

An Open Letter by Legal Professionals to President Xi Jinping on the Occasion of the Anniversary of the 709 Crackdown

2016-07-15

Xi Jinping, President of the People's Republic of China
Zhongnanhai,
No. 174 Xi Chang'an Jie,
Beijing 100017 China
9 July 2016

Re: Due Process for Lawyers in Detention

Dear President Xi Jinping,

On the occasion of the anniversary of the arrests and detention of human rights lawyers and defenders, which started on 9 July 2015 (referred to in the media as the "709 crackdown"), we express our continued concern regarding the situation of our colleagues who are still in detention. Today, 23 individuals are held under formal arrest, nine of them human rights lawyers, one law firm staff and 13 human rights defenders.[\[1\]](#)

We note these cases in particular because of the international attention they have attracted and the significant implications they have for the rule of law and exercise of the legal profession in China. As legal practitioners from around the world, we support and embrace the universal values underpinning human rights and the rule of law, and we aim for the improvement of the situation for lawyers and human rights defenders and access to justice for all. It is in this light that we wish to remind you of your continuous pledges, Mr. President, to uphold the rule of law in China.

We are, however, disturbed by the many reports on the violations of national law and international human rights law in the handling of the cases implicated in the 709 crackdown, to which the Chinese government has so far not granted any clarification or explanation. They include:

1. The use of national security-related crimes. The charges made against the lawyers and legal assistants fall under broadly defined national security-related crimes, thereby suspending their rights to due process, subjecting them to extended detention periods for investigation and the deprivation of access to counsel.[\[2\]](#)
2. The lack of access to self-selected defense counsel and right to visitation of families since the detentions started one year ago. It is of serious concern to learn that six months have passed since their formal arrests, and none of the detained lawyers and their assistants has been able to meet with their defense counsel and family. Lack of access undermines the possibility of verifying that no torture or inhumane treatment of the detainees has taken place and impedes a proper legal representation during the investigation phase.
3. Police intervention into the selection and appointment of defense counsel. It has been verified that family members received warnings for contacting lawyers they would have preferred to represent the detained; or were coerced into dismissing the defense counsel they had previously appointed. In such instances, preferred defense counsel were verbally informed by police officers that they were dismissed during attempts to meet with their clients.[\[3\]](#)

4. Police pressure to obtain confessions. Family members of lawyer Wang Quanzhang were requested by police officers on 28 April 2015 to “persuade” Wang to confess his “mistakes” on video. We are concerned that the police are exerting undue pressure to secure confessions and self-incriminating statements. This approach casts doubt on the integrity of the evidence collection procedure during police investigations. This is particularly concerning in the Wang case, in which apart from the confession video, we understand that there appears to be insufficient evidence for the charges.
5. Family members, friends and defense counsel of the detained are heavily impacted by the proceedings against the accused. They are subjected to strict surveillance, being monitored by state actors, summoned to appear before the police, and harassed. [\[4\]](#)
6. The Procuratorate and the Court have failed to uphold due process. These bodies have ignored or rejected inquiries and complaints submitted by defendants’ defense counsel and/or family members to ensure that due process is followed.

We, the below signed, are concerned that the legal grounds for these practices are either absent, weak or arbitrary.

Therefore, we call on you as the President of the People’s Republic of China to dedicate your personal attention to ensure that the country honors its commitments to the Constitution, national law, the UN Basic Principles on the Role of Lawyers[\[5\]](#) and international conventions on human rights protection, and consider taking the following actions:

- **Release all lawyers and others unlawfully detained;**
- **Ensure access to counsel of one’s own choosing for all those arrested or held as criminal suspects;**
- **Cease all interference into the families’ appointment of, and consultation with lawyers, and lift all measures that hinder their enjoyment of rights as citizens;**
- **Ensure that the rights of those detained, including their right to adequate medical treatment and visitation rights, are fully enforced.**

Cosignatories:

