

“On the Protection of Lawyers from Undue Interferences Lawyers May Face in the Free and Independent Exercise of the Legal Profession in mainland China and the Hong Kong SAR”

HRIC’s Responses to the Special Rapporteur on the Independence of Judges and Lawyers’ Questionnaire for Civil Society and Bar Associations

- 1. Taking into consideration the guarantees for the functioning of lawyers, contained in principles 16-22 of the [Basic Principles on the Role of Lawyers](#), please describe the constitutional, legal, administrative and policy measures adopted in your country to enable lawyers to exercise their professional activities in favour of their clients in a free and independent manner.**
- 2. What entities and/or mechanisms are in place to prevent and/or punish interferences with the free and independent exercise of the legal profession? Please briefly describe them and specify whether they are independent bodies or if they belong to the administrative structure of the State.**
- 3. Please indicate if there are any legislative, administrative, or institutional barriers that have hindered the work of lawyers and the exercise of the legal profession in your country, and describe them.**

The free and independent exercise of the legal profession in the People’s Republic of China (**PRC**) varies according to whether it is mainland China (“**the mainland**”) or one of the special administrative regions within the PRC. Human Rights in China (**HRIC**)’s responses focus on the mainland and in the Hong Kong Special Administrative Region (**Hong Kong** or **HKSAR**). Questions 1, 2 and 3 will be addressed together.

In the mainland, the legal profession has neither achieved functional nor formal independence due to comprehensive political oversight and control, implemented through specific legal and policy measures. The entire legal system operates within the Communist Party of China’s (**CPC**) one-party political system where the legal system, including the judiciary, serves the interests and goals of the CPC.¹ The new five-year plan for legal reform² highlights the “centralised and unified leadership of the Communist

¹ William Zheng, “China’s legal reforms seek to cement party leadership’s role,” *South China Morning Post*, January 12, 2021, <https://www.scmp.com/news/china/politics/article/3117316/chinas-legal-reforms-seek-cement-party-leaderships-role>.

² Taige Hu and Changhao Wei, “Communist Party Releases New Set of NPC-Related Reform Goals in First Five-Year Plan on Building Rule of Law in China,” *NPC Observer*, January 10, 2021, <https://npcobserver.com/2021/01/10/communist-party-releases-new-set-of-npc-related-reform-goals-in-first-five-year-plan-on-building-rule-of-law-in-china/>; and “Xi Focus: Xi Jinping Thought on the Rule of Law guides law-based governance in China,” *Xinhua News*, December 10, 2020, http://www.xinhuanet.com/english/2020-12/10/c_139578646.htm.

Party” through “implementation of Xi Jinping’s thoughts on the rule of law”³ which regards law primarily as an instrument of the CPC and emphasizes Xi Jinping’s leadership as the most fundamental guarantee of such “rule by law” in the PRC.⁴

The party exercises control over the legal profession through various legislative, administrative, and institutional means, including control over all bar associations in the country (elaborated in Question 4 below) and mandating the objectives and functions of legal aid structures. The *Law of the People’s Republic of China on Lawyers*⁵ elaborates on the rights and responsibilities of lawyers, functions of lawyers’ associations, and liabilities for violations of professional rules, but does not contain any guarantees for the independent functioning of lawyers.

Lawyers and law firms in the mainland must also uphold CCP policy.⁶ The revised *Management Methods on Law Firms* issued by the Ministry of Justice instruct that law firms “should adhere to Xi Jinping Thought on Socialism with Chinese Characteristics in the New Era.” The directive further requires law firms to establish in-house Party organizations playing core political roles that can participate in the decision-making and management of law firms.⁷ Further, *The Measures on the Administration of Lawyers’ Practice* prohibits lawyers from making public statements that “reject the fundamental political system” of China, “endanger national security,” or “attack or slander” the judicial system.⁸ In light of China’s vague but comprehensive approach to national security law and policy, these restrictions on lawyers raise concerns regarding the impact on the independent and professional role of lawyers as well as their freedom of expression rights.

In Hong Kong, the legal profession had enjoyed a relatively high level of independence up until recently. Under the “One Country, Two Systems” framework, Hong Kong is the only city in the PRC where the common law legal system is practised⁹ as developed during British governance. The Hong Kong legal profession prided itself for being based

³ Melissa Zhu, “Jury still out on China’s legal reform and judicial independence,” *South China Morning Post*, April 3, 2021, <https://www.scmp.com/economy/article/3128422/jury-still-out-chinas-legal-reform-and-judicial-independence>; and “Open letter on the rule of law in China [by 14 NGOs],” *Human Rights in China*, September 9, 2019, <https://www.hrichina.org/en/press-work/joint-statements/open-letter-rule-law-china>.

⁴ Moritz Rudolf, “Xi Jinping Thought on the Rule of Law: New Substance in the Conflict of Systems with China,” *German Institute for International and Security Affairs*, April 28, 2021, https://www.swp-berlin.org/publications/products/comments/2021C28_Jinping_RuleOfLaw.pdf.

⁵ *Law of the People’s Republic of China on Lawyers* (2008), http://english.www.gov.cn/archive/laws_regulations/2014/08/23/content_281474983042459.htm.

⁶ Ministry of Justice, *Management Methods on Law Firms* (律师事务所管理办法) [effective January 15, 2019], Art. 3 (Chinese: http://www.gov.cn/zhengce/zhengceku/2018-12/31/content_5437152.htm), no English translation publicly available.

