

Grassroots Operation of Therapeutic Function of Family Justice: Taking Psychological Counseling Mechanism as the Starting Point

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Abstract: The therapeutic function of family justice is based on therapeutic jurisprudence theory, aiming to reduce the negative impact of family disputes and justice on the parties involved and achieve unity between individual happiness and family harmony. In China's family justice practice, psychological counseling has become the primary means of achieving the therapeutic function of family justice. However, empirical research conducted in a grassroots court in City A of the southwestern region reveals several issues with the operation of the psychological intervention mechanism. These include low utilization and limited effectiveness of mental health services, difficulties in initiating psychological interventions, confusion regarding the role of psychological counseling techniques, unscientific methods, and a lack of a holistic family perspective. Therefore, China needs to expedite the establishment of family litigation law to provide legal protection for the psychological intervention mechanism. Simultaneously, it should strengthen the professional development of the family justice team, establish a scientific layered psychological intervention mechanism, and introduce psychological approaches such as family counseling to adjust family conflicts from a holistic perspective, enabling the smooth operation of the therapeutic function of family justice.

Keywords: Family justice; Family justice reform; Psychological counseling mechanism; Therapeutic jurisprudence

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1. Introduction

The theoretical foundation of the therapeutic function of family justice is therapeutic jurisprudence, a concept first proposed by American scholars David B. Wexler and Bruce J. Winick in the late 1980s. They defined therapeutic jurisprudence as the study of law as a therapeutic agent, viewing law as a social force that can have therapeutic (beneficial) or anti-therapeutic (harmful) effects. Here, the law includes substantive law, procedural law, and the implementation of the law (including the behavior of judges and lawyers). Professor Barbara A. Babb of the

University of Baltimore School of Law was among the first to introduce and apply this concept to the field of family law ^[1]. Simultaneously, many countries and regions have begun to emphasize the therapeutic role of family justice and have carried out a series of targeted reforms ^[2].

In April 2016, the Supreme People's Court issued the "Opinions of the Supreme People's Court on Carrying Out the Pilot Reform of Family Trial Methods and Working Mechanisms" (hereinafter referred to as the "Opinions"), kicking off the reform of family trials. In July 2018, based on a summary of the two-year pilot work, the Supreme People's Court issued the "Opinions of the Supreme People's Court on Further Deepening the Reform of Family Trial Methods and Working Mechanisms (Trial Implementation)" (hereinafter referred to as the "Deepening Opinions"). Both documents express the need to "play a diagnostic, repair, and therapeutic role", demonstrating a significant shift in China's family justice concept from adversarial to therapeutic. Both the "Opinions" and the "Deepening Opinions" clearly propose the introduction of psychological counseling in family justice, and the "Deepening Opinions" even include a series of norms for the application of psychological counseling procedures in the people's courts. However, the connotation of psychological counseling in family justice has never been defined, leading to a lack of consensus among practitioners and scholars. In the context of family trial reform, the implementation of psychological counseling varies among people's courts in practice. China has a vast territory, and the level of development varies among regions. Local governance emphasizes "Fengqiao Experience" and "Horseback Court", which are local experiences developed based on local knowledge. Similarly, family justice should respect regional differences and should not be generalized. This article aims to showcase the real picture of the operation of the therapeutic function in family justice through research on the actual operation of the psychological counseling mechanism in a grassroots court in a city in southwest China, providing regional experience for therapeutic family justice in China.

The author conducted a one-month field research activity at the C Family Court of the B District Court in City A of the southwest region and conducted multiple in-depth interviews with family judges from the W District Court and Y District Court in City A. The urbanization rates of the W District Court, B District Court, and Y District Court decrease sequentially. As samples from the high, medium, and low urbanization areas of City A, they roughly represent the operation of family justice in City A.

The C Family Court was designated as a family court in 2021, with jurisdiction over all family cases and a small number of civil cases in District B. It has 2 quota judges, 6 judge assistants, and 2 clerks. During the research process, the author observed the interactions between judges and judge assistants outside the courtroom and the entire trial process of 24 family cases, including family cases settled through mediation after the trial. Among them, there were 17 divorce disputes, 2 support disputes, 2 custody disputes, and 3 statutory inheritance disputes.

