

LAWYERS' RIGHTS WATCH CANADA

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

3220 West 13th Avenue, Vancouver, B.C. CANADA V6K 2V5

Tel: +1-604-738-0338 Fax: +1-604-736-1175

lrc@portal.ca www.lrc.org

Promoting human rights by protecting those who defend them

September 11, 2007

Mr. Hu Jintao
President of China
Zhongnanhai
Beijing, P.R. China
Postcode: 100017

Dear Mr. Hu:

**Re: Persecution of Numerous Human Rights Lawyers and Lay Advocates by
Chinese Organs of the State**

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 a China Country 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 and voicing their opinions.

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, and the courts. 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. State organs of China systematically violate the most fundamental freedoms enjoyed by all citizens of civilized nations in the modern era, with a regularity which we find shocking.

The human rights advocates who have been subjected to arrest, deprivation of occupation, incarceration, and torture by organs of the Chinese State 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 organs of the Chinese State violate the most fundamental international norms of human rights and decency shocks international conscience. New violations occur daily throughout China. Only the central government of China, your government, has the power to end these affronts to the most minimal international standards of human rights and legality. We call upon you to do just that. We call upon you to move toward at least minimal compliance with standards of 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. Violations occur in every country from time to time. Unfortunately, occurrences in China appear to out-number those in all the rest of the world combined, and we are finding it necessary to appoint as many monitors as we can find in order to keep track of the violations in China alone.

I shall therefore in this letter address the cases of only six of the many Chinese who have been persecuted recently for merely exercising fundamental freedoms taken for granted by citizens in free societies. My colleagues will be sending you further letters addressing other victims, and overall issues.

Zheng Enchong

In 2003, Mr. Zheng Enchong was sentenced to three years in prison on politically motivated charges of providing state secrets (information of police activity against Mr. Zheng's clients), to a human rights organization outside China.

During his three year incarceration, Mr. Zheng was regularly subjected to physical beatings. Both the beatings themselves, and the failure of the Chinese government to investigate and prevent recurrence, constitute serious violations of China's obligations under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

After his release on June 5th of last year, Mr. Zheng was followed by police and his movements monitored through 24 hour surveillance; he was denied an identity card and falsely informed that his deprivation of political rights (a component of the sentence he received from the court in accordance with the instructions of the Chinese Communist Party in Shanghai) precluded any freedom of movement.

Finally, he was re-arrested on July 12th 2006 and for a time held illegally in the custody of the Chinese police.

On the same day, police illegally broke into Mr. Zheng's home, conducted a search without warrant (a warrant was produced later), confiscated his computer and harassed his wife, Jiang Meili, issuing a summons against her on a charge of "obstructing officials in the conduct of their duties".

On July 24, 2007 the indefensible persecution of Mr. Zheng began again when he and his wife attempted to register as observers at the Shanghai Higher People's Court trial of Zhou Zhengyi.

Upon arrival at the Shanghai Courthouse, Mr. Zheng and Ms. Jiang were surrounded and attacked by six police officers: Tang Wei, Wu Yanan, Qian Guoqiang, Wang Zhenlin, Li Wei, and Feng Jianping. Mr. Zheng was continuously beaten, in public, for more than an hour, and dragged for two hundred metres.

The earlier trial and imprisonment of Zheng Enchong appeared to LRWC to have been reprisals for his legitimate work as a lawyer. LRWC is concerned at the news that Chinese authorities continue to intimidate and harass Mr. Zheng.

We call upon you to personally intervene to terminate the illegal harassment of Zheng Enchong by Chinese police and to ensure that he is able to enjoy the rights guaranteed him under Chinese law and under the international conventions to which China is a signatory.

China has a responsibility to adopt such measures as are necessary to guarantee the security of the person of Zheng Enchong. China also has an additional duty to take effective measures to protect Mr. Zheng's right to carry out his professional activities as a lawyer free from intimidation, harassment and reprisals.

Chen Guangcheng

Mr. Chen is known around the world for his courage and for the handicaps he has overcome. Though blind, he is a self-taught lawyer who has dedicated his life to fighting for the rights of impecunious victims against unscrupulous developers and officials.

