



CHINA-EU ACCESS TO JUSTICE PROGRAMME
中欧法律援助合作项目

CHINA-EU ACCESS TO JUSTICE PROGRAMME HIGHLIGHTS



Message from the Head of Cooperation of the European Union to China



LARS GRONVALD
Head of Cooperation of the
European Union to China

The EU has followed with great interest the ongoing process of legal and judicial development and reform in China. Most recently the emphasis on strengthening the rule of law has brought Europe ever closer to China. New channels of cooperation are emerging, and this was shown by the China–EU Access to Justice Programme. The broader context for this programme is our common objective of strengthening the rule of law. This was concretised in the form of a cooperation programme between the European Union and the Chinese Government with an EU grant of EUR 4.7 million, aimed at supporting China's effort in strengthening access to justice to disadvantaged groups in regions with less developed legal infrastructure and in less economically developed areas. The partnership between the programme and the Ministry of Justice has been strong and that this has resulted in tangible and concrete cooperation activities.

What the EU has offered is the exchange of best practices in Europe on legal aid systems and delivery, as well as our approaches and reflections on how best modernise, balancing the needs of the state, its fiscal resources, as well as the need to ensure the responsibility of the state in guaranteeing access to justice for all is met. This in fact has been a very rich and multi-layered engagement between Europe and China which has increasingly built up and developed over the last four years. We cannot be but very impressed by the results achieved by this engagement, which have matched the very high ambitions and relevance of this programme.

We see three main results. The first is on quality. The programme worked very hard and with success on introducing European models for quality assurance in civil legal aid. In particular, the attention placed on enhancing the capacity of lawyers to deliver more 'client-centred' lawyering, and the potential spillover on greater

accountability and quality in the legal aid system overall, are very important elements in the further development of a modern justice system in China. The second is on equality. The programme worked on piloting approaches to bring access to justice closer to people who are marginalised by the service delivery systems or who are invisible due to their lack of voice. This is a matter which is very close to the EU's development agenda which aims to 'leave no one behind', and now with the SDGs to reach the last mile. The opportunity to engage in the process of developing China's first Legal Aid Law, in terms of legal aid principles and approaches as well as lessons learned in Europe, is also significant given the long-term influence and impact the new Law on Legal Aid will have on China's access to justice system. We are very pleased the programme has been able to provide some experiences from Europe in this regard.

We now have an established platform for exchanges on legal aid between Europe and China which is both deep, in terms of the knowledge and trust developed, and wide, in terms of the complexity of issues surrounding legal aid as a vehicle for access to justice. Looking back at what we set out to achieve what emerges is that there is much the programme has worked which is an opening or start rather than a conclusion of the development effort and China–EU engagement. Establishing a more robust system of rule of law which is inclusive and protects human rights remains fundamental in the continuous path of development of the country and affordable and equal access to legal aid is an essential element of this.

We hope the brochure will help to bring out the achievements to a broader audience and further cement EU–China relations and cooperation.

An introduction to the China-EU Access to Justice Programme



JAMES O'HARA
Programme Director

Over the past four years (2013–2017) the China–EU Access to Justice Programme has supported the efforts of the Chinese legal aid agency to further develop their State legal aid system and to enhance access to justice for disadvantaged groups and people living in remote and isolated parts of the country.

In partnership with the European Union (who funded 90% of the programme), the British Council has had the pleasure of supporting the implementation of this programme with the support of a network of EU and China-based legal aid experts, as well as the contributions of our six partner organisations: Beijing Zhicheng Migrant Workers Legal Aid Centre, China University of Political Science and Law, Danish Institute for Human Rights, Justice Cooperation Internationale, Max Planck Institute for Foreign and International Criminal Law, and PILnet.

This programme was built upon a global portfolio of British Council work within the justice sector. One of our key organisational priorities is to deepen international consensus on the importance of rule of law and access to justice, and support the application of good practice.

Our programme activities were focused in the two pilot provinces of Henan and Shanxi; however the programme managed to engage with a total of 25 provinces as well as 12 EU Member States.

The programme has utilised the expertise and experience of legal aid policymakers and managers, legal and judicial professionals, community-based

organisations and academics working on access to justice and access to law in both China and the EU to support institutional and professional development initiatives with legal aid centres, lawyers, paralegals and community volunteers down to township and street/village level in Henan and Shanxi provinces.

I would like to thank the EU Delegation for China and Mongolia, the National Legal Aid Centre and Legal Aid Department within the Chinese Ministry of Justice and the Provincial Legal Aid Centres and Bureaus of Justice in the provinces of Henan and Shanxi. It would have been impossible to implement this programme without their active involvement and ongoing commitment and support.

This brochure has been produced to highlight the impact and achievements of the programme over the past four years in relation to our main result areas. The journey to support increased access to justice, improvements to legal aid provision and broader social issues affecting the most vulnerable groups in our societies is ongoing. However, the British Council hopes that the programme will provide a good start for continued engagement and dialogue between China and the European Union on related issues, challenges and initiatives to improve access to justice and legal aid provision.

A programme grounded in dialogue and mutual exchange



Professor Alan Paterson (Chair of the International Legal Aid Group) presenting at the inaugural China-EU Legal Aid Policy Dialogue in Beijing, September 2014.



**Together we can
make a difference.**

Mr Peter van den Biggelaar
Former CEO of the
Dutch Legal Aid Board

At both national and provincial levels, the Programme has facilitated ongoing professional exchange and dialogue between Chinese and European legal aid policymakers and managers, legal and judicial professionals, community-based organisations and academics working on access to justice and access to law.

