

OPINION No. 36/2000 (PEOPLE'S REPUBLIC OF CHINA)

Communication addressed to the Government on 1 February 2000

Concerning Li Chang, Wang Zhiwen, Ji Liewu and Yao Jie

The State has signed but not ratified the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by Commission on Human Rights resolution 1991/42. The mandate of the Working Group was clarified and extended by resolution 1997/50, and reconfirmed by resolution 2000/36. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.
2. The Working Group regrets that the People's Republic of China has not provided its comments on the allegations made by the source.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);
 - (ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
 - (iii) When the complete or partial non-observance of the relevant international standards set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned relating to the right to a fair trial is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).
4. The Working Group would have welcomed the cooperation of the Government of the People's Republic of China. On 1 February 2000, the allegations from the source were communicated to the Government. In the absence of a response, the Working Group is left with no alternative except to deal with the allegations and render an opinion in the light thereof.

5. It is appropriate at this stage to refer to the allegations forwarded to the Working Group by the source. These allegations relate to four presumed leaders of the Falun Gong spiritual movement, Li Chang, Wang Zhiwen, Ji Liewu and Yao Jie. They have allegedly been sentenced by the Beijing Intermediate Peoples Court to prison terms of between 7 and 18 years.

- (i) The court found them guilty of organizing and using a cult to undermine laws, causing deaths and illegally obtaining and disseminating State secrets. According to the Xinhua news agency, the judges ruled that the four defendants “organized and used the Falun Gong evil cult organization to spread superstition and heresies and deceive people, causing deaths”. The trial reportedly was the Government’s most significant prosecution since outlawing Falun Gong as a menace to the public and State interests in July 1999.
- (ii) The source alleges that for the trial, held on Sunday, 26 December 1999, the authorities cordoned off the courthouse to ensure that Falun Gong members did not stage peaceful protests such as had been held repeatedly in defiance of the Government’s ban. Although State media reported that the four defendants had lawyers and that family members attended the proceedings, one relative indicated that each defendant was only allowed one family member in the courtroom. As some of the charges related to theft and dissemination of State secrets, part of the proceedings were held behind closed doors.
- (iii) According to the source, in setting out its case through the media, the Government merely displayed its fears about Falun Gong’s ability to mobilize large numbers of followers, which was underlined by the fact that all the defendants were party members with good jobs in government and business. According to the Court, Li, Wang, Ji and Yao “set up 39 command posts, more than 1,900 training posts and 280,000 contact posts”. They were said to have “plotted and directed” 78 protests, and to have stolen 37 top secret or otherwise classified State secrets and disseminated them or included them in protest letters. Finally, the four were said to have organized “proselytizing sessions and printed group literature illegally netting hundreds of millions of yuans in profits”.
- (iv) The defendants contended that they had merely engaged in peaceful activities and protests, and defended the tenets of the group.

6. A response from the Government would have enabled the Working Group to appreciate the conclusions arrived at by the court when it ruled that the four defendants had “organized and used the Falun Gong evil cult organization to spread superstition and heresies and deceive people, causing deaths”. The alleged role of the defendants in causing deaths could have been better appreciated had evidence for such conduct been furnished to the Working Group. In the absence of hard evidence, it is difficult for the Working Group to accept the conclusions of the court in this regard. The manner in which the courthouse was cordoned off to obstruct peaceful

protests, the allegation that only one member of the family was allowed in the courtroom and the secret nature of the proceedings indicate that the Government dealt with these four defendants merely because they had the ability to mobilize a large number of followers. It is apparent that their activities and protest were peaceful and that they were in no way directly involved in any violent activity. The Working Group believes that article 19 of the Universal Declaration of Human Rights has been violated. The Working Group is of the opinion that everyone has a right to freedom of opinion and expression and that this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media, regardless of frontiers. There is nothing to suggest that Falun Gong uses other than peaceful means to spread what the organization believes in.

7. In the above circumstances, the Working Group is of the opinion that the detention of Li Chang, Wang Zhiwen, Ji Liewu and Yao Jie is arbitrary, is a direct violation of article 19 of the Universal Declaration of Human Rights and falls within category II of the Working Group's methods of work and that the situation requires to be remedied, since the deprivation of the liberty of Li Chang, Wang Zhiwen, Ji Liewu and Yao Jie is arbitrary and without reasonable cause.

8. Consequently, the Working Group requests the Government of the People's Republic of China to take measures necessary to remedy the situation and, in the light of the opinion of the Working Group, to act consistently with the principles enunciated in article 19 of the Universal Declaration of Human Rights.

Adopted on 27 November 2000