

**Mandates of 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 situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (53-24)  
CHN 13/2011

11 May 2011

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; 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 situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/16, 16/4, 16/5, and 16/23.

In this connection we would like to bring to your Excellency's Government's attention credible allegations received concerning new cases of enforced or involuntary disappearances, including of human rights defenders and activists, journalists and bloggers, that reportedly occurred in the territory of the People's Republic of China.

According to these allegations:

- **Mr. Sun Desheng** (孙德胜), from Guangzhou City, resident in Guangdong Province, was allegedly detained on "inciting subversion of State power" sometime between 15 February and 9 March 2011, after having written anti-corruption and anti-dictatorship slogans during a dinner. His fate and whereabouts remain unknown;

His Excellency  
Mr. He Yafei  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of the People's Republic of China  
to the United Nations Office at Geneva

.../2

- **Ms. Li Tiantian (李天天)**, a human rights lawyer from Shanghai actively involved in internet communities, allegedly disappeared on 19 February 2011, after the police detained her at her home. Her fate and whereabouts remain unknown;
- **Ms. Mao Hengfeng (毛恒凤)**, born on 9 December 1961, was allegedly detained on 23 February 2010, at a hotel in Beijing by the Beijing and Shanghai police after she protested at the judgment of Mr. Liu Xiaobo. Reportedly, she was placed in administrative detention for 10 days and later sent for one and a half years to the Anhui Reeducation Through Labor facility. One year later, on 22 February 2011, Ms. Mao was allegedly released on medical parole. According to the information received, she presented signs of injuries on the left side of her head and her lower back. It was reported that, two days later, on 24 February 2011, at 3:30 p.m., members of the Anhui Reeducation Through Labor facility and of the Shanghai and Anhui Police came into Ms. Mao's home and allegedly arrested her, presenting a "Notice Terminating RTL Personal Medical Release", and detained her. Since then, her fate and whereabouts remain unknown;
- **Mr. Liu Dejun (刘德军)**, from Beijing, is actively involved in internet communities and allegedly disappeared on 27 February 2011. According to the source, since his disappearance, the police have gone to Mr. Liu's sister's home three times, in Wuhan City, to search through her computer. Allegedly, the police did not provide any notification regarding Mr. Liu's place of detention, and officers in Beijing and Wuhan refused to provide any information. His fate and whereabouts remain unknown;
- **Mr. Zhu Yufu (朱虞夫)**, a resident in Hangzhou City, in Zhejiang Province, is a pro-democracy activist, allegedly arrested by the police on 5 March 2011. According to the information received, officers also searched his home and confiscated two computers and other items. It is reported that Mr. Zhu was convicted in 1999 for "subversion of State power", after he founded the magazine *Opposition Party*, and served seven years in prison. He was allegedly released in 2006, and again detained in 2007, and sentenced to two years in prison. His fate and whereabouts remain unknown;
- **Mr. Zhou Li (周莉)**, from Beijing, is a human rights activist who allegedly disappeared on 27 March 2011. Reportedly, last year, Mr. Zhou was convicted of creating a disturbance, and sentenced to a year in prison after participating at the 2009 protest against a Beijing University professor who condemned pro-democracy manifestations. His fate and whereabouts remain unknown;
- **Mr. Ai Weiwei (艾未未)**, is a Beijing-based activist and artist. According to the allegations received, Mr. Ai disappeared after being arrested at Beijing's Airport by the police, on 3 April 2011 at 9:30 a.m., while he was about to board a flight to Hong Kong Special Administrative Region. It is reported that, on 31 March 2011, the police from the Chaoyang branch came into his studio in Caochangdi and

questioned his foreign assistants and asked for their identifications. Reportedly, over the next three days, the police checked the studio. The sources further report that, on the day of his disappearance, police searched his studio for six hours not allowing people to enter nor leave. In addition, it is alleged that police confiscated about 30 computers and hard drives. Mr. Ai's wife, together with eight of his assistants, were taken to the police station for interrogation and later released. Mr. Ai's fate and whereabouts remain unknown.

