

## Helping Legal Aid Providers and Vulnerable Communities Access Law in China through a Robust Legal Information Service System

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### Abstract

*This paper studies the significance of the establishment of a strong, web-based digital legal information system and accompanying services in supporting legal aid providers and vulnerable groups in China. By examining the digital legal sources and services currently available through the websites of different types of legal aid institutions, and through the academic and public libraries that customarily act for the common good, the paper assesses the inadequacy of the current digital legal information system and services in China. The paper therefore advocates for prompt action to build and improve the system and services strategically and effectively, particularly to help vulnerable communities access legal knowledge, and ultimately, access justice.*

**Keywords:** Access to Justice; Chinese Legal Aid System; Legal Information System and Services; Legal Aid Lawyers; Legal Aid Clients

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### Introduction

The Chinese legal aid system, established in the mid-1990s, emulates the Western model and aims to assist groups that remain underprivileged despite the country's growing economic prosperity, such as women, the elderly, juveniles, the physically disabled, and migrant workers. The service consists of civil, administrative, and criminal defence cases.

The system has been considered one of the most remarkable accomplishments in Chinese legal reform<sup>1</sup> because of its rapid growth, and its institutional as well as professional progresses. The first legal aid centre in Guangzhou, the capital city of the wealthy coastline province of Guangdong, was founded and sponsored by the government in November 1995. A year later, the Legal Aid Centre in the Ministry of Justice<sup>2</sup> was formally established in 1996. Today, this system remains an essential part of legal practice in China. The composition of legal aid providers includes lawyers who are state-employed or from private law firms, administrative staff of legal aid centres, and staff-paralegal and volunteers from other entities. The system is “supervised and regulated” by the “administrative department of justice” at both national and local level. The Ministry of Justice sponsors several web-based legal information platforms with guidelines, legal sources, and self-service manuals. The All-China Lawyers' Association and the local lawyers' associations “provide assistance” with the implementation of the legal aid service, according to the association’s by-law.<sup>3</sup> They generally offer decent online legal information to the licensed lawyers. The state encourages civil societies, public institutions, and other social organizations to support legal aid service,<sup>4</sup> the providers of those groups have various channels to access legal information.

Current research has identified certain problems with the legal aid system, such as the lack of funding, providers and professionalism, and geographically imbalanced service coverage. However, the field has not yet devoted enough to the deficiencies of the legal information system and the lack of competent information specialists in legal aid operations in China. This shortage can be a significant obstacle that prevents legal aid professionals and clients from obtaining legal materials and assistance, and therefore from accessing justice.

A few studies have explored how technology-assisted legal information system and services can influence the effectiveness of legal services including legal aid operation. Barendrecht suggested that the utilization of technology has become more cost effective because of the lowered cost of obtaining legal information via technology combined with the overall rising literacy level and access to technology. Thus, legal information and education should be prioritized more highly when planning strategies to enhance access to justice.<sup>5</sup> Pruitt, Kool, Sudeall, Statz, Conway, and Haksgaard surveyed the extent to which rural residents had access to legal services in six states in the United States, and introduced some

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<sup>1</sup> Liebman, Benjamin L., Accessing China’s legal reforms, *Columbia Journal of Asian Law*, 23 (1), Fall 2009, 17-34

<sup>2</sup> Official website of the Ministry of Justice. [2019-05-22]. Available at: <http://www.chinalegalaid.gov.cn>

<sup>3</sup> See Falv Yuanzu Tiaoli (Regulation on Legal Aid), article 4. 2003. [2019-05-22]. Available at: <http://www.faxin.cn/>

<sup>4</sup> See id. article 8.

<sup>5</sup> Barendrecht, J. M.. Legal aid, accessible courts or legal information? Three access to justice strategies compared. *Global Jurist*, 11(1), 2011, 1-26. [2019-05-22]. Available at: [https://pure.uvt.nl/ws/portalfiles/portal/1326528/Barendrecht\\_Legal\\_Aid\\_110420\\_full\\_text\\_bij\\_url\\_geen\\_toestemming.pdf](https://pure.uvt.nl/ws/portalfiles/portal/1326528/Barendrecht_Legal_Aid_110420_full_text_bij_url_geen_toestemming.pdf)

impressive technology-based legal service portals to improve the access to law.<sup>6</sup> Responses from surveys show that, in the information era, the web-based digital technologies might enable rural or underprivileged groups to access law more effectively than they could without technology.

