

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

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16 July 2015

The Honourable Robert Nicholson
Minister of Foreign Affairs
House of Commons
Ottawa, Ontario K1A 0A6
Fax: 613-996-9709
Email: rob.nicholson@parl.gc.ca

Dear Minister,

Re: China: Incommunicado detention and enforced disappearances of lawyers and other human rights defenders

Lawyers' Rights Watch Canada (LRWC) is a committee of Canadian lawyers advocating on behalf of lawyers and other human rights defenders whose rights, safety or independence are threatened as a result of their human rights work.

We draw to your attention a [letter](#)¹ LRWC sent on 15 July 2015 to President Xi Jinping of the People's Republic of China to express our grave concern about the ongoing coordinated campaign of mass arrest and detention of lawyers and other human rights defenders in a systematic crackdown on legitimate dissent. As of today, at least 215² lawyers and human rights defenders have been subjected to arrest in violation of globally accepted minimum rights to liberty and due process. While the majority of those detained have been released after several hours or days of detention, at least nine lawyers and two activists remain in incommunicado detention on criminal charges which in most cases are unspecified. In addition, at least 14 lawyers and human rights defenders have been subjected to enforced disappearance. Several detainees have reportedly been beaten by authorities including a child, age 16. Those detained or disappeared have been involved in cases in which they have advocated compliance with international human rights, including cases of arrested human rights defenders, Christians, Falun Gong practitioners and other dissidents. The detentions and enforced disappearances

¹ Lawyers' Rights Watch Canada, "China: Coordinated Harassment, Incommunicado Detention and Disappearances of Lawyers and Other Human Rights Defenders," letter dated 15 July 2015, <http://www.lrwc.org/?p=9454> (hyperlinked in the above text).

² As of 19:00 16 July 2015, 215 lawyers/ law firm staff/human right activists have been detained/ arrested/ incommunicado/ summoned/ restricted freedom temporarily, China Human Rights Lawyers Concern Group, 16 July 2015, <http://www.chrlawyers.hk/en/content/1900-16-july-2015-215-lawyers-law-firm-staffhuman-right-activists-have-been-detained>

Re: People's Republic of China: Coordinated harassment, incommunicado detention and disappearances of lawyers and other human rights defenders and activists

constitute serious breaches of the *Universal Declaration of Human Rights* (UDHR) and other international human rights instruments.

United Nations Charter

As a member of the United Nations (UN) since 19 October 1945, China is a party to the UN Charter and is obligated to comply with its provisions. Article 56 of the UN Charter states: “All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.3.” Article 55 states:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

... universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion (emphasis added).⁴

Universal Declaration of Human Rights

The UDHR was adopted in 1948.⁵ China voted for the UDHR **which was adopted the explicit purpose** of defining the words "fundamental freedoms" and "human rights" appearing in the UN Charter, which is binding on all member states. Article 2 states of the UDHR states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

China’s obligation to uphold rights recognized by the UDHR and to respect the ICCPR is heightened by China’s membership in the UN Human Rights Council (2014 – 2016). The duty of Human Rights Council members **is specifically identified the 3 April** 2006 resolution of Council (A/RES/60/251) on April 3, 2006, which sets out the expectation of its members. Paragraph 9 states: “that members elected to the Council shall uphold the 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” (emphasis added).⁶

International Covenant on Civil and Political Rights, Convention against Torture and other instruments

China has been a signatory of the *International Covenant on Civil and Political Rights* (ICCPR) since 5 October 1998 and has continually stated it is preparing to ratify it. Signatories to the ICCPR are committed to respecting the civil and political rights of individuals, including the right to life, right to

³ Charter of the United Nations, 26 June 1945 (entered into force 24 October 1945), art 56, online: www.un.org/en/documents/charter/chapter9.shtml.

⁴ *Ibid.*, art 55.

⁵ *Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess (1948), online: <http://www.un.org/en/documents/udhr/>

⁶ *Ibid.*

liberty, freedom of religion, freedom of speech, freedom from torture and rights to due process and a fair trial.

China's continuing pattern of torture of persons in custody gives rise to significant concern particularly in light of evidence worldwide that links incommunicado detention **with increased risk enforced** disappearance, torture and other ill-treatment in violation of the *Convention Against Torture*, to which China acceded in 1992. China is also demonstrating disrespect of other UN instruments, such as the UN *Declaration on Human Rights Defenders*, adopted by consensus of the UN General Assembly in 1999, and the UN *Basic Principles on the Role of Lawyers*, which was welcomed in a consensus resolution of the General Assembly in 1990.

We are particularly concerned that China is failing to uphold its obligations as a current member of the UN Human Rights Council (HRC). The current crackdown on dissent by lawyers and human rights defenders contradicts the unanimous resolution made by the UN Human Rights Council just two weeks ago, on 30 June 2015, which resolution condemned threats, intimidation and harassment of lawyers and attacks **on the independence of the lawyers** around the world.

LRWC requests that Canada urgently call upon China in public and private communications to:

- Immediately and unconditionally release all the lawyers, human rights defenders and activists arrested and detained as part of the nation-wide crackdown referred to above;
- Immediately disclose the whereabouts of all those detained in unknown locations and allow them access to lawyers, their family members and any medical treatment they may require prior to release;
- Immediately ensure that all detainees are protected from torture or ill-treatment, and at all times guarantee their physical and psychological integrity;
- Affirm through public statements that the government of the People's Republic of China respects and will meet its obligations under domestic and international law to ensure lawyers may carry out their legitimate duties without persecution as well as their legitimate work as human rights defenders; and
- Declare an immediate timetable for prompt ratification, without reservations, of the ICCPR.

Further details of our concerns are found in our letter to President Xi Jinping dated 15 July. We look forward to your reply and would be pleased to discuss these matters with appropriate Canadian officials at your convenience.

Sincerely,



Gail Davidson, Executive Director, LRWC

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