

An Initial Idea to Establish an Effective Defense System in China

WANG Xiaonan^{[a],*}; GUO Fangyuhui^[b]

^[a] College of Criminal Justice, China University of Political Science and Law, Beijing, China.

^[b] People's Procuratorate of Honggang District in Daqing City in Heilongjiang Province, Daqing, China.

*Corresponding author.

Received 21 September 2015; accepted 25 November 2015

Published online 26 December 2015

Abstract

This paper combines the actual findings of the quality of the defense in China, demonstrates the necessity and feasibility of establishing an effective defense system in China, and puts forward the idea of gradually establishing an effective defense system in China.

Key words: Effective defense; Legal assistance; Right

Wang, X. N., & Guo, F. Y. H. (2015). An Initial Idea to Establish an Effective Defense System in China. *Higher Education of Social Science*, 9(6), 43-48. Available from: URL: <http://www.cscanada.net/index.php/hess/article/view/7970> DOI: <http://dx.doi.org/10.3968/7970>

INTRODUCTION

The right to defense is a fundamental right of the defendant. The right to access to a lawyer in countries with the adversarial system is interpreted to obtain effective right to counsel, also known as the right to effective assistance of counsel. If this right of the defendant is violated, the defense may make an ineffective defense application to make the case to get a retrial. This is to give relief for defendants whose constitutional rights have been violated due to incompetent lawyers, protect the constitutional right of every defendant in criminal proceedings will not be violated and achieve justice. The effective defense system in the United States has been developed so far. Its right foundation has experienced a shift from the due process clauses to the Sixth Amendment. The scope of the applicable cases is expanding; the standard of proof and the burden of proof

have also been progressed and improved in discussions. Although so far there is still debate on many issues, especially the standard of the effective defense has been subject to a lot of criticism, yet the need for effective defense system is indisputable. As countries with the adversarial system, the UK initially developed its own effective defense system while Canada largely borrowed from the practice of the United States.

In contrast with China, effective defense is still a new problem. Although many scholars have discussed this issue, it is still not very clear. An effective defense is based on the full exercise of the right of defense and it not only points to the improvement of the quality of the defense, but is also with the ultimate aim of justice and human rights protection. Not only in theory, in practice the concept of effective defense is still not widely accepted and there are many problems. In addition, the environment of criminal defense is just fair, and the defense rate is low. The quality, especially the quality of legal assistance cases, of the defense is poor, which reflects a lack of intensity for the comprehensive protection of the prosecuted party. To implement the right to defense of criminal suspects and defendants and have them enjoy qualified counsel is of great significance to ensure a fair trial.

1. THE THEORETICAL FOUNDATION TO ESTABLISH AN EFFECTIVE DEFENSE SYSTEM

1.1 The Right to Defense Is an Inevitable Requirement to Achieve Procedural Justice and the Protection of Human Rights

The importance of the defense system in modern criminal proceedings is self-evident. The right to counsel is the only way for criminal suspects and the defendants to confront allegations from the powerful state organs. *International Covenant on Civil and Political Rights, Basic Guidelines on the Role of Lawyers and European Convention on*

Human Rights have made specific provisions on this, and the content includes anyone being arrested, detained, accused or prosecuted has their own rights of defense or has the right to appoint a defender for their defense and the government in each country has an obligation to ensure that they are promptly informed of those rights. In addition, poor defendants are entitled to specified assistance of a lawyer. Faced with allegations from strong state power and complex litigation procedure, coupled with the pressure of being prosecuted, criminal suspects and defendants are in a quite helpless and disadvantageous position in criminal proceedings. Only through the professional assistance of a lawyer can be the prosecuted have an equal fight with the prosecutors. The equal confrontation of both parties is the basic requirement of procedural justice. Only through the defense system can be the fundamental human rights of prosecuted be safeguarded and can the core values of laws be achieved.

1.2 Effective Defense Is the Proper Meaning of the Right to Defense

However, we should also see that only a formal guarantee of the right to defense is not enough. "To guarantee the right of defense, we must guarantee the right to delegate a defense counsel. But what's more important is to obtain an effective defense from a counsel." (Taguchi, p.107) With guarantees of the participation of lawyers in the form, essentially lawyers cannot actively help the defendant to exercise their rights, which cannot guarantee a fair trial. To guarantee the prosecuted to obtain access to a lawyer's help is just to make them obtain the expectation possibility of an equal confrontation with the prosecutors. If the lawyer is not competent or makes mistakes, such expectation possibility will come to nothing. The rights of the prosecuted still cannot be achieved. "Criminal defense" will become a "form of defense". Therefore, an effective defense is the proper meaning to ensure the right to defense can be realized.

