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On the Necessity of Implementing the Quality and Effectiveness Evaluation of Third-party Court Cases

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Abstract

The third-party court case quality and effectiveness evaluation has theoretical rationality different from the court's internal self-quality and effectiveness evaluation in the court case quality and effectiveness evaluation, and has unique subject value attributes; however, the current internal self-evaluation system of the court has limitations in terms of evaluation elements such as subject, content, method, purpose and effectiveness, and cannot fully realize the functional requirements of the quality and effectiveness evaluation of court cases. The implementation of the third-party court case quality and effectiveness evaluation is not only in line with the value of judicial operation, but also has the value of the rule of law practice different from the self-quality and effectiveness evaluation within the court. Therefore, the implementation of the third-party court case quality and effectiveness evaluation has the necessity of theory and practice, and is an important part of the court case quality and effectiveness evaluation.

Keywords

Third parties, evaluation of the quality of court cases, necessity

1. Introduction

In 2011, the Supreme People's Court issued the "Guiding Opinions on Carrying out Case Quality Assessment Work," which officially carried out case quality assessment work within the national court system. Dozens of local courts were used as pilot units. According to the "People's Court Trial Quality and Efficiency Evaluation Index System" issued by the Supreme Law, according to their own needs, several third-level indicators were selected from the three second-level indicators of fairness, efficiency, and effectiveness to develop a case quality assessment index system, and to carry out case quality assessment work. Judging from the current evaluation practice, the court case quality evaluation system is mainly dominated by the court, which is a kind of self-evaluation within the court system, which is

obviously not conducive to the development of evaluation work and the improvement of trial quality. With the advancement of the reform of the comprehensive judicial system since the 18th National Congress, the limitations of this internal self-assessment method of the court have become more and more obvious. It can neither keep up with the needs of judicial reform for fair justice, nor is it conducive to the further advancement of judicial reform, or even violates the objective laws of judicial operation. In this context, some courts across the country have begun to entrust the third-party subjects of the society to carry out the practice of quality and effectiveness evaluation of cases. The quality and effectiveness evaluation of third-party court cases overcomes the disadvantages of self-evaluation within traditional courts, and makes new progress in the quality and effectiveness evaluation of court cases. There are many problems in the internal self-evaluation system of the court in terms of leadership subject, organization subject, evaluation subject, evaluation method, evaluation standard and evaluation effectiveness, which limits the actual value of the quality and effectiveness evaluation of court cases. In addition, the evaluation of the quality and effectiveness of third-party court cases conforms to the value rationality of the law of judicial operation; finally, the quality and effectiveness evaluation of third-party court cases is realistic and reasonable. In short, the evaluation of the quality and effectiveness of third-party court cases has theoretical and practical rationality, which can effectively improve the quality of court cases and enhance judicial credibility and people's satisfaction.

2. The Theoretical Rationality of the Third-party Court Case Quality Evaluation

2.1 An Analysis of the Origin of the Evaluation of the Quality and Effectiveness of Court Cases

American scholar Granlund said that evaluation is equal to the description of quantity (or quality) plus value judgment. Evaluation and evaluation are different concepts. Evaluation should be an objective activity carried out by a specific subject with certain standards for the specified object. The main purpose is to feedback the objective situation of the evaluation object and provide an objective plan for the evaluation client, so the evaluation is an objective activity. However, relatively speaking, evaluation is subjective and has value judgment. Based on different subjects of society, the value judgment of the evaluation object is not the same. Although it also has a reflection on the practice of the evaluation object, it is a subjective activity because of its strong subjective color and inability to truly reflect objectivity and scientificity. For court cases, in 2011, Zhang Jun, vice president of the Supreme People's Court, defined the court's "case quality" in the "understanding and application of the people's court case quality assessment system" as "a complex that reflects the whole process of the people's handling of disputes, conforms to the relevant laws and regulations, meets the needs of the parties for the right to appeal, and is accepted by the public". It can be said that the definition clarifies that the case assessment activities should include two aspects. First, the quality of the case; the second is the case effect, the dual evaluation of the quality and effect of the case, that is, the quality and effect evaluation. The case quality assessment is the application of legal procedures, the application of legal provisions, the protection of the rights and obligations of the parties and other cases in the trial process

