

CCBE report Situation of lawyers in China

18 June 2017

Introduction

The Council of Bars and Law Societies of Europe (CCBE), represents the bars and law societies of 45 countries, and through them more than 1 million European lawyers. The CCBE places great emphasis on respect for human rights and the rule of law and is particularly concerned by the situation of human rights defenders in the world. The CCBE takes initiatives in support of lawyers under threat worldwide.

In 2015 the CCBE launched a Human Rights Network “Defence of the Defenders”, composed of contact persons in the CCBE member Bars and Law societies and in International/European lawyers’ organisations who are active in the support of endangered lawyers. The purpose of the Network is to enhance information exchange and cooperation between these various actors.

Part I - July 2015 crackdown: almost two years later

A. Background

The CCBE strongly condemned the July 2015 crackdown (commonly known as “709 crackdown”). From July 2015 on, over 300 lawyers, law firm staff, and human rights defenders have been detained, arrested, held incommunicado, summoned, or otherwise had their freedoms temporarily restricted. While many of the detained lawyers were subject to harassment due to their insistence in performing their professional duties for cases with rights implications, many others were held for their peaceful human rights activities and advocacy campaigns. These individuals have also been portrayed as criminals by official media. Among those detained and or summoned were over 100 lawyers and rights activists who had signed a public statement on 9 July 2015 condemning the disappearance of lawyer Wang Yu. While most were subsequently released, many others spent several months in custody.

The CCBE sent letters following the developments after the crackdown, expressing its concerns over the situation of those lawyers in custody. The CCBE is continuously monitoring the situation as close as possible.

B. State of play

After almost two years, the state of play can be summarised as follows (see table page 4-7 for details):

- **2 lawyers are still detained (1 awaiting trial and 1 under investigation)**
- **3 lawyers have been convicted, 1 sentenced to 7 years, 1 on suspended sentence and 1 with unclear status**
- **16 lawyers have been released: 15 on bail and 1 into exile**

C. Sample cases

Urgent concern: Wang Quanzhang, Jiang Tianyong and Xie Yang

WANG QUANZHANG

Wang Quanzhang is a human rights lawyer from the Fengrui Law Firm in Beijing. It is the law firm targeted and hard-hit in the 2015 Crackdown. He has by far been incommunicado for more than 700 days since the 2015 crackdown. Lawyers have not been able to meet him despite their numerous requests, even after the police completed their investigation of the case in February 2017. They have also been denied access to his case materials.

The authorities also claimed that Wang had dismissed the two lawyers appointed by his family, but they have allowed no means for these lawyers to confirm Wang's wish.

In January 2017, source of information received by the Hong Kong based China Human Rights Lawyers Concern Group noted that Wang had been badly tortured in detention. His status of being has remained a major concern.

Like the families of some other detained lawyers and activists, Wang's wife and his parents have also been under constant intimidation and harassments.

His wife was interrogated, verbally abused, tailed, and with CCTV set up in her neighbourhood. She was also forced to evict from her residence after her landlord was threatened. On 30 August 2016, the 3-year-old son of lawyer Wang was refused entry to kindergartens. His wife's many attempts to seek legal redress and remedy for her husband were either rejected or ignored.

In at least two instances in 2016, police exerted pressure on Wang's elderly parents for them to be filmed in videos to persuade their son to plead guilty. The father has reportedly been forced to make one such video.

In late May, 2017, Wang's elderly father and wheelchair-bound mother went to Beijing from their native town in Shandong, again hoping to seek remedy for their son. The flat which they rented as temporary accommodation during their stay in Beijing was cut its electricity and water-supply a few days after they moved in. At the time of writing, the elderly couple are still staying in the same flat. It has been reported that local officials from their home town have approached them in Beijing, intending to coax them to return to Shandong.

On 14 February 2017, Wang was officially indicted for crimes related to "subversion of state power" and is currently in detention awaiting trial. But no trial date has been given.

JIANG TIANYONG

Jiang Tianyong was disbarred in 2009 as a result of his work as a human rights lawyer. Jiang had remained active and continued to provide legal service and assistance to the needy on the grassroots prior to his detainment in late 2016.

Jiang disappeared in the night of 21 November 2016 as he was about to board a train returning to Beijing from Changsha, Hunan, where he had visited the family of a detained lawyer Xie Yang. About 3 weeks later, Jiang's lawyer learnt from a train police that he was given 10-day administrative detention for using other people's ID card. No other information was available.

