

北京市海淀区人民检察院
People's Procuratorate of
Haidian District of Beijing

丹麦人权研究所
Danish Institute for
Human Rights

合作项目
Cooperation Project

主 编 孙 力

Editor in Chief : Sun Li

副主编 徐鹤喃

Associate Editor in Chief : Xu He'nan



检 察 实 务 中

诉讼参与人合法权益保障研究

Research on the Protection of the Legitimate Rights and
Interests of Litigation Participants in the Procuratorial Practice

中国检察出版社



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图书在版编目 (CIP) 数据

检察实务中诉讼参与人合法权益保障研究/孙力主编. 北京:
中国检察出版社, 2006. 11

ISBN 7-80185-581-7

I. 检… II. 孙… III. 检察机关-司法监督-研究-中国
IV. D926.34

中国版本图书馆 CIP 数据核字 (2006) 第 140429 号

检察实务中诉讼参与人合法权益保障研究

主 编 孙 力 副主编 徐鹤喃

出 版 人: 袁其国

出版发行: 中国检察出版社

社 址: 北京市石景山区鲁谷西路 5 号 (100040)

网 址: 中国检察出版社 (www.zgjccbs.com)

电子邮箱: zgjcbs@vip.sina.com

电 话: (010)68687781(编辑) 68650015(发行) 68650029(邮购)

印 刷: 保定市中国画美凯印刷有限公司

开 本: A5

印 张: 12 印张

字 数: 330 千字

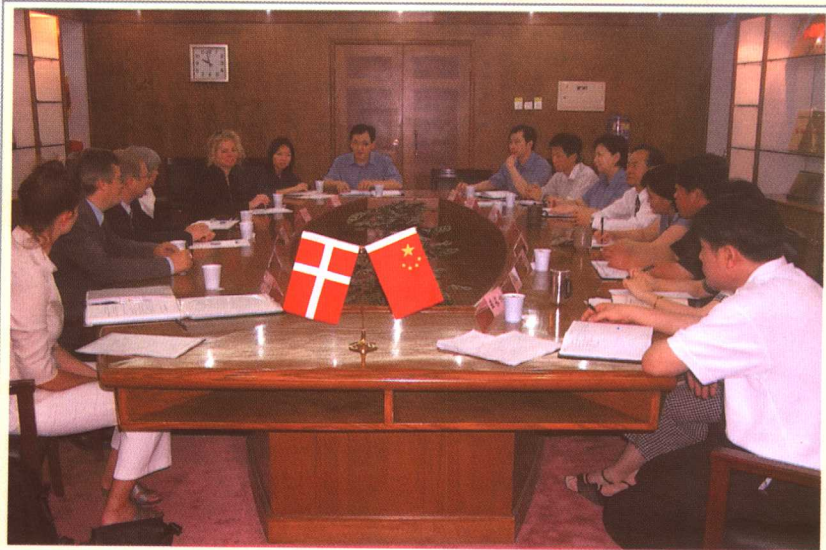
版 次: 2006 年 11 月第一版 2006 年 11 月第一次印刷

书 号: ISBN 7-80185-581-7/D·1556

定 价: 30.00 元

(内部发行)

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海淀区人民检察院领导会见来访的丹麦方工作组成员

The leaders of the People's Procuratorate of Haidian District of Beijing
met the visiting Danish delegation members



丹麦王国总检察长会见双方工作组成员

The Director of Public Prosecution of Denmark met
the working group members of two sides



孙力检察长与双方项目协调人会谈后合影

The Chief Prosecutor of the People's Procuratorate of Haidian District of Beijing,
Sun Li, had a working meeting with the project coordinators of two sides of cooperation project



徐鹤喃副检察长及中方工作人员会见来访的丹麦外交部官员
The deputy Chief Prosecutor Xu He'nan met the visiting Danish officials of the
Ministry of Foreign Affairs

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序 言

近年来，我国在人权保障方面不断加强与国际社会的交流与合作，已加入包括《经济、社会及文化权利国际公约》在内的 21 项国际人权公约。2004 年 3 月 14 日，第十届全国人民代表大会第二次会议通过的《中华人民共和国宪法修正案》中明确规定了“国家尊重和保障人权”、“公民的合法的私有财产不受侵犯”等条款。在社会主义法治理念教育活动中，“尊重和保障人权”也是树立维护宪法权威和执法为民理念的重要内容。如何在检察工作实践中进一步贯彻落实国家根本大法的规定，加强人权保障，就成为检察官日益关注的重要议题。

2004 年初，经上级检察院批准，海淀区人民检察院在丹麦方的资助下，与丹麦人权研究所启动了“检察监督与权益保障”合作项目。海淀区人民检察院以实施北京市人民检察院在全市所推行的第一分院《全面保障诉讼参与人合法权益工作规则》（以下简称《规则》）为契机，结合我院工作实际不断完善该《规则》，由此与丹麦方开展了为期两年的合作。

双方对此项合作都给予了高度重视。海淀区人民检察院有十余名具有较高学历和丰富实践经验的检察官参与，丹麦人权所也邀请了丹麦王国总检察署的三名高级检察官及该所研究人员共同组成项

