



The Reform of the Judicial Committee in China

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Abstract

The reform of the judicial power is the focus in judicial reform. As localized Committee, it has the de facto supreme judicial jurisdiction in court operations, which play the function of summing up trial experience and strengthening the important functions of trial democracy and trial supervision. And its abolition has become an important measure of judicial modernization and a way out under the background of judicial reform. This article considers the value of the Judicial Committee from the view of both advantages and disadvantages, and improves the relevant system.

Key words: Judicial Committee; Dispute of retention and abolition; Transition scheme; Final scheme

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INTRODUCTION

With the reform of the judicial system, various issues are on the agenda. “Presiding judge system” “Let the judge act as the referee and the referee responsible for the cases” and the “Judicial System for Specified Number of Personnel” are all challenging the sensitive areas of the current Judicial Committee system. The reform of the operation mechanism of judicial power is the focus in judicial reform. As localized Committee, it has the de facto supreme jurisdiction in the court, which played

an important role in summing up the trial experience, strengthening trial democracy and trial supervision. And its abolition has become an important measure of judicial modernization and a way out under the background of judicial reform. The author suggests that a cautious attitude should be maintained, considering the value of the Judicial Committee system from the view of both advantages and disadvantages. Only a cautious attitude is maintained, all the discussion about the abolition of the Judicial Committee system will not be divorced from actual conditions in China.

1. AN OVERVIEW OF THE JUDICIAL COMMITTEE IN CHINA

1.1 The Development of the Judicial Committee

The Judicial Committee which is different from the jury in the Anglo-American law system and the civil law court, is the highest judicial organization with characteristics of our country. The Judicial Committee originated in the system of refereeing committee that began during the new democracy period. Article 11 of Organic Law of the People’s Courts of the People’s Republic of China stipulated that people’s courts at all levels set up Judicial Committee which practice democratic centralism. The task of the Judicial Committee is to sum up judicial experience and to discuss important or difficult cases and other issues relating to the judicial work. The Judicial Committee has roughly gone through four stages. The first stage is the period of initial form as the Magistrates Committee. In 1931, after the establishment of the Chinese Soviet government, the unified system of the Magistrates Committee was prescribed. During the period of war liberation, the Magistrates Committee evolved into the People’s Court and the Judicial Committee. The second stage is the period of the establishment and formation stage as the Organic Law of the People’s

Courts of the People's Republic of China in 1954, which stipulated the Judicial Committee system and its terms of reference in the form of law. The third stage is the tortuous development stage of the Judicial Committee from 1957 to 1979, when the national judicial system was paralyzed during this period, and the Judicial Committee is also facing havoc and heavy losses. The fourth stage is the period of the recovery and reconstruction. In 1978, taking the third Plenary Session of the 11th CPC Central Committee as opportunity, the Judicial Committee was rebuilt. The Revised Organic Law of the People's Courts of the People's Republic of China made clear the legal status and functions of the Judicial Committee again.

1.2 The Nature and Function of the Judicial Committee

As Ehrlich said, "at any historical moment, the focus of the development of law is not in legislation and law, nor in adjudication, but in society itself" (Ehrlich, 2009). The author asserts that the nature of the Judicial Committee is both a judicial organization and a judicial management organization. On the one hand, judging from the function of the Judicial Committee, it is a judicial organization. According to the provision of the article 11 of Organic Law of the People's Courts of the People's Republic of China stipulated that the task of the Judicial Committees is to sum up judicial experience and to discuss important or difficult cases and other issues relating to the judicial work. Although the committees are not directly involved in the court hearing, they have the rights to discuss and decide on some cases. Judging from the execution of cases, the Judicial Committee adopts democratic centralism and collective responsibility system. In any case discussed by the Judicial Committee, the collegiate bench and the judges must follow the opinions of the Judicial Committee. And the Judicial Committee shall have the substantial final decision on the case. Therefore, from this point of view, the Judicial Committee is a judicial organization, which is the supreme judicial organ in the court and is higher than the sole judge bench and the collegiate bench. On the other hand, the Judicial Committee should be in charge of the management in the trial within the court that conducts trial supervision over trial activities, rather than adjudication of cases. Judging from the composition of the members of the Judicial Committee, it is characterized by the administrative system. The members of the Judicial Committee are basically the leaders of the court who has administrative posts or enjoy the treatment of administrative duties, including the presiding judges of the judicial tribunals and some senior judges. The number of members is between nine and eleven, but not less than nine. Judging from the operation mode, the Judicial Committee replaced the court session with a meeting. The voting rule (the minority subject to the majority) of the Judicial Committee is to decide the result of the case in the form of democratic

