

The Case of Yu Wensheng – a Timeline of UN Action



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On 19 January 2018, lawyer Yu Wensheng (余文生) was taking his son to school in Beijing when he was suddenly taken away by nearly a dozen law enforcement officers. On 27 January, his wife Xu Yan received notice that he had been charged with ‘inciting subversion of State power’ and ‘obstructing official duties’. He was then placed into ‘residential surveillance in a designated location’ (RSDL), effective incommunicado detention. In the two years since, lawyer Yu has been deprived of the right to meet with a lawyer of his or his family’s choice, and has been reportedly mistreated in custody.

During years of work to advance human rights and democracy in China, lawyer Yu had experienced various forms of harassment. Following the ‘709 crackdown’ in 2015, lawyer Yu represented fellow colleagues such as Wang Quanzhang. This resulted in further threats, including the revocation of his legal license on 16 January 2018. The day before he was taken by police, he had published an open letter calling for amendments to China’s Constitution, including reforms for fair elections and oversight of the Chinese Communist Party.



© Twitter / Xu Yan

This is a major case for the Chinese human rights community, but what has the international community done? Below is a timeline of actions taken since January 2018 by the UN and governments to speak up for Yu Wensheng, call for his release, and support his family.

● Human Rights Council (HRC) ● Special Procedures ● Treaty Bodies ● Universal Periodic Review (UPR)

The UN Working Group on Enforced or Involuntary Disappearances (WGEID), under its [urgent action procedures](#), transmits privately to China the case of Yu Wensheng, inquiring as to his whereabouts.

FEBRUARY 2018

MARCH 2018

During the Item 4 General debate at the **37th session** of the UN Human Rights Council (HRC), the **EU, Germany, and the U.S.** call attention to the detention of Yu Wensheng, among other human rights defenders, and urge immediate release of those detained.

Three UN **Special Procedures** –the Working Group on Arbitrary Detention (WGAD) and the Special Rapporteurs on freedom of expression, and on the situation of human rights defenders – [issue a letter](#) to the Chinese government concerning the ‘arrest, incommunicado detention, and charges’ against Yu Wensheng. They note especially that the arrest appears to be because of his exercise of free speech. They also note that the use of RSDL ‘raises serious concerns of the treatment of Mr Yu, along with the conditions he is being kept in [and] the lack of guarantees of due process’.

The Chinese government [responds](#) to the UN experts’ letters, stating simply: ‘On 20 January [Yu] was placed in criminal detention, on suspicion of obstructing State’s personnel from discharging their duties. On 27 January, the public security authorities, in accordance with the law, converted the coercive measures into house arrest and provided his family with written notification. The case is currently pending’.

While waiting for the government’s response to their questions about the grounds and legality of the detention, and the protection afforded to Yu Wensheng, the experts urge that ‘all necessary interim measures be taken to halt the alleged violations, and to ensure the accountability of any person(s) responsible for the alleged violations’.

1 April – Xu Yan summoned for the third time since January for police interrogation on suspicion of ‘inciting subversion of State power’, held for up to 19 hours and subjected to ill-treatment and abuse. When asked about the grounds for her charge, police simply replied: ‘Because you are Yu Wensheng’s wife’.

APRIL 2018

18 April – His lawyers, Chang Boyang and Xie Yang, are [denied a request](#) to meet with lawyer Yu, on the basis of a note apparently dismissing the lawyers and requesting Xu Yan not replace them, reportedly written and signed under duress.

19 April – Lawyer Yu is **formally arrested** by prosecutors in Xuzhou. Xu Yan is granted a video call, after which she reports her husband had lost weight, and was unable to clearly respond when questioned about the note dismissing his lawyers.

MAY 2018

16 May – Yu's lawyers, and Xu Yan, are again denied a visit with him. They **file an appeal** to release Yu on bail, denied on May 22.

24 May – Xu Yan meets with German Chancellor Angela Merkel to call for Yu's release.

The **WGEID** determines at its **115th session** that the place of detention of Yu Wensheng remains unknown. They recall that: 'article 10 (1) and (2) of the Declaration on the Protection of All Persons from Enforced Disappearances, according to which any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.'

