

Investigation on the Implementation of the Revised Criminal Procedure Law by Procuratorial Organs

Ya Zhang

Hainan Vocational College of Political science and Law, Hainan Haikou, 571100, China

1440435863@qq.com

Abstract. with the continuous improvement of our country's law, the criminal procedure law is also in constant modification and improvement. For this reason, this paper will first explain the characteristics and principles of the criminal procedure law of our country, and summarize the problems that the criminal procedure law is modified to try to solve, and finally summarize the means to improve it.

Keywords: procuratorial organ; Amendments to the criminal procedure law; To explore problems.

1. Characteristics and Principles of China's Criminal Procedure Law

1.1 Characteristics of China's Criminal Procedure Law

In order to explore the problems of the implementation of the revised criminal procedure law by the procuratorial organs in China, it is necessary to first summarize the characteristics of the revised criminal procedure law. Currently, the characteristics of the criminal procedure law in China are that there are many subjects to promulgate and a large amount of interpretation, and different departments are responsible for different aspects of management. The subjects of the promulgation include judicial organs, and other relevant departments also participate. For example, both the ministry of justice and the legislative work committee of the National People's Congress are involved, which is not because there are loopholes in the judicial interpretation in China, but because we need to adopt this way of subject coordination to avoid mistakes. In terms of the large number of interpretations, China's criminal procedure law is very specific and comprehensive in terms of explanatory normative documents, involving various systems and procedures. However, in such a large number of explanations, there are many meanings that need to be analyzed at a deeper level, which also determines that it cannot be comprehensively studied during the research process and can only be analyzed from a specific perspective. Finally, in different judicial departments responsible for different aspects of management, it is necessary to introduce a term "interrelated clauses". In different explanatory normative documents formulated by different departments, different situations will occur in terms of management in order to implement the procedural law. The main decisive factor of this characteristic is decided by the function of its unit, which should be paid attention to in the current research[1].

1.2 Principles of China's Criminal Procedure Law

China's criminal procedure law adheres to the principles of rights protection, power regulation, judicature as the central principle and the principle of promoting the legal system of criminal procedure. In the principle of rights protection, it is necessary not only to protect human rights, but also to ensure the development of criminal procedure law according to the actual situation. In the principle of power regulation, it can be reflected from two aspects, namely the restriction of power and the restriction of power. The amendment of criminal procedure law is to rectify its new foundation in the original principles. In the principle of judicature as the center, it can also be analyzed according to two meanings. In the meaning of judicature interpretation, a linear compliance relationship should be adopted according to the principle. When there are different cases in the litigation department, the relevant interpretation provisions should be taken as the benchmark to ensure the judicature as the center principle. Finally in advance in the criminal procedure law principles consists of three basic principle, first among the criminal lawsuit involving all of the methods and work flow to the system

specification as the foundation, the second to concerns among the criminal lawsuit rights have a warranty on the relief, the two basic principle can be in the process of the litigation process specification problems are summarized. The last principle is to observe its process objectively and to ensure that the legal effect can be truly exerted through the guarantee of observing the order[2].

2. Problems Solved by the Procuratorial Organs in Implementing the Amendments to the Criminal Procedure Law

2.1 Job-related Crimes

Procuratorial organs in criminal procedure law revised in duty crime problems can be summarized by the following three aspects, the first is for a major corruption crime scale has changed, when the amount of corruption in 500000 yuan of above, when those involved for the prefectural above cadres, when those involved more than 5 people, when it comes to major national interests could be seen as a major corruption crime. The second change in technical investigation measures is that the investigation can only be carried out after the case is filed. The investigation process should be jointly responsible by the state security department and the public security organ, and the examination and approval should be conducted in accordance with the national rules and regulations. The investigation methods and progress should not be exposed to the outside world. In terms of the collection and application of electronic data, electronic data that can be used as an auxiliary for investigation includes electronic data in mobile communication devices, electronic documents and chat records in social software. The use of electronic data to ensure that the source is correct and belongs to the legitimate source, and to ensure that electronic data is correctly stored, the most important is that electronic data and the case has a relevance should not be falsified[3].

