



Pro Bono Practices and Opportunities in China¹

INTRODUCTION

The People's Republic of China (the “**PRC**” or “**China**”) is a single-party state² composed of 22 provinces, four municipalities, five autonomous regions and two special administrative regions.³ While the Chinese legal system mandates government-sponsored legal aid, the opportunities for pro bono legal assistance are much more limited. This chapter discusses the legal system, the legal aid system, and pro bono opportunities and considerations in China.

OVERVIEW OF THE LEGAL SYSTEM

The Justice System

After the practice of law was reduced nearly to non-existence during the Chinese Cultural Revolution⁴, China has revived and rapidly expanded its legal system since 1978.⁵

Constitution and Governing Laws

China's law-making body is called the National People's Congress (the “**NPC**”).⁶ In 1979, the NPC created a number of organic laws that outlined the status, internal structure, and legislative drafting procedures for the government's many administrative and legislative entities, court system, and prosecutorial functions of the state. The NPC also promulgated the Criminal Law and Criminal Procedure Law governing the PRC.

Soon after the creation and promulgation of these governing laws, China adopted its Constitution on December 4, 1982.⁷ The Constitution outlines the structure of the state and the fundamental rights and duties of citizens.⁸ The Constitution also provides that the NPC and the NPC's Standing Committee have the power to review whether laws or activities violate the Constitution.⁹

The chief administrative authority of the PRC is the State Council (aka the “**Central People's Government**”). China's State Council, like the U.S. Cabinet, is empowered to enact administrative rules and regulations. This State Council oversees a number of Ministries such as the Ministry of Agriculture,

¹ This chapter was drafted with the support of PILnet: THE GLOBAL NETWORK FOR PUBLIC INTEREST LAW.

² White Paper on China's Political Party System, available at <http://www.china.org.cn/english/news/231852.htm> (last visited on September 4, 2015).

³ Map of China Showing Self-Governed Municipalities, Autonomous Regions, Provinces and Special Administrative Regions (S.A.R.) , available at http://www.nationsonline.org/oneworld/china_administrative_map.htm (last visited on September 4, 2015).

⁴ Gerard J. Clark, An Introduction to the Legal Profession in China in the Year 2008, 41 SUFFOLK U. L. REV. 833 (2008).

⁵ RANDALL PEERENBOOM, CHINA'S LONG MARCH TOWARD RULE OF LAW 14 (2002).

⁶ Functions and Powers of the National People's Congress, http://www.npc.gov.cn/englishnpc/Organization/2007-11/15/content_1373013.htm (last visited on September 4, 2015).

⁷ LEGISLATING, THE JUDICIARY, AND LAWYERS IN CHINA IN CHINA LAW DESKBOOK, 55 (2010) , available at <http://www.chinalawdeskbook.com/pdf/CLD%20Ch3.pdf> (last visited on September 4, 2015).

⁸ Id.; see also Constitution of the People's Republic of China, available at https://www.constituteproject.org/constitution/China_2004?lang=en (last visited on September 4, 2015).

⁹ Id.



Ministry of Commerce, Ministry of Education, and Ministry of Health.¹⁰ The State Council and its ministries may issue regulations that have the power of law, and are also controlling over local and provincial laws and regulations.¹¹

The Courts

The Chinese Court system is divided into four levels. The Supreme People's Court is the highest judicial organ in China, and is specifically authorized by the Constitution.¹² Beneath the Supreme People's Court is the Higher People's court at the provincial level, followed by the Intermediate Level and Basic Level People's Courts at the more local level.¹³

China's legal system is unlike that of many common law jurisdictions in that there is no formal system of precedent.¹⁴ The Supreme People's Court supervises the administration of justice and issues directives for the purpose of guiding lower courts. However, it does not have the power to interpret the law. Though in practice courts do often look to parallel and higher courts' rulings on certain issues, technically there is no obligation for any court to listen to or follow the decision of another. Rather, the authority to interpret law is vested with bodies such as the aforementioned government ministries, supervised by the State Council.¹⁵

The Practice of Law

Education

Since the revival of China's legal system, a number of institutions have been developed that offer legal training to students, including law students under the direction of the Ministry of Justice (the "MOJ") and major Chinese national and provincial universities.¹⁶ Formal legal education began in 1979 with approximately 2,000 law students being enrolled in two law schools that year.¹⁷ Today, China has over 600 law departments, with over 360,000 students taking either undergraduate, professional, or independent study courses in law.¹⁸

Presently, there are no pro bono-specific rules or requirements for graduating from law university or to become a lawyer. Though the government mandates the provision of legal aid, to date it has not yet required pro bono work as part of China's legal curriculum.

