity. This requires procuratorial organs to fully attach importance to evidence identity issues to avoid using flawed evidence for charging. Secondly, the methods for reviewing probative force are not scientific enough.<sup>[16]</sup> Currently, procuratorial and adjudication organs mainly use empirical review methods, i.e., judging evidence credibility based on the experience of judges and prosecutors. This approach is subjective and arbitrary, making it difficult to ensure objective and fair review results and prone to inconsistent judgments due to differences in case-handling personnel's experience. Meanwhile, with technological development,

review methods for new evidence types like electronic data are not yet mature, making it hard to accurately grasp their probative force. Finally, the review of probative force lacks strict executable standards.<sup>[17]</sup> Since China's CPL and evidence law do not specify how to determine the size of probative force, procuratorial organs across the country have inconsistent standards during review, relying solely on empirical rules without clear grading criteria, leading to excessive subjectivity and discretionary power in probative force review.

### 3.3 Inconsistencies Between Practical Application of Proof Standards and Legal Requirements

The CPL stipulates that convicting a defendant must meet the requirement of "clear crime facts and sufficient evidence." Similarly, procuratorial organs can only initiate prosecution when crime facts are cleared up, evidence is sufficient and credible, and reasonable doubts are excluded. This means procuratorial organs must base their decisions on existing objective evidence and effectively establish inner conviction. However, in judicial practice, some procuratorial organs do not fully comply with these regulations, excessively pursuing "redundant corroboration." As long as there is a sufficient quantity of evidence to form corroboration, they make prosecution decisions, lowering the prosecution threshold.

Mutual corroboration between evidences, as an effective proof model verified by practice, focuses on establishing a solid support framework for the reliability of case facts through mutual confirmation and logical coherence between evidences. This model emphasizes not only the reinforcing effect of evidences to avoid the isolation of single evidence but also the deep content consistency, requiring the corroboration process to go beyond formal consistency and integrate logical reasoning and empirical rules for comprehensive and in-depth review.

However, the corroboration proof model risks being misused or abused. In the complex field of criminal charging, especially when case clues are obscure and fact restoration is highly difficult, achieving comprehensive corroboration often faces practical challenges, becoming an insurmountable obstacle.<sup>[18]</sup> In such situations, even when the case is already relatively clear and meets the legal proof standard, the phenomenon of excessive pursuit of "redundant corroboration" may still emerge, hindering the timely progress of litigation and weakening the efficiency and quality of prosecution.

Additionally, the mechanistic and objectivist tendencies of the corroboration model, while effectively ensuring judicial fairness, inevitably weaken the subjective initiative of procuratorial and adjudication personnel. Over-reliance on corroboration may lead to a rigid judicial proof process, ignoring the indispensable flexibility and creativity in judicial judgment. Finally, this tendency to over-rely on corroboration may also push criminal charging work into the of "quantity over quality" (mistaken belief that quantity is better than quality), excessively emphasizing the quantity rather than the quality of evidence and deviating from the essential requirement of "sufficient and credible evidence."

## 4. Pathways for Constructing an Evidence-Centered Criminal Charging System

Improving an evidence-centered criminal charging system requires constructing scientific and reasonable evidence rules, which are mainly reflected in the following aspects:

Firstly, evidence rules should reflect the value of justice. The ultimate goal of criminal litigation is to achieve justice. Evidence rules should facilitate the clarification of factual truths, ensure the fairness of conviction and sentencing, protect the legitimate rights of defendants, reflect the principle of presumption of innocence, and prevent wrongful convictions.

Secondly, evidence rules should reflect the value of fairness. They should ensure that parties enjoy equal rights in evidence presentation, cross-examination, and other links, preventing one



party from suppressing the other due to a dominant position. Meanwhile, evidence rules should also take into account the special needs of vulnerable groups, such as adopting special protective measures for child witnesses.

Thirdly, evidence rules should reflect the value of efficiency. Excessively strict evidence rules may reduce litigation efficiency and affect the realization of judicial justice.<sup>[19]</sup> Therefore, evidence rules should, on the premise of ensuring fairness, also be flexible, adaptable to the characteristics of different cases, and strive to simplify procedures and improve efficiency.

#### **4.1 Strengthening the Evidence System Under the Evidence-Centered Criminal Charging System**

Firstly, when constructing a criminal charging system framework with evidence as the core pillar, the primary and key step is to improve the evidence collection rule system, fundamentally clarifying the legal boundaries of evidence collection, setting strict legal standards for law enforcement personnel's evidence collection behavior, and resolutely curbing any form of illegal evidence collection to lay a solid and reliable foundation for evidence legality. Additionally, establishing and improving the illegal evidence exclusion mechanism is equally crucial—any evidence obtained through illegal means must not be used as the basis for conviction or sentencing, completely stripping it of legal effect. At the same time, to further enhance evidence quality and reliability, it is necessary to guide investigators to establish an objective evidence investigation awareness, promoting the transformation of investigative activities from relying on confessions to focusing on objective evidence. In major criminal cases, procuratorial organs should contact investigative organs, intervene early in the investigation, implement an "investigation guided by prosecution" evidence collection model, strengthen evidence legality, and establish a normalized investigative-prosecutorial coordination mechanism.

