

LAWYERS' RIGHTS WATCH CANADA

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

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Promoting human rights by protecting those who defend them

March 2, 2011

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Dear General Secretary Hu and Ministers:

**Re: The Recent Illegal Arrests and Disappearances of Jiang Tianyong, Tang Jitian, and
Teng Biao**

Lawyers' Rights Watch Canada (LRWC) is a committee of Canadian lawyers providing support internationally to advocates whose rights, safety, or independence are threatened as a result of their human rights advocacy.

I am writing, as the China Monitor for LRWC, in response to information obtained from a variety of sources indicating that an ever increasing number of brave Chinese human rights lawyers and lay advocates are being intimidated, harassed, tortured, and imprisoned, simply for exercising their freedom of speech, voicing their opinions, and discharging the duties they owe as lawyers to their clients.

LRWC is gravely concerned for the safety and well-being of all Human Rights defenders in China because of the unceasing acts of intimidation perpetrated against them in recent years by

personnel of the Public Security Bureaux, the Justice Bureaux, the Chinese “courts”, and increasingly by thugs and hoodlums hired by the Chinese Communist Party, of which you are the leader. These acts effectively prevent lawyers from practising their profession, and prevent other Human Rights advocates from exercising the freedom of speech which they are guaranteed under Article 35 of the Chinese Constitution. Indeed, the list of incarcerated, tortured, and intimidated human rights activists, including both lawyers and lay advocates, grows daily in China. With a regularity which we find shocking, the Communist Party of China, and Chinese State organs, systematically violate the most fundamental freedoms enjoyed by all citizens of civilized nations in the modern era.

The human rights advocates who have been subjected to arrest, deprivation of occupation, incarceration, and torture by organs of the Chinese State and hired thugs are guilty of nothing more than openly advocating that courts, police and government should all be subject to Chinese law and to the international legal instruments to which China is a party and which China has an international obligation to uphold.

The regularity and frequency with which the Chinese Communist Party, and organs of the Chinese State, violate the most fundamental international norms of human rights and decency shocks international conscience. New violations of human rights and occur daily throughout China, clearly with the approval of the Chinese Communist Party. In fact, the evidence indicates that these affronts to civilised norms are instigated and encouraged by the Chinese Communist Party, which is largely under the control of the General Secretary of the Communist Party. Only the Chinese Communist Party of China, under the leadership of the General Secretary, has the power to end these affronts to the most minimal international standards of human rights and legality. We call upon you to end the routine violations of human rights in China which daily make a mockery of China’s claim to be a nation governed by the Rule of Law. We call upon you to move toward *at least minimal compliance* with standards set by the international community of civilized nations.

Because the abuses of Chinese human rights and lay advocates are so numerous and unceasing, we are able to address only a few representative cases at any one time. LRWC monitors repression of lawyers and human rights lay advocates in all countries of the world, including Canada and the United States. China is amongst the most repressive regimes in the world.

The Most Recent Outrages Perpetrated by Chinese Police and Hired Thugs

Human rights lawyers Jiang Tianyong, Tang Jitian and Teng Biao have been detained in Beijing. Their whereabouts are unknown as are the legal grounds on which the authorities are holding them. These three lawyers are known internationally as being among the finest and most courageous criminal defence lawyers in China. The international community recognizes that an almost incomprehensible level of courage is required of any lawyer serving in the criminal defence bar in China today. That is, of course, because of the fundamental opposition to the Rule of Law on the part of the Chinese Communist Party. Today, we recognize that every Chinese lawyer who conscientiously attempts to fulfill his/her duty to the client, or who offers to defend the legal rights of those persecuted by the Chinese Communist Party, risks intimidation, disbarment, beatings, torture, imprisonment or even death, all with at least the tacit acquiescence of the Chinese Communist Party. It is increasingly obvious that most of these unconscionable acts in defiance of the Rule of Law are in fact ordered by the Chinese Communist Party.

Jiang Tianyong and Teng Biao were both disbarred on the orders of the Chinese Communist Party when they offered to defend Tibetans charged by the Chinese Procuratorate after the uprisings in 2008. They have been repeatedly threatened, intimidated and persecuted every time

they have attempted to speak out on any human rights issue. Tang Jitian has also been disbarred on bogus charges arising out of his insistence on defending Falun Gong practitioners at trial in a Chinese “court”.

These three lawyers met for breakfast in a Beijing restaurant on February 16 2011. Ironically, they were meeting to discuss the situation of yet another courageous human rights defender who has fallen victim to the brutal repression of the Chinese Communist Party. They were discussing the recently renewed persecution of Chen Guangcheng, the blind legal advocate who put his body on the line to protest the brutalization of women in the course of forced late term abortions ordered by the Chinese Communist Party. As you know, Chen Guangcheng recently served a lengthy prison sentence after being convicted by a Chinese “court” on transparently ridiculous charges brought by the Chinese Communist Party, presumably with your approval. More recently, he *and his wife* were brutally beaten by police officers and hired thugs.

On February 16th Beijing police surrounded the restaurant and at the end of the meeting, Jiang Tianyong was illegally arrested and taken to a police station where he was interrogated and tortured for approximately five hours. He was then released, was rearrested on February 19 and has not been seen or heard from since. Family and friends have no idea of his whereabouts and police claim not to know. In the course of this totally illegal abduction without a warrant, Chinese police also viciously beat both Jiang’s brother and his mother, who is in her mid-seventies.

That evening, the Chinese police state moved against Tang Jitian, illegally abducting him from his home, after breaking down the door. Tang Jitian was taken by force to an unknown location and his family has no idea where he is or whether he is even still alive. They fear he may be the victim of torture similar to that inflicted on Gao Zhisheng by unknown Chinese police and hired thugs.

