

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 extreme poverty and human rights

REFERENCE:
UA CHN 9/2019

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 extreme poverty and human rights, pursuant to Human Rights Council resolutions 33/30, 36/6, 35/15, 34/18, 34/5 and 35/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged continuing violations of the human rights of Mr. **Jiang Tianyong**. Mr. Jiang is a renowned human rights lawyer who represented clients in a number of high-profile cases over the last decade.

As detailed in previous correspondence, Mr. Jiang has been subjected to various forms of deprivation of liberty, including a period of enforced disappearance, relating to alleged crimes of inciting subversion of state power. His arrest and detention followed an earlier wave of arrests of prominent human rights defenders in China.

Three joint communications on the situation of Mr. Jiang, dated 2 December 2016 (ref. UA CHN 13/2016), 28 December 2016 (ref. UA CHN 15/2016) and 22 March 2017 (ref. UA CHN 3/2017), have already been sent and we acknowledge the response from your Excellency's Government dated 20 January 2017.

Mr. Jiang's case is also registered with the UN Working Group on Enforced or Involuntary Disappearances (number 10006805). Furthermore, Mr. Jiang has been one of the subjects of Working Group on Arbitrary Detention opinion 62/2018 (China). In that instance, the Working Group has found the deprivation of liberty of Mr. Jiang Tianyong as being in contravention of articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights, is arbitrary and falls within categories I, II and III. The Working Group considered that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Jiang immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

For the purpose of this communication, it is relevant to note that Mr. Jiang met with the Special Rapporteur on extreme poverty and human rights, Professor. Philip Alston, in the course of his visit to China from 15 to 23 August 2016.

According to the new information received:

On 28 February 2019, Mr. Jiang's prison sentence following conviction on the legal basis of having incited subversion of state power concluded. Prior to this, on 26 February, Mr. Jiang's family was informed that police authorities would take him back to Zhengzhou, Henan Province, where his basic needs would be guaranteed by the police. On 27 February, Mr. Jiang's father and sister went to the prison in Xinxiang to meet Mr. Jiang.

On 28 February, a group of human rights defenders went to meet Mr. Jiang at Xinxiang prison but was dispersed by police. In addition, on 1 March, a friend of Mr. Jiang spoke on the phone with a police officer from Xinxiang prison about the terms of his release. During this call, the officer claimed that Mr. Jiang's sentence, which includes the deprivation of his political rights for three years after his release, also includes restrictions on his freedom of movement.

On 2 March, Mr. Jiang his father and younger sister returned to his parents' home in Luoshan County, Henan Province. Since Mr. Jiang's return, he has been diagnosed with high blood pressure by a village clinic and takes medication daily to control this condition. In addition, he has displayed symptoms indicative of mobility problems, poor vision, weight loss and memory deficits. A full and independent medical assessment of all Mr. Jiang's medical conditions and appropriate follow-up care have not been provided to date.

Since returning to Luoshan County on 2 March, Mr. Jiang, his family and friends have been subjected to a pattern of surveillance, harassment and intimidation by State security forces. Examples of such incidents include:

On 2 March, Mr. Jiang spoke with his wife but warned her that he could not speak freely. Additionally, on the same day, Mr. Jiang was speaking with friends when State security forces began filming the group; they subsequently interrupted their conversation.

On 7 March, Mr. Jiang informed his wife that every time he walks his dog outside the house, plain clothed officers follow him. He also stated that local residents had been threatened by State security forces not to speak with him.

On 2 April, Mr. Jiang's father was followed by two cars with plain clothed security whilst travelling alone on his electric scooter to the site of Qingming celebrations, leading to a collision at around 10am. Mr. Jiang's elderly father fell off the scooter and was not offered assistance by security officers.

On 3 April, at around 10 a.m., Mr. Jiang and his mother were walking past an intersection, where State security police were stationed, when a security agent began to film them with his mobile phone. When Mr. Jiang questioned the legality of such behaviour, a verbal altercation began, during which a security agent threatened Mr. Jiang by shouting: that "when you come out at night, we'll beat you to death."

On 24 April, two lawyers and a human rights defender went to Luoshan County, Henan Province, to visit Mr. Jiang. State security police tried to disrupt their conversation but Mr. Jiang refused them entry to his residence. After approximately an hour, the three visitors left the house and were immediately asked for identification by State security police, who did not provide their own identity documents. As the three friends of Mr. Jiang tried to enter a taxi, a group of State security police officers surrounded the vehicle and prevented it from leaving. The vehicle was only able to leave after a uniformed local police officer intervened.

While we do not wish to prejudge the accuracy of these allegations, grave concern is expressed about the safety of Mr. Jiang and his family members.

