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### **City Bar Decries Continued Persecution of Lawyers in China**

New York, July 8, 2020 – The New York City Bar Association (“the Association”) expresses its ongoing concern about the continued harassment, intimidation, and persecution of lawyers in China for doing no more than performing their professional duties, and calls upon the Chinese Ministry of Justice to investigate and end these violations.

The Association is a 150-year-old organization of more than 25,000 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 many major law firms and corporations 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, both in the United States and abroad.<sup>1</sup> 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 Task Force for the Independence of Lawyers and Judges.<sup>2</sup>

This week marks the fifth anniversary of the dramatic and widespread suppression of human rights and public interest lawyers that began on July 9, 2015, known worldwide as the “709 Crackdown.” With this crackdown an unprecedented number of Chinese lawyers and rights defenders, their family members, staff, and even lawyers who have taken up their cases have been detained, arrested, beaten, tortured, and disappeared. These actions violate international

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<sup>1</sup> See, e.g., New York City Bar Association, “Request for Formal Congressional Inquiries into Conduct of Attorney General William Barr, January 9, 2020: <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/request-for-formal-congressional-inquiries-into-conduct-of-attorney-general-william-p-barr>

<sup>2</sup> See, e.g., New York City Bar Association, “Statement on the U.N. Periodic Review of China” (2018); <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/statement-of-new-york-city-bar-association-on-the-un-universal-periodic-review-of-china>; *Report of the Mission to China* (2009): <https://www.nycbar.org/pdf/report/uploads/20071953-ReportoftheMissiontoChinaDecember2009.pdf>.

and Chinese domestic law, undermine confidence in the Chinese legal system, and adversely affect the ability of foreign lawyers to conduct business in China. The Association condemns the failure of Chinese authorities to investigate these abuses, as well as the continued mistreatment of lawyers who face official actions ranging from physical mistreatment to the denial of their licenses to practice their profession.

The 709 Crackdown was among the largest and most sustained government-led assaults on the legal profession in recent decades anywhere in the world. At the time, almost 250 lawyers and defenders were questioned, detained, or formally arrested and tried.<sup>3</sup> Many of these attorneys still face adverse measures. Since then, additional Chinese attorneys have fallen victim to the crackdown. The following cases both raise specific concerns and reflect the Association's more general concerns:

- **Xu Zhangrun**, a prominent law professor in Beijing and one of the Communist Party's harshest and most outspoken critics, was taken from his home early Monday morning by more than 20 police. Authorities also seized his computer and other personal property. Police reportedly told Xu's wife that he had solicited prostitutes on a visit to the city of Chengdu, in Sichuan province. Leveling accusations of consorting with prostitutes is one means that authorities use to stigmatize dissidents. Xu has been under close government watch at least since his July 2018 publication of an article criticizing the Communist Party's decision to eliminate the two-term limit for presidents. He was subsequently suspended from his teaching post at the prestigious Tsinghua University, where he taught law for more than 20 years. Undeterred, Xu has continued to publish blistering critiques of the country's leaders.

Xu has faced restrictions in meeting friends and his social media accounts have been blocked since February, when he published an article on several overseas Chinese-language websites blaming senior Chinese leaders for "putting politics ahead of the people" in handling the Covid-19 pandemic and arguing that the country's political system has "collapsed under the tyranny." In May, on the eve of China's top legislative session, Xu published another essay, urging the country's leadership to reflect on its handling of the pandemic and to apologize for their mistakes. Although Xu's recent political writings have been censored and banned in mainland China, they are circulated surreptitiously on the internet. In addition, Xu has published several books in Hong Kong, including two collections of essays in the last year. In his writings, Xu has said that he understands the risks of continuing to speak out. Just yesterday, the U.S. State Department demanded Xu's immediate release.<sup>4</sup>

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<sup>3</sup> See Committee to Support Chinese Lawyers & Leitner Center for International Law and Justice, *Plight and Prospects: The Landscape for Cause Lawyers in China* (2015).