He first attracted international attention when he helped villagers to take legal action against Linyi City authorities, who had been violently forcing women to undergo abortions so as to meet birth quotas. He began this work in April of 2005. In June 2005 he filed a lawsuit and then travelled to Beijing to publicise the matter among legal scholars, lawyers, and foreign journalists. Soon after, the lawsuit was rejected by the "court". On August 12, 2005, local officials placed Chen and his immediate family under house arrest and severed all communications. They were detained at home for seven months.

On March 11, 2006, Mr. Chen Guangcheng was arrested by local police officers for "disturbing traffic". On June 11, 2006 his wife was informed by the police that her husband was charged with "deliberate destruction of property" and "organising a mob to disrupt traffic".

On June 19, 2006, the authorities banned a press conference in Beijing that called on the international community to denounce Mr. Chen's situation. The organisers of the conference were interrogated and put under surveillance. Mr. Chen's family was also subjected to repeated acts of harassment.

On June 21 Chen's lawyers, Li Jinsong and Zhang Lihui, met with him, but thereafter they were denied access to defence witnesses and the prosecution file. On June 22 police officers detained lawyer Li for questioning. Unknown assailants beat three other lawyers defending villagers jailed for supporting Chen. When Li Jinsong and Li Subin, another member of Chen's legal team, tried to visit Chen's wife on June 23, they were stopped and beaten by guards. The following day, all the lawyers involved returned to Beijing. Li Jinsong and Li Subin tried returning to Shandong on June 27, but were harassed by about twenty thugs who overturned the lawyers' car. Police stood by and watched these crimes being perpetrated, then detained Li Jinsong for questioning once more.

In August 2006, after a grossly unfair "trial" lasting only two hours, Chen was sentenced to four years and three months in prison for "damaging public property and gathering people to block traffic". All three of his lawyers were detained by the police and prevented from attending the "trial". The "court" appointed a public defender for Chen.

International outcries against this travesty of due process apparently influenced the Chinese "courts" to order a new "trial" which took place in November 2006. Unfortunately, the second "trial" was as farcical as the first. Chen's three lawyers were seriously harassed by a large number of plain clothes police before the "trial", a former prosecution witness who had recanted previous testimony against Chen which he had given under torture, and who now had agreed to testify for the defence, was kidnapped, as were two other prospective defence witnesses. The presiding "judge" refused an adjournment despite these events, and despite the fact that the police had placed one of Chen's lawyers under arrest for a second time.

In prison, on 16 June this year, Chen Guangcheng was severely beaten by other prisoners on the orders of prison guards, and denied medical treatment. He has begun a hunger strike in protest, refusing water as well as food. Amnesty International believes his life is in danger, and that he is at risk of further torture and ill-treatment.

All international human rights organizations have recorded the frequent practice of prison guards ordering the beating and torturing of political prisoners by incarcerated criminals.

Because Chen Guangcheng has been blind since birth, he requires the assistance of his lawyer or his wife to help him draft his appeal. However the prison authorities have refused to permit either his lawyer or his wife to visit him for longer than 30 minutes per month, making it impossible for Chen Guangcheng to prepare an appeal.

The prison authorities have refused his family's request to give him medical attention, including an X-ray to check for broken bones.

LRWC expresses its deep concern over the beating and torture of Chen Guangcheng in prison, and we urge you to intervene in this matter to ensure that he receives medical treatment and that these indefensible acts of hooliganism are not repeated. We also urge that Mr. Chen be provided with a lawyer of his choice. LRWC further urges you to initiate a full, independent, and impartial investigation into the abuses perpetrated upon the person of Mr. Chen and to see that the perpetrators are punished.

Finally, as lawyers, we express our deepest regret that both the first and the second trial of Chen Guangcheng were patently and manifestly unfair by any international standard and we would urge that Mr. Chen be released immediately and unconditionally.

Yang Maodong (aka Guo Feixiong)

Lawyer Yang's "crime" was that in 2005 he used his legal knowledge to assist farmers in Taishi Village, Guangdong, to remove their village chief. He advised them on how this could be done legally and peacefully. He was detained in Taishi Village as a direct result of performing his lawful duties as a legal expert. While in custody, he was severely beaten by local police. He was first arrested on 13 September 2005 and later set free without charge after three months' detention.

