

# Turning a deaf ear

**Jerome A. Cohen** looks at the response to Beijing's relentless campaign to silence human rights lawyers and wonders what it will take to get foreign law firms – both inside and outside China – to speak out

**T**he Chinese government's current campaign to intimidate and suppress the country's small number of "human rights lawyers" seems to be succeeding where previous campaigns fell short. Most of the courageous lawyers who have been released from incommunicado detention lasting several days to several months remain disturbingly quiet.

While in captivity, these lawyers endure humiliation, torture and endless demands to sign statements "repenting" alleged misconduct and promising "good behaviour". Harassment continues after release, with constant surveillance, isolation, threats, restrictions and searches. Moreover, rights lawyers are well aware, as police occasionally remind them, that not only is their own welfare at stake but also that of their family. Early 20th-century Chinese reformers abolished collective punishments for relatives of political offenders, but in contemporary China spouses and children are often informally targeted. Understandably, some rights lawyers who have not yet been subjected to arbitrary police detention are frightened.

Most of China's roughly 170,000 lawyers and several thousand law professors have kept conspicuously silent about the increasingly serious plight of rights lawyers. In 2009, over 500 lawyers signed a petition protesting at their colleague Liu Yao's unjust conviction, resulting in his reduced sentence, but there has been no similar outpouring of support during the current wave of disappearances and repression.

Of course, any expression of support for their embattled brethren could have immediate negative consequences. It might harm a lawyer's relations with clients and even risk difficulties with the local justice bureau that regulates the right to practise. Local lawyers' associations, controlled by the bureau, seldom fulfill their obligation to protect rights lawyers.

Chinese law professors who speak up may risk their jobs or at least favourable employment conditions. They also jeopardise their influence in important law reform projects. Criminal justice experts sometimes say it is more important for them to maintain credibility with the government, so as to be able to effectively advocate legislative reforms, than to protest against mistreatment of individual lawyers. A few scholars even suggest that rights lawyers should know better than to directly confront the government; they imply that rights lawyers recklessly endanger the inescapably slow process of establishing a rule of law.

Fortunately, a handful of distinguished professors and lawyers occasionally manage to speak out. The grossly unfair conviction last year of well-known Beijing defence attorney Li Zhuang (李莊), which arose out of his defence of an alleged Chongqing (重慶) gang leader, provoked a brief inquiry from the Beijing Lawyers Association. Recently, a second indictment

against Li was mysteriously withdrawn by the prosecution, in part, many believe, because of a protest from a coalition of influential law professors and lawyers.

Should legal experts outside the mainland take note of the suppression of Chinese lawyers? Thus far, Hong Kong's legal profession has shown little interest. The Bar Association mentioned the Li Zhuang case in a circular to its members and reportedly discussed the situation of rights lawyers during private meetings with the Beijing Lawyers Association. Although the Law Society last November issued a joint statement with the Bar Association expressing concerns over the trial of tainted milk activist Zhao Lianhai (趙連海), it apparently has not gone on record about rights lawyers.

By contrast, a tiny but high-profile Hong Kong organisation, the China Human Rights Lawyers Concern Group, has spark-plugged all lawyers' efforts outside the mainland to protest at abuses against Chinese lawyers, and its



**Thus far, Hong Kong's legal profession has shown little interest [in the suppression]**



efforts have been bolstered by the publications of several Hong Kong-based scholars and leading human rights organisations.

Taiwanese lawyers have recently become active in supporting mainland colleagues. The Taipei Lawyers' Association has issued various letters and statements protesting against the mistreatment of Chinese rights lawyers. Last week, on the eve of June 4, it joined other groups in calling on President Ma Ying-jeou to discuss the crackdown on Chinese lawyers with Beijing. Also, together with other organisations, it has held relevant meetings and press conferences and has conducted exchanges with mainland rights lawyers. Taiwanese scholars are also gradually showing interest.

Western lawyers' organisations have been slowly increasing their pressure, too. In February, the Council of Bars and Law Societies of Europe, representing roughly one million lawyers, sent its third and strongest protest to the Chinese government. In March, on behalf of the 23,000 members of the New York City Bar, its chairman sent a long letter to China's minister of justice, giving a detailed account of many cases of abuse and asking for an investigation and an end to harassment of Chinese lawyers.

Also that month, the France-based International Observatory for Lawyers published an open letter on the subject. The Committee to Support Chinese Lawyers, based at Fordham University's Leitner Centre for International

Law and Justice in New York, has issued many statements highlighting the deteriorating situation. In April, the London-based International Bar Association's Human Rights Institute expressed deepening concern, noting that "an expanding catalogue of abductions by the Chinese authorities creates a climate of fear".

What has been missing from foreign lawyers' reactions to date has been the voice of the many international law firms or individual lawyers who benefit from the world's spectacular growth in trade, technology transfer and investment transactions with China. For example, efforts to arouse interest among US law firms involved with China have fallen on deaf ears. Competitive considerations will probably continue to induce indifference among law firms.

One wonders how severe the oppression of China's rights lawyers will have to become in order to prick the conscience of foreign fellow professionals, especially those based in China. Clients are unlikely to focus their lawyers' attention on the problem. Perhaps only criticism from the often idealistic young lawyers and law students whom the firms seek to recruit can stimulate a response.

Jerome A. Cohen is professor and co-director of the US-Asia Law Institute at New York University School of Law and adjunct senior fellow for Asia at the Council on Foreign Relations. See also [www.usasialaw.org](http://www.usasialaw.org)