

The Reconciliation of Loyalty and Public Interest: The Jurisprudential Interpretation and Practical Implementation of Defense Lawyers' Relative Objective Obligations

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Abstract

It is a fundamental legal requirement that public security and judicial personnel fulfill their duty of objectivity and impartiality in case handling. For defense lawyers, as fellow legal professionals, the duty of objectivity is inherently relative. The reconciliation of defense lawyers' duty of loyalty and their duty to the public interest provides the theoretical foundation for their relative objective obligations. The differences in legal roles, procedural functions, and case-handling capacities between defense lawyers and public security/judicial authorities constitute the practical basis for such relative objectivity. Theoretically, the concept of defense lawyers' relative objective obligations entails a tripartite relational framework: the defense lawyer's relationship with the criminal defendant is characterized by the singularity of protecting the defendant's legitimate interests and the lawyer's positional independence; the relationship with the prosecutor is both cooperative and adversarial; and the relationship with the judge is collaborative. In practice, the theory of relative objective obligations guides defense lawyers in the collection and use of evidence, the selection of defense strategies, and the articulation of defense arguments.

Keywords

Defense Lawyer; Legal Duty of Objectivity; Legal Relationships in Criminal Proceedings; Function of Defense

1 Introduction

The establishment of the criminal defense system is a significant manifestation of the enhanced level of human rights protection in criminal proceedings. On one hand, defense lawyers bear a duty of loyalty to their clients; on the other hand, they assume a duty of public interest in the national and social sense. As a result, defense lawyers have become the most conflicted profession within the legal community comprising judges, prosecutors, and lawyers, facing acute professional ethical dilemmas under this dual role. There are two absolutist views regarding the duties of defense lawyers. One holds that a lawyer's primary duty is to rescue and protect the client's interests, with all other obligations being secondary. The other contends that a lawyer's fundamental duty is to uphold universal truth and justice, asserting that "lawyers have a greater responsibility

to eternal truth and justice than to their clients.” Absolutist views are detrimental to a proper understanding of the defense lawyer’s status, rights, and responsibilities. The criminal defense system is a system of interest reconciliation, and the absolutization of private interests and public interests should be avoided. Beyond safeguarding the legitimate rights and interests of their clients, defense lawyers also share the obligation, common to the entire legal professional community, to maintain social fairness and justice and to ensure the just implementation of the law. Clarifying the professional positioning of defense lawyers and delineating the limits of their rights and obligations are prerequisites and foundations for the effective functioning of the criminal defense system.

2 Legal Objectivity Duty and Defense Lawyers’ Relative Objective Duty

2.1 *The Connotation of the Legal Duty of Objectivity and the Entities Bearing Such Duty*

In the legal field, the provisions and discussions regarding the duty of objectivity have primarily focused on the prosecutor profession. The United Nations Guidelines on the Role of Prosecutors stipulate that the prosecutor’s duty of objectivity requires prosecutors to safeguard the public interest, act in accordance with objective standards, and give due consideration to the position of both the suspect and the victim. Although relevant legal provisions and research have not yet formed a unified definition of the legal duty of objectivity, certain core connotations can be distilled. First, the purpose is the pursuit of judicial justice. The exercise of authority by legal personnel, especially state judicial personnel, represents the will of the state, and therefore their primary task is to ensure judicial justice. Second, cases are to be handled on the basis of objective facts. Judicial personnel should strive to discover objective truth rather than merely pursuing a guilty verdict. Third, an objective stance must be maintained. Judicial personnel treat matters favorable or unfavorable to the accused equally, safeguarding the legitimate rights and interests of the parties. The legal duty of objectivity is manifested in the specific functional actions of judicial personnel, such as comprehensively and objectively collecting evidence and providing procedural remedies to the parties. Although the duty of objectivity is always preceded by the subject “prosecutor,” it is not exclusive to prosecutors. In the procedural context, judges bear the objective duty to maintain an impartial stance and to uphold the just implementation of law and social fairness and justice. Maintaining an objective position while performing their adjudicative function is the foundation of the judge’s objective duty. This objectivity is not only the cornerstone for the smooth conduct of all legal proceedings but also a core principle and guideline underlying criminal adjudication. Articles 6 and 52 of the Chinese Criminal Procedure Law are regarded as the legal basis and source of the duty of objectivity, with the relevant subjects respectively designated as “people’s courts, people’s procuratorates, and public security authorities” and “adjudicators, procurators, and investigators,” reflecting that the subjects of the duty of objectivity in China include at least three parties: the public security authorities, the procuratorates, and the courts. Given the purposes and tasks of criminal procedure, the epistemology of criminal proceedings, and the status and functions of state authorities, the duty of objectivity borne by public security and judicial authorities is absolute.