Secondly, improving the evidence review model and strengthening evidence awareness. To advance the modernization of the evidence review model in an evidence-centered criminal charging system, three types of evidence review models should be constructed: objective, on-site, and systematic. Promote the transformation from a subjective evidence review model to an objective evidence review model, shifting from excessive reliance on subjective evidence review to taking objective evidence as the core of evidence review and strengthening the construction of a full-case evidence system centered on objective evidence. The stability and reliability of objective evidence determine its dominant position in constructing an evidence-centered criminal charging system, so a full-case evidence system should be built with objective evidence as the core. So, promote the transformation from documentary evidence review to on-site case-handling model, changing the case-handling method centered on file review. On the one hand, effectively guide investigative evidence collection. Procuratorial organs should play a pre-trial leading role, actively guiding investigative organs to collect various evidences that can prove the defendant's guilt or innocence, crime severity or leniency based on the evidence in the file, ensuring the comprehensiveness of evidence entering the corroboration system. On the other hand, pay attention to the review of key evidence. In major, difficult, and complex cases, public prosecutors must review important verbal evidences such as victim statements and key witness testimonies to increase personal experience and ensure the truthfulness of evidence review results. Finally, strengthen the awareness of comprehensive evidence review and judgment, preventing one-sided and isolated use of evidence. Highly value the integrity, systematicness, and logic of the evidence group, ensuring the stability and reliability of the evidence system, effectively proving case facts, and achieving consistency between the full-case evidence and the process and results of case occurrence and development, ultimately forming a complete and closed evidence chain.

Thirdly, improving the evidence application mechanism. Evidence review and application are the core content of criminal charging work, and constructing an evidence chain is a systematic project requiring a foundation of comprehensive evidence review and application. Therefore, to promote the construction of an evidence-centered criminal charging system, it is necessary to strengthen procuratorial personnel's ability to review and apply the full evidence chain, which is also the key to handling every criminal case with high quality and efficiency. In terms of evidence application, it is essential to emphasize the full-chain and systematic use of evidence, through the cross-use and comparison of direct and indirect evidence, mutual corroboration and reinforcement of subjective and objective evidence, and analysis of evidence from pre-event, in-event, and post-event stages, avoiding being trapped by superficial "isolated evidence" or hindered by formal "doubtful crimes."

#### **4.2 Constructing a "Prosecution-Dominant" New Investigative-Prosecutorial Relationship**

To make the evidence-centered pattern the norm in criminal litigation, it is necessary to construct a criminal investigative-prosecutorial relationship where prosecution controls and guides the overall development of pre-trial procedures and plays a leading, principal, and proactive role in the investigation process, which can also be called a "prosecution-dominant" investigative-prosecutorial relationship. Article 7 of the Criminal Procedure Law establishes the principle of division of responsibilities, mutual cooperation, and mutual restriction among the three judicial organs (public security, procuratorial, and judicial) in criminal litigation, which is an important cornerstone for ensuring judicial justice and efficiency. This principle requires each organ to perform its duties while closely collaborating to form an independent and unified judicial force. However, in current judicial practice, the closed process from case filing to investigation conclusion limits the procuratorial organ's real-time supervision over key links such as evidence collection and preservation, often leading to delayed supervision and affecting the effective play of procuratorial supervision functions. Under the background of the adjudication-centered criminal litigation system reform, both investigation and prosecution work must strictly follow trial standards and requirements to ensure case quality can withstand legal and factual scrutiny. As an important link in criminal litigation, the procuratorial organ's prosecution decision-making and evidence review powers are crucial. How to play a leading role in this process is decisive for constructing an evidence-centered criminal charging system.

To further optimize the collaboration mechanism among the three judicial organs and enhance the overall efficiency of criminal litigation, efforts can be made in two aspects.

Firstly, establish the idea of prosecution dominance. Procuratorial organs should strengthen communication and cooperation with investigative organs, ensuring that investigative activities are carried out according to law and evidence collection processes are comprehensive, legal, and effective through early intervention in investigations and guidance on evidence collection. Establish and improve supervision mechanisms for evidence collection, preservation, and transfer links, ensuring that procuratorial organs can real-time monitor case progress and evidence situations, promptly put forward supervision opinions, correct illegal acts in investigative activities, and protect the legitimate rights of criminal suspects.

Secondly, establish a procuratorial guidance investigative mechanism. Since prosecution review and court prosecution are undertaken by procuratorial organs, establishing "procuratorial early intervention to guide investigative evidence collection" will become the optimal choice and practical path for the new procuratorial-investigative relationship. Guiding investigation means that procuratorial organs, for the purpose of charging and proving crimes and ensuring the legality of investigative activities, provide suggestions to investigative organs on selecting investigation directions, choosing investigative measures, and collecting criminal evidence, playing a guiding and

supervisory role in criminal investigation. For particularly major and complex cases, the arrest and prosecution departments can connect with investigative departments to intervene in a timely manner before the criminal suspect is arrested, leading evidence collection from a charging perspective and forming arrest-prosecution coordination.