⁷ *Ibid.*, Art. 4.

⁸ Ministry of Justice, *Measures on the Administration of Lawyers’ Practice* (律师执业管理办法) [effective November 1, 2016], Art. 40 (Chinese: <https://perma.cc/QBG5-7KWY>, unofficial English translation: <http://chinalawtranslate.com/%E5%BE%8B%E5%B8%88%E6%89%A7%E4%B8%9A%E7%AE%A1%E7%90%86%E5%8A%9E%E6%B3%95/?lang=en>).

⁹ C. H. Poon, “Legal Services Industry in Hong Kong,” *Hong Kong Trade Development Council Research*, May 20, 2021, <https://research.hktcd.com/en/article/MzEzODc5NTk5>.

on the rule of law and the independence of its judiciary.¹⁰ The key legislation governing the legal profession in Hong Kong is the *Legal Practitioners Ordinance (Cap. 159)*.¹¹

In October 2021, the Hong Kong government announced a proposal to impose new restrictions on its legal aid system, wherein the Department of Legal Aid will assign lawyers to legal aid applicants and aid recipients will no longer be able to choose their own lawyers.¹² Judicial review cases will also be limited. These proposed changes impact the applicants' right to choose legal counsel and access to justice, and raise concerns that they signal a move towards the mainland system where authorities present procedural and other systemic obstacles, such as removing appointed lawyers to replace them with government-assigned lawyers, especially for criminal defendants and defendants in politically sensitive cases.¹³

4. Please describe the role of the national bar association(s) in protecting lawyers and the free exercise of the legal profession. Is the bar association de jure and de facto independent from the State?

The bar associations in the mainland are not de jure and de facto independent from the State. Lawyers, law firms, and bar associations at all municipal, provincial, and national levels remain under the authority of the Ministry of Justice (**MOJ**), which exercises "supervision and guidance" over them.¹⁴

The only national bar association in the mainland is the All China Lawyers Association (**ACLA**) which is described as "self-governing" but is also subordinated to the MOJ. All lawyers and law firms are required to join the local lawyers associations and become members of ACLA automatically.¹⁵ As of the end of 2020, there were more than 522,000 practicing lawyers and 34,000 law firms in mainland China.¹⁶ The ACLA's objectives are

¹⁰ "Hong Kong: The Facts – Legal System", *GovHK*, February 2021, https://www.gov.hk/en/about/abouthk/factsheets/docs/legal_system.pdf.

¹¹ *Legal Practitioners Ordinance (Cap. 159)* (2003), <https://www.elegislation.gov.hk/hk/cap159!en.pdf>.

¹² Selina Cheng, "Legal aid reform: Critics fear right to choose lawyer will be undermined but Hong Kong gov't advisor says plan will be 'fairer'," *Hong Kong Free Press*, October 25, 2021, <https://hongkongfp.com/2021/10/25/legal-aid-reform-critics-fear-right-to-choose-lawyer-will-be-undermined-but-hong-kong-govt-advisor-says-plan-will-be-fairer/>.

¹³ Ibid; and Chunyi Chen, "Some Fundamentals Regarding China's 'Government-designated Lawyers'," *ChinaChange*, September 24, 2020, <https://chinachange.org/2020/09/24/some-fundamentals-regarding-chinas-government-designated-lawyers/>.

¹⁴ Article 4 of the Law on Lawyers of the People's Republic of China states that "The judicial administrative departments conduct supervision and guidance of lawyers, law firms and bar associations according to the present law." Article 4 of the Charter of the All-China Lawyers Association states that "Lawyers associations receive the supervision and guidance of judicial administrative departments."

¹⁵ NPC Standing Committee, *Law on Lawyers of PRC* (中华人民共和国律师法) [amended as of September 1, 2017], Art. 45 (Chinese: http://www.npc.gov.cn/zgrdw/npc/xinwen/2017-09/12/content_2028697.htm), no English translation publicly available.

¹⁶ Ministry of Justice, *Statistical Analysis of the Work of Lawyers and Grassroots Legal Services in 2020* (2020 年度律师、基层法律服务工作统计分析), June 11, 2021 (Chinese: http://www.moj.gov.cn/pub/sfbgw/zwxgk/fdzdgnr/fdzdgnrtjxx/202106/t20210611_427394.html), no English translation publicly available.

to “uphold the leadership of CPC, unite and lead members to hold high the great banner of socialism with Chinese characteristics, faithfully perform the duties and missions of socialist legal workers with Chinese characteristics, safeguard the legitimate rights and interests of the parties, safeguard the correct implementation of the law, safeguard social fairness and justice, strive to build a socialist country under the rule of law, and promote the harmonious development of society and the progress of civilization.”¹⁷ (Emphasis added).

