

2016
Annual Report on
China Human Rights
Lawyers

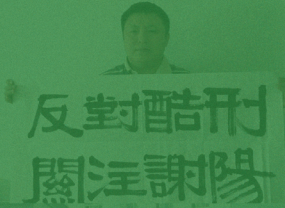


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Preface

2016 proved to be yet another eventful year for China's human rights lawyers.

The sweeping crackdown on human rights lawyers which started on 9th July 2015 (now known as the 709 crackdown) has continued well into 2016. Throughout 2016, the Chinese government has not let up its harsh treatment of rights lawyers and the aftershocks of the 709 crackdown could still be felt.

More than 300 rights lawyers, law firm staff members and activists were interrogated and detained in the 2015 crackdown. Although most were released within days, the status and whereabouts of many of those who disappeared were not known until January 2016, after they had spent six months in incommunicado detention known as "residential surveillance at designated location", and then became charged with, or "formally arrested" on, charges of subversion or inciting subversion. Among the 23 formally arrested at the time, 9 were human rights lawyers.

In August 2016 came the trials and subsequently sentencing with lengthy jail terms of some of the prominent figures implicated in the crackdown.

Those who were released on bail in 2016 have not been truly free – even today, they remain under heavy police surveillance and have little freedom of speech and movement. Those who have been charged but have not been put on trial are still languishing in detention at risk of torture. As of the end of 2016, they have been deprived of visits from families and, in many cases, from their lawyers for 17 months.

In 2016, we have also observed several more cases of arrests of rights lawyers. We also observed a disturbing intensification of the persecution of the families of detained rights lawyers during the year. They are often harassed, intimidated and

even detained if they speak up for their relatives.

But despite the immense pressure that the families were under, they refused to be silenced and fought back by staging protests together and making public statements to alert people to the maltreatment of their loved ones.

Likewise, despite the continued intimidation and threats from the authorities, the rights lawyer community bounced back after the white terror of the 709 crackdown. They started to express their solidarity with each other once again and spoke out against injustice together through a series of actions.

Throughout 2016, state security authorities, judicial bureaus and state-backed lawyers' associations continued to exert pressure on lawyers through harassment, violence and administrative procedures. Lawyers who work on rights cases continued to face arrest, arbitrary detention, harassment or losing their employment.

Apart from violating lawyers' rights through violence and intimidation, the authorities have also tightened legal measures that targeted rights lawyers to place them more directly under the control of the authorities. In an official guideline on furthering the reform of China's lawyer system, the authorities emphasized that lawyers must support the party's leadership and "socialist rule of law" as well as follow "correct political orientation".

In the eyes of the authorities, the legal system is a tool for the party to strengthen its rule, rather than for ordinary citizens to assert their rights. As a result, lawyers who try to use the law to defend the rights of their clients are seen as enemies of the state.

The objective of this annual report, which forms part of a three-year project covering 2016 to 2018, is to facilitate the understanding of human rights lawyers'

situation in China. We aim to achieve this by providing a general picture of the legal environment and the lawyers' situation in China in 2016 through documenting the new policies implemented and cases that took place during the year, as well as identifying issues and challenges that came up as a result of these changes.

In this report, we have traced the development of issues of concern that have implications for lawyers' rights and the rule of law in China, for instance, the annual inspections that have disqualified prominent rights lawyers over the years and the new policies that affect lawyers' right to counsel and practice. We have also looked at trends and patterns using the available information we have.

We begin this report by describing the aftermath of the 709 crackdown in Section I – the trials and sentencing of the victims, the ways that the authorities endeavour to smear the names of the rights lawyers, forced confessions on TV, harassment of their families and how they fought back. In Section II, we draw attention to the lawyers whose situation remain a cause for concern. In Section III, we look at violence and abuse against rights lawyers during 2016, and in Section IV we cover policy steps taken by the authorities to toughen the environment for rights lawyers, including new regulations to legalize their suppression. Section V outlines other newly introduced national laws which have negative impacts on the work of rights lawyers and Section VI describes the lawyer community's efforts to fight back against persecution.

At the end of this report, we will provide a short analysis on the needs of Chinese lawyers and make recommendations based on the observations made in this report.

This report covers information gathered by the end of December 2016.

I. The Aftermath of the 709 crackdown

The mass crackdown on human rights lawyers that started on July 9th 2015 continued throughout 2016. The operation, now widely known as the "709 crackdown", swept up more than 300 lawyers, legal assistants and activists. In 2016, four were sentenced to jail, while some others were forced by the authorities to "confess" to their supposed guilt on Chinese state or pro-Beijing Hong Kong media. Among those who were charged or "formally arrested" on the charges of subversion or inciting subversion after having spent six months in "designated residential surveillance" – incommunicado detention for up to six months at a secret location – most of their relatives were pressured by police to dismiss their own lawyers and forced to accept government-appointed lawyers.

As of the end of 2016, lawyers Li Heping, Li Chunfu, Xie Yanyi, Wang Quanzhang, Xie Yang and activist Wu Gan remained in police detention awaiting trial and are at risk of being tortured.

As of mid- December, 2016, among a total of 319 detained individuals, with 185 of them being lawyers and legal assistants:

- 14 remained in detention, pending trial (6 lawyers/assistants)
- 4 have been sentenced to jail (1 lawyer)
- 23 have been released on bail (14 lawyers/assistants)
- One whose case was dropped (lawyer)
- One (activist) under house arrest
- 39 (28 lawyers/assistants) have been barred from travelling abroad
- 264 had been temporarily detained for questioning and have since been released (124 lawyers/assistants)

1. Trials

In the first week of August 2016, four detained individuals were sentenced to jail terms ranging from three to seven years on the charge of “subversion of state power”, in the first trials originating from July 2015 crackdown. The authorities only invited state media and pro-Beijing overseas media, such as South China Morning Post, Singtao, Oriental Daily and Phoenix, to cover the trials.



Zhou Shifeng, director of Fengrui law firm, was on August 4th sentenced to seven years in prison by Tianjin No. 2 Intermediate People’s court on the charge of “subversion of state power” – a blanket charge repeatedly used by the government to jail or detain human rights advocates. Lawyers from Fengrui were the focus of the authorities’ crackdown

and they were dubbed a “criminal gang” by state media. The firm has handled politically sensitive cases and represented a number of well-known dissidents and activists, such as Ai Weiwei and Ilham Tohti, and the underprivileged, such as the victims of a tainted formula milk scandal in 2008 which led to thousands of children being ill and at least 6 deaths.

Zhou was portrayed by the prosecution as a radical who was “under the long term influence of anti-China forces” and intent on bringing down the Communist regime. The prosecution also accused him of mobilizing other lawyers and activists to stir discontent and “hatred” towards the

government as well as inciting protests to “subvert state power” and to “attack China’s judicial system”. The prosecution accused Zhou of conspiring with Christian pastor and activist Hu Shigen, lawyer Li Heping and activist Zhai Yanmin (all implicated in the same crackdown) to “subvert state power”.

Footage of the trial aired on state television showing Zhou saying he confessed to his crimes and “would never appeal”.

The trial process of Zhou’s was full of irregularities: (1) The authorities announced the trial date just one day ahead, against the requirement of Chinese law. (2) Police barred his family and lawyers appointed by his family from going to the trial. (3) The trial was not genuinely an open trial: those who were present and members of the press (including Hong Kong and Taiwan pro-Beijing media) were arranged by the authorities. (4) Zhou was represented by government-appointed lawyers in the trial. (5) Before his trial, the authorities arranged for Zhou to “confess” to his supposed guilt on state television.

