
PROTECT HUMAN RIGHTS LAWYERS, ESTABLISH A TRUE LEGAL SYSTEM

Ren Yu Ren Quan editor Yi Ping interviews rights defense lawyer and legal scholar Teng Biao about his personal convictions and why he takes on battles to promote progress and rule of law.

Yi Ping: The beating of Li Heping sent shock waves through the entire world. It seems incredible that such a thing could happen in Beijing with the Olympics in sight and on the eve of the 17th Party Congress—that a human rights lawyer could be abducted and beaten. As a rights defense (*weiquan*) lawyer yourself, what is your view of this?

Teng Biao: This was not a chance incident. The Chinese government has a history of employing a variety of methods—from tailing, harassing, threatening, and monitoring people, to house arrests, abductions, beatings, and even arrests and sentencing—to suppress rights defense lawyers and activists. When lawyer Zheng Enchong exposed the truth about Zhou Zhengyi’s shady land deals and defended residents whose rights and interests had been infringed, the government sentenced him in 2003 to three years’ imprisonment for “leaking state secrets (*guojia mimi*) outside of the country.” Following his release from prison, he spent periods under surveillance and in house arrest. Legal expert Dr. Li Boguang helped Fujianese farmers defend their rights, and in 2004 the Fujian Public Security Department arrested him on suspicion of fraud. His residence in Beijing was also searched. Lawyer Gao Zhisheng defended Falun Gong practitioners, and was sentenced to three years in prison, with a five-year suspension of his sentence, for “inciting subversion of state power.” His family has suffered beatings and surveillance. Chen Guangcheng, who is blind, exposed the violent practices involved in forced family planning in the Linyi district of Shandong. He was sentenced by the authorities to four years and three months in prison for “intentional damage of property” and “organizing people to block

traffic.” Guo Feixiong, who helped Taishi Village residents attempting to protect their rights and dismiss corrupt officials, was arrested for “illegal business activity,” and has been detained since September 2007. He has suffered torture in prison, which he protested by going on hunger strike for 40 days. Lawyer Guo Guoting was stripped of his legal credentials by the Shanghai Judicial Bureau and was criminally detained for defending Falun Gong practitioners, dissidents, and lawyer Zheng Enchong. After posting bail, he was kept under house arrest and then forced into exile overseas. Lawyer Li Jianqiang’s license to practice law was revoked because he defended dissidents. The list goes on.

Teng Biao takes part in a demonstration demanding more human rights in China at the Brandenburger Gate in Berlin on December 7, 2007. Photo credits: REUTERS/Johannes Eisele.



YP: The law is meant to protect the rights and interests of citizens, but the Chinese government uses the law to persecute rights defense lawyers. This is both a mockery of the Chinese legal system and an act of defiance toward the international human rights community. The state of the Chinese legal system is disheartening.

TB: The Chinese government and local authorities are not only using the law to persecute rights defense lawyers. Even worse, they are employing triads and triad methods to persecute lawyers. The abduction and beating of lawyer Li Heping is one such instance of government authorities using triad methods to attack a lawyer. Similar incidents abound; most Chinese rights defense lawyers have suffered varying degrees of intimidation and beatings. Rights defense lawyers are not safe in China. Take the Linyi district forced family planning case as an example. The lawyers involved in that case suffered a great deal of intimidation and beatings. In June 2007, lawyers Li Jingsong and Li Subin were met at the entrance of Dongshigu Village by dozens of men and women who attacked them and even overturned their car. Li Jingsong sustained injuries. On August 17, 2007, when legal expert Xu Zhiyong went to Yinan County in Shandong to take care of formalities preceding Chen Guangcheng's court case, he was accused of stealing a wallet. Lawyers with him, Zhang Lihui and Li Fangping, were also accused of theft. Dr. Xu was arrested and detained by the local police. This kind of incident is not rare; almost every rights defense lawyer has experienced something similar.

As a legal scholar, I must stick to my convictions and spare no effort to promote progress in China and to bring a true legal system into being there.

