

Dear Honorable High Commissioner Ms. Bachelet,

On behalf of the Taiwanese Rescue Team, we are writing to bring your attention to the situation of a Taiwanese human rights defender, Mr. Li Ming-Che, who is now serving a five-year sentence in a prison in China. His case reveals multiple incidents of violations by the Chinese government on Mr. Li's freedom of expression, right to a fair trial, and right to be free from torture and other cruel and inhuman treatment and punishment. Mr. Li's health has deteriorated following months of inhuman detention conditions, and his wife has been deprived of the opportunity to visit him. Li's case has been reported to and handled by the Working Group on Enforced or Involuntary Disappearances in March 2018,^[*] and again by the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, and the Special Rapporteur on the situation of human rights defenders in November 2018.^[†] We believe that the effect of the interventions would be amplified by your attention, therefore we urge you to look into Mr. Li's case and take appropriate actions.

Arrest and Court Decision

Mr. Li fell into the hands of unidentified officials (remained unclear until today) when he entered China via Macau on the morning of March 19, 2017. One week later, the Chinese authorities confirmed in a routine press conference that he was under investigation. It was not until the end of May 2017 that the Chinese government announced that he had been "officially arrested" by the security department with the approval from the Hu-Nan Procuratorate in suspicion of "incitement of subversion of state power". According to the indictment document submitted by the Hu-Nan prosecutors to the court, what Li had done to cause himself such ordeal was merely exercising his right to freedom of speech and expression: he delivered articles and talks regarding democracy and human rights on social media (Facebook, WeChat, and QQ) to appeal to the Chinese audiences from 2012 through 2015. On November 28, 2017, Li Ming-Che was sentenced to 5 years in prison and deprived of political rights for 2 years for "subversion of state power" under Article 105 of the Criminal Code.

Visit by Mrs. Li

According to the Chinese *Prison Act*, family members can visit the prisoner. Li Ching-Yu, Ming-Che's wife, was allowed to see him once (30 minutes) every month. However, since her multi-entry travel document to China was revoked by China in April 2017, she had to apply for permission to enter China each time. She made visits to the Hu-Nan Chi-Shan Prison (湖南赤山監獄) in March, May, June, July, and September of 2018. However, the application has been repeatedly denied since September 2018. In the meanwhile, Li Ming-Che was transferred to another prison near Beijing in October and later transferred back to Hu-Nan Chi-Shan Prison, without notifying Mr. Li's family regarding either of the transfers.

Prison Conditions

Mrs. Li Ching-Yu was finally allowed a visit on 18th of December. It was found out that Mr. Li's clothing was discarded during the process of transferring and his cash account was suspended, making it impossible to purchase anything. In addition, Mr. Li had to labor more than 10 hours per day, without the one day off each

week as prescribed by the *Prison Act*. The food provided by Chi-Shan Prison was often spoilt, and Mr. Li has lost 30 kilograms since imprisonment. Unlike other prisoners, Li was prohibited from correspondences: he was not allowed to send mails out or receive mails except from Mrs. Li, whose letters often arrived in Li's hand up to 6 months after they're sent. Books sent to Li, though legally published in China, were mostly returned to the family. The Chinese *Prison Act* permitted a "Family Phone Card", but Li's applications were denied.

The Taiwan Affairs Office of the State Council, PRC, criticized Mrs. Li after she disclosed the prison conditions in a press conference. The criticism then turned into punitive action: the Chi-Shan Prison issued a notification to Mrs. Li Ching-Yu on January 22, claiming that her "publicly expressed opinions following the December visit were utterly counterfactual, interfered with the routine enforcement of law, and obstructed the reformation of prisoner Li Ming Che", and prohibited her visits to Mr. Li for three months lasting from January 23 to April 22 of 2019.

The treatments Mr. Li received were direct violations of China's own *Prison Act*, and incompatible with the *UN Standard Minimum Rules for the Treatment of Prisoners*. They also amounted to *Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* for both Mr. and Mrs. Li.

This appeal does not only concern Mr. Li Ming-Che, but many other persons in detention in China. China's laws and actions must be brought into line with the international human rights standards. Eventually, a China that respects human rights is beneficial to the whole world.

[*] Covenants Watch Taiwan (CW) filed an appeal for Mr. Li to the Working Group on Enforced or Involuntary Disappearances (WGEID) in April 2017. WGEID has heard the case and conducted some intervention (WGEID Case 10007396). The CW has also filed a report on "People's Republic of China under the Universal Periodic Review Third Cycle" in March 2018, which was referenced in OHCHR's *Stakeholder Information*. (please see attached file)

[†] Because of the unexplained transfer of Li Ming-che and denial of his wife's visits, the Covenants Watch sent a second petition to the Working Group on Arbitrary Detention, the WGEID, and the Special Rapporteur on the situation of human rights defenders on Nov. 9, 2018. The "Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; and the Special Rapporteur on the situation of human rights defenders" was issued on Nov. 23, 2018. (REFERENCE: UA CHN 22/2018)