Areas of legal aid policy and practice introduced during the annual High Level Legal Aid Policy Dialogues and through European study tours have been the building blocks on which subsequent programme activities have been planned and implemented.

During the first year, the dialogue and exchanges focused on development and management of legal aid systems. The EU has a comparative advantage in international cooperation programmes in being able to showcase, through the national systems of the Member States, a variety of different approaches to legal aid system design and delivery.

‘The China–EU programme was a major initiative which placed access to justice firmly on the agenda for international ventures between China and the European Union, now and in the future. It is a recognition that trade relations are

ultimately underpinned by the rule of law and marks a significant development in Sino-European relations.’ Professor Alan Peterson OBE, Chair of the International Legal Aid Group, School of Law, University of Strathclyde, said.

Several key experts on the Chinese and European sides who first met during the first year of the programme continued to participate in subsequent years.

Finding the right balance between continuity – continuing to engage a core group of experts capable of transferring expertise in areas where the Chinese are seeking assistance – and innovation – periodically bringing new topics and experts into the dialogue process – is the recipe for successful multi-year collaboration.

One constant through the four years of the Programme were exchanges on quality assurance – i.e., how to assess and, where necessary, to take remedial measures to improve the quality of legal aid services being provided. Other significant

themes were cooperation and synergy between State and non-State service providers; criminal legal aid, especially during the first period of police custody and questioning; provision of legal aid services to hard-to-reach groups; early intervention, or ‘preventative’ legal aid; gender dimensions of access to justice, and provision of services at the grassroots, where there are few or no lawyers.

Themes addressed during the annual policy dialogues were pursued in greater depth in follow-on activities – national level workshops, research placements, through the development of professional resource materials and in the provincial capacity-building activities and trials. Dialogue and exchange on the basis of mutual respect laid the foundations for more intensive and potentially sensitive forms of cooperation, including direct collaborations between Chinese and European experts.

The final high level policy dialogue took the theme *The Future of Legal Aid*. Participants shared European and Chinese

visions for how legal aid services will be organised and delivered in the future, and drew attention to the principles that should continue to be fundamental to all systems, despite the legal, economic, social or technological changes that the future may bring.

The meeting concluded with a roundtable discussion on legal aid innovation. There was broad agreement that legal aid, as with other social and legal services, must be willing to embrace innovation in order to continue to meet the needs of clients. Here as in so many other areas of social policy, there is a need for State and non-State actors to work together, so that Government can fully benefit from the ideas and experience of research and the third (non-governmental) sector.

Although the EU Access to Justice Programme is now completed, the ideas exchanged and relationships developed between European and Chinese counterparts will continue to bear fruit in China and Europe in the future.



Voluntary lawyers visiting a community to provide on-site consultancy and disseminate legal materials to local residents.

CASE STUDY

Henan 1:10:100 Pilot

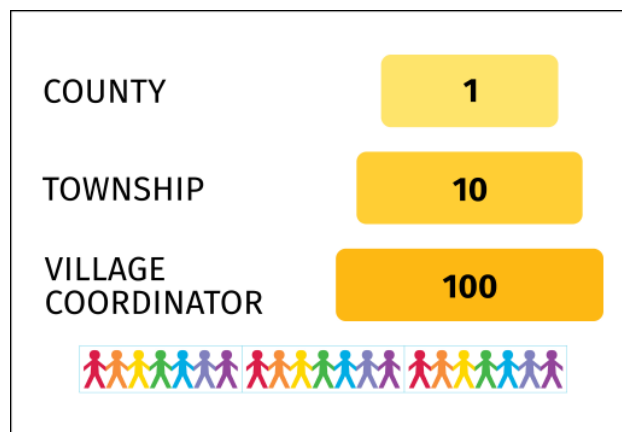
WHAT WAS THE IMPACT WE HOPED TO CREATE?

Henan province is mainly agricultural with a significant number of migrant workers, ethnic minorities and economically weak segments of the population. Legal Aid Centres are set up at the provincial, city and county levels, with workstations and village coordinators responding to first-level of enquiries and providing basic services to citizens at township and at village levels respectively. However, the legal aid needs of vulnerable groups are not fully met as the system is already stretched and not always able to reach all potential clients especially those living in remote areas, service providers have limited knowledge of legal aid, and the public awareness of legal rights or knowledge on how to access these services is poor.

The Programme initiated a one-year pilot (January – December 2016) with the objective of enhancing the quality and access of free legal aid services for vulnerable groups, particularly those in remote or outlying areas. The emphasis of the pilot was on strengthening the capacity of systems at the lower levels to enable wider coverage of the limited legal aid resources to as many people as possible. Six pilot sites were selected to participate in the trial: Jiyuan City, Kaifeng New District, Qing Feng County, Xiang Cheng County, Xin Xian County and Guancheng District of Zhengzhou.

HOW WE CREATED THE IMPACT

The Henan 1:10:100 pilot adopts an integrated approach by strengthening linkages and working relationships across three lowest tiers of the legal aid system that have closest reach to villages and communities.



In this model, '1' county legal aid centre supports '10' township legal aid workstations and '100' village coordinators. The approach is consistent with China's bottom-up model of service delivery and financing which means that increasing professional competencies at the local level is extremely important.

The mechanism not only allows greater reach but also provides stronger support to improve legal aid work at the grassroot level. Lawyers from the county level, provide legal advice and mentoring to staff at the township level and coordinators at the village level. Lawyers also provide

direct legal aid support through house visits. These linkages enable a stronger downward flow of knowledge and information about legal aid. Similarly, grassroots level workers are better placed to direct people to the right source or refer their cases upwards through the system.

The Programme has provided a supporting package of activities which include:

i) capacity building and training at all levels so that first line enquiries and support services can be effectively provided at the village levels;

ii) public legal education to raise awareness on legal aid rights and processes; and,

iii) pairing of lawyers with legal aid workers at the village level to tackle the key constraint of shortage of lawyers against a potentially rising demand for quality legal aid services.

The Programme has also introduced a civil legal aid peer-review system (drawn from EU practice), aimed at bringing a strong client-responsive approach, strengthening objectivity, and improving standards.

WHAT ACTIVITIES CONTRIBUTED TO CREATING THAT IMPACT

The 1:10:100 pilot has been in operation for a year and there is already good evidence to show that the system is building capacity of front-line workers so that they are better able to respond to the growing legal aid needs of vulnerable populations.

This pilot has had a mix of complementary activities as follows:

- Essential first-of its kind training for over 2,200 legal aid workers and village coordinators on the legal aid system, and building their knowledge and skills in handling large disputes at the grassroots level, and their work capability. The training is targeted at front-line workers so that clients can get initial information on their eligibility and options. It is enabling staff to assess whether potential clients meet the eligibility criteria for legal aid services, and to provide follow-on support with documentation and application processes;
- Better communications and public legal education has targeted over 161,000 people to help improve awareness of their legal aid rights and knowledge of where to seek help. Several measures were undertaken, including through promotional

events at local festivals, distribution of merchandise advertising legal aid, linkages with the local TV station to broadcast a weekly programme, the distribution of over 219,000 materials containing key information;

- Pairing of lawyers with local village coordinators who act as the first point of contact. The lawyers have provided guidance and basic legal knowledge, helped to settle disputes, undertaken visits to clients if they are unable to travel; and stayed in touch with the village coordinators through Short Messaging Services (SMS).



Legal aid lawyer in 1:10:100 pilot supporting legal aid station.



1:10:100 pilot in my county has strengthened the legal aid working mechanism at county, township and village tiers, promoted the awareness of legal aid at grassroots level and created a safe haven for the vulnerable groups.

Zhai Junli

Qingfeng County Legal Aid Centre



Legal aid lawyer providing legal advice to a village coordinator in Gaozhaduan village in relation to a local storage contract as part of the 1:10:100 pilot.

KEY RESULTS – SO WHAT IS CHANGING?

1. Public awareness has increased and more people are accessing legal aid services.

The 1:10:100 model has also enabled extensive reach and coverage of legal services to remote rural areas. In 2016 alone, the number of legal aid cases in the six pilot counties markedly increased by 20%–40%, and the number of consultation rose by 30%–50%.

2. Professional knowledge is helping to deliver a more ‘client-centred’ approach, and improve the quality and access to legal aid service.

Technical knowledge and training has improved the capacity of the front-line legal aid system which is helping to provide more holistic support to vulnerable people. The pair-share arrangement has helped to empower lawyers to provide support and advice to less experienced paralegal staff, and is increasing levels of professional awareness.

3. Prompt legal advice at the local levels is helping to resolve disputes without the need for litigation.

Village level coordinators are now able to provide first-line mediation services, and advise on basic queries and legal aid options thus making it more convenient for people to access these services.

4. There are positive changes in the behaviour of service providers, particularly in sensitively responding to specific rights of vulnerable groups seeking these services.

Lawyers participating in the pilots, have held legal lectures, and provided door-to-door household visits to assist special groups in difficulties. Gender sensitive approaches are also being adopted by legal aid centres – for instance through protecting their privacy, through making more female staff and lawyers available, and strengthening collaboration with the Women’s Federation.

CASE STUDIES

Case 1

A woman was seriously injured after being hit by a car. On discovering that her husband was a migrant worker, the perpetrator took advantage of the situation, gave her 500 yuan and persuaded the victim to sign an agreement absolving him of any responsibilities for the payment of her hospitalisation and medical treatment. Eventually realising her mistake, the victim turned to the legal aid centre for help. With the encouragement of the Director, the victim was able to safeguard her rights, and with the assistance of a legal aid lawyer she managed to get satisfactory financial compensation.

Case 2

An old man hailing from a poor family in a village in Qingfeng County was hit by a car when crossing the road. Since his family did not have any economic means, the recently trained local village coordinator used his legal knowledge and helped him to apply for legal aid. Eventually, both parties settled and the victim received a compensation of 9,000 yuan.

Case 3

An underage 14-year old boy was arrested by the police for criminal activity involving fraud and theft. When the police initiated legal proceedings, his parents desperately sought legal aid and got access to lawyers providing free legal aid services. On investigating the reasons for the child’s behaviour, the lawyers discovered that his working parents had little time to guide him. The lawyers provided extra support through home visits to communicate and educate the parents. With their help, the parents were able to provide more family support and the juvenile was able to reform his behaviour.

Case 4

The publicity materials from the project helped a young woman from Xinxian County to understand her legal rights and the process for accessing legal aid services. This helped her to get justice and compensation for her father-in-law who was severely injured in a traffic accident. Until then, the family had to spend more than 40,000 yuan on medical fees and expenses. Equipped with new knowledge, the woman sought help from the local judicial department who assigned her a lawyer. The perpetrator has appealed the verdict and the case is now going to trial for the second time.

