

ANNEX

Submission to the UN Committee on the Elimination of Racial Discrimination

The People's Republic of China Combined 14th to 17th Periodic Reviews

Measures for the Administration of Law Firms and Lawyers' Practice, 2016¹

1. Problematic provisions from the Measures for the Administration of Law Firms (2016 Revision) 律师事务所管理办法

a) Article 3:

A law firm shall take supporting the leadership of the Communist Party of China and the socialist rule of law as the basic requirements for its practice. A law firm shall practice in accordance with the law, intensify its internal management and supervision over the practice of lawyers, and assume corresponding legal liabilities in accordance with the law. No organisation or individual shall illegally interfere with the practice of or infringe upon the lawful rights and interests of any law firm.

b) Article 4

A law firm shall strengthen the building of the Party, and establish a Party organisation in a timely manner when conditions are met, and if conditions are not met for the time being, the work of the Party shall be conducted by such forms as the director for Party construction. The law firm shall support the Party organisation's activities, establish and improve the work mechanism for the Party organisation's participation in the law firm's decision-making and management, and play the core political role of the Party organisation and the spearhead and exemplary role of lawyers as Party members.

c) Article 49

A law firm shall establish and improve the rules for reports on instructions for major and difficult cases, collective research and inspection supervision, regulate acceptance procedures, and direct and oversee lawyers' handling of major and difficult cases in accordance with the law.

d) Article 50

¹ All cited from

A law firm shall perform management functions in accordance with the law, educate and administer its lawyers' lawful and ethical practice, strengthen the supervision and administration of its lawyers' practice activities, and shall not indulge or connive in any of the following conduct of its lawyers:

- (1) Taking illicit means that disrupt the public order and endanger public security such as instigating, inciting and organizing a party or any other person to sit in, raise signs, put up banners, shout slogans, express support, and surround the judicial authority or any other state authority so as to gather a crowd to make disturbances, create negative impacts and impose pressure on the relevant department.
- (2) Distorting, conducting misleading publicity and making misleading comments on a case handled by himself or herself or any other lawyer, or maliciously hyping a case.
- (3) By taking such methods as forming a group, conducting a joint signature, issuing an open letter, organizing online assembly and support or in the name of individual research and discussion, creating the pressure of public opinion, and accusing and defaming the judicial authority and judicial system.
- (4) Refusing to appear in court to participate in judicial proceedings without any justifiable reason, or retiring from the court without approval in violation of court rules.
- (5) Gathering a crowd to make trouble in or assault the court, insulting, defaming, threatening, or assaulting the judicial personnel or litigation participants; denying the nature of an evil organisation² recognized by the state, or committing any other conduct that seriously disrupts the courtroom order
- (6) Disseminating or spreading words that endangers the fundamental political rule or basic principle in the Constitution or endangers state security, inciting people's irritation against the Party and the government by using the Internet and mass media, inciting or participating in any organisation endangering state security, or supporting, participating in or committing any activity endangering state security; delivering any speech that maliciously defames any other person by distorting the truth of facts and in other forms that is evidently against public order and good customs, or delivering any speech that seriously disrupts courtroom order.

2. Problematic provisions from Measures On the Administration Of Lawyers' Practice (2016 Revision) 律师执业管理办法

a) Article 37

Lawyers...must not instigate, incite, and organize parties or other persons to go to judicial organs or other relevant State organs for sit-ins, raising protest signs, unfurling banners, shouting slogans, vocalizing support, looking on, or other methods that disrupt public order and endanger public safety, gathering crowds to make a disturbance, creating an impact and pressuring relevant departments.

² wording used in Chinese original is “邪教”, “evil religious cult”

b) Article 38

Lawyers shall perform their duties in accordance with law and must not use the following improper methods to influence the lawful handling of cases:

- (1) Providing legal services, entering a case, or interfering with lawful case handling in one's capacity as a lawyer, without being appointed a party or appointed by a legal aid institution;
- (2) Conducting distorting or misleading publicity and commentary on cases that they or other lawyers are currently handling, maliciously stirring up the case;
- (3) Using methods such as aligning groups, collecting signatures, publishing open letters, organizing online gatherings or support, or, in the name of individual case discussion, creating pressure from public opinion, or attacking or disparaging judicial organs and the justice system;
- (4) Violating provisions to disclose or distribute information or materials in case that are not tried in public, or important information and evidence obtained by oneself or other lawyers during the course of handling a case.

c) Article 40

Lawyers' public comments on cases shall be lawful, objective, just, and prudent; and must not speak to deny the fundamental political system and basic principles enshrined in the Constitution, or endanger national security; must not exploit the Internet and media to provoke dissatisfaction with the Party and government, provoke the establishment or participation in groups that endanger national security, or support, participation, or carrying out of activities that endanger national security; and must not distort the truth in ways that clearly go against good social custom to express speech that maliciously defames others to express speech that seriously disrupts courtroom order.