On 16 December, a standardised article quoted the police that Jiang was held under criminal compulsory measure for using other person's ID and for illegally possessing state secret.

On 20 December, the Youth League under the Communist Party issued a video footage on the social media "A Notice to Foreign Forces: We've Captured Jiang Tianyong!". In the meantime, all efforts of the family and the lawyers of Jiang trying to locate him were in vain.

On 23 December 2016, the family finally received official notification that Jiang was held under residential surveillance at designated location for allegedly "inciting subversion of the State".

In response to the international outcry caused by the transcription of Xie Yang's testimonies in January 2017, the Chinese authorities published both written and audio-visual materials on social media to accuse Jiang of fabricating Xie's stories of torture. In an interview broadcast on tv, Jian confirmed the accusation, although his family and colleagues believe the statement was made under duress. In mid-May, an official made video was also released to show that Jiang could walk though the family pointed out dubious marks on his leg which they suggested could possibly wounds of injuries.

On 31 May 2017, Changsha police claimed that Jiang had dismissed with a hand-written note his two family-appointed lawyers, which family claimed must have been prepared under pressure. On 5 June, Jiang's father received the formal notification that Jiang was formally arrested on 31 May for the alleged crime of "subverting state power".

At the time of writing, lawyer Jiang still has not been seen by any of his family or his family-appointed lawyers.

XIE YANG

Xie Yang is a human rights lawyer who was taken into custody on 11 July 2015 following the crackdown. For almost a year he was detained incommunicado. It was later known that in mid-2016, the authorities had once arranged for Xie's lawyer to meet him intending for him to be persuaded to plead guilty.

But information soon went that Xie was possibly tortured during detention, and as a result, the authorities stopped his lawyers from seeing him. It was only at the end of November 2016 that Xie was again allowed to see his lawyers, when more solid information about his torture in detention was recorded.

In January 2017, the transcription of Xie's testimony of his experiences being tortured was publicised. He was reported to have been treated, among others, with acts of verbal harassment, threats, beating by guards and or by other inmates under guards' acquiescence, deprivation of sleep, and kept in stressed position for long continuous hours/ days, including sitting on stacked up stools with his injured

leg hanging in the air etc. His testimony, disseminated by his lawyer at the time, Chen Jiangang, drew international attention. The Chinese government subsequently accused another lawyer, Jiang Tianyong, currently detained in Changsha, of having fabricated the torture claims. (See separated section for details on the case of Jiang Tianyong above)

The Chinese authorities have been harassing Xie's family and defence lawyers. In March 2017, authorities tried to block the emigration of Xie's family to the United States. Prior to her flee to the US with the children, Xie's wife had been unremittingly pressurised and intimidated by the local authorities as she sought legal redress and remedies for her husband's case.

On 3-8 May 2017, Xie's lawyer Chen Jiangang was taken by the police during a family holiday in Yunnan Province. He was subsequently brought to his home in Beijing. Chen believed that this 3,000 km cross-country forced escort by the police was intended to prevent him from attending his client's trial on 8 May 2017.

During the trial on 8 May 2017, Xie Yang was not represented by the lawyers appointed by his family. During the trial, he stated that he had not been subjected to torture while detained, in contradiction to his signed testimony released earlier. Xie Yang's family and colleagues believe that this statement was made due to pressure by authorities. More than one month after the trial, the Court has not delivered a verdict. The whereabouts of the lawyer remain unknown.

Other cases

LI HEPING

Li Heping is a Beijing-based human rights lawyer who disappeared in July 2015 following the crackdown. His whereabouts remained unknown until 8 January 2016, when he was formally arrested on charges of "subverting the state power". The notice of his arrest reached Li's wife, Wang Qiaoling, more than ten days after its issuance date. His wife was prevented from communicating with him by writing, a right provided by the Criminal Procedure Law. She was also taken away by police officers and detained for 24 hours together with other 709 family members while staging a peaceful protest outside the Procuratorate 8 June 2016. The authorities also refused to tell her the name of the government-appointed lawyer representing her husband. On 4 August 2016, Wang Qiaoling filed an application to the court reiterating her request to attend the trial.

