

CHINA

Mid-term Report - Review of the implementation of recommendations with respect to the rule of law and the role of human rights defenders accepted by China during the UPR in 2018

Lawyers for Lawyers Foundation

PO Box 15732

1001 NE Amsterdam

The Netherlands

T +31 (0) 20 717 13 27

E Info@lawyersforlawyers.org

www.lawyersforlawyers.org

Lawyers' Rights Watch Canada

126-1644 Hillside Avenue, PO Box 35115 Hillside

Victoria, BC, Canada, V8T 5G2

E lrwc@lrwc.org

www.lrwc.org

I. Introduction

1. Lawyers for Lawyers ('**L4L**') and Lawyers' Rights Watch Canada ('**LRWC**') seek to assess the human rights performance of states with respect to the rule of law and the role of lawyers through the Universal Periodic Review (the '**UPR**'). The Report of the Working Group on the UPR dated 26 December 2018¹ (the '**Report**') contains five (5) recommendations with respect to the rights of lawyers in China. In the corresponding addendum to the Report dated 15 February 2019² (the '**Addendum**'), China responded by accepting three (3) of these recommendations (set out below under III).
2. This mid-term report examines the extent to which China has implemented these three recommendations two (2) years after accepting them. To that end, this document contains an overview of the accepted recommendations, discusses the importance of implementing effective mechanisms to protect human rights, and addresses the current status of China's implementation of each of the accepted recommendations.
3. This submission makes reference to China's obligations under customary international law, the Universal Declaration of Human Rights ('**UDHR**'), the International Covenant on Civil and Political Rights ('**ICCPR**') which China signed on 5 October 1998,³ the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment ('**CAT**') which China ratified on 4 October 1988, and the United Nations ('**UN**') Basic Principles on the Role of Lawyers ('**Basic Principles**').⁴

II. Executive Summary

4. During the 2018 UPR, China received and accepted three recommendations pertaining to
 - a) the effective protection of lawyers against harassment,
 - b) access to lawyers, and
 - c) the right of freedom of expression of lawyers.
5. This submission outlines findings of L4L and LRWC as to the extent to which China has implemented these three accepted recommendations and concludes that China has not adequately implemented them. China has failed to respect the rights of lawyers by not adequately enabling them to perform their professional functions without intimidation, hindrance, harassment or improper interference. Furthermore, China has failed to take substantive steps to uphold the right to a fair trial and to guarantee the equal right of everyone to effective access to justice and legal assistance of their choice.

L4L and LRWC recommendations

- a. Respect the rights of lawyers by guaranteeing that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and ensuring that lawyers are not being subjected to arbitrary detention, improper criminal charges, disbarment or other disciplinary measures on improper grounds, in accordance with Articles

¹ Report of the Working Group on the Universal Periodic Review: China, A/HRC/40/1 6, 26 December 2018

² Report of the Working Group on the Universal Periodic Review: China: Addendum, A/HRC/40/1 6, 15 February 2019

³ The Vienna Convention on the Law of Treaties, 23 May 1969, in force on 27 January 1980, states in Article 18 that when a State signs a treaty it is "obliged to refrain from acts which would defeat the object and purpose of a treaty."

⁴ The UN Basic Principles on the Role of Lawyers provide a concise description of international norms relating to the key aspects of the right to independent counsel. The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on 7 September 1990. Subsequently, the UN General Assembly "welcomed" the Basic Principles in their 'Human rights in the administration of justice' resolution, which was adopted without a vote on 18 December 1990 in both the session of the Third Committee and the plenary session of the General Assembly.

16(a) and (c), 23 and 27 of the Basic Principles; Articles 7, 9, 14 and 19 of the ICCPR; and Articles 3, 5, 7, 11 and 19 of the UDHR. China should implement recommendation 28.216 fully and without any delay;

- b. Uphold the right to fair trial, and guarantee everyone's right to effective access to justice and legal assistance of their choice, in line with the Preamble and Principle 1 of the Basic Principles, Article 14 of the ICCPR, and Article 11 of the UDHR. China should implement recommendation 28.218 fully and without any delay;
- c. Guarantee that lawyers may exercise their right to freedom of expression, belief, association and peaceful assembly as set out in Article 23 of the Basic Principles; Articles 18, 19 and 21 of the ICCPR; and Articles 19 and 20 of the UDHR. China should implement recommendation 28.340 fully and without any delay.

