The Status and Role of the Primary People's Court in the Judicial Reform Pilot

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Abstract. With the development of society, China's judicial policies have been improving and reforming, in the process of judicial reform, it is necessary to study and investigate the people's courts at all levels, so in order to be more relevant to the reality of justice, it is necessary to carry out pilot work in different courts, primary people's courts are more grassroots, which encountered many problems, for the entire judicial reform also plays a very important role. The problems encountered by the lower people's courts are very important to the overall judicial reform. This paper focuses on the status and role of the lower people's courts in the pilot judicial reform.

Keywords: Primary people's courts; Judicial reform; Status.

1. Introduction

The process of judicial reform cannot be completed overnight; China's judicial reform has been underway for decades, and in the process, its implementation mechanism around the local judiciary for pilot reform has been continuously improved. At present, the judiciary is characterized by a more prominent "top-level design", and although the relationship between the local and the central government has been constantly adjusted, the central government still has a relatively heavy say. In the process of judicial reform, the central government is still in the leading position, but the proportion of each grassroots judicial organ is also quite important, and it needs the accumulation of experience of each judicial organ, so the pilot reform occupies an important position in it.

2. The operational logic of the judicial reform pilot

Piloting is a way that has always existed in the process of national governance in China, and a lot has been achieved in this way. Piloting in the field of judicial reform was mainly carried out after the reform and opening up, and has become a very common model in modern judicial reform. Many scholars do not share the same attitude toward piloting reforms in local courts. Therefore, it is necessary to analyze the logic of the operation of the pilot judicial reform and to study it at a deeper level.

2.1 Central guidance and direction

Since justice has always been a "top-down" structure, central advocacy has played a leading role in the reform process, regulating local pilots. There are two types of central guidance: direct and indirect. For direct advocacy, it is mainly the central government's guidance from the macro level on some matters, putting forward clear direction requirements, and localities need to implement relevant policies according to these clear requirements. Indirect guidance mainly refers to the central government in many places does not put forward a lot of clear requirements, but in the process of judicial pilot can be found in some of the basis. For the present, the policies used in the reform pilot generally have direct documents as a reference, which is the main basis for the implementation of the pilot reform, the local courts have no way to change them at will, and must be implemented in accordance with the relevant documents. For indirect guidance, mainly local courts can spontaneously innovate and explore, but in this process there must not be any deviation from the central policy, and it is mainly necessary to rely on the central policy [1].

2.2 Local experience accumulation and innovation

In the process of judicial reform, one of the principles involved is to insist on encouraging grassroots innovation, which requires the leading role of the central leadership and also requires the grassroots to play a pathfinding role. In this process, appropriate explorations need to be made for different regions and differentiated policies need to be implemented so that the central and local levels can be organically integrated. For the relationship between local courts and the central leadership, it can be said to be complementary, the central leadership can bring certain guidelines, but the local exploration can also bring many benefits to the central government, first of all, its the basis of the central advocacy, through the local practice of the central government can introduce more relevant policies, after all, all the reforms are derived from practice, followed by the accumulation of local experience, can prompt the reform The implementation of the reform. For the local courts, the accumulated experience of their innovation can be divided into two main types, one is the successful experience and the other is the failed experience, but no matter which experience, it provides help for the pilot reform. The successful experience is that in the process of pilot reform and innovation, many of its initiatives are found to be effective and valuable for the grassroots courts. But the experience of failure is that in the process of pilot reform there are some errors, but not all of them can be rejected, they need to be constantly encouraged, and there can be a certain tolerance mechanism, so as to help the possibility of exploration in the local courts afterwards.

2.3 Theory Enhancement and Model Shaping

Want to achieve judicial justice, to ensure that more people can be protected by justice, in this process must be good theoretical basis. For the conduct of judicial reform pilot, in China has gradually matured, in this process, need to raise attention to the theory, after all, with the accumulation of practice, the theory will also be smoother, its can make a summary of the specific experience that emerged in some pilot reform, so that more courts can apply. In the process of refining the theory, the main participants are the decision-making departments of the court system as well as the efficient and research institutes. And as the overall plan has become more mature, it has emerged as more pilots. Even at the stage of spontaneous decentralized reform pilots, local courts pay much attention to theory enhancement in the process of conducting the pilots to provide theoretical support for the spontaneous reform exploration. After theoretical enhancement, it can be made more systematic and modeled, which can provide more knowledge support and foundation [2].

3. The position of the lower courts in the judicial pilot reform

There are many judicial institutions in the country, including high people's courts, intermediate people's courts and primary people's courts, and the roles and responsibilities of different levels are not the same. Compared with other courts, the cases heard by the lower courts are simpler and more trivial, and involve more specific cases and more types of cases, which can provide more realistic sources for judicial reform. Secondly, in the process of auditing cases in the lower courts, because of their larger number, they can assume various wind this case and consequences in the process of piloting, so that the risk can be controlled to a minimum and will not cause larger problems. Contrast this with other courts whose main status is to position themselves as implementers of the reform pilot, with the vast majority of initiatives implemented from the top down in the lower courts. However, from the current analysis of typical cases of reform, it can be seen that at this stage, there will be less autonomous reform and innovation in the lower courts, whose reforms are implemented on the basis of the guidance of the higher courts, and this can be improved later [3].

4. The position of the lower courts in the judicial pilot reform

There are also more types of judicial pilot reforms, not simply only one, which can be divided into three types, namely, spontaneous pilot reforms, guided pilot reforms and participatory pilot reforms.

In different types, their primary people's courts will play different roles in recommending the process of pilot reform.

