

An Open Letter to Ministry of Justice in Protest Against the Illegal Persecution of Human Rights Attorneys by Beijing Lawyers Association

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Dear Ministry of Justice:

We are shocked and astonished to learn that about a dozen law firms in Beijing and more than 100 licensed attorneys have failed to pass the annual evaluation by Beijing Lawyers Association and have thus lost their qualification to practice as attorneys. What has astonished us is not only the vast number and scope of people who have failed to pass the annual evaluation, but also that most of these law firms and attorneys have been involved in human rights defense movements and so-called sensitive cases. Given this situation, the incident has gone beyond the bounds of annual evaluation for business purposes and carries with it the nature of political persecution.

On April 13 of this year, Beijing Lawyers Association issued a “Notice on Carrying Out the 2009 Evaluation on Attorney Licenses” which requires all attorneys practicing in the city to take an annual evaluation by Beijing Lawyers Association between April 20 and May 31. Those who pass the evaluation would be allowed to re-register as members of the association and can continue to practice. Those who failed would not be allowed to re-register, their attorney’s license would be nullified and they would have to stop practicing. According to Feng Xinquan and Zhu Yuzhu of Beijing Municipal Bureau of Justice who discussed this notice on June 11, 90 law firms and over 1,000 attorneys failed to pass the annual evaluation within the specified time period. To date, still about a dozen law firms and more than 100 attorneys have failed to pass the annual evaluation.

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 services and made several hundred attorneys unable to practice, which is all the more astonishing. Such illegal, absurd and perverse acts that violate common sense will bring serious bad consequences to the society.

(1) First of all, it will further worsen the environment for rule of law in the society. In the 17th CPC National Congress, it was proposed to “promote the spirit of rule of law” and “realization of rule of law in various jobs of the state.” However, the conduct of the Beijing Lawyers Association goes against the spirit of the 17th CPC National Congress. Specifically, it is demonstrated in the following areas: 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, the 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.” Yet, it stipulates without authorization that the attorney’s license of those attorneys who have not passed the evaluation will be revoked and

their qualification to practice will be canceled. (2). 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. From the reasons they give for “not passing the evaluation” include ones such as “participating in and promoting the direct election of the Beijing Lawyers Association,” “taking politically sensitive cases,” “taking cases for the common good of mass groups,” “failure to submit defense opinions for discussion and approval,” etc., we can see their motive of political persecution against human rights attorneys. This is a blatant sabotage on the rule of law. (3) Most of these attorneys are the top-notch, outstanding attorneys who have the highest awareness of rule of law among about 10 thousand attorneys in Beijing. They have bravely gotten onto the road of defending human rights and use the law as a weapon to win justice for the weak and the disadvantaged social groups. During the reelection of Beijing Lawyers Association, they stood up and demanded a direct election that reflects the essence of rule of law and democratic principles. They dare to come into contact with politically sensitive cases and uphold justice for victims and safeguard the dignity of law. In a word, what they have done reflects their sense of social responsibility as guardians of law, and it also reflects the essence of rule of law that the 17th CPC National Congress proposes to promote. The unreasonable rejection and persecution of them is doubtlessly defiance and provocation against the spirit of rule of law and the society under rule of law.

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. When attorneys with rich knowledge in law get involved in defending human rights and help the disadvantaged social groups to fight for their individual rights that have been abused, they lead society onto the road where people achieve fairness and enjoy reasonable and legal rights. They adhere to non-violent ways of solving problems through legal procedures, thus maintaining the social harmony and stability. The mass incidents that have occurred all over the country in recent years have brought so much social chaos and people feel panicked and unsafe in a turbulent society, which is the greatest threat to the efforts of building a harmonious society. The causes of these mass incidents that threaten the social harmony result mostly from the abuse of political power by the local corrupt officials and local despots who infringe upon the interests of the common people, arousing their indignation. Therefore, the policy in treating the disease at its roots and effecting a permanent cure lies in the reform of the political system, and in building a powerful mechanism of supervision of the political power, so that corrupt officials, local despots and real estate overlords who abuse power and harm the interests of the people for their own gains can be severely punished. Only in this way can we put to an end to incidents that cause social turmoil. However, since the incidents have already occurred, and they occur here and there from time to time, they seriously threaten the social harmony and stability. Given such a situation, by channeling people’s fight for their legitimate rights into the legal realm, we can avoid more serious turmoil and destruction. In this way, this is still an excellent way to provide temporary solutions to these problems. Many attorneys have participated in the human rights defense movement and apply their knowledge in law in safeguarding the interests of the common people. At the same time, they serve to reconcile people on both sides of conflicts, thus easing the conflicts and the intensity of struggles and making a contribution to the safeguarding of social harmony and stability. The problem we have now is there are too few attorneys who dare to get involved on the frontline of rights defense and many mass incidents do not have guidance from attorneys. If we could have more attorneys participating in the right defense movement and

guiding the common people to fight for their rights with law, this would be more conducive to the building of a harmonious society. However, Beijing Municipal Bureau of Justice and Beijing Lawyers Association act in a diametrically opposite direction of this and brutally crack down on the right defense attorneys whose number is already too small. They have deprived so many attorneys of their right to practice, making it impossible for them to get again involved in the right defense movement. In this case, when a large number of cases with false charges and mass incidents lose legal assistance and participation of attorneys, it is hard to get a fair solution to these problems. For example, not long ago, a Christian pastor printed Bible and gave them free to believers and his relatives as gifts. He was then sued at a court on the charge of “illegal business operation.” Zhang Xingshui and Zhou Min from Beijing Kingdom Law Firm defended him in pleading not guilty, and he was finally still sentenced by the court and fined. Originally, he wanted to appeal. Yet, as the two attorneys Zhang and Zhou failed to pass the annual evaluation and lost their licenses to practice law, other attorneys dared not to get involved again. Given this situation, this sentencing through misuse of the law cannot be corrected, which has aroused the resentment of many Christians and people familiar with the case, thus planting the seed of disharmony in the society.

Third, canceling the right to practice of so many right defense attorneys is a provocation to the social conscience. In order to accumulate their “political achievements” and private fortunes, many local magistrates have for so many years tried by hook or crook to swallow up the land and houses that the common people depend on for their livelihood, which in turn has caused resistance by the victims. In some cases, the resistance has turned into large-scale social turmoil. Under these circumstances, the sympathy of the people in general is usually on the side of the weak and the victims. The expression of such a feeling and the pouring of such a desire are a typical reflection of people’s social conscience. This is the best mirror by which one can accurately judge whether a particular social phenomenon is right or wrong, benevolent or evil, beautiful or ugly. One interesting question in the conflicts between government officials and the ordinary people, is why do the people in general always stand on the side of the people and ruthlessly denounce and satirize the government? As for the complicated background and nature of this phenomenon, let’s leave it for another day. Yet, this phenomenon reveals where the popular sentiments incline and the social conscience, which is an indisputable reality. This is especially so with the popularity of the Internet. Tens of thousands of citizens express their views toward various social issues to their fullest, which has forced the authorities comply with the social conscience on some incidents and made them basically behave in line with people’s views. Not long ago, there was a Deng Yujiao case in Hubei. This is a good example. The local officials tried to cover up the truth and changed their stories three times. In the meantime, the relevant authorities in the central government blockaded the news and strictly forbade the media to report on the incident. However, opinions in support of Deng Yujiao on the Internet went out like an angry torrent and made the authorities unable to avoid facing reality. At last, Deng Yujiao was acquitted, and the incident demonstrates how the social conscience triumphed over the evil forces. When some attorneys in Beijing try to win justice for the victimized people in the disadvantaged social groups, it is a demonstration that they are complying with the social conscience and for this, they should be commended and praised. Instead, the Beijing Bureau of Justice and the Beijing Lawyers Association have canceled their attorney licenses and deprived their right to practice law. This is a blatant provocation against the social conscience and it is very foolish and mean.

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 the Beijing Municipal Bureau of Justice and the 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.

Your actions would be much appreciated.

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