

Consequences of a Violation of Exclusionary Rules in China

Jiang Na¹ and Han Rong²

¹Professor, College for Criminal Law Science, Beijing Normal University (BNU), China.

²LLM candidate, Law School of Beijing Normal University, China.

***Corresponding Author:** Jiang Na, Professor, College for Criminal Law Science, Beijing Normal University (BNU), China. na.jiang@bnu.edu.cn

ABSTRACT

Given the contrast between the actual needs of the above remedies and their absence in legislation, it is necessary to examine whether it is possible or not and if so, how, to fill in this gap by means of further reforms. This paper will start with the ineffectiveness of exclusionary rules in China's actual implementation. It will next proceed with Chinese exclusionary rules' deviation from international human rights standards. Further, it will conclude with how to make such rules effective and bring them in line with international standards as China's international duty. Thus, a series of new institutional arrangements are very needed in future reforms in order to secure the good use of, and better remedies of a violation of, exclusionary rules in China.

INTRODUCTION

In the 2012 CPL, there is no explicit remedy for violating the exclusionary rules.¹ Some reformers hold that such rules cannot be fully ensured or well implemented without any remedies for potential breaches.² In practice, remedies for consequences of breaching the rules are usually needed. For example, it is necessary when the defence is dissatisfied with the ultimate non-initiation of the procedure for excluding

illegally obtained evidence, after providing the evidentiary material required for starting the procedure. It is also the case when the defence continues to refuse to accept courts' decision not to exclude evidence after their final review or when the prosecutor refuses to accept the courts' decision to exclude such evidence in court.

Given the contrast between the actual needs of the above remedies and their absence in legislation, it is necessary to examine whether it is possible or not and if so, how, to fill in this gap by means of further reforms. This paper will start with the ineffectiveness of exclusionary rules in China's actual implementation. It will next proceed with Chinese exclusionary rules' deviation from international human rights standards.

Further, it will conclude with how to make such rules effective and bring them in line with international standards as China's international duty. Thus, a series of new institutional arrangements are very needed in future reforms in order to secure the good use of, and better remedies of a violation of, exclusionary rules in China.

The Ineffectiveness of Exclusionary Rules in China's Actual Implementation

There are many public debates on the ineffectiveness of exclusionary rules in Chinese criminal justice system. For example, some critics hold that while coerced oral statements

¹See LIN Guoqiang, On the Application of the Fruits of Poisonous Tree in Chinese Criminal Procedure Law, Hebei Faxue, 2013-10. 182; Ming Yang & Hailin Zhang, "Feifazhengjupaichu"panshanqibu ["Evidence Exclusion" off to a Shaky Start], LIAOWANG DONGFANG ZHOUKAN [ORIENTAL OUTLOOK] (Nov. 29, 2010), <http://news.sohu.com/20101129/n277987689.shtml>

² See LI Mingrong/TENG Zhong/Zhang Min, Research Report on the Procuratorates' Implementation of the Criminal Procedure Law in Fujian Province, GuojiaJianchaguanXueyuanXue bao, 2014-5. 40; Na Jiang, "Difficult Paths: Slow Progress in Preventing Wrongful Convictions in China", International Journal of Law, Crime and Justice (IJLCJ), 2018/1; Na Jiang, "Excluding tortured confessions in the People's Republic of China: A long March towards the eventual abolition of torture?", IJLCJ 2018/3

cannot be used at trials, physical and documentary evidence derived from such statements can be used as evidence.³ The definition of illegally obtained testimony only refers to "statements by criminal suspects or defendants obtained through illegal means such as forced confessions as well as witness testimony or victim statements obtained through illegal means such as the use of violence or threats".⁴ This law has been interpreted, against the intent and meaning of Art. 43 in the 2012 *Criminal Procedure Law of the PRC (CPL)*, so that such evidence cannot be fully excluded.⁵

Also, the above debates appear even in individual cases. For instance, the first controversy in case ZHANG Guoxi revolved around a distinction between illegal and defective evidence, particularly in the original judgment. Illegal evidence is evidence collected via serious violations of human rights. Defective evidence, on the other hand, is evidence that is collected in a manner that, while not in complete accordance with proper forms or procedures, does not involve human rights violations. ZHANG Guoxi's lawyers claimed that investigators' extended inquiry into ZHANG Guoxi's corruption during the preliminary investigation, before criminal proceedings commenced, constituted illegal detention that seriously violated the basic human rights of the accused.⁶ The judgment at trial agreed with this reasoning and excluded ZHANG Guoxi's confession of guilt. This decision was reversed on appeal because new evidence was introduced by the prosecution which demonstrated

that ZHANG Guoxi's confession had not been extracted via torture.⁷ In this sense, the detention was found not to be a serious violation of human rights, so the confession was merely defective evidence, not illegally obtained evidence.