Based on research conducted in three grassroots courts in City A, this article presents the current status of the grassroots operation of the therapeutic function of family justice through the presentation of case processing details and the induction and summary of family case trial practices. The study analyzes the reasons behind the current situation and further proposes directions for improvement.

2. Clarification of the concept of psychological counseling

In China's family justice system, there is a divergence between practical and theoretical understandings of "psychological counseling." Without a unified understanding of the concept, it is difficult to research and improve the psychological counseling mechanism.

In judicial practice, psychological counseling is often seen as psychological consultation and guidance, excluding psychotherapy. It is a mental health service provided by experts with specific qualifications. For a long time, psychological counseling has existed as a service for family justice, typically sourced from three models: purchasing mental health services from social psychological institutions per session, establishing a studio within the court to hire full-time psychological consultants, or establishing cooperative relationships with social institutions to provide public welfare voluntary mental health services. Institutions that collaborate with the courts include multiple social institutions with psychological service capabilities, such as women's federations, universities, hospitals, and bar associations. These three models are often not used separately but are flexibly applied based on the court's conditions to maximize the utilization of available psychological service resources.

In the grassroots court investigated by the author, C Family Court primarily adopts the first model, which involves purchasing psychological assessments or consulting services from psychological counselors as needed and per session. The W District Court also cooperates with university psychological research institutions and social work service centers to purchase mental health services. The Y District Court combines the first and second models, providing mental health services in a complementary manner with full-time and part-time staff.

Some scholars in psychology discuss that psychological counseling, in a broad sense, includes psychological consultation, psychotherapy, and other technical methods involving people's psychological activities, which is close to the psychological intervention activities understood in people's daily lives. In a narrow sense, psychological counseling is a non-therapeutic method of psychological dredging and guidance, originating from psychological consultation in the broad sense of psychological counseling. However, the main difference from psychological consultation lies in whether qualifications are required. If obvious psychological abnormalities are found during the psychological counseling process, referral to a psychological consultation or treatment institution is necessary^[3]. In the medical field, psychological counseling therapy is also used as a treatment for psychological and mental illnesses^[4].

In the field of family law, Chinese scholars define psychological counseling in family justice based on the narrow concept of psychological counseling as "the use of psychological theories and methods to psychologically dredge and guide parties and related personnel who are emotionally disturbed in family cases, relieve their negative emotions, help them liberation from wrong cognitions, and cultivate a positive psychological intervention activity with self-esteem, confidence, rationality, calmness, and enthusiasm"^[5]. This definition excludes psychological consultation and psychotherapy and is a non-therapeutic psychological intervention technique.

In summary, the divergence in understanding between practice and theory in the field of psychological counseling lies in whether "psychological counseling" should be seen as a professional service included in psychological consultation or a technique that judicial personnel can generally master.

The understanding of the concept of "psychological counseling" in family justice can be considered from the following two aspects. Firstly, researchers can compare the statements on psychological counseling in the "Deepening Opinions" and "Opinions" issued by the Supreme People's Court.

The "Opinions" characterize psychological counseling as a "related professional service," advocating cooperation between the court and external professional institutions, especially public service institutions. The "Deepening Opinions" emphasizes the internalization of professional services such as psychological counseling, proposing various specific requirements such as establishing a specialized family team, establishing special entry, training, and assessment mechanisms for family judges, and providing judicial assistants who offer professional services. Evidently, after two years of pilot family trial reforms, the reform direction of the psychological

counseling mechanism advocated by the Supreme People's Court has shifted from outsourcing to internalization, integrating professional services into family justice and making it a part of family trials.

