

2024 China Lawyers' Rights Report
Committee to Support Chinese Lawyers
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1. Preface

The 2024 China Lawyers' Rights and Interests Report provides a detailed analysis of the infringement risks, rights challenges and rights protection examples faced by lawyers in China's practice environment. The report explores the different forms of infringement encountered by lawyers in civil, commercial, administrative and criminal cases, supplemented by case analysis, to reveal the common problems and systemic dilemmas faced by lawyers in their practice. Through research, the report aims to reveal the phenomenon of restrictions and repression of lawyers' practice rights in the mainland judicial system, and put forward suggestions for improvement at the legal and social levels.

The role of lawyers in promoting the rule of law and safeguarding human rights is unquestionable. In China, civil rights are severely restricted and denied, and ordinary people, out of fear or information blockade, are often reluctant to accept these abuses and have no voice. For example, during the new crown epidemic, the public power has continuously launched various extremely absurd and irrational prevention and control policies and measures, violated and humiliated civil liberties, and also caused many major tragedies, but for more than two years there has been no universal resistance, and the vast majority of people have chosen to cooperate, and even dare not discuss and criticize.

In the more than 70 years since the founding of the People's Republic of China, the People's Republic of China has long relied on the propaganda machine and dictatorial methods to tame the people. Lawyers make up a significant portion of these untamed citizens, who become "whistleblowers" and advocates of civil rights and freedoms in times of disaster. This is related to the lawyer's knowledge background and professional characteristics.

In terms of intellectual background, lawyers have knowledge of constitutional law, criminal law, criminal procedure law, administrative law, and administrative procedure law, and no matter how much this knowledge is polluted and distorted by the current system, they cannot eradicate the concept of protecting human rights and restricting public rights. In terms of professional characteristics, lawyers are called "law in the field", and they are naturally opposed to public power. Even in civil and commercial cases where there is an equal confrontation between the two parties, the confrontation between the lawyer and the judge is not uncommon; Lawyers represent their administrative counterparts in administrative cases, and since the administrative organ is a party to the case, it is inevitable that they will confront the public power; As for being a criminal defense lawyer, a responsible lawyer almost always fights against the public procuratorate and the law.

Compared with other citizens, lawyers can obtain information about crises earlier, are more sensitive to the deterioration of the legal environment, and the vocational training they receive to resist public power also gives them more wisdom and courage to resist illegal and abusive acts. Although lawyers face various pressures from the judiciary and the bar association when they take on the responsibility of criticism, their personal safety is much higher than that of other grassroots citizens, and the state apparatus will pay a greater price at the international and domestic levels if it wants to arrest a lawyer.

On September 7, 1990, at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the United Nations adopted a document entitled "Basic Principles on the Role of Lawyers", which proclaimed a series of principles to protect the rights of lawyers and their clients, which is of important guiding significance to the Member States of the United Nations.

It is precisely because of the importance of lawyers to the construction of a well-governed society that the quality of the lawyers' practice environment in a country must also be used as an important indicator to measure the degree of civilization in the country. The quality of a country's practice environment can be demonstrated through typical cases where lawyers' practice rights and interests have been infringed. These real and vivid cases, including information on the cause of infringement, lawyers' rights protection actions, mutual assistance and solidarity among peers, media attention, and the final results of rights protection, can reflect the overall state of the lawyer's practice environment.

This report consists of three chapters, the first of which is the "Annual Review of Infringement of Lawyers' Rights and Interests", which mainly states the common situations of infringement of lawyers' professional rights and interests in 2024, and mentions several typical infringement cases, which are left for discussion in Chapter 2. Since different types of cases have different manifestations of infringement of lawyers' practice rights, this chapter is divided into two categories, one is civil and commercial cases and administrative cases, and the other is criminal cases.

The reason for the juxtaposition of civil and commercial cases and administrative cases here is to consider that when lawyers represent these two types of cases, the infringement situations encountered are basically the same, mainly judicial arbitrariness and arbitrary judgments, as well as the retaliation of judges or courts after lawyers criticize and accuse judges.

Criminal defense is a high incidence of infringement of lawyers' right to practice, and it is also the focus of this report. The infringement of lawyers' practice rights is, first, systematic restrictions at the level of laws, regulations, and departmental rules, and second, infringement of rights in specific cases. The infringement of rights in specific cases is discussed from two aspects: first, the procedural rights of the suspects are violated, and the lawyers are violated by the judicial organs when defending the rights of the suspects, and the other is the infringement of the lawyers' right to defense. For example, the former is under residential surveillance, the government-appointed lawyer "occupies the pit", it is difficult to release on bail, and the torture extorts confessions, while the latter is difficult to meet, difficult to read, the official lawyer "occupies the pit", the investigation and collection of evidence is dangerous, and various rights violations during the trial and several types of lawyers that the public authorities focus on cracking down.

Through the research in this chapter, we find that 2024 is a year in which the practice rights of mainland lawyers will continue to shrink across the board and the risks will continue to rise. Criminal defense, administrative litigation and cases involving the public interest have become high-risk areas, and lawyers are frequently harassed, obstructed, disciplined, and even detained or had their licenses revoked in the course of performing their duties, seriously challenging the independence of the legal profession.

The second chapter discusses several typical cases of infringement of lawyers' practice rights, with a total of 15 typical cases. At the same time, it also introduces five lawyers' rights protection actions of public value.

In the third chapter, we look forward to the changing trend of the judicial environment in the future, discuss the future and challenges of prisoners of conscience, and put forward suggestions for the systematic improvement of lawyers' rights and interests and the strategies and methods for lawyers' rights protection.

2. Research Methods:

The team that wrote the report includes two human rights lawyers who are still under repression, three former Chinese lawyers who work for international organizations, and two researchers from public interest law organizations. Given the sensitivities of today's judicial and social environment in China, this report employs a variety of methods to ensure the accuracy and credibility of the information.

(1) Specific methods

Multi-channel data collection: The report is mainly based on the analysis of domestic and foreign public information, including news reports, public legal documents, lawyers' statements, and academic research.

Case verification: To avoid misinformation, the research team specifically confirmed the information on key cases. Verification methods include: telephone interviews or face-to-face communication with relevant parties, verification of original documents such as legal judgments and trial records.

Cross-disciplinary cooperation: The research team brings together professionals from the legal profession and social activities to ensure the fairness of the conclusions through comprehensive analysis from multiple perspectives.

Qualitative analysis: in-depth analysis of the background of typical cases and their legal and social implications.

Data verification: For sensitive information, the research team uses multiple layers of cross-validation to ensure the independence and authenticity of the data source. Individual important data or details are reconfirmed through reliable channels to improve accuracy.

and (2) limitations of research methods

This report mainly relies on domestic and foreign public information, media reports, lawyers' self-reports, social media platform statements and other sources, rather than a systematic and large-scale sample database, which is not conducive to comprehensively reflecting the common experiences of lawyers in different regions, different types of law firms, and different practice areas. The report did not conduct quantitative sample baseline analysis and error control, and did not show a specific proportion of lawyers who encountered problems such as "difficulty in meeting with lawyers" and "government-appointed lawyers occupying pits". In terms of qualitative analysis, the analysis is mainly from the perspective of law, and multiple perspectives such as sociology and political science are insufficient.

Chapter I: A 2024 Overview of Violations of Lawyers' Rights and Interests

To measure whether a country is a country of rule of law or rule by law, and whether it is civilized or barbaric, the practice of lawyers can be used as an important indicator.

The infringement of lawyers' practice rights is manifested in two levels: First, through laws, regulations, and departmental rules, lawyers' rights, speech and freedom of speech and deeds are generally restricted, such as restricting lawyers' right to criticize, restricting lawyers' freedom of action to help the needy and act courageously, and prohibiting fundraising from China or seeking help from international NGOs. For the determination of infringement at this level, it is necessary to first have a normal frame of reference and clarify the practice rights that lawyers should enjoy, otherwise, if they have been in the ideological cage for a long time, they will habitually believe that these norms that restrict lawyers' rights and freedom of action are normal. This frame of reference can be determined through international conventions such as the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Basic Principles on the Role of Lawyers, etc.

The laws, regulations, and rules promulgated by the current Chinese regime restricting the rights and freedoms of lawyers include, but are not limited to, the Ninth Amendment to the Criminal Law, the National Security Law, the Charity Law, the Law on the Management of Foreign Non-Governmental Organizations' Activities in China, the Supervision Law, the Criminal Procedure Law, the Law on Guarding State Secrets, the Counter-Espionage Law, and the Measures for the Administration of Lawyers' Practice.

After the 18th National Congress of the Communist Party of China, the central government's repeated claims of "governing the country according to law" were in fact "rule by law", and a large part of the legislative and amending work was to concoct a legal basis for restricting citizens' rights and freedoms.

Amendment (IX) to the Criminal Law criminalizes "insulting, defaming, or threatening judicial officers or litigation participants", and also adds a catch-all clause "other serious disruptions to court order".

The National Security Law symbolizes a change of course, indicating a change in the country's governing thinking from a comprehensive security concept to a single-dimensional political security perspective. National security – in fact, the CCP's governing security – has become the core of all work, and the change in governing thinking has led to the enactment of a series of subsequent laws, such as the Charity Law, the Law on the Management of Foreign Non-Governmental Organizations' Activities in China, and the Counter-Espionage Law.

Due to the enactment and implementation of the Charity Law, the Law on the Management of Foreign Non-Governmental Organizations' Activities in China, and the Counter-Espionage Law, the sources of funding for non-governmental organizations (also known as NGOs and NGOs) that carry out human rights work and policy advocacy work have been basically cut off. The Charity Law has blocked charitable fundraising in China, the Law on the Management of Foreign NGO Activities in China has cut off project funding for international NGOs, and the

Counter-Espionage Law has hung a sword of Damocles over the heads of lawyers with ties to international NGOs. During the Hu Wen period, civil society organizations and human rights lawyers joined forces to promote public issues, such as the Women's Law Center of Peking University, Gongmeng, Aizhixing, and other civil society organizations and human rights lawyers used individual cases to promote social attention on many human rights issues, such as domestic violence, accountability and compensation for Sanlu milk powder, and HIV/AIDS prevention and treatment for vulnerable and marginalized groups. Now that the resource arteries of non-governmental organizations have been cut off, this approach to the rule of law has naturally been cut off. In addition, when lawyers represent public interest cases, they can also openly raise fees from the public or apply for assistance from international NGOs, which are now "illegal".

The Measures for the Administration of Lawyers' Practice (hereinafter referred to as the "Measures"), promulgated and implemented by the Ministry of Justice, can be called a comprehensive set of prohibitive norms for lawyers, and the substantive provisions are all "prohibited" and "must not", and only some of the provisions are excerpted here.

Article 38 of the Measures stipulates that a lawyer shall not "distort or mislead publicity and comment on a case that he or another lawyer is handling, or maliciously hype up a case"; It is not allowed to create public opinion pressure to attack or slander judicial organs and the judicial system by means such as "forming groups in tandem, signing jointly, publishing open letters, organizing online gatherings, or expressing solidarity, or in the name of case discussions"; "Violating provisions by disclosing or disseminating information or materials on cases that are not tried in public, or important information or evidentiary materials related to the case that they or other lawyers learned of in the course of handling the case." "

Article 39 stipulates that lawyers must not "slander or threaten judicial personnel or litigation participants," and must not "deny the nature of cults recognized by the state, or engage in other acts that seriously disrupt court order."

Article 40 stipulates that lawyers "shall be lawful, objective, impartial, and prudent in publicly expressing speech on a case, and must not publish or disseminate speech that negates the fundamental political system and basic principles established by the Constitution or endanger national security, must not use the Internet or the media to incite dissatisfaction with the Party and government, initiate or participate in organizations that endanger national security, or support, participate in, or carry out activities that endanger national security, and must not maliciously slander others by distorting the truth or clearly violating social public order and good customs." or make statements that seriously disrupt the order of the court. "

Many of these provisions infringe on lawyers' right to speech as citizens and lawyers' right to defend independently.

The above-mentioned universally applicable laws, regulations, or departmental rules are almost all-encompassing in restricting lawyers' rights and freedoms, are fundamental and systematic, and create a basis for the public procuratorate and judicial departments to infringe on lawyers' practice rights in specific cases, but this kind of systematic legislative control is a historical accumulation process, and if you take one year as the examination period, most years have not changed, so it is not the focus of this annual report.

The focus of this report is on the infringement of lawyers' practice rights in specific cases, and the common ways include: the government appoints lawyers to "occupy the pit"; Lawyers' meetings and access to the case file still encounter various difficulties, especially in cases of prisoners of conscience, only excerpts are allowed and no reproduction is allowed; retaliatory punishment of dead lawyers; Misappropriation of lawyers' right to a defense in various forms.

The following will be discussed separately according to the type of case represented by the lawyer. There are three types of cases represented by lawyers, one is civil and commercial cases, the second is administrative cases, and the third is criminal cases.

As for the non-litigation business engaged in by lawyers, most of the time it does not involve confrontation with the public procuratorate and law (public security, procuratorate, court), so this report does not discuss the infringement of lawyers' non-litigation business separately.