YP: Have you run into this kind of trouble?

TB: I was also involved in the Linyi forced family planning case and did a lot of the on-the-ground investigation. We were followed and monitored everywhere we went. Like spies, we had to go out early and come back late, traversing only the side streets and moving like

shadows while we conducted our investigation. One day at the hotel, the local public security, judicial administration officials, and family planning officials burst in and arrested two of our farmer friends. They also surrounded and attacked Chen Guangcheng right in front of us. On a separate occasion, I was beaten up while defending the case of Shijiazhuang Falun Gong practitioner Wang Bo. Because I take on politically-sensitive cases, the State security police have visited me over a dozen times; I was also summoned over my involvement in the rescue of lawyer Gao Zhisheng. When the Beijing Public Security Bureau put pressure on the China University of Political Science and Law, its president visited me a number of times to talk things over—he said if I continued to be involved in rights defense, I might be expelled from the university.

YP: As you said, lawyer Li Heping's abduction and beating is not unusual. Such things occur in China from time to time.

TB: This is aimed at rights defense lawyers. These methods are used to put pressure on them: first, to target specific cases and second, to intimidate others, so that people don't dare challenge the government. Putting pressure on the rights defense movement begins with pressure on rights defense lawyers and activists. If these two groups can be suppressed, the movement itself can be suppressed.

YP: It is a mistake for the government to think that way. Rights defense is rooted in the people's protection of their own rights and interests. In times like these, when people have been deprived of their rights and interests, or those rights and interests have been infringed upon, it is very natural that they rise up in their own defense. This is a tide that cannot be held back. The people form the main body of the rights defense movement; rights defense lawyers are simply their legal representatives. It is impossible to halt the rights defense movement by pressuring rights defense lawyers. Moreover, rights defense lawyers can channel the people's rights defense movement into the legal arena. This is beneficial for both the country and society. Otherwise the rights defense movement might turn violent. The power and influence backing the people's rights defense movement cannot be blocked. In this kind of situation, the govern-

ment should actively encourage and seek advice from rights defense lawyers. This would greatly advance the construction of the Chinese legal system. Looking at the Chinese authorities, at the local level especially, we can see they haven't yet emerged from their methods of governing by power instead of by law. They lack both vision and capacity.

TB: What is more important is that they have their own vital rights and interests to protect. In the situation of the Linyi forced family planning case, for example, if the matter had come to light, local officials' positions would have been threatened, so instead, pressure was put on Chen Guangcheng and on the lawyers who came forward to investigate.

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YP: Following Li Heping's beating, you and other rights defense lawyers issued "An Open Letter to the State Council, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of State Security Regarding the Abduction and Beating of Lawyer Li Heping." I've noticed that hundreds of lawyers and intellectuals have already signed it in support. Could you say something about why you wanted to issue the letter and what role you see for it?

TB: Following that incident, we issued that open letter together with Hong Kong lawyers and public intellectuals. We needed to make our stance clear, to protest the abduction and beating of lawyers, to protest atrocities like this, regardless of who carried it out or who instigated it. We wanted to raise our voices in society, to safeguard lawyers' lives and safety, as well as their lawful rights and interests, in order to demand severe punishment for the perpetrators and to protect the dignity of the law. At the same time, we wanted the authorities to understand that no matter whether they used the law to

throw us in prison, or triad methods to abduct and beat us, we would not be intimidated. Persecution of rights defense lawyers would only cause them to lose the hearts of the people and further rouse the people's moral sense.

