International Legal Aid Group

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FOREWORD

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Dear Colleagues,

As I pen this foreword many ILAG members across the world will be shocked by developments in Ukraine and the sufferings of its resilient population. I have had the privilege of visiting that beautiful country on many occasions in the last few years to study its impressive legal aid system which is being torn apart as you read this. It puts the challenges of our legal aid systems into perspective. The articles in this edition of the Newsletter remind us of the links that our systems have with each other. Avrom Sherr's piece on peer review details its recent successes in England and Wales - ironically Ukraine has just completed a successful peer review pilot in the contested Eastern oblasts. Merja Muilu highlights reforms in the excellent legal aid system in Finland and Yu Shan discusses the process of matching clients to lawyers in Taiwan, an issue that has also had resonances in Ukraine. Finally, Wu Hongyao provides some interesting insights into the proposed expansion of legal aid in China (a country that has also pursued peer review in recent years).

Ever best wish,

Alan

QUALITY REVIEW ASSESSED

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Two items recently have placed Independent Peer Review under the microscope in England and Wales. The Independent Review of Criminal Legal Aid by Sir Christopher Bellamy was published on 29 November 2021. It was heralded as the final part of the Government's review of Criminal Legal Aid and Sir Christopher looked at the criminal legal aid system in its entirety. The Government response is expected by the end of April 2022.

The second item was an interesting case which came on judicial review of administrative action before a High Court Judge in January 2022, in which an NGO, Detention Action, called into

question the way in which the Legal Aid Agency carried out its work in providing advice and assistance in certain detained immigration cases on a rota basis.

The Bellamy Report is well worth reading overall and makes very clear inter alia the need for further funding for Criminal Defence if the system is not to crumble completely (see https://www.gov.uk/government/groups/independent-review-of-criminal-legal-aid#final-report). Among other items of monitoring and contract checks by the LAA he considers the place of Independent Peer Review in comparison with other checks and audits carried out. At Paragraph 15.37, he says (my highlighting),

"Quality
On issues of quality, I have already referred to issues which arise in relation to police station work (Chapter 8) and recommended steps to be taken to improve quality in the Youth Court, including a system of accreditation (Chapter 11). Concern was expressed to the Review that the low legal aid rates in recent years had led to "deskilling" in a number of areas, for example Magistrates' Court work and Crown Court preparation by solicitors. A major purpose of the increased funding I recommend is to raise quality where needed. **As far as solicitors are concerned, it seems to me that the system of peer review, (ft.226) developed with the assistance of the Institute of Advanced Legal Studies, is an important part of the system. I would for myself put more emphasis on that kind of quality control than on more "box-ticking" exercises that might arise on audit for example. I would invite the LAA to consider, in consultation with the profession, whether the lightening of other administrative burdens, as further discussed below, would permit the three-year interval between peer reviews to be shortened (to two years say)."**

It will be interesting to see how, and whether, the Ministry of Justice, of which the LAA is now a part, will take on board this recommendation. In any event it is a positive and clear view of how quality should be reviewed in criminal cases.

The second item which is currently published at:
https://www.bailii.org/ew/cases/EWHC/Admin/2022/18.html is a judicial review in the High Court, Detention Action, R (On the Application Of) v Lord Chancellor [2022] EWHC 18 (Admin) (13 January 2022)

This Judicial Review of the LAA includes comment on Peer Review in immigration cases and by extension more generally. The actual case is more broadly about the manner in which the LAA provided access to legal aid through particular providers for detained immigrants and allegedly did not sufficiently monitor the work of these providers or ignored the information which showed that work was not sufficiently competent. The case appears to take as its starting point that Peer Review is a good effective and appropriate way to measure legal competence, but the allegation was that the LAA did not sufficiently review these providers or their work, and subsequently did not sufficiently react to the results of peer reviews which were carried out.

Below I show the sections of the judgment which pertaining to Peer Review.

The judge sets out how Peer Review is contracted by the LAA with Providers:

31. "Clauses 10.6 to 10.9 of the Standard Terms provide as follows:

"*Independent Peer Review Process*

10.6 You agree to the standard of your Contract Work being assessed by the Independent Peer Review Process and promptly to provide such information, Matter files and case files as may be required for that purpose. Both you and we agree to accept the validity of the Independent Peer Review Process and to be bound by the outcome of the Independent Peer Review Process. The Independent Peer Review Process and an explanation of the ratings (1-5) are available on our website and from your Contract Manager.

10.7 In each Category of Law, your Contract Work must receive a rating of either 1, 2 or 3 as determined by the Independent Peer Review Process. If you receive a rating of either 1, 2 or 3, we will not require you to reimburse us for the standard costs that are charged to us by those we instruct to carry out Peer Reviews.

10.8 If your Contract Work in any Category of Law receives a rating of either 4 or 5 as determined by the Independent Peer Review Process at the initial Peer Review, you may make representations in accordance with such process. If your original rating is upheld this is a material breach of Contract and, without limiting our rights to apply any Sanction in accordance with Clause 24.1, you will reimburse us for the standard costs that are charged to us by those we instruct to carry out that initial Peer Review. If your Contract Work in any Category of Law receives a rating of either 4 or 5 as determined by the Independent Peer Review Process at the second Peer Review, you may make representations in accordance with such process. If your original rating of either 4 or 5 is upheld, this confirms the outcome of the Independent Peer Review Process and is a Fundamental Breach. In these circumstances, and without limiting our rights to apply any Sanction in accordance with Clause 24.1, you will reimburse us for the standard costs that are charged to us by those we instruct to carry out that second Peer Review."

32. Consistently with the Standard Terms, the IPR Document at para 2.22 refers to IPR ratings of 1 (Excellence), 2 (Competence Plus), 3 (Threshold Competence), 4 (Below Competence) or 5 (Failure in Performance). The IPR Document further states that peer reviews are normally based on a review of a sample of 12-15 of the provider's files (IPR Document, para 5.3). In other words, it is essentially a spot check. However, a peer review can be carried out in respect of a smaller sample size of files where a provider has closed fewer than 15 files (*ibid*, para 5.16). There is no requirement to wait until sufficient files have been closed before the IPR process may be utilised. This is so whether it is the initial or second peer review: para 7.12.

33. In addition to its general powers of sanction (see below), the Defendant has the specific power to sanction providers who have been rated Below Competent (4) or who have incurred Failure in Performance (5), which indicates that the work has fallen below the standard required by the Standard Terms (in particular, clause 10.1 thereof):

a. A rating of 4 or 5 on a first IPR, if upheld after any representations from the provider, constitutes a material breach of the Contract on its own without more, and gives rise to sanction powers set out in cl. 24.1 (see clause 10.8 of the Standard Terms). A Contract Notice will normally be issued (IPR Document, para 7.10).

b. In such a case, in order to *"minimise the risk to existing clients"*, the provider should also undertake a file review of all open cases to ensure that the areas for improvement identified in

the peer review report are considered, identified and acted on as quickly as is reasonably possible (IPR Document, para 7.11).

c. Where a provider receives a rating of 5, the second peer review *"will be scheduled immediately"*. Where a provider receives a rating of 4, the second review *"will normally be scheduled after six months from the date of the initial first review report"* although it may be conducted earlier (IPR Document, para 6.35).

d. A rating of 4 or 5 at the second IPR, upheld after representations, constitutes a fundamental breach (see clause 10.9 of the Standard Terms).

e. In cases of two consecutive ratings of 4 or 5, it will normally be appropriate to terminate the provider's right to conduct publicly funded legal services in the relevant category of law (IPR Document, para 7.14-7.15).
(emphasis added)"

...

