



'Community Corrections' and the Road Ahead for Re-Education Through Labor

ROBERT WILLIAMS 12.20.13

Chinese and foreign observers welcomed the recent announcement that the Chinese government will “abolish”—not merely reform—the administrative punishment system known as re-education through labor (RTL). The proclamation, part of a sixty-point [decision document](#) issued following the Third Plenum of the Communist Party’s Central Committee, comes on the heels of encouraging official signals and [reports](#) earlier this year that the RTL system was being phased out in certain parts of the country. Beyond the splash of making it official, however, China’s leaders have offered few clues as to what the transition will look like for this anachronistic system of extrajudicial detention and the [nearly 200,000 people reportedly](#) in it.

The devil, as always, will be in the details of implementation—about which the Third Plenum reform decision is silent. Some experts quite reasonably [worry](#) that, rhetoric aside, RTL will simply [endure](#) under a different name. But scarce attention has been given to a less dramatic yet equally critical pledge made in the same breath of the Third Plenum decision: to “improve the system of community corrections.” New [indications](#) that community corrections will play a role in the elimination of RTL could point to a promising direction for broad-based reform of China’s system of administrative detention.

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Under China’s present administrative penalty system, local public security bureaus assume all of the functions of investigating, deciding, and punishing minor violations (offenses such as petty theft, drug use, and public disturbance) with little or no judicial oversight. Punishments meted out under this scheme include relatively light penalties such as fines, but also short-term detention and more serious forms of detention such as RTL, whose legal basis as an administrative punishment has been a perennial subject of debate. Police can use the system to send [dissidents](#), [petitioners](#), and other “[troublemakers](#)” to labor camps for up to four years, often in grim conditions, without trial.

A focal point for critics, RTL is but one component of China’s non-judicial punishment regime. Other forms of administrative detention include compulsory treatment for drug users and confinement for prostitution-related offenses. Some who support abolishing RTL nevertheless worry that it could be folded into one or more of these other forms of administrative detention—its abolition a merely [cosmetic upgrade](#). Others are [apprehensive](#) that doing away with RTL will incentivize the use of extralegal measures such as the network of prisons known as “[black jails](#).”

Although these concerns have yet to be answered, they need not totally obscure the Chinese leadership’s encouraging gestures toward expansion and innovation in community corrections. Countries around the world have discovered the [virtues](#) of

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community-based sanctions designed to address the underlying causes of antisocial and criminal behavior through a mix of supervision, health and social services, and punitive measures such as community service and regular drug testing. Such non-custodial programs can be effective at curtailing crime and reducing recidivism among offenders, and the **positive results** they yield can be achieved at a fraction of the cost of incarceration, even for the most intensive forms of supervision. In short, if it lives up to its name, “community corrections” in China could be a workable solution for replacing RTL with a form of correctional justice that is not only more fair to offenders, but also more effective at accomplishing the goals of education and rehabilitation.

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In the criminal sphere, the Chinese government began laying the groundwork for community corrections with **pilot programs** nearly a decade ago. The Ministry of Justice initiated a nationwide trial program in 2009, and **implementing measures** were passed in February 2012. Now the central government is at work on a comprehensive **Community Corrections Law** designed to facilitate alternatives to incarceration for criminal offenses. This effort, motivated by prison overcrowding and other concerns, has the potential to be a paradigm-shifting measure.

As originally conceived, China’s new community corrections statute would apply to adjudicated criminals rather than administrative offenders. But the system need not stop there. Many of the rehabilitative and educational measures traditionally associated with community corrections—court-monitored community service, substance abuse counseling, employment training, and anger management classes, to name a few—are well suited to the types of minor offenses that are currently classified as “violations” (as opposed to “crime”) under Chinese law and regulations on administrative punishments. With the proper training and resources, community corrections professionals can systematically identify and target common risk factors that correlate with needs for social services. Shaping the Community Corrections Law with these risk-need principles in mind will be an important stride forward.

With a community corrections framework in place, and the Ministry of Justice no longer in the business of operating RTL camps, a possible next step would be to amend China’s **Public Security Administrative Punishments Law** (PSAPL) to authorize the sentencing of administrative offenders to community corrections programs. This incremental reform could permit public security organs to order minor violators to report to non-residential community corrections centers operated by the Ministry of Justice for implementation of restorative sentences such as community service and counseling. With RTL off the table, over time public security officials may become increasingly comfortable utilizing the community corrections approach as an alternative to locking up minor transgressors under the short-term detention provisions of the PSAPL and associated regulations.

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Of course, it is by no means certain that abolishing RTL will mark the dawn of effective community corrections in China. Some RTL camps are apparently being **reconstituted** as drug treatment centers where minor drug offenders will continue to be detained, and in recent days rights groups have released ominous **reports** that the use of secret prisons is on the rise.

Nor is there any guarantee that “community corrections with Chinese characteristics” will live up to its promise as a rehabilitation-focused alternative to punitive detention. The astonishingly low 0.2 percent **rate of recidivism** reported under China’s community

corrections pilot programs suggests that officials have been targeting only those offenders least likely to reoffend, instead of those most in need of support services and community reintegration. Thus, even if community corrections is the answer to “what comes next after RTL?”, there is still a long way to go in designing a system that works in practice and not just on paper.

These complexities notwithstanding, the Chinese leadership’s new rhetorical emphasis on community corrections alongside abolishment of RTL is reason for cautious optimism. China’s Deputy Justice Minister Zhao Dacheng was quick to **insist** that community corrections will not be RTL by another name. Furthermore, from a structural perspective, the successful integration of the Ministry of Justice’s community corrections programs and the Ministry of Public Security’s administrative punishment regime could set the stage for a more comprehensive integration of China’s criminal and administrative penal systems.

As numerous Chinese scholars have argued, to fully meet the demands of justice the system of administrative punishments must be infused with more robust legal procedures, such as an independent mechanism for adjudication of charges. This could be accomplished, for example, by creating an independent court system at the county level, modeled on the successful experiments with **community courts** in the United States or the **magistrates’ courts** of England, to handle minor transgressions. Another possibility is strengthening China’s **administrative litigation system** to increase litigants’ access and give courts more power to overturn wrongful detentions.

One could envision this broader reform project to entail expansive conceptual changes, such as re-categorizing administrative violations as misdemeanor crimes, or more targeted institutional changes, such as locating the authority to impose administrative penalties in an independent judicial body. In any event, mapping the way forward for RTL and administrative punishment reform will require careful consideration at the highest levels of leadership. Judging by the vibrant debate on social media platforms such as Weibo, the Chinese public is playing a helpful role to encourage transparency and citizen participation in these deliberations.

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With the social transformations taking hold in China, reform of the country’s criminal and administrative punishment systems is not simply an idealistic venture; it is increasingly a matter of economic necessity. After thirty years of unprecedented development, China’s leaders are seeking to ease the country’s reliance on an investment-driven growth model, and are promoting **urbanization** to fuel household consumption and continued economic growth.

Whatever its **merit** as a strategic priority, further urbanization will likely **bring with it** further unemployment, crime, and social dislocation. Community corrections—designed to reduce recidivism, promote pro-social behavior, and save government money—is a vital tool for addressing such circumstances. It can also be a promising vehicle for advancing the rule of law.

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