**China Human Rights Lawyers Concern Group’s Submission to the UN Committee on Economic, Social and Cultural Rights on Recommendation of the List of Issues to be Considered for China’s Third Periodic Review**

The role of a judiciary and administration bodies in safeguarding Covenant rights is upheld when that judiciary is independent, informed, resourced, non-biased and empowered.In order that the Committee can fully assess the ability for Covenant rights to be protected in law and defended in courts, the China Human Rights Lawyers Concern Group has prepared the following questions.

I. **Upholding an environment of respect for rule of law, including respect for international human rights law**

This section responds to paragraphs 16-18 and paragraph 31 of the State Party report (2019) and follows up on concerns expressed by the Committee in its 2014 Concluding Observations, paragraphs 9-10 and paragraph 38. It also largely raises issues relevant to ICESCR Article 2, and the discussion under General Comment No. 9 on domestic application of the Covenant and the Committee’s statement on Human Rights Defenders ([E/C.12/2016/2](https://undocs.org/en/E/C.12/2016/2)).

1. Please provide further details on the role that the courts play in upholding international human rights frameworks, including United Nations human rights framework, as valid grounds of litigation. Please provide details and statistics on how the courts cite these international human rights standards in judgements.

1. Please provide details and statistics on training programmes that judges receive since 2014 in understanding and comprehending international human rights frameworks, including United Nations human rights framework.
2. Please provide general details on what training programmes the State provides to lawyers’ associations and prosecutors on enhancing their understanding of international human rights standards, and on the extent to which the United Nations human rights framework, including the Universal Declaration of Human Rights and the human rights treaties to which China is a State party, is covered.
3. Please provide further details on the amount of funds spent nationally on legal education in empowering Chinese lawyers, including public prosecutors, to adopt international human rights frameworks, including United Nations human rights framework.
4. Please provide further details on the number of successful cases, since the last review, where international human rights frameworks, including United Nation’s human rights framework, were invoked to challenge decisions or measures, including administrative, civil and criminal measures, against Chinese activists and lawyers.

**II. Protection of the right to work for lawyers who take human rights cases**

This section further builds on the information provided by the State party in is periodic report, namely paragraph 17, and corresponds to Article 2.2 and Article 6.1 of the Covenant. It also builds on relevant elements of General Comment No. 18 on the right to work, namely its assertion that ‘the right to work, as guaranteed in the ICESCR, affirms the obligation of States parties to assure individuals their right to freely chosen or accepted work, including the right not to be deprived of work unfairly…. [which definition] emphasiz[es] the importance of work for personal development as well as for social and economic inclusion’ (paragraph 4). The General Comment continues, noting in paragraph 19 that ‘States parties have immediate obligations in relation to the right to work, such as the obligation to “guarantee” that it will be exercised “without discrimination of any kind” (art. 2, para. 2)’.

Between 2016 and 2018, the Chinese government adopted or amended two administrative regulations, the *Administrative Measures for the Practice of Law by Lawyers* and the *Measures on the Administration of Law Firms*. As outlined in [a joint submission to the UN Special Procedures](https://www.nchrd.org/2019/05/joint-analysis-of-admin-measures-for-lawyers-and-law-firms/), the two measures violate international human rights standards. The report further includes case examples of lawyers who, due to the exercise of their rights to freedom of assembly, association and expression, as well as their professional rights as lawyers, have been concretely and negatively impacted by the two measures and the repressive environment for lawyers created by the government.

From January 2017 to December 2019, at least 34 rights lawyers and three law firms have been penalised either by having their license suspended, cancelled or revoked by the judicial bureau. This compares to 20 cases over the period 2004-2014 and 9 cases over the period 2014-2016. It is clear that these administrative measures are part of an increasingly repressive political environment that harasses and punishes human rights lawyers, through blocking their right to work on the basis of the exercise of their rights and their efforts to protect the rights of others, including their economic, social and cultural rights.