During the Item 4 General debate at the **38th session** of the HRC, the EU and Germany call attention to the detention of Yu Wensheng, among other human rights defenders, and urge immediate release of those detained. The **EU** also presses for the investigation of allegations of torture of defenders in detention, while **Germany** urges China to fully cooperate with the UN Special Procedures.

JUNE 2018

The CAT experts determine that the information provided was either vague and incomplete, or failed to address the recommendations. They further determine that the Chinese government has either taken initial steps, or no action at all, to address the recommendations.

The UN Committee against Torture (CAT) responds to China's follow-up information from its 2015 review with **an assessment of China's implementation** of those recommendations. This includes issues such as access to a lawyer, notification of custody, the crackdown on lawyers and activists, and independent investigations of torture allegations.

AUGUST 2018

3 September – Prosecutors in Xuzhou **send back** Yu's case to the police for further investigation, delaying again his indictment which has been recommended since July. Yu has reportedly met with State-appointed lawyers, but is still unable to meet with lawyers Chang and Xie, who have been denied access to case material.

SEPTEMBER 2018

During the Item 4 General debate at the **39th session** of the HRC, **Germany** and **the EU** expresses continued concern for detained defenders, including Yu Wensheng.

NOVEMBER 2018

Norway asks: 'What steps is China taking to ensure a safe and enabling environment for human rights defenders, including lawyers, and to follow up nationally the consensus resolution on Human Rights Defenders adopted by the UN General Assembly in 2017?'

As part of **advance questions to the 3rd UPR** of China, the **UK** asks: 'What steps is the Government taking to ensure that lawyers, activists, journalists and human rights defenders including Wang Quanzhang, Yu Wensheng, Jiang Tianyong, Li Yuhan, Gao Zhisheng, Tashi Wangchuk, Ilham Tohti, Wu Gan and Huang Qi are protected from harassment, mistreatment and discrimination, and that those detained for merely exercising their constitutional rights are released without delay?'

10 December – Yu Wensheng is awarded the **Franco-German Prize for Human Rights and the Rule of Law**, received by Xu Yan on his behalf on 14 January 2019.

DECEMBER 2018

FEBRUARY 2019

3 February – Xu Yan calls prosecutors in Xuzhou, who inform her lawyer Yu has been finally indicted two days before, on February 1, for ‘inciting subversion of State power’. Charges for ‘obstructing official duties’ have been dropped. Under Chinese Procedural Law, a court’s verdict must be pronounced within 2 months of indictment, otherwise resulting in protracted detention.

2 March – Xu Yan is followed and filmed by police officers, and prevented from freely leaving her home for nearly a week.

MARCH 2019

Czechia urges China to release all imprisoned and detained human rights defenders, and states they will continue to follow the situation of human rights defenders and lawyers and their families including Yu Wensheng.

During the Item 4 debate of the **40th session** of the HRC, the **EU continues to express** grave concern about the detention and sentencing of human rights activists and lawyers, including Yu Wensheng. **Germany** calls for the release of Yu Wensheng, as well as other human rights lawyers and defenders.

APRIL 2019

The WGAD then recommends that the government take immediate steps to provide remedy, namely by immediately releasing Yu Wensheng and providing him with a right to compensation and reparations. They also urge an independent investigation; actions against impunity for those responsible; the inclusion of human rights defenders protection in its national laws; and the repeal of Criminal Law Art. 105(2) and Criminal Procedure Law (2012) Art 73. The government should provide follow-up information within six months.

The Working Group on Arbitrary Detention (WGAD) issues an Opinion during its 84th session declaring Yu Wensheng’s detention arbitrary and that it falls within four of the five legal categories of arbitrary detention, namely that: there was no legal basis; his detention resulted from the peaceful exercise of his rights to freedom of expression and association and his right to take part in government; that there were violations of the right to a fair trial. They also argue that it was discriminatory, based on his status as a human rights defender; **this is groundbreaking.**

11 May – Xu Yan publicly states she was just been informed Yu Wensheng had been put on **secret trial** on May 9 by Xuzhou’s Intermediate People’s Court, without any formal notification to her or lawyers she appointed, nor any public notice. **Until today, the outcome of Yu’s secret trial remains unknown.**

MAY 2019

21 May – The EU issues a public statement on the trial of Yu Wensheng, stating his rights were not respected, calling for his immediate release and on China to abide by its obligations under international law and its national constitution. Throughout the month, Xu Yan meets with a number of Western diplomats in Beijing.