The Judge then sets out Detention Action's allegations in relation to Peer Review:

"c) Ineffective Independent Peer Review Process

51. Third, so far as independent peer reviews are concerned, Mr. Jaffey refers to the fact that the Defendant describes the Independent Peer Review Process as an "integral" way to quality-assure the work of providers: IPR Document, para 1.2. However, he argues that the Defendant's evidence demonstrates that this mechanism is ineffectual in ensuring that Detained Duty Advice Surgery (DDAS) work is competent. The peer review process is not a mechanism by which the Defendant is able to obtain an objective assessment of the quality of work carried out by providers in respect of clients seen on the DDAS. This is because, he argues (a) no peer review *at all* is carried out in cases where the firm has seen a detainee but not taken any further action; (b) there were and continue to be significant delays in carrying out peer reviews; (c) the Defendant has allowed providers, independently assessed to be incompetent, to continue to provide advice to detainees; and (d) there is no requirement to select DDAS files for review as part of the independent peer review process. This must also, he submits, be understood in the context of a DDAS which was expanded significantly (by extension) in September 2018, and (he suggests) the vast majority of providers have no track record of any kind in providing legal aid immigration and asylum legal advice to detainees.

52. The most serious and basic defect in the peer review process is, Mr. Jaffey *[Claimant]* submits, that it does not cover a case where advice was given in the initial 30-minute DDAS appointment, but no further action was taken by the firm (i.e. no NMS was opened). Where this occurs, such cases are ignored in the peer review process because a failure to advise/or advice that the detainee has no remedy at the initial DDAS appointment is not considered to be a 'file', and so no file is opened. Yet, he submits, this is where one of the most serious problems with the DDAS seems to be occurring – advisers not taking on work at all.

53. The statistics[10] must be viewed against that background, the Claimant submits. So far as those statistics are concerned, in the case of those firms with a peer review score of 4 or

5 (incompetent) and also with an New Matter Starts rate of less than the historic average, and in particular less than 20%, the Claimant alleges that the Defendant has failed properly to investigate what was happening. TRS/3 showed, the Claimant submitted, that the Defendant's Contract Managers either failed to raise the issue with the provider or simply accepted their explanation that "there were no IRC matter starts from the surgeries" [11] or that the poor NMS rate was caused by misreporting.

54. In response, Mr. Birdling *[Defendant]* observes that the most recent data shows that out of the 46 active providers, 4 firms have the top score of (1), 12 firms have a score of (2), 18 firms have a score of (3), 7 firms have a score of (4) and no firms have a score of (5), which shows that generally the system is functioning well. The Peer Review Scores Spreadsheet also shows that scores can improve after an initial Peer Review, and indeed that is the very purpose of the review. There are 5 firms which have not had peer review scores yet, but they are either in peer review, or dates have been set for reviews in early 2022. The Peer Review process is a time-consuming process because it requires the peer reviewer to assess a number of files against a number of detailed criteria.

55. Mr. Birdling further submits that a minimum number of closed files reviewed is chosen by reference to an objective statistical analysis (i.e. the reviewer considers a statistically significant sample) in order to ensure fairness for firms undergoing what is an invasive and rigorous scrutiny of their overall standard of performance by their peers. A separate peer review purely for the DDAS would be disproportionate not least because the DDAS represents work done at pace in a difficult environment and amounts to a small fraction of the LAA's overall portfolio of legal aid."

...

Then the judge reports some of the other evidence given for the Claimant. Ms Lenegan, the Legal Director of the Immigration Law Practitioners' Association, summarises her concerns with the DDAS in her first witness statement at paragraph 125 as follows:

"*Access to legal advice and representation*

a. Providers refusing to take on clients seen at DDA surgeries, citing capacity to do the work or because the cases are too complex (data provided by the LAA in February 2020 showed, for example, that 5 firms had not opened a single Legal Help file for any of the 292 clients seen at 41 DDA surgeries; 4 opened Legal Help matters for less than 5% of clients seen, 5 for more than 5% but less than 10%, and 8 for more than 10% but less than 20%) [SL1/6]. This suggests potential breaches of providers' warranties as to capacity and/or competence, and/or the expectation that providers will take on follow-on work for DDA rota clients where they are eligible for legal aid.

b. Providers not attending their rota slots or attending late, in clear breach of paragraph 8.105 of the Immigration Specification.

c. Providers unable to do judicial review work (often involving injunctive relief) because they are not authorised to do so by their regulator, in breach of the tender requirement (and so the associated warranty under cl. 18.1 of the Standard Terms) that a provider must be able and willing to conduct "the full range of licensed work in the Immigration and Asylum Category of Law".

Quality of legal advice and representation

d. Providers having been given a peer review rating of 4 ("Below Competence") or 5 ("Failure in Performance") (indicating that they are not competent to undertake any immigration and asylum work, let alone specialist detention work), constituting a material breach of contract on the first review and a fundamental breach on the second review (Standard Terms cl.10.8-10.9). Alarmingly, data provided by the LAA in February 2020 showed that one-sixth of the 36 firms that had been peer reviewed had been given a rating of 4 or 5."

…

And the answer of the Defendant is the rehearsed,

> 74. *"[Mr. Birdling for the Defendant.]* Finally, so far as the alleged gap in monitoring is concerned, Mr. Birdling accepted that potentially there could be cases where inadequate advice is given in a 30-minute session and no file is opened such that the peer review will not pick up such a case. However, he pointed out that the purpose of the peer review is in any event to gain an overall view of the provider's competence rather than a detailed view of the merits of individual pieces of advice which is impractical; and whilst it is true that it is not the role of CMs to opine on the judgment of qualified, accredited and regulated legal professionals, the purpose of the visits by the CMs (utilising all of the information available to them, including the providers' statistical returns) is indeed to discuss apparent issues such as a failure to open bail cases and the reasons therefor, as one can see occurred in the case of the firm Goodfellows."

…

Lastly, Mr. Justice Calver gives his decision,

"98. {The Judge}. I also consider that there is insufficient evidence to criticise the promptness with which peer reviews are conducted or the number of files which are reviewed by peer reviewers and, to be fair to Mr. Jaffey, he did not press this point in oral submissions. The evidence in fact suggests that the peer review process is working well (see paragraph 54 above) and the number of files peer reviewed has statistical support (see paragraph 55 above). Likewise, in respect of the Claimant's criticism that there are appointed providers who are unable to conduct claims for judicial review, the Defendant has explained that either any such issues have been addressed by the LAA (by the relevant provider being suspended, as in the case of the Justice and Rights Law Firm) or there are ongoing discussions with defaulting providers to resolve any such issues.

…

Conclusion

112. In all the circumstances, and despite Mr. Jaffey's skilful submissions to the contrary, the operation of the DDAS is not unlawful and the decision to extend the exclusive schedule authorisations, via the Decision, was not unlawful. The claim is accordingly dismissed."

The readers of this bulletin are likely to applaud the approach of the Claimants in attempting to hold the LAA to their duty to provide competent legal aid especially in the unpleasant circumstances of immigration detention. The longer-term effect is hopefully that the Lord Chancellor / Ministry of Justice will realise that all such activity is being carefully monitored and will be held to account if not sufficiently considered and actioned.

The importance of quality control, review and overview is strengthened by these two items in both criminal and civil cases.

SOME CHANGES CONCERNING LEGAL AID IN FINLAND

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E-Services Will Be Reformed

In Finland it has been possible to apply for legal aid online since 2010. The case management system for legal aid cases, Romeo, is a national information system used by legal aid offices, attorneys and courts.

