

# How effective is legal aid service in China

## An Empirical Observation

Lin Jing

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# **HOW EFFECTIVE IS LEGAL AID SERVICE IN CHINA**

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# HOW EFFECTIVE IS LEGAL AID SERVICE IN CHINA

## An Empirical Observation

*LIN Jing\**

This paper empirically observes the effectiveness of legal aid service in today's China through a field study with 845 interviews in four districts of Shanxi province and six districts of Henan province in 2014. Interviews have been conducted with all relevant groups of actors in the field of legal aid. The target groups include: 1) current clients of legal aid (250 interviews), 2) former clients (250 interviews), 3) citizens (as potential clients of legal aid, 201 interviews), and 4) service providers (incl. legal aid staff, private lawyers and non-profit organization staff, 144 interviews). The effectiveness of legal aid service will be examined from following dimensions, i.e. availability of the legal aid, qualification of service delivery, outcome of the legal aid cases, satisfaction of the clients regarding the outcome, clients' experience with the service delivery, public support in handling legal aid cases and understanding between clients and service providers. The findings suggest that legal aid in China is a positive development; however, some problematic issues such as a lack of transparency of financial threshold remain to be improved.

## INTRODUCTION

Legal aid is regarded as vital in access to justice by ensuring equality before the law and is, therefore, crucial for approaching the rule of law. Along with the legal and judicial development, the Chinese government has attached great importance to the development of legal aid. Under Xi's leadership, development of legal aid service is perceived as an important task and is underlined in both third and fourth Plenary Session of 18th CPC Central Committee. In June 2015, Advice on the Refinement of Legal

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Aid System (关于完善法律援助制度的意见) was co-issued by General Office of the Communist Party of China and General Office of the State Council. Key points of this “Advice” are extending the coverage of legal aid service and improving the quality of legal aid provision. Though this “Advice” is not an official law, it is generally followed by the government, which often triggers an official legislative activity. According to the national statistics, more than 1.32 million legal aid cases have been carried out in the year 2015 in mainland China.<sup>1</sup>

Legal aid has developed with remarkable speed in China.<sup>2</sup> At the national level, Regulations on Legal Aid (法律援助条例) was enacted in 2003. Since then, legal aid provision has been officially perceived as the responsibility of the government. In order to guide the enforcement of Regulations on Legal Aid, two rules concerning civil cases and criminal cases were respectively enacted two years later, i.e. Provisions on Legal Aid in Civil Actions (关于民事诉讼法律援助工作的规定), and Provisions on Legal Aid in Criminal Actions (关于刑事诉讼法律援助工作的规定). The latter was further amended in 2013 based on the amendment of the Criminal Procedure Law in 2012. To unify procedures and control quality of legal aid cases, Provisions on the Procedures for Handling Legal Aid Cases (办理法律援助案件程序规定) was enacted in 2012.

It is considered that legal aid is particularly desired by vulnerable groups such as the elderly, juveniles, women, and the disabled. Besides abovementioned general regulations, provisions on legal aid to these special subjects have been enacted.<sup>3</sup> In addition, legal aid provisions can be found in some articles of nation laws and regulations such as Criminal Procedure Law, focusing on criminal defense, and Attorney Law, focusing on attorney’s obligations.

In today’s China, legal aid covers all categories of cases, i.e. criminal cases, civil cases and administrative cases. Financial difficulty is a precondition for the provision of legal aid, with exception of compulsory appointed defense in criminal cases. Considering the significance of proper defense in criminal cases, criteria of legal aid provision in criminal cases differ from civil and administrative cases. Article 12, Regulations on Legal

1. The national statistics in relation to legal aid are available at [http://www.moj.gov.cn/flyzs/content/2016-01/25/content\\_6459750.htm?node=7674](http://www.moj.gov.cn/flyzs/content/2016-01/25/content_6459750.htm?node=7674), last visited at December 21, 2016.

2. Legislative development before 2003 see Benjamin L. Liebman, “Legal Aid and Public Interest Law in China,” *Texas International Law Journal*, Vol. 34, No. 2, 1999, pp. 212-242; Allen C. Choate, “Legal Aid in China,” Asia Foundation Working Paper No. 12 (San Francisco, 2000), available at <http://unpan1.un.org/intrado/groups/public/documents/apcity/unpan017813.pdf>, last visited at December 21, 2016.