1. Please provide statistics on lawyers whose licenses are suspended and / or revoked and lawyers who have been disbarred since the last review in 2014, disaggregated by sex, age, region and reason for disbarment.
2. Please provide details and statistics on the ‘compulsory measures’ imposed on lawyers, including the number of the lawyers subjected to administrative punishment and ‘criminal compulsory measures’, since the last review.
3. Please clarify the means by which the State Party ‘very few lawyers’ who have ‘violated professional ethics and professional discipline or on suspicion of involvement in criminality,’ as stated in paragraph 31 of the State Party’s report.
4. Please provide information on any delay on payments in wages, pensions and benefits for lawyers in State-owned enterprises, and on any measures taken by the Government to rectify the situation.
5. Please provide further information on the standard and criteria of the regulatory framework i.e. the annual review system, and the number of cases of disqualification or revocation of legal practicing certificates. According to CHRLCG’s information, more than 40 lawyers had their legal practicing certificates suspended or revoked due to their human rights work in the last 5 years.
6. Please provide statistics on the number of lawyers subjected to revocation of legal practicing certificates and specify the reasons for their revocation since the last review.
7. Please provide details as to the mechanism allowed for lawyers to challenge the decision of revocation of his / her legal practicing certificates.
8. Please provide information on steps taken to ensure that human rights lawyers can fully exercise their right to legally represent their clients and take part in various stages of legal procedures, including meeting their clients, as well as preparing their defence freely and without the State’s interference or threats.

According to CHRLG’s information, there are multiple cases where human rights lawyers who are detained cannot meet their defence lawyers accordingly, including but not limited to the cases of Gao Zhisheng (see JUA CHN 8/2017 and 5/2020) and Jiang Tianyong (see JUA CHN 13/2016, 3/2017, and 9/2019).

1. Please provide further details and statistics on the relationship between Chinese government organs (e.g., the Ministry of Justice, the Supreme People’s Procuratorate) and the All China Lawyers Association and clarify how conflicts of interest are handled with respect to executive committee members who are high-ranking Chinese Communist Party members.

**III. Administrative detention which hinders human rights defenders’ and lawyers’ right to work**

This section responds to paragraph 30 of the periodic State Party report (2019), and follows up on concerns expressed by the Committee in its 2014 Concluding Observations, paragraph 38. These sections refer to reports of instances where labour and human rights activists, and their lawyers, have been victims of repression and reprisals when taking up cases of violations of economic, social and cultural rights. This section is also written with reference to Article 6 Section 1 of the Covenant, which states that ‘the States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right’.

Recent years have shown that many human rights lawyers in China are subject to a Residential Surveillance at Designated Location (“RSDL”), which is said to consist of placing individuals under incommunicado detention for investigation for prolonged periods without disclosing their whereabouts amount to secret detention and is a form of enforced disappearance ([A/HRC/36/39](https://undocs.org/en/A/HRC/36/39), para. 71 and [A/HRC/19/58/rev.1](https://undocs.org/A/HRC/19/58/Rev.1) pages 36 37). Recent examples of rights lawyers being placed in incommunicado detention like RSDL include but not limited to lawyer Gao Zhisheng ([UA CHN 5/2020](https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25100)), who is identified as a lawyer and human rights defenders with fate and whereabouts currently remain unknown, and lawyer Chang Weiping, who is a human rights defender and lawyer with whereabouts currently also remain unknown [as identified by the United Nations Special Rapporteur on the Situation of Human Rights Defender, Ms. Mary Lawler](https://www.protecting-defenders.org/en/news/press-release-china-shock-continued-crackdown-human-rights-defenders-and-lawyers).

1. Please provide further information on the number of RSDL exercising on lawyers that have taken place and their durations and please describe how these RSDL have been carried out since the last review.
2. Please provide details as to the mechanism allowed for lawyers to challenge the decision of being placed under RSDL.
3. If challenge is made to the Public Security Bureau, please provide details as to the mechanism of placing a challenge against the decision of RSDL, particularly as to whether an opportunity of oral and written submission by the detainee is allowed. Please provide statistics as to the number of successful cases in overruling the decisions of RSDL pursuant to challenge made to the Public Security Bureau since the last review.
4. If challenge is made to the courts, please provide details as to the mechanism of placing a challenge against the decision of RSDL, particularly as to whether an opportunity of oral and written submission by the detainee is allowed. Please also provide details as to whether there can be lawyers representing prospective detainees of RSDL and the statistics as to the number of cases making such challenges against the decision of RSDL, and the number of cases of successful challenges since the last review.
5. Please provide details as to the mechanism that the Ministry of Justice has put in place to protect lawyers’ rights, including protection from facing criminal compulsory measures for carrying out their legitimate duties as lawyers to represent their clients.