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The Case of the Disappearing Activists: The Fight for Freedom of Speech in China

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Pu Zhiqiang on 10 May 1989 marching for the right to freedom of speech at the Tiananmen protests. Getty Images. Licensed under Creative Commons.

By Stephanie Tai*

Pu Zhiqiang's recent suspended jail sentence is a reminder of China's disturbing crackdown on dissidents and activists. The human rights lawyer was detained in 2014 for nineteen months after attending a gathering commemorating the twenty-fifth anniversary of the Tiananmen Square protests. He received a three year suspended [sentence on 22 December 2015](#) for "picking quarrels and provoking troubles" and "inciting ethnic hatred". The sentence was based on seven messages Pu had sent on the Chinese social media website 'Weibo', criticizing Chinese government officials and their management of the ethnic conflict in Xinjiang.

Pu is a civil rights lawyer and a prominent human rights activist in China. He has defended writers Chen Guidi and Wu Chuntao against charges of libel for their written representation of a Chinese official. He has also defended other prominent figures, such as Ai Weiwei, dissident Fang Hong, and dissident Wang Tiancheng. As a result of the sentence, Pu has been

stripped of his practice licence and will be monitored by Chinese authorities for three years. Pu's fate is a chilling reminder of China's suppression of dissent with its ongoing crackdown against activists.

The unprecedented record of disappearances among political activists [began during the summer of 2015](#) and remains ongoing [as of January 2016](#). Since July, [266 lawyers, activists, and law firm staff have been temporarily detained](#) or forcibly questioned. Currently, [thirty-eight human rights lawyers are still detained](#), including Wang Yu and Bao Longju. Wang has previously represented well-known clients in politically sensitive cases. She has defended Illham Tohti, a Uighur scholar who was later sentenced to life in prison for separatism. She has also represented the Five Feminists, Wei Tingting, Li Tingting (Li Maizi), Wu Rongrong, Wang Man, and Zheng Churan, who were detained after planning a demonstration to raise awareness about sexual harassment on International Women's Day.

The ongoing detainment of activists is a blatant mockery of the rule of law. The detainment and harassment of lawyers violates numerous international standards as well as China's own Constitution. Precisely, "freedom of the citizens of the People's Republic of China is inviolable", and "unlawful detention" is prohibited under [Article 37](#) of the Constitution of the People's Republic of China. [Article 9](#) of the International Covenant on Civil and Political Rights, to which China is a signatory but has not ratified, also guarantees against unlawful detention. [Article 23](#) of the United Nations Basic Principles on the Role of Lawyers states that "lawyers like other citizens are entitled to freedom of expression...[and] shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights". On a domestic level, [Article 35](#) of the Constitution of the People's Republic of China establishes that "citizens ... enjoy the freedom of speech". Further, this is a manifest impediment of criminal procedure. Although [Article 33](#) of the Criminal Procedure Law of China guarantees the right to "appoint a defender as of the date on which the suspect is first interrogated", many have been denied access to a lawyer during their detainment.

The United Nations Committee Against Torture published [a report](#) with remarks and recommendations in response to the safeguard of Chinese lawyers' rights on December 9th, 2015. In particular, the report recommended the "impartial investigation of all the human rights violations perpetrated against lawyers" and urged "that those responsible are tried and punished". The UN Committee additionally emphasised the significance of adopting "necessary measures...to ensure the development of a fully independent and self-regulating legal profession, so that lawyers are able to perform all of their professional functions without intimidation".

Professional legal associations across the world have released statements condemning the detainment of activists in China since July 2015. The International Bar Association's Human Rights Institute [has called on China](#) to protect "the independence of the legal profession under a just rule of law, so that lawyers have the ability to practice freely". The Law Society of England and Wales [emphasized the need](#) for an independent judiciary and "for legal professionals to be free from undue restrictions or sanctions".

The constitutional rights of dissidents must be respected, ensuring *in primis* the immediate release of those arbitrarily detained. China must observe its domestic law and international obligations, and end this disturbing crackdown on activists.

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