Under Chinese law, lawyers are also not free to form their own professional associations or elect bar leaders. In 2008, a group of 35 lawyers in Beijing appealed for open and direct elections for the state-controlled Beijing Lawyers Association to be able to elect their own leaders.¹⁸ However, the responses by the authorities resulted in at least seven of them losing their jobs because of official pressure¹⁹ and one of the law firms involved was ordered to shut down for six months.²⁰

Contrary to the role of lawyers and professional associations²¹ set forth in the United Nations Basic Principles on the Roles of Lawyers,²² the ACLA, carrying out its official regulatory role, acts to limit the freedom of expression and assembly of the lawyers in the mainland.²³ In October 2021, ACLA issued the *Rules on Prohibiting the Hyping of Cases in Violation of Rules*, further prohibiting lawyers from “signing joint statements, publishing open letters, and organizing online gatherings and solidarity,” or organizing “case study.”²⁴

In Hong Kong, the two main bar associations, namely the Hong Kong Bar Association (**HKBA**) for barristers and the Hong Kong Law Society for solicitors (**Law Society**), had

¹⁷ All-China Lawyers Association, *Association Introduction* (协会介绍) (Chinese: <http://www.acla.org.cn/home/toMenu?menuIdStr=1>), no English translation publicly available.

¹⁸ “Beijing Lawyers' Appeal for Direct Elections,” *Human Rights in China*, August 26, 2008, <https://www.hrichina.org/en/content/289>; and “Campaign for Direct Elections of Beijing Lawyers Association, 2008-2009,” *ChinaChange*, July 8, 2019, <https://chinachange.org/2019/07/08/campaign-for-direct-elections-of-beijing-lawyers-association-2008-2009/>.

¹⁹ “China Lawyers Who Called For Bar Elections are Fired,” *The New York Times*, November 6, 2008, <https://www.nytimes.com/2008/11/06/world/asia/06iht-beijing.1.17584310.html>.

²⁰ Jerome A. Cohen, “The Struggle for Autonomy of Beijing’s Public Interest Lawyers,” *Human Rights in China*, April 1, 2009, <https://www.hrichina.org/en/content/3692>.

²¹ Under the UN Principles, “professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and cooperating with governmental and other institutions in furthering the ends of justice and public interest.” Basic Principles on the Role of Lawyers (1990), <https://www.ohchr.org/en/professionalinterest/pages/roleoflawyers.aspx>.

²² *Ibid.*

²³ Emily Feng, “Where No One Dares Speak Up’: China Disbars Lawyers On Sensitive Cases,” *National Public Radio*, February 18, 2021, <https://www.npr.org/2021/02/18/963217332/where-no-one-dares-speak-up-china-disbars-lawyers-on-sensitive-cases>.

²⁴ *All-China Lawyers Association Rules on Prohibiting the Hyping of Cases in Violation of Rules* (中华全国律师协会关于禁止违规炒作案件的规则) [passed on October 15, 2021], Art. 4 (Chinese: <http://www.acla.org.cn/article/page/detailById/32079>, unofficial English translation: <https://www.chinalawtranslate.com/en/lawyers-speech/>).

enjoyed a relatively high level of independence until concerning and ongoing post-*National Security Law*²⁵ developments.²⁶

The HKBA was founded in 1949 and is registered under the Societies Ordinance²⁷. The HKBA had tended to speak out more than the Law Society on social matters.²⁸ Like other civil society entities in Hong Kong, the HKBA has increasingly been subjected to intense scrutiny, demonization, and threats, resulting in members quitting the organization in 2021.²⁹ After voicing concerns at judicial developments in Hong Kong, such as the imposition of the *National Security Law*³⁰ and the most recent immigration law,³¹ it has been accused by Beijing and the Hong Kong authorities of being a political association. State media outlet *People's Daily* called the HKBA a “street rat” and warned that “its failure in Hong Kong is certain.”³²

Beijing and Hong Kong authorities have also accused **Paul Harris**, appointed chair of the HKBA in January 2021, a prominent human rights and public law specialist in Hong Kong (where he has lived and worked since 1994), of being an “anti-China politician with intimate foreign connections” after Harris’s various comments on the jail sentences imposed on pro-democracy activists³³ and the *National Security Law*. Harris’s since-rescinded membership of Britain’s Liberal Democrats party also proved to be an issue for the authorities.³⁴ Recent information has revealed that there is a push for a more

²⁵ *Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region* (2020), <https://www.elegislation.gov.hk/hk/A406>.

²⁶ Kari S. Lindberg, Natalie Lung, and Pablo Robles, “How Hong Kong’s National Security Law Is Changing Everything,” *Bloomberg*, October 6, 2021, <https://www.bloomberg.com/graphics/2021-hong-kong-national-security-law-arrests/>.

²⁷ *Societies Ordinance (Cap. 151)* (1911), <https://www.elegislation.gov.hk/hk/cap151>.

²⁸ Rhoda Kwan, “Hong Kong’s Justice Sec. warns law societies to steer clear of politics after Chinese state media blasts barristers,” *Hong Kong Free Press*, August 16, 2021, <https://hongkongfp.com/2021/08/16/hong-kongs-justice-sec-warns-law-societies-to-steer-clear-of-politics-after-chinese-state-media-blasts-barristers/>.

²⁹ “One more barrister quits Hong Kong Bar Association council,” *The Standard*, August 16, 2021, <https://www.thestandard.com.hk/breaking-news/section/4/178908/One-more-barrister-quits-Hong-Kong-Bar-Association-council>.

³⁰ “Hong Kong’s Justice Sec. warns law societies to steer clear of politics after Chinese state media blasts barristers,” op. cit.

³¹ “‘Intrusive power’: Concern over proposed Hong Kong law that could bar anyone from leaving city,” *Agence France-Presse*, February 13, 2021, <https://hongkongfp.com/2021/02/13/intrusive-power-concern-over-proposed-hong-kong-law-that-could-bar-anyone-from-leaving-city/>.