Citizens and attorneys apply for legal aid electronically in Romeo. The legal aid offices use Romeo to make a legal aid decision and to manage the assignment. Through Romeo, the courts receive applications from an attorney and a defender as well as the remuneration and expenses requirements of the attorneys and defenders.

The online legal aid application part of Romeo is now being reformed. The aim of the reform is to make online application more customer oriented. The new online application called Rosa will guide the applicant in filling in the application and therefore Rosa can be seen as a step towards a more individual online service.

The launch of Rosa is planned for May 2022.

Legal advice may be requested at a legal aid office anonymously through an electronic chat service. In chat public legal aid attorneys offer assistance in legal problems. The service has been expanded so that advice can also be sought in matters related to financial and debt counselling. A person asking a question can be transferred from a legal aid chat to an expert in financial and debt counselling and vice versa.

Report Of The Impact Of Income Limits For Public Legal Aid

A research project was initiated in June 2020 to examine the access to legal aid. The project is part of the implementation of the Government Plan for Analysis, Assessment and Research and

is included as an objective for measures to strengthen the rule of law / well-functioning judicial proceedings and legal protection.

Legal aid is provided on application, for free or against a deductible, on the basis of the economic situation of the applicant. The economic situation of the applicant is estimated based on the funds available to him or her per month (available means) and his or her assets. The objective of the research project was to assess, using population-level data, how different changes in the financial conditions for access to legal aid would affect the number of persons receiving legal aid. The study also assessed what changes should be made to access to public legal aid and whether there is a need to increase the current income limits in order to allow more people access to public legal aid and how different economic models would affect the state economy.

The final report of the study was published in October 2021. The project provided information on the impact of income limits for public legal aid. According to the information, public legal aid was provided for free to about 75 % of legal aid clients. The project calculations evaluated the impact that increased income limits have in various income brackets on the number of legal aid recipients and the state economy. By increasing the income limits, the number of those entitled to free public legal aid would increase from 20,7 % to 22,7-42,9 % depending on the chosen income limits. The share of those not eligible for public legal aid based on their financial position and current income limit would decrease.

Increasing the income limits would result in 5,1 to 25,1 million euros more government spending per year. As a rule, public legal aid is not granted to applicants who have legal expenses insurance. About 91% of public legal aid recipients did not have legal expenses insurance. The legal counsels and attorneys interviewed for the project found that the practices for determining the income limits and deductible should be updated and the income limits increased, especially with regard to free public legal aid. In addition, more cases should be made eligible for public legal aid.

Any changes to the conditions for granting legal aid that may be proposed as a result of the study are currently under consideration.

The address of the publication is https://julkaisut.valtioneuvosto.fi/handle/10024/163579 (in Finnish).

A New Authority Is Being Planned

The Ministry of Justice of Finland has launched a project to reorganize the current six legal aid and public guardianship districts into a National Legal Aid and Guardianship Authority in 2023. The final name of the new authority is still under consideration. The draft Act is now in the public consultation round which will end in February 2022.

The new national authority would be tasked with ensuring that high-quality legal aid, public guardianship and financial and debt counselling services are available in a sufficient and equal manner throughout the country.

The new authority would consist of central administration and legal aid and public guardianship offices. The establishment of the authority is considered to allow for a more efficient and coherent development and better resourcing of activities than at present.

Since October 2016, legal aid services in Finland have been organized into six legal aid and public guardianship districts, which function as agencies. The districts organize legal aid and public guardianship services and financial and debt counselling services. These services are then provided by the districts' legal aid offices and public guardianship offices.

The aim of the reform is to clarify the functions of the Ministry of Justice and to organize administrative services in a way that would better support the activities of legal aid and public guardianship offices. The central administration of the sector would be transferred from the Ministry of Justice to the new authority. Thus, the changes in the reform concern mainly the tasks of support and administrative services that are currently done in the Ministry of Justice and in the districts. These administrative and support services would all be brought together in the central administration of the authority to be established. The central administration would be responsible for the development, administration, and support services of the authority.

The current multi-location organization which enables the performance of administrative tasks in multiple locations in a network-based manner, would be maintained. The new authority's central administration staff would thus continue to operate in different locations across the country.

The network of legal aid and public guardianship offices would be maintained. Financial and debt counselling services would remain at legal aid offices.

Public legal aid attorneys working at legal aid offices are independent and impartial when performing the advocacy services. Their independent role in dealing with clients would not be changed. The authority could not interfere in any way with the advocacy work of its legal aid offices, not even for example with customer invoicing.

UNCOVERING THE SECRETS OF LEGAL AID MATCHMAKING: AN EMPIRICAL STUDY INTO CASE ASSIGNMENT BY THE TAIWAN LEGAL AID FOUNDATION

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LEGAL AID FOUNDATION (LAF) IN TAIWAN

Introduction

Matchmaking is not the exclusive purview of dating services. In a broader sense, it is an essential activity for many organisations, including publicly funded and pro bono legal services.
The Legal Aid Foundation (LAF) of Taiwan is no exception. Since its establishment in 2004, the LAF has positioned itself as a bridge between socially and financially disadvantaged legal aid clients and lawyers. It has adopted a clearing house or service intermediary model to deliver an extensive range of legal aid services. Once an application for legal aid is approved, the relevant LAF branch office will assign the casework to either an external private lawyer or a staff lawyer, within three working days. The LAF serves as a matchmaker to identify, select and contact the

candidate lawyers and assess their willingness to undertake the case. Due to the very limited number of staff attorneys,[1] more than 97 percent of the legal aid casework is undertaken by external private lawyers.

Unlike case appointment regulations for local courts or bar associations, which usually select lawyers in sequence using a rota, the Legal Aid Act underlines the suitability of appointed lawyers for cases and clients.[2] The Act requires that factors such as the type of case, the lawyer's expertise and willingness, the number of legal aid cases that have already been assigned to the lawyer, and the client's willingness, should all be taken into consideration. This is to ensure equal quality of legal aid services to each client. On the other hand, although legal aid casework is not highly paid,[3] some private lawyers, LAF board members, and even the government funder continues to hold the view that the LAF should allocate casework as evenly as possible to prevent staff workers from lining the pockets of certain lawyers. An uneven distribution of assigned cases would be considered proof of inequality among legal aid lawyers, and LAF's fairness and appropriateness in case assignment would come under scrutiny.

Policy and practice on this issue has swung between the two approaches since the LAF was founded. To balance the two extremes and avoid poor handling of cases due to excessive caseload, the LAF established a cap of 24 new cases per lawyer per year, save some exceptions.[4] It also equipped its business operation system (BOS) with the function to generate lists of candidate lawyers for certain cases by the number of cases that have already been assigned, lawyers' gender, self-proclaimed expertise, willingness, language capability, and other attributes. However, the actual practice of legal aid case assignment and differences between branch offices have never been systematically analysed. The essence of matchmaking and influencing factors that should be taken into account were not clearly defined. The LAF's research team therefore conducted a series of quantitative and qualitative studies to explore the landscape and rationale of case assignment and provide evidence to inform future policymaking.

Research Methods

The first phase of this series of studies analysed LAF management and operational data between 2015 and 2017. In the second phase, 22 face-to-face in-depth interviews with the branch offices were conducted. Three honorary branch heads and 64 full time staff workers[5] were interviewed between March and August 2020. Case assignment tools and example files were examined, and practical case assignment behaviour was observed during the fieldwork.

