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## Translations: Three Mainland Human Rights Lawyers on the Amended PRC Law on Lawyers

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*Note: Translated excerpts from the PRC Law on Lawyers appearing below have been taken from Human Rights Watch's report "Walking on Thin Ice: Control, Intimidation and Harassment of Lawyers in China" published on 29 April 2008*

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### Article 37 of the PRC Law on Lawyers: A New Trap Set for Lawyers

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The revised Law on Lawyers was passed at the 10th Standing Committee of the National People's Congress on 28 October 2007. Despite some positive changes made in regard to lawyers' consultation with criminal suspects and defendants, access to and photocopying of case files and documents, there has been no change at all regarding the independence of Lawyers' Associations. The hope amongst academics and lawyers that new provisions in the Lawyers' Law could be used to undo the malicious effects of Article 306

of the Criminal Law has also been dashed. Article 37 of the newly revised Law on Lawyers, in particular, deserves attention. It says, 'The personal rights of a lawyer in practicing law shall not be infringed upon. The representation or defense opinions presented in court by a lawyer shall not be subject to legal prosecution, however, except speeches compromising the national security, maliciously defaming others or seriously disrupting the court order.'; a trap for lawyers, in particular criminal lawyers.

Lawyers' legal immunity for statements made in court means that lawyers enjoy the right not to be held criminally or civilly liable for any oral or written statements concerning the submission or evaluation of evidence, or concerning defense statements or other statements made on behalf of litigants or defendants in court. Immunity of lawyers for statements made in court is common practice in all countries under the rule of law. For instance, an 1881 French law already stated that, 'Lawyers shall not be subjected to charges of libel, defamation and contempt for verbal statements made or written documents submitted in court.'

The Code of Conduct of the Bar of England and Wales says, 'Oral statements made by lawyers appearing in court should be true and accurate. In general circumstances, lawyers enjoy exemption rights regarding the oral statements made before court.' 'Lawyers appearing in court should act with courtesy for the court.'

Similarly, Section 1 of Article 452 of the Criminal Procedure Law of Luxemburg states that, 'Oral or written statements made and submitted in court shall be exempted from all criminal charges if the statements in question were related to the litigation or the parties involved in the litigation.'

In the case of the Hong Kong Special Administrative Region, the Hong Kong's Solicitors' Guide to Professional Conduct passed in 1990 clearly states that lawyers appearing in court on behalf of clients are immune from legal responsibility toward third parties.

Polish laws also protect the immunity of lawyers while carrying out their professional duties meaning that except for defamation of the judge or prosecutor, lawyers are cannot be charged with defamation.

Similarly, the criminal procedures in Japan also provide for exemption from

legal responsibility for lawyers appearing in court. Even in cases where there is insufficient evidence, the defense lawyer is exempted from legal liability.

In the case of France, there are supplementary laws which allow the court to request the lawyers' association to which a particular lawyer belongs to take disciplinary action against the lawyer for disrespectful conduct in court. The Netherlands has similar provisions which say, 'in cases where lawyers express contempt for the court, or make fun of or insult clients or witnesses, in oral statements in court or by any other method, the presiding judge may issue a warning and criticize the lawyer. But the presiding judge is not allowed to discipline or punish lawyers because this power lies [exclusively] with the disciplinary committees of the lawyer's associations.'

Immunity of lawyers from liability for oral statements in court is also a right recognized by international conventions and treaties. In 1990, the Eighth United Nations Congress on the Prevention of Crimes and the Treatment of Offenders held in Havana, Cuba adopted the Basic Principles on the Role of Lawyers. Article 16 of the Principles requires that '(g)overnments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.' And Article 20 of the Principles requires that '(l)awyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.'

What is the point of such a system? Its point is related to the form and nature of litigation. Litigation requires that there be equality between the plaintiff and the defendant. The French philosopher Pierre Manent once said, 'Equity must take precedence over justice. It is equity that creates and constitutes justice.' The plaintiff and the defendant are equal subjects of the procedure in civil litigation cases. The relation is more complex in criminal cases; here the prosecution represents the state's demand that criminal conduct be prosecuted, so naturally, the prosecution is in a more powerful position than the defense. In order to realise the principle of equity in this situation, to

achieve an “equity of arms” and to ensure that both sides enjoy the same rights, neither side must attempt to exert any undue influence on the judge. The judge, on the other hand, must be impartial. He must give equally serious consideration to the arguments and statements of fact presented by both parties. Witnesses of the prosecution and defense must be able to provide testimony in the same conditions, they must have equal opportunities, and any bias is absolutely impermissible. The immunity of lawyers regarding oral statements made before the court is also an institutional arrangement that must not be disregarded.