³² “Hong Kong’s Justice Sec. warns law societies to steer clear of politics after Chinese state media blasts barristers,” op. cit.

³³ Helen Davidson, “Beijing calls Hong Kong bar association chief an ‘anti-China politician,’” *The Guardian*, April 27, 2021, <https://www.theguardian.com/world/2021/apr/27/beijing-calls-hong-kong-bar-association-chief-an-anti-china-politician>.

³⁴ Chris Lau, “Exclusive | Hong Kong Bar chief Paul Harris ‘removed’ from national security trial by legal aid officials against activist client’s wish,” *South China Morning Post*, November 30, 2021, https://www.scmp.com/news/hong-kong/politics/article/3157921/hong-kong-bar-chief-paul-harris-removed-national-security?utm_source=rss_feed.

“apolitical” HKBA with new candidates emerging as possible candidates to run the HKBA.³⁵

The Law Society describes itself as “both the self-regulatory body and professional association for solicitors in Hong Kong . . . entrusted with the statutory duty to monitor the conduct of law firms and lawyers to maintain the highest standards.”³⁶ The Law Society has also come under pressure. The Law Society elections in August 2021 saw pro-Beijing media accusing some candidates of political bias,³⁷ despite some candidates professing political neutrality.³⁸ *People’s Daily* has also warned the Law Society not to become like the HKBA, and Chief Executive Carrie Lam has even warned that the government would cut ties with the Law Society if it became politicized.³⁹ The Law Society’s new president, Chan Chak-ming, has insisted that the Law Society only offer its take on social issues from a strictly legal perspective.⁴⁰

5. Please provide detailed information on the number of lawyers that have been subject to criminal, administrative or disciplinary proceedings in the last five years for alleged violations of standards of professional conduct. How many of them were found guilty? How many of them were ultimately disbarred?

Unfortunately, comprehensive data on the number of lawyers in the mainland subject to criminal, administrative or disciplinary proceedings in the last five years for alleged violations of standards of professional conduct are not publicly available and accessible. This is largely consistent with China’s data transparency challenges.⁴¹ Similarly in Hong Kong, detailed information on the number of lawyers subjected to criminal, administrative or disciplinary proceedings in the last five years for alleged violations of standards of professional conduct are not publicly available. While published judgments of disciplinary decisions⁴² are available, there is no consolidated data on such statistics.

³⁵ Chris Lau, “‘Apolitical’ Hong Kong barristers emerge as possible candidates to run Bar Association, thaw frosty relations with Beijing,” *South China Morning Post*, October 18, 2021, <https://www.scmp.com/news/hong-kong/politics/article/3152670/apolitical-hong-kong-barristers-emerge-possible-candidates>.

³⁶ “Our Profile,” The Law Society of Hong Kong, undated, <https://www.hklawsoc.org.hk/en/About-the-Society/Our-Profile>.

³⁷ “Hong Kong lawyers attacked by pro-Beijing media defeated in heated Law Society poll,” *Reuters*, August 25, 2021, <https://www.reuters.com/world/china/hong-kong-lawyers-attacked-by-pro-beijing-media-defeated-heated-law-society-poll-2021-08-25/>.

³⁸ “Law Society election in Hong Kong spotlights tensions over China, legal system,” *Reuters*, August 24, 2021, <https://www.channelnewsasia.com/asia/hong-kong-law-society-election-china-2132706>.

³⁹ Ibid; and Qingqing Chen and Fandi Cui, “HKSAR govt could step in if Law Society dominated by pro-opposition candidates: experts,” *Global Times*, August 24, 2021, <https://www.globaltimes.cn/page/202108/1232360.shtml>.

⁴⁰ Chris Lau, “Hong Kong Law Society will offer legal perspective only when it comes to social issues, new president says,” *South China Morning Post*, August 31, 2021, <https://www.scmp.com/news/hong-kong/politics/article/3146992/hong-kong-law-society-councillor-known-liberal-approach>.

⁴¹ Walter Lohman and Justin Rhee, “2021 China Transparency Report,” *The Heritage Foundation*, June 2021, http://thf_media.s3.amazonaws.com/2021/China_Transparency_Report.pdf; and Frank Tang, “China’s data protection rules among ‘core challenges’ facing British firms, despite steps to open economy,” *South China Morning Post*, May 26, 2021, <https://www.scmp.com/economy/china-economy/article/3134805/chinas-data-protection-rules-among-core-challenges-facing>.

⁴² “Disciplinary Decisions,” Hong Kong Lawyer (The Official Journal of the Law Society), constantly updated,

6. Please provide information on any case where lawyers in your country have been subject to intimidation, hindrance, harassment or improper interference, whether from State authorities or non-State actors, for action taken in accordance with their recognized professional duties. Please also describe the measures that State authorities have taken to investigate and bring perpetrators to justice.

In the mainland, lawyers are regularly subjected to intimidation, hindrance, harassment or improper interference from State authorities for action taken in accordance with their recognized professional duties. In this regard, since State authorities are largely the perpetrators, there are no meaningful or effective efforts to investigate and bring perpetrators to justice.

