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The Rights Practice submits this response to the United Nations Special Rapporteur on the Independence of Judges and Lawyers, to inform the report to be presented to the Human Rights Council in June 2022. This submission focuses on the protection of lawyers in China.

The Rights Practice works to promote human rights (as set out in the Universal Declaration of Human Rights and subsequent UN conventions and declarations). Our mission is to build the capacity of those working for human rights. We have built a programme of work that addresses three strategic themes within China: access to justice, human rights and criminal justice, and public participation.

For many years we have engaged with Chinese legal scholars, lawyers and judicial officials to help prevent the use of torture, reduce the application of the death penalty and support civil society. This submission is informed by stakeholder consultations and review of Chinese law and recent cases.

We are a UK registered human rights charity (England and Wales 1133616).

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Submission to the Report on the Protection of 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.*

There are a number of measures outlined in Chinese law that should enable lawyers to exercise their professional activities. In September 2021, China published a “Human Rights Action Plan” in which it set out the objectives and tasks related to human rights from 2021 to 2025. China stated that “legal defence will be provided in all criminal cases, and defence lawyers’ lawful rights are protected.”<sup>1</sup>

However, Chinese law cannot be understood outside the political environment in which it operates. The interests of the Chinese state and the Chinese Communist Party (CCP) influence all aspects of governance, including the legal system. The CCP’s overriding concern is to maintain the ‘stability of society’ and the environment for Party rule. The Party oversees the functioning of the institutions of the police, procuratorate and the courts which all operate “within the system”. Lawyers are outside this system.

Within this context, the Chinese Constitution protects a number of fundamental freedoms including the prohibition of unlawful detention, the rights to freedom of speech, assembly and personal dignity. The Constitution does not specifically protect the right to access a lawyer, and it is not justiciable.

The Chinese Criminal Procedure Law (2018), Article 39, sets out the right to access a lawyer within 48 hours of being detained.<sup>2</sup> Defence lawyers have the right to meet and communicate with criminal suspects and defendants in custody, following the first police interrogation, in the initial investigation stage. Lawyers cannot be present during police interviews. Chinese lawyers continue to call for the right to be present at police interviews, as they suggest that early involvement in a case is important in providing an adequate defence, and a deterrent against coerced confessions.

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<sup>1</sup> State Council Information Office, The People’s Republic of China. “Full Text: Human Rights Action Plan of China (2021- 2025).” 9 September 2021. [http://english.scio.gov.cn/scionews/2021-09/09/content\\_77742681.htm](http://english.scio.gov.cn/scionews/2021-09/09/content_77742681.htm)

<sup>2</sup> Criminal Procedure Law of the People’s Republic of China, 2018. Chinese official:

[http://www.npc.gov.cn/zgrdw/npc/xinwen/2018-11/05/content\\_2065631.htm](http://www.npc.gov.cn/zgrdw/npc/xinwen/2018-11/05/content_2065631.htm)

Unofficial English translation, China Law Translate, full access may be restricted due to paywall:

<https://www.chinalawtranslate.com/en/criminal-procedure-law-2018/>

China's Law on Lawyers (2017) protects the role of lawyers in Articles 33 to 37.<sup>3</sup> The law stipulates that no organisation or individual may infringe the lawful rights and interests of lawyers, including the right to meet, read files and investigate and collect evidence. However, the lawyers' right to meet criminal suspects and defendants in custody and under residential surveillance is waived if the case is considered to be related to national security. Article 37 of the law also states that the representation and defence opinions issued by lawyers in court are not subject to "legal investigation". However, exceptions are made for "statements that endanger national security, maliciously slander others, and seriously disrupt court order."<sup>4</sup> Offences related to endangering national security are broadly defined and are often used to target and punish lawyers. See answer to Question 3 below for more detail.

In August 2021, a new Legal Aid Law was promulgated and will come into force on 1 January 2022.<sup>5</sup> This new law will update the current system which was set up in 1996. Under this new Legal Aid Law, a suspect in a criminal case who does not have a defender is automatically entitled to a legal aid lawyer if the accused meets a number of criteria such as being a child, lacking mental capacity or if they might be sentenced to life imprisonment or death. The new law, Article 27, also stipulates that when appointing legal aid lawyers, criminal justice authorities must not "restrict or harm" a criminal suspect or defendant to appoint a defender of their choice.<sup>6</sup> This was added in response to concerns over the Chinese government appointing legal aid lawyers against the criminal defendants' will.<sup>7</sup> This could be viewed as a step forward in enabling lawyers to exercise their professional activities in favour of their clients in a free and independent manner. However, it is unclear how this will be implemented in practice, especially as lawyers face restrictions, obstacles and harassment when carrying out their work. See answer to Question 3 below for more detail.

