

DAY OF THE ENDANGERED LAWYER 2017

Focus on China

Giornata dell'avvocato minacciato

लुतप्राय वकील दिवस

يوم المحامي المهدد

Ημέρα του Δικηγόρου που Κινδυνεύει



受迫害律師日

Journée des avocats en danger

Tehlikedeki avukatlar günü

ਸੰਕਟਮਈ ਵਕੀਲ ਦਾ ਦਿਨ

El Día del Abogado Amenazado

TAG DER BEDROHTEN ANWÄLTE



Introduction

Over the course of seven years the Day of the Endangered Lawyer has developed into an impressive international demonstration to highlight the need for the rule of law and a fair and unimpeded trial for every human being in every nation all over the world. In more and more countries lawyers are being harassed, persecuted and even tortured or worse, because of just 'doing their job'.

On January 24th, 2017, the seventh year of the Day of the Endangered Lawyer, the focus was on the situation of lawyers in China. ELDH and IADL choose to focus on the situation in Egypt. You will find further information about their actions in a separate report as well.

Being a lawyer is a highly risky profession in China, especially for human rights lawyers. In the absence of an independent judicial system, the 300,000 lawyers in China are subject to close monitoring by the authorities in their work. Lawyers who insist on taking up cases with human rights implications and who refuse to succumb to the government's intervention in their case-handling are prone to even greater risk of harassment and suppression. They are subject to the control of the authorities via both legal and non-legal means. The situation of these lawyers became even worse after the summer of 2015 when a crackdown on lawyers of an unprecedented scale took place in China. The incident is now commonly known as the '709 crackdown' to commemorate the date of 9th July when the first lawyer was taken away by police in the early hours of the day.

The crackdown has drawn extensive outcry and criticisms from the international communities including many lawyers groups and bar associations from around the world. By far, over 300 lawyers and civil society activists in China have been impacted. They have either been detained, temporarily detained, harassed, interrogated or banned from travelling out of the country. Among the lawyers subsequently arrested and prosecuted, many have been detained incommunicado, without being allowed to meet their defense counsels or a lawyer of their or their family's choosing.

The situation of lawyers in China is alarming and very concerning. That is why on the 7th year of the Day of the Endangered Lawyer, lawyers from all around the world gathered on the 24th of January and held demonstrations in front of Chinese embassies and other institutes, like the Peace Palace in The Hague.

In this report we present you information on the situation of lawyers in China, as well as reports and publications of demonstrations held on the Day of the Endangered Lawyer 2017.

The Day of the Endangered Lawyer 2017 was supported by the following European organizations:

The European Bar Human Rights Institute IDHAE <http://www.idhae.org>

The Council of Bars and Law Societies of Europe CCBE <http://www.ccbe.eu>

Lawyers for Lawyers (the Netherlands) <http://www.advocatenvooradvocaten.nl>

The International Association of People's Lawyers <http://www.iapl.net>

The International Association of Lawyers UIA <http://www.uanet.org/en>

The International Observatory for Lawyers in Danger OIAD

*many Bar Associations of the capital, international cities and national organizations
as well as*

China Human Rights Lawyers Concern Group Hong Kong CHRLCG www.chrlawyers.hk/en

Taiwan Support China Human Rights Lawyers Network

On the website <http://dayoftheendangeredlawyer.eu/> you can find *more information* on the situation of human rights lawyers in China and other countries, *a short film* about the actions we

have realized in The Hague, as well as how you can *support* the work the foundation Day of the Endangered Lawyer.

Finally I thank every person and organization that supported us in realizing our goals. A special ‘thank you’ for their extraordinary effort goes to Imane Aynan, Mohamed Baadoudi, Dick Gaasbeek, Joost Gaasbeek, Stuart Russell and the board of the foundation.

Hans Gaasbeek, international coordinator

Overview of suppression on lawyers in China in 2016

The sweeping crackdown on human rights lawyers by the Chinese authorities which started on 9th July 2015 (known as the ‘709 crackdown’) has continued well into 2016. More than 300 human rights lawyers, law firm staff members and activists were interrogated and detained in the 2015 crackdown.

Throughout 2016, state security authorities, judicial bureaus and state-backed lawyers’ associations continued to exert pressure on lawyers through harassment, violence and administrative procedures. Apart from violating lawyers’ rights through violence and intimidation, the Chinese authorities have also tightened legal measures that targeted human rights lawyers to place them more directly under the control of the authorities.

