

A Comparative Study of Two Plea Bargaining Systems in China: Parties have Reached Settlement and Leniency for Admitting Guilt and Accepting Punishment

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Abstract: In recent years, with the rise of restorative justice theory, the development of the criminal concept of mitigating punishment, and the implementation of the criminal policy of both leniency and strictness, China's confession and negotiation system has developed rapidly. In China's criminal justice system, the guilty plea negotiation system includes parties have reached settlement and leniency for admitting guilt and accepting punishment. Both of these systems can be applied at any stage of criminal proceedings, and both include the elements of confession and negotiation and lenient punishment, and both play the role of saving judicial resources. As different guilty pleas and negotiation systems, too many similarities make them have many conflicts in the application process. This is not conducive to their respective strengths and their application in conjunction with each other. Therefore, it is necessary to conduct a comparative study of the two systems and analyze the similarities and differences. Clarifying the relationship between parties have reached settlement and leniency for admitting guilt and accepting punishment will help the improvement and development of China's pleabargaining system.

Key Word: Confession and Negotiation System, Parties have Reached Settlement, Leniency for Admitting Guilt and Accepting Punishment

I. Introduce

(i) The system of parties have reached settlement

The ideological origin of the litigants' reconciliation system has a long history in China, which is the development of Chinese traditional "non-litigation" thought in the new era (Chen, 2007,119). When

the *Criminal Procedure Law of the People's Republic of China*(CPL)was revised in 2012, the parties have reached settlement system was established. In the course of criminal procedure, the victim and the perpetrator negotiate on economic compensation under the police or prosecutors' auspices based on the principle of equality and voluntariness, with the aim of seeking the forgiveness of the victim-related family members and reaching a reconciliation agreement. After the judicial organ reviews the reconciliation agreement, it can be employed as the basis for non-prosecution or lenient punishment. The litigants' reconciliation enables the victim to obtain timely economic compensation and spiritual compensation and enables the defendant to obtain the victim's forgiveness based on compensation measures such as an apology and economic compensation, and finally obtain relatively lenient criminal punishment.

The procedure of public prosecution cases of parties have reached settlement, as one of the special procedures of the Criminal Procedure Law, is stipulated in Chapter II, Book V of the CPL. In accordance with Article 288 of the CPL, the parties have reached settlement can be applied to two types of cases. One is a case regarding a crime that arises from civil disputes as described in Chapter IV (Crimes of Infringing Upon the Rights of the Person and the Democratic Rights of Citizens) or Chapter V (The Crime of Encroaching on Property) of the Specific Provisions of the Criminal Law and is punishable by a fixed-term imprisonment of three years or a lighter penalty; or a case regarding a negligent crime, other than a crime of malfeasance, which is punishable by a fixed-term imprisonment of seven years or a lighter penalty. Besides, if a criminal suspect or defendant once committed any intentional crime in the past five years, the parties have reached settlement shall not apply.

To sum up, the Parties have reached settlement has the following characteristics.

First of all, the subjects of parties have reached settlement are the suspects or defendants and the victims and their family members. The litigants engage in the agreement on the contradictions and disputes between the parties on both sides, the degree of damage caused by specific compensation claims, compensation performance methods, etc. The suspect or defendant's ultimate goal is to seek the forgiveness of the victim and reach a reconciliation agreement.

Besides, the parties have reached settlement follows the principles of equality and voluntariness. The principle of equality and voluntariness is the basis for the parties on both sides to engage in contact and discussion. Only the reconciliation agreement reached on this basis can satisfy both sides' parties and be thoroughly implemented. No institution or individual shall force the parties on both sides to engage in or withdraw from the reconciliation procedure, and no institution or individual shall interfere with the expression of the true will of the parties on both sides.