1. Infringement that lawyers are vulnerable to in civil and commercial cases and administrative cases

If arbitrary adjudication is regarded as a form of judicial corruption, then civil and commercial cases and administrative cases are also areas with a high incidence of corruption. In 2024, lawyers will mainly face the following five risks when representing civil and commercial cases:

- Assault and injury from the opposing party, which may involve threats, personal attacks, or even malicious litigation;
- Facing the risk of being accused of joint crimes, such as the case of Gao Bingfang's false lawsuit in Tai'an, or the case of Ma Yijiayi, an entrepreneur in Liupanshui City, who picked quarrels and provoked trouble, in which lawyer Hou Zhitao and lawyer Tang were both accused of participating in crimes;
- Legal risks when engaging in corporate legal affairs, and may be accused of joint crimes due to representing company affairs, such as the fraud case of lawyer Feng Bo in 2024;
- The unfair burden caused by arbitrary adjudication (including arbitration), such as the arbitral case of Ge Wenxiu in 2024, which exposes lawyers to unreasonable liability;
- The risk of conflict with judges or courts is divided into two main categories:

The first category is the conflict with the judge in the course of the trial in order to obtain the full right to defend;

The second category is retaliation for criticizing judicial decisions after facing an unfair verdict, including judicial warnings, reprimands, expulsion from court, inadmissibility of complaints, and even judicial detention.

The risks of representing administrative cases are similar to those of civil and commercial cases, but they have the following characteristics: the trial of cases is often a mere formality, it is more difficult to protect procedural rights, and it is difficult for lawyers to fully state their opinions. In addition, the success rate of administrative litigation is extremely low, and it is almost impossible to obtain a fair adjudication.

The reason why lawyers are additionally exposed to these risks is because of the special nature of administrative cases in China.

In legal cases, the litigation mechanism should have been based on equal confrontation, with judges or arbitrators making decisions in the middle. However, in an administrative case (i.e., a "civil lawsuit" case), the parties are not on an equal footing when a citizen or legal person is confronted by an administrative authority. Although China's courts are nominally not functional departments of the government, but independent organs of the state, the judiciary is naturally biased in the face of administrative cases in which the government or its functional departments are defendants, because the current regime in China systematically excludes judicial independence and the public procuratorate and law are under the jurisdiction of the political and legal committees (political and legal committees) of the Party committees at all levels.

2. Infringement to which lawyers are vulnerable in criminal cases

Criminal cases are the hardest hit areas of infringement of lawyers' professional rights and interests in 2024, and the situation is particularly serious. This type of infringement can be broadly divided into two categories:

In the first category, the procedural rights of the suspect (or defendant) are restricted by the court, or the personal rights are violated by the interrogation department and the detention department, and the lawyer encounters obstruction or even retaliation when defending his or her procedural and personal rights;

In the second category, lawyers' own right to defend has been violated, and they face various undue restrictions and suppression in the performance of their defense duties.

Especially in the investigation stage, suspects' procedural rights, personal rights, and lawyers' right to defend are the most vulnerable to infringement, which has become a high-risk link in the field of criminal justice.

(1) The form in which the suspect's rights were violated

From the suspect's point of view, their legitimate procedural rights are often violated in the following ways: the official lawyer "occupies a place" and deprives them of their right to a defense, they are placed under residential surveillance at a designated location (hereinafter referred to as "designated prison"), their application for bail pending trial is blocked, they are tortured to extract confessions, and the channels for complaints and accusations are limited or ineffective.

1. Official lawyer "occupies the pit"

According to the Criminal Procedure Law of the People's Republic of China, criminal suspects and defendants have the right to retain one or two persons as defenders. The original intention of the establishment of the "government-appointed lawyer" legal aid system was to provide basic legal protection for clients who are unable to hire a lawyer on their own in financial difficulties or under special circumstances. However, in recent years, the operation of the "official-appointed lawyer" system has gradually deviated from its original purpose and has become a "pit defense", that is, the judicial authorities quickly appoint a lawyer without the consent of the suspect or his family, thereby procedurally locking in the number of

defense places and preventing the intervention of the lawyer himself or his relatives. The Wu Min case and Zhang Zhan case are typical cases. In these cases, the parties often do not take the initiative to apply for legal aid or waive their right to a lawyer, but are quietly deprived of the right to choose their own defenders.

The "pit trapping defense" leads to a lack of basic trust between the defense lawyer and the client, and the defense without trust is actually difficult to function. What's more, some of the assigned lawyers did not perform their duties seriously, but cooperated with the accuser, and even persuaded the suspects to give up their defenses, "not to find a lawyer themselves", and in fact became "stability maintenance agents". In this way, "defense" is reduced to "assistance in conviction". This kind of behavior not only violates the professional ethics of lawyers, but also seriously erodes the bottom line of judicial fairness.

In 2024, this institutional abuse is rapidly expanding, no longer limited to politically sensitive cases, but also spreading to various criminal cases such as "anti-gang and evil" cases, and cases of job-related crimes led by the Commission for Discipline Inspection and Supervision. The legal aid mechanism, which was supposed to be used as a "fill-in", is evolving into an "alternative" mechanism, which essentially deprives the suspect of his or her autonomy in defense and constitutes a fundamental departure from the spirit of the law.

Judging from the cases gathered in the report, this abuse is not a misconduct by individual courts or prosecutors, but is being "institutionalized" and promoted. Not only is the practice of "squatting" widespread, but the mode of operation is becoming more sophisticated, and the means to prevent the intervention of the lawyer are becoming more and more diverse, including administrative harassment, communication blocking, access control, and even initiating investigation or punishment procedures against the lawyer himself.

2. The horrific nature of "designated residential surveillance".

Designated residential surveillance, or "designated prison" for short, is a criminal compulsory measure taken by the public security department to restrict personal freedom, and although it has a legal basis in name, it leaves a lot of room for the police to exploit legal loopholes, resulting in a generally extremely irregular implementation method. "Directed prisons" are usually carried out secretly in hotels, guest houses, psychiatric hospitals, and other informal places of detention, and the environment is relatively good on the surface, but in fact it is terrifying, which is mainly reflected in the following four aspects:

(1) **Solitary detention:** The suspect is completely isolated and lacks external supervision.

(2) **Lack of access to a lawyer:** The suspect is deprived of the right to a defense, making it difficult for the lawyer to intervene in the case.

(3) **Lack of statutory monitoring measures:** Detention facilities are not subject to detention center rules and supervision by other departments, which can easily breed illegal behavior.

(4) **Lack of supervision mechanism:** It is difficult for suspects to report their experiences to the outside world, and even if they complain, they often fall into the sea.

Because of these characteristics, prison can be regarded as a form of mental torture, and it is very easy to extort confessions by torture during the prison period, which can lead to serious consequences. For example, on April 3, 2024, Xing Yanjun, a suspect accused of "opening a casino", died unnaturally while being imprisoned at the Hulunbuir New Left Banner Public Security Bureau.

3. Bail became the exception

In China, bail has become almost a right that exists only in the text of the law. Regardless of the crime a suspect is charged with, the success rate of bail is so low that most lawyers have habitually given up on substantive protests and instead submitted only procedurally – unless the suspect has a serious illness.

The high detention rate is not only contrary to the principle of presumption of innocence, but also may lead to more unjust, false and wrongful convictions. On the one hand, prolonged detention will increase the incentive for the judiciary to create unjust cases. On the other hand, the longer the suspect or defendant is in custody, the greater the amount of state compensation involved in the future, and the greater the responsibility of judicial officers, so they are more inclined to "make mistakes" rather than redress wrongful convictions.

The root cause of the difficulty of bail is the low level of human rights protections and the over-reliance of investigative agencies on confessions. From the point of view of necessity, bail should be the norm, while detention should be the exception. For suspects of non-serious violent crimes, detention is not necessary.

4. Torture is still rampant

The problem of torture has never been eradicated. Although today's methods are somewhat "mild" compared to those in the 80s and 90s of the last century, disguised torture is still very common. For example:

- (1) Forcing the criminal suspect to sit on the "tiger chair" for a long time
- (2) The use of fatigue interrogation causes the suspect to have a nervous breakdown
- (3) Torture by using strong light or making strong noise
- (4) Threaten family members or "soft underbelly" to exert psychological pressure
- (5) Destroying the suspect's will with insulting words
- (6) Even some of the heinous physical torture has not completely disappeared

As China's economic situation deteriorates, the judiciary has become increasingly reliant on creating unjust cases, driven by "revenue generation". For example, in the name of "sweeping away gangsters and eliminating evil", they create

unjust criminal cases, and obtain illegal benefits by means of "criminalizing debts"¹ or "deep-sea fishing"². Under this trend, the reliance on torture will only deepen.

5. There is no way to accuse, and the right is useless

Although criminal suspects theoretically enjoy the right to accuse against harassment, ill-treatment, and torture by the public security and judicial authorities, it is often difficult to exercise them in practice. During the period of residential surveillance at a designated location: there is no legal channel for prosecution, and the suspect is completely under the control of public power. While in detention in a detention center, although a complaint can be filed with the resident prosecutor, it often has little effect and has little impact on the outcome of the case.

In such a judicial environment, the possibility of criminal suspects defending their rights is extremely slim, and the right to sue is virtually non-existent.

(2) Forms of infringement of lawyers' right to defense

1. Official lawyer "occupies the pit"

From the defense lawyer's point of view, the "occupation of the pit" by the government-appointed lawyer not only deprives the criminal suspect of the right to choose a lawyer independently, but also directly infringes on the practice right of an independent defense lawyer. This practice has led to the struggle for the right to defend itself, which has gradually escalated from a competition between lawyers and the judiciary, or even between lawyers and the entire stability maintenance system.

Taking the 2024 Wu Min case as an example, lawyer Zhang Qingfang insisted on fighting for the legal rights of his clients and adopted a "grave-digging" method to protect his rights, which eventually led to fierce conflicts. However, even if he made a big fuss, the case was not handled fairly in the end, but was "settled after the autumn" and his lawyer's license was revoked. This case fully illustrates that in the current environment, independent lawyers are not only struggling to fight for the right to a defense, but may also face severe repression.

In the future, the struggle for the right to defend may become the norm, especially in cases involving prisoners of conscience or corruption cases handled by discipline inspection and supervision departments. The judicial organs use the "pit trapping" of official-appointed lawyers to control the course of a case at will, so that the trial appears to conform to the procedure, but excludes the possibility of a substantive defense.

2. It is difficult to meet and mark the papers

¹ When the debtor (especially the government) does not want to repay the debt, the local police arrest the creditor on various charges such as picking quarrels and provoking trouble. In recent years, the problem of local government debt has become prominent, which has led to an increase in such phenomena.

² "Deep-sea fishing" refers to the behavior of some local governments in arresting private entrepreneurs in other places in violation of laws and regulations, and sealing, freezing, or even transferring the property of enterprises and individuals from other places. In recent years, local government finances have been tightened, leading to an increase in such phenomena.

In addition to the government-appointed lawyers' "occupation of pits", there is another major obstacle to lawyers' right to defend -- difficulty in meeting with them and reading the case file. These two issues have long been criticized, but they have never been effectively resolved. Although the Criminal Procedure Law is known as the "Criminal Constitution" and aims to protect the basic rights of suspects or defendants, in reality, these rights are often suppressed by the logic of "stability maintenance", resulting in serious violations of lawyers' normal right to defense.

Difficult to meet: Judicial authorities often use various excuses to make it difficult for lawyers to meet with suspects. Lawyer Li Guobei was blocked from meeting with Zhang Wenpeng, and Fan Biaowen was intimidated by stability maintenance forces when he tried to meet with Zhang Zhan. For example, lawyer Zhu Xiaoding exposed the Huanghua Detention Center in Hebei Province for monitoring lawyers' meetings, and lawyer Li Guobei accused the Sanya No. 2 Detention Center of listening to or eavesdropping on lawyers' meetings and leaking the information to the investigating authorities. In addition, detention centers prohibit lawyers from carrying computers, further restricting the convenience of lawyers' work.

Difficulty in reading case files: Access to case files is the basis for lawyers to provide effective defense, however, in reality, lawyers often face layers of obstacles, and it is difficult to fully grasp the facts of the case. The main problems with grading include:

(1) "Inner volume" system: In major cases, the court implements the "inner volume" mechanism, and some of the case files are only circulated by internal personnel in the public security and legal system, and lawyers cannot obtain the complete case file.

(2) Special restrictions on prisoners of conscience cases: When it comes to politically sensitive cases (such as "subversion of state power"), lawyers are usually only allowed to read excerpts and are not allowed to take photographs or copy documents. This practice began with the case of Dr. Xu Zhiyong and Ding Jiaxi, and has since become a common practice, such as when lawyer Li Guisheng represented Xie Yang in the case.

(3) Artificially creating obstacles: Judicial organs often delay or refuse lawyers to read the case file for various reasons. For example, in 2024, the lawyer in the Li Weiping case publicly condemned the Luoyang Intermediate People's Court for deliberately making it difficult to read the case file, and the lawyer in the Wu Jun case also issued a statement asking the Xinyang Intermediate People's Court in Henan Province to protect the lawyer's right to read the case file. In addition, the Hubei Higher People's Court has even issued internal regulations requiring that investigation files must be reviewed and approved by the leaders of the public security and procuratorial organs, which greatly limits the work efficiency of lawyers.

