

The Present Situation and Improvement Path of Post Prosecutor System under the New Situation

—Taking the Procuratorate of J District of C City as the Main Sample

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Abstract

Under the new situation that the reform of the judicial responsibility system has been carried out in depth and the selection of post prosecutors has been basically completed, the understanding of the post system should not be limited to the acquisition of post identity, but should be deeply observed how to strengthen the management and construction of post prosecutors in the post-post era, so as to promote the benign operation of the post procurator system and give full play to the effect of reform. In this regard, through the C City J District Procuratorate as the main sample for empirical research, combined with the auxiliary samples of the relevant situation of H City L District and G City B District Procuratorate, found that under the new situation, the post prosecutor system operation has there following problems: the contradiction between the number of cases is prominent; the assessment method is not scientific and specific; the withdrawal mechanism is not perfect; the occupational security is not good enough; the scope of power and responsibility between the post prosecutor and the procurator assistant is not clear and so on. After discovering the shackles and crux of the post prosecutor system in the follow-up operation, putting forward that the post establishment mode should be improved; the scientific post prosecutor performance evaluation mechanism and post withdrawal mechanism should be established; the career security system should be improved; and the scope of duties should be clearly defined, so as to make suggestions for promoting the sound operation of the post system reform.

Keywords

Post Prosecutor System, Status, Problems, Exit Mechanism, Improvement Path

1. Introduction

Before the reform of the post system, the number of prosecutors in our country was large. According to the 2018 work report of the Supreme people's Procuratorate, there were as many as 160,000 prosecutors in our country before, which shows that the numbers of prosecutors are overstuffed. Moreover, the distinction between various types of procuratorial personnel is not clear in the society. Whether they are prosecutors at the front line of handling cases, clerks or administrative personnel, they are generally called prosecutors by the society, resulting in a low sense of professional dignity of the title of prosecutors. In Japan, on the other hand, the social status of Japanese prosecutors is very high, which is an ideal profession pursued and respected by countless people. The number of staff of the Public Prosecutor's Office accounts for only 0.009 per cent of the total number of people in Japan; the number of post prosecutors is even smaller, accounting for only 0.002 per cent of the total number of people in Japan (Wan & Zou, 2015d).¹ Similarly, in Taiwan, the total number of prosecutors in 2015 was only 1361 (Wan, & Yang, 2016c).² The small number of prosecutors and the very high threshold for entry have led to the fact that prosecutors who are really on the front line of handling cases are elites among the elites, and they are also proud of their own status.

Therefore, in order to promote the establishment of a professional, professional and standardized contingent of procuratorial personnel, in the National Procuratorial personnel Construction Plan 2004-2008, it is proposed to carry out the classified reform of procuratorial personnel, scientifically set up the post proportion of all kinds of personnel, and reasonably set up and divide the responsibilities of all kinds of personnel, so as to improve the law enforcement level and work efficiency of procuratorial organs. In 2013, the opinions on the Reform of the classified Management system of the staff of the people's Procuratorate once again stressed the need to implement the establishment of the proportion of posts for all categories of personnel as an important task. The implementation of a series of reform programs represents the start of the classified management reform of procuratorial personnel in our country. Among them, the core is undoubtedly the reform of the quota system of procuratorial officials, is the construction of the contingent of prosecutors. According to the definition of the Public Prosecutor Law of 2019, the procurator is the person who exercises the state procuratorial power in accordance with the law, and is the responsible subject to perform the legal supervision function of our country according to law. The prosecutor post system, generally speaking, is to set up a certain proportion of posts for prosecutors (the current reform requirements are not more than 39%), is a set of post prosecutor selection, appointment, assessment, education, incentive, disciplinary and other aspects of the systematic management system. The purpose is to select the judicial personnel in accordance with the judicial

¹See Wan Yi, Zou Hua. Japanese Prosecutor: posts can be increased or decreased, and remuneration is higher than that of civil servants [N]. Procuratorial Daily, 2015-05-26 (003). Page 1.

²Data source: see Wan Yi, Yang Jiong. The quota system of procuratorial officials in Taiwan [J]. Square Circle, 2016 (20): illustration on page 47.

law, and to create a number of post prosecutors with high judicial level, excellent professional ability and top quality. It is the cornerstone of the judicial responsibility system.

The reform of the quota system for prosecution officials began in 2014. On 6 June 2014, the Central leading Group for the Comprehensive deepening of Reform considered and adopted the Framework opinion on a number of issues on the pilot Reform of the Judicial system, and explicitly proposed for the first time “the establishment of a quota system for judges and prosecutorial officials”. On July 12 of the same year, Shanghai took the lead in reforming the quota system for procurators. At the end of June 2016, the first pilot units in our country had completed the admission of post prosecutors. By 2018, after three batch of reform pilot projects, a total of 87000 post prosecutors have been selected by procuratorial organs at all levels in our country, and the selection of prosecutors has been basically completed.

