



DEBRA L. RASKIN
PRESIDENT
PHONE: (212) 382-6700
FAX: (212) 768-8116
draskin@vladeck.com

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Minister Wu Aiying
Ministry of Justice of the People's Republic of China
No. 10 Nandajie, Chaoyangmen
Beijing, People's Republic of China, Postal code: 100020
Tel: +86 (010) 65205114
Fax: +86 (010) 84772883
e-mail: minister@legalinfo.gov.cn

Dear Minister:

I am writing on behalf of the Association of the Bar of the City of New York (the "Association") to express our grave concern regarding the arrest and detention of a professional colleague, lawyer Pu Zhiqiang, and to urge the government of the People's Republic of China ("China") to immediately release him from detention and drop all charges against him.

The Association is an independent non-governmental organization with more than 24,000 members in more than 50 countries. Founded in 1870, the Association 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. In addition, The Cyrus R. Vance Center for International Justice advances global justice by engaging lawyers across borders to support civil society and an ethically active legal profession.

On many occasions in the past several years, the Association has joined with other national and international bar associations in expressing its support for the Rule of Law in the international community. We have done this because we recognize that an independent judiciary and an independent legal profession are essential to the Rule of Law in all jurisdictions. We remain fully committed to this principle, and are eager to do what we can to help our fellow lawyers carry out their professional and ethical obligations.

Mr. Pu is a prominent *weiquan* (rights defense) lawyer. He has defended prominent rights activists and dissidents in court and in the media. His clients have included artist Ai Weiwei, members of the "New Citizens Movement" that seek to increase government transparency, and people serving in

people's constitutional rights, has been in prison since 2009, and his wife is under house arrest.¹⁰

The rights of lawyers in China to practice their profession and to carry out their professional duties to clients free of government interference are protected by both Chinese law and international norms. The detention and arrest of Mr. Pu, the conditions of his detention, and the failure of the government to provide him with prompt access to counsel and due process violate basic principles of the Rule of Law as well as provisions of China's domestic law.

Like all other citizens, Chinese lawyers are entitled to the rights and protections articulated in Article 35 of the Constitution of the People's Republic of China, including the rights to free speech, assembly, association, and demonstration. Article 37 of the Lawyers Law of the People's Republic of China specifically protects lawyers in carrying out their professional duties. Article 37 provides that "a lawyer's right of the person is inviolable" and affirms that a lawyer should not be legally liable for the opinions he or she presents on behalf of clients.

Intimidation and harassment of lawyers, including by detaining them, also violates international standards set forth in the UN Basic Principles on the Role of Lawyers, which the members of the UN General Assembly, including China, adopted without dissent. In particular, Article 16 provides that "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."

In addition, the arbitrary detention of Mr. Pu violates fundamental human rights set out in The Universal Declaration of Human Rights (1948), articles 3, 5, and 9, prohibiting arbitrary arrest, as well as cruel, inhuman, or degrading treatment and punishment.

Moreover, as a signatory to the International Covenant on Civil and Political Rights (1966), China should ensure that it does not defeat the object and purpose of that treaty, which includes:

- Article 9.1, which states that "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."
- Article 9.2, which states that "Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."
- Article 9.3, which states that "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment."
- Article 9.4, which states that "Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if

¹⁰ <http://www.bbc.com/news/world-asia-pacific-11955763> and <http://www.theguardian.com/commentisfree/2014/jan/15/liu-xiaobo-china-nobel-prize-prison-wife-liu-xia-mistreat>.

- the detention is not lawful.”
- Article 9.5, which states that “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation...”
- Article 14.3, which states that “In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him. . . (c) To be tried without undue delay;”

In addition, other international standards may also be relevant here:

- The United Nations Basic Principles on the Role of Lawyers (1990):
 - Article 1, which states that “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.”
 - Article 7, which states that “Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.”
 - Article 8, which states that “All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.”
 - Article 16, which states that “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.”
 - Article 18, which states that “Lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.”
- The Declaration on the Rights and Responsibility of Individuals, Group and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998)
 - Article 5, which states that “For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: (a) To meet or assemble peacefully; (b) To form, join and participate in non-governmental organizations, associations or groups; (c) To communicate with non-governmental or intergovernmental organizations.”
 - Article 6, which states that “Everyone has the right, individually and in association with others: (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.”

- Article 7, which states that “Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.”

The New York City Bar Association has called attention to the situation of lawyers in China in the past, including in numerous letters to the Chinese Ministry of Justice and other government officials in China and in the United States. See, for example, a letter¹¹ dated March 15, 2011, to the Minister of Justice. In 2009, the Association undertook a mission to China and published a report¹² detailing its findings and calling attention to the cases of individual lawyers and legal activists who had been detained, abused, charged, or otherwise prevented from undertaking their professional duties as lawyers. The Association has also adopted a Statement of Principles¹³ expressing its support for the rights of Chinese lawyers.

We respectfully urge that the Chinese government immediately drop the charges against Mr. Pu and release him from detention, and take all such other steps as may be necessary to ensure that Mr. Pu, and also other human rights activists and defenders in China, are free to carry out their legitimate activities.

Respectfully,



Debra L. Raskin

¹¹ <http://www.nycbar.org/pdf/report/uploads/20072073-LettertotheMinisterofJusticeofthePeoplesRepublicofChina.pdf>.

¹² <http://www.nycbar.org/pdf/report/uploads/20071953-ReportoftheMissiontoChinaDecember2009.pdf> .

¹³ <http://www.nycbar.org/44th-street-blog/2012/05/04/statement-of-new-york-city-bar-association-president-samuel-w-seymour-calling-for-end-of-china%E2%80%99s-abuse-of-chen-guangcheng-and-other-lawyers/>.

cc:

His Excellency Xi Jinping
President, People's Republic of China
Zhongnanhai
Xichengqu (West City District)
Beijing City
People's Republic of China
Email: English@mail.gov.cn

His Excellency Li Keqiang
Premier of the People's Republic of China
The State Council
9 Xihuangcheng Genbeijie
Beijing 100032
People's Republic of China
Email: English@mail.gov.cn

Ambassador Max Sieben Baucus
United States Embassy of Beijing, China
No. 55 An Jia Lou Lu 100600
Beijing
People's Republic of China
Fax: +86-10-8531-3300

Wang Junfeng
President
All China Lawyers Association
5th Floor of Qinglan Mansion
No.24 Dongsì Shítiao Dongcheng District
Beijing, 100007
People's Republic of China
Fax: +86-10-6406-0207

Ambassador Cui Tiankai
Ambassador of the People's Republic of China to the United States of America
Embassy of the People's Republic of China in the United States of America
3505 International Place, N.W.
Washington, D.C. 20008 U.S.A.
e-mail: chinaembpress_us@mfa.gov.cn