聯合國人權事務高級專員 Backelet 女士鈞鑒，

我們代表李明哲救援大隊特地致函閣下，是欲提請閣下關注正於中國服五年期刑之台灣人權捍衛者 李明哲先生之處境。李明哲先生之案件揭露出中國政府多次侵犯 李先生之言論自由、公平審判以及免於遭受酷刑和其他殘忍、不人道待遇和處罰等權利。尤其，李明哲先生的健康狀況因為數月以來不人道的拘禁而每況愈下；其妻子亦被剝奪了前往探視他的機會。此案已於 2018 年 3 月[*]提報至任意拘留工作小組以及被強迫或非自願失蹤工作小組，並獲得以上單位之受理。2018 年 11 月.[†]，此案再度提報至聯合國關注人權捍衛者處境之特別報告員，並獲其受理。我們相信，閣下對此案件的關注將會提高就此事干預之效果，因此我們敦請閣下調查李明哲先生之案件並採取適當之行動。

任意逮捕與法庭裁決

李明哲先生於 2017 年 3 月 19 日早上經由澳門入境中國的過程中，落入了身份不明（至今仍不清楚）的官員手中。中國當局於一週後才於例行的記者會中，證實了李明哲先生正在接受調查。而中國政府直到 2017 年 5 月底才對外宣布，表示李明哲先生因涉嫌「煽動顛覆國家政權」獲湖南人民檢察院核准，被安全部門「正式逮捕」。根據湖南檢察官向法院提交之起訴書，李明哲先生之所以遭受到如此的折磨，僅因其行使了自由發表演論與表達意見之權利：他在社群媒體（Facebook，微信和 QQ）上發表了有關民主和人權的文章及言論，並於 2012 至 2015 年間吸引了中國的讀者與聽眾。2017 年 11 月 28 日，李明哲先生被依中華人民共和國《刑法》第 105 條「顛覆國家政權」，判處 5 年有期徒刑並褫奪公權 2 年。

李淨瑜女士申請探視遭阻

依據中華人民共和國《監獄法》規定，受刑人得會見其親屬，因此李明哲先生之妻 李淨瑜女士每月皆得以與其會見一次（每次 30 分鐘）。然而，由於李淨瑜女士的多次入境許可證件於 2017 年 4 月即被中國撤銷，此後的每一次她都必須重新申請進入中國。李淨瑜女士於 2018 年的 3 月、5 月、6 月、7 月和 9 月先後訪問了湖南赤山監獄。但是，自 2018 年 9 月起其申請一再遭到拒絕。在這段期間，李明哲先生於 10 月被轉移到北京附近的另一座監獄，而後又被轉移回湖南赤山監獄。相關當局皆未通知李明哲先生的家人，有關監獄移轉之處分。

李明哲先生於監所之處境

12 月 18 日李淨瑜女士終於獲准前去拜訪李明哲先生，然而卻發現李明哲先生的衣物在監獄移轉的過程中被丟棄；其現金賬戶亦被暫停，無法購買任何東西。此外，李明哲先生還被迫每日工作超過 10 個小時，且未依規定於每週休息一日，此違反了中華人民共和國《監獄法》之規定。赤山監獄經常提供給李明哲先生已經餿掉的食物，以致於其自監禁以來體重已減輕了 30 公斤。與其他受刑人不同的是，李明哲先生還被禁止通信：除了李淨瑜女士之外，他不被允許收發郵件；李淨瑜女士的信件也經常會晚了 6 個月，才送抵李明哲先生的手中；雖然寄送給李明哲的書皆能在中國合法出版，卻往往被退回給家人；縱使中國的《監獄法》允許使用「家庭電話卡」，但李明哲先生提出之申請卻不被接受。

在李淨瑜女士揭露了監獄的生活條件後，隨即遭到中國國務院台灣事務辦公室（國台辦）在記者會上對她的撻伐。而撻伐隨後演變為對李淨瑜女士的懲罰性行動：赤山監獄於1月22日向李淨瑜女士寄出通知，聲稱她「於12月探視後公開表達之意見完全與事實相悖，此舉亦干擾了例行的執法並阻撓受刑人李明哲的改革」，並禁止她自2019年1月23日至4月22日間的三個月內不許訪視李明哲先生。

（中華人民共和國）施予李明哲先生之待遇實是直接違反中國自己之《監獄法》，亦不符合《聯合國在監人處遇最低標準規定》。同時亦構成了對李明哲先生與李淨瑜女士之「酷刑和其他殘忍、不人道或有辱人格的待遇或處罰」。

這一申訴不僅涉及李明哲先生，還涉及在中國被拘禁的眾多其他個人。中國的法律及作為必須要符合國際人權標準。若中國最後能成為一個尊重人權的國家，將有益於世界上全體的人民。

[*] 人權公約施行監督聯盟（Covenants Watch）於2017年4月替李明哲先生向強迫或非自願失蹤工作小組（WGEID）提出申訴，而WGEID也已審理了此案，並執行了一些干預措施（WGEID：10007396案件）。此外，人權公約施行監督聯盟亦於2018年3月，提交了有關中華人民共和國第三輪普遍定期審查（People's Republic of China under the Universal Periodic Review Third Cycle）之報告。聯合國人權事務高級專員辦事處（OHCHR）在之利益相關者資訊（Stakeholder Information）中採用了此份報告。（請參閱所附文件）

[†]由於李明哲先生在未獲說明的情況下被轉換監所，且其妻子亦被拒絕前往探訪，人權公約施行監督聯盟於2018年11月9日向強迫或非自願失蹤工作小組（WGEID）和聯合國關注人權捍衛者處境之特別報告員提交了第二次的請願書。「任意逮捕工作小組、強迫或非自願失蹤工作小組以及人權捍衛者特別報告員函文」-2018年11月23日發布。（參見：UA CHN 22/2018）