Case 5

Two warring neighbours went into dispute over a boundary wall and decided to move to litigation to get resolution to their problem. One side wanted to move the wall to another location as he was superstitious about its current location, whilst the other side thought this was a waste of resources. The trained village-coordinator managed to provide timely legal advice and was successful in mediating between the neighbours. Eventually, with the help of the village coordinator, one side invited the other to dinner where they reached a happy compromise without going to litigation – thus saving time and money.

CASE STUDY

Shanxi Legal Aid Coordination Committee (LACC)

WHAT WAS THE IMPACT WE HOPED TO CREATE?

Shanxi province is home to over 36 million people of which a significant proportion are eligible to access legal aid services. However, the legal aid needs of vulnerable groups are not fully met as the legal aid system is not able to reach all potential clients, and there is poor public awareness of legal rights and knowledge on how to access these services.

Legal aid services in China are traditionally government-led and delivered through Legal Aid Centres, with very limited space for civil society organisations to participate in service delivery. However, social organisations bring local knowledge and are well placed to identify and give voice to the legal needs of vulnerable groups and can establish contact with these groups more easily than Legal Aid Centres.

The three pilot districts of Taiyuan, Yangquan and Gujiao in Shanxi province, participated in an innovative pilot project to promote participation of social organisations in the delivery of legal aid services to help meet the needs of their vulnerable and disadvantaged populations (women, children, pensioners, disabled persons, migrant workers and others).

Participating social organisations included the Youth League, Women's Federation, Federation for the Elderly, the Federation for the Disabled, the Shanxi Bar Association, and the Shanxi Migrant Workers Legal Aid Workstation.



Zhang Taogui, (Director and Lawyer, Yangquan Legal Aid Centre) providing legal aid services to a member of a local Trade Union.

HOW WE CREATED THE IMPACT

Drawing on successful models from EU member states on cooperation and coordination between Government and non-Government service providers, the programme initiated Legal Aid Coordination Committees (LACC) – a joint working mechanism to promote cooperation between the Legal Aid Centres and social organisations.

The LACC has helped to revitalise and nurture dynamic working relationships between mass organisations and legal aid centres. Organisations have participated voluntarily, seeking to align their goals, pool resources and offer integrated services, and strengthen collective knowledge and coordinated action on the provision of legal aid particularly for vulnerable groups.

The members of the Coordinating Committee met periodically to discuss needs for legal aid services and to identify ways and means to improve the scope and effectiveness of services (consultancy and representation). This approach has enabled social organisations to get involved in a range of programme activities including inputs into the development and implementation of training modules, the development and dissemination of public legal education products to raise awareness of legal rights, provision of a range of special support services that are complementary to each other, and to build their own capacity in the process.



The Migrant Workers Legal Aid Working Station (NGO) collaborate with the Shanxi Provincial Legal Aid Centre to provide legal aid services at a local construction site.

WHAT ACTIVITIES CONTRIBUTED TO CREATING THAT IMPACT

The LACC has been operating for a year and there is already good evidence to show that strengthened 'horizontal' coordination, improved communication and cooperation between the Legal Aid Centres and social organisations is starting to make a difference.

Some of the key programme activities included the following:

- 688 trained personnel from social organisations and legal aid centres on a range of topics including: legal aid law and regulations, criminal law, psychology, social work, and thematic topics. Staff have benefitted from practical operating skills to improve the quality of personnel and of legal aid service provision;
- Gender issues were actively considered, and Taiyuan and Gujiao developed a first of its kind training on anti-domestic violence which was attended by the Women's Federation and other LACC members. The Yangquan legal aid centre and the local Women's Federation jointly developed and delivered training for staff and volunteers on gender and family related issues. Similarly, social workers, psychology consultants, and staff from the Youth League Committee in Taiyuan benefitted from training on rights of adolescents;
- Information sharing and coordination were strengthened through eight working committee conferences for LACC members, and new ways of working were developed;
- Innovative use of technology has included the establishment of a WeChat working group with over 200 members to facilitate stronger communication amongst the LACC members. Taiyuan has also set up a legal aid advice remote video service for disabled people;
- Following consultations with social organisations, public legal education products including three films and a cartoon brochure were jointly produced and disseminated in collaboration with the social organisations;
- Joint implementation of legal aid work is resulting in greater outreach of services, alongside an increase in the cases dealt with by the legal aid department.

KEY RESULTS - SO WHAT IS CHANGING?

1. Improvement in the quality and efficiency of legal aid services is helping to reach more beneficiaries, simplify processes, and reduce time taken to finalise cases.

The number of legal aid cases in the pilot districts has nearly doubled from 1,784 in 2015 to 3,188 in 2016. The greatest number of cases fall within the categories of *workers' rights*, *labour disputes* for men which are related to the state of the local economy, and *traffic accidents* and *divorce* for women. Over 50% of those surveyed note that efficiency has significantly improved.

2. Cooperation amongst the social organisations and Legal Aid Centres is helping to optimise resources and change work practices to benefit the vulnerable groups.

Following specific training and coordinated activity, social organisations feel more empowered and have the knowledge to provide first-line legal aid support to vulnerable persons, thus reducing the pressure on the formal legal aid system. For example, Yangquan Legal Aid Centre is collaborating with social organisations to combine psychological counselling with legal aid, to provide a holistic package of services for beneficiaries. The Shanxi Provincial Legal Aid Centre and Yangquan Legal Aid Centre have combined the hotline (12348) with that of the Women's Federation (12338) to provide ease of access for female beneficiaries.

