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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) Health (2002-7) G/SO 214 (107-9) G/SO 214 (53-24)
CHN 13/2013

14 November 2013

Excellency,

We have the honour to address you in our capacity as 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; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/4, 24/5, 24/6, 16/5, and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention new information we have received concerning **the alleged on-going arbitrary detention and poor state of health of human rights defender Ms. Cao Shunli.**

Ms. Cao Shunli is a high-profile human rights defender who works on increasing citizen input to the People's Republic of China's Universal Periodic Review (UPR) preparations. As the Government of your Excellency is aware, the UPR was created by the UN General Assembly on 15 March 2006 through resolution 60/251, which established the Human Rights Council itself. As a peer-review process, the UPR ensures that all Member States receive equal treatment during their review. The UPR also provides for the participation of all relevant stakeholders, including civil society actors such as Ms. Cao Shunli. In fact, the participation of civil society actors and human rights defenders in the UPR process is strongly encouraged so that information that they provide can be referred to by any of the Member States taking part in the interactive discussion during the review and a complete picture of the human rights situation in a

country is formed. All of the information concerning the UPR process should be in the public domain and accessible to all citizens at all times.

It has been alleged that, as a result of Ms. Cao Shunli's efforts to encourage greater civil society participation in this process, she has been harassed, interrogated and detained on numerous occasions. She was previously the subject of an urgent appeal sent to your Excellency's Government on 17 July 2013, the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in relation to the alleged disappearance of a group of individuals following their participation in a peaceful protest. We thank your Excellency's Government for the reply received on 23 September 2013.

Ms. Cao Shunli was again the subject of an urgent appeal on 1 October 2013 sent by the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders concerning her alleged disappearance as she attempted to attend a training seminar in Geneva. To date, we have received no reply from your Excellency's Government; however we have received new information on the case.

According to the new information received:

On 21 October 2013, five weeks after she was first taken into custody on 14 September 2013, and one day before the People's Republic of China's second UPR, authorities at Chaoyang District Detention Centre confirmed that Ms. Cao Shunli was being detained there on charges of "unlawful assembly". Up until that point, Ms. Cao Shunli's whereabouts had been unknown.

On 30 October 2013, Ms. Cao Shunli's lawyer was granted access to the detention centre. At that point, it was reported that Ms. Cao Shunli was detained on charges of "picking quarrels and provoking trouble". It was also alleged that Ms. Cao Shunli appeared very thin and frail, and that she had not received the necessary medical attention for a liver condition which she is suffering from.

On 31 October 2013, Ms. Cao Shunli's lawyer attempted to apply for bail on her behalf. However, it is reported that the staff member who would have dealt with this request was not in the office, so the application could not be made.

Additionally, we have received allegations that protesters at the Ministry of Foreign Affairs have been intimidated by police using information concerning Ms. Cao Shunli's detention.

Concern is expressed at the arbitrary nature of Ms. Cao Shunli's arrest and detention. Serious concern is expressed for the physical and psychological integrity of Ms. Cao Shunli while in detention, particularly as it would appear she is being held with only intermittent access to legal advice and is at risk of ill-treatment due to the alleged deprivation of medical care. Deep concern is expressed at the fact that it appears extremely likely that Ms. Cao Shunli's detention is related to her legitimate and peaceful work on the People's Republic of China's UPR, including advocacy about civil society participation in the process. Further grave concern is expressed at the fact that the high-profile nature of this case may deter human rights defenders from carrying out their peaceful and legitimate work, both in the exercise of their right to peaceful assembly and in their endeavours to co-operate with the UN's work on human rights.

While we do not wish to prejudge the accuracy of these allegations, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Ms. Cao Shunli. We would like to stress that each State has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

With respect to the allegations of the denial of medical treatment to Ms. Cao Shunli, we would like to recall that this right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights (ratified on 27 March 2001), which provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. This includes an obligation on the part of all State parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination.

In this connection, we wish to refer your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which provides that States are under the obligation to respect the right to health by, inter alia, refraining from interfering directly or indirectly with the enjoyment of the right to health, from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal migrants, to preventative, curative and palliative health services, and from enforcing discriminatory practices as a State policy (para.34).

We would also like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their

equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers. Rule 25(1) provides that, “The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.” (Approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.) Furthermore, we would also wish to refer to the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation” (Principle 9).

We would like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights which provides that “[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

We would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of assembly, as recognized in article 20 of the Universal Declaration of Human Rights, which provides that “Everyone has the right to freedom of peaceful assembly and association.”

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular to its operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

Regarding allegations indicating the situation of Ms. Cao Shunli is connected to her activities in defence and promotion of human rights, we would like to refer your Excellency’s Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other

fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters;

- article 8, paragraph 1, which stipulates that everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs; and

- article 9 para. 1 which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

We also wish to recall the provisions of resolution 12/2 of the Human Rights Council, which, inter alia, “condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and “calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)” (OP 3).

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of Ms. Cao Shunli in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Please indicate the basis for the detention and the charges being brought against Ms. Cao Shunli, and how these charges comply with the People's Republic of China's obligations under international human rights law.
3. In connection with the above, please kindly provide information about the state of health of Ms. Cao Shunli, as well as details of her access to independent medical professionals, independent legal representation and family members.
4. Please provide information on steps taken by your Excellency's Government to ensure Ms. Cao Shunli's enjoyment of her right to the highest attainable standard of health, including access to medical treatment.
5. Please indicate whether Ms. Cao Shunli's family has been formally notified of her detention, including place and reasons for her detention. If not, please explain why not.
6. Please explain what measures have been taken to ensure that all human rights defenders in the People's Republic of China, in particular those working on the UPR process in co-operation with the UN, can carry out their peaceful and legitimate activities without fear of reprisals or any undue restrictions.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Cao Shunli are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Frank La Rue

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