

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

NEW YORK
CITY BAR

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Dear Sir:

I write on behalf of the New York City Bar Association to express our concern over reports by lawyers in China of increased harassment in the course of their work. This includes, in particular, the harassment of Shanghai human rights lawyer Zheng Enchong (郑恩), the denial of annual licensing for numerous rights defense lawyers, and the continued disappearance of lawyer Gao Zhisheng (高智晟).

The New York City Bar Association (City Bar) is an independent nongovernmental organization of more than 22,000 lawyers, judges, law professors, and government officials, principally from New York City but also from throughout the United States and 50 other countries. Founded in 1870, the City Bar has a long history of dedication to human rights, notably through its Committee on International Human Rights, which investigates and reports on human rights conditions around the world, including within the United States.

The City Bar is deeply concerned about these reports that lawyers are being harassed for merely trying to do what lawyers everywhere are supposed to do: zealously represent their clients. China's own Law on Lawyers states that lawyers may accept engagement acting as legal counsel in both criminal and civil cases, and such engagement includes the provision of legal advice and representation.

I understand that lawyer Zheng Enchong was interrogated by the public security officials on June 17. During his interrogation, Mr. Zheng was stripped-searched, beaten, and burned with cigarettes. During his legal career, Mr. Zheng has taken on a number of human rights and public interest cases, and in October 2003, was convicted of "illegally providing state secrets outside of the country." Since the completion of his three-year sentence, he has suffered ongoing harassment by public security officers; he has been beaten and detained, and is frequently summoned to the public security office for questioning. The mistreatment of Mr. Zheng appears to have been carried out in order to halt his human rights work.

Mr. Zheng is not the only lawyer who has recently suffered harassment. In early February 2009, Gao Zhisheng, a lawyer who had taken on a wide range of human rights cases was taken from his home by security personnel. In 2006 Mr. Gao received a 3-year prison sentence (suspended for a period of five years) for “inciting subversion,” after his law firm was shut down and his license to practice revoked. A recently released account by Mr. Gao of his detention in September 2007 details appalling treatment during his detention. Prior to reports of his disappearance this year, Mr. Gao and his family lived under constant police surveillance. Mr. Gao is believed to be in police custody, but no information on his whereabouts has been made available.

Other lawyers are facing procedural bars to the representation of their clients in politically sensitive cases. Well-known attorney Mo Shaoping (莫少平) had been retained by Dr. Liu Xiaobo (刘 ▪ 波), who was detained in December 2008 after signing “Charter 08,” an open appeal to Chinese authorities to promote legal reform, democracy, and human rights. On June 23, Liu was formally arrested on “suspicion of incitement to subvert state power.” The same day, police told Liu’s wife that Mo Shaoping cannot represent Liu because he also signed Charter 08. Mo has said that he will challenge the decision in accordance with the law.

Further, as of the beginning of June, 2009, numerous human rights lawyers had not received their “annual licensing inspection and registration” approval from the Lawyers Associations in their local districts, an annual requirement in order to practice law in China. The cases these lawyers take on include representation of families of school children killed during the 2008 Sichuan earthquake; families of children injured after drinking milk tainted with the industrial chemical melamine; Tibetans arrested during the March 2008 protests; and members of the Falun Gong spiritual movement. Several law firms employing these lawyers were also denied approval by their local Lawyers Associations, affecting many more lawyers. Several of the lawyers who did not receive their registration approval, including Tang Jitian (唐吉田) and Lan Zhixue (▪ 志学), were also called in for questioning. Others, including Jiang Tianyong (江天勇), Li Heping (李和平), and Li Xiongbing (黎雄兵), report being put under surveillance. According to a statement released by lawyers who had not received their license approval by late May, these lawyers believe their registration is being withheld as a means of silencing lawyers who take on sensitive cases.

This intimidation and harassment undercuts the role of lawyers, which are essential to a society to be governed by the rule of law. The Chinese government has indicated that it seeks to develop a society that adheres to the rule of law, which in turn encourages societal harmony. However, for such a system to flourish, the government must allow lawyers to do their jobs.

Intimidation and harassment of lawyers is also inconsistent with the international standards set forth in the United Nations Basic Principles on the Role of Lawyers, which state,

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; . . . 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.

See Basic Principles on the Role of Lawyers, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 118 (1990), Article 16. Further, according to these Principles,

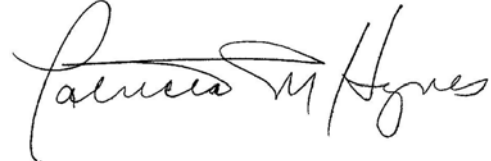
No court or administrative authority before whom the right to counsel is recognized shall refuse to recognize the right of a lawyer to appear before it for his or her client unless that lawyer has been disqualified in accordance with national law and practice and in conformity with these principles.

See Article 19. The lawyers in these cases emphasize that they have acted in accordance with the law and have the right to offer their legal services to individuals detained. Finally, like all other citizens, lawyers are “entitled to freedom of expression, belief, association and assembly” See Article 23.

We therefore respectfully request that you immediately investigate these reports of intimidation and harassment and ensure that all lawyers are free to represent individuals in detention without fear of retribution. The City Bar remains firmly committed to the rights of lawyers to do their jobs without reprisal regardless of nationality.

Thank you for your prompt attention to this important matter.

Very truly yours,



Patricia M. Hynes

cc: Legislative Affairs Office of the State Council of the People’s Republic of China
 Law Committee of the National People’s Congress
 Legislative Affairs Office of the Standing Committee of the National People’s
 Congress of the People’s Republic of China
 Beijing Judicial Bureau
 Beijing Bar Association
 Beijing Political and Legislative Affairs Committee of the Communist Party of
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