The lawyers’ immunity in respect of submissions made before the court is determined by the nature of the legal profession and its ethical standards. Article 35 of the Criminal Procedure Law of the PRC stipulates, ‘The responsibility of a defender shall be to present, according to the facts and law, materials and opinions proving the innocence of the criminal suspect or defendant, the pettiness of his crime and the need for a mitigated punishment or exemption from criminal responsibility, thus safeguarding the lawful rights and interests of the criminal suspect or the defendant.’ Moreover, the Standards of Ethics and Disciplines of Professional Lawyers issued by the All China Lawyers’ Association state in Article 5 that, ‘lawyers shall abide to honesty, credibility, diligence and responsibility in fulfilling the requirement and responsibility of the profession for the defense of the legal interests of clients.’ In addition to that, Provision 24 requires that ‘lawyers shall fully exercise professional knowledge and skills, complete the entrusted tasks under legal parameters; and with commitment and responsibility, maximise protection of the legal interests of the clients.’

In order to fulfill the duties set out above, lawyers must do their best to collect evidence favourable to their client and rebut the arguments and evidence presented by the other party in the course of the litigation process. In this process of gathering evidence, challenging the other side’s evidence and making a case for their client lawyers will inevitably come in conflict with the other side, and possibly even with the official ideology of the State. If a lawyer’s performance of his role can be regarded as giving rise to tortuous or criminal liability, this will have tremendously adverse effects on the legal profession

Under the existing procuracy system of China, the public prosecutor actually not only plays the role of prosecutor, but also assumes the roles of investigator

and legal supervisory organ; in this kind of system the prosecutor ultimately becomes the judge of the judges. This results in great inequality between the prosecutor and the defendant. Given the lack of independence on the part of the judges, moreover, it is not uncommon to find judges and prosecution acting as partners against the defendants and their lawyers. Under such circumstances, criminal lawyers often find themselves treading on thin ice, having to inch forward step by step with great difficulty. Article 306 of the Criminal Law passed in 1997 is comparable to a Damocles sword hanging above the head of lawyers. This article states that, 'If, in criminal proceedings, a defender or agent ad litem destroys or forges evidence, helps any of the parties destroy or forge evidence, or coerces the witness or entices him into changing his testimony in defiance of the facts or give false testimony, commits the crime of falsification of evidence.' This clause has already led to the arrest, prosecution and trial of hundreds of lawyers in China. Even though the procuratorate knows that the prosecution of such alleged offences is unlikely to lead to a conviction, the prosecutions are used to intimidate, oppress, attack and suppress lawyers. Article 306 is indeed a killer provision for lawyers. There have been ceaseless strong condemnations expressed by human rights scholars and organizations ever since the promulgation of Article 306. One of the direct results of the oppression of lawyers is a decrease in the number of criminal lawyers. Many lawyers refuse to take on criminal cases; a Chinese lawyer handles less than one criminal case per year on average. More than 70 percent of all criminal cases are processed without lawyers appearing in court on behalf of the defendants.

While Article 306 of the Criminal Law remains effective, Article 37 of the newly passed Law on Lawyers now constitutes a new legal trap for lawyers. Lawyers should be exempted from charges of 'malicious libel' for any - even inaccurate or aggressive - statements submissions are made in court. But in such cases, what should be applicable are special provisions imposing sanctions on 'disruption of order in court.' The procuratorate should only recommend self-governed lawyers' associations to take disciplinary action against lawyers who disrupt court proceedings. Such conduct should not lead to criminal prosecutions of the lawyers. So far as Article 37 is concerned, the most crucial open question concerns 'endangering state security' – how is state security defined here? Under what circumstances may verbal statements be considered to endanger state security? Can lawyers endanger state security by making oral statements in court? If yes, how can state security be this

fragile and weak? And which is more important, the security of the state, or the security of the people? A provision worded like this one can be totally manipulated. It lacks clear boundaries and practicable standards. There is no way to prevent its distortion and abuse by authorities and officials. In fact, cases of disguised retaliation against lawyers in the name of state security are already all too common. There is an ever-increasing danger, faced by lawyers defending Falungong and other 'sensitive' cases, of being charged with subversion of state power, inciting subversion of state power, or with disclosure of state secrets etc. Article 37 of the Law on Lawyers is another trap set for human rights lawyers in China.