III. UPR recommendations accepted by China

- 6. In the Addendum⁵, China decided to accept the following recommendations (the '**Accepted Recommendations**') pertaining to the rights of lawyers:
 - a) guarantee the protection of lawyers against any form of harassment, violence or attempts to impede or interfere with the defence of their clients, in accordance with national law (Recommendation 28.216 – submitted by Finland);
 - b) guarantee fair trials; allow all defendants unhindered access to their chosen lawyers, prompt notification of their families and transparent legal procedures (Recommendation 28.218 – submitted by Germany); and
 - c) take immediate action to allow human rights defenders and lawyers to exercise their right to freedom of expression and opinion without threats, harassment or repercussions (Recommendation 28.340 – submitted by Ireland).
- 7. In the Addendum, China stated that each of the Accepted Recommendations had already been implemented at the time of acceptance. However, L4L and LRWC find that, in fact, these recommendations have not been implemented as of 12 August 2021. As discussed below, L4L and LRWC have received reliable information about:
 - a) a continuation of judicial harassment, including illegitimate criminal charges, arbitrary detention, and torture and ill-treatment of lawyers in custody;
 - b) an increase in cases of administrative harassment, such as the revocation of licenses to practice law on illegitimate grounds; and
 - c) regulations⁶ on obtaining and renewing licenses that violate lawyers' rights to freedom of opinion, expression, association, and peaceful assembly by stipulating, among other things, that:
 - i. lawyers are prohibited from expressing online or offline opinions that may 'endanger national security', which overbroad and vague language violates the customary international law principle of legality; and
 - ii. lawyers are prohibited from showing support for demonstrations.

⁵ Report of the Working Group on the Universal Periodic Review: China: Addendum, A/HRC/40/6/Add.1, 15 February 2019, retrieved from: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/40/6/Add.1.

⁶ In many cases the Chinese authorities invoke the "Lawyers Practicing Management Measures" and "Law Firms Management Measures", used to suspend or revoke a lawyers' right of practice.

IV. The importance of effective mechanisms for the protection of human rights

8. Lawyers are fundamental to improving human rights for all people in China and must be able to work independently without fear of harassment or intimidation.
9. The adequate protection of human rights and fundamental freedoms requires that every one has effective access to justice and legal assistance. In order to guarantee effective access to justice and legal assistance, it is of paramount importance that a judicial system is in place in which lawyers, judges, and prosecutors are able to carry out their professional activities independently and without undue external pressure or interference.⁷ This principle is grounded in the UDHR and the ICCPR and explicitly set out in the Basic Principles, among other international human rights standards.
10. In discharge of its obligation to promote and maintain an effective legal system, the government of China is obligated to respect the UDHR, the ICCPR and the Basic Principles and use these documents as the cornerstones for the framework of its national legislation and practice. Adherence to the Basic Principles is a fundamental pre-condition for fulfilling the requirement that all persons have equal and effective access to legal assistance and representation.
11. L4L and LRWC welcome China's commitment to the Accepted Recommendations. L4L and LRWC believe that flowing from this commitment to the Accepted Recommendations is a commitment of the government of China to ensuring the protection of lawyers, as without this the implementation of the Accepted Recommendations cannot be realised.
12. However, China's statement that the Accepted Recommendations have already been implemented is contrary to reports gathered by L4L and LRWC both before and since publication of the Addendum. Numerous reports of arbitrary detention and suppression of lawyers' rights convincingly indicate that, in practice, China does not uphold safeguards necessary to ensure the proper functioning of the legal system and the role of lawyers. Lawyers in China encounter severe restrictions and external pressure in carrying out their professional duties. Hundreds of lawyers have experienced arbitrary detention, torture, or other violations of their fundamental rights and freedoms as a result of their lawful representation of their clients.

V. Respecting the rights of lawyers

a. Harassment and criminal prosecution of lawyers

13. L4L and LRWC have long been concerned about attempts to harass and disrupt the work of lawyers in China who work on cases that engage human rights. The right of lawyers to perform their professional activities without hindrance are often not respected.
14. In accordance with Principle 16(a) of the Basic Principles, governments must ensure that lawyers "are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference".
15. Throughout the review period, L4L and LRWC have seen a multitude of cases where authorities in China have systematically failed to meet their obligations under the UDHR, the ICCPR, and the Basic Principles.