Serious concern is expressed about the lasting impact of Mr. Jiang's arrest and detention on his health. Information received indicating health problems, including high blood pressure, mobility difficulties, memory problems and vision issues raises serious concern in relation to article 12 of the International Covenant on Economic, Social and Cultural Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. China ratified the Covenant in 2001 and the right to health applies under all circumstances, including detention. We respectfully urge a prompt, professional and comprehensive medical examination and care to uphold Mr. Jiang's right to health, including the provision of a full and independent medical assessment and follow-up treatment without delay.

We also urge your Excellency's Government to respect the rights of Mr. Jiang and his family to privacy and freedom of movement. Article 12 of the Universal Declaration of Human Rights (UDHR) and article 17 of the International Covenant on Civil and Political Rights (ICCPR), signed by China on 5 October 1998, recognize the right to everyone to privacy, family, home and correspondence. Article 13 of the UDHR and article 12 of the ICCPR, guarantee everyone's liberty of movement, the right to choose one's residence and the freedom of everyone to leave any country, including one's own.

Information we have received about Mr. Jiang and his family members being followed and intimidated by State security forces raises concerns that violations of their rights in this regard. Furthermore, information about Mr. Jiang and his friends and family are subject to surveillance, including through being filmed and their meetings and conversations recorded or otherwise interfered with, raises additional concerns about the violations of their right to privacy.

Information regarding death threats made by security agents further raises concerns about the risk faced by Mr. Jiang of violation of his rights to life, liberty and security under articles 6 and 9 of the ICCPR. We call for the alleged threats to be investigated and urge your Excellency's Government to take considered measures to ensure the physical security of Mr. Jiang and his family. Your Excellency's Government has a responsibility to respond to death threats, including those emanating from governmental actors, as part of obligations to provide adequate protection to human rights defenders.

Our concerns include apparent restrictions imposed on Mr. Jiang and his friends and family to meet, calling into question respect for their rights to freedom of assembly and expression. We are additionally concerned about alleged attempts by the police or security personnel to disperse supporters of Mr. Jiang and limit his contacts with friends, colleagues and other persons. We wish to draw the attention of your Excellency's Government to articles 19 and 21 of the ICCPR, which protects the freedom to seek, receive and impart information and ideas of all kinds, and freedom of assembly, respectively.

The information received points to an overall climate of threat, intimidation and harassment by State security forces, which raises additional concerns that Mr. Jiang could be subjected to further acts of enforced disappearance and arbitrary deprivation of liberty. In relation to such concerns, we refer Your Excellency's Government to the prohibition to practice, permit or tolerate enforced disappearance, as enshrined in the United Nations Declaration on the Protection of All Persons from Enforced Disappearances (article 2). Furthermore, we highlight the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3) and that all persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured (article 11).

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6 and 12.

Finally, we would like to again respectfully draw your Excellency's Government attention to Human Rights Council resolutions 12/2 and 24/24 and the Revised Terms of Reference for country visits by Special Procedures mandate holders of the United Nations Human Rights Council. These resolutions condemn acts of reprisals and require the Government to assure that no person or group of persons who have cooperated with the United Nations institutions, including the special procedures mandate holders, will be subjected for this reason to intimidation, threats, harassment or punishment. They further elaborate that they will not be subjected to judicial proceedings or any other kind of reprisals by any means whatsoever, before, during and after the conduct of country visits.

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 Mr. Jiang 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 indicate what steps were taken at the conclusion of Mr. Jiang's sentence to ensure his right to choose his residence under article 12 of the ICCPR was respected.
3. Please indicate whether the opinion 62/2018 of the Working Group on Arbitrary Detention concerning Mr. Jiang has been implemented.
4. Please clarify the extent to which the detention of Mr. Jiang has negatively impacted on his health; the nature of the medical care that he was provided during his detention, and since his release.
5. Please provide information on the measures taken to ensure the respect for Mr. Jiang's rights to personal security, freedom of movement, freedom of expression, association and privacy as provided for under the UDHR and the ICCPR.
6. Please explain the reasons why Mr. Jiang has been subject to police monitoring and surveillance since his release, including with regard to his

his family, friends and acquaintances; and the legal basis for such surveillance.

7. Please provide information on steps taken to investigate the alleged death threat from a security agent and to ensure Mr. Jiang, and his family's safety and security.

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.

Please note that in accordance with its methods of work, the Working Group on enforced or involuntary disappearances has also transmitted this individual case to your Excellency's Government, through an Urgent Action sent earlier today. The case will therefore be registered among the outstanding cases under review by the Working Group.

We intend to publicly express our concerns in the near future as, in our view, the information received appears to be sufficiently reliable to indicate a matter warranting serious attention. We also believe that the wider public should be alerted to the potential human rights implications of these allegations. Any public expression of concern on our part will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Leigh Toomey
Vice-Chair of the Working Group on Arbitrary Detention

Bernard Duhaime
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
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Michel Forst
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