Summary Of The Research Findings

M-Form Distribution Of Casework And Statistically Significant Influencing Factors

[1] As of the end of 2021, there were only 19 staff attorneys responsible for undertaking casework.
[2] Please see Article 26 s.1 of the Legal Aid Act 2004 and Article 25 of the 2015 Amended Legal Aid Act.
[3] Remuneration paid to private legal aid lawyers is usually a fixed fee about a third to a half of the market price, depending on the case category and the type of proceedings.
[4] For example, if the lawyer has undertaken the previous proceedings or any other interrelated cases of the assigned case and s/he is appointed by the same client, then case assignment of this case to the lawyer can exceptionally exceed the 24 cases cap. After 1 January 2019, family and employment law cases that are applying specialist panel policy can also be exempted in order to provide more incentives for specialist lawyers.
[5] This number represents nearly a fourth of the LAF's staff workers (23.8 percent) and approximately a third of branch staff (32 percent).

Quantitative analysis of national case assignment data showed a polarised M-shaped distribution of cases to private legal aid lawyers. In terms of the annual number of assigned cases, about 50 percent of the lawyers undertook fewer than 10 new cases a year. The largest group among them were lawyers who undertook four cases a year (in 2015-16) and seven (in 2017). After this peak on the left side of the M-form, the numbers of lawyers decreased with the increase of annually assigned cases. However, after 22 cases, the numbers of lawyers started to rise again on the right side of the M-form and peaked at 24, which is the general national limit. Around 20 percent of lawyers were on the right side of the chart. They accounted for about 45 percent of total cases. The last 20 percent of lawyers graphed on the left side of the chart were commissioned in fewer than three percent of the cases.

Through the chi-square and other nonparametric tests, the volume of certain case types assigned to specific lawyers was found to be significantly related to the lawyer's gender, language capabilities, age, years of practice, self-proclaimed legal expertise, and areas of interest. For instance, family law cases were more likely to be assigned to female lawyers while cases in which clients were in custody or in prison were more likely to be assigned to male lawyers. Furthermore, qualifications from specialist panels and level of participation were found to have a statistically significant positive correlation with assigned casework volume in all types of cases.

Dominant Rules And Key Influencing Factors

In addition to the above quantitative analysis, the qualitative study further confirmed that legal aid case assignment has never been a randomised selection due to the overriding concern for service quality.

On the one hand, this concern has already been embodied in the LAF's regulations and policies. Two priority principles are generally applied to case assignment. The first is the specialist panel policy, in which family law, employment law, and consumer debt cases are assigned exclusively to the respective specialist panel members. Specialist panel members have to achieve a higher quality standard in the LAF's prior assessment by providing evidence to prove their professional knowledge and practical experience in handling cases. The second principle has been to follow the client's appointment of a lawyer. In view of the fact that client-lawyer trust is the foundation of good lawyering, the LAF respects the client's preferences, unless the appointed lawyer is not eligible or not willing to undertake the case.

On the other hand, case assignment heavily relies on the LAF staff workers' discretion. The suitability of matches and service quality have always been their key concern. Therefore, regardless of the number of cases that have already been assigned, the qualitative analysis showed that the following four interrelated considerations are key factors for assigners in making good matches.

1. Geographical Location

In order to avoid socially and economically disadvantaged clients travelling a long way to visit their lawyers, the geographical location of the client, lawyer, and the court, as well as the mobility of the participants and their willingness to travel should be prioritised. Case assignment is difficult when the client, lawyer, and court are in different areas.

2. Client-Related Factors

Careful consideration is given to a client who is a heavy legal aid user; is disabled; is in need of emotional, mobility, language, or communication support; is in custody or prison; or has personality, attitude, temperament, or other issues. As one respondent (C2) said, "*Not all legal aid lawyers are able to work with the clients with severe mental or intellectual disabilities*." Lawyers who are gentle, calm, patient, compassionate, and good listeners are highly sought after by branches, especially when there is a national cap on case allocation.

3. Case-Related Factors

The characteristics of a legal case are key factors to be taken into account. These included case type, areas of law, urgency, approved amount of remuneration, and complexity of the case. Cases that are urgent or complicated but have a comparatively low remuneration; or cases on issues such as employment, consumer debt, murder and manslaughter, sexual assault, financial and economic crimes are considered "difficult to be assigned."

4. Lawyer-Related Factors:

Eight subcategories of this factor were identified: (1) the lawyer's professional capability and service quality; (2) the lawyer's participation and support in local legal aid affairs, such as grant examination, giving legal advice, public legal education, and continual professional development; (3) the lawyer's familiarity and compatibility with LAF regulations and the branch's modus operandi; (4) the lawyer's gender, age, and years of practice; (5) the lawyer's legal practice status and whether s/he is employed or an employer; (6) the lawyer's personality, attitude, and other capabilities such as language and use of technology; (7) the lawyer's willingness and preference to undertake the case; (8) the lawyer's compatibility with court dates.

The last three subcategories were the most commonly mentioned. With regard to how subcategory-7 plays out in practice, some lawyers only pick easy or high-remuneration cases. Similar to other matchmaking services, after several rounds of negative responses from "picky" lawyers, case assigners will stop or reduce correspondence with them due to contact fatigue.

It is worth noting that the importance of each identified factor may vary with cases, case assigners, and even geographical locations. It is difficult and inappropriate to apply a fixed weight to each factor in all cases. Additionally, some of these influencing factors not only require objective examination of the facts, but chiefly rely on the case assigner's subjective assessment and judgement. Although consideration of these factors can improve case assignment, subjective assessment and judgement can easily be challenged.

Decision-Making Support Tools

The research also explored the decision-making support tools applied in case assignment across the branches. Although all of the branch offices are required to record case assignment results in the LAF business operation system (BOS), not all the branch offices use the BOS-generated lists of candidate lawyers to assist their decision-making. While all of the seven large metropolitan branches were found to adopt the BOS-generated candidate lists, 10 out of the 12 regional small branches used their self-made files to facilitate case assignment work during the fieldwork.

Why did the location and size of the branches seem to make a significant difference, in terms of the use of decision-making support tools? The main reasons were the inequality of local service supply and the built-in sequential logic of the BOS-generated lists. The BOS-generated lists are chiefly sequenced by the order of total number of assigned new cases to a certain lawyer nationwide instead of those assigned by a single branch. This means that national equality counts rather than local equality, according to the BOS logic. In addition, for most of the regional small branches, where local service supply is limited and patchy, case assignment is considered a motivation to encourage lawyers to actively participate in and assist local legal aid affairs, whether the lawyers are based locally or not. These regional branches place more value on local equality and thereby want to use self-made files to encourage lawyers that have made dedicated contributions to local branches.

The aforementioned findings on key factors reveal the complexity of case assignment and show that the comparatively simple sequential logic of the BOS-generated lists apparently cannot satisfy the needs of case assigners. Although the BOS can automatically screen out unqualified lawyers who have been disciplined as well as the busy lawyers who have officially asked for temporary leave, there is still a great amount of information about lawyers that is not being noted on the lists but exists in the case assigner's mind as implicit knowledge or in other parts of the BOS system. The BOS and its generated lists are more a filing and support system than an automatic decision-making system. The case assigner still has to make the final decision based on her/his comprehensive understanding of the lawyers and experience of practical correspondence. In addition, self-made lists usually include more valuable information about the lawyers in the same sheet or file. For instance, the law firm's location, the lawyer's practice areas, preferences and specialisations, basic information about previous cases and clients, and even the lawyer's remuneration. Comparison between the two tools demonstrates that the current case assignment functions of the BOS have much room for improvement. In order to enhance the suitability and efficiency of case assignment, the practical experiences of service users (LAF staff) should be included in the design and an overhaul of the system interface should be seriously considered.

