

Pro Bono Practices and Opportunities in China¹

I. Introduction

The concept of pro bono is relatively new to the Chinese legal community. There is no requirement, either formal or informal, for individual attorneys to engage in pro bono work and, as a result, the provision of pro bono legal services is not well established. In China, most pro bono litigation on behalf of socially disadvantaged groups is done by full-time public interest lawyers.² Aside from those lawyers, there are a small number of independent organizations, including law firms, that provide pro bono legal services in China as illustrated below.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	1. Describe the laws/rules that regulate the provision of legal services?	In China, the Ministry of Justice (the “ MOJ ”) is tasked with supervising and regulating lawyers, law firms, and lawyers’ associations. It is also responsible for administering qualifying exams and licensing and disciplining attorneys for misconduct. ³ Lawyers’ conduct is governed by the National Lawyer’s Law, which gives standards for the legal profession, provides rules on malpractice, specifies prohibited activities for lawyers and firms, and sets tax laws and regulations for legal institutions. ⁴
	2. Describe any licensure requirements governing the provision of legal services.	The MOJ is responsible for administering qualifying exams, licensing, and disciplining attorneys for misconduct. ⁵ To become a lawyer in China, a candidate must obtain a recognized degree (bachelor’s, master’s, or doctoral degree), pass the National Uniform Legal Profession Qualification Exam (the “ Chinese Bar Exam ”) ⁶ , and complete a one-year apprenticeship. ⁷ For any candidate who obtained a non-law degree (bachelor’s, master’s, or doctoral degree), he or she must be engaged in legal work for at least three years before being qualified to sit for the Chinese Bar Exam.

¹ This chapter was drafted with the support of Huang Zhong of PilNet China.

² “In China, Pro Bono is a Real Challenge” See <https://www.justicelabs.org/china-pro-bono-real-challenge> (last visited on May 1, 2019).

³ China Law Deskbook, 55 (2010).

⁴ Id.

⁵ Id.

⁶ With the new Implementation Measures for the National Uniform Legal Profession Qualification Examination took effect in April 2018, the National Uniform Legal Profession Qualification Examination replaced National Judicial Examination for the candidates in China.

⁷ Legal Work in China, available at <http://www.top-law-schools.com/legal-work-in-china.html> (last visited on May 1, 2019).

		<p>Non-citizen lawyers (excluding residents of Hong Kong, Macau and Taiwan for the purpose hereof) are not allowed to sit for the Chinese Bar exam. However, foreign non-citizen lawyers can work for a foreign firm’s Chinese office. Such firms, however, cannot practice or interpret Chinese law, but may perform legal services that do not involve Chinese law. To practice in China, foreign lawyers must have first practiced in another jurisdiction for two years.⁸</p>
<p>(b) Pro Bono Practice and Culture</p>		
	<p>1. Describe the rules that regulate the provision of pro bono legal services e.g. any explicit regulation or limitation on providing free legal services in some or all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>China is still far from forming and cultivating a culture or atmosphere of providing pro bono legal work by legal professionals without the strong administrative support or stimulation from the government. The Chinese government has not yet put in place efficient laws and regulations protecting and giving credit to the lawyers and firms which are active in undertaking legal aid or pro bono legal work.</p> <p>However, in recent years, the Chinese government has made efforts to promote and encourage pro bono legal work. For example, there are sporadic measures at the municipal or district level that encourage lawyers taking legal aid cases (but not pro bono legal work). For example, the Measures for Lawyers Participate in Legal Aid Work in Shenzhen Municipality (Trial) in 2002 request lawyers handle at least 2 legal aid cases per annum. However, these rules have either not been updated for a long time or have a low-level of enforceability. The "public legal service" in such rules mostly refers to activities such as legal literacy, legal aid, community dispute resolution, etc. not the provision of pro bono legal services. More recently, MOJ issued the Opinions on Improving Legal Aid System in 2015, which extends the coverage of the civil and administrative legal aid program and systematizes the criminal legal aid/duty lawyers' work. Although those instruments focus more on legal aid than pro bono, it shows that the Chinese government is encouraging and supporting lawyers to participate in pro bono activities and set out guidelines for those who seek pro bono work.</p>

⁸ Id.

