

National Report of Republic of Korea

Jai-hyung Park, Attorney at law

1. Providers of Legal Aid

The legal aid system in the Republic of Korea is mainly carried out by the Korea Legal Aid Corporation, a public organization, and several private organizations such as the Korea Legal Aid Center for Family Relations, the Seoul Bar Association and consumer groups. MINBYUN – Lawyers for a Democratic Society, a private group comprised of lawyers, also actively provides legal aid. Meanwhile, the assigned counsel defender program for criminal cases and civil litigation assistance program are also part of the legal aid system, as the court assigns counsel for criminal defense or civil litigation.

Minbyun, which I am part of, is a private organization which usually provides legal aid to important cases pertaining to human rights and social justice, whereas the Korea Legal Aid Corporation is a public institution which provides legal aid such as legal counseling, or representation in court for individuals who cannot afford to hire a lawyer.

While Minbyun maintains a cooperative relationship with the National Human Rights Committee of Korea (NHRCK) in certain situations, Minbyun does not often collaborate with other public organizations or government bodies.

2. Organization

Minbyun is comprised of lawyers who joined Minbyun at their own will. Minbyun does not receive any financial subsidy from the government, and is sustained solely by membership fees.

In comparison, the main source of revenue for the Korea Legal Aid Corporation, a public organization, is government subsidy, in addition to other sources such as reimbursement of litigation costs, revenue from interest and contributions from Nonghyup Bank, Suhyup Bank, Chukhyup Bank and Shinhan Bank.

3. Financial Affairs

While the Korea Legal Aid Corporation, a public organization, is mainly financed with government

subsidies, Minbyun is financed with membership fees paid by member attorneys.

Minbyun does not receive any form of reparation from the recipients of legal aid, and all costs of litigation and legal aid is financed by Minbyun.

4. Supervision

Minbyun is a completely private organization and is not monitored or supervised by any government institutions.

5. Procedures and Criteria for granting Legal Aid

In deciding whether Minbyun should provide legal aid in a certain case, Minbyun evaluates whether legal aid for that particular case is compatible with Minbyun's purpose of establishment - "protection of human rights and social justice", especially whether it is appropriate for Minbyun and not another organization to provide legal aid in the case.

In principle Minbyun does not investigate the financial background of the potential legal aid recipient in the decision-making process.

When either a member of Minbyun or person concerned in the case requests legal aid, the decision whether to participate in the case is made after discussion and deliberation by the Legal Aid Evaluation Committee

Full-time employees of Minbyun are hired through an open recruit. However most of the work relevant to legal aid is provided by members of Minbyun who are lawyers who joined the organization by their free will, not the employees. Members of Minbyun do not solely commit to Minbyun-related work, but are independent lawyers who concurrently work for Minbyun.

6. Models of Service Delivery

Minbyun's legal aid service is supplied by members who volunteered for the job. Minbyun lawyers do not receive any remuneration from Minbyun, and are all lawyers who separately practice law in law firms or an independent office.

7. Legal Aid Fees

Members of Minbyun do not receive remuneration for their legal aid services. Usually an attorney at law in a case receives litigation fees ranging from several million won to tens of millions won, depending on the case.

8. Legal Aid For Specific Community

Minbyun provides legal aid to specific communities such as the forced evictees, migrant workers, labor unions and more.

9. Scope and Types of Services

Minbyun provides legal aid in criminal, civil, administrative cases and lawsuits against government, and alternative dispute resolution.

Minbyun provides legal counseling either face-to-face or over the phone. Consultation with the full-time employees and lawyers of Minbyun is available over the phone at all times, and if need be depending on the case, a member lawyer or full-time Minbyun lawyer may be connected for consultation over the phone or face to face. No financial inquiry is made during the legal consultation.

Minbyun also assists those in the midst of police investigation at the police station, and Minbyun's service is also available for foreigners.

10. Innovative Legal Aid Initiative

Minbyun's legal aid is a completely privately run organization of lawyers. Minbyun is not subject to any governmental subsidies and governmental supervision.

One of more recent characteristics of Minbyun's activities is that many are activities in response to anti-human rights practices by the current Lee Myung Bak administration.

For instance, Minbyun represents the majority of citizens who participated in the recent candlelight vigil against U.S. beef imports and were prosecuted, as well as teachers who were discharged for opposing the government's educational policies.

11. Access to Legal Aid

Most Minbyun lawyers usually conduct action for human rights and social justice separately from Minbyun. During their independent activity, the member suggests Minbyun's legal aid when he/she believes Minbyun's particular legal aid is necessary. It is common for members of Minbyun to encounter potential legal aid recipients during their independent legal activity.

It is true that residents of small cities or suburbs have little opportunity to receive legal aid. Nonetheless, it is possible for legal counselors to visit and have a face-to-face meeting with them, if judged necessary after consultation over the phone.

12. Legal Aid Lawyers

Minbyun lawyers are not hired by Minbyun, but are merely members. Those who agree with Minbyun's objectives and wish to join may apply for membership. With Membership Committee's recommendation and with Executive Committee's permission, the applicant may become a member.

Because Minbyun's lawyers are independent lawyers who practice law while concurrently participating in Minbyun's activities, they are not full time legal aid lawyers.

13. Quality Assurance

All Minbyun lawyers are part of a specialized committee, such as International Solidarity Committee, Labor Committee, Public Welfare and Economy Committee, Media Committee, Women's Rights Committee and others within Minbyun. Through regular committee meetings and activities, Minbyun lawyers gain experience and expertise in their field of activity.

14. Participation in Reforms

If judged necessary for the protection of human rights and social justice, Minbyun also participates actively in social reform movements and action for law revisions.

15. Challenge

Since the onset of the conservative Lee administration in 2008, the human rights situation in Korea has backtracked. This in turn magnified Minbyun's role in society. Yet due to limited number of members,

Minbyun does not have all the human capital it needs to perform its ever-increasing duties.