

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

REFERENCE: UA
CHN 7/2014:

16 July 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; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 25/18, 26/7, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest, detention and harassment of human rights defenders surrounding the 25th anniversary of the Tiananmen Square protests.

Messrs. **Jiang Tianyong, Tang Jitian, Zhang Junjie** and **Wang Chen** are human rights lawyers.

Mr. **Jiang Tianyong** was the subject of four previous communications sent to your Excellency's Government dated 10 June 2009, see A/HRC/13/22/Add.1, para. 345-352, 7 December 2010, see A/HRC/18/51, case no. CHN 29/2010, 3 March 2011, see A/HRC/18/51, case no. CHN 5/2011, and 15 May 2012, see A/HRC/21/49, case no. CHN 4/2012. While we acknowledge receipt of the reply transmitted by your Excellency's Government on 21 August 2009, we regret that no responses have been transmitted to the remaining communications sent in 2010, 2011 or 2012.

Mr. **Tang Jitian** was the subject of three previous communications sent to your Excellency's Government dated 7 November 2008, see A/HRC/10/12/Add.1, para. 586-591, 10 June 2009, see A/HRC/13/22/Add.1, para. 345-352, and 27 April 2010, see A/HRC/16/44/Add.1, para. 388-392, and 428-465. While we acknowledge receipt of the replies transmitted by your Excellency's Government on 13 February 2009 and 21 August 2009, we remain concerned about the issues raised therein. Furthermore, we regret that no response has been transmitted to the communication of 27 April 2010.

Mr. **Zhang Junjie** was the subject of a communication sent to your Excellency's Government dated 3 March 2011, see A/HRC/18/51, case no. CHN 5/2011. We regret that no response has been transmitted to this communication.

Mr. **Tang Jingling** is a human rights lawyer whose clients have included villagers challenging corruption and victims of land appropriation. Mr. Tang Jingling founded the "Non-violent Citizens' Disobedience Movement."

Mr. Tang Jingling was the subject of a communication sent to your Excellency's Government dated 3 March 2011, see A/HRC/18/51, case no. CHN 5/2011. We regret that no response has been transmitted to this communication.

Mr. **Wang Qingying** is a former teacher of Guangdong University of Technology who was removed from his position in 2006 as a result of his pro-democracy activities. He has signed Charter 08, a manifesto promoting political reform and democracy in China. Since 2013, Mr. Wang Qingying has actively participated in Mr. Tang Jingling's non-violent civil disobedience movement.

Mr. **Yuan Xinting** is a former editor of Guangzhou Press. He was removed from his job in 2009 as a result of his signature of Charter 08. Since 2013, he has been actively involved in Mr. Tang Jingling's non-violent civil disobedience movement.

Mr. **Liu Shihui** is a human rights lawyer whose cases have included investigations into human rights violations and helping victims of such abuses to file lawsuits.

Mr. Liu Shihui was the subject of a communication sent to your Excellency's Government dated 3 March 2011, see A/HRC/18/51, case no. CHN 5/2011. We regret that we have not yet received a response to this communication.

Mr. **Ding Jiayi**, a human rights lawyer, and Mr. **Zhao Changqing**, a writer, are members of the New Citizen Movement (NCM). The NCM has campaigned for greater transparency among Chinese Communist Party officials, including the creation of a law requiring government officials to disclose their assets. To this end, the NCM organized small, peaceful protests in the spring of 2013, which led to the detention of more than a dozen anti-corruption activists. The movement has been largely inactive since the arrests of its leaders and a number of members, as many remain in detention while they await

trial on charges such as “illegal assembly,” “inciting subversion of state power,” “disturbing social order”, and “extortion”.

Mr. Ding Jiayi was the subject of a communication sent to your Excellency’s Government dated 9 August 2013, see A/HRC/25/74, case no. CHN 8/2013. We acknowledge receipt of the reply transmitted by your Excellency’s Government on 11 November 2013.

Mr. Zhao Changqing was the subject of two communications sent to your Excellency’s Government dated 7 December 2010, see A/HRC/18/51, case no. CHN 29/2010 and 9 August 2013, see A/HRC/25/74, case no. CHN 8/2013. We acknowledge receipt of the reply transmitted by your Excellency’s Government on 11 November 2013.

Mr. **Li Sihua** is affiliated with the New Citizen Movement. He has also attempted to run as an independent local candidate for the National People’s Congress and has been involved in grassroots rights defence in Jiangxi province for several years. He has sought to highlight election fraud, helped farmers defend their rights, instructed people how to write petitions and letters of complaint, and documented cases of human rights abuses.