2. THE PRACTICAL SIGNIFICANCE TO ESTABLISH AN EFFECTIVE DEFENSE SYSTEM

2.1 Current Situation of the Quality of Criminal Defense in China: Based on a Research in Guangdong Province

Prior to 2007, in Guangzhou City, defense counsels in criminal cases are rare. Cases with defense lawyers are basically delegated lawyers and appointed defense counsels are rare; defense counsels in criminal cases have increased after 2007. Overall, Guangzhou's defense rate is higher than the national average rate and may exceed 50%. In addition, according to the different types of cases, defended rates vary widely. In violent crimes, usually due to poor economic capacity of the defendants, the defense rate is around 20% to 30%, while in economic crimes such

as drug-related crimes and gangland crimes, the defense rate can reach 60% to 70%. In addition to cases tried by the highest level of courts, due to serious charges and the longer sentences, the appointed defense rate is higher and may reach 80%. In recent years, due to the rising court trial rate of criminal cases, subsidies for assigned defense counsels are also increasing; therefore, the criminal defense rate shows an upward trend in general.

These are the overall situation of criminal defense in Guangdong Province. Through research by using interviews and questionnaires and other forms, we also found various problems related to effective defense in the current criminal defense.

2.1.1 The Implications of Effective Defense Are Unclear

Discussions on the effective defense system should be established on the basis of clear and unified concept. Scholars have different understanding of this concept, which will seriously affect exchanges and dialogues. In the research, we also found that the vast majority in practical circles understand the concept of an effective defense as a defense "with effects". They directly understand "effective" as "effects". The association between the defense quality of the counsel and the physical results has a certain basis in reality. It is difficult for the interested parties to assess the performance of a lawyer and the only intuitive and clear criterion is the result. A favorable result is also the only purpose of the interested party, so through the result to evaluate a lawyer is the only reasonable way for the interested parties. Then for the defense lawyer, the most important is the attorney-client relationship, so it is not surprising that lawyers have the same thoughts. Since then it is not difficult for us to understand why many scholars also make a similar, result-based interpretation of effective defense.

Unclear understanding of the concept reflects the fact that in the current practice, this concept has not been fully understood and accepted by people. The author believes that in order to properly understand the concept of an effective defense, we must clarify the following two questions. First, the purpose of the effective defense system is to protect the basic rights of criminal suspects and defendants, which are also the final value destination of the effective defense system. It is not intended to guarantee a favorable result of the suspects and the defendants. It is just to ensure their rights will not be violated because of counsels' dereliction of duty. Second, the core content of an effective defense system is to judge the action or behavior of lawyers in criminal proceedings rather than the result of criminal proceedings. It is not binding bound or reprimand counsels, but to improve the quality of defense.

2.1.2 Lawyers Cannot Fully Exercise Their Rights and Criminal Defense Is Not Very Effective

Good legal environment is the prerequisite and foundation to guarantee the implementation of effective defense.

Only when lawyers are granted their full rights and their independent, free defense is protected can they truly defend the interests of the prosecuted. Criminal defense environmental issues have always been concerned by scholars and in practical circles. The current environment of practicing defense lawyers is really not optimistic.¹ In the research, we found that the main obstacles attorneys encountered when handling cases is that the right to investigate and collect evidence cannot be fully exercised. Independent investigation and evidence collection of counsels are very important, but because in reality it is difficult to collect evidence in the investigation and it is difficult to have the evidence obtained be adopted by the judge, lawyers' forensics enthusiasm is not high. In addition, it is quite rare that lawyers apply for the attendance of witnesses and questioning witnesses. Overall, counsels' attendance at the court is of little significance, and even some lawyers and judges believe that counsels' attendance is like a performance for the interested parties.

In the trial, the court is easier to accept evidence of minor crimes. Usually counsels cannot influence the court's decision of guilty or not guilty; therefore the impact of the counsel's defense opinions is mainly reflected on the sentencing of the case. In terms of the effect of the defense, it is rare that the defense views have been accepted as a whole. Most defense opinions judge may adopt are facts such as first offense, occasional offense, turning oneself in, meritorious service and repentant attitude, including three aspects: procedural problems, facts which can help achieve a mediation and new evidence. The role of defense opinions proposed by counsels is not very useful, especially on the determination of the conviction.