2.2 The Connotation and Features of the Defense Lawyers' Objective Duty

The objective obligation of defense counsel refers to the duty of defense lawyers, as legal professionals and members of the legal professional community, to assist in the orderly progression of judicial proceedings, ensure the just implementation of the law, and uphold social fairness and justice, while safeguarding the legitimate rights and interests of their clients. The objective obligation is a common duty shared by public officials in criminal proceedings, including judges, prosecutors, and police officers. Although defense lawyers are not state functionaries, they should also bear certain objective obligations. Firstly, the purpose of defense lawyers' participation in criminal proceedings is to safeguard the legitimate rights and interests of their clients and to assist judicial authorities in ascertaining the facts of the case, thereby ensuring that the client receives a fair trial. Accordingly, as participants in criminal proceedings, defense lawyers should serve and conform to the purpose and task of criminal proceedings, which is to protect human rights and pursue objectivity and fairness. Secondly, judicial authorities performing procedural functions, as guardians of the law, bear the duty to promote the just implementation of the law. Defense lawyers, as members of the legal professional community alongside public security and judicial personnel, likewise bear objective obligations and jointly uphold the correct implementation of the law and the pursuit of social fairness and justice. The objective obligations borne by defense lawyers—in terms of pursuing the objective truth of a case, upholding the dignity and just implementation of the law, and safeguarding the public interest of society—share commonalities with those borne by public security and judicial personnel. However, based on considerations of procedural functions and litigation status, the extent of the objective stance that defense lawyers are required to maintain differs from that of public security and judicial personnel.

Judicial personnel exercise judicial power on behalf of the state, and therefore the objective duty they bear are of an absolute nature. As impartial and objective guardians of the law, judicial personnel carry the objective intent of the law throughout the entire criminal procedure and fully implement it in every specific case-handling process. Defense lawyers, however, do not hold the status of state functionaries. China's Lawyers Law defines defense lawyers as "practitioners who provide legal services to clients." This legal positioning determines that the degree and standard of objective duty borne by defense lawyers are lower than those of judicial personnel—that is, the objective duty of defense lawyers are "relative." As retained agents of the parties, defense lawyers provide legal services to their clients and maximize the protection of their clients' legitimate rights and interests. Defense lawyers do not stand on the side of the state and do not adhere to comprehensive, absolute objective duty. A defense lawyer cannot abandon the position of the accused and fully assume an objective stance in performing his/her defense duty; otherwise, the defense system would lose its reason for existence. The relativity of objective duty is a significant characteristic of defense lawyers in fulfilling their legal responsibilities.

3 The Theoretical and Practical Basis for Defense Lawyers Bearing Relative Objective Duty

3.1 The Theoretical Basis for Defense Lawyers Bearing Relative Objective Duty

3.1.1 The Theory of Defense Lawyers' Duty of Loyalty

The duty of loyalty is the fundamental obligation of defense lawyers. The duty of loyalty encompasses two dimensions: first, defense lawyers must actively safeguard the interests of their clients and strive to maximize those interests; second, defense lawyers must not harm the interests of their clients. The duty of loyalty determines that the objective obligations borne by defense lawyers can only be relative in nature—they can only undertake objective obligations within the scope of protecting the legitimate rights and interests of the accused, and within this limit, they uphold the just implementation of the law and social fairness and justice.

