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China Human Rights Lawyers Concern Group is a Hong Kong-based non-profit organization that aims to promote and support the development of rule of law, constitutionalism and human rights in China. Our work includes provision of humanitarian and legal aid to human rights lawyers, capacity building for lawyers and legal activists, and advocacy work on human rights lawyers and legal reform in China.

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1. Executive Summary

The Chinese lawyers have been facing increasing pressure in handling human rights cases in recent years. Especially in the past two years, a large numbers of lawyers were harassed, physically abused or even detained by representing human rights cases. The recent New Citizen Movement initiated and greatly supported by human rights lawyers is regarded as one of the biggest threats to the regime. Not only the lawyers are facing challenges like legally representing their client; just because of their involvement in this movement, some of them were arrested and till today are not released. Health of the detained lawyers is also another big question. There is **not enough transparency and availability of information about the detained lawyers which is possible that they are suffering from different forms of illegal treatment in the detention center or denied their need for medical treatment.**

Since 2006, **over twenty lawyers had been disbarred, arrested or even jailed for representing and handling human rights cases.** The lawyers association used different excuses and different administrative measures to disbar the lawyers. Besides, several kinds of policies, such as tax law, annual registration system, online cases record platform etc., can be used to control the human rights lawyers' activities. Such rights violations often go unnoticed as they are disguised as administrative measures. These violations are ongoing. Every year at least one lawyer is disbarred due to handling human rights cases. The disbarred lawyers are facing continuous harassment and hardships even after they have lost their licenses. Lawyers often keep quiet about these cases for the fear of losing their licenses.

Besides, some lawyers and human rights defenders live under the fear of the authority's harassment towards their family members, especially children. **Children of human rights lawyers/defenders are often deprived of the right to education as a mean by the authorities to stop the human rights lawyers/defenders' actions.** The children are either put under house arrest, or their school reject their rights to education because the authorities' suppression.

2. Introduction

“Rights-defense lawyers”, or commonly called “human rights lawyers”, is an ironic term. In many places, lawyers are a group of professionals who defend the rights and interests of their clients. When a lawyer exercises his/her duties, s/he is supposed to

defend someone's rights. S/he is a rights defender. Yet, in China, when lawyers defend the rights of their clients, they need to defend their own rights in the first place, because the lawyers themselves could become the victims of government suppression. When they handle politically sensitive cases or the cases threatening the interests of officials in both local and national levels, they are brutally stopped to be rights defenders. They rather need someone to defend their rights. Human rights lawyer is a title not only describes how a group of lawyers in China bravely exercises their mandate and duties to defend their clients' fundamental rights and interests, but also states a fact how the lawyers' own rights are deprived of.

3. Right of human rights lawyers in China to practice freely

Since 2008, the Ministry of Justice has released three sets of "Measures on Annual Inspection and Annual Assessment"¹ and they are updated annually, setting out more restrictions on lawyers' practice. The authority set out the "Measures on Annual Inspection and Annual Assessment" on the pretext of the "Standardization of law firm practice and Supervision on management activities" as a way to suppress human rights lawyers who take up sensitive cases.

The Chinese Government sets a hurdle in **annual renewal of lawyers' licenses as a way to stop the lawyers to defend their clients** and to warn other lawyers to depart themselves from human rights cases. Failure in renewal of lawyers' licenses makes the lawyers unable to continue representing their clients. Some of them have been unable to succeed in renewing their lawyers' licenses for several years. Failure in renewal of licenses does not only happen to individual human rights lawyers, but also to their law firms. The livings of the lawyers and their families are devastated.

Also, under the current system, lawyers and law firms have to pay a compulsory annual membership fee to their respective local bar associations;² and failing to re-register the licenses implies that lawyers lose their means of living. Such arbitrary infringement of property ownership and access to economic means are in violation of Article 1 and Article 6 of the International Covenant on Economic, Social and Cultural Rights.³

¹ From the "Measures for Managing Law Firms" (Ministry of Justice Order No. 111) and the "Measures for Managing Lawyers' Practice" (Ministry of Justice Order No. 112) promulgated in July 2008, to the "Measures for Managing Lawyers' and Law Firms' License" (Ministry of Justice Order No. 119) in September 2009, through to the newly promulgated "Measures on Annual Inspection and Annual Assessment of Law Firms" (Ministry of Justice Order No. 121) in this April.

² Take Beijing, for example, according to "Measures for the Management of Beijing Lawyers' Association Membership Fee" and "Notice on the 2012 Annual Assessment of Lawyers' Practice by the Beijing Lawyers' Association", in 2012, the annual fee was 2,000 RMB for the former and 5,000 RMB to 10,000 RMB for the latter.

³ In 2009, a group of about 10 lawyers made three submissions to the government, accusing against the

Chen Wuquan is a lawyer in Guangzhou. His license was snatched by police in April 2012 for representing Chen Kegui, nephew of barefoot lawyer Chen Guangcheng. In May 2012, Chen was notified that his annual registration was on hold because the Guangzhou Lawyers Association has received a complaint about an article he had written earlier in that year, which recorded the unlawful practices in a trial he participated. Chen was later dismissed by his law firm.

Chen Wuquan communicated with Guangzhou Lawyers Association and Guangzhou Ministry of Justice. Both had promised to review his annual registration, however, to date, there has been no update on Chen Wuquan's annual registration.

Wang Cheng is a lawyer in Hangzhou. In 2011, he sued the Jiangxi government for vote-rigging in the local election of deputies of National People's Congress on behalf of Li Sihua, an independent candidate to the said election.