Li Heping suffered several attacks over the last few years due to his work in the field of human rights. He was granted the **CCBE Human Rights Award in 2008 in recognition of his commitment to human rights**. However, while at the airport on his way to Brussels to collect the award, he was stopped by the police, and was thus unable to leave China. On 10 July 2015, Li Heping vanished from his home in Beijing after men believed to be police officers appeared on his doorstep. Two lawyers – Cai Ying and Ma Lianshun – visited several local police stations attempting to locate their colleague but to no avail. On 1 August, the police raided the home of Li Heping's brother, Li Chunfu, who is also a lawyer, seizing documents and a computer. It was also reported that on 6 August the police detained the missing lawyer's wife, Ms. Wang Qiaoling, for 24 hours of questioning. Also in August, Ms. Wang and her two children were forced to move home at least twice after the police harassed her landlords. Her daughter of six has been denied entry to a school without the residence permit which the police had refused to issue. In February 2017, the *Committee of Concerned Scientists* reported that Li Heping has been allegedly tortured and his health has deteriorated.

On 10 May 2017, after nearly two years of detention, Li Heping returned home. Following a secret trial, he was found guilty of "inciting subversion against state power" on 25 April 2017 and sentenced to three years' imprisonment with a four-year probationary suspension. It is reported that Li was

defended by a State-appointed lawyer and pleaded guilty at the trial. He was released only 11 years after the suspended sentence was given. Li complained about being tortured during the detention.

ZHOU SHIFENG

Zhou Shifeng was the director of the Beijing Fengrui Law Firm which was particularly targeted by the July 2015 crackdown. Fengrui Law Firm employed almost one hundred lawyers, including several prominent human rights lawyers who were subsequently detained, such as Wang Yu and Wang Quanzhang. Fengrui Law Firm was granted the **CCBE Human Rights Award in 2015**. Zhou Shifeng is reportedly the first lawyer convicted after the July 2015 crackdown. He was sentenced to seven years in prison for “subversion of state power” after a short trial held on 3 August 2016. According to state media, Zhou said he will not appeal his sentence. From the court’s transcript, authorities accused Zhou of working with political activists on politically-sensitive cases. It is claimed that Zhou used Fengrui Law Firm as a platform to launch subversive activities. Huang Liqun, a Fengrui lawyer who was detained and subsequently released on bail testified against Zhou.

Zhou has been held incommunicado since July 2015. Before his detention, Zhou Shifeng had reportedly announced that he was about to establish the “China Lawyers' Rights Defence Fund”, a fund of eight million RMB (\$1.2 million) to support the families of persecuted lawyers across the country. His defense attorney, Yang Jinzhu, was summoned for questioning by Changsha City Public Security Bureau and warned by the Changsha City Judicial Department not to travel to Beijing. After Zhou was formally arrested in January 2016, Yang went to Tianjin No. 1 Detention Center to meet his client. However, authorities denied the request, claiming that Zhou had hired another lawyer to represent him. Zhou’s family refuted this claim, stating that neither they nor Zhou hired any new lawyer. It was at the end of June 2016 that the authorities successfully forced Zhou’s younger brother to openly dismiss the defence lawyer he had appointed and agreed to take the government-appointed lawyer for Zhou.

WANG YU

On 9 July 2015, Wang Yu, along with her husband Bao Longjun and their 16-year old son Bao Mengmeng, were seized by state officials. Their detention was followed by the crackdown. On 1st August 2016, a videotaped confession of the human rights lawyer was circulated on a Hong Kong-based Chinese media website in which Wang stated that she had been released on bail. The conditions surrounding Wang Yu's bail and the extent of her freedom has been unknown. Doubts exist as well concerning the veracity of her confession. It is reported that Wang Yu and Bao Longjun have been reunited with their son Bao Zhuoxuan and they are currently living in an apartment rented for them by state security police (Kit noted: I have not heard of this – but what is more evident is “they are currently deliberately kept in isolation from their former friends and colleagues, and they are still subject to 24-hour surveillance by the police.)

For the lawyers mentioned here above who have already gone through the trial, none was represented by the defence counsel of their or their family’s choice. Their defence counsels are understood to be state-appointed.