Since the reform, what needs to be vigilant is that the post prosecutors are selected does not mean that the post system reform can be declared is successful. In addition to the selection of prosecutors, the connotation of the system of prosecutors also includes many contents (Zeng & Liu, 2020). Under the new situation, how to treat the operation status of the post prosecutor system and how to strengthen the management and construction of the post prosecutor under the reform of the judicial responsibility system are the issues that we must consider at present. However, the discussion of post prosecutors in academic circles is only limited to the selection and appointment of prosecutors, and assessment; for the “post” era of the problems are not too much involved. For example, how should the assessment system of post prosecutors be established and improved scientifically? How should the exit mechanism for post prosecutors be established? How to deal with the contradiction of “more and more case need to be dealt but there are fewer prosecutor than before”? How to clearly define the scope of competence between the Assistant Prosecutor and the post Prosecutor in order to ensure that all categories of personnel can be located in their respective positions and achieve the effect of $1 + 1 > 2$? How to improve the career security system of post prosecutors? And so on. Those are the new problems that need to be faced and solved in the implementation of the post prosecutor system by now.

Based on this background, the author focuses on the current reform practice of the post prosecutor system in the procuratorate, taking the C city J district procuratorate as the main sample, H city L district and G city B district procuratorate as the auxiliary sample, in order to find out the shackles and crux of the post prosecutor system under the background of the judicial responsibility system reform, and find the way to solve the problem, with a view to promoting the sound operation of the post system reform.

2. Observation: The Present Situation and Problems of the Post Prosecutor System in the Sample Procuratorate

Taking the J District Procuratorate of C City, the western emerging metropolis,

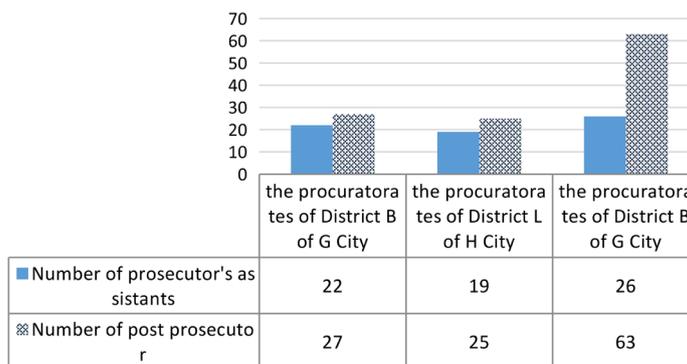
as the main sample, the author obtains the current status of the current post prosecutor system operation of the prosecutor's office through interviews with relevant personnel, data collection, and field research. In order to compare the needs of the study, the eastern coastal city H City L District Procuratorate and the first-line economically developed city G City B District Procuratorate were selected as auxiliary samples. Take C City J District Prosecutors Office as the main sample, H City L District and G City B District Prosecutors Office as auxiliary samples, the eastern and western regions refer to the comparative study in order to better find out the new problems in the operation of the post procurator system.

1) Operational status

a) The basic situation of current prosecutors in the procuratorate

The Procuratorate of District J in City C began to reform the classified management of prosecutors since the end of 2016, at present, there are 70 staff³ in the procuratorate's establishment of whom 27 are post prosecutors, accounting for 38.57%, just within the red line designated by the state that no more than 39%. Among them, there are 9 leaders of the procuratorate and the number of leaders of the procuratorate who are also post prosecutors is 7. The remaining 20 post prosecutors are located in the Integrated Operations Department and the first to Fifth Prosecutor's departments. In addition, there are 22 assistant prosecutors in the J District Procuratorate of C City.

The L District Procuratorate of H City, located on the north-eastern coast, currently has 66 political and legal officers, including 25 post prosecutors and 19 assistant prosecutors. The proportion of post prosecutors in the L District Procuratorate of H City is 37.87 per cent, which is also approaching the red line of 39 percent. However, the B District Procuratorate of G City, which is located in the economically developed city of South China, it has a large number of cases, therefore, there are 63 posts of procurators and 26 assistant prosecutors in the procuratorate at present (See **Figure 1**).



(Data sources: public information on the official website of the sample Procuratorate and the author's field research results).

Figure 1. In the statistics of the number of procurators and assistant prosecutors.

³Staff in the staff refer to: post prosecutors, assistant prosecutors, clerks, prosecutors, procuratorial technical personnel, judicial administrative personnel and so on.

At the education background, the 27 post prosecutors in J District of C City are all with bachelor's degree or above, of which 13 are with master's degree, accounting for half of the total. It can be seen that after two rounds of selection, the post prosecutors selected by the procuratorate of C City J District are all highly educated talents. At the professional level, except for a very small number of post prosecutors, the majors of most post prosecutors are related to law (law, criminal law, procedural law, etc.).

In terms of working years, the longest working age of 27 post prosecutors in J District of C City has been 34 years, and 12 of them have worked for more than 20 years, of which the shortest is also 7 years of working age. On average, the average working age of post prosecutors of J District Procuratorate of C City is as high as 20.03 years. In terms of more specific statistics on the time worked in the procuratorate, among the 27 prosecutors in District J of City C, the longest has been 27 years, and 14 of the prosecutors in District J have worked for more than 12 years, and the average time that working in District J of City C was 13.57 years. Through this set of data, it can be seen that the post prosecutors selected by the J District Procuratorate of C City after two rounds of post selection are prosecutors with rich judicial work experience.

