

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the independence of judges and lawyers and the Working Group on discrimination against women and girls

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(Please use this reference in your reply)

2 November 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the independence of judges and lawyers and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 52/4, 52/9, 53/12 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the trial of human rights defenders Ms. Huang Xuequin and Mr. Wang Jianbing on the charges of "inciting subversion of state power" at the Guangzhou Intermediate People's Court.**

Ms. Huang Xuequin is a woman human rights defender and journalist who played an instrumental role in launching the *#MeToo* movement in China in 2018 by supporting survivors of sexual assault to tell their stories publicly. This included by conducting a survey of hundreds of female journalists on their experience of workplace sexual harassment and publishing the findings in a report in March 2018. She also assisted female university students who had been subjected to sexual harassment to lodge a complaint against the university professor involved, which ignited a national debate on the lack of effective mechanisms for addressing sexual harassment on university campuses.

Mr. Wang Jianbing is a labour rights and disability rights defender. After graduating from university in 2005, he began to work in the non-profit sector promoting youth education and rural development. In 2014, he joined an NGO in Guangzhou and implemented projects to promote youth development and empowerment of people living with disabilities. In 2018, he began to advocate for the rights of workers with occupational diseases, such as pneumoconiosis, through legal and community support. He is also a strong supporter of China's *#MeToo* movement.

Ms. Huang and Mr. Wang have been the subject of one previous communication on 1 December 2022 (AL CHN 10/2022) regarding the denial of legal assistance, ill-treatment, incommunicado detention and enforced disappearance of the human rights defenders. We thank the Government for the replies it supplied in relation to these letters of allegation, however we wish to reiterate our renewed concern at the lack of transparency characterising the trial of the human rights defenders.

According to the information received:

On 19 September 2021, Ms. Huang Xuequin and Mr. Wang Jianbing were taken into custody by Guangzhou public security officers on suspicion of “inciting subversion of state power.” The police also reportedly searched both human rights defenders’ residences and confiscated their personal belongings.

Following the arrest and detention of Ms. Huang and Mr. Wang, police interrogated over 40 of their friends and acquaintances. They were questioned about gatherings they attended at Mr. Wang’s residence. Police reportedly demanded them to confirm the identity of those who attended such gatherings, to testify that the discussions at these gathering were of a political nature, and to sign pre-written testimonies accusing Ms. Huang and Mr. Wang of attending political assemblies that “subvert State power”. Many of the human rights defenders’ acquaintances also reportedly had their electronic devices searched and data copied by the police.

In the weeks following the human rights defenders’ arrest, neither of their families received any legal notice confirming their arrests, the charges against them, nor where they were being held. Between late October and early November 2021, Ms. Huang and Mr. Wang’s families received formal arrest notices for the human rights defenders. These notices were dated 27 October 2021 and cited that the human rights defenders were arrested on suspicion of “inciting subversion of state power” and were being held in Guangzhou No. 1 Detention Centre.

On two occasions, in October and November 2021, the Guangzhou Municipal Public Security Bureau reportedly rejected Mr. Wang’s lawyer’s request to meet with his client and to have him released on bail. On 1 April 2022, over six months after his initial arrest and detention, Mr. Wang was permitted to see his lawyer via video conference. During this period, he was reportedly held in solitary confinement and his mental and physical health deteriorated.

In April 2022, Ms. Huang’s family appointed a lawyer to represent the woman human rights defender. Soon after, however, this lawyer was presented with a letter of dismissal reportedly signed by Ms. Huang and dated 14 April 2022. Ms. Huang was then assigned a court-appointed lawyer.

On 22 September 2023, Ms. Huang and Mr. Wang went on trial at the Guangzhou Intermediate People’s Court on the charge of “inciting subversion of state power.” Security surrounding the courthouse was very tight, with police vehicles patrolling the area. Security personnel in plain clothes were also allegedly present and intimidated and dispersed onlookers.

Seven foreign diplomats attempted to enter the courthouse to observe the trial, but security guards blocked them from entering. After defence lawyers pressed the judge for permission, Mr. Wang’s father was permitted to enter the courthouse. Ms. Huang’s father and older brother were also permitted to enter the courthouse.

The trial ended on the same day and no verdict was announced. The court is expected to pick another date to announce it. No details emerged about what

took place during the trial. The human rights defenders' defence lawyers and relatives present in the courthouse appeared to have been pressured not to disclose the details of the trial or make any statements about the trial.

If convicted, the human rights defenders could face up to 15 years in prison.