3. For example, article 51 of *Law of the People’s Republic of China on the Protection of Minors* (未成年人保护法), article 55 of *Law of the People’s Republic of China on the Protection of the Rights and Interests of the Elderly* (老年人权益保护法), article 52 of *Law of the People’s Republic of China on the Protection of Rights and Interests of Women* (妇女权益保护法) and article 60 of *Law of the People’s Republic of China on the Protection of the disabled* (残疾人保障法) refer to legal aid provision for these vulnerable groups respectively.

Aid ( 法律援助条例第 12 条 ) states:

“where the accused is blind, deaf, or dumb, or is a minor and fails to hire a lawyer, or if the accused who may be sentenced to capital punishment fails to hire a defendant lawyer, and if the court designates a defendant lawyer for him/her, the legal aid institutions shall offer legal aid services, without an examination of the economic standing of the accused.”

Article 34, Criminal Procedure law ( 刑事诉讼法第 34 条 ) extends such compulsory appointed defense to mentally ill person who has not completely lost his/her capacity to comprehend or to control his/her behavior. In addition, where other accused have appointed defendants in a joint crime, or a case brings significant social impact, or cases protested by a procuratorate, or accused might not commit a crime, and the accused failed to appoint a defendant, the court can inform a legal aid institution to appoint a lawyer for the accused, in accordance with Article 43, Judicial Interpretation of Criminal Procedure Law ( 最高人民法院关于适用 < 中华人民共和国刑事诉讼法 > 的解释第 43 条 ).

The criteria of financial difficulty are not given at the national level. Governments at the provincial level are responsive for issuing specific criteria applying to their governing regions. This is in line with the uneven economic growth in China’s regions.

Like many other countries, China confronts a crucial problem in the process of legal development, i.e. law in word versus law in practice. That is, not all written laws and regulations can be enforced smoothly in practice. Therefore, an analysis on legislative framework is not enough to fully understand legal aid performance in China, whereas an empirical observation in depth is of great necessity.

## I. DATA AND METHODS

To evaluate legal aid in practice, a field study was carried out in four districts of Shanxi ( 山西 ) province and six districts of Henan ( 河南 ) province in 2014. The target groups include clients of legal aid (separate sets of questions for current clients, former clients and potential clients) and service providers (separate sets of questions for private lawyers, legal aid center staff and others providing some kind of legal aid in non-profit organizations). Table 1 shows an overview of interview numbers according to locations and target groups. In total, 845 interviews have been conducted in this field study.

Table 1: Interview plan

	Current clients	Former clients	Potential clients	Private lawyers	legal aid staff	NPO Staff
Shanxi ( 山西 )						
Taiyuan ( 太原 )	25	25	20	5	5	5

	Current clients	Former clients	Potential clients	Private lawyers	legal aid staff	NPO Staff
Gujiao (古交)	25	25	20	5	2	5
Yangquan (阳泉)	25	25	20	5	4	5
Yangquan_suberb (阳泉郊区)	25	25	21	5	4	4
Henan (河南)						
Jiyuan (济源)	25	25	20	5	5	5
Xinyang_Xinxian (信阳新县)	25	25	20	5	5	5
Xiangxian (襄县)	25	25	20	5	6	4
Zhongmou (中牟)	25	25	20	5	5	5
Qingfeng (清丰)	25	25	20	5	5	5
Kaifeng_New District (开封新区)	25	25	20	5	5	5
Subtotal	250	250	201	50	46	48
Total	845					

As a qualitative study, besides the standard closing questions, probands are given possibilities to make free entries to questions such as “rating your experience with legal aid provision, what is good and what is not so good”. Answers to these open questions were summarized by a set of key works and further divided into different groups according to the key words. Both open and closing questions were processed by the software SPSS.

In this paper, following dimensions will be particularly observed to evaluate current legal aid provision: 1) Availability of the legal aid. Financial thresholds for the legal aid provision in the ten locations will be explored, followed by a further study of opinions of both clients and service providers about the current financial threshold. 2) Quality of service provision. To study the quality of service provision, service providers will be asked about their education and legal qualifications as well as specialization of service provision. To be noted is, however, the quality of service provision cannot be simply judged merely from above factors. Other elements such as amount of time and efforts given to each case are not ignorable. 3) Outcome of legal aid cases. To examine the outcome of legal aid cases, former clients will be asked if their requests have been resolved, and if they are satisfied with the outcome. 4) Clients’ experience. In this part, both current and former clients will be asked to rate their experience with legal aid centers as well as external service providers, if exist. Positive points as well as negative

points in the process of service provision will be further explored. 5) Public Support. NPO staff will be asked if they got sufficient support from local government and private lawyers will be asked to evaluate if they were treated equally in handling legal aid cases as “normal” cases by official instances. 6) Understanding between clients and service providers. Both clients and service providers will be asked subjective importance of different aspects of legal aid service, followed by a comparison of the results to explore if service providers fully understand expectations of clients.