Finally, the cases applicable to the parties have reached settlement need to meet the corresponding conditions. ¹a) The subjective malignancy of the suspect or defendant is not intense. The criminal acts they commit cannot be vicious crimes, nor can they be crimes that endanger national interests, infringe upon social welfare, and the legitimate rights and interests of others as stipulated in the Criminal Law. This type of criminal activity is never allowed to apply the parties have reached settlement. b). The criminal act of the suspect or defendant infringes on the rights and interests of specific victims. The existence of victims is a prerequisite for the procedure progress of parties have reached settlement. c). If the suspect or defendant actively bears the responsibility and gives compensation, the economic losses and mental damages suffered by the victim would be compensated to a certain extent, and the damaged social relations would be repaired accordingly.

(ii) The Leniency System for Admitting Guilt and Accepting Punishment

The leniency system for admitting guilt and accepting punishment is the manifestation of the plea agreement system in Chinese justice. The plea agreement system is an efficient and economical judicial procedure explored by common law countries under the judicial mode of the adversary system. Since it gives full play to the initiative of the criminal suspect in the litigation procedure, protects the litigation rights of the criminal suspect, quickly ends the case, effectively relieves the pressure of judicial personnel in handling cases, and solves the contradiction between the shortage of personnel and the surge of cases in judicial practice, it has been widely welcomed all over the world. The reform of the leniency system for admitting guilt and accepting punishment is an important part of the judicial reform in China, and it is also another development of China's criminal justice concept in the plea agreement system.

"To improve the leniency system for admitting guilt and accepting punishment in criminal procedure" was proposed for the first time in *Decisions on Several Major Issues Concerning Promoting the Rule of Law by the Whole People* approved by the Fourth Plenary Session of the Eighteenth CPC Central Committee in October 2014. In July 2016, *the Pilot Program for the Reform of the Leniency System for Admitting Guilt and Accepting punishment* was approved in the 26th meeting of the Central Leading Group for Comprehensively Deepening Reforms. In September 2016, *the Decision on Authorizing the Supreme People's Court and the Supreme People's Procuratorate to Carry out the Pilot Work of the Leniency System for Admitting Guilt and Accepting Punishment in Criminal Cases in Some Areas* was approved in the 22nd meeting of the Standing Committee of the Twelfth National People's Congress, with decisions on implementing the pilot work of the leniency system for admitting guilt and accepting punishment. By this point, the Supreme People's Procuratorate and the

Supreme People's Court had started a two-year pilot project of leniency for admitting guilt and accepting punishment in criminal cases in such 18 cities as Beijing, Tianjin, and Shanghai across the country. After the two-year pilot project, the leniency system for admitting guilt and accepting punishment was formally incorporated when the Criminal Procedure Law was revised in 2018. In 2019, *Guiding Opinions on the Application of the Leniency System for Admitting Guilt and Accepting punishment* was issued and made clear guiding provisions on the application of the leniency system for admitting guilt and accepting punishment.

In accordance with provisions² in Article 15 of the CPL, the leniency for admitting guilt and accepting punishment is such a system - on the ground that criminal suspects and defendants voluntarily and truthfully state their criminal acts, agree with the main alleged criminal facts, are willing to accept criminal punishment, and voluntarily sign the sentencing opinions put forward by procuratorial organs without external coercion, such suspects or defendants shall be given simplified litigation procedures and lenient substantive punishment.

To sum up, the leniency system for admitting guilt and accepting punishment has the following characteristics. First of all, the applicable condition of leniency for admitting guilt and accepting punishment is that the criminal suspect has no objection to the alleged criminal facts and sentencing and voluntarily accepts the punishment. Besides, the leniency system for admitting guilt and accepting punishment is basically applicable to all types of cases³, namely that as long as the suspect admits guilt and accepts punishment, the leniency system for admitting guilt and accepting punishment can be applied to both misdemeanors and felonies. Finally, "leniency" in leniency for admitting guilt and accepting punishment is reflected not only in the leniency of substantive punishment and judgment but also in the broad application of relevant measures of procedures and procedures. The leniency system for admitting guilt and accepting punishment aims to relieve the judicial pressure from numerous cases and divide the cases into complex ones and simple ones. The cases in which the facts are clear, the evidence is sufficient, and the criminal suspect admits guilt and accepts punishment, are simplified to put the saved workforce and material resources into complex and complicated cases and improve the judicial efficiency.