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.*

There are no independent entities or mechanisms in place to prevent and/or punish interferences with the free and independent exercise of the Chinese legal profession. Chinese courts are not independent.

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<sup>3</sup> Law on Lawyers of the People's Republic of China, 2017. Official Chinese: [http://www.npc.gov.cn/zgrdw/npc/xinwen/2017-09/12/content\\_2028697.htm](http://www.npc.gov.cn/zgrdw/npc/xinwen/2017-09/12/content_2028697.htm) Unofficial English translation, China Justice Monitor, full access restricted due to paywall: <https://www.chinajusticeobserver.com/a/are-there-lawyers-in-china>

<sup>4</sup> Ibid

<sup>5</sup> Legal Aid Law of the People's Republic of China, 20 August 2021. Official Chinese: [http://www.gov.cn/xinwen/2021-08/20/content\\_5632494.htm](http://www.gov.cn/xinwen/2021-08/20/content_5632494.htm); NPC Observer, "NPCSC Codifies Three-Child Policy, Expands Legal Aid & Updates Military Service Law and Physicians Law", 24 August 2021. <https://npcobserver.com/2021/08/24/npcsc-codifies-three-child-policy-expands-legal-aid-updates-military-service-law-and-physicians-law/>

<sup>6</sup> Ibid

<sup>7</sup> Ibid

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.*

There are a number of legislative, administrative and institutional barriers that hinder the work of criminal and rights defence lawyers in China. Chinese lawyers do not have full access to meet their clients, read case files, collect evidence or take human rights-related cases without fear of harassment or detention.

In recent years, Chinese authorities have introduced a succession of codes of conduct and regulations that have sought greater control over lawyers. In 2008, the Chinese Ministry of Justice adopted the ‘Measures on the Administration of Law Firms’ and the ‘Administrative Measures for the Practice of Law by Lawyers’.<sup>8</sup> These were both amended in 2016, and the ‘Measures on the Administration of Law Firms’ was amended again in 2018. The regulations were amended to strengthen the role of the CCP over lawyers and law firms. This further limits the independence of lawyers and restricts their ability to carry out their duties, particularly in more politically sensitive cases. The regulations also restrict lawyers’ use of the Internet and social media to discuss cases, sign public letters and petitions, or offer “imprudent” judicial commentary. Lawyers fear that this restricts their freedom of expression.

The amendments to the regulations came shortly after the Chinese authorities had initiated a wide-scale crackdown on Chinese lawyers in July 2015. The ‘709’ Crackdown, as it is known, targeted several high-profile rights lawyers and subjected them to incommunicado detention, torture and prison sentences.<sup>9</sup> Since then many of the lawyers caught up in the crackdown have been unable to practice and continue to face harassment and surveillance. Since 2015, rights lawyers appear to have been increasingly intimidated, charged and sentenced for national security offences.

Offences related to endangering national security are broadly defined. The Chinese National Security Law was introduced in 2015, and in 2016 a new Counter-terrorism Law was promulgated, as part of a wider set of laws and regulations covering national security.<sup>10</sup> The lack of clarity over what constitutes a national security offence has been used to target lawyers, as well as journalists, NGO workers and a wide range of other individuals. The crime of “subversion of State power”, Article 105, of the Chinese Criminal Law (2020) is

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<sup>8</sup> Ministry of Justice of the People’s Republic of China. “Administrative Measures for the Practice of Law by Lawyers” 2016. Chinese official: [http://www.gov.cn/gongbao/content/2016/content\\_5109321.htm](http://www.gov.cn/gongbao/content/2016/content_5109321.htm) Unofficial English translation, China Law Translate, 27 October 2016, full access may be restricted due to paywall:

<https://www.chinalawtranslate.com/en/measures-on-the-administration-of-lawyers-practice/> Ministry of Justice of the People’s Republic of China. “Measures on the Administration of Law Firms”. 2016. Chinese official: [http://www.gov.cn/gongbao/content/2016/content\\_5113014.htm](http://www.gov.cn/gongbao/content/2016/content_5113014.htm) Unofficial English translation, China Law Translate, 18 September 2018, full access may be restricted due to paywall: <https://www.chinalawtranslate.com/en/moj-decision-on-revising-the-measures-on-the-administration-of-law-firms-comments-draft/>

<sup>9</sup> Nicola Macbean, “Li Wenzu and the Resistance of the ‘709’ Wives”. The Rights Practice. 18 April 2019.

