



The Law Society of
Upper Canada

Barreau
du Haut-Canada

May 19, 2017

H.E. Xi Jinping
President of the People's Republic of China
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Your Excellency:

Re: Charges against law professor Benny Tai

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the charges against Professor Benny Tai. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Benny Tai is an associate professor of law at the University of Hong Kong and was one of the panelists at the Law Society's Asian and South Asian Heritage Month event in 2016. He received widespread media attention in January 2013 when he proposed the Occupy Central with Love and Peace campaign ("Occupy Central"). Occupy Central (also known as the "Umbrella Movement") was a civil disobedience movement that took place in Hong Kong between September 28, 2014 and December 15, 2014. It called on protesters to block roads and paralyze the city's financial district if the Chinese and local governments failed to implement universal suffrage for the 2017 Chief Executive and the 2020 Legislative Council elections in Hong Kong in accordance with "international standards".

It has come to the Law Society's attention that on March 27, 2017, Professor Tai and eight other activists were formally charged for their leadership roles in the Occupy Central protests. Professor Tai is facing the common law charges of "inciting others to create a public nuisance", "inciting others to incite more people to create a public nuisance", and "conspiring to create a public nuisance". Each of these charges carries a maximum penalty of seven years in prison.

Professor Tai and others believe that political considerations may have played a role in the sudden decision to prosecute the leaders of Occupy Central, especially in light of the fact that the charges were brought just one day after the date of the Chief Executive election. Meanwhile, international watchdogs, such as Amnesty International and Freedom House, have condemned the prosecutions.

The Law Society is deeply concerned about Professor Tai'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. immediately and unconditionally withdraw all charges against Professor Benny Tai;

- b. guarantee all of the procedural rights that should be accorded to Professor Benny Tai in accordance with his right to a fair trial;
- c. put an end to all acts of harassment against Professor Benny Tai and all other Occupy Central or Umbrella Movement activists in Hong Kong;
- d. guarantee in all circumstances the physical and psychological integrity of Professor Benny Tai;
- e. ensure that all lawyers in Hong Kong and China can carry out their professional duties and activities without fear of reprisals, physical violence or other human rights violations; and
- f. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours truly,

Paul B. Schabas
Treasurer

**The Law Society of Upper Canada 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:

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