centralism. Through discussion on cases by the Judicial Committee, the purpose of management, guidance and supervision is achieved. Therefore, from this point of view, the Judicial Committee is a judicial management organization.

The function and power of the Judicial Committee include summing up the trial experience, discussing major or difficult cases and other matters relating to the trial. Article 114 of Several provisions of the Supreme People's Court on the Implementation in Criminal Procedure is clearly defined the standards of "major", "difficult" and "complex" cases.¹In practice, the criminal cases discussed by the Judicial Committee also contain cases of defendant's innocence and special cases of the accused (or victim).

1.3 The Running Mode of the Judicial Committee

At present, the running mode of the Judicial Committee mainly includes four parts: The principal trial's report, bring up an opinion, collegiate review and the voting decision. Specifically, the general contents contain the followings. First, the presiding judge reports on the cases of the basic facts of the case, the identification of evidence and facts, and the opinions of the collegial panel. Second, the members of the Judicial Committee challenge the evidence, the facts and the application of the law. Third, according to the reports of the presiding judge, the members of the Judicial Committee take turn to make comments and the president of the General Assembly will make a final statement on the case. The scope of the case discussed by the Judicial Committee should be defined as the application of the law rather than the fact finding. Fourth, the rotting rule of the Judicial Committee shall, in accordance with the opinions expressed by the committee members, take the form of minority obedience to the majority. The collegial panel shall adopt corresponding advice in accordance with the voting results of the Commission. The Judicial Committee plays an important role not only in the case discussion and trial experience summary, but also plays an irreplaceable value in some cases of non-administrative affairs. The Judicial Committee respected the opinions of the collegial panel of deciding the case, which acts as a gatekeeper. To a certain extent, the existence of the Judicial Committee does not directly threaten the independence of the judge.

2. THE DEBATE ON THE ABOLITION OF THE JUDICIAL COMMITTEE

¹ "Major", "difficult" and "complex" cases include: (a) to be sentenced to death; (b) the members of the collegial panel opinions have significant differences; (c) people's procuratorate; (d) have a significant impact on society; (e) other matters that need to be discussed and decided by the Judicial Committee.

The legitimacy and rationality of the Judicial Committee are worthy of affirmation. But its disadvantages can not be ignored. It also causes a heated discussion about the maintenance or abolition of the Judicial Committee.

2.1 A View Summary of the Debate

In recent years, with the reform of judicial system, the final ascription of jurisdiction has pushed the abolition of the Judicial Committee to the forefront. There are three main opinions on the abolition of the Judicial Committee.

2.1.1 Support Theory

Some scholars believe that the Judicial Committee should be supported rather than abolished. The Judicial Committee has more advantages overweigh disadvantages as to the judicial independence and judicial justice of the grass root court. If it is abolished, it will only further strengthen the administrative color of the courts under the present court system (Su, 1999). They assert that the overall quality of Chinese judges at present has not yet reached the level that can deal with some difficult cases only by judges or the collegial panel. The existence of the Judicial Committee can solve these problems to a certain extent.