<sup>4</sup> "US imposes sanctions over Tibet and urges Beijing to release outspoken professor Xu Zhangrun," *South China Morning Post*, July 8, 2020, <https://www.scmp.com/news/world/united-states-canada/article/3092239/us-urges-beijing-release-outspoken-chinese-law>; "Outspoken Chinese law professor Xu Zhangrun taken away by police, friends say," *South China Morning Post*, July 6, 2020, <https://www.scmp.com/news/china/politics/article/3092003/outspoken-law-professor-taken-beijing-home-and-put-police>; "Seized by the Police, an Outspoken Chinese Professor Sees Fears Come True," *New York Times*, July 6, 2020, <https://nyti.ms/3iBVaq7>.

- **Wang Quanzhang**, who practiced law in Beijing and Jinan, was arrested as part of the initial 709 Crackdown on human rights defenders in 2015. Wang was not allowed access to legal counsel during the course of his detainment and was not tried until three-and-a-half years after his arrest, in violation of domestic and international law. He was sentenced to four-and-a-half years in prison during the closed-door trial. For the first two weeks after his release on April 5, 2020, Wang was kept in isolation in his former home in Jinan, Shandong province ostensibly due to the Covid-19 pandemic. Even after the quarantine period ended, he was still barred from traveling to Beijing to reunite with his son and wife, Li Wenzu, who had been hospitalized for acute abdominal pain. On April 27, 2020, he was finally allowed to travel to Beijing. Wang has said he plans to challenge his conviction on the grounds that detaining him for over three years without a trial and barring him access to legal counsel violated China's Criminal Procedure Law.<sup>5</sup>

- **Ding Jiayi**, a lawyer in Beijing, has been detained since December 26, 2019, as part of an investigation into a gathering of about twenty human rights activists over dinner in Xiamen a few weeks prior. Ding, who is being held under "residential surveillance" with no contact with his family or lawyer, is being investigated for the "incitement of subversion." Ding's wife, who lives in the United States with their child, only recently learned that Ding's sister received notice of the arrest on June 23, 2020. Ding's wife had previously stated that the secretive nature of Ding's detainment makes her fear that he is being tortured.<sup>6</sup>

- **Qin Yongpei**, from Guangxi province, has been detained since October 31, 2019 on charges of "inciting subversion of state power." He has been held incommunicado since. Qin was formally arrested in December 2019, and his case was transferred for indictment to the Nanning City People's Procuratorate in March 2020. On April 3, 2020, it was transferred back to the Nanning police for further investigation. Nanning officials have blocked Qin from meeting with his lawyers, claiming his case "might involve state secrets," and reportedly refused to give Qin the warm clothing that his family dropped off for him to wear in the cold winter months. Further, in April, police and officials harassed Qin's wife and family warning them not to continue posting on social media. On May 29, 2020, the Nanning procuratorate issued its decision to prosecute Qin for "inciting subversion of State Power" and sent the decision to the Nanning Intermediate People's Court.<sup>7</sup>

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<sup>5</sup> "I Was Jailed for Refusing to Plead Guilty, Says Chinese Lawyer Wang Quanzhang," *South China Morning Post*, April 21, 2020, <https://www.scmp.com/news/china/politics/article/3080930/i-was-jailed-refusing-plead-guilty-says-chinese-human-rights>; "Freed Chinese Human Rights Lawyer to Challenge Conviction," *South China Morning Post* (May 11, 2020), <https://thetop10news.com/2020/05/11/freed-chinese-human-rights-lawyer-to-challenge-conviction/>.

<sup>6</sup> "China Human Rights Activist Ding Jiayi Under Investigation for 'Incitement of Subversion'," *South China Morning Post*, (Jan 11, 2020), <https://www.scmp.com/news/china/politics/article/3045657/china-human-rights-activist-ding-jiayi-under-investigation>.

