

# The Experience of Legal Aid System in China from a Comparative Perspective

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**Abstract:** As it can be seen from the legal aid system of the Western countries, the awareness of humanism and civil rights is embodied in the system construction. Consideration of the coverage of aid, the contradiction between supply and demand and the consideration of the quality of assistance are very meticulous. At present, the practical problems of China's legal aid need to be solved. These experiences have provided a shortcut for the improvement of China's legal aid system. Therefore, drawing on the experience of Western countries, the construction of China's legal aid system can be accelerated, which will benefit the people.

## 1. Introduction

The legal aid system is influenced by the modern social economy and other factors. The construction speed and perfection of the western countries are generally higher than that of the eastern countries. The legal aid in China is still in its infancy, so in the scope of aid, management mode and aid mode, experience from many western countries are deserving reference, which also provides some ideas for improving the legal aid system in China [1-2].

## 2. The Comparison of Experiences in International Legal System

### 2.1 Scope of assistance

Western legal aid generally meets the following three conditions to receive assistance: First, the nationality conditions. the ambiguous country boundaries of the beneficiaries and the scope of assistance not only include its own citizens, but also covers foreign citizens residing in a country for a certain period of time. If you do not reach a certain number of years of residence, you will follow the principle of nationality or mutual aid covenant between the two countries. Second, the economic conditions. The level of income reached the standard of aid for legal aid, which is the most basic conditions. The average annual disposable income of civil legal aid in Britain needs to be below £ 2,500, and criminal legal aid as a hard standard is under the average disposable income of £ 815. In the United States, this standard is more extensive, you cannot afford a lawyer to obtain legal aid. Third, the merits of the case. For the odds of winning the legal disputes in the disadvantaged groups, Australian law stipulates that the defendant has a reasonable defense or physical disability. Cases, disability accused persons with serious crimes, bail and parole and other reasonable requests are within the scope of assistance [3].

### 2.2 Management model

There are mainly four modes of legal aid in the West, including independent association management, specialized legal association management, court management and government direct management. The management of independent council is mainly concentrated in Canada, the United Kingdom, Wales, New Zealand and Australia. The members of the council are composed of a wide range of members, including members of specialized legal associations, members of legal aid departments, civil servants and the general public. Specialized legal association management mainly exists in Canada Ontario, New Brunswick and Alberta. These three provinces are mainly managed by provincial law societies, the form of legal aid services are provided by associations, which are costly and expensive. Court management mainly exists in England and some parts of the United States. The court mainly appoints lawyers and controls aid costs. In addition, it also has the

power to administer the courts by setting up commune defenders who affiliated with the courts. The government runs its administration directly over Prince Edward Island in Canada, with administrative powers control judicial power. So far, the legal aid for the underprivileged groups is the least [4].

### **2.3 Assistance methods**

There are four Western modes of assistance for legal aid, including private lawyer assistance, full-time lawyer assistance, contractual and hybrid modes. The private lawyer assistance model is that individual lawyers provide low-cost or free legal aid to vulnerable groups, which is the most common and widespread in countries such as Britain, Canada, New Zealand and the United States. The model of full-time lawyer aid is provided by full-time lawyers in government legal aid agencies. To provide legal aid to the disadvantaged groups has the advantage of lower cost comparing with the private lawyer, but the disadvantage is that the lawyers' autonomy is very small and nearly zero. This model mainly exists in the Nordic welfare countries such as Denmark and Sweden. Contractual mode means that legal aid contracts are concluded between the government legal aid agencies and private lawyers or full-time lawyers, which clarify the content of aid and provide funds to the contract undertakers on a regular basis mainly in countries and regions with very low population such as Canada and Australia. The two-track system is used in both the establishment of aid agencies and the selection of aid lawyers. The aid agencies have both public and private agencies, while aid lawyers have both public and private lawyers [5].

