

CHINESE URGENT ACTION WORKING GROUP

人权卫士紧急救援协会

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## MANIPULATION AS INSULATION:

THE NON-RENEWAL OF WEIQUAN  
LAWYERS' LICENSES IN CHINA

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**ABOUT THE CHINESE URGENT ACTION WORKING GROUP**

The Chinese Urgent Action Working Group (人权卫士紧急救援协会) undertakes direct interventions on behalf of Human Rights defenders in distress through investigations, public advocacy, communication with international institutions and organizations, and through providing legal aid. The group is located inside mainland China, and was formed as a response to increased persecution of Human Rights defenders during 2008 and 2009. The organization also regularly releases reports and background briefs on issues concerning Human Rights, and especially Human Rights defenders, in China.

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**MANIPULATION AS INSULATION:**

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**Released OCTOBER 21, 2009**

## INTRODUCTION

*“From a long-term perspective, rule of law is the only way for China’s ancient civilization to escape the historical cycle of order and chaos.” –He Weifang<sup>1</sup>*

*“What most impedes our work is the revocation of our licenses to practice law.” –Teng Biao<sup>2</sup>*

The 2004 year seemingly offered great hope for a strengthening of the rule of law in China. The State Council’s March 2004 Outline of Promoting Governance According to the Law stated that a rule-of-law government should be established within ten years. Further, in March of the same year, Hu Jintao, in a speech supporting lawyers and accountability within the system, stated that “The rule of law is important for the promotion, realization, and safeguarding of a harmonious society. This principle should be rigorously implemented in all political, administrative, and judicial sectors to ensure the powerful be checked and accountable for their misdeeds.”<sup>3</sup> Indeed, in 2004 the Chinese Constitution was even amended to state that “the state respects and guarantees human rights.”<sup>4</sup> The media has continuously pushed the notion that citizens have certain basic rights, and the former Supreme Court President, Xiao Yang<sup>5</sup>, was admired for his advocacy of judicial reform.

Though there have been some commendable changes since then, such as the open law initiative, greater disclosure to the public of information regarding governance, and the implementation of stricter rules for administrative license issuing to check abuses, implementation of a rule of law system is futile without the ability of lawyers to independently represent citizens who desire a fair hearing of their legal rights and interests.

The subject of this report is how lawyers’ independence has gradually been eroded away using more coercive and subtle means. More specifically, the following is an analysis of the recent emphasis on Party presence in law firms and manipulation by the Lawyers Association of the annual assessment and inspection process of lawyers’ licenses. This is followed by a profiling of certain law firms and lawyers whose licenses have been suspended, non-renewed, or canceled. Finally, how such practices contravene China’s own laws and international laws is offered, with certain recommendations.

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<sup>1</sup> He Weifang is China’s leading constitutional scholar. He was exiled to Shihezi University, Xinjiang, in early 2009.

## TWO TRENDS: THE PARTY AND THE STATE

The two most recent trends in China that vitiate independence of the legal profession represent a two-pronged strategy by the Party and State. The first is a significant increase in the number of Party branch secretaries in law firms. The second, which is the main focus of this report, is the administrative authorities' manipulation and abuse of the annual inspection and assessment process of lawyers and law firms.

### THE PARTY

In December 2003, the Ministry of Justice began to require law firms to establish Party groups if the firms had Party-member attorneys; the ministry claimed that this mechanism would help reduce lawyers' professional misconduct by placing every party member under the management and supervision of party organs.<sup>6</sup>

In the past year there has been a recent and astonishing increase in the presence and training of party branch secretaries (党支部书记) in law firms. Only about half of mainland law firms had party branch secretaries last year; however, this year the figure has significantly increased to over ninety percent.<sup>7</sup> Some are even reporting that the Chinese Communist Party (CCP) has expanded its reach into all 14,000 law offices in China, either through direct branches in 3,895 offices, or with joint party branches in another 8,075 law offices, while contact cadres have been sent from headquarters to the remaining 2,741 legal offices without party members to make sure they perform their Communist Party duties.<sup>8</sup> Indeed, Party cadre training at the Central Institute for Judicial Police between May 12-26, 2009, in Hebei, was the first time that the Ministry of Justice trained the party branch secretaries in law firms.<sup>9</sup>

The presence of Party branch secretaries or members in law firms allows the Party to keep careful

<sup>2</sup> Teng Biao, profiled below, is one of China's leading human rights lawyers and a professor at the University of Politics and Law in Beijing.

<sup>3</sup> "Building harmonious society crucial for China's progress: Hu," *People's Daily Online*, June 27, 2005.

<sup>4</sup> See Article 33

<sup>5</sup> Xiao Yang was President of the Supreme People's Court from 1998 to March 2008, when he was replaced by Wang Shengjun, who has emphasized how judges need to decide cases based on the needs of the Party and the State, and worked ardently to have the courts conform to a new doctrine called the "Three Supremes," the slogan of which is posted on a glaring banner hung directly above the entrance to the Supreme Court in Beijing: the supremacy of the Party's work, the supremacy of the people's interests, and the supremacy of the constitution and the law (党的事业至上、人民利益至上、宪法法律至上). The constitution and law are thus relegated to a tertiary position after the Party's work and people's interests. See also for example <http://news.163.com/09/0830/17/5HVJ4CO000120GU.html>. Some argue that the recent crackdown on lawyers would have been more difficult under Xiao Yang's tenure.

supervision over the activities of each law firm and its lawyers, and is a reflection of the push by Hu Jintao and Wen Jiabao to reassert Party leadership and presence after it dwindled during Jiang Zemin's leadership.

## THE STATE

The annual inspection for law firms and annual evaluation for attorneys is a process used as a proxy for remediless disciplinary penalties in an effort by the State to threaten, intimidate, and suppress lawyers who engage in sensitive issues relating to human rights abuses.

### I. Annual Inspection and Registration System

Each lawyer in China must join and become a member of the respective local branch of the All-China Lawyers Association (hereinafter "Lawyers Association") to practice law.<sup>10</sup> Although the Law on Lawyers<sup>11</sup> grants the Lawyers Associations "self-regulating" or "autonomous" (律师的自律性组织) power, it is subordinated to the Ministry of Justice under a system of joint administration.<sup>12</sup> The Ministry of Justice retains macro control, including supervision, guidance, admissions, and administration, whereby the Lawyers Association must comply with instructions and directives issued by the Ministry of Justice's department in charge of lawyers. The Lawyers Association, in exercising its "self-governing" role, assumes micro control of structure, professional duties, daily affairs, training, and education.<sup>13</sup>

As part of the supervision of the legal profession, lawyers in China are required each year to undergo an annual inspection and registration ("assessment") in order to renew their licenses. Lawyers must pay between 500 and 5,000 RMB in inspection and registration fees<sup>14</sup> before the end of May of each year. If a lawyer passes, s/he will receive the "Annual Inspection and Registration" stamp on their lawyer's license from the Ministry of Justice or its judicial administration office in their province and be able to continue to practice.

<sup>6</sup> "Judicial Reform in China: Lessons from Shanghai," Veron Mei-Ying Hung, Carnegie Papers, Number 58, April 2005, p. 22.

<sup>7</sup> Southern Weekend, Guangdong: <http://www.nanfangdaily.com.cn/nfzm/200906040120.asp>, or <http://www.infzm.com/content/29525>

<sup>8</sup> "China goes all out for stability ahead of National day celebrations," Clifford Coonan, The Irish Times, August 10, 2009, <http://www.irishtimes.com/newspaper/world/2009/0810/1224252312806.html>. Also see <http://www.my1510.cn/article.php?id=9219eabc5b832f18>

<sup>9</sup> Also see Albert Ho and Patrick Poon, Implement Rule of Law, Protect Lawyers' Right to Practice, June 2009. [www.chrlcg-hk.org/?p=42](http://www.chrlcg-hk.org/?p=42)

Initially it was the Ministry of Justice (MOJ) or its local bureau that conducted the assessment. However, due to harsh criticism by numerous lawyers that it conflicted with several other laws and was illegal, as well as perhaps a desire to insulate itself from lawsuits (see below), on July 18, 2008, the MOJ promulgated the “Management Methods in Attorney’s Practice” and “Management Methods on Law Firms” which officially annulled the annual inspection and registration system.

