

11 August 2017

STATEMENT

BHRC calls on Chinese authorities to ensure access to defence lawyers, release Wang Quanzhang and ensure fair and open trial of Wu Gan

BHRC expresses serious concern at the continued detention of human rights defenders in China and their inability to access defence lawyers of their choosing, particularly Wang Quanzhang, the longest-detained lawyer of the 709 Crackdown, and Wu Gan, an online and community activist.

It is now more than five months since Wang Quanzhang's indictment and over two years since his arrest. During this time Wang Quanzhang's family and defence counsel have been denied access to Tianjin #1 Detention Centre where he reportedly is being held.

Wu Gan, an administrative assistant and activist, is to be tried on Monday 14th August in a closed proceeding.

Background

Wang Quanzhang is a lawyer of Fengrui Law Firm and was arrested for 'subversion of State power' on 9th July 2015. His arrest, along with 220 other lawyers, legal staff, human rights defenders and family members connected with the 709 crackdown, is widely seen as indicative of a growing intolerance of dissonance under President Xi Jinping. Wu Gan is an administrative assistant at Fengrui, well known for his online and street advocacy on miscarriages of justice. He was arrested in May 2015 and again on 3 July as part of the Crackdown; he was then in incommunicado detention until December 2016.

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The charges against those arrested during the 709 Crackdown fall under broadly defined national security-related crimes. Many of those arrested have been subjected to extended detention periods and deprived of access to defence lawyers of their choosing.

Wang Quanzhang is thought to be the longest-detained lawyer in the 709 Crackdown. Wang Quanzhang is known to have defended politically controversial cases, including Falun Gong and advocates for democracy and also practitioners and journalists.

Wang Quanzhang's family have had minimal contact since his arrest, and Wang Quanzhang has been denied access to self-selected defence lawyers. Numerous requests for lawyers to meet Wang Quanzhang have been rejected, either without reason or because the Procuratorate would not give consent. There are additional concerns about his current whereabouts. In July of this year Wang Quanzhang's wife and defence lawyers were informed by officials that Wang Quanzhang had been moved from Tianjin #2 Detention Centre to Tianjin #1 Detention Centre. However, Tianjin #1 Detention Centre asserts that there is no record of Wang Quanzhang being there.

Wu Gan had received access to his own lawyers on occasions since January 2017, but alleged that he has been subject to torture during detention, which led to the denial of that access. It is unclear whether he will be entitled representation at trial by his own legal team. Moreover, we understand that his family has been told that due to confidential information the trial will be held in secret. He is indicted on charges of state subversion. We understand that his trial will be held at 8.30am, in Courtroom 1 of the Tianjin #2 People's Intermediate Court.

BHRC reiterates that denial of access to a defence lawyer – and to a defence lawyer of one's choosing -is a serious breach of international law.. Without access to a lawyer the right to an effective defence is undermined and safeguards against torture and/or inhumane treatment are reduced. Likewise, closed hearings risk the right to a fair trial being denied.

Legal framework

BHRC has previously raised strong concerns that the severe methods used by Chinese authorities to carry out these arrests, often without following legal procedure, violate some of the most important international human rights standards. These include the right to not be arbitrarily detained, to a fair trial, to freedom of expression and to have effective safeguards for those providing legal representation. China is obligated to protect these standards.

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By arresting and detaining these people, including Wang Quanzhang and Wu Gan, BHRC has grave concerns that China is in breach of its international obligations as well as Chinese domestic law.

China has acceded to the International Covenant on Civil and Political Rights, which protects the rights to freedom of thought and conscience (Article 18), the right not to be arbitrarily detained (Article 9) and the right to due process and a fair and open trial (Article 14). China's actions also appear to violate the UN Basic Principles on the Role of Lawyers, the UN Declaration on Human Rights Defenders and the UN Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment. The UN Convention Against Torture prohibits its use in any circumstances and requires States to ensure allegations are investigated.

Wang Quanzhang also appears to have been denied his rights to communicate in writing with lawyers and/or family, contrary to the stipulations in Chinese criminal procedure law. We understand that Wang Quanzhang's case was transferred to the Procuratorate on 7 August 2016. Since then, we are informed that many requests have been made to access his case file, but these have been denied. Article 38 of the Criminal Procedure Law provides that as soon as a case is transferred to the Procuratorate for deliberation of a charge, defence counsel may consult, excerpt and reproduce the case materials.

Conclusion

BHRC urges the Chinese authorities to respect the prohibitions against arbitrary and excessive detention and the rights to due process and a fair and open trial in China. This includes ensuring that defence lawyers can undertake their role effectively, without fear of arrest or denial of case materials.

BHRC calls on the Chinese authorities to immediately release Wang Quanzhang, Wu Gan and all those detained without proper reason. Those that continue to be detained must be provided with access to lawyers of their choosing, who must be allowed to conduct an effective defence. We urge China to ensure that trials are held in public, before independent judges who are able to fully consider the evidence, and that allegations of torture are fully and properly investigated. This is necessary for China to affirm and demonstrate its commitment to the rule of law.

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ENDS.

NOTES FOR EDITORS

1. For an interview with our spokesperson, please contact Amanda June Chadwick, Coordinator, on +44 (0)7854 197862
2. For more information on the Bar Human Rights Committee (BHRC), visit our website at <http://www.barhumanrights.org.uk>
3. The Bar Human Rights Committee of England and Wales (BHRC) is the international human rights arm of the Bar of England and Wales, working to protect the rights of advocates, judges and human rights defenders around the world. The BHRC is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. It is independent of the Bar Council.
4. For our previous statements relating to the 709 Crackdown in China please see <http://www.barhumanrights.org.uk/country/China/>
5. Sources include: China Human Rights Lawyers Concern Group, Chinese Human Rights Defenders, Front Line Defenders, Human Rights Watch, and the BBC.

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