First, the very purpose for which the defense system was established dictates that defense lawyers bear a duty of loyalty to the accused. The participation of defense lawyers in criminal proceedings is aimed at assisting the accused, who is in a disadvantaged position, to achieve a balance between prosecution and defense, thereby ensuring the effectiveness of the procedural process. Establishing a duty of loyalty for defense lawyers can effectively protect the human rights of the accused and prevent state prosecutorial power from infringing upon the personal legitimate rights and interests of the accused.

Second, the principal-agent relationship between defense lawyers and their clients requires that defense lawyers owe a duty of loyalty to the accused. Lawyers' right to defense derives from the authorization of the accused, and the exercise of right should not contravene the will of the accused. The duty of loyalty of defense lawyers requires that they prioritize the interests of their clients above all else.

3.1.2 The Theory of Defense Lawyers' Public Interest Obligations

The public interest obligations borne by defense lawyers require them to stand from the perspective of social public interest and dedicate themselves to safeguarding a broader and deeper level of interest that transcends the interests of the parties involved. It is generally believed that public interest obligations refer to the litigation activities conducted by defense lawyers on the basis of upholding social fairness, justice, and the correct implementation of the law, setting aside their capacity as agents of the client. As the three parties to litigation—the prosecution, the defense, and the adjudication—are all bound by the fundamental principles of criminal procedure, the requirement to abide by the law and uphold its correct implementation means that criminal defense can only be conducted within the bounds of the law. As members of the legal professional community, defense lawyers must serve the purpose and task of criminal procedure, which is to discover the truth. Defense lawyers must state facts truthfully, strictly observe legal boundaries in their practice, and demonstrate honesty and full respect before the court. The independent performance of defense duties by defense lawyers in accordance with the law is an inherent element of their public interest obligations. Defense lawyers bear a special responsibility for judicial fairness and must not protect the

interests of their clients without limits, nor arbitrarily harm the interests of third parties or even the public interest. In other words, defense lawyers should not become “hired guns.”

3.1.3 The Relative Objective Duty of Defense Lawyers under the Dual-Core Theory of the Duty of Loyalty and Public Interest Obligations

There exists a certain degree of conflict between the duty of loyalty and the public interest obligations of defense lawyers. An absolute duty of loyalty precludes public interest obligations, and likewise, an absolute public interest obligation diminishes the duty of loyalty. Absolute viewpoints are detrimental to a proper understanding of the status and function of defense lawyers. The duty of loyalty and public interest obligations are factors that defense lawyers should simultaneously consider when performing their defense functions. The very establishment of the defense system is intended to reconcile the contradiction between the personal interests of the accused and social public interests; neither interest should be taken to an absolute extreme. The establishment of relative objective duty for defense lawyers is precisely a choice that balances personal interests and public interests on the basis of reconciling the duty of loyalty and public interest obligations. From the perspective of professional ethics, the responsibilities borne by lawyers are not limited to loyalty and due diligence to their clients, but also require a reverence for the dignity and authority of the law. The ethical obligations of defense lawyers, such as truthfulness and candor, are closely related to objective obligations and are even grounded in objective obligations. Under the guidance of an absolute duty of loyalty, there exists a gap or complete incompatibility between the professional ethics of defense lawyers and everyday morality, and lawyers often find themselves in a position of moral condemnation in society. Absolute loyalty inevitably leads to a trend toward legal commercialism and the instrumentalization of the professional image of lawyers, diverting legal service resources toward the wealthy and seriously undermining the status of the legal profession as a member of the legal community. A lawyer’s duty of truthfulness in court stems from the high expectations that a rule-of-law state places on the public interest functions of defense counsel. The collision between the duty of loyalty and public interest obligations in the course of defense lawyers’ performance of their functions leads to the conclusion that defense lawyers bear relative objective duty—that is, defense lawyers should bear objective obligations to uphold the correct implementation of the law and social fairness and justice, and to independently perform their defense functions in accordance with the facts and the law. However, at the same time, the objective duty of defense lawyers is relative in nature: defense lawyers’ assumption of objective duty should be premised on protecting the lawful rights and interests of their clients, and while maintaining their independence, defense lawyers should also respect the will of their clients.