2.1.3 Quality Problems of Criminal Defense Especially Legal Aid Are Prominent

In general the quality of criminal defense in China is not good.² With the big environment that the overall quality

of criminal defense is not good, the quality of legal aid cases is even more worrying. Take Guangzhou City as an example. In Guangzhou, lawyers are not allowed to accept legal aid cases in private and the assignation of legal aid cases is done by the legal aid center. In 2012, Guangzhou City Legal Aid Center hosted a total of 8,672 legal aid cases, including 1831 criminal cases. Among these criminal cases, the vast majority of them assigned a lawyer at the trial phase and there were few who applied for legal aid before the trial. In Guangzhou City Legal Aid Center, in addition to support staff, about 50% of their lawyers provide services outside of the center. In addition, the center also recruits social lawyers. Lawyer willing to engage in legal aid can register at the legal aid center so that the center can establish a lawyer base with specialized lawyers who are willing to undertake legal aid cases. Since 2004, the Guangzhou Legal Aid Center has established a "appointment aid system" to specify different lawyers according to the types of cases, especially cases involving minors and foreigners. In 2012, the legal aid center in Guangzhou City had about more than 200 volunteer lawyers registered. When cases come up, a lawyer from the lawyer base will be chosen. Unlike the shift system of law firms in some places, in this way there is basically no occurrence of prevarication or totally irresponsible situation. Although most of them are relatively young, less experienced lawyers, since the center mainly takes over cases from intermediate courts or higher and has certain requirements for lawyers. For example, for death penalty cases, it requires the lawyer has practicing experience for more than three years. In the county level, legal assistance for minors and deaf or blind people also requires a lawyer with more than a year of practice experience. Although young lawyers have less experience, but they are willing to learn, enthusiastic and responsible in legal aid cases. In addition, for more difficult and challenging cases, such as gangland crimes, there will be senior lawyers who are willing to take them over.

The vast majority of judges agree that most of assigned counsels are a mere formality, and there is even the case that in the second trial some assigned counsels copy the half a page defense material used in the first trial. Sometimes due to the lawyers' own limited professional quality, their defense opinions are also not to the point. In legal aid, counsels' role is limited. In 2010, for criminal with civil cases, Guangzhou Municipal Intermediate People's Court decided to grant legal aid exempt from economic review. The main purpose is to through counsels to do the work to the defendants and their families to make them actively compensate and reach reconciliation. Lawyers provide very good feedback on this and believe it can reduce the defendants' sentence.

Currently the most important factor affecting the quality of legal aid is low subsidy of the lawyers to handle legal aid cases. Guangzhou legal aid case subsidy standard

¹ The CASS 2008 key project "research on the establishment of criminal defense access system in China", project number YZDN. The survey showed that among the statistical analyzed 2276 people, only 8.4% believe the current practicing environment of Chinese lawyers is "very good"; 54.8% believe it is "fair"; 29.1% consider it "poor" and 7.7% think it is "terrible". Ji, X. D. (2012). Criminal defense access system, effective defense and universal defense. *Tsinghua Law Review*, 6(4).

² The CASS 2008 key project "research on the establishment of criminal defense access system in China", project number YZDN. Among the 2,287 respondents ranging from police, prosecutors, judges, lawyers and the public included in statistical analysis, only 144 people think the quality of criminal defense in China is "very good", accounting for 6.3%, while 69.4% of people think it is "fair"; 20.9% of people think it is "bad" and 3.4% of people think it is "very bad". In addition, among the prosecuted (263 people), 15.2% consider their defense counsel "very satisfied"; 24.7% consider them "satisfied"; 39.2% consider them "fair"; 20.9% consider them "unsatisfactory". The ratio of the prosecuted considering the evaluation of the counsel "fair" and "unsatisfactory" is as high as 60.1%. Ibid.

is 1,000 yuan per phase (phase-based). If the same lawyer handles the early phase and the later phases of the same case, the subsidy for the last phase will be cut in half. The total subsidies of three stages of legal aid cases are 2,500 yuan per case. Subsidies are not high, so the lawyers just take the work as a formality. In each stage they might only do one thing - meeting once, sorting the file once, and attending at the court once, and then they will end a case in this way. In addition, the legal aid fees which are supposed to be subsidies will also be taxed, which reduces the lawyers' fees to handle legal aid cases. The second concern is the time. Sometimes when the court appoints a lawyer, the timeline is very tight and the lawyer does not have enough time to prepare the case. Usually the center will ask the court to reschedule in accordance with the law, but sometimes the court does not pay enough attention and believes that the lawyer is simply "a mere formality" who would not affect the decision of the court.