3. Lawyers' investigation and evidence collection are still fraught with risk

Although the Criminal Procedure Law explicitly gives lawyers the right to investigate and collect evidence, and this right is crucial in the process of defense, in practice, it is still extremely dangerous for lawyers to exercise this right, and the slightest carelessness may be threatened by the judicial authorities for "perjury" and even face criminal charges. For example, when Beijing lawyer Zhang Kai represented Xu Shuangjun in Hebi, he was cautious for fear of being framed for "perjury." This phenomenon makes lawyers walk on thin ice in the process of investigating and

collecting evidence, and even dare not fully perform their duties, which further weakens the effectiveness of the defense.

4. Infringement of lawyers' rights during the trial phase

In the course of court trials, lawyers' practice rights are often violated in various forms, mainly manifested in the coexistence of prosecution and defense conflicts and defense conflicts, making it difficult for lawyers to perform their duties normally. Here are just a few of the typical cases:

Lawyer expelled from court:

On May 18, 2024, in a sham lawsuit represented by lawyer Gao Bingfang, defense lawyer Zhang Xinnian was expelled from the court for insisting on defense opinions.

On May 24, when representing Chen Mouqing of Sanya Haiyun Group, lawyer Zhang Qingfang was forcibly taken out of the court by the bailiff.

On August 2, in the case of Ji Moumei, the court even directly banned the defense lawyer from entering the courtroom, depriving the defendant of his right to defense.

A lawyer is disciplined or embarrassed for his or her normal right to a defense

On May 19, 2024, when lawyer Li Guisheng represented Qiao's "child molestation" case, he was reprimanded by the court twice and was finally kicked out of the courtroom only because he applied for evidence collection in accordance with the law and requested the prosecutor and judge to recuse himself.

On September 24, lawyer Li Xinghao accepted the entrustment of Sun's family, and after submitting the entrustment formalities in accordance with the procedures, he was still rejected by the court on the grounds of "need for verification" and deprived of his defense qualifications.

On October 22, the Hebi Intermediate People's Court denied lawyer Wu Feng access to the courthouse to defend the defendant.

Court pressures to terminate lawyers: On May 1, 2024, in the fraud case of Zhuang Mouling and 25 others, the court used "bail pending trial" as a bait to mobilize 18 defendants to terminate the retention of lawyers in Beijing, so as to weaken the independence of the defense.

Lawyers subjected to violence: On December 25, five lawyers, Guo Rui, Yang Xiao, Wang Xingwei, Li Qingduo, and Leng Hui, were violently injured by judicial police spraying chili pepper water when they entered the courtroom, seriously violating the lawyers' personal safety and practice rights.

These cases show that in the judicial environment of mainland China, lawyers not only face procedural obstacles during the trial stage, but may also be subjected to personal attacks, expulsion and even suppression, resulting in a serious loss of the right to criminal defense.

(3) Several types of cases that are likely to trigger mechanisms for maintaining stability and security

In the field of criminal defense, lawyers are directly confronted with the state's violent dictatorship apparatus – the so-called "knife handle".³ The judiciary has the ability to "lawfully" harm lawyers, ranging from depriving them of their professional qualifications and causing them to "lose their jobs", or at worst losing their freedom or even being imprisoned. When representing the following three types of cases, it is especially easy to conflict with the stability maintenance and security systems, triggering their high-pressure response mechanisms. These three types of cases are: gang-related cases, cases of prisoners of conscience, and cases dominated by the "factory guard" system (discipline inspection commission, supervision commission, national security and other institutions).

1. "Anti-gang and anti-evil" cases

"Sweeping away organized crime and eliminating evil" is a nationwide special operation launched by the Chinese government in recent years, which has the characteristics of a political movement, and is essentially the same as the "three antis and five antis" movement in the early days of the founding of the government. At that time, the "three antis and five antis" led to the execution, persecution to death or suicide of a large number of capitalists and businessmen, which directly destroyed the capitalist class on the mainland and plundered social wealth on a large scale by suppressing the private economy. The essence of the "anti-gang and anti-evil" movement in the new era can also be regarded as plundering wealth against private entrepreneurs in the name of "triads".

At the legal level, the crime of "criminal syndicate criminal organization" is a highly subjective and constructive crime, which is different from natural crimes such as homicide, robbery, and intentional injury, but is a "statutory crime" shaped by the government according to political needs. Once a private entrepreneur is identified as a "ringleader of the triad", his corporate assets and personal assets may be completely confiscated by the judicial authorities in a lawful name.

In 2018, the All-China Lawyers Association issued the "Several Opinions on Lawyers' Handling of Defense Representation in Cases of Crimes by Underworld Forces", which requires all law firms to establish a case filing system, and lawyers must report to the law firm, the lawyers association, and the Bureau of Justice at all stages of case handling. This rule directly weakens the independence of lawyers, forcing defense lawyers to accept additional official supervision when representing gang-related cases.

Because the "anti-gang" campaign is a campaign with political implications, various localities have been assigned "triad" indicators, resulting in local governments and judicial organs often abusing their power in order to complete their tasks, and even using torture to extract confessions to create unjust cases. For those lawyers who dare to challenge this unfair trial, they can easily become the targets of the authorities'

³ Jiang Zemin, former general secretary of the Communist Party of China, mentioned the people's democratic dictatorship in 1998 and said: The army is the strong pillar of the dictatorship, and the political and legal organs are the handle of the sword.

repression, and may even be convicted of crimes for their conscientious defense, and have a direct confrontation with the "knife handle".

2. Prisoners of conscience cases: Systematic persecution

A prisoner of conscience can refer to anyone who has been imprisoned for political opinions, sexual orientation, ethnicity, religion, or a person who has been imprisoned or persecuted for nonviolent expression of their beliefs (Wikipedia). The Chinese government's persecution of prisoners of conscience is entirely motivated by political considerations of "maintaining stability" and "maintaining security"⁴. From beginning to end, such cases are controlled by stability maintenance and security agencies, and run through the logic of high pressure, silence and ideological transformation. The real purpose of the judicial process is to completely destroy the will of prisoners of conscience and bring them to their knees by various intrajudicial and extrajudicial means.

The "injunction" system was originally designed for prisoners of conscience, and since its introduction, almost all important prisoners of conscience have been subjected to this measure. At the same time, the government also controls the legal aid system through government-appointed lawyers, also known as "red-top lawyers", to ensure that cases are under control throughout the process. The repression of prisoners of conscience is often accompanied by threats, intimidation, humiliation, torture, mental torture and prolonged trials. Dr. Xu Zhiyong, who is currently serving a prison sentence, has been subjected to "bunching" (i.e., being under special supervision, surveillance, and torture in prison) since July 2024. In addition, according to a May 2024 disclosure by Xie Yang's lawyer's wife, Xie Yang's abuse in the detention center was even more heinous – he was handcuffed and shackled for two weeks, forced to strip naked for humiliation, and even asked to dance nude in front of the camera. The Changsha Intermediate People's Court deliberately delayed the trial again and again, and has postponed the verdict six times in order to consume Xie Yang's spirit and will.

Judging from China's Constitution and international law, the words and deeds of China's current prisoners of conscience do not constitute any real crimes. Their expressions and actions to promote democracy and human rights are the rights of citizens enshrined in the Constitution, as well as the freedoms enshrined in the United Nations human rights treaties. Even if their actions can be classified as "civil disobedience", they should never be criminally punished. However, the judiciary does not rely on facts and evidence to convict, but seeks to bring prisoners of conscience to their knees completely for the purpose of systematic mental torture and personality destruction.

At present, it is becoming increasingly difficult for lawyers to defend prisoners of conscience. More than a decade ago, lawyers were willing to take on such cases because of the moral fulfillment they bring, the ease of recognition from civil society, and the fact that they could even leave a mark on the history of China's rule of law

⁴ Wei'an, that is, safeguarding national security. In 2014, the Central Committee of the Communist Party of China (CPC) established the National Security Commission (NSC), chaired by General Secretary Xi Jinping. National security (security maintenance) is systematically and institutionally placed on the same strategic level as social stability (stability maintenance).

and human rights struggles. However, since the 2015 "709 Crackdown", human rights lawyers have been subjected to sustained purgies. The bravest lawyers were either revoked or forced to cancel their licenses, and the entire legal profession was shrouded in a cold winter.

Nowadays, it is not only difficult to find a lawyer to represent prisoners of conscience, but even if someone is willing to represent them, they can only be carried out quietly and cannot be spoken out publicly. Many lawyers are reluctant to even disclose the indictment or defense online. Compared to more than a decade ago, society as a whole is freezing at an alarming rate of speech and the rule of law.

3. Cases investigated by the "factory guard" system

The Commission for Discipline Inspection was originally part of the CCP's party organization system, but after the establishment of the Supervision Commission by governments at all levels in 2018, the model of "one set of personnel and two brands" of the Commission for Discipline Inspection and the Supervision Commission was formed, and its functions were further nationalized. The system of discipline inspection commissions and supervision committees, to some extent, is similar to the Ming Dynasty's "factory guard system" (directly under the emperor's investigative agencies Dongchang, Jinyiwei, etc.), which is specifically responsible for investigating the cases of officials in the party and government system, and occasionally involves people who commit crimes together with officials.

In the course of investigating such cases, the case-handling department relies heavily on confessions. Since corruption often takes place in secret environments, it is difficult to find direct witnesses, and it is extremely difficult to trace the flow of funds involved in the case, so torture has become a common method. However, the chain of evidence obtained by the case-handling department to extract confessions by torture is often full of loopholes, and it is not difficult for the suspect to retract his confession after the lawyer intervenes in the case. In addition, some suspects hold the secrets of their superiors and have virtually become a "time bomb", which makes the development of the case even more uncertain.

In order to control the scope of influence of cases, the authorities usually adopt a stability maintenance mindset when dealing with such cases. Unlike cases involving prisoners of conscience, the goal of stability maintenance in anti-corruption cases is to ensure that the scope of the purge does not get out of control. The involvement of state-appointed lawyers has become an important part of this control strategy.

Still, defending corrupt officials is seen as a good business in the legal profession, both in terms of lucrative fees and as a sign of a lawyer's influence. As a result, many lawyers rush to represent in such cases. However, only a truly courageous lawyer can break through the powerful shackles of institutionalized defense and demonstrate the independent spirit of the law. Zhang Qingfang showed the professional style of lawyers when he represented Neijiang Zhao Yongwei and Yingtan Wu Min cases, and Zhou Ze and Zhang Qingfang when they represented Jiangsu Qian Cheng in the Jiangsu Qian Cheng case.

In the case of Qian Cheng in particular, Zhou Ze's defense revealed a deformed political ecology in which members of the local Commission for Discipline Inspection and Supervision, with the support of the provincial task force, pressured Qian Cheng to admit to paying bribes to the relatives of several former top leaders. At this point, the fact of bribery itself has become secondary, and the coarseness of the

high-level political struggle has been exposed. Although Zhou Ze did not directly address the core issue in his defense, Zhang Qingfang's subsequent open letter directly unveiled this layer of window paper.

On October 21, 2024, Zhang Qingfang was revoked by the Beijing Municipal Bureau of Justice.

4. Punish "hard-boned" lawyers

1) Retaliation against trainee lawyers

The legal service industry should follow the law of market competition, and the merits of lawyers should be evaluated by clients, rather than intervened by administrative power. Passing the bar examination has demonstrated that the individual has the legal knowledge and judgment skills, and after completing the internship, the practice license should have been subject to a formal rather than a substantive review. However, in China, trainee lawyers who apply for a lawyer's license after completing their internship must be assessed by the lawyers association and reviewed and issued by the provincial judicial administrative department. In reality, many trainee lawyers have been treated unfairly by the Bar Association, the Department of Justice, and the Bureau of Justice because they have touched sensitive cases, and the issuance of lawyers' licenses has been delayed or refused.

For example, Zhang Wenpeng and Li Qingliang were assessed as "unqualified for internships" by their respective local bar associations in 2019 and 2020, but their ability, wisdom, courage and tenacity in the follow-up process of defending their rights fully proved that they fully possess the qualities of excellent lawyers. In the face of injustice, Zhang Wenpeng chose to defend his rights. He reported tax evasion by the lawyers association, exposed the corruption of officials in the judicial bureau, directly challenged power, and gradually became a "sensitive figure", repeatedly blocked from the lawyer's profession.

2) Retaliation against human rights lawyers

Lawyers Lan Qingzhou and Yu Kai of Shandong Xiaolin Law Firm not only assisted Zhang Wenpeng, but also actively helped two human rights lawyers, Lin Qilei and Yang Hui. Lin Qilei and Yang Hui have been unable to transfer to practice normally for a long time, both due to official administrative obstruction. Lan Qingzhou and Yu Kai intervened to protect the rights and interests of their peers, triggering retaliation from the Bureau of Justice.

