

Study on the Incidental Consequences of Crime in the Era of Misdemeanor Era

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Abstract. Under the background of the misdemeanor era, the normative concept and functional orientation of the incidental consequences of crime have changed. Incidental consequences of crime refer to the adverse consequences that are stipulated outside the criminal law and apply to criminals or their relatives, which detract from social evaluation or increase the burden of obligations. The functional orientation is also different in the eras of misdemeanor and felony. There is no distinction between the incidental consequences of misdemeanors and felonies, which violates the principle of proportionality, and the principle of prohibiting repeated evaluation. The negative effects are becoming more obvious. We should strengthen the correlation between the incidental consequences of crime and the preconditions that trigger the consequences, adjust the conflicts between the provisions of different ranks of effectiveness, and adjust the provisions on the incidental consequences of criminals and non-criminals to follow the principle of proportionality so that the incidental consequences of crime can be more appropriately applied in the era of misdemeanors.

Keywords: The Era of Misdemeanors; Incidental Consequences of Crime; Occupational Prohibition; The Principle of Proportionality; Improvement Path.

1. Introduction

With the development of China's criminal rule of law, under the implementation of the criminal policy of combining leniency with severity, the trend of adding new crimes in criminal legislation is becoming more obvious, and most of them are misdemeanors sentenced to less than three years imprisonment. On the legislative level, from the Criminal Law Amendment (VIII) in 2011 to the Criminal Law Amendment (XI) in 2020, 21 misdemeanor crimes have been added to the criminal law, among which there are many crimes of dangerous driving, helping information network criminal activities and throwing objects at high altitude. On the criminal justice level, a large number of misdemeanor cases appear and show an increasing trend year by year, such as the typical dangerous driving crime in misdemeanors. According to the past two-year work reports of the Supreme People's Court, 289,000 cases of dangerous driving crimes were concluded in 2020. [1] In 2021, 348,000 cases were concluded. [2] It can be considered that the criminal rule of law in China has entered the era of misdemeanors. The era of misdemeanors has also brought many lagging problems that cannot be adapted to it, and the incidental consequences of crime are one of them that cannot be ignored. In China, the incidental consequences of crime can be seen everywhere in various laws and regulations, which are applicable to criminals and their family members or relatives, with various forms of expression. The common ones are the prohibition of enjoying the minimum living allowance [3], the prohibition of holding relevant positions in state organs [4], and so on. After adding a large number of misdemeanors, the proportion of people with criminal records increased. [5] Does this lack rationality and necessity, and does it violate the principle of proportionality in criminal law?

To sum up, it is necessary to analyze the incidental consequences of crime in the era of misdemeanors considering today's increasingly severe negative effects. Based on the significance of the incidental consequences of crime under the trend of legislation on misdemeanors, this paper intends to systematically study the incidental consequences of crime in China, explore the normative concept and functional orientation of the incidental consequences of crime in the era of misdemeanor, and draw out the potential problems in legislation and practice through the legislative status of the

incidental consequences of crime in the criminal rule of law. In addition, the present study also aims to put forward the perfect path for the application of the incidental consequences of crime under the background of the rule of law on misdemeanors, with a view to providing a useful reference for the revision of irrationalities in criminal law practice, the settlement of relevant disputes in society and the improvement and reform of the system.

2. The Normative Concept and Functional Orientation of the Incidental Consequences of Crime in the Era of Misdemeanor

2.1. The Normative Concept

In addition to the expression “incidental consequences of crime”, there are related concepts, such as “incidental consequences of penalty” and “incidental sanctions of penalty”. The research directions of these concepts are basically the same, but their connotations and boundaries are not exactly the same. Due to the research needs of this paper on the incidental consequences of crime, this study attempts to make a simple comparison among the concepts of incidental consequences of crime, incidental consequences of penalty, and incidental sanctions of penalty, so as to provide a reference for a clear definition of incidental consequences of crime in the era of misdemeanor.

