On the Problems and Countermeasures in the Development of Chinese Legal Workers

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Abstract. The legal worker is an indispensable part of the legal procedure system of our country. They are mainly engaged in litigation and consulting services, and earnestly perform the duty of safeguarding the rights of the parties, which makes the recognition and trust of them in today’s society keep rising. This paper takes the legal workers as the core, combines the relevant laws and regulations and the actual situation, discusses in detail the historical origin of the legal workers, the existing problems in the current development and gives the relevant countermeasures on the actual problems.

1. Introduction

The majority of legal workers are lawyers, and most of them often investigate cases as lawyers in their business activities. However, the broad scope of legal workers does not only refer to the lawyer industry, but also covers judges, prosecutors, public security personnel and other practitioners. There are obvious differences in the scope of work, responsibilities and access conditions of lawyers. The work scope of legal workers includes not only the work scope of lawyers, but also the work scope of legal service related professions. Nowadays, the recognition and trust of legal workers are on the rise.

2. The Historical Origin of Chinese Legal Workers

Chinese legal workers began to grow gradually from the Middle School of 1980s, mainly active in Guangdong, Fujian, Liaoning and other places at that time. In the early days of reform and opening up, there was a huge gap in the practitioners of Chinese lawyer industry. In order to fill this gap, the already employed lawyers actively organized, established legal service centers and law firms, acted as agents and answered some simple legal questions, and provided some simple legal services (Zhou Qing. 2007), and adopted the work standards of deepening the public, serving the public and low charging. It is open to the masses of the people, so as to develop new legal workers. In 1984, the Ministry of justice and the Secretariat of the Central Committee organized and held many relevant meetings and issued many documents in response to the actual situation of the legal workers at that time, so as to provide system guarantee for the legal workers. As a result, the number of legal workers has increased significantly nationwide, and some streets, factories and mining enterprises in large and medium-sized cities have started to reserve legal workers (Zhu Tongtong. 2011). In the late 1980s, the state put forward the policy of "consolidation, improvement, improvement and development", which made the legal service centers, law firms and other institutions providing legal services and assistance springing up (Fu Yulin. 2006). In the years when legal workers are constantly emerging and updating, the Ministry of justice of China has put forward a series of management measures and solutions to the problems and problems in the development, and is actively committed to the healthy and standardized development of grass-roots legal services in China (Zhou Qing. 2007). In the late 1980s, the Ministry of justice formulated and promulgated the Interim Provisions on Township legal service offices, which is the first document in China to clearly stipulate the work of grass-roots legal services. (Wang Yu. 2008).

In the face of the growing legal work industry, in the 1990s, with the Ministry of justice as the representative, began to regulate the whole legal work industry. In 1991, the Ministry of justice of
the people’s Republic of China issued and implemented the detailed rules for the work of legal services in villages and towns, which clearly pointed out the scope of work and types of business of legal workers in Article 3: "to be employed as a legal adviser; to participate in civil, economic and administrative litigation as an agent; to represent non litigation legal affairs; to mediate disputes; to answer legal inquiries; to write legal affairs on behalf of others Documents; assistance in notarization matters; assistance to judicial assistants in legal publicity and education and other related business work. "(Article 3 of the detailed rules for the work of township legal services). In the late 1990s, the Ministry of justice and the State Planning Commission jointly promulgated the administrative measures for legal service charges in villages and towns (Zhou Qing. 2007).

At the beginning of the 20th century, the Ministry of justice of China successively issued two laws and regulations on legal workers, namely, the administrative measures for grass-roots legal service offices and the administrative measures for grass-roots legal service workers. Among them, the new standards of qualification recognition and access to practice are emphasized, which require the legal service institutions to "manage and operate in accordance with the institutional legal person system" and "integrate politics and affairs" with the judicial offices of township governments (Chen Guangguang.2008).Chinese grass-roots legal work has gradually stepped into institutionalization and systematization, which is more standardized than the previous legal work. In August 2000, "Guo Ban Fa (2000) No. 51" and "Qing Bo Han (2000) No. 9" two documents put forward "no longer belong to the administrative affiliated institutions or institutions, and implement the self-discipline operation mechanism of independent practice, self-reliance, self-management and self-development, which has become the form of partnership professional organization in line with the rules of legal intermediary service industry" (Fu Yulin. 2006). At the end of 2000, Chinese Ministry of justice organized and implemented the first national qualification examination for grassroots legal service workers, which also made Chinese legal workers start to have a unified assessment standard.

In 2008, with the introduction of the new lawyer law, the development space of legal workers began to be restricted (Zhou Qing. 2007). Before the adoption of the law on lawyers, lawyers were an important part of the group of legal workers. However, in the law on Lawyers promulgated afterwards, the name of legal worker is limited, "legal worker refers to the practitioners who fail to pass the qualification examination of lawyers and provide paid legal services for the society" (Hou Lianyu. 2003). Legal workers in China are the product of the development of the times. In the new era, the service quality and professional ability of legal workers have been improved significantly. The profession of "lawyer" has been recognized and respected more and more. However, with the advancement of the standardization and professionalization of legal workers and the development of the national unified examination for the qualification of legal service workers, the requirements for the professional level of legal workers in China are becoming higher and higher, which also leads to the shortage of legal workers in the western regions with relatively backward resources (Zhu Jingwen. 2008).

