



## Statement on the UPR Pre-sessions 45 By The 29 Principles

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- Concerning the lawyers' rights in **China and Hong Kong**, three organisations made a joint submission together

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- These three organisations include:
- Lawyers for Lawyers (“L4L”) An independent and non-political foundation based in the Netherlands, which was established in 1986 and is funded by lawyers’ donations. L4L promotes the proper functioning of the rule of law through the free and independent exercise of the legal profession around the world. L4L has had special consultative status with ECOSOC since 2013.

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- The International Bar Association’s Human Rights Institute (“IBAHRI”)
- Established in 1947, IBA is the world's leading organisation of international legal practitioners, bar associations and law societies. It has a membership of 80,000 individual lawyers and more than 190 Bar Associations and Law Societies, spanning all continents. The IBA’s Human Rights Institute (IBAHRI), an autonomous and financially independent entity, works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide.

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- The 29 Principles
- A non-profit organisation based in London, established in 2021, which focuses on human rights lawyers based in China and Hong Kong. They work with lawyers and legal associations around the world to support human rights lawyers and uphold the rule of law, especially with reference to the UN Basic Principles on the Role of Lawyers.

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- Responses from China:
- In the UPR cycle in 2017, China accepted these recommendations but noted them as ‘already implemented’, suggesting that:
  - Human rights defenders and lawyers are able to exercise their right to freedom of expression and opinion without threats, harassment or repercussions;
  - Necessary measures have been taken to provide a safe environment for those who work on the protection and promotion of human rights.

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- Responses from China:
- In the third UPR cycle in 2017, China did not accept recommendations concerning:
  - An end to the practice of ‘Residential Surveillance at a Designated Location’ (RSDL), specifically with regard to human rights defenders and lawyers;
  - The release of all human rights defenders and lawyers and refrain from persecuting those who exercise their rights or defend others.

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- The key message of our submission is:
  - The information received from lawyers in China demonstrates that China does not uphold the necessary guarantees for the proper functioning of the legal profession as set out in the Basic Principles.
  - Consequently, lawyers encounter serious difficulties in carrying out their professional duties independently.
- This undermines the proper functioning of the judicial system, including the right to a fair trial and effective access to justice.

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- We would like to draw your attention to the following three key issues of the six outlined in our initial submission:
- Firstly: Criminal Prosecution of Lawyers
- The issue: arrests, arbitrary detention, and illegitimate criminal prosecution of lawyers
  - Lawyers are systematically targeted with national security crimes under China's Criminal Law, in particular Article 105(2): 'inciting subversion of State power'. Among 37 lawyers who were arrested en mass in 2015, half of them were later charged with national security crimes including inciting subversion of state power or provoking disturbances.
  - 'Residential Surveillance at a Designated Location' (RSDL) has continued to be used against lawyers. RSDL is a form of detention characterised by enforced disappearance at a place run by the state and surveilled by the police.
  - This form of criminal prosecution of lawyers contravenes 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".

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- Secondly: Disbarment and Other Disciplinary Measures on Improper Grounds
- The issue: deprives lawyers' of their ability to adequately defend their clients and themselves
  - Administrative instruments: For sensitive cases, the Justice Bureau can decide not to renew or withdraw the license of a particular human rights lawyer in the event that the authorities perceive the lawyer in question as 'problematic' for carrying out professional duties.
  - This contravenes the UN's Basic Principles on the Role of Lawyers: lawyers "shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards, and ethics."
  - At least 50 lawyers have had their licenses revoked since 2012.

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- Thirdly: Restrictions of lawyers' rights in Hong Kong
- The issue: implementation of the Law on Safeguarding National Security in the Hong Kong Special Administrative Region (HKNSL)
  - NSL was passed in 2020 established four crimes including session, subversion, terrorism and collusion with foreign organisation. In three years, 264 individuals were arrested with this law, including lawyers, academics, journalists, students.
  - NSL limits lawyers' rights as well as the city's commitment to human rights protection.
  - Both the CESCR and HRC expressed concern about the HKNSL's arbitrary application and lack of due process.
  - Both committees noted the potential detrimental effects on human rights focused-work and expression, including the arrest and arbitrary detention of civil society leaders and human rights defenders expressing dissenting opinions.

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- We therefore would like to make six recommendations to the government of China:
  1. Immediately release all detained human rights lawyers;

2. Guarantee detained lawyers immediate and effective access to legal counsel of their own choosing;
3. Abolish RSDL and all other forms of administrative detention;
4. Immediately halt all abuse and misuse of national security laws, including the HKSNL, aimed at arbitrarily restricting lawyers' legitimate activities.
5. Establish safeguards to guarantee the full independence, safety and effective protection of lawyers in law and practice;
6. Guarantee the effective protection of the right of freedom of expression of lawyers, especially to participant in discussions of matters concerning the law, justice, and human rights.