2.2 Problems in Investigation and Supervision

In the supervision of investigation, the problems solved by the procuratorial organs in implementing the revision of the criminal procedure law focus on two aspects: first, whether it is necessary to arrest the target; second, whether it is dangerous for the society to change its necessary conditions after the revision of the criminal procedure law. This change has made some changes to the past constitution of crime, namely arrest. At present, we can adopt the method of solid residence or obtaining bail to monitor suspects and ensure their personal freedom. This change is also applicable to juvenile criminal suspects. Second, in the judicial review of the arrest process, the procuratorial organ has the right to listen to the testimony of the criminal suspects and the defense of lawyers in the past, but also to inquire the participants and witnesses in the proceedings, which makes the arrest process also has the participation of litigation.

2.3 Public Prosecution

Finally, the prosecution issue is the most extensive of all the changes, which includes five different changes. First of all, it is necessary to have sufficient evidence to prove the standard of proof in the process of conviction and sentencing, and then list the real time that has been recognized after verification according to legal procedures. Secondly, it is necessary to reasonably doubt the standard based on the whole case. The second is to eliminate illegal evidence, which requires a correct form of the corresponding rights granted by law. The three rights are the right of investigation, the right of correction and the right of investigation. At the same time, pretrial work is carried out according to the process, including pretrial meeting, pretrial plan and evidence preservation. Thirdly, when the reconciliation happens, the procuratorial organ can promote and supervise the reconciliation, but it can't take charge of the reconciliation. Fourth, I'm sorry for the situation has been improved, when there is absolutely no prosecution, such as to find the criminal suspect's criminal facts, then do not prosecute, in the case of suspicious also dare to take the way of non-prosecution. Relatively common and additional conditions do not Sue, according to the revised clear provisions of the implementation.

3. Improve Means Summary

3.1 Establishment of Organizational System

In order to implement the amendment of the criminal procedure law, the procuratorial organ should first establish the corresponding organizational system, make the structure setting more scientific and specific, make the allocation relationship between functions more optimized, lower the procuratorial power to the bottom, and gradually form a suitable management mode in the process of prosecutors' law enforcement and case handling. This process is a long process, and the work is not completed overnight. Therefore, it is necessary to build a framework and an organizational system to gradually delegate the power involved in the case handling process[4].

3.2 Improve Litigation Supervision

Litigation supervision is the main function of the procuratorial organs, is also an important one of all functions. The significance of its existence is to ensure that the country's litigation work is agreed to the correct implementation, so in order to comply with the revised situation, to improve the supervision of litigation organs, first from the concept of supervision, truly dare to supervise, will supervise. At present, there are some problems in the supervision of a small number of relevant staff, and the relatively vague situation in the supervision has not been solved. The construction should be carried out from the perspective of perfection, standardization and institutionalization. For this reason, China has carried out relevant macro research, and found in its research results that the purpose of criminal proceedings is its fundamental, which is also the core problem in the research process of most countries in the world. In China, the improvement is mainly through the refinement of legislation and the assistance of other relevant provisions. In the future, it should be improved in steps and stages.

3.3 Transformation and Development of Law Enforcement and Case Handling

Finally, in the process of the transformation and development of law enforcement case handling, we should not only keep the idea updated, but also change the idea of prosecutors. The past extensive means of sentencing into more refined, the past more selective into standardization. The main purpose of the transformation and development of law enforcement case handling is to redeploy its procuratorial system, which fundamentally needs to meet the basic requirements of judicial power, so as to achieve the fundamental purpose of the transformation and development of law enforcement case handling, fully embody the significance of the revision and implementation of procedural law, and accelerate the work efficiency.

4. Endnotes

Through the discussion of this paper, the problems of the implementation of the revised criminal procedure law by the procuratorial organs are introduced, and the relevant improvement measures are put forward, hoping to provide some help for the work of the procuratorial organs in the future, and help the implementation of the criminal procedure law in related aspects more thoroughly.

References

- [1]. Minyuan wang. Study on judicial interpretation after the revision of the criminal procedure law in 2012 [J]. Journal of the national prosecutor's college, 2015, 23(01): 131-160+176.
- [2]. Fukun zhang. Case management and criminal procedure law -- from the perspective of procuratorial organs' right to meet defenders and review papers [J]. Journal of shanxi institute of political science and law management, 2015, 28(02): 41-43.
- [3]. Taiyun huang. Amendment and interpretation of criminal procedure law [J]. People's procuratorate, 2012(08): 10-73.

- [4]. Qiang li. Research on investigation and verification right of procuratorial organs in civil litigation [D]. Nanjing normal university,2016.