<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>Lawyers in China are not required to work a minimum number of pro bono hours.</p>
<p>3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?</p>	<p>Aspiring lawyers in China are not required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers.</p>
<p>4. What are the main areas of law which require or present opportunities for the provision of pro bono legal services? What are the major unmet legal needs?</p>	<p>Though still new in China both as a theory and a practice, pro bono assistance can help address the needs left by the Chinese legal aid system, especially the needs of low-income and vulnerable communities. In particular, government legal aid focuses on representation and there is limited assistance for an individual to obtain early legal advice. The government legal aid also focuses more on criminal proceeding stage and individuals faces difficulties if their needs are outside this stage or navigate the legal aid or free legal services in China.</p>
<p>5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?</p>	<p>Aside from the government-run legal aid programs previously described, there are a small number of independent organizations that provide pro bono legal services in China.⁹</p> <p>I. University Legal Clinics</p> <p>Among the few pro bono entities in China are legal clinics in universities which have been in healthy development.¹⁰ For example, the Peking University Legal Aid Society was founded to provide legal services in the community.¹¹ Universities including Renmin University of China in Beijing, Fudan University in Shanghai, Wuhan University in Hubei province, Shandong University in Jinan, the Southwest University of Political Science and Law</p>

⁹ Benjamin L. Liebman, Legal Aid and Public Interest Law in China, 34 TEX. INT’L L. J. 211, 269 (1999).

¹⁰ The Center for the Protection of the Rights of Disadvantaged Citizens at Wuhan University Law School, available at <http://www.chinadevelopmentbrief.cn/directory/center-for-protection-of-rights-of-disadvantaged-citizens/> (last visited on May 1, 2019), Constitutional and Civil Rights Center at Tsinghua University Law School, available at https://www.tsinghua.edu.cn/publish/lawen/3484/2010/20101217115109241593333/20101217115109241593333_.html (last visited on May 1, 2019); Legal Aid Society of the Peking University, available at <http://en.law.pku.edu.cn/sf/sq/7799.htm> (last visited on May 1, 2019) and the Public Interest Advocacy Clinic of School of Transnational Law at Peking University, available at <http://stl.pku.edu.cn/academics/clinical-programs/> (last visited on May 1, 2019) are among the most established law school clinics in China.

¹¹ Goal of the Beijing University Legal Aid Society, <http://en.law.pku.edu.cn/sf/sq/7799.htm> (last visited on May 1, 2019).

		<p>in Chongqing, Nankai University in Tianjin, China University of Political Science and Law in Beijing, and Guangzhou University in Guangdong province, opened educational and training centers devoted to human rights and work on research projects in relation to human rights.¹² University legal clinics allow for both law students and qualified lawyers to have an opportunity to engage in pro bono work in the local community.</p> <p>II. Non-Governmental Organizations, including Clearinghouses</p> <p>Clearinghouses act as matchmakers between lawyers and NGOs or individual clients seeking pro bono legal services. Such organizations screen and organize pro bono work, connecting those in need with those who may best be able to offer pro bono legal assistance. An example is The Global Network for Public Interest Law (“PILnet”).¹³ Through its Hong Kong and Beijing office, PILnet has developed a clearinghouse that matches pro bono opportunities with law firms.¹⁴ In 2009, over 1200 hours of legal services were rendered in China through PILnet; by 2014, this number had jumped to over 8000 hours.¹⁵ In 2018, PILnet successfully matched 47 out of 58 pro bono matters in Hong Kong. Among those matters, 44 NGOs submitted at least one matter request, and 24 law firms took at least one pro bono matter. PILnet’s continued success provides a good indication of the potential growth in pro bono work in China in the future.¹⁶ In addition to PILnet, there are a number of other organizations promoting legal aid and, increasingly, pro bono opportunities.¹⁷ Domestic partners of PILNet Beijing include ZhiCheng Public Interest Law Firm (Beijing), Legal Centre for NGO-</p>
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¹² See 5 more universities set up human rights centers available at <http://www.fudan.edu.cn/en/articles/view/139/> (last visited on May 1, 2019).

¹³ See generally PILnet: THE GLOBAL NETWORK FOR PUBLIC INTEREST LAW, available at <http://www.pilnet.org/> (last visited on May 1, 2019).

¹⁴ Public Interest Law Initiative — 2010 Pro Bono Report, available at http://www.pilnet.org/component/docman/doc_download/2-2010-pilnet-pro-bono-report.html (last visited on May 1, 2019).

¹⁵ Id. 2014 statistics were obtained through direct interviews with PILnet managers.

¹⁶ Id.

¹⁷ For example, “Justice for All” is a Chinese organization that engages in legal aid, training, and research “to promote social equality of women, the disabled, those with AIDS, and other groups in need.” See <http://chinadevelopmentbrief.cn/directory/justice-for-all/> (last visited on May 1, 2019). Other examples include the Equity & Justice Initiative of Shenzhen (available at <http://chinadevelopmentbrief.cn/directory/equity-justice-initiative/> (last visited on May 1, 2019)).

