

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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 CHN 17/2019

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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 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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 33/30, 36/6, 34/18, 41/12, 33/9, 34/5 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the detention and sentencing of Mr. **Huang Qi**. Mr. Huang Qi was the head of the human rights organization Tianwang Human Rights Service and founder of the human rights website *64tianwang*.

Mr. Huang Qi was the subject of a joint urgent appeal sent by Special Procedures mandate holders on 8 December 2003 (UA CHN 2/2003), an urgent appeal sent by the Special Rapporteur on the situation of human rights defenders on 18 June 2008 (UA 25/2008), a joint urgent appeal sent by Special Procedures mandate holders on 30 July 2009 (UA 19/2009), and an Opinion by the Working Group on Arbitrary Detention (WGAD) in April 2018 (A/HRC/WGAD/2018/22). In that occasion, the Working Group found that the deprivation of liberty of Mr. Huang Qi is in contravention of articles 9, 10, 19 and 20 of the Universal Declaration of Human Rights and that the appropriate remedy would be to release Mr. Huang Qi immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

Furthermore, grave concern over Mr. Huang Qi's health was the subject of a press statement by Special Procedures mandate holders on 20 December 2018.

We would like to thank your Excellency's Government for its letters of response dated 7 August 2008 and 18 December 2009. However, we remain deeply concerned by the new allegations outlined below.

According to the information received:

On 28 November 2016, Mr. Huang Qi was detained at his residence in Neijiang City, Sichuan province, by approximately 15 police officers. Police officers also searched Mr. Huang's home and confiscated some of his possessions. They detained him without showing a warrant or other decision by a public authority. Mr. Huang Qi was then allegedly subjected to incommunicado detention and his fate and whereabouts were unknown.

On 16 December 2016, Mr. Huang Qi was formally arrested on charges of "illegally providing State secrets to foreign entities" and held at Mianyang City Detention Centre, Sichuan province. A trial scheduled for 20 June 2018 was suspended without official reasons being provided.

For the first eight months of his detention, police denied Mr. Huang Qi access to a lawyer. Once granted access to lawyers, Mr. Huang Qi reported torture and ill-treatment by the authorities in an attempt to extract a confession, which he refused to provide. Allegedly, Mr. Huang Qi was made to stand for hours at a time despite his weak physical state and has been repeatedly interrogated by officers since his detention. Reportedly, Mr. Huang Qi was beaten by other detainees at the Mianyang City Detention Centre between 24 and 26 October 2017, with the knowledge of at least one of the detention centre's officers.

In October 2018, police added the additional charge of "intentionally leaking State secrets". This charge is purported to relate to a document issued in March 2016 by the Sichuan Province Public Security that listed Mr. Huang Qi and the *64tianwang* website as targets for a government crackdown, which Mr. Huang Qi posted on *64tianwang* on 6 April 2016. Reportedly, the authorities retroactively classified the document as "top secret".

Since being held at Mianyang City Detention Centre, Mr. Huang Qi has allegedly been deprived of adequate medical treatment for conditions of high blood pressure, heart disease, chronic kidney condition, and hydrocephalus. On 28 October 2018, Mr. Huang Qi told his lawyer that the detention centre had falsified reports of his blood pressure and understated the extent of his medical condition. There has been no comprehensive update on the status of Mr. Huang Qi's health since December 2018.

On 14 January 2019, Mr. Huang Qi's trial was held behind closed doors at the Mianyang City Intermediate People's Court.

Judicial authorities have disbarred two of his lawyers, one in February 2018 and another a few days before his 14 January 2019 trial. Mr. Huang Qi dismissed a third lawyer during his 14 January 2019 trial to protect him from retaliation from the authorities after the lawyer was threatened by authorities not to speak about the trial. The authorities have refused to acknowledge a fourth lawyer hired by Mr. Huang Qi's family for his defense in February 2019.

On 29 July 2019, the Mianyang City Intermediate People's Court convicted and sentenced Mr. Huang Qi of the charges "intentionally leaking State secrets" (3 year sentence in prison) and "illegally providing State secrets to foreign entities" (11 year sentence in prison) and imposed a 20,000 Chinese Yuan (approximately \$2,900 USD) fine. The sentence will run partially concurrently for a total sentence of 12 years in prison.

Mr. Huang Qi's family members were not informed of his trial on 14 January 2019, nor of his conviction and sentencing on 29 July 2019, neither of which were public. Mr. Huang Qi has not been able to see any family members since his detention on 28 November 2016, and has been denied access to a lawyer of his choice since his 14 January 2019 trial.

Without prejudice as to the accuracy of these allegations we express serious concern that Mr. Huang Qi's detention, including a period of enforced disappearance, his conviction and sentencing, and refusal by authorities to provide him with a lawyer of his choice may be directly related to his activities in defense of human rights. We are further concerned at the physical and mental integrity of Mr. Huang Qi, his lack of access to adequate health care, at the allegations of falsified medical records and the lack of information about Mr. Qi's current health status.

We would like to remind your Excellency's Government of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which China ratified on 4 October 1998.

Furthermore, we would like to refer your Excellency's Government to the International Covenant on Economic, Social and Cultural Rights (ICESC), ratified by China on 27 March 2001, which in its article 12 provides for the right to mental and physical health. This includes an obligation on the part of all States parties to, inter alia, refrain from denying or limiting equal access for all persons, including prisoners or detainees, to medical care (General Comment 14 of the Committee on Economic, Social, and Cultural rights, para 34).

In this connection, we would like to refer to the UN Standard Minimum Rules for the Treatment of Prisoners adopted unanimously by the UN General Assembly (A/Res/70/175) in December 2015 (“Mandela Rules”). Rules 24 to 35 establish that healthcare for prisoners is a State responsibility; prisoners should be ensured prompt access to medical attention in urgent cases and those requiring specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals.

Moreover, we should like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression of Mr. Huang Qi, in accordance with principles as set forth in article 19 of the Universal Declaration of Human Rights which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.

We further highlight that the United Nations Declaration on the Protection of All Persons from Enforced Disappearance states that no State shall practice, permit or tolerate enforced disappearances (article 2) and that accurate information on detention persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information (article 10 (2)).

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 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 bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both

in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

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. Huang Qi in compliance with international instruments. In the event that your investigations support or suggest the above allegations to be correct, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Huang Qi are respected and accountability of any person guilty of the alleged violations is ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide information on measures taken by Your Excellency's Government to implement Opinion 22/2018 of the Working Group on Arbitrary Detention.
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to reported allegations of torture and/or cruel, inhuman or degrading

treatment. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide detailed information about Mr. Huang Qi's current health status and about the measures taken by Your Excellency's Government to ensure that he has access to appropriate health care, including medical treatment, and access to his accurate and up-to-date medical files.
5. Please provide details of the legal basis of Mr. Huang Qi's detention and sentencing, especially their consistency with your obligations under international human rights law.
6. Please provide information on why Mr. Huang Qi has not been granted access to a lawyer of his choice since his 14 January 2019 trial.
7. Please provide information as to why Mr. Huang Qi has not been able to see his family members since his arrest on 28 November 2016, and why his family members were not notified of his trial on 14 January 2019, nor of his conviction and sentencing on 29 July 2019.
8. Please indicate what measures have been taken to ensure that human rights defenders in China are able to carry out their peaceful and 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 recurrence 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.

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.

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