Work analysis and the future reform of HRM for China’s judicial system: a comparative study from the perspective of post system between China and the US

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Abstract

Purpose – In the context of the current judicial responsibility system in China, under the background of the basic formation of the human resources classification management pattern and the establishment and operation of the new judicial power operation mechanism, how to carry out scientific and reasonable human resources classification, work analysis and systematic reconstruction of judicial human resources is a major problem that must be faced and optimized while directly promoting the reform of the post system, which is also the main purpose of this paper.

Design/methodology/approach – On the basis of summarizing the characteristics of judicial system in China and the United States, this paper will draw lessons from the methods and mechanisms of judicial human resource management (HRM) system in the United States, and further provide research suggestions for the implementation of judicial post system reform in China.

Findings – This paper summarizes the characteristics of the work analysis in judicial system in China and the United States, and finds out the problems and reasons for China’s current judicial system work analysis and post system design via multiple related comparisons.

Research implications – As the most important and difficult part of judicial reform, the post system reform is of great significance to promote the specialization and elitism of judges, improve the quality of case handling, and promote the fairness and justice of each case. Based on the summary of judicial human resource methods and the comparative study on the practice of China and the United States, this paper may be helpful to provide further suggestions for the reform of the post system in China’s judicial system.

Originality/value – This paper summarizes the methods of human resource management in judicial system, especially workload estimation, and focuses on the weighted case volume model of the United States. By comparing the case studies of post system design between China and the United States, this paper provides a scientific method for China’s post system reform in the future.

Key words Post system; weighted case number method; work analysis; workload

Paper type Research report

1. Introduction

The reform of human resources in the judicial system is of great importance in the process of judicial system reform. At this stage, most of the basic reform tasks established by the Central Committee of Chinese Communist Party (CCCP) have been basically completed, and the main framework always called the “four beams and eight pillars” in the public documents has been basically established. In order to consolidate the achievements of the reform, the report of the 19th National People’s Congress of the Communist Party of China (NPCCPC) proposed to deepen the reform of comprehensive supporting measures of the judicial system. The reform of comprehensive supporting measures aims to solve the problems of “which measures are most suitable” and “how to complete the next step”, among which, in order to implement the judicial responsibility system with judicial power as the core, and to support the reform of classified management of judicial human resources and the separation of complicated and simple human resources, the reform process of “building judicial trial teams” for courts has attracted much attention nationwide.

The reform of human resources in the judicial system is necessary for the current judicial system. At
present, with the increase of the number of cases and the shortage of financial budget of judicial departments, how to obtain reliable information and accurately predict the workload and manpower demand of judicial staff has become an urgent problem to be solved. At present, the judicial system is facing the pressure of budget and cost reduction, but on the contrary, the increase in the number of cases to be handled, the increasing workload and the increasing demand for high-quality legal services have brought difficulties to the judiciary. Judicial departments all over the world are carrying out relevant research, looking for approaches to improve work efficiency and staffing to alleviate the pressure of budget shortage. Simultaneously, they are also working on how to effectively predict the workload and demand of judges, prosecutors and other judicial staff.

Compared with the reform enthusiasm of the practical field, the research results of the human resource allocation of the judicial system in the theoretical field are few. The existing research is only a simple description of local experience and practice, lack of theoretical depth, and a series of core issues have not been fully revealed. For example, job analysis and evaluation within the existing judicial system? What factors affect the effective allocation of trial resources in the judicial field? Based on the theoretical analysis and empirical verification, how should the court build the trial team and implement the post system reform? Around the above questions, this paper intends to further promote the research and try to find a tentative answer. First of all, this paper reviews the current situation of judges’ work and their workload. Then, the paper sorts out the methods developed in practice in China and the United States to evaluate the workload of judicial staff in order to predict the demand for human resources, as well as the evaluation conclusion, and introduces the relatively mature weighted case workload assessment method in the United States in detail; secondly, this paper conducts a comparative study combined with the work analysis in China. In this paper, the author makes a comparative analysis of the exploration and practice of different judicial human resources work analysis systems, focusing on the Shanghai courts in China and the Florida courts in the United States, elaborates on the status quo of judicial human resources work analysis, discusses and reflects on the defects in workload evaluation and problems in the evaluation mechanism in detail in present China; finally, this paper will focus on the work score as well. Based on the analysis of the current situation, this paper puts forward the path of the reform of China’s judicial system.

2. The workload evaluation method and HRM of judicial system in present US and China

2.1 Judicial human resource management method — a summary of workload evaluation method

The evaluation and accurate prediction of workload is the basis of job analysis, and can further provide the basis for the prediction of human resources demand. From the perspective of the development trend of prediction methods, more methods take into account the complexity of case types and other factors, and its basic starting point is that generally speaking, the more complex the case, the longer the trial time. By giving higher weight to the cases with higher complexity, the complexity of the case is related to the greater workload demand. There are several methods to evaluate the workload.

2.1.1 Standard analysis method

The normative analysis method mainly evaluates the workload of different positions in the target court by comparing the workload of the target court and the benchmark court under the same post. Normative analysis assumes that “bench-marking court” has the optimal management mode, human resources allocation and organizational structure, and sufficient resources, which is the “optimal practice mode” in the industry at that time. However, due to the different environment, the types of cases and the applicable laws of different district courts, such workload assessment and subsequent human resources demand forecast are usually inaccurate and inefficient.

2.1.2 Regression analysis method

Regression analysis uses the statistical method of regression analysis to predict the workload and human
resources demand according to the correlation between human resources demand and some prediction factors (the number of cases to be handled, the scale of labor force, etc.). By using statistical software and drawing the regression line, the possible human resources demand can be predicted according to the values of known prediction factors. However, this method has obvious limitations, which is mainly reflected in the complexity of the predictors related to court work activities. At the same time, the correlation between them is constantly changing and unpredictable, which violates the assumption that the idle correlation between dependent variables and predictors in regression analysis remains unchanged. Therefore, regression analysis can only be used to describe the general trend of workload and human resources demand changes, and cannot make a detailed and accurate assessment.

