

SHENHUA SHENPAN GUANLI

深化审判管理

孙海龙 / 编著



人民法院出版社

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深化审判管理的理论、制度与实践 (代序)

审判管理是一个历久弥新的话题，在中国的司法进程中曾经承载着司法权及司法机关凤凰涅槃的新希望。在新的历史时期，人民法院在学习贯彻党的十八大精神、习近平总书记关于法治建设重要论述和《中共中央关于全面深化改革若干重大问题的决定》，实现“让人民群众在每一个司法案件中都感受到公平正义”工作目标过程中，深化审判管理对落实司法为民、确保公正司法、提升司法公信力仍然具有基础性的重要意义。

规划未来，首先需要回顾历史。审判管理可谓自古有之，但作为法院的主要工作之一，其发展历程并不长，先后经历了理念提出、全面发展到理性回归等阶段。2010 年是全国法院的“审判管理年”。最高人民法院在年初即提出：“面对繁重的审判任务，要更加注重加强审判管理，向管理要质量、要效率、要形象”。同年 4 月，在全国高级法院院长会议上提出：要继续“强化审判管理，促进司法公正。”同年 8 月，全国大法官研讨班更是以审判管理为专题，人人谈管理，个个讲加强，时任最高人民法院院长王胜俊首席大法官作专题讲话，人民法院审判管理理论初步形成。同年 11 月，全国第一次审判管理工作座谈会在江苏南通召开，就新形势下如何加强审判管理、破解发展难题进行深入探讨，人民法院有组织、有系统的审判管理工作格局基本形成。如雨后春笋，全国法院审判管理工作进入



全面发展的新时代，各地法院纷纷召开专题会议研究部署审判管理工作，开展“审判管理年”、“案件质量年”等主题活动，形成了你追我赶、百舸争流的竞争局面。2012年是审判管理总结提高、回归理性的一年。在贵阳召开的第二次全国法院审判管理工作座谈会，系统总结了全国法院开展审判管理的成绩和经验，分析和查找了存在的突出问题，从深化认识、树立正确观念入手，对创新审判管理方式方法，促进审判管理工作科学发展提出新要求。2013年10月，最高人民法院决定依托重庆市高级人民法院设立中国审判理论研究会审判管理专业委员会。2013年10月，最高人民法院发布《关于切实实践行司法为民大力加强公正司法不断提高司法公信力的若干意见》，对全面提高审判质量效率等作出部署。

深化审判管理，需要理论、制度与实践齐头并进，良性互动。深化审判管理，应该以创新理论作指导。审判管理是审判活动中产生并服务于审判活动的管理行为，审判管理权应当服从并服务于审判权，不能超越审判权而独立存在，更不能取代审判权。审判管理权运行必须以审判权为中心，遵循审判活动规律，实现审判管理科学化。审判管理权具有一定的行政属性，但不同于行政管理权。审判管理是审判权运行过程中的分权制衡，目的是为了促进审判公正高效权威，有利于审判质量、队伍素养和司法公信力提升。审判管理应当最大限度地实现审判信息对称，使个案、类型化案件及审判整体状况相关的审判信息在审判组织、法官等主体间均匀分布，为各自加强审判工作所用。审判管理权科学有效运行重在指导和服务。审判管理应当促进审判职权的动态优化配置，管理过程应有利于司法裁判尺度的统一、有利于优化法院内部人力资源的配置、有利于工作重心的及时调整，即围绕“公正审理每一个案件、服务好每一位当事人”优化审判资源和职权配置。审判管理应关注法院整体质效、外部协调和评价；应立足整体开展审判管理，加强外部监督与联系；应有针对性地改进工作机制和作风上存在的问题，追求当事人的认可和信赖，提升司法公信力。特别是在中共中央作出包



括司法体制机制改革在内的全面深化改革决定之际，需要认识到深化审判管理是深化审判工作机制改革的重要内容，其基本要求也是最高境界，就是强调严格依法管理；切实调动法官审判的积极性，注重围绕每一个案件优化审判资源和职权配置，从简单地管人和简单地管案，向更好地管理人与案的关系发展，不断拓展和创新符合审判实践规律的审判管理理论。