2.1.2 Improvement Theory

Some scholars in judicial practice hold that the Judicial Committee should be improved. The assumption is to adjust the status of the Judicial Committee and enlarge the functions and powers of the collegiate bench and the sole judge (Jiang, 1998). Putting the focus of the Judicial Committee on macro trial work, guidance and experience summary (Wang & Yao, 1998), the guidance of specific cases should be strictly limited to major and difficult cases, and the Judicial Committee should also implement accountability for misjudged cases. Some reformers even advocated the abolition of the Judicial Committee and the establishment of a number of professional Judicial Committees (Chen, 1999). The Judicial Committee exercises veto power over the handling opinions of the judicial organization, not the right to change it (Xue & Yao, 19990).

2.1.3 Abolition Theory

Some scholars advocate the complete abolition of the Judicial Committee. For example, some professors believe that the gradual establishment of the market economic system and the revolutionary change of the judicial system made it require and promote with the improvement on professional quality of judges in China. The reform of our political system is deepening, democracy and the rule of law continue to be improved and developed. And judicial modernization requires judicial organizations and judicial procedures to be more democratic, scientific, fair and open. It is imperative to abolish the Judicial Committee (Xue, 2002). The fundamental flaw in the Judicial Committee is that it can not be remedied by improvements in the present judicial system. Its negative influence is

more than its positive effect, and it will permanently endanger our judicial system. Rather than stabilizing the Judicial Committee, it is better to explore how to solve the problems faced in China in the justice mechanism rather than administration (He, 1999). The trial is open and substantive, and the right to deal with the case is given to the collegiate bench or the court alone, which is in line with the general principles of justice in all countries of the world and embodies the true independence of the judiciary (Tan, 1999).

2.2 Maintain or Abolition of the Judicial Committee

Through comparative analysis, the author holds that "Support theory" takes the Judicial Committee as a guarantee of the quality of the cases. The reality is that the quality of judges, including academic education and in-service training, personal quality and other aspects, is constantly improving. The existence of the Judicial Committee has not only failed to improve the quality of judges, but also the conflict between it and the basic principle of judicial independence required by modern judicial ideas, which seriously affected the implementation of the principle of Justice. It has become an obstacle to judicial efficiency and procedural justice.

(a) The composition of the Judicial Committee members is irrational and affects the professionalism of the trial. Most of the Judicial Committee members are only familiar with a department law, whereas the Judicial Committee often comments on difficult cases in practice with all kinds of departmental law. The opinions of the Judicial Committee may not be comparable to those of judges who have considerable experience in handling cases. Reformists believe that the Judicial Committee can be divided into panels.

(b) The scope of the cases discussed by the Judicial Committee is blurred. Since the pressure of the Judicial Committee is huge, which discusses a large number of cases, it would not take too much time and efforts on the cases. Moreover, the cases are mainly focused on "major, difficult and complex" aspects, but there lack the standards of such cases in practice. Therefore, it is often easy to arise the "walk through" phenomenon, and become the "posterior approach" for judges to avoid responsibility.

(c) The scale of the case discussed by Judicial Committee is arbitrary and lacks unified and clear standards. "Prejudice" is the defects of the Judicial Committee. The committee members were not involved in the actual trial of the case, but their decisions are based on the judges' reports and filtered evidence. The separation of trial and judgment undermines the integrity of judicial process, and it increases the arbitrariness of the judge. If the judges do not have sufficient professional responsibility and justice, then the judges will not report objectively and comprehensively according to his wishes

when he reports. Therefore, the quality of the cases discussed by the Judicial Committee is not necessarily higher. In practice, the appeals, complaints and even protest discussed by the Judicial Committee were eventually commuted.

(d) The lack of the avoidance system of the Judicial Committee leads to the procedural violation. Challenge for cause is an important litigation right of the party. The Judicial Committee finally decided the case. But the Judicial Committee is not open to discuss cases, thereby affecting the full realization of its procedural rights. Once the interested members of the Judicial Committee are involved in the discussion of the case, the procedural justice and substantive justice of the trial should be maintained through the application of evasion, otherwise the injustice will inevitably arise.

(e) The Judicial Committee lacks the judge's responsibility and weakens the individual function of the judges. The Judicial Committee makes it difficult to investigate the quality of the case. It is not fair for committee members to assume the committee's responsibility and they tend to shirk responsibility. The judge who is responsible for the case will use the Judicial Committee as a reason to shirk responsibility.

