

Mandates of the Special Rapporteur on the situation of human rights in Myanmar; 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; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA
MMR 10/2015:

3 November 2015

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in Myanmar; 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; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 28/23, 25/2, 25/18, 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 enforced disappearance of two Chinese human rights defenders and the house arrest of the son of a detained human rights defender.

Mr. **Tang Zhishun** is a Beijing-based human rights defender who works on issues of forced evictions and provides assistance to detained human rights activists.

Mr. **Xing Qingxian** is a Chengdu-based human rights defender who works with grassroots communities to help them defend their rights and document human rights violations.

Mr. [REDACTED] is the 16-year old son of legal activist Mr. **Bao Longjun**, who is currently in detention, and woman human rights lawyer Ms **Wang Yu**, who was detained on 9 July 2015 as part of the nationwide crackdown on human rights lawyers in China. She remains detained at an unknown location on charges of 'inciting subversion of state power'.

According to the information received:

On 6 October 2015, at around midday, ten Myanmar police officers, in collaboration with Chinese police from Inner Mongolia Autonomous Region and Yunnan Province, arrived at a guest house in Mongla, Myanmar, near the Chinese border, where Messrs. Tang Zhishun, Xing Qingxian and [REDACTED] were staying whilst on holiday. The police officers proceeded to search the room (No.8348) in which the three individuals were staying and subsequently transported them to China, without further information provided to their families about their fate and whereabouts.

On 7 October 2015, friends of Messrs. Zhishun, Qingxian and [REDACTED] inquired at the local police station in Mongla, Myanmar as to their whereabouts. The police denied that the three had been detained, and claimed not to have any knowledge of their fate or location.

After several days in which his whereabouts were unknown, Mr. [REDACTED] was returned to his grandparents' home in the Inner Mongolia Autonomous Region in Northern China, where he continues to be held under house arrest and police monitoring, and has been called in for questioning a number of times by police. The whereabouts of Messrs. Zhishun and Qingxian remain unknown. However, their homes in China were raised and searched by the police several days after they had been abducted in Myanmar.

Messrs. Zhishun and Qingxian suffer from such chronic poor health conditions as serious hyperthyroidism and asthma, respectively. Both need access to appropriate medication on time.

Concern is expressed the alleged enforced disappearance of Messrs. Tang Zhishun and Zing Qingxian and that is directly related to their peaceful and legitimate human rights work and the exercise of their right to freedom of opinion and expression. Further concern is expressed over the enforced disappearance of Mr. [REDACTED], and the strong possibility that the action taken against him may directly be linked to the human rights work carried out by his parents, in particular his mother.

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.

We would like to refer to articles 19 and 20 of the Universal Declaration of Human Rights (UDHR), as well as 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 and 12.

In relation to the allegations according to which the fate and whereabouts of Mr. Zhishun and Mr. Qingxian are currently unknown, we would like to bring your

Excellency's Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances.

We would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly resolution 68/156, which, "[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished.

Given Mr. [REDACTED]'s age, we would also like to refer to the United Nations Convention on the Rights of the Child (ratified by Myanmar on 15 July 1991), in particular articles 3, 9 and 37.

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.

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 information on the fate and whereabouts of Mr. Tang Zhishun and Mr. Wing. If their whereabouts are unknown, please provide details of any investigation or other queries as to their location which may have been carried out. If no such investigation has taken place, please explain why. If they have been detained, please provide information as to the legal grounds for their detention, and how their detention is compatible with international norms and standards as stated, inter alia, in the UDHR.
3. Please provide information as to the legal grounds for the arrest of Mr. [REDACTED], and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the CRC.
4. Please kindly indicate what measures have been taken to ensure that human rights defenders 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.

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.

We would like to inform your Excellency's Government that we have addressed a communication with similar content to the Government of the People's Republic of China.

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

Yanghee Lee

Special Rapporteur on the situation of human rights in Myanmar

David Kaye

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

Michel Forst

Special Rapporteur on the situation of human rights defenders

Juan E. Méndez

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