## II. FINDINGS

### A. AVAILABILITY OF LEGAL AID

Following table 2 presents maximum income that allows legal aid in the two provinces covered. Interestingly, the financial threshold given by legal aid staff from the same location is not identical. This is particularly true in Shanxi province, i.e. all districts, with exception of Zhongmou (中牟), have been given several various answers. For example, the financial threshold for legal aid given by legal aid staff in Xiangxian (襄县) ranges from 400 to 1450 RMB. This can perhaps be explained by following perceptions: the term of “income” (收入, in Chinese) is quite vague in Chinese, and might be defined differently. It might be perceived as “salary” (工资收入) by some interviewees, whereas be considered as total income (总收入), including other earnings such as from investment by other interviewees; the coverage of income might also varies, i.e., in some locations, maximum income refers to individuals, while in other locations, maximum income refers to the whole family. Nevertheless, a conclusion that can be drawn is that all maximum income allowing legal aid access provided by legal aid staff in this study is less than national per capita disposable income (PCDI) (1530 RMB per month, statistic of 2013<sup>4</sup>). However, the maximum income allowing legal aid access in Jiyuan (济源) and Qingfeng (清丰) (both in Henan province) is slightly more than the PCDI of Henan province (1184 RMB per month, statistic of 2013<sup>5</sup>). Similarly, the mean value of maximum income allowing legal aid access in Gujiao (古交, in Shanxi province) is slightly more than the PCDI of Shanxi province (1260 per month, statistic of 2013<sup>6</sup>).

Table 2: Maximum income concerning legal aid access (RMB)

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4. China Statistical Yearbook 2014 (中国统计年鉴).

5. China Statistical Yearbook 2014 (中国统计年鉴).

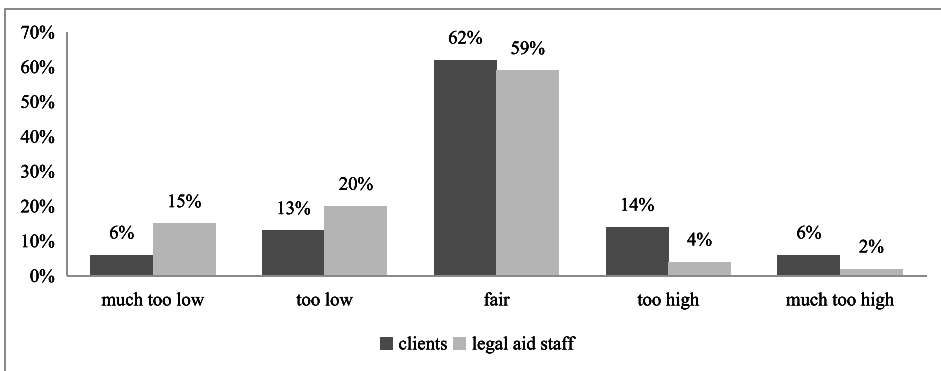
6. China Statistical Yearbook 2014 (中国统计年鉴).

Mean (min/ max)	Jiyuan	Xinyang Xinxian	Xiangxian	Zhongmou	Qingfeng	Kaifeng New District
Henan (河南)	1240 (1240/1240)	734 (600/1100)	1100 (1100/1100)	1020 (1020/1020)	1200 (1200/1200)	1050 (1050/1050)
	Taiyuan	Gujiao	Yangquan	Yangquan suburb		Total
Shanxi (山西)	1142 (960/1410)	1320 (960/1500)	995 (400/1450)	700 (700/700)		1050 (400/1500)

\*legal aid staff

Figure 1 visualizes opinion about the financial threshold by clients and legal aid staff. As can be seen, the threshold is perceived to be fair by the majority of clients (approximately 62%) as well as legal aid staff (approximately 59%). Statistics shown in figure 1 indicate that there is some disagreement between legal aid staff and citizen: slightly more clients evaluated the financial threshold as fair than legal aid staff; a larger percentage of clients considered the financial threshold is too high or much too high as compared to legal aid staff, whereas a smaller percentage of clients found the threshold is much too low or too low.

