

Practice on Legal Aid Quality Assurance in China

Quality is the lifeline of legal aid. It affects the vital interests of legal aid clients and the public trust in legal aid systems. It is also closely related to how well the role of legal aid is played. The Chinese government has always considered high-quality legal aid service as an important development goal. Chinese President Xi Jinping reiterated that the work of legal aid should continuously expand the scope of legal aid services and focus on the improvement of quality and ensure fairness and justice in each legal case. Since China established its own legal aid system, many explorations and measures have been taken in terms of quality assurance. On this occasion, I would like to share with you some Chinese practices and experience in improving legal aid quality.

I. General Practice: Quality Assurance of Legal Aid

With the number of legal aid cases increased and the scope expanded, the Chinese government and people set higher expectations on service quality. Judicial administrative departments and legal aid institutions at all levels take various quality assurance measures to improve service quality and in practice gradually improve quality by refining legal aid system, increasing financial support and lawyers' remuneration, and strengthening institutional management and training of lawyers. Great efforts have been made to provide quality legal aid services for the impoverished people, their legitimate rights and interests are effectively protected and good results have been achieved. Based on the

chronological order of lawyers' involvement in legal aid cases, quality assurance measures can be divided into 3 categories: prior control, interim supervision and post evaluation.

Prior control has 2 aspects. The first is to formulate rules and regulations to strengthen system building of quality control. We have *Legal Aid Regulations* and other supplementary rules, regulations and normative documents to regulate quality supervision and funds/personnel management. We have *Regulations on the Procedure of Handling Legal Aid Cases*, *Measures on Handling Complaints in Legal Aid Cases* and other internal systems of achieves management and information statistics to develop an operational procedure of legal aid (accepting, examining, appointing and closing legal aid cases, etc.) and improve service specifications and standards. For instance, *Measures on Monitoring Legal Aid Quality* of Shandong Province and *Regulations on the Management of Quality Standardization in Legal Aid Cases* of Zhejiang Province have helped control and monitor legal aid quality.

The second aspect is to clarify case-handling qualification of legal aid lawyers, which is a quality control at the source. Judicial administrative departments, legal aid institutions and lawyers' associations at all levels have issued a series of legal aid normative documents, which stipulate qualifications and conditions of legal aid lawyers and set up access and exit mechanisms based on type and complexity of cases. Some provinces have established expertise groups of legal aid lawyers according to different types of cases, so that legal aid service quality

can be guaranteed in the first place. For example, *Regulatory Measures on Legal Aid Lawyers (Trial)* of Putuo District, Shanghai, stipulates that legal aid lawyers shall meet the following qualifications and conditions: they are registered lawyers of Bar Association in Putuo District; they are enthusiastic about legal aid work and dedicated to it; they have expertise and experience related to legal aid service; they have lawyer qualification certificate with more than 3 years of practicing experience in law firms; they have never been punished by judicial administrative departments for malpractices; they are under 60 years old, with good health. More conditions are required for criminal legal aid lawyers. For example, *Regulations on Legal Aid in Criminal Proceedings* of Hebei Province stipulates that the appointed defense lawyers shall have over 3 years of experience in criminal defense and have handled more than 5 criminal cases; in juvenile criminal cases, the appointed defense lawyers shall be familiar with physical and psychological characteristics of the minors.

Interim supervision have the following aspects: first, judicial administrative departments provide guidance and supervision for serious cases or issues; second, legal aid institutions provide supervision, which mainly includes requiring legal aid lawyers to regularly report case-handling progress to legal aid institutions, and group discussion of major cases which are difficult and complicated to deal with. *System of Discussion in Major and Complicated cases of Legal Aid Institutions (Trial)* of Sichuan Province defines ‘major and complicated’ by listing conditions, clarifies the system of identifying

and reporting such cases, and stipulates organizers and participants of group discussions, methods of discussion, adoption of results and remuneration for participants. This further improved group discussion system of major and complicated legal aid cases. Third, clients provide supervision. Legal aid institutions and judicial administrative departments have established investigation system for legal aid complaints. Investigations shall be carried out in a timely manner according to relevant rules, and results announced to clients and relevant departments who make complaints. In order to facilitate clients to make their suggestions or complaints, many legal aid institutions issue Quality Supervision Card and Your Valuable Comments Card to invite comments and receive complaints from the clients to help regulate lawyer practices. Good results have been obtained. Fourth, professional associations and media provide supervision.