I. The Aftermath of the 709 crackdown

The 709 crackdown on human rights lawyers continued throughout 2016. In 2016, four lawyers were sentenced to jail, while some others were forced by the authorities to ‘confess’ to their supposed guilt on Chinese state or pro-Beijing Hong Kong media. Among those were lawyers who were charged or ‘formally arrested’ on the charges of subversion or inciting subversion. Some have spent six months in ‘designated residential surveillance’ (incommunicado detention for up to six months at a secret location). Most of their relatives were pressured by police to dismiss their own lawyers and forced to accept government-appointed lawyers.

As of the end of 2016, lawyers Li Heping, Li Chunfu, Xie Yanyi, Wang Quanzhang, Xie Yang and activist Wu Gan remained in police detention awaiting trial and are at risk of being tortured.

1. Unfair and problematic Trials

In the first week of August 2016, four detained individuals were tried by the court but the trials were problematic and unfair.

1. All four defendants confessed to their alleged crimes in the court. They all expressed ‘gratitude’ towards law enforcers, the Communist Party and the government and proclaimed in court that the judgment was ‘fair’, ‘just’ or ‘legitimate’.
2. The lawyers appointed by defendants’ families were barred from representing them while the lawyers appointed by the authorities represented them in the court. The latter proved to be unable to protect the defendants’ legal rights. During the investigation period, they often failed to submit evidence in favour of the defendants. In court trials, they raised no objection to the subversion charges.
3. Families were barred from court hearings. Before the trials, family members of the defendants and relatives of other detained lawyers were harassed, followed, barred by police from leaving home or taken into police detention for up to 28 hours.

2. The use of state media and social media to smear the reputations of human rights lawyers and activists

The human rights lawyers and activists swept up in the 709 case were portrayed by government organs as part of a foreign conspiracy to foment unrest and to bring down the Chinese regime. A video issued by Communist Youth League online in August 2016 depicted them as ‘agents of Western forces’ that set out to damage China’s stability and harmony and accused them of using the pretext of ‘democracy, freedom and rule of law’ to subvert state power.

3. Forced confession on state television and Hong Kong media

Wang Yu, a renowned attorney with Fengrui law firm and detained at the start of the 709 crackdown, was interviewed by state media and pro-Beijing Hong Kong media on July 31, 2016. In the interview,

she said she had been ‘used’ by foreign forces and emphasized that she was treated well and her human rights had been protected during her one-year detention.

After having been detained for a year, Zhao Wei, the 24-year-old assistant of Li Heping, was released on bail on July 7, 2016. Three days later, she spoke to Hong Kong newspaper South China Morning Post in a phone interview likely to have been arranged by the authorities, claiming she ‘regretted’ her human rights activism.

4. Collective punishment and harassment of detained lawyers’ families

1. Wang Qiaoling, the wife of Li Heping, and Chen Guiqiu, the wife of Xie Yang, are barred from travelling abroad.
2. Landlords of several detained lawyers’ families are pressured by police to evict the tenants from their properties. The victims are Wang Qiaoling, Li Wenzu (the wife of Wang Quanzhang), and Yuan Shanshan (the wife of Xie Yanyi).
3. Li Wenzu and Wang Quanzhang’s relatives have been intimidated or detained following visits to the detention centre or the prosecutor’s office, or subjected to other harassment. On June 6 2016, the wives of Wang Quanzhang, Li Heping and activist Zhai Yanmin were detained by police for 24 hours, after they staged a protest outside the Procuratorate by holding up red buckets emblazoned with supportive words for their husbands. Zhai’s wife was reportedly beaten by several Beijing police officers after they took her back to the capital.
4. Li Heping and Wang Qiaoling’s daughter could not go to the school they chose because the authorities declined to issue a residence permit that was a mandatory requirement for her admission. Wang Quanzhang and Li Wenzu’s son was denied enrolment in kindergartens due to police interference in 2016.

II. Lawyers whose situations remain a cause for concern

1. Heavy sentence

(Xia Lin - sentenced to 12 years in jail on 22 September 2016)

Xia, who was detained in November 2014 after he was about to defend NGO worker Guo Yushan, was sentenced by the court to 12 years in jail for fraud involving 4.8 million yuan (HK\$5.6 million). Xia’s sentence was by far the heaviest among human rights lawyers who have been jailed in recent years. Xia has defended a number of politically sensitive cases, and his clients included outspoken artist Ai Weiwei, Sichuan earthquake rights activist Tan Zuoren, human rights lawyer Pu Zhiqiang and Deng Yujiao, a waitress who killed a government official in self defense.