3. Satisfaction of the recipients of legal aid has increased.

A recent random survey of beneficiaries in the pilot areas showed that all participants were satisfied with the services provided and that their satisfaction levels had gone up considerably since the LACC pilot.

4. There are positive changes in the behaviour of service providers.

Following the training and sensitisation activities, legal aid workers note that their approach has shifted from passive to active service provision. Staff state that the joint approach and training has improved their consulting and mediation skills, and increased their knowledge of where to refer complex cases and seek help. As a result, legal aid clients are being assisted quicker and more efficiently.

Case 1

Miao suffered a work accident when painting the outer wall of a property management company in Taiyuan, which resulted in his hospitalisation and disability. Miao lacked knowledge on how to appeal and sought help from the Shanxi migrant workstation who in turn put him in touch with the provincial legal aid centre. A lawyer was assigned and Miao was provided with civil litigation assistance. After investigation, three respondents were found liable and the case was settled satisfactorily.

Case 2

A disabled woman in Yangquan city suffered domestic violence, and was eventually abandoned in the mountains. She contacted the Women's Federation who collaborated with the Disabled People's Federation. They jointly rescued her from the mountains, provided psychological counselling and special assistance related to her disability. Using the recently acquired legal knowledge and networks created through the LACC pilot, the social organisations intervened with the woman's family, provided mediation services, and helped her to find a job. The woman is now leading a normal life.

Case 3

An autistic 11-year old child in Linfen City dropped out of school because of his disability. Responding to the parents' cry for help, the local Youth Centre collaborated with the Shanxi Legal Aid Centre, the Provincial Youth League, and the Local Education Bureau. The LACC enabled them to connect with the Shanxi Fangzhouzi social organisation who specialises in support to autistic children. The child thus received a range of support services and home visits from qualified personnel. After six months of support, the child happily returned to school.

Case 4

A young child, from a poor family in Gujiao, was left disabled following an accident but was denied compensation. The parents heard about free legal aid services through TV channels and sought assistance from the Legal Aid Centre. Working jointly, the Legal Aid Centre and the Disabled Federation (LACC members) secured compensation, provided counselling, psychological assistance and specific help for disability. The LACC members also took extra measures to coordinate with the school authorities to support the child in his schoolwork.

The quality journey: measuring and ensuring quality in the delivery of legal aid services



Professor Avrom Sherr, Institute of Advanced Legal Studies, University of London, architect of the English peer review system presenting at training to Chinese peer reviewers, Beijing, June 2015.

The Chinese legal aid system has developed rapidly over the past 20 years. Despite being a relatively young system compared with many of the European countries, the range of services and reach of the system is quite remarkable. Over 3,500 shop-front legal aid centres have been established at municipal and district level, supplemented by street- and township level justice working stations, a national 24/7 telephone legal advice service and rapidly developing online legal advice platforms. The State legal aid system is generously funded by national and provincial level governments. Services are also being provided by many social organisations and NGOs, some of them with funding grants distributed by China Legal Aid Foundation.

Quality is the lifeline of legal aid.

Ms Bai Ping
Director General
Department of Legal Aid
Ministry of Justice

Nevertheless, concerns exist that the quality of services being provided may not always be consistent from centre to centre or from province to province. For this reason quality assurance has been identified as one of the top priorities in China's legal aid development strategy.

A variety of forms of quality assurance have been practiced in China since the commencement of State-funded legal aid in the early 1990s. A challenge has been to find a means of monitoring and evaluating the work of legal aid lawyers that provides reliable and useful data but which is not too cumbersome to administer. If too many criteria are used in the assessment, the process will be time-consuming and there will very likely be a

lack of consistency between evaluators, leading to unfair outcomes and affecting the credibility of the system.

Through a series of meetings and technical exchanges facilitated by the Programme, two British quality assurance experts shared their experiences in successfully introducing and operating a quality assurance mechanism called Peer Review.

Peer Review is a system in which the quality of service provided by lawyers in particular areas of legal practice is assessed by independent legal practitioners. These peers, with significant current or recent practical experience in those areas of practice, assess against specified criteria and levels of performance which have been agreed within the professional community.

Since it was first developed in the jurisdictions of England and Scotland, peer review has been successfully introduced in various other countries, including Finland, Chile and South Africa. Peer review is not the only quality assurance measure used in these countries, but it is the one that generates the most reliable information about the work conducted by legal aid

lawyers, its appropriateness, effectiveness and responsiveness to the client's wishes, and therefore its competence and quality in terms of legal work.

Through an intensive and collaborative process, the peer review criteria used in the jurisdictions of England and Scotland were adapted so that they would be suitable for use in China. The final list of 13 criteria is quite different from those in use in England and Scotland, or in the other countries where peer review is being utilised.

Initial and refresher training was provided for a cohort of peer review assessors, and three trials took place: two funded by the project in Henan and Shanxi Provinces, and a third, in Shenzhen, funded by the local Justice Bureau.

During 2016, the Ministry of Justice extended the scope of the initial peer review trials to 15 further provinces. A national pool of 130 peer review assessors has now been established, and in early 2017 it was decided to implement the new national peer review system across the whole country.

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At the core of all discussions about service quality is the lawyer-client relationship. The peer review system targets the most prominent quality problems, which are intolerable mistakes in legal aid service. Legal aid is a form of public service, and its quality assessment criteria must be realistic and practical, so as to meet their purpose, which is to ensure that all clients receive services at an acceptable minimum standard of quality. Peer review criteria respond to quality demands in a practical and reasonable way, rather than only considering quality in terms of the ‘ideal.’”

