

Research on the Path of Perfecting the Selection System of People's Assessors

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Abstract: The system of people's assessors is a judicial system where assessors, chosen legally, participate in court trials, reflecting judicial democracy and justice, and fostering judicial democracy. However, the selection system of people's jurors still has some problems, such as lack of reasonable selection conditions, too long tenure, lack of supporting security system, and imperfect mechanism of jurors' withdrawal and replacement. Utilizing literature research, this paper delves into the historical evolution and legislative status of the Chinese people's jury selection system. By means of comparative analysis, this paper studies the legislative provisions on jury selection and appointment system in relevant countries. To perfect the system of selecting and appointing people's assessors, we should learn from the advanced experience of other countries, and conform to the national conditions and judicial practice. Consequently, it is necessary to expand the selection conditions of people's assessors, shorten the term of office, establish and improve the supporting security system, perfect the withdrawal and replacement mechanism, and give full play to the important role of people's assessors system in the process of judicial reform.

Keywords: People's Assessor; Selection System; Term of Office; Exit and Replacement Mechanism

1. The Practical Dilemma of the People's Jury Selection and Appointment System

Since the constitution of 1954 officially stipulated the people's juror system, which was elevated to the national basic legal system, after years of exploration, the people's juror system has consistently been enhanced in judicial practice, playing an indispensable role in the establishment of the rule of law.

The people's jury selection system is the

source of the vitality of the people's jury system. The people's participation in the trial of judicial cases reflects the openness and justice of the judiciary, and is favored by the people. However, in the current process of judicial reform, we must have a clear understanding that numerous issues persist within the system of selecting people's assessors.

1.1 Lack of Rationality of the Selection Conditions

Article 5 of the People's Juror Law, promulgated in 2018, stipulates that jurors must have a high school degree or above and must be at least 28 years old. The modification reduces the educational prerequisites while increasing the age criterion, aiming to enhance the selection of jurors based on their personal and social experiences. Undoubtedly, this represents a significant advancement.

The original intention behind the establishment of the people's jury system, however, should be more explicitly acknowledged as aiming to "incorporate the fundamental values, ethics, and sentiments of ordinary individuals into authentic judicial proceedings." [1] Therefore, excessive education requirements should not be established, which will exclude some middle-aged and elderly people who lack education. However, many middle-aged and elderly people have high prestige and more rich social experience in the vast rural areas, and have a greater influence on minor cases in rural areas, so appropriate consideration should be given to include them in the selection scope of people's assessors. For some high and new technology such as the Internet, big data, biological technology and other frontier in the field of case, with technical advantage of young people are more competitive, should encourage this part of the young people actively into the people's assessors elected talent pool, for the future of the people's court in dealing with emerging technology cases

occupy the initiative, so should adjust the selection age limit.[2]

1.2 The Term of the People's Assessors Is Too Long

Article 13 of the People's Assessors Law stipulates that the term of people's assessors is five years and cannot be re-elected. This provision can save resources on term election to a certain extent, and a longer term can also increase the stability of the selection and appointment system, reduce the resource investment on new training of people's assessors.[3] However, in judicial practice, if the five-year term is re-elected again, it will be a longer term, and it is easy to produce the tendency of "jury professionalism", and the people's jurors set up the limitations of the judge professional thinking, maintain judicial justice, prevent the judge authoritarian and neglect simple moral concept.

Current Chinese court, especially the grass-roots court often face the accumulation of many cases, so ten years of term can make a people's assessors to participate in many cases, and a long time of participation may make the people's assessors gradually become "extra judge", form a new judicial corruption, more likely to form like a judge professional thinking, unable to better neutral perspective.[4] Moreover, the training of people's assessors is only the necessary legal knowledge in the basic stage, and its training does not need too much resource consumption. Moreover, for the general trend of judicial reform, these necessary resource input is legitimate and reasonable. Thus, a proper reduction of the term of the People's juror is necessary.

1.3 Lack of Supporting Guarantee System

Tolvik once said that the jury system should first be a political system, and the jury system should be a judicial system. As for the training of people's assessors, Article 14 of China's People's Assessors Measures on Training, Assessment, Rewards and Punishments stipulates that the learning and training mode of people's assessors is the off-job centralized training mode and on-the-job self-study mode, which is divided into segmented training mode and cumulative credit hours mode in terms of class hours. People's jury system was set up in order to let the people with simple law and

moral concepts involved in the judicial trial, rather than in a "extra judge" perspective to view, so the training mode is not scientific, and learning content is very complex, enough to influence the people some simple moral concept, and the people's assessors only participate in the facts rather than the law, the training mode of the people's assessors is more will stand in the judge, for the perspective of the people's assessors training system design should be reconsider.

And for the subsidy guarantee of the people's jury, "people's jury law" article 30 stipulates that the people's court for the people's jury should provide jury subsidy, and in the process of jury fare, meal costs should also provide subsidies. However, in judicial practice, there are many cases where the implementation of subsidies is not in place, which greatly strikes the enthusiasm and initiative of people's jurors to participate in the trial of judicial cases. In many cases, the jury activities will become a mere formality or even unwilling to participate in them, which seriously affects the role and influence of the people's jury system.[5]

1.4 The Withdrawal of People's Jurors and the Replacement Mechanism Are Not Perfect

The provisions of the People's Juror Law on the withdrawal of the people's assessors are as follows: 1. Meet the conditions prohibited from being the people's assessors; 2. resign for justifiable reasons; 3. refuse to participate in the trial without justifiable reasons, which affects the normal conduct of the trial activities; 4. violate the law and relevant provisions, practice errors in judgment or serious consequences. In judicial practice, some lay jurors often find various reasons to refuse to participate in jury activities. However, these reasons do not constitute the prescribed third article "refusal to participate without justifiable reasons", but they do cause great difficulties for the trial of judicial cases. There are even some people's jurors who have never participated in the trial but have no way to let them out, thus calling them "zombie jurors". And there is no relevant provisions on how to add new people's assessors when this situation occurs, which has caused many irreversible losses for the operation of the people's assessors system.[6]

2. External Investigation and Enlightenment of the Juror Selection System

The origins of the modern jury system can be traced back to Britain in the 11th century, then transplanted in the United States in the 17th century, and the jury system was introduced in China at the end of the Qing Dynasty. At present, the jury system discussed in the academic circles is divided into two modes, one is the "jury system" in the common law system, and the other is the "participation system" in the civil law system. Through the investigation of the jury selection system in foreign countries, we can learn from the advanced experience of foreign legislation, and provide reference for the improvement of the Chinese people's jury selection system.

2.1 Investigation of the British Jury Selection System

The British Criminal Trial Law stipulates the selection of people's jurors: Anyone who has been living in the UK for over five years and is between the ages of 18 and 70 can become a juror, except those with criminal record and mental illness.[7] And the British jurors selection process is also very clear, first shall be voter registration, second in the area of the voter register selected eligible voters become alternate jurors, finally by the district court according to the specific type of the case, from the alternate jurors selected as jurors involved in the case, do "a case". And substitute jurors also need to be regularly rotated to prevent certain jurors from becoming too fixed.

2.2 Investigation of the American Juror Selection System

The United States has different terms for selecting jurors. In the juror system of the United States, the jury is responsible for the determination of the facts of the case. If the jury determines that the case is indeed illegal, it will be given to the judge for trial. If the jury thinks that the party is innocent, then the judge can only declare innocent, so the selection of jurors does not need to have much legal expertise. Therefore, the selection qualification of jurors is relatively low, and citizens of different races, different classes and different interest groups in the United States can participate in the jury.[8] American candidate jurors are generally randomly selected from the voter registration form, the judge according

to the specific circumstances of the case to determine the number of jurors, and then by the judge, prosecutors, lawyers out 12 questions from candidates, exclude some bias, and case interested or other not suitable for the case jurors. However, discrimination such as wealth, race, and gender should not be excluded as reasons, and those who have criminal records, are under the age of 18, and are unfamiliar with English should not become jurors.

2.3 Investigation of the German Jury Selection System

Germany is the model of the country of the participation system, which means that the participants can hear both factual issues and legal issues, and the selection and appointment of jurors in Germany is full of strong administrative colors. First is the district chief executive candidates in the region, and by the district congress by more than two-thirds of the public, followed by the court by the jury selection committee, finally in the case of jury date, the court informed the jurors to attend the meeting, and draw lots to decide the date of the session at the meeting. The requirement of being jurors in Germany is very loose, as long as they reach 25 to 70 years old, normal mental intelligence, physical and healthy health to participate in the case of jury. Persons with criminal convictions and persons engaged in legal occupations such as judges and prosecutors are prohibited from serving on jurors. However, the term of office of German jurors is four years. Although they can be re-elected, they cannot serve for more than 12 days in each term, which effectively prevents the trend of "jury professionalization".

3. Suggestions for Perfecting the Selection and Appointment System of People's Assessors

Robespierre once said: "The greatest feature of the jury system is that the good and evil of the citizen are judged by his equal citizens, and its main object is, of course, that the citizen be judged most unselfish and fair." [9] Improve the system of selecting and appointing people's assessors is to strengthen their participation and supervision of the judiciary. To perfect this system, we must learn from foreign experience, consider current trends, and judicial practice needs. We should also explore

and propose a practical improvement plan to ensure the jury system fulfills its role in promoting judicial reform.

3.1 Expand the Conditions for the Selection of People's Assessors

The selection of people's assessors is the foundation of the whole jury system, which directly affects whether the system can effectively maintain judicial justice and fairness in the process of rule of law. Therefore, in the selection process, citizens can neither be arbitrarily deprived of the right to participate in the jury, nor can citizens who are not suitable to serve as jurors be left unchecked, lest they affect more suitable citizens to participate in the jury. Although the revision of the People's Juror Law has lowered the educational requirements and raised the age requirements, which reflects the progress to a certain extent, the compatibility of these measures with the current judicial practice in remote areas still needs to be strengthened. In remote areas of people's education level is generally not high, many young people go out to work, lead to the perennial life for the old man, given they usually have high prestige, and many small cases resolve easier for them, and people's jurors for the fact does not need much literacy, so should further reduce in remote and poor areas education requirements.

3.2 Further shorten the Term of Office of the People's Assessors

If the five-year term stipulated in the People's Juror Law lasts ten years after re-election, it seriously affects the original intention of the establishment of the people's jury system, and it is more likely to produce "extra judges" and "jury professionalization". Therefore, it is wise to reduce the term to three years. This will not only prevent judicial injustice and even corruption that may arise from people's jurors sitting for a long time, but also inject new vitality into the system and rekindle the public's enthusiasm and interest in participating in the trial. More extensive publicity of relevant legal knowledge, so that more people know the law, reduce the people's dissatisfaction with the results of the court after the trial of some cases.

3.3 Improve the Supporting Guarantee System

Maintaining a delicate equilibrium between the reform towards professionalizing the judiciary and fostering judicial democracy and fairness necessitates a heightened degree of juror participation in court proceedings. Consequently, it is imperative to enhance the calibre of individuals fulfilling jury duty. For people's assessors training, should be conducted by special venues and training organs, standardize training process, for the training content set not involve many specific laws and regulations, only need to clear the process of trial, learning time and times, and can organize the people's assessors before watching other trial live video, organize new and old jurors exchange jury experience and experience. During the training of the people's assessors and the performance of their duties, appropriate economic subsidies shall be given and paid in full amount. To encourage public assessors' enthusiasm in case trials and safeguard their rights, an effective supervision and management mechanism must be established. This ensures the comprehensive enforcement of the guarantee system, thus preventing the demoralization of assessors' participation due to inadequate guarantees.

3.4 Improve the Mechanism of Withdrawal and Replacement of People's Assessors

In the process of judicial practice, the people's jurors absent trial reasons for a variety of, both work reasons, illness, distant objective reasons, such as a lack of enthusiasm after looking for various excuses such as subjective reasons, even will appear without reason not to attend, therefore, there should be more detailed management rules. First of all, reasons for leave must be stated. Reasonable reasons with a brief duration should be approved and a standby attendance system should be established. Unreasonable reasons should be rejected or replaced with a longer leave period. Furthermore, for the purpose of optimizing judicial resource allocation and ensuring smooth case progressions, it is imperative to periodically eliminate inactive jury members. This will help avoid any potential wastage of resources and judicial bottlenecks.[10]Third, should establish the corresponding evaluation mechanism, the number of people's jurors to participate in the number of jury, for the term in the jury jurors bonus or certificate of honor, for not in accordance with the provisions of the

jurors if the circumstances are serious to warning, deduct part of the subsidy or expelled. As for the vacancy left by the people's assessors who were dismissed, a corresponding replacement mechanism shall be established, and the replacement candidates may be reelected by the original units, which shall be included in the people's assessors database after the examination by the relevant units. The establishment of leave system and replacement mechanism is not only in line with the objective reality, but also an important guarantee to improve the selection and appointment system of people's jurors, and will not cause too much impact on the trial work of the people's court. This has far-reaching significance for the development of the people's jury system.

4. Conclusion

The development of the people's jury system not only meets the urgent needs of judicial reform, but also conforms to the actual requirements of practical development. This system plays an irreplaceable important role in promoting the people's participation in the judiciary, supervising the judiciary and improving the judiciary. The people's jury selection system is a particularly important part of the people's jury system. Through the people become the people's jury, they directly participate in the trial of judicial cases and promote judicial fairness and justice. In the process of long-term development of people's jury system, a series of relevant laws and regulations constantly improve the selection system, however in developing more should keep a sober understanding, for the outstanding problems existing in the current selection system, should from optimize the selection mechanism, shorten the term time, improve the

security system, perfect exit and substitute mechanism, targeted to solve the problems existing in the people's jury system, give full play to the value and significance of people's jury system.

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