Equality Between Lawyers In Case Assignment: A False Proposition?

Following the above findings, the research pointed out that arguing for equal distribution of casework between registered legal aid lawyers was unrealistic. As a respondent (T2) reflected:

"*If all of the lawyers have the same personality traits, similar specialisations, equivalent service quality, comparable participation appetites and compatibility with legal aid work…., then we just follow a fixed sequence to assign the cases in rotation…I don't need to waste time thinking about this. However, the reality of case assignment is not like that….because it's all about different individuals…So the assigned case numbers to legal aid lawyers can never be equal….Therefore, I am so proud that I gave the lawyers different amounts of casework because I carefully considered how to make good matches for our clients.*"

Without recognising the diversity of cases and legal professionals, as well as inequality of local service supply, the policy of equal casework distribution is a false proposition, which at best would deliver superficial equality between lawyers. It would also lead to the risk of poor and adverse selection, in which "bad lawyers", who are incompetent and/or only pick up easy or

lucrative cases, might drive out the "good lawyers", who can provide quality service and have the public interest at heart.

What is equal is not always what is fair and suitable. According to its statutory purpose, the LAF must ensure equivalent service quality for legal aid clients rather than equal working opportunities for lawyers. From a system thinking perspective, since case assignment is the starting point of quality control, a good match can successfully reduce potential damage to legal aid clients and prevent avoidable costs from subsequent complaints, quality and disciplinary reviews, and change of lawyers.

Policy Implications and Recommendations

This series of studies was the first nationwide research project to uncover legal aid practices in case assignment. It demonstrated the intricacy of case assignment and the enormous diversity in the legal aid cases, clients, and lawyers. It also identified four aspects of influencing factors, different behaviour patterns of the branches, and their rationale therein. Aside from the above summary of findings, the research further discussed the impact of certain legal aid and justice policies and previous changes of decision-making support tools, statistically examined whether staff workers inappropriately handed out favours to specific lawyers and applied economic theory to explain case assignment behaviour in the real world.

Through reflecting on the diverse local needs and difficulties of case assignment, this empirical study not only suggests that the established view in favour of equality between lawyers may be quixotic, but also reveals that some current LAF regulations on the management of legal aid lawyers are ambiguous and lack practical guidelines for implementation. There is a pressing need for more comprehensive and sophisticated planning on case assignment and management of legal aid lawyers, which integrates with the BOS system but allows flexibility for geographical differences. Other recommendations are as follows:

- conduct an extensive nationwide review on service supply gaps by geography, specialisations, and client groups
- develop a set of more specific criteria and indicators for service quality assessment and case assignment suitability
- accept the diversity of LAF branches and legal aid lawyers and strengthen the management of lawyers' expectations by providing a national overview of legal aid lawyers' participation channels, which is informed by local differences
- enhance professional training on specific specialisations or skills to expand local provider bases and fill supply gaps
- boost LAF staff workers' professional sensitivity and ability to optimise case assignment
- improve the BOS system to provide more comprehensive information and support for case assignment decision-making

It is worth mentioning that a fieldwork respondent and the government funder suggested that the next generation of BOS case assignment functions could employ artificial intelligence algorithms or given fixed weight to influencing factors. However, given that case assignment involves complicated cerebral processing and that each influencing factor might be given different weight in different cases, the limited data currently collected by the BOS can by no means be developed into an accurate algorithm without bias. Other challenges include whether

the large amount of funding needed to develop the system can be offered or even justified given the constant changes to legal aid regulations and policies.

Although the LAF has been running this clearing house model since it was established nearly two decades ago, how much longer this legal aid matchmaking service will continue is still unknown. Informed by comparative studies on legal aid systems and their reforms in other jurisdictions, there is also the possibility that the LAF may change its business model. While legal aid in the past 18 years has transformed the legal services environment and a number of lawyers and law firms have gradually adopted a niche strategy to focus on legal aid, in an uncertain future, contracting, franchising, or any other governance structures that direct clients to law firms instead of branches offices for legal aid applications might happen. In that scenario, case assignment may no longer be the key business of LAF branches. The new task could be how to ensure consistent quality of all providers and assist clients in finding a suitable lawyer on their own, based on the current knowledge of legal aid matchmaking. It would be worthwhile observing the future development of the LAF's operation model.

NEW STARTPOINT OF CHINA'S LEGAL AID SYSTEM

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China's legal aid system originated from the *Criminal Procedure Law* and *Lawyers Law* in 1996. After that, each province and city successively issued legal aid regulations or implementation measures according to their economic and social circumstances, and actively explored the construction of legal aid system. In 2003, the State Council promulgated the *Regulations of the People's Republic of China on Legal Aid*, which established the basic management system of legal aid in the form of administrative regulations.

In recent years, with the continuous progress of the overall law-based governance, the public have put forward higher requirements for the legal aid system with growing demands for legal services in democracy, rule of law, fairness, justice, security and environment. In 2015, the General Office of the CPC Central Committee and the General Office of the State Council issued the *Opinions on Improving the Legal Aid System*, putting forward specific opinions on expanding the scope of legal aid, improving its quality and its guarantee capacity and strengthening organizational leadership in this regard. On September 7, 2018, the *Legislative Plan of the Standing Committee of the 13th National People's Congress* listed the *Legal Aid Law* as a Category II legislative project (that is, "a draft law that needs to be worked out as fast as possible and submitted for deliberation when the conditions are ripe"), and the Supervisory and Judicial Committee of the National People's Congress should take the lead in promoting this matter. In September 2020, the Supervisory and Judicial Committee of the National People's Congress listened to expert opinions on the *Draft Legal Aid Law (First Draft)*. After three deliberations, the 30th Session of the Standing Committee of the 13th National People's Congress examined and adopted the *Legal Aid Law of the People's Republic of China* on August 20, 2021. According to the

Order of the President of the People's Republic of China (No. 93), the *Legal Aid Law* will enter into force on January 1, 2022.

I. Legal Aid Law: It is the inherent requirement for the shared development of the rule of law

The *Legal Aid Law* is the requirement of the times for implementation of Xi Jinping's Thought on the rule of law, especially the "shared development idea" and "people-centered idea". "Improving the legal aid system" is a reform task put forward by the Third and Fourth Plenary Sessions of the 18th CPC Central Committee. This legal aid legislation is oriented to improve the people's sense of access to legal aid, and by upgrading the mature legal aid system and practical experience to national legislation, it has laid a solid systemic foundation for the diversified, sustainable and high-quality development of legal aid services. In terms of specific content, guided by the idea of shared development, the *Legal Aid Law* is aimed to "implement the constitutional principle that all citizens are equal before the law, so that citizens can get the necessary legal services regardless of economic conditions and social status", which is an important measure to protect the basic human rights of vulnerable groups.

In China's socialist legal system, the legal aid system is not only an important judicial guarantee system for human rights, but also a social security system supporting the weak, which embodies the superiority and essential characteristics of the socialist legal system. In western countries under the rule of law, the legal aid system mainly refers to the criminal legal aid system related to the right of defense. Different from it, China's legal aid system covers both the criminal legal aid service and the civil and administrative legal aid service. In China, the legal aid system includes two aspects from the beginning: First, legal aid is a criminal defense system with the protection of the right of criminal defense as the core, which is a part of the judicial protection system for human rights. Therefore, Article 6 of the *Legal Aid Law* stipulates that the people's courts, people's procuratorates and public security organs have the duty of legal protection; Article 36 of the *Legal Aid Law* stipulates that for cases meeting the statutory conditions, the public security and judicial organs shall take the initiative to notify legal aid agencies to provide legal aid service in accordance with their functions and powers. Second, in the civil and administrative fields, legal aid is a livelihood project supporting the weak, aimed to ensure that people meeting the conditions of economic difficulties can equally enjoy the fruits of the development of the rule of law and have access to free legal services in accordance with the law. Therefore, Article 31 and Article 32 of the *Legal Aid Law* stipulate that citizens have the right to legal aid services for civil and administrative matters prescribed by law. In short, the *Legal Aid Law* focuses on vulnerable groups in the society, and its purpose is to enable everyone to enjoy the sunshine and warmth brought about by the development of the rule of law.