Mr Sang Ning

Legal Aid Centre of the Ministry of Justice

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The project has addressed issues of quality development and assessment, legislative proposals for legal aid, and the background and history of the origins and progress of legal aid in Europe.

Professor Avrom Sherr

Institute of Advanced Legal Studies,
University of London



European experts with Chinese peer reviewers following a training in Beijing, March 2016.

Legal Aid in the Early Stages of Criminal Proceedings

In the 2015 Directive on Strengthening the Legal Aid System, the Minister of Justice identifies improving criminal legal aid as a priority for legal aid work in China. At present, the majority of suspects, accused person and defendants are unrepresented, and it is quite rare for a person to have access to a lawyer during the police investigation.



The Directive requires to put into practice the newly-amended criminal procedure law and relevant laws and enable suspects and defendants to obtain legal aid in the entire criminal procedure including investigation, indictment and trial. That is to say, suspects can have access to criminal legal aid and its coverage extends to investigation stage’.

Mr Zhao Dacheng

Former Vice Minister of Justice of the People’s Republic of China

Over the past 50 years, European legal aid systems have tended to prioritise funding for criminal legal aid over civil legal aid, due in part to the fair trial obligation contained in the European Convention of Human Rights. Yet even in the EU, legal aid for criminal suspects at the police station is still a developing field with great differences between the Member States in the availability of or scope of services. Following the European Human Rights Court decision in the Salduz case and the recent adoption by the EU Council of a Directive on the Right to Legal Aid in Criminal Proceedings, Member States will from 2019 be required to provide legal aid to criminal suspects and accused persons without delay, at a minimum prior to the



Discussing approaches and methods for training of criminal legal aid lawyers, Beijing, April 2016.

commencement of police questioning, investigation, and evidence gathering. In the words of Frans Timmermans, Vice President of the European Commission, ‘The Directive affirms that anyone who is the subject of criminal proceedings has a right to legal protection and a lawyer they can afford. That is what the rule of law is about.’

These developments in China and the EU were discussed by participants at the second legal aid policy dialogue in September 2015, along with examples of good and promising practices from several Chinese provinces and EU Member States. Following the policy dialogue it was agreed to build further on these initial exchanges through a national level workshop on criminal legal aid during the investigation phase. The decision to restrict the focus of the workshop to the investigation phase reflected a recognition that, while a great deal needs to be done to operationalise the provisions in the

Criminal Procedure Law, it would be best to begin by focusing on legal aid during the investigation phase, the stage in proceedings where the suspect is in greatest need of legal assistance.

The workshop, held in January 2016, led to several further collaborations between Chinese and European criminal justice experts: the first, to develop a Manual for Legal Aid during the Investigation Phase of Criminal Proceedings, and the second to design complementary training materials and a video illustrating various aspects of criminal legal aid lawyering at the police station. A group of policymakers from the Chinese Ministry of Justice also visited England in November 2016 to learn more about the quality standards applicable to legal aid lawyers who represent clients in police custody. This included the opportunity to observe the work of police and defence lawyers at a modern police investigations and training facility in Bristol.

The Criminal Legal Defence training package was inspired by the outcomes of a cross-European programme funded by the European Commission called *Effective Criminal Defence in Europe*. The materials apply a participatory methodology to training criminal defence lawyers and encourage, where feasible, training groups comprised of both defence lawyers and police investigators, with a view to increasing mutual understanding and respect for the legitimate roles carried out by each group in the criminal justice process.



With the British criminal defence expert Ms Jodie Blackstock, Mr Li Guifang and his team from Beijing De Heng Law Firm developed the training material, based on China's Penal Code, Criminal Procedural Code and relevant judicial interpretations. They localised the European training methodology as well. The training curriculum uses lectures, role plays, critique and other methods, which are different from conventional classroom experience. The real edge of this training methodology is trainees' participation to boost practice effect. The modules were finalised after repeated inputs from both the Chinese and European discussion from both sides, and the final version was tested three times in Shanxi and Henan Provinces, with unanimous positive feedback from trainees. The written materials and videos truly match the name of international cooperation.

Mr Sang Ning
Deputy Director, Legal Aid Centre
of the Ministry of Justice

The Evaluation Manual and training package are being distributed to legal aid centres, Provincial Lawyers' Associations and criminal legal aid lawyers throughout China by the Ministry of Justice and All China Lawyer's Association. International collaboration building on the outcomes of this programme is set to continue in the future through a planned cooperation between the Chinese Department of Legal Aid and UN Office of Drugs and Crime.

