

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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Zhang Dejiang, Chairman of the Standing
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Attention Xi Jinping, Zhang Dejiang and Yang Jianjun

Lawyers' Rights Watch Canada (LRWC) calls on the Government of the People's Republic of China (China) to:

- 1. Immediately and unconditionally release human rights lawyer Li Yuhan;**
- 2. Withdraw all charges against Li Yuhan;**
- 3. Cease investigations and surveillance of Li Yuhan.**

LRWC is a committee of lawyers and other human rights defenders who promote international human rights and the rule of law through advocacy, education and legal research. LRWC has Special Consultative Status with the Economic and Social Council of the United Nations (UN).

The arrest, detention and in-custody treatment of human rights lawyer Li Yuhan violate international human rights laws and standards that China has consented to be bound by. The unwarranted arrest, enforced disappearance and incommunicado detention also contravene China's national laws governing conduct of criminal matters. The charges against Li Yuhan are illegitimate and cannot be justified as necessary or even related to criminal conduct or national security. Detention of Ms Li Yuhan is another instance of China using police, prosecutors, judges and criminal law powers to arbitrarily imprison lawyers and other human rights defenders advocating for clients and causes unpopular with the Communist Party of China. The arbitrary detention and punishment of targeted human rights defenders serves the dual purpose of punishing present and preventing future human rights advocacy.

The arrest, enforced disappearance, incommunicado detention and illegitimate criminal investigation of Li Yuhan are part of widespread and systematic attacks on human rights defenders by China that began in July 2015 when police and public security authorities targeted some 300 human rights lawyers and

activists with interrogation and/or detention (“709” Crackdown). The widespread and systemic use by China of public resources to carry out extra-legal interrogation, detention and prosecution of hundreds of lawyers and other human rights defenders for political purposes could constitute a crime against humanity.

LRWC also calls on the UN Human Rights Council Special Mandate holders and UN member states to use diplomatic and economic measures, in compliance with the UN Charter, to achieve the unconditional release of Li Yuhan, and the release and remediation of violations against victims of the “709” Crackdown.

Background

Li Yuhan is a widely respected human rights lawyer with the Beijing Dunxin Law Firm, known most recently for representing and advocating for victims of the “709” Crackdown. She represented Wang Yu, the prominent lawyer arbitrarily detained on 9 July 2015 and advocated for families of other victims. She has been targeted before by the Shenyang Public Security Bureau for exposing police wrongdoing.

On 9 October 2017 the Heping Sub-division of the Shenyang City Public Security Bureau took Li Yuhan into custody without justification and due process and subjected her to enforced disappearance within the prison system, incommunicado detention and denial of legal counsel of choice. Li Yuhan’s family has not received any formal notification of her criminal detention other than being told on 31 October by a prison official that Li Yuhan is detained for “picking quarrels and provoking troubles”. Li is 60 years old and requires regular and competent medical care for a heart condition. While denied access to a lawyer of choice and kept incommunicado Li Yuhan not only worsening health but a heightened risk of torture or other prohibited treatment.

International Law Obligations

China has accepted and is bound by legal obligations to honour duties and effectively prevent and punish rights violations arising from the: *Charter of the United Nations* (19 October 1945), *Universal Declaration of Human Rights* (voted in favour 10 December 1948); *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (4 October 1988); and the *International Covenant on Civil and Political Rights* (signed 5 October 1998). As a state party to the *Vienna Convention on the Law of Treaties* (acceded to 3 September 1997) China has additionally agreed not to “invoke the provisions of its internal law as justification for its failure to perform a treaty.” (Article 27).

In 1945 China accepted the obligation set out in Article 55 of the Charter of the United Nations to promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” These obligations are repeated and have been accepted by China, in all the above-mentioned human rights treaties.

Actions against Li Yuhan that constitute grave violations of China’s international law obligations include the:

1. Unlawful and arbitrary arrest and detention;
2. Enforced disappearance and incommunicado detention;
3. Denial of timely and confidential access to a legal representative of choice;
4. Denial of judicial review of the legality of the arrest, detention and treatment by a competent, impartial and independent tribunal;
5. Use of criminal law investigation and detention powers for a political purpose;
6. Denial of necessary medical care and treatment;
7. Denial of the presumption of innocence and a fair trial.

These actions by officials acting at the behest of China, are grave violations of China’s international law obligations to ensure the protected rights to: liberty; freedom from arbitrary arrest and detention; timely and confidential access to legal representation; judicial review by a competent, impartial and independent tribunal of the legality of arrest, detention and treatment; and, freedom from torture and other cruel, inhuman or degrading treatment or punishment.

National Law Obligations

China's treatment of Li Yuhao also violates national laws including the following provisions of the Criminal Procedure Law of the People's Republic of China (CPL):

CPL Article 83

The family of the detainee shall be notified within 24 hours of detention unless it cannot be delivered, or that it is related to a crime of endangering national security or terrorist activities or that it will obstruct the investigation. The family of the detainee shall be notified immediately after the possible obstruction to investigation is cleared.

CPL Article 37

Defence lawyers can meet and communication (via writing) with a criminal suspect, a defendant. ... When a defence lawyer who seeks to meet a detained suspect/ defendant holds a practising certificate, a certifying letter from his/ her law firm and an appointment letter or an official letter on legal aid, the detention centre shall duly arrange for such meeting to take place within 48 hours at the latest.

CPL Article 37

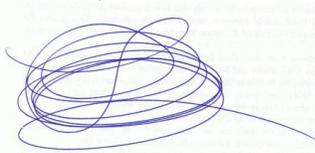
Defence lawyers can meet and communicate (via writing) with a criminal suspect, a defendant. ... When a defence lawyer who seeks to meet a detained suspect/ defendant is holding a practising certificate, a certifying letter from his/ her law firm and an appointment letter or an official letter on legal aid, the detention centre shall duly arrange for such meeting to take place within 48 hours at the latest.

Regarding medical care and attention, CPL Articles 65 and 72, respectively require that a suspect or defendant "in serious illness" may be granted bail or assigned to residential surveillance at home. The Regulation on Detention Centres Article 26 ensures, "timely medical treatments shall be provided to detainees who are sick" and that the detainee should be released on bail in case of serious illness.

Recommendations

1. Immediately and unconditionally release human rights lawyer Li Yuhao;
2. Withdraw all charges against Li Yuhao;
3. Cease investigations and surveillance of Li Yuhao;
4. Take measures to ensure the release of and compensation for, victims of the "709" Crackdown, including the release of Wang Quanzhang, Jiang Tianyong, Zhou Shifeng and Hu Shigen

Sincerely,



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LRWC Director and China Monitor

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