Our appeal won't have a direct impact on these matters—punishing the perpetrators, unmasking the instigators, etc.—but our appeal is necessary. First, it allows the voice of justice to be heard, protects the dignity of the law, and establishes a healthy society. This in itself is a counterattack against the forces of darkness. Second, our call will hearten vulnerable rights defense lawyers and activists. If rights defense lawyers and activists are persecuted, and no voices come to their aid, their plight will be even worse and the forces of darkness will become even more aggressive and arrogant. Moreover, the voice of justice will galvanize the people, and strengthen their sense of justice, their demand for morality, and their awareness of the law. These are all subtle and understated functions: although their immediate impact may be imperceptible, they can influence the tenor of society. Social and legal progress comes about gradually. Before substantive change can take place in a social system, there is always a prior transformation of public opinion and trends in public awareness. With the advent of the Internet, official control of thought and speech was exhausted and overwhelmed, while the people gained much more freedom of thought and speech. We must fully utilize modern media to make our voices heard.

YP: In Chinese, the terms "rights defense lawyer" and "rights defense activist" have only been around the last few years, but have quickly become popular. These people are a very special group in China; in the hearts of ordinary people, they are a group that protects them and resists the government's unlawful infringement of their rights. They are few in number, but they represent society's conscience. They suffer pressure from the government, but they have won the heart of the people.

TB: The concept of "rights defense" probably arose around 2003. Sun Zhigang's case is an example. China is a country without a true legal system, where rapid economic development has led to all sorts of conflicts of interests. The rights and interests of vulnerable

groups in society, in particular, are unprotected, wantonly infringed upon and withdrawn; examples include forced evictions, land enclosures, layoffs, urban migration, wage defaults, etc. In such circumstances, it is natural, as well as reasonable, for the people to rise up and demand protection for their own interests. But when vulnerable groups attempt to defend their own rights, they lack economic, intellectual, and legal power, as well as media influence. Thus some professional lawyers, legal experts, and public intellectuals, come forward out of a concern for the public good and their own convictions about social justice to help the people defend their rights. This process is in no way deliberate; rather it is what inevitably occurs when social development reaches a certain point, giving rise to an awakening of people's awareness of their rights. The country, society, and people all need to protect human rights and to establish a true legal system. The emergence of the rights defense movement reflects this social progress in Chinese society.

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YP: Some say that all lawyers defend people's rights and interests and so there is no such thing as a “rights defense lawyer.”

TB: Of course, you can say that. Lawyers defend the rights and interests of parties involved in lawsuits. But in the specific circumstances that pertain to China, the term “rights defense lawyer” has its own special connotations. For example, a lot of lawyers in China do not take criminal cases, because there's not much money in it. Lawyers are more likely to do economic cases because the pay is much better. In China, “rights defense lawyers” refers to a group of people with a concept of human rights. Their involvement in rights defense is motivated by moral convictions, and not by personal gain. Most of the cases they take do not involve financial compensation and sometimes they

even have to put in some money of their own. For example, in dissident and Falun Gong cases, most of the litigants have no money. They handle these cases not only at a financial loss, but also at the risk of persecution, pressure, and even imprisonment. If these lawyers were not acting out of human rights convictions, they would hardly be willing to do this.

YP: China as a nation lacks safeguards against human rights violations, so it seems as though China would have more rights defense lawyers, but in fact there are very few.

TB: China has 130,000 practicing lawyers, but in the whole country there are only around 100 rights defense lawyers and activists: far too few. In the legal profession, we are often accused of engaging in dubious work. During the hearing following Gao Zhisheng's arrest, public security and judicial personnel accused him of making his money by dishonest means, poking his nose in other people's business, bringing trouble on himself, etc.

YP: The job of a rights defense lawyer involves loss of money, tremendous stress, and high risk, even the risk of one's own personal safety. No wonder that of the 130,000 lawyers in China, less than 100 are involved in this aspect of the profession. But it is precisely for this reason that rights defense lawyers are even more essential, and hold even greater significance in China. They are the leaders and pioneers who advance the cause of human rights in China. The people call rights defense lawyers and activists the conscience of society, and there is a basis for this. In the past, people have seen rights defense lawyers and activists as outsiders, and they were afraid of them because the government labeled them as hostile forces. Now, though their view has not entirely changed, rights defense lawyers and activists, and even dissidents, increasingly have the people's respect. However you want to look at it, this reflects the progress of society and of the people.