II. Theoretical background

(i) The Rise of Restorative Justice Theory

Restorative justice, also known as alternative justice, originated in North America in the 1970s (Zhao& Jin, 2012, 8). Its original intention is to change the criminal justice system from one in which victims' rights were often ignored, better protect victims' rights and interests, and achieve the goal of

restorative justice (Sun, 2013, 96). As per restorative justice theory, the criminal act of a person committing a crime infringes on the interests of specific objects, namely, either the victim is physically injured and traumatized, or the victim suffers a financial loss that causes disruption of normal life. Therefore, the defendant shall not only passively accept criminal punishment, but also actively bear the responsibility of remedy. For example, the defendant shall compensate the victim for property losses, repent, and apologize to the victim and the victim's family members.

In the Chinese plea agreement system, the agreement includes the agreement between the public prosecutor and the suspect on sentencing and the agreement between the defendant and the victim on forgiveness (Chen, 2006, 543). Among them, the agreement between the suspect and the victim on forgiveness embodies the restorative justice theory. Specifically, in the leniency system for admitting guilt and accepting punishment, the evaluation criterion for accepting punishment is whether the suspect or defendant has returned ill-gotten gains, paid compensation for loss, offered a formal apology, etc. In accordance with the litigants' reconciliation system, the suspect or defendant is required to seek the victim's forgiveness by compensating the victim for losses and offering a formal apology, and then a reconciliation agreement can be reached. The above two systems pay great attention to the restoration of the victim's damaged rights, which meets the requirements of restorative justice theory.

(ii) The Development of the Criminal Concept of Mitigation of Punishment

Mitigation of punishment is the fundamental concept of criminal legislation in almost all countries of the world, and the fundamental criterion of criminal justice, as well as an important indicator, to measure the level of civilization, social harmony, and people's happiness in a modern country (Zhao & Jin, 2012, 12). With the advancement of human society and civilization, modern states ruled by law have abandoned the cruel idea of revenge. Instead, they advocate the penalty concept that the severity of the penalty shall be consistent with the crime committed and the criminal liability assumed and pay attention to humanitarian spirit and human rights protection. In the territory of law, one of the manifestations of humanitarian spirit is that the criminal penalty is developing in the orientation of lightness and mitigation. This attribute is also called the principle of necessity, namely that criminal law, as a severe means of legal sanction, shall be kept to its minimum on a necessary basis (Hu, 2017, 170). The concept of mitigation of punishment emphasizes that convicts' subjective attitude shall be considered when imposing the criminal penalty on them. When convicts have realized the illegality of their acts and shown repentance, they shall be treated with attention to education, correction, and humanistic care instead of imposing a severe criminal penalty on them. An excellent

disciplinary effect can be achieved when the convict is punished with a lighter degree. That is to say, education and correction can be achieved without heavy penalty.

Both the parties have reached settlement and the leniency for admitting guilt and accepting punishment are the manifestations of mitigation of punishment in the specific system. In the criminal procedure, the suspect or defendant admits guilt and accepts punishment, actively cooperates with investigations, compensates the victim for losses, and expresses their willingness to repent. In the final punishment, the judge shall refer to a series of victims' acts and sentence them to a lighter punishment under the sentencing standard.