<sup>7</sup> See Qin Yongpei 覃永沛, "Chinese Human Rights Defenders," March 19, 2020 [https://www.nchrd.org/2020/03/qin-yongpei/?utm\\_source=rss&utm\\_medium=rss&utm\\_campaign=qin-yongpei](https://www.nchrd.org/2020/03/qin-yongpei/?utm_source=rss&utm_medium=rss&utm_campaign=qin-yongpei); "Qin Yongpei," *Front Line Defenders*, Last Updated (April 21, 2020) <https://www.frontlinedefenders.org/en/case/police-seek-prosecution-human-rights-lawyer-qin-yongpei> (last updated May 29, 2020); "Qin Yongpei 覃永沛," *Chinese Human Rights Defenders*, (March 19, 2020) [https://www.nchrd.org/2020/03/qin-yongpei/?utm\\_source=rss&utm\\_medium=rss&utm\\_campaign=qin-yongpei](https://www.nchrd.org/2020/03/qin-yongpei/?utm_source=rss&utm_medium=rss&utm_campaign=qin-yongpei); "Letter on the Ongoing Detention and Judicial Harassment of Qin Yongpei," *Lawyers for Lawyers* (April 16, 2020.) <https://lawyersforlawyers.org/en/letter-on-the-ongoing-detention-and-judicial-harassment-of-qin-yongpei/>

- **Jiang Tianyong**, a well-known human rights lawyer in Beijing, was forcibly disappeared in 2016. Jiang's detention occurred not long after his meeting with the UN Special Rapporteur on extreme poverty and human rights, Philip Alston. In November 2017, Jiang was convicted of inciting subversion of state power; he was released in February 2019. However, in September of 2019, a group of UN experts issued a statement that he was still under constant surveillance, his movement was "severely restricted," and that he and his family and friends were still being harassed by the government. The experts also expressed concern that his confession may have been coerced by using torture.<sup>8</sup>

- **Wang Yu** is a Beijing lawyer who has defended high-profile clients such as the Uyghur academic Ilham Tohti and the "Feminist Five," five young women who did advocacy work related to the prevention of sexual harassment. Wang was among the first attorneys targeted during the 709 Crackdown. Wang made a staged "confession" on CCTV that she had been influenced by foreign forces who wanted to harm China, after the government threatened to stop her from seeing her fifteen-year-old son, and was released in July 2016. Wang later learned that her son had been detained and beaten by the authorities after she was taken into custody. In March 2019, Wang was arrested outside the United States Embassy in Beijing as she was preparing to enter to attend a seminar on "Using Law to Combat Domestic Violence." She was released within twenty-four hours.<sup>9</sup>

- **Li Heping**, a human rights lawyer from Henan who practiced in Beijing, was arrested amidst the 709 Crackdown on human rights activists in July 2015. He was convicted of "inciting subversion against state power" during a secret trial in April 2017. During his detention, Li was not allowed to see his lawyer or family. He was released in May 2017, but remains under a four-year "probationary period" that involves constant surveillance and movement restrictions.<sup>10</sup>

- **Yu Wensheng** is a Beijing human rights lawyer who has taken on many highly sensitive cases, including the defense of fellow human rights lawyer and 709 Crackdown detainee Wang Quanzhang. On January 18, 2018, Yu published an open letter calling for amendments to the Chinese Constitution to, among other things, ensure free and fair elections. The next day, while walking his son to school, he was detained on charges of "disrupting public service." In November 2018, Yu's case was sent back to police for further investigation—a tactic often used by Chinese authorities to prolong detention. In February 2019, his charge was switched to "inciting subversion of state power," and in May 2019, he was secretly tried with no notice to his wife or lawyers. On June 17, 2020, Yu's wife, Xu Yan, received news from the People's

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<sup>8</sup> China: Harassment of human rights lawyer Jiang Tianyong must stop, say UN Experts, 24 Sept. 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25046&LangID=E>.