Secondly, researchers can consider the applicability of psychological counseling. If psychological counseling is merely understood as a professional service provided by external personnel, ignoring the guidance of the "Deepening Opinions" to establish a specialized family team, it becomes an optional measure that requires additional financial and time costs from the court, without a corresponding guarantee of effectiveness. Therefore, in an environment where there are many cases and few personnel, and with the goal of judicial efficiency, mental health services are less frequently applied. Additionally, judicial personnel have not fully clarified their role cognition, and there is passivity in relying on judicial personnel to actively learn psychological counseling techniques for psychological counseling. Currently, few courts across the country conduct large-scale, standardized psychological counseling training for family judges. Occasionally, psychological experts visit courts to give lectures on psychological knowledge to judicial personnel. Evidently, in practice, the court system rarely provides corresponding professional support to family judges. Even if family judges have enthusiasm for learning psychological knowledge, it is difficult for them to have sufficient time and energy.

In summary, it is more reasonable to view psychological counseling as a non-therapeutic professional technique. Its implementation subject is family judicial personnel. The distinction between psychological counseling and professional services such as psychological consultation and psychotherapy lies in whether qualifications are required. This makes it legitimate for judges to apply psychological counseling in family mediation, thereby enhancing professionalism.

3. Operation of psychological intervention mechanisms

By clarifying the concept of psychological counseling, psychological counseling and mental health services in family justice can be distinguished, collectively referred to as "psychological intervention mechanisms."

In judicial practice, due to the shaping of family justice personnel's family trial philosophy by the integration of treatment, repair, and emotional and legal reasoning since the family reform, such differences are not reflected in distinct means. Instead, family justice personnel often provide commonsense psychological counseling to parties during the judicial process, and mental health services are only provided for specific minority cases.

Therefore, the following will separately discuss the operation of mental health service procedures and psychological counseling techniques in practice.

3.1. Operation of mental health service procedures

A common problem in the operation of psychological counseling procedures is low utilization. Among them, judges from the W district court reported that only 3 or 4 family cases had initiated this procedure in the past year. After participating in and observing the judicial practice of the C family court, the author summarized the following constraining factors.

3.1.1. Limited resources

On the one hand, there is insufficient funding for mental health services. Family judges in the C family court proposed that the single cost of psychological counseling and other services provided to the parties ranges from 500 to 2000 yuan, depending on the qualifications of the psychological counselor. Moreover, mental health

services often require multiple sessions to be effective. However, statistics from the court's judicial big data platform show that the average litigation acceptance fee for family cases in the C family court in the past five years is approximately 500 yuan. In comparison, the court has incurred considerable financial costs to provide mental health services.

In a fiscal austerity environment, courts currently rely primarily on government funding or foundation support to provide professional services. Within the court system, the funding for professional services provided by family courts to litigants is influenced by various factors. Among them, the emphasis placed on family cases by the court headquarters plays a significant role. The issue of funding shortages for professional services provided by family courts is not unique to China. Even in many developed countries with a long history of family court services, funding shortages remain a persistent and difficult problem to solve^[6]. The welfare nature of professional services provided by family courts determines their inevitable economic constraints, which are difficult to improve effectively in the short term.

On the other hand, there is a shortage of mental health service providers. In recent years, due to policy guidance and practical needs, the number of institutions providing psychological treatment/counseling services in China has shown a significant increase. However, there is still a gap compared to global indicators.

In addition, there is a widespread phenomenon of uneven resource distribution across regions. Among them, the total amount of psychological service resources in the western regions has reached the same level as that in the central regions due to policy preferences. However, there is a significant issue of inaccessible resources due to the vast territory and sparse population^[7].

At the same time, due to the low threshold for psychological counseling qualifications and the small proportion of actual practitioners, the quality of psychological service providers is generally low^[8].

Regarding the shortage of personnel, the three cooperation models discussed earlier have somewhat ensured the source of psychological service providers and the smooth purchase of psychological service channels. However, there has not been an effective solution for the funding shortage issue.

3.1.2. Ineffective results

The effectiveness of mental health services can be divided into direct and indirect effects. The direct effect is the treatment effect, which is the resolution of the party's negative emotions in the present. Based on the achievement of the direct effect, the indirect effect of peacefully resolving disputes is further achieved.