Post evaluation refers to the quality review conducted after the case is closed. Usually, it is judicial administrative departments or legal aid institutions that take evaluation or review; in addition, they organize lawyers to do self-evaluation, pay return visits to clients, invite comments from judges of the trials (prosecutors, police officers) and check the files, etc., so that they can identify quality problems and make proposals for improvement. For instance, Shanxi Province formulated *Quality Review of Legal Aid Cases: 100 Points Measure (Trial)*, providing that legal aid institutions at all levels shall set up quality evaluation organizations. They consist of staff of legal aid institutions, hired experts and scholars, practicing lawyers, judges,

prosecutors and arbitrators, who make regular evaluations on legal aid cases.

In addition, trainings are held to improve professional skills and competence of lawyers. Ministry of Justice (MOJ) of China conducted researches and surveys on special subjects and training demand of legal aid, set up training-experts database, and made scientific training plans. It invited experts with abundant theoretical knowledge and practical experience to develop training courseware. At present, a course database has taken shape with more than 20 special-subject courses. Since 2009, National Legal Aid Center (NLAC) of MOJ has implemented a national legal aid training-in-rotation plan, which focuses on management and professional skills. Every year, legal aid demonstration training seminars are held to discuss hot and difficult issues both in theory and practice. For example, new courses are designed to discuss the amendment to *Criminal Procedure Law*, the *Regulations on the Procedure of Handling Legal Aid Cases*, the *Regulations on Legal Aid in Criminal Proceedings* and other new laws and regulations. The trainings also have outreach to new situations and problems in providing legal aid service to the people in need, and integrate psychological knowledge and social work methods. All these are well received by trainees and good results are obtained. China Legal Aid Website, as a good training platform, combines face-to-face training with web-based distance education to improve quality of training. MOJ strengthens support and guidance in legal aid training to legal aid institutions at different levels to further improve their

competence to continue trainings independently.

To enhance case-handling skills, legal aid institutions and lawyers associations have designed corresponding training plans and held regular special-subject training activities so that quality can be improved directly or indirectly.

At the same time, judicial administrative departments and legal aid institutions at different levels conduct in-depth theoretical researches to provide theoretical support for the improvement of legal aid quality. MOJ encourages them to make innovations in working mechanism of theoretical researches and define major issues that need to be reformed and developed in the process of improving legal aid system as priority research subjects. MOJ also takes good opportunities of sending representatives to attend international legal aid conferences and facilitates international legal aid exchanges and cooperation to further enhance theoretical studies, guide practice using theories and improve legal aid quality.

II. Practice of Legal Aid Quality Assessment

Along with the development of legal aid system, the Chinese society has attached more and more importance to quality. Quality assurance measures become more diversified and developed. On the original basis, in order to objectively and scientifically assess the legal aid services by the practitioners and gradually improve the work of legal aid quality assurance, we begin to provide more guidance and support for lawyers so that they can play their role better in legal aid. Based on national research and surveys, MOJ draws international practices and

begins to explore a legal aid quality assessment system. This system, with quality assessment at the core, emphasizes governmental responsibility, regards quality improvement as a major goal, and focuses on theoretical and practical guidance and support for lawyers handling legal aid cases.

From 2012 to 2014, MOJ has carried out legal aid quality assessment pilots across China for three consecutive years. We've taken the UK experience in peer review as references, and taken China's reality into consideration. In 2012, Hangzhou and Nanjing Legal Aid Centers (LACs) were chosen as pilot sites. 2013 pilot extended to 8 prefecture-level LACs including Hangzhou and Nanjing LACs, and 2014 pilot further to 32 sites (1 in each province, autonomous regions and municipalities), with 10 LACs developing their own guidelines for handling legal aid cases. In each year's pilot program, MOJ provided guidance for the pilot LACs by making *Pilot Scheme of Legal Aid Quality Assessment*, holding seminars and field surveys, etc., to ensure the success of the pilot work.