2.1.3 Computer modeling method

Computer modeling method is mainly based on complete, accurate and reliable data sources. According to the current practical experience, the quantity and quality of data sources do not support the establishment of reliable models for accurate prediction. Especially when the legislature, the executive and the public do not care or even believe in the rising staff demand of the court, inaccurate evaluation methods will only bring disadvantages to the court when competing with other institutions for limited budget resources (Steven, 2020). At present, the technology is employed more in assisting relevant organizations to obtain accurate information of human resources demand forecast. A court equipped with an advanced case management system can obtain detailed information about the type of case, the key process of case processing, and the factors affecting the complexity of the case and the processing time required. These data can help the staff to make more accurate and reliable assessment and prediction.

2.1.4 Delphi method

Delphi method, also known as expert investigation method, collects the opinions of some experts and forecasts the workload of judicial department staff on this basis. It is generally used as an external effective information source of weighted case quantity method. Delphi method is often used in combination with weighted case quantity method to evaluate workload. When assessing the workload of the judiciary, it is rarely used as an independent assessment tool (NCSC, 2007).

The advantage of Delphi method is to save the cost and time of prediction. Through interviews with some experts (experienced judges, prosecutors and court staff), it understands the steps they need to go through to deal with a certain type of case, the time spent in each step, etc. However, this also brings the limitations of this method: the jurisdiction of these “experts” is limited, their experience may only be applicable to some regions, specific legal environment and conditions, and for specific types of cases, they cannot represent the workload and human resources demand level of the whole judicial system in the whole country. At present, when the courts promote new case processing procedures, Delphi method is often used to predict the trend of future workload and human resources demand due to insufficient available data for evaluation.

2.1.5 Weighted case number method

The weighted case number method is a common method, which can be carried out in two ways: one is to collect the opinions of relevant experts (judges, prosecutors, clerks and other stakeholders in the court system) through Delphi method, and use it as the basis for giving weight to different types of cases. However, this is not convincing for some funding agencies because the analysis results are based on the opinions of some stakeholders, which may lead to inaccurate and unreliable results.

Another more persuasive approach is to actually measure the length and frequency of similar processing activities in dealing with a particular type of case by conducting empirical weighted case studies. The advantage of this approach, if done correctly, is that the results obtained provide a reasonably accurate and comprehensive understanding of the time required by a group of judges, prosecutors or other judicial system staff to deal with specific cases and tasks.
This method can be used to measure the total staff time required for a certain type of case from filing to closing in a specific court, prosecutor’s office or other judicial departments. When collecting data, the number of cases submitted is classified and summarized according to different types of cases, so as to control the difference in the processing time of various cases (e.g., murder, traffic cases, disputes about ranch rights, divorce, etc.). Although the processing time of different types of cases is different, the length of processing time and other information can not be directly seen from the total number of different types of cases. This also makes it difficult to accurately assess the workload and determine staffing requirements. At present, the weighted case number method is undergoing a series of improvements, the focus of which is to shift from the statistics of the number of cases to a more appropriate work measurement.

1. Key elements of weighted case quantity method

   The weighted caseload approach includes two key elements in assessing human resource demand: the average time it takes for a judge, prosecutor or other supporting human resources to process each case until it is closed; and the total time that a particular judge, prosecutor or other staff member can spend on handling cases. In other words, the total time taken by the judge to work (i.e., the total working time of the judge and the other staff required to work) is simply divided by the total working time (i.e., the total working time of all the judges) and other persons required to deal with the case. The calculation formula is as follows:

   \[
   \text{human resources demand} = \frac{\text{average processing time of all cases} \times \text{total number of cases}}{\text{actual working hours of judges, prosecutors and other staff members per year}}
   \]

2. The scope of application of weighted case number method

   The scope of application of the weighted caseload approach is geographical areas where the jurisdiction of the court varies greatly in size, population or case mix, as they provide an objective way to measure the relative needs of judges and court support human resources, taking into account differences. It is important to consider these differences when assessing the number of judges and other judicial positions required in different locations. For example, in urban and rural jurisdictions, the time available to process cases may vary greatly. Higher caseload in urban areas usually improves expertise and more effective processing capacity in these areas; judges or prosecutors in rural jurisdictions may spend more time each day in administrative work and in the venue of hearings, which makes their work different from their urban counterparts.

3. The limitation of weighted case number method

   Although the weighted case method has obvious value, it still needs to consider some limitations. First, the data collection of these studies is cumbersome and expensive. A large amount of information must be gathered from the courts, the prosecutor’s office and other judicial system agencies to determine the steps and time required to deal with key activities in specific types of cases. All employees are required to keep time logs and must be regularly monitored to ensure that the correct information is input. Moreover, the weighted case quantity method is not sufficient for weighing the case weight, because it represents the time required to process the case, rather than the cost of related work (Lord Chancellor’s Department, 2000), that is, to a certain extent, it has not fully considered the complexity of the actual case. The complexity of cases is often driven by other factors, such as the need for expert advice, or the number, type and location of offenders, victims and witnesses. Although the results of a good weighted case number study provide a measure of human resource demand in each jurisdiction, the current methodology needs to be further refined while case complexity or other workload indicators are higher or lower than those of the average ones.