Family judges interviewed by the author all indicated that the direct effect of psychological counseling is good, but the indirect effect is not ideal. For example, a judge from the C family court stated, "Once, I went with her (for psychological counseling), and the psychological counselor's words were somewhat pale and somewhat detached from the case and how to solve the problem."

Family cases are intertwined with emotional and legal issues, and their resolution is also difficult to separate. Mental health services should have complementary direct and indirect effects, but there are deficiencies and fragmentation. The achievement of the treatment effect, due to the lack of peaceful dispute resolution, has also led to the phenomenon of "treating the symptoms but not the root cause," resulting in mental health services in family trials not exerting their due effectiveness.

There are three influencing factors for the existence of this phenomenon. The first is the limitation of mental health services themselves. Mental health services are a gradual process that requires multiple sessions for the party to see results. Some courts even need to provide up to six psychological services for the parties involved in

the case^[9]. The widespread shortage of funds makes it difficult for mental health services to achieve the desired results. At the same time, the fit between the psychologist and the counselee also has some influence. People seeking psychological counseling often try to establish connections with multiple psychologists and choose the most effective one for long-term counseling. However, in providing psychological services in family trials, psychologists are often assigned by institutions, making it difficult to meet this demand.

The second is the degree of cooperation between judges and psychologists. The degree of cooperation between judges and psychologists profoundly affects the peaceful dispute resolution effect of mental health services. In practice, mental health services are generally divided into two modes: participation and non-participation. Generally, judges do not participate in mental health services. Psychological counselors provide mental health services to parties involved in family cases, form relevant reports, and then submit them to the presiding judge. However, some judges reflect that “understanding the parties indirectly through psychological reports lacks emotional communication between the judge and the parties. There are gaps in this information transmission process, and it is weakly correlated with the case, making it difficult to deeply understand the parties.” Their strategy is to select a more effective psychological service expert for long-term cooperation, participate in psychological services based on information exchange and mutual cooperation so that the parties can learn to deal with emotions and correctly adjust interpersonal relationships with the help of current conflicts. Judges can also take this opportunity to resolve both disputes and emotional knots, achieving the optimal solution.

The third is the standardization of mental health services. The “Deepening Opinions” and the psychological counseling rules issued by various regions have stipulated the confidentiality obligations of psychological counselors, regulating the professional ethics of psychological service experts^[10]. However, there are no relevant regulations on the methods of mental health services. Mental health service models in China are mainly divided into medical, educational, and social models. Usually, researchers refer to medical model mental health services as psychological treatment, educational model mental health services as psychological counseling, and social model mental health services as psychological counseling^[11]. The mental health services provided in family justice are mainly the latter two. Due to differences in cooperation partners or talent introduction among various courts, psychological counselors come from diverse backgrounds, including psychiatric and psychological medical personnel, psychology teachers, and psychological counselors. Their adopted mental health service methods also vary and have certain biases. As mental health services with certain public welfare characteristics, unlike commercial mental health services provided by social psychological counseling institutions, the latter is related to their own industry reputation, while the former is similar to completing fixed indicators. Under different backgrounds, there is no competitive pressure on mental health services in family cases, so their quality is also difficult to guarantee.

3.1.3. Difficulties in initiation

The initiation of psychological counseling includes two scenarios: court-suggested initiation and voluntary request by the parties, with the necessary condition for court-suggested initiation being the consent of the parties.

Regarding the former, the “Deepening Opinions” lists four situations where people’s courts can suggest to case parties or juveniles to receive psychological counseling based on actual circumstances^[12]. The descriptions of initiation criteria include “emotionally excited”, “large emotional fluctuations”, “significant impact on the physical and mental health of the parties”, and “abnormal behavior.”

Firstly, the first three descriptions are greatly influenced by the subjective understanding of judges, and there

are significant differences in the identification of “emotionally excited” or “large fluctuations” among different judges. Simultaneously, due to the specificity of family cases in practice, it is a common phenomenon that the parties experience significant emotional fluctuations. Family judges do not simply rely on this criterion to initiate the psychological counseling procedure.