<https://www.rights-practice.org/blog/li-wenzu-and-the-resistance-of-the-709-wives>

<sup>10</sup> National Security Law of the People’s Republic of China. 2015. Official Chinese: [http://www.gov.cn/zhengce/2015-07/01/content\\_2893902.htm](http://www.gov.cn/zhengce/2015-07/01/content_2893902.htm); Unofficial English translation, China Law Translate, 1 July 2015, full access may be restricted due to paywall: <https://www.chinalawtranslate.com/en/2015nsl/>

often used to limit freedom of expression and punish rights lawyers with long prison sentences.<sup>11</sup> There is also a limited role for lawyers taking on politically sensitive cases such as representing Uyghurs, in the Xinjiang Uyghur Autonomous Region (XUAR), suspected of terrorism or security-related offences.<sup>12</sup>

Under the Criminal Procedure Law, Articles 74 to 79, Chinese authorities can also hold individuals suspected of terrorism, major bribery and endangering national security offences under ‘residential surveillance in a designated location’ (RSDL). RSDL is a form of incommunicado detention: individuals can be held up to six months without access to a lawyer. For many years the UN has reiterated that the measure is incompatible with international human rights law.<sup>13</sup> The UN Committee Against Torture has urged the repeal of RSDL and expressed concern that there is a high risk of torture and ill-treatment for detainees.<sup>14</sup> United Nations experts have clearly stated that it is a form of enforced disappearance.<sup>15</sup> An estimated 57,000 individuals are being held under RSDL.<sup>16</sup> Rights lawyers and human rights defenders are increasingly being targeted and subjected to RSDL for exercising their right to work.<sup>17</sup> The measure is used to instill fear in the legal and rights defence community. Rights lawyers fear being disappeared under RSDL and this prevents them from carrying out their professional duties independently and freely. See answer to Question 6 below for more details on individuals subjected to RSDL.

In 2015, the Criminal Law was also amended to include “insulting, defaming or threatening judicial personnel or litigation participants” as conduct which could constitute contempt of court.<sup>18</sup> Lawyers remain concerned that the provision is used arbitrarily when lawyers challenge the prosecutor or the judge in court. The Criminal Law, Article 306, has long been criticised for punishing lawyers collecting evidence. The Article states that defenders or agents fabricating evidence or inducing witnesses to change or give false testimony, may be sentenced to prison.<sup>19</sup> Many lawyers fear that if they collect evidence for their client’s case, especially related to allegations of torture, they may be punished under this law.<sup>20</sup> When

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<sup>11</sup> Criminal Law of the People’s Republic of China. 2020. Chinese: <http://xingfa.org/> Unofficial English translation, Law Info China: <https://www.lawinfochina.com/display.aspx?id=34470&lib=law>

<sup>12</sup> The Rights Practice. “Criminal Law and Deprivation of Liberty in Xinjiang.” 31 August, 2021. <https://www.rights-practice.org/news/criminal-law-and-deprivation-of-liberty-in-xinjiang>

<sup>13</sup> International Service for Human Rights, Safeguard Defenders, The Rights Practice and The 29 Principles. “Call on China to free defenders and #RepealRSDL”. 25 October 2021. <https://ishr.ch/action/campaigns/call-on-china-to-free-defenders-and-repealrddl/>

<sup>14</sup> The Rights Practice. “Incommunicado Detention Must Go”. 24 August 2018. <https://www.rights-practice.org/news/incommunicado-detention-must-go>

<sup>15</sup> United Nations Human Rights Office of the High Commissioner (OHCHR). “China: UN experts gravely concerned by enforced disappearance of three human rights defenders”. 23 March 2020. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25735&LangID=E>

<sup>16</sup> Safeguard Defenders. “New graphic report takes reader into heart of China’s hidden RSDL prisons”. 21 June 2021. <https://safeguarddefenders.com/en/blog/new-graphic-report-takes-reader-heart-china-s-hidden-rsdl-prisons>

<sup>17</sup> Ibid

<sup>18</sup> Criminal Law of the People’s Republic of China. 2020. Chinese: <http://xingfa.org/> Unofficial English translation, Law Info China: <https://www.lawinfochina.com/display.aspx?id=34470&lib=law>

<sup>19</sup> The New York Times. “‘Big Stick 306’ and China’s Contempt for the Law”. 5 May 2011. <https://www.nytimes.com/2011/05/06/opinion/06fri3.html>

<sup>20</sup> Ibid

lawyers are unable to freely collect evidence on their client's case, they are not able to provide an adequate defence and defendants are at risk of miscarriages of justice.

