

**Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; 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 the independence of judges and lawyers**

REFERENCE:  
AL CHN 7/2018

6 April 2018

Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; 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 the independence of judges and lawyers, pursuant to Human Rights Council resolutions 35/7, 34/18, 34/5 and 35/11.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest, investigation and alleged arbitrary detention of Mr. **Chen Wuquan** and the disbarment of Mr. **Sui Muqing**.

Mr. Chen Wuquan is an environmental defender and human rights lawyer, known for working on cases involving land appropriation and religious freedom.

Mr. Sui Muqing is a human rights lawyer known for representing numerous human rights advocates and reporting extensively on their cases. Mr. Sui Muqing was the subject of one previous communication sent by various Special Rapporteurs, dated 29 October 2015 (case no. CHN 10/2015). We acknowledge receipt of the response to this communication on 6 January 2016. However, we regret that no reference was made to the concerns expressed in our letter with regard to Mr. Sui Muqing's detention under "residential surveillance at a designated location".

According to the information received:

***Mr. Chen Wuquan***

In October 2017, Mr. Chen Wuquan initiated the "War to Protect the Sea" campaign, following the alleged illegal land appropriation and reclamation by the Donghai Investment Company, in tidal zones adjacent to his village. The Donghai Investment Company has reportedly been fined RMB 2.9 billion by the Ocean and Fishery Bureau of the Zhanjiang City because of this unauthorised activity. Despite this sanction, the company has continued its illegal reclamation operation. In response, Mr. Chen Wuquan demanded government action and urged villagers to mobilise through the "War to Protect the Sea" campaign aiming at defending the areas.

On 25 December 2017, armed police and other law enforcement agents reportedly numbering in the hundreds intervened against the “War to Protect the Sea” campaign, tearing up vegetation planted as a tide-break and detaining villagers.

On 9 February 2018, Mr. Chen Wuquan, and six others, were summoned by the Zhanjiang City Dongshan Town Comprehensive Letters and Visits Center and interrogated for “obstructing public works”. One of the seven was released after being questioned. However, Mr. Chen Wuquan was taken into custody along with the five others.

On 11 February 2018, Mr. Chen Wuquan’s family was notified by the Zhanjiang City Public Security Bureau that he had been detained in Mazhang District Detention Centre on grounds of “picking quarrels and provoking troubles”. On 16 February 2018, his detention was formally confirmed.

***Mr. Sui Muqing***

On 23 January 2018, Mr. Sui Muqing received an advance notice from the Guangdong Province Judicial Bureau notifying him that his legal license was facing imminent rescission. According to the official notice, the decision was based on an act of “disrupting court order” during the 2014 trial of one of his clients, and his taking of photographs during a 2017 meeting with another client.

On 3 February 2018, Mr. Sui Muqing attended a hearing on the revocation of his legal license. On 12 February 2018, he received notification that his legal license had been rescinded. Some members of his family have since learned that they have been placed under a travel ban.

Serious concern is expressed over the alleged arrest, arbitrary detention and criminal prosecution of Mr. Chen Wuquan for reasons ostensibly related to his work as a human rights lawyer and his activities as a land rights activist. We express further serious concern over the alleged arrest of five others involved in the “War to Protect the Sea” campaign and fear that such alleged arrest represents a criminalisation of the rights of assembly and association, as well as expression and opinion.

We also express concern over the alleged disbarment of human rights lawyer Mr. Sui Muqing for “disrupting court order” and taking photos of his client, along with the travel ban against members of his family. We note these alleged facts as part of a larger pattern of targeting human rights lawyers in China, including Mr. Chen Wuquan, due to the nature of their work in the defence of human rights. We further wish to stress our concern at the use of disbarment as a seemingly common tactic used to deter the work of human rights lawyers and often leading to further judicial procedures against them.

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.

In connection with the above alleged facts and concerns, please refer to the Reference to International Law Annex attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore 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 and factual bases for the alleged arrest, arbitrary detention and investigation of Mr. Chen Wuquan, along with details of any charges or possible charges against him, and explain how his alleged arrest, arbitrary detention and investigation is compatible with China's obligations under international human rights law.
3. Please provide information on the grounds for disbarment of Mr. Sui Muqing and how such disbarment reconciles with China's obligations to provide an enabling environment for his work as a human rights defender. Please further provide information on the reasons for the alleged imposition of a travel ban on certain members of his family and how such travel ban is compatible with China's obligations under article 13 UDHR.
4. Please indicate what measures have been taken to ensure that human rights defenders in 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.
5. Please indicate which measures, including legislation and policies, the Government has put in place to prevent, investigate and redress human rights violations related to the activities of business enterprises operating in the country, including Donghai Investment Company, and what steps the Government is taking to ensure that victims have access to effective remedy, in keeping with the UN Guiding Principles on Business and Human Rights?
6. Please indicate what measures the Government has put in place to ensure that companies, including Donghai Investment Company, respect human rights, conduct human rights due diligence and provide victims with access to an effective remedy as set forth in the UN Guiding Principles on Business and Human Rights.

We would appreciate receiving a response within 60 days. 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 wish to inform the Government of your Excellency that a letter dealing with similar allegations and concerns has also been sent to Donghai Investment Company.

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(s) responsible for the alleged violations.

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

Anita Ramasastry  
Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

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

Diego García-Sayán  
Special Rapporteur on the independence of judges and lawyers

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to draw your Excellency's Government's attention to articles 3, 9, 13, 19 and 20 of the Universal Declaration on Human Rights (UDHR), which guarantee the rights to life, liberty and security of person, the right not to be subjected to arbitrary arrest or detention, and the rights to freedom of movement, opinion and expression and assembly and association.

We would also like to draw your attention to the Basic Principles on the Role of Lawyers, which stipulate that Governments have the duty to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and that lawyers shall not suffer, or be threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards and ethics (Principle 16).

We would like to refer to the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5(b) and 9 paragraph 3(c) which provide for the rights to promote and to strive for the protection and realisation of human rights and fundamental freedoms, to form, join and participate in associations or groups, and to offer and provide professionally qualified legal assistance in defending human rights.

We would finally bring your attention to the United Nations "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework", endorsed by the Human Rights Council in its resolution 17/4 of 16 June 2011, which notes that States must protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. They also recognise the important and valuable role played by independent civil society organisations and human rights defenders. In particular, Principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. The Commentary to Principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed.