

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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His Excellency Mr. Xi Jinping
President of the People's Republic of China
State Council General Office
2 Fuyoujie
Xichengqu
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People's Republic of China

July 28, 2015

Your Excellency:

I write on behalf of the New York City Bar Association (“the Association”) to express our grave concern regarding the intimidation, arrest, detention, and in many cases ongoing enforced disappearance of an unprecedented number of Chinese lawyers, lawyers’ family members, support staff, and human rights and legal activists in a sweeping crackdown that began on July 9, 2015. We urge the government of the People’s Republic of China (“China”) to immediately release all detained individuals, disclose the whereabouts and status of all disappeared individuals, and take all necessary steps to ensure that our Chinese colleagues are able to carry out their professional obligations without intimidation, hindrance, harassment, or improper interference, in conformity with international standards.

The Association is a 145-year-old organization of more than 24,000 members in New York City, throughout the United States, and in over fifty countries across the globe, including China. Our membership includes judges, prosecutors, government officials, and defense lawyers, as well as corporate attorneys representing nearly every major law firm and corporation in the United States. The Association has a long history of engagement in legal issues to promote human rights, the rule of law, and the rights of lawyers to practice law. It has long sought to deepen its relationship with and to promote the rule of law in China, chiefly through its Committee on International Human Rights and its Committee on Asian Affairs.

The Association understands that, at the time of writing, some 228 lawyers, support staff, family members, and activists have been targeted in a nationwide attack on the rights defense movement. These lawyers and legal activists were brought in for questioning, detained, or held in their homes. According to reports, at least 22 lawyers and others remain missing or are still in police custody.

Specifically, according to information in news reports and collected by non-governmental organizations, the following lawyers are currently in police custody: Bao Longjun; Huang Liqun; Li Heping; Li Xiangyang; Xie Yanyi; Wang Quanzhang; Wang Yu; Zhou Shifeng. In addition, Chen Taihe, Jiang Jianjun, Liu Sixin, and Monk Wangyun, activists, academics, and law firm support staff, are also in custody. Others targeted in the crackdown and who remain under residential surveillance are Gao Yue, Gou Hongguo (also known as Ge Ping), Sui Muqing, Xie Yang, and Xu Zhihan. Lawyer Li Shuyun's whereabouts are unknown. The whereabouts of Hu Shigen, Liu Yongping, Wang Fang, and Zhao Wei (also known as Kao La), are also unknown at the time of writing.

Wang Yu, Huang Liqun, and Wang Quanzhang are all lawyers with Beijing's Fengrui Law Firm; Liu Sixin is a Fengrui staff member; and Bao Longjun is lawyer Wang Yu's husband. Fengrui Law Firm has undertaken representation in a number of high-profile and possibly sensitive human rights cases. As is common around the world for lawyers with this kind of practice, the firm has also helped to organized advocacy campaigns. These attorneys have worked on cases of journalists and religious minorities. The Association is deeply concerned that official media reports have characterized these individuals as involved in "gravely disrupting social order" as part of a "major criminal syndicate." Lawyer Sui Muqing, based in Guangzhou, has now been charged with "inciting subversion of state power" as a result of her work on public interest cases. Other lawyers and legal activists have been charged with "picking quarrels and provoking troubles." Many of the other detained and questioned lawyers had signed a public statement condemning the disappearance of their colleague, lawyer Wang Yu, who was first detained on July 9, 2015.

Based on our experience and what we know from public reports, we believe that the activities of the Fengrui Law Firm all fall within the protected scope of lawyers' legitimate work. It is our view that this sort of activity strengthens social order by providing citizens with opportunities to have their claims addressed.

The Association is troubled that these charges are being used against lawyers who were carrying out their duties as legal professionals simply because their work relates to human rights matters and public interest causes. We are also distressed that many of those who remain in detention have been denied access to legal counsel and to their families. Chinese law and international standards protect the rights of lawyers in China both to practice their profession and to carry out their professional duties to clients free of government interference. These detentions violate those standards and undermine the rule of 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.

The 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.” Article 18 affirms “Lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.” Lawyers are also entitled to join in broader advocacy campaigns and express opinions freely. Article 23 of the Basic Principles states “Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights”

The prohibition against arbitrary detention is articulated in the Universal Declaration of Human Rights in article 9, and is codified in Article 9 of the International Covenant on Civil and Political Rights (ICCPR). Although China has not ratified the ICCPR, it is a signatory to the Covenant and as such must not violate its object and purpose. Protections against arbitrary detention are included in numerous other international documents, including the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. In addition, Article 37 of China’s Constitution prohibits “unlawful detention or deprivation or restriction of citizens’ freedom of the person.”

In many cases, the lawyers and others who remain in custody also have no access to counsel or to their families. These actions are wholly inconsistent with Chinese law, as well as international legal principles. . Article 33 of the Criminal Procedure Law of the People’s Republic of China (CPL) states “a criminal suspect has the right to appoint a defender as of the date on which the suspect is first interrogated by the investigating authority or is subject to compulsory measures.” Article 1 of the Basic Principles on the Role of Lawyers states “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.”

The 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. In 2009, the Association undertook a mission to China and published a report 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 Principles expressing its support for the rights of Chinese lawyers.

We are distressed that this crackdown is contrary to your own prioritized “Four Comprehensives” policy promulgated in December 2014 that includes a commitment to “comprehensively govern the country according to the law.” The Association welcomes the many statements you have made in recent months to further express commitment to advancing the rule of law. However, the detention and intimidation of these many lawyers, who are a fundamental part of that system, threaten these commitments. As you well know, over the past thirty-five years, China has made remarkable advances in developing a meaningful rule of law system. We – and much of the world community – believe that this summer’s crackdown represents a drastic move away from that positive development.

We respectfully urge that the Chinese government immediately release the lawyers, legal activists, support staff, and family members targeted in this attack. Any ongoing detentions should conform to international standards of detention and ensure that detainees are held in

official detention facilities, have regular access to legal counsel, and have access to their families. Moreover, we urge the Chinese government to take other steps to ensure that lawyers in China are free to carry out their professional obligation without intimidation, hindrance, harassment, or improper interference, in conformity with international standards and Chinese domestic law.

Respectfully,

A handwritten signature in black ink, appearing to read "Debra L. Raskin". The signature is fluid and cursive, with the first name "Debra" being the most prominent part.

Debra L. Raskin

cc:

Mr. Minister Wu Aiying
Minister of Justice

Mr. Guo Shengkun
Minister of Public Security

Wang Junfeng, President
All China Lawyers Association

President, Beijing Bar Association

President, Shanghai Bar Association

President, Guangzhou Bar Association