

**Dates of Meeting:**

26-07-1950 – 11-08-1950

**Type of Meeting:**

1st National judicial work conference

The conference was sponsored by the Supreme People's Court, the Supreme People's Procurate, the Ministry of Justice, the Law Committee

**Place of Meeting:**

Beijing

**Attendance:**

Peng Zhen, Dong Biwu, Shen Junru, Shi Liang, Liu Shaoqi

**Major Agenda Items:**

New set of laws Discussions of the drafting of various laws, such as the Outline Penal Code, Organizational Regulations of the People's Courts, General Regulations of Judicial Procedure, the Company Law, and the Law on the Reform of Criminals.

**Speeches/Reports:**

**Dong Biwu:** further stressed the important role of the work related to the revolutionary legal system. He said that once a society is freed from the influence of the war, the judicial and public security work becomes the most important tool in the hands of the people's state in fighting against counterrevolutionaries and maintaining social order.

He defined the three principal sources of judicial cadres, namely: 1) cadres who had performed judicial or other work including military service in the "old liberated areas," provided they underwent a short period of study prior to their new appointments; 2) legacy judicial personnel who had successfully reformed and passed background checks; and, 3) students.

**Peng Zhen:** asserted that law should apply not just to counterrevolutionaries but also to workers, peasants, cadres, and others who violate the law, no matter how good they might be.

**Shi Liang:** earnest efforts are needed to reform and rearrange the prison sector to accommodate the growing number of detainees. He proposed that earnest efforts must be made: (1) to improve the plans of work in the prisons; (2) to strengthen prison administration; (3) to reform the prison system. He proposed that the struggle must be waged to build up a new body of people's judicial cadres in three or five years, to improve the prison system, and to strengthen propaganda and education concerning judicial work.

**Liu Shaoqi:** pointed out: Courts, prosecutorial offices, public security organs and judicial organs are all organs of state governance and organs that fight against the enemy, that is, imperialism, feudalism, and bureaucratic capitalism, is an agency that protects the people and safeguards national Interests 04-08-1950

**Other Decisions and/or Actions:**

- Provisional regulations on organization of people's court
- General principles of litigation procedures
- Provisional regulations on reform of prisoners
- to establish a national court system where the Minister of Justice proposed for example a five-year training for judges
- the need to expand the central law courses organised in the Ministry of Justice, as well as to expand the institute of new jurisprudence the chief purpose of which was to re-educate lawyers of the old school. It was also recognised as indispensable that courses for the preparation of judicial procuratorial cadres be organised in the large administrative regions (in the North-Eastern, Central-Southern Eastern, South-Central and North-Western regions) and in the larger provinces. In addition, a number of proposals were heard for the improvement of the work of the law faculties which functioned in most of the public and private universities of China. Hitherto, law faculties had worked without maintaining any ties with the organs of justice, stood aloof from routine tasks which were handled by the courts and the procuratorate and consequently turned out the kind of cadres that were not suitable for work in the new, democratic organs of justice

**Remarks:**

1. Draft of Proposed Advocates Act in Beijing, Tianjin and Shanghai to the conference for discussion. The main contents of the draft were as follows:
  - A. The work of the lawyer
    - (1) Drafting legal documents, advocacy and conducting cases.
    - (2) Investigating and collecting evidence appertaining to cases.

(3) Publicising the government's decrees and policies.

B. The constitution of the Legal Profession

(1) Public Lawyers, designated by the court, to act as defenders in criminal actions and conduct civil actions, working for poor people without charge. This was to be the main part of the constitution.

(2) Private Lawyers, ratified by the Central Judicial Ministry and admitted by the courts, to provide a service to people who were willing and able to pay remuneration.

(3) Legal Assistants, designated by non-governmental organisations and authorised by the courts, to work for the organisation.

GAC of the Central People's Government

**Instructions on strengthening people's judicial work**

The first National Judicial Work Conference held in July and August discussed some of the major issues currently facing people's judicial work in various regions. A preliminary consensus was reached on the policy perspectives, working principles, and tasks for people's justice. To strengthen the development of people's judicial work, the following instructions are hereby issued:

1. To safeguard the victory of the people's democratic revolution, suppress counterrevolutionary activities, consolidate the new social order, and protect the people's legitimate rights and interests, the people's judicial work, like the people's army and the people's police, is a vital tool of the people's power. Therefore, people's governments at all levels must effectively lead and strengthen this work and adopt necessary measures to systematically and gradually establish and improve the people's judicial system throughout the country. It would be a mistake to take this work lightly.