The second controversy in case ZHANG Guoxi was about the effective "range" of exclusionary rules, that is, whether evidence collected during preliminary investigations can be illegal evidence. The trial court excluded the use of his pre-trial confessions as the basis for convictions⁸, suggesting that the "range" of evidence to exclude should not be limited to the investigation stage, even if the acquisition of illegal evidence occurred before the investigation and ended when the criminal trial began. Exclusionary rules should be applied broadly to all cases where there is a causal relationship between the conduct of illegal collection and the evidence. In fact, the interrogation transcripts, key evidence in the case, did not result from interrogation after taking criminal compulsory measures, but from prior intensive interrogation by investigative organs. One ground on which the trial court's decision was reversed on appeal was that the *Rules* do not explicitly provide for the exclusion of evidence collected during preliminary investigations. This regulatory silence can only lead to miscarriages of justice based on faulty evidence. If evidence is collected illegally, it should be excluded as illegal evidence no matter when it was collected.

The third issue in case ZHANG Guoxi revolved around what the *Rules* mean when they refer to "other illegal means". Confessions made by suspects who have been deprived of sleep, food or other essentials should be excluded along with the typical confessions extorted under torture. Regrettably, when the defence party argued for the exclusion of evidence obtained by means of forced confessions, sleep deprivation, threats, enticements, deceit or other underhanded means used to obtain confessions of guilt, only the first

³ See CHEN Ruchao, "The Chinese Rectification of Inquisition by Torture", *Gansu ZhengzhiXueyuan Xuebao*, 2015-1, 1; "The Focus of 'First Case of Excluding Illegal Evidence in China': Whether Fatigue in Investigation is Torture or not", *China Youth* (3 September 2011), available online at http://news.xinhuanet.com/legal/2011-09/03/c_121958850.htm; Na Jiang, "Problems and Prospects: China's Response to Wrongful Convictions", *International Journal of Law, Crime and Justice*, 2015/1

⁴ Art. 1 of the *Rules*.

⁵ Art. 43 of the *CPL*.

⁶ YAO Peishuo, *The dilemma of Exclusionary Clauses on Illegal Evidence in Criminal Law: Investigators Testifying Own Innocence*, (*The Beijing News*, 2 August 2012), available online at <http://www.chinanews.com/fz/2012/08-02/4077216.shtml>

⁷ ZHU Youyou, Zhu & CHEN Jiawei, *The Final Trial of the First Case of 'Excluding Illegal Evidence in China' Suffered from A Big Reversal*, (*Fenghuang Net*, 25 July 2012), available online at http://news.ifeng.com/mainland/detail_2012_07/25/16269272_0.shtml

⁸ KONG Lingquan, *The 'First Case' of Excluding Illegal Evidence in China*, (*Democracy and Legal System Times*, 25 April 2012), available online at http://news.ifeng.com/opinion/special/xieyalongfan/detail_2012_04/25/14152917_0.shtml

was adopted as a reason to exclude evidence. The other methods were "strategically" declined by the court.⁹ Continuous ill treatment, however, can be similar to torture because the accused's spirit is broken along with the accused's body. Methods like sleep deprivation are inhumane procedures are serious violations of citizens' basic human rights. Since the *CPL* stipulates that a "summons term", that is, the length of time a witness can be held at the pleasure of an investigatory body, shall not exceed 12 hours,¹⁰ overtime questioning of an accused should be regarded as ill treatment or an "oppressive atmosphere", particularly when "necessary diet and rest time" like three meals and continuous rest of no less than six hours within a 24-hour are also denied.¹¹ China should adopt rules similar to those of countries like Canada, where confessions extracted in "oppressive atmospheres" are excluded and also define the crime of torture as a matter of priority in accordance with Art.1 of the *CAT*, with penalties commensurate with the gravity of torture.¹²