2.2 Summary of judicial human resource management in China

   Judicial human resource management in China is based on the red line of post system. In order to achieve the preset goal of the post system quickly and prevent the blindness and disorder of the pilot projects in various regions, the reform of the post system has set up a binding and rigid index. According to the opinions on Relevant Issues in the pilot reform of the judicial system issued by the central political
and Legal Commission, it states: "to promote the reform of the number of judges and judge assistants, we should strictly control the number of posts, and control it below 39% of the special establishment of the central political and legal system." It can be seen that the central government has set the upper limit for the reform of the post system. The primary task of the reform is to reduce the number of judges who account for 58% of the total number of court human resources in the country to less than 39% of the total number of the central government’s special administrative and legal human resources. Under the red line, how to transfer and add the number of judges in the existing courts is a problem that the post system reform must face, and it is also the object of judicial human resource management.

Throughout the distribution of human resources in the judicial system, the establishment mode of judicial team first reflects the combination of judicial human resources with different positions and the application of human resource management methods. Article 4 of the Opinions of the Supreme People’s Court on Further Comprehensively Implementing the Judicial Responsibility System in 2018 stipulates: “The grassroots people’s courts shall, according to the number of cases, the types of cases, the degree of difficulty and the human resources structure and other factors, apply the different needs of the single appointment system and collegiate system, comprehensively consider the complexity and simplification of cases and division of labor of trial specialization, and flexibly establish trial teams according to local conditions.” According to the opinion and the needs of the court’s trial work, thus the local courts set up their own distinctive trial team mode.

### 2.2.1 The establishment mode is guided by the allocation of judges and auxiliary judicial human resources

The “1 + 1” judge assistant is composed of one judge clerk. When the collegiate bench is formed, it is carried out according to the rules of collegial panel composition. The collegial panel formed under this mode is actually equivalent to the combination of three trial teams. The second is “1 + N + n” mode, which consists of one judge, several assistant judges and several clerks. The number of assistant judges and clerks depends on the number of cases or complexity. This mode is mainly applied to the grassroots courts in Zhejiang, Jiangsu and Guangdong (Zhao, 2018). With sufficient auxiliary judicial human resources, this mode is conducive to the rapid processing of simple cases, especially quick judgment cases and small claims cases. The third is the “3 + 3 + n” mode, which consists of three judges, three assistant judges and N clerks. This model is suitable for the court with a large number of assistant judges, and there is a fixed collocation between the assistant judges and the judges. More representative are the “3 + 3 + 2” mode of Beijing Second Intermediate Court and the “3 + 3 + 4” mode established by Shenzhen Futian District Court (Guo, 2016).

### 2.2.2 The establishment mode is guided by the relationship between the trial team and the trial court

One is the inclusion model, that is, embedding multiple trial teams in the trial court. Its advantage is that the trial team is embedded in the trial court, which is convenient for unified management. However, the defects are also obvious. The trial team is subordinate to the trial business court, and the same case needs to go through multiple subjects and multiple levels of composite evaluation within the court to form the final judgment opinion (MA, 2016). The other is alternative mode, that is, trial team replaces trial court. For example, the Court of Hengqin New District of Zhuhai Municipality completely abolished the trial court, established the trial team of the chief judge, simplified the internal institutions, and established two comprehensive departments, namely, the judicial and administrative office and the judicial affairs office, so as to realize the separation of judicial power and judicial administration power. Compared with the inclusion model, the advantage of the alternative model is that the trial team enjoys independent trial management rights.

### 2.2.3 The establishment mode is guided by the trial organization structure

One is the independent appointment system. This mode is generally applicable to the grass-roots courts.
It is responsible for the overall trial process in the form of independent appointment system. A chief judge leads a number of auxiliary judicial human resources including judge assistants, clerks, judicial police, etc. The second is the collegiate bench model. The model is a fixed collegiate panel team based on the collegiate bench and centered on multiple judges. The advantage of the independent appointment system is that it can avoid the interest assimilation caused by the consolidation of collegiate panel members, and can promote the collegial panel to reach consensus. However, the temporary formation of a collegial panel by the court can not avoid the conflict of resource allocation in the link of scheduling, human resources composition, collegial voting, etc., and the same judge’s participation in multiple collegiate panels at the same time is likely to lead to the decrease of trial efficiency.

Therefore, under the restriction of the red line regarding posts, the allocation of human resources in China’s judicial system embodies localization and characteristics. According to their own judicial needs and existing judicial human resources, the local courts have carried out a pilot model of adjusting measures to local conditions and reorganized the judicial trial team. However, in this process, it has never been possible to achieve a unified, wide coverage and experienced national model, which may be due to the following reasons: first, the human resource management method has been applied to the judicial system for a short time and lack of experience, and the mode implemented in various regions is still in the pilot state; second, the workload measurement of judicial human resources nationwide takes a long time, and the steps are trivial. According to the huge cost, it is difficult to implement. However, the calculation and allocation of judicial resources in the whole country is of great importance and necessity to maximize the allocation of resources. Based on this, this paper will learn from the judicial human resource management methods of the United States to provide reference for China’s post system reform.

“After the full implementation of the post system and judicial responsibility system in 2014, the court began to start the real human resources classification management, and the court assistant, as an important auxiliary judge, began to be regarded as an important force to ensure the independent trial of the appointed judges” (Chen, 2018). The experience of local post system reform also shows that the implementation of judge post system depends on the reasonable construction and sound operation of the trial team (Ge, 2018). The establishment of the trial team is closely related to the reform of the post system, which is the basic unit of the court’s judicial organs. Its reform trend is to meet the requirements of “de-administration” and “flattening” of the judicial system reform, realize the simplification and integration of the internal organs of the court, and gradually change the management method from “rigid centralization” to “flexible decentralization”. Based on this, selecting appropriate modes to set up the trial team and how to scientifically and reasonably classify and allocate judicial human resources are the key issues discussed in this paper.