Directives such as legislation granting the government a free hand over almost any matter deemed relevant to national security⁴³ and the “socialist rule of law” (elaborated in our response to Question 4) gravely impede lawyers’ right to freedom of expression, assembly and association. Another tool to control lawyers and limit the cases they take is to threaten a lawyer’s livelihood by threatening to suspend or revoke a lawyer’s or law firm’s license.⁴⁴ As law firms and lawyers are subjected to annual inspections and renewal of their licenses, this yearly review has been used to intimidate lawyers and their firms. In September, the Ministry of Justice announced new measures expressly targeting extrajudicial activism where revised regulations forbid activities like “conducting sit-ins, holding banners or placards, shouting slogans” or even “generating pressure through public opinion.”⁴⁵ Firms were expected to dismiss lawyers who disobeyed or risk having their licenses revoked.⁴⁶ All of these measures seriously prevent lawyers to freely and independently exercise their profession.

There is also increased surveillance and harassment from local authorities.⁴⁷ The threat of disbarment means lawyers risk their financial livelihood when accepting cases deemed sensitive by authorities.⁴⁸ “I was a sought-after lawyer so my lawyer fees were also quite high. Losing my license meant a huge loss in income,” says Sui Muqing, a Guangdong-based lawyer whose license was permanently revoked in 2018 for his legal advocacy. The economic sanctions are absolute: Sui’s essays remain censored and social media accounts he opens are abruptly frozen, cutting him off from writing revenue.⁴⁹ To disbar lawyers, authorities are using 2016 rules banning them from engaging in outspoken behavior outside the courtroom.⁵⁰

<http://www.hk-lawyer.org/contents/disciplinary-decisions>.

⁴³ Alex W. Palmer, “Flee at Once: China’s Besieged Human Rights Lawyers,” *The New York Times*, July 25, 2017, <https://www.nytimes.com/2017/07/25/magazine/the-lonely-crusade-of-chinas-human-rights-lawyers.html>.

⁴⁴ William Nee, “China’s 709 Crackdown Is Still Going On,” *The Diplomat*, July 9, 2021, <https://thediplomat.com/2021/07/chinas-709-crackdown-is-still-going-on/>.

⁴⁵ “Flee at Once: China’s Besieged Human Rights Lawyers,” op. cit.

⁴⁶ “Flee at Once: China’s Besieged Human Rights Lawyers,” op. cit.

⁴⁷ “Where No One Dares Speak Up’: China Disbars Lawyers On Sensitive Cases,” op. cit.

⁴⁸ “Flee at Once: China’s Besieged Human Rights Lawyers,” op. cit.

⁴⁹ “Where No One Dares Speak Up’: China Disbars Lawyers On Sensitive Cases,” op. cit.

⁵⁰ “Where No One Dares Speak Up’: China Disbars Lawyers On Sensitive Cases,” op. cit.

In recent years, the 709 Crackdown and 12.26 Citizen Case are most significant. On July 9, 2015, the Chinese government launched a nationwide campaign using criminal laws and executive controlled courts to silence lawyers and other human rights activists through arbitrary arrests, detentions, convictions, and imprisonment.⁵¹ Over 300 lawyers and activists were arrested during this campaign.⁵² These lawyers and activists had challenged the abuse of their clients by China's judicial authorities or police and as a result saw themselves become targets of the government.⁵³ After the 709 Crackdown, many of the remaining members of the legal community went underground or retreated from the work.⁵⁴ In December 2019, lawyers and citizens were disappeared or summoned, and several have been accused of "subversion of state power" or "picking quarrels and provoking trouble" over their involvement in a private gathering in Xiamen.⁵⁵ Up to the present, the Chinese government has not eased up on its pressure against lawyers, especially human rights lawyers.⁵⁶

The following are examples of prominent rights lawyers in China who have been either threatened with disbarment, or disbarred, or otherwise prohibited from carrying out essential functions after taking on politically sensitive cases, or those which are perceived to challenge the state's interests:

- On November 26, 2021, **Liang Xiaojun**, the lawyer for prominent legal advocate Xu Zhiyong (who is the facing trial for "subversion of state power") and for one of the "Hong Kong 12" who were captured at sea as they tried to flee to Taiwan, received notification from the Beijing Municipal Bureau of Justice Judicial Bureau of a hearing on the revocation of his lawyer license, on the grounds that he "made statements in support of Falun Gong."
- **Peng Jian**, the lawyer for lawyer Ding Jiayi and made known some details related to his case, also became a victim of retaliation. According to Peng, **Beijing Huahuan Law Firm**, which was founded and run by Peng, did not pass the 2020-2021 law firm inspection.
- Human rights lawyer **Lu Siwei** had his license revoked in January 2021, after he represented dissident poet Wang Zang and his wife Wang Li,⁵⁷ as well as one of the "Hong Kong 12."

⁵¹ "5-year anniversary of the 709-Crackdown," *Lawyers for Lawyers*, July 9, 2020, <https://lawyersforlawyers.org/en/5-year-anniversary-of-the-709-crackdown/>.

⁵² "International Community Must Stand in Solidarity with Chinese Human Rights Lawyers — on the Third Anniversary of the 709 Crackdown," *Human Rights in China*, July 6, 2018, <https://www.hrichina.org/en/press-work/statement/international-community-must-stand-solidarity-chinese-human-rights-lawyers>.

⁵³ Andrew Jacobs and Chris Buckley, "China Targeting Human Rights Lawyers in a Crackdown," *The New York Times*, July 3, 2015, <https://www.nytimes.com/2015/07/23/world/asia/china-crackdown-human-rights-lawyers.html?action=click&module=RelatedCoverage&pgtype=Article®ion=Footer>.