After his release, Yang traveled to Beijing and initiated a peaceful protest outside the central government headquarters there. This peaceful protest was not only the exercise of a traditional right enjoyed by Chinese for hundreds of years, but involves a right guaranteed to all Chinese citizens under China's current Constitution. Despite the constitutional guarantees, Lawyer Yang was once more arrested and detained.

On February 8, 2006 Yang Maodong issued a public letter to yourself and Premier Wen Jiabao, protesting against violent reprisals taken against villagers and others attempting to redress grievances. The right to issue such a letter is taken for granted by citizens of free societies. But Yang was arrested on the same day his letter was made public, released under surveillance, and eventually re-arrested on September 14th of 2006, at which time he was charged with the vague alleged "offence" of "illegal business activity". This last arrest was clearly a result of his having taken part in the defence of Lawyer Gao Zhisheng in August of 2006.

After his second September arrest, Yang was held *incommunicado* at Guangzhou until October 4, 2006, in complete violation of the Chinese Civil Procedure Code. He is reported to have been tortured between September 14 and December 26, 2006. He was brutally beaten by Chinese police on three separate occasions in 2006. On January 19, 2007 he was moved to Shenyang in Northern China and was again tortured, before being returned to Guangzhou on March 27, 2007.

Lawyer Yang has now been in custody for almost a year, in Beijing, Shenyang, and finally in Guangdong where he is presently incarcerated. He has committed no offence under Chinese law. Reports indicate that he has been badly abused while in custody. He was at one point shackled to his bed for forty days and subjected to sleep deprivation. Both these practices constitute torture under the Convention Against Torture, to which China is a signatory. But both these practices have been widely reported as routine police methods throughout China. Again, we call upon you, as head of state, to insist that China's international obligations under the Convention Against Torture are implemented.

We ask that you, as head of the central government of China, intervene directly to ensure that Lawyer Yang is not subjected to further physical abuse and that he is released from custody inasmuch as he has committed no offence under Chinese law.

We further ask that you and the central government put an end to all acts of harassment against Lawyer Yang Maodong and all other human rights defenders in China.

Gao Zhisheng

Lawyer Gao is perhaps the human rights advocate most widely known internationally for his struggles to bring the Rule of Law to China. He has been nominated for the Nobel Peace Prize. His persecution at the hands of Chinese police, Chinese courts, and the Chinese Justice Ministry are equally well known to the international legal community. We know that you are also very much aware of Lawyer Gao's case and we have written to you on two previous occasions to plead for justice on behalf of Gao Zhisheng.

We regret that there has been no improvement in his situation. On the contrary, the persecution against him has apparently intensified, and has even included several attempts on his life, as well as intimidation of his family.

Most recently, in an apparent attempt to prevent him from speaking publicly about an award about to be conferred on him *in absentia* by the American Board of Trial Advocates ("ABTA"), he was forcibly removed from his home on June 24 and taken by police to an undisclosed location outside Beijing. The ABTA on June 30 named Lawyer Gao the 2007 recipient of its "Courageous Advocate Award". This award is conferred on lawyers anywhere in the world who have "demonstrated courage in the performance of duty and a strict adherence to the rule of law, even at great risk to personal freedom and safety."

Gao, who headed the law firm which included Yang Maodong, remains the "poster case" symbolizing the systematic persecution of lawyers and lay advocates in China who exhibit the courage to represent citizens and causes not favoured by the Chinese government, such as dispossessed peasants and Falun Gong practitioners. For simply performing his duties as a lawyer, acting at all times completely in accordance with Chinese law, lawyer Gao has been deprived of his licence to practise law, has had his law firm closed on spurious grounds which should embarrass the Chinese Justice Ministry, has been convicted of "subversion" for speaking publicly, has been the victim of several assassination attempts, and has been subjected to beatings by the Chinese "thought police".

For the third time, we appeal for your personal intervention to prevent further illegal harassment of this courageous human rights defender.

Wu Lihong

Wu Lihong is an environmentalist farmer from Zhoutie Township, Yixing City, in Jiangsu Province.

