

Mr. Zeid Ra'ad Al Hussein
UN High Commissioner for
Human Rights
Palais des Nations
CH-1211 Geneva 10

24 May 2017

**Re: Practice of Advance Disclosure of Human Rights Defenders'
Names to State Parties**

Dear High Commissioner Hussein,

As an accredited NGO which regularly brings human rights dissidents to Geneva, we write to express alarm regarding the Secretariat's policy of disclosing the names of human rights activists attending Human Rights Council (HRC) sessions to requesting State parties in advance of the sessions.

The Secretariat's February 2, 2017 [press release](#) on the matter states: "Chinese authorities, and others, regularly ask the UN Human Rights Office, several days or weeks prior to Human Rights Council meetings, whether particular NGO delegates are attending the forthcoming session." The release then acknowledges that the Office of the High Commissioner for Human Rights (OHCHR) "confirms this information."

These statements raise two serious concerns:

First, we note that your use of the word "confirm" is misleading and evasive because it suggests that the Chinese delegation already knew which activists were attending and merely asked for confirmation. But this was not the case.

According to the leaked [UN Ethics Office memo](#) from the Emma Reilly whistleblower case, in February 2013, the Chinese delegation provided your office with a list of around 12 names and asked you to identify which of them were accredited to attend the upcoming session of the HRC. *See* Ethics Memo at ¶ 16. Thus, China did not know which activists (if any) would be attending the upcoming HRC session. Then, Eric Tistounet of your office approved providing the Chinese delegation with the names of those on the list who were attending. *Id.* at ¶¶ 15-16. The bottom line is that your office did not confirm information already in China's possession, but it provided China with new information knowing that China intended to use it to harass the human rights activists (which it did, by filing a complaint accusing them of terrorism) or worse. *Id.* at ¶¶ 16-18. By using the word "confirm," you make your actions appear innocuous and minimize the potentially grave consequences for the human rights defenders of having their names disclosed to China (or another State party) in advance of the session.

Second, and more importantly, the February 2 press release indicates that this is an ongoing practice. Prior to that press release, we were not aware of any such official UN policy and can find no record of such a policy on any UN website.

UN Watch is an accredited NGO which regularly brings human rights activists to Geneva to lobby for their causes. Just in the last two years, we have brought activists from at least 14 different countries: China; Cuba; Eritrea; Iran; The Maldives; Mauritania; North Korea; Russia; Saudi Arabia; Tibet; Turkey; Venezuela; and Vietnam.

We are particularly concerned about this issue because one of our human rights activists, Ti-Anna Wang, [was subjected to harassment and intimidation](#) by China during the March 2014 HRC Session. Ti-Anna Wang was attending the session to plead for the release of her father, Wang Bingzhang, an expatriate Chinese democracy advocate, who has been in Chinese custody since 2002 when China illegally kidnapped him from Vietnam. First, China attempted to silence Ms. Wang and prevent her from speaking at the session. After that effort failed, a representative of an NGO with close ties to the Chinese government intimidated and harassed Ms. Wang by taking unauthorized photos of her and her computer while she was sitting in the HRC session on China. The UN ultimately [expelled](#) the Chinese spy over his improper conduct, but no action was taken against China or the NGO with which the spy was affiliated.

China is particularly known for harassing those who speak out against it at the HRC. Thus, any policy which enables China (or any other State party) to find out which dissidents will be attending an HRC session in advance of the session, enables China's heavy-handed intimidation tactics. This is contrary to the very purpose of the UN and the HRC, institutions meant to guard human rights and expose, not facilitate, abuses. No political dissidents should be subjected to harassment or intimidation for traveling to Geneva to campaign for human rights at the UN.

Furthermore, any such policy would violate the UN Charter and several UN rules and regulations, including these:

- *Integrity and impartiality*, as codified in Article 101(3) of the [UN Charter](#) (UN staff must possess “the highest standards of efficiency, competence and integrity.”); [UN Staff Regulation](#) 1.2(b) (“integrity, includes, but is not limited to probity, impartiality, fairness, honesty and truthfulness.”); Paragraph 5 of the [Standards of Conduct for International Civil Servants](#) (integrity includes “honesty, truthfulness, impartiality and incorruptibility”). Providing this type of information to Governments in advance of HRC sessions favors the interests of the State party over the rights of individual dissidents and places the dissidents at risk—the very opposite of impartiality and fairness.
- *Not taking instructions from Governments*, as codified in Article 100(1) of the UN Charter (“[] the Secretary-General and the staff shall not seek or receive instructions from any Government or from any other authority external to the Organization...”); UN Staff Regulation 1.2(d) (“[] staff members shall neither seek nor accept instruction from any Government or from any other source external to the Organization.”); Paragraph 8 of the Standards of Conduct of the

International Civil Service (“civil servants must remain independent of any authority outside their organization”).