(iii) Implementation of the Criminal Policy of both Leniency and Strictness

With the progress and development of social civilization, contemporary judicature advocates the pursuit of truth and justice and emphasizes the humanitarian spirit. The movement of abolishing the death sentences worldwide and the tolerant spirit in the *International Covenant on Civil and Political Rights* (ICCPR) are the manifestations of humanitarian spirit in justice. As the direct manifestation of human society's progress, judicial tolerance is the essential requirement of judicial ethics in a society ruled by law (Huang, 2006,12). The criminal policy of both leniency and strictness has always been the core of judicial policy in China. It advocates timely adjustments with changes in social contradictions and national demands. Some scholars have pointed out that the introduction of the criminal policy of "both leniency and strictness" is a return to science and rationality and a rational response after recognizing the relationship between social stability and crime growth. The criminal policy of both leniency and strictness emphasizes that criminal acts cannot be generalized and should be classified in accordance with specific circumstances, specific cases, and specific acts, namely that the convicts who deserve severe penalties and punishments will not be tolerated; convicts who have demonstrated meritorious behavior and are eligible for leniency shall also be treated with leniency where possible.

The concept advocated by the plea agreement system has a common theoretical basis with the criminal policy of both leniency and strictness in China (Chen, ,2006,17). That is to say, on the premise that the criminal suspect or defendant admits the guilt spontaneously and voluntarily, a more lenient punishment may be applied if the legal conditions are met, which is a manifestation of the "leniency" in the policy of both leniency and strictness. Parties have reached settlement and leniency for admitting guilt and accepting punishment are important components of China's judicial system reform, and their specific procedures embody the core value of the criminal policy of both leniency and strictness.

III. The Similarity of the Procedural Design between Parties Have Reached Settlement and Leniency for Admitting Guilt and Accepting Punishment

(i) Both of Them shall Run through the Whole Process of Criminal Procedures

Articles 81, 120, 172-174, 176, 190, 201, 222, and 226 of CPL revised in 2018 have relevant provisions on cases of admitting guilt and accepting punishment, involving the whole process of criminal procedures. As per *Guiding Opinions on the Application of the Leniency System for Admitting Guilt and Accepting punishment* issued by the Supreme People's Procuratorate, the Supreme People's Court, the Ministry of Public Security, the Ministry of Justice, and the Ministry of National Security in 2019, it is clear that the leniency system for admitting guilt and accepting punishment shall run through the whole process of criminal procedures and is applicable to all stages of the investigation, prosecution and trial.

In accordance with Articles 288 and 289 of the *Criminal Procedure Law*, public security organs, people's procuratorates, and people's courts may direct the parties have reached settlement. They shall be responsible for listening to the opinions of the litigants and other personnel, examining the voluntariness and the legality of the reconciliation, and directing the preparation of the reconciliation agreement. For a case in which a reconciliation agreement is reached, in accordance with the litigation stage of the case, the public security organ and the people's procuratorate shall have the right to put forward suggestions for leniency. In addition, the investigators shall deal with the case differently in accordance with the nature of the case. If the crime circumstances are minor and no penalty is required, the procuratorial organ may decide not to prosecute, or the people's court may give leniency to the defendant at its discretion. To sum up, both parties have reached settlement and leniency for admitting guilt and accepting punishment may be applied to all stages of criminal procedures, examination and prosecution, and trial, and it shall run through the whole process of criminal procedures.

(ii) Both of Them Shall Be Implemented Based on the Guilt Admission of the Suspect or Defendant

In accordance with Article 1 in *Pilot Measures for the Application of the Leniency System for Admitting Guilt and Accepting punishment* issued by the Supreme People's Procuratorate, the Supreme People's Court, the Ministry of Public Security, the Ministry of Justice, and the Ministry of National Security in 2016, suspects and defendants can be treated with leniency according to law after signing the sentencing proposal as long as they truthfully confess their crimes or have no objection to the alleged criminal acts. Subsequently, *Guiding Opinions on the Application of the Leniency System for Admitting Guilt and Accepting punishment* issued by the Supreme People's Procuratorate, the Supreme People's Court, the Ministry of Public Security, the Ministry of Justice, and the Ministry of National Security in 2019 made more detailed provisions on the guilt admission of suspects or defendants. It

points out that the criminal facts admitted by the criminal suspect and defendant need to be the central facts, and objections to individual circumstances do not affect the determination of their "admitting guilt," and they shall be treated with lenient punishment according to law. Based on the requirements of both documents, it can be found that the prerequisite for leniency for admitting guilt and accepting punishment is that the suspect or defendant admits guilt.