Hu Shigen, a pro-democracy activist and house church leader described by state media as “illegal religious personnel”, was jailed



for seven and a half years on August 3rd on the charge of “subversion of state power”. He pleaded guilty in Tianjin No. 2 Intermediate People’s court and said he would not appeal, according to state media reports. Prosecutors accused Hu, a leader of

an underground “house church”, of “using illegal religious activities as a platform” to “spread subversive thoughts” to lawyers and petitioners and plotting with Zhou Shifeng, Li Heping and Zhai Yanmin over ways to subvert state power. He was also accused of directing Zhai to gather petitioners to organize “illegal assemblies”, “attacking China’s judicial system” and to “stir hatred” towards the government as well as organizing other unspecified subversive “criminal activities.”

State media said Hu accepted the court verdict as “fair and just” and admitting that his actions posed “serious danger” to the country. He was quoted as saying the “education” he received “touched his soul” and he promised he would never participate in “anti-party and anti-government” activities again. Hu had previously served 16 years in jail for the now-abolished charge of counter-revolution, released only in 2008.

Zhai Yanmin, a rights activist, was given a three-year suspended sentence by the Tianjin No. 2 Intermediate People’s court on August



2nd on the charge of "subversion of

state power", also saying he would not appeal. According to Xinhua news agency, the prosecution accused him of being influenced over a long period by “anti-China forces” and plotting with Hu, Zhou and Li Heping to orchestrate protests among petitioners and to incite hostility towards the

government. It said the “criminal activities” they incited which seriously endangered state security included protests staged by lawyers over the detention of several of their colleagues investigating illegal detention in

Jiansanjiang, Heilongjiang in 2014, and the Qingan incident - in which an unarmed man was shot by police - that sparked protests among lawyers and petitioners in 2015. Zhai was quoted by Xinhua news agency as saying that the court trial was “fair” and that with the “help of the government”, he recognised the severity of “subverting of state power” and that he “sincerely repented” over his mistakes. Zhai, who has already been paraded on state TV to confess to his supposed crimes before, was quoted by state media as saying that he learned a lesson that people should not be deceived by “so-called democracy, human rights and public good” touted by “foreign hostile forces” and people with ulterior motives.

Gou Hongguo, a rights activist, was on August 5th also convicted on the charge of “subversion of state power” by the Tianjin No. 2

Intermediate People’s court and given a three-year suspended sentence. He also said at the court he would not appeal.

Gou, who attended Hu’s church, was accused by prosecutors of meeting Zhou Shifeng, Hu Shigen, Li Heping, Zhai Yanmin and other activists at a Beijing



restaurant in February 2015 and allegedly discussed how to “overthrow the party” through peaceful advocacy work. Prosecutors said Gou was sent by Hu in 2014 to be trained overseas to learn how to “overthrow the regime”. Foreign media reports said he went to the “Interethnic/Interfaith Leadership Conference” in Taiwan, organized by the U.S.-based non-profit group Initiatives for China. The court said Zhai was influenced by Hu and actively engaged in criminal activities to “subvert the government and the socialist system, endangering national security and social stability.”

Gou was also quoted in state media as saying he was "grateful" to the authorities and he had come to recognise that he had been "deceived by Western, so-called democratic thinking" and "used by overseas forces with ulterior motives".

1.1 Confessions in court

All four defendants meekly confessed to their alleged crimes, using similar words and stock phrases that suggested that they were likely to have made the statements under duress. All expressed "gratitude" towards law enforcers, the Communist Party and the government, proclaimed in court that the judgment was "fair", "just" or "legitimate" and said their rights had been protected. They said they confessed to their supposed crimes and declined to appeal. Zhou went as far as saying that he thanked President Xi Jinping because "his strategy of 'ruling the country according to law' has made China stronger." The form of words used and the similar, formulaic statements together with the fact that they appear to be totally out of character with the defendants' previous stances strongly suggest that they had been coerced into making these humiliating statements.



Zhou, Hu, Zhai and Guo in court, confessing to their alleged crimes.

1.2 Lawyers appointed by defendants' families were barred from representing them

Most of the lawyers caught up in the 709 crackdown were pressured by the authorities to dismiss the defence lawyers that their families had chosen or ones that they had previously arranged to hire should they ever get into trouble. They were forced to accept lawyers appointed by the authorities, who proved to be unable to protect the defendants' legal rights. During the investigation period, they often failed to submit evidence in favour of the defendants, they accepted evidence given by the prosecutors and gave up opportunities to question the defendants. In court trials, they raised no objection to the subversion charges.

Lawyers appointed by the families such as Li Baiguang (to represent Hu Shigen), Yang Jinzhu (for Zhou Shifeng), Ji Zhongjiu (for Gou Hongguo), Ge Wenxiu and Hu Linzheng (for Zhai Yanmin) were barred by the authorities from representing their clients. These lawyers, not recognized by the authorities, were in the dark about the dates of the trials until the day before or on the day of the trials when the court publicly announced the trials. According to Chinese law, courts should announce trial dates at least three days in advance.

1.3 Families barred from court

Before the trials, family members of the defendants and relatives of other detained lawyers were harassed, followed, barred by police from leaving home or taken into police detention for up to 28 hours. Families of Zhou were barred from going to Tianjin to attend his trial, Hu's two brothers were taken away by police in front of the Tianjin court house and forcibly put on a train back to their hometown in Jiangxi province while Gou's

wife was detained by police and sent back to her hometown in Shanxi province. The court announced through its official microblog account that Zhou had demanded his families to stay away from the trial and also claimed that Zhai had asked that his wife and relatives not to attend. The similarity in their statements suggests that they were likely to have been pressured into making them by the authorities.

2. The use of state media and social media to smear the reputations of human rights lawyers and activists

The rights lawyers and activists swept up in the 709 case were portrayed by government organs as part of a foreign conspiracy to foment unrest and to bring down the Chinese regime.

A video issued by Communist Youth League online in the first week of August – the same week as the four Tianjin trials – warned against the danger of “colour revolution”, depicting dissidents and rights lawyers as “agents of Western forces” that set out to damage China's stability and harmony. Using photos of the rights lawyers and activists at scenes of protests, it accused them of using the pretext of “democracy, freedom and rule of law” to subvert state power. The script says “when these overseas-funded so-called rights lawyers have been dealt with by law” and people become alerted to the dangers of “colour revolution”, “we can be confident we would not be the next Soviet Union”. It said the safeguarding of the safety of the regime and the territorial integrity is the responsible of all Chinese citizens.

On December 20th, the Communist Youth League broadcast a two and a half-minute video on its official weibo microblog entitled “Reporting to

the foreign hostile forces: we have caught Jiang Tianyong!", claiming Jiang posed a security risk to public safety as he was travelling using a false identity on a train and that he was a "fake" lawyer because he was disbarred in 2009 and was still engaged in legal work. (Chinese law allows ordinary citizens to handle legal cases)

3. Forced Confession on state television and Hong Kong media



Wang Yu on Hong Kong media: "I can only accept the Chinese government's leadership."

