

*Translation by Chinese Human Rights Defenders:*

The Working Group on Arbitrary Detention of the UN Human Rights Council received a communication [2017/CHN/CASE] on December 12, 2017. The response of the government of the People's Republic of China is as follows:

1. Regarding the case of Wang Quanzhang: Wang Quanzhang, male, 39 years old, from Jinan City, Shandong Province, current resident of Shijingshan District in Beijing Municipality, and formerly a lawyer with the Beijing Fengrui Law Firm. Due to being accused of the crime of inciting subversion of state power, Wang Quanzhang was put under criminal detention according to law in August 2015 by public security organs of Tianjin Municipality. Procuratorial organs approved Wang's arrest in January 2016 and indicted him in February 2017. Wang is currently detained in Tianjin Municipal No. 2 Detention Center. China is a country ruled by law and safeguards all rights of criminal suspects according to law. Relevant organs handling the case of Wang Quanzhang have safeguarded all of his legal rights according to law.
2. Regarding the case of Jiang Tianyong: Jiang Tianyong, male, 46 years old, from Zhengzhou City, Henan Province. The Changsha City Intermediate People's Court heard the case of Jiang Tianyong in open court proceedings on August 22, 2017. The court publicly announced a verdict according to law on November 21, 2017, finding Jiang Tianyong guilty of the crime of inciting subversion of state power, and sentencing Jiang to 2 years' imprisonment and 3 years' deprivation of political rights. Jiang Tianyong indicated in court that he would not appeal. During the process of adjudicating the case of Jiang Tianyong, the Changsha City Intermediate People's Court fully safeguarded Jiang Tianyong and his defense counsel's right to a public trial. Among those who observed the trial and the sentencing were Jiang Tianyong's family members, some representatives of the local people's congress as well as the local politics and law committee, legal scholars, lawyers, individuals from all sectors of society, and media journalists. The full trial and sentencing proceedings were broadcast via the official "Changsha City Intermediate People's Court" Sina Weibo account. Relevant organs handling the case of Jiang Tianyong have safeguarded all of his legal rights according to law.
3. Regarding the case of Li Yuhua: Li Yuhua, female, 60 years old, of Shenyang City, Liaoning Province, lawyer with the Beijing Dunxin Law Firm. Due to being accused of the crime of picking quarrels and provoking trouble, Li Yuhua was put under criminal detention according to law on October 9, 2017, by public security organs of Liaoning Province. Procuratorial organs approved Li's arrest on November 15, 2017. Relevant organs handling the case of Li Yuhua have safeguarded all of her legal rights according to law.

联合国人权理事会任意拘留问题工作组 2017 年 12 月 12 日来函[2017/CHN/CASE]收悉。中国政府对来函答复如下：

一、关于王全璋案。王全璋，男，39 岁，山东济南人，现住北京市石景山区，原北京锋锐律师事务所律师。王因涉嫌煽动颠覆国家政权罪，2015 年 8 月被天津市公安机关依法刑事拘留，2016 年 1 月被检察机关批准逮捕，2017 年 2 月被提起公诉，现羁押在天津市第二看守所。中国是法治国家，依法保障犯罪嫌疑人的各项权利。有关办案机关办理王全璋案时，依法保障其各项合法权利。

二、关于江天勇案。江天勇，男，46 岁，河南郑州人。2017 年 8 月 22 日，长沙市中级人民法院公开开庭审理江天勇案。2017 年 11 月 21 日，长沙市中级人民法院依法公开宣判，认定江天勇犯煽动颠覆国家政权罪，判处其有期徒刑 2 年，剥夺政治权利 3 年。江天勇当庭表示不上诉。江天勇案审理过程中，法院充分保障了江天勇及其辩护人的公诉权利，江天勇的家属和部分人大代表、政协委员、法律学者、律师、各界群众代表以及媒体记者等旁听了庭审和宣判。“长沙市中级人民法院”新浪微博官方账号对庭审和宣判进行了全程直播。有关办案机关办理江天勇案时，依法保障其各项合法权利。

三、关于李昱函案。李昱函，女，60 岁，辽宁沈阳人，北京敦信律师事务所律师。2017 年 10 月 9 日，李因涉嫌寻衅滋事被辽宁公安机关依法刑事拘留，11 月 15 日被检察机关批准逮捕。有关办案机关办理李昱函案时，依法保障其各项合法权利。

## **CHRD Comments on Chinese Government Responses on Cases of Detained Rights Lawyers**

We are respectfully submitting comments on the responses by the Chinese government concerning the cases of detained human rights lawyers Wang Quanzhang, Jiang Tianyong, and Li Yuhan. While we refer the Working Group to relevant information in our communication from December 5, 2017, the comments below address the government's specific assertion that these individuals' rights have been "safeguarded" during the handling of their cases.

