

DECISION No. 19/1996 (PEOPLE'S REPUBLIC OF CHINA)

Communication addressed to the Government of the People's Republic of China on 23 August 1994.

Concerning: Jiang Qisheng, Wang Zhongqiu, Zhang Lin and Bao Ge, on the one hand and the People's Republic of China, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the revised methods of work adopted by it and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.
2. The Working Group notes with appreciation the information forwarded by the Government concerned in respect of the cases in question within 90 days of the transmittal of the letter by the Working Group.
3. (Same text as para. 3 of Decision No. 35/1995.)
4. In the light of the allegations made the Working Group welcomes the cooperation of the Government of the People's Republic of China. The Working Group transmitted the reply provided by the Government to the source but, to date, the latter has not provided the Working Group with its comments. The Working Group believes that it is in a position to take a decision on the facts and circumstances of the cases, in the context of the allegations made and the response of the Government thereto.
5. The communication submitted by the source, a summary of which was forwarded to the Government, concerned the following persons:
 - (a) Jiang Qisheng, 46-year-old, aeronautics graduate, was reportedly arrested in Beijing on 28 May 1994, a day after giving an interview to the British newspaper "The Sunday Times". According to the source, Jiang Qisheng worked as an interpreter for an interview of Ding Zilin, a philosophy professor, whose son was killed in Beijing on 4 June 1989 during the military crackdown on the 1989 pro-democracy protests. Jiang Qisheng had allegedly told the newspaper that he knew he was putting himself at risk for his association with Ding Zilin, who was under police surveillance. According to the source, Jiang Qisheng's wife, Mrs. Chen Hong, said she only found out that her husband had been arrested when she phoned the police to report him missing; when she went to the police station where he was held, she was not allowed to see him and was not told why he was being held. Jiang Qisheng was allegedly first arrested in June 1989 and detained for 18 months for his involvement in the 1989 pro-democracy protests when he was a member of the People's University Student's Autonomous Federation.
 - (b) Wang Zhongqiu, a postgraduate law student from Beijing University, was reportedly arrested at the end of May 1994 in Beijing in the days leading up to the fifth anniversary of Tiananmen. According to the source, Wang Zhongqiu was one of the organizers of a recently formed independent

labour rights group, the League for the Protection of the Rights of the Working People, whose registration had been refused by the Beijing authorities in March.

(c) Zhang Lin, a former pro-democracy activist who had been detained in 1989, was reportedly arrested on 2 June 1994 in Beijing also in the days leading up to the fifth anniversary of Tiananmen. According to the source, he has been sent back to his home town in Anhui province. No reasons for his arrest and current status were given.

(d) Bao Ge, a leading dissident, was reportedly arrested on 3 June 1994 in Shanghai. According to the source Bao Ge was arrested after sending an open letter to the Chinese Government asking for a national human rights organization to be set up. The organization reportedly planned to investigate issues such as free labour unions, freedom of religion and the protection of the rights of women and children.

6. The Government, in its reply, gave the following information:

(a) As regards Jiang Qisheng, the public security organs abandoned their investigation of Jiang on 29 June 1994.

(b) As regards Wang Zhongqiu, the public security authorities abandoned their watch on Wang's home on 17 September 1994. The Government did not react, in its reply, to the allegations that the two above-mentioned persons had been detained.

(c) As regards Zhang Lin, the Government refers to an earlier communication, dated October 1994, by which it had already informed the Working Group of the situation of that person. That communication, dated 17 October 1994, was a reply to an urgent appeal sent by the Working Group on behalf of Zhang Lin, who had allegedly gone on hunger strike while in detention. The Government reported that Zhang Lin had been sentenced to two years' imprisonment in 1989 for sedition. In 1991 he was released. His present imprisonment had nothing to do with the punishment referred to above. Since 1993 he engaged in promiscuous sexual relations with many young women, by using menaces and deceit, behaving in a criminally indecent manner and perturbing normal social order. On 19 August 1994, the Bengbu Municipal Re-education through Labour Committee in Anhui decided to assign him to three years' re-education through labour. On 29 August 1994, Zhang Lin signed his re-education through labour order. The Government did not react to the allegations that Zhang Lin was arrested on 2 June 1994 in Beijing also in connection with the fifth anniversary of Tiananmen.

(d) As regards Bao Ge, the Government, which did not react to the allegations concerning that person, affirmed that Bao Ge was involved in fomenting disturbances and other activities seriously disruptive of public order and security. The Shanghai Municipal Re-education through Labour Committee assigned him on 19 September 1994 to three years' re-education through labour in accordance with articles 10.4 and 13 of the Provisional Procedures governing Re-education through Labour.

7. It appears from the above that:

(a) The Working Group does not have sufficient information at its disposal in order to take a decision on the alleged detention of Jiang Qisheng and Wang Zhongqiu.

(b) Zhang Lin, irrespective of the nature and motives of the accusations against him, is being denied his right to have his cause examined in full equality before an independent and impartial court, in order that that court may determine any criminal charges brought against him. The absence of such legal proceedings constitutes a violation of the right to fair trial of such gravity that it confers on the deprivation of liberty an arbitrary character.

(c) The detention of Bao Ge is motivated by the fact that he peacefully exercised his right to freedom of expression by, *inter alia*, sending an open letter to the Chinese authorities asking that a national human rights organization be set up. This constitutes a violation of his rights to freedom of expression and to freedom of peaceful assembly and association, guaranteed by articles 19 and 20, respectively, of the Universal Declaration of Human Rights. Furthermore, Bao Ge is being denied his right to have his cause examined in full equality before an independent and impartial court, in order that that court may determine any criminal charges brought against him. The absence of such legal proceedings constitutes a violation of the right to fair trial of such gravity that it confers on the deprivation of liberty an arbitrary character.

8. In the light of the above the Working Group decides:

(a) The cases of Jiang Qisheng and Wang Zhongqiu are maintained pending for further information, in keeping with paragraph 14.1 (c) of the revised methods of work of the Working Group.

(b) The detention of Zhang Lin is declared to be arbitrary being in contravention of articles 10 and 11.1 of the Universal Declaration of Human Rights and falling within category III of the principles applicable in the consideration of the cases submitted to the Working Group.

(c) The detention of Bao Ge is declared to be arbitrary being in contravention of articles 10, 11.1, 19 and 20 of the Universal Declaration of Human Rights and falling within categories II and III of the principles applicable in the consideration of the cases submitted to the Working Group.

9. Consequent upon the decision of the Working Group declaring the detention of Zhang Lin and Bao Ge to be arbitrary, the Working Group requests the Government of the People's Republic of China to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights.

Adopted on 23 May 1996.