Wang Yu, an attorney with Fengrui law firm detained on the charge of "subversion of state power" at the start of the 709 crackdown, was interviewed by state media and pro-Beijing Hong Kong media on July 31, 2016, a few days after she was released on bail.

In the interview, which took place just four days before the trial of her former boss, Zhou Shifeng, she renounced her previous rights defence work, and said she had received training abroad and been "used" by foreign forces. Like other confessions arranged by the authorities, she emphasized that she was treated well and her rights had been protected during her one-year detention. She criticized Zhou, saying he sought fame and used rights cases to smear the government as well as to "lay the foundation for colour revolution." She said she regretted her past behaviour and she rejected awards from foreign organizations

for her advocacy because “I am Chinese and I only accept the Chinese government’s leadership.” (The European Bar Human Rights Institute (IDHAE) and the Union Internationale des Avocats (UIA) announced Wang as the winner of the Ludovic Trarieux International Human Rights Prize. The American Bar Association also announced it would give Wang an award.) Wang’s message and choice of words bore the hallmarks of a forced confession and fitted a pattern of several other confessions broadcast by the state or pro-Beijing news media, in which activists, publishers and lawyers admitted their supposed guilt and expressed “remorse” for having taken part in activism.

After having been detained for a year on the charge of “subversion of state power”, Zhao Wei, the 24-year-old assistant of Li Heping, was released on bail on July 7, 2016. Three days later, she spoke to Hong Kong newspaper South China Morning Post in a phone interview likely to have been arranged by the authorities, claiming she “regretted” her rights activism. “I have come to realise that I have taken the wrong path. I repent for what I did. I’m now a brand new person,” she was quoted by the newspaper as saying. She said she “realised she had made mistakes” and she “truly wanted to repent”. Posts appearing on her microblog also said she was used by her former employer and accused him of receiving funds from “overseas”. Zhao’s confession in the newspaper stoked concerns that it had been forced and arranged by the authorities as she couldn’t be reached by her husband nor lawyers at the time. Her husband said he didn’t believe she was truly free. One of her lawyers, Ren Quanniu, was put under criminal detention on July 9 (just two days after his client’s release) on the charge of “picking quarrels and provoking trouble”, for re-tweeting online messages alleging Zhao could have been

sexually abused in the detention centre. Zhao sued him for defamation but later withdrew the case.

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Young Chinese legal activist 'regrets' civil rights activism

Husband disputes statements posted on his wife's microblog accounts

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COMMENT: 1



SCMP
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SHARE

A young legal assistant detained for a year in a sweeping crackdown on lawyers and activists said on Sunday that she regretted her civil rights activism. But her husband said he suspected his wife was forced to recant.

Zhao Wei, 24, who was an assistant to high-profile rights lawyer Li Heping, was released on bail from the Tianjin No 1 Detention Centre on Thursday and is thought to be the youngest of the hundreds of people detained in the July crackdown.

After her high-profile release, several posts appeared on her microblog accounts saying she regretted her actions and accusing her former employer of receiving funds

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11th July 2016, South China Morning Post

4. Collective punishment and harassment of detained lawyers' families

During 2016, the families of detained lawyers, including children, have been arbitrarily harassed, followed, evicted, barred from travelling abroad and their children have been barred from going to schools and nurseries.

Most of the lawyers' families had not been notified about their whereabouts until the notification of their formal arrest, which came six months after they were held in "residential surveillance at a designated location" i.e. detention at secret locations outside the police detention centre, where detainees have no access to lawyers and families. Even after they were

transferred to police detention centres in January 2016, their families were not allowed to visit them. As of the end of 2016, they had not seen their loved ones for 17 months.

Forbidden to travel abroad

Wang Qiaoling, the wife of Li Heping, is barred from travelling abroad, and her children are denied passports. Xie Yang's wife, Chen Guiqiu, is also barred from travelling overseas. On April 4, 2016, Chen was turned back at the border as she was about to travel to Hong Kong. Immigration officials told her that her departure from China would "endanger state security", she was later told that her daughter is also forbidden to leave China.

Eviction from their homes

Landlords of several detained lawyers' families are pressured by police to evict the tenants from their properties. Wang Qiaoling was pressured to move twice in 2016. On August 9th, she wrote on the internet that police had pressured her landlord into evicting her and when she tried to look for a new apartment, police stopped her from leaving home for five days and she was detained at the police station for a day.



Li Wenzu, crying on the street due to police's harassment.

Wang Quanzhang's wife, Li Wenzu, was also evicted several times. Li was told by her landlord on August 27th that he had to evict them after he himself was detained at a police station for several hours. Police harassed and followed her while she

was looking for housing and threatened the landlord of the first apartment she wanted to rent into declining her tenancy.

Yuan Shanshan, detained lawyer Xie Yanyi's wife and mother of three, was forced out of their home in July when her youngest child was just four months old. The next day after they moved, her new landlady was contacted by the police.

General harassment, threats and intimidation

Relatives of the detained lawyers have been beaten, taken to police stations, threatened, verbally abused and followed. They have also been subject to a variety of forms of harassment.

Wang Quanzhang's wife, Li Wenzu and their relatives have been intimidated or detained following visits to the detention centre or the prosecutor's office, or subjected to other harassment. In March, Tianjin Police claimed Wang Quanzhang had instructed that his bankcard be kept with the police, denying his wife access to much needed finances.

In March, 2016, police and state security tried to pressure Wang Quanzhang's wife, sister, and parents into recording videos either denouncing his alleged crimes or begging him to confess. They later managed to force his father to record a video urging his son to confess. The same happened to Li Heping and his family in August and November 2017.

On June 6, the wives of Wang Quanzhang, Li Heping and activist Zhai Yanmin were detained by police for 24 hours, after they staged a protest

outside the No. 2 branch of the Tianjin People's Procuratorate by holding up red buckets emblazoned with supportive words for their husbands. Zhai's wife was reportedly beaten by several Beijing police officers after they took her back to the capital.

In early August 2016, when court trials opened for the 709 cases, wives of detained lawyers were detained in the waiting room of a police station for over 24 hours without any due process.

Li Wenzu was taken to the Xinyuan Li police station in Beijing on August 16th 2016, after she was followed by three unidentified men and they later accused Li of attacking them and took her to the police station. She was released in the afternoon.

Yuan Shanshan was not able to inform her husband, detained lawyer Xie Yanyi, even after their third child was born in March 2016. The month before the baby was born, she requested to see her husband but police rejected her request. Yuan only found out she was pregnant after Xie was taken away in July 2015 and Xie was never told about his wife's pregnancy throughout his incarceration. He only found out about their third child after he was released in January 2017. Yuan was detained by police once for three days in August 2015 when she went to Tianjin to try to inform her husband that his mother had died. Even though police knew she was pregnant, she was denied a visit and was detained for three days, when she was verbally abused, threatened and deprived of water and food for one day.

Yuan's sister, who was looking after the couple's two older children in

Liaoning province, was in August harassed by police from Beijing, who tried to pressure Yuan into not speaking up for him.

Deprivation of education

Li Heping and Wang Qiaoling's daughter could not go to the school they chose because the authorities declined to issue a residence permit that was a mandatory requirement for her admission.

Wang Quanzhang and Li Wenzu's son was denied enrolment in kindergartens due to police interference in 2016. Li found that kindergartens near their home had all been given a photograph of their son by the authorities and were ordered not to admit the boy.