2.1.4 There Is Inadequate Supervision of Lawyers

Currently, there is not a fixed metrics to evaluate the performance of lawyers in criminal proceedings. There is little supervision of lawyers in handling criminal cases from law firms, and most of law firms have some provisions in dealing with cases, but these regulations are not just for criminal cases or requirements on case quality. Lawyers basically depend on their own experience to handle cases. Some law firms have "work log" to record lawyers' meeting and other work, but the specific content of the conversation is not required to record. Meanwhile the log is just a record of lawyers' own work and will not be shared, nor as a standard to evaluate lawyers. Some law firms have their own internal evaluation mechanisms. For example, lawyers evaluate paralegals and partners in charge evaluate lawyers. All the evaluation is carried out at the end of a year and is not for individual cases.

Compared with law firms, Guangzhou City Legal Aid Center has established a relatively complete system of supervision and taken a variety of ways to specify lawyers' undertaking legal aid cases. Its contents include two aspects: lawyers' professional ethics and the quality of cases. The professional ethics focus most on whether lawyers arbitrarily charge more fees. In addition, the performance of lawyers in the case is also assessed. For the quality of legal aid cases, the center has an evaluation system. Now at least it generally requires lawyers to do the meeting, material sorting and hearing attending. However, generally speaking, the lawyer should communicate again with the defendant after the trial to discuss whether to appeal and other issues, but the current legal aid lawyers cannot yet reach this level. Specific systems include tracking return visit system, "legal aid business records" and "attorney log" and audit and feedback system. In the audit and feedback system, the center will give the corresponding court a "feedback form" and ask them to fill it in. however, the reality is

that the court often does not provide the feedback in time and usually it will return the forms of all cases together at the end of the year to the center. Therefore, it is not an effective response of a lawyer's performance in the case. In addition, the "feedback form" is often filled by the clerk, not a judge, and it cannot make a valid assessment of the lawyer's performance.

It is not just audit and feedback system that cannot achieve the desired effect and we find other systems are also formality of supervision and will not evaluate the performance of lawyers in the case. In addition, the current monitoring tools do not have any coercive power. For example, legal aid centers do not have the right of punishment and the usual approach can only be criticism. Heavier violations will usually be transferred to Lawyers' Association or judicial authorities. These are extremely unfavorable for improving the quality and securing the rights of suspects and the defendants.

2.2 The Practical Significance to Establish an Effective Defense System

Through the above discussion we can see that the right to defense of criminal suspects and defendants in practice has not been adequately protected. How to improve the quality of criminal defense and have the right of the prosecuted fully realized, the author believes self-discipline of lawyers alone is not enough and even the provisions of All China Lawyers Association do not have enough force since these provisions are mainly requirements on the moral level and they are quite empty and unfavorable for practical operation. Moreover, even though the Guangzhou City Legal Aid Center has made great efforts in overseeing lawyers and improving the quality of defense, the effect is not satisfactory. Requirements for effective defense cannot just stop at the moral level and they must rise to the institutional level so as to effectively implement the improvement of the quality of defense and the protection of the defendants' rights.

In addition, in the research the author also found a very thought-provoking point of view - some judges believe in the judicial practice it will not appear the situation that invalid defense of lawyers will make defendants suffer losses, that is, the "loss" element in Strickland Standard cannot be met in our country, because our country is not as common law adversarial system. The judge has the right and obligation to find the facts to make judgments based on the facts and the law, which mean that even if the defense of the counsel is invalid, it will not cause damage to the rights of the accused. The prosecutors also have similar view. Regardless such a statement is only the talk of judges and procuratorates, if this argument continues, it actually is a denial of the meaning of existence of lawyers. Since the procuratorates and the court will be in strict accordance with the facts and the law to make judgments and they do not have any problems in finding facts and

applying the law, then what does a lawyer do? They will not have any problems without lawyers' help. In fact an effective defense is the proper meaning of defense system, and it can be said that as long as there are lawyers and we acknowledge the role of lawyers in criminal proceedings, we must recognize effective defense. Otherwise what is the point of having lawyers who cannot play their role in criminal proceedings?