However, local lawyers associations, the Beijing Municipal Bureau of Justice, and other judicial authorities of several other cities and provinces separately created “Annual Inspection and Registration” systems of their own at the beginning of 2009. For example, on April 13, 2009, the Beijing Lawyers Association issued a “Notice on Carrying out the 2009 Evaluation on Attorney’s Licenses” which requires that all attorneys practicing in the city undergo an annual evaluation by the Beijing Lawyers Association between April 20 and May 31. And, according to an official April 14, 2009 Notice from the Beijing Judicial Bureau detailing the registration procedures, lawyers must present their annual applications prior to the end of the registration period on May 31. Lawyers who fail to renew their professional licenses are in effect temporarily disbarred. Thus, the “Annual Inspection and Registration” system continues by proxy, and has had a disabling effect on a lawyer’s ability not only to practice law, but legal recourse to challenge the decision, as will be explained below.

Although the MOJ relinquished its power to assess lawyers, it still maintains control over the Lawyers Associations, and therefore the annual assessment, through various means. For example, it staffs lawyers associations with judicial bureau officials who lead and guide the “election” of lawyers they deem suitable to govern each association.<sup>15</sup> Though changes to this structure have been experimented with<sup>16</sup>, and attempts by lawyers have been made to push for independent elections<sup>17</sup>, ultimately little, if any, change has occurred. By controlling who becomes elected to govern each association, the MOJ retains a disguised control of the decisions in the process of annual inspection and assessment.

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<sup>10</sup> Law on Lawyers, Article 45

<sup>11</sup> The Law on Lawyers of the People’s Republic of China was first adopted by the Standing Committee of the National People’s Congress in May of 1996; the current version was revised and became effective on June 1, 2008.

<sup>12</sup> Article 4 of the Law on Lawyers states that “The justice administrative authorities shall supervise and provide guidance for lawyers, law firms and lawyers’ associations in accordance with this Law.”

<sup>13</sup> See “Walking on Thin Ice,” Human Rights Watch, p.14 (April 2008)

<sup>14</sup> The amount in fees is determined by each local bar association, and thus differs significantly throughout China.

## II. The Renewal Process: Beijing as a Case Study

The basic process of renewal and the areas of potential abuse are outlined in the following description of the current three-step process in Beijing, where an especially large number of weiquan lawyers have been denied renewal.

First, a firm must conduct an assessment of its lawyers, then endorse their re-licensing applications before submitting them to the Beijing Lawyers Association. At this stage, firms have often been pressured and coerced by the Ministry of Judicial Administration and from the Lawyers Association to either fail the lawyers in the annual evaluation of their performances or to dismiss them via termination of contract. The pressure is accompanied by threats of being shut down or other procedural difficulties.

Second, the firms submit the lawyers' files to the Beijing Lawyers Association (BLA), which conducts its own annual inspection and registration (年度考核登记), which requires every lawyer in the Beijing Lawyers Association to undergo between April 20 and May 31 and pay 2,500 RMB in membership and registration fees. Based on results this year--the first year in which it was implemented—it so far appears that there are three possible outcomes of the assessment. First, a lawyer can simply be passed. This is the case for the vast majority of lawyers in Beijing. Second, according to results in 2009, as posted on the BLA's website, a lawyer can fall under one of three categories in the assessment: passed the assessment but postponed re-registration (考核通过暂缓注册); passed the assessment but disallowed re-registration (考核通过不予注册)<sup>18</sup>; or failed the assessment and disallowed re-registration (考核不合格不予注册). As to law firms, only one category is mentioned: did not submit material (未提交材料的所). It is important to note that for each category, besides the title, no other information or criteria is given as to why such decision was made. Third, the Lawyers Association may postpone the registration without offering any information to the individual lawyer on the status of his/her license renewal, so that lawyers do not know when or if they will pass the inspection.

<sup>15</sup> See "The Struggle for Autonomy of Beijing's Public Interest Lawyers," by Jerome A. Cohen, *China Rights Forum, Human Rights in China*, March 2009, p. 8

<sup>16</sup> The so-called Shenzhen experiment has, since 2003, allowed law firms and lawyers to individually choose representatives to the lawyers association congress, who then elects the leaders after listening to the candidates' speeches and asking them questions. However, judicial bureaus give final approval to the list of candidates for leading posts. Id.

<sup>17</sup> In August 2008, lawyers at the Beijing Yitong law firm (profiled below) spearheaded a movement to demand direct elections of the Beijing Lawyers Association. It ultimately failed, with Yitong law firm being temporarily shut down and many of its lawyers' licenses suspended as a result. See the "Law Firms" section below for more details.

<sup>18</sup> The title of a column in this category states "lawyers whose licenses have been canceled" (年度考核注销律师名单).

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Third, lawyers who pass the inspection will be re-registered with the Beijing Municipal Bureau of Justice (Judicial Bureau), have their licenses stamped with an “inspection pass” seal by the Ministry of Justice, and can continue their practice. Lawyers who do not pass the inspection must return their lawyer's licenses to the Beijing Municipal Bureau of Justice, who then may<sup>19</sup> cancel (注销) the license, as described further below.

### III. Manipulation as Insulation

The Beijing Municipal Bureau of Justice, as a department of the MOJ, has used this process to insulate itself from lawsuits thereby leaving lawyers without recourse to challenge the Lawyers Associations' decisions.

Under the Law on Lawyers, the MOJ and its bureaus, in their capacity as administrative agencies, have the power to take four general types of punitive actions (also called administrative concrete or specific actions) for various forms of lawyer or law firm misconduct: **penalty (罚款), warning (警告), cessation of practice for reorganization (停业整顿), and revocation of license (吊销律师执业证).**<sup>20</sup> However, as noted above, the Beijing Municipal Bureau of Justice has simply determined that Jiang Tianyong's license was canceled; and the Beijing Lawyers Association has simply couched the results in terms of passed/failed assessment and postponed/disallowed re-registration. Besides there being no mention whatsoever of license revocation (吊销), nowhere in the Law on Lawyers is cancellation, postponement, or disallowed re-registration listed as possible administrative punitive actions. Further, as will be seen below, it is not at all clear whether the Lawyers Association can act in the capacity of an administrative agency.

Differences in the above-mentioned terminology and labeling are critical to understand because they have a profound impact on lawyers ability to pursue administrative and judicial review of the decisions. The calculation of the license is simply the end result of the revocation; in other words, a revocation results in cancelation of the lawyer's license. When a lawyer's license is revoked, it is an administrative concrete action, and therefore one can file an administrative or possibly judicial lawsuit against the MOJ or its bureau to challenge it. Lawyers previously filed such lawsuits before the MOJ relinquished its annual inspection powers. However, because cancellation, postponement,

<sup>19</sup> To date the Beijing Justice Bureau has only issued one notice stating 53 lawyers' licenses were actually revoked, while the list of cancelled licenses on the Beijing Lawyers Association website lists 96 names. Lawyer Tang Jianyong, as profiled below, was the only human rights defense lawyer that is on both lists.