Under the background of overall law-based governance, the legal aid system is an indispensable part of the modern legal service system. The Fourth Plenary Session of the 18th CPC Central Committee put forward the reform task of "building a complete legal service system". Specifically, in a complete legal service system, legal services should be based on the principle of market-oriented legal services and supplemented by legal aid services as necessary. In other words, the legal aid system is a supportive system for "basic protection" and "help to vulnerable groups". In this sense, a sound legal aid system helps to ensure that specific groups have access to equal legal services, create conditions for the masses to enjoy the fruits of the development of the rule of law and highlight the essential characteristics of the socialist rule of law.

In the form of national legislation, the *Legal Aid Law* has laid a solid systemic foundation for the sustainable, high- quality and balanced development of legal aid in our country. Article 2 of the *Legal Aid Law* stipulates that legal aid refers to the system established by the state to provide legal advice, agency, criminal defense and other legal services free of charge for citizens in financial difficulties and other parties meeting the statutory conditions. It is an integral part of the public legal service system. It is thus clear that in China, legal aid is one of the basic public services of the state; the work of legal aid should follow the basic principles of party leadership, people- centered approach, respecting and safeguarding human rights and the combination of state protection and social participation as well as the principles of openness, fairness and impartiality.

II. China's legal aid system is an integrated one that takes into account both fields of criminal law and civil law

Compared with the western legal aid system, the basic feature of that in China is that it not only emphasizes the judicial protection of human rights in the field of criminal law, but also considers the protection of people's livelihood in the field of civil law and administrative law; it is an integrated legal aid system that takes into account criminal, civil, administrative and other legal aid services.

(I) Criminal legal aid: a system of judicial protection of human rights with the right of defense as the core

In criminal cases, the right of defense is a constitutional right enjoyed by criminal suspects and defendants, and guaranteeing the exercise of the right of defense of criminal suspects and defendants is the proper meaning of respecting and protecting human rights. Therefore, based on the principle of judicial protection, Article 6 of the *Legal Aid Law* stipulates that "people's courts, people's procuratorates and public security organs shall, within the scope of their respective duties, ensure that the parties concerned receive legal aid in accordance with the law and facilitate the work of legal aid personnel". Meanwhile, in the fourth chapter of the *Legal Aid Law*, "Procedure and Implementation", it specifies the obligation of disclosure (Article 35 and Article 37), the obligation of timely notification and transfer (Article 36 and Article 39) and the obligation to provide necessary facilities (Article 37 and Article 53) of public security organs and judicial organs.

On the basis of the relevant provisions of the *Criminal Procedure Law*, Article 25 of the *Legal Aid Law* further expands the scope of protection of criminal legal aid.

According to Article 25 of the *Legal Aid Law*, in criminal cases, the objects for which the public security organs and judicial organs shall notify legal aid agencies to appoint a lawyer as defender include criminal suspects and defendants who are minors, persons with visual, hearing and speech disabilities, adults who can not fully identify their own behaviors, persons who may be sentenced to life imprisonment or death penalty, defendants in death penalty review cases applying for legal aid, defendants in cases tried in absentia and other persons as prescribed by laws and regulations. In particular, compared with the concept of "the blind, deaf and mute", the concept of "persons with visual, hearing and speech disabilities" extends the scope of protection to persons with lower degree of disability or class of disability; the provisions on "adults who can not fully identify their own behaviors" further include "persons with mental disabilities" in the scope of protection on the basis of "mental patients who have not yet completely lost the

ability to identify or control their own behaviors". In addition, Article 25 of the *Legal Aid Law* also makes it clear that a defendant in death penalty review cases who does not entrust a defender also falls within the statutory scope of mandatory defense upon application; if the defendant does not entrust a defender in criminal cases where the general procedure is applicable, the legislation advocates and encourages the people's court to notify legal aid agencies to assign a legal aid lawyer to it.

In order to ensure the quality of legal aid services, the legislation also makes clear provisions on the qualifications of legal aid lawyers in felony cases. Article 26 of the *Legal Aid Law* stipulates that legal aid agencies shall appoint lawyers with more than three years of relevant practice experience as defenders for persons who may be sentenced to life imprisonment or death penalty as well as defendants in death penalty review cases.

Meanwhile, according to the principle of priority of entrusted defense, Article 27 of the *Legal Aid Law* stipulates that "when people's courts, people's procuratorates and public security organs notify the legal aid agency to appoint a lawyer as his or her defender, the right of a criminal suspect or defendant to entrust a defender shall not be restricted or damaged." Therefore, the legislation clarifies the principal-subordinate relationship between entrusted defense and legal aid: criminal defense should take the priority of entrusted defense as the principle and legal aid as the necessary supplement. In other words, only when the criminal suspect or defendant does not entrust a defender, the public security organ and judicial organ have the duty to guarantee legal aid, and they shall not restrict or impair the right of criminal suspects and defendants to entrust defenders on the grounds of notifying legal aid lawyers.

In addition, Article 29 of the *Legal Aid Law* further provides for the legal aid system for victims. That is, for victims and their legal representatives or close relatives in criminal public prosecution cases, private prosecutors and their legal representatives in criminal private prosecution cases as well as plaintiffs and their legal representatives in civil suit collateral to criminal cases, if they do not entrust the law agent due to financial difficulties, they shall have the right to apply to a legal aid agency for legal aid.

(II) Civil and administrative legal aid: basic public services with people's livelihood as the core

Different from western countries under the rule of law, legal aid is a basic public service provided by the state in the civil and administrative fields. Article 31 and Article 32 of the *Legal Aid Law* stipulate that citizens have the right to legal aid services for civil and administrative matters prescribed by law.

Article 22 of the *Legal Aid Law* stipulates that the legal aid services provided by legal aid agencies can be divided into two categories: one is basic legal aid services, such as legal advice and drafting legal documents. In principle, no examination of economic difficulties is required for this kind of legal aid, so as to fully meet the needs of the masses for legal aid services. The other is case agency service, such as litigation agency and non- litigation agency in civil, administrative or state compensation cases and labor dispute mediation and arbitration agency. Article 31 of the *Legal Aid Law* specifies eight categories of civil and administrative legal aids. However, it should be noted that the scope stipulated in this Article is the "minimum" national standards that must be strictly observed by all provinces and cities; according to item (9) of this Article, the local laws and regulations of each province and city may, on this basis, expand the scope of

legal aid and stipulate appropriate supplementary items according to the local economic and social development of the administrative region. In fact, some provinces and cities (such as Guangdong Province and Shandong Province) have abolished the restrictions on the scope of civil and administrative legal aid through local laws and regulations.

