

(Translated from Chinese Mandarin)

28 September 2012

In regards to the Joint Urgent Appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; 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 association; Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment [UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (53-24) G/SO 214 (89-15) CHN 7/2012] concerning the illegal detention and ill treatment of _____ a Tibetan girl in Ganzi County, Sichuan, the Chinese government hereby provides the following reply, after a careful investigation into the circumstances of those letters was carried out:

Our investigation reveals that we have no knowledge about the case of _____ but there is a similar case. On the 25th of June, 2012, at 11 a.m., _____ (female, 19 years old) shouted the slogan of "Tibet's Independence" and threw leaflets outside the wet market on _____ Ganzi County, Ganzi Prefecture, Sichuan, to instigate the splitting of the country. This has violated the Chinese laws and the on-duty policeman caught her at the scene. The Re-education through Labor Committee of the People's Government of Ganzi Prefecture made a decision to sentence _____ to the re-education through labor according to Section 1 of Article 10 of the "Temporary Measures on Re-education through Labor". During the period from criminal detention to the approval of the decision, the local public security organ had never received any complaint by or on behalf of _____. In the course of arresting _____ her left hand was grazed due to her resistance to capture. Her left hand has completely recovered after receiving the medical care from the Hospital of Ganzi County. _____ has been sent to the Center for Reeducation through Labor.

It is important to note that freedom of opinion and expression is an important right of the Chinese citizens, which is protected by the Constitution and other laws of China. But that does not mean there is no restriction when exercising this right. The Constitution of China, while protecting the freedom of expression, also stipulates in Article 51 and 54 that "the exercise by citizens of the People's Republic of China of their freedoms and rights may not infringe upon the interests of the state, of society and of the collective, or upon the lawful freedoms and rights of other citizens" and that "it is the duty of citizens of the People's Republic of China to safeguard the security, honor and interests of the motherland; they must not commit acts detrimental to the security, honor and interests of the motherland." Such necessary restrictions stipulated in the Constitution of China are also in alignment with the spirit of the International Covenant on Civil and Political Rights. _____ instigated Tibet's independence and the splitting of the country. Her behavior has violated the laws of China and has gone beyond the scope of freedom of expression.

Moreover, the related organs protected the basic rights of _____ in the handling process. There was no so-called arbitrary detention or use of violence.

The Chinese Government respectfully requests that the full text of the above be recorded in the relevant UN documents.

联合国人权理事会任意拘留问题工作组主席、言论自由、和平集会、对妇女暴力、酷刑问题特别报告员关于四川省甘孜县藏族少女 [REDACTED] 非法拘禁、暴力对待事件的联名来函 [UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (53-24) G/SO 214 (89-15) CHN 7/2012] 收悉。中国政府对来函所涉情况做了认真调查，现答复如下：

经查，不掌握 [REDACTED] 案情况，但有一起类似案件：2012年6月25日11时，[REDACTED]（女，19岁）在四川省甘孜州甘孜县 [REDACTED] 菜市场外呼喊“西藏独立”口号，并散发传单，煽动分裂国家，违反中国法律，被执勤民警当场抓获。甘孜州人民政府劳动教养委员会根据《劳动教养试行办法》第10条第1项规定，作出对 [REDACTED] 劳动教养的决定。在刑事拘留至劳教审批期间，当地公安机关未接到当事人或其代理人提出的任何申诉。在抓捕 [REDACTED] 过程中，其拒捕造成左手被擦伤，经甘孜县医院治疗现已痊愈。目前，[REDACTED] 已被送至劳教所。

需要说明的是，言论自由作为一项重要的公民权利，受到中国宪法和法律严格保护，但这并不意味着公民在行使该权利时不受任何限制。中国宪法在規定公民享有言论自由的同时，在第51条、第54条规定，“行使自由和权利的时候，不得损害国家的、社会的、集体的和其他公民的合法的自由和权利”；“中华人民共和国公民有维护国家的安全、荣誉和利益的义务，不得有危害国家安全、荣誉和利益的行为”。中国宪法做出的这一必要限制，与《公民权利和政治权利国际公约》的精神是一致的。 [REDACTED] 煽动西藏独立，分裂国家，已违反了中国法律，超出了言论自由范畴。

此外，中方在办案过程中依法保障其各项基本权利，不存在所谓“任意拘留”或“使用暴力”等情况。

中国政府谨请将上述内容全文载入联合国有关文件中。