



China Human Rights Lawyers Concern Group (CHRLCG)

中國維權律師關注組

3/F, 6 Portland Street, Yaumatei, Kowloon, Hong Kong.

Tel: (852) 23881377, Fax: (852) 23887270

Email: info@chrlcg-hk.org Website: www.chrlcg-hk.org

An NGO Submission to the UN Committee Against Torture for the 41st session for the Fourth and Fifth Periodic Reports of the People's Republic of China on the Implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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1. The China Human Rights Lawyers Concern Group (CHRLCG) is a non-profit organization based in Hong Kong Special Administrative Region (SAR). Its objective is to advocate for the protection of the human rights lawyers and legal rights defenders in China. It was established on 20 January 2007 by a group of lawyers, legislators and academics in Hong Kong. Despite their endeavours to fight for the rights of the underprivileged within the legal framework, many lawyers and legal activists in China have been subjected to tremendous political pressure and unfair treatment by the Chinese authorities. They and their families deserve more attention and support from Hong Kong and the international community. We believe that the status and rights of these lawyers must be respected before China can successfully develop constitutionalism and the rule of law.
2. Although the State party ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention) on 4 October 1988, dissidents and human rights defenders continued to be subjected to various forms of torture. In addition to the State party's failure to effectively implement all the relevant provisions on torture in domestic laws, law enforcement officers are usually the ones who violate the domestic laws and the international convention. Recently, the situation is even more alarming because a number of human rights lawyers and legal rights defenders have become the subjects of torture by public security officers and prison officers merely because they provide legal assistance to human rights defenders or take up cases considered "politically sensitive" by the government. It is therefore not difficult to imagine how bad the situation is and what problem ordinary people encounter since even lawyers are subjected to torture and harassment by law enforcement officers. Therefore, we would like to draw the Committee's attention to the following cases which illustrate how the State party has violated the Convention.

Violations of the Convention in cases relating to human rights lawyers and legal rights defenders

- I) **Dr. Xu Zhiyong, lecturer in law, Beijing University of Posts and Telecommunications; an elected delegate to the Haidian District People's Congress in Beijing**

On 13 October 2008, **Dr. Xu Zhiyong** received an SMS message from a Henan petitioner, asking him to rescue some 20 detained petitioners in a “black jail” in Beijing. On the following day, Dr. Xu and another human rights defender Zhou Shuguang went to the “black jail” together. When they arrived at the entrance, they were beaten up by the security guards. Dr. Xu said a petitioner called Guo Jianguang was slapped in the face, kicked and had his hair snatched by security guards. Dr. Xu was punched in his neck, chest and face. Zhou Shuguang photographed the whole incident. Dr. Xu’s visit to the “black jail” was only meant to show his concern over the existence of “black jails”, which are infamous for detaining petitioners.

Comment: This incident shows Chinese officials have violated Article 2 of the Convention. We can’t see any justification for using violence against Dr. Xu and the petitioner. **Article 2 of the Convention** says: “Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be involved as a justification of torture. An order from a superior officer or public authority may not be invoked as a justification of torture.”

Recommendations:

- The State party should investigate the above incident and the “black jails”;
- The security guards of the “black jail” should be punished if they are found guilty by an independent court

II) Gao Zhisheng, Beijing Human Rights Lawyer

Beijing human rights lawyer **Gao Zhisheng** used to be one of the top ten lawyers in China. In 2005, he sent three open letters to President Hu Jintao and Premier Wen Jiabao demanding the government stop oppressing liberal religious believers. In December 2006, he was sentenced to three years’ imprisonment, suspended for five years, on charges of “inciting subversion of state power”. He and his family have been under severe surveillance at their home in Beijing. He and his family were taken to Xinjiang during the Beijing Olympics and were taken back to a suburb in Beijing after the Games were over. According to sources, Lawyer Gao was beaten and insulted by national security police officers (*guobao*) in front of his family in members September 2008.

Comment: Lawyer Gao’s case shows serious violation of **Article 2 of the Convention**. There is simply no justification for the law enforcement officers to put Lawyer Gao under such torture.