Criminal defence lawyers are also restricted full access to the case file of their client and information that may be vital to provide an adequate defence. This is especially important in death penalty cases, where this can mean the difference between life and death.<sup>21</sup> As set out in the answer to Question 1 above, lawyers have the right to access files under the Law on Lawyers (2017), but this right can be restricted in certain cases. Lawyers are also not permitted access to a secondary file on the case. The Judges Law (2017), Article 7, states that judges are required to keep 'judicial work secrets' confidential. The 1990 Judicial Work Secrets Regulations prohibits the disclosure of trial secrets.<sup>22</sup> Any violations may be punished by Party discipline, administrative penalties and even criminal prosecution. The definition of judicial work secrets is unclear in Chinese law but includes non-court personnel accessing secondary files without approval of the leadership of a court.<sup>23</sup> Chinese lawyers, legal professionals and judges have previously called to reduce or abolish this secondary file as it contradicts the Supreme People's Court aims of greater judicial transparency.<sup>24</sup>

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 All China Lawyers Association (ACLA) is the official professional association for lawyers in China. It was founded in 1986, and is answerable to the Ministry of Justice. It is not independent from the State. Chinese lawyers are obliged to be members of the local branch of the All China Lawyers Association. The ACLA has the power, each year, to renew lawyers' licenses and register law firms. Lawyers and law firms must reregister annually, leaving them vulnerable to political pressure. This system of renewal is used by judicial authorities as a way in which to control and punish lawyers, especially lawyers that take cases involving rights abuses and are deemed politically sensitive.

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?*

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<sup>21</sup> The Rights Practice, "Respect for Minimum Standards? Report on the Death Penalty in China". 10 October, 2020.

<https://www.rights-practice.org/news/respect-for-minimum-standards-report-on-the-death-penalty-in-china>

<sup>22</sup> The Rights Practice. "Lack of Transparency on the Death Penalty Impacts Human Rights". March 2021.

<https://www.rights-practice.org/news/lack-of-transparency-on-the-death-penalty-in-china-impacts-human-rights>

<sup>23</sup> Finder, Susan. "China's Translucent Judicial Transparency". 18 October, 2018. in: Transparency Challenges Facing China (2018), Peking University School of Transnational Law Research Paper, Available at SSRN:

<https://ssrn.com/abstract=3344466>, pp. 145

<sup>24</sup> Ibid

At least 42 rights lawyers and two law firms have been disciplined between January 2017 and October 2021.<sup>25</sup> As mentioned in answer to Question 4 above, the system of annual lawyer license renewal is a form of control and enables lawyers who challenge state authority and take on sensitive cases to be disbarred.

On 2 February 2021, Ren Quanniu (任全牛) was informed that Henan Provincial Judicial Department had revoked his lawyer's license.<sup>26</sup> The Department had notified Ren that the reason for revoking his license to practice was due to his action during a trial in November 2018, in which he defended a member of a religious group. The Department stated that Ren had violated the 'Administrative Measures for the Practice of Law by Lawyers' (2016) through his actions and had "severely damaged the image of the legal profession".<sup>27</sup> He is one of three lawyers believed to have been targeted in 2021, for being hired to defend Hong Kong activists attempting to flee to Taiwan by boat. Lawyers Lu Siwei (卢思位) and Lin Qinlei (蔺其磊) also had their lawyer's licenses revoked in 2021, believed to be for representing one of the Hong Kong activists.<sup>28</sup>

Lin Qilei's law firm, Beijing Ruikai Law Firm, was closed down in April 2021. His lawyer's license was revoked on 30 October 2021.<sup>29</sup> Lin has defended many rights-related cases including religious practitioners and activists.

On 28 October 2021, lawyer Liang Xiaojun (梁小军) was notified by Beijing Judicial Department that his lawyer's license would be revoked for violating the Law on Lawyers (2017). The reasons given were his comments on domestic and foreign social media and for publicly supporting Falungong practitioners.<sup>30</sup> Lawyer Liang has for many years taken on rights cases including defending fellow rights lawyers, religious practitioners, and death penalty cases.

