

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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May 28, 2008

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Dear Sir:

I write on behalf of the New York City Bar Association to express our concern over the recent intimidation of lawyers in China following their public commitment to provide legal services to individuals detained following protests in China's Tibet Autonomous Region (TAR) in March.

The New York City Bar Association 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.

Reports indicate that approximately 4,000 Tibetans were detained following protests that began in the TAR on March 10. On April 2, eighteen lawyers in China made a public offer to provide legal help to those detainees, and others joined that offer in the days following. It has been brought to our attention that within a week of making this offer public, lawyers signing the statement were questioned by authorities, put under surveillance, and had their phones tapped.

These lawyers now report increased harassment and local judicial authorities have told the law firms where lawyers signing the letter work not to take on any of these Tibetan cases. The lawyers have also reported that local bar associations warned them that the annual renewal of their licenses to practice will be delayed, and some of the lawyers have already been notified that their licenses are suspended. Some of the firms at which these lawyers work have been threatened with administrative action.

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, in both the version currently in force as amended in 2001, and the new revision passed in 2007 and in force on June 1, 2008, indicates that lawyers may accept engagement acting as legal counsel in both criminal and civil cases, counsel that includes the provision of legal advice and representation.

Moreover, this intimidation and harassment undercuts the role of lawyers in a society governed by rule of law, a system the Chinese government has itself indicated it aims to develop, which in turn enhances a true harmonious society. The intimidation and harassment is also inconsistent with international standards as laid out in the United Nations Basic Principles on the Role of Lawyers, stating 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." *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 this case 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. In particular, we urge you to take appropriate action to ensure that those lawyers signing the April 2 public legal assistance offer to Tibetan detainees be free to represent those cases they take on, and that they not suffer any professional setbacks including suspension or delay to the renewal of their licenses to practice. The New York City Bar Association remains committed to the rights of lawyers to do their jobs without reprisal regardless of nationality.

Thank you for your attention to this important matter.

Very truly yours,



Barry Kamins

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
 China Central Committee
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