TB: Everyone knows that the trends of historical development cannot be halted. People need to defend their own rights and interests, and society needs justice and law. Though our situation is very difficult, China will progress little by little and this progress includes our own efforts.

YP: Can you say something about the methods the Chinese government uses to persecute rights defense lawyers?

TB: I mentioned this above, but I can summarize it again here: The government uses judicial organs to “lawfully” put pressure on rights defense lawyers, and to put them in prison. The crimes most often attributed to us include “leaking state secrets” and “giving false testimony.” In Zheng Enchong’s case, for example, it was “inciting subversion of state power,”¹ and likewise for Gao Zhisheng. Chen Guangcheng was actually sentenced for disrupting social order and Guo Feixiong was imprisoned for “illegal business activity.”

Authorities employ triads or triad methods—intimidation, beatings, and abduction—to silence lawyers. The majority of Chinese rights defense lawyers and activists have experienced these things. The Li Heping case is an example.

Forms of harassment include: tailing, surveillance, wire tapping, house arrest, subpoenas, detention, searches, etc. These are part of everyday life for China’s rights defense lawyers, and they face them without fear. Another form of harassment authorities use is cutting off one’s resources or means of livelihood. For example, because lawyer Li Jianqiang has defended dissidents, his law practice has been closed down several times and his license to practice has been revoked. When a lawyer cannot engage in his/her profession, he has no source of income; this is a method used to force lawyers into surrender. The president of the university where I taught was pressured by the public security department. He then sought me out several times for a “chat.” He wanted me to stop engaging in the rights defense movement, or my position at the university would be in doubt. This would implicate and persecute my family. Gao Zhisheng’s wife and child were beaten and kept under surveillance because of his case; Chen Guangcheng’s wife was also beaten and put under surveillance; Zheng Enchong’s wife was abducted and followed, etc.

Fourteen Chinese rights defense lawyers were selected as Asians of the Year by Asiaweek in 2005. I took stock of the names: of the 14, three were in prison, seven had

been in prison at one time or another, 11 had suffered beatings, and one had been forced into exile.

YP: In many countries human rights lawyers enjoy a high level of prestige. Quite a number become well-known politicians and national leaders. But in China the situation for rights defenders is terrible, so much so that most are afraid to risk being tainted by that label. Why is this?

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TB: The most basic reason is that China is an authoritarian state: the judiciary is not independent, power drives everything. In China, it is mainly officials, at all levels, that infringe upon or deprive the people of their rights and interests. Officials do this to maintain a source that supports their own interests. Defense of the people’s rights would naturally inhibit the officials’ interests and expose their corruption. Instead, they put pressure on rights defense lawyers. The judiciary and judicial organs have no independence, they submit to power and thus become sources for attacking and persecuting lawyers. To improve the predicament of China’s rights defense lawyers, to make them safe, secure, and respected, there must be a transformation of the system from its foundations up. There must be separation of powers and an independent judiciary.

YP: China still has a long way to go to achieve this.

TB: Indeed. But what we are doing now is a start. This is the whole basis of the rights defense movement, to take this first step. It is only with a separation of powers and an independent judiciary that human rights can be reliably guaranteed, and thereby human rights issues in China thoroughly solved. We risk life and limb through our involvement in the rights defense activities in order to bring into being a true legal system in China. These are the convictions and ideals of those involved in legal work.

YP: The dangerous predicament of Chinese rights defense lawyers raises a very practical issue. How do you protect yourselves? Is it possible, for example, to establish a rights defense lawyers association? Then when trouble arises, you can come to each other's aid and speak with a common voice. And in your cases and lawsuits, you'll be more of a force to be reckoned with.

TB: You know, there is no freedom of association in China. It is in the Constitution, but in reality, you cannot get approval. Furthermore, there is no freedom of the press. If there were freedom of association and freedom of the press, the situation for rights defense lawyers in China would be greatly improved. But the possibility doesn't exist at present. We rights defense lawyers are very loosely in touch. Sometimes we have a meal together, exchange information, discuss cases. This is a kind of mutual aid.