3. AN IDEA ON THE CONSTRUCTION OF AN EFFECTIVE DEFENSE SYSTEM

3.1 The Applicable Scope of Effective Defense

From the significance and long-term development of effective defense system, the author believes that it should apply to each of the key stages and all the important programs in criminal proceedings. However, this system in our country is a new attempt in both theory and practice, and the author believes that the establishment cannot be done overnight. We may start from some special types of cases such as death penalty cases and legal aid cases.

We only have life once and the death penalty must be treated particularly carefully. Criminal Law Amendment (VIII) has reduced 13 death penalty charges and it has strictly limited, reasonably adjusted the commutation of sentence and parole provisions of the reprieve offenders to show the criminal policy of "cautious killing and less killing". In terms of procedural law, the Supreme Court has withdrawn the right of the death penalty review. It can be said the procedures in death penalty cases should be more stringent and we must have certain requirements for the quality of the defense to really achieve "respect and protection of human rights". In this sense, the quality of defense of death penalty cases must also draw more of our attention.

Compared to entrust defense, the quality of assigned defense is poor. Legal aid lawyers are usually "a mere formality". According to China's Criminal Procedure Law, criminal suspects and defendants of the legal aid cases are vulnerable groups in criminal proceedings, but they can only have the defense of poor quality, which is very unfavorable to protect their rights and achieve justice.

In addition, in the practice of effective defense system in the United States, they also established the right to effective defense in death penalty cases and legal aid cases. We can start from these two types of criminal cases to improve the quality of criminal defense and ensure the fundamental rights of the prosecuted.

3.2 The Evaluation Criteria of Effective Defense

For the measurement of effective defense, we can carry it out through specific operation guidelines, but the contents of the guidelines have to be discussed later. Currently the rules and regulations of China Lawyers Association are too broad and they are mostly requirements of

professional ethics and practice operability is not strong. Our survey found that: courts, prosecutors and lawyers agree that there should be a specific minimum standard and it will facilitate the work of lawyers and the assessment of the quality of the case. But for whether we can quantify the requirements of what behavior in criminal defense, whether we can take into account of if a lawyer seizes the key points of the case and some other similar questions, there are different opinions. Lawyers have especially more concerns because due to the different circumstances of cases, although that is the minimum standard, it is difficult to quantify; whether the standard is in compliance with industry features is of a certain degree of elasticity, which will have a direct impact on the lawyer's work. Too detailed and specific standards may restrict the work of lawyers. It is feasible that such a provision may be specified by the Ministry of Justice and local justice authorities specify detailed rules according to their different situations.

3.3 The Review Subject of Effective Defense

As for who would be the subject to evaluate the behavior and performance of lawyers in criminal defense, whether lawyers or judges believe they are not considered to be a good choice. What is generally accepted is "peer review" or review from a committee constituted by several parties. The author also agrees with the view. Judges directly experience lawyers' performance in criminal proceedings, but they do not necessarily have a better understanding of the work of lawyers. However, lawyers with the same experience are clearer about the way to handle specific cases; but if we only rely on lawyers' judgment, it may occur in the situation that they cover up for each other. Therefore, joint review of multiple parties should be more reasonable and objective.

3.4 Remedies for Invalid Defense

There may be different ways to relief invalid defense. British and the United State and other countries take a very thorough way which is to "rescind the original judgment and conduct a retrial", while Japan has cases which support lawyers who did not fully implement their obligations as defenders to compensate damages of the accused.³

On whether we can relief invalid defense through a retrial, opinions from the research show this is negative. The court believes that in the context of powers doctrine, the court has the obligation to take the initiative to find facts. Even if lawyers do not pay attention and do not find the facts, the court will take the initiative to investigate and collect evidence. Judges also have a high professional

³ Japan's Supreme Court Supreme Sentence Records 36.3.30, *Criminal*, 15(3), p.688, Tokyo Local Sentence Records 38.11.28 [jurisprudence A18]. Quoted from [Japanese] Matsuo, K. (2005). *Japan's code of criminal procedure* (p.253). In X. S. Ding (Trans.). Renmin University of China Press.

level. Even if the lawyer made errors, it cannot cause damage to the defendant. This view is some kind of a denial to the defense system. The author has discussed this issue in the previous text and will not discuss further here.