<sup>20</sup> See Law on Lawyers Articles 17-19 and 50-56.

and disallowed re-registration are not concrete punitive actions, but simply the end result of the inspection, the Lawyers Association, and by proxy the MOJ, is now insulated from suit. Moreover, there is no means to file a suit to challenge the Lawyers Associations' annual assessment and inspection decisions because under Chinese law, associations and political parties cannot be sued administratively or civilly.<sup>21</sup> Essentially, because the Lawyers Association and MOJ nowhere state that the licenses have been revoked, if a lawyer doesn't pass the inspection, s/he has no legal means to appeal the decision.<sup>22</sup> This, according to the words of one lawyer, is the greatest problem facing lawyers whose registration has been postponed or suspended.<sup>23</sup>

#### IV. The Effects on Lawyer's Ability to Practice Law

In the United States and elsewhere in the West, the cancellation of a lawyer's license (disbarment) automatically prevents that person from engaging in any legal activities whatsoever. In China, however, the cancellation or non-renewal of a lawyer's license does not necessarily result in the inability to practice law, but rather acts as a severe impediment, especially in criminal suits. Indeed, the negative effects on a lawyer's ability to practice without a license are more subtle, and play out in different ways depending on the type of lawsuit, whether it is a civil, administrative, or criminal suit.

Under Chinese law, in any civil or administrative lawsuit, any lay person can represent another person. This is known as being a citizen representative (公民代理) and there are no restrictions in doing so. Thus, a lawyer who has not passed the annual inspection can still be a citizen representative and participate in civil or administrative lawsuits. In fact there are certain benefits to being a citizen representative. For example, when representing somebody in the capacity as a lawyer, the lawyer needs certain official documents from the law firm (律师所的公文) whereas a citizen representative only needs his/her identity card (身份证).

As to a criminal suit, the criminal law stipulates that a criminal suspect/defendant can entrust (委托)

<sup>21</sup> Administrative Litigation Law, Article 25, Section 1 stipulates: "If a citizen, a legal person, or any other organization that brings a suit directly before the people's court, the *administrative organ* that undertook the specific administrative act shall be the defendant." Because associations are not administrative organs, they do not have administrative power/status to take specific acts and thus cannot be sued. As to a civil suit, besides the fact that there is no civil law stipulating an ability to bring such suit, associations and the party cannot legally take actions in a civil capacity. Of course, criminal charges, except for very minor offenses that can be brought by ordinary citizens, are brought by the People's Procuratorate.

<sup>22</sup> Even if a lawyer could bring suit, there is no transparency to determine the criteria by which the decision was made to challenge the facts upon which the decision was based.

<sup>23</sup> This paragraph is based on interviews with a lawyer who is intimately familiar with the process.

a lawyer, friend, family member or social organization to defend him/her.

Thus, if a lawyer's license has been suspended, theoretically s/he could, in the capacity as a friend, participate in the case to provide defense. Lawyers in fact do this, such as Li Subin (profiled below), who, even though he does not have a lawyer's license, still has participated in many criminal defense cases.

However, under the Chinese criminal procedure code, in order to act in a non-lawyer capacity to defend a criminal suspect or defendant, there are three main requirements that create impediments to such representation. First, one must initially provide evidence that s/he has never been subject to any criminal punishment or penalty (无犯罪记录). Second, upon entering court or the people's procuratorial court, in order to access certain essential files which are held on file there, one must first be granted approval, which can be easily abused. Finally, as a non-lawyer, there is absolutely no power or right to visit the detention facility to meet the criminal suspect—only a lawyer can, during the time of trial, go to the detention facility to meet the suspect. There are nevertheless methods that citizen representatives use to evade these restrictions. Li Heping (profiled below), for example, though he cannot act in a capacity as a lawyer in a criminal case, can search for a lawyer with a valid license to appear together in court. However, as will be seen below, since the majority of those lawyers whose licenses have not been renewed defend criminal suspects, the latter two restrictions in practice have proven to be formidable barriers.

## LAW FIRMS

This year at least three firms were denied approval of their re-registration, which directly affects the more than thirty lawyers they employed, many of which are profiled below under the "Lawyers" section. The three Beijing law firms that did not pass their annual inspection are: **Anhui** (北京市安汇律师事务所), **Gongxin** (北京市共信律师事务所), and **Shunhe** (北京市舜和律师事务所). The firms were told through official and unofficial channels that they did not pass their annual inspection because they represented mass cases "without going through the proper procedures"; their lawyers supported direct elections of representatives of the Lawyers Association; their lawyers advocated for lowering the annual lawyer's registration fee; or they represented Falun Gong and various other politically-sensitive cases.

Additionally, on March 17, 2009, **Beijing Yitong Law Firm** (北京忆通律师事务所) was ordered shut down for six months for "reorganization" by the Beijing Haidian District Bureau of Justice. Although the authorities cited the reason as the firm's "facilitation of the illegal work of an individual in providing legal services without having obtained a professional lawyer's license," lawyers at the firm believe the move was in retaliation for the firm's lawyers advocating direct elections of the leadership of the Beijing Lawyers Association in 2008. Managing partner Li Jinsong (see below) said that though the authorities ordered the law firm to close because it employed a lawyer who was not properly licensed (see Li Subin below), the charge was absurd because the lawyer held a valid license to practice in another Chinese city and had filed an application to transfer it to Beijing. Moreover, Li argues that the penalty of shutting down the entire firm is "100 percent illegal." As a result of its closure, many prominent rights defense lawyers, including Li Jinsong and Li Subin (profiled below), were unable to continue to work as lawyers. Yitong reopened on September 14, 2009, but lost a large number of lawyers.

Other law firms of lawyers working on sensitive cases such as Beijing's G&G (Giant & Goal), Jiurui, Jiafa, Yijia, and Qijian; Heilongjiang's Jiaodian; Guangxi's Baijuming; and numerous other law firms had received instructions and warnings from the Ministry of Judicial Administration and from the Lawyers Association. As described above, some law firms were asked to immediately terminate employment contracts of lawyers involved with sensitive issues, others were asked to "fail" the lawyers in their annual performance evaluation of the lawyers in order to "coordinate" with the authorities' plans to cancel or revoke their licenses.

In early April 2008, authorities informed the **Beijing Globe Law Firm** (北京高博隆华律师事务所), where Jiang Tianyong and Li Xiongbing work (see profiles below), that it did not pass the annual review because of the "involvement of some of your firm's lawyers in sensitive cases." Following negotiations with the authorities, the law firm and other lawyers at the firm passed the annual review and their licenses were renewed on April 23, 2008. While Jiang Tianyong had his annual review delayed, Li Xiongbing obtained his license just before the renewal deadline on May 29. This year, as of September 2009, although the Globe Law Firm once again passed the inspection, according to a notice of Beijing Justice Bureau on July 9, 2009, lawyers belonging to the firm, including Jiang Tianyong, Li Xiongbing, Li Heping, Li Chunfu, and Wang Yajun, all profiled below, were unable to pass the annual "assessment and registration" and their practice licenses were as a result invalidated.

As will be seen in the next section profiling lawyers, many of the lawyers who have been prevented from renewing their licenses are or were members of the above-mentioned firms.

## LAWYERS

Below is a profile of lawyers who, during the past few years, and especially in 2008 and 2009, have not been able to renew their licenses as punishment for working on sensitive cases. The list is not meant to be comprehensive or exhaustive, but rather to demonstrate the trend and pattern of abusing the annual assessment process as a way to intimidate and suppress human rights defense lawyers. Since this trend has been increasing in its intensity, many of the lawyers profiled below experienced difficulties during the 2008 and 2009 licensing years.