⁷ See for example the Report of the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, submitted in accordance with Human Rights Council resolution 8/6, 28 July 2009, A/64/181, par. 12: 'lawyers are not expected to be impartial in the manner of judges yet they must be as free as judges from external pressures and interference. This is crucial if litigants are to have trust and confidence in them'.

16. L4L and LRWC have identified cases in which lawyers are hindered in the execution of their professional functions by threats, intimidation and judicial harassment. Lawyers in China working on sensitive cases have been subjected to harassment, improper interference, illegitimate prosecutions, unfair trials, incommunicado detention, enforced disappearance, arbitrary deprivation of liberty, and denial of access to an independent, impartial and competent judiciary to determine criminal charges and rights to remedies.
17. The increase of arrests, arbitrary detention, and illegitimate criminal prosecution of lawyers in China that have taken place since the UPR of China in 2018, stands in stark contrast to the safety guaranteed to lawyers under the Basic Principles. Interference in the work of lawyers in the form of arrests, arbitrary detention and illegitimate prosecution results in violations of the right to a fair trial under article 14 of the ICCPR. The UN Human Rights Committee has stated that “lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognized professional ethics without restrictions, influence, pressure or undue interference from any quarter.”⁸ In addition, illegitimate actions taken against the lawyers violate the right to a fair trial of the clients they represent, because it deprives them of legal representation of their own choosing and restricts access to justice for people in China in an impermissible manner.⁹
18. L4L and LRWC have identified a multitude of cases that highlight the ongoing and systematic harassment and criminal prosecution of lawyers in China. In these cases, the rights set out in the UDHR, ICCPR, CAT or Basic Principles have been violated with respect to lawyers in China. The summaries of individual cases in this report contain only information available from public sources.

Qin Yongpei

On 31 October 2019, Qin Yongpei was detained in an apparent retaliation for criticizing the corruption of high-level Chinese officials on social media after police raided his office.¹⁰ He was charged with “inciting subversion of state power” more than a month after his arrest and has been in police custody ever since. The Nanning police has continuously refused requests by Qin Yongpei’s lawyers to meet their client but did bring in Mr. Qin’s two daughters for questioning.

In the months after his arrest, Mr. Qin’s case was transferred back and forth between different authorities. Meanwhile, the potential spread of COVID-19 was invoked as a reason to deny him visitation from family and legal representation. Additionally, L4L and LRWC have received reports that authorities in China repeatedly visit and harass Mr. Qin’s family.

On 26 May 2020, Qin Yongpei was allowed to meet his lawyer for the first time since his arrest in 2019. Three days later the Nanning procuratorate sent its decision to prosecute Mr. Qin for “inciting subversion of state power” to the Nanning Intermediate People’s Court. Mr. Qin remains in custody to this day.

On 4 February 2021, Qin Yongpei has met with his lawyer at the Nanning Municipal No. 1 Detention Centre. At the time of submission of this report, no court date had yet been set by The Nanning Intermediate’s People’s Court.¹¹

⁸ Human Rights Committee, General Comment No. 32, Article 14: Right to equality before court and tribunals and to a fair trial, 23 August 2007, CCPR/C/GC/32, par. 34.

⁹ ICCPR, Art. 14.

¹⁰ L4L, *Letter on the ongoing detention and judicial harassment of Qin Yongpei* (16 April 2020)

<https://lawyersforlawyers.org/letter-on-the-ongoing-detention-and-judicial-harassment-of-qin-yongpei/>

¹¹ Frontline Defenders, *Qin Yongpei; HRD, Lawyer & Founder (n.d.)*, <https://www.frontlinedefenders.org/en/profile/qin-yongpei>; L4L, *One year since the formal arrest of Qin Yongpei* (3 December 2020) <https://lawyersforlawyers.org/one-year-since-the-formal-arrest-of-qin-yongpei/>.

Chang Weiping

Since 2013, Chang Weiping has represented victims of workplace discrimination over HIV/AIDS, litigated cases involving defective vaccines and defended rights activists. He was arrested in January 2020 after he attended a gathering of lawyers and activists in Xiamen after the mass arrests during the '1226 crackdown'. After the arrest Chang Weiping was held under RSDL, in this case, a hotel, for 10 days. His license to practice law was suspended.

Mr. Chang was arrested again by the Baoji City Public Security Bureau on 22 October 2020. His arrest followed six days after he openly accused Baoji police of torture during his January hotel detention.

