



Deutscher **Anwalt** Verein



Lawyers' Rights Watch Canada



Joint Statement on Chinese authorities placing Human Rights Lawyer Chang Weiping under 'residential surveillance'

10 November 2020

Chinese human rights lawyer Chang Weiping, whose certificate to practice law was suspended in January 2020, was detained by Baoji City Public Security in absence of a notice of detention on 22 October 2020. Chang Weiping's wife later received calls from the national security officer in charge, indicating that Chang Weiping was detained for actions that allegedly "endangered national security". He has not been allowed access to meet his lawyers, and authorities have not revealed his whereabouts.

Chain of Events

After participating in the "[Xiamen Gathering](#)" in December 2019, Chang Weiping was targeted by authorities, causing him to be placed in Residential Surveillance at a Designated Location ("**RSDL**") on charges of "subverting state power", from 12-21 January 2020. On 16 October 2020, Chang Weiping uploaded videos on social media revealing his being subject to torture during those 10 days of RSDL, including being tied to a "Tiger Chair" consecutively for 24 hours every day throughout that period of time. His right hand remains numb and painful. The Special Rapporteur on [Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) and other UN experts have identified RSDL as a form of enforced disappearance, a grave violation of human rights under international law which exposes victims to [heightened risks of torture and ill-treatment](#).

According to Chang Weiping, even though he was subject to torture and prolonged interrogations during that RSDL, the authorities could not locate any evidence incriminating him. More vitally, the police officers did not disclose any documents, which they should have produced pursuant to laws in China, stipulating the pertinent charges and laws that Chang Weiping allegedly violated. Yet, he was consistently harassed after his release; some believe that his current incommunicado detention is a retaliation against Chang Weiping for his public revelation of his experience of torture on social media.

On 26 October 2020, Chang Weiping's father and his defence lawyers sought and were denied permission to meet Chang Weiping in order to obtain the information needed to apply for his release on bail.

Violation of Domestic Laws related to Detention

According to Article 85 of the Criminal Procedure Law of the People's Republic of China, police officers must produce a properly authorized notice of detention when detaining a person and provide, within 24 hours, notification to the detainee's family members. The absence of a notice of detention when they detained Chang Weiping is a violation of China's domestic law.

Violation of Domestic Laws and International Laws related to Torture

According to Article 52 of the Criminal Procedure Law, it is strictly forbidden to extort confessions by torture or to collect evidence by coercion. Furthermore, China has ratified the United Nations Convention Against Torture ("**the Convention**"). Article 2 of the Convention requires every State party, including China, to strictly prohibit and eradicate all forms of torture appearing in their territory, and such prohibition is *jus cogens* – meaning that there can be no derogation of the law. Torture cannot be legitimized in the name of national security, and demands from superior officers or governments do not provide legal justifications for torture. Article 4 Section 2 of the Convention obliges China to "make these [torture] offences punishable by appropriate penalties which take into account their grave nature."

Not only should China respect its human rights obligations but it also should implement the recommendations arising from its last review of China by the Committee Against Torture in 2016. Pursuant to the latest Concluding Observations on the fifth periodic report of China by the Committee Against Torture (CAT/C/CHN/CO/5) ("**the Observations**"), regarding the RSDL practice, paragraph 15 recommended,

The State party should repeal, as a matter of urgency, the provisions of the Criminal Procedure Law that allow suspects to be held de facto incommunicado, at a designated location, while under residential surveillance. In the meantime, the State party must ensure that procuratorates promptly review all the decisions on residential surveillance taken by public security officers, and ensure that detainees who are designated for potential prosecution are charged and tried as soon as possible and those who are not to be charged or tried are immediately released. If detention is justified, detainees should be formally accounted for and held in officially recognized places of detention. Officials responsible for abuses of detainees should be held criminally accountable.

China's repeated detention and ill-treatment of Chang Weiping, as well as the use of RSDL, are clear violations of its international legal obligations. Far from being held accountable for allegations of enforced disappearance and torture, the Chinese authorities have again caused serious public concern that Chang Weiping is highly likely be subject to torture.

Violation of International Laws related to the Right to Access to Lawyers

Paragraph 13 of the Observations by the Committee Against Torture urged China to “adopt effective measures to ensure, in law and in practice, that detainees are afforded all legal safeguards from the very outset of deprivation of liberty” and to ensure timely and confidential access to counsel, notification within 24 hours of arrest of the facts, location of and reasons for the detention, and repeal of provisions allowing restrictions on rights to counsel and notice to relatives in cases alleging ‘endangering State security’, ‘terrorism’, serious ‘bribery’, or cases involving ‘state secrets’.

Prohibiting Chang Weiping from meeting his lawyer(s) demonstrates China’s failure to comply with its mandatory legal obligations as a State party under the Convention.

Public Response

Chang Weiping has dedicated himself to assisting the community and protecting human rights. He has built his reputation by taking on numerous cases related to the protection of public welfare and human rights, including but not limited to disability and gender discrimination, and defence for human rights advocates in China. Hundreds of people voiced support for him after learning that he was detained, and over 100 lawyers in China donated money to help support Chang Weiping’s father.

Demands

The undersigned groups hereby demand that the Government of the People’s Republic of China:

1. Provide full notice of the facts, the reasons, and the place of detention of Chang Weiping and produce a notice of detention as required by law;
2. Allow Chang Weiping to have timely and confidential access to his lawyers of choice;
3. Ensure the personal safety of Chang Weiping, by ensuring his freedom from torture and other cruel, inhuman or degrading treatment, as well as ensuring punishment and remediation of past maltreatment as required by the Convention;
4. Release Chang Weiping immediately and without conditions; and
5. Investigate and punish all perpetrators involved in the torture of Chang Weiping, according to China’s obligations under national and international law.

Signatures (in alphabetical order)

Bar Human Rights Committee of England & Wales (BHRC)

China Human Rights Lawyers Concern Group (CHRLCG)

Council of Bars and Law Societies of Europe (CCBE)

German Bar Association (DAV)

International Service for Human Rights (ISHR)

Lawyers for Lawyers

Lawyers’ Rights Watch Canada (LRWC)