

February 26, 2018

H.E. Xi Jinping
President of the People's Republic of China
The State Council General Office
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Your Excellency:

Re: Concerns regarding the revocation of legal licence and detention of lawyer Yu Wensheng

I write on behalf of the Law Society of Ontario* to voice our grave concern over the revocation of legal license and detention of lawyer Yu Wensheng. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Yu Wensheng is a human rights lawyer who has defended a number of clients in politically sensitive human rights matters in recent years, including forced evictees and the families of a tainted vaccinations scandal in the eastern province of Shandong.

Yu Wensheng was part of the team that tried to sue the Chinese government for failing to shield citizens from pollution, and joined the defense team for detained fellow human rights lawyer, Wang Quanzhang. Wang Quanzhang is held in the northern city of Tianjin. The Law Society intervened on behalf of Wang Quanzhang in October 2017. Wang Quanzhang has been subjected to ongoing incommunicado detention since 2015.

Yu Wensheng has been outspoken especially about the government's crackdown on human rights lawyers, which intensified in the middle of 2015. Since July 2015, more than 300 lawyers, legal assistants and activists have been questioned, and more than two dozen have been formally investigated.

Yu Wensheng has since been stripped of his legal license. On January 15, 2018, Yu Wensheng received a letter from Beijing's Bureau of Justice informing him that his licence had been revoked. In the same week, Yu Wensheng learned that he would not receive a passport to travel abroad, because he was a "security risk". Yu Wensheng disclosed the revocation of his license and being denied a passport on social media.

The revocation of his licence comes after Yu Wensheng wrote an open letter criticising the government. The letter called for political and constitutional reform, as well as a free and democratic China. In particular, Yu Wensheng called for open presidential elections in his letter. The letter was also posted by Yu Wensheng on social media. Yu Wensheng stated that he believed the revocation of his legal license was part of reprisals for penning the open letter.

Yu Wensheng's wife, Xu Yan, has said in statement that her husband had tried setting up an independent legal practice after he left his old firm last year. On January 12, 2018 the Beijing municipal authority sent a letter refusing his application to set up a practice on the basis that Yu Wensheng had openly expressed opposition to the Communist Party's leadership. The letter stated that consequently his behaviour did not meet the standards required of practising lawyers.

A set of measures on the practice of Chinese law firms and lawyers was revised in late 2016. The measures included higher levels of scrutiny of the speech and conduct of lawyers, as well as greater requirements of political loyalty for firms and practitioners. It has been said that the revisions were aimed at preventing the legal community from taking on sensitive rights cases or speaking out against political prosecution of legal work.

In addition to the revocation of his legal licence, Yu Wensheng has also been detained. He was first arrested in 2014. He disappeared for three months after protesting over not being allowed to meet a client who had been detained. He was arrested again in 2015 after he alleged that he had been tortured in police custody.

On January 19, 2018, Yu Wensheng was detained again for the third time, only days after his legal license was revoked. He is being held at the Beijing Shijingshan Detention Centre. He was charged initially with "disrupting public service". About a week later, he was put under a form of secret detention and charged with the more serious charge of "inciting subversion of state power". The offense of subversion carries a maximum prison sentence of 15 years.

Yu Wensheng is being held in Residential Surveillance in a Designated Location (RSDL). Yu Wensheng's transfer into RSDL means that he can be held in solitary detention in an unofficial jail at a secret location for up to six months without access to a lawyer or his family members. It is also reported that the police have handed over Yu Wensheng's case to investigators in the eastern city of Xuzhou without providing an explanation. It has been alleged that the Chinese police transfer politically sensitive cases to courts far away from where the alleged offenses were committed in order to block the suspect's supporters from pressuring authorities.

Yu Wensheng's family has hired lawyers Ma Wei and Song Yusheng to defend him. When the lawyers arrived at the detention centre on January 22, 2018, they were not permitted to visit Yu Wensheng. Yu Wensheng has not been allowed to meet with his family or a lawyer since being detained. There is also concern that Yu Wensheng could be subjected to ill-treatment or torture in custody, as he was during his detention in 2014. According to information available, other RSDL prisoners have been subjected to mental and physical torture.

The Law Society is deeply troubled by Yu Wensheng's situation and urges Your Excellency to comply with China's obligations under international human rights laws, including the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 of the *Basic Principles on the Role of Lawyers* states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Article 17 states:

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

Article 18 states:

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

Furthermore, Article 23 provides:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the Government of China to:

- a. withdraw the charges against Yu Wensheng immediately and unconditionally;
- b. release Yu Wensheng immediately and unconditionally and ensure that he is returned home;
- c. ensure that Yu Wensheng is not subjected to torture or other ill-treatment, has regular, unrestricted access to his family, lawyers of his choice, and medical care;
- d. guarantee all the procedural rights that should be accorded to Yu Wensheng in accordance with his right to a fair trial;
- e. guarantee in all circumstances the physical and psychological integrity of Yu Wensheng;
- f. guarantee that adequate reparation will be provided to Yu Wensheng if he is found to be a victim of human rights abuses;
- g. put an end to all acts of harassment and acts of violence against lawyers in China;

- h. ensure that all people in China, including lawyers and judges, are able to exercise freely their freedom of association, peaceful assembly, opinion and expression, including when such expression is critical of government institutions and actions;
- i. ensure that all lawyers and judges in China are adequately safeguarded by the authorities such that they are able to carry out their professional duties and activities free from intimidation, hindrance, harassment, improper interference, the threat of criminalization, or other human rights violations; and
- j. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours truly,

Paul Schabas
Treasurer

**The Law Society of Ontario is the governing body for more than 50,000 lawyers and 8,000 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

H.E. Lu Shaye, Ambassador of the People's Republic of China to Canada

The Honourable John McCallum, Ambassador of Canada to the People's Republic of China

The Honourable Chrystia Freeland, Minister of Foreign Affairs

Wang Junfeng, All China Lawyers Association

Albert Ho Chun Yan, Chairperson, China Human Rights Lawyers Concern Group

Winnie Ng, Co-Chair, Toronto Association for Democracy in China

Alex Neve, Secretary General, Amnesty International Canada

Andrew Anderson, Executive Director, Front Line Defenders

Emma Achili, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Farida Deif, Canada Director, Human Rights Watch

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Hina Jilani, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Diego García-Sayán, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Marina Brillman, International Human Rights Policy Adviser, The Law Society of England and Wales