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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)
CHN 5/2014

8 April 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; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 16/4, 24/5, 16/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning **allegations of the ongoing arbitrary detention and prolonged solitary confinement of Dr. Wang Bingzhang and his deteriorating health while in detention.**

Dr. Wang Bingzhang is a pro-democracy activist and the founder of the overseas Chinese democratic movement.

On 5 December 2002, Dr. Wang was charged with "offences of espionage" and "the conduct of terrorist activities". He was tried on 22 January 2003 by the Intermediate People's Court in the city of Shenzhen in Guangdong province. The trial lasted half a day and was closed to the public. No family members, supporters or reporters were permitted to attend. Furthermore, no evidence was presented against him. On 10 February 2003, Dr. Wang was convicted and sentenced to life in prison. His appeal was rejected on 28 February 2003. Dr. Wang Bingzhang was the subject of Opinion No. 10/2003 of the Working Group on Arbitrary Detention, adopted on 9 May 2003, where the Working Group declared his detention to be arbitrary.

According to the information received:

Dr. Wang is currently serving life imprisonment in solitary confinement in Shaoguan Prison in Guangdong Province. According to the information received, he was transferred from Beijiang Prison to Shaoguan Prison in November 2013.

Dr. Wang's physical and mental health has deteriorated dramatically during the past twelve years that he has been in detention. He had three strokes during the first years of his imprisonment and he also suffers from severe hay fever, phlebitis and asthma. Furthermore, his mental health and psychological well-being have deteriorated from having been in solitary confinement for a prolonged period of time.

It is also alleged that Dr. Wang is only allowed one family visit a month, for 30 minutes. However, for the past years, Dr. Wang's wife, daughter and sister, who are all Canadian citizens, have allegedly not been able to obtain visas to travel to China to visit him. Furthermore, it is alleged that the letters that his family has sent to him have either been censored or confiscated.

Grave concerns are expressed regarding the arbitrary detention of Dr. Wang Bingzhang and that the charges against him might be related to his peaceful activities as a pro-democracy activist. Further concerns are expressed regarding the physical and psychological integrity of Dr. Wang in prolonged solitary confinement and that several of his family members have not been able to visit him for the past years.

We would like to refer to your Excellency's Government to the following provisions of the Universal Declaration of Human Rights which provides:

- article 19 "[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

- article 20 "[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 Human Rights Council resolution 24/5, and in particular operative paragraph 2 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

In this connection, 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, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

We would also like to draw your Excellency's Government's attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged” (adopted by the General Assembly by resolution 45/111 of 14 December 1990). We also draw your Excellency's Government's attention to the Special Rapporteur on torture's interim report to the General Assembly of 5 August 2011 (A/66/268) which stated that, where the physical conditions and the prison regime of solitary confinement cause severe mental and physical pain or suffering, when used...indefinitely or prolonged... it can amount to cruel, inhuman or degrading treatment or punishment and even torture. Paragraph 26 of the report states that, “of particular concern to the Special Rapporteur is prolonged solitary confinement, which he defines as any period of solitary confinement in excess of 15 days. He is aware of the arbitrary nature of the effort to establish a moment in time which an already harmful regime becomes prolonged and therefore unacceptably painful. He concludes that 15 days is the limit between “solitary confinement” and “prolonged solitary confinement” because at that point, according to the literature surveyed, some of the harmful psychological effects of isolation can become irreversible.”

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 Dr. Wang Bingzhang in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Please indicate the legal basis for the detention of Dr. Wang Bingzhang in solitary confinement, and how this is compatible with international human rights norms and standards.

3. Please provide information on whether Dr. Wang has access to family members and whether he has been able to receive letters from his family while in detention.

4. Please provide information concerning any steps that have been taken by your Excellency's Government to ensure that Dr. Wang receives the medical attention and medication that he might require while in detention.

We undertake to ensure that your Excellency's Government's response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Dr. Wang Bingzhang are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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
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