Based on the author’s observation of the family trial process in the C outreach court, it is common for parties to argue during mediation or trials due to difficulties in proving family disputes and emotional factors. A small number of emotionally excited parties may even escalate to physical conflicts. In such cases, even if the parties are emotionally excited, the judge will not initiate the psychological counseling mechanism. The reason is that such emotional fluctuations are instantaneous, and the parties can quickly calm down after being discouraged by judicial personnel. The most commonly used method of discouragement is back-to-back mediation.

Secondly, psychological issues are not always manifested externally, and the type and severity of psychological issues affect their degree of external manifestation. The judge of the C Family Court pointed out that “in practice, parties with psychological issues often manifest as depression and are concentrated in cases involving domestic violence.” Parties who are depressed or anxious often do not show significant emotional fluctuations during the trial process, and their psychological issues are only revealed to family members or attorneys. For example, during the trial of a domestic violence divorce case involving Gan and Li, which the author attended, Gan’s attorney proposed that Gan had considerable anxiety. However, during the trial process, Gan did not show significant emotional fluctuations. Instead, compared to the parties in other cases, he was more silent and timid about expressing his own demands. In such cases, as long as it does not affect the trial and case closure, judges will not consider initiating mental health service procedures.

In fact, in family judicial practice, family judges usually use the criterion of whether there is an urgent risk of civil-to-criminal transformation in family cases, especially whether there is substantial harm, as the initiation standard for psychological service procedures, which is close to the description of “abnormal behavior.” For example, in a divorce case investigated by the author, the parties had a fierce argument during the mediation process, and one party made an extreme statement about dying together if their demands were not met, but no relevant action was taken. The presiding judge chose to conduct the mediation on another day after providing advice.

Thus, the initiation standards for psychological service procedures have great subjectivity and uncertainty, granting family judges significant discretionary power. In practice, there are significant hidden dangers when family judges rely solely on their subjective understanding to judge whether there is an urgent risk of civil-to-criminal transformation in family cases and whether to initiate mental health service procedures.

Regarding the latter, it is rare in practice for parties to actively and voluntarily initiate mental health service procedures. The main reasons are inadequate policy promotion and general disregard for mental health issues among the population. When interviewing family judges from the W District Court, they stated that “after the introduction of the psychological counseling mechanism, no party has actively proposed the need for mental health services, and they are not even aware of its existence.”

Even when suggested by the court, parties rarely accept mental health services, including those for juveniles. Parties with psychological issues who are unaware of them often show resistance and reluctance when faced with suggestions to provide mental health services.

Especially for mental health services for juveniles, the “Reform Opinions” stipulate that the initiation condition is the consent of the guardian. Juveniles in family cases cannot directly propose or consent to receive mental health services from the court, resulting in certain restrictions even for juveniles with mental health issues

who want to seek help.

3.2. Operation of psychological counseling techniques in family justice

The implementation of psychological counseling techniques by family justice personnel is applied in both mediation and trial proceedings. This section summarizes issues based on participatory observation of the family trial process in C Family Court.

3.2.1. Difficulties in role transition for judicial personnel

Since the reform of family justice, there has been a certain degree of change in the trial concept of family justice personnel, namely, a shift from adversarialism to inquisitorialism. The role of family justice judges has gradually changed from “professional” to “therapeutic.” This transformation is similar to the transition of people’s courts from a “professional” to a “governance” role in grassroots governance. Due to differences in resource endowments among various family justice departments, there are variations. For example, in developed areas, the economic foundation of the parties is solid, and there are fewer concerns and obsessions after divorce. Family justice personnel can generally smoothly conclude cases by reasonably handling issues such as property division. Therefore, family justice personnel in developed areas tend to favor the “professional” role orientation^[13]. However, in less developed areas, parties are limited by economic conditions and inherent beliefs and have greater concerns about divorce. Disputes often arise during mediation and trial proceedings. Family justice personnel usually need to mediate and guide the emotions of the parties, favoring the “therapeutic” role orientation. However, due to the limited application of mental health service procedures and the lack of scientific psychological counseling techniques among family justice personnel, most family justice departments are formally “therapeutic” but not fully realized.