The first is the comparison between the incidental consequences of crime and the incidental consequences of penalty. The expression “incidental consequences” can be traced back to the *German Criminal Law Textbook*, which refers to all the legal consequences stipulated in the Criminal Code except penalties and security measures as “incidental consequences”. [6] According to the extensive cognition in the Chinese, this definition of “incidental consequences” is particularly similar to the definition of “incidental consequences of penalty”. The incidental consequences of penalty are directly related to criminals, and the adverse consequences of exclusion or restriction of employment, career choice, household registration, etc., which limit the exercise of rights, impair social evaluation, or increase the burden of obligations, are based on the experience of penalty. [7] According to this definition, we can see that “penalty” is the key word in this definition, and this is the difference between it and the incidental consequences of crime, that is, whether the incidental consequences only include the consequences of penalty. The incidental consequences of crime are denied, and some incidental consequences are not produced by penalty, but they also reach almost the same degree of deprivation and restriction of rights as the incidental consequences of penalty. For example, Article 13 of the *Supervisor Law* stipulates that “a person who is decided not to prosecute by the people’s procuratorate according to law or exempted from criminal penalty by the people’s court according to law because of minor crimes” shall not serve as a supervisor. The decision not to prosecute and exemption from criminal penalty is not a penalty, but it has incidental consequences to a certain extent, so it belongs to the incidental consequences of crime rather than penalty. Secondly, it is compared with the incidental sanctions of penalty. The penalty incidental sanctions refer to the negative values and interests directly related to criminals, such as occupational restrictions and exclusion, restrictions on settlement points and examination qualifications, impairment of social evaluation, and increase of obligation burden. [8] The keywords in this definition are “penalty” and “sanction”. The comprehension of the keyword “penalty” here is basically the same as that of “incidental consequences of penalty”, so we will not repeat them here, but there are differences between “sanction” and “consequences”. There are both legal sanctions and social sanctions in “incidental sanctions of penalty”. [9] However, no matter what kind of sanctions, they all belong to the behavior that is constrained and punished by coercive force, and the word “consequences” is obviously broader. Even the results caused by non-coercive force can be included in the word “consequences”, with greater connotation and extension. In this paper, the term “incidental consequences of crime” is used mainly because of its broader definition, and with the advancement of the rule of law for minor crimes, the incidental consequences of non-penalty punishment such as non-prosecution decision and the exemption from criminal penalty will be even more harmful. Using the word “crime” to cover it can express the main points of this paper more accurately.

To summarize, this paper holds that the incidental consequences of crime refer to the adverse consequences that are stipulated by laws, regulations, and rules other than criminal law and are applicable to criminals or their family members and relatives, such as excluding or restricting employment, career choice, and household registration, restricting the exercise of rights, impairing social evaluation or increasing the burden of obligations.

2.2. The Functional Orientation

Firstly, the functional orientation of the incidental consequences of crime in the era of misdemeanors should be distinguished from that under the rule of law for felonies. When the legislative trend of misdemeanors has not yet arisen, the legislative trend of the criminal rule of law in China has always been to advocate the felony rule of law with the characteristic of “severe but not rigorous”, and the function of the incidental consequences of crime also serves the needs of the felony era. The system of collective punishment in ancient times has a long history, and the incidental consequences of modern crimes are different from the manifestations of collective punishment, but the value orientation coincides with each other, that is, mainly out of the need for crime prevention. Incidental consequences of crime are adverse consequences imposed on criminals and their relatives except penalty. Prohibiting and restricting certain rights of people who have been punished by penalty and their relatives undoubtedly exerts a kind of mental pressure on social individuals, which will naturally have a deterrent effect on criminals, allowing actors to increase more cost considerations before committing crimes. [10] In addition, the incidental consequences of the penalty are no less severe than that of the penalty, and it also expands the sanction of the penalty on the daily life of criminals, making it difficult for them to escape from the shadow of the penalty. The label of “criminal record” not only makes it difficult for criminals to gain a foothold in social life but also suffers from discrimination in maintaining their basic survival needs. It can be seen that in the era of felony, the incidental consequences of crime conform to the characteristics of the times “severe but not rigorous” from different aspects. In this paper, it is believed that combating and preventing crime is the main purpose of the incidental consequences of crime, but the functional orientation of the incidental consequences of crime in the era of the misdemeanor rule of law should not be limited to preventing crime.