The Working Group also received information according to which, following the disappearance of Mr. Ai, several of his assistants also disappeared: **Mr. Wen Tao** (文涛), a former journalist and assistant to Mr. Ai, was allegedly abducted on 3 April 2011, by plain-clothed police officers outside of his girlfriend's home in Caoyangdi, Chaoyang District, Beijing; **Mr. Hu Mingfen** (胡明芬), accountant of Mr. Ai, allegedly disappeared on 8 April 2011; **Mr. Zhang Jinsong** (张劲松), driver of Mr. Ai, allegedly disappeared on 10 April 2011; **Mr. Liu Zhenggang** (刘正刚), a designer who works for Mr. Ai, allegedly disappeared, approximately on 12 April 2011. The fate and whereabouts of these persons also remain unknown.

- **Mr. Zhang Yongpan** (张永攀), a legal activist from Beijing, reportedly disappeared on 14 April 2011, at approximately 10:00 p.m. According to the information received, colleagues called him on his phone and heard voices in the background allegedly interrogating him.

- **Mr. Zhang Jialong** (张贾龙), a 22-year-old journalist intern at Caijing Magazine, was summoned by the Beijing police for a "talk" on 28 April 2011. According to the information received, Mr. Zhang was investigating recent developments in the Zhao Lianhai (赵连海) case and human rights-related cases. His fate and whereabouts remain unknown.

Additionally, the Working Group on Enforced or Involuntary Disappearances has received reports of **Mr. Zhang Haibo** (张海波), a netizen based in Shanghai, who was allegedly abducted by the police in Shanghai, on 20 February 2011; **Mr. Ceng Renguang** (曾仁广), a human rights defender from Beijing who allegedly disappeared on 22 February 2011; **Mr. Lan Ruoyu** (蓝若宇), a graduate student from Chongqing at the Communication University of China, who allegedly disappeared on 27 February 2011; **Mr. Yuan Xinting** (袁新亭), a Guangzhou-based editor and activist from Sichuan Province, who allegedly disappeared in early March. Reportedly, police confiscated his computer. **Mr. Ma He** (马贺), [(also known as: **Kucun Jiasha** (库存袈裟))], from Chengdu, a web technician actively involved in internet communities, who allegedly disappeared on 3 March 2011; **Mr. Wei Shuishan** (魏水山), a democracy activist based at Zhejiang Province, allegedly detained on 5 March 2011; **Mr. Zhang Halbo** having disappeared in the Shanghai Province; **Mr. Li Yu** (李宇), from Sichuan Province, actively involved in internet social networks, who allegedly disappeared between 12 and 13 March; **Mr. Hu Di** (胡荻), from Beijing, actively involved in internet communities, reportedly disappeared on 13 March 2011, and **Mr. Liu Zhengqing**

(刘正清), a Guangzhou-based human rights lawyer, who allegedly disappeared approximately on 25 March 2011. The fate and whereabouts of all these persons remain unknown.

In this context we would also like to draw your Excellency's Government's attention to the joint urgent appeal sent on 2 March 2011, by 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 independence of judges and lawyers; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 concerning the allegations of enforced or involuntary disappearance of Messrs. **Qi Zhiyong, Li Hai, Ran Yunfei, Huan Yanming, Tang Jingling, Ye Du, and Yao Lifa**. The Working Group on Enforced or Involuntary Disappearances also received information from the source indicating that Mr. Gu Chuan was recently released and that, on 29 April 2011, Mr. Teng Biao was also released. Mr. Teng's wife, who confirmed his return, said she could not comment on his health or any other details of his disappearance. Mr. Tang Jitian and Mr. Jiang Tianyong, who were also included in the above-mentioned communication, have allegedly in the meanwhile been released. To date, no response has been received with respect to the circumstances regarding the cases of the persons named in the aforementioned communication and whose fate and whereabouts remain unknown.

Without expressing at this stage an opinion on the facts of the cases and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be arbitrarily deprived of their liberty and to fair proceedings before an independent and impartial tribunal in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR).