3.2 The Practical Foundation for Defense Lawyers Bearing Relative Objective Duty

3.2.1 The Role Positioning Differences Between Defense Lawyers and Judicial Personnel

Defense lawyers, judges, and prosecutors are all legal professionals who together form a legal professional community, yet they perform distinct functions and collectively constitute the fundamental structure of criminal procedure. In China, judicial authorities exercise judicial powers on behalf of the state, and their institutional role dictates that they strictly fulfill their objective duty and are responsible for delivering the

concepts of fairness and justice to society. Defense lawyers, however, do not possess the status of judicial authorities. They are positioned as “practicing professionals who provide legal services to parties,” with “safeguarding the legitimate rights and interests of parties” placed ahead of “upholding the correct implementation of the law” and “maintaining social fairness and justice.” This legislative framework clearly distinguishes the status of lawyers from that of judicial authorities.

The professional ethics of Chinese lawyers have undergone a transformation—from an emphasis on public-interest obligations to a weakening of state-duty overtones—ultimately establishing the tripartite mandate of “safeguarding the legitimate rights and interests of parties, upholding the correct implementation of the law, and maintaining social fairness and justice.” This has enabled lawyers to assume a professional ethics grounded in the duty of loyalty. This transformation reflects the gradual weakening of the lawyer’s public-interest role and underscores that “safeguarding the legitimate rights and interests of parties” is the primary mission of lawyers and constitutes the fundamental distinction between lawyers and judicial authorities. The objective duty of defense lawyers must be based on safeguarding the legitimate rights and interests of their clients, rather than being an absolute objective duty detached from the defense’s position.

3.2.2 Differences in Duties and Powers Between Defense Lawyers and Judicial Authorities

Criminal proceedings are dominated by specialized organs such as the public security agencies, the procuratorate, and the courts, and are based on the exercise of state prosecutorial power. Among them, judges wield adjudicative power, prosecutors wield accusatorial power, and the accused together with their defense lawyers exercise the right to defense. The duty of defense lawyers is to resist the prosecution’s pursuit, to present litigation claims on behalf of the accused before the court, and to safeguard their lawful rights and interests. The differences in duties and powers between defense lawyers and judicial authorities determine that the objective duty imposes different requirements. As adjudicators of disputes, judges have neither a claim to the outcome of litigation nor a direct interest therein; therefore, maintaining independence and neutrality is a fundamental quality of adjudicators. The truth pursued by judges is objective and comprehensive, requiring consideration of both facts favorable to the accused and those unfavorable to them. The police and prosecutors perform prosecutorial functions and exercise state public power in representing the state in prosecution; they cannot unilaterally pursue a verdict of conviction in the handling of cases. Public security agencies and procuratorial organs bear an objective duty in the collection of evidence and may not intentionally disregard or omit facts and evidence favorable to the accused due to their adversarial stance against the defense. The defense, by contrast, does not bear an equivalent duty. Its responsibility is to present opinions favorable to the accused based on facts and law, to point out the omissions and deficiencies in the prosecution’s case, and to raise reasonable doubt in the judge’s mind, thereby overturning or partially overturning the prosecution’s charges. Defense lawyers do not bear the same obligation to pursue objective truth as prosecutors do. The primary duty of defense lawyers lies in safeguarding the lawful rights and interests of the accused, and it is only to the extent that this does not create a conflict of interest that they bear a duty to ascertain the truth of the facts.



3.2.3 Differences in Capacity Between Defense Lawyers and Judicial Authorities

There exists an inherent imbalance in litigation capacity between defense lawyers and judicial authorities. In terms of external capacity, judicial authorities, as state organs, rely on robust state power to exercise prosecutorial and adjudicative functions on behalf of the state. Meanwhile, judicial authorities have corresponding material and organizational conditions to support the performance of their duties, such as office facilities, equipment, and professional staffing. Defense lawyers, by contrast, do not possess the legal status of state organs and typically perform their duties as individuals, primarily relying on leads provided by the accused and case materials from judicial authorities to defend their clients. They face challenges such as insufficient resources and difficulties in accessing information. Furthermore, public security and judicial authorities possess compulsory investigative and inquisitorial powers, enabling them to employ compulsory investigative measures to obtain evidence and ascertain the facts. Backed by substantial material and organizational conditions as well as compulsory investigative and inquisitorial powers, judicial authorities far surpass defense lawyers in evidence-gathering capacity, resulting in a severe asymmetry of power between the prosecution and defense in obtaining evidence.