Secondly, the severity of the incidental consequences of crime should decrease with the change of criminal law from the characteristic of “severe but not rigorous” to “rigorous but not severe”. The legislation of misdemeanors makes the criminal circle expand constantly, and the number of charges and criminals is on the rise. If the incidental consequences of crime are implemented on every criminal regardless of the situation, does the degree of restriction on rights exceed the purpose of prevention and the necessity of social defense? [11] The answer is yes. The most typical embodiment is that the incidental consequences of the criminal penalty and the non-criminal penalty are basically the same. Most of the legal provisions with incidental consequences of crime do not distinguish the incidental consequences of criminal penalty from those of non-criminal penalty. However, it is well known that criminals who are not subject to criminal penalty are generally less harmful than criminals who are subject to criminal penalty, but the severity of their incidental consequences is the same, which is obviously unfair.

Thirdly, it should be an important function of the incidental consequences of crime to help individuals who have been criminally punished return to normal social life in the era of misdemeanors. In a society ruled by law, concepts such as equality and dignity are often placed in a lofty position. However, the most fundamental measure to prevent these concepts from degenerating into pure rhetoric is to enable such people with special experiences to return to society after being punished and educated by criminal law. [12] This paper holds that the functional orientation of the incidental consequences of crime should combine the crime prevention function of reducing severity with the function of helping criminals return to society, so as to meet the needs of the rule of law for misdemeanors.

3. The Legislative Status of the Incidental Consequences of Crime in the Era of Misdemeanor

3.1. Provisions in the Legislation on the Incidental Consequences of Crimes Against Criminal Suspects at Different Stages

First, the application and influence of criminal suspects. In practice, criminal suspects have certain incidental consequences of crime. For example, Article 24 of the *Military Service Law* stipulates that citizens who are being supervised, investigated, prosecuted, tried, or sentenced to imprisonment, criminal detention, or control are not recruited according to law. For example, as stipulated in Article 20 of *Taizhou Property Management Regulations*, an owner who is being investigated for suspected crimes may not be a member of the owners' committee. It can be seen that even for those who are suspected of committing crimes and may not be criminals after investigation, the adverse consequences of restricting the exercise of rights to a certain extent caused by the incidental consequences of crimes still exist.

Second, the application and influence of the defendant. In practice, the defendant who is "exempted from criminal penalty" also has certain incidental consequences to be restricted. For example, Article 13 of the *Supervisor Law* stipulates that a person who has been decided not to prosecute by the people's procuratorate or exempted from criminal penalty by the people's court according to law due to minor crimes shall not serve as a supervisor. For example, Article 3 of *Several Provisions on Penalty for Dishonesty in Duty-free Shopping in Hainan Free Trade Port* stipulates that natural persons, legal persons, and unincorporated organizations violate the relevant regulatory provisions such as duty-free shopping for passengers on outlying islands in Hainan and "zero-tariff" imported goods consumed by residents in Hainan Island, which constitute a crime and are punished or exempted from criminal penalty, and are included in the list of serious untrustworthy subjects in duty-free shopping. It can be seen that even defendants who have not been prosecuted or exempted from criminal penalties for other reasons still cannot get rid of the shadow of the incidental consequences of some crimes.

3.2. Provisions on the Incidental Consequences of Crimes Related to "Restricting the Children of Criminals from Taking the National Civil Service Examination and Staffing of Public Institution Examination in Legislation"

In recent years, the trend of taking the national civil service examination and staffing of public institution examinations has not diminished, and the controversy about whether to abolish the restrictions on children's participation in the national civil service examination and staffing of public institution examination caused by parents' crimes has also continued to heat up because there are relevant provisions in China's current legislation that restrict criminals' children from taking the national civil service examination. Article 9 of the *Measures for Public Security Organs to Employ People's Police for Political Investigation* mentions that if the family members of the investigation object have serious crimes with bad social impact, such as intentional homicide and intentional injury, they shall not be determined as candidates to be employed. Articles 8 and 9 of the *Regulations on Political Assessment of Conscription* mention that citizens whose family members have been criminally punished or are being investigated, prosecuted, or tried may not be recruited for active service. Units that have special requirements for political conditions to recruit new recruits, and family members who are dissatisfied with the Communist Party of China (CPC) and the socialist system are criminally punished, and those who are suspected of serious violations of discipline and law are being investigated, prosecuted or tried are not allowed to be recruited.