Despite the breadth of research on the Chinese legal aid system, and strong appeal for a wide range of technology-based network, including legal aid hotline service, web platforms, mobile social media tools, and traditional media as well, to expand the coverage of the service,<sup>7</sup> few studies in depth have examined the correlation between the availability of a robust legal information system and services and the advancement of legal aid system in China. But the legal scholars have begun to examine the issue. Zhu and Wang's study, for instance, selected and reviewed legal aid related web-based platforms, and put forwarded some suggestions to optimizing their capabilities with e-commerce model.<sup>8</sup>

## 1. The Overview of the legal aid system in China

“Legal aid” (Falv Yuanzhu) was not used as a legal term until 1996 when the *Criminal Procedure Law* was amended, and the *Lawyer's Law* was enacted.<sup>9</sup> The *Criminal Procedure Law* states that the poor, the disabled, and defendants who might receive a capital sentence, shall be appointed legal aid lawyers by the court. Before those two laws were put in effect, the *Civil Procedure Law* of 1991<sup>10</sup> stipulated that courts should assign lawyers to represent those who don't possess legal capacity when legal guardians fail to provide legal representation. However, the law doesn't use “legal aid” in the text.

Following those national laws, an administrative regulation, *Regulation on Legal Aid*, by the State Council, took effect in 2003, which constructed the legal aid system with details on both substantial and procedural aspects. This regulation established the basic framework for the system. A few national laws which emphasized the protection of vulnerable groups, such as women, minors, and the elderly, were amended accordingly to include providing legal aid

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<sup>6</sup> Pruitt, Lisa R., Kool, Amanda L., Sudeall, Lauren, Statz, Michele, Conway, Danielle M., Haksgaard, Hannah. Legal deserts: a multi-state perspective on rural access to justice, *Harvard Law & Policy Review*, 13, 2018,15-156. [2019-05-22]. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3198411](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3198411)

<sup>7</sup> Fan Chongyi. Zhongguo falv yuanzhu zhidu de jiangou yu zhanwang (The construction of and prospect of legal aid system in China), *Zhongguo Falv Pinglun (China Law Review)*, 6, 2017, 189

<sup>8</sup> Zhu, Yuling and Wang, Yilei. Woguo falv yuanzhu dianshang pingtai jianshe tanxi (Analysis of the construction of legal aid e-commerce platform in China), *Kexue Jishu Yu Falv (Science Technology and Law)*, 137(1), 2019, 78-83

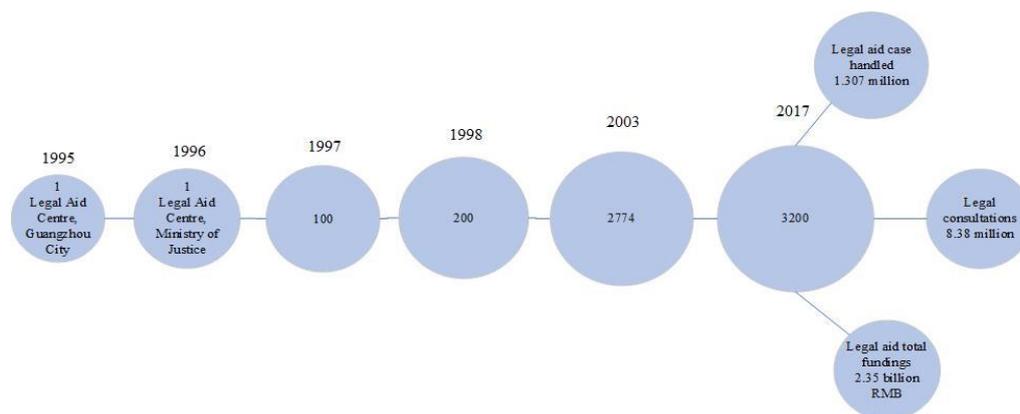
<sup>9</sup> Criminal Procedure Law of the People's Republic of China (amended in 1996); People's Republic of China Lawyers Law (amended in 1996). [2019-05-22]. Available at: [chinalawinfo.com](http://chinalawinfo.com)

<sup>10</sup> Civil Procedure Law of the People's Republic of China (1991). [2019-05-22]. Available at: [chinalawinfo.com](http://chinalawinfo.com)

service.<sup>11</sup> In addition, several legislative documents<sup>12</sup> and law state that victims should be offered legal aid lawyers in disputes related to damages from environmental pollutions.<sup>13</sup>