Mr. Chang currently remains under RSDL for charges of "subversion of State power" and his requests for legal representation is being systematically denied. Applications for bail have been rejected several times, the last time on 11 March 2021. To date, Mr. Chang's whereabouts are unknown and he has not been able to meet with his lawyers or family.¹²

Li Yuhan

In November 2019, after being held in detention since October 2017, human rights lawyer Li Yuhan told her lawyer that the court had said that she only would be allowed to practice law again after release if she confessed to the supposed crime of "picking quarrels and provoking trouble".¹³ She refused, insisting that she had not committed any crime. Li Yuhan's trial has already been postponed several times and her court date has currently been set on 27 August 2021.¹⁴

Li Yuhan has several urgent medical conditions (arrhythmia, coronary heart disease, unstable angina, hyperthyroidism, acute erosive gastritis, cerebral concussion, among others) but has been denied the necessary medical treatment. Applications for bail have been denied. Attempts by her brother to provide her with the necessary medication were stopped by the authorities. The current status of Li Yuhan's health is unknown. On 11 July 2021 Li Yuhan was able to meet her lawyer and told him that she is still being pressured to confess by the authorities.¹⁵

Ding Jiayi

Beijing lawyer Ding Jiayi was detained by Shandong police on 26 December 2019 as part of a mass arrest known as the '1226 Crackdown'. The Shandong police searched his home and confiscated his computer, phone, and other personal belongings without presenting any arrest warrant. After his arrest, Ding Jiayi was held in RSDL for 326 consecutive days, during which he was subjected to torture. For a long time, requests to see his lawyer were denied on grounds of 'endangering national security'. Since January 2021, Ding Jiayi has been able to meet with his lawyers.¹⁶

¹² Frontline Defenders, *Chang Weiping: HRD, Lawyer* (n.d.) <https://www.frontlinedefenders.org/en/profile/chang-weiping>; Amnesty International, *China: Lawyer shares allegations of torture, detained: Chang Weiping* (16 November 2020) <https://www.amnesty.org/en/documents/asa17/3333/2020/en/>; L4L, *Concerns about the suspension of the legal practicing licenses of Yang Bin en Chang Weiping* (4 March 2021) <https://lawyersforlawyers.org/concerns-about-the-suspension-of-the-legal-practicing-licenses-of-yang-bin-en-chang-weiping/>; L4L, *Joint statement on the continued enforced disappearance of Chang Weiping* (26 May 2021), <https://lawyersforlawyers.org/joint-statement-on-the-continued-enforced-disappearance-of-chang-weiping/>.

¹³ L4L, *Letter on the ongoing detention of Li Yuhan* (9 October 2020) <https://lawyersforlawyers.org/en/letter-on-the-ongoing-detention-of-li-yuhan/>.

¹⁴ Frontline Defenders, *Li Yuhan's Health Deteriorates and Under Duress to Confess* (14 July 2021), <https://www.frontlinedefenders.org/en/case/li-yuhans-health-deteriorates-and-under-duress-confess>.

¹⁵ Id.

¹⁶ L4L, *Ding Jiayi* (19 June 2019) <https://lawyersforlawyers.org/advocaten/ding-jiayi/>; Frontline Defenders, *Case History: Ding Jiayi* (16 October 2016), <https://www.frontlinedefenders.org/en/case/case-history-ding-jiayi>.

At the time of his arrest, Ding Jiayi was charged with “inciting subversion of state power”. In January 2021 these charges were changed to 'subverting state power', which carries a maximum sentence of life imprisonment.¹⁷

Yu Wensheng

The Beijing lawyer Yu Wensheng was arrested on 19 January 2018, one day after he published an open letter calling for reforms such as the holding of fair elections. In May 2019 he was secretly tried at the Xuzhou Municipal Intermediate Court. His two lawyers had not been informed, nor had the court published a notice about the trial as required by regulations.

On 17 June 2020, the Xuzhou Intermediate People's Court convicted Yu Wensheng of 'inciting subversion of State Power' and sentenced him to four years' imprisonment, followed by three years' deprivation of political rights.