In addition, as an excellent human rights lawyer, Yu Kai has represented many cases of prisoners of conscience in recent years, and together with his colleagues, submitted a legal opinion to the Standing Committee of the National People's Congress on the abolition of the crime of "picking quarrels and provoking troubles", demonstrating their sense of social responsibility. On July 5, 2024, Yu Kai was punished by the Qingdao Municipal Bureau of Justice for one year of suspension, and his law firm was also ordered to suspend business for half a year.

Although Zhang Zhan is widely known as a citizen journalist, she also has a background as a lawyer. Her second arrest at the end of August 2024 was directly due to the fact that she went to the family of citizen Zhang Pancheng to provide psychological support and assist him in contacting a lawyer after his arrest.

3) The upper outline is online to punish defense lawyers

In the lawyers' rest area of the Luoyang Intermediate People's Court, the court blocked the mobile phone signal, making it impossible for the lawyers to communicate with the outside world, affecting the normal handling of business, and violating the lawyers' right to communicate. On September 20, 2024, lawyer Zeng Wu tried to remedy himself and accidentally touched the device when he tried to turn off the shielding device.

The Luoyang Intermediate People's Court immediately went online to report to the police, and the Luolong Public Security Bureau imposed a five-day administrative detention on Zeng Wu on the grounds of "disrupting the order of the unit", which strongly shocked the legal community.

4) Punish observer lawyers

The principle of open trials should ensure that citizens and lawyers observe cases, but in reality, many lawyers are suppressed or even administratively detained for observing cases.

On September 14, 2024, on the trial day of Yu Wensheng's case of "inciting subversion of state power", lawyers Wang Yu and Yang Hui tried to observe, but they were refused, and they were forcibly taken away by the police, and they lost contact for a short time.

On October 21, during the trial of Liu Meixiang's corruption case in Hebei Province, lawyers Wang Yu and Jiang Tianyong also tried to observe, but they were also refused. During this period, the suspect's family tried to take pictures with their mobile phones, but were brutally robbed by the police, and the two lawyers were administratively detained by the Wei County Public Security Bureau for 9 and 8 days respectively for preventing the police from snatching the mobile phones.

These cases have fully exposed the infringement of lawyers' rights by the judicial system and highlighted the serious challenges in the legal practice environment.

Chapter II: Protest Actions to Defend Lawyers' Practice Rights

In the face of infringement of the client's and his own right to sue, a responsible lawyer should come forward. However, this kind of right-defending behavior often leads to conflicts with the judiciary, and under the leadership of the overall situation of "stability maintenance", this conflict further escalates, and even evolves into a confrontation between lawyers and the entire "knife handle" system. This is the dilemma faced by the Chinese legal community.

Although the government has repeatedly stressed the need to establish a judicial structure with a "balance between prosecution and defense", and the academic community has high hopes for this, the reality is that any vision of reform will not be able to resist the erosion of the logic of maintaining stability and security. When the ruling order is prioritized over the rights of citizens, the direction in which the judicial system operates is predestined: political stability prevails.

In order to truly achieve a balance between the prosecution and the defense, in addition to making it clear that the prosecution bears the burden of proof, lawyers must also be given the right to criticize the judiciary, and it can even be said that this is the most important means of confrontation for lawyers. Such criticism should not only take place in the courtroom, but should also extend beyond the courtroom. However, due to the need for political stability, the judiciary frequently issues regulations restricting lawyers' freedom of expression. Articles 38, 39 and 40 of the Measures for the Administration of Lawyers' Practice, revised in 2016, explicitly prohibit lawyers from criticizing the judiciary in or out of court.

Despite the shrinking space for practice, the 2024 lawyers are still struggling to defend their right to practice. Some human rights lawyers have even spoken out for their public mission, and many of these protests and civic actions are worth remembering.

I. Typical Cases of Lawyers Defending the Right to Practice

(1) Zhang Qingfang fought for the right to defend himself in the Wu Min case

1. Background of Infringement

Wu Min was the executive vice mayor of Ji'an and the chairman of the Standing Committee of the National People's Congress. In January 2024, the Jiangxi Provincial Commission for Discipline Inspection and Supervision filed a case for review and investigation, and was subsequently prosecuted to the Yingtan Intermediate People's Court for "suspected bribery". His family appointed two lawyers, Zhang Qingfang and Wang Chunli, to act as defenders in accordance with the law, but the court refused to allow them to intervene. It was not until the court called for the trial that the family learned that Wu Min had been appointed as a legal aid lawyer.

According to article 35 of the Criminal Procedure Law, "if a defender has not been retained due to financial difficulties or other reasons, the person himself or his close relatives may apply to a legal aid institution..... For suspects who might be sentenced to life imprisonment or death, the people's courts, people's procuratorates, and public security organs shall notify the legal aid institution to appoint a lawyer to provide them with a defense. ”

However, Wu Min's case did not meet the conditions for legal aid assignment and the family did not apply. The court's move was clearly illegal, not only infringing on Wu Min's right to a defense, but also causing a waste of public resources. In the face of the court's tough attitude, Zhang Qingfang decided to adopt a "grave-digging" defense strategy to defend his legitimate right to defense.

2. Enforcement Actions

2.1 "Grave-digging" defence

The core strategy of "grave-digging" defense is to target the abusive judicial officers involved in the individual cases and expose their misconduct, including corruption and falsification of academic qualifications, to the extent that they are digging up the graves, so as to induce the abusers to retreat.

In Wu Min's case, Zhang Qingfang's "grave digging" targets were directly targeted at Wu Zhaowen, a lawyer who "occupies a pit", and Liu Sailian, president of the Yingtan Intermediate People's Court.

In response to Ng Siu-man, Cheung Hing-fong revealed that his remarks in persuading his family to accept a legal aid lawyer involved politically sensitive content and questioned the lawyer's professional ethics. In addition, he also launched an investigation into Liu Sailian's academic qualifications, used the duplicate check function of CNKI to report that his master's thesis was suspected of serious plagiarism, and submitted an application to his alma mater to revoke his degree.

On January 25, 2024, lawyer Jin Lei reported Liu Sailian's master's thesis "Research on Pretrial Review Procedures for Public Prosecution Cases" to Nanjing University, and the plagiarism check results showed that the overall plagiarism rate of his thesis was as high as 63.9%, and the plagiarism rate of some chapters even reached 86.7% and 94.7%. On this basis, Jin Lei demanded that Nanjing University revoke his master's degree.

2.2 Other Rights Protection Actions

On April 10, 2024, he went to the Letters and Visits Office of the Supreme People's Court, asked to meet Vice President Shen Liang, and shouted: "I don't believe that as a doctor of Peking University, my strength is no worse than Shen Liang, so can't he see me?" On the same day, he sent an open letter to Supreme Court President Zhang Jun and Vice President Shen Liang, directly questioning the legality of the court's deprivation of the right to defense.

3. Media attention

On November 16, 2024, Southern Weekly published an article titled "Whose Rights Are Violated by 'Trapping Defense'?", conducted an in-depth analysis of the case and aroused the attention of public opinion.

4. Commentary and discussion

Zhang Qingfang posted a large number of posts and videos on the Internet, exposing the chaos of "pit occupation" defense. In January 2024, the "True Debate Network" launched a prize-winning essay collection activity on "pit occupation defense", and received a total of 65 essays and 2 invited manuscripts in just 8 days. The results are as follows:

First Prize (1 winner):

Lv Yue: The Dilemma of the Principle of Priority of Entrusted Defense and Its Solution"

Second Prize (3 winners):

Hao Yun: Conflict Resolution between Entrusted Defense and Appointed Defense: The Right of Self-Determination of Parties and Its Substantive Guarantee

Shen Lei: "On the Strange Phenomenon and Governance of "Occupy the Pit" Legal Aid

Lawyer Nian Yang: "What are we opposing the "pit-occupancy" defense? »

Third Prize (5 winners):

Shen Chen: "I Defend This Kind of "Occupy the Pit"

Zhang Peng: "On the Defense of the Pit: Don't Let the Death Knell Ring"

Wu Xuesong: "The Three Social Harms of "Occupation of the Pit Defense"

Xu Junping: "The Phenomenon of "Occupying the Pit" Legal Aid Plays with the Law and Destroys the Defense System

Huang Jiade: "Arbitrarily Exploiting Public Power to Occupy Private Power is a Cancer of Civilized Society"

5. Results of Rights Protection

On June 10, 2024, the Secretariat of the Academic Committee of Nanjing University replied to the letter, confirming that Liu Sailian's master's thesis constituted academic misconduct.

However, despite the overwhelming public opinion, Zhang Qingfang and Wang Chunli still failed to regain the right to defend themselves. On April 11, 2024, the Yingtan Intermediate People's Court held a trial as scheduled, and the verdict was pronounced on April 19.

(2) Zhang Qingfang's lawyer's license was revoked

1. Background of the event

On September 20, 2024, lawyer Zhang Qingfang received the "Advance Notice of Administrative Punishment" issued by the Lawyer Work Office of the Beijing Municipal Bureau of Justice, informing him that he intends to have his lawyer's practice certificate revoked.

According to the notice, on September 18, 2024, the Beijing Municipal Bureau of Justice received the case file materials handed over by the Haidian District Bureau of Justice, accusing Zhang Qingfang of violating laws and regulations in the course of practice, and filed the case on the same day.

The reasons for the penalty are as follows:

(1) In the course of handling relevant cases, Zhang Qingfang repeatedly interfered with the normal performance of duties by case-handling personnel and other lawyers through methods such as public rewards and online hype, influencing the lawful handling of cases.

(1) Inciting or instigating relevant personnel to go to supervision sites, disrupting the order of supervision, and causing some personnel to be dealt with by the public security organs in accordance with law.

The Bureau of Justice believes that Zhang Qingfang's conduct is suspected of interfering with the judicial process in an improper manner and inciting others to use illegal means to create social chaos, the circumstances are serious, the impact is bad, and the image of the lawyer profession is seriously damaged.

2. Enforcement Actions

On October 8, 2024, Zhang Qingfang issued the "Statement of Lawyer Zhang Qingfang on the Hearing on the Punishment of Being Suspended".

In the statement, he admitted that in the process of fighting for the right to defend Wu Min's case, he had taken radical actions such as offering public rewards and issuing whistleblower letters, and expressed his willingness to accept the corresponding punishment. However, he believes that the decision to revoke the practising license is too harsh, and implores the competent authorities to uphold an impartial position in the handling process, listen to the opinions of all parties, ascertain the facts, and make a reasonable ruling.

Subsequently, he wrote an article, "Confessions of a Player Who Was Banned for Life for Fighting for the Right to Play", in which he reviewed his practice in detail and discussed the dilemmas faced by lawyers in the process of defending their rights.

3. Media attention

Zhang Qing's plan quickly attracted the attention of public opinion, and many media reported on the matter:

Sing Tao Daily | *Chinese lawyer Zhang Qingfang plans to have his license revoked*

Lianhe Zaobao | *News World: Zhang Qingfang, a "grave-digging defense" lawyer, had his license revoked*

Oriental Daily | *Accused of "Internet hype" affecting the handling of cases, a well-known Chinese lawyer had his license revoked*

4. Comments from the legal community

The revocation of Zhang Qingfang's certificate has sparked widespread discussion in the legal community, with many well-known lawyers commenting:

Mr. Lee Chung Wai | *"The self-attachment has gone, the law has not been over-Li Zhongwei talks about Zhang Qingfang".*

Lawyer Pu Zhiqiang | *"Lawyer Zhang Qingfang has been punished - he intends to revoke his lawyer's license!" 》*

Lawyer Liu Shuqing | *"Ling Yunjian's Writing - Lawyer Zhang Qingfang in My Eyes".*

Lawyer Xi Xiangdong | *"Written on the day of the hearing on lawyer Zhang Qingfang's proposed revocation of his license".*

Lawyer Huang Hai | *"Lawyer Zhang Qingfang Revokes Lawyer's Certificate".*

epilogue

The Zhang Qing plan once again highlights the systemic repression faced by Chinese lawyers in defending their practice rights. His case is not only a turning point in his personal fate, but also reflects the difficult situation of the entire legal profession under the logic of stability maintenance.

(3) The Qingdao Municipal Bureau of Justice obstructed Zhang Wenpeng's internship evaluation

1. Background of the event

Zhang Wenpeng, born in 1993, obtained his trainee lawyer certificate on July 30, 2018 after passing the judicial examination. On August 15, 2019, he was assessed as "unqualified" in the interview and assessment of trainee lawyers organized by the Shenzhen Lawyers Association, citing "poor temperament, sloppy image, not wearing formal clothes, not having a solid legal foundation, wearing leather shoes without black socks, lack of self-confidence, and poor logical thinking", and was required to extend the internship period by 6 months.

In response, Zhang Wenpeng angrily sued the Shenzhen Lawyers Association and the Guangdong Lawyers Association, and reported tax evasion in November 2019. On August 31, 2021, the Shenzhen Municipal Taxation Bureau issued a notice confirming that the Shenzhen Lawyers Association had indeed committed tax violations, and ordered it to pay more than 750,000 yuan in back taxes and impose a fine of more than 20,000 yuan. In November of the same year, he reported tax evasion by the Beijing Lawyers Association with his real name.