On August 10th, 2007, the Yixing City Court sentenced Mr. Wu to three years' imprisonment, and also imposed a fine for "monetary extortion". In accordance with Chinese law, all trials are supposed to be open to the public; in accordance with Chinese practice, they usually occur in private and this trial was not an exception. The court was packed with more than sixty court personnel and only four of Mr. Wu's family members were allowed in.

Mr. Wu had been in custody since April 13, 2007. We draw to your attention the fact that Mr. Wu was subjected to violence and physically injured while in police custody, a phenomenon which appears to be commonplace in the Chinese police system. Obviously, such practices by Chinese police are contrary to China's obligations as a signatory to the Convention Against Torture and other related international conventions to which China is a signatory.

As is the case with all the other human rights advocates identified in this letter, Mr. Wu has clearly received a prison sentence simply to put an end to his entirely lawful human rights activities. It is apparent that his constant public reporting concerning the environmental destruction of Lake Tai, by the dumping of industrial waste products, has angered local officials and the industries responsible for the environmental destruction.

In 2004, the Chinese National People's Congress amended the Chinese Constitution by inserting the statement that "the State respects and safeguards human rights". In 2006, China cited that amendment to support its candidacy to the United Nations Human Rights Council. We draw your attention to the fact that as a member of the Human Rights Council, China is obligated to "uphold the highest standards in the promotion and protection of human rights". This obligation cannot be reconciled with China's current position as the unchallenged world leader in the abuse of human rights advocates. We implore you to address this anomaly and implement human rights standards deserving of respect by the international community.

Specifically, in the case of Wu Lihong, we ask that you guarantee his physical and psychological safety, that you arrange for his immediate release in recognition of the fact that the charge against him was a sham designed simply to suppress his human rights advocacy, and that you conduct a fair and impartial investigation into the abuses to which he has been subjected.

Li Jianqiang

Mr. Li is the latest lawyer to be subjected to improper sanctions and reprisals by Chinese authorities, simply for having committed to the legal and proper defence of dissidents in China.

The Shandong Provincial Justice Bureau in June of 2007 rejected Mr. Li Jianqiang's application to renew his lawyer's licence. Such annual renewal is a perfectly routine procedure. The renewal is never refused unless the applicant has been convicted of a criminal offence, or, unless he has been fighting hard for the human rights of his clients. Mr. Li obviously falls into the latter category, though the Shandong Bureau has refused to state any reasons for its unusual action.

The absence of reasons makes it difficult, if not impossible, for Mr. Li to appeal the decision, but in the meantime he is deprived of his livelihood and his clients are deprived of a courageous champion, which latter fact is almost certainly the *raison d'être* for the negative decision by the Shandong Bureau.

We, together with other human rights organizations around the world are deeply concerned over the apparent determination of the Chinese authorities to obstruct the work

of human rights defenders in China by any means, legal or illegal. According to Article 11 of the United Nations Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998, “Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession.”

We ask that you intervene in this matter and direct the Shandong Justice Bureau to forthwith renew the licence of Li Jianqiang to practise law.

China’s obligations toward all 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 rights to practise 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, spurious court actions, surveillance, intimidation, and beatings carried out against Human Rights defenders 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 as a consequence of representing causes of which the Chinese Government or the Chinese Communist Party disapproves.

LRWC calls on the Chinese government 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 government 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 practise 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 licences illegally confiscated or not renewed be reinstated;

LRWC urges the government of China 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 government of China with minimal international human rights norms and standards is long overdue. But we particularly urge you to consider China's image in the coming year as your country prepares for the 2008 Olympic Summer Games. These games are already being called the "Genocide Olympics" because of China's support of Genocide by the Sudan Government in Darfur. Others refer to the Games as the "Bloody Harvest Olympics" because of the recent shocking disclosure that China kills Falun Gong

practitioners on demand in order to harvest their organs for sale on an international market.

Surely, it is not in China's interest in the run-up to the Olympic Games 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 Chinese Human Rights defenders, and;
2. investigate the intimidation and illegal sanctions against such 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,

A handwritten signature in black ink, reading "Clive Ansley". The signature is written in a cursive, flowing style.

Clive Ansley
China Country Monitor