On February 19, Teng Biao was taken into custody by Beijing police and has not been heard from since. Neither friends nor family know where he is, whether he is alive or dead, or whether he has subjected to torture and other cruel, inhuman or degrading punishment or treatment by state agents been tortured or brutalised, as have so many human rights defenders.

The reputation of the Chinese Communist Party has declined over the years. Once the subject of heroic mythology about the Long March, the Anti-Japanese war and the wars of resistance against the KMT, today the Chinese Communist Party is best known for systemic beatings of the handicapped, for beatings of old ladies, and for the systemic torture and murder of its critics.

LRWC and many other international human rights organizations have written in the past about the many illegal actions of the agents of the Chinese Communist Party against such human rights defenders; viz. Zheng Enchong, Guo Guoting, Chen Guangcheng, Yang Maodong (Guo Feixiong), Gao Zhisheng, Li Jinsong, Wu Lihong, Li Jianqiang, Aduro Lupoe, Gong Haoming, Hu Jia, Li Boguang, Li Guohong, Li Heping, Li Subin, Liu Jie, Lu Gengsong, Ma Wenbao, Mao Hengfeng, Pu Zhiqiang, Qi Chonghai, Xu Zhiyong, Zheng Mingfang, Zhang Shizhi, Zhu Jiuhu, Yang Zaixing, Mo Shaoping, Wei Luqiu, Zhang Lihui amongst others. LRWC has never received a response to any of these inquiries into the systemic violations of the law by state agents in their persecution of lawyers and other human rights defenders. LRWC is aware that the cases which have come to our attention constitute only a small percentage of Chinese lawyers who have been intimidated, disbarred, beaten, tortured and/or imprisoned by the Chinese Communist Party. These actions shame China internationally.

China’s obligations toward these Human Rights defenders arise from China’s membership in the United Nations (UN) and from declarations and principles adopted by the UN General Assembly

including the *Universal Declaration of Human Rights* (1948), the *Basic Principles on the Role of Lawyers* (welcomed by the UN General Assembly in 1990), and the *Declaration on Human Rights Defenders* (1998). The duty also arises from Conventions ratified by and binding on China including the *International Covenant on Civil and Political Rights*.

Article 1 of the *Universal Declaration of Human Rights* requires that: *every person has the right, individually or collectively, to promote the protection and fulfilment of human rights and fundamental liberties at the national and international levels.*

The *Basic Principles on the Role of Lawyers* require China to provide additional protection to lawyers and to protect both their right to practice their profession and also the security of their persons.

Article 16: *Governments shall ensure that lawyers are able to perform all their professional functions without intimidation, hindrance, harassment or improper interference.*

Article 17: *Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.*

The *Declaration on Human Rights Defenders* further requires (see Articles 9(5) and 11) your government to conduct prompt, impartial and effective investigations into the coercive measures taken against all these Human Rights defenders.

Article 12(2) creates the mandatory responsibility of member states to protect lawyers in the practice of their profession.

The recent endemic imprisonment, illegitimate court actions, surveillance, intimidation, and beatings carried out against Human Rights defenders in China by the Chinese Communist Party violate all the foregoing principles. Failure to protect and investigate such indefensible violations constitutes a breach of China's international duties.

The persecution of the brave advocates identified in this letter belies China's claim to be implementing the Rule of Law. The Rule of Law is founded in part, on the right to be represented by independent legal counsel, a right that must be protected by the state. A legal system that allows attacks on the professional and personal safety and independence of lawyers and fails to properly identify and punish perpetrators has no connection with the Rule of Law. LRWC is alarmed at the frequency with which Chinese lawyers presenting evidence or raising issues critical of government officials, government actions, or government policy, are deprived of their livelihood and professional status, and even incarcerated, simply for representing causes disapproved by the Chinese Communist Party.

LRWC calls on the Chinese Communist Party to comply with the requirements of the *Declaration on Human Rights Defenders*, *Universal Declaration of Human Rights* (1948) the *Basic Principles on the Role of Lawyers*, the *International Covenant on Civil and Political Rights*, and the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. LRWC calls on the Communist Party of China to take immediate and effective action to protect all Human Rights advocates in China and to:

1. instruct authorities to cease illegal activities against them;

2. release them from custody;
3. ensure them adequate protection against further illegal assaults upon their liberty and persons, and against interference with their rights to practice their profession;
4. direct a thorough and transparent investigation into the threats, intimidation, physical abuse, and illegal surveillance which now are everyday occurrences in the lives of Chinese Human Rights lawyers and lay advocates, and ensure appropriate disciplinary measures for those responsible; and
5. direct that all lawyers who have had their licenses illegally confiscated or not renewed be reinstated;

LRWC urges the Chinese Communist Party also to take effective action to ensure the security of all human rights defenders in China so they can continue to carry out their legitimate and important work of defending human rights. We further call upon you to release immediately and unconditionally all Chinese human rights defenders who remain arbitrarily detained for the sole reason of their human rights activities, and put an end to any kind of retaliation against them. Finally, we again call upon you to ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards adopted by the UN General Assembly and signed or ratified by the People's Republic of China.

Compliance by the Communist Party of China with minimal international human rights norms and standards is long overdue.


It is not in China's interest to continue flaunting international opinion by abusing Chinese human rights lawyers and lay advocates.

Please advise LRWC by mail, e-mail or fax of the actions that the government of China is taking to:

1. ensure the present and future safety of human rights defenders in China; and
2. Investigate the intimidation and illegal sanctions against human rights defenders with the goal of identifying the person(s) responsible and bringing them to trial.

LRWC awaits your response. Thank you for your attention to our concerns.

Yours truly,



Clive Ansley
China Country Monitor