(f) The administrative colour of the Judicial Committee deviates from the rule of trial. The Judicial Committee is one of the socialist judicial system with characteristic. It was the product of the combination of judicature and administration from the beginning. Although most of the Judicial Committee members have rich experience in the trial, whereas, as a trial organization which is superior to the collegial bench and the judges, the Commission has a strong administrative color. The members of the Judicial Committee are all administrative leaders of the courts. As collection of administrative leaders, it directly decides the promotion and treatment of the judges, and its operation will challenge judicial impartiality and judge independence. Especially, the "Specified Number of Personnel", which is being implemented in the judicial system reform, will become a major obstacle to the Judicial Committee. In addition, the Judicial Committee separates the trial from the voting, which violates the judicial procedure and the law of trial. The "democratic centralism" vote mode, which is subordinate to the majority, has brought about the administrative subordination between the Judicial Committee and the collegiate bench.

3. TRANSITIONAL PROGRAM: THE IMPROVEMENT AND REGRESSION OF THE JUDICIAL COMMITTEE

Based on the above reasons, the author believes that the abolition of the Judicial Committee is the key to achieve judicial justice in the long run. However,

some improvements to the Judicial Committee can be considered as a temporary transitional programme. The current system often exists when it conforms to the internal logic. "Administrative interference in justice", which is the inherent characteristic of judicial system and the premise of the current legal system in China. There are many malpractices in the Judicial Committee, which is the alienation of its actual implementation. Therefore, it is necessary to take measures to return the Commission to the controllable scope.

3.1 Change the Staff Structure of Judicial Committee

First, the Judicial Committee is limited to personnel with rich experience in handling cases and legal expertise, which can dilute the administrative color and return committee to specialization and authority. They can be chosen by selection. Professional qualifications are those with a bachelor's degree in law junior college education, or above, and with the qualifications of a judge and a long trial experience. Such a setting can strengthen the professionalism of the Judicial Committee and reduce administrative interference, so as to relieve the pressure of the judge, and ensure the authority and impartiality of cases. And, the Judicial Committee members of the Grass-roots Courts shall be at least ten years of experience in handling cases independently. The Judicial Committee members of the Intermediate and above courts shall have experience in handling cases about fifteen years, with more than two departments of trial experience. In addition, the Judicial Committee members not only deal with the cases, but also summarize trial experience from the trial development perspective. So the members must have certain academic achievements.

Second, considering the diversity and the professionalism of cases, it is possible to establish a professional adjudication committee with different judicial tribunals, such as criminal, civil and administrative adjudication committee. The professional adjudication committees ensure the professionalism of each type of cases, thus ensuring the quality and professionalism. In addition, we can set up special committee offices, the Judicial Committee members are mainly composed of full-time members of the Judicial Committee office who are responsible for the Judicial Committee. Its main responsibilities include the following: responsible for the daily work of the audit committee; assisting Judicial Committee to sum up trial experience; formulating normative documents on trial work; restricting the quality, efficiency and effectiveness of the trial.

Third, the improvement of the procedure and term limit. All judges should be recommended publicly on the qualified personnel, then nominated by the dean. In this way, it helps to prevent the arbitrary justice. In addition, the term of the judicial commission members shall be limited by the term of office, which may be considered

for five years. After the expiration of the term of office, all the judges shall decide whether or not they will be re-elected, and the number of consecutive terms will not be limited.

Fourth, the establishment of assessment mechanism. The annual assessment of the Judicial Committee and the assessment results of the members will inform the judges. The results of the examination can be used as the basis for deciding whether the Judicial Committee members are re-elected. At the same time, the Judicial Committee members are identified as a post. The duties of the Judicial Committee members are clearly defined as vice presidents, who enjoy the salary and political treatment at the Vice Dean level.

3.2 Optimize the Judicial Committee on the Scope of Cases and Standard of the Voting Rules

The standard of the cases discussed by the Judicial Committee is "important and complicated". The reform should take the list and elimination method combined to determine the case, in order to strengthen the supervision and guidance of the Judicial Committee on the cases and strengthen the responsibility of the judges.