2.3 Summary of judicial human resource management in the United States

In the United States, the system of judges’ posts is calculated in detail. For a long time, the United States has been committed to the study of methods for accurately assessing workload and predicting human resources demand, and it is also a frontier country in the development of weighted caseload method. Weighted case studies are studies that assess the time required by judges and other staff by weighing the complexity and other special needs of different types of cases. Today, these studies are mature in the United States, and their origins can be traced back to the mid-1970s, and a wealth of American research databases and other information related to such studies can be found. The Federal Judicial Center of the United States has spent more than 60 years in summing up and exploring “how many judges are needed in the court” before finally adopting the workload measurement algorithm, case weight, which is the most fundamental and common method for the United States to calculate the judge posts.

Specifically, the case weight method is regarded as “a systematic redistribution mechanism to measure the workload of judges and the actual workload of judges”. By testing the demand for trial workload of different types of cases, the workload of judges is calculated to determine the number of judges needed,
By setting a reasonable weight coefficient of cases, the weight of enforcement cases and property preservation cases are flexibly set, etc. For cases with little difference in workload, such as inadmissibility and pre-litigation preservation, the floating coefficient is increased on the basis of the basic coefficient; for the cases that do not involve counterclaim, audit appraisal and evaluation, and extended work involving a small number of cases, the floating coefficient is increased on the basis of the basic coefficient; for the cases that do not have the above four elements, such as inadmissibility and pre-litigation preservation, or the summary procedure cases in which the defendant pleads guilty, etc. For cases with little difference in workload, a fixed coefficient is set; the weights of enforcement cases and property preservation cases are flexibly set according to the specific workload in case handling. By setting a reasonable weight coefficient of cases, Shanghai courts provide an important reference for the scientific determination of the actual workload of judges and assistant judges in the court can be adjusted and supplemented, so as to build a scientific and reasonable trial team.

3. A comparative study of the judicial system between China and the United States

3.1 China: an empirical study on the work of courts in Shanghai

Shanghai court initiated the case weight coefficient to measure the workload of judges. In order to improve the judge work analysis system and overcome the drawbacks of courts’ adopting unified standard judgment for different causes of cases and different types of cases, only calculating the number and ignoring the distinction of complexity and simplicity in the actual handling of cases, the Shanghai Higher People’s court completed the special topic of “case weight coefficient of people’s court” in 2015, and has applied the results to the judicial reform pilot. The evaluation and calculation of the actual workload of judges in the process. Case weight refers to the relative complexity of the trial of a certain type of case in all cases. Shanghai court adopts the “2 + 4” mode to calculate the case weight coefficient. That is, on the basis of the cause of action and the trial procedure, and based on the four elements of the trial time, the number of written records, the trial days and the number of words in the legal documents, the paper compares the proportion of the four elements in the trial of different types of cases with those in all cases, so as to distinguish the applicable coefficient of different types of cases. In addition, three kinds of special circumstances are taken into account: for the increase of the workload of civil suit collateral criminal proceedings, counterclaim, audit appraisal and evaluation, and extended work involving a small number of cases, the floating coefficient is increased on the basis of the basic coefficient; for the cases that do not have the above four elements, such as inadmissibility and pre-litigation preservation, or the summary procedure cases in which the defendant pleads guilty, etc. For cases with little difference in workload, a fixed coefficient is set; the weights of enforcement cases and property preservation cases are flexibly set according to the specific workload in case handling. By setting a reasonable weight coefficient of cases, Shanghai courts provide an important reference for the scientific determination of the actual workload of
After that, mainly including, the study also conducted field visits to eight circuit courts, mainly including time adequacy survey for all judges of the court of first instance, the development of relevant qualitative adjustment meetings and the comprehensive discussion on workload research methods.

### 3.2 The United States: a case study of judges and related human resources in Florida courts

In 2014, under the leadership of the Florida high court, the national court authority, namely OSCA, and the trial court enforcement and accountability committee and the court statistics and workload committee, namely CSL, conducted a judicial workload study to review and update the trial court case weights used in the judicial certification process. To take the study closer, OSCA has also signed contracts with the National Centers of State Courts (NCSC), which are recognized domestically and internationally for their professionalism, to assist in the assessment of judicial workload. The workload study was guided by an executive committee of 41 judges representing various judicial lines. The time study (quantitative component) conducted in October, 2015 involved all county court and circuit court judges and all quasi judicial officials. After that, the study also conducted field visits to eight circuit courts, mainly including time adequacy survey for all judges of the court of first instance, the development of relevant qualitative adjustment meetings and the comprehensive discussion on workload research methods.

<table>
<thead>
<tr>
<th>Evaluation subject</th>
<th>Judge assessment committee</th>
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<tr>
<td>Evaluation content</td>
<td>Trial workload, trial quality and effect, and completion of trial tasks</td>
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<tr>
<td>Evaluation index</td>
<td>(1) The qualitative evaluation includes moral, ability, diligence and honesty; (2) The content of quantitative evaluation mainly includes pre-trial situation, trial efficiency, trial quality and other working conditions; (1) The “2 + 4” mode is adopted, which is based on the cause of action and the trial procedure, and the calculation basis is the court hearing time, the number of written records, the trial days and the number of words in legal documents to distinguish the weight coefficient of different types of cases. (2) For the cases that the workload of civil suit collateral to criminal proceedings, counterclaim, audit appraisal and evaluation, and extended work involving a small number of cases, the floating coefficient should be increased on the basis of the basic coefficient. (3) For the cases that do not have the above four elements, such as inadmissibility, pre—litigation preservation, or the summary procedure cases where the defendant pleads guilty, the fixed coefficient is set.</td>
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<tr>
<td>Weight coefficient</td>
<td>According to the weight coefficient, determine the workload score of each case. The sum of the scores is the trial workload.</td>
</tr>
<tr>
<td>Calculation of workload</td>
<td>The comprehensive qualitative evaluation and quantitative evaluation of the judge evaluation committee shall be determined.</td>
</tr>
<tr>
<td>Generation of evaluation results</td>
<td>The evaluation results shall be publicized within the whole hospital for one week. During the publicity period, the object to be evaluated can apply for reconsideration of the objection part, and the evaluation office shall be responsible for the reconsideration.</td>
</tr>
<tr>
<td>Publicity and objection</td>
<td>It can effectively link up with the mechanism of judge selection and promotion, disciplinary withdrawal, etc., as the basis for judges’ reward, punishment, training, selection, promotion and promotion of judges.</td>
</tr>
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| Table 1. Work analysis and workload calculation system of a district court judge in Shanghai |
3.2.1 Two stages