5. Lawyers' families fight back



Wang Qiaoling, Liu Ermin and Li Wenzu, the wives of Li Heping, activist Zhai Yanmin and Wang Quanzhang staged a protest outside No. 2 branch of the Tianjin People's Procuratorate.

Instead of suffering in silence, many lawyers' wives and families have taken the initiative to assert their legal rights. Apart from challenging the authorities' malpractice and violations of criminal process through complaints and litigation, they also protested against the way the authorities mistreated them and their loved ones. We have listed some of

the actions they took below.

In early June, 2016, the wives of Wang Quanzhang, Li Heping and activist Zhai Yanmin held up red buckets outside the No. 2 branch of the Tianjin People's Procuratorate to express solidarity with their detained husbands.



To mark the mid-Autumn festival 2016, a festival to celebrate family reunion, nearly 40 wives, relatives and friends of the lawyers implicated in the 709 crackdown published a joint statement in September 2016, denouncing the brutal treatment of their loved ones in detention as well as condemning the authorities' revenge on them.

In late October, 35 members of the families of Li Heping, Xie Yanyi, Wang Quanzhang, Xie Yang and Li Chunfu wrote to President Xi Jinping, demanding the immediate release of their loved ones.

In late December, Jiang Tianyong's wife, Jin Bianling, and his father, launched lawsuits to sue the Communist Youth Party for smearing his reputation in a two-and-a-half minute video, "Reporting to Overseas Forces: Jiang Tianyong has been caught by us!", which dubbed him a "fake lawyer". His licence was revoked in 2009 but Chinese law allows citizens to represent court cases. After Jiang's disappearance and before his detention was confirmed, Jiang's father also wrote to the police in early December, questioning the whereabouts of his son.



Jin Bianling, Jiang's wife.



Jiang Lianghou, Jiang's father.

To mark the International Human Rights day on December 10, Yuan Shanshan, the wife of detained lawyer Xie Yanyi, issued a statement online, complaining that her husband's lawyer was forcibly dismissed by the authorities and he had to accept a lawyer appointed by the authorities. She also complained she had been detained by police even while she was pregnant. She was also evicted three times, was often under 24-hour police surveillance and her relatives have been harassed by state

security police. She also wrote to a court in Tianjin trying to sue the state-appointed lawyer on the basis that he had not been appointed by the defendant's family.

Li Wenzu, wife of Wang Quanzhang, wrote to the Beijing Eastern District Court on December 18, trying to sue the Ministry of Public Security for smearing her reputation in a seven-minute video posted on the ministry's microblog, which called her "the person who tried to incite colour revolution in China".

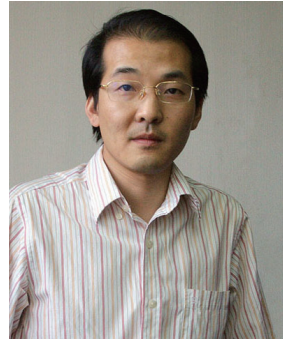
Wang Qiaoling, wife of Li Heping, who has legal qualifications, informed the Tianjin No.2 Intermediate Court on December 18 that she would be her husband's lawyer.

II. Lawyers whose situations remain a cause for concern

1. Heavy sentence

Xia Lin – sentenced to 12 years in jail on 22 September 2016

Xia, who was detained in November 2014 after he was about to defend NGO worker Guo Yushan, was sentenced by Beijing No 2 Intermediate People's Court to 12 years in jail for fraud involving 4.8 million yuan (HK\$5.6 million). Xia has defended a number of politically sensitive cases, his clients included outspoken artist Ai Weiwei, Sichuan earthquake rights activist Tan Zuoren, rights lawyer Pu Zhiqiang and Deng Yujiao, a waitress who killed a government official in self-defence.



Xia's sentence was by far the heaviest among rights lawyers who have been jailed in recent years. His case was full of irregularities because he was denied access to his lawyers during his detention and the amount of money that the authorities regarded as "fraud" was proven by his lawyers to be loans between friends and partners. Xia's ordeal is widely seen as yet another example of the government's political persecution of rights lawyers.

2. Detained on state security charges pending trial

Jiang Tianyong – Beijing-based lawyer, disappeared since 21 November 2016 and detained under "residential surveillance at

designated location” since 1st December 2016, for the alleged crime of “inciting subversion of state power”. At risk of torture.



He went missing around 10pm on 21st November 2016 in Changsha, Hunan province after he visited the family of Xie Yang, a fellow rights lawyer indicted in the 709 Crackdown. It was almost three weeks later, on 13th December, that the authorities confirmed he was

put under administrative detention from 21st November to 1st December 2016. On 23rd December 2016, Jiang’s family was notified that he had been held under “residential surveillance at a designated location” – which allows detainees to be held up to six months at a secret location – effective from 1st December 2016, for “inciting subversion of state power”. It remains a cause for concern that Jiang is being held incommunicado and his whereabouts and state of well-being are unknown. Jiang has not yet been formally arrested or indicted.

Jiang Tianyong was disbarred in 2009 due to his rights advocacy.

Li Heping – Beijing-based lawyer, held in detention incommunicado since 10th July 2015, was formally arrested on 8th January 2016 on the charge of “subversion of state power.” His case is pending trial.



CHRLCG learned from a credible source in January 2017 that Li had been tortured in different ways during the first six months of his detention (so-called “residential surveillance at designated location”), including being subjected to electric shocks that left him unconscious.

Li was taken from home by police on 10th July 2015 and his family were in the dark about his whereabouts until late January 2016, when they received the notification of his formal arrest on the charge of “subverting state power” effective on 8th January 2016.

Li was indicted for “subversion of state power” in December 2016. He was a practicing lawyer in Beijing and his defence lawyer Ma Lianshun believed that his work on the elimination of torture and the death penalty, funded by overseas organizations, might be the reason he was targeted. State media has accused Li of “using fundings provided by an overseas NGO to carry out in activities that incite subversion of state power.”

The major violations of his case include:

- (1) No notification was given to Li’s family for the first five months of his detention. According to Chinese law, a detention notice must be issued to the family of the detainee within 24 hours of detention.
- (2) Li has not been allowed to meet the lawyers appointed by his family since he was first taken by police in July 2015 and they have no access to the files of the case. The status of his physical and psychological well-being is unknown.
- (3) Police attempted twice in 2016 to coerce Li’s family into appearing in a video to persuade him into confessing to his supposed guilt.
- (4) His wife Wang Qiaoling has been harassed multiple times including

being questioned, detained, monitored, intimidated, slapped in the face and being evicted from their home. The authorities have, by means of not issuing a residential permit, forbidden his six-year-old daughter from entering a primary school.

Xie Yang – Hunan-based lawyer, held in detention incommunicado since 11 July 2015, pending trial. He was indicted for “inciting subversion of state power” and “disrupting order in court” in December 2015.



He told his lawyer he had been repeatedly tortured.

His family received notifications from the authorities, in late 2015 and in January 2016 respectively, about him being held under “residential surveillance at designation location” and being formally arrested. Lawyers appointed by his family had not been able to meet him until late November 2016, and they were only allowed to access his case files in mid-December 2016.

His lawyer Chen Jiangang issued a transcript of his interview with Xie conducted in January 2017, which detailed the torture he had endured in police detention.

