



NEW YORK  
CITY BAR

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Minister Fu Zhenghua  
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Dear Minister Fu:

On behalf of the New York City Bar Association, I write to express our grave and ongoing concern regarding the ability of lawyers in China to perform their professional duties without intimidation or improper interference.<sup>1</sup> This week marks the third anniversary of the widespread crackdown on human rights and public interest lawyers that began on July 9, 2015, known as the "709 Crackdown." During the crackdown and in the years since that date, an unprecedented number of Chinese lawyers and rights defenders representing politically unpopular cases or causes, their family members, support staff, and associated defenders have been arrested, detained, and disappeared. We continue to be troubled by the failure of the Chinese authorities to investigate and address the violations of human rights during the crackdown itself but are also gravely concerned as lawyers remain in detention, continue to face harassment, and have difficulty even renewing their professional licenses. As the newly-appointed Minister of Justice, we urge you to take steps to resolve these issues immediately.

Almost 250 lawyers and defenders were questioned, detained, or formally arrested and tried in the "709 Crackdown." Several lawyers and defenders served sentences or are still in detention as a result of the crackdown and its aftermath. Of particular concern are the case of Mr.

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<sup>1</sup> The Association is a 148-year-old organization of more than 24,000 members in New York City, throughout the United States, and in over fifty countries around the globe, including China. Our members include 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, its Committee on Asian Affairs, and its Task Force on the Independence of Lawyers and Judges.

Wang Quanzhang, a lawyer who was detained in August 2015 and charged with “subversion of state power,” but who has not been heard from since his detention, and the case of Mr. Jiang Tianyong, a lawyer who disappeared into State custody while traveling home in November 2016, and was later also charged with and convicted of subversion. According to Mr. Jiang’s family, he has been severely mistreated, including being subjected to the use of forcible medication, in violation of China’s international obligations prohibiting torture and other cruel, inhuman, and degrading treatment or punishment. United Nations experts on human rights, including the Special Rapporteur on extreme poverty and human rights, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Working Group on Arbitrary Detention, along with other mandate holders, have expressed deep concern over Mr. Jiang’s health, and have criticized the lack of transparency around the judgment relating to Mr. Jiang’s conviction.

Other lawyers and defenders who have been targeted since the 709 Crackdown include long-time democracy activist Hu Shigen and lawyer Zhou Shifeng, both serving sentences following their conviction on subversion charges in August 2016, as well as lawyers Li Yuhan—who represented lawyer Wang Yu after the 709 Crackdown, and Yu Wenshen, both of whom have been detained.

In addition to the urgent cases of Wang Quanzhang and Jiang Tianyong, and other individual lawyers, the Association also is more broadly concerned about official interference with the ability of lawyers who take on unpopular cases and causes, including human rights lawyers, to carry out their professional duties. Authorities have revoked or canceled the licenses of some lawyers, or have had their annual license assessment delayed, impeding their ability to work. Lawyers whose licenses have been cancelled include Xie Yanyi, Li Chunfu, and Li Hepeng; Li Hepeng was also convicted in 2017 of subversion. Other lawyers who have been active on rights defense issues and who have also had their licenses cancelled or suspended include Wen Donghai and Yang Jinzhu. Some law firms have been forced to close, and others have been pressured by official bar associations to terminate the employment of lawyers whom authorities deem problematic. Many lawyers are unable to obtain positions elsewhere because of pressure on the legal community to keep them out of work. For example, lawyer Wang Yu and her husband, legal defender Bao Longjun, have been unable to find work, and lawyer Zhang Kai was fired from his firm, which he alleges was due to pressure from authorities.

The harassment, intimidation, disappearance, detention, and prosecution of these lawyers and other rights defenders undermines China’s legal reform and commitment to the rule of law and deters the development of a professional and independent bar. Chinese law, in its constitution and in other legislation, guarantees numerous fundamental human rights, including the rights to freedom of expression and association, as well as due process rights, such as the right to be represented by a lawyer. Article 37 of the Lawyers Law of the People’s Republic of China specifically provides that “a lawyer’s right of the person is inviolable,” and affirms that a lawyer is not legally liable for the positions he or she presents on behalf of a client. Despite these provisions, lawyers and other rights defenders are being targeted for the kinds of cases and causes they represent professionally.

China is also under numerous international obligations to protect human rights through international conventions and customary international law. In particular, the ongoing detention and harassment of lawyers as well as the administrative challenges they are facing violate Article 16 of the U.N. Basic Principles on the Role of Lawyers, which provides that, “[g]overnments shall ensure that lawyers . . . are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.” Similarly, Article 9.3(c) of the of the U.N. Declaration on Human Rights Defenders reflects the fundamental right of individuals “[t]o offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms,” free of government interference.

The Association respectfully calls on you, Minister Fu, to ensure that that China’s lawyers and other rights defenders are able to do their jobs without fear of personal or professional repercussions. Specifically, we urge you to ensure the safety of lawyers Wang Quanzhang and Jiang Tianyong and to immediately release them from detention, in accordance with international standards. Further, we call on you to immediately release any other lawyers and defenders who remain in detention following the “709 Crackdown,” and to cease all intimidation, harassment, monitoring, and surveillance of those lawyers, their families, friends, and colleagues. Finally, we urge you to investigate the misuse of attorney licensing rules to target lawyers who represent unpopular clients and causes, and to ensure that all lawyers in China can carry out their professional duties safely and effectively.

Respectfully,

A handwritten signature in blue ink, appearing to read 'RJM', is positioned above the typed name of the sender.

Roger Juan Maldonado  
President