Although the Chinese government has been a signatory country of the United Nations Basic Principles on the Role of Lawyers since 1990, the Principles have not yet been approved by the National People's Congress. The UN principles stipulate the right of lawyers to freedom of speech, religion, association and assembly. Lawyers have the right to form and join self-governed professional organizations to represent their own interests. Overall it can be said that just as the criminalization of 'inciting subversion of state power' has become a necessary tool for the suppression of lawyers' free expression, so the crime of 'falsification of evidence' and now also the restriction of legal immunity for statements made by lawyers in court are used as further tools to restrict lawyers in the exercise of their profession.

*Translated by Monina Wong*

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## **The river turns eastward to the sea: My Views on the Amended Law on Lawyers**

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On October 28, 2007, China's Law on Lawyers, originally passed in 1996, was amended for the second time and promulgated for the third time to go into effect on June 1, 2008. As soon as the amendments were made public,

numerous and wide-ranging views and comments were expressed. In my humble opinion, the most recent amendments to the Law on Lawyers conform to current and historical trends, and represent great progress. China's system in relation to lawyers is finally about to come into line with internationally accepted principles regarding independence, self-discipline and exemption from prosecution over statements in court. It is like the lower Yangtze turning toward the sea, a powerful flow that cannot be resisted, just as China's first Premier Zhou Enlai once said. The following points are evidence of this trend:

1. China's lawyers are maturing as a profession, and have paid close attention to the amendment of the Law on Lawyers.

1) Before submitting the draft amendments to the Law on Lawyers, the Ministry of Justice solicited the views of all concerned parties, a considerable improvement over previous closed-door amendment processes. The amendments followed the old practice of having the Ministry of Justice submitting the draft to the Standing Committee of the National People's Congress, allowing lawyers as a group no direct participation in the drafting of laws that concerned their own fates, and very little opportunity for involvement in substantive discussions regarding the draft amendments; as a result, the amended law was inevitably flawed. But because the draft amendments were at one stage made public, and public views were solicited, and the views of certain well-known figures in the legal profession were also solicited, the amended Law on Lawyers still brought great improvements.

2) Lawyers raised opinions and made suggestions regarding the amendments, and some even submitted systemic proposals/systemic alternative drafts, demonstrating the profession's growing maturity and spirit of participation.

The most recent amendments to the Law on Lawyers aroused great concern throughout the country, in particular among China's 130,000 lawyers. Not only did the All-China Lawyers' Association produce their own version of the amended law, but many individual lawyers also expressed their views and suggestions regarding the draft amendments. Some lawyers, most notably Zhang Yuanxin, head of the Xinjiang Xibu Law Firm, and Li Xiaolin, a partner in the Weiheng Law Firm, submitted whole sets of amendments of their own, accompanied by the rationale behind their proposals. Some even entered into direct communication with the law drafters. This kind of debate imbues the

legislative process with universal values and represents rights defense at the highest level. This conscious attempt by lawyers to exert influence in the legislative process served as a trial run in safeguarding lawyers' overall rights and interests, as well as safeguarding social justice.

3) Before and after the Law on Lawyers was amended, the members of the legal profession and other professions conducted all kinds of meetings and discussions, during which they raised many valuable opinions.

If the aforementioned efforts were largely individual, this stage represented individuals uniting at an even deeper level to fight for the rights of lawyers. After the draft Law on Lawyers was promulgated, the Constitutional Law and Human Rights Committee of the Beijing Municipal Lawyers Association, along with the Beijing Dacheng Law Firm, Beijing Globe Law Firm (Gaobo Longhua Law Firm), Jin Du Law Firm and Yihe Law Firm, each in turn held seminars to which they invited the public security and procuratorial organs and various academic specialists to give their opinions and suggestions regarding the draft Law on Lawyers, and analyze its strengths and weaknesses. In a speech entitled "What Kind of Law on Lawyers Do We Need?", Lü Liangbiao, a partner in the Dacheng Law Firm, expressed the views of many lawyers in his criticism of the draft amendments, and the text of his speech was disseminated widely on the Internet. By bringing so many experts together, these seminars reflected the glories of humanistic rule of law, and penetrating insights were vividly represented in spoken comments and written articles.

