

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

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CHN 8/2015:

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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 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 24/7, 25/2, 25/18, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary detention and mistreatment of human rights defender Mr. Yang Maodong.

**Mr. Yang Maodong** (杨茂东), also known by the pen name Guo Feixiong (郭飞雄), is a human rights defender, legal activist, pro-democracy activist, and writer.

Mr. Yang Maodong was the subject of urgent appeals and allegations letters sent on 6 March 2006 by the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders; on 19 October 2006 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; on 1 December 2006 and 30 November 2007 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders; and on 22 August 2013 by 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 of the rights to freedom of peaceful assembly and association, and the Special Rapporteur on the situation of human rights defenders, see A/HRC/25/55/Add.3. We acknowledge receipt of the responses of your Excellency's Government dated 17 May 2006, 4 January 2007, 17 January 2007, 15 January 2008, and 22 August 2013.

According to the information received:

On 8 August 2013, Mr. Yang Maodong, was arrested by the police, allegedly with no arrest warrant, and subsequently detained in Tianhe District Detention Centre on charges of "gathering a crowd to disrupt order in a public space". His arrest is believed to be linked to his participation in a public protest in January 2013 to show support for the *Southern Weekend*, a Guangzhou newspaper which had been struggling against censorship. It is also believed that it is connected to his role heading a campaign calling on the Chinese government to ratify the International Covenant on Civil and Political Rights.

On 14 November 2013, Mr. Yang Maodong was provided access to a lawyer, after having allegedly been denied access to legal counsel since his detention.

On 24 June 2014, Mr. Yang Maodong was formally charged with "gathering crowds to disrupt public order". The charge carries a maximum sentence of five years' imprisonment.

On 18 December 2014, during his trial, Mr. Yang Maodong was allegedly not allowed to make a defence statement in court. Furthermore, attempts by Mr. Yang Maodong's defence counsel to access case files and court documents were repeatedly denied by Tianhe District People's Court. No verdict in the case has been announced as of the date of delivery of this communication.

*Allegations of ill-treatment in detention:*

Mr. Yang Maodong was allegedly ill-treated on 1 August 2014, 12 September 2014 and 28 November 2014, while he was being transferred to and from Tianhe District People's Court. In all three instances, it is alleged that officers covered Mr. Yang Maodong's head with a black hood, cuffed his hands and shackled his feet.

It is also alleged that Mr. Yang Maodong and other detainees have been ordered by prison guards to strip off all items of clothing during routine security checks. This ill-treatment reportedly stopped for a period following a complaint filed by Mr. Yang Maodong, before subsequently resuming, specifically on March 25 and April 28, 2015.

In June 2015, Mr. Yang Maodong filed two separate litigation requests concerning the incidents where he suffered ill-treatment. The actions were filed against Tianhe District Detention Centre and court officers at the Tianhe District People's Court.

Concern is expressed that detention, indictment and trial of Mr. Yang Maodong are directly related to his legitimate and peaceful human rights work, including exercising his legitimate rights to freedom of expression, peaceful assembly and association. Concern is also expressed at the allegations of mistreatment of Mr. Yang Maodong and also regarding his physical and psychological integrity while in detention.

While we do not wish to prejudge the accuracy of these allegations, the above allegations appear to be in contradiction with article 9 and 10 of the Universal Declaration on Human Rights (UDHR). These articles include the right not to be deprived arbitrarily and the right to a fair hearing.

We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which China ratified on 4 October 1988.

We would also like to refer your Excellency's Government to article 19 of the Universal Declaration on 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 also wish to refer to 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6 and 12.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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 international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information concerning the legal grounds for the charges against Mr. Yang Maodong. Please provide information on how these measures are compatible with international norms and standards, in particular the right to freedom of opinion and expression and the rights and specific protections granted to human rights defenders.
3. Please provide information on how the right to a fair and public trial, as established in international norms and standards, has been respected in the case of Mr. Yang Maodong.
4. Has a complaint been lodged by or on behalf of the alleged victim, in relation to the allegations of arbitrary detention and lack of guarantees of due process?
5. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
6. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken; have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
7. Please indicate what measures have been taken to ensure that the physical and psychological integrity of human rights defenders in China is guaranteed.
8. Please kindly indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Seong-Phil Hong  
Chair-Rapporteur of the Working Group on Arbitrary Detention

David Kaye  
Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression

Michel Forst  
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