Starting in the mid-1990s, the number of legal aid cases increased substantially due to rapidly developing economy and social disruption across the country. The number of legal aid service providers and cases handled rose dramatically from 1995 to 2003, and has steadily increased ever since (Figure 1).<sup>14</sup> In response to the growing volume of cases, the judiciary issued a series of documents to adapt to this new legal landscape.<sup>15</sup> The legal aid system also became more comprehensive after the initial boom of the legal aid centres. Critically, the

**Figure 1: The Statistical Growth of Legal Aid Institutions in China, 1995 to 2017**



Supreme People's Court and the Ministry of Justice shifted propriety to further expand service coverage, especially for criminal cases, and to improve professionalism and standards.<sup>16</sup> The significant increase of the participation of licensed lawyers from private

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<sup>11</sup> The Law for the Protection of Women's Rights and Benefits (amended 2005), The Law for the Protection of Juveniles (amended 2006), The Law for the Protection of Disabled (amended 2008), and The Law for the Protection of Elderly' Rights and Benefits (amended 2012). [2019-05-22]. Available at: [chinalawinfo.com](http://chinalawinfo.com)

<sup>12</sup> Proposals to processing opinions, Secretariat of the 1<sup>st</sup> (2018) and 2<sup>nd</sup> meetings (2019), the Thirteenth National People's Congress. Available at: [chinalawinfo.com](http://chinalawinfo.com)

<sup>13</sup> On the Prevention and Control of Environment Pollution Caused by Solid Wasters (2016), Article 84. [2019-05-22]. Available at: [chinalawinfo.com](http://chinalawinfo.com)

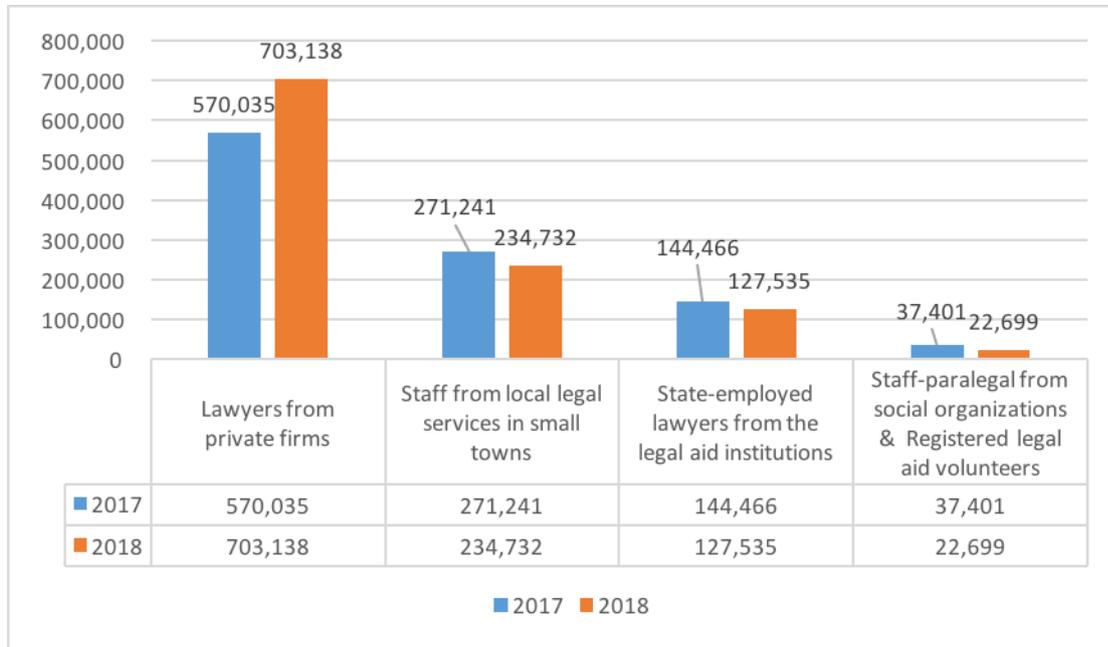
<sup>14</sup> For the statistics shown in Figure 1, see Wu, Hongyao and Zhao Changcheng. Falv yuanzhu de guanli tizhi (The management for legal aid), Journal of National Prosecutors College, 26(4), July 2018.