b) Selection and employment of post prosecutors

Since the beginning of the classified management reform of procuratorial personnel at the end of 2016, the Procuratorate of District J of C City has conducted a total of two selections of post prosecutors, and a total of 27 post prosecutors have been selected, the proportion of which has reached 38.57%. In recent years, if there is no accident, the selection of posts prosecutors will not be carried out again. In the design of the selection and admission system, the procuratorate of J District of C City mainly adopts the way of "examination + assessment" to carry on the selection. First, those who apply for the selection of post prosecutors will need to take written examinations, rank according to test results, and those who fail the exam will directly lose the opportunity to be a post prosecutor. Second, carry out a comprehensive assessment. The comprehensive assessment mainly includes the performance of the previous work (including, but not limited to, the number of cases, research results, the quality of handling cases, the rewards obtained in the process of work, etc.) and democratic recommendation and evaluation. In the comprehensive performance module, a bonus point system is adopted, and corresponding bonus points can be obtained every time an indicator is reached. In the democratic recommendation and democratic evaluation, if anyone can not pass the democratic evaluation, he or she will directly lose the opportunity to be a post prosecutor. Through this set of selection system, C City J District Procuratorate has basically completed the selection of prosecutors.

c) Dynamic management of post prosecutors

After admission, at the management level of post prosecutors, C City J District Procuratorate adopts a dynamic management mechanism for post prosecutors

according to the requirements of the reform outline.

First of all, established a separate position sequence of prosecutors, from low to high are: level IV prosecutors, level III prosecutors, level II prosecutors, level I prosecutors, level IV senior prosecutors, level II senior prosecutors, level I senior prosecutors. And enjoy different treatment according to their respective levels.

Secondly, the C City J District Procuratorate will carry on the performance appraisal to the post procurator every year. However, in the process of assessment, there are two sets of assessment systems, one is the civil servant assessment system, the other is the procurator business evaluation system. The two assessment systems show a state of mutual influence. In the assessment content, the main assessment of the number of cases handled by prosecutors and the quality of handling cases. Finally, there is a need for a democratic assessment. At the same time, at present, many procuratorates in our country begin to use the assessment system of “case-to-piece ratio” to assess the post procurators. As for the assessment results, the C City J District Procuratorate divides the assessment results into four grades: unqualified, qualified, good and excellent. Prosecutors who are qualified or above can enjoy judicial performance awards, while those who are not qualified will not enjoy judicial performance.

In the exit mechanism of post procurators, the J District Procuratorate of C City has not constructed perfect at present. There are three main situations of withdrawal from posts: the examination results are not up to standard (illegal violation of discipline, continuous occurrence of case quality problems, the number of cases not up to the due standard, etc.), retirement, and voluntary application for exitment. Since the reform began at the end of 2016, there has been no withdrawal of post procurators from posts in the J District Procuratorate of C City, so the reform practice of the withdrawal mechanism is relatively crude. This is also the key to the implementation of the dynamic management of post prosecutors and the promotion of judicial responsibility system, that is, how to construct a scientific and reasonable mechanism for the withdrawal of post prosecutors.

d) The Reform of Internal institutions

While carrying out the personnel classification management reform, the internal organization reform was carried out at the same time, in order to cooperate with the core position of the post prosecutor in handling the case, change the previous mode of handling cases, highlight professional construction, adhere to “one department as a whole in principle, and one department in principle to take charge of one thing,” so as to realize the prompt handling of brief cases and the fine examination of complex cases. Therefore, after the reform of the internal organization of the J District Procuratorate of C City, the current institutions are as follows: the leadership of the Court, the political Department, the Office, the Integrated Operations Department, the first Public Prosecutor’s Department, the second Public Prosecutor’s Department, the third Public Prosecutor’s Depart-

ment, the fourth Public Prosecutor's Department and the Fifth Public Prosecutor's Department. The post prosecutors (except for the leaders of the procuratorate) are belong to the six following business departments, and they are responsible for handling cases of the types of business undertaken by their own departments. Similarly, the same is true of the B District Procuratorate of G City, which has steadily pushed forward the reform with the mode of setting up "7 ~ 3" institutions.

e) Establishment of a case organization

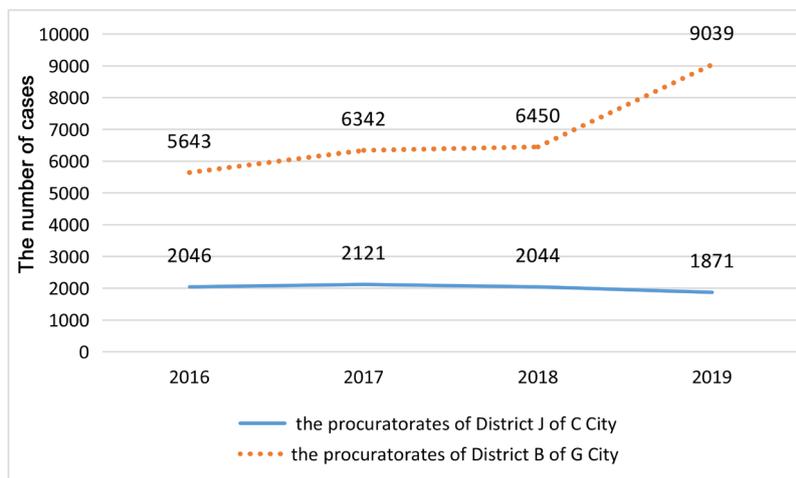
In the establishment of the specific case organization, the J District Procuratorate of C City strives to make a basic case handling team composed of a post prosecutor + a prosecutor assistant + a clerk. However, as mentioned earlier, the Procuratorate of District J in City C has 27 prosecutors, but only 22 prosecutors' assistants, it means that the two cannot achieve 1:1. The same problem is more serious in the Procuratorate of District B in City G, where the number of Public Prosecutor assistants is much lower than that of post prosecutors.

