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**AUX DROITS DE L'HOMME**

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

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Working Group on Arbitrary Detention; 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 violence against women, its causes and consequences; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: 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

13 July 2012

Excellency,

We have the honour to address you in our capacity as 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 of association; Special Rapporteur on violence against women, its causes and consequences; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 15/18, 16/4, 15/21, 16/7, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the arrest and detention in Kardze (Ganzi) County, Tibetan Autonomous Prefectures, Sichuan Province, of a 17 year old girl [REDACTED] since 24 June 2012.

According to the information received:

On 24 June 2012 around 11:00 a.m., [REDACTED] started a peaceful protest on the main market of Kardze (Ganzi) by throwing leaflets in the air and raising slogans that called for the return of Dalai Lama, for freedom of the Tibetan A.P. and for the release of the Panchen Lama and political prisoners. After four minutes of protest, she was arrested and beaten by security personnel.

Following the arrest, [REDACTED]'s father approached the local police authorities and requested that he be allowed to see his daughter. This request was denied. On 28 June 2012, [REDACTED]'s father was informed that his daughter was being taken to the hospital. He went to the hospital and waited at the entrance, where he saw his daughter had been injured and being escorted by personnel of the local police. [REDACTED] had injuries on her hands, back and legs. On 29 June 2012,

██████████ father was finally allowed to meet his daughter. ██████████ is currently being held in detention at Kardze County's Detention Centre.

Concern is expressed at the allegation that ██████████ is being held in detention solely for the reason of having peacefully exercised her rights to freedom of expression and opinion and peaceful assembly. Similarly, grave concern is expressed regarding her current medical condition and the allegation of ill-treatment.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of ██████████.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of ██████████ is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee her right not to be deprived arbitrarily of her liberty in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR). Owing to the fact that ██████████ is a minor we would like to remind your Excellency's Government that in accordance with article 37(b) of the Convention on the Rights of the Child (CRC) "[n]o child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time".

Furthermore, article 37(d) of the CRC provides that "[e]very child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action". In its General Comment No. 10, the CRC Committee clarified that "[e]very child arrested and deprived of his/her liberty should be brought before a competent authority to examine the legality of (the continuation of) this deprivation of liberty within 24 hours" (UN Doc. CRC/C/GC/10, 9 February 2007, p. 18). The Committee also recommended that States Parties "ensure by strict legal provisions that the legality of a pre-trial detention is reviewed regularly, preferably every two weeks" (Ibid.).

We should also like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of the person named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States

to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.”

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 UDHR 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.” In this connection, we wish also to draw the attention of your Excellency’s Government to the principle enunciated in Human Rights Council Resolution 12/16, which calls on all States to refrain from imposing restrictions on 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.

Similarly, we would like to call on your Excellency’s Government to take all necessary steps to secure the rights to freedom of peaceful assembly and of association in accordance with fundamental principles as set forth in article 20 of the UDHR which provides that “[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.”

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that “[c]alls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... 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.”

We also recall Article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women.

We would further like to bring to your Excellency’s Government’s attention Article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of states to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, states should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

We would also like to bring to your Excellency's attention Article 7 (c) of the Convention on the Elimination of All Forms of Discrimination against Women, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

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 the above-mentioned person 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 explain the legal bases justifying the arrest and detention of [REDACTED] and how this is compatible with international human rights norms and standards contained in the CRC and well as the rights to freedom of opinion and expression and of peaceful assembly as enshrined in the UDHR.
3. Has a complaint been lodged by or on behalf of [REDACTED]?
4. Please provide the details, and where available the results, of any investigation and/or prosecution or other inquiries. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators, particularly those who have been identified as having assaulted [REDACTED] while in custody?
5. Please advise if [REDACTED] has received medical care for her injuries, including access to an independent and qualified medical professional.

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 the above mentioned person 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.

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

Frank La Rue  
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Maina Kiai  
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