

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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Wednesday, October 21, 2015

Xi Jinping
General Secretary, Chinese Communist Party (CCP)
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People's Republic of China

Guo Shengkun
Minister of Public Security
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Attention CCP General Secretary Xi Jinping and Minister of Public Security Guo Shengkun

Re: International law requires the immediate release of Bao Zhuoxuan

We write on behalf of Lawyers' Rights Watch Canada (LRWC), a committee of Canadian lawyers who promote human rights and the rule of law internationally. LRWC also campaigns for lawyers and other human rights defenders in danger because of their advocacy.

LRWC demands the immediate release of Bao Zhuoxuan, the return of his passport and removal of all impediments to his traveling to San Francisco California.

Illegal and Arbitrary Arrest, Detention and Treatment of Bao Zhuoxuan

In an illegal bid clearly intended to pressure and punish Bao Zhuoxuan's parents, Chinese authorities arrested Bao Zhuoxuan, the 16-year-old son of human rights lawyers Wang Yu and Bao Longjun on 9 October 2015. The boy is reported to be under house arrest at the home of his grandparents in Ulanhot: his presence there and the conditions of his detention have not been confirmed by anyone independent of the Government of the People's Republic of China. Bao Zhuoxuan was arrested by uniformed Chinese police in Mong La, Myanmar while he was enroute to the United States to stay with a family friend, Liang Bo, during his parents' illegal detention. Liang Bo had been planning to host Mr. Bao Zhuoxuan in the San Francisco area in the absence of his parents. Wang

Yu and Bao Longjun were arrested 9 July 2015 and their whereabouts are unknown.¹ State authorities report that they are being held “under residential surveillance at a designated place.” A recent video of Wang Yu making a forced statement confirms that she is still alive, but her whereabouts, and the conditions under which she and her husband are currently detained, are unknown. Wang Yu and Bao Longjun have been detained for over three months without legal authorization, without access to legal representation and without judicial oversight. Their arrest and detention and the arrest and detention of their son are in gross violation of both Chinese domestic law and China’s international law obligations as a member of the United Nations and as a member of the United Nations Human Rights Council. LRWC considers the three members of this family to be victims of enforced disappearance.

Journalist Philip Wen was *en route* to the home of Bao Zhuoxuan’s grandparents when his team was intercepted by four police officers dressed in plain clothes. At the local police station, while asking questions about their credentials, “the officers largely refused to answer questions about Zhuoxuan’s welfare - and when they did, they provided conflicting accounts”, reports Wen. One said “Zhuoxuan had a cold and was running a high fever; another said he was in school”. Three policemen allegedly said the teenager had been “tricked” into crossing the Myanmar border, and “regretted” doing so. After some time, the police were able to determine that the reporters were in fact in Ulanhot legally and had not contravened any regulations. But in China foreign journalists require the permission of an interviewee before conducting interviews. Police in China of course routinely declare that prospective interviewees have declined to grant an interview, without the proposed interviewee ever appearing in person. The police said both the boy and his grandmother had declined to be interviewed, and escorted the journalists to the airport for their return flights to Beijing.

Bao Zhuoxuan’s case has received international attention; a report by the United States Congressional-Executive Commission on China recommended that lawmakers and administration officials raise it with the Chinese government. The U.S. State Department said it was concerned over reports that Bao Zhuoxuan, the underage son of detained rights lawyers Wang Yu and Bao Longjun, had been put under house arrest in Inner Mongolia. Spokesman John Kirby said in a statement “We urge China to uphold its international human rights commitments and protect the health and safety of this minor child”. “We are also concerned about an apparent systematic campaign of China to persecute relatives of Chinese citizens who peacefully question the official policy and work to protect the rights of others.” “We call on China to remove restrictions on freedom of movement for Bao Zhuoxuan, and again urge China to release Wang Yu and (her husband) Bao Longyun unconditionally”.

Violation of International Obligations by China

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

1. Unlawful and arbitrary arrest and detention of Bao Zhuoxuan;

¹ For more information see, *Mass arrest, detention and disappearance of lawyers and other rights advocates in China*, LRWC, 16 September, 2015. Online at <http://www.lrwc.org/china-mass-arrest-detention-and-disappearance-of-lawyers-and-other-rights-advocates-in-china-report/>

2. Unjustified prevention of Bao Zhuoxuan from leaving China;
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 of Bao Zhuoxuan by a competent, impartial and independent tribunal;
5. Use by Chinese authorities of harm or threats of harm to Bao Zhuoxuan to coerce confessions from or force compliance by Wang Yu and Bao Longjun;
6. Use by Chinese authorities of harm or threats of harm to Wang Yu and Bao Longjun to coerce a confession from or force compliance by Bao Zhuoxuan.

These actions by officials acting at the behest of the Government of the People's Republic of China are grave violations of China's international law obligations to ensure the protected rights of Bao Zhuoxuan and to prevent and punish violations of those rights. The internationally protected rights of Bao Zhuoxuan which Chinese authorities have violated include his rights to: liberty; freedom from arbitrary arrest and detention; timely and confidential access to legal representation; judicial review of the legality of his arrest, detention and treatment by a competent, impartial and independent tribunal; equality and non-discrimination; freedom from torture and other cruel, inhuman or degrading treatment or punishment; and the right to be treated as a child.

In addition, the arbitrary and unlawful arrest and detention of Bao Zhuoxuan is discriminatory, having been carried out solely because of his status as the son of Wang Yu and Bao Longjun, two human rights lawyers whom China wants to silence. The denial of judicial oversight and access to legal representation constitutes a contravention of the non-derogable prohibition of torture and other cruel, inhuman or degrading punishment or treatment that is part of international customary law and a provision of all the above-noted treaties signed, acceded to or ratified by China. The European Court of Human Rights (*El-Masri v. The Former Yugoslav Republic of Macedonia*, Application no. 39630/09) [unanimously held](#), *inter alia*, that incommunicado confinement in a hotel for 23 days outside any judicial framework was inhuman and degrading treatment prohibited by the Convention against Torture.

China has accepted and is bound by legal obligations to protect the rights of Bao Zhuoxuan and to effectively prevent and punish 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); *Convention on the Rights of the Child* (2 March 1992); 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)

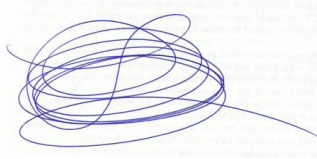
In 1945 China accepted the obligation set out in Article 55 of the Charter of the United Nations to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."² These obligations are repeated and have been accepted by China, in all the above-mentioned human rights treaties. As a current member of the UN Human Rights Council China must, in accordance with Resolution A/RES/60/251 of April 2006, "uphold the

² *Ibid*, art 55.

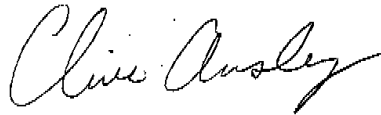
highest standards in the promotion and protection of human rights, shall fully cooperate with the Council and be reviewed under the universal periodic review mechanism during their term of membership.”

LRWC demands the immediate release of Bao Zhuoxuan, the return of his passport and removal of all impediments preventing him from traveling to San Francisco, California in accordance with China’s international law obligations.

Sincerely,



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Executive Director, LRWC



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