### ***Regarding the case of Wang Quanzhang***

Contrary to the government's response, procedural and legal rights of Mr. Wang have not been safeguarded, including in terms of: family notification of his detention status, period of pre-trial detention, incommunicado detention, deprivation of legal counsel of his or his family's choosing, and reprisals against a lawyer hired by his family.

His family never received a police notice confirming his detention status in "residential surveillance in a (police-) designated location" (RSDL), in violation of Chinese law. Mr. Wang was detained from August 2015 to January 2016 in RSDL, a form of de facto enforced disappearance codified under China's Criminal Procedure Law (Article 73). Chinese authorities have continued to use RSDL despite calls for this form of detention to be abolished, including from the UN Committee Against Torture, which recommended the government repeal Article 73 as a "matter of urgency" in concluding its 2015 review of China.

Although Wang was indicted in February 2017, he has yet to appear before a judge, and his two-and-a-half years in custody constitute unreasonably prolonged pre-trial detention, according to international human rights norms.

Wang's family, lawyers, and other supporters have had no contact with him since he was taken into custody and have not received any information from authorities on his condition in detention. His complete lack of contact with the outside world strongly suggests deprivation of his communication rights, and his extended secret detention has put Wang at risk of torture or other forms of ill-treatment.

While police have deprived Wang of his right to access a lawyer of his or his family's choosing, authorities have recently committed several acts of reprisal against one such lawyer, Yu Wensheng (余文生). After previously preventing from representing Wang, judicial officials in Beijing cancelled his law license on January 15, 2018, a retaliatory measure that Chinese authorities have increasingly used as an administrative punishment against human rights lawyers. On January 19, police in Beijing took Yu into custody when he was taking his child to school and placed him under criminal detention, accusing Yu of "obstructing official duties." On January 27, Yu was placed under RSDL by the Xuzhou City Public Security Bureau in Jiangsu Province, on suspicion of "inciting subversion of state power." He has been held incommunicado since being detained and is at risk of torture and other forms of ill-treatment.

### ***Regarding the case of Jiang Tianyong***

Contrary to the government's response, procedural and legal rights of Mr. Jiang have not been safeguarded, including in terms of: deprivation of legal counsel of his or his family's choosing, and providing Jiang a just and fair trial open to the public.

Immediately following Jiang's detention in November 2016, his family members employed defense lawyers for Jiang, but authorities have refused to allow these lawyers to meet with him on the grounds it would "endanger national security." Instead, Jiang was forced to "accept" two defense lawyers appointed by authorities, a deprivation of his right to legal counsel of his or his family's choosing. The government-appointed lawyers have not communicated directly with Jiang's family; instead, state authorities have provided the family with information on Jiang's case, including the schedules for his trial (in August 2017) and sentencing (in November 2017). Government officials, and not the appointed lawyers, also informed the family of the case verdict after Jiang was sentenced to a two-year prison term. Authorities have otherwise not provided Jiang's family with any information, including on his physical condition or circumstances in detention.

Contrary to the government's claim that Jiang Tianyong was "tried in open court proceedings," security forces blocked off the area around the courthouse and prevented many individuals from observing the trial in August 2017, including lawyers hired by Jiang's family, supporters, and foreign diplomats. Similarly, police use force to block supporters and other individuals from attending Jiang's sentencing in November 2017. In addition, the video broadcast of both Jiang's trial and sentencing, far from indicating that his rights were protected in open proceedings, has been widely perceived as a government attempt to humiliate Jiang at a "show trial" and publicize his "confession" to concocted criminal charges, and likely following torture or coercion.

### ***Regarding the case of Li Yuhan***

Contrary to the government's response, procedural and legal rights of Ms. Li have not been safeguarded, including in terms of: family notification of her detention status, and providing protection from torture and other forms of ill-treatment.

After Li was taken into custody on October 9, 2017, Shenyang police did not provide her family with a detention notice or any other official information, and the family only learned of her criminal detention on October 31. This violates Chinese law, which guarantees the right for a family to be notified within 24 hours in case of detention except in the cases of alleged State security-related crimes (an exception which is not applicable in Li's case).

In violation of her rights, Li has been subjected to various forms of ill-treatment in detention, including being deprived of sufficient food and appropriate medical treatment for serious illnesses. Police in the detention center reportedly have allowed other detainees to defecate in her food, cursed at Li and told her to die (taunting her for her poor health), and exposed her to extremely cold temperatures.

*Submitted: February 26, 2018*