As noted above, as an attestation to the administrative authorities' use of the Lawyers Association as a proxy to punish lawyers via non-renewal of their licenses, according to recent interviews with certain lawyers, only Jiang Tianyong's license has been officially canceled (注□) by the MOJ. As to the other lawyers profiled below who suffered non-renewal in the 2009 year, their licenses have not been renewed either explicitly as listed on the Beijing Lawyers Association website or through simply not receiving any information from the Lawyers Association about the status of the renewal of their licenses. Thus, instead of directly ordering the suspension of the targeted lawyers and law firms, the authorities presumably instructed the Lawyers Association to refuse to renew their licenses, effectively disbarring them. It should be noted, however, that they may be able to pass the inspection next year. In the meantime, their practice of law has been subject to restrictions and impediments, as was explained above.

### Cheng Hai (程海)

Cheng Hai did not pass the annual inspection this year because his license was not renewed by the Lawyers Association. Cheng was a lawyer at Beijing Anhui Law Firm, which was one of the three Beijing firms to also not pass the inspection (see above). The major issues and cases Cheng Hai participated in or undertook were: registration problems, lawsuit against Beijing Public Security

Bureau over temporary residence permit problems, the Yang Jia case<sup>24</sup>, lawsuit against the railway department, Reeducation-Through-Labor case, main organizer and initiator of Beijing Lawyers Association direct election, Falun Gong case, and signer of the declaration of support for Tibet after the “3.14 Incident”<sup>25</sup>.”

On April 12, 2009, Cheng Hai was illegally obstructed and beaten by government workers from the Jinyang Street Office and Stability Preservation Office while working in Chengdu, Sichuan Province. Cheng was on his way with Beijing lawyers Li Chunfu and Zhang Kai (both profiled below) to meet a client’s mother, when four or five men who had been monitoring and following Cheng encircled him and began striking him, pushed him to the ground and kicked him. According to Cheng, those responsible for the attack were officials from the Jinyang General Management Office, Wuhou District, Chengdu.

**Gao Zhisheng (高智晟)**<sup>26</sup>

On October 18, 2006, Gao Zhisheng issued an open letter addressed to China’s top leaders denouncing the widespread use of torture against Falun Gong practitioners. On November 3, Gao was summoned to the judicial bureau where he was asked to drop all sensitive cases and stop talking to foreign media. The next day, the Beijing Judicial Bureau told Gao that his firm would be suspended. The decision was based on two “violations”: a “failure to register in time the change of address of the law firm” and “violating the professional ethics of the legal profession.” Both were based on provisions in the “Methods regarding the punishment of illegal acts by lawyers and law firms.”

As to the first violation, according to Gao, his staff at the firm repeatedly try to register the change of address but the Judicial Bureau would not process the registration, nor acknowledge the refusal to process it.<sup>27</sup> As to the second violation, it was based on a charge that a legal document submitted by his firm was signed by the lawyer of another practice, Tang Jingling. The document was a petition to visit the rights activist Guo Feixiong, who was at the time in police custody in Guangzhou.

A few weeks later, in December 2006, the Beijing Judicial Bureau revoked Gao’s personal license.

<sup>24</sup> Yang Jia (□佳) was 28 year s old when, in October 2007, he was arrested, interrogated, insulted, and beaten by the Shanghai police. His efforts to sue the police were fruitless, and out of apparent frustration he attacked and killed six policemen on July 1, 2008. Though he received a lot of public sympathy and became a sort of national hero, he eventually was sentenced to death and executed on November 26, 2008.

<sup>25</sup> A collective reference to Tibetan protests and rioting that began on March 14, 2008, in Lhasa, and spread in the following days to other locations in the ethnic Tibetan area of China.

<sup>26</sup> For a more detailed discussion, see *Walking on Thin Ice*, p.96-7.

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According to Li Heping (see below)—one of the lawyers who grouped together to defend Gao—the revocation violated the law. Though Gao sought to appeal the decision, he was arrested a few weeks later. After being detained incommunicado for months, he was eventually convicted of “inciting subversion.”

On February 4, 2009, Gao Zhisheng, who was on probation, was taken by police from his hometown in Shaanxi Province after his wife and child fled to the United States. Gao has been in custody since.

### **Guo Guoting (郭国汀)**<sup>28</sup>

Guo Guoting was the director of Tianyi law firm in Shanghai; he also practiced maritime law for almost twenty years, published numerous books and articles, and was a member of the National Arbitration Committee on Maritime Affairs. In 2003, he decided to help his former classmate, Zheng Enchong (see below), who legally defended evicted residents in Shanghai, though he was disbarred in 2001 for accusations of collusion between developers and the Shanghai municipality. Zheng was arrested in June 2003 and charged with a state secrets offense. Though Guo received warnings from the Shanghai judicial authorities telling him to drop the case, he continued to defend Zheng and others arrested for posting articles online. On February 23, 2005, the Shanghai Judicial Bureau raided Guo’s firm, taking his license and computer. On March 1, the Shanghai Judicial Bureau issued a one-year suspension of his license, which Guo planned on challenging at his hearing on March 4. At the hearing, Guo was accused of writing articles that slandered the Communist Party and violated the four cardinal principles of the Constitution. He was placed under house arrest and constant monitoring immediately after. In May 2005, the Shanghai authorities allowed him to go to Canada, where he now lives in exile. His clients were all convicted and sentenced.

### **Guo Shaofei (郭少飞)**

Guo Shaofei’s license will not be re-registered because he failed the assessment and was not allowed to be re-registered (考核不合格不予注册). Guo was one of seven lawyers at Beijing Globe Law Firm (see above) who did not pass. In addition to participating in cases as listed above, on May 12, 2008, he, along with Li Heping (profiled below), defended Falun Gong practitioner Liu Xitong in Qingdao, Shandong Province.

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<sup>27</sup> This strategy is similar in form with what happened to Li Subin at Yitong Law Firm, as detailed above.

**Guo Yan (郭艳)**

Guo Yan has been an instructor at the Guangdong Judicial Police Officer Professional School since 1991, while practicing law since 1993. In December 2005 Guo's license to practice law was suspended because her law firm, the Guangdong Zhujiang Law Firm, allegedly under pressure from the government, declined to sponsor her renewal due to her role in representing Taishi villagers who sought the recall of a village leader suspected of embezzling community funds. Ms. Guo was also harassed and violently assaulted by thugs hired by local officials. She had practiced law for thirteen years before her disbarment. She has consistently been concerned about human rights issues in her practice. She is now teaching at a police academy in Guangzhou.

**Jiang Tianyong (江天勇)**

Jiang Tianyong, as many of the other lawyers profiled in this report, has suffered various forms of persecution from the government. Except for 2007, he has had considerable difficulty in renewing his attorney's license in Beijing during the annual inspections in 2006, 2008, and now this year. On July 9, 2009, the Beijing Justice Bureau released on its official website the first notice of Beijing law firms and lawyers whose licenses were being canceled.<sup>29</sup> Though there were a total of 53 lawyers whose practice licenses were invalidated, Jiang Tianyong was the only one on the list who actively participated in human rights cases. Further, he was listed at the same time twice on a separate list provided by the Beijing Lawyers Association on its website under the mutually exclusive categories of "passed in assessment and not allowed to be re-registered" and "failed in assessment and not allowed to be re-registered," demonstrating lack of internal consistency within the Lawyers Association.

Jiang was a lawyer with Beijing Globe Law Firm (see above). He recently defended a Tibetan Buddhist cleric against charges of concealing weapons in an area of China where anti-government protests occurred. He also represented the parent of a child who died during the Sichuan earthquake and Tibetan monks arrested during last year's riots, though he had been warned by representatives of the government's legal affairs bureau last year not to take those cases. Other major issues and cases he has participated in or has undertaken are: Tibetan district Buronglang Living Buddha case, Labuleng Temple Jume Lama Case, earthquake zone He Gongchun case, lawsuit against Dazhong Daily Newspaper Group for Hepatitis B discrimination, HIV carrier rights defense case, Shanxi "black

<sup>28</sup> For a more detailed discussion, see *Walking on Thin Ice*, p.97-100.

brick kiln” case, Beijing Lawyers Association direct election, legal support to Open Constitution Initiative (aka Gongmeng)<sup>30</sup>, Falun Gong case, signer of the declaration of support for Tibet after the “3.14 Incident.”