In relation to the allegations that Mr. Sun Desheng, Ms. Li Tiantian, Ms. Mao Hengfeng, Mr. Liu Dejun, Mr. Zhu Yufu, Mr. Ai Weiwei, Mr. Wen Tao, Mr. Zhang Jialong, and Mr. Zhang Halbo might have been arrested by the police authorities and could be currently detained in an undisclosed location, we wish to share our serious concerns at the situation of the aforementioned individuals and to draw the attention of your Excellency's Government to the relevant international norms and principles applicable to these cases.

Furthermore, we wish to draw your Excellency's Government's attention to the right to physical and mental integrity of all the above mentioned persons. Without in any way implying any conclusion as to the facts of the cases, we should like to recall that this right is set forth *inter alia* in the UDHR.

With respect to the allegations of possible enforced disappearances of the persons mentioned previously the Working Group on Enforced or Involuntary Disappearances would like to bring to the attention of your Excellency's Government the fundamental principles embodied in the UDHR and other international instruments regarding the right

to life and security of the person. In particular, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which sets out necessary protection by the State, including in:

- article 2 (no state shall practice, permit or tolerate enforced disappearances);
- article 3 (each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction);
- article 5 (enforced disappearances render their perpetrators and the State or State authorities which organize, acquiesce in or tolerate such disappearances liable under civil law, without prejudice to the international responsibility of the State concerned in accordance with the principles of international law);
- article 6 (no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance);
- article 7 (no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances);
- article 9 (right to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty);
- article 10 (right to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest);
- article 12 (right to the maintenance in every place of detention of official up-to-date registers of all detained persons); and
- article 17 (acts of enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and whereabouts of persons who have disappeared and these facts remain unclarified).

In this connection, we would like to draw the attention of your Excellency's Government to paragraph 7.c of Human Rights Council Resolution 8/8 of 18 June 2008, which reminds all States that "Prolonged incommunicado detention or detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person."

Given our concerns that many of the above-mentioned individuals may have been subjected to enforced or involuntary disappearance as a result of exercising their legitimate right to freedom of opinion and expression, we would like to appeal to your Excellency's Government to take all necessary steps to guarantee the right to freedom of opinion and expression of all individuals in accordance with fundamental principles as set forth in article 19 of the UDHR, which provides that "Everyone 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."

In addition, we wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing undue restrictions, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Given that the allegations received concern mostly human rights defenders, including pro-democracy activists, human rights lawyers, journalists and bloggers as well as people associated with them and their activities, and that allegations indicate that their situation may be connected to their legitimate work in defence of human rights and fundamental freedoms, we would also 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; and

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons 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.

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

1. Are the facts alleged in the above summary accurate? If so, please provide details on the measures taken to determine the fate and whereabouts of the persons mentioned above as well as their physical and mental condition.

2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to these cases. Where appropriate, please provide the locations of the individuals concerned. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators? If no inquiries and/or sanctions have taken place, or if the inquiries have been inconclusive, please explain why.

3. In case the allegations of arrest and detention in an undisclosed location of Mr. Sun Desheng, Ms. Li Tiantian, Ms. Mao Hengfeng, Mr. Liu Dejun, Mr. Zhu Yufu, Mr. Ai Weiwei, Mr. Wen Tao, Mr. Zhang Jialong, and Mr. Zhang Halbo are

corroborated, please provide information concerning their whereabouts and the legal grounds for their continued detention and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR.

4. Concerning the allegations of enforced or involuntary disappearance and later reappearance of Mr. Gu Chuan and Mr. Teng Biao, please indicate whether any investigation, medical examinations, and judicial or other inquiries were carried out to determine the circumstances of their disappearance, and their conclusions, and if compensation has been provided to the victims or to their families.

We would also like to bring to the attention of your Excellency's Government that should the source submit the above mentioned allegations as cases to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

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

El Hadji Malick Sow  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Jeremy Sarkin  
Chair-Rapporteur of the Working Group on Enforced or Involuntary  
Disappearances

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to freedom of  
opinion and expression

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment