



STATEMENT OF CONTINUING CONCERN REGARDING THE TREATMENT OF LAWYERS IN CHINA

26 May 2017

Recalling the 'Statement of Concern at Treatment of Lawyers in China' (21 July 2015) issued by the Law Association for Asia and the Pacific (LAWASIA),¹

Recalling also the numerous statements, resolutions and other documents issued by LAWASIA with respect to the rights of lawyers,

Affirming the United Nations Basic Principles on the Role of Lawyers (1990) (Basic Principles),

Affirming the international human rights instruments and core human rights treaties promulgated by the United Nations,

Noting that, since its establishment in 1966, LAWASIA has sought to advocate for the interests of the legal profession, to promote the administration of justice, and to uphold and encourage adherence to the rule of law in the Asia Pacific, including the protection of international human rights,

Further noting that all LAWASIA policies and actions are fundamentally informed by the constitutional objectives described above,

Recognising its position as the predominant representative organisation for law associations and individual lawyers in the Asia Pacific, and

Acknowledging its vital role in protecting members of the legal profession from persecution, infringements and improper restrictions,²

LAWASIA is compelled to express its deep concern regarding the reported treatment of lawyers in the People's Republic of China (China).

LAWASIA previously stated its concern in July 2015, when it was widely reported that a large number of lawyers involved in 'human rights' cases had been arrested, detained or otherwise harassed by the authority of the Chinese government. As we approach the second anniversary of these incidents, it appears there has been no progress in the treatment of lawyers working on human rights or other public interest cases in China. The United Nations Committee Against Torture has indicated that some of those arrested during the incidents of July 2015 have since been subjected to torture or other forms of cruel or inhuman treatment during their detention.³ Further reports, available in the public domain, suggest that those prosecuted have been denied the right to access or retain defence counsel of their choice, as well as the right to a fair and public hearing by an impartial tribunal.⁴

Such treatment by the law enforcement authorities and judiciary of China would be in violation of the core human rights treaties and universal human rights instruments of the United Nations, including the International Covenant on Civil and Political Rights (1966) (ICCPR) to which China is

signatory.⁵ The Hong Kong Bar Association, a LAWASIA member organisation, rightly states that relevant obligations under international law are supported by provisions of the domestic law of China.⁶

Given the information above, LAWASIA calls upon the government of China to:

- i. observe its obligations under international human rights law;
- ii. ensure that those prosecuted are afforded their proper rights to:
 - a. access the assistance of a lawyer of their choice, and
 - b. a fair and public hearing by an impartial tribunal; and
- iii. ensure that lawyers in China are 'able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference'⁷.



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President, LAWASIA

REFERENCES

¹ LAWASIA, 'Statement of Concern at Treatment of Lawyers in China', 21 July 2015, available at: <<http://bit.ly/2pxVbjd>>.

² United Nations Basic Principles on the Role of Lawyers (1990) (Basic Principles) preamble at [10].

³ United Nations Committee Against Torture, 'Concluding Observations on the Fifth Periodic Report of China', CAT/C/CHN/CO/5, adopted by the Committee at its fifty-sixth session (9 November-9 December 2015), 3 February 2016, paras 18-19.

⁴ See, eg, China Human Rights Lawyers Concern Group, Taiwan Support China Human Rights Lawyers Network, et al., 'A Joint Statement by Legal Professional Groups & Human Rights NGOs on the Forthcoming Trials of the Cases of the 709 Crackdown - Call on China to Ensure the Right to a Fair Trial', Hong Kong & Taiwan, 23 March 2017, available at: <<http://bit.ly/2rjamB4>>; The International Observatory of Lawyers in Danger, The Geneva Bar Association, et al., 'Letter of concern with regard to our colleagues/Chinese lawyers in detention and to the situation of their relatives', Geneva, 24 April 2017, available at: <<http://bit.ly/2qdut3K>>.

⁵ Notably: Basic Principles arts 7, 16 and 27; International Covenant on Civil and Political Rights (1966) art 14(1); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988) arts 6, 17 and 37-38; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) arts 2 and 10.

⁶ Hong Kong Bar Association, 'Statement of the Hong Kong Bar Association: The Upcoming Trial of Four Chinese Citizens and Lawyers/Activists', Hong Kong, 31 March 2017, available at <<http://bit.ly/2qY82LI>>.

⁷ Basic Principles art 16.

APPENDIX I

LAWASIA STATEMENTS, RESOLUTIONS & OTHER DOCUMENTS REGARDING THE RIGHTS OF LAWYERS

I. LAWASIA STATEMENTS

- (a) Response to Terrorist Attack on Lawyers in Mardan, Pakistan (5 September 2016).
- (b) Response to Terrorist Attack on Lawyers in Pakistan (11 August 2016).
- (c) Concern over Arrests of Turkish Lawyers (21 March 2016).
- (d) Statement of Concern at Treatment of Lawyers in China (21 July 2015).
- (e) LAWASIA Condemns Bomb Attack on Pakistani Judge (1 July 2013).
- (f) Concern for Arrest of Lawyers in Turkey (20 June 2013).
- (g) LAWASIA Condemns Attack on Islamabad Courthouse (4 March 2014).
- (h) LAWASIA Council Statement of Concern for Independence of the Judiciary in Sri Lanka (12 December 2012).
- (i) Statement Concerning Myanmar Lawyers (21 November 2008).
- (j) 2008 Attack on Sri Lankan Lawyer (13 October 2008).

II. RESOLUTIONS OF THE LAWASIA COUNCIL

- (a) LAWASIA Council Resolution on Legal Professional Privilege/Legal Professional Secrecy (12 August 2016).
- (b) LAWASIA Council Resolution on Freedom of Assembly for Lawyers (27 October 2013).

III. OTHER

- (a) Colombo Declaration on the Independence of the Judiciary (13 August 2016).
- (b) POLA Statement of Concern on Recent Developments in Turkey Relating to the Rule of Law (21-22 July 2016).
- (c) Letter of Support for Lawyers in Syria (14 March 2012).
- (d) Letter to Chief Justice of Supreme Court of Myanmar (27 January 2012).
- (e) Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region, statement adopted at the 6th Conference of Chief Justices of Asia and the Pacific, Beijing, China, 19 August 1995 (as amended 28 August 1997, Manila, Philippines).