

# CCBE REPORT

## Situation of lawyers in China

26/10/2015

The Council of Bars and Law Societies of Europe (CCBE), through the national Bars and Law Societies of the Member States of the European Union and the European Economic Area, represents more than 1 million European lawyers. In addition to membership from EU bars, it also has observer representatives from a further twelve European countries' bars. The CCBE, through its Human Rights Committee, places great emphasis on respect for human rights and the rule of law. The CCBE is particularly concerned by the situation of human rights defenders in the world. The CCBE monitors and intervenes in cases around the world where lawyers are victims of human rights breaches

When the CCBE is informed that a lawyer's human rights are being violated because of his/her professional activities, the CCBE writes to the Head of State or government of the country concerned and sends a copy of the letter to the Brussels Embassy of the relevant country. The CCBE letters stress the relevant Principles of the United Nations Basic Principles on the Role of Lawyers (1990).

For the most serious cases, the CCBE also alerts important players at EU level: European External Action Service, EU special representative for Human Rights, EU Embassy in the country concerned, Adviser in the Commissioner for Justice's cabinet for the external dimension of justice, Chair of the European Parliament's sub-committee on Human Rights, Chair of the relevant European Parliament Delegation to the country concerned.

In 2015 the CCBE launched a Human Rights Network "Defence of the Defenders", composed of contact persons in its 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 players.

The CCBE based this report on information from reliable human rights organisations and its Human Rights Network<sup>1</sup>.

Since 2007, the CCBE has sent 28 letters regarding violations of the rights of lawyers in China. This is far more than any other country where the CCBE has intervened. These 28 letters related to over 30 lawyers (not including those part of the July 2015 crackdown), over half of these lawyers are still either in prison, under house arrest, missing, or have had their licenses revoked.

<sup>1</sup> In particular input from Anne Souléliac, Head of the Human Rights Section, Paris Bar and Stuart Russell, International Association of People's Lawyers (IAPL) - Monitoring Committee on Attacks on Lawyers

## Part I - July 2015 crackdown:

### A. Background

On 9 July 2015, human rights lawyer Wang Yu along with her husband Bao Longjun and 16 year old son were detained by state officials. Over the next ten days, a total of at least 255 lawyers, law firm staff, and human rights defenders were detained, arrested, held incommunicado, summoned, or otherwise had their freedom temporarily restricted. Many of the detained were subject to harassment due to their peaceful human rights activities and advocacy campaigns, while also being portrayed as criminals by official media. Among the arrested were also over 100 lawyers and rights activists who signed a public statement on 9 July 2015 condemning the disappearance of lawyer Wang Yu. While most were subsequently released, **around 30 human rights defenders, among which 15 lawyers still remain in custody** (see table hereafter for details about the 15 lawyers in custody).

The CCBE strongly condemns these recent crackdowns and has stated, along with several other organisations that it cannot take “President's Xi Jinping's recent claims to be promoting the rule of law seriously, as they rigorously violate many international standards, including but not limited to: the UN Basic Principles on the Role of Lawyers, the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders), and the UN Body of principles for the protection of all persons under any form of detention or imprisonment.”

The CCBE is currently monitoring the situation as close as possible through reliable sources and information provided on social media for example by Liu Xiaoyuan, a lawyer at Fengrui law firm who has been particularly vocal in communicating the situation. Through his Twitter account, and his online presence, we can gain access to some information.

The CCBE decided to grant its 2015 Human Rights Award to the Fengrui law firm which has been particularly targeted by the recent attacks (this information is not to be published at this stage for sake of security of the concerned lawyers).

#### Li Heping:

Li Heping is a Beijing-based human rights lawyer whose current situation is still unknown following the recent crackdowns. 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. 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. His whereabouts remain unknown since then and no official information has been made available by the authorities. Two lawyers - Cai Ying and Ma Lianshun – visited several local police stations in an attempt 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 summoned the missing lawyer's wife for five hours of questioning. His current whereabouts are still unknown.

On 10 October 2015, defense lawyer Ma Lianshun went to Tianjin Public Security Bureau Hexi Branch Investigation Team to ask about the facts of the case, the compulsory criminal measures, the staff in charge of the case, and asked to meet with Li. However, the investigation team leader Zhao Xu said “I don't know. The case was taken up by all the departments in the branch, most of the departments are in the branch. They know more information than us, you better go and ask them.” However, other departments of Hexi Branch refused to answer questions from the lawyers.

