

# A Study of China's Judicial Accountability System

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**Abstract:** At present, there are various deficiencies and defects in China's judicial system. The current priority of China's judicial work is mainly reflected in the improvement of judicial system, the enhancement of judicial credibility and the maintenance of legal sanctity. China has implemented and enforced a series of reform measures. The essence and scientific connotation of the judicial accountability system is "let the judge make the decision and be responsible for the decision". With the continuous strengthening of the rule of law, judicial reform has become the inevitable. As one of the top priorities in the judicial reform, the judicial accountability system has attracted close attention from academics, carrying significant weight. The paper/thesis aims to make recommendations on the measures of judicial accountability system with regard to the significance, current situation and problems of the establishment of judicial accountability system.

**Keywords:** Judicial Accountability System; System Reform; Accountability

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## 1. Definition of Judicial Accountability System

Judicial accountability system is usually understood as "let the judge make the decision and be responsible for the decision". In other words, while giving the judges the dominance and decision-making authority in the trial cases, it also emphasizes that the judges should be responsible for the results. Although judicial accountability system emphasizes that judges are accountable for wrongful judgments, it cannot simply be equated with being responsible for wrongful cases. The core lies in the accountability system for the judge's behavior, not for the results of wrongful cases. During the enforcement process, it is inseparable from the neutrality and independence of the judiciary.

## 2. The Development of Judicial Accountability System in China

China's judicial accountability system has quite a long history, which was originated in the Xia Dynasty, and existed until the late Qing Dynasty, throughout the whole ancient feudal dynasties of China. The most mature period of ancient judicial accountability system was in the Tang Dynasty. The Tang Dynasty promulgated "Tang Law" in 653 A.D., in which the provisions of the judicial accountability system is quite complete. It stipulated in detail from the case acceptance to the final judgment. For example, in the thirties volume of "Tang Law", Article 484 provides: "All jail adjudication must be cited with the text of the legal format, and violators will be flogged for 30 times. If judgment is made without authorization, resulting in a wrong judgment, the violators shall be punished as guilty of intentional misjudgment." The rulers of the Tang dynasty required judicial officers to carefully cite the relevant legal provisions when adjudicating crimes. Arbitrary adjudication was prohibited, and violators were subject to penalties. China's ancient regulations on the accountability system of judicial officers for violations of the law were perfect and detailed, which have been developing and evolving since the Xia and Shang dynasties. We can draw from it the merits of the ancient judicial accountability system and can find that ancient monarchs chose to use important bureaucratic medium and achieved this goal by establishing a complete system of judicial officer evaluation, including strengthening the system of selection, assessment and supervision of officers to achieve a long-term and stable ruling. Ancient monarchs traditionally attached importance to the law-based exercise of power by officers and was strict with judicial officers. The system of judicial officers' powers and accountability has been developed over

thousands of years and regulated in important codes. The system has been complete and clear, with many aspects worthy of modern reference.

The modern judicial accountability system in China is in the stage of deepening the reform comprehensively, but it is worth noting that the mixture of collective and individual accountability is still a “gray area”, showing the defects of the non-accountability of judicial power. China’s ancient judicial accountability system is a product of the combination of the earliest theocratic law ideas and the moral concepts advocated by Confucianism, and it is in synergy with other legal systems, forming the unique content of the Chinese legal system. Now, in the process of promoting the construction of socialist rule of law, we should learn from the ancient excellent legal system and the experience of the modernization of rule of law, in the spirit of “discarding the dross and selecting the essence”, and absorb the beneficial system norms from it, which should be the significance of reference.

### **3.The Necessity of Deepening the Reform of the Judicial Accountability System**

For various reasons, judicial organs have problems of unclear division of accountability and confused distribution of power, which will also lead to the inadequate implementation of the judicial accountability system. The long-term accumulation of these causes will hinder the further improvement of legal system. Therefore, in order to safeguard the legal sanctity and establish judicial authority, deepening the reform of the judicial accountability system has the following significance:

#### **3.1 It can enhance the sense of responsibility and mission of judicial officers to better perform their duties.**

The purpose of implementing the judicial accountability system is to put the independent judicial power in the hands of judicial officers, and truly form an internal incentive mechanism and autonomy mechanism of the judiciary. The establishment of the judicial accountability system is of great significance to enhance the sense of responsibility of judicial officers, eliminate interference and impartially enforce the law.