Article 288 of the CPL stipulates that in case that the criminal suspect and defendant show sincere repentance and seek the victim's forgiveness by compensating the victim for losses and offering an apology, the parties on both sides may reach a reconciliation if the victim voluntarily accepts a reconciliation. *Interpretation on the Application of the Criminal Procedure Law of the People's Republic of China* issued by the Supreme People's Court requires that one of the items to be included in the reconciliation agreement is that "the defendants admit their guilt, have no objection to the criminal facts, and show sincere repentance," which means that in judicial practice, the establishment of reconciliation needs to meet three conditions: the suspect or defendant admits the criminal act, admits the criminal facts and shows sincere repentance. By combining legal provisions and judicial interpretations, it can be found that the guilt admission of the suspect or defendant is also a prerequisite for the parties have reached settlement.

The requirements and degrees of guilt admission are different for parties have reached settlement and leniency for admitting guilt and accepting punishment. parties have reached settlement requires a higher standard for the guilt admission, which not only requires the guilt admission and the punishment acceptance of the defendant but also requires the defendant to seek the forgiveness of the victim. Although the standards for guilt admission are different, their application is based on the guilt admission of a person committing a crime, and this commonality is beyond doubt.

(iii) The Treating Directions of the Two Overlap with Each Other

In the theoretical research on the leniency system for admitting guilt and accepting punishment, leniency for admitting guilt and accepting punishment is reflected in substantive leniency and procedural simplicity. Specifically, if suspects or defendants admit guilt and accept punishment, they may not only obtain a more lenient punishment in sentencing but also obtain a simplified treatment in procedure. From the investigation stage, they may be more likely to apply non-custodial coercive measures. At the stage of examination and prosecution, the People's Procuratorate shall suggest to the court that the summary trial procedure or the criminal fast-track sentencing procedure should be applied to them. These are the primary ways to deal with suspects or defendants in the leniency system for admitting guilt and accepting punishment.

Similarly, Article 6 of *Several Opinions on Minor Criminal Cases with Reconciliation* issued by the Supreme People's Procuratorate points out that for defendants in minor criminal cases with reconciliation, the reconciliation shall be regarded as an important factor that is not necessary for arrest when the public security organ applies for approval of arrest in the investigation stage, and even compulsory measures may be changed to suspects who have been arrested. At the stage of examination and prosecution, the procuratorate can generally decide not to bring a prosecution if reconciliation is reached. In the trial stage, the reaching of reconciliation shall also be an important factor for the court not to sentence or exempt the defendant from criminal penalty. Even in cases in which the criminal suspect and defendant may be sentenced to fixed-term imprisonment of more than three years, if litigants reach a reconciliation agreement, the criminal suspect and defendant may be treated leniently. It can be seen that if the suspect or defendant meets the requirements of guilt admission and punishment acceptance or parties have reached settlement, they may receive basically similar treating methods.

(iv) Parties have reached settlement shall also be advocated when applying the leniency for admitting guilt and accepting punishment

One of the core concepts supporting the parties have reached settlement is the pursuit of harmony. The litigants' reconciliation embodies the value of forgiveness, while the leniency system for admitting guilt and accepting punishment also advocates the promotion of reconciliation and forgiveness in its implementation. Article 17 of *Guiding Opinions on the Application of the Leniency System for Admitting Guilt and Accepting punishment* points out that the principle of both leniency and strictness shall be implemented, and if reconciliation is reached in criminal cases caused by civil disputes, the leniency system for admitting guilt and accepting punishment shall be actively applied.