Recommendations:

- The State party should immediately stop torturing Lawyer Gao;
- The law enforcement officers should be punished if they are found guilty by an independent court;

III) Blind “barefoot” lawyer Chen Guangcheng in Shandong

Blind “barefoot” lawyer **Chen Guangcheng**, who provided legal assistance to his fellow villagers in Linyi, Shandong province, to expose the local government’s forced abortion policy, was sentenced to four years and three months imprisonment in August 2006 on charges of destroying property and organizing a mob to disrupt traffic. Many Beijing human rights lawyers, including **Cheng Hai, Li Jinsong, Li Fangping, Li Subin, Zhang Lihui, Dr. Xu Zhiyong and Dr. Teng Biao**, were beaten when they tried to provide legal assistance to defend Chen Guangcheng. According to his family, on 16 June 2007 Chen was savagely kicked by six to seven people in prison. His ribs and his legs were injured. He was pressed on the floor and his head was shaved. Chen’s wife **Yuan Weijing** has been put under 24-hour surveillance in her village home in Shandong after she was brutally taken back to the village from the Beijing International Airport in August 2007 when she was about to board a flight to Manila to receive the Magsaysay Award on behalf of her husband.

Comment: There is grave concern over Chen Guangcheng’s case, particularly because he is blind. It is outrageous that the law enforcement officers defied domestic laws and beat him in prison in June 2007. It is also outrageous that the Beijing lawyers who tried to help him were beaten up by the local law enforcement officers in Shandong, thus Chen was prevented from having a fair trial. Chen Guangcheng’s wife, Yuan Weijing, was also subjected to violence and continuous surveillance by law enforcement officers in Shandong. All these incidents showed law enforcement officers violated **Article 2 of the Convention** and relevant domestic laws.

Recommendations:

- The State party should investigate the attacks against the lawyers who tried to provide legal assistance to Chen Guangcheng when he was tried in 2006. The law enforcement officers in Shandong should stop harassing Chen Guangcheng’s wife Yuan Weijing;
- The law enforcement officers should be punished if they are found guilty by an independent court

IV) Yang Maodong, aka Guo Feixiong, a legal rights defender in Guangdong

Guangdong legal rights defender **Yang Maodong, aka Guo Feixiong**, was sentenced to five years’ imprisonment in November 2007 on the charge of “illegal business operations” for publishing a book which exposed the corruption of the mayor of Shenyang in northeastern China in 2001. The prosecution produced no concrete evidence on how Guo was involved in publishing the book, except a short introduction written by Guo in the book. Guo complained to his lawyers **Hu Xiao and Mo Shaoping**, both famous Beijing human rights lawyers, that his reproductive organ was beaten with electrical batons when he was interrogated by the officers in the detention centre. In 2005, Guo provided legal assistance to villagers of Taishi Village in Panyu, Guangdong Province, during their village election and helped to expose the corruption of village officials. He was detained for more than three months and was frequently attacked and harassed by unidentified thugs. Two Guangdong human rights lawyers **Tang Jingling and Guo Yan**, who

also provided legal assistance to the villagers, were also attacked and harassed by unidentified thugs. Since then, both Lawyer Tang Jingling and Lawyer Guo Yan were unable to renew their lawyers' practicing license. Guo's wife **Zhang Qing** has been staging hunger strike every Wednesday since Guo was imprisoned in Meizhou prison in Guangdong.

- **Comments:** The officers of the detention centre beat Guo Feixiong with electric batons in order to make him confess. It totally violated **Article 2** and **Article 11** of the Convention. Article 11 of the Convention says: "Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture." The officers' attacks on Guo Feixiong while interrogating him in the detention centre prevented Guo Feixiong from having a fair trial. It thus violated **Article 15 of the Convention** which says: "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

Recommendations:

- The State party should investigate the officers who beat Guo Feixiong with electrical batons in the detention centre and other attacks against Guo Feixiong, Lawyer Tang Jingling and Lawyer Guo Yan when they provided legal assistance to the villagers of Taishi Village in Guangdong;
- The law enforcement officers should be punished if they are found guilty by an independent court

V) Li Heping, a human rights lawyer in Beijing

Li Heping, a Beijing-based human rights lawyer, was abducted and assaulted by a group of unidentified thugs on 29 September 2007. Lawyer Li was hooded and bundled into a car and taken to an unknown location. He was held in the basement of a building where he was stripped to his underwear. He was beaten with electrical batons and bottles filled with water. He was warned to leave Beijing or risk further attacks. He was then dumped in the woods in a suburb outside Beijing about eight hours later at around 1am on 30 September. Lawyer Li was harassed again a few months later. On 7 March 2008, his car crashed with a police car which was following him when he drove his seven-year-old son to school near Dongxihuan Road in Beijing. The crash destroyed his car's trunk. Li said there were three people inside the car that ran into his car. He recognized them as the public security officers who had been following him since the arrest of prominent human rights defender **Hu Jia** on 27 December 2007. (Hu Jia, a famous Beijing human rights activist who was jailed for three and a half years in April 2008 for writing six articles and giving two media interviews criticizing the Chinese government, was given the Sakharov Prize by the European Parliament on 23 October 2008.) Lawyer Li believed the crash was a warning to him but he was not sure about the reason. Luckily, Li said he and his son were not injured except that he felt pain at his waist after the crash.

