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Human Rights Now

Joint Statement on the Trials of Ding Jiaxi and Xu Zhiyong

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Lawyers for Lawyers, Human Rights Now, Lawyers' Rights Watch Canada, The Rights Practice and The 29 Principles are concerned about the recent trials of human rights lawyer Ding Jiaxi and legal scholar and lawyer Dr. Xu Zhiyong. On 22 June 2022 and 24 June 2022 respectively, Dr. Xu and Mr. Ding were tried for charges of "subverting state power". Dr. Xu and Mr. Ding have been held in pretrial detention for more than two years and have been subjected to torture and ill-treatment during their arbitrary detention.

Both trials have been held behind closed doors on the grounds that 'they involved state secrets', and even close relatives of the defendants were not allowed to attend the hearings. According to reliable sources, the lawyers defending Dr. Xu and Mr. Ding have been forced to sign a non-disclosure agreement barring them from sharing information about the trials, and Dr. Xu's lawyers have been threatened with disbarment by the Chinese authorities if they ever spoke to the press about the case. At the time of writing, no official statement about the hearings or verdicts has been released.

Furthermore, both Dr. Xu and Mr. Ding have repeatedly alleged that the evidence and statements held against them had been obtained under torture or ill-treatment. This violates Art. 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which states that 'any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings'.¹ Mr. Ding, with the help of his wife Luo Shengchun, has filed official applications requesting for all evidence obtained under torture to be excluded. Unfortunately, these applications appear to have proved unsuccessful.

Ding Jiaxi had been actively involved in the promotion of human rights since 2010 by advocating for the rights of migrant workers and by being involved in the New Citizens Movement, which promoted governmental transparency and the rule of law. On 26 December 2019, Ding Jiaxi was taken away by police officers from Yantai City Public Security Bureau in Shandong province as part of a large-scale crackdown targeting human rights lawyers and citizen activists, labelled the "1226 crackdown". After his arrest, Mr Ding was held in Residential Surveillance at a Designated Location (RSDL) and was subjected to various forms of torture and other ill-treatment, including prolonged sleep deprivation, exposure to loud noise and repeated interrogation while being shackled to an iron "tiger chair". He was also not exposed to day light. He was not allowed to have a shower, brush his teeth or change his clothes for days at a time. He was not given enough food and water and was not allowed to move for a long period of time.

Xu Zhiyong is a university teacher and lawyer in Beijing, China. He is known for his peaceful and open way of drawing attention to the need for reforms in Chinese politics and promoting the rule of law in China. Dr. Xu was also involved in the New Citizens Movement. On 15 February 2020, Xu Zhiyong was taken away by police officers from the Beijing Municipal Public Security Bureau. Without legal

¹ UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Art. 15.

notification to his family, Dr. Xu was placed under RSDL first in Beijing and later transferred to the same secret location in Yantai city, Shandong province, where Mr. Ding was detained. He was denied access to his family and lawyers for four months and, he was subjected to torture and ill-treatment similar to that of Mr. Ding.

On 19 June 2020, both Dr. Xu and Mr. Ding were formally arrested on suspicion of "inciting subversion of state power". They were transferred to Linshu County Detention Centre in Shandong province. They were reportedly subjected to continued torture and other ill-treatment, including lack of access to hot water and poor sanitation. Their cases were later transferred to the Procuratorate, which changed their charge, to "subverting state power". In February 2021, they were eventually allowed access to their lawyers via video calls, but their lawyers were forced to sign confidential agreements that prohibited them from photocopying the case files and discussing the details of their cases, including with Mr. Ding and Dr. Xu's family members. Their lawyers were also not allowed to hold media interviews or talk about cases in public.

On 5 August 2021, Dr. Xu and Mr. Ding were each indicted on the charge of "subverting state power". Their cases were transferred to Linyi County Intermediate People's Court. The court imposed further restrictions on their lawyers by asking them to sign an additional confidentiality agreement that prevented them from sharing the indictment documents, including with Dr. Xu and Mr. Ding's families. Their lawyers continued to be subjected to monitoring and other forms of pressure. In November 2021, lawyer Liang Xiaojun, one of the two lawyers representing Dr. Xu, received a notice from the Beijing Municipal Justice Bureau about the revocation of his legal practice license.²

The United Nations (UN) Basic Principles on the Role of Lawyers states that governments must ensure that lawyers "are able to perform all of their professional functions without intimidation, hindrance or improper interference".³ The Basic Principles further require that lawyers "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".⁴ They further stipulate that "charges or complaints made against lawyers in their professional capacity shall be processed expeditiously and fairly under appropriate procedures".⁵ The Basic Principles further state that "disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review".⁶

We, the undersigned organisations – Lawyers for Lawyers, Human Rights Now, Lawyers' Rights Watch Canada, The Rights Practice and The 29 Principles – call on the Chinese authorities to ensure that:

- All charges against Ding Jiayi and Xu Zhiyong are dropped, and they are immediately and unconditionally released;
- an independent investigation is conducted in relation to the allegations of torture and other ill-treatment to which Ding Jiayi and Xu Zhiyong were subjected in detention and punish the perpetrators in accordance with China's own laws and the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, which China ratified in 1988;

² L4L, Joint Statement on the suspension of Lin Qilei's and revocation of Liang Xiaojun's legal practicing licenses, 7 December 2021, <https://lawyersforlawyers.org/joint-statement-on-the-suspension-of-lin-qileis-and-revocation-of-liang-xiaojuns-legal-practice-licenses/>.

³ Basic Principle 16(a).

⁴ Basic Principle 16(c).

⁵ Basic Principle 27.

⁶ Basic Principle 28.

- evidence obtained through torture is not invoked as evidence in legal proceedings;
- all forms of arbitrary detention, including RSDL are terminated;
- all human rights lawyers and human rights defenders are provided with their freedom of expression of political and other opinions in accordance with China's international obligations to respect and fulfil human rights law and standards; and
- the United Nations Basic Principles on the Role of Lawyers are respected, and that lawyers are able to assist their clients without intimidation, hindrance, harassment or improper interference and without threats of prosecution or administrative sanctions for any actions they take in accordance with internationally recognized professional duties, standards and ethics.