In 2006, Jiang’s wife was harassed by phone from people from the Beijing Municipal Bureau of Justice. Also, his landlord, under pressure from the secret police, refused to continue renting his apartment to him. Beijing Municipal Bureau of Justice illegally forced him and his law firm to write a statement of guarantees.

Since June 3, 2009, Jiang has been confined to his home by the police and prevented from going to work.

### Li Chunfu (李春富)

Li Chunfu, also of Beijing Globe Law Firm, failed the assessment and was not allowed to be re-registered (考核不合格不予注册). In one incident, Li Chunfu and Zhang Kai, also a Beijing lawyer (and profiled below), went to Chongqing in January 2009 to meet with the relatives of Jing Xiqing. Jing was a Falun Gong practitioner who had died mysteriously under police custody. The body had been cremated without the consent of the family. Li and Zhang agreed to represent the family, who suspected unnatural causes of death. The police came during their discussion, physically manhandled them, handcuffed them, and took them back to the police station where Zhang Kai was hung up with handcuffs in an iron cage and Li Chunfu was slapped in the face.

The other major issues and cases Li has participated in or undertaken are: HIV carrier rights defense case, Li Shufeng Reeducation-Through-Labor case, wrongful death while in custody case, improper death while in Reeducation-Through-Labor facility case, and migrant worker rights defense case.

<sup>29</sup> As of October 2009, it is uncertain whether another list will be released, though one is possibly expected since the notice was specifically listed as “number one.”

<sup>30</sup> Established in 2003 by Xu Zhiyong (许志永), Teng Biao (滕彪), Yu Jiang (于江), and Zhang Xingshui (张星水) from the Peking University Law School, the Open Constitution Initiative spearheaded many rule of law initiatives and advocated for greater constitutional protections. In 2009 it published a report on Tibet criticizing the government. In July 2009 it was charged with tax evasion, shut down and fined 1.5 million RMB. Its offices were raided, property confiscated, and website shutdown. Xu Zhiyong was arrested and later released.

**Li Dunyong (李敦勇)**

Li Dunyong, one of several lawyers involved in the defense of Uyghur house church Christian Alimjan Yimit<sup>31</sup>, was effectively disbarred at the end of May when Chinese authorities turned down an annual application to renew his law license. Zhang Kai (see below), another Beijing lawyer who had defended Alimjan, suffered the same fate.

Li Dunyong was also prevented from representing a Tibetan documentary filmmaker, Dhondup Wangchen, and two Tibetan monks by court officials in China's northwestern province of Qinghai.

Other major issues and cases Li has participated in or undertaken are: rights defense case for farmers who have lost their land, rights defense case for victims of forced demolition, and signer of the declaration of support for Tibet after the "3.14 Incident."

**Li Fangping (李方平)**

Li Fangping was one of the lead attorneys organizing the effort to defend Chen Guangcheng, the highly-publicized blind "barefoot lawyer." A self-taught legal activist, not a licensed lawyer, Chen documented abuses committed by the local family planning authorities of Linyi municipality, Shandong Province, in a report made public in June 2005.

Li also has a distinguished record of taking challenging cases, winning the release of a Tibetan monk tortured in detention.

On June 11, 2009, Li said "Since my license was taken away by a body [the Bar Association] that has no standing to do so, I can't even appeal the decision!"

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<sup>31</sup> Alimjan, a member of the troubled Uyghur minority in Xinjiang province, remains in arbitrary detention awaiting trial, 16 months after his arrest. Officials initially closed the foreign-owned business Alimjan worked for in September 2007 and accused him of using it as a cover for "preaching Christianity." He was then detained in January 2008 on charges of endangering state security and was formally arrested on Feb. 20, 2008 on charges of "inciting secession" and leaking state secrets.

**Li Heping (李和平)**

Li Heping was one of the six lawyers from the Beijing Globe Law Firm whose licenses were not renewed (考核不合格不予注册) when they expired at the end of May 2009. Li was a partner at Global Law Firm and has worked as a defense lawyer in a large number of politically sensitive cases, including victims of forced eviction, Falun Gong practitioners, Guo Quan's subversion of state power case, Heilongjiang three-shift servants case, Zhejiang house church case, Yang Jia case, and Reeducation-Through-Labor case.

In September 2007, Li was abducted by plainclothes security officers, taken to an unknown location and tortured with electric batons for a period of several hours before being released. The security agents also confiscated some of his legal files and his license to practice law.

In March 2008, Li and five other lawyers—Li Xiongbing, Zhang Lihui, Li Shunzhang, Teng Biao, and Wu Hongwei—filed a landmark brief in defense of Falun Gong adherent Wang Bo and her parents in which they laid out a detailed defense of freedom of religion and an analysis of the illegality of the persecution against Falun Gong.

**Li Jianqiang (李建强)**

Li Jianqiang's license was temporarily suspended during the annual inspection and registration process by the Shandong Provincial Judicial Bureau in June 2007 because he had participated in rights defense and political cases. The Shandong Judicial Bureau offered no explanation for the refusal to re-register Li. With no written explanation it would be impossible for him to appeal the decision. Further, neither the Shandong Lawyers Association nor the Lawyers Association volunteered to take his case to the authorities.

Li started his career as a criminal lawyer in 1994 and has represented writers, journalists, dissidents, and members of underground churches. His license was already suspended once in November 2003, but later reinstated. He also defended a member of the banned China Democratic Party who was charged with subversion of state power. Li published a short report on the internet about freedom of religion and expression in

China in 2006, which documented a series of violations, including some at issue in cases he defended.

**Li Jinsong (李劲松)**

On February 17, 2009, Beijing Yitong Law Firm (see above), was ordered to be closed for six months. Li and prominent human rights lawyer Li Subin (profiled below) thus could not continue their legal practice or legal representation work.

The major issues and cases that Li has participated in or undertaken: Chen Guangcheng case, Hu Jia case, Yang Jia case, and owners' rights defense case.

**Li Jinglin (李静林)**

Li Jinglin, of Beijing Jiurui Law Firm (北京市久瑞律师事务所), did not pass the annual inspection—he passed the assessment but was postponed re-registration (考核通过暂缓注册). Li represented parents of children sickened by Qingdao Shengyuan brand infant formula. The Beijing city justice bureau at one point called his law firm and told his superiors he should not be working on the case. Li said he withdrew from the case but hoped another lawyer could take his spot.

Other major issues and cases that Li has participated in or undertaken: Sanlu tainted milk case, HIV carrier rights defense case, Beijing Lawyers Association direct election, Falun Gong case, and signer of the declaration of support for Tibet after the “3.14 Incident.”

**Li Subin (李苏滨)**

Li Subin originally practiced law in Luoyang, Henan Province. In 2001, Li filed many complaints and brought suit against the provincial and local judicial authorities in Henan, charging that they violated the law in their arbitrary collection of lawyers' registration fees. The provincial and local judicial authorities in Henan retaliated by methods such as deferring his registration and suspending him from practicing. He filed suits in local and provincial-level courts in Henan against the Henan Judicial Department and Luoyang Judicial Bureau and won. Despite his victory in the court, beginning in

2002, he was unable to obtain his lawyer's license that comes with the annual inspection approval stamp.