Damage compensation has some legal basis. There is a contractual relationship between the lawyer and the suspect or defendant. Lawyers have the obligation of loyalty and diligence and invalid defense can be regarded as a breach of the contract, then the prosecuted person can affix the responsibility of lawyers for breach of contract, which is to bear civil damage compensation. In practice, if a party dissatisfied with the performance of lawyers, it is embodied by not paying the rest of the attorneys' fees or a refund of all or part of legal fees. But in ineffective defense what counsels caused to the parties is not just economic interest losses. Even though the legal fees are refunded to the party, he or she still did not enjoy the right to access to effective counsel that he or she deserves. Starting from the purpose of effective defense, the author believes that "to rescind the original judgment and conduct a retrial" and to give the defendant a qualified defense in the retrial is the only option. For lawyers of ineffective defense because of lack of experience or due to negligence and laxity, depending on their circumstances, they may be punished differently by the Lawyers Association.

CONCLUSION

The history of criminal proceedings is the history of the expansion of the right to defense. Procedural justice and the pursuit of safeguards to protect human rights in criminal proceedings must be implemented through the guarantee of the rights of defense. Right to defense develops from an expecting possibility to effective defense and the need for effective defense system has been showing. Admittedly, the realization of effective defense depends on the change of values in criminal proceedings and further protection of the rights of lawyers. Well-developed procedures and counsel system are the foundation of effective defense and this is a project which needs our long-term efforts. Quality issue of criminal defense is the cause to discuss effective defense system. The improvement of the quality is the objective result brought by the implementation of the system, but effective defense system itself aims to achieve procedural justice and human rights protection. In the United States, the United Kingdom and Canada, the establishment of effective defense system has experienced the exploration process from developing from zero and from confusion to clarity. So far there are also some problems that have not been completely solved. For us, effective defense is still in the exploratory stage in theory, and in practice we lack appropriate experience. We will certainly experience a process of continuous exploration and improvement. With the improvement of the legislation, the legal environment,

lawyers' quality and defense capabilities, the meaning of effective defense system will certainly be widely recognized and accepted so as to achieve the requirements for procedural justice and human rights protection.

REFERENCES

- Tanovich, D. M. (1993-1994). Charting the constitutional right of effective assistance of counsel in Canada. *Crim. L. Q.*, 36, 404.
- How to Thread the Needle. (1988-1989). Toward a checklist-based standard for evaluating ineffective assistance of counsel claims. *Geo. L. J.*, 77, 413.
- Smithburn, J. E., & Springmann, T. L. (1981). Effective assistance of counsel. In quest of a uniform standard of review. *Wake Forest L. Rev.*, 17, 497.
- Lassiter, J., & Lockhart, H. V. (1985-1986). Ineffective assistance of counsel. The defendant's position. *Am. Crim. Rev.*, 23, 73.
- Kirchmeier, J. L. (1996). Drink, drugs, and drowsiness. The constitutional right to effective assistance of counsel and the strickland prejudice requirement. *Neb. L. Rev.*, 75, 435.
- Henderson, M. P. (2002-2003). Truly ineffective assistance. A comparison of ineffective assistance of counsel in the United States of America and the United Kingdom. *Ind. Int'l & Comp. L. REV.*, 13, 317.
- Chen, X. (2012). Theoretical research on effective defense of lawyers—also on the exploration of effective defense theory in China. *Journal of Hebei Vocational College of Public Security and Police*, 12(1).
- Fan, C. Y., & Ye, X. H. (2007). Reform of the defense system in China from the principle of effective defense. *Chinese Lawyers*, (10).
- Fan, C. Y. (2007). *Rational thinking of the re-amendment of the criminal procedure law*. People's Public Security Publishing House.
- Genego, W. J. (1984-1985). The future of effective assistance of counsel. Performance standard and competent representation. *Am. Crim. L. Rev.*, 22, 181.
- Gu, Y. Z., & Li, Z. P. (2008). On the effectiveness of the criminal defense and its realization conditions – Discussion on the introduction of "ineffective defense" in China. *Western Law Review*, (1).
- Lin, J. S. (2006). Invalid defense system in countries with adversarial system, *Global Law Review*, (4).
- Lin, J. S. (2006). American ineffective defense system and its significance. *Journal of East China University of Political Science and Law*, (4).
- Lin, J. S. (2005). *Criminal litigation and basic human rights*. Shandong People's Publishing House, 2005.
- Taguchi, M. (n.d.). *Code of criminal procedure* (5th ed., p.107). China University of Political Science Press.
- Yang, J. L. (2010). On American lawyers' inadequate aid system—also on the construction of China's lawyers' inadequate aid system. *Journal of Henan Public Security College*, (6).