(a) The scope of enumeration includes the follows: i) The case is unclear whether it is in the scope of the case or not. ii) Life imprisonment or the death penalty in criminal cases (including death) and other major & complicated cases; cases exempted from criminal punishment. iii) The subject of relatively huge civil case or cases as the law does not specify or conflict to the law. iv) In the case of group litigation or appeal cases. v) Execution of rotation cases. vi) Miscellaneous provisions. Other cases must be made by the Judicial Committee beyond the legal provisions. Such as, the opinions of the collegial panel are in great disagreement; the presiding judge meeting has any objection to the court and there are still major differences after review by the collegial panel etc.

(b) Excluded range includes the follows: i) Cases involving standardization of sentencing in criminal cases. ii) The cases that judges enjoy discretion in civil cases. iii) Cases that can be optimized through judicial proposals in administrative cases.

(c) The initial procedure and voting rules of the Judicial Committee include the following aspects. i) Limit the initial procedure of the Judicial Committee. In the light of the principle of passive initiation, except for special circumstances (if the president finds that there is a mistake in the court where the court has already entered into force, it is necessary to initiate a retrial procedure), the initiation of the Commission shall be initiated by the collegial panel. ii) As for the report of the judges, the members of the collegial panel should participate in the case discussion of the committee, and the comments on the case will be issued. iii) In terms of the statements rules of the Commission members, the president's statements should be arranged to the end, so as to avoid interference

caused by the influence of other people's statements and ensure the impartiality of the results. Each member will make statements on the case facts, evidence and applicable law, which recorded by the Secretary of the meeting registration.

3.3 Improve the Challenge System of the Committee Members, and Strengthen the Responsibility of the Committee Members Wrongly Convicted Misjudgment

(a) Implement the announcement system on examination and approval of the Committee members. At each meeting of the Judicial Committee, there are three days notice for the Judicial Committee members on the list of information bar and the Judicial Committee members should sign up at the Conference Secretariat.

(b) To provide the parties with the list of the Judicial Committee members and give them the right to file an application for withdrawal. The procedure for avoiding reasons and avoidance shall be referred to the challenge of collegiate bench.

(c) On the assumption of responsibility, the voting result of the Judicial Committee members shall determine the responsibility of the voting member. If the voting results of the Judicial Committee are unanimous, the Commission will bear adverse consequences externally once the case goes wrong. If the voting results of the Judicial Committee members are divided, the opinions of each member shall be recorded and the responsibility shall be carried out in accordance with the opinions expressed by the members. The results of the cases are an important basis for the assessment and adjustment of the Judicial Committee members.

3.4 Standardize the Procedure of the Judicial Committee

The collegial panel has the most direct perception of whether the case is a major complicated or difficult case, and the collegial panel recommends that it be referred to the Commission should be the most usual channel for adoption. A pre review system was established to filter the cases submitted to the Commission, which included examination of procedural reasons submitted to the Commission and examination of the content of the collegial panel review. For those who do not conform to the requirements, the court shall withdraw from the collegial panel to supplement, perfect, or re-judge directly after the collegial panel. When the Commission is discussing the case, the presiding judges no longer introduces the case or reads the trial report and the Judicial Committee members should write their views and reasons before the discussion. In view of the current judicial system in China, the president plays an important role in the organization, coordination, management and decision-making in the courts, and the opinions of the president have great influence. The power of the president shall be limited and shall only preside over the discussion

and shall not make any comments on cases. Only when voting is equal to the votes of the two opinions shall the president have the right to vote.

4. FINAL SCHEME: THE ESTABLISHMENT AND IMPROVEMENT OF OTHER RELATED SYSTEMS

There are many problems in the Judicial Committee, which can be taken as a transitional procedure through improvement, but it can not fundamentally solve the problem. The ultimate solution to the Judicial Committee is to abolish the Judicial Committee and build other systems.