A typical example in judicial practice is family mediation. The statements of parties in family disputes are often emotional and deviate from the core contradiction. Under the pressure of case volume and deadlines, it is difficult for family judges to devote energy to listening to the parties’ grievances^[14]. However, under the concept of therapeutic and restorative family trials, family judges need to listen carefully to the voices of the parties to understand the specific circumstances of the case and guide their emotions. Therefore, this contradiction makes family mediation a highly difficult technique that requires a balance between efficiency and effectiveness, rationality and emotion. Practical responses are reflected in three ways: patient listening, guided conversation, and avoiding topics. In C Family Court, due to the large number of cases and tight mediation time, only the latter two methods are generally adopted. Since guided conversation requires considerable experience to comfort the parties while guiding the topic to facts related to the case’s dispute, many young judge assistants tend to get caught up in the emotional whirlwind of the parties when conducting family mediation, consuming a lot of time, or simply avoiding irrelevant topics. However, the presiding judge can usually use therapeutic, adjudicative, and mediative discourses flexibly to achieve effective mediation.

The difficulties in role transition for family justice personnel mainly include the lack of special procedures in China’s Family Procedure Law, insufficient specialization of family trial institutions, and the deficiency of psychological counseling techniques among family justice personnel. These factors result in family justice personnel remaining in a formal “therapeutic role” and struggling to handle the substantive “therapeutic” role, making it difficult to flexibly adjust the role orientation between “professional” and “therapeutic” based on the specific circumstances of the case, taking into account both efficiency and effectiveness.

3.2.2. Counter-therapeutic effects on judicial personnel

Firstly, the empathy of the parties affects the emotions of the family justice personnel. Matters such as separation, divorce, and custody battles in family disputes can bring a series of negative emotions. Everyone involved in this dispute will be affected by a series of powerful, empathetic emotions. When family justice personnel enter into the parties' disputes as mediators, they are either subjected to unrealistic expectations or vilified^[15].

When family justice personnel cannot alleviate the excited emotions of the parties through simple reasoning, interpretation of the law, or emotional influence, and when the parties spread their anger and dissatisfaction to the judicial personnel, regardless of whether the psychological counseling methods of the family justice personnel are scientific and effective, the long-term imbalance between energy investment and return greatly affects the enthusiasm and confidence of the family justice personnel.

Secondly, the counter-empathetic emotions of family justice personnel affect the enthusiasm for applying counseling techniques. When parties in family disputes make moral and ethical mistakes, it can impact the enthusiasm of family justice personnel for counseling. For example, when a party is at fault, such as having an affair or committing domestic violence, it can affect the counseling enthusiasm of family justice personnel. Most family justice personnel are aware of this and strive to remain objective and neutral, which also leads to the withdrawal of their empathy and a reluctance to further understand the underlying reasons for psychological counseling^[15]. The key "fault" determination is mainly influenced by the values and experiences of the judiciary. For example, in a dispute over alimony, a party arranged for their intellectually disabled daughter to marry and become pregnant without registration. A young judge assistant could not understand this behavior, while an older judge believed that the party was already old, and arranging for their daughter to marry and become pregnant was a helpless move to ensure that their daughter could continue to be cared for in the future. For behaviors such as having an affair and committing domestic violence, experienced and professional judges can also penetrate the surface behavior to discover the underlying reasons, allowing for further questioning, education, and counseling.

Finally, the ethical and risky nature of family disputes can easily cause family justice personnel to fall into negative emotions. Family disputes are often intertwined with emotions and reason. Compared to other civil disputes between strangers, family justice personnel need to be more cautious when mediating and guiding the parties; otherwise, there is a risk of "taking sides", which can easily intensify conflicts or even lead to complaints and affect their personal safety. Family justice personnel bear the unique pressure brought by such family disputes, and long-term single-handed handling of family cases can easily lead to negative emotions such as depression.