Licensure

The Ministry of Justice (the "MOJ") is responsible for administering qualifying exams, licensing, and disciplining attorneys for misconduct.¹⁹ To become a lawyer in China, a candidate must obtain a

¹⁰ CHINA LAW DESKBOOK, supra n. 7, at 59, 61.

¹¹ Id. at 61.

¹² Id. at 69.

¹³ Clark, supra note 4, at 835.

¹⁴ CHINA LAW DESKBOOK, supra n. 7, at 69.

¹⁵ Id.

¹⁶ Id. at 72.

¹⁷ Id.

¹⁸ China's Journey Toward the Rule of Law: Legal Reform, 1978-2008; Cai Dingjian, p. 265, copyright 2010 by Koninklijke Brill NV, Leiden, The Netherlands and by Social Sciences Academic Press, Beijing, China.

¹⁹ CHINA LAW DESKBOOK, supra n. 7, at 74.



recognized degree (bachelor's, master's, or doctoral), pass the National Judicial Exam, and complete a one-year apprenticeship.²⁰

Non-citizen lawyers are not allowed to sit for the Chinese Bar exam. However, foreign non-citizen lawyers can work for an American 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.²¹

Demographics

Lawyers

The number of Chinese lawyers has continued to expand alongside the growth of China's legal system. In 2013, of an estimated total population of about 1.36 billion people²², there were over 248,623 lawyers²³ and 20,609 law firms.²⁴

Legal Aid

In the 1980s and 90s, China lacked any comprehensive nationwide legal aid system.²⁵ In 1996, the MOJ issued a notice requiring the establishment of legal aid centers in response to a growing concern that the disadvantaged were unable to afford legal services, particularly in view of increasing legal fees accompanying economic development in China.²⁶ By 2003, China boasted 2,642 legal aid centers with about 9,000 total staff (both lawyers and non-lawyers) nationwide. By 2011, there were over 3,200 government legal aid centers with more than 14,000 staff.²⁷ Despite this growth, however, China has continued to struggle to provide sufficient legal aid to satisfy the total demand.²⁸

Legal Regulation of Lawyers

In China, the MOJ is tasked with supervising lawyers, law firms, and lawyers' associations. It is also responsible for administering qualifying exams and licensing and disciplining attorneys for misconduct.²⁹ 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.³⁰

²⁰ Legal Work in China, available at <http://www.top-law-schools.com/legal-work-in-china.html> (last visited on September 4, 2015).

²¹ Id.

²² China: Total Population from 2010 to 2020, available at <http://www.statista.com/statistics/263765/total-population-of-china> (last visited on September 4, 2015).

²³ Number of Lawyers in China between 2005 and 2013, available at <http://www.statista.com/statistics/224787/number-of-lawyers-in-china> (last visited on September 4, 2015).

²⁴ Number of Law Firms in China between 2005 and 2013, available at <http://www.statista.com/statistics/224791/number-of-law-firms-in-china> (last visited on September 4, 2015).

²⁵ Legal Aid, Congressional-Executive Commission on China, available at <http://www.cecc.gov/legal-aid> (last visited on September 4, 2015).

²⁶ See Jia, Mark, "Legal Aid and the Rule of Law in the People's Republic of China," Maryland Series in Contemporary Asian Studies: Vol. 2011: No. 1, Article 1 (available at <http://digitalcommons.law.umaryland.edu/mscas/vol2011/iss1/1>) (last visited on September 4, 2015).

²⁷ See Sun, Jianying, "Legal aid ensures equal treatment under law." China Daily, December 12, 2012.