深化审判管理，应该不断完善管用的“小制度”。制定具有针对性和操作性的“小制度”，有助于形成相互衔接、控制细节的“闭环式”审判管理体系。完善流程管理制度，通过规范办案节点流转、严格治理“隐性”超审限、规范诉讼事务办理，能进一步提升审判效率。完善实质管理制度，通过改进和加强审判委员会工作、深化案件质量评查、加强法官和书记员基本功训练、加强裁判文书“出门”校核，能进一步提升司法能力。制定服务监督指导制度，实行改发案件双向分析，收集实务问题开展“讲课式”指导，建设诉讼服务中心，开展案件判后当事人回访调查，能更好地改进和加强服务指导监督基层人民法院工作。

深化审判管理，应该强化审判管理信息的实时、综合、深度运用。应注重过程管理，建立审判管理台账缩短管理周期，加强“一案一核”评查，加强“均衡结案”管理，突出审判信息的实时运用。健全协同机制，规范上诉案件立案工作，规范二审改判、发回案件沟通机制，建立信访案件协同化解机制，突出审判信息的综合运用。从更深层次分析，以固本强基的长远眼光，立足日常审判工作，培养既能够定分止争、案结事了，又能够办出精品案例、发表优秀调研成果的精英法官。强调调研是更高层次的审判，努力健全学习培训机制，注重发挥“标兵”示范引领，能进一步突出审判信息的深度运用。

近年来，重庆市第四中级人民法院按照重庆市高级人民法院“规矩、实在、理性”的工作要求，在理论、制度和实践层面不断探索，坚持“团结、进取、务实、阳光”工作理念，走精细化内涵式



发展道路，探索一条“后发区域小体量法院大作为”的理论与实践路径，强力推进“三化”（学习日常化、审判均衡化、管理精细化），切实提升了“三力”（法官审判力、政务执行力和司法公信力）。牢牢抓住了法院审判工作这个核心不放松，通过不断深化审判管理，切实提高了审判质量、队伍素养和司法公信力。

《中共中央关于全面深化改革若干重大问题的决定》要求“推进法治中国建设”，深化司法体制改革，健全司法权力运行机制，确保依法独立公正行使审判权。《最高人民法院关于切实践行司法为民大力加强公正司法不断提高司法公信力的若干意见》明确提出：“狠抓执法办案，全面提升审判质量和效率”，要求“强化审判质量”，“建立健全审判质量控制体系”，“提高审判执行效率”，“完善审判质量评估体系”，“健全和完善错案评价标准和问责机制”等，指明了进一步深化审判管理的方向。

在中国审判理论研究会审判管理专业委员会成立之际出版此书，希望能够为全国法院深化审判管理、提高司法为民公正司法水平发挥积极作用。

孙海龙

癸巳年初冬于重庆黔江



Introduction

Deepening Adjudication Management: Theory, System and Practice

Sun Hailong

Adjudication management is a historical and new topic constantly staying with us. In the past, it used to carry the new hope of arduous, painful revitalization of the judicial power and the judicial authorities in the developments of judiciary in China. In the present new historical period, in which the People's Courts are internalizing and implementing the spirit of the 18th National Congress of the Chinese Communist Party, General Secretary Xi Jinping's important exposition on construction of rule by law and the Decision of the Communist Party's Central Committee on Several Important Issues Relating to Comprehensively Deepening the Reform, and are making great efforts to realize the goal to "let the public feel and experience justice done in every judicial case", deepening the adjudication management is of fundamental significance to achieving administration of justice for the people, ensuring judicial justice, and improving the public trust in judiciary.