Workload assessment is divided into two stages: time study and quality adjustment process. To this end, Florida conducted a one month time study (Florida Judicial Workload Assessment Final Report, 2016), requiring the participation of all circuit court judges, county court judges, senior judges, magistrates, child rearing law enforcement hearing officers and civil traffic violation hearing officers, recording the actual time spent by judges on case and non-case related activities every day, including night and weekend work related to signing authorization. And the time spent as the trial judge in the first instance of criminal cases and the trial of juvenile delinquency and juvenile violence. 582 circuit court judges and 309 county court judges participated in the time study, with a participation rate of 97%. In addition, 83 senior judges, 118 magistrates and 150 hearing officers tracked their working hours, with a participation rate of 96%.

(1) Time study: the cost of handling different types of cases

The adequacy of the time study aims to obtain feedback from judges on the current treatment. In particular, in some types of cases, judges need to perform specific tasks. Therefore, the allocation of more working time will help to improve the quality of cases. 51% of circuit court judges and 47% of county court judges participated in the survey. As stated in the final workload study, the judges identified a number of types of cases that could benefit from increased working hours to improve the quality of trials.

In criminal cases tried by circuit courts, spending more time on pretrial motions and trial process can improve the quality of justice. In civil cases, circuit judges generally choose the decisive pretrial motion, including holding hearings, pretrial and arranging meetings. In family related cases, circuit court judges said that the quality of cases would also be improved if more time was spent on trials and final trials, as well as preparation of investigation results and trial related statutes and amendments. At the same time, they need to invest more time in legal research.

The second key step in workload assessment, the qualitative adjustment process, aims to ensure that the final case weight provides sufficient working time for an efficient case processing process. The qualitative adjustment process includes: state-wide time adequacy investigation, requiring judges to know the time available for handling various case-related and non-case related work; and JNAC (Judicial Needs Assessment Committee) The chairman of JNAC, NCSC and OSCA staff conducted field visits to eight judicial lines, and a panel of issue experts composed of experienced judges from all over Florida conducted a structured quality review of case weights. Qualitative adjustment records "what should be", which is a very important step in workload research.

(2) Quality adjustment -- feedback from site visit

Another element of the quality adjustment process includes on-site visits to multiple circuit courts. In December 2015, the chairman of JNAC and the staff of NCSC and OSCA visited eight judicial lines to obtain immediate feedback on the influencing factors encountered by judges in handling cases. The sample interviewed included small, medium, large and super large courts. This includes the jurisdiction of a single county (for example, the seventeenth judicial circuit court) and the jurisdiction of multiple counties (for example, the fourteenth judicial circuit court). During the field trip, the staff conducted structured interviews with the chief justice, the administrator of the trial court and judges at all levels of the court. The interview process enables staff to record issues about the case processing process and judicial procedures, and to learn through feedback what resource constraints affect the case processing process.

Several key themes emerged during the visit, including the importance of legal research staff, lawyers and managers involved in the case processing process, as well as repeated investigations and assessments of the issue that many cases have become more complex. First, staff and lawyers are necessary resources for effective case handling. Other basic tasks of court staff and lawyers recorded in the workload report include: post-conviction relief motions, drafting orders, studying legal issues related to motions, supervising filing procedures in probate and guardianship cases, and acting as “gatekeepers” to prevent unilateral communication; and second, there is a gap in the demand for assistant judges. This observation is consistent with what has been described in legislative budget applications in the past few years, so the final report records the need to provide funding support for additional case managers in the request; and thirdly, the complexity of the cases has increased. Circuit judges and county court judges have pointed out that the complexity of the case is a challenge for them. In the county court, the amount of insurance cases
is more. These cases usually require legal research and are compared with circuit related cases in terms of complexity.

(3) Quality adjustment — Delphi Conference

In addition to the adequacy of time surveys and field visits, circuit court judges and county court judges held a series of Delphi method meetings in February 2016. Eight team representatives from different lines reviewed the workload of different lines and adjusted the weight of basic cases. A total of 65 experienced judges (with more than three years of judicial experience) participated. These groups focus on specific court activities, including civil, criminal, family and juvenile delinquency, probate, county criminal and county civil cases. Among them, an overview of the process used to create the preliminary weights and a review of the adequacy of the time survey were provided by NCSC staff. Each team participated in the process of systematic review of preliminary case weights using the improved Delphi method.

For example, the cost of adjusting the court’s order is to improve the degree of fairness of the court’s order, and to ensure that the degree of fairness of the court’s review will increase, for example. For specific family and civil cases, the meeting recommended that the time spent on pretrial case management be increased, on the grounds that the time spent at the beginning of the case would lead to earlier processing in some cases, which would help to reduce the proportion of final trials of such cases. As stated in the final workload report, “it is recommended that additional time be allocated to assess the needs of children and families for legal services and resources, that sufficient time should be allocated for self-represented litigants to understand the legal process and to write more detailed findings and orders to address all statutory requirements. In criminal cases, the panel recommends that more time be spent on legal research. The county court’s panel on issues suggests that legal research and writing time should be increased in criminal cases, complex insurance cases, criminal traffic cases involving serious bodily injury or death, and post sentencing motions related to deportation cases.

