

Xiqiu “Bob” Fu, president of ChinaAid
Statement to CECC roundtable,
“China’s Human Rights Lawyers: Current Challenges and Prospects”
July 10, 2009

Thank you for the invitation to this panel with Professor Jerome Cohen, professor Feinerman and Mr. Turkel. I very much appreciate the hard work and concern of the CECC Commissioners, including Congressman Pitts who is with us today, and the CECC staff.

I have been receiving many messages from lawyers in China about their law license cancellations or that their licenses have not been renewed by the Beijing Lawyers Association. This is not only unnecessary and unjust, but also an unprecedented development. As far as we can confirm, 19 attorneys at this time are unable to practice law. They are Jiang Tianyong, Li Heping, Li Xiongbing, Li Fuchun, Wang Yajun, Guo Shaofei, Cheng Hai, Tang Jitian, Yang Huiwen, Tong Chaoping, Liu Guitao, Xie Yanyi, Wen Haibo, Liu Wei, Zhang Lihui, Zhang Chengmao, Zhang Xingshui, Wei Liangyue and Sun Wenbing. These attorneys have always persisted in providing legal assistance for clients to safeguard their legitimate rights. Of the reports I have seen, the Open Letter to the Ministry of Justice on July 2nd most succinctly and clearly explains the situation of the license denials and points out the root problems and effects of this on a national level. This letter was written by 31 Chinese intellectuals – 23 in Beijing, 7 in other regions of China, and 1 in Australia. I request that the full text of this Open Letter be entered into the Congressional Record. I will read a few key points of the letter:

We think this case is entirely a violation of the law. As a social organization in the legal industry, Beijing Lawyers Association has no right to restrict or deprive its members of their right to practice. In the past, there were cases in which Beijing Lawyers Association deprived some human rights attorneys of their qualifications to practice, and that was considered an illegal overstepping of its authority. Now, it has even forced many law firms to stop their service and made several hundred attorneys unable to practice, which is all the more astonishing. Such illegal, absurd and perverse acts that violate the common sense will bring serious bad consequences to the society.

On July 18, 2008, the Ministry of Justice promulgated “Management Methods in Attorneys’ Practice” and “Management Methods on Law Firms” which officially annulled the annual registration system on the attorneys. At this time, Beijing Lawyers Association issued a notice and changed “registration” to “register” and totally disregards the principles of Ministry of Justice in “the specific methods for annual evaluation shall be provided by Ministry of Justice.”

...First of all, it will further worsen the environment for rule of law in the society....By taking advantage of the authorization from Beijing Bureau of Justice, the Beijing Lawyers Association suppresses and takes revenge on human rights lawyers as it wishes....Most of these attorneys are the top-notch outstanding attorneys who have the highest awareness of rule of law among about ten thousand attorneys in Beijing.

... Second, cancellation of the licenses of a large number of attorneys has undermined to a great extent the strategic elements for building a harmonious society.

... Third, canceling the right to practice of so many right defense attorneys is a provocation on the social conscience.

The first part of my recommendation for Congressional response is to base the response on this recommendation from the Open Letter to the Ministry of Justice: it is a clear, straightforward framework on which U.S. Congressional response to Beijing can be based. I will read from the Open Letter:

It is our belief that as the highest judicial administrative organ of our country, the Ministry of Justice should not ignore such a violation of law by Beijing Municipal Bureau of Justice and Beijing Lawyers Association in worsening the environment for rule of law, undermining the social harmony and in challenging the social conscience. We hope the Ministry of Justice can, in the principle of “upholding the spirit of rule of law” as proposed at the 17th CPC National Congress, order Beijing Municipal Bureau of Justice and Beijing Lawyers Association to withdraw their decision, correct their mistakes, restore the right defense lawyers’ right to practice and apologize to the people in various circles of life, so as to solve this problem in a fair, reasonable and legal way.

I appreciate the clear statements in this letter which explain not only their concern but also the national effects of these license denials – effects which ultimately concern each one of us especially because of the unfortunately utter disregard to rule of law by the largest regime in the world.

One question to be addressed by this panel is, “What is the relationship between these lawyers and the Chinese government and the Communist Party?” This brings up an intriguing point – because these human rights lawyers have been moving forward according to the proposal from the 17th CPC National Congress to “promote the spirit of rule of law” and “realization of rule of law in various jobs of the state.” A simple list has been compiled of each lawyer whose license has been revoked or not renewed, and the important incidents and cases the lawyer has been involved with: the categories mentioned in this list include the Sanlu poisonous milk powder incident, abnormal deaths while the victim was in custody, representing house churches, re-education through labor cases, rights of migrant works and ethnic minorities, cases of Falun Gong practitioners, rights of HIV patients, and the case of the underground brick kilns in Shanxi province.

Which of these cases should a government shrink from having represented by a professional lawyer? Does not rule of law necessitate the vulnerability to transparency? Transparency under rule of law, in some of these cases, might necessitate acknowledgement of unjust measures or inappropriate use of authority – and that is unfortunately a consistent possibility in any government because of human nature. What is not necessitated or acceptable is repression of the lawyers who are implementing rule of law.

Not only have human rights lawyers experienced this challenge to their licenses, but some have also experienced actual physical harassment. We have received statements from seven attorneys which I request be entered into the Congressional Record. For example, on May 13, 2009, attorneys Zhang Kai of Kaifa Law Firm in Beijing and Li Chunfu of Globe-Law Lawyers in Beijing were forcibly detained while visiting with a client in a personal residence. They were physically hurt, and thrown in prison for a few hours.

Gao Zhisheng's case continues to baffle and sadden us. He has now been missing for 156 days, since February 4, 2009. The last time he was forcibly taken and hidden in 2007, he experienced 58 days of unspeakable torture. His written account of this torture provides the factual basis for the "FreeGao" DVD available on the table. To date about 100,000 people have signed the online petition at www.FreeGao.com, requesting that accounting be made of Gao's situation and well-being. Why is it that Ambassador Zhou states about Gao that, "The public security authority has not taken any mandatory measure against him"? Why are the officials emboldened to take him, keep him, and refuse to account for him?

Attorney Gao has taken bold stands for freedom and truth in China; he has appealed to the Congress for their support, and it is feared he could be on the verge of death now. Many human rights lawyers in China do not feel they will take the exact approach that Gao has and have made intentional steps to stay generously within the limits of Chinese law – yet, the repression is not even limited to Gao's dramatic moves, but instead we see in the developments with law licenses that even these lawyers' very basis on which to continue work is being threatened.

These developments strengthen the plea to the U.S. Congress to publically investigate these issues, affirm truth and justice, and actively stand for freedom with freedom-fighting, law-loving lawyers in China. Also, I urge the Obama Administration officials and the senior US diplomats in our Embassy in Beijing to publically, regularly and frequently meet with these freedom fighters in and outside China when they are available so that an unambiguous strong signal can be sent to both these courageous rights defenders and the Chinese government that the American people will stand in firm solidarity with any freedom fighters in any part of the world. Thank you.