⁵⁴ "Flee at Once: China's Besieged Human Rights Lawyers," op. cit.

⁵⁵ "12.26 Citizen Case," *Human Rights in China*, undated, <https://www.hrichina.org/en/1226-citizen-case>.

⁵⁶ "China's 709 Crackdown Is Still Going On," op. cit.

⁵⁷ "Mainland Chinese lawyer who helped Hong Kong fugitive in Shenzhen hits out at 'baffling suppression' as he faces loss of licence," *South China Morning Post*, January 4, 2021, <https://www.scmp.com/news/hong-kong/politics/article/3116301/mainland-chinese-lawyer-who-assisted-one-hong-kong>.

- **Ren Quanni** had his lawyer license revoked in February 2021 after he defended two sensitive cases: one of the “Hong Kong 12” and citizen journalist Zhang Zhan, who is serving a four-year sentence for reporting and disseminating information about the COVID-19 outbreak in Wuhan.
- On January 27, **lawyer Xi Xiangdong** received notification from Shandong provincial authorities of a hearing about his law license revocation, an administrative punishment for “disrupting order in a court.” Xi represented formerly detained human rights lawyer Wang Quanzhang—one of the key lawyers targeted in the 709 Crackdown..
- On October 31, 2021, **Lin Qilei**, lawyer for one of the “Hong Kong 12,” received a decision from Beijing Municipal Bureau of Justice of a temporary cancellation (注销) of his lawyer license.⁵⁸
- In December 2021, an informed source has disclosed that the lawyers representing legal advocate **Xu Zhiyong** and lawyer **Ding Jiayi** have been forced by the authorities to sign confidential agreements prohibiting them from copying case files, discussing case details with anyone including Xu and Ding’s families, accepting any media interviews, or speaking publicly about the cases.⁵⁹ (Ding and Xu are two leading advocates of the New Citizens Movement who are facing trial for “subversion of state power” in connection with the “12.26 Citizen Case”—in which many have been targeted by the authorities for their involvement in two private gatherings of lawyers and other citizens in December 2019 to discuss current affairs and China's future and share their experience in promoting the construction of civil society.)
- Lawyer **Li Yuhang**, who had defended fellow lawyer Wang Yu in the 709 Crackdown, was tried on the charges of “picking quarrels and provoking trouble” and “fraud” on October 20, 2021, after four years of pre-trial detention. The trial ended without a verdict. She is reported to be in poor health.⁶⁰
- Lawyer **Hao Jinsong**, a legal advocate detained on December 17, 2019 and put under a 15-day administrative detention for alleged violation of the *Counter-Terrorism Law* and for “picking quarrels and provoking trouble” after refusing to delete his social media posts, was tried on November 18, 2021 in a close-door hearing. The trial ended without a verdict.⁶¹
- Lawyer **Qin Yongpei**, an outspoken critic of high-level corruption, has been in detention since October 2019. He was granted a pre-trial hearing on October 13, 2012. There is no available information on a trial date.⁶²

⁵⁸ Gao Feng, “曾为十二港人辩护 律师蔣其磊遭注销执业证 (Lin Qilei, a defense lawyer for twelve Hong Kong residents, has his practice license cancelled),” Radio Free Asia, November 1, 2021, <https://www.rfa.org/mandarin/yataibaodao/renquanfazhi/gf-11012021074353.html>.

⁵⁹ “Cases of Human Rights Lawyers/Activist– Xu Zhiyong and Ding Jiayi,” compiled by Sophie Luo, December 2021, <https://static1.squarespace.com/static/55c7279de4b014e7aad20a46/t/61ad2e9b30cbd27514729c2e/1638739611995/Cases%2Bof%2BXu%2Band%2BDing%2B-%2Bfinal.pdf>.

⁶⁰ “New Wave of Persecution Against Chinese Human Rights Lawyers Must Sound the Alarm,” Chinese Human Rights Defenders, December 6, 2021, https://www.nchr.org/2021/12/new-wave-of-persecution-against-chinese-human-rights-lawyers-must-sound-the-alarm/?utm_source=rss&utm_medium=rss&utm_campaign=new-wave-of-persecution-against-chinese-human-rights-lawyers-must-sound-the-alarm.

⁶¹ Ibid.

⁶² Ibid.

In Hong Kong, lawyers who support democratic reforms or are active in liberal organizations or causes have also found themselves being targeted by authorities in various ways⁶³ and been urged to “stay out of politics.”⁶⁴ During the traditionally low-profile elections of the Law Society council in 2021, one of the three “liberal” candidates **Johnathan Ross** withdrew, citing safety concerns over himself and his family. Pro-establishment candidates had won all open seats available.

The case of barrister **Chow Hang-tung** is significant. Chow has been detained since September 8, 2021 and rejected bail by the court for the seventh time over inciting subversion charge⁶⁵ an unauthorized assembly in the annual June Fourth vigil in 2020 and 2021 respectively.⁶⁶ She is also facing charges for refusing to provide information demanded by the police under the *National Security Law*.⁶⁷ Chow, 36, is also the former vice-chair of the now-disbanded Hong Kong Alliance in Support of Patriotic Democratic Movements of China.

