



Human Rights Now



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Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations



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The 29

Principles

Joint statement on human rights lawyer Ding Jiaxi and legal scholar Xu Zhiyong

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The 29 Principles, Lawyers' Rights Watch Canada, Lawyers for Lawyers and Human Rights Now have recently learned that human rights lawyer Ding Jiaxi and legal scholar and lawyer Dr. Xu Zhiyong are to be tried and sentenced on charges of "subverting state power" sometime during the last week in December 2021, although the court has not announced a specific date. Mr Ding and Dr. Xu have been arbitrarily detained in Shandong province, northeastern China, for nearly two years and have been subjected to torture and ill-treatment. According to Chinese criminal procedural law, the cases should have been tried within three months after their transfer to the court.¹

Our organisations call on the authorities in the People's Republic of China to ensure that Mr. Ding and Dr. Xu are provided with a fair trial in accordance with international law and standards.

Ding Jiaxi had been actively involved in the promotion of human rights since 2010 by advocating for the rights of migrant workers and by being involved in the New Citizens Movement, which promoted governmental transparency and the rule of law. On 26 December 2019, Mr. Ding was taken away by police officers from Yantai City Public Security Bureau in Shandong province as part of a large-scale crackdown targeting human rights lawyers and citizen activists, labelled the "1226 crackdown". Without providing any legal notification to Mr. Ding's family, the authorities placed Mr. Ding under "residential surveillance in a designated location" (RSDL), for six months without access to his family and lawyers. During this period of incommunicado detention, he was subjected to various forms of torture and other ill-treatment, including prolonged sleep deprivation, exposure to loud noise and repeated interrogation while being shackled to an iron "tiger chair". He was also not exposed to daylight. He was not allowed to have a shower, brush his teeth, or change his clothes for days at a time. He was not given enough food and water and was not allowed to move for a long period of time.

Xu Zhiyong is a university teacher and lawyer in Beijing, China. He is known for his peaceful and open way of drawing attention to the need for reforms in Chinese politics and promoting the rule of law in China. Dr. Xu was also involved in the New Citizens Movement. On 15 February 2020, Dr. Xu was taken away by police officers from Beijing Municipal Public Security Bureau. Without legal notification to his family, Dr. Xu was placed under RSDL first in Beijing and later transferred to the same secret location in Yantai city, Shandong province, where Mr. Ding was detained. He was denied access to

¹ Articles 95-99 of the Criminal Procedure Law of the People's Republic of China, <http://english.mofcom.gov.cn/article/lawsdata/chineselaw/200211/20021100053376.html>.

his family and lawyers for four months and, he was subjected to torture and ill-treatment similar to that of Mr. Ding.

On 19 June 2020, both Mr. Ding and Dr. Xu were formally arrested on suspicion of "inciting subversion of state power". They were transferred to Linshu County Detention Centre in Shandong province. They were reportedly subjected to continued torture and other ill-treatment, including lack of access to hot water and poor sanitation.

Their cases were later transferred to the Procuratorate, which changed their charge, to "subverting state power". In February 2021, they were eventually allowed access to their lawyers via video calls, but their lawyers were forced to sign confidential agreements that prohibited them from photocopying the case files and discussing the details of their cases, including with Mr. Ding and Dr. Xu's family members. Their lawyers were also not allowed to hold media interviews or talk about cases in public.

On 5 August 2021, Mr. Ding and Dr. Xu were each indicted on the charge of "subverting state power". Their cases were transferred to Linyi County Intermediate People's Court. The court imposed further restrictions on their lawyers by asking them to sign an additional confidentiality agreement that prevented them from sharing the indictment documents, including with Mr. Ding and Dr. Xu's families. Their lawyers continued to be subjected to monitoring and other forms of pressure. In November 2021, lawyer Liang Xiaojun, one of the two lawyers representing Dr. Xu, received a notice from the Beijing Municipal Justice Bureau about the revocation of his legal practice license.²

The United Nations (UN) Basic Principles on the Role of Lawyers states that governments must ensure that lawyers "are able to perform all of their professional functions without intimidation, hindrance or improper interference."³ The Basic Principles further require that lawyers "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."⁴ They further stipulate that "charges or complaints made against lawyers in their professional capacity shall be processed expeditiously and fairly under appropriate procedures."⁵ The Basic Principles further state that "disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review."⁶

We, the undersigned organisations - The 29 Principles, Lawyers' Rights Watch Canada, Lawyers for Lawyers and Human Rights Now - call on the Chinese authorities to ensure that:

- Ding Jiayi and Xu Zhiyong are given a fair trial in accordance with the *Universal Declaration of Human Rights*, and the *International Covenant on Civil and Political Rights*, which China signed in 1998;
- they are given access to the lawyers of their own choosing to represent them in the trial;
- an independent investigation is conducted in relation to the allegations of torture and other ill-treatment to which they were subjected in detention and punish the

² L4L, Joint Statement on the suspension of Lin Qilei's and revocation of Liang Xiaojun's legal practicing licenses, 7 December 2021, <https://lawyersforlawyers.org/joint-statement-on-the-suspension-of-lin-qileis-and-revocation-of-liang-xiaojuns-legal-practice-licenses/>.

³ Basic Principles, par. 16(a).

⁴ Basic Principles, par. 16(c).

⁵ Basic Principles, par. 27.

⁶ Basic Principles, par. 28.

perpetrators in accordance with China's own laws and the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, which China ratified in 1988;

- all forms of arbitrary detention, including RSDL are terminated;
- the law practicing license of lawyer Liang Xiaojun is restored, and that all forms of administrative harassment of human rights lawyers through disbarment or suspension of licenses are halted;
- all human rights lawyers and human rights defenders are provided with their freedom of expression of political and other opinions in accordance with China's international obligations to respect and fulfil human rights law and standards;
- the United Nations Basic Principles on the Role of Lawyers are respected, and that lawyers are able to assist their clients without intimidation, hindrance, harassment or improper interference and without threats of prosecution or administrative sanctions for any actions they take in accordance with internationally recognized professional duties, standards and ethics.