To plan the future first requires reviewing the past. Adjudication management has been with us from antiquity, but as one of the court's main responsibilities, it has only a rather short history of development going through the phases of conception of the idea, to comprehensive development and return to rationality. 2010 was a "Year of Adjudication Management" for the entire court system in China. Early in the year, the Supreme People's Court pointed out: "Faced with the arduous task of adjudication,



more importance should be attached to strengthening adjudication management to achieve quality, efficient and exemplary management” . In April of the same year, the Supreme People’s Court also made it clear at the Meeting of Presidents of Nationwide Higher People’s Courts that continued efforts should be made to “deepen adjudication management and promote judicial justice” . In August of the year, the National Grand Justice Symposium was focused on the issue of adjudication management, and all the participants talked about management and the way to strengthen it. Wang Shengjun, then the Chief Grant Justice and President of the Supreme People’s Court made a special speech on the subject, and a preliminary theory of adjudication management was created within the court system. Also in November of the year, the First National Adjudication Management Forum was held in Nantong City, Jiangsu Province, at which the issues of how to strengthen adjudication management in the new situation and how to solve difficult problems of development were deeply probed into, and the courts’ well-organized, systematic adjudication management scheme was basically created. The work on adjudication management was in full swing, and the adjudication management in the court system around the country entered a new era of development. The courts nationwide held special meetings to study and plan adjudication management, organize events in relating to the themes of the “Year of Adjudication Management” and the “Year of Case Quality”, all courts competing with each other to make great achievements in their adjudication of cases. 2012 was a year for summarizing experience in, and improving, adjudication management, or a year to return to rationality. As the second National Adjudication Management Forum held in Guiyang, Guizhou Province, China, work was done to systematically summarize the achievements made and experience accumulated in the adjudication management in the people’s court around China, and the outstanding problems looked for and analyzed in an attempt to deepen our understanding, develop correct concepts, and put forward new requirements in connection with the efforts to create new modes of adjudication management and promoting the rational development of adjudication management. In October 2013, the Supreme People’s Court decided to set



up the Specialized Adjudication Management Commission of the China Adjudication Theory Research Association based in the Chongqing Higher People's Court. Also in October 2013, the Supreme People's Court issued the Several Opinions on Solid administration of justice for the People and Great Enhancement administration of justice to Constantly Improve Public Trust in Judiciary, making plans to comprehensively improve the quality and efficiency of adjudication.

To deepen adjudication management requires overall progress made in theory, system and practice, and good interaction among them. Work on deepening adjudication management should be guided with innovative theory. Adjudication management is management to create and serve the adjudication activities in its routine operation. The adjudication management power should be subordinate to, and should not be independent from, nor substitute for, the adjudication power. The adjudication management power must operate around the adjudication power, following the law of adjudication to achieve rational adjudication management. The adjudication management power is, to a certain extent, administrative in nature, but it also differs from the administration power. The adjudication management is division and balance of power in the course of operation of the adjudication power for the purpose of promoting just, efficient and authoritative adjudication, which is conducive to improving the quality of adjudication, heightening professional awareness of the judges, and increasing public trust in judiciary. Adjudication management should maximally achieve symmetry of adjudication information to evenly distribute the adjudication information of individual cases, typical cases, and overall adjudication situation among adjudication authorities and judges for their use to strengthen their respective adjudication. The rational and efficient operation of the adjudication management power is focused on providing guidance and service. Adjudication management should promote dynamic distribution of the adjudicative function and power. The management process should facilitate harmonization of the benchmark of judgment, optimizing distribution of human resources within the court system, timely adjustment of the priorities, that is, optimizing the distribution of adjudication resources and ad-



judicative function and power in “duly adjudicating all cases for the sake, and in better service, of all involved interested parties” . Adjudication management should focus on the overall quality and efficiency within a court, external coordination and evaluation. Adjudication management should manage the overall adjudication management and enhance external supervision and correlation; and aim at solving problems in the mechanism and model of operation to win interested parties’ acceptance and trust, and to improve public trust in judicature. Especially when the Central Committee of the Chinese Communist Party has made the decision to comprehensive deep the reform, including the reform of the judicial system and mechanism, it is necessary for us to realize that to deepen adjudication management is part of the efforts to deepen the reform of the work mechanism of adjudication, and the essential requirement, also the highest ideal situation, is to highlight stringent management under law, bring the judges’ initiative into full play, focus on optimizing the distribution of adjudication resources and adjudicative function and power to develop from simplistic management of individual person and case to better manage the interrelations between people and cases, so as to constantly create and broaden a adjudication management theory compatible with the law of adjudication practice.