Due to his long-term opposition to the "government-run lawyers association" and his continued reporting of unhealthy practices in the industry, Zhang Wenpeng has not been approved to practice formally, which is equivalent to entering the "blacklist" of the lawyers association or the judicial administrative authorities.

In January 2023, Zhang Wenpeng obtained an internship certificate at Shandong Xiaolin Law Firm, and according to the regulations, he should have completed the internship in January 2024 and applied for an interview. However, the Qingdao Municipal Bureau of Justice refused to arrange an interview, preventing him from obtaining his qualification to practice.

2. Enforcement Actions

Yu Kai, the director of the law firm, and lawyer Lan Qingzhou tried to coordinate with each other, but failed to solve the problem. On January 26, 2024, Yu Kai sent the "Explanation on Zhang Wenpeng's Application for Internship Assessment and Lawyer's Practice" to Yang Zengsheng, Director of the Shandong Provincial Department of Justice, and Liu Yuguo, Director of the Lawyer Work Division, emphasizing that the decision not to arrange the assessment was neither legal nor reasonable, and condemning the relevant departments for abuse of power or dereliction of duty.

On January 28, Zhang Wenpeng exposed that the Qingdao Lawyers Association mandated trainee lawyers to purchase the internship training provided by "Dianjing.com", charging 450 yuan per person, otherwise they would not pass the assessment.

On January 29, Zhang Wenpeng and Yu Kai went to the Qingdao Bureau of Justice to ask for an explanation, accompanied by Lin Qilei and Sui Muqing.

On January 29, police from the Jinhu Road Police Station in Qingdao summoned Lin Qilei and Sui Muqing for "disrupting the order of the unit." On the same day, the offices of Shandong Xiaolin Law Firm and Beijing lawyer Li Guobei were also subjected to police pressure.

On February 1, Zhang Wenpeng sent a letter to Minister of Justice He Rong, calling for the rectification of systemic corruption in the legal profession.

On March 20, Zhang Wenpeng was summoned across provinces by the Shinan Branch of the Qingdao Public Security Bureau in Shenzhen. Zhang Wenpeng disclosed that he was not presented with a summons card during the illegal summons, his mobile phone was snatched, his fingers were injured, and the police did not officially show the summons card until he arrived at the case handling site. At the place where the case was handled, Zhang Wenpeng was forced to strip naked and change into prison clothes.

3. Media Coverage

The Paper | *A trainee lawyer was summoned by the police across provinces for disrupting the order of the unit? Qingdao Public Security: Investigation is ongoing*

China News Group | *A trainee lawyer in Shenzhen was summoned by Qingdao police across provinces, stripped naked and forced to wear prison uniforms*

4. Commentary

Lawyer Yang Hui | *Who is tarnishing the image of the lawyer's profession?*

Penn Japanese Cloud | *To trainee solicitors "20 years back?" The Qingdao Lawyers Association was accused of filing a case in a "retaliatory style".*

Penn Japanese Cloud | *Yu Kai and Zhang Wenpeng: Two "strong bulls" in the rivers and lakes*

(4) Zhang Wenpeng was arrested for "picking quarrels and provoking trouble".

1. Background of the event

In June 2024, Zhang Wenpeng was recommended by Zhang Qingfang, the defense lawyer of Chen Mouqing, chairman of Haiyun Group, to serve as the group's executive president and general counsel.

The Haiyun Group case is one of the typical cases of "criminalizing debts". A dispute arose between the Group and the Sanya Municipal Government during the development of the Sanya Banling Hot Spring Project, and the government unilaterally terminated the agreement. In August 2020, Chairman Chen Mouqing and hundreds of company executives were arrested and charged with "contract fraud" and other crimes.

The group was then placed in trust by the Sanya authorities to the state-owned Sanya Tourism Group, and financial expenditures, including the payment of salaries to employees, were banned. In July 2024, Zhang Wenpeng negotiated with Sanya Tourism Group on behalf of Haiyun Group, and was warned by the public security of Jiyang District, Sanya City, Hainan Province to "disrupt the order of the unit". In August, employees of Haiyun Group clashed with the police over wage protection.

On September 24, the Jiyang Public Security Bureau criminally detained Zhang Wenpeng for "picking quarrels and provoking trouble."

The root cause of Zhang Wenpeng's arrest is that since he became the chief executive officer, he has hindered the process of the Sanya government's embezzlement of Haiyun Group's assets, touched local interest groups, and thus suffered repression and retaliation.

2. Rights Protection Actions:

On October 8, 2024, Zhang Wenpeng released a statement detailing the abuses he had endured in the detention center, including mental and physical torture.

The Sanya No. 2 Detention Center repeatedly made it difficult for lawyer Li Guobei's request to meet with her, apparently in an attempt to cover up the unfair treatment suffered by Zhang Wenpeng during his detention. Anticipating possible obstruction, lawyer Li made an appointment for a meeting through WeChat in advance and informed the case-handling unit by phone so as to avoid police interrogation. However, on the morning of 27 September, when she arrived at the detention center on time, she was still denied a meeting on the grounds that the police were arraigning her.

In the face of obstruction, Li Guobei challenged the detention center's leadership, emphasizing that the detention center should act in accordance with the law, rather than being subject to verbal instructions from the case-handling unit. In desperation, she spoke out publicly through social media to expose the misconduct of the detention center, which quickly attracted widespread attention in the legal circle.

张文鹏声明

本人张文鹏，系三亚海韵集团执行总裁。目前正在海口市中级人民法院审理的指控我公司涉嫌诈骗三亚市政府等案件，是在海南省政法委的插手干预下，不让我公司委托诉讼代理人参加诉讼，严重侵害、剥夺我公司的诉讼权利，故严正声明：在没有我公司自愿委托适格的诉讼代理人到庭参加诉讼的情况下，海口市中级人民法院对我公司所作的一切判决，均不具备任何法律效力，一切对本公司不利的审判行为，均为抢劫行为！

海韵集团涉案后，海南省政法委指令某国企托管，不让企业发工资、不让企业伸冤维权、抢走企业印章、侵害企业自主经营权，本人张文鹏在反抗前述抢劫行为和被员工追讨工资的过程中，遭受到打击报复，被“寻衅滋事”，目前关押在三亚市第二看守所。

我被三亚市吉阳分局抓捕后送至看守所前，遭受到非人的刑讯和虐待，吉阳分局民警刘广鼎故意将我双手反铐，手铐锁死，致使我的手腕被割破，现在安排海韵集团涉嫌诈骗三亚市政府的案件立即开庭，其目的就是为了让我不为企业鸣冤维权。

虽然遭受种种磨难，但我为企业维权的决心丝毫没有减退，维护社会公正的勇气和意志更加坚定，蒙冤被剥夺自由后，我已经克服了一切恐惧，我坚信海南省政法委炮制冤案，势必会被追究相关责任，海韵集团的冤案，也势必会得到平反！

声明人：张文鹏

2024年10月8日星期二

Eventually, under the pressure of public opinion, Mr. Li was able to meet with Zhang Wenpeng. However, during the interview, she was closely monitored, and the detention center personnel unjustifiably questioned her lawyer's certificate, official seal, and power of attorney, and even demanded an appraisal.

3. Lawyers' meetings were monitored and accused

Due to the loud echo in the interview room, lawyer Li negotiated with Zhang Wenpeng and used the interrogation room to conduct the interview, and received a commitment from the detention center to turn off the recording equipment. However, during the follow-up interrogation, Zhang Wenpeng found that the content he discussed with his lawyer was obtained by investigators, and it was obvious that there was illegal surveillance.

On November 12, Zhang Wenpeng noticed that the correctional officers had deliberately not closed the door of the interrogation room and were eavesdropping. On 4 December, he again discovered that investigators had the details of the interview. In response, lawyer Li Guobei filed a complaint with the relevant authorities, accusing the detention center of violating the Criminal Procedure Law by openly monitoring the lawyer's meeting and leaking information to the police.

4. Zhang Wenpeng was ill-treated and charged by his lawyer

Zhang Wenpeng has been subjected to severe abuse in the detention center, including wearing heavy leg irons for long periods of time, humiliation by correctional officers, and restrictions on basic living needs.

On December 4, 2024, two investigators, Zhang Haoyan and Fang Qigan, openly insulted Zhang Wenpeng during interrogation, calling him a "dog in a cage" and suggesting that the detention center could watch him take a bath through surveillance. Zhang Wenpeng protested angrily and asked to see the prosecutor in the station.

In the afternoon, Tang Dong, the discipliner, forcibly put on shackles weighing more than ten catties on Zhang Wenpeng on the grounds of "disobedience to management". In the days that followed, he was shackled for minor actions, such as not sleeping with the fan as required, failing to greet the discipline as instructed, etc., which caused his ankles to wear out, bleed and fester.

In an unbearable situation, Zhang Wenpeng tried to bandage the wound with a strip of cloth, but was taken away by the discipline on the grounds of "preventing suicide", and finally had to wrap the wound in a plastic bag.

On December 12, lawyer Li Guobei submitted a formal complaint to the People's Procuratorate in the suburbs of Sanya, accusing the relevant persons of following:

Zhang Haoyan and Fang Qigan, police officers of the Jiyang Public Security Bureau, monitored the meeting and leaked information.

Detention center director Yang Jianning, correctional Tang Dong, and instructor Chen Diyu -- abusing detainees and infringing on personal dignity.

Personnel of the procuratorate's procuratorial office in the procuratorate - long-term dereliction of duty and failure to perform supervisory duties.

On December 13, lawyer Peng Yonghe publicly reported the above-mentioned persons in real name.

At the same time, Xie Dan, a citizen of Chongqing, met with three Hainan Provincial People's Congress deputies, including Feng Fei, secretary of the Hainan Provincial Party Committee, hoping to push relevant departments to intervene in the investigation.

5. Media coverage and social concern

"New Tang Dynasty" | A well-known lawyer in mainland China was tortured and reported retaliation by the Hainan authorities

"People's Livelihood Observation" | Zhang Wenpeng was detained, and his lawyer's meeting was made difficult by scoundrels

6. Industry reviews

Lawyer Huang Hai | The past, present and future of the crime of picking quarrels and provoking troubles - to change Brother Wen Peng's space

Li Yuchen | He is not a lawyer, but he is a prisoner

Equity Wall Li Taming | A senior trainee solicitor who was shackled

7. Results of Rights Protection

Under the pressure of public opinion, lawyer Li Guobei was finally able to meet with Zhang Wenpeng, and the outside world was able to understand his true situation

in the detention center. Although the case has not yet been handled fairly, the social attention brought about by the exposure has helped to improve Zhang's treatment in the detention center.

(5) Yu Kai and Xiaolin Law Firm defended their rights

1. Background of the penalty

On June 20, 2024, Shandong Xiaolin Law Firm and its lawyer Yu Kai received an administrative penalty notice from the Qingdao Bureau of Justice, deciding to suspend business for one year and Xiaolin Law Firm for half a year for rectification.

The reason for the punishment was that Yu Kai was accused of "making misleading comments on the cases being tried by the judicial authorities through the Internet and hyping up the cases in violation of regulations". However, industry insiders generally believe that this punishment is a systematic liquidation of Kai's long-term representation cases and insistence on independent practice.

The reason for this was that lawyers Yu Kai, Lan Qingzhou, Ma Xiaolin, Yu Zhaoyan, Zhang Wenpeng, and others jointly submitted the "Legislative Proposal on Abolishing the Crime of Picking Quarrels and Provoking Troubles" to the Standing Committee of the National People's Congress. Officials have determined that the action is a "hyped case", but the legal community generally believes that it is just a means for the authorities to find an excuse to suppress them.

2. Enforcement Actions

2.1 Hearing and Counsel Support

After receiving the penalty notice on June 20, Yu Kai filed an application for a hearing, and the hearing was held on July 2.

Since this case concerns lawyers' basic practice rights, a number of lawyers from all over the country spontaneously went to Qingdao to observe. It rained heavily in Qingdao that day, and the seats at the scene were occupied by unknown people, and the Justice Bureau forbade lawyers to observe the hearing for various reasons.

Some lawyers have been thwarted:

He Weimin, a lawyer in Guangdong who suffered from a heart attack, rushed to the hearing with an oxygen bag, was brutally treated by security guards and even pushed to the ground.

The Xinjiang Bureau of Justice sent a special trip to Qingdao to dissuade lawyer Huang Hai from returning to Xinjiang.

Judicial authorities in various places called the lawyers at the scene and pressured them to leave.

Yu Kai and Xiaolin Law Firm respectively appointed four lawyers, Yang Weihua, Liang Xiaojun, Zou Lihui and Lan Qingzhou, as their representatives, and all submitted written representation opinions after the hearing.

2.2 Further Complaints and Appeals

Yu Kai sent letters of appeal to the State Supervision Commission, the Central Political and Legal Commission, the Organization Department of the CPC Central Committee and other institutions, requesting that the punishment be revoked.

3. Media Coverage

NTD | It is suspected that he was retaliated against for writing a letter to abolish the crime of seeking children's problems, and the Shandong lawyer was suspended for one year

Rights Protection Network | Qingdao lawyer Yu Kai was subject to an administrative penalty hearing, and the lawyer's observation was blocked

4. Industry reviews

Wen Donghai | Yu Kai - a lawyer's ideal of the rule of law

Liu Shuqing | Administrative punishment under the consciousness of "tithes and five consecutive sitting".