In terms of internal procedural structure, China's pretrial proceedings are characterized by a strong degree of closure and "administrativization." Investigative authorities may independently employ compulsory measures other than arrest and compulsory investigative methods, while the defense's capacity to gather evidence is limited. Defense lawyers also face numerous restrictions in the exercise of their defense rights during the trial stage, where court proceedings center around investigative files, thereby impairing the effective exercise of the right to cross-examine evidence. The defense's inherent deficiencies in obtaining case information and the restrictions on procedural rights during litigation further exacerbate its disadvantaged position in criminal proceedings, making it difficult for defense lawyers to fulfill a complete objective duty.

4 The Legal Relationships in Criminal Procedure Under the Guidance of Defense Lawyers' Relative Objective Duty

4.1 The Relationship Between Defense Lawyers and Their Clients

In the professional ethics of lawyers, the relationship between defense counsel and their clients occupies a pivotal position. Under the framework of relative objective duty, defense lawyers are designated as the specialized guardians of the legitimate rights and interests of the accused. Concurrently, defense lawyers enjoy an independent procedural status; their participation in criminal proceedings is undertaken for the fulfillment of statutorily prescribed duties, rather than being derived solely from the authorization of the client.

Guided by the theory of relative objective duty, the following principles ought to be clarified in addressing the attorney-client relationship. First, the fundamental obligation of defense lawyers lies in safeguarding the legitimate rights and interests of the accused. Defense lawyers are duty-bound to diligently protect the interests of their clients and to endeavor to realize the defense objectives articulated by the clients. Second, defense lawyers exercise functional independence in the performance of their professional duties. Defense

lawyers are not to be reduced to mere conduits of their clients' instructions by virtue of their retainer; rather, they are vested with the authority to independently render legal opinions predicated upon the facts of the case and the governing law. Third, defense lawyers are subject to a duty of confidentiality, which serves to sustain the fiduciary relationship of trust and confidence with their clients. Defense lawyers are obliged to maintain the confidentiality of all information pertaining to their clients, and the privileged communications and correspondence between the client and counsel are accorded legal protection. Fourth, defense lawyers owe a duty of adequate communication to their clients. Defense lawyers are expected to engage in thorough and comprehensive consultation with their clients, with a view to achieving a convergence of views, thereby more effectively safeguarding the clients' legitimate rights and interests. Defense lawyers operating under the regime of relative objective duty, in navigating the attorney-client relationship, are required to accord primacy to the protection of their clients' legitimate rights and interests, while simultaneously observing the external constraints of such protection—namely, refraining from infringing upon the lawful interests of third parties or undermining the public interest.

4.2 The Relationship Between the Prosecution and the Defense

Defense lawyers and prosecutors form a legal professional community, jointly upholding the implementation of the law and sharing the objective duty, through which both parties engage in rational communication. At the same time, it must be noted that defense lawyers differ from the prosecutors in terms of status, capacity, powers, and responsibilities, and therefore bear a relative objective duty. The shared assumption of the objective duty determines the cooperative aspect of the prosecution-defense relationship, whereas the relativity of the defense lawyer's objective duty determines its adversarial aspect. The prosecution, representing the state in charging crimes, bears an absolute objective duty, which requires that both inculpatory and exculpatory evidence be submitted to the court, that comprehensive legal opinions be rendered regarding the criminal liability of the accused, and that the judge be assisted in forming an objective and comprehensive judgment. The duty of defense lawyers is to present materials and opinions demonstrating the innocence of the accused, the lesser severity of the offense, or the mitigation or exemption of criminal liability, thereby safeguarding the legitimate rights and interests of the accused. The relative objective duty requires that defense lawyers shall not transcend the client's position to fully explore the truth of the case, lest they be reduced to a "second prosecutor." Defense lawyers actively present evidence and arguments favorable to the accused, while having no obligation to disclose evidence unfavorable to the accused. Both the prosecution and the defense, standing on their respective positions, adhere to the principles of equal confrontation and rational interaction. The adversarial relationship between the prosecution and defense is aimed at maximizing the refutation of the opposing party's claims and the proof of one's own propositions. Rational and candid confrontation and communication can enhance the quality of adversarial proceedings, improve the effectiveness of communication, and ensure the formation of a sound and reasonable prosecution-defense relationship.