### B. Most recent information

The Fengrui law firm is currently not operating. During July the financial staff were also taken away, the financial records and company seals were raided. Without the company seal, the lawyers cannot take up new cases, cannot issue fee note, cannot issue documents on behalf of the law firm to the lawyers.

Several children of the lawyers have now been implicated in this affair:

- Bao Zhuoyuan, the son of Wang Yu and Bao Longjun, who was arrested in Myanmar on the 6 October 2015. He was missing for six days, on 12<sup>th</sup>October, he was confirmed to be under house arrest at his grandmother's home in Inner Mongolia.
- Liu Xiaoyuan's son was denied a student exit visa this week.

Latest news from China Human Rights Lawyers Concern Group CHRLCG<sup>2</sup>

- **Wang Yu** Investigation team leader Zhao Xu said they have already delivered the letter that defense lawyer Li Yuhan sent to Wang Yu to the task force, however it has been almost 1 month now, they did not receive any reply.
- **Bao Longjun:** (1) On 13 October 2015, defense lawyer Huang Hanzhong went to Hexi investigation team and asked to meet with Zhao Xu to arrange a meeting with Bao Longjun. However, he was told that Zhao Xu has just left for a meeting. (2) On 13 October 2015, defense lawyer Huang Hanzhong went to Tianjin Hexi Public Security Bureau to complain about the investigation team's three illegal acts. (Did not notify family, did not allow lawyers to meet with client and refused to disclose the case details). Hexi Public Security Bureau Police Supervision Department and the Bureau for Letters and Calls both refused to take up the complaint. The person-in-charge at the Bureau for Letters and Calls said that "The problem of this case is not one that can be replied by the Hexi Public Security Branch."
- **Zhang Kai :** On 15 October 2015, two defense lawyers went to Wenzhou Procuratorate to complain about the Wenzhou Public Security Bureau for refusing to let the lawyers know the details of the case.

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<sup>2</sup> <http://www.chrlawyers.hk/en/content/%E2%80%9C709-crackdown%E2%80%9D-lawyers-and-activists%E2%80%99-case-update-%EF%BC%8820151003-20151015%E2%80%99>

	<b>Name</b>	<b>Profession</b>	<b>Allegations</b>	<b>Date of disappearance</b>	<b>Current situation</b>	<b>Access to lawyers</b>
1.	Bao Longjun (M)	Lawyer	Inciting subversion of state power, picking quarrels and provoking troubles	09/07/2015	Under residential surveillance in an unknown location	NO
2.	Chen Taihe (M)	Lawyer and law professor	Picking quarrels and provoking troubles, inciting subversion of state power, official embezzlement	13/07/2015	House arrest at his home in Guangxi	NO, only once on 16 July
3.	Fang Xiangui (M)	Legal assistant	Gathering and disturbing social order, crime of stealing, spying, buying, and illegally providing state secrets and intelligence to entities outside of China	25/08/2015	Under residential surveillance in an unknown location	NO
4.	Gao Yue (F)	Legal assistant	Inciting subversion of state power	20/07/2015	Under residential surveillance in an unknown location	NO
5.	Huang Liqun (M)	Lawyer	Unknown	10/07/2015	Unknown	NO
6.	Li Chunfu (M)	Lawyer	Unknown	01/08/2015	Under residential surveillance in an unknown location	NO
7.	Li Heping (M)	Lawyer	Unknown	10/07/2015	Unknown compulsory	NO

					criminal measures at an unknown location	
8.	Li Shuyun (F)	Lawyer	Unknown	10/07/2015	Unknown	NO
9.	Liu Pang (M)	Legal assistant	Gathering and disturbing social order, crime of stealing, spying, buying, and illegally providing state secrets and intelligence to entities outside of China	25/08/2015	Under residential surveillance in an unknown location	NO
10.	Liu Sixin (M)	Lawyer (now administrative assistant as licence was revoked)	Inciting subversion of state power, picking quarrels and provoking troubles	10/07/2015	Under residential surveillance in an unknown location	NO
11.	Sui Muqing (M)	Lawyer	Inciting subversion of state power	10/07/2015	Under residential surveillance in an unknown location	NO
12.	Wang Quanzhang (M)	Lawyer	Inciting subversion of state power, picking quarrels and provoking troubles	10/07/2015	Under residential surveillance in an unknown location	NO
13.	Wang Yu (F)	Lawyer	Inciting subversion of state	09/07/2015	Under residential surveillance in an unknown location	NO

