# Lawyers' Rights

**The 29 Principles** Lawyers for Lawyers The International Bar Association's Human Rights Institute

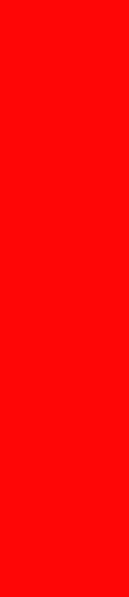
UPR Pre-sessions 45\_China



# **Responses from China**

- as 'already implemented'.
  - 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.

## In the previous UPR cycle, China accepted 284 recommendations and noted some



# **Responses from China**

- 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.

In the previous UPR cycle, China did **NOt** accept <sup>62</sup> recommendations including:



- 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.
- Lawyers encounter serious difficulties in carrying out their professional duties independently.
- Undermines the proper functioning of the judicial system, including the right to a fair trial and effective access to justice.





## Three Main Issues

### **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'.
  - This 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".
  - 'Residential Surveillance at a Designated Location' (RSDL) has continued to be used against lawyers.

Issue 1



## Three Main Issues

## **Disbarment and Other Disciplinary Measures on Improper Grounds**

- The issue: deprives lawyers' of their ability to adequately defend their clients and themselves
  - Administrative instrument: 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."

- Issue 2



## Three Main Issues

### **Restrictions of lawyers' rights in Hong Kong**

Kong Special Administrative Region (HKNSL) and lack of due process. opinions.

Issue 3

- The issue: implementation of the Law on Safeguarding National Security in the Hong
  - Limits lawyers' rights as well as the city's commitment to human rights protection. • Both the HRC and CESCR expressed concern about the HKNSL's arbitrary application
  - Both committees noted the potential detrimental effects on human rights focusedwork and expression, including the arrest and arbitrary detention of journalists, politicians, academics, students and human rights defenders expressing dissenting





## Recommendations

We recommend the government of China:

- Immediately release all detained human rights lawyers; 1.
- Guarantee detained lawyers immediate and effective access to legal counsel of their own 2. choosing;
- Abolish RSDL and all other forms of administrative detention; 3.
- Immediately halt all abuse and misuse of national security laws including the HKNSL, aimed 4. at arbitrarily restricting lawyers' legitimate activities;
- Established safeguards to guarantee the full independence, safety and effective protection 5. of lawyers in law and practice;
- Guarantee the effective protection of the right of freedom of expression of lawyers, 6. especially to participant in discussions of matters concerning the law, justice and human rights