3.2.2 Construction of weighted case volume model

JNAC met on March 3, 2016 to review the entire workload study process, including key findings and recommendations. In the weighted case volume model, there are three factors that help to calculate the judicial demand: the number of cases filed, the weight of cases and the actual annual working hours of judges. JNAC adopts the annual actual working hours of judges as 215 days, that is, the working days available to judges each year, excluding weekends, holidays, holidays and sick leave. According to NCSC data, judges in the other 25 states can work 200 to 226 days a year. The 215 day annual actual working time of Florida judges is the median of the 25 states where judicial workload assessments are conducted. JNAC also uses the judge’s day value, which represents the time each judge can spend on case related work in each working day. The total daily working hours of circuit court judges are eight and a half hours, including six hours of case related work, one and a half hours of non case related work, including administrative and transportation time, and one hour lunch. The total daily working hours of county court judges are 8.5 hours, including 5 hours of case related work, 1 hour of case related work of circuit court, 1.5 hour of non case related work and one hour of lunch.

JNAC has adopted the NCSC’s new recommendations, which were not previously used by the courts to assess the workload of the trial courts, including the time taken by the chief justice to adjust administrative matters and the time spent by county court judges on canvassing committees in County Elections. JNAC also accepted all quality adjustments to the weight of basic cases. As stated in the final workload report, “overall, the adjustment of the Delphi method’s subject matter expert group resulted in an increase of about 2% in the total judicial workload of the county courts of each judicial line.”

JNAC has adopted a new method of assessing the workload of judges recommended by NCSC to verify when a judicial line or county court is eligible for the new number of judges. As discussed in the final workload report, “to provide a common standard for jurisdictions of different sizes and to assist in the allocation of corresponding judicial resources to those with the greatest relevant needs, a majority of members in JNAC voted to adopt the following rules:

(1) In any court where the ratio of judicial needs to existing posts is greater than 1.10:1, additional judicial posts should be allocated to bring the ratio below 1.10.
In addition to the requirements of judicial system reform, the defects of judicial posts should be reduced until the ratio is higher than 0.90, unless the reduction of redundant posts would result in a ratio higher than 1.10:1.

In addition to the new workload thresholds, JNAC has adopted the recommendations of a secondary analysis to identify other workload factors that may affect judicial workload in counties or circuit judicial lines. At present, several other factors are listed in Florida’s judicial administrative regulations, such as jury trials, foreign language interpretation, and the geographical size of judicial lines. In addition to those currently cited in the rules, JNAC proposes to consider other factors, such as prosecutors and law enforcement practice, the location of correctional institutions, hospitals, universities, the quality and scope of judicial technology, and changes in the judicial workload associated with electoral canvassing committees.

Judicial workload studies are important not only for documenting the work of trial court judges, but also for obtaining contributions from senior judges and quasi judicial officials such as magistrates, child support law enforcement hearing officers and civil traffic violation hearing officers. All of these teams participated in the time study, with a total participation rate of 96%. The work of these quasi judicial human resources is crucial to the overall management of the court’s workload. The Florida workload study and its data provide important information on the appointment of quasi judicial officials and their contribution to the judicial workload. With the establishment of workload staffing model, its valuable value will become increasingly prominent in the next few years.

3.2.3 Conclusion

The Florida study provides a quantitative and qualitative assessment of the judicial workload of the court of first instance. Using the new case weights developed in the judicial workload study, as well as the application of other factors identified in Florida’s judicial administrative regulations, it demonstrates that another 12 trial court judges, including four circuit court judges and eight county court judges, are required in Florida. With the help of staff from NCSC, Florida’s Court of first instance has been assessing judicial workload for the past 18 months. This is a broad effort involving more than 900 court of first instance judges from all 20 judicial lines. In terms of quantitative and qualitative research on the evaluation of judicial workload, the contents include:

1. To appoint an executive committee composed of 41 judges of the court of first instance, with two representatives from each judicial circuit court;
2. The participation rate of one month study was 97%;
3. Conduct average time surveys;
4. On the spot investigation of 8 judicial lines;
5. Qualitative adjustment procedures involving 65 experienced judges;
6. Final review and approval of the adjusted case weights and other recommendations, such as higher and more conservative thresholds for new judges.

Workload research is a large-scale judicial work. This time study and judge workload survey in Florida is a successful practice and application of weighted case workload assessment method in specific geographical area, legal environment, case type and other conditions. Although it takes a long time and requires large-scale investigators and respondents, it is accurate and has strong reference value for the study of workload and case type of judges and related staff of circuit court and county court.

4. Reflection on the working analysis mechanism and post system design of China’s current judicial system

At present, with the promotion of the judicial system reform, especially the implementation of the judge post system, the courts at all levels are also carrying out positive practice in the system reconstruction of judge work analysis. In addition to the requirements of judicial system reform, the defects
and deficiencies in the operation of the current system are also the key factors. Through the Shanghai court system, the work analysis plays an important role in regulating and encouraging the judicial behavior of judges, improving the quality and efficiency of case trial, promoting judicial justice, and enhancing the judicial credibility. However, there are also many problems in the actual operation.

