

Improvement Paths of Legal Aid Quality in Ethnic Minority Areas

Jingjing Tao^{1, a}

¹Oxbridge College, Kunming University of Science and Technology, Kunming, Yunnan Province, China

^atao820608@126.com

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Abstract. Legal aid is the important content in judicial administration. The legal aid work in ethnic minority areas is of great importance to the unity among various nationalities, as well as the regional stability. Legal aid work in ethnic minority areas has made achievements; however, some problems are still existed. In this paper, the author affirms the legal aid work in minority areas in recent years, and reveals its main problems: the formality of legal aid means caused by its modes, the limited legal aid range in ethnic minority areas; the lack of effective supervision of legal aid in minority areas. All these problems remain to be further addressed. Therefore, we should promote the means of legal aid in ethnic minority areas, expand its range, and further improve the quality of legal aid in perspective of the economy, the legislation, the means and the supervision, etc.

Introduction

Legal service remains one of the focuses of justice administration in 2015. While improving the people's living standards in all nationalities, the judicial and administrative authorities in minority areas at all levels should also strive to provide efficient legal service to the people's production and life and to improve the quality of legal aid. In 2013, the total number of legal aid cases is 1.15 million with a year-on-year growth of 13.4%. Legal consultancy service is provided to 627 million people, which effectively safeguards the legitimate rights and interests of the poor people. However, several problems are still existed, particularly in the ethnic minority areas of China. Although the legal aid system has been established, due to the local government files and habits and the limited legal aid, these problems become more prominent.

The Present Status of Legal Aid in Ethnic Minority Areas

Low construction level of legal aid institutions in ethnic minority areas. According to recent researches, the legal aid institutions in western China which has many ethnic minority areas have been established. The operating fund of 681 institutions has been included in the fiscal budget. Although the construction level of legal aid institutions has been increased, it is still not high enough compared to other regions (see details in the following table).

Areas involved	Ratio of the institutions whose operating fund is included in fiscal budget to the total institutions	Ratio of the institutions with peer financial allocation and independent case dealing permission to the total institutions	Ratio of the institutions with specialized reception sites to the total institutions	Average office floor area (square meter)	Ratio of the institutions which are fully configured with the (main) equipments to the total institutions	Ratio of the institutions which has professional lawyers to the total institutions

Eastern China	91.7%	54.2%	90.3%	96	62.5%	69.5%
Central China	95.9%	68%	92.3%	65	54.8%	75.4%
Western China	79.8%	44%	70%	46	31%	48.4%

As shown in the table, in western China which has many ethnic minority areas, the institutions whose operating fund is included in fiscal budget, the office floor area and the talents are all far behind those in the eastern regions, especially the device configuration which is less than one half of that in eastern China. Most of the institutions do not even have the basic conditions of working and handling cases, which remains further improvement.

Formality of the legal aid means in ethnic minority areas. Based on the regulations of Legal Aid Ordinance issued in 2003, each ethnic minority area should develop appropriate local regulations to specify the legal aid means according to local characteristics. Xinjiang Uygur Autonomous Region carries out the provisions of Legal Aid Ordinance, "..... Legal aid institutions are responsible for receiving and reviewing the citizens' legal aid applications which are accordance with laws and regulations, appointing a lawyer or a worker of the institution to handle the legal aid cases or arranging respective people to deal with the cases according to other social organizations' requirements." Therefore, most ethnic minority areas mainly delegate legal aid to a lawyer. In some areas, this even becomes compulsory. For instance, in Dali Bai Autonomous Prefecture, Yunnan Province, the professional lawyers registered in that area are responsible to deal with certain legal aid cases each year. Those who have not completed this task should pay off legal aid institutions some commission fees.

Reasons Causing the Problems of Legal Aid Quality in Ethnic Minority Areas

Since the beginning of legal aid carried out in ethnic minority areas in 1996, legal aid has been gradually understood by the society. However, with deeper recognition, people's awareness of legal aid has also been increased. While receiving the legal services provided by our country, our people also put forward higher requirements of legal aid.

