

ADVOCACY CHARTER LAWYERS FOR LAWYERS – UPR CHINA – 31st SESSION – NOVEMBER 2018

Lawyers for Lawyers (L4L), established in 1986, is an independent foundation merely funded by lawyers' donations. L4L is committed to safeguard the proper functioning of the rule of law through a free and independent exercise of the legal profession in accordance with international norms, including the United Nations Basic Principles on the Role of Lawyers. L4L was granted Special Consultative status with the UN Economic and Social Council in July 2013.

Stakeholders' submission	Suggested questions	Suggested recommendations
<p>Lawyers in China working on sensitive cases have been subjected to harassment, improper interference, arbitrary arrests, prosecutions, and convictions, as well as unfair trials, including denial of legal representation. In July, 2015, a nation-wide campaign was launched using criminal laws and executive controlled courts to silence lawyers and other human rights defenders (HRDs) through arbitrary arrests, detentions, convictions, and imprisonment (the '709-crackdown'). More than 300 human rights lawyers, legal assistants and rights activists were arrested during the nationwide sweep. See Joint submission (JI) L4L & LRWC, par. 13</p> <p>Since then, several lawyers were prosecuted on broad charges, such as subversion of state power, inciting subversion of state power, and picking quarrels and stirring up troubles, in unfair trials. These lawyers were sentenced to lengthy imprisonment sentences. Of those arrested in the 709-crackdown, the lawyers who still remain in prison include: Wang Quanzhang, Jiang Tianyong, Zhou Shifeng, Li Yuhan and Yu Wensheng. See JI L4L & LRWC, par. 18-22.</p> <p>It has been reported that detained lawyers have been subjected to torture and degrading treatment while in prison. See JI L4L & LRWC, par. 21.</p>	<p>(1) How does China prevent that lawyers suffer or be threatened with (criminal) prosecution or other sanctions for the legitimate exercise of their profession?</p> <p>(2) How does China ensure that sufficient safeguards are in place, both in law and in practice, to guarantee the proper functioning of the legal profession?</p> <p>(3) How does China ensure that lawyers are not subjected to unfair trials, and ensure their physical and psychological integrity and wellbeing while in prison?</p>	<p>Take immediate measures to ensure the effective protection of lawyers against any form of harassment and attempts to impede or interfere with their defence of clients, in accordance with articles 16(a) and (c) of the Basic Principles on the Role of Lawyers.</p> <p>Take immediate measures to ensure that sufficient safeguards are in place, both in law and in practice, to guarantee the proper functioning and safety of lawyers and their effective protection against any form of retaliation, including criminal prosecution, in connection with their professional activities.</p> <p>Ensure that lawyers will not be subjected to torture or mistreatment in police custody and introduce effective measures to prevent and punish the use of torture by state agents.</p> <p>Immediately release Wang Quanzhang, Jiang Tianyong, Zhou Shifeng, Li Yuhan and Yu Wensheng and compensate them for violations of their internationally protected rights.</p>
<p>In China, access to and the continued practice within the legal profession is conditioned or controlled by the executive branch. Lawyers must renew their license to practice every year. The Ministry of Justice and its lower-level offices are issuing / renewing lawyers' licenses on an annual basis. It is an administrative procedure to revoke or not renew a lawyer's license and the applicant has no access to an independent decision-maker to oppose or appeal a decision to revoke or refuse renewal of a license to practice law. Moreover, in November 2016, the Chinese Ministry of Justice implemented two administrative directives affecting law firms and lawyers (MoJ Directive 133 and 134). The Directives require lawyers and law firms to support the leadership of the Communist Party of China and the socialist rule of law as the basic requirement for legal practice. Lawyers are also prohibited to incite, organize or participate in demonstration that could disturb public order. Both offline as well as online. The prohibitions in the Directives are formulated broad and vague. An accusation of non-compliance with these Directives can lead to withdrawal or non-renewal of the license of a law firm or lawyer to practice law. The lawyers are subjected to the arbitrariness of the Chinese authorities. The authorities often use their control over the licencing of lawyers to exclude lawyers who they deem 'problematic' because the work on sensitive cases. Since the implementation of the Directives, authorities have revoked or suspended the licenses to practice law of several human rights lawyers. They have also cancelled the registration of one law firm. See JI L4L & LRWC, par. 23-29.</p>	<p>(4) How does China ensure that access or continued practise to the legal profession is not conditioned or controlled by the executive branch but by an independent decision maker?</p> <p>(5) How does China prevent that lawyers are subjected to suspension, disbarment or other disciplinary proceedings as a result of discharging their professional duties?</p> <p>(6) How does China ensure the effective protection of lawyers' rights to freedom of expression, association, assembly or the right to participate in public affairs ?</p>	<p>Take immediate measures to ensure that the continued practise within the legal profession is not controlled by the executive branch, but by an independent decision-maker.</p> <p>Immediately take effective measures to prevent lawyers from disciplinary action or other sanctions on improper grounds, including for peacefully exercising protected rights to expression, association, assembly or the right to participate in public affairs or when carrying out their professional duties in accordance with Articles 23 and 16(c) of the Basic Principles.</p> <p>Withdraw or amend the administrative directives affecting law firms and lawyers (MoJ Directive 133 and 134) in such a way, that they do not interfere with lawyers' independence.</p> <p>Immediately renew the licence to practice law of Zhu Shengwu.</p>