Xie said he had been chained to a metal interrogation chair and made to sit for more than 20 hours at a time on stacked-up stools. He said he

had been punched, insulted and had cigarette smoke blown into his face. He said he had also been interrogated while he was deprived of sleep and water until he broke down. He was also forced to write statements admitting his work was “against the party and against socialism” and that he sought fame and money in his human rights defence work. He was psychologically tormented, with interrogators telling him he would be tortured until he went “insane” and that his wife and children should pay attention to road safety.

The major violations in Xie Yang’s case include:

- (1) Xie has not been given access to lawyers appointed by his family until late November 2016, almost 17 months after his first detention.
- (2) Xie has confirmed being tortured during his detention.
- (3) His wife, Chen Guiqiu, has been regularly harassed, threatened and banned from travelling abroad.

Wang Quanzhang, Beijing-based lawyer, held in detention incommunicado since August 2015, formally arrested on 8th January 2016 on the charge of “subverting state power.” His case is pending trial.

CHRLCG learned from a credible source in January 2017 that Wang had been tortured in different ways during the first six months of his detention, when he was placed under “residential surveillance at designated location”. He was subjected to electric shocks that left him unconscious.



According to the updated information, Wang went into hiding for three weeks following the “709 Crackdown” in July 2015, but his communication with a friend was intercepted on August 3rd. He was held in criminal detention until August 31st, when he was placed under “residential surveillance at a designated location”. He was formally arrested on 8th January 2016 on the charge of “subverting state power”. He was indicted in February 2017 on the same charge.

Major violations in Wang Quanzhang's case include:

- (1) Wang's family did not received any formal notification for the first five months of his detention.
- (2) Wang has not been allowed by the authorities to meet the lawyers appointed by his family. They have also been denied access to any case files.
- (3) Police attempted at least twice in 2016 to coerce his family into recording a video to persuade Wang into making confession. His father complied under pressure.
- (4) His wife has been harassed by the authorities many times, including being questioned, detained, threatened, followed and evicted from her home.
- (5) Police put pressure on kindergartens in the neighbourhood of Wang's wife not to admit their three-year-old son.

Wu Gan, an administrative staff member of Beijing Fengrui Law Firm and a legal activist detained in May 2015, indicted in December 2016 for the alleged crimes of “subversion of state power” and



“picking quarrels and provoking troubles”. His case is pending trial. He told his lawyer he had been tortured.

Wu was first detained by police in Fujian in May 2015 and formally arrested on 3rd July 2015 for taking part in protests calling on lawyer’s right to access files. However, in January 2016, police started the case anew, claiming to have found evidence of new crimes, and the case was transferred to Tianjin where the most of the 709 cases have been detained.

He complained to his lawyer that he suffered serious torture whilst in detention. His lawyer wrote in December 2016 that Wu had been interrogated "more than 300 times" during his detention since May 2015 and had been held in solitary confinement for half a year. He had been sleep deprived, shackled and handcuffed. (See details under **Torture** under **Section III**)

Major violations and concerns in Wu Gan’s case include:

- (1) Wu confirmed that he had been tortured during his detention
- (2) Wu’s family did not receive any notification regarding his relocation from Fujian to Tianjin or the change of his alleged crimes.
- (3) Wu was not able to meet his lawyer until December 2016, almost 19 months after he was detained.

3. Released but are not truly free

Among the 14 lawyers and legal assistants caught up in the 709 crackdown who have been released on bail, most have only limited freedom. Other activists who have been granted bail are treated similarly. Those who

are considered to be the most sensitive figures have been sent back by police to their remote home towns or forced to live in temporary housing far away from home, where they remain under heavy police surveillance, barred from seeing their friends and deprived of freedom of speech and movement.

Wang Yu – an attorney with Fengrui law firm detained on the charge of "subversion of state power" and her husband **Bao Longjun** (detained for



"inciting subversion of state power) at the start of the 709 crackdown were released on bail in summer 2016, but her entire family are still living under heavy police surveillance and they cannot be contacted by the outside world. Her lawyer Li Yuhua called

Wang's mother in September and she confirmed Wang, Bao and their son were living in her native Huhhot, Inner Mongolia. Their movements were reportedly under strict control and they were followed by state security police wherever they went.

Zhao Wei– released on bail in July 2016 after having been held for a year on the charge of "subversion of state power" in the 709 crackdown. She is now staying at an unknown location under surveillance.

Soon after her release, she posted a message on her Weibo microblog written in an uncharacteristically strident tone denouncing her former boss. She wrote that Li's anti-torture projects were funded by overseas organizations to "hype up" sensitive issues in China and were aimed

at leading to a peaceful revolution. She wrote: "I never thought that my behavior actually betrayed my ideals and hurt my beloved motherland. I ignorantly allowed myself to be the pawn of those who have ulterior motives." She also spoke to South China Morning Post, a Hong Kong newspaper which is deemed as pro-Beijing, claiming she "regretted" her rights activism. Her tone is out of character with her independently-spirited self before her incarceration and suggests that she has been coerced into submission in exchange for her freedom. Zhao is now living under police surveillance at a secret location and barred from contacting friends and relatives.

Other lawyers released on bail but still under police surveillance and having limited freedoms include: **Sui Muqing, Zhang Kai, Ren Quanniu, Xie Yanyi.**

III. Violations of Lawyers' Rights in 2016

2016 continued to be a year of turbulence for rights lawyers in China. Their rights were arbitrarily violated: police, state security authorities, judicial authorities, state-backed lawyers' associations continued to obstruct and exert pressure on their work, severely limiting their rights to practice and investigate.

1. Steps taken by the authorities to bar lawyers from practising

The authorities use annual assessment, or “annual licence review”, as a tool to silence, intimidate and disqualify lawyers and law firms involved in human rights advocacy and as a means to warn other lawyers against getting involved in rights defence work.

Chinese lawyers have long been obliged by the Justice Bureau to have their licences reviewed annually by state-controlled lawyers' associations in their regions and the judicial bureau which is the executive branch of the judiciary, in order to have another year of practice. The system has been used as a disciplinary tool to rein in lawyers who take up “sensitive cases” – such as rights defence, religious and speech freedom cases.

For lawyers targeted by the authorities, the review process may be deliberately delayed for months, during which the lawyers cannot practise. The measure has been criticized by lawyers from across the country for lacking legal basis.

On top of the “Annual Assessment”, law firms could be pressurized by the authorities to unlawfully terminate employment contracts with rights lawyers. Some lawyers lost their jobs in their firms for taking up “sensitive cases”, and could not find jobs in other law firms.

According to China’s Lawyers Law, if a lawyer has not been employed by a firm for 6 months, he will lose his licence and lawyers who have been disbarred this way rarely manage to get their licences back.

In 2016, we noted that the judicial authorities and lawyers’ association have used the annual assessment process as well as other measures to stop at least seven rights lawyers from practising. Their cases are listed chronologically below:

Zhang Xuezhong, an outspoken lawyer and former legal scholar, was dismissed by his law firm, according to information received in January 2016. The reason for the dismissal has remained unclear and Zhang is believed to be under pressure to stay low-profile. Prior to his dismissal, Zhang had represented rights lawyer Tang Jingling who was sentenced to 5-year in jail for “inciting subversion of state power”. Lawyers handling the same case believed that Zhang’s tough defence of Tang could have become a major concern of his law firm.