Concerning the fourth issue, the burden of proof, the prosecution should bear the burden of proving the legitimacy of evidence. In other words, the prosecution should adduce evidence to prove that a confession was not collected illegally to the level of "beyond a reasonable doubt". Where the prosecution cannot satisfy this degree of proof, with significant doubts remaining about the possibility that illegal methods were used to obtain evidence, illegal evidence should be recognized and excluded under the principle that it is doubtful evidence. In case *ZHANG*, the trial court upheld this principle, to the benefit of the accused, but the appeal court overturned the trial court's judgment, ruling that the prosecution "sufficiently proved the legitimacy of his coerced confession" such that the trial judge should have included the "pretrial confession of guilt.....as evidence",¹³ without

considering whether the confession was not obtained through torture "beyond a reasonable doubt". This disregard for the "reasonable doubt" standard implies that 'abuse of discretion' by a court leaves much room for the inclusion of evidence obtained illegally.

In critical commentaries, almost all legal professionals have agreed that China's exclusionary rules have "not been strictly implemented".¹⁴

ZHANG Jun, the Vice-President of the SPC, criticized defence lawyers because, as of early 2011, he was unable to find any cases in which a lawyer had successfully excluded DNA evidence on the grounds that it had not been properly collected.¹⁵ Lawyers claim that this situation derives from their long practice "in a system emphasizing substantive over procedural justice", in which they focus "predominately on factual arguments"¹⁶.

As indicated by a recent survey, approximately only 20 percent of defence attorneys had attempted to invoke the *Rules*,¹⁷ even though mounting a procedural defence is legally "an obligation performed by lawyers to protect judicial fairness".¹⁸ Moreover, the lawyers who most frequently attempt to invoke the *Rules* are often frustrated by judges' responses to their advocacy, such as ignoring their request, contrary to Art.5 of the *Rules*, for the examination of

is Torture or not), (China Youth3 September 2011), available online at <http://news.xinhuanet.com/legal/2011-09/03/c_121958850.htm>

¹⁴ *REN Fang*, The Principle of Evidence Exclusion Has Not Been Strictly Implemented), (cnr.cn, 10 January 2011), available online at <http://www.cnr.cn/china/newszh/yaowen/201101/t20110110_507564061.html>, accessed 26 March 2017.

¹⁵ *Daum*, 2011.

¹⁶ *Wenchang Tian*, Criminal Defense Cannot Abide Illegal Evidence [*xingshibianhubunengfangzongfeifazhengju*], *FAZHI ZHOUMO [LEGAL WEEKLY]*, Jan. 11, 2011, <http://opinion.hexun.com/2011-01-11/126731224.html>

¹⁷ *Ming Yang & Hailin Zhang*, "Feifazhengju paichu"panshanjibu ["Evidence Exclusion" off to a Shaky Start], *LIAOWANG DONGFANG ZHOUKAN [ORIENTAL OUTLOOK]*, Nov. 29, 2010, <http://news.sohu.com/20101129/n277987689.shtml>

¹⁸ See footnote 16.

⁹ *Ibid.*

¹⁰ Art. 126 of 2012 *CPL*.

¹¹ United Nations Commission on Human Rights, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak. Sixty-second session (10 March 2006)' E/CN.4/2006/6/Add.6(2006), available online at <<http://www.refworld.org/docid/45377b160.html>>

¹² *Ibid.*

¹³ The Focus of 'First Case of Excluding Illegal Evidence in China': Whether Fatigue in Investigation

allegations of illegal evidence.¹⁹ Lawyers also found that judges were often unwilling to debate whether evidence was collected illegally, even if inquiries into the propriety of evidence were initiated following written motions.²⁰

The failure of the *Rules* is best exemplified by Case FAN Qihang. In that case, the *Rules* were not invoked in Mr. FAN's favour until the SPC reviewed his death sentence, even though Mr. FAN and his lawyers had repeatedly protested that his confessions were false and had been extracted under torture. His lawyer 'publicly released and submitted to the court clandestine videotapes of Mr. FAN discussing his treatment and displaying scars on his arms', but the SPC, the court of final appeal for death sentences, never permitted the defence to use this video. The SPC conducted the trial behind closed doors, and the only way that Mr. FAN was able to participate in the process was by being executed for his "crime".²¹

Chinese Exclusionary Rules' Deviation From International Standards

The reports of the international monitoring bodies have revealed its exclusionary rules' deviation from international standards. The Committee against Torture is the body that monitors implementation of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*. China as a party to the *CAT* is obliged to submit the treaty body regular reports on implementation. The treaty body examines each report and addresses recommendations in the form of "concluding observations". Hence, the body's views on Chinese issue are often more neutral than foreign reports'.