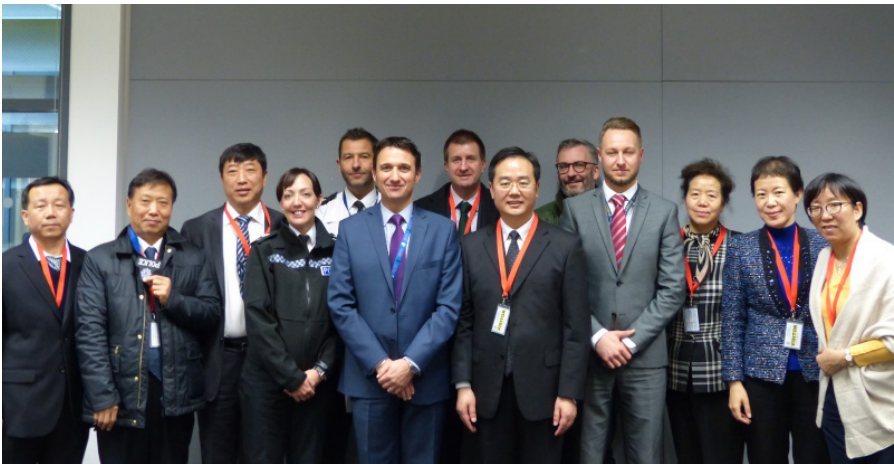


One of the toolkits developed with joint efforts by European and Chinese experts



The China-EU Access to Justice Programme provides an important example of the benefits of co-operation in the field of justice generally, and criminal justice in particular. Working collaboratively with the Chinese Ministry of Justice and experts from both China and Europe, the Programme was able to develop an Evaluation Manual for Legal Aid in the Early Stages of Criminal Proceedings which promises to make a significant contribution to the delivery of legal aid services at the critical initial stages of the criminal process. This is an important achievement.

Mr Ed Cape
Professor of Criminal Law and Practice
University of the West of England



Visit to Patchway Police Centre (Bristol, UK) to discuss how legal aid lawyers participate in interviews with suspects during the initial period of custody in the UK.

Targeted legal aid services for vulnerable or marginalised groups



Large-scale publicity campaign to promote legal aid for migrant workers – ‘Caring Migrant Workers, Legal Aid in Action’. The red banner reads ‘Peasants brothers, no worry. Law will protect all of us. Legal aid wanted? Please dial 12348’. 12348 is a national hotline for legal aid services.

Legal aid is an important tool to enable the access to justice of disadvantaged persons. Legal aid should not only reach out to but also include marginalised individuals and groups in the conceptualisation and provision of legal aid.

Dr Monika Mayrhofer
Boltzmann Institute, Vienna, Austria

An underlying objective for all legal aid systems is to provide effective access to justice for those who would not otherwise be able to obtain it. Equality of opportunity and non-discrimination in access to public services are fundamental principles reflected in Chinese and European law and practice.

Experience from many countries has nevertheless shown that some groups eligible for legal aid are more likely to access it than others. Within the total group of people who could benefit from free legal advice or who satisfy the criteria for grant of legal aid, there are some sub-groups who for various reasons rarely approach the legal aid services themselves. For this reason, services have been developed in various countries to proactively reach out to members of these sub-groups; that is, to bring legal aid

services to them rather than waiting for them to come to the legal aid centre.

During study tours to Belgium, Denmark, Norway and Austria, European and Chinese experts had the opportunity to share experiences on how to effectively reach the most vulnerable and marginalised groups. A good practice shared from Denmark was the work of the ‘Copenhagen Street Lawyers’ NGO, which provides legal and social assistance to drug users, sex workers, homeless and mentally ill persons in inner-city Copenhagen. The NGO is funded by the City Council and the national government, who recognise that this NGO is better placed to assist these particular groups than Government-managed service providers. In addition to providing services to clients, the Street Lawyers also contribute actively in legal aid policy



A Chinese delegation visit the 'Danish Street Lawyers' NGO to discuss how they provide legal and social assistance to drug addicts, sex workers, and the homeless in Copenhagen, Denmark (May 2016).

discussions and make recommendations on draft laws that may impact negatively on the legal rights or well-being of their clients.

The theme of the 3rd legal aid policy dialogue was *Ensuring access to justice for people with special needs and for the most vulnerable and disadvantaged*. Examples were provided of programmes and organisations providing specialist or targeted services to particular client groups and several of the presenters proposed conceptual approaches for addressing the need of people with special needs and/or experiencing social isolation. Mr Steven Gibens from the University of Antwerp advocated for the application of a socio-legal perspective to provide effective access to justice for vulnerable people. He illustrated this by describing the multidisciplinary services provided by community welfare centres in Belgium, where professionally trained social workers and lawyers work provide a holistic service to clients so as to respond to problematic situations that go beyond the scope of traditional legal aid.

As a follow-up to the policy dialogue, the Programme funded research studies by the University of Renmin and South-Western University of Finance and Economics into the legal needs of the following groups: victims of domestic

violence, people with mental disability, left-behind children, and environmental NGOs seeking to bring litigation on behalf of victims of environmental despoilment. The studies were designed by mixed teams of social scientists and legal researchers, applying similar methodologies to those used successfully in legal needs studies in many other countries over the past 30 years.

The results of this research – including expert proposals for legal aid service standards for the groups in question – were presented to participants at the 4th legal aid policy dialogue meeting. As observed during the policy dialogue, the proposals are very much in line with the development direction of the legal aid system, which is to develop targeted services addressing the needs of specific client groups. The methodology used in the studies has been welcomed by the Ministry of Justice and will be shared with Provincial Legal Aid Centres at the forthcoming annual China Legal Aid Conference.

In a separate initiative, a toolkit for legal aid service providers was developed by China Women's University on the implementation of the legal aid provision in the new Law on Domestic Violence. The toolkit explains to legal aid lawyers and staff from social organisations

involved in legal aid how to provide legal assistance to victims of domestic violence. It also explains and promotes the multi-institutional cooperation mechanism for combatting domestic violence. The toolkit was launched during the 4th legal aid policy dialogue and will be distributed and promoted to legal aid centres, social organisations and NGOs by the Ministry of Justice and All China Women's Federation.