4.1 Advisory Committee Was Established to Replace the Judicial Committee

4.1.1 Structural Establishment

The Advisory Committees are set up above the Intermediate Courts, which included professional Advisory Committees, such as Civil Advisory Committee, Criminal Advisory Committee and Administrative Advisory Committee. Other professional advisory committees can also be set up as required. For example, the business advisory committee, the intellectual property advisory committee, and the minor advisory committee, etc. Each professional advisory committee should consist of more than three odd numbered persons. In addition to the professional advisory committees, the Advisory Committee shall also have offices under which it is responsible for the management and arrangement of routine matters and accept personal advice of judges and formal legal consultation of specific cases.

4.1.2 Personnel Composition

The Advisory Committee consists of senior judges or legal experts. Members can be former judges or engaged in legal affairs, legal professors of more than twenty years. In order to ensure the work efficiency, once selected, members should be full-time and avoid other administrative positions undue interference in the case. If the members of the Judicial Committee are concurrently served by the president and vice president, it may still become a direct tool to intervene in the judiciary.

4.1.3 Advisory Committee

The Advisory Committee should provide consultations to judges, including formal and informal consultations. They should make a collective discussion on the major and difficult cases, summing up the trial experience and establishing the legal application and judgment standard, so as to guide the direct trial of those kinds of cases.

4.1.4 Specialized Committee

The Specialized Committee consults only on the application of the law to specific cases. If the case facts involve legal problems, they may also be consulted.

However, the specific facts of the case do not accept the consultation. The advisory opinion shall be subject to the majority of the committee's statements and shall be made in the name of the committee, while other minority opinions should also be illustrated.

4.1.5 Advisory Opinion

The advisory opinion only serves as a reference to the cases and is not binding on the sole judge or the collegial panel. The advisory opinions generally do not directly refer to the substantive judgment of the case. It is more convincing, influential and executive. The consultation and advice should be retained in the sub volume. There should be sufficient grounds for the judge to disapprove of the advisory opinion and to be recorded in the collegial panel opinion or the report. If the judge does not have sufficient grounds to fail to adopt the consultation opinions or intentionally to avoid the advice, it should serve as a reference for judging to assume liabilities.

4.2 Set Up Full Collegiate Bench System

In Germany, the German courts have adopted two forms of trial organization to deal with the major and difficult cases, namely, the jury court and the professional Judicial Committee which is equivalent to a professional court in China. It is suggested that major or difficult cases be distinguished from ordinary cases, and that they should be tried in different ways. Major and difficult cases will be tried by the full collegiate bench. The grand collegiate bench consists of more than five judges according to the level of the court, which can be set up by five judges from the courts at the intermediate level and five or seven judges above the intermediate level. The members of the original Judicial Committee, as experienced judges, can participate in the full court in person and strengthen the capacity of the collegial panel to solve major and difficult cases. "In case of major difficult cases, should be composed of senior judges of the collegial panel, which is much stronger than the commission." (Wang, 1999)

4.3 Expert Assessor System of People's Assessors

Under the system of people's jury, some professionals should be absorbed as people's assessors. With the development and progress of science and technology, more and more civil, administrative disputes and criminal cases involving professional knowledge have poured into the court. The judge actually may not have a variety of professional knowledge and theory to a certain extent. In the case of major difficult cases, attracting experts and scholars to participate in the trial is an effective means, and with their help can more accurately identify the nature of the case and make a fair judgment. The German Social Court, the Labour Court and the Commercial Court select the persons with special knowledge to the jury, and the effect is very significant (Xiong, 1999). Moreover, jurors in non legal profession can bring new vision to the trial,

and the folk wisdom of non legal professionals will also be brought to trial (Song, 1999).

4.4 Judge Professionalism System

After the abolition of the Judicial Committee system, a series of guarantee systems should be established to realize the professionalization of judges as soon as possible. The professionalization of judges is an important way to improve the overall quality of the judges, and the establishment of a professional and elite team of judges is the necessary hardware facilities for the just judicial system.