Renowned human rights lawyer **Pu Zhiqiang** was notified by Beijing Justice Bureau in April 2016 that his lawyer’s licence was revoked. Pu was convicted by a Beijing Court in December 2015 of “inciting ethnic hatred” and “picking quarrels and provoking trouble” for seven microblog messages he wrote. He was sentenced to three years in jail but was

given a three-year reprieve. After this conviction for "intentional crime", Pu would never be able to practise law again.

Lawyer **Jiang Yuanmin**, a mainland-born Hong Kong resident, is unable to practice as a lawyer in China after he was notified by the Shenzhen lawyers' association in May 2016 that the category of his licence was forcibly changed to that of a Hong Kong resident lawyer, which does not allow him to handle criminal and civil cases unrelated to Hong Kong. Jiang has protested, citing regulations that mandate this should not apply to lawyers who are not permanent residents like himself, but to no avail. He believes the measure was taken so that he could no longer take up rights cases.

The **Beijing Fengrui Law Firm** was at the centre of the sweeping 709 crackdown on rights lawyers in July 2015. The firm has not be able to operate normally ever since its bank account was frozen by the authorities at the start of the crackdown.

Seven of the ten lawyers who are still affiliated with it have not been permitted to take part in the annual assessment and are therefore unable to practice. They include the main targets of the crackdown: **Wang Yu**, whose basic freedoms are heavily restricted by police despite her being released on bail; **Zhou Shifeng**, who is serving a 7-year sentence, **Wang Quanzhang** who is still detained and awaiting trial.

There are also Fengrui lawyers who have not been allowed to transfer to another law firm for unexplained reasons. Among them are **Huang Liqun**, who was released on bail in early 2016 and others who were not

targeted in the crackdown: Fengrui partner **Liu Xiaoyuan** plus another two lawyers.

The Jinan Justice Bureau in Shandong province suspended Lawyer **Li Jinxing** (alias Wu Lei) in December 2016 from practicing for a year for “disrupting court order”. He was also accused of “interrupting the judge’s speech” for pointing out irregularities in the trial of his client, high-profile legal activist Yang Maodong (alias Guo Feixiong). Li also exposed sexual abuse witnessed by Yang at a police detention centre in Guangzhou after he met his client in April 2015.

2. Torture of and Violence against Lawyers

Despite the fact that China has been a party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 1988, physical violence, intimidation and harassment are often used against activists and rights lawyers by the authorities. Sadly, the situation has remained commonplace in 2016: detained lawyers and legal activists often suffered torture in police detention or extra-judicial detention. Intimidation and harassment targeting lawyers also happened often inside and outside the courtroom. Attackers included officials (such as police, prison guards or court police), parties to litigation and hired thugs. These attacks on lawyers and legal activists are rarely investigated and it is often difficult for victims to seek recourse.

2.1 Torture

Lawyers who have been detained by the authorities are vulnerable to torture.

Both lawyer **Xie Yang** in Hunan and legal activist **Wu Gan** in Tianjin, who were implicated in the 709 crackdown, complained about being tortured including physical assaults, deprivation of sleep and food and being held in cells with death row prisoners.

A statement made by Xie's wife, Chen Guiqiu, in August 2016, quoted from state assigned lawyers that her husband was provoked by one of the death row inmates he was held with with a cigarette. The two got into a fight, resulting in Xie being badly beaten, sustaining injuries to his head. While waiting to visit Xie at the Changsha police detention centre on November 21st, his lawyer Zhang Chongshi heard Xie's cries for help just before the meeting and saw Xie being dragged and his head punched continuously by a guard.

According to a transcript of an interview with Xie released by his lawyer Chen Jiangang in early 2017, Xie described the harrowing details of torture he suffered as early as the third day of his detention. Xie, 44, was detained on 11th July 2015. He has been detained ever since and was indicted with "inciting subversion of state power" and "disrupting court order" in December 2016. According to the transcript, Xie had been punched, kicked, chained to a metal interrogation chair and forced to sit for more than 20 hours at a time on stacked-up stools until his legs dangled in pain. He was deprived of water and sleep until he signed statements admitting his work was "anti-party and anti-socialist". He was also threatened and told by his captors that if he didn't admit to crimes he was accused of, he would be tormented until he went "insane" and ended up "a cripple."

Detained activist, Wu Gan, (online nickname “Butcher”) former staff member at Beijing Fengrui Law Firm), complained to his lawyer that he suffered serious torture. In a complaint filed to the Tianjin municipal state prosecutor’s office in December 2016, lawyer Yan Xin wrote that Wu had been interrogated “more than 300 times” during his detention since May 2015. Yan said Wu, charged with “subversion of state power” and “picking quarrels and provoking troubles”, was once held in solitary confinement for half a year. For several days and nights, he was interrogated while he was sleep deprived, woken up when his blanket slipped off the bed and deprived of his right to make a complaint and to access legal advice. Wu said he had been shackled and handcuffed like a prisoner on death row. He was once barred from going outdoors for more than 200 days and cell inmates were ordered not to speak to him. One policeman threatened to harass his daughter while another threatened to “ruin” his family.

Given the treatment of the lawyers and activists in detention, there is little cause for optimism for the situation of those who remained in detention.

2.2 Physical assaults on lawyers

In March 2016 alone, four attacks on lawyers occurred across the country. The victims were **Lu Hang** in Shaanxi province, **Wang Zichen** in Heilongjiang province, **Li Duzhen** and **Jiang Quan** in Jiangsu province and **Zhang Xinsheng** in Hubei province – 3 of these took place inside the courtroom or within the complex of the court and officials were responsible for the attacks.

In January 2016, disbarred lawyer **Liu Shihui** was met on landing at Shanghai Pudong airport by police, who tried to prevent him from staying

in the city. He refused and was taken to a hotel where he was beaten, intimidated and verbally abused, and had his mobile phone and identity card taken away. The next day he was repatriated to his hometown in Inner Mongolia. In a similar incident on April 29th, soon after Liu arrived at a friend's home in Shanghai, state security police forced him to leave. He was dragged down the stairs, beaten over the head, and forcibly sent back to Shenzhen the next day. He suffered concussion. On May 21st, police forced him to leave Guangdong. In November, he was evicted by his landlord in Kunshan, Jiangsu province, just five days after he moved in. His landlord said the order came from the police.

In June, lawyer **Wu Liangshu** had his clothes ripped off by police during an assault inside the Qingxiu district court in Guangxi province. A photograph of him standing outside the court wearing the remnants of his suit with his bare leg and underpants showing was posted online. According to the results of the investigation posted on Xinhua news agency the week after, the court police “did not have the intent



to harm,” and the police action “does not count as a beating” but the incident was considered a misuse of force. He said he was attacked by three officers inside the court's petition office in front of two judges who rejected his request to file a case. The court police suspected Wu was recording the proceedings with his mobile phone and when Wu refused

to hand over his phone, the police forcibly grabbed it from his pocket, Wu told Caixin magazine.

3. Denial of Lawyers' rights to practice and investigate

Throughout 2016, the authorities continued to put restrictions on lawyers in meeting their clients, reading court documents and continued to curtail their rights to investigate.

3.1 Lawyers barred from meeting their clients

The authorities arbitrarily turn down rights lawyers' requests to meet their clients, particularly if the defendant was a human rights advocate, or if they were handling cases that involve constitutional rights.