In addition, how to reasonably define the scope of responsibilities between post prosecutors and assistant prosecutors, and alleviate the contradictions caused by the gap in treatment and status between post prosecutors and assistant prosecutors, are the issues that must be considered in the post era.

2) The problems existing in the operation of the post procurator system under the new situation

a) The contradiction between "more and more case need to be dealt but fewer prosecutors than before" is still prominent

In the era of the expansion of litigation, the dilemma of large number of cases and few prosecutors has been extremely serious, and because of the reform of the staffing system, the number of prosecutors who can handle cases independently has been greatly reduced, resulting the number of cases handled per person per post of prosecutors has greatly increased, which is particularly prominent in the grass-roots procuratorates. As shown in **Figure 2**, the number of cases received by the J District Procuratorate was about 2000 per year between 2016 and 2019, while the number of cases received by the B District Procuratorate was much higher than that of the J District Procuratorate. Under such a large number of cases, the J District Procuratorate has only 27 post prosecutors. The B District Procuratorate also has only 63 post prosecutors. And there are six or seven post prosecutors are leaders of the procuratorate, their caseload is bound to be smaller than other prosecutors. Therefore, after the implementation of the post system, how to solve the dilemma of "more and more case need to be dealt but fewer prosecutors than before" is a problem that procuratorates must face. In this regard, in the interview, a grass-roots prosecutor said: it believes that the policy formulation of the three-level procuratorate is not scientific enough, that different levels of procuratorate should consider the different volume of cases, formulate different proportion, it believes that the current 39% of the proportion is far from enough for the grass-roots procuratorate, it is necessary to



(Data sources: annual work reports of the sample Procuratorate and the author's field research results).

Figure 2. Statistics of the number of cases received by the procuratorates of District J of C City and District B of G City⁴.

increase the proportion of posts to deal with the contradiction in the current grass-roots procuratorate. Similarly, some scholars also pointed out that it is necessary for our country to appropriately increase the proportion of the reform of the quota system of prosecutors (Chen & Bai, 2016).

b) The examination method needs to be improved scientifically

A set of scientific and sound assessment mechanism can help to evaluate and supervise the work of post prosecutors, has obvious incentive effect for prosecutors, and can also provide scientific basis for determining the performance bonuses and job promotion of prosecutors. However, in the process of investigation, it is found that although the Supreme Prosecutor and the provincial procuratorates have issued some provisions, there are still many problems in the practice of the grass-roots procuratorates.

First of all, the main body of evaluation is single. Although provincial procuratorates in each region have set up post procurator selection and evaluation and punishment committees, the annual evaluation of prosecutors is organized and implemented by their respective procuratorates themselves, and the main body of the evaluation is mainly the leaders of each procuratorate. Other personnel who are closely related to the work of the post Prosecutor, such as Prosecutor's assistants, clerks, etc, are not involved (Joint Research Group of the People's Procuratorate of Jiangyan District, 2019).⁵

Secondly, the assessment content, assessment indicators still need to be improved. Because there are many kinds of cases handled by procuratorial organs, the degree of difficulty is different, and there are many new cases at present, re-

⁴The number of cases received is only the sum of the two categories of review of arrest and prosecution.

⁵See Nanjing Xuanwu District Taizhou Jiangyan District people's Procuratorate Joint Research Group. Research on the Evaluation Mechanism of Post prosecutors-taking Jiangsu Provincial Grass-roots Procuratorate as a sample [J]. Chinese Prosecutor, 2019 (11): p. 70.

sulting in a single and lack of differentiation in the evaluation rules of prosecutors before the procuratorate, simply speaking, it is not scientific enough. Therefore, at the beginning of 2020, the Supreme people's Procuratorate put forward the concept of "case ratio", a new evaluation index system for the quality of handling cases, and issued the "main Evaluation Index of case quality of Procuratorial organs", requiring local procuratorates to adopt a new set of evaluation indicators of "case ratio" to evaluate prosecutors. "Case-to-case ratio" refers to a "case" of the parties concerned, which is compared with the "number of cases" counted by the relevant litigation links experienced after entering the judicial proceedings. However, in the first year of carrying out this new evaluation index system entering the prosecutor assessment system, there are still many problems in the actual exercise, the most obvious is that many prosecutors said that the assessment system is too complex to understand. During the whole assessment week, most of the prosecutors in a procuratorate are calculating their case ratios and adding their own corresponding points. Moreover, in the process of adding points, there is also the phenomenon of repeated bonus points. Therefore, how to construct and perfect the case ratio evaluation system in the follow-up reform process is a problem that needs to be considered.