5. Results of Rights Protection

In the end, the Qingdao Bureau of Justice upheld the original penalty decision.

(6) Lawyer Yang Hui transferred to the law firm to defend his rights

1. Background of Infringement

Lawyer Yang Hui has represented the Early Rain Covenant Church case and the "12 Hong Kong People Case", and has been on the official key monitoring list for a long time. When applying for transfer to Guizhou Hengquan Law Firm, the Guiyang Municipal Bureau of Justice delayed the approval for various reasons and failed to deal with it beyond the statutory time limit.

As a result, Yang Hui sued the Guiyang Municipal Bureau of Justice, asking the court to order the Bureau of Justice to perform its review duties and submit the application materials to the Provincial Department of Justice.

2. Enforcement Actions

The court of first instance partially supported Yang Hui's claim and ordered the Guiyang Municipal Bureau of Justice to perform its examination and approval duties. But the agency still hasn't fulfilled the verdict.

Yang Hui continued to apply to the Guizhou Provincial Department of Justice for a change in his lawyer's practice certificate, but the Department of Justice refused to accept it. He then applied to the Ministry of Justice for administrative review, which ultimately rejected his request.

Dissatisfied, Yang Hui filed a lawsuit again, and on April 17, 2024, the Beijing court held a trial. Lawyer Yu Kai represented the case, and lawyers Wang Yu, Bao Longjun, Lin Qilei and other lawyers observed.

3. Result of Rights Protection

On June 5, 2024, the Beijing Higher People's Court rendered a final judgment, rejecting the appeal and upholding the original judgment. Yang Hui has not yet been approved for transfer.

(7) Lawyer Feng Bo's fraud case

1. Background of the case

Feng Bo, a lawyer at a law firm in Guangxi, has provided legal services for Liu Qiang's enterprises. Liu Qiang was later sentenced to 25 years on 11 counts of

underworld criminal organization and fraud. The court found that Feng Bo knew that his client was engaged in illegal activities, but still provided legal support, and sentenced Feng Bo to 10 years in prison and a fine of 350,000 yuan for "the crimes of underworld criminal organization, fraud, and aiding in the fabrication of evidence".

2. Enforcement Actions

After Feng Bo appealed, lawyers Liu Chang and Wang Haochen represented him in the second instance. During the second trial, the court refused to allow the lawyer to bring the computer into the courtroom, and quickly completed the trial during the lawyer's negotiation, artificially causing the lawyer to be absent from the trial to defend the trial.

During the trial, Feng Bo described in detail the experience of extorting confessions by torture, including prolonged confinement and ill-treatment.

3. Industry reviews

Lawyer Zou Yujie | Are the prosecution and defense truly equal?

Wang Yizhi | Justice is achieved in a visible way

4. Outcome of Rights Protection

In the end, the court of second instance revoked the crime of "underworld criminal organization", reduced the sentence from 10 years to 4 years, and reduced the fine to 100,000 yuan.

The sentence was shortened, but Feng Bo and his lawyer still felt that the verdict was unfair, stressing that the lawyer's normal practice should not be considered a crime.

(8) Gao Bingfang's false litigation case

1. Background of the case

Tai'an Congee Shop Construction and Installation Engineering Co., Ltd. (hereinafter referred to as Congee Shop Construction Company) contracted the construction project of a public primary school and subcontracted it to individual contractors step by step. In the end, although the project payment had been paid to Zhao Mouwu, the first-tier subcontractor, the labor costs of some migrant workers had not been settled due to layers of subcontracting.

Mi Mouyin and Chen Mouchang, as the actual construction managers of the project, paid the wages of migrant workers in advance, but they never received the payment due from the superior contractor. When legal means could not completely solve the problem, they met with lawyer Gao Bingfang and decided to file a lawsuit on behalf of more than 70 migrant workers.

In the first-instance judgment of the Daiyue District Court, more than 70 migrant workers won the lawsuit, and the defendant, Congee Shop Construction Company, was found to be jointly and severally liable for illegal subcontracting. However, the Daiyue District Procuratorate lodged a protest on the grounds that there were "false lawsuits" in some cases, resulting in the majority of cases being withdrawn after retrials, and only a few cases upholding the original verdicts.

Subsequently, the provincial procuratorate intervened and initiated criminal proceedings against Gao Bingfang, Chen Mouchang, and Mi Mouyin for the crime of false litigation.

2. Enforcement Actions

The judicial authorities accused Gao Bingfang of colluding with relevant personnel to falsify evidence such as payroll schedules with the intention of making the porridge shop construction company bear debts that were not payable to him through litigation.

According to the defense, the core issues in the case are:

whether there is evidence that Gao Bingfang knew that the lawsuit was false;

Whether there is conclusive evidence that the migrant workers have fully paid their wages.

Judging from the trial process, there was no sufficient evidence to prove that Gao Bingfang deliberately participated in the falsification of evidence, and the Congee Shop Construction Company had liability defects in the subcontracting process, so there were obvious doubts about its conviction.

3. Media Coverage

The Beijing News | The lawyer's case of representing migrant workers in a false lawsuit for wages has been completed in the first instance, and the verdict will be announced at a later date

"The Paper" | The female lawyer was charged with false litigation in the first instance and will be appealed

4. Industry reviews

Lawyer Zhao Huachang | Is lawyer Gao Bingfang really guilty?

Wong Ying-sang (Former Supreme Court Judge) | We must not allow the weak to be wronged

Lawyer Wang Cailiang | You can't always be a blind lawyer - Tai'an has a feeling in court

5. Results of Rights Protection

Gao Bingfang was finally convicted of false litigation and sentenced to four years in prison, fined 50,000 yuan, and recovered 10,000 yuan of illegal gains.

(9) Case of lawyer Zeng Wu being administratively detained

1. Background of the case

On September 20, 2024, the criminal case of Li Mouping in Luoyang will be opened. On the same day, when the defense lawyers entered the courtroom, they found that the court had blocked all mobile phone signals, which seriously affected the lawyers' normal work and communication with the outside world.

When the court adjourned in the morning, the lawyers found that even the signal in the rest area was blocked, so lawyer Zeng Wu tried to turn off the shielding equipment. Due to the high position of the device, he touched the switch with his mobile phone and accidentally caused the device to fall. In the afternoon, the

Luoyang police summoned him for "intentionally destroying property," but later changed the charge to "disturbing the order of the unit" and planned to detain him for five days.

2. Enforcement Actions

In the early morning of September 21, Zeng Wu filed an administrative reconsideration to suspend his detention.

On September 27, Luoyang police summoned Zeng Wu again and tried to seize his mobile phone, claiming that it was a "tool for committing crimes."

On November 24, under pressure from public opinion, the Public Security Bureau suspended the detention decision, but demanded a deposit of 1,000 yuan.

On December 3, Zeng Wu filed an administrative lawsuit with the Luoyang Court, requesting that the punishment be revoked.

In addition, the lawyer's peers invoked the Radio Administration Regulations to apply to the Henan Provincial Department of Industry and Information Technology for the disclosure of the Luoyang Court's shielding equipment license information, which proved that the court had not obtained legal authorization.

3. Media Coverage

Southern Weekly | The lawyer was punished for touching the court's signal jammer, where is the dispute?

4. Industry reviews

Cheng Memorial Lawyer | 2024, a sample of criminal defense lawyers

Lawyer Peng Ruiping | Luoyang Intermediate People's Court created the rule of law figure of the year: lawyer Zeng Wu

Lawyer Zheng Yongzhi | Luoyang Intermediate People's Court, please save face for the law

5. Results of Rights Protection

The case has been suspended, and administrative proceedings are still ongoing.

(10) Case of a lawyer being sprayed with chili pepper water by the bailiff

1. Background of the event

On December 25, 2024, the Xilinhot Municipal Court held a trial of the case of Ren and others accused of organizing and leading pyramid schemes. On the morning of the same day, when lawyers Guo Rui, Yang Xiao, Wang Xingwei, Li Qingduo, and Leng Hui entered the courtroom, they were forcibly asked by the bailiff to pass through the security channel and forbidden to carry backpacks, computers, mobile phones and other items, which led to an argument between the two parties. Subsequently, a clash broke out at the scene, in which "the bailiff snatched the lawyer's mobile phone and sprayed the lawyer with pepper water, causing injury".

2. Enforcement Actions

The incident quickly aroused widespread concern and condemnation in the legal circle. On the same day, the five lawyers immediately reported the case to the police, and the police station where the court is located accepted the case. At 9 a.m. on

December 28, the five lawyers received a "Notice of Non-Filing of Administrative Cases" issued by the Xilinhot Municipal Public Security Bureau, stating that the case did not fall within their jurisdiction. The five lawyers immediately issued a joint statement, questioning the legality of the court's ban on carrying mobile phones, computers and other devices, and emphasizing that they did not do anything to obstruct the court's order during the negotiations. The lawyers pointed out that the court's approach was based on the repealed 2004 version of the Judicial Police Security Inspection Rules, while the latest 2019 version of the rules did not prohibit the carrying of mobile phones and computers. They demanded:

1. The leaders of the Xilinhot Municipal Court publicly apologized to the lawyers;
2. investigate and deal with the relevant responsible bailiffs in accordance with the law;
3. Reimbursement for medical expenses incurred as a result of spraying chili pepper water.

3. News Coverage

Central News Agency | Chinese lawyers were sprayed with chili pepper water by bailiffs, and they had to defend their rights first to help others fight lawsuits

Wired News | Five mainland lawyers were sprayed with pepper water as observers, criticizing the court police for violently enforcing the law and demanding investigation and punishment

Forbidden Text Network | A number of lawyers were sprayed with pepper water by bailiffs when they observed the criminal case? Parties: The bailiffs are forbidden to bring mobile phones, and they are violently enforced to take pictures and collect evidence

4. Comments from the legal community

Fado News | Injured lawyer: At that time, life was worse than death, and the trauma slowly emerged

Mr. Guo Rui | The bailiff squirts "pepper water" on the lawyer

Smoke grammar | The lawyer was sprayed with pepper water, will it be over?

Li Yuchen | Spray you in accordance with the law, and no case will be filed

Li Zhipeng | Is it lawful for the public security organs not to file a case against the court bailiff for using pepper water to spray lawyers?

Lawyer Nomin | Examination under the "paradox" of law enforcement: Let's talk about the fairness of the Xilinhot bailiff to the observer lawyer's pepper spraying incident

Zhang 3 Feng | After being sprayed with chili pepper water, she thought about "the pain of others"

5. Results of Rights Protection

Although the lawyers filed a petition to report to the police, the case has not been filed, and the action continues.

(11) Case of Guangzhou Arbitration Commission arbitrarily ruling that the law firm bears liability for unfair litigation

1. Background of the case

In 2017, Li Mouguang and his wife Luo signed an equity transfer agreement due to the needs of industrial and commercial registration and company management, transferring 25% of the equity of Shenzhen Hongda Environmental Technology Co., Ltd. to Luo's name, and agreed to transfer 3.75 million yuan of equity.

On July 15, 2022, Li Mouguang sued Luo in accordance with another supplementary agreement on equity transfer to the Bao'an District Court of Shenzhen, demanding the payment of 50 million yuan for equity transfer. Luo's lawyers, Ge Wenxiu and Wang Heng, successfully proved that the supplementary agreement was forged and the court did not accept it. However, the court of first instance ruled that Luo should pay 3.51 million yuan based on the initial equity transfer agreement.

Luo was not satisfied, and rehired a lawyer in the second instance and raised a statute of limitations defense. However, the court of second instance refused to review the case on the grounds that the statute of limitations had not been raised in the first instance and upheld the original judgment.

Luo then applied to the Guangzhou Arbitration Commission for arbitration, demanding that Guangdong Licheng Dingbang Law Firm bear the responsibility for losing the lawsuit. Based on the judgment of the court of second instance that it did not review the issue of statute of limitations, the Guangzhou Arbitration Commission found that the lawyers Ge Wenxiu and Wang Heng were at fault, and ruled that the law firm should compensate Luo 3.51 million yuan.

In view of Ge Wenxiu's long-term representation in human rights cases, it is doubtful whether there are other considerations behind this arbitral award.

2. Enforcement Actions

Filed a complaint with the Shenzhen Municipal Commission for Discipline Inspection and the Supervision Commission against the Guangzhou Arbitration Commission for arbitrarily awarding the law.

Applied to the Guangzhou Intermediate People's Court to set aside the arbitral award ((2023) Sui Zhong Case No. 14502).

Li Jianguang was charged with false litigation.

Submit an application for rights protection to the Rights Protection Committee of the All-China Lawyers Association.

Lawyer Ge Wenxiu published an article: "Judgment of Corruption, Lawyers Pay, Where is the Reason? "Look at how the arbitral tribunal that awarded the award of 3.51 million yuan was formed".

Seminar for the Legal Profession: On March 31, 2024, Hunan Cai Ying, Guo Xiongwei, Deng Linhua, Wen Donghai, Guiyang Li Guisheng and other lawyers held a symposium at Changsha Huiju Legal Consulting Service Co., Ltd., and formed the "Minutes of the Symposium on the Case of Lawyer Ge Wenxiu".