²⁸ Some studies conclude that current legal aid capacity is only meeting about 30% of total demand. Sun Shunan, "Effectively Doing Legal Aid Work Well, Allowing Disadvantaged Groups to Experience Rule of Law's Sunlight," qie shi zuo hao fa lu yuan zhu gong zuo, rang kun nan qun zhong gan shou fa zhi yang guang (2008), Hainan Justice Bureau, available at <http://justice.hainan.gov.cn/gov/tshifa/flyz/flyz004.htm> (last visited on September 4, 2015).

²⁹ CHINA LAW DESKBOOK, supra n. 7, at 74.

³⁰ Id.



LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The Right to Legal Assistance

The legal aid system is one of the very few major channels through which Chinese legal professionals contribute their support to the underprivileged in Chinese society. This system is expressly provided in PRC law and driven by the Chinese government at different levels and throughout different regions. Undertaking legal aid assignments is a mandatory requirement or duty for PRC lawyers.

Despite this requirement, China is still far from forming/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. Furthermore, due to Chinese culture and history, Chinese people do not rely much on law and lawyers for the purpose of protecting their rights in China compared to western countries. Similarly, legal aid and pro bono are still new and remote concepts to ordinary people in daily life.

The National Lawyers' Law, governing both civil and criminal matters, provides that "[a] citizen who needs the assistance of lawyers . . . but cannot afford lawyers' fees, may obtain legal aid in accordance with State regulations."³¹ The Regulations on Legal Aid sets up the framework and general principles of the PRC legal aid system.³²

Article 34 of the revised Criminal Procedure Law of the PRC provides for the right to legal assistance in criminal cases, stating that "For public-prosecuted cases, the court can designate a lawyer who provides legal assistance to defend the accused if the accused fails to appoint a defense attorney for economic or other reasons. If the accused fails to appoint a defender because they are blind, deaf, mute or a minor, the court should designate a lawyer who provides legal aid to defend the accused. If the accused receives a death penalty, but fails to appoint a defense attorney, the court should designate a lawyer who provides legal aid to defend the accused."³³

State-Subsidized Legal Aid

China's state-subsidized legal aid program is substantial and detailed. Under the Regulations on Legal Aid, the PRC legal aid system has four levels.³⁴ At the national level, the Legal Aid Center (the "LAC") was created to supervise and coordinate legal assistance across the country.³⁵ At the provincial level, legal aid centers have been established to supervise and coordinate legal aid work in their respective jurisdictions.³⁶ The next level is prefectures and cities where legal aid centers are charged with both administering and implementing legal aid programs in their areas.³⁷ At the county level, legal aid centers

³¹ Law of the People's Republic of China on Lawyers, art. 41, available at <http://en.chinacourt.org/public/detail.php?id=100> (last visited on September 4, 2015).

³² China: The National Report, 2, available at <http://www.internationallegalaidgroup.org/images/edinburgh2015/nationalpapers/china2015.pdf> (last visited on September 4, 2015).

³³ Legal Assistance, available at <http://www.china.org.cn/english/Judiciary/31005.htm> (last visited on September 4, 2015).

³⁴ China's Judiciary — Legal Assistance, available at <http://www.china.org.cn/english/Judiciary/31005.htm> (last visited on September 4, 2015).

³⁵ Id.

³⁶ Id.

³⁷ Id.



are responsible for accepting and examining legal aid applications and arranging for the provision of legal aid services to eligible applicants.³⁸

Eligibility Criteria

The PRC legal aid system covers a wide range of legal matters. According to the Notice Regarding Development of Legal Aid Work issued by the MOJ in 1997, the scope of legal aid includes: (1) criminal cases; (2) claims for elderly support, child support, and orphan support; (3) compensation for work accidents except liability accidents; (4) claims by minors, the elderly, the blind, the deaf, the mute and the disabled for compensation for infringed rights; (5) claims for compensation from the government; (6) claims for disability pensions; and (7) other legal matters that “truly require legal aid.”³⁹ Moreover, local governments may opt to provide additional legal aid coverage. The majority of the provinces have included legal aid coverage for traffic accidents, medical negligence, domestic violence, and other matters.⁴⁰

To be eligible for legal aid in China, an applicant must fall into one of the following five categories: (1) PRC citizens who are under financial hardship⁴¹ and have demonstrated that assistance is necessary to safeguard one’s legal rights and interests; (2) blind, deaf, mute, or underage criminal defendants or suspects without legal representation; (3) other disabled or elderly criminal defendants or suspects unable to obtain legal representation because of financial hardship; (4) criminal defendants without legal representation and likely to be sentenced to the death penalty; and (5) non-PRC criminal defendants with court-appointed legal representation.⁴² Upon approval, applicants may obtain legal services free of charge. Even if ineligible for legal aid, an applicant may nonetheless have access to free legal advice through a legal aid hotline.⁴³

Mandatory Assignments to Legal Aid Matters

The PRC legal aid system relies on both professional and financial support in order to meet the demand for legal services.⁴⁴ Although legal aid centers have their own staff attorneys, much of the caseload is handled by outside lawyers who work on a subsidy basis.⁴⁵ Under the National Lawyers’ Law, PRC lawyers “must undertake the duty of legal aid in accordance with State regulations.”⁴⁶ All Chinese lawyers are expected to provide legal aid to indigent clients when called on by the local government.⁴⁷

³⁸ China: The National Report, supra n.32, at 3.

³⁹ MINISTRY OF JUSTICE, Notice Regarding Development of Legal Aid Work (May 10, 1997), included in Allen C. Choate, Legal Aid in China in 12 THE ASIA FOUNDATION WORKING PAPER SERIES, 31-36 (Apr. 2000), available at <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan017813.pdf> (last visited on September 4, 2015).

⁴⁰ Legal Aid in China, available at http://www.legalinfo.gov.cn/english/Legal-Aid/content/2010-01/25/content_2035688.htm?node=7619 (last visited on September 4, 2015).

⁴¹ Notice Regarding Development of Legal Aid Work, supra n.39. Because economic development is uneven across China, there is no unified standard for “financial hardship” in China. Under the Regulations on Legal Aid, local governments are empowered to formulate their own financial standards. See REGULATIONS ON LEGAL AID, art. 13, available at <http://www.cecc.gov/pages/selectLaws/ResidencySocWelfare/regsLegalAid.php> (last visited on September 4, 2015).

⁴² Legal Aid in China, supra n.40.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id. As of July 2015, lawyers received an average of RMB 1,500 for a civil case and RMB 1,200 for a criminal case assigned to them. See Free Legal Aid Program Sees Expansion, available at <http://chinawatch.washingtonpost.com/2015/07/free-legal-aid-program-sees-expansion> (last visited on September 4, 2015).

⁴⁶ Law on Lawyers, supra n.31, art. 42.

⁴⁷ See Jia, Mark, supra n. 26, at 13-16.



Once a case is assigned to a lawyer, the lawyer may not decline to accept the case.⁴⁸ Lawyers that refuse to accept legal aid work are subject to warnings, suspensions of business, and possible loss of the license to practice.⁴⁹ Besides lawyers, other legal professionals, such as notary clerks and paralegals, also provide legal services through legal counseling, document drafting, and other nonprocedural assistance.⁵⁰ Adequate funding is also crucial to the operation of the PRC legal aid system in order to subsidize the assigned private lawyers who render services.⁵¹ The major source of funding is the PRC government's allocation, and legal aid expenses are included in the government's budget every year.⁵² Private donations are another source of financial support for legal aid in China.⁵³

Unmet Needs and Access Analysis

The Chinese legal aid system has grown at a rapid pace. In 2011, more than 3,200 government legal aid centers with more than 14,000 staff were processing 844,000 cases, and more than 50,000 community stations had been set up to accept legal aid applications.⁵⁴ In 2012, these agencies handled more than one million cases and accepted consultations from about 5.76 million people.⁵⁵

However, the Chinese legal aid system is not without its shortcomings. For one, the quality of legal assistance provided via the PRC legal aid system is often not very high. One reason for this is that, unsurprisingly, many Chinese lawyers lack motivation and diligence in performing legal aid because they are doing it solely to comply with China's mandatory requirements.⁵⁶ Law firms often send their least experienced lawyers to work on those cases and fulfill the firms' legal aid requirements.⁵⁷