Second, to correctly carry out the work of building people's justice, we must first clearly define the principled distinction between old and new laws. Law is a tool used by a certain ruling class to rule the ruled and protect its own class. All laws of the reactionary Kuomintang government are tools used by a small reactionary group to oppress the vast majority of the Chinese people. People's laws, on the other hand, represent the will of the vast majority of the people, educating them to respect the New Democratic social order and combating the sabotage of a small number of reactionaries to protect the interests of the vast majority of the people. These two fundamentally different legal principles must not be confused in the same concept. Those who confuse such concepts cannot correctly carry out the work of building people's justice. Therefore, it is inappropriate for any government official to maintain any ambiguous views on the distinction between old and new laws. At present, our country's new laws are not yet complete. However, the fundamental laws, such as the Common Outline of the People's Government of China, and the numerous laws, decrees, directives, and decisions issued by the Central People's Government Committee, the State Council, the Supreme People's Court, and other organs, serve as important foundations for people's judicial work. These laws have gradually emerged based on Marxist-Leninist state theory and a detailed analysis of China's actual conditions (class relations, social and economic relations, etc.). Those working in the development of people's judicial work must, in practice, clarify the viewpoints and impact of old, reactionary laws while continuously summarizing experience and studying case law so that the Central People's Government can gradually enact comprehensive new laws.

3. The current primary task of the people's judiciary is to suppress reaction and protect the people. With respect to counter-revolutionaries, repression is paramount; only through repression can they confess their guilt. Only after they confess can leniency be discussed. Leniency can only be achieved in conjunction with repression. The tendency toward "unlimited leniency" in some areas must be corrected. When repressing, it is necessary to distinguish between severity and priority, and between coercion and subservience. However, after liberation, all elements engaging in counter-revolutionary activities must be punished. The task of the people's judiciary is to punish the criminal and protect the virtuous. Criminals who sabotage national construction and property, disrupt social order, and infringe upon the legitimate rights and interests of the people must be punished. Only punishment can lead to confession of guilt, and only after confession can we discuss educational reform. It is inadequate to simply emphasize "educational reform" in conjunction with punishment. Neglecting educational reform after punishment and confession must also be corrected. People's judicial work must also address disputes among the people. These civil cases must

also be given sufficient attention. On the one hand, mass mediation should be adopted whenever possible to reduce the number of people filing lawsuits. On the other hand, judicial organs should strive to fully adhere to the mass line in their work, promoting litigation procedures and various trial systems that are convenient for the people, connect with the people, and rely on the people. People's governments at all levels should regularly receive work reports from judicial organs. Under the guidance and assistance of people's governments at all levels and in close coordination with relevant departments, people's judicial organs at all levels should organize their efforts to expedite case processing and resolutely eliminate the formalism and procrastination left over from the Kuomintang courts. Actively improve the quality of trials, while also carrying out extensive legal education and publicity, and strictly correcting violations of law and discipline. All government agencies, civil servants, and individuals who violate the law should be reported to the procuratorate.

4. In order to strengthen the people's judicial work, a certain number of strong cadres must be assigned as the backbone, and they must be educated to value judicial work and help them improve their policy level. In areas undergoing land reform, more attention should be paid to the staffing of people's court cadres. In the future, when key cadres in judicial work are transferred from various places, they should obtain the consent of the superior judicial department in advance. There is currently a shortage of judicial cadres, which must be gradually enriched from several aspects. In addition to striving to improve the teaching content and methods of law departments in various universities to make them meet practical needs, people's governments at or above the provincial level should immediately start to help the judicial departments train cadres. When recruiting former judicial staff to join the work, they must first be educated and reformed, and then hired based on their merit. When recruiting young male and female intellectuals to join the workforce, it is necessary to strengthen their training. In addition, for forensic doctors and inspectors, the problem can be gradually resolved by assigning cadres for training or organizing training courses in conjunction with health departments.

5. From now on, judicial expenses will be paid from the national treasury; all judicial fines, confiscated property, and other income will be paid into the national treasury.

Regarding prison management, it is currently generally the responsibility of the Ministry of Public Security, under the guidance of the Ministry of Justice, and is determined appropriately by the people's government at or above the provincial level based on the specific circumstances of each location.

November 3, 1950