3.3. The Consistency of the Provisions on the Incidental Consequences of Misdemeanors and Felonies of Existing Normative Documents

First of all, most of the incidental consequences in China lack a direct correlation with the nature of the crime, and there is no distinction between the incidental consequences brought by misdemeanors

and felonies. At present, in China's current legislation, there are relevant provisions on the incidental consequences of crime in legal documents with different levels of validity. With the advancement of the rule of law on misdemeanors, more minor crimes are brought into the criminal system, and the criminal law sanctions system should be adjusted according to the legislative background, reflecting the difference in degree between misdemeanors and felonies. However, judging from the relevant provisions of the incidental consequences of crimes from different laws, regulations, and normative documents, there is not much difference from the provisions of the era of the felony. At this point, in the United States, the incidental consequences of crimes are stipulated in the *United States Code* and state codes. By 2021, the total number of incidental consequences of crimes stipulated at the federal and state levels in the United States is more than 40,000, of which three-quarters are closely related to individual crimes, such as the registration system for targeted offenders, which is directly related to the nature of crimes. [13] Among them, the incidental consequences of most crimes closely related to the nature of individual crimes are a bright spot. Because the incidental consequences of crime are not penalties, it is difficult for judges to specifically consider its extensive and far-reaching impact on criminals, and misdemeanors will not automatically rule out the application of incidental consequences, which is prone to the result that the crime is light but the actual penalty is too heavy. [14] Only when the simple disorder of misdemeanor behavior corresponds to the resulting substantive and procedural legal consequences can the criminals and their families who bear the incidental consequences of misdemeanors be more convinced. However, judging from the current situation in our country, the application of the incidental consequences of crime in practice is still as severe as that in the era of felony, resulting in the negative impact of the incidental consequences under most misdemeanors greater than the results of criminal penalty.

4. The Potential Problems of the Incidental Consequences of Crime in the Era of Misdemeanor

4.1. The Lack of the Basis of Superior Law in Incidental Consequences of Crimes in Legislative Documents

No matter what kind of restrictions are imposed on the incidental consequences of crime, the provisions on the incidental consequences of crime in most laws, regulations, and documents lack the guidance of superior law, which leads to the confusion of relevant laws and regulations. First of all, the carrier of the incidental consequences of crime is various and messy, which is distributed in different levels of central and local regulations. Up to the *Judges Law*, the *Public Prosecutor Law*, and other laws, down to various local working documents related to examinations, recruitment, and other matters, there are relevant provisions.

Secondly, many local documents, institutions, and other internal regulations ignore the scope of the superior law, and there is a situation in which the superior law is overweight from top to bottom, and finally, the superior law is overhead. For example, Article 14 of the *Teachers' Law* stipulates that "those who have been deprived of political rights or have been given the criminal penalty of more than fixed-term imprisonment for intentional crimes" cannot be qualified as teachers. This shows that people who have been criminally punished for negligent crimes or other crimes and meet other qualifications have the possibility to become a teacher. However, in the recruitment announcements and explanations of many schools, as long as teachers have been criminally punished for intentional crimes or negligent crimes, they are often rejected.

Finally, there is no uniform limit standard for the incidental consequences of crimes related to the same matter in various places. Taking the restrictions on the tour guide industry as an example, Article 19 of the *Measures for the Administration of Tour Guides* in Shanghai stipulates that no tour guide card or scenic spot tour guide card shall be issued to those who have been criminally punished, except for negligent crimes. There are similar regulations in Jiangxi Province that prohibit those who have been criminally punished for intentional crimes from issuing tour guide qualification certificates. However, in other provinces and cities' tour guide management methods or regulations, there is no

requirement to review whether tour guides have criminal records, which shows that there are inconsistent regulations for similar matters between provinces, between different cities and regions within provinces and even between different units of the same nature.

4.2. The Unfairness of the Negative Impact of the Incidental Consequences of Crime on the Persons Suspected of Committing Crimes at Different Stages of Criminal Procedure

Since there are differences between criminal facts and criminal procedures, criminal suspects, defendants, and criminals should be subject to different restrictions and be bound by the proportionality principle. However, the incidental consequences of crimes stipulated for people under different criminal procedures in China's current legislation are contrary to the principle of proportionality. For example, even if there is the possibility of determining innocence after investigation, some legislative documents still deprive people of their rights or qualifications. In addition, for those who are "exempted from criminal penalty", even if they are exempted from the criminal penalty for just reasons, they are still bound by the incidental consequences of crime.