<sup>15</sup> Provision on the Procedures for Handling Legal Aid Cases by the Ministry of Justice in 2012, Advice on the Enhancement of Legal Aid System in 2015, co-issued and released by the General Office of the Communist Party of China and General Office of the State Council, demanded that lawyers take on more significant responsibilities. [2019-05-22]. Available at: [chinalawinfo.com](http://chinalawinfo.com)

<sup>16</sup> The Supreme People's Court and the Ministry of Justice co-issued Measures for the Trial of Full Coverage of Lawyers' Defense in Criminal Cases (2017) which proclaims that legal aid

firms from 2017 to 2018 is only one of the indicators to the efforts that the Court and the Ministry made (Figure 2). The most recent progress also includes escalating the administrative regulation on legal aid system to a national law. The new law, *The Law of Legal Aid*, is currently being drafted.

**Figure 2: Case Handled by Different Groups of Legal Aid Providers, 2017 to 2018<sup>17</sup>**



The composition of legal aid providers in China is different from some Western countries, where lawyers and administrators have separate roles with different responsibilities. Many local legal services workers in Chinese small towns are not officially attorneys, but still handle the administrative, educational, and counselling aspects of legal aid. The 3,200 government legal aid institutions shown in Figure 1 all operate in administrative regions above the county level and are spread throughout the nation. Staff in these institutions assess applications for legal aid, designate lawyers, and oversee the legal aid process. These institutions also handle legal aid case subsidies.

The statistics from 2017 to 2018 in Figure 2 illustrates a rough picture for how the caseloads are divided among the providers. The lawyers from private firms have taken close to 65% of the total cases; the staff from the legal service in small towns handled 22%, the state-employed lawyers from the legal aid centres took close to 12%, and the staff-paralegal from social organizations and registered legal aid volunteers have carried small amount of the cases.

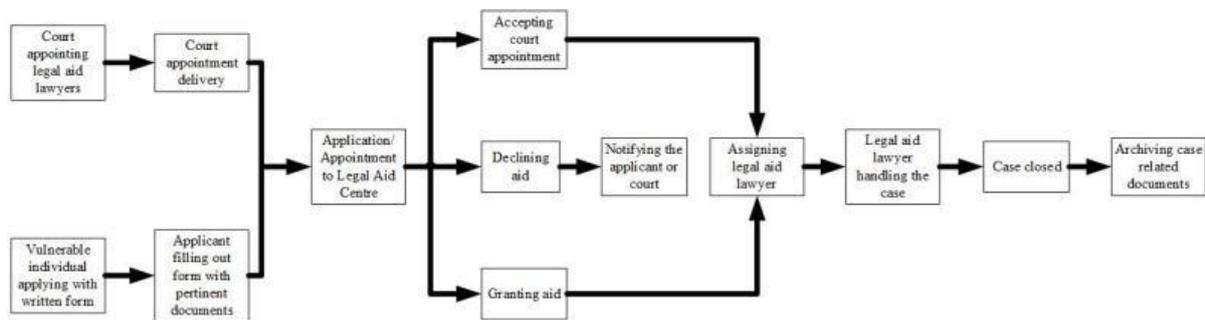
In Figure 3, a flow-chart shows how a typical legal aid case progresses from start to end.

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service may apply to all criminal cases in ordinary procedure, and is no longer limited to the five statutory circumstances listed in The Criminal Procedure Law; Specification for National Criminal Legal Aid Service was issued by the Ministry of Justice in 2019. [2019-05-22]. Available at: [chinalawinfo.com](http://chinalawinfo.com)

<sup>17</sup> 2018 national statistics on legal aid service.

**Figure 3: Sample Flow-chart for Legal Aid Service Process**



## 2. Current Status of the Legal Information System to Assist Legal Aid Service

Overall, the legal information system and accompanying services for legal aid providers and seekers remains scattered and unconsolidated, with few web-based services available. See Table 1.

The Ministry of Justice issued Advice on promoting the construction of “Public Legal Service System”<sup>18</sup> and “Public Legal Service Platform”<sup>19</sup> in 2014 and 2017, respectively. It proposed an effective digital public legal service system to help citizens, including underprivileged people, and also stressed the importance of establishing an online platform. Since then, an official web-based legal information system, *Legal Services of China*, has been launched. So far, this is the most technology-driven and informative resource on improving legal services, including legal aid.

Both *Legal Services of China* and *China Legal Aid* (in Table 1, column 3 and column 4) are affiliated with the Ministry of Justice. In addition, the Ministry of Justice, the official administrator for administering the legal aid system, has been providing some legal aid related information on its official website for years (Table 1, column 1), including guidelines and relevant documents. Moreover, the lawyer’s bar association (see example in Table 1, column 5) provides content-based legal information to licensed lawyers, though the general website and news are open to the public. The public libraries at the county level and above are obligated to provide legal information to citizens, according to the newly enacted the *Law of the Public Library of R.R.C* in 2018. However, the potential impact of this legislation is limited due to the fact that public reference librarians do not receive specialized training on how to assist people with accessing legal information.