4.1 There is a clear proportion, with a not high accuracy

The outline of the fourth five year reform of the people’s court puts forward that “the post of judges of the fourth level court should be determined scientifically in combination with the trial level function of the court”. At present, China’s judicial resources are scarce and unbalanced, and the imbalance between supply and demand of judicial resources constantly stimulates the reform of the current court organization system. Affected by many factors, such as the function orientation, the amount of cases, the structure of human resources allocation, the quality of judicial resources and so on, each level of court has its own characteristics in the way of establishing the trial team and the efficiency of the allocation of judicial resources. However, as a means of macro-control, the red line of post proportion has established a clear proportion “forbidden zone” for each province. However, it has not made precise classification and restriction for courts at different levels of trial, nor has it differentiated according to the functional allocation and operation mode of courts at all levels. Therefore, it is impossible to mention the details of the planning, allocation, use, evaluation, management and supervision of judges’ posts. For reference. In practice, in order to reduce reform resistance and cater to reform interest groups, some courts choose to expand the proportion of posts as much as possible under the premise of not breaking through the red line of proportion, which fails to achieve the effect of optimizing the allocation of current judicial human resources; in some places, the post planning of some courts is not clear, and the reserved post space is slightly random. It can be seen that, under the red line of post proportion, the accuracy of post allocation of courts at all levels is not high, and the connection with the actual judicial needs is not close enough (Wang, 2019).

4.2 There are human resources but not perfect classifications

The original intention of building the judge post system is to make the judges get rid of the shackles of general affairs by defining the judge group, and focus more energy on the factual evidence and the judgment of the merits and wrongs. The ultimate goal is to promote the establishment of a court human resources allocation mode with judges as the center and serving the trial as the focus. China has broken the traditional “integration” mode of court human resources, and made clear the “three-part reform” of court human resources, that is, let judges concentrate on trial work, judicial auxiliary human resources and administrative human resources are responsible for auxiliary affairs. There are different types of functions, but in terms of system design, there are still general provisions on the management of judges’ posts. The judicial work of judges and administrative affairs have not been completely separated, and there is still a gap between the construction of a separate job sequence in line with professional characteristics. In most areas, the qualification conditions, setting proportion, work orientation, responsibility and authority of judges’ assistants and clerks are not clear. In some places, there are even problems such as overlapping functions of judges’ assistants and clerks, and mixed posts. To some extent, the career prospects of judges’ assistants are not clear and attractive, the promotion channels of clerks are closed, and the staff turnover is serious (Wang, 2019).

4.3 There are human resources matching, with the limited formation of trial team

From the top-level design of the system, the post system reform is more inclined to balance the proportion of human resources structure, that is, the total staffing limit of the original court human resources is changed to the proportion constraint of judges, judicial auxiliary human resources and administrative human resources, which are respectively framed in a certain external proportion structure. In the process of pilot reform, the post judges are in a relatively stable trial team, and the trial team itself will form an internal matching requirement for post judges, judge assistants and clerks. This “double
matching” of internal and external is not only the key step of this judicial reform, but also the key factor affecting the quality and efficiency of the reform of the post system of judges (Wang, 2019). However, from the pilot situation, in order to achieve the external proportion of the human resources structure, some courts ignored the internal proportion of the trial team; in some courts, there was a phenomenon of “upside down” in the ratio of judges and auxiliary human resources, and did not form a court human resources allocation mode centered on the judges handling the case. Especially in the courts with prominent contradictions between people and cases, there is a large gap of clerks. As a result, the formation of this new trial team is limited.

5. Reform approach: post system reform of China’s judicial system

5.1 Clearness of the objective of judge’s work analysis

The clear goal of analysis is to solve the problem of “why analysis”. Under the background of the reform of judicial responsibility system, the design of judge work analysis system, which reflects the judicial management function of the court, should have clear goal guidance, and should discuss the goal of judge work analysis system from two aspects. First, from the macro perspective, from the perspective of judicial law and judicial responsibility system reform, the judge work analysis system should reflect the ultimate goal guidance and value orientation of judicial independence, fairness and justice. The independent exercise (operation) of judicial power is the most fundamental and universal judicial law. In the discussion of judicial human resources work analysis system, one of the main reasons why the current work analysis system has been criticized and complained about is that it is contrary to the judicial law because of its “administrative color”, which violates the judicial independence. The key to the reform of the judicial responsibility system is to improve the responsibility system of the trial judge and collegiate panel, and realize the new trial power operation mechanism of “let the judge judge judge and the judge be responsible”. The reconstruction of the judge work analysis system should be from the macro level of system design, in line with the requirements of judicial responsibility system reform and judicial law, change the “administrative” color of the previous evaluation mode, and build a work analysis model that is in line with the professional characteristics of judges in addition to the traditional civil servants’ assessment; the second level, from the perspective of the practice of judges’ law enforcement and handling cases, judges’ work is divided into two parts. Analysis of the system should reflect the basic goal of judicial justice that guides and encourages judges to “handle more cases and handle better cases”. Since the 18th National People’s Congress of the Communist Party of China, the judicial organs have made a series of reforms to innovate the system and mechanism, so that judicial justice can be reflected in every specific case. The report of the 19th National People’s Congress of the Communist Party of China once again mentioned that “efforts should be made to let the people feel fairness and justice in every judicial case”. Judicial justice is the most basic requirement for judges to enforce the law and handle cases. How to ensure the quality and efficiency of the judge is the key to judicial justice. Therefore, the reconstruction of judge work analysis system should establish the goal guidance of guiding and encouraging judges to handle more cases and handle cases well.

