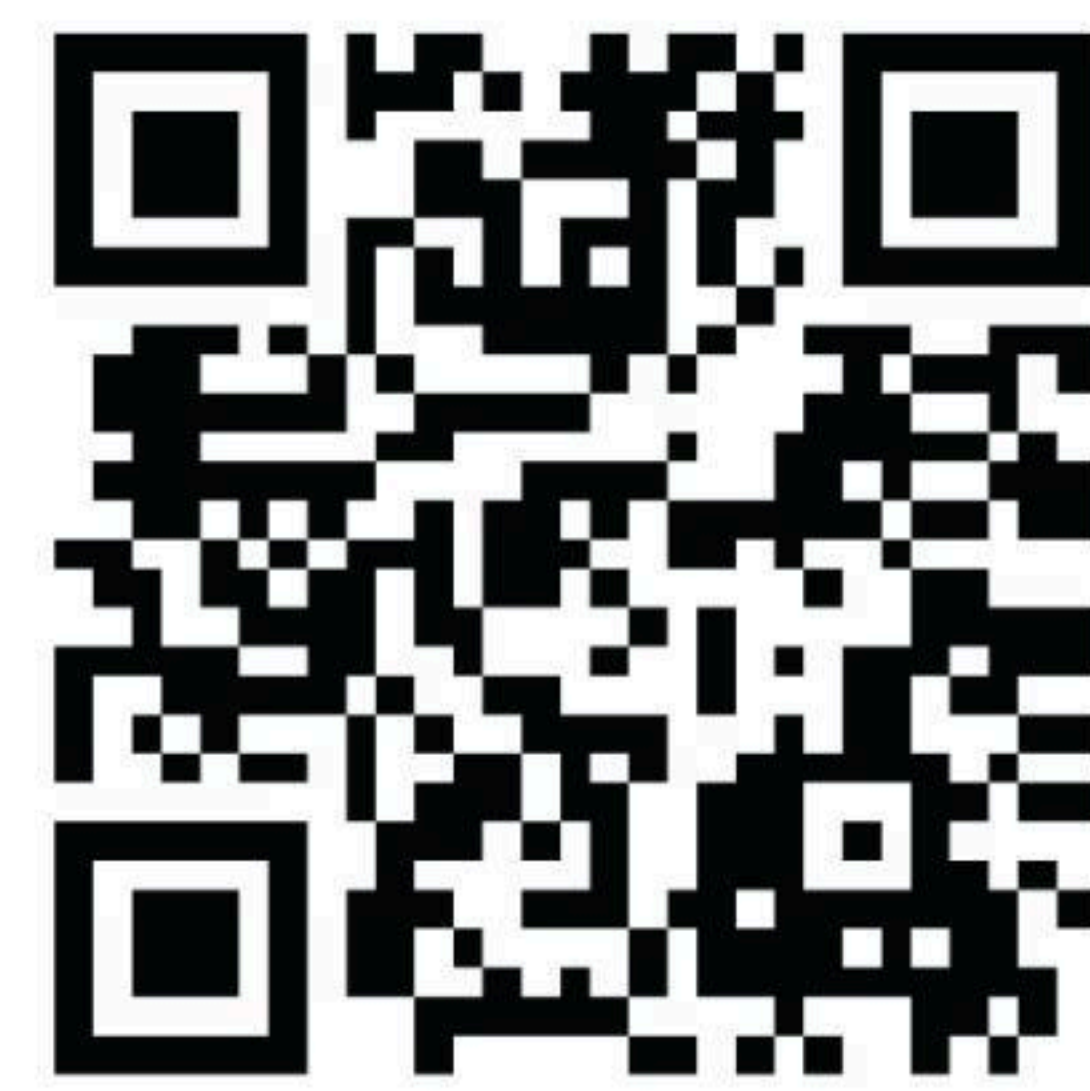


Lawyers' Rights in China and Hong Kong



Issue 1 Criminal Prosecution

- 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'
- **Half** of the 37 lawyers who were arrested en mass in 2015 were later charged with either inciting subversion of State power or provoking disturbances
- **Residential Surveillance at a Designated Location' (RSDL)**, a form of detention characterised by enforced disappearance at a place run by the state and surveilled by the police, has continued to be used against lawyers

Issue 2 Disbarment Measures

- Deprive lawyers' ability to adequately defend their clients and themselves
- **At least 50 lawyers** have had their licenses revoked since 2012
- For sensitive cases, the Justice Bureau can decide not to renew or withdraw the license

Issue 3 Hong Kong's Lawyers' Rights

- Hong Kong's National Security Law limits the city's commitment to human rights protection
- In three years, **264 individuals** were arrested with this law
- Both the **CESCR and HRC** noted the potential detrimental effects on **the arrest and arbitrary detention** of journalists, politicians, academics, students and human rights defenders expressing dissenting opinions



Lawyers' Rights in China and Hong Kong



Responses from China:

- In the third UPR cycle in 2017, China did **not accept** recommendations concerning:
- 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.

Recommendation 1

- Immediately **release all detained human rights lawyers**

Recommendation 2

- Guarantee detained lawyers immediate and effective access to legal counsel of own choosing

Recommendation 3

- Abolish **RSDL** and all other forms of administrative detention

Recommendation 4

- Immediately halt all abuse and misuse of national security laws, including the HKSNL, aimed at arbitrarily restricting lawyers' legitimate activities

Recommendation 5

- Establish safeguards to guarantee the full independence, safety and effective protection of lawyers in law and practice

Recommendation 6

- Guarantee the effective protection of the right of freedom of expression of lawyers, especially to participant in discussions of matters concerning the law, justice, and human rights



Lawyers' Rights in China and Hong Kong



Case 1 Yu Wensheng

- On April 13, 2023, human rights lawyer Yu Wensheng and his wife Xu Yan were criminally detained by the Beijing police. Their son was informed on 15 April that the couple had been criminally charged with "picking quarrels and provoking trouble"
- On 17 June, 2020, the Xuzhou Intermediate People's Court convicted Yu Wensheng of 'inciting subversion of State Power' and sentenced him to four years' imprisonment, followed by three years' deprivation of political rights
- On 16 January, 2018, his legal license was revoked. Three days later, Yu Wensheng was forcibly disappeared under 'Residential Surveillance at a Designated Location' (RSDL)
- Yu Wensheng is a leading figure in China's community of human rights lawyers. He defended sensitive cases including individuals petitioning the government for redress of rights abuses
- Yu Wensheng is the laureate of the 2021 Martin Ennals Award for Human Rights Defenders and a winner of the 2018 Franco-German Prize for Human Rights and the Rule of Law

Case 2 Chow Hang-Tung

- In June 2023, the UN Working Group on Arbitrary Detention issued an opinion on the ongoing detention of Chow. Chow faced multiple arrests on various charges, with the most recent arrest occurring on 8 September 2021. She has been held in detention since then. The charges levied against her included two counts of "incitement to knowingly participate in an unauthorised assembly," connected to a vigil of the Tiananmen Square protests and massacre, "failing to comply with the police request for information to assist in an investigation of an organisation as a suspected "foreign agent" under article 43 of the HKNSL, and "incitement to State subversion" under article 22 of the HKNSL
- The Working Group determined that Chow's detention was arbitrary on several grounds. In its tardy response, the HKSAR Government denied the assertion but failed to offer specific and substantive counterarguments
- Chow is a barrister and an activist in Hong Kong. She represented a number of human rights defenders. She was also the organiser of the annual candlelight vigil for Tiananmen Massacre

