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**Statement of New York City Bar Association on
the U.N. Universal Periodic Review of China**

On the occasion of the United Nations Human Rights Council’s third Universal Periodic Review of the People’s Republic of China, the New York City Bar Association underscores the grave and continuing deficiencies in the country’s human rights record, particularly what has been termed the Chinese government’s “war on law,” which methodically targets human rights lawyers and other advocates.

This week, the U.N. Human Rights Council is reviewing China as part of the U.N.’s Universal Periodic Review, a “State-driven process” that is designed to “review the human rights records of all U.N. Member States.”¹ According to the U.N. High Commissioner for Human Rights, the Universal Periodic Review process provides “the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations.”² “The ultimate aim of [the] mechanism,” according to the Council, “is to improve the human rights situation in all countries and [to] address human rights violations wherever they occur.”³

¹*China’s human rights record to be reviewed by Universal Periodic Review* (Office of the U.N. High Commissioner for Human Rights, 2 Nov. 2018), <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23818&LangID=E>; U.N. Human Rights Council, Universal Periodic Review, <https://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>; *China must stop making a mockery of the rights treaties it signs* (Washington Post, 30 Oct. 2018), https://www.washingtonpost.com/news/global-opinions/wp/2018/10/30/china-must-stop-making-a-mockery-of-the-rights-treaties-it-signs/?utm_term=.518556f510b2.

²U.N. Human Rights Council, Universal Periodic Review, <https://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>; see also Submissions re: Universal Periodic Review of China (U.N. Human Rights Council), <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CNIndex.aspx>.

³U.N. Human Rights Council, Universal Periodic Review, <https://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>.

China was last subject to the Universal Periodic Review in 2013.⁴ This current review is therefore China's first review since that country's July 2015 launch of the infamous "709 Crackdown" – the State-sponsored campaign of repression of Chinese human rights lawyers and other advocates for clients and causes the Chinese government finds objectionable or threatening.⁵

The New York City Bar Association understands that a major focus of this Universal Periodic Review will be the rapidly-escalating crisis surrounding China's persecution of ethnic minorities (Uighurs and Tibetans, in particular).⁶ We urge the U.N. Human Rights Council to recognize and consider, in addition, the unique role that lawyers and human rights defenders play vis-à-vis the protection of human rights in all civilized societies; to denounce in the strongest possible terms China's continuing harassment, surveillance, arrest, prosecution, imprisonment, and torture, of hundreds of Chinese lawyers and rights defenders, as well as their families, friends, staff, and associates; and, lastly, to press China to take immediate, concrete actions to redress its violations of the rights of lawyers and rights defenders and to honor the letter and the spirit of its international human rights obligations.

⁴*Activists urge deep scrutiny of China at UN human rights gathering* (South China Morning Post, 5 Nov. 2018), <https://www.scmp.com/news/china/politics/article/2171638/activists-urge-deep-scrutiny-china-un-human-rights-gathering>.

⁵*Trial by fire: three years on from the crackdown that put China's nascent human rights law movement to the test* (South China Morning Post, 8 July 2018), <https://www.scmp.com/news/china/policies-politics/article/2154278/trial-by-fire-three-years-crackdown-put-chinas-nascent>; *Hearing, Gagging the Lawyers: China's Crackdown on Human Rights Lawyers and Its Implications for U.S.-China Relations* (Congressional-Executive Commission on China, 28 June 2017), <https://www.cecc.gov/events/hearings/gagging-the-lawyers-china%E2%80%99s-crackdown-on-human-rights-lawyers-and-its-implications>; *Remarks of Acting Secretary of State John J. Sullivan, Sr. on the Release of the 2017 Country Reports on Human Rights Practices* (20 April 2018) (stating that "China continues to spread the worst features of its authoritarian system, including restrictions on activists, civil society, freedom of expression, and the use of arbitrary surveillance"; that "[t]he absence of an independent judiciary, the government's crackdown in independent lawyers, and tight controls on information undermine the rule of law"; and that the U.S. is "particularly concerned about the efforts of Chinese authorities to eliminate the religious, linguistic, and cultural identities of Uighur Muslims and Tibetan Buddhists, as well as restrictions on the worship of Christians"), <https://www.state.gov/s/d/2018/280666.htm>; see generally Congressional-Executive Commission on China – Annual Report 2018 (10 Oct. 2018), https://www.cecc.gov/sites/chinacommission.house.gov/files/Annual%20Report%202018_1.pdf.

⁶*Activists urge deep scrutiny of China at UN human rights gathering* (South China Morning Post, 5 Nov. 2018), <https://www.scmp.com/news/china/politics/article/2171638/activists-urge-deep-scrutiny-china-un-human-rights-gathering>; *Pompeo Denounces China's Treatment Of Uyghur, Christian Minorities* (RadioFreeEurope/RadioLiberty, 22 Sept. 2018), <https://www.rferl.org/a/china-muslim-uyghur-christians-pompeo-assails-treatment/29503526.html>; *Report, Eradicating Ideological Viruses: China's Campaign of Repression Against Xinjiang's Muslims* (Human Rights Watch, 9 Sept. 2018), <https://www.hrw.org/report/2018/09/09/eradicating-ideological-viruses/chinas-campaign-repression-against-xinjiangs>; *U.S. Weighs Sanctions Against Chinese Officials Over Muslim Detention Camps* (New York Times, 10 Sept. 2018), <https://nyti.ms/2MhSrRm>; *Lawmakers urge Trump administration to sanction China over Muslim crackdown* (ABC News, 29 Aug. 2018), <https://abcnews.go.com/International/lawmakers-urge-trump-administration-sanction-china-muslim-crackdown/story?id=57472927>; *U.N. Panel Confronts China Over Reports That It Holds a Million Uighurs in Camps* (New York Times, 10 Aug. 2018), <https://nyti.ms/2OZV5O9>; *U.S. criticizes treatment of Uighurs in latest China row* (Japan Times, 22 Sept. 2018), <https://www.japantimes.co.jp/news/2018/09/22/asia-pacific/u-s-criticizes-treatment-uyghurs-latest-china-row/#.W-ChKk2Wzuo>; *Hearing, Surveillance, Suppression, and Mass Detention: Xinjiang's Human Rights Crisis* (Congressional-Executive Commission on China, 26 July 2018), <https://www.cecc.gov/events/hearings/surveillance-suppression-and-mass-detention-xinjiang%E2%80%99s-human-rights-crisis>.

As the Association has previously explained,⁷ China's crackdown on human rights lawyers and other rights defenders undermines China's legal reform efforts and its commitment to the rule of law, and impedes its development of a professional and independent bar.

Chinese law, in the *xianfa* or Constitution and in other legislation, guarantees numerous fundamental human rights, including the rights of freedom of expression and association, due process, and the right to be represented by legal counsel. Further, Article 37 of the Lawyers Law of the People's Republic of China specifically provides that "a lawyer's right of the person is inviolable," and affirms that a lawyer is not legally liable for the positions that he or she presents on a client's behalf.⁸

China's crackdown on human rights lawyers and other defenders also derogates from numerous international conventions, customary international law, and well-established U.N. declarations. For example, Article 16 of the U.N. Basic Principles on the Role of Lawyers provides that "[g]overnments shall ensure that lawyers . . . are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference."⁹ Similarly, Article 9.3(c) of the U.N. Declaration on Human Rights Defenders reflects the fundamental right of individuals "[t]o offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms," without government interference.¹⁰

The United Nations, and the international community as a whole, cannot continue to turn a blind eye to China's violations of fundamental, universally-accepted principles of international human rights. China cannot be permitted to continue to flout international norms and standards with impunity. The world is watching this Universal Periodic Review. The government of the People's Republic of China must be held accountable.

⁷Letter Marking the Third Anniversary of the "709 Crackdown" in China (New York City Bar Association, 9 July 2018), https://s3.amazonaws.com/documents.nycbar.org/files/2018413-Third_Anniversary_709.pdf; Statement of New York City Bar Association Marking "709 Crackdown" on Chinese Human Rights Defenders (New York City Bar Association, 8 July 2017), <https://www.nycbar.org/media-listing/media/detail/statement-of-new-york-city-bar-association-marking-709-crackdown-on-chinese-human-rights-defenders>; Letter to President of China re: intimidation and harassment of human rights and public interest lawyers (New York City Bar Association, 28 July 2015), <https://www2.nycbar.org/pdf/report/uploads/20072953-LettertoHEXiJinpingreChineselawyers72815.pdf>; see also [Letter to China's Minister of Justice Regarding Recent Detention of Women's Rights Defenders](#) (New York City Bar Association, 3 April 2015), <https://www2.nycbar.org/pdf/report/uploads/20072887-RegardingtheRecentDetentionofWomensRightsDefendersinChina.pdf>.

⁸The Lawyers Law of the People's Republic of China, http://www.npc.gov.cn/englishnpc/Law/2009-02/20/content_1471604.htm.

⁹The U.N. Basic Principles on the Role of Lawyers, <https://www.un.org/ruleoflaw/files/UNBasicPrinciplesontheRoleofLawyers.pdf>.

¹⁰The U.N. Declaration on Human Rights Defenders, <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>.

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 24,000 members, is to equip and mobilize the legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world. The mission of the City Bar's Task Force for the Independence of Lawyers and Judges is to foster the independence of lawyers and judges in their professional activities in the United States and abroad.

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