14.	Xie Yang (M)	Lawyer	Inciting subversion of state power, disruption of court order	11/07/2015	Under residential surveillance in an unknown location	NO
15.	Xie Yanyi (M)	Lawyer	Unknown	12/07/2015	Unknown compulsory criminal measures at an unknown location	NO
16.	Xie Yuandong (M)	Trainee Lawyer	Inciting subversion of state power	10/07/2015	Under residential surveillance in an unknown location	NO
17.	Zhang Kai (M)	Lawyer	Gathering and disturbing social order, crime of stealing, spying, buying, and illegally providing state secrets and intelligence to entities outside of China	25/08/2015	Under residential surveillance in an unknown location	NO
18.	Zhao Wei (F)	Legal assistant	Inciting subversion of state power	10/07/2015	Under residential surveillance in an unknown location	NO
19.	Zhou Shifeng (M)	Lawyer	Inciting subversion of state power	10/07/2015	Under residential surveillance in an unknown location	NO

## Part II – Other attacks on lawyers in recent years

The main cases for which the CCBE intervened in the recent years are summarised below:

### 2013:

- Arrest and detention of **Xu Zhiyong**, a prominent lawyer, academic and anti-corruption activist. Xu Zhiyong was detained on 16 July 2013 and then officially arrested on 22 July in Beijing. The trial against Mr Xu Zhiyong was held on 22 January 2014. On the day of the trial the police reportedly blocked road access to the courthouse and placed a number of Xu Zhiyong's supporters under arrest. In addition, it seems that while 17 foreign diplomats were permitted access to the building, they were forbidden from entering the courtroom where the trial was taking place.

### **On 26 January 2014 Mr Xu Zhiyong was convicted of “gathering crowds to disrupt public order” and condemned to four years in prison.**

- Brutal interrogation of eleven lawyers. **Tang Jitian, Jiang Tianyong, Tang Tianhao, Liang Xiaojun, Lin Qilei, Zhang Keke, and Guo Haiyue** were standing outside the Ziyang Legal Education Centre when they were violently attacked and contact with them was lost. They were taken to the Ziyang police station and interrogated on 13 May in Chengdu, Sichuan province. Subsequently, the police also took into custody **Li Heping, Wang Chen, Yang Huiwen and Wen Haibo**--fellow lawyers who had come to help their colleagues. The Ziyang Public Security Bureau released the lawyers, one after the other, during the night of 14 May after interrogating them for “obstruction of official business” and “releasing false information”. One of the lawyers, Tang Tianhao, was reported to have sustained serious injuries.

### 2014:

- Detention of lawyers **Tang Jingling and Liu Shihui**. On 16 May 2014, Tang Jingling was taken from his home by police in Guangzhou and detained on charges of “picking quarrels and provoking trouble”. A day earlier, Liu Shihui was detained by police in Shanghai, following his sudden disappearance on 13 May 2014. Both Jingling and Shihui are Guangzhou-based lawyers whose licences to practise law had been revoked as a result of their work in defence of human rights. According to the information that we received, police officers arrived at the home of Tang Jingling and carried out a search of his home that lasted two hours. When the search concluded, the police officers detained Jingling and confiscated a desktop computer, a laptop, three mobile phones and a number of books. Prior to his detention, Jingling had received a number of warnings from the police for his involvement in commemoration activities surrounding the 25th anniversary of the Tiananmen Square protests. Jingling's licence was suspended in 2006, after which he became involved in a non-violent civil disobedience movement in China. He was subjected to frequent police harassment and interrogation. In 2012 he was detained for five days following his work investigating the death of human rights defender Li Wangyang. On 13 May 2014, Liu Shihui disappeared after taking a bus in Shanghai. On 15 May 2014, it was confirmed that the human rights lawyer had been detained by the police and is being held in Pudong New Area Detention Centre. 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.

### **Liu Shihui was administratively summoned for 24 hours in Shanghai at noon on 11 July 2015 for “intentionally disturbing public order”, released at 18:00 on 12th July, but had his freedom of movement restricted for another 6 hours.**

- Detention of lawyer **Chang Boyang**, who worked extensively with disadvantaged and vulnerable communities to help defend their rights. He has represented migrant workers, children and people living with HIV/AIDS. In 2004 he set up a volunteer legal aid centre in Henan province and, in 2008, founded a volunteer lawyers' network to assist children who had been made ill from drinking tainted baby milk formula. Chang Boyang is also a legal representative of Yirenping, an NGO that fights discrimination, promotes social justice and provides community outreach programmes. He was also a board member of the parent Yirenping organisation. On 27 May 2014, Chang Boyang was detained on suspicion of “gathering a crowd to disrupt public order.” On that day, he received a summons to appear at Erligang police station in Zhengzhou and later that evening 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. On 3 July 2014, Chang Boyang's arrest was approved by the prosecutor's office. The arrest notice delivered to his family on 5 July 2014 stated that Chang Boyang was charged with "engaging in illegal business operations". According to our information, Chang Boyang has never participated in Yirenping's operation or management, nor in any of its financial or tax matters.