For those who are awaiting trials, they have not been allowed to meet with the lawyers of their or their family’s choosing

UPDATE ON SITUATION OF LAWYERS AFFECTED BY THE JULY 2015 CRACKDOWN¹

Lawyers formally arrested and currently in detention						
	Name	Profession	Allegations	Date of disappearance	Current situation	Access to a lawyer
1.	Wang Quanzhang (M)	Lawyer	Subversion of state power	10/07/2015	Formally arrested on 8 January 2016. He had been under residential surveillance in an unknown location for six months. On 14 February 2017, he was officially indicted for crimes related to “subversion of state power”.	NO
2.	Jiang Tianyong (M)					

Lawyers convicted						
	Name	Profession	Allegations	Date of disappearance	Current situation	Access to lawyers
1.	Zhou Shifeng (M)	Lawyer	Subversion of state power	10/07/2015	Sentenced to seven years in jail after a half-day trial on 3 August 2016	YES (government-appointed lawyer)
2.	Li Heping (M)	Lawyer	Subversion of state power	10/07/2015	Formally arrested on 8 January 2016. Family members were under strict surveillance and prevented from following his trial. On 10 May 2017, after nearly two years of detention, Li Heping returned home. Following a secret trial, he was found guilty of	YES (government-appointed lawyer)

¹Information from China Human Rights Lawyer Concern Group, Frontline Defenders and IAPL Monitoring Committee on Attacks on Lawyers

					“inciting subversion against state power” on 25 April 2017 and sentenced to three years’ imprisonment with a four-year probationary suspension. He was released few days later.	
3.	Xie Yang (M)	Lawyer	Inciting subversion of state power, disruption of court order	11/07/2015	<p>Formally arrested in January 2016. He had been under residential surveillance in an unknown location for six months. He reported having been tortured and mistreated.</p> <p>On 8 May 2017, Xie Yang was finally granted a trial hearing which was not attended by the lawyer of his or his family’s choice.</p> <p>Xie is reported to have been convicted but the court has yet to release a verdict on his case and the lawyer’s current whereabouts remains unknown.</p> <p>It is reported that Xie told the court that he was not forced to confess and was not subjected to torture, proclamation which is contradictory to his public statement made in January this year.</p>	NO

Lawyers/ legal workers released on bail / released

	Name	Profession	Allegations	Date of disappearance	Current situation	Access to lawyers
1.	Li Chunfu (M)	Lawyer	Subversion of state power	01/08/2015	Arrested on 8 January 2016 and under residential surveillance in an unknown location for five months. On 5 January 2017 Mr Li was released on bail, and returned home to Beijing. Mr Li was found in an extremely traumatised state of mind, suffering from paranoia, a strong sense of insecurity, and having lost a considerable amount of weight. Family friends reported that a doctor diagnosed him with schizophrenia and that he has displayed aggressive behaviour toward his wife.	NO
2.	Liu Sixin (M)	Lawyer (now administrative assistant as licence was revoked in a controversial case)	Subversion of state power	10/07/2015	Formally arrested on 8 January 2016. He had been under residential surveillance in an unknown location for six months. He was formally arrested in January 2016 and released on bail in November 2016.	NO
3.	Xie Yanyi (M)	Lawyer	Inciting subversion of state power	12/07/2015	Formally arrested on 8 January 2016. He had been under residential surveillance in an unknown location for six months. He was released on bail in January 2017. He and his family are still under heavy surveillance.	NO
4.	Bao Longjun (M)	Lawyer	Inciting subversion of state power	09/07/2015	Released on bail on 5 August 2016. Formal arrest made on 8 January	NO

					2016, six months after he was taken and held incommunicado under residential surveillance at designated location.	
5.	Chen Taihe (M)	Lawyer and law professor	Picking quarrels and provoking troubles, inciting subversion of state power, official embezzlement	13/07/2015	Put under house-arrest at home after spending 62 days in detention. Then released into exile to the US and reunited to his family on 1 March 2016.	Only once on 16 July
6.	Fang Xiangui (M)	Legal assistant	Gathering a crowd to disturb social order, crime of stealing, spying, buying, and illegally providing state secrets and intelligence to entities outside of China	25/08/2015	Released on bail on 11 December 2015. He had been under residential surveillance in an unknown location for four months	NO
7.	Gao Yue (F)	Legal assistant	Helping to destroy evidence	20/07/2015	Released on bail. She had been under residential surveillance in an unknown location	NO
8.	Huang Liqun (M)	Lawyer	Unknown	10/07/2015	Released on bail on 7 January 2016. He had been under residential surveillance in an unknown location	NO
9.	Li Shuyun (F)	Lawyer	Subversion of state power	10/07/2015	Released on bail on 8 April 2016	NO
10.	Liu Peng (M)	Legal assistant	Gathering a crowd to disrupt social order, crime of stealing, spying, buying, and illegally providing state secrets and intelligence to entities	25/08/2015	Released on bail. He had been under residential surveillance in an unknown location	NO