Legal aid modes lacking real guidance in ethnic minority areas. China's Legal Aid Ordinance issued in 2003 defines legal aid mode as hybrid mode, which is a mode managed by the legal aid institutions established by governments at all levels. The administrators, judicial officers, lawyers and legal service staff all participate in this mode. From various ethnic regions develop regulations view also adopted this model. In terms of the regulations carried out by different ethnic minority areas, this mode is quite popular and conforms to our national conditions, which helps to solve the problems of limited funds and insufficient legal aid workers. However, in perspective of the developmental features of each ethnic region, the application of this mode should also combine the local economic development. In the areas with better economic development, legal aid funds mainly depend on a single method which uses social assistance. It not only improves the quality of legal aid, but also raises the level of judicial administration. It involves professional lawyers, social lawyers and other legal aid workers; however, if we only use this mode and lack a complete assignment mechanism, some of the lawyers would handle cases they are not good at, which would also influence the quality of legal aid cases. This is quite obvious in the current situation with market-oriented legal profession and specialization.

The limited legal aid scope and standards in ethnic minority areas. The secured functions of legal aid system should play roles in two aspects. On one hand, either the rich or the poor could

equally receive the legal aid service and access to legal assistance. On the other hand, for the poor, no matter what their work is and no matter where they live, they could also equally receive the legal aid service and access to legal assistance. In some ethnic minority areas, they expand the scope issued in the tenth item of Legal Aid Ordinance. For instance, Ningxia Hui Autonomous Region adds the following cases into legal aid, such as, using fake chemical fertilizers, pesticides, seeds, agricultural plastic films, agricultural machineries, as well as the cases of migrant workers' labor remuneration. Guangxi Province also adds the following cases into legal aid, such as, the compensation of dispute accidents, traffic accidents, medical malpractice, mistreatment, abandonment, the compensation of domestic violence, etc. However, due to geographical and cultural characteristics, the admissible scope is clearly not enough. For example, the civil disputes caused by public safety in ethnic minority areas and the resettlement disputes have not been included in legal aid. On the other hand, in most cases, the legal aid in ethnic minority areas mainly adopts the standard of financial strait. However, the standards measuring people's living are generally limited. These standards mainly depend on the local minimum living standards, which is the basic requirements of their daily life. Therefore, even those stays above the minimum living standards may not be able to purchase legal service.

The lack of effective supervision mechanism of legal aid in ethnic minority areas. Effective supervision mechanism can better promote the upgrading of legal aid quality in ethnic areas. The lack of effective supervision mechanism of legal aid in ethnic minority areas is mainly reflected in two aspects. Firstly, the legal aid institutions are responsible to provide legal services, as well as undertake the responsibility of supervision and management. An agency having these two functions will definitely be questioned. For example, legal aid office and legal aid center of Tibet Justice Department, legal aid office and legal aid center of Guangxi Justice Department, legal aid management office and legal aid center of Ningxia Justice. Secondly, the quality of legal aid cases lacks an effective supervision system. The improvement of legal aid quality in ethnic minority areas not only depends on the number of the cases, but also on its quality. However, in fact, few of the minority areas issued the evaluation items of legal aid quality. Part of the poor people can receive free legal aid in ethnic minority areas. And legal aid is generally regarded as some kind of kindness and charity given to the poor. There is totally no system for the evaluation of legal aid service and no cases of the complaints of officials.