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.*

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<sup>25</sup> International Service for Human Rights, Front Line Defenders, Safeguard Defenders, Reporters Without Borders, and The 29 Principles, "Three years after UN review, China failing to uphold commitments on human rights defenders". 30 November 2021. <https://ishr.ch/latest-updates/three-years-after-un-review-china-failing-to-uphold-commitments-on-human-rights-defenders-and-civil-society-space/>

<sup>26</sup> Frontline Defenders. "Ren Quanniu Barred From Establishing a legal Services Company". July 2021. <https://www.frontlinedefenders.org/en/case/ren-quanniu-barred-establishing-legal-services-company>

<sup>27</sup> Ibid

<sup>28</sup> Jeffie Lam. "Mainland Chinese lawyer who tried to help Hong Kong fugitive arrested while fleeing to Taiwan stripped of licence" South China Morning Post. 31 October 2021. <https://www.scmp.com/news/hong-kong/politics/article/3154356/chinese-lawyer-who-tried-help-hong-kong-fugitive-arrested>

<sup>29</sup> China Change. "Lin's Uprising — A Human Rights Lawyer Recounts How His Law Firm Was Shut Down and His License Revoked". 21 November 2021. <https://chinachange.org/2021/11/21/lins-uprising-a-human-rights-lawyer-recounts-how-his-law-firm-was-shut-down-and-his-license-revoked/>

<sup>30</sup> Liang Xiaojun, Twitter update, 26 November 2021. Chinese language: <https://twitter.com/liangxiaojun/status/1464251480165150727?s=20>

As stated in answer to Question 5 above, the system of license renewal is a form of interference and harassment by the State authorities of the Chinese legal profession. Since the ‘709’ Crackdown in July 2015, Chinese lawyers and their families have continued to be denied access to their clients, harassed by State authorities, subjected to surveillance, arrested, detained under ‘residential surveillance in a designated location’ (RSDL) and sentenced to long prison sentences.

Rights lawyer Chang Weiping (常玮平) was disappeared on 22 October 2020 and detained by Baoji city security officials, under RSDL for “inciting subversion of State power,” a national security offence. He had released a video describing torture and ill-treatment he had been subjected to while under RSDL in January 2020. The UN Special Rapporteur on the situation of human rights defenders raised concerns about Chang’s case in December 2020, and called for his release. She stated that his case “epitomised China’s efforts to silence lawyers who spoke out about human rights.”<sup>31</sup> The call was endorsed by the Special Rapporteur on the independence of judges and lawyers. Chang’s whereabouts remain unknown.

On 5 August 2021, lawyer Xu Zhiyong (许志永) was formally charged with “subversion of State power”.<sup>32</sup> He has been detained since February 2020. On 7 March 2020 his family were notified that he was being held under RSDL and was suspected of “inciting subversion of State power”. He, along with a group of other rights lawyers and defenders, including Chang Weiping, had held a gathering in Xiamen on 7 and 8 December 2019. He was held under RSDL and his whereabouts were unknown until 19 June 2020. He had no access to a lawyer until 21 January 2021, via video call. He told his lawyers that he was subjected to torture while under RSDL. His case has been raised multiple times by the UN. In April 2021, eight UN Special Procedures, including the Special Rapporteur on the independence of judges and lawyers, raised his case in a communication to the Chinese government.<sup>33</sup>

Lawyer Ding Jiayi (丁家喜) has been detained since 26 December 2019, having also taken part in the gathering of lawyers in Xiamen in December 2019. He was also held incommunicado under RSDL for six months, and not until August 2021 formally charged with “subversion of State power”, having initially been charged with the lesser offence of “inciting subversion of State power”. He told his lawyer that he was subjected to torture while under RSDL.<sup>34</sup> Neither Chang, Ding nor Xu have yet been tried.

Many other rights lawyers, and their families, have been subjected to harassment, surveillance and restrictions on their movement. For example, in June 2020, rights lawyer

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<sup>31</sup> United Nations Human Rights Office of the High Commissioner (OHCHR). “China: Shock at continued crackdown on human rights defenders and lawyers – UN expert” 16 December 2020.

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26612&LangID=E>

<sup>32</sup> Chinese Human Rights Defenders, “Xu Zhiyong”. 22 October 2013. <https://www.nchrd.org/2013/10/prisoner-of-conscience-xu-zhiyong/>; Amnesty International. “Urgent Action: Prominent Legal Scholar Indicted For Subversion”. 25 October 2021. <https://www.amnesty.org/en/wp-content/uploads/2021/10/ASA1749122021ENGLISH.pdf>

<sup>33</sup> Eight UN Special Procedures, “Eleven human rights defenders sentenced of 10 years up to life in prison in connection to the defence of human rights and/ or exercise of public freedoms”. 28 April 2021.