4.1 The role in spontaneous pilot reforms

In the process of carrying out reforms, spontaneous pilot reforms are mainly those that are attempted on their own initiative based on their own needs in the absence of explicit requests from higher courts. For the primary people's court, the spontaneous pilot reform can have a certain say in the selection of its content and the determination of the program, and be the main executor in the process of reform. For some classical cases, appropriate adjustments can be made, and in the process of spontaneous pilot reform, the primary people's court will be given more tolerance for mistakes, which will also allow the higher courts to see some of the problems and characteristics of the primary people's court and pay more attention to the primary people's court. And it can play a certain exemplary role in the local area, which is all very good for the development of the primary people's court afterwards [4].

4.2 The role in leading pilot reforms

Guided pilot reforms are mainly implemented in the lower people's courts, and rarely in other levels of courts. In any form of pilot reform, the role of the lower people's courts is to practice, after all, they belong to the more grassroots structure of the judiciary, and more problems can be seen in this type of court, and more opinions will be put forward for the subsequent construction. But in this process, the lower people's court must control its innovation, appropriate innovation can be, but because of its both hardware facilities and software facilities there are certain deficiencies, so after the emergence of large changes need to apply to the higher courts. The incentive for innovation in lower courts comes directly from the advocacy of higher courts (especially intermediate courts) or the local governance system at the same level [5]. In the context of the increased control of the higher courts over the primary courts, the deployment and advocacy of the higher courts and the corresponding material, rank or moral incentives become the main drivers for the primary courts to carry out innovative explorations. Therefore, it can be seen that participating in guided pilot reforms is a kind of experience for the primary people's courts, but it can provide certain reform experience for the higher courts and can react to some useful experiences or some problems found in the process of trial and error, which is also beneficial to the subsequent judicial reform.

5. Enhancement of the pilot reform of the Primary People's Court

The lower people's courts may not have as much power as the higher courts, but they are one of the components most closely connected to the people. For many people, when they encounter problems, they will certainly find the lower people's courts first, and will not go directly to the higher courts for help, so it can be seen that the lower people's courts occupy a very large proportion of the people. Many real-life examples emerged from the lower people's courts and were later seen as classic cases. Therefore, there is a need to upgrade the status of the lower people's courts in the pilot reform [6].

5.1 Rationalize the design of its pilot module

From the perspective of institutional changes in China's judicial field, the overall planning of China's judicial reform has been enhanced through successive reform explorations of varying scales, especially from the First Five-Year Plan to the Fifth Five-Year Plan, and the decentralized pilot projects of local courts without overall planning have been limited. In this context, in order to ensure the effective implementation of the pilot reform, it is necessary to clarify the status of the primary people's courts, so that the primary people's courts can occupy a more important position in the pilot judicial reform, and the primary people's courts also need to properly classify the cases, and need to minimize trial and error.

5.2 Further elevating the status of the lower people's courts

Maintaining an effective interface between judicial reform pilots and local governance. In the context of top-down holistic planning of judicial reform tending to strengthen, it is also important not to overlook the need to maintain the interface between judicial reform and the integration of governance led by the local governance system. Judicial reform will have many derivative effects, which will have a significant impact on local governance. Seeking support from local governance systems for court pilots will help maintain the match between the judicial system and the overall governance system. In order to avoid over-response to the requirements of the local governance system and undue interference with trial execution, the response of the primary court pilot to local governance should be elevated to the level of municipal coordination, with communication and coordination between the primary court and the local governance system. In order to relieve undue influence from the municipal governance system, the pilot program determined by the primary court in consultation with the local governance system should be submitted to the high court for record [7].

6. Conclusion

In the process of continuous reform of the judicial system, pilot work must be carried out so that the magnet can really know where the problems lie, and although many problems will appear in the process of piloting, they need to be gradually overcome. Although the lower people's courts are not at a very good level, they also occupy an important position in the pilot reform because of their large number of cases and many types of cases, and many classic cases are from the lower people's courts. In order to ensure the adaptability to the system changes, the pilot is kept in an orderly implementation under the combined effect of top-down design and bottom-up exploration. For the current judicial system is more complex, it is hoped that the lower people's courts can play its role and help share some of its responsibilities appropriately.

References

[1] Zhang Yan. Shenzhen explores the first demonstration path of judicial reform [N]. Shenzhen Special Zone Daily, 2022-09-18(A01).

[2] Pan Yue, Xie Yuxiang, Ning Bo, Liang Shihe. Empowerment of digital intelligence, rule of law business environment construction and business credit financing: empirical evidence from the perspective of "smart courts"[J]. Management World,2022,38(09):194-208.

[3] Chen Chen. The reform of criminal judicial responsibility system from the perspective of post system reform[J]. Law, 2022(08):142-158.

[4] Zhao Yidan. The reform of specialized courts under the vision of legal reservation - the example of railroad transportation court[J]. Economic and Trade Law Review, 2022(04):129-143.

[5] Cong Shan. Exploring the reform of legal practical training courses in colleges and universities under the background of judicial reform--to take mediation law practical training course as an example[J]. New Course Teaching (Electronic Edition),2022(15):178-180.

[6] Li Ke, Hang Chunrui. On the Functional Positioning of Legal Doctrine in the Process of Judicial Reform--A Review of On the Judicial Application of Legal Doctrine [J]. Civil Law,2022,29(01):548-559.

[7] Zhang Weiping, Dai Shucheng. Reflections on the adjustment of the functions of the Supreme People's Court [J]. Study and exploration,2022(06):69-80+194+2.