Since her detention, Chow has also been unable to continue to serve as the legal representative for **Gwyneth Ho Kwai-lam**, one of 47 pro-democracy figures charged under the *National Security Law* over unofficial primaries.⁶⁸ On September 8, 2021, the

⁶³ “Opinion: First they came for the Hong Kong protesters. Then they came for their lawyers,” *The Washington Post*, November 3, 2021, <https://www.washingtonpost.com/opinions/2021/11/03/first-they-came-hong-kong-protesters-then-they-came-their-lawyers/>.

⁶⁴ Sara Cheng, “Hong Kong's Lam tells solicitors' group to stay out of politics,” *Reuters*, August 17, 2021, <https://www.reuters.com/world/asia-pacific/hong-kong-leader-says-no-explicit-timetable-anti-foreign-sanctions-law-2021-08-17/>.

⁶⁵ Candice Chau, “Hong Kong Tiananmen Massacre vigil group leader denied bail over ‘inciting subversion’ national security charge,” *Hong Kong Free Press*, September 10, 2021, <https://hongkongfp.com/2021/09/10/hong-kong-tiananmen-massacre-vigil-group-leader-denied-bail-over-inciting-subversion-national-security-charge/>; and “【支聯會案】鄒幸彤 7 度被拒保釋 旁聽人士喊「堅持、加油」(Chow Hang-tung was refused bail for 7 charges and observers shouted “Persevere, come on”),” *The Stand News*, November 16, 2021, <https://www.thestandnews.com/court/%E6%94%AF%E8%81%AF%E6%9C%83%E6%A1%88%E9%84%92%E5%B9%B8%E5%BD%A4-7-%E5%BA%A6%E8%A2%AB%E6%8B%92%E4%BF%9D%E9%87%8B-%E6%97%81%E8%81%BD%E4%BA%BA%E5%A3%AB%E5%96%8A%E5%A0%85%E6%8C%81%E5%8A%A0%E6%B2%B9>.

⁶⁶ Candice Chau, “Hong Kong democrats to plead guilty over banned 2020 Tiananmen Massacre vigil,” *Hong Kong Free Press*, June 11, 2021, <https://hongkongfp.com/2021/06/11/hong-kong-democrats-to-plea-guilty-over-banned-2020-tiananmen-massacre-vigil/>; and “Vigil organiser Chow Hang-tung arrested: sources,” *RTHK News*, June 4, 2021, <https://news.rthk.hk/rthk/en/component/k2/1594219-20210604.htm>.

⁶⁷ “Hong Kong: Arrests under Security Law, a serious concern,” *UN News*, October 12, 2021, <https://news.un.org/en/story/2021/10/1102882>; and Candice Chau, “Hong Kong Tiananmen Massacre vigil leaders plead not guilty to refusing national security data probe, bail denied,” *Hong Kong Free Press*, September 10, 2021, <https://hongkongfp.com/2021/09/10/hong-kong-tiananmen-massacre-vigil-leaders-plead-not-guilty-to-refusing-national-security-data-probe-bail-denied/>.

⁶⁸ “【拒交資料被捕】鄒幸彤原代表何桂藍申保釋 「遺憾上唔到藍的保釋了」 ([Arrested for refusal to submit information] Chow Hang-tung originally applied for bail on behalf of Gwyneth Ho, “I regret not obtaining bail for Ho”),” *The Stand News*, September 8, 2021, <https://www.thestandnews.com/politics/%E6%8B%92%E4%BA%A4%E6%94%AF%E8%81%AF%E6%9C%83%E8%B3%87%E6%96%99%E8%A2%AB%E6%8D%95-%E9%84%92%E5%B9%B8%E5%BD%A4%E5%8E%9F%E4%BB%A3%E8%A1%A8%E4%BD%95%E6%A1%82%E8%97%8D%E7%94%B3%E4%BF%9D%E9%87%>

day Chow was arrested for inciting subversion, the Hong Kong and Macau Affairs Office of the State Council (HMO) openly criticized Chow of using “civil disobedience” and “achieving justice” as excuses to violate the law.⁶⁹ State-controlled newspaper also stalked Chow before she was arrested, saying she was destroying evidence, and pro-Beijing group Caring Hong Kong Power protested outside the court asking the Hong Kong Bar Association to cancel Chow’s barrister qualification.⁷⁰

Most recently, it came to light that HKBA chairman **Paul Harris** (see our response to Question 4) had been removed as legal counsel from the national security trial of Ma Chun-Man against Ma’s wishes (see responses to Questions 1 to 3) by Hong Kong’s Legal Aid Department. As previously mentioned in Question 4, Harris had been at Beijing’s crosshairs for vowing to advocate changes to parts of the *National Security Law*.⁷¹ No official reasons were given for Harris’s removal despite Ma’s subsequent requests to retain Harris.

Further, it was revealed during a recent court hearing that during the trial of Tong Ying-kit, the first person in Hong Kong charged and convicted under the *National Security Law*, **Bond Ng Solicitors**, a law firm known for handling activists’ cases was also not allowed to represent Tong.⁷² Often the government prefers that certain clients have no legal representation or legal representation by a pliant government-appointed lawyer, or that the government wants to rein in the lawyers they cannot control. This is especially true in “sensitive” cases such as Ma’s in which the government wants to guarantee its preferred outcomes while displaying a veneer of legality to give its rigged outcome a degree of legitimacy.⁷³

7. What activities does your organization carry out to promote the independence of the legal profession? Do you co-ordinate with other organizations with similar functions in other countries or regions? Are you part of a network for this purpose? Please give examples.