2. Even more significant are provisions for various forms of law offices, including sole practitioners, partnerships and specialized partnerships.

Articles 15 and 16 of the amended Law on Lawyers provides for law offices to be organized as sole practitioners, partnerships or specialized partnerships, and also stipulates that "the partners in a partnership law office should bear responsibility for the liabilities of that law office in accordance with the form of their partnership as required by law." This gives legal effect to the internally limited [liability] partnership in a law office, and allows China's law offices to use the more flexible and advanced systems generally used elsewhere in the world, as well as allowing for a greater variety of organizational types in closer conformance to international practice, and making way for more high-grade and large-scale law firms.

3. Allowing lawyers to set their own rules and regulations by which they must abide is extremely significant.

Article 44 of the Law on Lawyers: "The Articles of Association of the All-China Lawyers' Association shall be made by the National Congress of Members and submitted to the justice administrative authority of the State Council for archival purposes. The articles of association of a local lawyers' association shall be made by the local congress of members and submitted to the same-level justice administrative authority for archival purposes. The articles of association of a local lawyers' association shall not conflict with the Articles of Association of the All-China Lawyers' Association." This is a very good provision. If China's lawyer representatives can formulate a very good set of rules and regulations by which all lawyers must abide, the government will be happy to accept it. If the legal profession is not yet mature enough for this step, it stands to reason that they must leave it to others to set their rules and regulations. This will depend on how lawyers as a group evaluate their own authority, and whether they have the ability to exercise their own authority. Lawyer Li Subin even suggested at one seminar that forbidding local lawyers associations to violate the rules and regulations passed by the All-China Lawyers Association actually serves to safeguard the rights and interests of lawyers, and that the All-China Lawyers Association, by formulating rules and regulations, is safeguarding the interests it represents. Of course, lawyers must pay close attention to how representatives of the national and local lawyers associations are selected, to ensure that they genuinely represent the rights and interests of lawyers.

4. Lawyers' victory on defense pleadings may have opened the way for amendments to the Criminal Procedure Law.

Article 31 of the Law on Lawyers stipulates: "A lawyer serving as a defender shall present materials and arguments proving that a criminal suspect is innocent or is less guilty than charged or his criminal liability should be mitigated or relieved, on the basis of fact and law, so as to protect the legal rights and interests of the criminal suspect or defendant." On the surface, this article seems to be no different from existing provisions in the Criminal Procedure Law regarding a lawyer's duties in defending his client. But closer

examination reveals elimination of the term "proving" from what a lawyer must put forward regarding the guilt or innocence of his client. This is a crucial difference, because it relieves the lawyer of the burden of proof [regarding the innocence or lesser guilt of their client], and provides the lawyer with a chance of success by raising reasonable doubt regarding the prosecution's case in respect of chain of evidence, adherence to court procedures or the legality of the collecting [admissibility] of the evidence. This paves the way for amendments to China's Criminal Procedures Law, and represents a turning point in the ability of defense lawyers to win their court cases.

Articles 33, 34, 35, 36 and 37 of the amended Law on Lawyers provide lawyers with certain rights that represent progress over the original law. For example, the provision that "The first time that a criminal suspect is interrogated by an investigatory organ, or from the day that processing measures are taken, his defense counsel, bearing a license to practice law, a certificate from a law office and a power of attorney or legal aid authorization, is empowered to meet the criminal suspect or defendant and gain an understanding of the circumstances of the case. The lawyer can meet with the criminal suspect or defendant without being monitored."

"The rights of a legal counsel or defense attorney to argue on behalf of or defend his client are protected by law." "A lawyer's personal rights will not be violated during the exercise of his professional duties." "The views that a lawyer expresses while making his legal representations or defense in court will not be subject to legal penalty." The Law on Lawyers includes some provisions endowing lawyers with a measure of power in regards to accessing and collecting evidence and the difficult social realities lawyers face in handling their cases. These provisions fall short of internationally accepted principles, and fall far short of the expectations of Chinese society and lawyers, but they still represent progress in comparison with the original legal provisions.

5. Provisions protect lawyers from violation of their personal rights in the execution of their duties, and embrace the principle of exempting lawyers from legal penalty for the views expressed during legal representation and defense.