4.3. The Lack of Reasonable Basis for the Provisions on the Incidental Consequences of the Crime of "The Children of Criminals Taking the National Civil Service Examination and Staffing of Public Institution Examination"

The incidental consequences of such crimes violate the principle of prohibiting repeated evaluation. The principle of prohibiting repeated evaluation in criminal law refers to prohibiting the second or more legal evaluation of qualitative penalty for the same attribute or side of the same fact. [15] In the past judicial practice, the principle of prohibiting repeated evaluation was widely used in the evaluation of conviction circumstances and sentencing circumstances. However, in the system of criminal legal consequences in the era of misdemeanors, the penalty system with a one-to-one correspondence between crime and penalty is no longer the only component, and there are also criminal legal consequences such as incidental consequences and security measures, and their adverse effects on criminals are comparable to those of penalty. In this case, even if the incidental consequences of crime do not belong to the criminal penalty, because of its high applicability in the era of misdemeanors, it has the same effect as the criminal penalty. Most of the incidental consequences of crime imposed on criminals after the criminal penalty should also apply to this, which belongs to the "second evaluation of qualitative penalty".

4.4. No Distinction between the Incidental Consequences of Crime from the Perspective of Misdemeanor and Felony in the Existing Normative Documents

The incidental consequences of crime lack uniform standards for the prohibition situation and prohibition period of restricting rights and do not reflect the difference between misdemeanor and felony in the degree of restriction. In the case of prohibition, few incidental consequences of crimes limit the applicable charges, or make applicable distinctions between crimes of different severity, resulting in misdemeanor and felony being imposed with the same degree of incidental consequences of crimes in many cases. In terms of the prohibition period, as stipulated in Article 20 of the *Notarization Law*, a person who has been criminally punished for intentional crime or dereliction of duty may not serve as a notary. The prohibition period set here is permanent, and there is no explanation for why it is set like this. Besides, it does not set what kind of time limit should exist for various crimes with different degrees of severity. As one of the manifestations of the incidental consequences of a crime, the prohibition period of the right to choose a job should be differentiated according to the severity of the crime. However, the various restrictions on the time limit in the legal provisions cannot reflect the proportional relationship between the severity of the offender's behavior and the possibility of recidivism.

5. The Improvement Path of the Incidental Consequences of Crime in the Era of Misdemeanor

5.1. Promulgating the Unified Judicial Interpretation by the Supreme Court

At present, the relevant provisions on the incidental consequences of crime in China are chaotic. For the needs of theoretical research and judicial practice, we should issue a superior code or judicial interpretation with higher effectiveness, adjust the conflicts between the provisions of different levels of effectiveness, and promote the standardization and systematization of the incidental consequences of crime. First of all, the provisions of the third paragraph of Article 37-1 of the *Criminal Law* should be amended to prevent the flood of lower-level laws. Secondly, the Supreme People's Court and the Supreme People's Procuratorate should jointly issue a judicial interpretation to regulate the provisions on the incidental consequences of crime. In judicial interpretation, the provisions on incidental consequences of crimes in different regions and at different levels should be clearly regulated, and the incidental consequences of crimes should be classified according to different preconditions. In addition, the judicial interpretation should explicitly prohibit some cases in which the rights are restricted by the superior law, and order the relevant departments to amend the relevant provisions. Finally, in judicial interpretation, it should be clearly stipulated that when various regions stipulate the incidental consequences of crimes for the same matter, in principle, they should meet the unity of preconditions, specific incidental consequences, and prohibition or limitation period.