It appeared that Chang Boyang's detention relates to his legal representation of a number of detained human rights defenders in Henan province, including Yu Shiwen and Chen Wei, human rights defenders who were detained in late May 2014 after participating in an event related to the 25th anniversary of the Tiananmen Square protests. Since his detention, Chang Boyang has not been permitted to meet with his lawyers, in violation of China's Criminal Procedure Law, while over 60 lawyers from around the country have expressed their willingness to represent him.

Chang Boyang's family voiced concern for his psychological and physical well-being in detention. The CCBE was also concerned that Chang Boyang may be subjected to torture in detention. Furthermore, the harassment suffered by clients and staff of Yirenping is extremely concerning as it is likely connected to the organisation's legitimate and peaceful work in defence of human rights.

On 29 June 2014, various clients of Zhengzhou Yirenping received suspicious phone calls from callers who claimed to be staff members of Zhengzhou Yirenping. Some of the callers identified themselves as case handlers from Erligang police station in Zhengzhou city, while some stated that they were staff members of a "Disabled Persons' Foundation". Others declined to reveal their names. These callers asked questions about the cases being taken by Yirenping and repeatedly mentioned Chang Boyang, who was in administrative detention at the time.

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, with police reportedly telling Yirenping that this was 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.

**We understand that he was subsequently released but he was arrested again during the wave of arrests of July 2015, and returned home on 12 July.**

- Detention of **Pu Zhiqiang**, a human rights lawyer. Pu Zhiqiang has been in detention since 6 May 2014 after attending a meeting to discuss the anniversary of the 1989 Tiananmen Square Massacre. He was detained on suspicion of "picking quarrels". He had previously attended 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 as his legs were swollen. Pu Zhiqiang suffers from diabetes and it is unclear whether he is receiving adequate treatment. His lawyer also reported that Pu Zhiqiang said that he 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.

**Pu Zhiqiang is still in detention, awaiting trial.**

## 2015

- Detention of five lawyers: **You Feizhu, Ma Wei, Tang Tianhao, Ma Lianshun and Ge Yongxi**. You Feizhu and Ma Wei who were arrested and detained on 29 May 2015 in the Qing'an County of the Heilongjiang province by the Public Security Bureau. Subsequently, on 1 June, the police of the same county detained another three lawyers - Tang Tianhao, Ma Lianshun and Ge Yongxi who went to represent You and Ma. In the morning of 28 May, lawyers You Feizhu, Li Weida and Ma Wei went to the Heilongjiang Qing'an Detention Centre to meet their clients. Upon arrival at the detention centre, the lawyers were informed by the director that they could not do so, because 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”. Lawyer Ma Wei also went missing on the same day. The CCBE was informed that on 1 June 2015, lawyers Tang Tianhao, Ge Yongxi, Xu Zhong, Ma Lianshun, and You Zhonghong arrived at the county to represent the two detained lawyers. The Qing’an Public Security Bureau, however, refused to disclose the location of You Feizhu and Ma Wei. As they were unable to find the whereabouts of their detained colleagues after visits to the detention centres in Qing’an, the 5 lawyers decided to report the case of missing persons to the police. Three of the lawyers, namely Tang Tianhao, Ge Yongxi and Ma Lianshun, were in turn given administrative detention of 15 days by the police.

Furthermore, in 2011, the CCBE wrote to express its serious concerns over China’s plans to increase secret detention powers, explicitly to hold dissidents and other suspects of state security crimes in secret locations without telling their families or their defence counsel. Especially worrisome was that the law enforcement authorities in China have long avoided the standard criminal procedure requirements for criminal suspects, especially in recent years, to detain human rights activists and government critics. Unfortunately, these provisions were adopted in 2012 and the revised law came into effect in 2013.

### **Part III – Pressure on lawyers through the annual renewal of licences**

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 lawyers 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.

This annual evaluation of lawyers and law firms 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. For example, Liu Wei, a prominent rights defender who defended a Falun Gong practitioner in 2008, and whose license was revoked as a result of her conduct in 2010. She remains disbarred. Another example is Wang Quanping, who was been involved in many human rights cases, had his license revoked in August 2014.