Article 37 of the amended Law on Lawyers stipulates, " The personal rights of a lawyer in practicing law shall not be infringed upon. The representation or defense opinions presented in court by a lawyer shall not be subject to legal

prosecution, however, except speeches compromising the national security, maliciously defaming others or seriously disrupting the court order."

The first part of this provision, protecting the lawyer's personal rights during the execution of his professional duties, and exempting him from legal penalty for opinions he expresses in the course of his legal defense in court, has won widespread praise for its human conformance to internationally accepted principles. However, the latter clause, which makes an exception for language that endangers state security, maliciously defames another, or seriously disrupts the order of the court, has been vilified as reactionary, backward and stupid. The two portions are as incompatible as fire and ice. Even so, I present this provision in its entirety as a mark of progress, because it displays the evils of the system for all to see, and raises attention to the universal principles that exempt a lawyer from prosecution for the performance of his professional duties. It also shows how the qualifying clause acts as a sword of Damocles hanging over the heads of Chinese lawyers, or perhaps more accurately, as a sword of Damocles hanging over China's rule of law, and for the very reason that it represents backwardness, it will certainly be spurned by the Chinese people. As the old saying goes, "That which is universally condemned will expire of its own volition." That is certain to be the case with this qualifying clause, which has provoked so much public wrath.

Of course, there are many more shortcomings to the Law on Lawyers, notably the new amendments that raise the number of situations in which a lawyer's license may be revoked from four to nine. The qualifying clause that makes lawyers subject to legal penalty for "endangering state security, maliciously defaming another, or seriously disrupting the order of the court" is already enough to emasculate the profession. But there is no sense in harping on these provisions; they are like the legs of a mantis: in the path of the grinding wheels of history, and drowning in the derision of the just, they must ultimately come to nothing. There is a precedent: in an earlier phase, the All-China Lawyers Association issued "suggested guidelines on lawyers' handling of class-action lawsuits," requiring a series of procedures for sensitive class-action cases that made them all but impossible. At that time, it was pointed out that these guidelines were not only destructive to legal practitioners, but also to the rule of law and to basic humanity. But the legal profession has survived and even flourished in spite of these "suggested guidelines," which in the meantime have been tossed into a corner waste bin.

Likewise, we have every reason to believe that the aforementioned qualifying clause and other provisions that prevent China's Law on Lawyers from conforming to universally-accepted values will quickly be consigned to the dustbin of history.

*Translated by Stacy Mosher*

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## **The Ludicrous Law on Lawyers: An Analysis of some Provisions**

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Written on 15 November 2007

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We live in a time of confused legal order.. The best evidence of this is the amended "Law of the People's Republic of China on Lawyers" passed during the 30<sup>th</sup> meeting of the 10<sup>th</sup> session of the Standing Committee of the National People's Congress, which will take effect on June 1, 2008. In comparison with previously tabled laws, this amended law includes some new ideas among the usual collection of unyieldingly archaic provisions. But no matter old or new provisions, it can be said that this amended law is still full of pitfalls and perils. Chinese lawyers, and those who are training for the profession, will easily find themselves stumbling into these traps unless they maintain constant vigilance.

Article 5: Those applying for a law license must prepare themselves for the following provisions:

1) "Upholding and protecting the Constitution of the People's Republic of China" is a conventional phrase, which is used in the Judges Law of the People's Republic of China and the Public Procurators Law of the People's Republic of China. Although lawyers, judges and procurators are all legal practitioners, it is more difficult for legal practitioners to make a living in the private sector than it is to be a civil servant. In comparison with the relative inertia of judges and procurators, lawyers and those preparing for the profession are a relatively active group and more often utilize their "freedom of expression" (a phrase recently much favoured by President Hu Jintao ), in

particular in criticizing the Constitution or commenting on it. Is the Constitution susceptible to criticism? Of course it is. The first General Secretary of the Chinese Communist Party, Chen Duxiu, once said that the Constitution cannot be improved and perfected without being criticized and attacked, and without members of the public being able to fully express their views. Yet, critique and discussions regarding the Constitution clearly conflicts with the phrase "supporting the Constitution." Therefore, in present-day China, if citizens, in particular lawyers or those preparing for the profession, exercise their constitutional right to freedom of expression by criticizing the Constitution, they are certain to suffer retributive attacks from certain political powers; lawyers may be stripped of their licenses, and those preparing for the profession may find they are permanently barred from practising law.