4.4.1 Strict Judge Admittance

In China, judicial qualification examination should be adopted as the criterion for selecting judges, and at the same time, we should appropriately extend the judicial work experience of judges, so as to ensure that judges have a certain legal work experience. In foreign countries, the professional and administrative experience of judges are equally important. For example, both France and Germany pay attention to the dual nature of administrative judges' professionalism and administrative experience. The French administrative court is subordinate to the administrative system, and the court functions include trial and consultation for the government so as to ensure that judges have access to administrative matters. In addition, senior members of the Supreme Administrative Court are mainly from civil servants, and decisions should be made in conjunction with legal experts and administrative experts (Wang, 2007). In Germany, people who have long been in the executive branch have been appointed judges, especially young judges, who have the opportunity to practice in the administrative organs during the three year probationary period (Song, 1998).

4.4.2 Administrative Removal of Judges

The verdict of the case is not through the judge who tried the case, but through the approval of the president of the court. Some of the major cases are discussed and decided by the Joint Chiefs of the Judicial Committee. This kind of treatment not only leads to lower judicial efficiency, but also influences judicial fairness to a certain extent. After the abolition of the Judicial Committee, the independence of the judge's status must be guaranteed, and the independent judicial authority should be exercised independently so as to avoid undue interference by the court leaders. Otherwise, the Judicial Committee will contain each other, guarantee the quality of the case and prevent improper intervention. The profession of judges shall carry out the management of the series of individual posts, and the treatment shall be divorced from the administrative level, and the judges may be promoted according to their tenure, qualifications and performance. Judges of different grades have no administrative affiliation, and judges exercise judicial power independently according to law, and judges'

grades can be used as the basis for the diversion of cases. We should set up the professional authority so that the judge will no longer seek administrative posts from the trial position, and ensure that good judges can focus on the trial.

4.4.3 High Salary System

The salary of judges should accord with their responsibilities. For example, French administrative judges enjoy seniority, and the position of administrative judges is guaranteed. Judges are subject to the law and their promotion is not influenced by the governor's personal subjective factors. If judges in China enjoy higher salary, pension and social status, meanwhile have a set of strict supervision measures and strict punishment system, they will not easily seek illegitimate interests and will not make a rush into unjust verdict.

4.4.4 Judge Selection Nomination System

The appointment of judges should have a strict selection mechanism, and not all people who have obtained judicial qualifications can be appointed directly as judges. Judges should have at least a certain length of legal work experience, and judges at the intermediate and senior courts should also have some experience in Grass-roots Courts. The intermediate and high courts set up a judge selection committee, which is responsible for the selection of judges in the courts at the corresponding level so as to effectively guarantee the quality of judges.

4.4.5 Judge Disciplinary System

If the quality of the case is serious in the case of intentional or serious negligence, the presiding judge shall bear the necessary administrative or legal liability in accordance with the actual duties and faults. Disciplinary punishment of judges who breach the principle can ensure that the judge exercises judicial authority correctly and avoid the occurrence of unjust case. Impeachment judges may assume that the committees at all levels are responsible for hearing and making decisions in China. But the disciplinary action against the violation of the law (other words, "Transgress or breach the principle") by the judge shall still be in the charge of the court. Within the court, a special disciplinary committee should be set up to implement the disciplinary system of the judge law (Wang, 2016). Disciplinary action against judges can be divided into eight types: notification of criticism, warning, reduction of wages, suspension of the duties of judges, reduction of the rank of judges, dismissal of judges, order resignation, expulsion.

CONCLUSION

Whether the Judicial Committee will become the constraint or short board of the judge independence, is a proposition to interpret. And it is also a sub proposition under the background of judicial system reform. As a

localized trial organization, its existence coincides with the special national conditions and political system of China. Any discussion that deviates from the reality in China will make it lose its meaning. The reform of the Judicial Committee is inevitable. But we should put it under the background of judicial system reform and adopt gradual improvement. The expert advisory committee replace the Judicial Committee will be its ultimate choice. The professional reform of judges is also complementary to it.

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