### 4.3 Improving Cross-Examination Rules

The cross-examination rule originated in the adversarial litigation model and has now become a common court questioning technique in modern rule-of-law countries. The purpose of cross-examination is to use various methods to prove the unbelievability of witness testimony before the fact-finder, weakening the witness's credibility by proving contradictions, untruthfulness, or doubts in previous testimonies. China's court witness questioning norms have gradually become more reasonable, but the Criminal Procedure Law and judicial interpretations have not fully absorbed the content of the 2018 Court Investigation Rules, leaving defects in the cross-examination rules and the initiation of leading questions.<sup>[20]</sup> Due to the unsound framework and core rules of court questioning, it is rare for both prosecution and defense to use direct and cross-examination methods to investigate witness evidence, let alone conduct leading questions for specific reasons. To construct a new charging system, the key is to promote the substantiveness of witness testimony and improve the cross-examination system.

Firstly, improve the witness attendance system and implement the hearsay evidence exclusion rule. Witness attendance at trial is the most basic prerequisite for cross-examination; otherwise, the cross-examination rule cannot be applied. In the common law cross-examination system, both prosecution and defense actively encourage their witnesses to appear in court, and the law stipulates relevant mandatory, compensation, and protection rules for witness attendance obligations. Article 192(1) of the CPL stipulates: "Where the public prosecutor, the parties, or the defender or legal representative has an objection to the witness testimony, and such testimony has a significant impact on the conviction and sentencing of the case, and the people's court deems it necessary for the witness to appear in court, the witness shall appear in court to testify." Article 193 stipulates the circumstances under which the people's court may compel witnesses to appear. Article 207 of the SPC Interpretation on the CPL stipulates that the people's court shall provide subsidies for witnesses appearing in court, and Article 209 stipulates protection measures for witnesses, expert witnesses, and victims appearing in court. Research should establish a pre-trial written testimony exclusion rule: for witnesses who should appear in court according to law but fail to do so without just cause, their pre-trial testimony shall not be used as evidence.

Secondly, improve questioning rules. First, establish a complete rotation and order rule. In practice, issues of inconsistent questioning order often arise, so a clear questioning order rule should be established, proceeding in the order of prosecution first and defense second to avoid trial disorder.

Thirdly, revise the leading question rule. First, leading questions are prohibited during the direct examination of witnesses, as direct examination aims to awaken the witness's memory rather than question the witness's testimony. However, during cross-examination, the questioning party should be allowed to ask leading questions.

### 4.4 Strict Implementation of the Illegal Evidence Exclusion Rule

Procuratorial organs, within the criminal charging system, must effectively restrict investigative evidence collection and strictly review evidence legality, resolutely excluding illegal evidence. This requires procuratorial organs to accurately grasp the scope and identification standards of illegal evidence. Confessions obtained through violent methods such as beating or illegal use of restraints,



or through threats of violence or serious harm to the legitimate rights and interests of the person and their close relatives, as well as confessions obtained through illegal detention or other illegal means of restricting personal freedom, and repetitive confessions obtained through torture must be resolutely excluded according to law. For physical and documentary evidence collected in violation of legal procedures that may seriously affect judicial fairness and cannot be corrected or explained, the relevant evidence should be strictly excluded according to law. Second, it is necessary to legally protect the defendant's right to apply for excluding illegal evidence. Once the defendant applies for excluding illegal evidence before the trial begins and provides relevant clues or materials in accordance with the law, the people's court shall hold a pre-trial conference to hear the opinions of all litigation parties. If a consensus can be formed and confirmed, the issue should be resolved promptly through the pre-trial conference. Third, strictly regulate the evidence legality investigation procedure during the trial stage. The legality of evidence should be investigated first, fully protecting the prosecution and defense's rights to present and cross-examine evidence legality. After the court investigates the legality of evidence, it should generally render an immediate decision on whether to exclude the relevant evidence. If, after excluding illegal evidence, the conviction evidence is insufficient to prove the defendant's guilt, a not-guilty judgment should be made according to law.

## 5. Conclusions

The major backdrop of the reform of the criminal evidence litigation system in our country is the transformation of the litigation system centered on trials. This reform not only affects the litigation structure and the relationship among the three organs of public security, procuratorial and judicial, but also brings new soil for the operation mechanism of the criminal evidence system. Meanwhile, with the continuous deepening of the social rule of law process, the concept of human rights protection has gradually permeated the criminal judicial field, putting forward new requirements for the criminal evidence system. Therefore, building a criminal accusation system centered on evidence is not only an inevitable trend of the times but also an urgent need to improve the criminal judicial system in our country.

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