As a State party to the *CAT*, the PRC should undertake the international human rights obligation to prohibit any form of torture in any process, as provided by the *CAT*. The expansive protection of the accused from torture in China has been greatly inspired by the definition of "torture" in the *CAT*. Particularly in the context of the current *2012 CPL*, illegally collecting evidence by the means of torture or other illegal acts refers to the use of corporal punishments, disguised corporal punishments or other physical or mental suffering in a physically or mentally

painful way in order to force the accused to confess against his or her willingness. Accordingly, "torture" was not a mere label any more, but has physical pains or mental suffering as the standards for determining which illegal acts constitute "torture" in the context of the *CAT*, and also has forced the accused to confess against willingness as the essence of torture.²²

Specifically, the *2012 CPL* prohibits torture mainly by banning judges, prosecutors and investigators from inducing suspects or the accused to confess by illegal means during evidence investigation, and by excluding tortured confessions from use at later stages in the criminal process. Thus, the prohibition of torture applies to some public officials who aim to extort confessions by illegal means and to the criminal process as well in this context. Moreover, the *1997 CL* imposes criminal penalties on public officials who intentionally extort confessions by illegal means in the criminal process. The *1997 CL* also penalizes some public officials for their intentional crimes of extracting testimony from witnesses by force or of physically abusing prisoners in custody.

Furthermore, those causing injury, disability or death through the above three intentional crimes, should be punished according to criminal law. In order to strictly prohibit torture, the *1997 CL* imposes harsher criminal punishments for such crimes as extracting confession or testimony by force and torturing detainees, increasing to the death penalty, life imprisonment, and ten or more years' imprisonment for those causing serious injury, disability or death by extremely crude means. Therefore, the international definition on torture is shaping the scope of torture in the PRC and will promote further revisions to laws and improvements to practice on prohibiting torture. But the provisions on the definition of torture in PRC law remain limited and narrow-minded²³, still far away from the relevant requirements of the *CAT*. Thus, many laws need to be amended to clarify the definition of torture, not only in the criminal process, but also in other processes

¹⁹Ibid.

²⁰Ibid.

²¹Ibid

²²CHENRuihua, 2015.

²³ See Na Jiang, "The Adequacy of China's Response to Wrongful Convictions", *International Journal of Law, Crime and Justice*, 2013/4; Na Jiang, "The Presumption of Innocence and Illegally Obtained Evidence: Lessons from Wrongful Convictions in China?", *Hong Kong Law Journal*, 2013/2

relating to the use of torture.²⁴

New Institutional Arrangements in Future Justice Reforms

There are many institutional arrangements on securing individual rights in China's criminal justice system. They mainly include cautioning or informing the accused of his or her rights, access to his or her lawyer and application for medical surveillance, as mentioned in the current *2012 CPL*.

Unfortunately, however, it is still short of an effective remedy for appeals on the ground of a violation of an exclusionary rule in law. Thus, those facing the risk of rights violations can hardly find a way to remedy or correct the above violation in practice. Only law enforcement authorities including the police, prosecutors and courts actually control whether to respect limitations of fact-finding.