<sup>9</sup> "Chinese Human Rights Lawyer Wang Yu Released After Being Detained Outside US Embassy," *South China Morning Post*, (March 28, 2019), <https://www.scmp.com/news/china/politics/article/3003639/chinese-human-rights-lawyer-wang-yu-freed-after-being-detained>.

<sup>10</sup> "Emaciated, Unrecognisable": China releases human rights lawyer from custody," *The Guardian*, (May 10, 2017), <https://www.theguardian.com/world/2017/may/10/emaciated-unrecognisable-china-releases-human-rights-lawyer-from-custody>.

Procuratorate of Xuzhou City that Yu had been sentenced to four years in jail, in addition to deprivation of his political rights for three years for “inciting subversion of state power.”

The persecution of these lawyers and other rights defenders significantly undermines both China’s efforts at legal reform and its reputation in the international community. The Chinese Constitution and national legislation guarantee 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.<sup>11</sup> The 709 Crackdown and the targeting of lawyers that has come in its wake make a mockery of these safeguards.<sup>12</sup>

The targeting of lawyers further violates China’s obligations under international conventions and customary international law. Among others, Article 16 of the U.N. Basic Principles on the Role of Lawyers provides that, “[g]overnments shall ensure that lawyers . . . are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.”<sup>13</sup> Article 18 of the U.N. Basic Principles further provides that, “Lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.”<sup>14</sup> Similarly, Article 9.3(c) 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.<sup>15</sup> In addition, Article 2(2) of the Convention Against Torture, to which China is a party, states, “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”<sup>16</sup>

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<sup>11</sup> See Law of the People's Republic of China on Lawyers, art. 37 (2008) available at: [http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx](http://english.www.gov.cn/archive/laws_regulations/2014/08/23/content_281474983042459.htm#:~:text=In%20legal%20practice%2C%20a%20lawyer%20shall%20subject%20himself%20to%20supervision,righ%20and%20interests%20of%20lawyers; see also U.N. Basic Principles on the Role of Lawyers, Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders, Aug. 27-Sep. 7, 1990, U.N. Doc. A/CONF.144/28/Rev.1, at 118–23, <a href=); G.A. Res. 45/121, U.N. GAOR, 45th Sess., U.N. Doc. A/CONF. 144/28 (1990).

<sup>12</sup> “Yu Wensheng Detained and Charged with ‘Disrupting Public Service’,” *Front Line Defenders*, Last Updated (May 15, 2019), <https://www.frontlinedefenders.org/en/case/yu-wensheng-detained-and-charged-disrupting-public-service>.

<sup>13</sup> This year – 2020 – marks the 30th anniversary of the U.N. Basic Principles on the Role of Lawyers.” The International Bar Association released a joint “Call to Action” (July 3, 2020) on the subject, signed by bar associations from around the world, including the New York City Bar Association, <https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=d8fc30b4-1ff4-4d3e-80e1-59549317c2e7>.

<sup>14</sup> Arts. 16 & 18, *U.N. Basic Principles on the Role of Lawyers* (1990) <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>.

<sup>15</sup> Art. 9.3(c): *U.N. Declaration on Human Rights Defenders* (1990); <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>.

<sup>16</sup> Art. 2(2), *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment* (1987) <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>.

On this fifth anniversary of the 709 Crackdown, our Association once again calls on the Chinese government to ensure that China's lawyers and other rights defenders are able to do their jobs without fear of personal or professional repercussions. Further, we call for the immediate release of all lawyers and defenders who remain in detention for pursuing their professional responsibilities, and call upon you to cease all intimidation, harassment, monitoring, and surveillance of those lawyers, their families, friends, and colleagues. Finally we urge you to investigate the abuse of attorney licensing rules to target lawyers who represent unpopular clients and causes, and, further, we urge you to ensure that all lawyers in China can carry out their professional duties safely and effectively.