Besides, it also clearly states that it is necessary to actively promote the parties have reached settlement and the forgiveness of the victims. Under circumstances that a criminal suspect or defendant admits guilt and accepts punishment and the case meets the conditions for parties have reached settlement at the same time, the investigators shall actively promote the litigants to reach a reconciliation voluntarily. Even if some cases in which criminal suspects and defendants admit guilt and accept punishment do not fall within the scope of parties have reached settlement, public security organs and judicial organs may urge criminal suspects and defendants to actively seek forgiveness by making up for losses, compensating and apologizing to the victims. The forgiveness put forward by the victim shall be transferred with the case. Therefore, it is not difficult to conclude that reconciliation and

forgiveness between the litigants are also actively advocated in the leniency system for admitting guilt and accepting punishment.

IV. The Conflict between Parties Have Reached Settlement and Leniency for Admitting Guilt and Accepting Punishment in Application

(i) There Are Repeated Evaluations of Parties Have Reached Settlement and Leniency for Admitting Guilt and Accepting Punishment

The guilt admission, punishment acceptance, and the reaching of reconciliation are the considerations for lenient sentencing stipulated by law. As for this lenient sentencing factor, there may be the risk of repeated evaluation in some cases. The prohibition of repeated evaluation is an important judicial principle in Criminal Law. The prohibition of repeated evaluation refers to that the same fact can only be evaluated once in the same criminal procedure, which is equally applicable to conviction and sentencing. Both leniencies for admitting guilt and accepting punishment and parties have reached settlement are all based on the guilt admission of the suspect or the defendant as a substantial starting condition. The acts of admitting guilt and accepting punishment in the leniency system for admitting guilt and accepting punishment include truthfully explaining one's criminal act to the judicial organs and actively compensating the victims in the case, and returning ill-gotten gains. The reaching of parties have reached settlement also requires the suspect or defendant to show sincere repentance to the victim and take measures to compensate the victim for the loss. Although the object of the leniency system for admitting guilt and accepting punishment is different from that of parties have reached settlement, and the degree of guilt admission is also different, they all belong to the active guilt admission.

Moreover, there is a coincidence between the performance of accepting punishment and the remedial measures made to reach a reconciliation. If the suspect or defendant reaches a reconciliation agreement with the victim, this means that the suspect or defendant shows sincere repentance when facing the victim and usually offers the victim material or spiritual compensation. Therefore, in the face of procuratorial organs, the suspect or defendant is also likely to admit guilt, with the aim of meeting the conditions for applying leniency for admitting guilt and accepting punishment. However, not all public prosecution cases that have reached a reconciliation can achieve the consequences of not prosecuting or exempting punishment.

In accordance with the current laws and regulations, the reaching of reconciliation is a factor for lenient sentencing in the trial, and guilt admission and punishment acceptance are also a factor for a lenient sentencing. However, there is actually only one act for the suspect or defendant - the act of

admitting guilt. Therefore, if the two are superimposed as different sentencing circumstances, there will be two evaluations of the suspect or defendant's same act, which runs counter to the principle of prohibiting repeated evaluation. Not only do the two systems have the risk of repeated evaluations in theory, but also in practice, as stated by some scholars, that the judicial organs do not distinguish between reconciliation and guilt admission. They would give lenient sentencing based on the defendant's reconciliation act and then repeatedly reduce sentencing based on the acts of admitting guilt and accepting punishment. Undoubtedly, this is a kind of double evaluation.

(ii) There Are Differences in the Status of Victims in the Two Systems

There are dramatic differences in the status of victims in the parties have reached settlement and the leniency system for admitting guilt and accepting punishment.

There is a strong agreement between the accuser and the defender in the leniency system for admitting guilt and accepting punishment. It highlights the cooperation between the suspect or defendant and judicial organs, and the victim is in an inactive status in the leniency system for admitting guilt and accepting punishment. This passivity is manifested in two aspects. First of all, whether the leniency system for admitting guilt and accepting punishment is applicable depends on the judicial organs. The judicial organs are only responsible for listening to the opinions of the victim. Even if the victim does not agree to give the defendant a more lenient punishment, the judicial organ can still choose to apply the leniency system for admitting guilt and accepting punishment. However, in the parties have reached settlement, if the victim refuses to reach a reconciliation, it is impossible to apply the reconciliation system. Secondly, whether compulsory measures are applied, or lenient sentencing is proposed, the victim is excluded from the leniency system for admitting guilt and accepting punishment. Even the victim does not have the right to express their opinions, and the judicial organs have no obligation to listen to their opinions. Due to the fact that the victims cannot take the initiative to play a role in the case of admitting guilt and accepting punishment, their participation is not high.