Finally, it is the problem of the application of the evaluation results. At present, the way of using the annual evaluation results of the post prosecutors is relatively simple, mainly focusing on the payment of judicial performance bonuses, but rarely applies the evaluation results to the promotion of the prosecutor level.⁶ And in the distribution of judicial performance bonuses, there is a lack of difference. The judicial performance bonus of the J district procuratorate can be obtained as long as the procurator's examination results are passed. For the qualified or good prosecutors, the unified and equal distribution of the judicial performance bonus will undoubtedly dampen the enthusiasm of some prosecutors.

c) The exit mechanism is not perfect

After two rounds of selection of post prosecutors, a total of 27 post prosecutors have been selected by the J District Procuratorate of C City, the proportion of which has reached 38.57%, and the proportion of posts has been nearly saturated. Similarly, the proportion of post prosecutors in the L District Procuratorate of H City is 37.87 per cent, which is also close to the 39 per cent red line drawn by the State. However, in the exit mechanism of post prosecutors, the current provisions of the J District Procuratorate of C City are not perfect. C city J district procuratorate procurator withdrew from the post mainly the following three situations: the examination results are not up to standard (illegal violation of discipline, continuous occurrence of case quality problems, the number of cases not up to the due standard, etc.), retirement, and voluntary application for exitment. However, since the reform of the J District Procuratorate in C City since the end of 2016, there has been no withdrawal of incoming post prosecutors from posts, so the practice of the exit mechanism is relatively crude.

⁶Ibid.

However, the construction of post prosecutor exit system is the proper meaning of the post system reform (Long & Fu, 2017).⁷ First of all, the withdrawal system of post prosecutors is the guarantee for the realization of the goal of post system reform. In other words, post prosecutors should not be lifelong. In order to ensure the “formalization, specialization and professionalization” of the contingent of prosecutors, it is necessary to establish a scientific and reasonable withdrawal mechanism for prosecutors. Secondly, as mentioned earlier, the number of post prosecutor in the procuratorates is almost saturated. At present, the vast majority of the exit of posts is mainly the retirement of prosecutors. However, many prosecutors in the sample procuratorates are still having a long time to retire. As a result, many prosecutors’ assistants can not see any hope of becoming a post prosecutor, thus choosing to withdraw from the prosecutorial system. An assistant prosecutor, who has worked for six years, said he had no hope of becoming a post prosecutor in the six years. As a result, the C City J District Procuratorate has lost its staff in recent years as young and promising assistant prosecutors in their thirties. Therefore, the construction of a reasonable post withdrawal mechanism can effectively give the assistant to the Prosecutor hope, to prevent the emergence of talent failure (Leng, 2017).

d) Job security is not perfect

A perfect and superior security mechanism will help to enhance the professional dignity of post prosecutors, ensure that post prosecutors are proud of their own identity and cherish their feathers; help to give post prosecutors positive incentives and guarantees to focus on their own procuratorial affairs at the moment of the reform of the judicial responsibility system; and help to improve the cohesion of prosecutors and prevent excessive brain drain. However, in the current reform process, the career security mechanism of prosecutors is not perfect enough, which needs to be improved urgently.

In terms of remuneration and treatment, there is a great deal of pressure on the work of post prosecutors, but the remuneration and treatment lack of a certain degree of competitiveness. At present, because of the simplification of the number of prosecutors, each prosecutor has more cases to deal with per capita, and the pressure to handle cases is greater. The post procurators of the B District Procuratorate account for only about 8% of the G city post prosecutors, but handle about 16% of the criminal proceedings in G City, and the per capita number of cases handled is nearly twice that of the whole city. Under such a great pressure of handling cases, there is still a lack of competitiveness for the remuneration and treatment of prosecutors. In Japan, its prosecutors are paid 30 per cent more than civil servants. Therefore, in terms of salary and treatment, it is still necessary for our country to carry out scientific delineation after passing a certain amount of research. Secondly, how to divide the treatment gap between post prosecutors and assistant prosecutors is also an important issue that affects whether the relationship between the two is harmonious. In the interview, a post

⁷See Long Zongzhi, Fuerga. Construct a reasonable, effective and coordinated post prosecutor withdrawal system [J]. People’s Procuratorate, 2017 (22): page 9.

prosecutor indicated that he believed that the work and responsibility of the prosecutor in handling cases were much greater than those of the assistant prosecutor, so he suggested that the reform of the S Municipal Prosecutor's Office should be emulated and the pay gap between post prosecutors and assistant prosecutors should be further opened.

Second, there is a lack of difference in the distribution of judicial performance bonuses. the judicial performance bonus of the J district procuratorate can be obtained as long as the procurator's examination results are qualified or above. And the judicial performance bonus is uniform and equal distribution to them not matter they are qualified or good. The judicial performance bonus obtained by different assessment results is the same, which will undoubtedly dampen the enthusiasm of some prosecutors.

Third, although a separate job sequence has been established, in the process of reform, the housing, medical treatment, travel and other benefits corresponding to the level of prosecutors have not been fully clarified (Jian, 2019),⁸ and the reform of the unified management of property and property of local courts and procuratorates below provincial levels has not yet been completely completed, which makes it difficult to guarantee the corresponding treatment of post prosecutors.

