

The Challenges Rights Defense Attorneys in China Face and Its Future Prospect

Li Fangping

July 5, 2009

We are now living in the China set against such a dramatic background of the times: First, the economic system is fast evolving while its political system has seen little changes over the years. Second, its legal system is increasingly improving, but the public power is often not restrained by the law. Third, the citizens' awareness of their rights is increasing and the more the awareness to defend one's rights, the more prominent the abuse and the shirking of responsibilities by the public power becomes.

With the advent of the Internet in China, the first widespread and passionate participation by the citizens in political matters occurred in 2003 during the "Sun Zhigang Incident," which successfully made the State Council announce the annulment of the system of "internment and deportation." In the next year, "The State respects and safeguards human rights" was solemnly written into the Constitution. In the next five years, right defense attorneys have, as a professional social group committed to promoting rule of law and safeguarding human rights, presented themselves before the world.

Certainly, in a country where rule of law is still far from realized and where there is full of terrible things against ordinary citizens, the work and life of right defense attorneys must be full of obstacles and frustrations. Just because we engage in work involving human rights, government departments not only do not understand the significance of our existence, they also regard us as the targets of their domestic defense. We seem to have become personae non gratae in the eyes of the government and we are often treated unfairly. Some of us have been beaten and kidnapped. The personal freedom of some of us is illegally restricted and some of us are illegally stalked by force. Some of us are forced to report our activities and some are driven out by our landlords due to pressure from the government. Some are threatened and given a disciplinary warning by Bureau of Justice and lawyers' associations. Some are simply fired by their law firms due to pressure from the government.

This year, the right defense attorneys as a social group are enduring more pressure than ever before. As far as I 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 or defense services for clients to safeguard their legitimate rights. They include victims of Sanlu poisonous milk powder, parents of children victimized in the earthquake, HIV carriers, peasants who have lost their land, detained Tibetans, house church Christians, Falun Gong practitioners, right defense activists, political dissidents,

victims of violent family planning policies and clients from other various areas.

Judicial administrative departments in Beijing and other places have terminated attorneys' rights to practice on the ground that these right defense attorneys have not passed the so-called "annual evaluation" or that the law firms where they work have not passed the "annual inspection." However, the "annual evaluation" for attorneys and the "annual inspection" for law firms themselves are not the administrative penalty that can terminate the right to practice of the attorneys or of their law firms. We can see that the "annual evaluation" for attorneys and the "annual inspection" of law firms have degenerated into an illegal, disorderly and remediless administrative penalty in disguised form that overrides the disciplinary penalty in the industry and administrative penalty on the practicing attorneys.

What delights us is that on the one hand, the right defense attorneys have not given up their idea of safeguarding rule of law and human rights. Each time they negotiate with judicial administrative departments, they express their criticism on the illegal administration and their firm belief that China will certainly develop into a country under rule of law. On the other hand, the disadvantaged social groups whose rights are harmed also express their desire of "attorneys for us, and we for attorneys." It is my belief that the appeal for rights by the ordinary people whose rights are harmed, and the sense of mission of the attorneys, will combine to form a powerful synergy in promoting the progress of our country in human rights and rule of law. Though the road to rule of law and human rights in China will be hard and long, yet the long march of this time is attracting more and more people, including you, us and them. Given this situation, I, as a member of this social group of defense attorneys, personally am full of confidence for the "Same World, Same Human Rights."

Finally, let me express my gratitude for all my friends who are concerned about the rule of law in China and the progress in human rights!