



The Law Society of
Upper Canada

Barreau
du Haut-Canada

May 25, 2017

Office of the Treasurer

Osgoode Hall
130 Queen Street West
Toronto, Ontario
M5H 2N6

Tel 416-947-3415
Fax 416-947-7609

H.E. Xi Jinping
President of the People's Republic of China
State Council General Office
2 Fuyoujie
Xichengqu
Beijingshi 100017
People's Republic of China

Your Excellency:

Re: Trial of lawyer Xie Yang and detention of lawyer Chen Jiayang

I write on behalf of the Law Society of Upper Canada* to voice our grave concern over the trial of lawyer Xie Yang and the detention of lawyer Chen Jiayang. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Xie Yang

Xie Yang is a prominent human rights lawyer known for his work on politically sensitive cases. He was one of the several hundred legal professionals and activists detained by Chinese authorities during the “709 crackdown” in the summer of 2015. The Law Society first intervened on his behalf in July 2015.

Xie Yang has been accused of conspiring with people inside and outside China to distort incidents of police brutality in order to “subvert state power, overthrow the socialist system and harm national security and social stability”. It has come to the Law Society’s attention that at his trial, which took place on May 8, 2017 at the Changsha Intermediate People's Court, he pleaded guilty to charges of “inciting subversion of state power” and “disrupting court order”. He further acknowledged that he had been “brainwashed” into wanting to “overthrow the existing system and develop Western constitutionalism in China”.

Xie Yang is also purported to have told the court that his rights had been fully protected by both the police and the prosecution, and that he had not been tortured

or otherwise forced into confessing. These statements are at odds with previous reports given by Xie Yang to his lawyers earlier this year that police had subjected him to extensive sleep deprivation, prolonged interrogations, beatings and death threats, all of which were designed to compel a confession and to get him to incriminate his colleagues. It should also be noted that Xie Yang himself wrote in a handwritten declaration dated January 13, 2016: “If, one day in the future, I do confess – whether in writing or on camera or on tape – that will not be the true expression of my own mind. It may be because I’ve been subjected to prolonged torture.”

Xie Yang’s trial was held without advance notice to the public; it was concluded within a few hours and no witnesses were called. Foreign journalists have not been able to verify the court transcripts, and Xie Yang's wife, Chen Guiqiu, has called the trial a “sham”. Xie Yang is believed to have been released on bail following his trial, but remains under tight surveillance by secret police.

Chen Jiangan

Chen Jiangan was Xie Yang’s lawyer before a court in Changsha denied Xie Yang his choice of representation and provided government-appointed lawyers instead. That said, even though he was no longer representing Xie Yang, Chen Jiangan has remained vocal on Xie Yang’s case. For instance, in March 2017, he publicized the allegations made by Xie Yang and several other detained lawyers of ill-treatment and torture in police custody.

On May 3, 2017, while on vacation with his family in the remote southwestern province of Yunnan, Chen Jiangan was detained by several dozen armed security forces and forced to drive back to Beijing under police escort comprised of two members of China’s secret police and an official of the Beijing Municipal Bureau of Justice.

Although it would appear that Chen Jiangan is not currently subject to ongoing detention, he and those close to him have expressed concerns that, like his former client, he too may "lose his freedom" and be coerced into self-incrimination. Additionally, reports indicate that Chen Jiangan’s eldest son has been prevented from enrolling in primary education, which is compulsory for all Chinese children, after local police put political pressure on the school.

The Law Society is deeply concerned about the foregoing 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, economics 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 vacate the conviction rendered against Xie Yang;

- b. immediately and unconditionally release Xie Yang, if he has not already been released;
- c. immediately conduct a fair, impartial and independent investigation into the alleged torture and ill-treatment of Xie Yang in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law;
- d. guarantee that adequate reparation will be provided to Xie Yang, if he is found to be a victim of human rights abuses;
- e. put an end to all acts of violence and harassment against Xie Yang, Chen Jiangang and all other human rights lawyers in China;
- f. guarantee in all circumstances the physical and psychological integrity of Xie Yang and Chen Jiangang;
- g. ensure that all lawyers in China can carry out their professional duties and activities without fear of reprisals, physical violence or other human rights violations; and
- h. 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:

Ambassador Luo Zhaohui
Embassy of the People's Republic of China in Canada
515 St. Patrick Street
Ottawa, Ontario
K1N 5H3
Fax: (613) 789-1911
Email: chinaemb_ca@mfa.gov.cn

All China Lawyers Association
5th Floor Qinglan Mansion
No 24 Dongsì Shítiao
Dongsheng District
Beijing 100007, China
Tel: +86 (10) 6406 0212
Email: cilec@public.bta.net.cn

The Honourable Chrystia Freeland
Minister of Foreign Affairs
125 Sussex Drive
Ottawa, Ontario
K1A 0G2
Email: chrystia.freeland@international.gc.ca

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

Wang Junfeng, All China Lawyers Association

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

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

Mónica Pinto, Special Rapporteur of the Human Council on the independence of
judges and lawyers, Office of the United Nations High Commissioner for Human
Rights

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