目小组，与我院课题小组人员进行合作研究。在合作中，海淀区人民检察院的检察官认真总结分析了实践中保障诉讼参与人合法权益的状况，提出了工作中存在的问题和困难，与丹麦检察官进行了面对面的讨论和交流，听取了他们的意见和建议，还派员赴丹麦进行实地考察，进一步了解丹麦方的实践情况。此外，双方还举行了国际研讨会，邀请了中国社会科学院法学所的专家、最高人民检察院和北京市各级检察院的领导及同事、公安人员、律师、人大代表等各方面的人士，广泛听取他们对基层检察机关开展权益保障工作的意见和建议。在此基础上，海淀区人民检察院的检察官提出了修改完善《规则》的建议，并为此专门写作论文加以分析、论证。这些论文、建议连同丹麦检察官撰写的有关介绍材料和项目报告，共同汇编为本文集。

回顾两年来的合作，我们收获的远不止这些论文和报告。海淀区人民检察院的全体检察官对于在检察工作中加强对各类诉讼参与人合法权益保障的意识普遍有所提高，并采取了实际行动改进我们的工作。为此，我们衷心感谢上级检察院和有关领导对我们开展这项国际合作项目的关心和支持，感谢丹麦人权所蔡莉（Hatla Thelle）女士、林博女士（Lone Lindholdt）等研究人员和丹麦检察官付出的辛勤劳动！

在开展国际合作方面，我们迈出了令人欣慰的第一步。丹麦王国总检察长充分肯定了双方检察官的交流合作，总检察署的检察官也由衷地说：“我们的合作是最有效的！”然而，我们也清醒地认识到，无论是项目合作还是专题研讨，我们只是刚刚起步，工作经验有待丰富，目前的成果只是初步的，有待各方专家学者的批评指正。展望今后几年的合作，我们充满期待，深信只要双方共同努力，我们的合作就能结出更丰硕的成果，就能够推动检察事业中的人权保障工作不断进步！

北京市海淀区人民检察院检察长

孙 力

2006年9月

Preface

In recent years, China has continually reinforced the exchange and cooperation with the international community in terms of human rights protection and has signed 21 international human rights covenants including the International Covenant on Civil and Political Rights. On March 14th 2004, the Amendment of the Constitution of the PRC was passed at the second session of the Tenth National People's Congress, explicitly providing for that "The State respects and protects human rights" and "Citizen's legal and private property shall not be infringed upon". In the Cultivation of Socialist Legal Concept recently launched by the Politics and Law Committee of Central Chinese Communist Party, "to respect and protect human rights" is also stressed as the major part in order to build up the authority of the Constitution and reinforce the concept of enforcing law for the people. Thus, how to further enforce the Constitution and reinforce the human rights protection in prosecutorial practice has become an important task for Chinese prosecutors.

In Early 2004, upon the approval of the procuratorate at higher levels, the People's Procuratorate of Haidian District of Beijing and the Danish Institute for Human Rights initiated the "Procuratorial Supervision and Rights and Interests Protection" project. The keynote is to promote the implementation, revision and improvement of the *Working Rules for the Protection of the Legitimate Rights and Interests of Litigation Participants* released by the First Branch of the Procuratorate of Beijing Municipality and later promoted by the Procuratorate of Beijing Municipality. The Cooperation was sponsored by the Danish Institute for Human Rights and lasted for two years.

Both parties attached great importance to the cooperation project. For the side of the People's Procuratorate of Haidian District, eighteen prosecutors with highly professional expertise involved in the project. And for the Danish side, three senior prosecutors from the Director of the Public Prosecution of Denmark invited by DIHR, together with the researchers from DIHR, participated in the project. In process of cooperation, the prosecutors of the People's Procuratorate of Haidian District examined the wording and practice of the Rules in details, upon which the deficiencies and difficulties of the existing procuratorial practice were identified. The Danish prosecutors introduced their practice and provided suggestions. Also, the People's Procuratorate of Haidian District sent four prosecutors to Denmark for a study tour which offered them precious opportunity to learn the actual operation of Danish criminal justice. Besides, the two parties jointly held an international conference, inviting the experts from the Institute of Law of Chinese Academy of Social Science, the prosecutors from the Supreme People's Procuratorate and the procuratorates of Beijing, the leaders from the Public Security Bureau, lawyers, people's representatives to give opinions and suggestions on the rights and interests protection work carried out by the procuratorate. On the basis of the above preparation, prosecutors of the People's Procuratorate of Haidian District proposed recommendations for revising the Rules with the support of a series of articles analyzing and rationalizing the revisions under selected topics. These articles and recommendations, along with the project reports and several papers written by the Danish prosecutors were compiled in this book.

Reviewing the cooperation over the past two years, our gain is far more than the essays and reports included here. Compared to the past, all the staff of the People's Procuratorate of Haidian District has significantly raised their awareness of protecting the legitimate rights and interests of the litigants in various litigations. Besides, they have begun to

take actual measures to improve the prosecutorial work. For good reason, we would like to sincerely thank the care and support of the leaders and procuratorates at higher levels. We also would like to thank Madam Hatla Thelle, Madam Lone Lindholdt and other researchers and the Danish prosecutors for their efforts and contribution to the project.

With regard to international cooperation, we have made the encouraging first step. The Director of the Public Prosecution of Denmark fully affirmed the exchange and cooperation between us. Just as the prosecutors of the Director of Public Prosecution remarked, our cooperation has been the most efficient. Meanwhile, we also realized that we are only at the starting point in terms of carrying out international cooperation. The outputs are still preliminary, inviting the opinions and advice from legal experts and academics. Looking forward to the coming cooperation, we are full of expectation. We firmly believe that, through the efforts of both parties, more fruits would result from our cooperation and the cause of human rights protection in prosecutorial work can be continually promoted.

Sun Li
Chief Prosecutor, the People's
Procuratorate of Haidian District, Beijing
September, 2006

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