Comment: The attacks showed the public security officers violated **Article 2** and **Article 16** of the

Convention. It is outrageous that they used gangster-like tactics to intimidate Lawyer Li Heping. Article 16 says: “1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.”

Recommendations:

- The State party should investigate the officers who beat Lawyer Li Heping;
- The law enforcement officers should be punished if they are found guilty by an independent court

VI) Other cases of concern

- **Dr. Teng Biao, lecturer at China University of Political Science and Law and Beijing human rights lawyer**

On 7 March 2008, Beijing human rights lawyer **Dr. Teng Biao**, who is a lecturer at the China University of Political Science and Law, was taken away by officers of the Beijing Public Security Bureau, according to his friends. After he was taken away, he was hooded and did not know where he was taken to. They asked him questions about some articles he has written and the interviews gave to journalists. Teng was released 41 hours later.

Comment: The way the public security officers took Dr. Teng Biao away and questioned him violated Article 11 of the Convention. **Article 11:** “Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”

- **Shanghai human rights lawyer Zheng Enchong**

Shanghai human rights lawyer **Zheng Enchong** should have resumed to exercise his political rights on 5 June 2007, but he is still under close surveillance and has been taken away by the Shanghai public security officers for interrogation for more than 20 times after he was released from prison on 5 June 2006. Lawyer Zheng legally represented more than 500 residents of Dongbakuai in Jing’an District in Shanghai to sue Shanghai tycoon Zhou Zhenyi, who was later imprisoned for stock market fraud, and conspiring with the Jing’an District government to obtain land by illegal means in 2003. Later that year, he was sentenced to three years’ imprisonment for the offence of unlawfully providing secret information to an overseas entity. On 16 February 2008, Lawyer Zheng was beaten by four public security officers who were monitoring him outside his home. They tried to stop him from leaving the building when Lawyer Zheng tried to go out to buy newspapers. On the following day, Lawyer Zheng was taken away by the four public security officers,

which was the 20th time Lawyer Zheng was taken away in the past few months. During the 12-hour interrogation, Lawyer Zheng was kicked and beaten by two unidentified people.

Comment: The way the public security officers took Lawyer Zheng away and questioned him violated **Article 11** of the Convention.

Overall comments and recommendations:

The above are more well-known cases about mainland Chinese human rights lawyers and legal rights defenders being illegally and unreasonably harassed by law enforcement officers. It is only the tip of the iceberg. There are many more cases involving lesser known human rights legal practitioners. These lawyers were targeted because they took up cases regarded by fellow legal practitioners as highly politically sensitive, such as defending political dissidents, rights defenders and Falun Gong practitioners. Falun Gong is banned in China. These lawyers are only using their professional skills to help people in need. They shouldn't be subjected to oppression and torture by the authorities. If the State party is committed to developing universally accepted principles and the rule of law, it should stop harassing and attacking legal rights defenders and human rights lawyers. Only an independent judiciary and a credible legal system can ensure that these abuses won't happen again. In order to ensure that lawyers, legal rights defenders and ordinary citizens will be free from arbitrary attacks and harassments by law enforcement officers and thugs hired by law enforcement officers, the State party should ensure that law enforcement officers comply with provisions of the Convention, especially **Articles 4, 11, 12, 13 and 14**.

- **Article 4:** "1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. 2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature." **The State party should include arbitrary attacks on human rights lawyers, other rights defenders and petitioners by law enforcement officers as committing torture and should be punishable under its criminal law.**
- **Article 11:** "Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture." **The State party should ensure that law enforcement officers are following interrogation rules and laws. Law enforcement officers who defy such rules and laws should be punished in accordance with relevant laws.**
- **Article 12:** "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction." **The State party should immediately investigate the above mentioned cases of torture against human rights lawyers and legal rights defenders and punish the concerned law enforcement officers if they are found guilty by an independent court.**
- **Article 13:** "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly

and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.” **The State party should ensure that these human rights lawyers and legal rights defenders and their families have the right to complain to, and to have their cases promptly and impartially examined by an independent complaint department.**

- **Article 14:** “1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation. 2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.” **The State party should ensure the rights of the victims of the above mentioned cases to compensation for the attacks and harassments made by the concerned law enforcement officers.**