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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Human Rights Now expresses deep concern over the continuing crackdown and detention of human rights lawyers in China

1. Crackdowns against human rights lawyers in China

Since 9 July 2015, Chinese authorities have questioned, summoned, detained, or arrested more than 300 human rights lawyers and defenders in what has been labeled the “709 [or July 9] Crackdown.” To date, 33 lawyers and activists are either still in detention or have been disappeared, including Ms. Wang Yu, named the bravest female lawyer in China, and Mr. Zhou Shifeng, the director of the Fengrui Law Firm where Ms. Wang works as an attorney.¹ In total, 19 human rights lawyers have been officially arrested, 11 of whom are accused of “subversion of State power” and five for “inciting subversion of State power.”²

Despite numerous attempts by the lawyers and families of the detained lawyers to receive redress or legal remedies, all efforts have proved futile with all legal avenues exhausted. The location of most detained lawyers and rights defenders still remain unknown to their families and to the lawyers defending them.³ According to one source, only one of those under arrest has been allowed access to counsel, placing the treatment of others in violation of international human rights standards and Chinese criminal procedural law.⁴

Human Rights Now, a Tokyo based international human rights NGO, along with other international civil society organizations, is concerned that these lawyers are at a high risk of torture or inhumane or degrading treatment.⁵

2. Legal duties and international standards against the crackdowns against lawyers

The recent crackdowns against human rights lawyers contravene international human rights law and standards as well as Article 35 of the Chinese Constitution, which states that “citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession, and of demonstration.” The arbitrary detention of human rights lawyers prevents them from working on and bringing attention to human rights violations and other human rights issues in China, allowing abuses to continue.

It is necessary for the rule of law that lawyers be independent and have the freedom to conduct legal activities. In this regard, the *UN Basic Principles on the Role of Lawyers*, which establishes the international standard for the treatment of lawyers, declares that “lawyers shall enjoy

¹China Human Rights Lawyers Concern Group, “[‘709 Crackdown’] Latest data and development of cases as of 18:00 29 January,” 29 Jan. 2016, <http://www.chrlawyers.hk/en/content/'709-crackdown'-latest-data-and-development-cases-1800-29-january>.

² Id.

³ Id.

⁴ Id.

⁵ See, Human Rights Watch, “Letter from Legal Experts on Detained Chinese Lawyers,” 18 Jan. 2016, <https://www.hrw.org/news/2016/01/18/letter-legal-experts-detained-chinese-lawyers>

civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority” (Article 20). The principles also guarantee basic rights such as freedom of expression and freedom of legal activities providing,

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization(Article 23).

The arrest and detention of lawyers because of their professional activities and statements clearly violate this principle.

3. Recommendations

Human Rights Now expresses its deep concern over the detentions of and crackdowns against human rights lawyers in China, and calls on the Chinese Government to:

- Immediately release lawyers and activists arbitrarily detained for their legal activities and statements, and end any prosecutions or other forms of harassment against them;
- Disclose the locations of all persons currently being detained, and guarantee their safety and mental and physical health;
- Respect the due process and other penal rights of detainees as established under international human rights laws, such as the rights to access and interview with an attorney and to be treated in a humane manner.
- Follow the international standards on the treatment of lawyers established by the *Basic Principles on the Role of Lawyers*, and make sure that lawyers are able to perform their duties without any threat, harassment, or arbitrary intervention.