Finally, in the retirement treatment, the current reform practice has not made complete and reasonable provisions. The retirement treatment policy of some procuratorates still adopts the provisions before the reform. For the retirement system of prosecutors, the conditions, procedures and treatment standards of retirement are not clear. In the interview, more than one post prosecutor said that under the new situation of the reform of judicial lifelong responsibility system, how to ensure that post prosecutors can deal with judicial cases without worries and concentrate on judicial cases is an important issue. In their view, judicial responsibility is lifelong, but retirement benefits are not perfect, there is no match enough between them. Therefore, it is suggested that maybe can adopt the lifelong system of prosecutors, or the retirement treatment should be improved, or the judicial insurance system should be established to share the professional risks of prosecutors. In a word, under the condition that the post prosecutor bears the huge pressure to handle the case, the career security is not perfect, to a certain extent, it inevitably hits the enthusiasm and professional respect of the post prosecutor.

e) The division of powers and responsibilities between post prosecutors and assistant prosecutors is unclear

First of all, at the level of legislative and reform provisions, there is a lack of clear provisions on the scope and boundaries of the exercise of responsibilities and powers between prosecutors and assistant prosecutors. The Prosecutor's Act, as amended in 2019, enumerates only the responsibilities of post prosecutors and does not specify the responsibilities of assistant prosecutors. Although the responsibilities of both are listed in the "Several Opinions on Improving the Judicial Responsibility System of the People's Procuratorate," it can be seen that

⁸See Jian Xiaowen. A study on the countermeasures for the benign operation of the procurator post system [J]. People's Procuratorate, 2019 (21): p. 30.

there are many overlapping parts in the duties of the two, and the difference lies only in emphasizing that the assistant procurator needs to be performed under the guidance of the procurator. This kind of intersecting and not specific division leads to many problems in the exercise of functions and powers. The unclear division of labor between prosecutors and assistant prosecutors leads to the difficulty of achieving the reform objectives of each type of procuratorial personnel belonging to their respective positions, performing their respective duties and going their own way.

At the level of responsibility assumption, it is also necessary to issue more detailed provisions to clarify the division of responsibilities between assistant prosecutors and prosecutors, so as to avoid prevarication in the investigation of responsibility, so that can make the two truly cooperate and cooperate with each other as a whole (Ling, 2018).⁹ In the investigation, it is found that because the regulations on the exercise of functions and responsibilities of prosecutors and assistant prosecutors are not clear enough, there are two kinds of situations: first, because of the contradiction between “more and more case need to be dealt but fewer prosecutors than before”, some assistant prosecutors actually perform the duties of prosecutors. Second, in the interview, some prosecutors admitted that due to reasons such as lifelong responsibility system, they must be careful at work. They should re-conduct a comprehensive review of the affairs handled by the assistant prosecutors and deal with them again in person in order to prevent omissions. As a result, the workload of the Prosecutor has been enormous and the purpose of the establishment judicial support staff has failed. Therefore, in the case of a large number of cases, it is necessary to improve the establishment of case-handling organizations, clearly divide the respective terms of reference of all types of personnel, so that post prosecutors and procuratorial auxiliaries (especially procuratorial assistants) can work with each other and cooperate with each other, and play an effect of 1 + 1 greater than 2.

3) Summary of this chapter

Through the empirical study of the three sample procuratorates of C City J District Procuratorate, H City L District Procuratorate and G City B District Procuratorate, it is found that there are the following current situation in the operation of post prosecutor system: first of all, the post procurators of the three procuratorates are basically saturated, and the post prosecutors are generally served as highly educated and experienced people. Second, the method of selecting prosecutors for the procuratorate of the district procuratorate of C city J is briefly summarized as a “written examination + assessment” method. Third, in terms of management, the dynamic management system for post prosecutors has been adopted: a separate sequence of prosecutors has been established and the performance evaluation of post prosecutors has been carried out annually. Fourth, while carrying out the personnel classification management reform, the internal organization reform has been carried out together, so as to cooperate

⁹See Ling Guanhua. The present situation and thinking of Public Prosecutor Assistant system [J]. Procuratorial investigation and guidance, 2018 (05): 34-37. Page 35.

with the core position of the post prosecutor in handling the case. Fifthly, in the establishment of the case organization, the composition of one post prosecutor + one prosecutor assistant + one clerk is adopted.

On the basis of studying the current situation, it is found that there are the following problems in the operation of the post prosecutor system: first, the number of cases is large, and the pressure of post prosecutors in the grass-roots procuratorate is great, hoping to increase the proportion of posts. Second, the assessment method is not scientific and specific, the assessment subject is single, the assessment content needs to be improved, and the evaluation results are used in a single way. Third, a complete withdrawal mechanism for post prosecutors has not yet been established. Fourth, the career security of post prosecutors is not perfect: the distribution of judicial performance bonuses lacks diversity, retirement security is unreasonable and so on. Finally, the division of powers and responsibilities between post prosecutors and assistant prosecutors is not clear.

3. Solve the Problem: Under the New Situation, the Improvement Path of the Post Prosecutor System in Our Country

1) Improve the way of post establishment, construct the perfect case handling organization

To face the dilemma of “more cases and fewer people” at present, first of all, as some prosecutors said in the interview, the author also agrees that we can consider a more scientific way of post establishment. In the process of reform, in the establishment of posts, there are actually two institutional models in our country: one is to determine the maximum number of prosecutors in accordance with 39% of the central government’s political and legal system; the other is to determine posts number according to the annual number of cases received by the procuratorate and the number of cases handled by prosecutors per capita. In this regard, Professor Chen Ruihua believes that the reform of the official quota system in the future should compromise the two models, so as to make the reform of the post system go to the track of a virtuous circle (Chen, 2018). The author agrees with this view that the 39% limit is too one-size-fits-all for the three-level procuratorate, so it is necessary to reasonably consider the workload of different levels of procuratorates and the volume of cases received by different regional procuratorates to determine the number of posts, and establish the overall management and dynamic adjustment mechanism of posts. The post of prosecutor in Japan adopts a dynamic adjustment mechanism. The number of posts is determined on the basis of the establishment quota set out in the Administrative staff order, and the Ministry of Justice will also can submit suggestions on the increase or decrease in the number of posts. In Taiwan, it is considered the most fair and reasonable method to determine the number of prosecutors that should be deployed by prosecutors at all levels based on the number of cases (Wan & Yang, 2016b).