After 3-year pilot work, MOJ helped provinces to have a better understanding of case review, innovate and improve quality assessment measures, and develop their own case-handling guidelines and assessment criteria, playing a positive role in identifying problems and improving service quality. However, there are still some problems and disadvantages. For example, the key and difficult point of quality assessment has always been how to design weight ratio of each indicator in a scientific and rational way, enable assessment

conclusions to reflect reality and quality of legal aid provision accurately and objectively. Some pilot organizations' indicator system was too complicated, making it difficult for lawyers to familiarize themselves with indicators and use them. In addition, questions like how to combine the assessment and analysis conclusions with actual work, and how to take concrete measures to improve professional skills and case-handling quality, need to be addressed in the future.

Since 2014, China and the EU have started all-around cooperation in legal aid. Under the framework of the EU-China Access to Justice Programme, MOJ invited the European experts including Professor Alan Paterson, Chair of International Legal Aid Group, and Professor Avrom Sherr from the Institute of Advanced Legal Studies, University of London, to visit China and participate in China-EU legal aid policy dialogue, legal aid quality assurance seminars and peer review training workshops. They shared their experience in quality assurance and peer review with their Chinese counterparts. They have abundant knowledge and rich experience in legal aid quality assurance and peer review, and gave us a lot of help and support. Through practices, we've developed civil legal aid peer review criteria which are more compatible and reasonable in the Chinese context. And with the criteria, we started peer review first in Henan and Shanxi Provinces. At the same time, MOJ plans to select 10 provinces (autonomous regions and municipalities) from eastern, central and western China in 2015 to conduct peer review on randomly-chosen civil legal aid cases that are closed.

The purpose of quality assessment is to discover quality problems,

supervise and urge lawyers to take measures to improve professional skills and enhance case-handling quality. In the future, based on quality assessment, with the help of modern network technology, we will strengthen analysis and utilization of assessment conclusions. By finding quality problems revealed in assessment conclusions, we will hold targeted trainings for lawyers to improve their skills and case-handling quality. At the same time, we will gradually improve the legal aid quality assurance methods and establish a more scientific and professional quality assurance mechanism.

MOJ has consistently increased support for legal aid lawyers and provided technical support for quality improvement so as to improve work efficiency, motivate lawyers, and ensure them the best knowledge and skills. First, every year, MOJ edits and publishes *Legal Aid Case Studies*, which includes common legal aid cases like work injuries and labor disputes, and makes analysis and studies on handling patterns, experience and applicable laws of typical cases in order to further improve the competence of legal aid lawyers. Second, MOJ has designed and developed *Legal Aid Case-handling Support System*, and provided online support for legal aid lawyers. At present, 10 modules have been developed, including Laws and Regulations, Typical Cases, Practice Guidelines, Case-handling Studies, Legal Documents, Online Forum, Online Training and Video Conference. The website provides business support, information pushing and sharing, and interactive communication platforms. And it will ensure lawyers have the best knowledge and skills to provide service and facilitate their

communication during work.

III. Future development of Legal Aid

In May 2015, China adopted the *Opinion on Improving Legal Aid System*, which is a comprehensive top-level design of the future development of legal aid system in China. Legal aid system will play a bigger role in improving people's livelihood, safeguarding judicial human rights, and advancing social governance. Providing quality and efficient legal aid service to the people is the long-sought core value of China's legal aid system. And the Chinese government will undertake this historical responsibility and mission.

China will further improve quality assurance measures of legal aid, make innovations in quality assessment, and strengthen support for legal aid lawyers. We will adhere to the principle of 'put people first', and always take protecting people's legitimate rights and interests as both starting point and ultimate goal. We will focus on the actual needs of the people, take more scientific and effective quality assurance measures, and provide high quality service to the people.

Now China is open to the world. When we promote modernization of state governance, we are determined to know and get good references from the world with a more open and tolerant mind, based on China's national conditions. We also sincerely welcome our foreign counterparts to visit China and have extensive exchanges and cooperation with us, so that we can face opportunities and challenges together and make our own contributions to the development of legal aid cause.