2. Detained on state security charges, pending trial

Jiang Tianyong - Beijing-based lawyer disappeared since 21 November 2016 and detained under ‘residential surveillance at designated location’ since 1st December 2016, for the alleged crime of ‘inciting subversion of state power’. He went missing around 10pm on 21st November 2016 in Changsha after he visited the family of Xie Yang, a human rights lawyer indicted in the 709 Crackdown. On 23rd December 2016, Jiang’s family was notified that he had been held under ‘residential surveillance at a designated location’.

Li Heping - Beijing-based lawyer, held in detention incommunicado since 10th July 2015, was formally arrested on 8th January 2016 on the charge of ‘subversion of state power’. His case is pending trial.

Xie Yang - Hunan-based lawyer, held in detention incommunicado since 11 July 2015, pending trial. He was indicted for ‘inciting subversion of state power’ and ‘disrupting order in court’ in December 2016. He told his lawyer he had been repeatedly tortured.

Wang Quanzhang - Beijing-based lawyer, held in detention incommunicado since August 2015, formally arrested on 8th January 2016 on the charge of ‘subverting state power’. His case is pending trial.

3. *Released on bail but not truly free*

Among the 14 lawyers and legal assistants who were caught up in the 709 crackdown and have been released on bail later, most have only limited freedom and have been still under police surveillance. They include amongst others: Wang Yu, Zhao Wei, Sui Muqing, Zhang Kai, Ren Quanniu, Xie Yanyi and many more.

III. *Violations of lawyers' rights in 2016*

1. *Steps taken by the authorities to bar lawyers from practicing*

The authorities use 'Annual Inspection' as a tool to silence, intimidate and disqualify lawyers and law firms involved in human rights advocacy. In China, lawyers and law firms have long been obliged to have their licenses reviewed annually by state-controlled lawyers' associations and the judicial bureau in their regions. For lawyers targeted by the authorities, the review process may take many months, during which the lawyers cannot practice. On top of the 'Annual Inspection' law firms could be pressurized by the authorities to terminate employment contracts with human rights lawyers in order to renew the licenses of law firms. Some lawyers were dismissed by their firms for taking up 'sensitive cases', and could not find jobs in other law firms.

2. *Torture of and violence against Lawyers*

Both lawyer Xie Yang in Hunan and legal activist Wu Gan in Tianjin, who were detained in the 709 crackdown, complained about being tortured including physical assaults, deprivation of sleep and food and being held in cells with death row prisoners.

In March 2016 alone, at least four physical assaults on lawyers occurred across the country. The victims were Lu Hang in Shaanxi province, Wang Zichen in Heilongjiang province, Li Duzhen and Jiang Quan in Jiangsu province and Zhang Xinsheng in Hubei province - 3 of these took place inside the courtroom or within the complex of the court and officials were responsible for the attacks.

3. *Denial of lawyers' rights to practice and investigate*

The authorities arbitrarily turn down human rights lawyers' requests to meet their clients, particularly if the defendant was a human rights advocate, or if they were handling cases that involve constitutional rights. The reason most often used by the authorities to turn down lawyers' requests to meet with their detained or arrested clients is that they have been held on charges that involves 'endangering state security'.

Human rights lawyers handling politically sensitive cases sometimes find that the courts either ignore their requests to access documents crucial for defending their cases, such as evidence from the prosecution authorities, or obstruct their attempts in accessing that information. Sometimes the courts only allow lawyers to access case files a few days before, or even on the eve of the trial. There are also often restrictions on the materials they are allowed to copy, and copies of video evidence are usually prohibited.

IV. *Legalization of the suppression of lawyers*

The Revised *Measures for the Administration of Law Firms* and the *Measures on the Administration of Lawyers' Practice*, which were issued by the Ministry of Justice in September 2016 and took effect on 1 November 2016, were implemented without any consultation with stakeholders or with the public.

The newly revised *Measures for the Administration of Law Firms* have placed lawyers and law firms under even closer scrutiny of the Justice Bureau, the executive branch of the judiciary. The measures aim to control the ideology and political position of law firms through article 3 and 4 and interfere with law firms' handling of 'major and difficult' (usually means political) cases through article 49. The

measures also deprive lawyers of their freedom of speech and expression by barring them from taking part in a broad and vaguely defined range of activities through article 50.