China Human Rights Lawyers Concern Group

Bar Associations & Lawyers Organisations

Amsterdam Bar Association

Association of European Democratic Lawyers (AED)

Avocats.Be, l’ordre des Barreaux Francophones et Germanophone de Belgique Avocats/ Francophone and German-speaking Bars of Belgium Lawyers, Belgium

Bar Human Rights Committee of England and Wales

Budzowska Fiutowski i Partnerzy. Radcowie Prawni, Poland

Barreau de Paris/ Paris Bar, France

Consejo General de la Abogacía Española/ Spanish National Bar, Spain

Council of Bars and Law Societies of Europe (CCBE)

Human Rights Committee of the Taipei Bar Association, Taiwan

Human Rights Now (HRN), Japan

Institut des droits de l’homme des avocats européens/ European Bar Human Rights Institute (IDHAE)

International Association of People’s Lawyers, Australian branch

International Commission of Jurists (ICJ),
International Observatory for Lawyers in Danger, France
Lawyers for Lawyers, Netherlands
Progressive Lawyers Group, Hong Kong
Swedish Bar Association, Sweden
Taiwan Support China Human Rights Lawyers Network, Taiwan
Union Internationale des Avocats/ International Association of Lawyers (UIA), France
Vereniging Sociale Advocatuur Nederland/ Union of Social Lawyers Netherlands (VSAN), Netherlands

Law Academics

Boehringer, Gill, Honorary Associate of School of Law, Macquarie University, Australia
Bowring, Bill, Professor of School of Law, Birkbeck College, University of London, UK
Cohen, Jerome A., Professor of NYU School of Law, US
Davis, Michael, Professor of Law, University of Hong Kong, HK
Higashizawa, Yasushi, Professor of Law, Maiji Gakuin University, Japan
Kavanagh, Patrick, Professor (retired), Law School Macquarie University, Australia
Perez-Bustillo, Camilo, Executive Director of the Human Rights Center, Research Professor of Human Rights and Law at the University of Dayton, US
Pils, Eva, Reader in Transnational Law of Dickson Poon School of Law, King's College London, UK
Russell, Stuart, Co-director of International Association of People's Lawyers Monitoring Committee on Attacks on Lawyers, France
Tseng, Chien-yuan, Associate Professor, Chung Hua University, Taiwan

Legal Practitioners

Attias, Dominique, France, Vice Chair of the Paris Bar
Cheung, Alvin, Hong Kong
Cheng, Winnie, Hong Kong
Chow, Tonyee, Hong Kong
Choy, Ki, Hong Kong
Clancey, John, Hong Kong
Daly, Mark, Hong Kong
Deng, Earl, Hong Kong
Favreau, Bertrand, France, Chairperson of IDHAE
Fisher, Tony, UK, Chairperson of the Human Rights Committee at the Law Society of England & Wales, London, United Kingdom
Grewal, Ankit, India
Gaasbeek, Hans, Netherlands, Director Foundation Day of the Endangered Lawyer
Gurses, Dundar, Netherlands
Ho, Duncan, Hong Kong
Jorvina, Josue, Jr., the Philippines
Kwan, Janice, Hong Kong
Lam, Mark, Hong Kong
Langenberg, J.M., Netherlands
Leung, Wilson, Hong Kong
Li, Billy, Hong Kong
Lu, Besson, Taiwan, Senior Partner of Baker & McKenzie - Taiwan
Man, Jonathan, Hong Kong
Ng, Chris, Hong Kong
Ng, Irene, Hong Kong

Ng, Leo, Hong Kong
Ng, Senia, Hong Kong
Poon, Debora, Hong Kong
Shek, Randy, Hong Kong
Tam, Jeffrey, Hong Kong
Wong, Linda, Hong Kong
Yam, Kevin, Hong Kong

Law Students

Chan, Kristine, Hong Kong
Ip, Jonathan, Hong Kong
Koon, Jay, Hong Kong
Leung, Yvonne, Hong Kong
Yip, Claudia, Hong Kong