5.2 Reasonable determination of the content of judicial system work analysis

The determination of the content of judicial system work analysis involves two aspects: one is the content of work analysis; the other is how to determine the weight of each part in the analysis and evaluation. In order to ensure the authenticity and effectiveness of the evaluation results, the evaluation of judges should include both subjective and objective aspects. According to the law on judges, the assessment contents of judges include: judicial work performance, ideological and moral character, judicial business and legal theory level, work attitude and trial style, that is, one is directly related to the judge’s trial work, and truly reflects the judge’s work performance and ability; the other is to reflect the judge’s work to a certain extent. Practical performance, but there is no essential difference between the common content and the assessment requirements of general civil servants, including work attitude and style.
The second aspect of determining the content of judge’s work analysis is to determine the weight of each part of the evaluation content. The analysis of judge’s work mainly focuses on the actual performance of the trial work, and the part reflecting the actual performance of the trial work should occupy the proportion of absolute superiority. As for the respective weight of workload and trial quality and effect, we do not tend to adopt the same weight ratio between different courts, especially the courts in different regions, but should be reasonably determined according to the actual situation in different regions.

5.3 Scientific accounting of judges’ workload

The workload of judges is not only related to the dynamic adjustment of judges’ posts, but also to the setting of division mechanism. It is also a quantitative expression of judges’ actual work. One of the phenomena found in the investigation is that the situation of uneven busy and idle among judges is relatively common. In addition to the differences in professional level, case handling ability and the number of non trial tasks among judges, the most crucial point is that the workload of judges can be judged by the number of cases instead of considering the difficulty and complexity in the actual process of handling different cases.

As for the accounting of the workload of judges, the first thing we should make clear is which tasks should be included in the workload of judges. Generally speaking, the tasks undertaken by judges can be divided into trial tasks and non trial tasks. Among them, the trial task can be divided into the workload of undertaking cases, the workload of participating in collegiate discussion, the workload of serving as the chief judge and other workload related to the trial, such as the workload of participating in the meeting of judges and the workload of participating in the judicial committee. Theoretically speaking, whether it is a trial task or a non trial task, as long as the judge is performing his duties, it should be counted as the workload of the judge. However, in terms of the significance of workload in terms of the allocation of judges’ posts and guiding the division of cases, the “workload” discussed here tends to be limited to the workload related to the handling of specific cases, the workload of participating in the collegial discussion and the workload of serving as the chief judge, which we call “case handling capacity”. The other trial tasks and non trial tasks undertaken by judges can be evaluated by setting “comprehensive work” indicators.

The second problem is how to scientifically measure the “workload” of judges, that is, the “amount of handling cases”. The amount of cases handled by judges varies with the number of cases handled and the difficulty and simplicity of cases. Therefore, the calculation of the amount of cases handled by judges should be returned to the specific cases handled by the judges. Based on the number of cases completed, the factors that can reflect the complexity and difficulty of cases, such as litigation procedures, case categories, trial and enforcement links, should be taken into account, according to a certain weight coefficient standard. It is subject to conversion. For this, we can use the weighted case volume model of American judicial system for reference, and conduct scientific accounting for the estimation of the demand of judges. Through the quantitative and qualitative evaluation of the judicial workload of the court of first instance in the United States, a weighted case volume model is constructed. The number of judges, the composition of judges and the boundary of judicial circuit are scientifically and effectively adjusted by using the new case weight formulated in the judicial workload research and other factors determined in the judicial administrative regulations of each state. Further understanding of the weighted case number method can provide reference for China’s post system reform.

Therefore, in the determination of case weight coefficient, we do not tend to adopt the same standard in different courts, but on the basis of relevant successful experience, grasp several major principles to determine the standard of case weight coefficient suitable for the actual situation of each court. One is to deal with the relationship between common elements and personality elements. The cases accepted by the court mainly distinguish the types of cases according to the case number and the case origin. The cases of the same type and the same cause of action have strong common elements, which should be taken as the basis for determining the weight coefficient of the case. At the same time, the increase of the number of parties and the link of trial and execution will also lead to the increase of the workload of judges, which should also be determined as the influencing factors of the weight coefficient of cases. The second is to deal with the relationship between different levels of trial and different procedures. For cases with the same
cause of action, due to the different trial levels, the applicable legal procedures are also different, and the workload in the trial is quite different. When determining the weight coefficient, it is necessary to screen the trial level and applicable procedures of the case. The third is to deal with the relationship between feasibility and science. In order to realize the quantification of various types of cases, it is necessary to determine the relatively common and feasible standard of case weight coefficient by collecting the information of the elements that affect the workload of handling cases, such as litigation procedure, case type, trial and execution, etc. in the case information management system. It has a certain impact on the workload of handling cases, but the factors with great statistical difficulty and poor execution are not included in the standard of case weight coefficient.

5.4 Reasonable selection of quality and effect indicators of cases

Using the work analysis index of the United States for reference, we can reasonably select the quality and efficiency indicators of cases. First, the selection of quality and efficiency indicators should reflect the goal of maintaining fairness and justice and guiding and encouraging judges to "handle cases well". Therefore, it is necessary to take into account the quality, efficiency and effect of handling cases. Second, there are differences in the types of cases and trial procedures of different courts, so the selection of quality and effect of cases should not be the same, and the selection should be targeted according to the actual situation. Third, in the same court, different types of business such as criminal, civil and administrative affairs are different, and the indicators of case handling quality, efficiency and effect are quite different. The cases of the same business type also have great differences due to different causes of cases. Therefore, it is appropriate to set different quality and efficiency indicators for different business types.

6. Conclusion

The introduction of human resource management method into the evaluation system of judicial system can promote the reform of post system in China. This paper focuses on the work content of judicial human resources in the judicial system. Taking the typical courts in China and the United States as examples, this paper systematically and deeply explores the work analysis of the judicial system, and evaluates its performance. It compares the differences between the two countries in the evaluation method of judge workload, the allocation of judicial resources and the establishment of judicial team, and further summarizes the work analysis of the judicial system. This paper reflects on the shortcomings and difficulties in the process of deepening the reform of the post system in China, and provides references for China via the judicial human resource management mechanism in the United States.

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