JUNE 2019

During the Item 4 debate at the **41st session** of the HRC, **Czechia calls for the immediate release** of Yu Wensheng; similarly, **Germany** calls for the release of all human rights defenders, including Yu Wensheng. The **EU states it continues to be gravely concerned** by detention and trials of human rights defenders and lawyers including Yu Wensheng.

8 August – Xu Yan meets with new State Security officer in charge of Yu Wensheng’s case, who threatens her to not engage in public advocacy, and informs her Yu has been held in **solitary confinement** for over 20 months since his arrest in January 2018.

AUGUST 2019

August 23 – Xu Yan applies for ‘information disclosure’ with Xuzhou police regarding Yu’s solitary confinement conditions.

SEPTEMBER 2019

During the Item 4 debate at the 42nd session of the HRC, **Czechia** calls for the release of Yu Wensheng, noting that repression of human rights activism undermines long-term peace and security. The **EU** repeats its call for the release of Yu Wensheng, while the **UK** urges the release of all those arbitrarily detained.

The **UN Secretary General** report on cooperation with the UN released in September raises concerns about harassment, including surveillance and interrogations, of Xu Yan, who had engaged with the UN human rights mechanisms during her campaign for the release of Yu Wensheng. The report notes that the Chinese government 'indicated that the judicial authorities have not taken any compulsory measures against [Ms. Xu]'.

NOVEMBER 2019

21 November – Accompanied by human rights lawyers and activists, Xu Yan files a complaint with the Supreme People's Court. They are followed and filmed by State Security officers.

DECEMBER 2019

December 9 – On her way to attend the celebration of International Human Rights Day at the US Embassy in Beijing, Xu Yan is barred from leaving her home and reports being physically and verbally harassed.

Since Yu Wensheng's disappearance, **Xu Yan continues to call for justice despite being regularly harassed, intimidated, and restricted in her movements by police.**

Summary

Since his seizure in January 2018, the international community has raised repeated, specific concerns over the situation of lawyer Yu Wensheng. This includes at all sessions of the UN Human Rights Council; the Special Procedures experts (Workings Groups on Arbitrary Detention and on Enforced or Involuntary Disappearances, Special Rapporteur on human rights defenders, and others); and the Universal Periodic Review. The UN Treaty Bodies have also voiced general concerns over the crackdown on lawyers and activists in China.

For additional information, please refer to the China Human Rights Lawyers Concern Group (CHRLCG), Chinese Human Rights Defenders (CHRD) and the International Service for Human Rights (ISHR).

- **Human Rights Council** – *the best suited for political pressure*

- Mandated to strengthen promotion and protection of human rights worldwide
- Composed of **47 Member States** elected by the UN General Assembly
- Meets three times per year in Geneva: civil society must partner with international and regional NGOs with 'ECOSOC status' to be able to participate

- **Treaty Bodies** – *the best suited for law and policy advocacy*

- Mandated to monitor States' implementation of the nine core UN human rights treaties
- Composed of **independent experts** nominated and elected by States Parties
- States are reviewed once every 4-5 years by Committees monitoring the implementation of the treaties they signed and ratified only

- **Special Procedures** – *the best suited to raise individual cases*

- Mandated to monitor and address specific human rights issues or country situations worldwide
- Composed of **independent experts** appointed by the Human Rights Council
- As long as a Special Procedure mandate is established to cover a specific issue or country, submissions on individual cases or law and policy issues can be sent at any time

- **Universal Periodic Review** – *the best suited for human rights awareness-raising*

- Mandated to review the human rights record of all Member States every 4 and half years
- Peer-review conducted by all **Member States** and chaired by the Human Rights Council
- Aims at comprehensively examining a State's fulfillment of its human rights obligations and pledges: a highly visible international platform to advocate on any human rights issue