Therefore, family justice has a counter-therapeutic effect on judicial personnel, which is obviously contrary to the original intention of family justice.

4. Reflections and countermeasures

4.1. Improving relevant laws and regulations

Overall, China has not established a specialized family litigation procedure. Relevant laws and regulations are scattered across the Marriage and Family section of the Civil Code of the People's Republic of China, the Civil Procedure Law of the People's Republic of China, and related judicial interpretations. There is a lack of systematic summarization and induction, and the focus is primarily on divorce cases with fewer legal provisions for other family matters. Although the particularity of family disputes is widely recognized, and the Seventh Research Group of the Advisory Committee of the Supreme People's Court has proposed specific ideas for a special procedure law for family litigation and requested the Standing Committee of the National People's Congress to include it in

the legislative plan, the family litigation law has still not been implemented. As a new mechanism, the psychological counseling mechanism is like a tree without roots. Family justice personnel have no legal basis for psychological counseling, and their role perception is relatively confused. Some parties may experience strong distrust when facing mediation and counseling from family justice personnel without authoritative endorsement, leading to poor operational effectiveness of the psychological counseling mechanism. Family litigation law is the core of the family law system, and the special procedure law for family litigation should establish the therapeutic function of family justice from legislative purposes and trial principles, clarifying the application of relevant specific systems.

In terms of specific systems, it is necessary to establish and improve relevant special systems that complement and promote each other with the psychological intervention system. These mainly include a system for representing the rights and interests of minor children, a system for family education guidance, and a system for follow-up visits in family cases.

Regarding the psychological intervention system, operational rules for family mental health services should be developed to ensure the quality of these services and regulate violations. The legal nature and applicable procedures of psychological intervention reports should also be clarified.

4.2. Strengthening the professional development of family justice teams

The professionalization of family justice teams is not only the overall requirement of China's family trial reform but also the foundation for achieving the therapeutic function of family trials. Without relevant professional knowledge and skills, it is difficult for family justice personnel to accurately grasp the psychological state of the parties, integrate psychological counseling techniques into family mediation, and timely refer them to mental health service providers for corresponding mental health services, unless they have considerable experience.

Currently, only a few courts in China have achieved professional development of their family justice teams, while most courts still have inadequate professionalization of family justice^[16]. Only some courts with sufficient resources can achieve full-chain coverage of mental health services for family trials. For example, the family judge in the Y District Court, as a family judge who masters psychological counseling techniques, has basically realized the vision of integrating psychological elements into the entire chain of family trials. Besides providing psychological counseling to the parties, the family judge is also responsible for the psychological counseling services provided by the civil affairs department.

Strengthening the professionalization of family justice teams and achieving the role transition of family justice personnel from "professional" to "therapeutic" requires providing them with sufficient time, energy, and corresponding hardware support. At the source, law schools should encourage the cultivation of interdisciplinary talents in law, psychology, and education. Courts should set special entry standards for family justice personnel, giving priority to those with backgrounds in education, psychology, and rich mediation experience. For existing family justice personnel, systematic psychological counseling training courses should be provided to save their time and energy, help them efficiently master psychological counseling techniques, and improve their family mediation abilities. Simultaneously, courts should establish incentive mechanisms to encourage family justice personnel to study psychology, education and obtain relevant qualification certificates. Special assessment mechanisms should also be developed to provide sufficient time for family justice personnel to improve their professional skills and enhance their professional literacy.

4.3. Establishing a tiered referral mechanism for psychological intervention

China's family justice system should establish a scientific psychological intervention mechanism. This mechanism should use psychological counseling by family justice personnel as a pre-procedure and mental health services provided by psychological experts as a post-guarantee. This would form an efficient psychological intervention mechanism with reasonable allocation of judicial resources, enabling the smooth operation of the therapeutic function of family justice.