[1] The lawyers and legal assistants held under formal arrest are:

Wang Yu 王宇, lawyer of Fengrui Law Firm (arrested for “subversion of State power”, defense counsel was verbally informed that case would be extended for another 2 months for police investigation till 3 August 2016)

Bao Longjun 包龙军, lawyer (arrested for ‘inciting subversion of State power’, case status unclear – but assumed to have been extended for another 2 months for police investigation till 3 August 2016)

Zhou Shifeng 周世锋, lawyer and director of Fengrui Law Firm (arrested for “subversion of State power”, family member was verbally informed that the case would be transferred to the Procuratorate for deliberation of an indictment, brother has issued a written notification on 20 June to dismiss the lawyer originally appointed.)

Li Heping 李和平, lawyer (arrested for “subversion of State power”, family member was verbally informed that the case has been transferred to the Procuratorate for deliberation of an indictment)

Liu Sixin 刘四新, assistant at Fengrui Law Firm, former lawyer (arrested for “subversion of State power”, case status unclear but assumed to have been extended for another 2 months for police investigation till 3 August 2016)

Wang Quanzhang 王全璋, lawyer of Fengrui Law Firm (arrested for “subversion of State power, case status unclear” -- but assumed to have been extended for another 2 months for police investigation till 3 August 2016))

Li Chunfu 李春富, lawyer (arrested for “subversion of State power”, case status unclear – but assumed to have been extended for another 2 months for police investigation till 3 August 2016)

Xie Yang 谢阳, lawyer (arrested for “inciting subversion of State power”, family was verbally informed that the case would be extended for another 2 months of police investigation till 8 August 2016)

Xie Yanyi 谢燕益, lawyer (arrested for “inciting subversion of State power”– case status unclear -- but assumed to have been extended for another 2 months for police investigation till 3 August 2016)

Wu Gan 吴淦 (aka butcher), legal assistant of Fengrui Law Firm (arrested for “inciting subversion of State power”, “Picking quarrels and provoking troubles”, family was verbally informed that the case would be extended for another 2 months of police investigation till 20 August 2016)

[2] Among the 9 lawyers detained, six including Wang Yu, Wang Quanzhang, Li Heping, Zhou Shifeng, Li Chunfu and Liu Sixin, are accused of subverting state power and three, including Bao Longjun, Xie Yanyi and Xie Yang, are accused of inciting subversion of state power. The law firm staff Wu Gan is accused of inciting subversion of state power. Legal assistant Zhou Wei, formerly accused of subverting state power, was released on bail on 7 July 2016.

[3] Cases in process for Wang Yu, Zhou Shifeng, Li Heping, Liu Sixin, Xie Yanyi, Bao Longjun and including Zhao Wei, who was released on bail on 7 July 2016, each were impacted by police intervention in the retention of defense counsel.

On 20 June 2016, lawyer Zhou Shifeng's brother became the first family member to issue a formal notification of dismissal of counsel under the pressure jointly exerted by the police in Beijing and Tianjin.

[4] The 6-year old daughter of Li Heping has been deprived the right to education as she and her mother still do not hold the permit for temporary residency in Beijing.

By far about 30 rights lawyers and their family members have been prohibited from travelling out of mainland China on the pretext that their exit would endanger state security.

[5] The UN Basic Principles on the Role of Lawyers provide a concise description of international norms relating to the key aspects of the right to independent counsel. The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on 7 September 1990. Subsequently, the UN General Assembly "welcomed" the Basic Principles in their 'Human rights in the administration of justice' resolution, which was adopted without a vote on 18 December 1990 in both the session of the Third Committee and the plenary session of the General Assembly. the Basic Principles provide that:

- "All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings" (Principle 1); and,
- Efficient and effective procedure must be put in place to facilitate that access (Principle 2);
- Lawyers shall not be identified with their clients as a result of carrying out their role (Principle 18); and,
- "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics" (Principle 16).