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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.

[11 February 2019]

* Issued as received, in the language(s) of submission only.

Human Rights Now Expresses Concern over Continuing Crackdowns in China

Human Rights Now (HRN), a Tokyo-based human rights NGO, expresses serious concern about the situation of human rights lawyers and other activists in China who have recently been detained or tried by the Chinese government. Following the nationwide crackdown against activist lawyers that started around 9 July 2015, commonly referred to as the 709 Crackdown, there have been further detentions of activists. HRN calls on the government of China to end its harassment and crackdown against rights advocates.

1. Human Rights Lawyers Harassed and Sentenced

It was reported that, in the 709 Crackdown, at least 321 lawyers, paralegals, law assistants, law firm staff, human rights activists and their family members were “questioned, summoned, forbidden to leave the country, held under house arrest, residential surveillance, criminally detained or arrested.”¹

Most recently, on 28 January 2019 human rights lawyer Wang Quanzhang was sentenced to a four-and-a-half year prison sentence for state subversion. Wang was detained in August 2015, shortly after the 709 Crackdown, and was held incommunicado for three and a half years.² His trial was held in a closed court on 26 December 2018. His wife was also under temporary house arrest after she protested for her husband’s release, part of a trend of government harassment of family members of the activists and lawyers associated with the 709 Crackdown.³ Wang’s former defence attorney, Yu Wensheng, was also detained in January 2018 and charged with “inciting subversion of state power.” On 24 December 2018, Yu’s case was referred for “review and prosecution.”⁴

Similarly, Liu Zhengqing, the lawyer of human rights activist Huang Di, was disbarred on 25 December 2018. Guangdong’s provincial justice department claimed his public defence statements had endangered national security.⁵

2. Activists Detained, Tried and Sentenced

Throughout December 2018 and January 2019, more activists were prosecuted in a round-up dubbed the Holiday Crackdown as follows.⁶

1 China Human Rights Lawyers Concern Group (CHRLCG), [“709 Crackdown”] Latest Data and Development of Cases as of 1800 7 July 2018, <http://www.chrlawyers.hk/en/content/%E3%80%90%E2%80%9C709-crackdown%E2%80%9D%E3%80%91-latest-data-and-development-cases-1800-7-july-2018>.

2 Washington Post, “China’s attack on human rights and the rule of law continues”, 31 January 2019, https://www.washingtonpost.com/opinions/global-opinions/chinas-attack-on-human-rights-and-the-rule-of-law-continues/2019/01/31/305067ee-2410-11e9-90cd-dedb0c92dc17_story.html?noredirect=on&utm_term=.92269d086abf.

3 Japan Times, “Li Wenzu, wife of detained Chinese lawyer, blocked from submitting court petition”, 28 December 2018, https://www.japantimes.co.jp/news/2018/12/28/asia-pacific/li-wenzu-wife-detained-chinese-lawyer-blocked-submitting-court-petition/#.XEgNEM1S_IU.

4 France 24, “Detained Chinese lawyer Yu Wensheng wins Franco-German human rights award”, 15 January 2019, <https://www.france24.com/en/20190115-detained-chinese-lawyer-wins-franco-german-human-rights-award>.

5 Reuters, “China tries rights lawyer in case Amnesty denounces as a sham”, 26 December 2018, <https://uk.reuters.com/article/uk-china-rights/china-tries-rights-lawyer-in-case-amnesty-denounces-as-a-sham-idUKKCN1OP02F>; Rights Network, “Guangdong human rights lawyer Liu Zhengqing was disbarred by the Guangdong Provincial Department of Justice for his defense of a defendant”, 8 January 2019, https://wqw2010.blogspot.com/2019/01/blog-post_28.html?sref=tw (in Chinese).

- 14 January:
 - Ji Xiaolong, who advocated people write “Down with the CCP” in public toilets, was sentenced to three and a half years in jail.
 - Huang Di was tried for leaking state secrets.
- 28 December:
 - Ding Lingjie, a website editor who shared a video that satirised President Xi Jinping, was sentenced to 20 months.
 - Zhen Jianghua, who is the executive director of the Human Rights Campaign in China online platform, was sentenced to two years.
- 25 December:
 - Sun Li, who is a contributor to the *Boxun* news site, was sentenced to four years.

Furthermore, Dr. Yang Hengjun, an Australian academic and former Chinese diplomat, has been charged with suspected espionage. Yang has been held in an undisclosed location since 19 January 2019.⁷ Yang is a popular blogger who on occasion used his online platform to criticise China’s Communist Party.⁸

Four student activists were also detained in August 2018 during efforts to help set up a labour union⁹ They have been held at an undisclosed location, and on 21 January 2019 it was reported that other activist students were forced to watch the videotaped confessions of these four activists.¹⁰ One of the four detained students, Yue Xin, was a #MeToo activist at Peking University in Beijing before she joined the labour activist student group.

3. Legal Obligations and International Standards Violated or Implicated by the Government of China’s Treatment of Lawyers and Human Rights Advocates

Arbitrary detention should not be imposed against activists for legitimate legal work or for forms of activism such as blogging or organised student groups. Such detention violates the freedom of expression guaranteed by the Universal Declaration of Human Rights (UDHR) Article 19 and UDHR Article 9.

The actions are also inconsistent with the Constitution of the People’s Republic of China Article 35 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.”

In the case of lawyers, this situation is also a flagrant violation of the United Nations Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990. Article 16, using the language of obligation, provides that:

6 The Diplomat, “Old-Fashioned Thuggery Reinforces China’s High-Tech Censorship”, 26 January 2019, <https://thediplomat.com/2019/01/old-fashioned-thuggery-reinforces-chinas-high-tech-censorship/>.

7 ABC, “Andrew Hastie blasts China over 'arbitrary detention' of Chinese-Australian Yang Hengjun”, 25 January 2019, <https://www.abc.net.au/news/2019-01-25/andrew-hastie-blasts-china-over-yang-hengjun-detention/10748908>.

8 BBC, “Yang Hengjun: China holds Australian writer for 'criminal activity' “, 24 January 2019, <https://www.bbc.com/news/world-australia-46981748>.

9 New York Times, “China Using Taped Confessions to Intimidate Young Communists, Students Say”, 21 January 2019, <https://www.nytimes.com/2019/01/21/world/asia/china-marxist-students.html>.

10 Id.

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.

Article 23 of the Basic Principles also guarantees lawyers' right to freedom of expression and association, providing that:

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. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

In the case of detention or harassment of a student activist organisation, this is an issue of the right to freedom of peaceful assembly and association under Article 20 UDHR.

4. Call to Action

Human Rights Now expresses deep concern about the continuing harassment of human rights lawyers and activists in China and urges the Chinese government to:

- End its suppressive crackdown by releasing all detained human rights lawyers and peaceful activists;
- Ensure the free exercise of the legal profession;
- Ensure the right to freedom of peaceful assembly and association to human rights lawyers and activists;
- Cease any harassment of the families of human rights lawyers and activists;
- Cease all forms of political repression and harassment against human rights lawyers and activists in compliance with relevant domestic legislation and international duties and principles; and
- Review and revise its criminal procedure law and regulations, as well as laws and regulations on lawyers, activist organisations or other peaceful activists, to comply with international duties and standards on criminal due process and treatment of lawyers and activists as provided in the UDHR, UN Basic Principles on the Role of Lawyers, and other relevant sources.