Without wishing to prejudge the accuracy of the information received, we express serious concern for the physical and psychological integrity of Ms. Huang Xuequin and Mr. Wang Jianbing, as well as the alleged lack of adherence to due process guarantees in the trial of the human rights defenders. Trial observers, and particularly international trial observers, are essential to ensuring the right to a fair and public trial in accordance with international standards.

Furthermore, States must ensure that lawyers are able to perform all their professional functions without intimidation or improper interference and that all persons are entitled to access a lawyer of their choice to defend them in all stages of criminal proceedings.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** 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 be grateful for your observation on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about the measures taken to ensure that the trial of Ms. Huang Xuequin and Mr. Wang Jianbing is fair and in respect of due process standards, from the outset of their arrests and throughout judicial proceedings.
3. Please provide detailed information on the factual and legal grounds for the denial of entry to members of the public and international diplomats to the courthouse.
4. Please explain what measures have been taken to ensure that all human rights defenders in China can carry out their peaceful and legitimate activities without fear of arbitrary detention, judicial harassment or other restrictions.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to articles 3, 11 (1), 19 and 20 of the Universal Declaration of Human Rights, which guarantee that everyone has the right to liberty and security of person, everyone charged with an offence has the right to appear before a public trial and have all the guarantees necessary for their defence, and everyone has the right to freedom of opinion and expression and peaceful assembly and association.

We would also like to reiterate to your Excellency's Government the obligations of China through its ratification in 1980 of the International Convention on the Elimination of Discrimination against Women (CEDAW), and in particular Article 7, which provides that States shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

Furthermore, we would like to recall to the attention of your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba). According to principle 1, all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings. Moreover, according to principle 16 (a), Governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.

We stress the need to protect gender equality and freedom of opinion and expression, which "are mutually reinforcing, indivisible, interdependent and essential to the achievement of peace, democracy and sustainable development", as noted by the Special Rapporteur on freedom of opinion and expression in her report on gender justice and freedom of opinion and expression (A/76/258). In particular, the Special Rapporteur called upon "States [to] recognize non-discrimination and inclusion as central to their duty to respect, protect and fulfil the right to freedom of opinion and expression".

We would also 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 Protects Universally Recognised 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 and 2 of the Declaration which state that everyone has the right to promote and strive for the protection and realisation 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.

We would also like to remind your Excellency's Government of the following articles of the Declaration:

- article 5 (a), which guarantees the right to meet or assemble peacefully for the purpose of promoting and protecting human rights
- article 6 (c), which guarantees the rights to study, discuss, form and hold opinions on the observance of all human rights and fundamental freedoms and to draw public attention to those matters
- article 12 (2) and (3), which provide that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in the Declaration.

The Working Group on discrimination against women and girls, in one of its reports to the Human Rights Council (A/HRC/23/50), stated that stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women human rights defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group on discrimination against women and girls, recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life.

We would also like to refer to General Assembly resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law.

When the Working Group on discrimination against women and girls, visited China in 2013, it emphasized that the goal of gender equality cannot be fulfilled in China unless women's rights defenders can function in an environment of freedom and transparency and recommended the State to provide legal protection for all defenders of women's human rights and autonomous women's groups and coalitions in civil society to allow them to advance implementation of the law and advocate for policy changes affecting gender equality as part of the overall strengthening of the rule of law, democracy and human rights in China (A/HRC/26/39/Add.2).

In a joint declaration, the Working Group on discrimination against women and girls emphasized that women human rights defenders face unique challenges, driven by deep-rooted discrimination against women and stereotypes about their appropriate role in society. In its report on girls' and young women's activism

(A/HRC/50/25), the Working Group on discrimination against women and girls expressed that girls and young women are mobilizing worldwide to demand and catalyse change on critical global issues. They are at the forefront of initiatives aimed at transforming societies towards social justice, gender equality and sustainability. The realization of girls' and young women's human right to participate in public and political life, including organizing and engaging actively with a variety of State and non-State actors, is essential for the protection of their human rights. The Working Group on discrimination against women and girls has called on States to ensure that mechanisms are in place to solicit the views of girls and young women in all matters of public interest affecting them directly or indirectly and to give due weight to those views.

Furthermore, in its thematic report on women deprived of liberty (A/HRC/41/33), the Working Group on discrimination against women and girls underlined the increasing risk faced by women human rights defenders of criminalization and detention as a result of their legitimate work and recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders. Women who work specifically to combat gender stereotypes and advance women's rights are most likely to be targets for criminal persecution and imprisonment. Certain laws, including "complicity" laws, and "public order" laws or even anti-terrorism laws, may be particularly instrumentalized to target women human rights defenders. The Working Group recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders, and eliminate any laws or policy measures designed to criminalize the public roles of women.