5.2. Cancelling the Crime Incidental Consequences of Personnel “Suspected of Crime Has Not Been Identified” and “Exempt From Criminal Penalty”

For people suspected of committing crimes at different stages, we should strengthen the correlation between the incidental consequences of crimes and their stages, distinguish the incidental consequences according to different premises, and make them follow the principle of proportionality. “The application of the incidental consequences of crime in China is often not bound by the nature and type of crime, and it can be used as the basis for depriving, prohibiting or restricting specific rights and qualifications regardless of the crime committed and its criminal penalty.” [16] This category of situation ignores the necessity that the prerequisite and the incidental consequences should be related, which will lead to the improper deprivation of some rights of the offender. First of all, there should be no restrictive conditions and the consequences of deprivation of rights for those who are “suspected of crimes that have not been ascertained”. The objects of investigation in criminal cases are extensive, and many people under investigation may be in the stage of “the suspected of crime has not been ascertained” before the criminals are really identified, and most of them will be identified as not suspected of committing crimes in subsequent investigations. It is unfair to impose the incidental consequences of crimes against these citizens. For those who are suspected of committing a crime and are finally identified as criminals, we can consider applying the post-processing provisions of their units to implement the expulsion decision, and should not deny the rights of all suspected personnel with the provisions on the incidental consequences of crime in the pre-procedure. Secondly, for those who are “exempted from criminal penalty”, the incidental consequences of crime should be canceled according to their specific conditions. If there are very few cases that need to be set, it should be stipulated separately in the judicial interpretation, rather than limiting all cases of “exempted from criminal penalty”. The *Criminal Law* in China clearly stipulates a number of cases of exemption from criminal penalty, all of which are reasonable because of minor circumstances and consideration of specific circumstances. As a follow-up product of the penalty, most of the incidental consequences of crimes should not be imposed on people who have not been actually punished. If there are some cases in which accomplices and discontinued criminals in special crimes are exempted from criminal penalty, they must be restricted because of their special involvement in related fields and should be stipulated separately in judicial interpretation after strict reason review.

5.3. Narrowing the Scope of Application of the Incidental Consequences of the Crime of Restricting the “The Children of Criminals Taking The National Civil Service Examination and Staffing of Public Institution Examination”

For the incidental consequences of crimes imposed by criminals and their family members and relatives, the scope of application should be narrowed according to the specific circumstances of criminals’ crime nature, charges and degrees without using the method of “one-size-fits-all approach”. For example, in the political review, if the parents of the auditee have criminal records, but they are misdemeanors or negligent crimes that do not endanger national security and do not involve political life, the parents’ experience should not be an obstacle for their children to pass the political review. The incidental consequences of crime should be modest, and it is reasonable for criminals to be punished by the incidental consequences because of their criminal acts. However, their family members and relatives have independent personality rights and personal rights, and the criminal’s crime cannot explain that his relatives will inevitably commit crimes. If we punish “people unrelated to crime” directly for this reason, it will not only lack logical relevance but also run counter to the spirit of the rule of law. Therefore, this paper holds that we should carefully consider whether the nature of the criminal’s behavior and his relatives’ related occupations will have adverse effects, and adjust some provisions in laws and regulations that are aimed at the criminal’s relatives but have no correlation with the judicial interpretation.

5.4. Carrying out the Stratified Design of the Incidental Consequences of Crime from the Perspective of Misdemeanors and Felonies

For some provisions on incidental consequences of crimes that are not distinguished from misdemeanors and felonies, they should be revised by judicial interpretation, and the limited application period of criminals should be designed hierarchically. First of all, we should take into account the social harm of misdemeanor criminals and criminals with little subjective malignancy. Secondly, we should limit and refine the description scope of preconditions, enhance the pertinence of prevention functions of different incidental consequences, and promote the individualization of incidental consequences of crime. Finally, the application of incidental consequences with a lifelong time should be strictly limited. In the specific time limit setting, we can refer to the nature and social harmfulness of different criminal acts, monitor the possibility of recidivism after the criminals return to society in the past, so as to make scientific and practical evaluations and grading, and determine the specific time limit for imposing criminal incidental consequences on them.

6. Conclusion

This paper takes the incidental consequences of crime in the era of misdemeanors as the research object and discusses this topic from four aspects: normative concept and functional orientation, legislative status, potential problems, and improvement paths. First of all, this paper points out that the incidental consequences of crime in the misdemeanor era refer to the adverse consequences that are stipulated by laws, regulations, and rules other than the *Criminal Law* and are applicable to criminals or their family members and relatives, such as excluding or restricting the exercise of rights such as employment, career choice, household registration, etc., impairing social evaluation or increasing the burden of obligations. By comparing the incidental consequences of crime with similar concepts, the functional orientation of the incidental consequences of crime in the misdemeanor era is clarified, that is, the severity is weakened and the criminals are better returned to society. Secondly, this paper sorts out the provisions on the incidental consequences of crime in the current normative documents, and finds the following potential problems: (1) The incidental consequences of crime lack the basis of superior law; (2) The incidental consequences of a crime have unfair effects on people suspected of committing a crime at different stages of criminal procedure; (3) There is no reasonable basis in the existing local norms about “taking the national civil service examination and staffing of public institution examination in legislation for children of criminals”; (4) The existing normative documents do not distinguish the incidental consequences of crime from the perspective of