In the civil and administrative fields, the case agency service of legal aid is based on the principle of application and the necessary condition that the applicant meets the standard of financial difficulties. However, there are the following statutory exceptions: according to Article 32 of the *Legal Aid Law*, in circumstances where close relatives of heroes and martyrs protect the personality rights and interests of heroes and martyrs, those who act bravely for a just cause claim relevant civil rights and interests, those who are acquitted in retrial request state compensation and victims suffering abuse, abandonment or domestic violence claim relevant rights and interests, and other circumstances prescribed by laws, rules and regulations, the parties who apply for legal aid shall not be restricted by examination of financial difficulties. In other words, for the legal aid matters provided by Article 32, legal aid services shall be provided in accordance with the law as long as the parties concerned apply, and legal aid agencies will no longer conduct the examination of financial difficulties.

In addition, in order to ensure more convenient access to legal aid services for citizens meeting the statutory requirements, the *Legal Aid Law* also provides for a series of convenience- for-people measures. First, according to the provisions of Article 42 of this Law, legal aid applicants meeting the statutory requirements shall be exempted from checking their financial conditions and be presumed to meet the conditions of financial difficulties. Such applicants specifically include "minors, the elderly, the disabled and other specific groups without a fixed source of income", "social assistance, judicial remedy or preferential treatment objects" and "migrant workers who apply for payment of labor remuneration or personal injury compensation for industrial accidents". Second, according to the reform requirements for simplified proof, the legislation has established the "explanation-verification system" for the standard review procedure for economic difficulties. In other words, those who apply for legal aid due to financial difficulties have no need to provide tedious proof of financial difficulties, but only need to truthfully explain the financial difficulties in writing. Legal aid agencies can verify the financial difficulties of the applicant through inquiry into shared information or through personal integrity commitment by the applicant. Third, pay attention to the special service needs of specific groups. Article 45 of the *Legal Aid Law* stipulates that "legal aid agencies that provide legal aid services for the elderly and the disabled shall provide barrier-free facilities and services according to the actual situation. Where there are other special provisions on the legal aid provided for specific groups in laws and regulations, such provisions shall prevail."

III. Implement diversified supply system: promote the reform of service supply side and strengthen the service supply capacity

In order to better meet the broad masses' growing demands for legal aid services, the *Legal Aid Law* has established a diversified legal aid service supply system through the supply- side reform. According to the relevant provisions of the *Legal Aid Law*, the main providers of legal aid include legal aid agencies (Article 12), mass organizations that provide legal aid in accordance with the law (Article 68), public institutions and social organizations that provide legal aid in accordance with the law (Article 8), colleges and universities and scientific research institutions that provide legal aid services in accordance with the law (Article 17) and legal aid volunteers.

So far, China has formed a diversified legal aid service supply system dominated by legal aid agencies and supplemented by other legal aid forces.

(I) Legal aid agencies are the basic providers of legal aid services

Legal aid service is one of the national basic public services. In order to ensure the sustainable and stable supply of legal aid services, Article 12 of the *Legal Aid Law* stipulates that the judicial and administrative departments of the people's governments at or above the county level shall establish legal aid agencies, so that it can be ensured that there are specialized agencies providing legal aid services at the county, city and district level throughout the country.

Legal aid agencies are specialized bodies responsible for organizing and implementing legal aid services and are the fundamental guarantee to ensure the stable supply, sustainable, high-quality and balanced development of legal aid services. In terms of functions, legal aid agencies are responsible for organizing and implementing legal aid according to law; specifically, they undertake the following three main service functions: first, accept and review legal aid applications; second, assign lawyers, grassroots legal service workers, legal aid volunteers and other legal aid personnel to provide legal aid; third, supervise the quality of legal aid services and pay legal aid subsidies according to the service quality. To be more specific, legal aid agencies are obligated to: provide basic services such as legal advice through service windows, telephone, Internet and other means; remind parties concerned that they have the right to apply for legal aid according to law, and inform them of the conditions and procedures for applying for legal aid; set up legal aid workstations or contact points to accept legal aid applications nearby; assign duty lawyers in courts, procuratorates, detention houses and other places to provide legal aid services for criminal suspects and defendants without defenders in accordance with the law; be responsible for verifying the conditions of financial difficulties of applicants and making decisions on whether to provide them with legal aid; arrange their staff who are qualified as lawyers or legal professionals to provide legal aid based on the needs of work; make a decision on termination of legal aid under the eight circumstances prescribed by law; timely pay legal aid subsidies to legal aid personnel in accordance with relevant provisions; disclose legal aid information and accept social supervision; and comprehensively apply various measures to urge legal aid personnel to improve the service quality.

Legal aid agencies are the main force for the legal aid service supply. Therefore, in order to ensure that legal aid agencies can carry out their work in accordance with the law, the *Legal Aid Law* has improved and strengthened the legal aid guarantee systems. Among them, the funds guarantee system is a necessary assurance for the sustainable, high-quality and balanced development of the legal aid system. In view of this, the *Legal Aid Law* has strengthened the responsibility of the people's government for funds guarantee. Article 4 of the *Legal Aid Law* stipulates that "people's governments at or above the county level shall incorporate legal aid work into national economic and social development plans as well as basic public service systems, so as to ensure the coordinated development between legal aid undertakings and economic and social development; people's governments at or above the county level shall improve the legal aid guarantee systems by including the relevant funds for legal aid in the budget of the government, so as to establish a dynamic adjustment mechanism, meet the needs of legal aid work and promote the balanced development of legal aid." As a logical extension of the content of this Article, Article 5 further stipulates that "other relevant departments of the people's governments at or above the county level shall provide support and guarantee for legal aid work in accordance with their respective duties."

In addition, in order to regulate and promote legal aid work, Article 5 of the *Legal Aid Law* defines the competent authority for legal aid and specifies the administrative responsibilities of the competent authority. Article 5 stipulates that the judicial administrative department is the competent authority in charge of legal aid, and guides and supervises the work of legal aid in its administrative region. It is worth noting that the word "management" has been deleted in the Law. It is indicated that under the diversified legal aid service supply systems, according to the principle of "separation of public service units from government and separation of government supervision and business operation", the administrative department in charge of legal aid services shall provide policy basis for guiding and supervising legal aid services by formulating policies and regulations, industry planning, standards and norms, etc.; the providers of legal aid services independently organize and implement legal aid services in accordance with legal provisions and industry standards, and accept the guidance and supervision of the judicial administrative department.

(II) Mass organizations are a new force for promoting the characteristic and professional development of legal aid services

Mass organizations are a new force for promoting the characteristic and professional development of legal aid services. Article 68 of the *Legal Aid Law* stipulates that "labor unions, Communist Youth League, women's federations, disabled persons' federations and other mass organizations shall carry out legal aid work with reference to the relevant provisions of this Law." Accordingly, mass organizations provide legal aid services for specific groups in accordance with the law, and are also regarded as legal aid agencies, with reference to the provisions of the *Legal Aid Law* on basic legal aid matters, examination of economic difficulties, legal aid procedures, legal aid guarantee system and legal liability.

When carrying out legal aid, mass organizations shall follow the following requirements: First, based on their own rights and interests protection attribute, mass organizations shall serve "specific objects" rather than the general public; they shall pay attention to the specific needs of specific groups, and promote the characteristic and professional development of legal aid services; they shall seek quality but not quantity, and shall make the work of legal aid services satisfactory.

Second, mass organizations mainly provide civil and administrative legal aid but not criminal legal aid. According to Article 35 of the *Criminal Procedure Law* and Article 36 of the *Legal Aid Law*, the public security organs and judicial organs shall notify legal aid agencies to assign lawyers in criminal cases meeting the statutory circumstances. Therefore, criminal legal aid is the exclusive matter of legal aid agencies. Third, different from the provisions of Article 12 of this Law that "legal aid agencies shall be established", mass organizations are not obligated to provide legal aid services. Therefore, whether local mass organizations carry out legal aid or not should depend on their own conditions, rather than to carry out reluctantly.