It is clear from the emails that Eric Tistounet’s decision was in response to heavy pressure from the Chinese mission. The decision followed a February 7, 2013 meeting between OHCHR officials and the Chinese delegation, at which the Chinese representative insisted that the OHCHR provide them with the information prior to the session and the OHCHR representatives responded that they were not likely to be able to do so. Ethics Memo at ¶ 14; [Reilly Response](#) at ¶ 16. Just after that meeting, the Chinese ambassador invited the High Commissioner to lunch with him on February 21, 2013. Reilly Response at ¶ 16. At a meeting a few days later, Tistounet indicated that he wanted to avoid complaints from the Chinese to the Secretariat, particularly complaints to the High Commissioner. *Id.* He confirmed this objective in an email later that day where he stated that one of his reasons for approving the disclosure was to avoid exacerbating China’s “mistrust against us.” *See* Ethics Memo at ¶ 15. In light of this timeline, Tistounet’s decision amounts to improperly taking instructions from the Chinese delegation because it was in response to an implicit threat by the Chinese that if the OHCHR did not provide the requested names, China would make a complaint to the High Commissioner. The decision to avoid that result was taken even though disclosing the names constituted a departure from past procedure and was not consistent with the OHCHR’s treatment of similar requests from other missions. Ethics Memo at ¶¶ 12-13; Reilly Response at ¶¶ 19-20. Accordingly, this was not a valid consideration.

- *Not providing Governments with non-public information*, as codified in Staff Regulation 1.2(i). We note at least seven different excuses set out in the Ethics Memo and your Press Release for why the disclosure did not matter, such as (1) the activists in issue were informed their names had been disclosed (Ethics Memo at ¶ 22); (2) the information was already public because the activists themselves had published it in a press release two months earlier (Ethics Memo at ¶ 23; Press Release); (3) the NGO that sponsored them is “extremely open about its presence,” at many UN events (Press Release); (4) the Human Rights Council itself is “a regular public event that is televised and webcast”; (5) these same delegates had attended HRC meetings regularly in the past (Press Release); (6) these delegates have never been denied entry by the UN on the basis of any allegations against them by the Chinese government (Press Release); and (7) UN security took extra precautions to ensure no harm to the sponsoring NGO while it was on UN Premises (Press Release).

However, the fact is that China had no innocent reasons for wanting the information. Its purpose, well known to the OHCHR, was to harass and intimidate the activists, or worse. *See* Ethics Memo at ¶ 16; Press Release. Any precautions the UN took by notifying the delegates or providing extra security to the NGO while on UN premises does not address the serious personal risk to these individuals of having the authoritarian Chinese government know about their plans to attend the session in advance. Furthermore, if the information had been truly public, China would have had no need to demand it from UN officials.

Emma Reilly, who was the NGO liaison in 2013, has argued that disclosing the information *prior to* the HRC session was not sanctioned by the existing rules or practices of the HRC and could potentially endanger the human rights activists, even if the information later became public during the course of the session. *See* Ethics Memo at ¶¶ 12, 14-15; Reilly Response at ¶¶ 22-24, 28-29. Your press release offering multiple excuses to justify your actions essentially validates these claims.

- *Not endangering safety of others*, as codified in Article 11 of the [Code of Conduct for OHCHR staff](#) which obligates staff to “refrain from endangering, by way of their words or action . . . the safety and privacy of the people with whom they come into contact.” There is no question that the safety and privacy of human rights activists is compromised when their plans to attend an HRC session are disclosed to a State party in advance of the session.

Accordingly, we call on you to clarify whether it is now the Secretariat’s policy to provide names of individual dissidents accredited to attend an HRC session to requesting States in advance of the session, and if so, to advise us where we can find a written record of this policy. Further, if this is in fact the Secretariat’s policy, we demand the OHCHR recall its mandate “to promote and protect all human rights,” and immediately stop this practice which has the potential to severely harm human rights defenders.

Sincerely,



Hillel C. Neuer
Executive Director

cc: Amb. Nikki Haley