misdemeanor and felony. These problems will become more prominent in the context of the era of misdemeanors. Finally, this paper aims to put forward the improvement path from the following four aspects: (1) The Supreme People's Court should issue corresponding judicial interpretations to stipulate the incidental consequences of crimes in the era of misdemeanor; (2) The existing local laws and regulations should abolish the setting of the incidental consequences of crimes for those involved who are "suspected of crimes that have not been ascertained" and "exempted from criminal penalty" by layers; (3) The existing local norms should narrow the scope of application of the provisions of the "taking the national civil service examination and staffing of public institution examination in legislation for children of criminals", from being applicable to all children of criminals to being applicable according to the nature, charges and degree of the criminals; (4) The incidental consequences of crimes are designed hierarchically from the perspective of misdemeanors and felonies, and the incidental consequences of crimes are carefully applied to the criminals of misdemeanors, and the description scope of the preconditions of the incidental consequences of crimes is refined, and the application of the incidental consequences of crimes with a lifelong term is strictly restricted.

This paper is innovative in the research content, including the change of research perspective from the incidental consequences of felony crimes to the incidental consequences of misdemeanor crimes, the redefinition of the incidental consequences of crimes, the discussion of the unfair situation of suspected criminals under different criminal procedures and the violation of the principle of prohibiting repeated evaluation, and the proposal of issuing a unified judicial interpretation. First, the research perspective has changed. Most of the previous studies took felony as the research background, focusing on the analysis of the application of the incidental consequences of crime in the context of felonies. Combining with the new situation of the transition from the felony era to the misdemeanor era, this paper mainly studied the incidental consequences of crime in the misdemeanor era and explored its applicability in the new situation. Secondly, the normative concept of the incidental consequences of crime is different from the extensive definition of the incidental consequences of crime in the relevant literature. This paper compares and analyzes the incidental consequences of crime with the incidental consequences of the penalty and the incidental sanctions of penalty, and points out that the incidental consequences of crime should be included in the scope of the incidental consequences under non-penalty conditions, and the "incidental consequences" should not be limited to "incidental sanctions", including all the criminals or their family members and relatives. Thirdly, this paper introduces the comparison of the impact of the incidental consequences of crime on the three groups of criminal suspects, defendants, and criminals, and discusses that restricting the incidental consequences of crime such as "children of criminals taking the national civil service examination and staffing of public institution examination in legislation" is a violation of the principle of prohibiting repeated evaluation, and draws the conclusion that the negative impact of the incidental consequences of crime on people suspected of committing crimes at different stages of criminal procedure is unfair and that the incidental consequences of crime are "second evaluation on qualitative penalty" and other potential problems. Fourthly, this paper holds that a unified judicial interpretation should be issued to regulate the incidental consequences of crime, distinguish the application of misdemeanor and felony in different situations, and puts forward that we should be cautious in choosing applications for misdemeanors and strictly abide by the law for felony. In the application period, we should avoid "lifelong" applications for misdemeanors, and strictly follow the law for felonies.

However, there are still some shortcomings in this paper. First of all, this paper mainly focuses on the problems and improvement of the incidental consequences of crime in the era of misdemeanors. The reasons for the problems have not been thoroughly studied. We can consider exploring the causes of the existing problems of the incidental consequences of crime through social background and legislative status quo, and put forward more realistic solutions to the existing problems in combination with the reasons. Secondly, the research methods can be expanded, such as quantitative research methods, questionnaire survey, and experimental design to verify the relationship between the

background of the misdemeanor era and the incidental consequences of crime, and further form theoretical results. We can consider introducing interdisciplinary research methods such as the public views on criminals in sociology and the criminals' cognition of their own criminal experiences in psychology into the study, so as to explore this problem more comprehensively.

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