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26337>

<sup>34</sup> Amnesty International. “China: Further details: Charged with subversion, torture details revealed: Ding Jiayi”. 10 February 2021. <https://www.amnesty.org/en/documents/asa17/3670/2021/en/>; Frontline Defenders, “Ding Jiayi faces health concerns”. October 2021. <https://www.frontlinedefenders.org/en/case/ding-jiayi-faces-health-concerns>



Tang Jitian (唐吉田) was prevented from boarding a flight to Japan to see his sick daughter. The authorities stated that travel “may endanger national security” but no other reasons were given.<sup>35</sup>

In recent years, detained human rights defenders and lawyers have been denied access to their lawyer of choice. Instead, a government-appointed lawyer, more susceptible to pressure from the local judicial authorities, is imposed. For example, in March 2020, the six lawyers appointed by the families of detained NGO workers, Cheng Yuan (程渊), Liu Dazhi (刘大志) and Wu Gejianxiong (吴葛健雄) were dismissed. Family members of the “Changsha Three”, as they are known, were doubtful that all three detainees separately, and of their own volition, chose to dismiss the defence lawyers appointed by their families. Wu’s father, lawyer Wu Youshui, was “personally” dismissed from taking his case, by his own son.<sup>36</sup> Government-appointed lawyers refused to withdraw from their cases, despite family members publicly requesting them to do so.<sup>37</sup>

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.*

The Rights Practice has for many years engaged with Chinese lawyers and legal scholars on international law related to the role of the lawyer, detention and torture. We co-ordinate with other organisations to share information and advocate on issues affecting the independence of lawyers in China. For example, in October 2021, The Rights Practice worked with three other civil society organisations—International Service for Human Rights (ISHR), The 29 Principles and Safeguard Defenders—to mobilise the international community to put pressure on China to repeal ‘residential surveillance in a designated location’ (RSDL).<sup>38</sup>

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.*

There is a lack of transparency and information on the extent to which Covid-19 measures have affected lawyers in China. Anecdotal evidence from Chinese lawyers and legal scholars

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<sup>35</sup> International Service for Human Rights, Front Line Defenders, Safeguard Defenders, Reporters Without Borders, and The 29 Principles, “Three years after UN review, China failing to uphold commitments on human rights defenders”. 30 November 2021. <https://ishr.ch/latest-updates/three-years-after-un-review-china-failing-to-uphold-commitments-on-human-rights-defenders-and-civil-society-space/>

<sup>36</sup> The Rights Practice, “A Secret Criminal Process.” May 2020. <https://www.rights-practice.org/news/a-secret-criminal-process>.

<sup>37</sup> Amnesty International. “China: Authorities must immediately release imprisoned Changsha Funeng staff”. 6 August 2021. <https://www.amnesty.org/en/latest/news/2021/08/china-authorities-must-immediately-release-changsha-funeng-staff/>

<sup>38</sup> International Service for Human Rights, Safeguard Defenders, The Rights Practice and The 29 Principles. “Call on China to free defenders and #RepealRSDL”. 25 October 2021. <https://ishr.ch/action/campaigns/call-on-china-to-free-defenders-and-repealrddl/>

suggests that there has been a reduction in access to detention centres to meet clients. It has also been suggested that the pandemic reduced capacity to process criminal cases. Chinese scholars have observed that efforts to reduce infection spreading in crowded detention centres may have resulted in an increase in other kinds of pre-trial disposals, especially bail.<sup>39</sup>

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

- Repeal the use of ‘residential surveillance in a designated location’ (RSDL) as a form of enforced disappearance. Notwithstanding its legal basis in Chinese law, this measure is used against rights lawyers and to restrict access to a lawyer.
- Increase transparency, as promised by the Supreme People’s Court, by allowing lawyers full access to the secondary case file. Revise regulations that restrict lawyers’ freedom to speech to the minimum necessary to prevent contempt of court.
- Allow lawyers to be present during police interviews of their client.
- Guarantee the defendant the right to access their lawyer of choice, rather than a government-appointed lawyer.

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<sup>39</sup> The Rights Practice, “Respect for Minimum Standards? Report on the Death Penalty in China”. 10 October, 2020. <https://www.rights-practice.org/news/respect-for-minimum-standards-report-on-the-death-penalty-in-china>