This paper surveyed some of the websites associated with legal aid institutions, lawyer’s bar associations, educational institutions, and public libraries, and selected a group of representative samples to draw a brief picture of the available web-based legal information

<sup>18</sup> Sifabu yinfa guanyu tuijin gonggong falv fuwu tixi jianshe de yijian (Advice of the Ministry of Justice on Promoting the Construction of Public Legal Service System). [2019-05-22]. Available at: <http://politics.people.com.cn/n/2014/0219/c70731-24402576.html>

<sup>19</sup> Sifabu guanyu tuijin gonggong falv fuwu pingtai jianshe de yijian (On Promoting the Construction of Public Legal Service Platform). [2019-05-22]. Available at: <http://www.faxin.cn/>

systems and services in China. Six criteria to review the available sources are listed in Table 1.

**Table 1: Samples of the Available Legal Information System and Services Affiliated with the Legal Aid Institutions and Libraries**

	Ministry of Justice	Legal Services of China www.12348.gov.cn 中国法律服务网	China Legal Aid www.chinalawaid.gov.cn	Shanghai Bar Association Lawyers.org.cn	Fudan University Library law collection	Public libraries at municipal level Shanghai Public Library
Contents	Selected primary sources	-Selected ministerial level of documents 2013-15; -Selected case briefs, 2017.4-; -Attorney directorial information , 2013-17.	-Selected legal aid related governmental policies, rules, and reports, 2010-18; -Selected case briefs, 2010-18; -Self-help manuals for vulnerable groups.	-Commercial legal retrieval system as Chinalawinfo; -Selected case briefs; -Open access legal sources; -Directorial information; -MOOC courses on legal aid; -Some scholarship sources.	-Complete collection on laws of China in print and digital format; -Open access sources.	-Official law database -Law collection in print
Access	To the public	-Open to the public; -Registration required for Justice administrative member; -Navigating service.	Available to the public	Not to the public except for the general information	-Resources are not available to the public; -Navigating service.	-Available to the public; -Navigating service.
Services	No online legal services available	-AI consultation; -Messaging via email; -Online reference services.	No online legal services available	No online legal services available	-Law subject librarian; -Online reference services.	No online legal services available
Updates	Updated regularly	-No superseding services; -Websites daily; -Contents irregularly.	Not updated	Updated regularly	Updated regularly	Updated regularly
Search	General search for the website	Basic and advanced	Browse only, no search capacities	General search for the website	Basic and advanced	Basic and advanced
Comments	-No guides or search tools; -No links to open scholarship.	The site is informative but search results are sometimes inaccurate	Updating ceased temporarily, per the homepage announcement in Nov. 2018	-No designated column on legal aid; - No guides or finding tools.	No research guides on law	No feasible legal aid information available in the community platform

*Contents* indicates the type of sources available, i.e., primary sources (laws, regulations, rules, provisions, and the Supreme People’s Court Guiding Cases), secondary sources (commentaries to the laws, research articles, legal news), and commercial database or legal retrieval system which consolidate both primary and secondary sources with effective search tools;

*Access* indicates whether the sources are available to the public or are restricted, and whether or not the websites can be easily navigated;

*Services* reviews whether or not the designated online help provides crucial services, such as electronic generation of legal advice, a contact point users can email questions to, or an online chatting system are available;

*Updates* indicates whether or not the sites provide a superseding mechanism, and whether or not the websites offer current information on the changes of law and related matters;

*Search* reviews the search capacities of the sites, i.e., whether or not search tools, such as an index or research guides, are available, and whether or not advanced search functions and filtering capabilities are available;

*Comments* provides additional insights on the information listed in the cells.

The collection and review of the data and information are ongoing processes. The current data and info shown in the Table 1 are based on the author's best knowledge and was verified carefully before the paper was submitted.

### **3. Summaries and Analyses**

#### *Contents, Access, and Services*

From the data and information shown in Table 1, for both the legal information providers and vulnerable groups, substantial portions of the websites are incomplete and ineffectively structured. Most websites provide a rudimentary collection of laws, regulations, case reports, and analyses. The websites also don't have feasible gateways to open access legal sources.