YP: What can those of us overseas do for rights defense lawyers in China? We want to help them. Support for them is support for human rights progress in China; it moves China in the direction of a true legal system and democracy.

TB: The Internet has brought us a lot more freedom, especially in terms of accessing information from outside and transmitting news within China. We hope that those of you overseas will make full use of your freedoms of information and speech: appeal on behalf of the rights defense movement in China, issue more reports, publish more articles and expressions of support. If there is enough pressure from the international community, the persecution that rights defense lawyers suffer from the authorities will be mitigated. These effects are of course limited, but nevertheless substantial. The Chinese economy has become part of the global economy and China must thus give thought to its international image and ponder its real interests. The Olympics will be held in Beijing in 2008; this is a good opportunity to promote human rights in China. We hope to use the Olympics to bring about changes in the Chinese human rights situation.

YP: The situation for rights defense lawyers in China is extremely difficult and dangerous. As one of China's preeminent rights defense lawyers, are you mentally

prepared to be persecuted—to lose your salary, to be abducted, beaten, perhaps end up in prison?

TB: As a Chinese rights defense lawyer, I have of course considered these possibilities. After all, these are things that happen around us all the time. For example, I am prepared to be expelled by the university at any minute—the university authorities have already given me a number of warnings and demanded that I disengage from the rights defense movement. But I won't back off. I don't think I'll be going to prison just yet, but it's not impossible. A lot of lawyers have gone to prison before me. If my turn comes, it's no big deal; I'm ready. If I do go to prison, I won't be afraid, and I'll have no regrets. As a legal scholar, I must stick to my convictions and spare no effort to promote progress in China and to bring a true legal system into being there. Of course, we need to do all we can to protect ourselves, to keep the price of our actions to a minimum, to execute cases according to the law, and to use the law to defend rights.

We hope that those of you overseas will make full use of your freedoms of information and speech: appeal on behalf of the rights defense movement in China, issue more reports, publish more articles and expressions of support.

YP: In conclusion, I would like to ask what the prospects are for the Chinese rights defense movement, as you see them.

TB: There are a lot of factors that make China backward, and at present it is still an authoritarian state, a one-party system. Change in China is and will continue to be very difficult. We have to proceed step by step, a little at a time. This requires courage and wisdom; it requires ideals and work in the present as well as patience for the long haul; it requires sure-footedness and great effort, and also compromise. This metaphorical chess game has been long, arduous, and complex. With regard to the long-term, I am optimistic, perhaps because I am young. Freedom, democracy, and human rights are growing trends worldwide: no one can stop

them. The Chinese people's awareness of their rights and interests has been awakened. They need to protect their own rights and interests, they need social justice, and they need the protection of law. This is the main reason why China is moving forward. The rights defense movement and rights defense lawyers exist precisely because there are these demands. The impact of rights defense is gradually expanding the space for freedom in China, and as it does so, people's rights are increasing and their awareness of the law is being raised. All this is progress.

Of course, I do not discount the possibility of partial or temporary setbacks in China, but in the long-term, we will move forward. This progress won't be because of the 17th or 18th Party Congress, but because of prevailing global trends, an awakening among the Chinese people, and growing human rights.

YP: Thank you, Mr. Teng. Peking University has consistently played an important role in modern Chinese history, and as a PhD graduate from its law school, I see that same celebrated tradition in you. In 2003, you and

your friends in the legal profession, Xu Zhiyong and Yu Jiang were involved in Sun Zhigang's case, precipitating the repeal of the custody and repatriation system. Since then you have taken part in many important rights defense events in China and you are now one of China's preeminent rights defense lawyers. I am proud of you, and of Peking University, and I hope you will continue to play an important role in the Chinese rights defense movement in the future.

TB: Thank you!

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Translated by J. Latourelle

Note

1. Editor's note: As Teng Biao notes above, Zheng Enchong was in fact charged and convicted of leaking state secrets outside of the country, under article 282 of the PRC Criminal Law.