After his contract ended in September 2011, Wang Cheng transferred to Zehou Law Firm in Zhejiang in February 2012. However, he could not sign the contract with the law firm because the Lawyers Association did not handle transfer requests from February to May. Wang Cheng asked the law firm he previously worked in to apply for a postponement of annual registration for him in 2012 so that he could finish the transferal procedures.

The law firm he previously worked in did not apply for a postponement of annual registration for Wang Cheng because it received order from the Ministry of Justice to not apply for him. Zehou Law Firm, the new law firm that Wang Cheng was supposed to transfer to, also received order from the Ministry of Justice that it could not sign a contract with Wang Cheng.

In April 2012, Wang Cheng was notified that his license was revoked for 'not transferring to a new law firm within six months'. Officials from Hangzhou informed Wang Cheng that his case would not be reviewed until 'his problem is resolved'.

Comments

In most human rights cases, not only lawyers do not have the right to defend their clients freely, they are also having a high possibility to encounter different kinds of

Beijing Justice Bureau for "extorting management fees, registration fees and membership fees charged to lawyers"

direct suppressions from the government themselves.

Recommendation

To ensure lawyers can practice their rights freely without pressure from any parties.

4. Physical and mental health of detained human rights lawyers in China

Article 12 of ICESCR stipulates that ‘The State Parties to the present Covenant recognize the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health.’”

There are reports showing that the state party actively obstructs citizens from attaining highest standard of physical and mental health because they exercise their civil and political rights. Some lawyers who take up human rights cases in China, among other human rights defenders, are subjected to various forms of physical and mental threats. During detention, human rights lawyers were denied access to medical treatment.

Legal activist Ni Yulan was sentenced to two years and eight months of imprisonment for “picking quarrels, provoking trouble and willfully destroying private and public property” and “committing fraud” in April 2012.

In the meeting with her lawyers in July 2012, Ni expressed that she was not given proper medical care for her keel fracture caused by the torture she suffered during her previous detention. She was also diagnosed with a thyroid tumor on the left side of her neck. The prison does not have adequate medical facilities. The catering and medical standards were poor in prison. Ni was heavily underweight.⁴

It is also reported that human rights lawyers were subjected to constant surveillance and threats, causing great distress.⁵ Lawyers have been subjected to abduction, isolation from the outside world, house arrest, strict surveillance and even torture.

Rights lawyer **Gao Zhisheng** was sent to prison for 3 years after being accused of violating probation requirements in December 2011. He was only first allowed to meet his family on 28 March 2012. During 2007 to 2011, he was reported missing several times. It was reported that he was tortured during his disappearance. He even

⁴ Demand to release Ni Yulan, 13th December, 2013, China Human Rights Lawyers Concern Group

⁵ List of Chinese Human Rights Lawyers being disappeared, imprisoned, criminally detained, or under house arrest and residential surveillance, 11th July ,2011, Chin Human Rights Lawyers Concern Group

needed approval of the Central Government for taking care of basic hygienic needs.⁶

Comments

In the Judicial Reform in China White Paper released in 2012, “medical care for prison inmates will be socialized, so as to ensure that an inmate gets timely treatment in case of illness.”⁷ However, Ni was not given timely treatment for her illness.

Recommendation

To implement its policy underpinned in the White Paper by making sure that timely treatment is given to prisoners with accordance to their medical needs.

To provide information about protocols and standards of medical care facilities and services in prisons at different level

To statistics of numbers of unnatural death in detention centers and prisons across China and reasons for these deaths

5. Right of Children of human rights defenders in China to education

The right to education for the children of human rights activists has been continuously deprived. CHRLCG constantly receive reports about children of human rights lawyers being denied access to education or face discrimination in school due to government interference. The Chinese government failed to recognize the right to education, as stated in Article 13 (1) of the Covenant.

The son and daughter of Guo Feixiong, a legal rights activist in Guangdong province, were not allowed to school after their father was being sentenced to imprisonment in 2007.

Gao Gege, the daughter of human rights lawyer Gao Zhisheng, has not been allowed to school since September 2008, after she had been maliciously isolated in school by her teachers for years. She and her brother were under police surveillance and were not permitted to talk to other students, and as a result, became rather withdrawn.

Chen Kesi, the daughter of legal activist Chen Guangcheng, was escorted to school by four to five state security officials every day, and was not able to communicate with

⁶ Human Rights Lawyer Gao Zhisheng allowed to meet family for the first time in two years, life safety still a major concern, 29th March, 2012, China Human Rights Lawyers Concern Group

⁷ Judicial Reform in China, Information Office of the State Council,
<http://www.china-embassy.org/eng/zt/bps/t978034.htm>

her schoolmates. Interaction between her and others was rare. She was under house arrest and was not allowed to school until the age of six, before her family granted asylum in the US in 2012.

Comments

Many children of human rights lawyers and activists face discrimination and harassment in school, in which the Chinese government is actively involved. These children did not have normal interaction with others, and their social development was gravely hindered. It poses physical and serious psychological threat for these children. And this is simply because of the political beliefs, actions or associations of their family members.

Recommendation

To stop any harassment against the children of human rights lawyers and activists.

To provide a timeframe in establishing an independent human rights institution to facilitate and monitor the implementation of the Convention.

6. Conclusion

The risk of lawyers handling human rights cases has been mounting. Defending and promoting the rights and freedom of human rights lawyers are important because they are among the few who are willing to provide legal services to human rights defenders or other underprivileged groups. Safeguarding the rights of human rights lawyers is safeguarding the rights to legal services and defense of Chinese citizens, especially the underprivileged. Thus, it is important to put resources into revealing and recording human rights violations against lawyers, including physical and psychological threats, administrative measures and harassments of family and friends in order to have a full and real picture of the suppression.