Mr. Li Sihua was the subject of a communication sent to your Excellency’s Government dated 9 August 2013, see A/HRC/25/74, case no. CHN 8/2013. We acknowledge receipt of the reply transmitted by your Excellency’s Government on 11 November 2013.

The case of Messrs. Jiang Tianyong, Tang Jitian, Zhang Junjie and Wang Chen

According to the information received:

Messrs. Jiang Tianyong, Tang Jitian, Zhang Junjie and Wang Chen have reportedly previously been subjected to harassment, detention, beatings and disappearances as a result of their work. In 2011, Messrs. Jiang Tianyong and Tang Jitian were forcibly disappeared and tortured for a number of months during a widespread crackdown on human rights defenders in the country. In February 2014, Mr. Wang Cheng was detained following his involvement in the launch of an online petition calling on China to ratify the International Covenant on Civil and Political Rights.

On 20 March 2014, Messrs. Jiang Tianyong, Tang Jitian, Zhang Junjie and Wang Chen travelled to Heilongjiang province to investigate reports of a person being held illegally in a “black jail” (an extralegal detention center) at Qinglongshan farm.

At around 08:30 a.m. on 21 March 2014, Messrs. Jiang Tianyong, Tang Jitian, Zhang Junjie and Wang Chen were detained following their visit to a 'Legal Education Centre' at Qinglongshan state. They were taken to Qixing Administrative Detention Centre in Jiansanjiang, Heilongjiang province and were

allegedly sentenced to 15-day administrative detention for “using cult activities to endanger society”. It is believed that the charge is related to the fact that people who have been detained in the black jail are Falun Gong practitioners.

Mr. Zhang Junjie was reportedly kicked and beaten by three men in the detention centre. He was released on 27 March 2014. During a medical examination the following day, he was diagnosed with three broken ribs as a result of the beating received in detention.

A number of lawyers and human rights defenders who had travelled from around the country to Jiansanjiang to offer support and legal assistance to the detained lawyers were themselves taken in for questioning by police on 26 March 2014, before being released. Supporters have gathered outside Qixing Administrative Detention Centre where they are holding a vigil for the detained lawyers.

Messrs. Jiang Tianyong, Tang Jitian and Wang Chen were released on 6 April 2014.

The cases of Messrs. Tang Jingling, Wang Qingying and Yuan Xinting

According to the information received:

Mr. Tang Jingling has previously been subjected to frequent incidents of police harassment and interrogation, and his legal practitioner's license was suspended in 2006. In 2012, he was detained for five days following his investigation into the death of another human rights defender at a hospital in Hunan Province. Prior to his detention, Mr. Tang Jingling had reportedly received a number of warnings from the police for his involvement in commemoration activities surrounding the 25th anniversary of the Tiananmen Square protests in 1989.

Messrs. Wang Qingying and Yuan Xinting have also reportedly faced harassment and pressure from State authorities due to his human rights work in the past.

At around 10:00 a.m. on 16 May 2014, Mr. Tang Jingling was arrested by police in Guangzhou after a search of his home was conducted, lasting two hours. During this time, Mr. Tang Jingling and his wife were instructed to sit still and were not permitted to use the telephone. After the search ended, the police officers detained Mr. Tang Jingling on charges of “creating a disturbance.” They also confiscated a desktop computer, a laptop, three mobile phones and a number of books. Allegedly, Mr. Tang Jingling was reportedly kicked by one of the prison staff in detention. Furthermore, his family has been unable to visit him or to send him glasses, although he is severely near-sighted.

On the same day, Mr. Wang Qingying was arrested at his home by National Security Police officers. Reportedly, his house was searched, and laptops and mobile phones were confiscated. The officers allegedly did not present a warrant

for the search or arrest. Similarly, it is alleged that Mr. Yuan Xinting was also arrested at his home by police without a warrant on 16 May 2014. Both men were detained on charges of “creating a disturbance.”

Allegedly, Mr. Wang Qingying was repeatedly slapped in the face for refusing to give evidence against Mr. Tang Jingling and Mr. Yuan Xinting. He was allegedly forced to work long hours in detention, he shared a small cell with 30 other detainees and was given inadequate food. He was allegedly interrogated approximately 20 times, some of which lasted as long as 13 hours. These interrogations lead him to provide a false confession. He was allegedly moved to a larger cell and has not been beaten since making his confession.

On 19 June 2014, Messrs. Tang Jingling, Wang Qingying and Yuan Xinting were transferred from Guangzhou Baiyun District Detention Center to Guangzhou No. 1 Detention Center. They were formally arrested on 20 June 2014 on charges of “inciting subversion of state power” under Article 105(2) of the Criminal Law of China.