to evaluate the degree of implementation of the law; the evaluation of the effect of the case is the evaluation and influence among the public, the parties, the participants and the legal persons after the judgment of the case takes effect. Whether it is quality evaluation or effect evaluation, it is feedback on the objective phenomenon caused by the case, and can provide reasonable solutions based on the description.

2.2 An Analysis of the Quality and Effectiveness Evaluation System of Court Cases

The so-called evaluation, that is, the evaluation subject to meet a certain evaluation of the evaluation object based on special evaluation criteria and methods of the specialized objective activities, then the evaluation system is around the completion of the evaluation activities should have a variety of necessary elements of the system. Evaluation is not only an objective activity, but also a scientific activity. It has a self-contained evaluation system, including at least five contents: evaluation subject, evaluation object, evaluation purpose, evaluation method and evaluation standard. The evaluation system is the premise of scientific, effective and objective evaluation activities. The quality and effectiveness evaluation system of court cases directly determines the fairness, objectivity and science of evaluation activities. The evaluation subject is the executor of the evaluation activity, which is of great significance to the evaluation activity. It is the key factor in the evaluation system. The social status of the evaluation subject and the value concept and moral concept it upholds directly affect the scientific and rationality of the evaluation results. The evaluation object, also known as the evaluation content, is the object of the evaluation activity. The object of the court case quality evaluation system is the quality and effect of the court case; the purpose of evaluation is the direct cause of starting evaluation activities, including the selection of evaluation subjects, the formulation of evaluation standards, and the application of evaluation methods. The evaluation purpose of the court case quality evaluation system is that the appropriate evaluation subject objectively evaluates the quality and effect of the court case according to the scientific evaluation criteria and evaluation methods, and evaluates the results and feeds back the proposed solution to the principal for reference. Evaluation standard is an important basic condition for evaluation activities, which directly affects the evaluation results.

2.3 The Unique Subject Value of the Third-party Court Case Quality Evaluation

The third party is relative to the first party and the second party. In terms of the subject, compared with the first party and the second party, the third party has a natural advantage. The results obtained by the third party are also regarded as neutral and fair. This is because the third party has no direct interest relationship with the evaluation object, and has no administrative affiliation and economic rights and interests relationship with the first party and the second party. It has the independence of identity, and only evaluates the evaluation object fairly and objectively with its own professionalism, so that the whole evaluation process is not disturbed by the stakeholders. Therefore, the evaluation results are more authoritative and objective, which is of unique significance to promote judicial progress. In our country, there are some systems in the judicial system, such as self-evaluation of cases within the court, cross-evaluation between the courts or the evaluation of the quality and effectiveness of the cases of the

lower courts by the higher courts. However, whether it is self-evaluation, cross-evaluation, or the evaluation of the lower level by the higher level, it is impossible to get rid of the “self” tendency of the court organs, and the legal proverb of “I can’t be my own judge” is still practical. The introduction of third-party subjects in the evaluation of the quality and effectiveness of court cases is to make up for the shortcomings of the internal evaluation of the court system and ensure that the evaluation results better reflect the objective facts, so as to provide an objective and scientific basis for improving the quality and effectiveness of justice. In addition, the third-party case quality evaluation index is set up with the third party as the evaluation subject, which is different from the self-evaluation within the court. It can not only get rid of the practice of selectively setting evaluation indicators in the local hidden rules, business scope, performance appraisal and other factors in the internal evaluation of the court, but also set up the index system scientifically for the social effect of the case without sticking to the trial process, so as to achieve a comprehensive evaluation of the case. At the same time, the third party, the independence of the investigation institution, the universality of the investigation object and the randomness of the investigation method can also ensure the objectivity and credibility of the investigation conclusion.

3. The Limitations of the Elements of the Current Internal Self-assessment System of the Court

Since November 2010, China's courts at all levels have set up trial management offices, which are mainly responsible for trial process management, case quality evaluation and judge performance evaluation. The case quality evaluation system and the trial performance appraisal system are mainly implemented within the court system. The higher court evaluates the lower court through the case quality index, and some local courts transform the case quality evaluation index into the trial performance evaluation index to evaluate the individual judge. This kind of case quality evaluation system and trial performance evaluation system are all internal evaluation activities of the court system. There are many limitations in the evaluation system of subject, content, method, content and effectiveness. Therefore, “not an external supervision, but an internal management”, can not fully realize the functional requirements of the court case quality evaluation.

3.1 Limitations of the Subject: Self-assessment, Lack of Supervision

The neutrality of the evaluator and the objectivity of the evaluation position are the premise and the most basic guarantee for standardized and accurate evaluation. At present, the self-quality assessment of court cases is based on the self-leading of the court. The higher court is responsible for organizing and guiding the evaluation work of the lower court, and at the same time, it evaluates the case quality of the court and the district court. This kind of self-assessment of their own practice, interest association, no establishment of effective external supervision, there is a huge moral hazard, is not conducive to reflecting the real situation of the case trial, the evaluation process is heavy, the evaluation is a mere formality, resulting in a weak credibility of the evaluation results.

3.2 Limitations of the Content: Focus on Procedures, Contempt for Effectiveness

At present, the self-quality assessment of court cases is subject to the reality of many court cases and few people. In addition to the difference in workload between procedural assessment and substantive assessment, most of the assessment content only focuses on the assessment of the content of the case procedure and ignores the substantive assessment of the case. Objective factors have led to the case evaluation work of the court system. Most of them are just picking up problems and finding problems in the procedure, and do not really touch the entity level of the evaluation of the case. The entity evaluation and effect evaluation are an important part of the court evaluation work, which is related to the realization of the “three effects”, but it has not been fully reflected.

3.3 Limitations of the Method: Too Much Quantitative, Lack of Qualitative

The fact that some courts deliberately ignore the qualitative method also reflects the problem of “emphasizing results and neglecting process” and “emphasizing data and neglecting substance” in their understanding. At present, the self-quality evaluation system of court cases pays too much attention to quantitative indicators, too much quantification, and insufficient qualitative analysis. It relies on the data extraction of the court case trial system, resulting in the court losing the value setting of the trial and reversing the trial value in the process of pursuing data optimization. However, the survey methods that can directly reflect the quality and effectiveness of court cases and reflect the value of trials have not received attention.

3.4 Limitations of the Purpose: The Pursuit of Political Achievements, Public Trust is Reduced

At present, the self-quality evaluation of court cases is still the trend of judicial administration. Under the administrative management system, the quality and effectiveness evaluation of court cases tends to be administrative. In order to pursue a bright work evaluation report, the court makes it difficult to reflect the real case trial, which makes the society's perception of justice and the court work report. There is a gap between. At the same time, the administration of evaluation will also lead to the deviation of evaluation from the purpose of fair justice.

3.5 Limitations of the Effectiveness: Self-led, Limited Effect

At present, the self-quality assessment of court cases is basically a self-assessment led by the court. It is difficult for external forces to intervene, resulting in a lack of limited supervision, the credibility of the assessment results is greatly reduced, the assessment work is basically in the form, the assessment results lack effectiveness, and the purpose of carrying out the assessment work cannot be effectively exerted. In this regard, it is necessary to introduce a third party to intervene in the evaluation of the quality and effectiveness of court cases to improve the effectiveness of the evaluation work.

4. The Judicial Operation Value of Implementing the Quality and Effectiveness Evaluation of Third-party Court Cases

4.1 No One shall be a Judge of His Own Case

“Anyone shall not be a judge of his own case”, which indicates that the judge of his own case does not

have moral legitimacy and legitimacy. Humanity has a private side, in the complex value choice, can not expect everyone to always maintain a transcendent self-consciousness. The evaluation of court cases is no exception. In the self-quality evaluation system of court cases, whether it is a judge's own evaluation, a cross-evaluation within the same court, or a mutual evaluation between different courts, it is a self-evaluation within the court system. Judges are doing their own judges, which is not in line with the objective laws of judicial operation. The lack of effective supervision in self-assessment leads to the fact that assessment is a mere formality, and it is the "real need" for everyone to be safe.

4.2 "The Judge is the Judge, and the Judge is Responsible"

The basic logic of the judicial responsibility system is "the judge is the judge, the judge is responsible". The Third Plenary Session of the Eighteenth Central Committee proposed to "improve the responsibility system of the presiding judge and the collegial panel, and let the judge judge and the referee be responsible". In September 2015, the Supreme People's Court issued "Several Opinions on Improving the Judicial Responsibility System of the People's Court", which made it clear that "let the judge judge judge and the judge is responsible", and the judgment documents are issued by the judge handling the case. "Let the judge judge, the judge is responsible for" to achieve the unity of power and responsibility of the jurisdiction and the case handling responsibility system, and improve the professionalism and handling level of the case judge in the case trial process. However, in the evaluation of court cases, power means responsibility. The evaluation results directly affect the actual interests of judges, and the judge's perfunctory attitude towards the evaluation work is not difficult to understand. At the same time, the judge and the court belong to the community of interests to some extent, which leads to serious "departmentalism" and encourages the motivation of profit-driven assessment. Therefore, it is necessary to introduce the third-party subject in the evaluation work because of the contradiction between the current self-quality evaluation system of court cases and the objective requirements of the judicial operation law of "letting the judge judge and the judge be responsible".

4.3 To Comprehensively Deepen the Reform of the Judicial System Escort

Since the 18th National Congress, courts at all levels throughout the country have continuously promoted the reform of the comprehensive judicial system around the judicial goal of "striving to make the people feel fair and just in every judicial case", and have achieved fruitful results in many aspects. The court case evaluation work urgently needs to be followed up. The quality evaluation system of court cases is an important part of the judicial system, which can provide useful reform materials and escort the reform of the judicial system. However, the current court case quality assessment system has been tried out for more than ten years since 2008. The court case assessment work has not made much progress, and there are many limitations, which cannot reflect the effectiveness of the reform and hinder the effectiveness of the judicial system reform to a certain extent. Therefore, in order to cooperate with the reform of the judicial system, the introduction of third-party evaluation subjects in the quality evaluation system of court cases is in full compliance with the law of judicial operation.

5. The Practical Significance of the Rule of Law in Implementing the Evaluation of the Quality and Effectiveness of Third-party Court Cases

5.1 Conducive to Strengthening the Supervision of Assessments

Judicial power is a public power and should be supervised. In China, the judiciary is produced by the National People's Congress, responsible for the National People's Congress and supervised by the National People's Congress, which is the institutional design of the state power structure. At the same time, because the people elect deputies to the people's congress, the judiciary is produced by the people's congress, and the judiciary should also accept the supervision of the people. Social supervision is a way for the people to supervise the judiciary. Although the evaluation of the quality and effectiveness of the case includes two aspects of the evaluation of the case, it is more important to explore the problem in order to promote the improvement of the quality and effectiveness of the judicial case. The evaluation of the quality and effectiveness of the case needs to really ask questions. The third-party evaluation subject is independent of the natural status of the judicial organ, which makes it have unique advantages in judicial supervision. This is because there is no subordinate and economic interest between the third-party evaluation subject and the judicial organ, so as to avoid the situation of not daring to ask questions and the evaluation going through the motions. In addition, the third-party evaluation subject comes from the society, which can truly feel the effect of judicial operation in the society, and evaluate the court cases with its own specialty, and carry out post-event social supervision on the judicial operation, so as to promote the court to consider the political effect, legal effect and social effect when hearing cases, and finally realize the organic unity of the "three effects" of case quality.