On 14 August 2020 Yu Wensheng was permitted to meet a lawyer of his choice for the first time. His application for bail has been rejected.¹⁸ Yu Wensheng's wife confirmed that he has serious health problems and that his health continues to deteriorate whilst being held in prison.¹⁹

b. Disciplinary measures on improper grounds

19. Second, L4L and LRWC observe an increase in instances of lawyers who have been subjected to disciplinary measures on improper grounds such as the revocation of licenses of lawyers to practice law. These practices lawyers from the ability to adequately defend their clients and themselves.
20. Lawyers face administrative harassment as a direct result of the implementation of two Ministerial directives (MoJ Directive 133 and 134), which have now been incorporated into Articles 58 and 59 of the Administrative Measures for Law Firms Act.²⁰ This Act has governed lawyers and law firms in China since 1 November 2016. To practice law, lawyers in China need to have a license. Once issued, this license must be renewed annually. The Justice Bureau, a lower-level executive branch of the Ministry of Justice of China, together with the All China Lawyers Association ('ALCA') issues the licenses and decides which lawyers and law firms have their licenses renewed or revoked. Lawyers and law firms are pressured to act in accordance with the commands of the Justice Bureau and the ALCA, because they otherwise risk losing their license to practice law. The Bureau and the ALCA revoke the licenses of lawyers who do not pass their inspection and suspend the licenses of lawyers who have not been employed by a law firm for six months.²¹
21. The administrative procedure to revoke, not renew or suspend a lawyer's license to practice law provides no access to an independent decision-maker to oppose or appeal a decision. Articles

¹⁷ L4L, *Joint Statement on the concerning developments in de case of Ding Jiayi* (26 May 2021), <https://lawyersforlawyers.org/joint-statement-on-the-concerning-developments-in-the-case-of-ding-jiayi/>.

¹⁸ L4L, *Yu Wensheng* (n.d.) <https://lawyersforlawyers.org/advocaten/yu-wensheng/>; Frontline Defenders, *Yu Wensheng sentenced, and transferred from the Xuzhou detention centre to the Nanjing prison* (16 March 2021), <https://www.frontlinedefenders.org/en/case/yu-wensheng-detained-and-charged-disrupting-public-service>; Amnesty International, *China: Wife of detained lawyer Yu Wensheng tells of ongoing fight for justice* (9 July 2020), <https://www.amnesty.org/en/latest/campaigns/2020/07/wife-of-yu-wensheng-tells-on-fight-for-justice/>; Martin Ennals Award, *Yu Wensheng, a lawyer who held his government to account*, (12 February 2021) <https://www.martinennalsaward.org/yu-wensheng-a-lawyer-who-held-his-government-to-account/>.

¹⁹ L4L, *Concerns about deteriorating health Yu Wensheng*, (17 June 2021), <https://lawyersforlawyers.org/concerns-about-deteriorating-health-yu-wensheng/>.

²⁰ Administrative Measures for Law Firms Act. Retrieved from: <https://www.6laws.net/6law/law-gb/律師事務所管理辦法.htm>

²¹ Administrative Measures for Lawyers Act, art. 23. Retrieved from: <https://www.6laws.net/6law/law-gb/律師執業管理辦法.htm>

37 – 40 of The Administrative Measures for Lawyers Act includes strict rules of conduct for lawyers and law firms for obtaining and renewing licenses to practice. For example:

- a) lawyers are prohibited from expressing online or offline opinions that may ‘endanger national security’ or ‘incite people’s irritation against the Chinese Communist Party’.
- b) lawyers must refrain from expressing opinions or “distorting the facts” that could lead to people to “disturb the public order”.
- c) lawyers are also not allowed to demonstrate or participate in any petitions or showing any support to such demonstrations or petitions; lawyers must not “shout slogans” or engage in “maliciously hyping a case” that could cause insult to others.

