

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 situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

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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 situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on the rights to freedom of peaceful assembly and of association pursuant to Human Rights Council resolutions 24/7, 25/2, 25/18, 26/7, 25/13, and 25/2.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the situation of a large number of lawyers and other persons associated to their work, some of whom were allegedly arrested by the police and have been detained incommunicado since then, while others have disappeared in unknown circumstances.

According to the information received:

Since 9 July 2015, more than 140 lawyers and other persons associated to their work, including law firm employees, legal staff and human rights defenders, have allegedly been arrested and detained – some incommunicado – or summoned and questioned by the police, or have disappeared in unknown circumstances throughout the country, including in Beijing, Guangzhou and Shanghai. In

addition, three law firms were raided by police forces in Beijing, including the 'Beijing Fengrui Law Firm'.

To this date, 10 individuals, including 6 lawyers, are allegedly detained by the authorities. Seven of these individuals are in police custody, including 6 who have been held incommunicado since their arrests and for more than 48 hours. Among them are Ms. Wang Yu, a well-known lawyer based in Beijing, and her husband, Mr. Bao Longjun. The remaining 3 individuals, including 2 lawyers, are currently under 'residential surveillance' at unknown locations (under article 73 of the Criminal Procedure Code, the police has the power to designate a venue of surveillance); 2 of them have been held incommunicado since their arrests and for more than 48 hours.

Furthermore, more than 120 individuals, including 96 lawyers, have allegedly been interrogated by the police, including after having been summoned. Some of these individuals were temporarily detained but have now been released.

It is reported that the questioning and/or detention of the lawyers and other persons associated to their work was done without respecting China's Criminal Procedure Code, in particular articles 33 on the right to a legal representative, article 83 on the obligation to inform the family or a person arrested within 24 hours, articles 91 and 117 that limit the length for summons and interrogation.

It is further reported that 12 persons, including 3 lawyers, have disappeared in unknown circumstances. Their fate and whereabouts are unknown to their families to this date.

It is believed that most of the lawyers, if not all of them, had been working on human rights-related or 'politically sensitive' cases, in particular cases where the lawyers represented well known political dissidents, journalists and artists.

Serious concern is expressed about the alleged scale of the questioning, arrest and detention of lawyers and persons associated to their work across the country, especially as these lawyers are said to be working on human rights-related and other politically sensitive cases. Grave concern is also expressed about the physical and psychological integrity of the 8 persons who have been detained incommunicado and the 12 persons whose fate and whereabouts are unknown.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

The above-mentioned allegations appear to be in contravention with the fundamental legal principle according to which lawyers should not be identified with their clients or their clients' causes as a result of discharging their professional functions, enshrined in the Basic Principle on the Role of Lawyers. The Basic Principles on the Role of Lawyers also stipulate that States must guarantee that lawyers are able to perform their professional functions without intimidation, harassment or improper interference, and that lawyers shall not suffer prosecution or administrative, economic or other sanctions for any action taken in the discharge of their professional duties.

The alleged arrest and detention mentioned above also appear to be in contravention with the right not to be arbitrarily deprived of one's liberty and to have access to a lawyer, as enshrined in article 9 of the Universal Declaration of Human Rights and the Basic Principles on the Role of Lawyers.

The alleged targeting of numerous human rights defenders and legal representatives of notorious dissidents, artists and journalists, and the law firms they work for, is also a source of concern. In this regard, we would like to refer to the rights to freedom of opinion and expression and freedom of association, as enshrined in articles 19 and 20(1) of the Universal Declaration of Human Rights and 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, 9 and 12.

We recall the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which China ratified on 4 October 1988, and remind your Excellency's Government, that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture or other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.

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 persons 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.
2. Please provide detailed information on the legal grounds for the arrest and detention, and in certain cases the questioning, of the lawyers and persons associated to their work. Please explain how these measures are compatible with China's Criminal Procedure Code, as well as international standard related to the right to liberty and security of the person as enshrined in article 9 of the Universal Declaration of Human Rights.
3. In the case of lawyers, please explain how interrogations, arrests and detention are measures compatible with the protection of lawyers' independence as enshrined in the Basic Principles on the Role of Lawyers.
4. Please provide detailed information on any measures taken by the authorities, including the police, to investigate the fate and whereabouts of the persons who have disappeared. If no measures have been taken, please explain why.
5. Please provide detailed information on the measures taken by the authorities to ensure that the independence of lawyers, in particular those who take up or are involved in cases related to human rights or other sensitive issues, is guaranteed and that they can fulfill their professional functions in a safe and enabling environment.

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.

We would also like to inform your Excellency's Government that we are intending to publicly express our concerns on the matter in the near future as we are of the view that the information upon which the press release will be based is sufficiently reliable to warrant immediate attention. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

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.

Seong-Phil Hong

Chair-Rapporteur of the Working Group on Arbitrary Detention

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freedom of opinion and expression

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