To deepen adjudication management should constantly improve workable “petty systems” . Creating such petty systems will help create an adjudication management system of closed parts of mutual connection between them and better control of details. The flow or process management system is improved for more efficient adjudication by ways of standardizing the flow or process and transition of nodes in cases, stringently overcoming “invisible” delayed termination of cases at the expiry of specified time limit, and standardizing the litigation management affairs. Efforts are made to improve the substantial management system for further improving judicial capability by way of improving and enhancing the work of Adjudicative Commissions, deepening examination, review and evaluation of the quality of all cases, training of the judges and secretaries in their basic professional skills and enhancing double check of adjudication instruments to be is-



sued. A service-supervision-guidance system is created, cases with re-issued and changed judgments are analyzed in a two-way fashion, practice problems are collected, “lecture-type” guidance offered, an adjudication service center is set up and post-adjudication investigations and study are made among interested parties to better improve and enhance the work on serving, guiding and supervising grassroots people’s courts.

To deepen adjudication management should enhance the real-time, comprehensive and in-depth application of adjudication management information. Efforts should be focused on creating detailed case records for adjudication management and shorten the management time, strengthen case-by-case review or check, enhance management of “balanced case termination”, and highlight the real-time application of the adjudication information. An integrated coordination mechanism should be created to standardize the work on putting cases of appeal on docket, standardize the mechanism of communication in cases where second-instance judgments and new judgments are made. A mechanism for coordinated solution of cases in which interested parties send letters and paid visits to lodge complaints, with highlighted comprehensive application of adjudication information. To make more in-depth analysis, excellent judges should be brought up who are proficient in solving disputes and terminating cases, and are able to produce exemplary cases and publish fine research achievements with far-sightedness to strengthen the foundation of the court system with fine judges working to achieve better daily operation of adjudication. To emphasize investigation and research is a higher-level adjudication to create a better learning and training mechanism, set fine examples in adjudication, and further highlight in-depth application of the adjudication information.

In recent years, the Chongqing No. 4 Intermediate People’s Court, guided by the requirements of “law and regulation abiding, working in a solid manner and being rational” set forth by the Chongqing Higher People’s Court and through constant exploration in theory, system and practice, has been sticking to the working concepts of “unity, progressiveness, practicality and transparency”, taking the approach or road of development with fine internal management, has found theoretical and practical



approaches quite workable for small courts in developing regions, and made great achievements in terms of regularized daily study, regularized balanced adjudication, and regularized fine detailed management, and solidly improved the judges adjudicative capability, administrative enforcing ability, and public trust in judiciary by way of constantly focusing on the kernel adjudicative work within the court, constantly deepening adjudication management and improving the quality of adjudication and profession proficiency of the judges and the public trust in judiciary.

In the recently issued Several Opinions on Solidly Administering Justice for the People, Greatly Strengthening Judicial Justice and Constantly Improving Public Trust in Judiciary, the Supreme People's Court pointed out: "Great efforts should be made to adjudication of cases under the law, and comprehensively improve the quality and efficiency of adjudication, and required all courts to "focus on the quality of adjudication", "create an integrated adjudication quality control system", "improve the efficiency of adjudication and enforcement", "improve the adjudication quality evaluation system" and "improve the standard for evaluating wrongly adjudicated cases and liability-imposing mechanism." All these efforts clearly show the direction for further deepening adjudication management in the future.

This book is published at the time when the Specialized Adjudication Management Commission of the China Adjudication Theory Research Association came into being in a hope that this published book will play its positive role in deepening adjudication management and improving the quality and efficiency of adjudication in the people's courts nationwide.

Written in the winter of 2013
in Qianjiang City, Chongqing Municipality, China

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