Benefit like promotion or awards can be obtained from extorted confession through torture or guilty plea. In law or practice, there is no essential interest of such actors in limiting fact-finding. They often seek substantive justice and not procedural justice in order to achieve the goal of crime control and even a very-high or almost-full conviction rate.²⁵

²⁴ See Na Jiang, "Iron Triangle of the Gong Jian Fa: Lessons from Wrongful Convictions in Capital Cases?", *International Journal of Law, Crime and Justice*, 2014/4; LIANG Bin /HE Ni Phil /LU Hong, 'The Deep Divide in China's Criminal Justice System: Contrasting Perceptions of Lawyers and the Iron Triangle', (2014) 62 *Crime, Law and Social Change*, 585-601. ZUO Weimin, Prospect of the Third Reform of the Chinese Criminal Procedure Code [*zhongguoxingshisusong fa di sancixiu gaiqianzhan*], *Modern Law Sciences [XiandaiFaxue]*, 2015-4; ZUO Weimin: The Favourite and the Underdog in the Empirical Research on the Exclusionary Rule [*lengyu re feifazhengjupai chuguizeshiyong de shizhengyanjiu*], *Law and Business Reserch [FashangYanjiu]*, 2015-3, 152; WANG Chao, The Hidden Worry of an Empty Shell in Regard of the Exclusionary Rule and the Optimum Reform of This Rule, *FaxueZazhi*, 2013-12, 100-108.

²⁵ See NING Ping, Research on the Necessity and Feasibility of the Establishment of an Adversarial Investigative Interrogation Model in China, *FanzuiYanjiu*, 2015-4, 39; Lewis, Margaret K., 'Controlling Abuse to Maintain Control: The Exclusionary Rule in China', (2011)43 *New York*

In summary, the distance between PRC law and international requirements in defining torture may suggest flaws in domestic legislation, detrimental to justice. But there is no way to exclude all tortured confessions without a definition on torture. It is necessary for the PRC to define it as required by the *CAT*. At the very least, the PRC should define torture in a much broader sense than its current scope in future reforms,²⁶ in order to faithfully perform all due international obligations as a party to the *CAT*. For example, anyone acting in a public capacity, against the prohibition of torture as provided by the *CAT*, should be responsible for the crimes of torture in the *1997 CL*, albeit with several crimes like the crimes of extracting confession or testimony by force and of torturing detainees included. In other words, such crimes need to include more offences mentioned in the *CAT*, in the future definition of PRC law.

Also, both public officials and private citizens who commit acts of torture should equally become offenders of such crimes in PRC law. It is worthy of note that some articles conflict with the prohibition of torture and even tolerate some forms of torture in a sense. For example, *2012 CPL* Article 118 requires suspects to truthfully answer investigators' questions, which excludes the right to silence or privilege against self-incrimination and suggests that investigators may pressure suspects to confess. But mental or physical torture cannot be permitted. In order to prevent and reduce it, China needs to enshrine the right to silence in the context of international standards.

CONCLUSION

In the *2012 CPL*, remedies for violating the exclusionary rules are absent, which has been criticised by the media or public at home and

University Journal of International Law and Politics, 629; WU Hongyao, The Exclusionary Rule, its Actual Effect and the Approach of Improvement on the Exclusionary Rule in People's Republic of China [*feifazhengjupaichu de guizeyushixiaojianlunwoguo feifazhengjupaichuguize de wanshanjinlu*], *Modern Law Science*, [*XiandaiFaxue*], 2014-4, 121.

²⁶ See YANG Yuguan, On the rule of excluding illegal evidence under the rule of law, *ZhengjuKexue*, 2015-4, 389; CHEN Ruihua, On the Rules about the Confession of the Accused, *FaxueZazhi*, 2012-6, 46; DU Yusu, The Dilemma of the Trial Process about the Exclusionary Rule and its Improvement, *FalüKexue*, 2013-6, 184.

abroad. In practice, remedies for consequences of breaching the rules are also most needed in many aspects. Facing the fierce debates from the public and critical reports from international monitoring bodies on the ineffectiveness of Chinese exclusionary rules, China really need take action to make new institutional arrangements on the ground.²⁷

Such arrangements are expected to fill in the gap of current exclusionary rules in China and to better remedy a violation of such rules in future justice practice in the context of international human rights standards that China should undertake as a treaty party.