Figure 1: Evaluation of financial threshold



**B. QUALIFICATION OF SERVICE PROVISION**

Table 3 presents education in general concerning legal aid service providers. As shown, the majority of the interviewees have graduated from universities or colleges and earned a bachelor degree (or similar) (88%) and even a master degree (7%), whereas very few interviewees have terminated their education after middle school (1.4%) or high school / technical school (3.5%). Though there are no significant differences among the three groups, private lawyers are found to be relatively better educated, i.e., all of them holding at least a bachelor degree; whereas NPO staff are relatively less educated



as compared to other two groups, i.e., more than four percent of them terminated the education after middle school.

Table 3: Education of service providers

	Legal aid staff	Private lawyers	NPO staff
primary school middle school	0.0% 0.0%	0.0% 0.0%	0.0% 4.2%
high school / technical school	6.5%	0.0%	4.2%
bachelor / college	87.0%	91.8%	85.4%
master	6.5%	8.2%	6.3%
doctor	0.0%	0.0%	0.0%
Total	46	49	48

Table 4 shows legal education and qualification of service providers. It can be seen that the majority of interviewees possess either a law degree (76%) or a legal qualification certificate (52%), and some even possess both (36%), whereas very few possess neither of them (7.8%). Similarly, private lawyers have been best legally educated, i.e. all of them hold either a law degree or a legal qualification certificate, and about 47 percent of them even possess both of them. Again, legal educational of NPO staff is relatively poor as compared to other two groups. Approximately seventeen percent of NPO staff possess neither a law degree nor a legal qualification certificate. This can perhaps be explained by a perception: the kind of work in which NPO staff is involved in legal aid service requires less legal education/qualification than other two groups.

Table 4: Legal education and qualification of service providers

	Legal aid staff	Private lawyers	NPO staff
law degree	42.2%	32.7%	46.8%
qualification certificate	20.0%	20.4%	8.5%
both	28.9%	46.9%	29.8%
none	8.9%	0.0%	14.9%
Total	45	49	47

Following table 5 presents work experience of private lawyers in relation to type of case. It can be seen that private lawyers often accept different types of case in delivering legal aid service. Only very few private lawyers specialized for single categories of cases,

i.e. civil cases (8 %) or criminal cases (4%). Twenty percent even handle all kinds of cases. That is obviously different from normal/regular cases, by which private lawyers often have special areas of practice.

Table 5: Work experience in relation to type of case

Only civil cases	4	8%
Only criminal cases	2	4%
Civil and criminal cases	34	68%
Civil, criminal and administrative cases	10	20%
Total	50	100%

\* private lawyers

### C. OUTCOME OF LEGAL AID CASES

The former clients have been asked if their request have been resolved. The outcome is quite positive in general. Almost 90 percent clients' requests have been met, to some extent. 45.6 percent clients even found their requests have been completely resolved. Table 6 visualizes outcome score according to category of cases. As shown, the outcome of criminal cases (2.40) and labor cases (2.47) is above average (2.35, out of a possible maximum of 3.0), whereas the outcome of administrative matters is slightly less positive (2.00).

Table 6: Outcome score according to category of cases

	Mean	N	Std. deviation	Std. error of mean
Criminal matter	2.40	67	.65273	.07974
Labor matter	2.47	30	.62881	.11480
Other civil matter	2.31	145	.66162	.05494
Administrative matter	2.00	6	1.09545	.44721
All	2.35	248	.66788	.04241

\* 1=request not resolved; 2=request partly resolved; 3=request completely resolved; former clients.

The former clients have been then asked about their satisfaction with the outcome. The feedback is quite positive with about 70 percent rating (very) satisfied, whereas

only 10 percent are not satisfied with the outcome. Others are partly satisfied with the outcome. Not surprisingly, as indicated in table 7, clients whose request has been completely resolved were most satisfied, whereas those whose expectations could not be met have a remarkably worse grade. Interestingly, five clients are (very) satisfied with the outcome though their requests have not been resolved; one is however not satisfied whereas his/her request is completely resolved. A possible explanation could be clients' personal experience with legal aid service which to some extent influences their evaluation.

Table 7: Satisfaction of clients with the outcome of the case

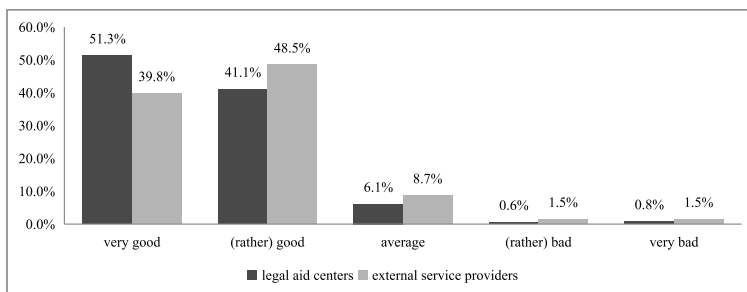
	satisfaction				
	very satisfied	satisfied	partly satisfied	not satisfied	not satisfied at all
request not resolved	4	1	4	9	9
request partly resolved	11	44	46	6	1
request completely resolved	71	40	1	1	0
Total	86	85	51	16	10

\* former clients

**D. EXPERIENCE OF LEGAL AID CLIENTS**

Current and former clients have been asked to rate their experience with legal aid centers and external service providers, if exist. Obviously, the result is very positive with over 90 percent rated their experience above average. The result in relation to legal aid centers is slightly more positive, as compared to external service providers (figure 2).

Figure 2: Rating of service delivery



\* current and former clients

In addition to an overall rating, concrete positive and negative aspects have been

identified. A variety of different (closed) items were provided, including aspects of accessibility and availability, respect and responsibility, professional support, timely service delivery, and the outcome that had been achieved. In addition to the closed items, free entries are possible if clients found that they are important and cannot be covered by the standardized answers. These free entries have been summarized and counted into the following table, together with the standardized answers.

As indicated in table 8, significantly more clients highlighted positive aspects (N=499) than negative ones (N=174). In terms with the positive aspects, “respect and responsibility” is the most often mentioned (91.4%), followed by items of “they offer professional support” (83.0%) and “availability and accessibility” (73.8%). Interestingly, item concerning availability and accessibility is meanwhile most often mentioned as a negative aspect (56.9%). In addition, aspects of “professional support” and “timely service delivery” are also frequently criticized.

Table 8: Positive and negative aspects of service delivery – legal aid centers

Positive aspects			Negative aspects		
Availability, accessibility	N	368	99	N	Availability, accessibility
	%	73.8%	56.9%	%	
Relief (from unpleasant, complex and risky matters, incl. financial risks)	N	42	2	N	Relief (from unpleasant, complex and risky matters, incl. financial risks)
	%	8.4%	1.2%	%	
Respect, responsibility	N	456	16	N	Respect, responsibility
	%	91.4%	9.2%	%	
Professional support	N	414	36	N	Professional support
	%	83.0%	20.7%	%	
Timely service delivery	N	82	38	N	Timely service delivery
	%	16.4%	21.8%	%	
Outcome/achievement	N	14	10	N	Outcome/achievement
	%	2.8%	5.8%	%	
Other	N	7	1	N	Other
	%	1.4%	0.6%	%	
Total	N	499	174	N	Total

\* includes multiple entries; values and percentages related to probands; current and former clients; standardized and free texted answers.

Table 9 visualizes positive and negative aspects concerning external service providers. Again, item concerning “respect and responsibility” is most frequently mentioned as a positive aspect (93.9%), followed by items of “professional support” (72.4%) and “availability and accessibility” (63.8%). More than half of the probands who gave positive evaluation indicated that they have received timely service delivery from external service providers, which is significantly more often mentioned in relation to legal aid centers (16.4%, see table 8). This can perhaps be explained by the perception that legal aid centers are responsible for legal aid approval, while external service providers can save time by skipping this durable procedure. This is also mirrored in the fact that the item concerning “availability and accessibility” is less criticized, in evaluating external service providers, as compared to legal aid centers.

In direct comparison, clients addressed “respect and responsibility” as a positive experience is 8 times more often than the critical group in relation to external service providers (see table 9), while 28 times (see table 8) more in relation to legal aid centers. Similarly, “professional support” is 5 times more often mentioned as a positive experience in relation to external service providers(see table 9), while 11.5 times in relation to legal aid centers (see table 8). From the absolute number, the evaluation of “respect and responsibility” and “professional support” in relation to legal aid centers is significantly more positive as compared to external service providers.