3. Result of Rights Protection

The case is still in the process of litigation and the court has not yet enforced the arbitral award.

(12) Lawyer Zhao Yonglin was unlawfully deprived of the right to a defense

1. Background of Infringement

On December 5, 2024, the Luoyang Intermediate People's Court heard the case of Li Mouping, and in order to speed up the progress of the trial, the lawyer and the defendant were required to continue the trial at night. The defense lawyer and the appellant refused to work overtime on the grounds of health problems, but the presiding judge Zhao Dadi ignored it and forcefully said, "If you don't want to open it, you can leave." "

Lawyer Zhao Yonglin, who is over 60 years old, suffers from diabetes and heart disease, struggled until after 8 p.m., but could not hold on, so he protested to the court and left with the judge's consent.

The next day, the Luoyang Intermediate People's Court revoked Zhao Yonglin's qualifications as a defender on the grounds that "the lawyer withdrew from the court without authorization" and complained to the judicial organ to which he belonged. Although Zhao Yonglin was able to continue to defend his client after the struggle, the move once again exposed the judicial authorities' disregard for the rights of lawyers.

2. Enforcement Actions

On October 9, Li Mouping was "banned" by the judge, and lawyers Zhao Yonglin, Wang Xingqi, and Wang Xu applied for recusal, for reasons including: Zhao Dadi repeatedly deprived defenders of their right to speak, violating article 31 of the "Provisions on the Protection of Lawyers' Practice Rights". Zhao Dadi's decision to recuse himself violated article 31 of the Criminal Procedure Law.

The lawyers' group complained to the Luoyang City Procuratorate and asked the procuratorate to perform its legal supervision duties.

3. Industry reviews

"Luoyang Li Weiping Case| The Court That Can't Get Into

Jinglai Lawyer | Zhao Yonglin and Zhao Dadi: one upholds the law, the other violates the law

Record Liu Jie | Luoyang Intermediate People's Court Zhao Dadi-style trial, how can the court "boil the eagle"?

Public Debate | Following the blocker incident, another "highlight" of the Luoyang Intermediate Court

Sky Light Cloud Shadow | Lawyer Zhao Yonglin and Judge Zhao Dadi

4. Outcome of Rights Protection

After the struggle, lawyer Zhao Yonglin was finally able to continue his defense.

(13) The case of entrepreneur Ma Yijiayi and his lawyer and legal assistant charged with picking quarrels and provoking trouble

1. Background of the case

Entrepreneur Ma Yijiayi has been building the Liupanshui Municipal Government project for a long time, but the government owes him a huge amount of money for the project. Relevant materials show that there are at least 4 debts, totaling more than 6,900 yuan, which have been confirmed as valid creditor's rights through judicial procedures.

In 2022, the enforcement procedure was initiated, and Ma Yijiayi's company hired legal counsel Hou Zhitao, lawyer Tang and a number of paralegals to represent the execution of the matter. However, since November 20, 2023, Hou Zhitao, Tang and several paralegals have been arrested by the police for the crime of "picking quarrels and provoking trouble".

According to Hou Zhitao, in the process of acting as an agent for the execution of cases, they found that the court had many illegal and even suspected criminal acts, and spoke out through social media such as Weibo. However, instead of correcting the situation, the enforcing court joined forces with the local public security authorities to criminally crack down on the creditor and its lawyer.

According to the procuratorate's circular, the lawyers used improper methods to demand debts, including hiring others to squat, tailgating, secretly taking pictures, installing GPS tracking devices, and mailing threatening letters, which violated citizens' personal privacy and peace of life.

In fact, the lawyers only posted information about the debt lawsuit on social media and sent reports to relevant government officials, exposing the non-payment of arrears, illegal unfreezing of assets, and the unaccounted for large amounts of funds.

2. Enforcement Actions

After the case was exposed, public opinion quickly fermented, and all sectors of society generally regarded it as another typical case of "turning debts into debts with criminal punishment". Because it involves the safety of lawyers' practice, the lawyers' circle also actively supports it.

In the end, under the pressure of public opinion, the procuratorate made a decision not to prosecute Ma Yijiayi and the relevant lawyers and paralegals on the grounds of "the circumstances are minor, and they admit guilt and repentance".

3. Media Coverage

"LAW" | Liupanshui female entrepreneur was arrested for debt collection and finally the whole case was not prosecuted - lawyer: the result of joint efforts

Elephant News | Official report that female entrepreneur was arrested for asking for project money Lawyer: We should insist on fairness, openness and transparency

China Business News | Women entrepreneurs were arrested for "picking quarrels and provoking troubles" for asking for project funds, and the government was only willing to pay 12 million yuan in debts of more than 100 million

Business Times | When the female entrepreneur in Guizhou failed to recover the 200 million yuan owed by the district government, she and her lawyer team were arrested

4. Industry reviews

Huanhuaxi Du Fu | Arresting lawyers and female entrepreneurs, the fire of Liupanshui could not be covered in the end

Mars macro | A female entrepreneur in Liupanshui, Guizhou, was detained for debt collection, hiding four major crises

Law | The report said that "the report is not true" - lawyer: It is difficult to have credibility if you investigate yourself

The world says | The Liupanshui case is not prosecuted, a victory for the law?

5. Results of Rights Protection

No prosecution in the whole case.

(14) Lawyer Zhu Xiaoding's meeting with the case of being monitored

1. Background of Infringement

From 15:00 to 15:30 on February 28, 2024, lawyer Zhu Xiaoding and lawyer Liao Baozhong met with their clients at Huanghua Detention Center in Hebei Province. During the interview, a voice recorder that was recording suddenly fell from under the client's chair, and the indicator light flashed to show that the recording was in progress.

The client and lawyer Liao picked up the recorder and examined it, and found that it recorded the entire meeting, which means that the detention center illegally monitored the lawyer's meeting.

2. Enforcement Actions

Although the law prohibits the surveillance of lawyers' meetings, such incidents are not uncommon. However, because evidence is difficult to obtain, it is often difficult for lawyers to make accusations. The exposure of this incident provides conclusive evidence that makes it difficult for the detention center to deny.

After the news was exposed, it attracted widespread attention. Lawyer Zhu Xiaoding and lawyer Liao Baozhong reported the case as soon as possible.

The next day, the detention center reacted quickly, informing the lawyer of the "preliminary investigation," claiming that "a temporary worker has been arrested" as the person responsible.

Subsequently, the Cangzhou Canal District Public Security Bureau filed a case for investigation on the charge of "infringing on citizens' personal information" and transferred the case to the Cangzhou Municipal Procuratorate for review and prosecution. The procuratorate eventually prosecuted the three people involved in the detention center for "abuse of power."

3. Industry reviews

Lawyer Ma | Legal analysis of the incident of "lawyers' meetings and being wired".

Wang Haochen | Today, there was the "Watergate" scandal of wiretapping lawyers

He Li | If a lawyer's meeting with a client is monitored, can it be illegal to crack down on "bad guys"?

Liu Pengju | What is a surveillance lawyer?

4. Outcome of Rights Protection

The procuratorate has initiated a public prosecution against the relevant responsible persons, and the case is still under trial.

(15) Other cases in which lawyers' practice rights have been violated

The 14 cases listed above are all serious cases of lawyer infringement or persecution this year, so they are described in detail separately. However, there are far more violations of lawyers' right to practice law. In the course of daily practice, lawyers often encounter problems such as rough treatment, expulsion from the courtroom, restrictions on the right to speak, deliberate creation of conflicts in court hearings, and mobilization of clients to terminate their clients.

Due to the prevalence of such violations, many lawyers choose to get out of trouble as their primary goal after encountering them, rather than further expanding the incident, so there are often fewer follow-up actions to defend their rights. This section does not go into detail about each case, but only lists a few typical cases to illustrate the challenges faced by the current legal practice environment.

1. The judiciary treats lawyers roughly

1.1. On April 17, 2024, lawyer Zhu Xiaoding went to the Cangzhou Municipal Procuratorate to report the Huanghua Court's arbitrary ruling, but the staff of the procuratorate refused to receive and accept the materials. Lawyer Zhu Xiaoding tried to record the video with his mobile phone, but was forced by the bailiff to delete the video, and was then taken to the police station by the 110 police.

1.2. During the pretrial conference of the second instance of the Luoyang Intermediate People's Court's Li Mouping case, the judge forbade the paralegal to sit at the defense bench. Lawyer Zhao Qingshan protested and was detained for two hours.

2. Court expulsion lawyers

2.1. On May 24, 2024, during the trial of Chen Mouqing of Sanya Haiyun Group, lawyer Zhang Qingfang was forcibly ejected from the courtroom by the bailiff.

2.2. On May 18, 2024, during the trial of lawyer Gao Bingfang's false lawsuit, defense lawyer Zhang Xinnian was expelled by the court.

2.3. On May 19, 2024, lawyer Li Guisheng was forcibly evicted by the court while representing Qiao in a child molestation case.

2.4. On September 24, 2024, Sun's family officially appointed lawyer Li Xinghao and submitted the complete entrustment procedures. However, the court refused to allow Mr. Li to enter the court on the grounds of "need for verification", and he could only work in front of the courthouse.

2.5. On October 22, 2024, the Hebi Intermediate People's Court refused to allow defense lawyer Wu Feng to enter the court during the trial of Xu's case. Lawyer Wu Feng was forced to send the entrustment procedures to the judge by EMS courier at the entrance of the court.

3. The court restricts the lawyer's right to speak

3.1. On October 13, 2024, during the trial of Fu Mouxiang's case in Fuling, lawyer Zhou Ze was considered by the presiding judge to be too long because of his speaking time, and was threatened by the court four times.

3.2. On October 31, 2024, during the trial of the Wanzhou Health Center fraud case, defense lawyers Wang Wanqiong and Zeng Wu were almost expelled by the court for applying for the judge's recusal.

4. The judge deliberately created a conflict in the trial time

4.1. On 10 September 2024, lawyer Fan Chen posted on social media that Judge Wang Zhijie had "artificially created a conflict in the trial time" and questioned whether he intended to obstruct the lawyer's performance of his duties.

4.2. In the Luoyang Li Mouping criminal case, the Luoyang Intermediate People's Court suddenly notified the defense lawyer at 6 p.m. on September 9, 2024 that the case would be heard on September 13, and the trial was expected to last for three months. This kind of long-term trial arrangement has led to a large number of defense lawyers' trial arrangements in other cases conflicting with them, seriously affecting the lawyers' normal practice.

5. The court mobilizes the parties to terminate the lawyer's entrustment

On May 1, 2024, lawyer Xu Xin disclosed that in the case represented by the "Criminal Defense Heavenly Group", the court used "release on bail pending trial" as a bait to persuade 18 defendants to sign an agreement to terminate their existing defense lawyers and replace them with officially appointed legal aid lawyers. At the same time, the defendant was required to sign a waiver of exclusion, not to attend the pretrial conference, and to cooperate with the trial, in exchange for the so-called "leniency".

II. Public Interest Actions to Protect Lawyers' Rights and Interests

In the course of practice, Chinese lawyers not only protect their own rights and those of their clients, but also actively practice their civil rights and fulfill their civic responsibilities. They pay attention to issues that involve the interests of the entire group of lawyers, and speak out publicly, even if they are defending their rights for individuals, objectively have a positive impact on the whole industry. This care for public affairs is invaluable.

Due to the lack of long-term support from human rights NGOs, it is difficult for the lawyer community alone to continue to promote the in-depth development of a certain issue, so lawyers' actions are often scattered. The following are some typical public interest actions of lawyers in defending professional rights, some of which have already been discussed in the previous article and will not be repeated here.

(1) 13 law firms in Fuzhou refused to pay their lawyers' association fees

1. Cause of the incident

Fujian lawyers have a long tradition of resisting the arbitrary fees charged by the lawyers' association. As early as 2011, lawyer Zou Lihui challenged the Bureau of Justice against the Bureau's practice of linking the annual inspection of law firms with the payment of bar association fees, and won the case. On September 22 of the same year, the Fujian Provincial Department of Justice issued the "Administrative Reconsideration Decision", which confirmed the principle that "annual inspection does not affect practice". For example, Yu Guoqiang, a lawyer in Hunan Province,

has not paid membership dues since 2009 and has not participated in the annual examination, but he still practices normally, and is known as "the only practicing lawyer in the country who is not qualified to be a member of the Bar Association".

In 2024, affected by the economic downturn and the decline in lawyers' incomes, 13 law firms in Xiamen, Fuzhou, Quanzhou and other places in Fujian Province will take joint action to refuse to pay bar association fees, challenging the illegal behavior of the Justice Bureau to link the payment of fees to the annual inspection of law firms. They pointed out that the Bar Association's fees, use of funds, and transparency in management have become a heavy burden on lawyers, so they took collective protest action.