			outside of China			
11.	Sui Muqing (M)	Lawyer	Inciting subversion of state power	10/07/2015	Released on bail on 6 January 2016. He had been under residential surveillance in an unknown location for six months	NO
12.	Wang Yu (F)	Lawyer	Subversion of state power	09/07/2015	Released on bail on 1 August 2016 (not yet clear the extent of her freedom and the conditions of the bail). She had been under residential surveillance in an unknown location for six months	NO
13.	Zhang Kai (M)	Lawyer	Gathering a crowd to disrupt social order, crime of stealing, spying, buying, and illegally providing state secrets and intelligence to entities outside of China	25/08/2015	Released on bail in March 2016. He had been under residential surveillance in an unknown location for six months. Bail was supposed to expire in March 2017 but it is understood that his bail has been extended for the apology he made on social media for having criticised other rights lawyers in a state-made video footage.	NO
14.	Zhao Wei (F)	Legal assistant	Subversion of state power	10/07/2015	Released on bail in July 2016. She had been under residential surveillance in an unknown location	Yes (government-appointed lawyer)
15.	Xie Yuandong (M)	Trainee Lawyer	Inciting subversion of state power	10/07/2015	Released on bail. He had been under residential surveillance in an unknown location	NO
16.	Ren Quanniu	Lawyer	Picking quarrels and provoking troubles	08/07/2016	Released on bail after 28 days of criminal detention	Yes, once only

Part II – Other attacks on lawyers in recent years

Over the past few years, the CCBE has sent letters in support of several Chinese lawyers - others than the ones involved in the 2015 crackdown – who have been detained, arrested or subject to harassment.

The main cases between 2014-2016 are summarised below:

- **Xia Lin:** on 22 September 2016, human rights defender Xia Lin was sentenced to 12 years in prison on charges of fraud by a court in Beijing. He had been in custody since November 2014 and was tried in June 2016. Xia Lin is a human rights lawyer who has a history of taking on politically-sensitive cases. According to Xia Lin's lawyer, Ding Xikui, the human rights lawyer believes this extraordinarily harsh sentence against him is in retaliation for his legal representation of Guo Yushan, who was detained for almost a year in October 2014.
In an appeal trial in April 2017, Xia's sentence was reduced to 10 years imprisonment but Xia's lawyer complaint that "the trial" was completed with direct handing down of verdict without the lawyers allowed to make any defence.
- **Ge Yongxi:** on 14 April 2016, the human rights lawyer was taken from his home during the night, few hours after posting on a popular Chinese social platform a picture of the Panama Canal, with photoshopped images of President Xi Jinping and two former Chinese leaders as an evident claim that they had offshore wealth. He was detained for "insulting other people" and was released after 22 hours in detention, after he agreed to sign a statement that he would not post the picture again. Ge Yongxi has been subject to a travel ban since September 2015, when he was blocked from travelling to Hong Kong without being shown any documents authorising his travel ban.
- **You Feizhu and Ma Wei, Tang Tianhao, Ma Lianshun and Ge Yongxi:** You Feizhu and Ma Wei were detained on 29 May 2015 after attempting to locate detained lawyers they were representing. Subsequently, on 1 June 2015, the police of the same county detained another three lawyers - Tang Tianhao, Ma Lianshun and Ge Yongxi – who went to represent You and Ma. Upon arrival at the detention centre, the lawyers were informed by the director that it was not confirmed that the letters of authorization were signed by the clients themselves. The three lawyers left the centre after repeatedly shouting the slogan "*Qing'an Detention Centre, Lawyers asked to meet with their clients*". On the next day, You's brother You Zhonghong, himself also a lawyer, received news that You Feizhu had been given 15-day administrative detention by Heilongjiang Suihua Public Security Bureau for "picking quarrels and provoking troubles". Tang Tianhao, Ge Yongxi and Ma Lianshun, were in turn given administrative detentions of 15 days by the police.
- **Tang Jingling and Liu Shihui:** they are both Guangzhou-based lawyers whose licences to practise law have been revoked as a result of their work in defence of human rights.
Tang Jingling: he has been subjected to frequent police harassment and interrogation. His licence to practise was suspended in 2006, after which he became involved in a non-violent civil disobedience movement in China. In 2012, he was detained for five days following his work investigating the death of human rights defender Li Wangyang. On 16 May 2014, he was taken from his home by police in Guangzhou and detained on charges of "picking quarrels and provoking trouble". Tang Jingling's home was searched by police officers and several belongings were confiscated (desktop computer, laptop, three mobile phones, books). Prior to his detention, Jingling had received several warnings from the police for his involvement in commemoration activities surrounding the 25th anniversary of the Tiananmen Square protests. On 29 January 2016,