## **3. The main problems of our legal system**

### **3.1 Inadequate coverage of legal aid**

The development of legal aid in our country is affected by various factors, resulting in many legal aid recipients unable to accept legal aid. First of all, many people who need to receive legal aid do not understand legal aid. Second, some of the people who need assistance fail to meet the standards set by law, and many citizens still have difficulty in obtaining a "pass". Third, the humanization of legal aid insufficient results in some need to receive legal aid, citizens cannot get assistance [6].

### **3.2 Legal aid contradiction between supply and demand**

First of all, the legal aid team is the key to determining legal aid. Without a certain number and scale of organizations and personnel, legal aid cannot be implemented. It lets alone quality of service and social benefits. At present, with the rapid economic development in our country, the demand for legal aid from the community is constantly increasing. The state advocates expanding the scope of legal aid and lowering the threshold for legal aid. The purpose is to enhance the social process of legal aid so that more citizens who need legal aid will have equal opportunities stand before the law. But when this demand is motivated, it is hard to cope with the current number of lawyers. Second, lawyers in our country mainly focus on the practice of large and medium-sized cities while legal aid mainly targets groups with poor economic conditions. The reverse distribution further aggravates the contradiction between supply and demand [7].

### **3.3 Legal aid services virtualization**

Legal aid service virtualization means that when people really accepted the legal aid. But they did not achieve the effect of aid, or aid ineffective. And they may cause great losses to the parties. In reality, there is a phenomenon that lawyers do not conscientiously perform or not perform their legal aid duties when they are assigned to assignments. Some lawyers do not actively review books, do not interview witnesses, and do not investigate evidence-gathering and negative-testimony in their handling of legal aid cases. Some law firms often arrange assistance cases for internships or newly-employed lawyers, which greatly reduce the quality of legal aid cases [7].

## **4. Improve the legal aid system in China**

### **4.1 To broaden the coverage of legal aid**

First, one can draw on the Australian law to take the merits into consideration, so that a single standard can be flexible enough to cover more groups that need assistance. It's important to relax the standard of legal aid for economic difficulties and extend the coverage of legal aid to the low-income groups. Second, unblocking the application channels for criminal legal aid and expanding the coverage of legal aid for civil closely relate to people's livelihood into legal aid Supplement the scope of matters. Third, optimizing legal aid work procedures is used to achieve full coverage of legal aid consulting services.

### **4.2 To establish an independent commission management model to expand the legal aid team**

We can learn from Canada, Britain, Wales, New Zealand, Australia and other countries, the main body of legal aid will be extended to all sectors of society. This will not only increase the strength of the aid team, but also allow more social classes access to legal work. It can also reduce the high costs of special committees and improve the efficiency and quality of its work better. Secondly, we should strengthen the construction of full-time legal aid teams, set up legal aid lawyer departments and lower admittance. Thirdly, the mode of legal aid can be borrowed from the full-time lawyer aid mode of Denmark, Sweden and other Nordic countries with the help of Canada, Australia. The contract model is a mixed model. In this way, we can take into account the responsibility of the government while giving pay to the cost savings and also strengthen the management of aid lawyers.

### **4.3 To mobilize social forces to participate in legal aid work**

First of all, we should improve the working mechanism of legal aid by involving social organizations such as labor unions, Communist Youth League and women's federations. So that social forces can penetrate into legal aid. Secondly, we can learn from the successful experiences of the United States. We can establish a legal clinic guarantee mechanism for higher education institutions. There are some works to provide human resources protection. And tertiary institutions of law students in the organization and guidance of teachers can participate in social practice. This is a win-win move.

## **5. Conclusions**

As it can be seen from the legal aid system of the above Western countries, the awareness of humanism and civil rights is embodied in the system construction. Consideration of the coverage of aid, the contradiction between supply and demand and the consideration of the quality of assistance are very meticulous. At present, the practical problems of China's legal aid need to be solved. These experiences have provided a shortcut for the improvement of China's legal aid system. Therefore, drawing on the experience of Western countries, we can speed up the construction of China's legal aid system, which will benefit the people.

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