With the reform of the leniency system for pleading guilty and accepting punishment in China, beyond adversarial confrontation, a new type of prosecution-defense negotiation relationship has gradually emerged between the two parties, and the traditionally tense adversarial relationship has been mitigated to a certain



extent. The prosecution and defense may, on the basis of voluntary and equal negotiation, reach consensus and agreement on issues such as factual determinations and sentencing prior to or during trial. Nevertheless, the respective duties and governing rules under the prosecution's comprehensive objective duty and the defense lawyers' relative objective duty continue to play a fundamental role.

4.3 The Relationship Between the Defense and the Judiciary

Judges and lawyers, as members of the legal professional community, share the responsibility of ascertaining the truth of cases through due process, defending individual fairness and justice, and advancing the realization of judicial justice. The defense-judiciary relationship is essentially one of cooperation. Judges, in accordance with legal provisions, safeguard the functioning of defense lawyers and give careful consideration to their arguments, thereby ensuring the effective exercise of the defense function; defense lawyers, in turn, diligently perform their duties, enabling judges to gain a comprehensive understanding of the facts of the case and the relevant legal arguments, thus providing a basis for impartial adjudication. Under the objective duty jointly observed, defense lawyers should fully respect the court, while judges should treat the applications of both the prosecution and the defense equally and engage in full communication with the defense.

At the same time, due to the relativity of the defense lawyer's objective duty, defense lawyers should, on the one hand, avoid overemphasizing the objective duty and engaging in excessive cooperation with the judge, which would render court proceedings a mere formality; on the other hand, they should avoid overemphasizing the relativity of the duty and thus generating conflict with the judge. The former emphasizes the commonality of the objective duty between the defense and the judiciary while neglecting the distinctive nature of criminal defense; the latter emphasizes the relativity of the objective duty in criminal defense while neglecting the commonality of the objective duty between the defense and the judiciary. Both excessive cooperation and conflict between the defense and the judiciary undermine judicial credibility and authority, while simultaneously reducing the social acceptance of adjudicative outcomes, thereby adversely affecting the overall rule-of-law environment.

Under the guidance of the objective duty, judges treat the arguments of both the prosecution and the defense equally, respect and give due consideration to the defense's submissions, and render judgments on the basis of an objective and comprehensive ascertainment of the facts of the case. Under the guidance of the relative objective duty, defense lawyers, proceeding from the standpoint of the accused, present evidence and arguments to assist the judge in ascertaining the facts of the case and safeguard the lawful interests of the accused.

5 The Relative Objective Duty and the Exercise of Specific Functions of Defense Lawyers

5.1 Evidence Collection and Application

China's criminal procedure adheres to the priorities of investigation-led evidence collection and crime control, with public security authorities and judicial organs undertaking the primary responsibility for col-

lecting and obtaining evidence. In collecting and obtaining evidence, these authorities and organs follow the principle of objective obligation, meaning that both inculpatory and exculpatory evidence concerning the accused must be collected. Collecting and investigating evidence to ascertain the facts of the case also constitutes an important means for defense lawyers to fulfill their duties. The function of defense lawyers is to investigate and gather evidence that may prove the defendant's innocence or lesser culpability, thereby countering the prosecution's accusations.

In the course of collecting and investigating evidence, defense lawyers bear a negative duty of truthfulness (or passive obligation of truthfulness), namely: the law does not require them to investigate or collect evidence unfavorable to the defendant, but neither may they obstruct the discovery of the case facts. Defense representation must be grounded in facts. It is necessary for defense lawyers to verify the evidence in their possession with the client, so as to ensure the authenticity, relevance, and legality of such evidence. Defense lawyers shall analyze and assess the case facts and evidence from an objective standpoint, taking into account not only the evidence favorable to the accused but also that which is unfavorable. In order for their defense opinions to be respected and admitted by the court, defense lawyers must, on the basis of objective evidence analysis, interpret the evidence in a manner favorable to the accused.