		“ForNGO” (Shanghai) and Wider Pro bono Legal Service Centre (Shenzhen).
(c)	Obstacles to Provision of Pro Bono Legal Services	
	1. Do lawyers require a license to provide pro bono legal services?	In China, only PRC qualified lawyers may appear in court and advise on questions of PRC law. ¹⁸ Even if there is no specific requirement for pro bono legal services to be carried out by a lawyer with PRC lawyer license, foreign lawyers or non-lawyers seeking to do pro bono work in China will run into a number of challenges. The rule against practicing Chinese law as mentioned above virtually rules out any direct representation by foreign lawyers or non-lawyers in Chinese courts or before any Chinese regulatory body. Unlike transactions which foreign law firms partner with Chinese firms on Chinese law issues, collaboration rarely happens in the pro bono legal service area. In addition, foreign firms may face political pressure if the lawyers in the course of providing pro bono legal services challenge the government. ¹⁹
	2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?	There is no specific license required for foreign lawyers to provide pro bono legal services in China. However, as mentioned above, it is difficult for foreign lawyers and foreign law firms in China to engage in pro bono legal services that involve any legal matters related to PRC law. Additionally, Chinese offices of international law firms may not have the same policies as their counterparts in the U.S. or Europe, where pro bono hours are counted among each lawyer’s billable hours. Therefore, there is an additional hurdle of incentivizing private practice lawyers to participate in providing pro bono legal services.
	3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?	There is no requirement for lawyers to have professional indemnity legal insurance cover for any pro bono legal services that they provide in China.

¹⁸ CHINA BUSINESS LAW HANDBOOK, USA International Business Publication 68 (2007).

¹⁹ “In China, Pro Bono is a Real Challenge” See <https://www.justicelabs.org/china-pro-bono-real-challenge> (last visited on May 1, 2019).

	4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?	There are no rules or regulations that prohibit advertising of pro bono successes or soliciting new pro bono clients in China.
	5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?	<p>Chinese law firms do not officially recognize or encourage pro bono legal work. Lawyers in China face tremendous economic stress and experience a strong feeling of financial and social insecurity.²⁰ Consequently, pro bono legal work is not valued very highly in traditional Chinese law firms, and such work does not contribute to meeting lawyers’ billable quotas.²¹ Neither does such work contribute to any Continuing Legal Education or equivalent credit.²²</p> <p>Foreign lawyers practicing in China may need and receive credits for the “Continuing Legal Education” or equivalent credit in their home jurisdictions for the pro bono hours they worked in China. According to Zhicheng Public Interest Law Firm, this has been a new trend that foreign lawyers or dual-qualified lawyers actively seek pro bono opportunities to fulfil requirement of foreign jurisdiction.</p>
(d) Sources of Pro Bono Opportunities and Key Contacts		
	1. Describe any governmental sources of pro bono and/or other legal services in China.	There are no governmental sources of pro bono or legal services in China.
	2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in China.	Lawyers looking for opportunities to do pro bono work in China should turn first to clearinghouses such as PILnet, ²³ or to other organizations that promote both legal aid and increasingly, pro bono legal services. ²⁴ Despite restrictions regarding the practice and interpretation of Chinese law, foreign lawyers and law firms can still advise NGOs or non-profit organizations on legal issues they might face in areas with international dimensions. Opportunities for pro bono legal work, though not

²⁰ See generally PILnet, supra note 58.

²¹ Id.

²² In China, Pro Bono is a Real Challenge, <https://www.justicelabs.org/china-pro-bono-real-challenge> (last visited on May 1, 2019).

²³ <http://www.pilnet.org> (last visited on May 1, 2019).

²⁴ See answer to question 5 above.

		<p>abundant, are available for both Chinese and foreign lawyers seeking to offer legal assistance.</p> <p>Although pro bono resources and opportunities remain limited in China, they have developed steadily over the past few years. More Chinese lawyers are willing to contribute and are taking a leading role in forming NGOs with the support from the local governmental authorities. Due to the PRC law restrictions, some NGOS (such as Shanghai Fu'en Legal Center for NGOs registered in Shanghai) are structured similar to the PILnet clearing house, connecting local law firms with the underprivileged and/or others who are in need of pro bono legal services.</p>
	<p>3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?</p>	<p>Lawyers may register with pro bono clearinghouses in China or other organizations mentioned in the answer to Q(d)2 to receive pro bono opportunities.</p>

May 2019
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