In this action, the three law firms of Fujian Minshi, Fujian Baoneng and Fujian Wei'an are particularly determined:

Fujian Wei'an Law Firm filed a lawsuit with the Fujian Provincial Department of Justice on May 20, requesting the Fuzhou Municipal Bureau of Justice to perform its statutory duties of annual review;

Fujian Minshi Law Firm sent a letter to the Fuzhou Lawyers Association on May 25, publicly refusing to pay the fee, saying that it "has not been audited for a long time and the use of funds is unknown";

Fujian Baoneng Law Firm sent a lawyer's letter to the Longyan Lawyers Association on July 1, requesting the disclosure of the details of the 2016-2023 membership fee expenditure, and filed a lawsuit on August 5, demanding a refund of the 14,560 yuan paid membership fee.

In addition, lawyer Zheng Rui pointed out in an interview with the media that the Fuzhou Lawyers Association required law firms to submit sensitive commercial information such as business income and contracts, which infringed on the trade secrets of law firms, and the lawyer community was strongly dissatisfied with this.

2. News Coverage

Top News|"If you don't pay the bar association fee, you can't pass the lawyer's annual inspection?" Fuzhou Lawyers Association Response: Need to Ask for Leadership»

"Fujian Longyan Lawyer Requests Lawyers Association to Disclose Details of Membership Fee Expenditures, Lawyers Association: Submitted for Supervision"

"Fuzhou Minshi Law Firm Rigid Lawyers Association, Refuses to Pay"

3. Commentary

"13 Law Firms in Fujian Refuse to Pay Bar Association Fees, and the Southeast Coast is at the forefront of the times"

Volcano Poetry|"A law firm is hard and strong, and the law firm asks for the disclosure of the whereabouts of the funds!" The Truth Is Heart-Wrenching"

Lawyer Zhang Maorong|Does Failure to Pay Bar Association Fees Affect Lawyers' Practice? »

(2) Lawyer Hu Changpeng complained about the illegal internal documents of the Hubei High Court

On April 28, 2024, lawyer Hu Changpeng learned that the Hubei High People's Court stipulated that "the inspection of investigation files must be subject to the approval of the leaders of the public security and procuratorial organs", which is a serious violation of the Criminal Procedure Law. He immediately complained to the relevant authorities, and eventually prompted the Hubei High Court to revoke the document, safeguarding the lawyer's legal right to access the file.

(3) Jiao Nanfan openly solicited opinions on improving the environment for lawyers' meetings

On February 9, 2024, lawyer Jiao Nanfan issued an open letter to solicit suggestions for improving the software and hardware environment for lawyers in Hubei Province to meet, and collected lawyers' opinions through questionnaires. He pledged to regularly collate and summarize opinions and submit a formal proposal to the Rights Protection Committee of the Hubei Provincial Lawyers Association.

(4) Shandong Xiaolin Law Firm established a lawyer system research center

In January 2024, Shandong Xiaolin Law Firm established a lawyer system research center, dedicated to studying the lawyer's practice environment and the reform of the judicial system. On January 30, the center held a seminar in Laoshan, Qingdao, inviting lawyers Sui Muqing, Lin Qilei and other legal professionals to participate. On July 3, the Center organized a symposium on the construction of the rule of law, focusing on topics such as the Review of the Legality of the Regulations of the Ministry of Justice.

(5) Beijing Zebo Law Firm established a research center for the protection of lawyers' rights

On January 31, 2024, Beijing Zebo Law Firm established the Research Center for the Protection of Lawyers' Rights to openly solicit cases of infringement of lawyers' practice rights across the country and provide legal aid to lawyers. The establishment of the center aims to raise the awareness of lawyers' rights protection and promote industry reform.

Chapter III: Safeguarding Lawyers' Rights and Interests: Prospects and Recommendations

A complete annual report should not only reveal the problems existing in reality, but also provide prospects and suggestions for the future, otherwise it will seem unfinished.

While the solution to the problem is obvious, such as:

- Abolish the criminal compulsory measure of "designated residential surveillance", and no longer expand the interpretation of "involving endangering national security";

- Abolishing the "internal volume system" and respecting lawyers' right to meet and read the case file;

- Avoiding the illegal appointment of legal aid lawyers, and truly practicing the principle of "release on bail", etc.....

But in reality, the likelihood of these reforms is slim. Because the establishment of these systems is to serve the purpose of maintaining stability, the primary task of the public security and judicial system is to "maintain stability" and "maintain security", rather than judicial fairness. Under this political overview, changes in the system will only develop in a stricter and more repressive direction, and will not be relaxed. Even in the current context of heightened economic distress, the authorities' reliance on these instruments will only deepen. Reasonable advice will not only not be followed, but may even lead to harsh repression.

In such a reality, the Chinese intellectual community has increasingly lost its appeal and expectation of power, and the only thing that a conscientious person can do is to record and criticize. Of course, although it is no longer meaningful to make suggestions to the government, it is still worthwhile to share some ideas for rights protection with fellow lawyers. As for the outlook for the future, it can only be described as "sad". When the political ecology of the whole country tends to be conservative, the economy continues to decline, and the social moral system collapses, under the nest, there are eggs? The profession of lawyer cannot be left alone. In the foreseeable future, China's rule of law environment is likely to deteriorate, and the lawyers' practice environment will continue to deteriorate. Human rights lawyers will face greater risks in their practice, and criminal defense lawyers will find themselves in a more difficult position. But even so, it is still the responsibility of the legal person to record, expose, and speak out. If only so that history remembers today's rule of law dilemma.

I. Trends in the future judicial environment

When the economic situation is relatively good, fiscal revenues can still support some forms of judicial operational efficiency, and the judicial authorities are willing to put on a certain serious posture in order to create an image of the rule of law. However, China's economy is now in a severe downturn, with tax revenues at all levels of government plummeting, fiscal constraints, and even the ability of civil servants to pay their salaries on time, not to mention additional allowances and bonuses. In this context, the rate of arbitrary adjudication of civil, commercial and

administrative cases will increase significantly, the trial of administrative litigation will become more formal, and the bottom line of judicial fairness will further decline.

1. Trends in criminal cases

(1) There will be a significant increase in the number of cases of "criminalizing debts": Due to the financial difficulties of local governments, the judicial system may intervene more in economic disputes through criminal means, turning ordinary economic cases into criminal cases to achieve the purpose of confiscating assets.

(2) The increase in "deep-water fishing" cases: that is, the use of legal means to suppress entrepreneurs, or even cross-border arrests, in order to achieve economic interests or political goals.

(3) Normalization of cases of "underworld criminal organization crimes": The report of the 20th National Congress of the Communist Party of China pointed out: "Promote the normalization of anti-gang crime and evil". After several years of vigorous "anti-gang and evil" campaign, the stock of cases has almost been wiped out, and the number of "big and important cases" will decline in the future. However, it is likely that the "anti-gang and anti-evil activities" will be expanded, and some cases that are considered to be "extremely indignant to the public" and even ordinary cases of violations and crimes may also be characterized as "underworld criminal organization crimes".

(4) Surge in tax cases: Tax evasion cases are likely to rise sharply. In the case of local fiscal constraints, tax inspection will become a means of generating revenue for the government.

(5) Anti-corruption cases are still running at a high level: The ruling party will still rely on the anti-corruption campaign to purge officials who are "not absolutely loyal" and also as a way to increase fiscal revenue. Such cases are usually less likely to result in unjust, false and wrongful convictions, because most of the officials involved do have varying degrees of corruption.

(7) Rise in violent crime: As the economy deteriorates and unemployment rises, the number of thefts, robberies, snatchings and other cases may surge, and the overall safety of society is worrying.

2. The dilemma of lawyers' practice has intensified

Lawyers will continue to face the following barriers to practice:

(1) The problems of designated residential surveillance and extortion of confessions by torture will continue, and the problems of difficulty in meeting with lawyers and reading case files will not improve;

(2) The phenomenon of government-appointed lawyers "occupying the pit" is still serious, and lawyers are excluded from the defense of major cases;

(3) the risk of lawyers investigating and collecting evidence increases, and the slightest carelessness may be charged with "perjury" or "obstruction of testimony";

(4) The crackdown on criminal defense lawyers is becoming more severe, especially in cases involving anti-gang crime, anti-corruption, and prisoners of conscience, and lawyers' right to defend will continue to be eroded.

II. The Future and Challenges of Prisoners of Conscience

Prisoners of conscience are the most valuable group in Chinese society today, and their plight deserves special attention. However, they and their families are often under tremendous pressure. At present, it is easy for prisoners of conscience or their families to succumb to pressure as long as they do not have a good understanding.

"Multiple choice" of accepting a government-appointed lawyer: Many family members of prisoners of conscience have no choice but to accept a government-appointed lawyer in the face of threats and inducements. The government has often threatened to prosecute misdemeanors if you accept a government-appointed lawyer, and if you insist on choosing a lawyer, you may face felony prosecution. Under this pressure, many people struggle to contend with.

Lack of funds: Prisoners of conscience are generally poor, many of their families cannot afford lawyers, and it is becoming increasingly difficult for the international community to fund the lawyers' fees of prisoners of conscience to enter China. In the future, the phenomenon of prisoners of conscience receiving government-appointed lawyers may become more and more common. Once you initially accept a government-appointed lawyer, it will become extremely difficult to change lawyers in the middle of the process, and how to solve this dilemma is worth exploring in depth.

III. Systematic improvement of lawyers' practice rights

In response to the infringement of several types of practice rights that have been strongly reflected by the legal profession in 2024, we recommend that the legislative and judicial authorities take the following measures to systematically protect the rights and interests of lawyers:

1. Abolish vague charges such as "picking quarrels and provoking trouble," and end the systematic crackdown on human rights lawyers.

The legislature should initiate a clean-up of vague and flexible charges in the Criminal Law, particularly the crime of "picking quarrels and provoking trouble," which has been widely abused against human rights lawyers, citizen journalists, and dissidents, and has long since deviated from the original legislative intent of the Criminal Law to combat serious harms. The abolition of such crimes is a necessary step towards restoring legal justice.

2. Protect lawyers' three core practice rights: the right to meet with lawyers, the right to read case files, and the right to investigate and collect evidence.

The three fundamental rights are the foundation for the independent performance of lawyers. At present, lawyers encounter problems such as difficulty in meeting with criminal cases, difficulty in reading case files, and high risks in collecting evidence, which have seriously affected the quality of defense. It is recommended to establish a unified national meeting appointment mechanism, a standard for the time limit for reading the case file, and a risk exemption system for evidence collection, so as to prevent local protectionism and the logic of "stability maintenance first" from suppressing the right to defense.

3. Establish a system of "equality between prosecution and defense", and abolish the unspoken rule that "government-appointed lawyers occupy the pit".

"Trap-based defense" has systematically eroded suspects' right to defense and undermined lawyers' professional ethics. The proposed law clearly stipulates that where a suspect or his family has lawfully retained a lawyer, no legal aid lawyer may be forcibly appointed; Legal aid lawyers are not allowed to intervene in a case without the written consent of the client; All designated defences are subject to independent third-party oversight and judicial review.

4. Reform mechanisms for the administration of lawyers, and establish channels for professional autonomy and rights remedies.

Carry out reforms of the current "government-run and government-controlled" system of lawyers associations, establish industry organizations that truly represent the interests of lawyers, and implement lawyers' democratic participation in the association's personnel, funds, and rules. At the same time, a platform for appeals of infringement of lawyers' rights has been established, with independent arbitrators handling conflicts between lawyers' practice, changing the existing "hot" administrative punishment structure, and allowing lawyers to have the right to equal relief.

IV. Suggestions on strategies and methods for lawyers' rights protection

Although the general environment is getting worse and worse, there is still room for individual rights protection, and lawyers can adopt the following strategies to reduce the risk of practice and improve the effectiveness of rights protection:

1. Openness and grouping, improve influence, and effective self-protection

One of the biggest risks faced by lawyers in the course of practice is the suppression of the public procuratorate and the law, and the disclosure of case information and the use of public opinion can often effectively reduce the possibility of more serious persecution of individual lawyers. Although openness will bring pressure from the law firm, bar associations, and judicial bureaus, openness and transparency are still a better option than the risk of covert repression. For example, when lawyer Zhang Kai represented Xu Moujun in the case, he openly sought help from the society and successfully avoided the risk of being framed.

In cases of non-conscientious offenders, lawyers may form a group to cooperate in the defense. Teamwork not only spreads the risk of practice, but also expands the impact of the case and increases the success rate of the defense. Although this may result in a reduction in the amount of legal fees received by a single lawyer, if they can successfully influence the case, more clients will come to the door, which will benefit the lawyer's career development in the long run.

2. Pay attention to the psychological construction and capacity building of family members

The attitude of the suspect's (defendant's) family directly determines the difficulty of protecting the rights of the case. Many successful defense cases rely on the unwavering support of family members, and if family members compromise after being threatened, it will be much more difficult to defend their rights, and the lawyer's defense work will be more difficult.

Lawyers should have an in-depth understanding of the mentality of the suspect's (defendant's) family, understand their confusion, dispel their fears and fears, and help them enhance their legal ability and psychological resilience, so that the family can closely cooperate with and support the lawyer, and take actions to protect their rights

in accordance with the law to the best of their ability, and promote the openness and transparency of the case. Only in this way will it be more likely to break down the closed barriers of the judicial department and to prevent lawyers' defense work from being interfered with or obstructed by public power.