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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**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 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 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)  
CHN 10/2012

10 December 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 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 15/18, 16/4, 15/21, 16/5, 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 of, and the alleged excessive use of force against, peaceful demonstrators in the Tibet Autonomous Region.**

According to the information received:

On 26 November 2012, about 1,000 students, led by students from the Tsolho Technical School, protested in Gonghe (Chabcha in Tibetan) against the release of an official Chinese booklet which reportedly mocked the Tibetan language and labelled the series of self-immolations by Tibetans as "stupidity". The students called for equality among nationalities and freedom to study the Tibetan language. Security forces fired warning gunshots and tear gas to disperse the demonstrators. 20 students were reportedly injured, five of whom are presently hospitalized in critical condition. Four students were arrested in the course of the operation.

On 28 November 2012, following another self-immolation by a Tibetan, student from the Tsolho Technical School in Gonghe took again to the streets, demanding freedom and respect for the Tibetan language in front of the prefecture government centre. According to sources, the security forces physically assaulted the peaceful protestors, using tear gas and explosive devices. Several students

reportedly suffered from cuts on their heads and body. Five students were arrested and are presently detained.

Serious concerns are expressed that the arrest and detention of, and the alleged excessive use of force against, the aforementioned peaceful demonstrators may be linked to their human rights activities, in the exercise of their rights to freedom of peaceful assembly, opinion and expression. Further concerns are expressed for the physical and psychological integrity of all the aforementioned individuals and their relatives.

Without expressing at this stage an opinion on the facts of the case 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 deprived arbitrarily 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).

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).

We would also like to draw your Excellency's Government's attention to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms." Furthermore, Principle 5 provides that, "Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment" (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).

We would further like to remind your Excellency's Government of 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."

Similarly, we would like to refer your Excellency's Government to 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 connection, we would like to refer to Human Rights Council resolution 21/16, and in particular 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.”

In addition 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 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.
- 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.

With regards to youth defenders taking part in demonstrations, we would like to refer to the 2007 report to the General Assembly of the Special Representative of the Secretary-General on the situation on human rights defenders in which she recommended to “take steps to create a conducive environment that allows children and young adults to associate and express views on matters affecting them as well as on broader human rights issues. Student protests have a high educational value as they are among the first experiences of public participation and human rights defense of students. Ensuring a

conducive environment for student protests is a social investment in addition to a legal obligation” (A/62/225, para. 101 b)

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 persons in compliance with the above international instruments.

Moreover, 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 cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide or confirm information concerning the legal grounds for the arrest and detention of, and the use of force against, the aforementioned peaceful protestors.
3. Please indicate how these measures are compatible with the aforementioned international human rights norms and standards.
4. Please provide information, and where available results, of any investigation and judicial or other inquiries carried out in relation to the injuries of peaceful protestors as a consequence of the alleged excessive use of force during the said assemblies. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please indicate whether and how the alleged victims will be compensated.

We undertake to ensure that your Excellency’s Government’s response to 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 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.

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

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

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of  
association

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