Private lawyers may receive the full text of legal sources from their law firms' subscriptions, or from the access to the associations' subscriptions. In spite of this, unlike the systems in some Western countries (such as the United States), private law libraries in firms and public law libraries in the courts or bar associations are very rare. State-employed public lawyers and the staff from local legal services in small towns can access legal documents through open sources or some subscriptions, which are not as robust as those used in the private firms. Furthermore, China has a historical lack of systemic legal information system and services. While lawyers have access to some legal materials and sources, additional support on research is rather limited. They would greatly benefit from professionally trained law librarians and information specialists to assist the research conducted by lawyers and legal aid staff.<sup>20</sup>

Legal aid seekers need a wide range of information, from very basic, directorial and general information, to multifaceted and complex topics. The Legal Aid Flow-chart (Figure 3), shows that once the application process starts, administrators and lawyers guide legal aid applicants step by step through the application process. But prior to the process, it could be frustrating. With a possible shortage of hardware and devices to go online, some legal aid seekers may never even hear of legal aid service. Even with adequate equipment, how the information is presented and stored in the web-based platform is complicated, the structure of legal knowledge is difficult, and self-help materials are hard to find. Therefore, legal aid seekers can not retrieve all the necessary information or fully comprehend the contents. Legal aid seekers' limited ability to access online sources and assistance might cause them to instead direct their questions towards legal aid centres or neighbourhood stations; as a result, the lawyers and volunteers are swamped with many simple and repetitive inquires which

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<sup>20</sup>Legal Research courses have been offered in major Chinese university law schools, so those young lawyers have some US-style legal research skills.

could have been easily resolved at an earlier stage in the process if legal aid seekers had the proper self-help tools.

### *Search*

Regarding search functionality, the *Legal Services of China*, the newly launched legal information platform by the Ministry of Justice, Fudan University Library, and Shanghai Public Library offers sophisticated searching capabilities. Other sites only have a limited general search function.

### *Updates*

While most web-based legal resource platforms regularly update their news, they do not regularly update their legal contents. Some legal aid providers are able to get superseding service on law via commercial information retrieval system and databases, but this is not available to vulnerable communities. In fact, there are a number of open legal sources with quite complete coverage on laws and sophisticated superseding services with timely update, which need to be added to the current platforms, particularly to those legal aid institutions administrated by the Ministry of Justice.

### *Comments*

From the descriptions of the Table 1, it is clear to see the absence of legal research guides which are historically missing from the knowledge structure in China.

## **4. Strategies to Enhance the Means for Legal Aid Personnel to Access Law**

Building and improving a web-based digital legal information system and accompanying services is not an easy task for any country due to the complexity of factors that legal aid involves. In general, taking preventative approaches and preparing the necessary resources for legal aid would require a well-designed structure and system. This is especially true in China, which is both the most populous nation in the world and a nation with a rather short history of establishment of rule of law and professional development in the legal field.

Firstly, it is essential to advocate for national policies to facilitate a structured legal information system and accompanying services within academia, the court system, governmental agencies, and public research libraries to support access to legal materials and services. While this may sound too theoretical and abstract to truly advance the legal aid system, it is fundamental. In courts, law firms, bar associations, law schools, and public libraries, a group of well-educated and qualified legal information specialists should help institutions make relevant policies and establish legal information systems.<sup>21</sup>

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<sup>21</sup> See Liu, Joan Lijun, Luo, Wei, Introducing legal knowledge and process-based pedagogy into the LIS curriculum in China: essential or auxiliary? IFLA Library. [2019-05-22]. Available at: [library.ifla.org](http://library.ifla.org). The paper describes the inadequacy of the legal information system and specialists in China. It draws the link between the dated curriculum of the Library Information Studies (LIS) program and underdevelopment of law librarianship in China.

For vulnerable groups, web-based tutorial tools with well-structured websites might work well for obtaining legal texts such as forms. Nevertheless, information specialists can't be replaced, even in the most skilfully designed self-help systems.

Secondly, when law librarians and legal specialists become stronger with more access to resources, the partnerships formed between them (nationally or even internationally) could produce research guides and analytical instructions to further improve services: these could help address common and universal problems, such as rights claims and compensation for environmental harms, as well as the rights of migrant works and immigrants.

Thirdly, when compiling legal sources for websites of legal aid institutions, it is essential to promote and connect open access resources for secondary sources on legal aid cases or disputes. On primary sources, such as laws, regulations, court reports, and ministerial documents and updates, law librarians should work with IT experts to create discovery tools that provide easier access to available legal texts or forms.

Lastly, utilizing technology to improve website quality, to adopt social media and libraries' mobile applications, and to deliver legal information more effectively, could be vital to future generations who need legal aid.

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