22. When a lawyer’s license is suspended, procedurally, this means that the lawyer in question may reapply for a license and possibly practice law again in the future. However, L4L and LRWC have received information that for human rights lawyers, suspension effectively means revocation, as the authorities are unlikely allow their re-application.
23. According to the information received, these administrative instruments are being used by authorities in China to silence human rights lawyers working on sensitive cases. The Justice Bureau can simply decide not to renew or withdraw the license of a particular human rights lawyer in the event the authorities perceive the lawyer in question as ‘problematic’ for providing legal representation for sensitive cases.
24. According to Principle 16 (c) of the Basic Principles, governments shall ensure that “lawyers shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics”.
25. Furthermore, lawyers, like any other individuals, have the right to freedom of expression. In particular, they have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights. This right is guaranteed under Article 19 of the ICCPR and Principle 23 of the Basic Principles. Lawyers’ right to freedom of expression in connection to their professional capacity under the Basic Principles, the UDHR and the ICCPR, extends to legal advocacy in the protection of the rights of their clients. Lawyers must be enabled to effectively protect the rights and interests of their clients. This should include, for example, the use of social media platforms to inform the public about human rights law. The cases stated under paragraph 18 show that freedom of expression and opinion remains under pressure in China. Examples include Qin Yongpei and Yu Wensheng.
26. Several international institutions, including the UN Special Rapporteur on the independence of judges and lawyers, have expressed concerns about situations where the “entry into or continued practice within the legal profession is conditioned or controlled by the executive or the judicial branch.”²² The Special Rapporteur cautioned that in such situations, State authorities may use their own “prerogatives to prevent certain individuals from entering the legal profession or to exclude lawyers who they deem to be ‘problematic’ through the arbitrary withdrawal of lawyers’ licenses, registration or practising certificates.”²³ It should be the legal profession itself that independently determines admission requirements and procedures and be responsible for both the administration of examinations and other requirements and for the granting of professional licenses.

²² See Special Rapporteur 2018 Report, para. 60.

²³ Special Rapporteur 2018 Report, para. 60 (emphasis added).

27. Below, are summaries of some of the many cases in which lawyers are have been subjected to disciplinary measures on improper grounds.

Ren Quanniu

Ren Quanniu is one of two Chinese lawyers involved in defending one of the 12 Hong Kong human rights activists who were caught at sea while trying to flee to Taiwan. Authorities refused to allow him access to his client and threatened him not to continue with the case. His license to practice law was revoked on 2 February 2021 and his law firm was ordered to disband on 28 March 2021.²⁴

Lu Siwei

Lu Siwei is a Chengdu-based human rights lawyer who is outspoken about incidents of social injustice and the suffering of vulnerable groups. His work has focused on issues, such as freedom of expression, enforced disappearances, and torture.

Recently, Lu Siwei has defended fellow human rights lawyers who are facing criminal prosecution, or who have already been convicted. These human rights lawyers include Qin Yongpei and Yu Wensheng. He also represented one of the 12 Hong Kong human rights activists who were caught at sea while trying to flee to Taiwan. On 18 January 2021, Lu Siwei's lawyer's license was revoked, because of "inappropriate" and "malicious" online expressions which have "harmed national security".²⁵

Zhou Ze

On 7 January 2021, Zhou Ze's license was suspended for a year after he posted videos on social media showing police using torture to extract confessions from witnesses and a defendant he was representing. The Justice Bureau said in its ruling that Zhou had 'violated the lawyers' code of conduct in order to "influence a case that is proceeding through inappropriate methods".²⁶

Xi Xiangdong

On 27 January 2021, Xi Xiandong was notified that his lawyer's license would be revoked. Xi Xiangdong has represented multiple victims of human rights abuses, including human rights lawyers who have been detained because of their work. Authorities stated that Xi Xiandong's license was revoked for 'disrupting order in a court' as he allegedly repeatedly disrupted the judge and the prosecutor's speeches and spoke without the judge's permission during a trial.²⁷

²⁴ Frontline Defenders, *Ren Quanniu: HRD, Lawyer*, <https://www.frontlinedefenders.org/en/profile/ren-quanniu>.

²⁵ Frontline Defenders, *Lu Siwei's Lawyer's License Revoked* (25 January 2021), <https://www.frontlinedefenders.org/en/case/upcoming-hearing-revocation-human-rights-lawyer-lu-siwei%E2%80%99s-license>; Hong Kong Free Press, *Lawyer who handled 'Hong Kong 12' case loses legal licence* (15 January 2021), <https://hongkongfp.com/2021/01/15/lawyer-who-handled-hong-kong-12-case-loses-legal-licence/>.

²⁶ L4L, *Concerns about the revocation of licenses of Xi Xiangdong and Zhou Ze and suspension of Peng Yonghe's license* (4 March 2021) <https://lawyersforlawyers.org/concerns-about-the-revocation-of-licenses-of-xi-xiangdong-and-zhou-ze-and-suspension-of-peng-yonghes-license/>; Defend Lawyers, *China: Chinese lawyer suspended after posting videos of alleged police torture*, <https://defendlawyers.wordpress.com/2021/01/08/china-chinese-lawyer-suspended-after-posting-videos-of-alleged-police-torture/>.

