

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

REFERENCE: UA
CHN 12/2014:

17 November 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged detention and conviction of Mr. Zhang Lin and the harassment of his family members.**

Mr. **Zhang Lin** has been engaged in defending human rights since his participation in pro-democracy protests in Anhui in 1989. He is a member of the banned China Democracy Party. In 2012, he was involved with the New Citizens Movement, a network campaigning for a constitutional government, for increased transparency among Communist Party officials and for greater equality within the education system. Mr. Zhang Lin was the subject of two previous communications sent to your Excellency's Government by various Special Procedures mandate holders, dated 22 February 2005 and 3 March 2011. We acknowledge the receipt of a response to the first communication. However, we regret that no reply has been received to the second communication.

According to the information received:

On the morning of 27 February 2013, Mr. Zhang Lin was taken from his home by the police and was detained in a police station, ahead of meetings of the Chinese People's Political Consultative Conference and the National People's Congress in early March. Mr. Zhang Lin was allegedly informed that he did not have a local resident's permit and so needed to apply for a temporary one in order to remain in Hefei City, Anhui province. The police reportedly confiscated his mobile phone, computer and a sum of money.

At approximately 3.30 p.m., Mr. Zhang Lin's ten year-old daughter was taken from Hupo Primary School in Hefei City, Anhui province, by four unidentified men. She was then reportedly detained in the same police station as her father for a number of hours, before being reunited with him at approximately 7:00 p.m. that evening. Mr. Lin and his daughter were allegedly detained in the police station overnight. The following day, they were reportedly brought back to Zhang Lin's home town of Bengbu, Anhui Province and released.

On 7 April 2013, Mr. Lin returned to Hefei City with his daughter and he attempted to bring her back to her school. The principal reportedly informed Mr. Lin that the school could not re-admit his daughter unless it received a guarantee from the authorities that she would not be taken away again due to the effects the incident had on other students and staff at the school.

From 8 April 2013, as news of Mr. Zhang Lin's daughter's continued denial of schooling spread online, dozens of people from around the country arrived in Hefei City in an attempt to escort her to school.

On 19 July 2013, Mr. Lin was allegedly detained. He was formally arrested on 22 August 2013 on charges of "assembling a crowd to disrupt order in a public place". On 18 December 2013, Mr. Lin was tried at the Bengshan District People's Court in Bengbu City, Anhui province, in a hearing that lasted six hours. On 5 September 2014, he was reportedly sentenced to three and a half years' imprisonment.

On 20 October 2014, the Bengbu Intermediate People's Court upheld the sentence against Mr. Zhang Lin. Allegedly, his lawyer was prohibited from entering the court and the judgment was upheld without a hearing. Mr. Lin is reportedly currently detained in Bengbu No. 1 Detention Centre.

Concern is expressed at the alleged detention and conviction of Mr. Zhang Lin and the harassment of his family members. Further concern is expressed that this may be related to his peaceful and legitimate human rights activities, and to his legitimate right to freedom of opinion and expression and his right to freedom of peaceful assembly, as enshrined in the Universal Declaration of Human Rights.

Without expressing an opinion on whether or not the detention of Mr. Zhang Lin is arbitrary, the above allegations appear to be in contravention of his right not to be deprived arbitrarily of liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR).

We would like to call on your Excellency's Government to article 20 of the Universal Declaration of Human Rights which provides that "[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association."

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5 and 6.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations of detention and conviction of Mr. Zhang Lin and the harassment of his family members.
2. Please indicate the legal grounds for the arrest, detention and sentencing of Mr. Zhang Lin and how these measures are compatible with international norms and standards.
3. Please provide information on whether Mr. Zhang Lin has access to family members, legal counsel, and medical personnel while in detention.
4. Please kindly indicate what measures have been taken to ensure that human rights defenders in People's Republic of China are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort of themselves or their families.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai
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