The reason most often used by the authorities to turn down lawyers' requests to meet with their detained or arrested clients is that they have been held on charges that involves "endangering state security", such as "inciting subversion of state power" or "subversion of state power". Sometimes, even for rights activists who are accused of relatively minor crimes such as "picking quarrels and causing trouble" or "assembling a crowd to disturb social order", their rights to legal counsel are also denied because the authorities consider the nature of their supposed crime to involve "endangering state security." These state security charges are often arbitrarily used by the authorities to target government critics, including rights lawyers.

Activists and lawyers detained or arrested, such as those caught up in the 709 lawyers' crackdown, are often forced by the authorities to dismiss the lawyers that their families have hired for them, or those that they

had previously arranged to hire just in case they were detained. Their defence lawyers are often told by the police that they cannot see their clients as they have been dismissed, or that their clients refused to meet with them, and they would be represented by government-appointed lawyers instead. Relatives who hire a lawyer on behalf of the defendant are sometimes asked to prove their relationship with the defendant.

Wang Quanzhang was denied his right to meet with his lawyers throughout his detention, and in early August 2016, police in Tianjin (where he is held) posted a statement claiming Wang had dismissed his own lawyer in favor of one appointed by the authorities. People familiar with Wang said this was unlikely to be true as even before he was detained, as early as 2012, Wang had arranged for lawyer Cheng Hai to represent him in case he ever got detained. Wang even left a note with friends that under no circumstances would he dismiss his lawyer.

Police have often arbitrarily denied lawyers access to their clients for other reasons, and sometimes for no stated reason at all. The following reasons have been claimed: the defendant refused to meet a lawyer; the defendant could not meet the lawyer because he was being interrogated (even when an appointment had been made in advance); there was no available meeting room; the paperwork had not been completed; police refused to grant a meeting after the lawyer refused to leave outside laptops, recorders or mobile phones they had with them.

Changsha police refused to allow Chen Jinxue to see his client, detained attorney Jiang Tianyong, on December 29, 2016, on the ground that Jiang had been put under “designated residential surveillance” for

“inciting subversion of state power”, which is categorised as a crime that “endangers state security.”

Lawyers of Xie Yang, one of the attorneys detained in the 709 crackdown, were not allowed to meet with him until November 2016, which was 15 months after he was detained. Changsha Public Security Bureau refused requests for meetings because his case involved “state secrets”. Several times during August and September 2016, his lawyers tried to see him after he was transferred to a police detention centre but on every occasion officials refused, saying Xie was being interrogated by a prosecutor.

3.2 Lawyers denied access to case files

Although China’s Criminal Procedure Law’s Article 36 states that defence lawyers are entitled to learn from the investigating authorities the offence and the information pertaining to the case, lawyers defending rights cases often encounter difficulties when they try to access case files. Rights lawyers handling politically sensitive cases sometimes find that the courts either ignore their requests to access documents crucial for defending their cases, such as evidence from the prosecution authorities, or obstruct their attempts in accessing those information.

Sometimes the courts only allow lawyers to access case files a few days before, or even on the eve of the trial. There are also often restrictions on the materials they are allowed to copy, and copies of video evidence are usually prohibited. This has seriously disadvantaged the lawyer’s ability to defend his client and deprived the client of an opportunity for a fair trial.

Many lawyers handling the 709 cases were forbidden from accessing

case files in 2016, such as those defending Zhou Shifeng, Hu Shigen, Li Heping and Wang Quanzhang.

In June 2016, lawyer Ma Lianshun, who was defending veteran dissident Qin Yongmin, was barred by Wuhan city Intermediate Court from accessing his indictment document and copying his case files, although after repeated requests, another lawyer of Qin's was finally allowed to access his case files. Ma was also forbidden from meeting his client.

On several occasions during August and September 2016, lawyers Lin Qilei and Zhang Chongshi, who were representing detained attorney Xie Yang, tried to access his case files but the Changsha city procuratorate refused every time.

4. Harassment of lawyers' family members

The authorities continued to harass families of rights lawyers, especially those implicated in the 709 crackdown, in 2016 to warn them against speaking up for their loved ones and to press the detained lawyers into confessing their supposed crime. The harassment of lawyers' families was also meant to put psychological pressure on the lawyers.

Detained lawyer Xie Yang, who has not been allowed any family visit since he was detained in July 2015, was told by police in a threatening manner that his wife and children needed to be aware of traffic accidents, according to his lawyer's interview transcript.

The father of detained lawyer Wang Quanzhang was coerced by police into recording a video urging his son to confess. (See more examples

listed under “The Aftermath of the 709 crackdown”).

5. Restrictions on travelling abroad

Many rights lawyers and their families are barred by the authorities from travelling abroad even for routine visits or study, on the pretext that their exit may “endanger national security.” Lawyer Ma Lianshun was told he was barred from leaving the country on April 26, 2016. Lawyer Wang Quanping wrote that, after having already been barred from travelling abroad for a year, when he tried to obtain a travel pass for Hong Kong and Macau in July 2016, he was told by police that he was banned from leaving China until September. Many lawyers and their relatives embroiled in the 709 ordeal, including Li Heping’s wife and children (the children are denied passports) and Xie Yang’s wife, have also reported being banned from travelling abroad.

IV. Legalization of the suppression of lawyers – ruling the country according to law

In 2016, we observed the Chinese government's escalating efforts to legalise suppression on lawyers through these measures: the assertion of the Communist Party's authority through the reform of the lawyer system, the expansion of the power of the Justice Bureau, the introduction of new regulations to control lawyers' conduct and the administration of law firms.

In June 2016, the General Office of the Communist Party and the State Council issued their guidance on furthering the reform of China's lawyer system, emphasizing that lawyers must support the party's leadership and "socialist rule of law" as well as follow "correct political orientation".

The guidance urged party committees at all levels of government to enforce disciplinary measures to weed out lawyers who do not meet behavioural standards and to strengthen lawyers' "political thinking" with the aim of building a sector that would be loyal to the party.

This position was further materialised in the Revised Measures for the Administration of Law Firms and the Measures on the Administration of Lawyers' Practice, which was issued by the Ministry of Justice in September 2016 and took effect on 1 November 2016. These new measures were implemented without any consultation with stakeholders or with the public.

1. Problematic provisions from *Measures for the Administration of Law Firms* (2016 Revision)

The newly revised Measures for the Administration of Law Firms have placed lawyers and law firms under even closer scrutiny of the Justice Bureau, the executive branch of the judiciary. The measures aim to control the ideology and political position of law firms through article 3 and 4 and interfere with law firms' handling of "major and difficult" (usually means political) cases through article 49. The measures also deprive lawyers of their freedom of speech and expression by barring them from taking part in a broad and vaguely defined range of activities through article 50.

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 organization 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 organization 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 organization's activities, establish and improve the work mechanism for the Party organization's participation in the law firm's decision-making and management, and play the core political role of the Party organization 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

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 organization (* note by CHRLCG: wording used in Chinese original is “邪教” religious evil cult) recognized by the state, or committing any other conduct that seriously disrupts the courtroom order

(6) Disseminating or spreading any word that endangers the fundamental political rule or basic principle as set down 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 organization 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)

We are also concerned that, in the absence of judicial independence, the newly added articles of 37 to 40 of the Measures on the Administration of

Lawyers' Practice would be used as an excuse by the authorities to obstruct lawyers from conducting their legal duties and constrain their freedom of speech and expression.

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.

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) Conduct 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) Violate 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 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.