The quality of legal aid may also suffer because the government does not have sufficient financial support to provide to legal aid centers. Because the majority of legal aid is administered by local governments, those needing legal aid may encounter dramatically different qualities of assistance depending largely on where they live.⁵⁸

Finally, many in China still lack access to legal aid altogether. The Chinese government's standards have restricted legal aid to the poorest of the poor, such that many of the impoverished people in China often do not qualify.⁵⁹ In about 90% of cases, litigants in China still do not have a lawyer representative, and it is estimated that about 800 million (out of the total population of 1.35 billion) cannot afford lawyers' fees.⁶⁰ Accordingly, there is still a significant need for access to legal services for many in China.

⁴⁸ See Choate, *supra* n.39, at 9.

⁴⁹ See Jia, Mark, *supra* n. 26, at 13-16.

⁵⁰ Legal Aid in China, *supra* n.40; Notice Regarding Development of Legal Aid Work, *supra* n.39.

⁵¹ *Id.*

⁵² Legal Aid in China, *supra* n.40.

⁵³ *Id.*

⁵⁴ Sun, Jianying, "Legal aid ensures equal treatment under law." *China Daily*, December 12, 2012; see Choate, *supra* n.39, at 33.

⁵⁵ "Justice Minister urges legal aid for poor." *China Daily*, September 26, 2013.

⁵⁶ Phan, Pamela N., "Clinical Legal Education in China: In Pursuit of a Culture of Law and a Mission of Social Justice," *Yale Human Rights and Development Journal*, Volume 8, Issue 1 (2005), P. 146.

⁵⁷ Regan, Francis, "How and Why Is Pro Bono Flourishing: A Comparison of Recent Developments in Sweden and China" in C. Arup & Laster, eds. *For the Public Good: Pro Bono and the Legal Profession in Australia*, Sydney: Federation: Special Edition of 'Law in Context', Vol. 19 (2001), P.156.

⁵⁸ Legal Aid in China, *supra* n.40.

⁵⁹ See "A Research Report on the Legal Aid Services in Shenzhen," Longan (Shenzhen) Law Firm (January 2014).

⁶⁰ International Bridges for Justice, "IBJ: Establishing an International Support Network for China's Criminal Defenders," International Bridges for Justice Handout at Committee.



PRO BONO ASSISTANCE

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.

Pro Bono Opportunities

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. 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.⁶¹

University Legal Clinics

Among the few pro bono entities in China are legal clinics in universities.⁶² For example, the Beijing University Legal Aid Society was founded to provide legal services in the community.⁶³ Since its inception, it has organized a number of events that primarily focus on consumer protection and employee protection.⁶⁴ 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.

Non-Governmental Organizations, including Clearinghouses

Clearinghouses act as matchmakers between lawyers and NGOs or individual clients. Such organizations screen and organize pro bono work, connecting those in need with those who may best be able to offer assistance. An example is The Global Network for Public Interest Law (“PILnet”).⁶⁵ Through its Beijing office, PILnet has developed a clearinghouse that matches pro bono opportunities with law firms.⁶⁶ In 2009, over 1200 hours of legal services were rendered in China through PILnet; by 2014, this number had jumped to over 8000 hours.⁶⁷ PILnet’s continued success provides a good indication of the potential growth in pro bono work in the future.⁶⁸ In addition to PILnet, there are a number of other organizations promoting legal aid and, increasingly, pro bono opportunities.⁶⁹

⁶¹ Benjamin L. Liebman, Legal Aid and Public Interest Law in China, 34 TEX. INT’L L. J. 211, 269 (1999).

⁶² The Center for the Protection of the Rights of Disadvantaged Citizens at Wuhan University Law School, available at <http://www.cprdc.org/web> (last visited on September 4, 2015), Constitutional and Civil Rights Center at Qinghua University Law School; Legal Aid Society of the Beijing University, available at <http://en.law.pku.edu.cn/sf/sq/7799.htm> (last visited on September 4, 2015) are among the most established law school clinics in China. See, e.g., Skeletal Legal Aid Requires Flesh and Muscle, China Development Brief, available at <http://ccj.sagepub.com/content/26/1/36.abstract> (last visited on September 4, 2015).