In 2005, Li went to work at Yitong Law Firm in Beijing as an administrator. While working there, he participated in many rights defense cases and was one of the 35 lawyers who initiated the call for the Beijing Lawyers Association direct elections. However, also during that time, the Henan government refused to transfer his file to Beijing after a dispute between Mr Li and the authorities, whereupon the municipal government argued it could not renew his license.

Li turned to courts in both Henan and Beijing, but neither solved his problem. In Henan, where he sued the local justice department, judges told him the file transfer was a problem with the Beijing justice department and refused to become involved. In Beijing, where he tried to drag both departments into court, his complaint was rejected. "All that is only possible because the file system exists," complains Mr Li. "It makes us hostages, it restricts us as if we were slaves chained to the land."

In March 2009, Beijing Haidian District Judicial Bureau ordered Yitong Law Firm shutdown for six months, using the pretext that the firm was allowing Li to practice without a license, in other words, that it was illegally employing Li. A few days before the shutdown order was announced, Yitong Law Firm filed suit against the Beijing Judicial Bureau, alleging that the Bureau's failure to issue Li a transferred license as required by law constituted dereliction of duty.

On May 18, 2009, Beijing Xicheng District People's Court rejected the lawsuit on the ground that Yitong Law Firm did not qualify as a plaintiff (不具备原告主体资格). Yitong Law Firm subsequently appealed the decision in Beijing First Intermediate People's Court.

On June 11, 2009, Li Subin filed a complaint at Beijing Xicheng District People's Court against the Beijing Judicial Bureau and Henan Judicial Department. Li alleges that the judicial authorities violated the law in their failure to carry out their official duty of transferring and accepting his lawyer's file. Their failure, he said in his complaint, has rendered him unable to obtain a lawyer's license from the Beijing Judicial Bureau for more than four years.

**Liu Guitao (刘桂桃)**

Liu Guitao from Beijing's Anhui Law Firm (as profiled above) did not get the annual renewal of his license.

**Li Xiongbing (黎雄兵)**

Li Xiongbing has been a practicing attorney at the Beijing Globe Law Firm (as profiled above) since 2005. He failed to pass the annual evaluation this year (考核不合格不予注册). His registration of his attorney license was also postponed in 2008 on the grounds that he had "handled sensitive cases."

On May 31, 2009, the deadline for registration, when his work was about to be terminated, two police officers from the Beijing Municipal Public Security Bureau warned him not to defend Falun Gong practitioners ever again and not to participate in NGO work pushing for the rule of law and human rights progress. He rejected their demands.

Li represented victims of contaminated infant formula against the manufacturer Sanlu and is now

## MANIPULATION IS INSULATION

*The non-renewal of weiquan lawyers' licenses in China*

assisting Gongmeng—the Open Constitution Initiative<sup>32</sup>—in Beijing. He has made multiple attempts to establish a process for paying the fines on behalf of Gongmeng. According to the letter, between August 11 and August 17, 2009, Mr. Li sent more than 700,000 RMB by post office money orders to the State Administration of Taxation and the local tax bureau.

Other major issues and cases that Li has participated in or undertaken: Yang Chunlin case, Yuan Xianchen case (human rights worker in Heilongjiang), Qi Chonghuai case (freedom of speech), lawsuit against Beijing subway, lawsuit against Beijing Railroad Public Security Bureau, HIV carrier rights defense case, ethnic minority rights and interests defense, Shandong “black brick kiln” case (child slavery), Beijing Lawyers Association direct election, Falun Gong case, legal assistance to victims of the Sanlu milk scandal, legal assistance to families of children victimized in the earthquake disaster in Sichuan, and signer of the declaration of support for Tibet after the “3.14 Incident.”

Li has been threatened several times not only by the Beijing Municipal Bureau of Justice, but also the Beijing Lawyers Association.

On the evening of June 5, 2009, at the request of the police, his landlord asked him to move out and leave Beijing. The kindergarten of his child was also harassed by the police and he was forced to relocate his child to another kindergarten far from his home. His pregnant wife has also received warnings and threats from the relevant departments for lack of a so-called “pregnancy permit.”

On June 30, 2009, Li was blocked from entering the People’s Court in Jiamusi Municipality, Heilongjiang, to defend Huang Weizhong, a Falun Gong member he began representing in April 2009. The grounds for blocking him was he failed to pass the annual evaluation of the Beijing Municipal Bureau of Justice. Huang was sentenced to three years of imprisonment.

### Liu Wei (刘巍)

Liu Wei, of Beijing Shunhe Law Firm (see above) passed the annual inspection but was postponed registration (考核通过暂缓注册). Major issues and cases that Liu has participated in or undertaken are: HIV carrier rights defense case, Ni Yulan obstruction of public affairs case, Beijing Lawyers Association direct election, Falun Gong case, and signer of the declaration of support for Tibet after the “3.14 Incident.”

<sup>32</sup> See footnote 30 above for more information about Gongmeng.

**Sun Wenbing (孙文冰)**

Sun Wenbing of Xinhe Law Firm (辽宁欣合律师事务所) in Liaoning is a rights defense lawyer who also did not pass.

**Tang Jitian (唐吉田)**

Tang Jitian of the Beijing Anhui Law Firm (see above) did not pass the annual inspection. He said that the license issue has caused a rift in his office, where some of the lawyers handle human rights cases and others work on less sensitive issues. "Some lawyers understand us and support us. But some lawyers told the head of the law firm that either we leave or they leave," said Tang.

Major issues and cases that Tang has participated in or undertaken are: HIV carrier rights defense case, Reeducation-Through-Labor case, main initiator and organizer of the Beijing Lawyers Association direct election, rights defense case for farmers who have lost their land, and Falun Gong case.

On June 4, 2009, he was forcibly taken away by five policemen from the Haidian Branch Office of the Beijing Public Security Bureau, detained in the basement of a Beijing hotel, and released four days later.

**Tang Jingling (唐荆陵)**

Tang Jingling was a Guandong lawyer whose license was temporarily suspended during the annual inspection and registration process because he participated in rights defense cases.

Tang was formerly a lawyer at the Huazhijie Law Firm in Guangzhou. In April 2006, his law firm, under pressure from authorities, did not sponsor the renewal of his license to practice law. As a result he has not been able to practice. Mr. Tang provided legal counsel to Taishi villagers as discussed under Guo Yan above. Due to his role, Mr. Tang was harassed and violently assaulted. Mr. Tang also previously acted as legal adviser to housing property owners trying to protect their rights in Guangzhou. In 2006, he was instrumental in initiating the "uncooperative action and boycott by

Chinese citizens" in local elections for deputies to the People's Congress. Democracy activists charge that the elections were manipulated by local officials.

Tang gained prominence in participating in a notorious case of counterfeited medicine, known as the "qi er yao" case, and was working with rights activist Guo Feixiong on a number of election recall cases, including the one in Taishi.

**Teng Biao (腾彪)**

In May 2008, the Beijing Bureau of Judicial Affairs threatened to suspend the renewal of the licenses of a number of Beijing lawyers to punish them for extending legal aid to arrested Tibetans following the protests in the Tibetan areas. Many of the lawyers were threatened and intimidated, and their license renewals were temporarily delayed. Eventually all the lawyers' licenses were renewed, except for Teng Biao's, whose license was revoked. Human Rights in China reported that Teng Biao had his license revoked by the Beijing Judicial Bureau after the University of Politics and Law in Beijing, where he is a lecturer, would not consent to his working as a part-time lawyer.

**Tong Chaoping (童朝平)**

Tong Chaoping, of Beijing's Anhui Law Firm (profiled above), is one of the 35 Beijing lawyers who signed a petition in August 2008 titled, "Keep Pace with the Course of History, Implement Lawyers Association Direct Election," which called for direct election of Beijing Lawyers Association directors. He was also one of four lawyers who obtained the required number of votes to be eligible for candidacy in the second round of voting.

