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PROCEDURES SPECIALES DU
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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; 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

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (3-3-16)
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1 December 2011

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 independence of judges and lawyers; 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 pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 17/2, 16/4, 15/21 and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the arrest and sentence against Ms. **Wang Lihong**. Ms. Wang Lihong is a blogger, political activist and former doctor who reports on human rights abuses in China via the Internet. She has worked on such projects as relief efforts for the homeless and citizens fighting land seizures in Beihai city, Guangxi Province.

Ms. Wang Lihong was the subject of a previous communication sent on 7 December 2010, by the Chair-Rapporteur 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, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. We regret that to date no response has been received from your Excellency's Government.

According to the information received:

On 21 March 2011, Ms. Wang Lihong was reportedly detained as part of a Government crackdown against human rights defenders following the ‘Jasmine Revolution’. She reportedly remains in detention at Beijing Chaoyang District Police Detention Centre since that date and was then formally charged on 21 April 2011, in relation to her participation in a peaceful demonstration held on 16 April 2010, outside a court in Fujian Province, where the trial of three bloggers on charges of slander was taking place.

On 12 August 2011, her trial proceedings took place and reportedly concluded after two and a half hours. It is alleged that there were procedural flaws with the case at both the investigation and indictment stages. The judge allegedly continuously interrupted Ms. Wang Lihong as she delivered her final statement and her lawyers were not allowed time to finish their concluding statements. It is reported that Ms. Wang Lihong was only granted access to her lawyers on two occasions during the preparation of the case and her lawyers were not permitted to photocopy case documents pertaining to the prosecution.

On 9 September 2011, Ms. Wang Lihong was allegedly found guilty of “creating a disturbance” by the Wenyuhe Court in Chaoyang District, Beijing, and sentenced to nine months in prison. On 20 October 2011, it is reported that, the Beijing No. 2 Intermediate People’s Court rejected Ms. Wang Lihong’s appeal.

It is reported that over 200 supporters gathered outside the courthouse, however only Ms. Wang Lihong’s family and her lawyers were allowed to attend the session where the verdict was given. Allegedly, some activists who tried to go to Beijing to show their support were stopped by local police from leaving their home towns.

Concerns are expressed regarding the psychological integrity of Ms. Wang Lihong. Further concerns are expressed that the arrest, conviction and subsequent upholding of the sentence against Ms. Wang Lihong may be directly related to her human rights activities and her legitimate exercise of her rights to freedom of expression and of peaceful assembly.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Ms. Wang Lihong 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 and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights.

With respect to the allegations concerning obstacles for the defendant’s lawyers to properly and effectively carry out their defence, we would like to bring to the attention of your Excellency’s Government the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990. In particular:

- Principle 8. All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality.

- Principle 16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; and (b) are able to travel and to consult with their clients freely both within their own country and abroad.

- Principle 21. "It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time".

Furthermore, we would also like to draw the attention of your Excellency's Government to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985. In particular, principle 6 provides that: "The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected".

With regard to the allegation that the arrest, conviction and subsequent upholding of the sentence against Ms. Wang Lihong may be directly related to her human rights activities and her legitimate exercise of her rights to freedom of expression and of peaceful assembly, 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 "[e]veryone has the right to freedom of peaceful assembly and association."

In addition, we would like to bring to your Excellency's Government's attention resolution 15/21 of the Human Rights Council, in which the Council "[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... 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" (OP1).

In this connection, 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 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 Ms. Wang Lihong 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.

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. Wang Lihong 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 summary of this case accurate?
2. Please provide information concerning the legal grounds for the arrest and the subsequent conviction of Ms. Wang Lihong, and how these measures are

compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights.

3. Please indicate what measures have been taken to ensure that the legitimate right to meet and assemble peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.
4. Please indicate the measures taken to ensure that human rights defenders can carry out their legitimate work to promote and protect of human rights and fundamental freedoms in a free and safe environment.

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.

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

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

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

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

Maina Kiai
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