In addition, for the mass organizations that carry out legal aid, they should give full play to their own advantages and establish a legal aid service management organization with unified management mode. Fourth, mass organizations shall accept the guidance of the competent authority for legal aid, and form a good cooperative relationship of orderly competition and complementary advantages with legal aid agencies.

(III) Government procurement of social services should be aimed to promote the balanced development of legal aid

Government procurement of legal services is an important way to promote the balanced development of legal aid. Article 15 of the *Legal Aid Law* stipulates that the judicial administrative department may, by means of government procurement, select better law firms or other legal service agencies to provide legal aid service for recipients. Accordingly, in order to improve the service capacity of legal aid agencies, judicial administrative departments can make up, enrich and strengthen the supply capacity of legal aid agencies "by means of government procurement" of legal aid service of social organizations. To put it more deeply, the purpose of the judicial administrative department for purchasing legal aid services "by means of government procurement" is to improve the service supply capacity of legal aid agencies, rather than to weaken them or make them exist in name only. Therefore, the situation where "the department spends money to purchase services on the one hand while the department and its related public institutions have idle personnel and facilities on the other hand" should be avoided. In light of this possibility, in the arrangement of legal aid funds, the relevant government department should give priority to strengthening the funds guarantee system of legal aid agencies to provide sufficient funds for their organization and implementation of legal aid; on this basis, in view of the shortcomings of legal aid agencies, in order to make up, enrich and strengthen the service supply capacity of legal aid agencies, social services can be purchased by means of government procurement.

(IV) Extensive participation of social forces is a necessary supplement to the legal aid service supply

In order to enhance the supply capacity of legal aid services, the *Legal Aid Law* actively broadens the channels for the provision of legal aid, and encourages and supports more social forces to provide legal aid. The *Legal Aid Law* defines "the combination of national guarantee and social participation" as one of the basic principles for the development of the legal aid system. Meanwhile, the state encourages and supports public institutions, social organizations and legal aid volunteers to provide legal aid, so as to gradually improve the socialist legal aid system with extensive participation by social forces, so that the people's growing demands for legal services can be met in diversified forms.

The provision of legal aid by public institutions, social organizations, legal aid volunteers and other social forces is a necessary part of the legal aid system. In its practice, public institutions mainly refer to the personnel engaged in legal education and research and students majoring in law of colleges and universities and scientific research institutions, and they often provide legal aid, such as legal advice and drafting legal documents for the parties concerned. The legal aid system for colleges and universities in China is an important part of the socialist legal aid system with Chinese characteristics, which not only helps to alleviate the current plight of shortage of legal aid personnel and funds but also promotes the combination of legal education and legal practice. In China, colleges and universities and scientific research institutions provide legal aid in various forms, including legal aid workstations jointly established by colleges and universities and government's legal aid agencies in schools, legal aid centers established by colleges and universities with the approval of administrative organs, participation in legal aid organizations in the name of colleges and universities or their legal departments and participation of university teachers and students in legal aid activities as legal volunteers. Social organizations include social groups, foundations and social service institutions. Social organizations

extensively participate in legal aid, providing personnel, financial and organizational support for the development of legal aid undertakings. In addition, qualified individuals can participate in legal aid work as legal aid volunteers, also helping to alleviate the pressure of insufficient legal aid personnel and broaden the coverage of legal aid.

Government's legal aid and social forces' participation in legal aid form a joint force to promote the development of legal aid undertakings in China. Therefore, the *Legal Aid Law* stipulates that the state shall commend and reward organizations and individuals who have made outstanding contributions to legal aid work in accordance with the relevant regulations; the state encourages and supports social forces such as enterprises, public institutions, social organizations and individuals to provide support for legal aid undertakings by donation or other means in accordance with the law, and tax concessions are given to those who meet the requirements. More legal aid forces are encouraged to participate in the legal aid undertakings through support policies, in order to gradually improve China's legal aid system, expand its coverage, enhance the supply guarantee and improve its service quality.

LEGAL AID NEWS FROM AROUND THE WORLD

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The news items shown below are largely compiled from online articles, found based on a simple search for terms such as 'legal aid', 'access to justice' and 'pro bono'. Therefore, readers must, just as buyers, beware of authenticity. The links worked at the time of writing, but some will obviously fail after a period.

Australia

$52 Million Boost To NSW Legal Assistance Sector – Law Society of NSW Journal
Ground-Breaking Family Law Firm Bridges Affordability Gap – The Lighthouse, MacQuarie University
Lawyers For Legal Aid Queensland Say Declining Pay Is Leading To An Exodus And 'Huge Injustices In The Legal System' – ABC News
LCA Proposes Plan To Help 'Missing Middle' Access Free Legal Services – Lawyers Weekly
Legal Aid Funding Inadequate, Say Law Council Of Australia – The Echo
Legal Aid Western Australia Modernizes Work with OpenText – Cision PR Newswire

Canada

Family Vaccine Legal Disputes Loom Amid COVID-19 Court Disruptions: Lawyer – Calgary Herald
Legal Aid Ontario Taps Indigenous Law Expert To Spearhead Review Of Its Organizational Structure – Law Times
Low-Income Households Face Barriers To Using Digital Legal Resources: Legal Aid B.C. Report – Canadian Lawyer
Western University Study Reveals Legal Problems Encountered By Immigrants – Law Times

China
China Issues Guidelines On Legal Aid Volunteering – China Org CN
Hong Kong's Planned Legal Aid Changes Could Breach Constitution - Bar Association – Reuters

England & Wales
Criminal Barristers To Be Balloted On Legal Aid Action – Law Society Gazette
Criminal Barristers Vote For Strike Action Over Lack Of Legal Aid Reform – Evening Standard
Criminal Legal Aid Response Is Too Important To Rush – The Law Society Gazette
Cut Family Court Backlog By Restoring Legal Aid For Early Advice – The Law Society
Fighting Your Corner: Criminal Legal Aid Funding Cannot Wait – The Law Society
Latest Moj Figures Reveal Continuing Legal Aid Decline – The Law Society Gazette
Legal Aid is in Crisis: We Must Act – Lawyer Monthly
Legal Aid Needs More Than A Sticking Plaster – Financial Times
Review Calls For £135m To Save Criminal Legal Aid And Highlights Concerns Over Firms Doing 'Bare Minimum' – The Justice Gap

India
1.3 Mn Beneficiaries Provided Free Legal Advice Across India: Justice Dept. – Business Standard
Are Children Getting Legal Aid? Panel To Find Out – The Indian Express
DCPCR Orders Probe Into Effectiveness Of Legal Aid To Kids In Observation Homes – The Times of India
Legal Aid Authority To Inspect Roads – The Times of India
NALSA Was Supposed To Be India's Beacon For Legal Aid. But It's Stuck In A Systemic Rut – The Print

Northern Ireland
Justice Cuts Would Create 'Legal Aid Deserts' In Northern Ireland – Irish Legal News

Republic of Ireland
Over €73m Spent On Criminal Legal Aid In 2021, Figures Show – Irish Examiner

Scotland
Budget Delivers Over £3.1 Billion For Justice – The Scottish Government
Clan Childlaw Calls For Child-Friendly Legal Aid System In Scotland – Scottish Legal News
Decline In Civil Legal Aid A 'Disaster' For Islands – Scottish Legal News
Lawyers Fear 'Irreparable' Damage Without More Legal Aid Investment – Independent
Renewed Withdrawals From Legal Aid Schemes – Scottish Legal News
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