Control of the ideology and political position of lawyers was also so incorporated into the newly revised *Measures on the Administration of Lawyers' Practice*. The Article 2 newly added in the new revision stipulated that 'embracing the leadership of the Communist Party of China and the socialist model of rule of law is the basic requirement of the practice of lawyers'. We are also concerned that, in the absence of judicial independence, the newly added articles of 37 to 40 of the measures would obstruct lawyers from conducting their legal duties and constrain their freedom of speech and expression.

(source: *China Human Rights Lawyers Concern Group*)

Other facts about the situation of lawyers in China

In China there are approximately 300,000 practising lawyers. Their work is closely monitored by the State and when the State deems it necessary judicial bureaus and the lawyers association intervene directly with the work of lawyers.

For starters, the PRC Lawyers Act (2012) stipulates that lawyers, law firms and lawyers associations shall be under the supervision and guidance of the executive branch of the judiciary. The newly revised Administrative Measures for Law Firms (2016), a set of regulations issued by the Ministry of Justice, provide that law firms should make 'supporting the leadership of the Chinese Communist Party and socialist rule of law' the basic requirement for their business. The new regulations also provide that Party league should be set up in the law firms, and that lawyers should be supervised by the law firms in case taking and handling.

The PRC the Criminal Procedure Law and the PRC Criminal Code were also revised respectively in 2015 and 2012 to include articles that could easily be manipulated, articles 37 and 73 of the Criminal Procedure Law and article 309 of the Criminal Code, for instances, to curtail lawyers' capacity in conducting their professional duties. Detained lawyers can for instance be subjected to prolonged pre-trial detention with deprivation of human rights under various pretexts.

Lawyer Pu Zhiqiang for instance was sentenced on December 22, 2015 after being detained for over 19 months. He was found guilty of 'inciting ethnic hatred' as well as 'picking quarrels and provoking trouble'. Another imprisoned lawyer is Tang Jingling. He was sentenced to five years imprisonment in January 2016, 20 months after his first detention in May 2014, for 'inciting subversion of state power'.

According to Amnesty International at least 245 lawyers and activists have been targeted since July 9, 2015, when the crackdown started. Many different lawyers organisations and human rights organisations, such as the Lawyers for Lawyers foundation, the International Association of People's Lawyers monitoring committee on attacks on lawyers, the Lawyers' Rights Watch Canada and the Hong Kong-based China Human Rights Lawyers Concern Group, have expressed their outrage about the mass arrests. Amongst other issues, they have focused on the forced disappearances and the detention of lawyers as criminal suspects and intimidation. Many lawyers' organisations, Bar associations and human rights organisations have signed joint letters to the Chinese authorities to express their worries about the detention and harassment of lawyers.

The CCBE, the Council of Bars and Law Societies of Europe, has sent a protest letter to the Chinese government urging the Chinese government to take effective steps to drop all charges against the lawyers and to order the immediate release of the detained lawyers; it is believed that the charges against these lawyers are solely motivated by their legitimate and peaceful defence of human rights.

- *More information on the human rights situation in China can be found here.*

'A Ritual Dance with the Dragon', publication by Amnesty International: <https://goo.gl/NBjEVp>
China Human Rights Lawyers Concern Group: <http://www.chrlawyers.hk/en>
CCBR Report 'Situation of lawyer in China': <https://goo.gl/yBDNog>
Report of Lawyers' Rights Watch Canada: <http://www.lrwc.org>

- ✓ *For further information please contact*

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The European Association of Democratic Lawyers: <http://www.aeud.org/>

Demonstrations and events on the Day of the Endangered Lawyer 2017

On 5 continents and in 16 countries lawyers held rallies and events on the Day of the Endangered Lawyer 2017 in support of the lawyers in China.

In some European cities, such as The Hague, Paris, Brussels and Berlin, it has become a tradition for lawyers to dress in their lawyer's robe and hold demonstrations in front of embassies and other important national and international institutions on the Day of the Endangered Lawyer to ask for attention and awareness of the situation of their fellow lawyers in other countries. This was what they also did on the 7th Day of the Endangered Lawyer on the 24th of January 2017.

Not only by demonstrations did lawyers seek attention for the situation of lawyers in China. There were numerous events organized in different countries.