Table 9: Positive and negative aspects of service delivery – external service providers

Positive aspects			Negative aspect		
Availability, accessibility	N	104	17	N	Availability, accessibility
	%	63.8%	29.3%	%	
Relief (from unpleasant, complex and risky matters, incl. financial risks)	N	3	1	N	Relief (from unpleasant, complex and risky matters, incl. financial risks)
	%	1.8%	1.7%	%	
Respect, responsibility	N	153	19	N	Respect, responsibility
	%	93.9%	32.8%	%	
Professional support	N	118	24	N	Professional support
	%	72.4%	41.4%	%	
Timely service delivery	N	86	19	N	Timely service delivery
	%	52.8%	32.8%	%	
Outcome/achievement	N	7	2	N	Outcome/achievement
	%	4.3%	3.5%	%	

Positive aspects			Negative aspect		
Total	N	163	58	N	Total

\* includes multiple entries; values and percentages related to probands; current and former clients; standardized and free texted answers.

### E. PUBLIC SUPPORT IN HANDLING LEGAL AID CASES

Legal aid service cannot be handled by single organizations/individuals, but rather requires cooperation by involved organizations/individuals. Table 10 visualizes assessment of support from local government rating by NPO staff. As a general observation one can find that the assessment is rather positive with 90 percent of entries indicating that they have received actively support from local government. Amongst the positive ratings, 44 percent gave detailed positive assessment. Funding is most often mentioned (14%), followed by support in the way of issuing rules and policies (10%). There are still 10 percent complained that they have not received sufficient support. Amongst the negative ratings, only one person (2%) gave detailed assessment, complaining about the low allowance.

Table 10: Assessment of support from local government

	Entries		Percent of cases
	N	Percent	
General assessment			
actively support from them	23	46.0%	52.3%
not sufficient support	4	8.0%	9.1%
Detailed positive assessment			
regularly training	1	2.0%	2.3%
support us through issuing rules and policies	5	10.0%	11.4%
support us through funding	7	14.0%	15.9%
support us by offering help in processing case	2	4.0%	4.5%
support us through publicity	1	2.0%	2.3%
support us by funding research projects	1	2.0%	2.3%
distribute allowance according to the complexity of a case	1	2.0%	2.3%
distribute allowance fully and timely	2	4.0%	4.5%
offering rewards to well-behaved staff	2	4.0%	4.5%
Detailed negative assessment			

Too low allowance	1	2.0%	2.3%
Total	50	100.0%	113.6%

\*summary of free entries by NPO staff

Following table 11 shows if legal aid cases are treated differently as “normal” cases by official instances (police, procuratorate and courts) in the eyes of private lawyers. To identify this question, they have been firstly asked if official instances know in advance when they represent a client whose matter is a legal aid case rather than a normal case. As shown, a majority of the legal aid cases have been known by official instances in advance. This is particularly true in criminal cases (92%); whereas significantly less administrative legal aid cases are known in advance by official instances (65%). The high percentage of criminal cases finds its explanation in designated defense in criminal cases. In accordance with the Regulation on Legal Aid, a court shall designate a lawyer if the accused fails to hire a lawyer and meanwhile is blind, deaf, or dumb, or is a minor, or if the accused who may be sentenced to capital punishment (article 12). For those criminal cases, courts surely know in advance that those cases are not “normal” cases, but rather legal aid cases. Private lawyers have been further asked if they have the impression that legal aid cases receive different attention by courts as compared to “normal” cases and if court decisions in legal aid cases differ from those in “normal” cases. A considerable number of private lawyers found that they received different attention when they represent legal aid case, whereas few of them considered that court decisions in legal aid cases differ from those in “normal” cases. No significant differences in relation to these two questions have been found among three groups of cases.