**Wang Yajun (王雅军)**

Wang Yajun of Beijing Globe Law Firm (北京高博隆华律师事务所) did not pass the annual assessment (考核不合格不予注册). The major issues and cases Wang has participated in or undertaken are: HIV carrier rights defense case, Reeducation-Through-Labor case, improper death while in Reeducation-Through-Labor facility case, migrant worker rights defense case, and Falun Gong case.

**Wei Liangyue (韦良玥)**

Wei Liangyue, head of the Jiaodian Law Firm (黑龙江焦点律师所) in the northeastern city of Harbin, in Heilongjiang Province, said this year was the first time in 21 years that his license has not been renewed. In addition, he was detained by police from March 1 to 30, and although he was not given any explanation in writing, he was told he was being punished for taking on Falun Gong clients.

**Wen Haibo (温海波)**

Wen Haibo is of Shunhe Law Firm in Beijing. The major issues and cases Wen has participated in or undertaken are: Qingdao Cuobuling forced demolition case, Qingdao Hexi forced demolition case, Sanlu tainted milk case, Beijing Lawyers Association direct election, Falun Gong case, and signer of the declaration of support for Tibet after the "3.14 Incident."

**Xie Yanyi (谢燕益)**

Xie Yanyi, did not pass the annual inspection this year. Xie is from Guangdong province, and a member of Beijing Gongxin Law Firm. He has specialized in cases involving intellectual property rights on the internet. In August this year, he sued Li Yizhong, the minister of industry and information technology, over the (initially) compulsory use of the "Green Dam Youth Escort" filtering software on mainland computers, citing invasion of e-communications and personal freedoms, improper use of power and misuse of government authority. Xie said that the order contravened Article 1 of the constitution which protects the right of citizens to information. He has also campaigned against the "reform through labor" system, in place since August 1958, which he argues is illegal. It allows police to administratively detain people without charge.

Other major issues and cases he has participated in or undertaken are: HIV carrier rights defense case, rights defense case of farmers who have lost their land, rights defense case of victims of forced demolition, Reeducation-Through-Labor case, case against illegal detention, Beijing Lawyers Association direct election, and Falun Gong case.

**Yang Huiwen (杨慧文)**

Yang Huiwen, of Beijing Anhui Law Firm, did not pass the annual inspection this year. The major issues and cases that Yang has participated in or undertaken are: Sanlu tainted milk case, defense of rights and interests of ethnic minorities, major participant of the Beijing Lawyers Association direct election.

**Yang Zaixin (杨在新)**

Yang Zaixin, of Baijuming Law Firm (广西百举鸣律师事务所) in Guangxi Province, did not pass annual inspection this year. Yang Zaixin was dismissed from his law firm in January 2006 after he took a series of sensitive cases, including those of defendants accused of being members of the banned Falun Gong. Yang posted articles online protesting his dismissal and continued his involvement in sensitive cases.

On April 10, 2009, while representing farmers who had lost their land, Yang Zaixin was cruelly beaten by several thugs connected with the government's illegal seizure of land. He was attacked and beaten in Hepu County, Guangxi, after being lured into a trap over the phone by a person posing as a potential client. Yang believes he was targeted

in retaliation for his work representing farmers from Hepu County in a recent land dispute between the farmers and the Qinlian tree farm, a state-owned enterprise.

The major issues and cases that Yang has participated in or undertaken are: Rights defense case of farmers who lost land, rights defense case of victims of family planning by force, Falun Gong case.

**Zhang Chengmao (张成茂)**

Zhang Chengmao from Beijing's Anyuan Law Firm (北京市安园律师事务所) did not pass the annual inspection this year.

**Zhang Jiankang (张鉴康)**

Zhang Jiankang's license was temporarily suspended this year during the annual inspection and registration process because he participated in rights defense cases.

In 2006, Zhang was under police surveillance and restricted in his ability to conduct lawyerly work in Xi'an city, Shaanxi Province. In May 2006 the PSB denied him permission to travel to the U.S. for a conference because the Jiangxi Province State Protection Bureau had a case on him. Officers from the State Protection Bureau warned him that he should abandon all controversial cases such as the land dispute in Nanhai, stop giving interviews to the media, and stop writing articles critical of the government posted on websites overseas.

On March 28, 2007, Zhang discovered that his firm had decided not to sponsor his membership in the local Lawyers Association. His firm, facing pressure from the Shaanxi Judicial Bureau declined to sponsor the renewal of his license because he provided legal assistance to Sanshan villagers seeking compensation for land appropriated by authorities in Nanhai County, Guangdong Province. The Xi'an Judicial Bureau threatened to close the Diyi law firm if it supported his membership. Please by both Zhang and his firm for him to continue cases he was previously working on were categorically denied. As a result, he was unable to go to Nanhai to appear in court to defend detained villagers during their trial.

**Zhang Lihui (张立辉)**

Zhang Lihui, of Beijing G&G Law Firm passed the inspection but his registration was temporarily deferred (考核通过暂缓注册). In March 2008, Zhang and five other lawyers including Li Xiongbing, Li Shunzhang, Teng Biao, and Wu Hongwei, filed a landmark brief in defense of Falun Gong adherent Wang Bo and her parents in which they laid out a detailed defense of freedom of religion and an analysis of the illegality of the persecution against Falun Gong.

The major issues and cases he has participated in or undertaken are: Heilongjiang three-shift servants' case, main organizer of the Beijing Lawyers Association direct election, Falun Gong case.

**Zhang Kai (张凯)**

Zhang Kai apparently passed this year's annual inspection; however he was subsequently asked by his law firm to leave without explanation.

On May 13, 2009, lawyers Zhang Kai and Li Chunfu were arrested and beaten in police custody in Chongqing after meeting with the family of a man who had died while in a re-education-through-labor camp. The authorities have so far refused to investigate the incident.

The major issues and cases he has participated in or undertaken are: Sanlu tainted milk case, case of railway passenger Cao Shihe who died after being tied up, house church case, case of Wan Jianguo's death during interrogation under torture by the Nanchang Public Security Bureau, and Falun Gong case.

**Zhang Xingshui (张星水)**

Zhang Xingshui is a lawyer and director of the Beijing Jingding Law Firm and did not pass the annual inspection this year. Zhang graduated from the Chinese University of Politics and Law and worked at the Center of Chinese Lawyers under the PRC Justice Department. He then attended law school at Temple University in the United States. He has represented pro bono cases involving rights victims from under-privileged and vulnerable social groups. He has also represented a pastor of a "house church" group who was arrested for giving away bibles and sentenced to three years in jail in June 2009.

**Zheng Enchong (郑恩宠)**

Zheng Enchong was disbarred in 2001. After the loss of his professional license, Zheng continued to provide legal advice to forcibly displaced Shanghai residents. He was jailed for three years in 2003 for "sending abroad state secrets." Since release from prison, Zheng's life has been a nightmare of incessant summoning for questioning, illegal house arrest and casual police beatings, in addition to harassment of his wife and daughter. To this date he is still under house arrest at his home in

Shanghai and prevented from traveling or meeting foreign visitors.<sup>33</sup>

**Zhou Min (周敏)**

Zhou Min and Zhang Xingshui (profiled above) from Beijing Kingdom Law Firm defended a Christian pastor who was charged with illegal business operations for printing bibles and giving them away as gifts to believers and relatives. Though he was sentenced, both Zhou and Zhang intended to appeal; however, they failed to pass the annual evaluation and lost their licenses to practice law. Further, other attorneys were thereafter reluctant to get involved.

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<sup>33</sup> See “Prisoner Profile: Zheng Enchong,” China Rights Forum, No 4, 2003, pp. 124-129.