⁶³ Goal of the Beijing University Legal Aid Society, <http://en.law.pku.edu.cn/sf/sq/7799.htm> (last visited on September 4, 2015).

⁶⁴ Summary of Beijing University’s Consumer Protection and Legal Support Working Station on March 15, available at <http://laa.lawpku.org/xhlc/315gzzj.htm> (last visited on September 4, 2015); see also Discussion on Protection of Employee Interests of Female Workers, <http://laa.lawpku.org/xhlc/qhsh.htm> (last visited on September 4, 2015).

⁶⁵ See generally PILnet: THE GLOBAL NETWORK FOR PUBLIC INTEREST LAW, available at <http://www.pilnet.org/> (last visited on September 4, 2015).

⁶⁶ 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 September 4, 2015).

⁶⁷ Id. 2014 statistics were obtained through direct interviews with PILnet managers.

⁶⁸ Id.

⁶⁹ 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



That said, although the Chinese government has slowly permitted some NGOs, including international NGOs such as Greenpeace and the Red Cross, to open branches,⁷⁰ stringent regulations continue to limit the ability to open new NGO's or engage in certain activities.

Law Firm Pro Bono Programs

Foreign Law Firms

Many U.S. or European law firms have pro bono programs for their lawyers to engage in pro bono representation of underrepresented clients. In theory therefore, lawyers seeking to do pro bono work could do so by going through an international law firm's pro bono department.

However, *foreign* lawyers seeking to do pro bono work in China will run into a number of challenges. Most significantly, in China, only PRC-qualified lawyers may appear in court and advise on questions of PRC law.⁷¹ Foreign lawyers cannot qualify to practice PRC law, and foreign law firms are not allowed to form joint ventures with PRC lawyers.⁷² Under this system, it is difficult for foreign lawyers and foreign law firms in China to engage in pro bono services that involve any legal matters related to PRC law. Additionally, China 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.

Local Chinese Law Firms

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.⁷³ 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.⁷⁴ Without any support from the firms themselves, individual lawyers who choose to engage in pro bono work must do so on their own time. Because of the strong profit incentive driving the majority of Chinese law firms, engaging in pro bono work has not yet become a significant part of the practice of Chinese lawyers.⁷⁵

In-House Counsel

Chinese in-house lawyers have tended to volunteer through corporate social responsibility (CSR) activities as opposed to pro bono legal services. For example, in 2007, General Electric in China adopted an unusually progressive company-wide Hepatitis B vaccination program, which involved education, non-discrimination training, and treatment.⁷⁶ As CSR programs become more established, in-house lawyers may consider offering opportunities to integrate pro bono legal services into their existing CSR activities.

<http://chinadevelopmentbrief.cn/directory/justice-for-all/> (last visited on 4 September 2015). Other examples include the Beijing Zhicheng Migrant Workers' Legal Aid and Research Center (available at <http://zhichenglaw.weebly.com/beijing-zhicheng-migrant-workers-legal-aid-and-research-center-mwlarc.html> (last visited on 4 September 2015)), the Equity & Justice Initiative of Shenzhen (available at <http://chinadevelopmentbrief.cn/directory/equity-justice-initiative/> (last visited on 4 September 2015)).

⁷⁰ See Greenpeace East Asia — Contact Us, available at <http://www.greenpeace.org/eastasia/about/contact/> (last visited on 4 September 2015); Red Cross Society of China, available at <http://www.china.org.cn/english/MATERIAL/132108.htm> (last visited on 4 September 2015). See generally, Deyong Yin, China's Attitude Toward Foreign NGOs, 8 WASH. U. GLOBAL STUD. L. REV. 521 (2009).

⁷¹ CHINA BUSINESS LAW HANDBOOK, USA International Business Publication 68 (2007).

⁷² THE LAW SOCIETY OF ENGLAND AND WALES, How to Practice in China, available at <http://communities.lawsociety.org.uk/international/regions/north-asia-and-the-pacific/china/how-to-practise-in-china/5045529.article> (last visited on September 4, 2015).