Table 11: If legal aid cases are treated differently by official instances

% Yes	Civil cases	Criminal cases	Administrative Cases
official instances know in advance	70 %	92 %	65 %
legal aid cases receive different attention	40 %	42 %	34 %
court decisions in legal aid cases differ	12 %	8 %	10 %

\*private lawyers

#### ***F. UNDERSTANDING BETWEEN SERVICE PROVIDERS AND CLIENTS***

In order to compare expectations of clients in the eyes of service providers and clients themselves, a mean value of importance ratings respectively by service providers (legal aid staff, private lawyers, NPO staff) and by clients (former clients, current clients and potential clients) have been counted. A set of closed questions were developed

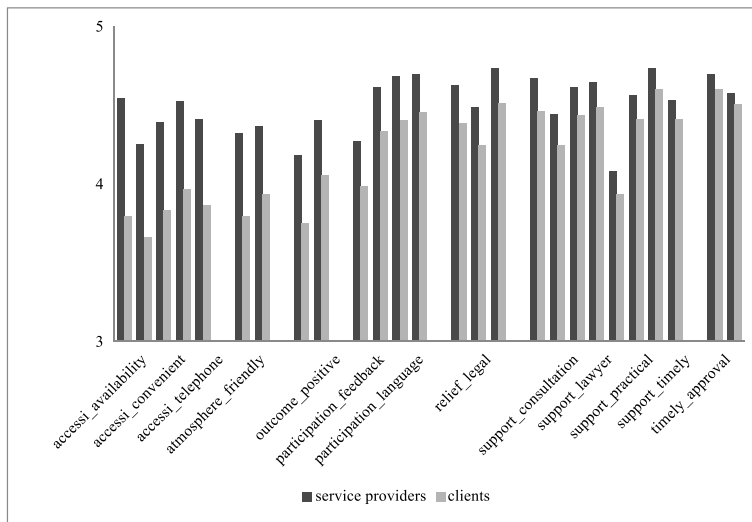
which should cover a variety of different elements in the process of legal aid service. Both service providers and clients were asked to rate a total of 25 items according to the 5 point rating scale (1=not important at all, 2=rather important, 3=average, 4=important, 5=very important). Items provided were grouped according to seven themed categories, i.e., availability and accessibility, atmosphere and respect, outcome of the case, options for participation, relief, professional support, and timely support.

The first conclusion that can be drawn from the results is that both service providers and clients considered that none of the aspects provided is unimportant. All values are clearly above average, ranging between slightly important and very important. In general, importance of overall items rated by service providers is slightly higher (with mean value of 4.5) as compared to that rated by clients themselves (with mean value of 4.2).

As shown in figure 3, each individual items rated by service providers are more important than that rated by clients themselves. Amongst the items, accessibility (incl. location easy to reach, telephone hotline, convenient opening hours) and options for participation (incl. possibility to speak in my own language, participation in the handling of the cases, translation of papers into my own language) were perceived as important by service providers, whereas much less important by clients (with differences in mean value larger than 0.5). On the contrast, ratings of items in relation to atmosphere and respect (incl. friendly atmosphere of the location, personal respect), professional support (incl. commitment of the persona delivery the service, practical advice/help, legal assistance by competent lawyer) and financial relief have a great similarity between clients and service providers. For those ratings, differences in mean value are smaller than 0.15. Obviously service providers have a fair understanding of client's needs. However, too much emphasis has been placed on accessibility and options for participation by service providers. More efforts can be devoted to other more desired aspects such as professional support and outcome of cases.



Figure 3: subjective importance of different aspects of legal aid service



\*1=not important at all, 2=rather important, 3=average, 4=important, 5=very important

### III. EVALUATIONS AND CONCLUSIONS

From above empirical observations, a general conclusion can be drawn that legal aid in China is a positive development, and it should be regarded as encouraging news by both the general public and the foreign observer. Findings of this field study indicate, however, some remaining items on the agenda for further development.

Firstly, it is very pragmatic in the question of financial threshold transparency. Since the specific criteria for legal aid provision are not written in national laws, detailed financial threshold shall be found in local rules / regulations. In practice, the criteria of “dibao” (Minimum Living Standard, 低保 in Chinese) are generally applied. Regardless of how the criteria defined, the most important issue is transparency. That is, the criteria shall be known by public. However, as indicated in the field study, the financial threshold allowing legal aid service reported by legal aid staff in the same location varies significantly in some areas. It is hardly realistic to expect citizen to understand the financial threshold, while it is even unclear to legal aid staff. Besides the problem of inconvenience for clients, a lack of transparency in the financial threshold could result in misuse of legal aid resources and even lead to corruption.