## CONTRAVENTION OF LAWS

### CHINA'S NATIONAL LAWS

According to Clauses 1 and 2 of Article 33 and Article 35 of the Constitution of the People's Republic of China, as well as Clause 2 of Article 2 and Article 32 of the Law on Lawyers of the People's Republic of China, lawyers' actions to defend clients equally before the law guarantee that lawyers' rights are not to be violated. Furthermore, according to Section 1 of Article 46 of the Law on Lawyers of the People's Republic of China and Article 1 of the Constitution of the All-China Lawyers Association, the Lawyers Association shall safeguard the practice of law by lawyers and protect their legal rights and interests. However, the annual assessment and registration system has utterly vitiated any meaningful interpretation of these laws and has divested lawyers of their right to practice and obligation to defend a client. Further, citizens have been denied their constitutional right of equality before the law. The registration system not only is against the spirit of the law, but flies in the face of the Constitution's specific duty to all to "uphold the dignity of the Chinese Constitution and ensure its implementation."<sup>34</sup>

### INTERNATIONAL LAWS AND STANDARDS

Principle 16 of the United Nations Basic Principles on the Role of Lawyers, which China has endorsed, outlines the protections governments should give to lawyers to allow them to perform their professional functions without intimidation, hindrance, harassment or improper interference. Further, principle 23 guarantees lawyers rights to freedom of expression, belief, association and assembly. It is evident from the above report that bar associations in China still have virtually no autonomy from the Ministry of Justice, and that freedom of association is effectively prohibited.

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<sup>34</sup> See the last sentence of the Preamble.

## RECOMMENDATIONS

- The National People's Congress should conduct a review of the Lawyers Law in order to replace the hierarchical and manipulated system of lawyers associations with one guaranteeing their independence as self-governing professional organizations.
- The annual assessment and registration system should be reverted back to the Ministry of Justice, who should be required to state clearly the administrative action taken and the specific criteria and reasons for taking such action.
- The Procuratorate should not interfere with citizen representatives' lawful rights to defend criminal suspects.
- The authorities should immediately cease from (1) using physical force to intimidate and threaten lawyers, (2) interfering with lawyers' family and personal life, and (3) forcing lawyers to compromise their legal and ethical obligations to represent their clients.
- The international community should push to bring greater attention to the persecution of Chinese human rights lawyers by trying to engage in diplomacy and dialogue with the Chinese government.

## CONCLUSION

Lawyers, as constructive advocates of legal, non-violent means to create a more just and fair system, are well-educated professionals using the law and legal arguments rather than street protests or civil disobedience to offer a pressure release valve to a society that has great potential to turn violent very quickly. Their independence is one critical aspect of guaranteeing to society that ordinary citizens' basic rights will be protected and fully ensured according to established law.

The recent trend of manipulating the process of renewal to effectively cancel lawyers' licenses does not bode well for the government's goal of maintaining an harmonious society. First, it leads to radicalization (and therefore politicization) of lawyers who more often than not initially take moderate stances and try to work within the legal framework according to law, but who later become frustrated with the legal and political process.<sup>35</sup> Additionally, and more seriously, it has effectively promoted social instability by not only undermining ordinary citizens' confidence in the system, but also by blocking access to non-violent ways of solving gross inequalities in society. If ordinary citizens cannot find legal, impartial, and non-violent ways to solving problems, they are forced to search for ways to seek rough forms of justice. A recent statistic may be telling in this respect. According to an official report by the Social Order and Control Commission under the party's Central Committee, more than 12.1 million people took part in 127,000 unauthorized protests in 2008, in which 1,844 people were killed or injured, including 1,120 police, armed police or other officials.

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<sup>35</sup> See "Climbing the *Weiquan* Ladder: A Radicalizing Process for *Weiquan* Lawyers," Fu Hualing and Richard Cullen, October 11, 2009. Accessed at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1487367](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1487367)

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- "Lawyers and the State in China: Recent Developments," Testimony Before the Congressional-Executive Commission on China by Donald Clarke, October 7, 2009

## ALSO FROM THE CHINESE URGENT ACTION WORKING GROUP



**"DEATHS IN CUSTODY – The Police's free rein to abuse power in detention centers"**  
 A 34 page report on the lack of clear and effective legal framework to properly manage China's 6000 detention centers, and how this has led to a string of most unusual deaths of detainees. The report focuses on the fact that Police are largely responsible for investigating their own crimes against detainees, and how the current laws fail to provide clear guidance for the Procuratorate to investigate crimes committed by detention center staff and police. The report also presents information on 26 cases of unnatural deaths, in most cases obvious murders of detainees by Police. The report also looks at the calls made from both politicians, the media and academia in how the system need be reformed to ensure that the rights of detainees are protected. [January 19, 2011]



**"THOUGHT CRIMES - China's use of psychiatric institutions as detention centers"**  
 The report details the use and misuse of China's psychiatric institutions by public security officials, and how the lack of clear regulations concerning placing people in psychiatric custody leaves little space for redress concerning these abuses. It provides an in-depth legal analysis of the legal framework concerning these institutions, as well as on 'Ankang' centers, special custodial institutions where politically unwanted people can be locked up. 'Ankang' centers are part of the administrative penalties system, and little external oversight, from for example the Procuratorate, exist. Misuse of the 'Ankang' institutions, which exists in major cities across China, is widespread and no national regulation or law exist governing these centers. [June 16, 2010]



**"PAPERING OVER THE CRACKS - Reform of the forced eviction regime in China"**  
 An extensive report on the current situation concerning forced evictions and demolitions, and how the proposed new law is falling short of providing remedies for what is one of the most widespread human rights violations in China today. The report also details how people are fighting back against unlawful land confiscation, and what role 'barefoot' lawyers play in this fight. Finally, the report uses case studies to highlight different aspects of the problems related to forced evictions and demolitions. [March 29, 2010]



**"NO END IN SIGHT - Sustained persecution of human rights defenders in China"**  
 A report detailing how the persecution of human rights defenders has continued unabated at the same high level as during 2008. The report highlights different methods of persecution employed by central and local governments, and how the application of such methods differs between different groups of activists. The report furthermore presents information on key cases of human rights defenders currently being persecuted for their peaceful expression and use of basic rights enshrined in Chinese law. [January 25, 2010]

## MANIPULATION IS INSULATION

*The non-renewal of weiquan lawyers' licenses in China*



### “MANIPULATION AS INSULATION - The non-renewal of *weiquan* lawyers' licenses in China”

This report provides information on the situation for lawyers and law firms in China, with focus on the abuse of non-renewal of lawyers' licenses. It further analyzes frightening new developments concerning the communist party and the state's growing control of independent lawyers and law firms in China. It also provides an analysis of the hazardous situation lawyers in China face when taking on politically sensitive cases, and how the administrative authorities use the annual re-registration to effectively disbar any lawyers it feels provokes the status quo. [October 21, 2009]



### “OLYMPIAN REPRISALS – The Chinese government's response to domestic criticism of the 2008 Olympic Games”

A report outlining how human rights defenders who publicly opposed the 2008 Olympic Games were persecuted by the Chinese state. The report focuses on participants in two campaigns, both advocating for prioritizing better protection of Human Rights over the hosting of the Olympic Games. The report provides information on the technique used by the government to silence these groups, and how it differed between the two groups. [April 23, 2009]



### “A BRIEFING ON BLACK HOUSES – System, facilities, victims”

This brief report provides information on the nationwide system of illegal, but government run and funded, jails. The black jails, or black houses, are used to detain petitioners who seek redress for perceived wrongs. The report outlines how the system functions, how the facilities operate, who detains the petitioners, and how the police and central government aids and assist in the operation of the system, as well as a legal analysis. The report was released ahead of the 2009 UN Universal Periodic Review of China. [February 1, 2009]