Secondly, it is necessary to set up a perfect case handling organization to deal with the dilemma of “more and more case need to be dealt but fewer prosecutors than before”. The author thinks that the basic case handling organization of the grass-roots procuratorate can be constructed by the mode of “1 + 1 + 1”, that is, to equip each post prosecutor with one prosecutor assistant and one clerk to assist him in handling the case. On the premise of highlighting the main position of prosecutors in the judicial handling of cases, the formation of a division of labor responsible, orderly operation of the judicial case handling work mechanism.

2) The establishment of a scientific and perfect performance evaluation mechanism for post prosecutors

The establishment of a performance appraisal mechanism for prosecutors in handling cases is to prevent post prosecutors from slack (Zhuang et al., 2017). So that the establishment of a set of scientific and sound assessment mechanisms for post prosecutors can effectively evaluate the work of prosecutors and form positive incentives effects; they can also provide scientific basis for determining the performance bonuses and job promotions of prosecutors.

In view of the problem of the current prosecutor evaluation mechanism, it is necessary to clearly establish a scientific and perfect post prosecutor performance evaluation standard system and evaluation mechanism. The basic content of the mechanism should be based on the number, quality, efficiency and effect of handling cases. In the reform, we should also promote the application and perfection of the evaluation system of “case ratio”. Performance evaluation should adhere to the principle of seeking truth from facts and accurately evaluate and assess the performance of each post prosecutor. And the evaluation results as an important basis for the distribution of prosecutors’ performance bonuses, evaluation, grade promotion, exchange of posts, discipline and withdrawal from posts.

3) Construction of a scientific and reasonable mechanism for the withdrawal of posts

The construction of a scientific and reasonable mechanism for the withdrawal of post procurators is the proper meaning of comprehensively promoting the reform of the judicial system under the new situation, and is the inherent requirement of realizing the scientific management of procurators (He et al., 2020). It is also helpful to form a benign competitive situation, to meet the needs of assistant procurators eager to become a real procurator as soon as possible. Therefore, it is necessary to establish and improve the withdrawal mechanism of post prosecutors and clarify the conditions and procedures for withdrawal. First of all, it is necessary to categorize and clarify the different exit situations of post prosecutors, and form express provisions of laws and policies. None post prosecutor may be transferred or dismissed for reasons other than for legal reasons. Secondly, it is necessary to strictly set up the withdrawal procedure of the post prosecutor, including, but not limited to, the initiation of the procedure, the examination and approval decision, the notification hearing, the implementation of the public notice, the way of right relief, and so on.

4) Perfecting the career security system

Perfect and excellent and competitive career security mechanism can help to enhance the professional dignity of post prosecutors; it can also play a positive role in encouraging prosecutors to focus on their own procuratorial work.

First, we should follow the example of Japan by developing a complete system of career security for post prosecutors in the process of reform, which should be provided for in the form of law. In 1948, Japan promulgated the Public Prosecutor's salaries Act, which makes detailed and clear provisions on the initial wages, promotion wages and other treatment of prosecutors.

Secondly, on the basis of extensive investigation and investigation, while promoting the reform of unified management of people and materials in local courts and procuratorates below the province, we should comprehensively consider the nature and workload of the work of post prosecutors in the financial budget, improve the remuneration and treatment of prosecutors, and form a more competitive salary and treatment system than administrative posts at the same level. In Japan, prosecutors are paid 30 per cent more than civil servants. Similarly, in Taiwan, the system of preferential treatment of prosecutors' salaries is implemented. The salaries of prosecutors in Taiwan are the same as those of judges and are much higher than those of civil servants of the same rank. "The Judicial personnel Ordinance" makes it clear that the salaries of prosecutors shall be subject to the provisions of the Civil Service salaries Act, as well as give prosecutors "professional allowances" (Wan, 2015a).¹⁰ Therefore, our country should also formulate the preferential treatment system of procurator salary according to the specific national conditions of our country. Secondly, we should also improve the intensity of judicial performance bonuses and other awards to a certain extent, and pay different judicial performance bonuses according to different assessment levels, in order to encourage prosecutors to strive for excellence and form a positive incentive effect.

In terms of retirement protection, a complete retirement protection mechanism should be planned so that post prosecutors do not have to worry about the future. In this regard, we can learn from Taiwan. Although prosecutors in Taiwan are lifelong, they are considerate of senior prosecutors, encourage prosecutors to retire voluntarily, and establish a retirement preferential treatment system. Articles 40 and 41 of the Judicial personnel regulations provide for this.¹¹ A sound retirement protection system can enable post prosecutors to work harder during their term of office, relieve them of their worries about the future, and will certainly improve their sense of professional respect.

Finally, in the new situation of judicial lifelong responsibility system reform, how to deal with the risk of lifelong responsibility system, in addition to working hard in the process of handling cases, we can also establish a judicial insurance system to share the professional risk of prosecutors.