Secondly, training for NPO staff is of great necessity. The field study indicates that NPO staff have not been so well educated as compared to other service providers. NPO staff are mainly from following groups, i.e. grassroots legal service workers (基层法律服

务工作者), staff from mass organizations (e.g. the Women's Federation) and volunteer from legal clinics at universities. From the absolute number (28 out of the total number of 48 for the group of NPO staff), the majority of the NPO staff belong to the group of grassroots legal service workers. Grassroots legal service workers refer to legal workers who provide legal service, in exception of representing criminal cases, in districts in the county level. They play a significant role in rural areas and remote areas where only very few or even none law firms exists. Unlike private lawyers, grassroots legal service workers generally know their clients and might even be neighbors of their clients.<sup>7</sup> Such close relationship enables them to earn trust from clients easily. Considering the tradition of non-litigation in Chinese culture as well as the large number of rural population, grassroots legal service workers are of great importance in the process of rule of law development.

“China's growing gaps between urban and rural areas and between rich and poor continue to challenge China's legal reforms. Whether China becomes a rule of law state will depend on whether legal reforms can reach deep into the rural population.”<sup>8</sup>

Differ from lawyers, a legal qualification certificate based on the successful passing of a state exam is not required to become a grassroots legal service workers. Therefore, grassroots legal service workers are often less legally educated as compared to lawyers. In this field study, private lawyers have been asked to evaluate the work carried out by the grassroots legal service workers with which they collaborate. Positive assessment and negative/neutral assessment is almost half and half, i.e. 44.6 percent gave positive assessment while 37.5 percent gave negative evaluation. The other either gave a neutral evaluation or did not give any assessment. Poor competence of grassroots legal workers is most often criticized, followed by the lack of responsibility. In addition, there is one person pointed out that he would rather not to evaluate. We could assume that the assessment cannot be positive. Obviously, quality of the work carried out by grassroots legal workers is not fully recognized by private lawyers.

Even more pragmatic is the small number of administrative legal aid cases. In this field study, only six cases are administrative cases, out of 248 cases in total (see table 6). In recent years, China has witnessed a growing number of conflicts in relation to compensation for housing demolition, along with the process of urbanization. According to the Article 13 of Constitution, to meet the public interests, the government has the access to collect or use the private properties of citizens by providing compensation. However, the standard of compensation is not given in national laws and is widely

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7. FU Yulin, “Dispute Resolution and China's Grassroots Legal Services,” in Margaret Y. K. Woo & Mary E. Gallagher (eds.), *Chinese Justice: Civil Dispute Resolution in Contemporary China*, Cambridge University Press, 2013, pp. 314-339.

8. *Ibid.*, p. 314.

criticized for its lacks of transparency and stability.<sup>9</sup> In such conflicts, a citizen is often a vulnerable party with state authority on the other side. In practice, legal aid is however hardly provided to such cases regardless of financial situation of the citizen. This is also mirrored in the national statistics, i.e. less than 0.47 percent of legal aid cases belong to the group of administrative cases.<sup>10</sup>

Nevertheless, human resources, funding as well as legal aid clients are booming these years as indicated by the national statistics.<sup>11</sup> As commented by a Chinese farmer, “now grass sandals can sue leather shoes”<sup>12</sup>, legal aid enables not only the rich, but also the poor to protect individual rights through judicial instruments. Considering the uneven economic development in the mainland China and tremendous amount of vulnerable groups including migrant workers, famers, juvenile and the elderly, legal aid remains a high profile issue in the development of the rule of law.

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9. NIU Qingyan, “The Analysis of House Demolition Compensation System in China From the Perspective of Administration and Ethics,” *Higher Education of Social Science*, Vol. 7, No. 3, 2014, pp. 171-175.

10. Statistics available at [http://www.chinalegalaid.gov.cn/China\\_legalaid/content/2015-08/31/content\\_6247947.htm?node=40884](http://www.chinalegalaid.gov.cn/China_legalaid/content/2015-08/31/content_6247947.htm?node=40884), last visited at December 21, 2016.

11. Statistics available at [http://www.chinalegalaid.gov.cn/China\\_legalaid/content/2015-08/31/content\\_6247947.htm?node=40884](http://www.chinalegalaid.gov.cn/China_legalaid/content/2015-08/31/content_6247947.htm?node=40884), last visited at December 21, 2016.

12. Comment made by a dispossessed Guizhou farmer who obtained restitution and compensation with the help of the Guiyang Legal Aid Center, see Allen C. Choate, “Legal Aid in China,” *Supra* note 2, p. 1.