The Anti-Domestic Violence Legal Aid Capacity Improvement Toolkit describes in clear and practical terms how grassroots legal aid workers can provide effective assistance to victims of domestic violence. It is easy to read, practical, and contains effective tips on working process, reception skills, needs assessment and evidence collection. And it emphasises the need (for legal aid centres) to link with social service resources so as to achieve the best outcome for the client.

Mr Huang He
Director, Provincial Legal Aid Centre
Shanxi

Gender and access to Justice

The right to equality and the principle of non-discrimination are fundamental principles of European law and are embedded in EU legislation and administrative directives which apply to the Member States. EU Member States have also developed their own complementary legal, judicial and institutional frameworks guaranteeing equality and non-discrimination and facilitating access to justice and to remedies where these rights are infringed. The Chinese Constitution does not contain a general principle of non-discrimination but provides for equality of all citizens before the law. In recent years a number of new laws, regulations and policies have been adopted addressing non-discrimination and equality and access to justice for specific groups in society, not least for women.

Equality and non-discrimination are related but different concepts. The right to equality not only comprises equality before the law and the right to be equally protected by the state, including equal access to justice, but also means to be equally able to participate in and have equal access to all fields of society. The principle of non-discrimination explicitly prohibits the exclusion on certain grounds, such as gender, from particular areas including labour market, education or access to services.

Legal aid cases related to the principle of non-discrimination are quite common in China and the European countries. There are often a variety of policy considerations driving Government or private sector support for legal aid programmes, but one that is common to all is the desire to provide (more) equal access to justice for the poor and for members of groups that would otherwise find it difficult to obtain legal remedies.

During study visits, workshops and policy dialogues, gender-specific approaches to access to justice were discussed and



Legal aid lawyer providing consultancy to a villager at regular visit to villages as part of the 1:10:100 pilot.

presented. The Programme also profiled and incorporated the work of European and Chinese organisations providing targeted services to women and girls, including multidisciplinary approaches in cases of domestic violence or sexual abuse. Both men and women can be victims of domestic violence but the statistics show that the large majority of victims are women and children. Paradoxically, men are statistically more likely to seek assistance than women in such cases, underlying the need for legal aid programmes in all countries to prioritise services for women, including through support for NGOs that can reach the most isolated.

Many Chinese legal aid centres collaborate with China Women's Federation to provide targeted services to female clients. In some cities, women's legal aid centres have been established within the local women's federation office and the project supported strengthening of these horizontal-level linkages through the LACC pilot.

At the final policy dialogue, there were presentations by a Chinese member of the UN Women's Committee on the Committee's General Recommendation on Women's Access to Justice, and by a European expert on gender and access to justice in the European countries.



Women's limited and unequal access to justice is a complex social phenomenon that results from a series of inequalities at the legal, institutional, structural, socio-economic and cultural levels. Ensuring access to justice implies providing women of all backgrounds with access to fair, affordable, accountable and effective remedies so that women and men can enjoy both equal rights and equal chances to assert them.

Towards guaranteeing equal access to justice for women
Council of Europe, 2016

Early intervention

Early intervention, or *preventative legal aid*, refers to ‘any intervention that resolves or prevents a person’s problems from emerging or escalating’.¹

Early intervention encompasses a wide variety of services provided by legal aid service providers; among them legal advice received in person, by telephone, or social media; informal mediation or dispute resolution services; information in easy-to-understand language about the contents of laws, the operation of administration or legal institutions and processes; and online legal information platforms, including services that make it possible for people to solve some legal problems without the need to engage a lawyer.

Prioritising early intervention services makes good sense. There is widespread agreement globally that addressing problems at an early stage saves time and money and can prevent problems from escalating or multiplying. Yet despite this, legal aid budgets in both China and the European countries are currently heavily weighted towards funding legal representation in judicial proceedings. The challenges of rethinking legal aid policy and programming so as to provide a better balance between preventative and reactive services, and in so doing to ensure that legal aid programmes continue to be sustainable in the longer term, were addressed through the programme activities.

The Programme profiled European experiences with public legal education (PLE), also known as *building public legal capacity*, at a national conference and subsequent training workshop. PLE materials were developed by social organisations and legal aid centres in Shanxi as part of the LACC pilot.



To date, much attention has been paid to how formal processes for resolving disputes can operate efficiently and effectively. In line with the general shift towards preventative interventions... there is an increasing focus on empowering people to resolving their problems at an early stage. Building people’s ‘legal capability’ – their knowledge, skills, confidence and personal resilience – is an important part of this agenda.

Facing up to legal problems – Towards a preventative approach to addressing disputes and their impact on individuals and society,
Consumer Focus Scotland

For those countries, mostly in Northern Europe, that have established public legal aid systems, these services are often provided by the legal aid agency directly, or by a non-State organisation providing services with State funding. In Southern and Eastern Europe, funding for legal aid is much lower per capita and early intervention services are mostly provided by representatives of NGOs or Bar Associations, often on a volunteer basis. Both private and public sector organisations are developing innovative ways to provide information and advice, making full use of the possibilities created by digital technologies.

Examples of European good practice in early intervention were shared during study visits and at a national workshop in Guangdong Province, which has developed what is considered to be the best telephone and online legal advice platform to date in China. Shanxi has established a video conferencing network linking all legal aid centres to the provincial capital in Taiyuan. The facility will make it possible for legal aid lawyers to meet ‘virtually’ with clients in remote locations, thereby saving travel time and expense.



Training session in Taiyuan, Shanxi Province on how to develop public legal education products (June 2014).

¹ Liz Curran Australian National University (2013)



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