⁷³ See generally PILnet, *supra* note 58.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ Maloy, Stephen A., "How to Reduce Hepatitis B in the Workplace," China Business Review, July-August 2009, p. 44-47, also available at <http://www.chinabusinessreview.com/how-to-reduce-hepatitis-b-in-the-workplace/> (last visited on 30 October 2015).



In addition, in-house lawyers can play a pro-active role to encourage pro bono through their decisions on corporate policies and in law firm selection.

Current State of Pro Bono

As China's legal system is relatively new, so too is its focus and emphasis on pro bono. Historically, China has not had any sort of pro bono system, and those attempting to do pro bono work may encounter a number of difficulties along the way.

Barriers

Lack of Understanding

Perhaps the best indicator of the infant status of pro bono in China is the fact that only recently have there even been efforts to give a name to the concept.⁷⁷ While there is an increasing recognition within the legal community of the importance of serving those who cannot afford to pay for lawyers, the Chinese language has not had a phrase to describe the provision of voluntary, free legal services. For the time being, Chinese lawyers have settled on the terms *lǚ shì* or *lǚ suǒ shē huì zé ren*—which means “lawyers’ or law firms’ social responsibility.”⁷⁸ As this term becomes more well-known, hopefully China will see a corresponding growth in lawyers willingly providing free legal services to those in need.

Lack of Funding

Though the Chinese government does fund legal aid, it does not currently provide financial support for pro bono initiatives. Currently, the majority of funding comes from law firms, lawyers, and charities.⁷⁹ However, as the number of lawyers willing to provide their services on a pro bono basis grows, the Chinese government may consider providing financial support.⁸⁰

Challenges Regarding the Rule of Law

Though China has made significant strides in the development of its legal system, concerns remain about how seriously it intends to enforce the rule of law.⁸¹ Traditionally, the “rule of law” is the principle providing that decisions should be made by application of known principles or laws, without the intervention of discretion in their application.⁸² China's legal system unfortunately has a legacy of political intermeddling and use of personal connections (*guanxi*) to circumvent the law or gain leniency.⁸³ Though the government has made attempts at reform, confidence in the legal system will remain limited until more progress is made concerning the adoption and recognition of the rule of law.⁸⁴

Resources

Lawyers looking for opportunities to do pro bono work in China should turn first to clearinghouses such as PILnet,⁸⁵ or to other organizations that promote both legal aid and increasingly, pro bono.⁸⁶ Despite

⁷⁷ “Finding the Words for Pro Bono in China,” PILnet: THE GLOBAL NETWORK FOR PUBLIC INTEREST LAW, available at <http://www.pilnet.org/public-interest-law-news/blogs/30000-feet/154-translating-pro-bono> (last visited on September 4, 2015).

⁷⁸ Id.

⁷⁹ Caspani, Maria, “Q&A: Opening the door to pro bono work in China,” Thomson Reuters Foundation, available at <http://www.trust.org/item/20121024090000-g8yo0/?source=search> (last visited on September 4, 2015).

⁸⁰ Id.

⁸¹ CHINA LAW DESKBOOK, supra n. 7, at 77.

⁸² Black's Law Dictionary 1196 (5th Ed. 1979).

⁸³ CHINA LAW DESKBOOK, supra n. 7, at 77-78.

⁸⁴ CHINA LAW DESKBOOK, supra n. 7, at 79.

⁸⁵ <http://www.pilnet.org> (last visited on 4 September 2015).

⁸⁶ See “ii. Non-Governmental Organizations, including Clearinghouses” above



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 abundant, are available for both Chinese and foreign lawyers seeking to offer legal assistance.

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.

CONCLUSION

China is still developing its understanding and valuation of pro bono legal services. However, the opportunities to do pro bono work have continued to increase, and a number of organizations have already been established either to provide, or to facilitate the provision of, legal assistance services in China. As the Chinese legal landscape continues to change, lawyers may continue to have more opportunities to render pro bono services to those in need.

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Pro Bono Practices and Opportunities in China

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