²⁷ L4L, *Concerns about the revocation of licenses of Xi Xiangdong and Zhou Ze and suspension of Peng Yonghe's license* (4 March 2021) <https://lawyersforlawyers.org/concerns-about-the-revocation-of-licenses-of-xi-xiangdong-and-zhou-ze-and-suspension-of-peng-yonghes-license/>; Radio Free Asia, *Human Rights Lawyer Faces Loss of License in China's Shandong* (28 January 2021) <http://www.rfa.org/english/news/china/lawyer-license-01282021182826.html>; Council of Bars and Law Societies of Europe, *Letter on the Intention to revoke the license of lawyer Xi Xiangdong* (11 February 2021) https://www.cbbe.eu/fileadmin/speciality_distribution/public/documents/HUMAN_RIGHTS_LETTERS/China_-_Chine/2021/EN_HRL_20210211_China_Intention-to-revoke-the-licence-of-lawyer-Xi-Xiangdong.pdf.

Peng Yonghe

Peng Yonghe, a Chinese lawyer who has handled Falun Gong cases and has represented dissidents, received a notice that his legal license would be revoked on 29 January 2021. His legal license is officially suspended, because he had not been hired by a law firm since last spring. According to China's regulations, a lawyer's license can be suspended if they have not been employed by a law firm for over six months. However, multiple law firms had expressed interest in employing Peng but were warned by the authorities not to hire him because Peng was "too political".²⁸

Yang Bin

In August 2020 Guangdong-based civil rights lawyer Yang Bin was informed that the Chinese authorities were planning to suspend her license to practice law. The authorities took this measure after Yang Bin sheltered fugitive rights activist Xu Zhiyong. She had also taken on several human rights cases against the government.²⁹

VI. Access of lawyers to their clients and access of lawyers to legal representation

a. Access of lawyers to clients

28. The Basic Principles provide that governments "shall ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention".³⁰ In addition, the Basic Principles provide that "all arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality". Such access may serve as a preventive measure against ill-treatment, coerced self-incriminations and confessions or other violations of the rights of the suspect.³¹
29. According to the information received, lawyers from China often experience difficulties with access to clients in detention, especially when working on sensitive cases. According to our information, lawyers are regularly prevented from meeting with clients. L4L and LRWC have received information about multiple cases in which detained lawyers has been denied access to a lawyer, including Li Yuhan, Yu Wensheng, Qin Yongpei, Ding Jiaxi and Chang Weiping (see paragraph 18). In some cases, lawyers have no access to appropriate information, files and documents within sufficient time to provide effective legal assistance to their clients.

²⁸ L4L, *Concerns about the revocation of licenses of Xi Xiangdong and Zhou Ze and suspension of Peng Yonghe's license* (4 March 2021) <https://lawyersforlawyers.org/concerns-about-the-revocation-of-licenses-of-xi-xiangdong-and-zhou-ze-and-suspension-of-peng-yonghes-license/>; Chines Human Rights Defenders, *Alleged Torture of Detainees, Disappearance of Vaccine Safety Advocates & Revocation of Lawyers' Licenses* (31 January 2021) <https://www.nchr.org/2021/01/alleged-torture-of-detainees-disappearance-of-vaccine-safety-advocates-revocation-of-lawyers-licenses/>; Radio Free Asia, *Lawyer of dissident jailed for supporting Hong Kong democracy movement beaten* (11 June 2019) www.rfa.org/english/news/china/lawyer-beating-06112019135814.html.

²⁹ L4L, *Concerns about the suspension of the legal practicing licenses of Yang Bin and Chang Weiping* (4 March 2021) <https://lawyersforlawyers.org/concerns-about-the-suspension-of-the-legal-practicing-licenses-of-yang-bin-en-chang-weiping/>; Radio Free Asia, *'I feel pretty helpless right now': Guangdong rights attorney Yang Bin* (14 August 2020) <https://www.rfa.org/english/news/china/attorney-08142020103650.html>.

³⁰ U.N. Basic Principles on the Role of Lawyers, Principle 7.

³¹ Human Rights Committee, General Comment No. 20 on article, 7 A/44/40, par. 11.

b. Free choice of legal representation

30. The Basic Principles provide that all persons, including lawyers, are entitled to assistance of a lawyer of their choice. The authorities also have an obligation to inform such persons of their right to a lawyer of choice.³²
31. The following case shows that China does not comply with the right to a counsel of one's own choosing.