Tang Jingling, was sentenced to five years in prison, together with other two lawyers. He was convicted of 'inciting subversion of state power'.

Liu Shihui: despite his disbarment in 2009 for representing Guo Feixiong's case, Liu continued to help petitioners in various cases with rights implication and has experienced many instances of assaults by police ever since. In April 2014, Shihui was beaten by police in Guangzhou and forcibly sent back to his home town in Inner Mongolia due to his ongoing human rights defence activities. On 13 May 2014, he disappeared after taking a bus in Shanghai. On 15 May 2014, it was confirmed that he had been detained by the police and was being held in Pudong New Area Detention Centre. Liu Shihui was administratively summoned for 24 hours in Shanghai on 11 July 2015 for "intentionally disturbing public order" and released the next day. In April 2016, Liu was again beaten up and chased out of Guangzhou by police when he tried to move in and settle down in the city. Liu has remained disbarred and he cannot practice.

- **Chang Boyang**: he has worked extensively with disadvantaged and vulnerable communities to help defend their rights, representing also migrant workers, children and people living with HIV/AIDS, as well as Yirenping, an NGO that fights discrimination. He has set up a volunteer legal aid centre in Henan province and a volunteer lawyers' network to assist children who have been made ill from drinking tainted baby milk formula. On 27 May 2014, Chang Boyang was detained on suspicion of "gathering a crowd to disrupt public order." 15 police officers carried out a search of his home, during which two computers and two mobile phones were confiscated. From then he was held in Zhengzhou No. 3 Detention Centre. The arrest notice delivered to his family on 5 July 2014 stated that Chang Boyang was charged with "engaging in illegal business operations". However, it appeared that Chang Boyang's detention related to his legal representation of several detained human rights defenders in Henan province. During his detention, Chang Boyang was not permitted to meet with his lawyers, while over 60 lawyers from around the country have expressed their willingness to represent him. On 17 June and 13 July 2014, police raided offices of Zhengzhou Yirenping and interrogate the NGO's staff in relation to Chang Boyang. On 12 June 2014, the organisation's bank account in Zhengzhou city was frozen due to the investigation into Chang Boyang. Police alleged that, as the human rights defender is a shareholder in Zhengzhou Yirenping, the deposits in that bank account constitute Chang Boyang's assets, and so can be legally frozen. He was subsequently released but he was detained again during the wave of arrests of July 2015, and returned home on 12 July. He is currently back to back to practicing the law.
- **Pu Zhiqiang**: he was detained on 6 May 2014 on suspicion of "picking quarrels" due to his participation in a meeting on 3 May which called for an investigation into the suppression of the 1989 Tiananmen protests. His lawyer was able to meet with him on 9 June after repeated requests, and expressed concern about Pu Zhiqiang's health condition (he suffers from diabetes) and it was unclear whether he was receiving adequate treatment. He also reported that Pu Zhiqiang was being questioned every day, sometimes for up to 10 hours. Four other activists, including academics Hao Jian and Xu Youyu, activist Liu Di and writer Hu Shigen, were also detained after attending the meeting, but were released on bail on 5 June 2014. Pu Zhiqiang applied for bail on 6 June; however, this was rejected. On 22 December 2015, Pu Zhiqiang was sentenced to three years' prison and had his sentence suspended. As a result of the guilty verdict, his licence is revoked and hence will not be able to practice.

Part III – Legislative and administrative constraints

A. Recent developments

Since the 2015 crackdown, several legislations undermining fundamental rights, such as freedom of expression and right to freedom of peaceful assembly and of association, were adopted.²

Regarding the profession of lawyer, amendments were recently brought to the Ministry of Justice, entitled “Administrative Measures for Law Firms”, which was expected to enter into force on 1st November 2016. These new measures will increase the government’s control over law firms and lawyers and will further restrict them from taking up politically sensitive cases.³

Under these new provisions, law firms will face punishment if their lawyers write open letters, sign petitions or organise forums to “exert pressure on” and “attack” judicial authorities. The revised measures list six forms of conduct that law firms must not permit, including “the manufacture of public opinion pressure to attack or disparage judicial authorities or the judicial system through joint petition signature campaigns, online gatherings, support statements, discussions around specific cases and other tactics” (Article 50). Lawyers who break these rules may be dismissed by the law firms, or could have their license revoked. This will therefore further restrict lawyers from organising campaigns, gathering to discuss their cases in public or through social media, writing public letters, organising rally, publishing or disseminating speeches, etc.

Furthermore, under the new measures, the Chinese Communist Party’s presence and participation in law firms’ decision making will be made mandatory. Article 3 of the measures requires law firms to support the leadership of the Party, while Article 4 requires that they establish Party’s organisations, support Party’s activities, and “perfect Party organs’s participation” in the strategic decision-making of law firms. The introduction of an in-house Party control and surveillance of law firms and lawyers will increase pressure on lawyers’ ability to work independently.

These new restrictions have been strongly criticised by the legal community in China. A group of Chinese lawyers launched a petition on 26 September 2016 calling for the repeal of the new measures. Peking University Law School professor Zhang Qianfan recently declared that much of the conduct restricted by the revised measures should be protected under China’s Constitution and the right to freedom of expression; “*judicial authorities and law firms have no need to control the speech and actions of lawyers outside the scope of national laws*”.⁴

B. The annual renewal of licences

Lawyers and law firms are subject to an annual assessment by bureaus of justice (executive branch of the judiciary) in order to pursue their practice. This annual evaluation system is a useful tool used by authorities to control organisations or people which they deem controversial to the government. Lawyers and firms taking on sensitive cases often fail their assessments, so that their licenses are temporarily suspended, or are permanently revoked.

² National Security Law in July 2015, Anti-Terrorism Law in December 2015, Foreign NGO Management Law in April 2016.

³ There is currently no official English translation of the amended regulation, the information in this section are based on information provided by Chinese Human Rights defenders <https://www.nchrd.org/2016/10/chrb-revised-measures-on-law-firms-further-curb-independence-of-chinese-lawyers-921-103-2016/> and a number of press articles in particular from South China Morning Post.

⁴ See article China Media Project at: http://cmp.hku.hk/2016/10/12/39999/?utm_medium=freebrowser

Please note that the latest version of the Lawyers Law in use is the one amended in 2012. So the discussion of the 2007 version is not updated. The Lawyers Law of the People's Republic of China was promulgated in 1996, and subsequently amended and revised in 2007. According to this law, all lawyers must be members of their local lawyers association and by consequence members of the All China's Lawyers Association (art.39). Article 5 of the same law stipulates that each lawyer wishing to practice must acquire a license (or certificate). For both lawyers and law firms, these licenses must undergo assessment and renewal every year, by the Bureau of Justice, in order to be able to practice law.

In 2010, an internal document of the Ministry of Justice entitled "Opinion on Further Strengthening and Improving Lawyers' work" was brought to light. The purpose of the document was to address the issue that many lawyers were willing to bring cases where mistakes by officials had been made, where the government, or government officials could be blamed. For example, cases where young children had died in the Sichuan earthquake as a result of poorly constructed buildings, not respecting security regulations.

That same year, the Ministry of Justice published the "Measures for the Annual Inspection and Evaluation of Law Firms", stipulating that annually, bureaus of justice in cities should conduct annual inspections and assessments of law firms. Alongside this, the All China Lawyers Association established the Rules for the Annual Evaluation of Lawyers' Practice.

Since then, one of the criteria of evaluation of law firms is that they must encourage the support and power of the Communist Party within their organisation. In addition, they must ensure the political education of their lawyers. Thus, lawyers are subject to double evaluation, by their own law firm, and by the local association of lawyers.

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