In practice, a similar tiered intervention has already been formed within the court system. Two family judges in the C Family Court adopt different models: one conducts mediation personally, while the other assigns judge assistants to conduct mediation first. From the perspective of case volume, the latter model has significantly reduced the number of cases entering the trial procedure. Even though the judicial assistants undertaking this task face considerable pressure due to the authority of their superiors and the demand for judicial efficiency, their mediation skills have indeed grown rapidly.

The establishment of this psychological intervention mechanism presupposes that family justice personnel possess psychological counseling techniques to ensure the normal operation of the pre-procedure and prevent the misuse of mental health services in family justice. However, given the current funding constraints in most family justice institutions in China, it is almost impossible to apply mental health services universally, and discussing abuse scenarios is premature. Therefore, similar to the growth of mediation skills among judge assistants, the advancement of the psychological intervention mechanism can actually accelerate the professionalization of the family justice team for the purpose of economic cost savings. This allows family justice institutions to quickly establish pre-procedures and integrate psychological elements into the entire process of family justice.

The purpose of proposing a tiered referral mechanism for psychological intervention is to clarify the therapeutic responsibilities of family justice personnel. As for the specific referral conditions, it is difficult to establish a unified standard. Flexibility should be exercised based on the court's own resource conditions, the technical level of family justice personnel, and the specific circumstances of the case. Further research and summation are needed after the professionalization of the family justice team reaches a certain level.

4.4. Introducing psychological methods focusing on the family as a whole

China's family justice reform emphasizes both "establishing a family-oriented adjudicative concept" and "comprehensively protecting the interests of the parties." However, there are inherent contradictions and conflicts between family interests and individual interests. Chinese family legislation and justice have been oscillating between "family orientation" and "individual orientation." Both the "family-oriented" concept, which aims to maintain family unity and integrity, and the "individual-oriented" concept, which focuses on protecting individual rights and freedoms, present certain drawbacks. Therefore, extracting the essence and discarding the dross, the new ethical principle of "equality and unity" has demonstrated positive practical significance in the current family justice reform and China's social development^[17].

Compared to other civil cases, maintaining family integrity is a special requirement in family cases. To preserve family unity, understanding the family information of the parties is crucial. However, currently, both mental health services and the application of psychological counseling techniques pay little attention to the family as a whole. Family justice personnel currently have an inadequate understanding of the family ecology of the parties, ignoring the principle of combining "family-orientation" with "individual-orientation." They simply and crudely apply the "family-oriented" principle in family justice, which is specifically reflected in the

common phenomenon of “not granting divorce for the first time” and “prolonged mediation without verdict, prolonged verdict without divorce” in divorce cases ^[18]. Additionally, there is a lack of adjustment to interpersonal relationships between the parties and between parents and children after the verdict of divorce ^[19]. Meanwhile, the mental health services provided by family justice mainly consist of psychological counseling and psychological evaluation services, which are single in type and lack a holistic perspective.

Introducing a holistic family perspective into the psychological intervention mechanism requires judicial personnel to focus on the overall family situation during mediation. Through the case follow-up system, attention should be paid to the living and psychological conditions of minor children, especially those of divorced parties. In terms of mental health services, psychological methods such as family counseling should be introduced to address family conflicts from a holistic perspective. By focusing on family disputes through a holistic family perspective, intergenerational conflicts and children’s interests that are easily overlooked can be identified. This allows for accurate identification of emotional pain points in family cases, effectively improving the outcomes of mental health services and psychological counseling, thereby promoting family harmony and stability, achieving both personal happiness and family harmony, and fully realizing the therapeutic function of family justice.

5. Conclusion

Since the reform of family justice, the therapeutic function of family justice in China has been established. However, the psychological counseling mechanism, as the main form of implementation, has not been well implemented in practice, and the therapeutic function of family justice remains a mere formality. Simultaneously, it appears that due to systemic issues such as the lack of family litigation law and rigid court systems, this situation is difficult to improve rapidly in the short term. Strengthening the professional development of the family justice team and other countermeasures are targeted at the current transitional and reform stages, which can somewhat enhance the efficiency and therapeutic effectiveness of family justice. More specific psychological intervention mechanisms await further empirical research and summation after resolving their systemic constraints.

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