Two conferences that were held in Paris and The Hague were well attended. Representatives of the China Human Rights Lawyers Concern Group in Hong Kong attended both conferences and spoke of the situation in China.

But not only in European countries did lawyers and human rights organizations come into action on the Day of the Endangered Lawyer. Also for the first time this year in Australia, Brazil, India and Japan.

Below you will find a selection of photos and publications of the demonstrations and the events that were organised around the world on the 7th Day of the Endangered Lawyer. For a short film about the demonstration and the delivery of a petition at the Chinese embassy in The Hague please click here: <http://dayoftheendangeredlawyer.eu/>

Australia / Brisbane

Australia / Canberra

Belgium / Brussels

Brasil / Brasilia

Canada / Ontario

Canada / Toronto

Canada / Vancouver

China / Hong Kong

China (Taiwan) / Taipei

France / Bordeaux

France / Lyon

France / Montpellier

France / Paris

Germany / Berlin

Germany / Düsseldorf

India / New Delhi

Italy / Milan

Italy / Rome

Italy / Venice

Japan / Tokyo

The Netherlands / The Hague

Philippines / Manilla

Spain / Barcelona (Catalunya)

Spain / Madrid

Switzerland / Geneva

Turkey / Istanbul

United Kingdom / London

China / Hong Kong

The screenshot shows a news article from the South China Morning Post's 'INSIGHT & OPINION' section. The article is titled 'Without freedom for rights lawyers, how can China lay claim to a just legal system?' by Nicholas Bequelin. It discusses President Xi Jinping's legal reform drive and the crackdown on lawyers and bureaucratic interpretations of national security laws. The article was published on Monday, 23 January, 2017, at 4:47pm, and updated on Tuesday, 24 January, 2017, at 3:19pm. A large image below the headline shows a group of people holding red flags and banners during a protest. To the right of the main article, there is a sidebar titled 'MOST POPULAR' with five numbered links to other articles. The Windows taskbar is visible at the bottom of the screen.

China (Taiwan) / Taipei

The screenshot shows a news article from the VOA Chinese website. The headline reads: “受迫害律师日” 台湾人权团体呼吁中国停止迫害人权律师. The article features a photo of a woman speaking into a microphone, identified as a legislator from the Legislative Yuan. The background of the photo includes text in Chinese, such as “臺灣聲援中國人權律師網絡” and “台北市人權委員會”. On the left side of the article, there is a share button with icons for Facebook, Twitter, Google+, and Email. The VOA logo is at the top, and the page includes standard navigation elements like a search bar and language selection.

France / Paris





Germany / Berlin (ELDH-IADL)



Italy / Milan



Italy / Rome (ELDH-IADL)



Italy / Venice



The Netherlands / The Hague

In The Hague lawyers demonstrated in front of the International Peace Palace and marched from there towards the Chinese embassy. They stood in front of the embassy holding up signs and then after Jeroen Brouwer (former president of the Dutch Bar Association) gave a speech on a street near the Chinese embassy was unofficially ‘renamed’ Wang Yu Lane as a tribute to the Chinese lawyer Wang Yu. After the demonstration a conference, organized by the Foundation Lawyers for Lawyers and Foundation Day of the Endangered Lawyer was hosted at the Court of Justice in The Hague. A representative of the China Human Rights Lawyers Concern Group in Hong Kong attended the conferences and spoke of the situation in China. Both the demonstration and the conference were well attended.

For a short film please click here: <http://dayoftheendangeredlawyer.eu/>





Spain / Barcelona (Catalunya)



Spain / Madrid



A Selection of Publications on the Day of the Endangered Lawyer 2017

- ✓ Australia
- ✓ Belgium / Brussels
- ✓ Brasil / Brasilia
- ✓ Canada / Ontario
- ✓ Canada / Toronto
- ✓ China / Hong Kong
- ✓ France / Bordeaux
- ✓ France / Montpellier
- ✓ France / Paris
- ✓ Germany / Berlin
- ✓ Italy / Milan
- ✓ Italy / Rome
- ✓ Italy / Venice
- ✓ The Netherlands / The Hague
- ✓ Philippines / Manila
- ✓ Spain / Madrid
- ✓ Switzerland / Geneva
- ✓ United Kingdom / London

See separate document for copies.

Appendices

Petition as presented to the embassies of the Peoples Republic of China (pdf)
A Selection of Publications on the Day of the Endangered Lawyer 2017 (pdf)