

Geneva, the of 7th January 2014

The letter of Urgent Appeal(UA G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) CHN 11/2013), sent jointly by the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, 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 of association and Special Rapporteur on the situation of human rights defenders has been received. The Chinese Government has carried out a careful investigation of the cases referred to in the letter and would like to provide the following points of reply:

1. Cao Shunli is a woman of 52 years of age. It was found that she had disrupted social administrative order on many occasions. On 14 September 2013, she was detained by the Chao Yang Branch of the Beijing Public Security Bureau on the charge of the crime of provocation. On 21 October 2013, a warrant was issued by the Chao Yang Public Prosecutor's Office for her arrest, and Cao was then arrested.

Chen Jianfang is a woman of 43 years of age. On 3 September 2013, pursuant to article 12 of the Exit and Entry Administration Law of the People's Republic of China, the Shanghai Municipality Public Security Office stopped her at the border control. The penalty against Chen by the public security organ is based on the relevant law. Her violation of the law is established by ample evidence and clear facts. The application of law in this case is correct, the punishment is appropriate and the procedure is legitimate.

2. Pursuant to article 12.1 of the Criminal Procedure Law of the People's Republic of China, people's courts cannot accept requests for lawsuits on subjects of State actions, such as defence and State diplomacy, brought about by citizens, legal persons or other organizations. The work carried out by the Foreign Ministry on behalf of the Government of China in submitting to the United Nations the national report on human rights is a diplomatic action of the State. The lawsuits filed by Cao and others accusing the Government of lack of transparency in the process of national human rights reviews did not fall within the competence of the people's court. On 23 August 2013, the Second Beijing Intermediate People's Court came to the decision that the lawsuits filed by Cao and others against the Foreign Ministry were not acceptable.

3. In the preparation work of the national human rights review, the Government of China attaches great importance to the participation of non-governmental organizations. Consultations were carried out with more than 20 representative institutions, such as the All China Trade Union, the All China Women's Federation, the Chinese Society for Human Rights' Studies and the Institute of Law of the Chinese Academy of Social Science. The National Human Rights Report was posted on the website of the Ministry of Foreign Affairs for public perusal. Whatever has been done in this regard by the Government of China was in strict accordance with the spirit of the resolutions approved by the Human Rights Council.

The Government of China would like to request that the above text be reflected in full in relevant United Nations documentation.



No. GJ/101/2013

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the letter 【UA G/SO 217/1 G/SO 214(67-17) Assembly & Association (2010-1) G/SO 214(107-9) CHN 11/2013】 dated 1 October 2013, has the honor to transmit herewith the attached reply by the Chinese Government.

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Office of the High Commissioner for Human Rights
Geneva

联合国人权理事会强迫失踪问题工作组主席、言论自由问题特别报告员、和平集会和结社问题特别报告员、“人权卫士”问题特别报告员就涉华个案发来联合紧急呼吁函[UA G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) CHN 11/2013]收悉。中国政府对来函所涉情况做了认真调查，现答复如下：

一、曹顺利，女，52岁。曹因多次妨害社会管理秩序，于2013年9月14日被北京市公安局朝阳分局以寻衅滋事罪依法刑事拘留审查。2013年10月21日，朝阳区检察院依法以寻衅滋事罪批准对曹实施逮捕。

陈建芳，女，43岁。2013年9月3日，上海市公安局根据《中华人民共和国出入境管理法》第十二条之规定，对陈依法采取边控措施，限制其出境。公安机关对陈的处罚系依法对其违法行为作出的，事实清楚，证据充分，适用法律正确，处罚适当，程序合法。

二、根据《中华人民共和国行政诉讼法》第十二条第（一）项的规定，人民法院不受理公民、法人或者其他组织对国防、外交等国家行为提起的诉讼。外交部代表中国政府向联合国提交国家人权报告的行为属于外交行为，曹等人就中国政府接受国别人权审查工作缺乏透明的诉讼不属于人民法院的受理范围。8月23日，北京市第二中级人民法院依法就曹等人对外交部提起的行政诉讼案做出不予受理的裁定。

三、中国政府在接受国别人权审查筹备工作中，重视非政府

组织的参与，广泛征求了中华全国总工会、中华全国妇女联合会、中国人权研究会、中国社会科学院法学研究所等近 20 家有代表性组织的意见，并通过外交部网站广泛征求公众对《国家人权报告》的意见。中国政府的做法完全符合人权理事会相关决议精神。

中国政府谨请将上述内容全文载入联合国有关文件中。