REFERENCES

- [1] CHEN Ruchao, The Chinese Rectification of Inquisition by Torture, *Gansu ZhengzhiXue yuanXuebao*, 2015-1, 1-17.
- [2] CHEN Ruihua, On the Rules about the Confession of the Accused, *FaxueZazhi*, 2012-6, 46-55.
- [3] CHEN Ruihua, The Exclusive Object of Illegal Evidence Exclusion Rule: An Analysis of Involuntary Confession, *Dangdai Faxue*, 2015-1, 37.
- [4] Daum, Jeremy, Tortuous Progress: Early Cases under China's New Procedures for Excluding Evidence in Criminal Cases, (2011) 43 *New York University's Journal of International Law and Politics*, 699.
- [5] DONG Xiaowei, Retrospection and Rethink of the Cases With Death Consequence because of the Inquisition by Torture in the Last Ten Years, (*GonganXuekan*) – *Zhejiang GonganZhuanke XuexiaoXuebao*, 2004-1, 5-7.
- [6] DU Yusu, The Dilemma of the Trial Process about the Exclusionary Rule and its Improvement, *FaliuKexue*, 2013-6, 184-189.
- [7] GAO Jie, An Empirical Study on the Exclusionary Rule of Illegally Obtained Evidences, *Jiangsu JingguanXueyuanXuebao*, 2016-1, 31-35.
- [8] HE Jiahong, Empirical Research on Evidence Investigation in Criminal Litigation, *Zhongwai Faxue*, 2012-1, 173-189.
- [9] HE Jiahong, Judicial Precedents are Needed in the Application of Exclusionary Rule, *Faxue Jia*, 2013-2, 106-118.
- [10] KONG Lingquan, The 'First Case' of Excluding Illegal Evidence in China), (*Democracy and Legal System Times*, 25 April 2012), available online at <http://news.ifeng.com/opinion/special/xieyalongfanan/detail_2012_04/25/14152917_0.shtml>
- [11] Lewis, Margaret K., 'Controlling Abuse to Maintain Control: The Exclusionary Rule in China', (2011)43 *New York University Journal of International Law and Politics*, 629-697.
- [12] LI Mingrong/TENG Zhong/Zhang Min, Research Report on the Procuratorates' Implementation of the Criminal Procedure Law in Fujian Province, *GuojiaJianchaguanXue yuanXuebao*, 2014-5, 40-54.
- [13] LIANG Bin /HE Ni Phil /LU Hong, 'The Deep Divide in China's Criminal Justice System: Contrasting Perceptions of Lawyers and the Iron Triangle', (2014) 62 *Crime, Law and Social Change*, 585-601.
- [14] LIN Guoqiang, On the Application of the Fruits of Poisonous Tree in Chinese Criminal Procedure Law, *Hebei Faxue*, 2013-10, 182-187.
- [15] Ming Yang &Hailin Zhang, "Feifazhen gjupaichu"panshanqibu ["Evidence Exclusion" off to a Shaky Start], LIAOWANG DONG FANG ZHOUKAN [ORIENTAL OUTLOOK] (Nov. 29, 2010), <http://news.sohu.com/20101129/n277987689.shtml>
- [16] NING Ping, Research on the Necessity and Feasibility of the Establishment of an Adversarial Investigative Interrogation Model in China, *FanzuiYanjiu*, 2015-4, 39-46.
- [17] REN Fang, The Principle of Evidence Exclusion Has Not Been Strictly Implemented), (*cnr.cn*, 10 January 2011), available online at http://www.cnr.cn/china/newszh/yaowen/201101/20110110_507564061.html
- [18] The Focus of 'First Case of Excluding Illegal Evidence in China': Whether Fatigue in Investigation is Torture or not), (*China Youth*, 3 September 2011), available online at http://news.xinhuanet.com/legal/2011-09/03/c_121958850.htm
- [19] United Nations Commission on Human Rights, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or

²⁷ See YAN Zhaohua, Forbid Nominally, but Allow Actually and Despite Decree, but not Execute: Research on the Difficulties of the Exclusionary Rule, *Fazhi Yu Shehuifazhan*, 2014-2, 181; GAO Jie, An Empirical Study on the Exclusionary Rule of Illegally Obtained Evidences, *Jiangsu JingguanXueyuan Xuebao*, 2016-1, 31; HE Jiahong, Judicial Precedents are Needed in the Application of Exclusionary Rule, *Faxue Jia*, 2013-2, 106