5.2 It is Helpful to Improve the Quality of Judicial Trial

The evaluation of the quality and effectiveness of court cases includes the evaluation of the quality of trials. The evaluation of third-party subjects avoids the drawbacks of the internal evaluation of judicial organs, that is, the practice of being both an athlete and a referee, and gives full play to the professionalism and independence of third-party subjects. The professionalism makes the evaluation activities scientific, and the scientificity makes the evaluation results authoritative. Independence can ensure the neutrality of evaluation activities. Neutrality is an important prerequisite for improving the credibility of evaluation results. Both of them jointly promote the quality of judicial trials.

5.3 It is Conducive to Enhancing the Credibility of the Judiciary

The public trust of the judiciary comes from the people. Social supervision is a way of supervision juxtaposed with the supervision of the National People's Congress and the supervision of the CPPCC. The third-party quality and effectiveness evaluation of court cases is a professional social supervision like public opinion supervision, which directly comes from the people. The establishment of the third-party quality and efficiency evaluation system of court cases can promote the improvement of the quality and efficiency of judicial trials, promote the judicial organs to improve the existing problems, strengthen the rule of law construction of judicial operation, enhance the capacity building of the

judiciary itself, and create a modern court that keeps pace with the times; second, the third-party evaluation subject takes its professional social research institution as the carrier, which can fully reflect the real situation of the society, mobilize citizens to participate in and pay attention to the judiciary, and make the third-party evaluation become a way for citizens to supervise the judiciary, and promote the operation of judicial norms in the way of third-party quality and efficiency evaluation. Third, third-party assessments are conducted in an open manner, making “visible assessments”, improving the authority of the assessment results, enhancing judicial credibility, and establishing judicial authority.

5.4 It is Conducive to Improving the Level of Comprehensive Rule of Law

To further promote the rule of law in an all-round way, it is necessary to plan and build a higher level of judicial evaluation system. The implementation of the rule of law China, the rule of law government, the rule of law society construction plan and the rule of law talent training action plan provides an action plan for promoting the comprehensive rule of law. As a key link in the comprehensive rule of law, the court, as the executive body of judicial work, is at the core of the operation of the rule of law. The quality of case handling reflects the level of rule of law to a certain extent. The implementation of the third-party court case quality evaluation, the introduction of third-party independent professional evaluation of the main body, so that the third-party court case quality evaluation work standardization, enrich the court evaluation approach, play the third-party evaluation system of supervision value, truly reflect the objective situation, promote the reform of the judicial system, improve the quality and efficiency of the court case, so as to improve the level of China 's comprehensive rule of law.

6. Result

The evaluation of the quality and effectiveness of court cases is a function of maintaining social fairness and justice. The realization of legal effect, social effect and political effect, that is, the “three effects”, is an ultimate measure to evaluate the quality and efficiency of court cases. At present, the internal self-quality evaluation system of the court system has matured and formed an institutionalized standardized evaluation, but it has many inherent defects. As an important part of the quality and effectiveness evaluation of court cases, the third-party court case quality and effectiveness evaluation has many advantages, and the two form a system with complementary functions. The implementation of the quality and effectiveness evaluation of third-party court cases is not only conducive to strengthening evaluation and supervision, improving the quality of judicial trials, enhancing judicial credibility, establishing judicial authority, but also conducive to improving the level of comprehensive rule of law. Therefore, it is reasonable in theory and practice to introduce the third-party court case quality evaluation as an important supplement to the court case quality evaluation work.

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