5.2 *Choice of defense strategy*

Accompanying the reform of the criminal justice system, the criminal procedure model has undergone changes. On the basis of the traditional adversarial justice model, a consensual justice model has emerged. The consensual justice model is conducive to resolving problems inherent in the adversarial justice model, such as the deterioration of the relationship between the prosecution and the defense, high judicial costs, and low litigation efficiency. It aligns with the current social reality of frequent conflicts and insufficient allocation of judicial resources.

China's criminal reconciliation system and the system of leniency for guilty pleas and acceptance of punishment are specific manifestations of the consensual justice model. Corresponding to the adversarial justice model and the consensual justice model, the field of criminal defense can be divided into two approaches: adversarial defense and consensual defense. Defense lawyers handling cases are required to make strategic choices in defense. In consensual defense, the prosecution and defense engage in communication and negotiation regarding conviction, sentencing, and procedural matters. Under the consensual justice model, the obligation to pursue objective truth in cases is somewhat reduced, and the relativity of defense lawyers' objective duty becomes more prominent. Both the prosecution and defense are committed to easing confrontational relations and restoring social order, pursuing judicial justice that also takes efficiency into account.

Adversarial versus consensual, guilty versus not guilty, aggravated versus mitigated liability, substantive versus procedural—defense lawyers should fully respect the opinions of their clients when choosing which defense strategy to adopt and how to specifically carry out the defense. At the same time, they should thoroughly understand the case facts and, on the basis of objective case analysis, provide clients with the best recommendations. By objectively analyzing the specific choices and their corresponding consequences, defense lawyers should help clients choose an overall defense strategy that best serves their interests.



5.3 Expression of defense opinions

The right to present opinions serves as a bridge for information exchange between the prosecution and the defense. It plays a crucial role when defense lawyers obtain evidence materials favorable to the accused or forms what they consider to be reasonable defense opinions on issues such as the application of law in the case. Defense lawyers can convey their defense opinions to the prosecution in a timely manner through this channel, and the prosecution is required to take these opinions into account within the scope of its discretionary power. Defense lawyers bear a relative duty of objectivity and is not required to actively assist the prosecution in establishing the facts, nor to expose or incriminate the defendant. At the same time, defense lawyers' expression of factual opinions is subject to the obligation not to make false statements. In court, defense lawyers shall not make false statements regarding the facts themselves, so as to avoid misleading the court and undermining judicial justice. However, lawyers may engage in false reasoning or arguments based on true facts and evidence. With respect to truthful witness testimony presented by the prosecution, defense lawyers may conduct cross-examination to impeach its credibility. Furthermore, defense lawyers' expression of legal opinions adheres to the obligation to uphold the enforcement of law. The relative duty of objectivity on the part of defense lawyers is legally embodied in the principle that defense practice shall be conducted "on the basis of facts and with law as the criterion." The principle of "upholding the enforcement of law" is reflected both in the requirement that defense lawyers, when safeguarding the interests of their clients, must comply with the prohibitive provisions of laws and professional codes of conduct and must not overstep legal boundaries; and also in the requirement that lawyers, when applying the law in a case, shall maintain an honest and objective attitude to ensure the accuracy and fairness of legal application.

6 Conclusion

The dual role of defense counsel as both a member of the legal professional community and an agent entrusted by the client means that defense lawyers simultaneously bear the potentially conflicting duties of loyalty and public interest obligations. In the performance of their functions, these dual duties should not be polarized. Therefore, it is necessary to define a relative duty of objectivity for defense lawyers under a dual-center model of loyalty obligations and public interest obligations. When defending a client, defense lawyers must take into account both the legitimate rights and interests of the client and the broader public interest. The objective duty of defense lawyers ensure that, in an era where legal commercialism prevails, they uphold the fundamental bottom line of safeguarding social fairness and justice. At the same time, the relativity of this objective duty ensures that defense lawyers maintain a clear understanding of their role as agent, avoiding the pitfall of becoming a "second prosecutor," thereby achieving a reconciliation between protecting the client's individual interests and the public interest.

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