Relatively speaking, the victim is in an active low status in the parties have reached settlement. This initiative is manifested in three aspects. First of all, the victim has the right to initiate the procedure of parties have reached settlement. If the victim is willing to reach a reconciliation, investigators at all stages shall have an obligation to promote the initiation of reconciliation actively. Secondly, the victim has full rights to express their wishes. In the interaction between victims and suspects or defendants, the victims may state their injuries, condemn the suspect or defendant, and ask the defendant to offer an apology and compensation. Finally, the victim has the right to put forward

suggestions on sentencing. In the reconciliation agreement, the victim can directly put forward suggestions on sentencing to the court. In practice, the suggestions on sentencing in the reconciliation agreement shall have a direct and significant impact on the final judgment of the court.

(iii) The Parties Have Reached Settlement Is Excluded Due to the Impact of the Leniency System for Admitting Guilt and Accepting Punishment

There are no conditions for the implementation of the leniency system for admitting guilt and accepting punishment, which may be applied to various types of criminal cases. As long as the suspect and defendant admit guilt, the agreement process can be started. The main body of the agreement is the criminal suspect or defendant and the judicial organ. The content of the agreement lies in whether the guilt is admitted or not, as well as the sentencing range, etc. The charges and the number of crimes are not within the scope of the agreement. The sentencing range in the agreement is also within the scope stipulated by law, so it will not be too difficult for the parties on both sides to reach an agreement.

However, the starting conditions of the parties have reached settlement are strict, and it needs the consent of the victim. Moreover, there is no clear standard for the conditions in criminal reconciliation. No matter the amount of compensation or the way of spiritual comfort, there is no specific provision stipulated by law. The agreement has an extensive range of variability and difficulty. The participants of criminal reconciliation include the defendant, the victim, and the judicial organ responsible for directing the reconciliation. It often takes a lot of time and energy for the three parties to reach an agreement. In judicial practice, the application rate and success rate of the parties have reached settlement have not been high. For example, from 2013 to 2015, the application rate of reconciliation for first-instance criminal cases concluded in Zhejiang Province was between 0.3% and 0.55%. From 2014 to 2016, the courts of H City in some southwest provinces concluded 788 criminal cases of the first instance, and the number of successful reconciliation cases was only 38, with the success rate of reconciliation being less than 5% (Song, 2017, 110). Based on the above reasons, the parties have reached settlement has not been favored by the judicial organs. On the contrary, due to the emergence and intense promotion of admitting guilt and accepting punishment, more ambiguous cases choose to apply the procedure of leniency for admitting guilt and accepting punishment. The procedure of parties have reached settlement has been excluded.

IV. Conclusion

The two systems of parties have reached settlement, and leniency for admitting guilt and accepting punishment are both aimed at resolving conflicts in criminal cases through negotiation. The parties have reached settlement system that places more emphasis on the protection of the victim's

rights. The leniency for admitting guilt and accepting punishment system places more emphasis on leniency for the defendant. Since the leniency for admitting guilt and accepting punishment system includes a requirement for the suspect and the victim to reach a settlement agreement.

This has led to a reduction in the application of the parties have reached settlement system in practice. In the process of improving China's plea bargaining system, the protection of victims should be a priority. Whether the parties successfully signed and executed a settlement agreement should be used as a measure of leniency for the defendant. The parties have reached settlement system should be gradually absorbed by the leniency for admitting guilt and accepting punishment system to give full play to the advantages of the two systems.

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