[8B-%E9%81%BA%E6%86%BE%E4%B8%8A%E5%94%94%E5%88%B0%E8%97%8D%E7%9A%84%E4%BF%9D%E9%87%8B%E4%BA%86.](https://www.wenweipo.com/a/202109/09/AP61396c60e4b08d3407d934e0.html)

⁶⁹ “Hong Kong and Macau Affairs Office: Zou Xingtong and others claim to be “unlawful and righteous” as excuses,” *Now News*, September 8, 2021, <https://news.now.com/home/local/player?newsId=449157>.

⁷⁰ “鄒幸彤匿辦公室一周 銷毀證據 (Chow Hang-tung’s office destroyed evidence within a week),” *Wen Wei Po*, September 9, 2021, <https://www.wenweipo.com/a/202109/09/AP61396c60e4b08d3407d934e0.html>; and “團體高院示威 籲大律師公會取消鄒幸彤資格 (Group demonstration outside High Court calls on Bar Association to Disqualify Chow Hang-tung),” *ST Headline News*, September 10, 2021, <https://hd.stheadline.com/news/realtime/hk/2212656/%E5%8D%B3%E6%99%82-%E6%B8%AF%E8%81%9E-%E5%9C%98%E9%AB%94%E9%AB%98%E9%99%A2%E7%A4%BA%E5%A8%81-%E7%B1%B2%E5%A4%A7%E5%BE%8B%E5%B8%AB%E5%85%AC%E6%9C%83%E5%8F%96%E6%B6%88%E9%84%92%E5%B9%B8%E5%BD%A4%E8%B3%87%E6%A0%BC>.

⁷¹ Chris Lau, “Exclusive | Hong Kong Bar chief Paul Harris ‘removed’ from national security trial by legal aid officials against activist client’s wish,” *South China Morning Post*, November 30, 2021, https://www.scmp.com/news/hong-kong/politics/article/3157921/hong-kong-bar-chief-paul-harris-removed-national-security?utm_source=rss_feed.

⁷² *Ibid.*

⁷³ “China’s 709 Crackdown Is Still Going On,” *op. cit.*

HRIC has been actively engaged in efforts to promote the independence of the legal profession and to support individual rights defense lawyers. Our activities include: international human rights law trainings; collaborations and coordination efforts with other regional or international groups; strategic consultation and technical assistance; and producing practical resources.

HRIC created extensive resources on 709 Crackdown on lawyers and right defense advocates in 2015, including the following:

- 2015-2016: [Mass Crackdown on Chinese Lawyers, Defenders and International Reactions: A Brief Chronology](#)
- 2016: [HRIC Urges Independent Observers at Upcoming Trials of Lawyers and Activists in China](#)
- 2020: [Fifth Anniversary of 709 Crackdown: Updated Chart of Persecution of Lawyers and Legal and Rights Advocates](#)
- 2021: [The Sixth Anniversary of "709 Crackdown": A Tribute to the Women Who Resist](#)

8. To what extent has, the legislation and/or measures adopted in your country because of the Covid-19 pandemic, affected the exercise of the independence of the legal profession or security of lawyers. Please explain.

During the past year, mainland and HK authorities have invoked the COVID-19 pandemic as a public health rationale for restricting rights, in particular freedom of expression and association and assembly. These restrictions have impacted all of civil society, including lawyers engaged in the legitimate exercise of these rights.

9. Please describe the measures and policies you would suggest to better protect and guarantee the free exercise of the legal profession.

Over the years, various UN human rights mechanisms have expressed their concerns regarding the independence of the legal system,⁷⁴ rights of rights defenders⁷⁵ including

⁷⁴ “UN experts call for decisive measures to protect fundamental freedoms in China,” United Nations Office of the High Commissioner for Human Rights, June 26, 2020,

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006>

⁷⁵U.N. experts’ joint communication of April 28, 2021 (AL CHN 4/2021), April 28, 2021,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26337>; and U.N.

experts’ joint communication of May 4, 2020 (AL CHN 9/2020), May 4, 2020,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25187>.

lawyers,⁷⁶ and the misuse of COVID-19⁷⁷ and national security legislation⁷⁸ to target the legitimate exercise of rights.

We suggest as a first constructive meaningful step, the authorities on the mainland and in HKSAR seriously respond to these concerns and implement the specific recommendations advanced.

We also suggest the SRILJ consider developing a framework for ensuring the free exercise of the legal profession as a contribution to guiding states in their preparation of state party reports to the treaty bodies as well as responding to the legal and other communications sent to their missions.

⁷⁶ U.N. experts' joint communication of September 24, 2021, (UA CHN 10/2021), September 24, 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26658>.

⁷⁷ Human Rights in China, "Input for report on disinformation: To the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression," February 15, 2021. This submission focuses on the human rights challenges posed when misinformation is created and disseminated by the state itself or by state supported actors. This submission has not been made public. MS on file.

⁷⁸ UN experts' joint communication on the Decision of the National People's Congress on Establishing and Improving the Legal System and Enforcement Mechanisms for Safeguarding National Security in the Hong Kong Special Administrative Region (OL CHN 13/2020), June 19, 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25354>; Seven UN experts' communication to China urging review and reconsideration of National Security Law to comply with international law, September 1, 2020, at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25487>.