Improvement Paths of Legal Aid Quality in Ethnic Minority Areas

To establish proper and specialized legal aid mode in ethnic minority areas. Legal aid mode in minority areas could not be the same in all regions. According to the economic development of different ethnic groups, proper legal aid modes should be carried out. These modes with in line with ethnic features cannot adopt the single mode which mainly use government lawyers or social assistance, or the mixed mode which totally use government lawyers and social assistance. For the areas with better economy and sufficient financial subsidies, the single mode which mainly use government lawyers or social assistance could be adopted, which would improve the quality of legal aid, as well as management level of justice administration. However, in the areas with weak economy and fewer professional lawyers and insufficient financial subsidies, we can the service mode which mainly uses government lawyers while social assistance is supplemented. This can effectively suppress the lawyers' excessive pursuit of economic interests rather than handling legal aid cases and can avoid the phenomenon of evading responsibility. In addition, we can also combine with the local implementation system of "One Village with One Duty Counsel". That is, all the lawyers, legal practitioners and notaries in the county are firstly integrated. And then they are assigned to each village and are responsible to provide legal aid service. In this case, legal service would be more popular in grassroot communities, which helps to better service the people and provide free legal advice. This mode is proved to be more effective.

To expand the coverage of legal aid in ethnic minority areas. Due to the geographical locations, the scope of legal aid has always been limited. The more strict the scope and standards are, the smaller the scope would be. Therefore, we should expand the scope of legal aid to help those who need help. In 2013, Ministry of Justice issued a file on further promoting the legal aid work, which proposes to

add the items of legal aid, enlarge the scope of legal aid, duly adjust the supplement items. Education, employment, medical care, social security, and other matters closely related to people's livelihood would be gradually incorporated. Taking the features ethnic minority areas into consideration, we should further expand the scope of legal aid. For example, juveniles, children, the old, the disabled could be included and the limitation of legal aid items could be canceled. In terms of economic standards, we could enlarge evaluation elements instead of the minimum living standard. The population needs supporting, per capita household income, natural disasters, family property, and so on can all be taken into consideration. This can truly help those who need help and ensure that they just meet the basic requirement of living.

To establish the supervision mechanism for legal aid in ethnic minority areas. The establishment of supervision mechanism for legal aid in ethnic minority areas mainly includes two aspects. Firstly, we should achieve the independence of supervision and management of legal aid and emphasize the principle of separation of politics and affairs. The institutions providing legal aid service and supervising the service should be separated. The government should be responsible for supervision. The administrative institutions should provide the legal aid service. Secondly, we should supervise the quality of legal aid in ethnic minority areas. An effective quality evaluation system with ethnic features should be established. Based on this supervision system, the inspection and assessment of legal aid quality could be carried out. Although the national quality standards of legal aid have not been issued, those regional standards with ethnic features in minority areas could be formulated. Therefore, the assessment of legal aid quality and complaint mechanism could be worked out. In addition, we can combine with the revised "Criminal Procedure Law" to strengthen the supervision in the process of handling legal aid cases, and ensure the whole standardized operations. The supervision of legal aid in ethnic minority areas should include the matters before receiving legal aid and in the process of handling cases, as well as those following the settled cases. Before receiving legal aid, the departments of justice in each ethnic minority area could adopt the easily understood languages and methods to tell the litigants their rights and obligations and make the cases public, so that the whole process of a legal aid case could be supervised by the society. In the process of handling cases, the administrative institutions in each ethnic minority area could irregularly participate in case handling and even discuss with the workers while dealing with vital cases to avoid miscarriages of justice. After handling a case, the supervision should be continued. We have not paid much attention to the supervision following the settled cases. The legal aid mode in ethnic minority areas is to assign the lawyers to deal with the cases through the legal aid institutions. However, the different properties, it has not been ruled that who undertakes the main responsibility, the lawyers or the justice departments at all levels. Moreover, due to the influence of economic interests on the lawyers, people would not attach much importance to the items after the problems have been solved. This makes legal aid much more formalized. Thus, we could check the settled cases, visit the recipients and trial institutions, objectively evaluate the quality of legal aid cases, establish a regular reporting system of legal aid quality, and timely inform the problems found in the inspection to alert more people. For the lawyers handling legal aid cases and the judicial institutions providing legal aid, as well as other workers participating in legal aid, a lifelong responsibility system can be adopted. If any injustice is found, they should be investigated for legal liability.

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