Consequences of a Violation of Exclusionary Rules in China

- punishment, Manfred Nowak. Sixty-second session (10 March 2006) E/CN.4/2006/6/Add.6(2006), available online at <<http://www.refworld.org/docid/45377b160.html>>
- [20] WANG Chao, The Hidden Worry of an Empty Shell in Regard of the Exclusionary Rule and the Optimum Reform of This Rule, *FaxueZazhi*, 2013-12, 100-108.
- [21] Wenchang Tian, Criminal Defense Cannot Abide Illegal Evidence [*xingshibianhubunengfangzongfeifazhengju*], FAZHI ZHOUMO [LEGAL WEEKLY] (Jan. 11, 2011), <http://opinion.hexun.com/2011-01-11/126731224.html>
- [22] WU Hongyao, The Exclusionary Rule, its Actual Effect and the Approach of Improvement on the Exclusionary Rule in People's Republic of China [*feifazhengjupaichude guizeyushixiaojianlunwoguofeifazhengjupaichuguide wanshanjinlu*], *Modern Law Science*, [XiandaiFaxue], 2014-4, 121.
- [23] YAN Zhaohua, Forbid Nominally, but Allow Actually and Despite Decree, but not Execute: Research on the Difficulties of the Exclusionary Rule, *Fazhi Yu Shehuifazhan*, 2014-2, 181-192.
- [24] YANG Yuguan, On the rule of excluding illegal evidence under the rule of law, *ZhengjuKexue*, 2015-4, 389-399.
- [25] YAO Peishuo, The dilemma of Exclusionary Clauses on Illegal Evidence in Criminal Law: Investigators Testifying Own Innocence), (The Beijing News, 2 August 2012), available online at <<http://www.chinanews.com/fz/2012/08-02/4077216.shtml>>
- [26] ZHOU Changjun, The Possible Importance of the Trial Live Broadcasting by Weibo-Software to the Rule by Law during the Investigation, *FaxueLuntan*, 2014-1. 90-99.
- [27] ZHU Youyou, Zhu & CHEN Jiawei, The Final Trial of the First Case of 'Excluding Illegal Evidence in China' Suffered from A Big Reversal, (Fenghuang Net, 25 July 2012), available online at <http://news.ifeng.com/mainland/detail_2012_07/25/16269272_0.shtml>
- [28] ZUO Weimin, Prospect of the Third Reform of the Chinese Criminal Procedure Code [*zhong guoxingshisusong fa di sancixiug aiqianzhan*], *Modern Law Sciences* [*Xiandai Faxue*], 2015-4.
- [29] ZUO Weimin: The Favourite and the Underdog in the Empirical Research on the Exclusionary Rule [*lengyu re feifazhengjupaichuguide shiyong de shizhengyanjiu*], *Law and Business Reserch* [*FashangYanjiu*], 2015-3, 152.
- [30] Na Jiang, "Excluding tortured confessions in the People's Republic of China: A long March towards the eventual abolition of torture?", *International Journal of Law, Crime and Justice*, 2018/3.
- [31] Na Jiang, "Difficult Paths: Slow Progress in Preventing Wrongful Convictions in China", *International Journal of Law, Crime and Justice*, 2018/1.
- [32] Na Jiang, "Old Wine in New Bottles? New strategies for judicial accountability in China", *International Journal of Law, Crime and Justice*, 2018/1.
- [33] Na Jiang, "Problems and Prospects: China's Response to Wrongful Convictions", *International Journal of Law, Crime and Justice*, 2015/1.
- [34] Na Jiang, "Iron Triangle of the Gong Jian Fa: Lessons from Wrongful Convictions in Capital Cases?", *International Journal of Law, Crime and Justice*, 2014/4;
- [35] Na Jiang, "A Comparison of Wrongful Convictions in Death Penalty Cases between China and the United States", *International Journal of Law, Crime and Justice*, 2013/2;
- [36] Na Jiang, "The Presumption of Innocence and Illegally Obtained Evidence: Lessons from Wrongful Convictions in China?", *Hong Kong Law Journal*, 2013/2;
- [37] Na Jiang, "The Adequacy of China's Response to Wrongful Convictions", *International Journal of Law, Crime and Justice*, 2013/4.

Citation: Jiang Na and Han Rong. "Consequences of a Violation of Exclusionary Rules in China", *Journal of Law and Judicial System*, 2(1), pp.1-7

Copyright: © 2019 Jiang Na. This is an open-access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.