¹⁰Quoted from Wanyi. Taiwan District Procurator has a good tenure [N]. Procuratorial Daily, 2015-12-15 (003). Page 1.

¹¹See Op. cit. 9, p. 2.

5) To clarify the terms of reference and to coordinate the relationship between prosecutors and assistant prosecutors

Assistant prosecutors are an important human resource to promote the realization of the value goal of the quota system of procuratorial officials. However, in the investigation, it is found that there are some contradictions and conflicts between the assistant prosecutor and the post prosecutor. For example, the division of responsibilities between the post Prosecutor and the Prosecutor Assistant is not clear enough; the legal positioning of the Prosecutor Assistant is not clear enough.

First of all, it should be made clear that the legal position of the assistant of the prosecutor should be “auxiliary professional assistant” and “reserve talent of the prosecutor”. It is the professional assistant of the prosecutor and can only engage in professional auxiliary work.

Secondly, drawing lessons from the procuratorial affairs officer system in Taiwan and Japan, we can find that the clear exercise of functions and powers is the most effective way to settle disputes. They have clearly stipulated the respective terms of reference of prosecutors and procurators, and the boundaries are clear and clear, unlike the vague and intersecting of our country. In this regard, it is necessary to scientifically define the legal position and terms of reference of assistant prosecutors, and issue a clearer list of powers to clearly define their respective terms of reference. The legal work of the case can be divided into three kinds: the substantive legal work (core affairs, the substantive work of determining the conviction and sentencing of the case), the procedural legal work (the procedural legal work around the conviction and sentencing), and other operational work (other work unrelated to the conviction and sentencing of the case). First of all, according to the principle of judicial personal experience, the substantive legal work needs to be handled by the prosecutor personally, and according to the legal position of the professional assistant of the assistant prosecutor, the procedural legal work should be completed by the assistant prosecutor. In the process of dealing with the procedural legal work, assistant prosecutor needs to accept the leadership of the prosecutor. The final other business work, such as archiving, receiving and receiving documents, etc., is done by the clerk. Through the division of procuratorial affairs, in order to divide the scope of duties of prosecutors, assistant prosecutors and so on.

Finally, in terms of responsibility, we should also clearly divide the scope of responsibility between the two. It can also be stipulated that the quality of the case as well as the responsibility shall be shared by the prosecutor and the assistant prosecutor according to the ratio of 7:3 between the prosecutor and the assistant prosecutor (Yang & Wang, 2017),¹² so that the contradiction between the two can be alleviated, and the cooperation between the two can be strengthened.

6) Summary of this chapter

Based on the problems existing in the operation of the post prosecutor system,

¹²See Yang Chunlei, Wang Bin. An Analysis of the relationship between Post Prosecutor and Public Prosecutor Assistant under the background of Judicial Reform [J]. Journal of Jiangnan University (Social Science Edition), 2017, 34 (02): 85-90 ≤ 126. Page 89.

the following five improvement measures are put forward. First, we should improve the way of post establishment, construct the perfect case handling organization. Second, the establishment of a scientific and perfect performance evaluation mechanism for post prosecutors. Third, build a construction of a scientific and reasonable mechanism for the withdrawal of posts. Fourth, improve the career security system. Fifth, clarify the terms of reference and coordinate the relationship between the Prosecutor and the Assistant Prosecutor.

4. Conclusion

In order to promote the establishment of a professional, professional and regular contingent of procuratorial personnel, China has carried out the classified management reform of procuratorial personnel, in which the post system reform is the core. Under the new situation that the reform of judicial responsibility system is carried out deeply, the current situation of the operation of the post system is the research content of this paper. Through the selection of C City J District Procuratorate as the main sample, H City L District Procuratorate and G City B District Procuratorate as auxiliary samples, on the basis of personnel interviews, data collection, field research and other methods, the current situation of post prosecutor system in China is as follows: first, the number of post prosecutors is basically saturated, and post prosecutors are generally highly educated and experienced people. Second, the selection of post prosecutors is carried out in the form of “written examination + assessment”. Thirdly, a dynamic management system is adopted for post prosecutors. Fourth, while carrying out the reform of personnel classification management, the internal organization reform has been carried out at the same time. Fifthly, in the establishment of the case organization, the composition model of one post prosecutor + one prosecutor assistant + one clerk is adopted. After in-depth study of the current situation, it is found that there are the following problems: first, the number of cases is large, and the pressure of post prosecutors in the grass-roots procuratorate is great. Second, the assessment method is not scientific and specific. Third, a complete withdrawal mechanism for post prosecutors has not yet been established. Fourth, the career security of post prosecutors is not perfect. Fifthly, the division of powers and responsibilities between post prosecutors and assistant prosecutors is not clear. Finally, in view of the above problems, put forward the corresponding improvement measures: First, we should improve the way of post establishment, construct the perfect case handling organization. Second, the establishment of a scientific and perfect performance evaluation mechanism for post prosecutors. Third, build a construction of a scientific and reasonable mechanism for the withdrawal of posts. Fourth, improve the career security system. Fifth, clarify the terms of reference and coordinate the relationship between the Prosecutor and the Assistant Prosecutor. It is hoped that it will be able to provide advice and suggestions for the sound operation of the post system reform.

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