As a practising lawyer, I had once expressed the view that the Preamble of the Constitution should not include the theories of a particular leader or of the leadership of a particular organization, and also wrote an essay defending the freedom of religion in China. As a result I was stripped of my practicing license by a judicial organ bent on political correctness even though my professional conduct and my conduct as a private citizen adhered to the operative clauses of the main body of the Constitution (the preface is not considered part of the main body of the Constitution). "Upholding" requires an excessively high standard which in reality is impossible to achieve. Therefore, the test will be more objective and scientific if the article is amended to "abiding by the Constitution".

Article 37: The personal rights of a lawyer in practicing law shall not be infringed upon. The representation or defense opinions presented in court by a lawyer shall not be subject to legal prosecution, however, except speeches compromising the national security, maliciously defaming others or seriously disrupting the court order. Where a lawyer is legally detained or arrested for any suspected criminal involvement during participation in a legal proceeding, the detention or arrest organ shall notify the relative, the law firm and the lawyers' association of the lawyer within 24 hours after the adoption of detention or arrest.

Article 49: For any of the following forms of conduct by a lawyer, the justice administrative authority of the people's government of a city with districts or the people's government of a district of a municipality directly under the Central Government shall impose a penalty of suspension of practice for not less than

six months but not more than one year and may impose a fine of not more than 50,000 yuan; and if there is any illegal income, shall confiscate the illegal income; if the circumstances are serious, the justice administrative authority of a province, autonomous region or municipality directly under the Central Government shall revoke his lawyer's practicing certificate; and if a crime is constituted, he shall be pursued for criminal liability

...8) "use language that endangers state security, maliciously defames another person or seriously disrupts the order of the court."

I have never before seen a general clause and exclusion clause so absurdly and yet so intriguingly combined in one provision, where the first part provides China lawyers with immunity exemption from prosecution for statements they make in court, and yet the second half immediately withdraws that immunity. The supremacy of human rights clearly demands that a lawyer, who defends the constitutional rights of a defendant and appears before legal officials in court to uphold justice on behalf of the victim, should enjoy complete immunity from prosecution for words written or spoken in court. In the event that a lawyer uses inappropriate language, the presiding judge can correct this in court (the Court Hearing Regulations contain very detailed provisions on this area). Moreover, what crime should a public prosecutor be guilty of if he uses "language that endangers state security, maliciously defames another person or seriously disrupts the order of the court"? Are lawyers in China inherently disposed toward endangering state security? The predictable result, deducing to the extreme, is that those Chinese lawyers who are filled with the desire for justice will increasingly commit crimes through their words, and if they are not careful they will end up in prison; more lawyers will stay clear of defense work, and the quality of legal defense will gradually be severely reduced. The dire circumstances resulting from China's law and politics will dampen the fervent hope of the Chinese people to enjoy a life with rights and dignity. This one provision prominently exposes the brutal suppression state power applies to the rights of its citizens. If this arrogant and domineering sword of Damocles is not destroyed, lawyers of China will never enjoy a day of peace.

Article 33: As of the date of first interrogation of or adoption of a compulsory measure on a criminal suspect by the criminal investigative organ, an authorized lawyer shall have right to meet the criminal suspect or defendant and learn information related to the case, by presenting his lawyer's practicing certificate, certificate of his law firm and power of attorney or official legal aid

papers. A lawyer who meets a criminal suspect or defendant shall not be under surveillance.

On the surface, this provision seems to show progress, but when combined with Article 37 and Article 49, one has reason to doubt whether the grand pretext of state security will allow the lawyer's right to freely meet with his client to genuinely be honoured.

In today's China, where rule of law and rule by law are in constant conflict, we cannot consider the tabling of the amended Law of the People's Republic of China on Lawyers to be an overwhelming victory of law, but rather a triumph of rule by law. While writing this short article, I received a report that my friend Guo Feixiong, after having been detained for more than 400 days and being subjected to electric shocks and other forms of unimaginable torture, was sentenced to five years in prison by the local court in Guangzhou. An outstanding citizen, a famous representative of the citizens, a warrior who had taken up the shield of law to charge enemy lines in defense of citizens' human rights, was so blithely penalized by China's politicized law. I weep for Guo Feixiong. No, Gao Zhisheng, Chen Guangcheng, Gao Feixiong, Li Heping, Yu Meisun and I, we all together weep in bitter sorrow for the death of law in China.

*Translated by Stacy Mosher*