V. Other national laws which have negative implications for lawyers

The sweeping and controversial National Security Law, passed on July 1st 2015, set out its aims to protect the Communist Party's regime and to establish "a centralised, efficient and authoritative national security leadership system". This law has put rights lawyers and activists at greater risk than ever.

The law, which fails to narrowly define specific threats as required in international laws, categorises a wide range of activities as "national threats" and grants law-enforcers more power and legal grounds to further strip citizens' rights.

Many lawyers say space for rights defence has noticeably narrowed since the promulgation of the law and the risk of rights lawyers being arrested on state security related charges for their work is at an unprecedented level.

After the law's introduction, we have observed more frequent use of the criminal charges "subverting state power" and "inciting subversion of state power" against lawyers and activists engaged in rights defence work, as well as lawyers and their relatives being banned from travelling abroad on the pretext of risks of them "endangering state security."

Likewise, other laws passed or set to be passed will make rights defence work more dangerous and difficult than ever for Chinese lawyers.

The draconian Law on the Management of Foreign Non-Government Organizations Activities in China, passed in April 2016 and coming into

force on January 1st 2017, aims to prohibit activities considered by the authorities to “endanger China’s national unity, national security, or ethnic unity” and make foreign groups more liable to strict police oversight.

This law makes it more risky for lawyers to cooperate and work with international NGOs that push for social justice, human rights and rule of law or with domestic NGOs that partner with overseas groups, which are seen by the authorities as engaging in “subversive” activities to destabilise China.

The case of Wang Quanzhang has demonstrated this danger. It has been reported that Wang set up a Hong Kong registered non-profit organisation dedicated to supporting human rights defenders with Swedish NGO worker Peter Dahlin in 2009. State media accused the group of engaging in activities that “endangered state security”. Wang was detained in August 2015 on “subversion of state power” while Dahlin was detained in January 2016 for 23 days before being expelled from China.

Meanwhile, the draft of the new Regulations on Religious Affairs (released in September 2016), which imposes harsher punishments for religious group members who “endanger state security”, and that of the Police Law (released in December 2016) both suggest that law enforcers will be further empowered to restrict ordinary citizens’ rights in ways that could further fuel abuses.

While rights cases are expected to rise as a result of these new laws and people need lawyers to defend them, lawyers’ powers to investigate and defend has been clipped by the new laws, rules and regulations mentioned above.

VI. The Lawyer Community fights back

During 2016, China's rights lawyers emerged from a period of silence that immediately followed the 709 crackdown to make their voices heard again. They worked closely with the families of the detained lawyers to take legal action against the authorities for breaking the law during the 709 crackdown. They also made clear that they refused to be intimidated by the authorities by continuing to fight for their rights and to express solidarity by speaking out against injustice.

Some of their actions in 2016 include:

- In September, 139 lawyers co-signed an open letter to the Standing Committee of the National People's Congress proposing the legislation of a law to criminalise the obstruction of lawyers' defence rights.
- In October, 168 lawyers signed a petition letter addressed to the State Council, demanding the revocation of the amended Measures for the Administration of Law Firms, which they said would strip lawyers of their basic rights and give judicial authorities unwarranted power to rein in lawyers. The revised regulations on law firms (see section IV) hold firms responsible if their lawyers "incite irritation against the Party and the government by using the Internet and mass media" or make "misleading and distorting comments" on cases, and bar them from taking part in protests or issuing open letters and organising signature campaigns.

During 2016, rights lawyers also made efforts to help communities in need, resulting in the formation of the following groups that formally launched in 2017:

- At least 36 lawyers got together to form a group to give legal advice on

the new NGO law.

- More than 100 lawyers from 19 provinces and regions launched a group to help the families of fellow rights lawyer Xie Yang to sue the guards who have taken part in torturing him in police detention.
- Twelve lawyers and activists founded the China Anti-Torture Alliance to make a stand for their condemnation of the widespread use of torture in police detention and jail across China. The Alliance was joined by over 400 citizens and lawyers.



168 lawyers signed a petition letter addressed to the State Council, demanding the revocation of the amended Measures for the Administration of Law Firms.



Chen Jiangang, lawyer of Xie Yang holds a banner saying "Anti-torture, Concerning Xie Yang".

13-02-2017

中國反酷刑聯盟正式成立

China Anti-Torture Alliance has been officially established!

“ 我們堅信，任何人哪怕是真正的罪犯，也應該被人道的對待，不應當被施加酷刑。禁止酷刑，是現代司法文明的底線，是人類走向文明或野蠻的分水嶺。

We believe that anyone, even criminals, should not be tortured but should be treated humanely. Prohibition of torture is the bottom line of modern judicial civilization, and it is also a watershed to distinguish between civilization and barbarism.

現時已超過401位公民參與！歡迎大家繼續加入！
There are more than 401 citizens joining the alliance! Welcome to join!



Outlook

Human rights lawyers had another challenging and difficult year in 2016 and the outlook is bleak.

The Xi Jinping administration's emphasis on state security and ideology and the arbitrary use of legal apparatus to rein in civil freedoms bode ill for human rights lawyers.

We've seen that the Chinese government has stepped up its smear campaign against rights lawyers and activists on state media and social media, accusing them of colluding with "foreign hostile forces" to try to bring down the Communist regime through "colour revolution". And despite the leadership's repeated pledge to "rule the country according to law", state media and pro-Beijing Hong Kong media have many times paraded lawyers and activists detained in the 709 crackdown on television confessing to their supposed guilt, before they even went on trial.

Apart from torture and the increasingly blatant violence and attacks on rights lawyers, the Chinese government has introduced draconian laws and toughened rules and regulations on lawyers, such as Measures for the Administration of Law Firms and Measures On the Administration Of Lawyers' Practice, that severely limit the scope of lawyers' work. Guidelines on the reform of the lawyers sector mandate that lawyers support the party and follow its political tasks. These measures have wide-ranging and long-lasting negative impacts.

But at the same time, we can see that China's rights lawyers are refusing to be intimidated. Against all odds, they continue to fight for their rights and express solidarity by speaking out against injustice through joint actions.

Beyond dealing with the 709 crackdown, Chinese rights lawyers have maintained their focus on issues of legal and social concern. Even amid an exceptionally harsh environment, they are still tackling rights cases which involve the miscarriage of justice and institutional injustice in their pursuit of social justice. By continuing this momentum, their work has helped draw public and international awareness to important cases that deserve the attention of the outside world.

The lawyers' unrelenting efforts have a crucial and indispensable role in pushing for social justice and progress in China and the power of their work should not be underestimated.

However, under the current situation, it has become more difficult than ever for rights lawyers to maintain the momentum of their rights defence work.

Therefore facilitating the following would help support the rights lawyers in China:

- Enable the Chinese rights lawyer community's voice to be heard
- Help enhance the capacity of the lawyers
- Facilitate interactions between lawyers and other social sectors
- Facilitate the international community's understanding of the rights situation in China and the problems that Chinese rights lawyers face

- The international community should act in unison to show their support for universal values such as the rule of law and human rights, enhance dialogues with or step up pressure on the Chinese government at various levels and via various platforms, implementing sanctions should it be necessary.
- Promote the international community's understanding of the Chinese laws and regulations that are aimed at institutionalising and legalising suppression and undermining the rights of both lawyers and ordinary citizens.
- Facilitate human rights education in society.

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