#### **3.2 It is conducive to restraining and regulating judicial independence.**

Judicial independence is rooted in judicial accountability. The purpose of judicial independence is to achieve judicial impartiality and maintain social justice. In a country under the rule of law, the arbitrariness of independent judicial power needs to be effectively restrained and supervised. This can protect the legitimate rights and interests of the masses and prevent the judicial work from interference by other factors. The realization of judicial independence is premised on the improvement of judicial accountability, and the judicial independence and the judicial accountability should maintain a long and stable balance.

#### **3.3 It helps to build a high-quality team of judicial officers.**

Judicial justice is the basis of judiciary. The realization of judicial justice ultimately depends on the judicial officers. The quality of judicial officers affects the effect of law implementation. Improving the judicial accountability system can guarantee a high-quality team of judicial officers with high dedication, high professional skills and clean and honest behavior.

### **4.The Situation and Problems of Judicial Accountability System in China**

In recent years, China has continued to explore and improve legislation, and has made significant achievements in establishing the rule of law. But we must admit that China’s current legal system still has many shortcomings. There are still some problems that need to be solved urgently in the current judicial accountability system.

#### **4.1The lack of legal system.**

At present, China’s judicial accountability system is based on the judicial interpretation issued by the Supreme People’s Court instead of legal provisions. If the judicial accountability system is only promoted by way of judicial interpretation, it may lack legal basis, and its rationality may be open to discussion. The true rule of law should be promulgated and implemented on the basis of statute. The judicial accountability system is no exception.

## **4.2 Limited professional knowledge.**

Relatively speaking, some judicial officers are not so professional. China's society with rule of law started late, so many judges and prosecutors are less educated non-legal professional, who have uneven levels of professionalism. They can only try cases by their limited legal knowledge, thus increasing the number of trial errors and the need to assume judicial accountability. The quality of judicial officers is directly related to the future direction of the reform of the judicial accountability system.

## **4.3 The problem of judicial administrative tendency is serious.**

At the present stage of the judicial system, the most direct negative impact of judicial administrative tendency on the judiciary is the result of independent judiciary, which is mainly reflected in three aspects -- judiciary staffing, income, welfare guarantee and other aspects are subject to the government, the trial on administrative cases also needs to consider the "feelings" of the local government. In this way, the judiciary plays an administrative role in many aspects, which is very likely to cause the negative impact of the lack of judicial independence.

## **5. Measures to Reform Judicial Accountability System**

At present, the reform of judicial accountability system is in full swing. China has made a lot of efforts to ensure the independence of the judiciary, maintain judicial impartiality and meet the needs of society in the judicial area, but there are still some obstacles. Therefore, the author finds solutions for the above dilemma respectively.

### **5.1 Insist on judicial independence.**

Due to the financial control of the local government, the court inevitably intersects with local government in administrative cases, making it difficult to ensure the impartiality of the result of administrative litigation. Judicial financial expenditure should be separated from local government, and it is necessary to build an independent financial management organs. We can learn from the rule of law system in western developed countries. In most countries, the judicial funds are separate from local government finance, organized and arranged by the independent state finance.

### **5.2 Make the judicial accountability system become legislative.**

It is necessary to accelerate the legalization, standardization and strict implementation of judicial accountability in order to enhance the authority and seriousness. It is needed to strictly regulate judicial behavior in order to prevent unjust and false cases. We should improve judicial supervision mechanism, seek necessary accountability for judicial officers for wrongful cases. It is urgent to prevent unjust tendency, avoid all kinds of unfair cases, establish a judicial power list, and get the judicial power under the control of system, ensuring that people can see the boundaries of judicial power.

### **5.3 Strengthen the selection and training of judicial officers.**

First, it is necessary to improve the judicial selection and appointment system and improve the quality of judicial officers. The most basic professional ethics of judicial officers should be safeguarding the legal sanctity. The most important professional skill of judicial officers should be accurately applying the law to solve disputes. Second, the training system of judicial officers should be improved, and the professional level of judicial officers should be continuously enhanced. The training goal should be improving the ability to handle cases. In terms of training content, the training of practical skills should be strengthened. Third, a mechanism for determining the accountability of judicial officers should be established. Judicial officers who intentionally cause mistakes in handling cases should bear legal accountability, regardless of their motives.

## **6 Conclusion**

The judicial accountability system is a key factor in deepening judicial reform and an integral part of the judicial system in the socialist rule of law with Chinese characteristics. It is of tremendous significance to regulate the behavior of judicial officers, the way the judiciary operates and the impartiality of the judicial system. The establishment of the judicial accountability system by the

judiciary is an inevitable requirement for the improvement of citizens' legal consciousness. It is believed that in the near future, with the joint efforts of the state and all sectors of society, the judicial accountability system will be further improved and the construction of the rule of law in China will reach a new level!

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