

**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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: UA  
CHN 3/2016:

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Excellency,

We have the honour to address you in our capacity as 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 24/7, 25/2, 24/5, 24/6, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of arbitrary arrest and detention of two women human rights defenders, Ms. **Zhang Shuzhi** and Ms **Liu Jie**, and lack of access to adequate health care.

**Ms. Zhang Shuzhi** is a human rights defender who has called for the release of various imprisoned Chinese human rights defenders. She was also a part of a "right defence team" that carried out searches for disappeared fellow human rights defenders. She has participated in sit-ins advocating for a role of civil society in the United Nations Universal Periodic Review of China.

**Ms. Liu Jie** is a human rights defender who works on land rights, calling on the Chinese Government for legal and political reforms, and has assisted migrant workers in their efforts to seek justice for rights abuses. She has campaigned extensively for the abolition of the re-education through labour-system, which allowed for people to be sent to labour-camps for three years without a trial.

Ms. Jie has been the subject of three previous communications sent by various Special Procedures dated), 27 August 2008 (see A/HRC/10/12/Add.1 para. 624, case no. CHN 38/2008), 28 December 2007 (see A/HRC/10/12/Add.1 para. 451 case no. CHN 44/2007), and 25 October 2007 (see A/HRC/7/28/Add.1 para. 392, case no. CHN 37/2007). We acknowledge your Government's replies on 17 November 2008 and 6 March 2008. However we remain concerned given the allegations below.

*According to the information received on Ms. Zhang Shuzhi*

On 26 October 2015, Ms. Zhang Shuzhi was arrested in Beijing and charged with “picking quarrels and provoking troubles”, under article 293(4) of the Criminal Code. The charge was related to posting online personal grievances between June 2013 and January 2015 and various petitions in public places between June 2012 and November 2013, including participating in sit-ins to push for a civil society role in the United Nations Universal Periodic Review of China.

On 28 October 2015, Ms. Zhang Shuzhi was taken to Wangkui County Detention Centre, and was later transferred to an all-female centre, Suihua City Detention Centre. Her family was not initially made aware of her arrest.

On 21 December 2015, the trial of Ms. Shuzhi took place at Wangkui County People's Court. Ms. Shuzhi did not have access legal counsel to defend herself.

On 28 January 2016, there was a second hearing and Ms. Shuzhi was sentenced to four years imprisonment on the above charges. This time Ms. Shuzhi was represented by her lawyer. She is currently being held in Suihua City Detention Centre in Heilongjiang Province. Ms. Shuzhi is terminally ill with cancer and allegedly only has access to basic medication, which is not adequate to treat her condition. The family members of Ms. Shuzhi have not been allowed to visit her while in detention.

*According to the information received on Ms. Liu Jie*

In 1997, the local government of Heilongjiang Province repossessed the farm which Ms. Jie and her family owned, thus breaking their previously agreed contract. After having exhausted all legal avenues to reclaim the farm, Ms. Jie began petitioning the central Government, advocating for legal and political reform. Since that time, the Xunke Farm Reclamation Bureau has persistently targeted her due to her human rights work.

On 8 October 2007, Ms. Liu released a public letter signed by 12,150 petitioners calling on leaders at the 17th Party Congress to reform. Three days later, Ms. Liu

was arrested and detained by the Beijing Police. During her detention, the Beian City Public Security Bureau (PSB) sent her case to the Supreme People's Procuratorate but the latter refused to prosecute her due to lack of evidence.

On 12 November 2007, Ms. Liu was sent to re-education through labour camp for 18 months for “instigating trouble and disturbing social order”, during which time her health worsened considerably as a result of beatings and alleged torture. An eye condition, a result of police beatings, went untreated while in custody and left her partially blind. Upon her release, she continued her rights defence work and was subjected to house arrest, questioning and travel bans on various occasions.

In 2014, Ms. Jie was sentenced to 18-months imprisonment for “libel”, in relation to her criticisms of the Beian Land Reclamation Bureau and their expropriation of people's land. She also criticized the judiciary and the Central Government and held a workshop on the issue of land grabs in Beijing in 2013. Ms. Jie was diagnosed with cancer in 2015 while in detention, but she was denied medical parole and following her release in February 2015 sought treatment at the Peking University Cancer Hospital.

On 27 February 2016, Ms. Liu Jie and her husband were arrested by officials from the Xunke Farm Reclamation Bureau and the Bei'an Land Reclamation Bureau at a hotel in front of Harbin train station in Heilongjiang province as they prepared to travel to Beijing for Ms. Jie to seek treatment at the Peking University Cancer Hospital and to attend two meetings. The couple were taken to Bei'an City People's Hospital where they were confined, under guard 24-hours a day, and where Ms. Liu Jie only had access to basic healthcare and not to the specialized treatment she needs for her condition. They were unable to contact anyone until 10 March 2016, when her husband was able to borrow a phone and inform their son where they were being held, and of Ms. Jie's condition. Authorities reportedly refused Ms. Jie permission to be transferred to a hospital in Beijing for specialist treatment, despite the fact that she was coughing up blood.

On 18 March 2016, Ms Jie's family received documentation stating that she had been given a ten day administrative detention sentence, from 18 to 28 March 2016. Ms Jie was charged with “false accusation” made against the head of the Xunke Farm Reclamation Bureau. Her husband was released from detention on 18 March 2016.

Serious concern is expressed at the alleged arbitrary arrest and sentencing of Ms. Zhang Shuzhi and Ms. Liu Jie, as it is believed that this is a direct response to their peaceful and legitimate human rights work. Serious concern is also expressed at the use of criminal law to restrict the exercise of the rights to freedom of expression and freedom of peaceful assembly and association. Further very serious concern is expressed at the

alleged lack of access to adequate health care, while in detention for both women, including specialized treatment for their medical condition.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to refer your Excellency's Government to articles 19 and 20 of the Universal Declaration of Human Rights (UDHR), which provide for the rights to freedom of opinion and expression; and freedom of peaceful assembly and association, respectively. We would also like to refer to articles 9 and 10 of the UDHR providing for the right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal.

We would also like 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, 5, 6 and 9.

Regarding allegations of lack of access to adequate medical care while in detention, we would like to refer your Excellency's Government to article 12 of the Covenant on Economic, Social and Cultural Rights, which China ratified in 2011, which establishes that States have an obligation to *respect* the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services. (Para.34) We would also like to refer your Excellency's Government to the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly resolution 45/111, according to which prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

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.

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 detention of the abovementioned persons and how these measures are compatible

with international norms and standards as stated in the UDHR. In particular, please explain how the restrictions on the rights to freedom of expression and freedom of peaceful assembly and association, in article 293(4) of the Criminal Code and in the provision on “false accusation” are compatible with the permissible restrictions under article 29(2) of the UDHR.

3. Please explain the use of an administrative decision as a basis for the detention sentence against Ms. Jie, and explain how this is compatible with the right to a fair and public hearing, as guaranteed by international human rights norms, inter alia article 10 of the UDHR.
4. Please provide information concerning any steps that have been taken by your Excellency’s Government to ensure that the alleged victims receive the medical care that they require while in detention, including specialized treatment..
5. Please kindly indicate what measures have been taken to ensure that human rights defenders and associations in China 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.

In addition, we would like to draw your Excellency’s Government’s attention to paragraph 23 of the methods of work of the Working Group on Arbitrary Detention, according to which, “after having transmitted an urgent appeal to the Government, the Working Group may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent action procedure and the regular procedure.

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.

José Guevara

First Vice-Chair on behalf of the Working Group on Arbitrary Detention

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