Wang Quanzhang

In August 2015, human rights lawyer Wang Quanzhang was arrested in the context of the “709 crackdown”. Mr. Wang disappeared for months before he was charged in January 2016 with ‘subversion of state power’. Before the start of the trial on 26 December 2018, Mr. Wang was held for over three years without any form of due process. Further, he was not given access to an independent legal counsel of his choosing and has been denied access to his family lawyer, who was allegedly intimidated into withdrawing from his case. On 28 January 2019, Mr. Wang was sentenced to 4,5 years in prison. On 5 April 2020, Mr. Wang was released after having completed his prison sentence.³³

³² U.N. Basic Principles on the Role of Lawyers, Principle 1, 5 and 27.

³³ L4L, *Trial against Wang Quanzhang* (27 December 2018), <https://lawyersforlawyers.org/21087/>; L4L, *Wang Quanzhang sentenced to 4,5 years in prison* (31 January 2019), <https://lawyersforlawyers.org/wang-quanzhang-sentenced-to-45-years-imprisonment/>; L4L, *Wang Quanzhang reunited with his family in Beijing* (28 April 2020), <https://lawyersforlawyers.org/wang-quanzhang-reunited-with-his-family-in-beijing/>.

VIII. Conclusion

32. During the 2018 UPR, China received and accepted three recommendations with respect to the effective protection of lawyers, including recommendations pertaining to the protection of lawyers against harassment, access to lawyers, and to the right of freedom of expression of lawyers.
33. China has, to date, not implemented recommendations 28.216, 28.218, and 28.340. In contrast, the above examples show that China has suspended or revoked practicing licenses for the purpose of suppressing civil rights and hindering the work of human rights lawyers. China's authorities have failed to respect the rights of lawyers and have not enabled lawyers to perform their professional functions without intimidation, hindrance, harassment or improper interference. Over the last several years, hundreds of lawyers have been harassed, criminally prosecuted, suspended or barred from practicing law for conducting their legitimate work representing clients on politically sensitive cases or publicly speaking out on sensitive issues.
34. Furthermore, L4L and LRWC have observed that sanctions against lawyers are being imposed by China at an increasingly early stage. These sanctions include various forms of judicial or administrative harassment, as discussed above. In practice lawyers are being silenced, which causes a detrimental effect on the exercise of the right to freedom of expression and deprives lawyers of the ability to defend their clients and themselves.
35. Therefore, L4L and LRWC urge China to:
 - a) respect the rights of lawyers, guarantee that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and guarantee that lawyers are not subjected to arbitrary detention, torture or ill-treatment, enforced disappearance, disbarment or other disciplinary measures on illegitimate grounds, in accordance with Principles 16(a) and (c), 23 and 27 of the Basic Principles, the ICCPR and the CAT. China should implement recommendation 28.216 fully and without any delay;
 - b) uphold the right to fair trial and guarantee that every citizen has effective access to justice and legal assistance of their choice, in accordance with UDHR, ICCPR, and the Preamble and Principle 1 of the Basic Principles. China should implement recommendation 28.218 fully and without any delay;
 - c) allow lawyers to exercise their right to freedom of expression, opinion, belief, association and peaceful assembly as laid down in Article 23 of the Basic Principles and ICCPR Article 19. China should implement recommendation 28.340 fully and without any delay.

About Lawyers for Lawyers

Lawyers for Lawyers (L4L) is an independent, non-political and not-for-profit lawyers' organization established in 1986. Our mission is to promote the independent functioning of lawyers and the legal profession across the world in accordance with internationally recognized norms and standards, including the Basic Principles on the Role of Lawyers. Our work to support lawyers who are at risk as a result of discharging their professional duties, seeks to protect them from threats, risks and reprisals, strengthens their international recognition and protection in laws, policies and practices, and empower them to fulfil their role as essential agents of the administration of Justice. Lawyers for Lawyers was granted special consultative status with the UN Economic and Social Council in July 2013.

About Lawyers' Rights Watch Canada

Lawyers' Rights Watch Canada (LRWC) is a committee of lawyers and human rights defenders who promote international human rights, the independence and security of human rights lawyers and defenders at risk, the integrity of legal systems, and the rule of law through advocacy, education and legal research. LRWC was granted special consultative status with the Economic and Social Council of the United Nations (UN) in 2005.