3. Problems in the Development of Legal Workers

In the 21st century, with the deepening of people’s understanding of the work of legal workers and the continuous improvement and perfection of the legal system in China, people tend to rush for the profession of legal workers. However, the growing number of legal workers has not brought high-quality and efficient services to the masses, but has brought many problems, making the situation of legal workers more and more serious.

3.1 Conceptual Ambiguity

Legal workers cannot be equated with lawyers. In the early stage of reform and opening up, the acceptance rate of legal affairs increased significantly because of favorable factors such as economic development. However, there are few people who are engaged in the profession of lawyer. For the whole society, the supply of lawyers is in short supply. In the face of this phenomenon, the Party and the state attach great importance to it and have issued a series of policies to solve this
problem. The profession of "grassroots legal worker" came into being. There are obvious differences between "grass-roots legal workers" and lawyers. Lawyers are practitioners who have lawyer’s practice certificate and have obtained practice qualification through the national unified examination, while basic legal workers are practitioners who have not participated in and passed the examination. Due to the needs of the times at that time, this strange situation of coexistence of lawyers and "basic legal workers" has been developing and expanding for a period of time, and has been used up to now.

However, "grass roots legal service" is now officially declared as "completely illegal practice" by the administrative license law of the Republic of China. The root cause of the problem is that the emergence and development of the grass-roots legal workers are closely related to the national policy. The fate of the grass-roots legal workers is determined by the national policy at that time, which makes the grass-roots legal workers in an awkward situation in today’s society.

3.2 Different Levels of Practice

Compared with the lawyer team, the overall professional quality of the grass-roots legal workers is low, unable to meet the demands of the current society for the legal elites. The overall level is not high, which makes them more unable to solve those professional and technical legal work. In the late 1980s, the Ministry of Justice issued a document which stipulated that "people with high school culture and certain legal knowledge can engage in grass-roots legal services". However, at that time, there was no national unified qualification examination, which resulted in the low professional quality of the legal workers engaged in this industry (Fu Yulin. 2006). Different regions have different access standards for legal workers, and there is no unified hard provision, resulting in some people with low level of culture and education, and weak legal awareness mixed into the ranks of legal workers. This situation has attracted the attention of the society and relevant departments, and a series of measures have been taken to solve this kind of phenomenon. For example, since 1998, Gansu Province has held the qualification examination for legal workers in the province, and (Research Institute of the Ministry of Justice: Special Research Report on the establishment and division of business scope of law firms and legal services, published in research on rural grassroots legal services, China University of political science and Law Press, 2006) has unified the requirements for legal workers in the province. However, due to the promulgation of the "decoupling" document, the qualification examination just implemented was strangled in the cradle. At present, there is still a big gap between the quality of grass-roots legal workers and that of lawyers. For example, there is no clear stipulation for the education background of the grass-roots legal workers. In some areas, the education background of the grass-roots legal workers with bachelor’s degree or above is only 20%; however, the minimum education background of the unified examination for the qualification of registered lawyers—judicial examination is already above bachelor’s degree (Zhou Qing. 2007). With the continuous development of Chinese economy, politics and culture, it is urgent to improve the overall level and quality of the legal staff.

3.3 The Assessment System is not Rigorous

Compared with lawyers, there is no clear threshold for legal workers to be qualified when they come into being, and there is no corresponding professional training. There is no clear standard for the professional ability and level of legal workers. From the perspective of relevant regulations and rules and regulations issued by the judicial department of China, the assessment system for becoming a grass-roots legal worker is quite loose, and there is no special requirement for academic qualifications. If you have the level of high school education, you can participate in the examination for grass-roots legal workers. In terms of professional ability and professional level, the requirement of becoming a lawyer is obviously much more relaxed than that of becoming a lawyer stipulated in the lawyer law. The legal workers produced under such an assessment system cannot meet the needs of the society for legal elites, and cannot improve the service quality and business level of the entire legal industry.
4. Problems in the Development of Legal Workers—Countermeasures

The emergence, development and decline of legal workers are closely related to the promulgation and implementation of various policies and guidelines. At the present stage, the main reasons for the uneven professional level of legal workers and the imperfect assessment system are that there is no perfect legal service system in China, and the work of grass-roots legal workers is not legalized and transparent in time (Zhou Qing. 2007). In view of the problems of the legal workers and legal work in today’s society, the following countermeasures are put forward:

4.1 Optimize the Assessment System of Legal Workers

For the assessment of legal service workers, we should strictly control the entrance and improve the entry threshold of legal workers. To clarify the business scope of legal service workers and provide targeted legal services and legal aid to ordinary citizens.

4.2 Optimize the Work Structure of Legal Workers and Improve the Quality of Legal Services

Legal workers can set up the industry management committee of legal service workers to carry out self-management; national judicial departments and administrative organs can set up corresponding management departments to carry out centralized management of this group of legal workers.

4.3 Break the Restriction of Practice Area

Relevant scholars put forward three suggestions for this point of view: first, the Ministry of justice shall carry out the national professional qualification examination, and the judicial administrative organs of all provinces and cities shall formulate the admission score line according to the national regulations and the local actual situation, and issue the unified national certificate of competency; second, direct use of the existing national legal professional qualification examination can take measures such as grade reduction Third, the judicial administrative departments at the provincial and municipal levels can set up their own qualification examination for legal service workers.(Wu Yuhong. 2006).

References

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