The case of Mr. Liu Shihui

According to the information received:

On 20 February 2011, Mr. Liu Shihui was reportedly physically assaulted as he attempted to photograph a street protest in Guangzhou. On 22 February 2011, he was disappeared and held in incommunicado detention for 108 days. In recent years, Mr. Liu Shihui has reportedly been subjected to constant harassment by the state security services and has been forced to return to Inner Mongolia several times. His legal practitioner’s licence has been revoked as a result of his work defending human rights.

In April 2014, Mr. Liu Shihui was reportedly beaten by police in Guangzhou and forcibly sent back to his home town in Inner Mongolia due to his ongoing human rights defence activities. At approximately 4 p.m. on 13 May 2014, Liu Shihui lost contact with his friends after taking a bus in the Pudong New Area in Shanghai. On 15 May 2014, it was reported that Mr. Liu Shihui was detained by police in Shanghai. He was released on 26 May 2014, and has reportedly been under surveillance by authorities since that date.

The cases of Messrs. Ding Jiayi and Zhao Changqing

According to the information received:

On 10 April 2013, Messrs. Zhao Changqing and Ding Jiayi were detained on charges of “illegal assembly” over their role in small-scale anti-corruption demonstrations in Beijing calling for public officials to publicly disclose their assets.

On 18 April 2014, they were convicted of “illegal assembly” by the Beijing Municipal Haidian District Court. Mr. Ding Jiayi was sentenced to three and a half years’ imprisonment, and Mr. Zhao Changqing was sentenced to two and a half years’ imprisonment.

The case of Mr. Li Sihua

According to the information received:

Mr. Li Sihua has allegedly previously been subjected to police harassment, beatings, travel bans and detention due to his work. He was detained on 27 April 2013, originally on charges of “inciting subversion of state power”. He was formally arrested on 4 June 2013 and the original accusations were dropped and charges of “picking quarrels and provoking trouble” were brought.

On 19 June 2014, Mr. Li Sihua was found guilty of all charges by the Yushui District People’s Court in Xinyu, Jiangxi province. Reportedly, he was sentenced to three years imprisonment.

Grave concern is expressed at the violent and repressive measures taken against human rights lawyers and activists while carrying out their peaceful work promoting democracy, combatting corruption, organising protests concerning the commemoration of the 1989 Tiananmen Square protests, and providing legal representation to victims of human rights violations.

The allegations also appear to contravene the prime responsibility and duty of the State to protect the right to physical and mental integrity of all persons. In particular regarding the alleged ill-treatment of Mr. Zhang Junjie, Mr. Tang Jingling, Mr. Wang Qingying in detention, we would like to remind your Excellency’s Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which China ratified on 4 Oct 1988.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of the persons mentioned above is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of their liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR), as well as the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR.

The allegations appear to be in contradiction with the lawyers’ right not to be threatened as a result of discharging their functions, as set forth in the UN Basic Principles on the role of lawyers. The above allegations also appear to be in contravention with the right to freedom of expression and association of lawyers, as set forth in Principle 23 of the Basic Principles on the Role of Lawyers.

Similarly, the alleged facts constitute prima violations of the right to freedom of opinion and expression and the right to freedom of peaceful assembly and of association as set forth in the articles 19 and 20 of the UDHR.

Furthermore, we would like to refer your Excellency's Government to the fundamental principles set forth in 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, we would like to refer to articles 1, 2, and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org 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 the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to the cases of Jiang Tianyong, Tang Jitian, Zhang Junjie, Wang Chen, Tang Jingling, Wang Qingying, Yuan Xinting, Liu Shihui, Ding Jiayi, Zhao Changqing and Li Sihua. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information concerning the legal grounds for the arrest and detention of the above-mentioned persons and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR. Please provide information on whether all detainees have access to family members, legal counsel, and medical personnel.
4. Please explain what measures have been taken to ensure that all human rights defenders in China, such as lawyers, in particular those working on issues surrounding the 1989 Tiananmen Square protests, can carry out their peaceful and legitimate activities without fear of criminalisation, judicial harassment, violence, or other restrictions.

5. Please provide information on the measures taken to ensure that Messrs. Jiang Tianyong, Tang Jitian, Wang Chen, Zhang Junjie, Ding Jiayi Liu Shihui and Tang Jingling, are able to perform all of their professional functions as human rights lawyers without intimidation, hindrance, harassment or improper interference.

6. Please explain how Messrs. Ding Jiayi and Zhao Changqing's alleged restriction of freedom of expression and association is compatible with the international human rights standards.

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Gabriela Knaut
Special Rapporteur on the independence of judges and lawyers

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment