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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

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

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

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

**Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; 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 freedom of religion or belief; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences.**

REFERENCE: UA Housing (2000-9) G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (56-23) G/SO 214 (107-9) G/SO 214 (3-3-16) G/SO 214 (53-24) G/SO 214 (89-15)  
CHN 6/2014

5 May 2014

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; 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 freedom of religion or belief; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 25/17, 24/7, 25/2, 24/5, 22/20, 25/18, 17/2, 25/13, and 23/25.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the **arrest and ill-treatment in detention of Ms. Ge Zhihui**.

**Ms. Ge Zhihui** is a petitioner who assists other petitioners in travelling to Beijing to seek justice for the demolition of their homes decided by the Chinese authorities.

According to the information received:

In early 2014, Ms. Ge Zhihui participated in a training outside of China about the United Nations human rights mechanisms.

On 1 March 2014, Ms. Ge Zhihui was reportedly arrested at her home in Beijing by agents from the Fengtai District Public Security Bureau. The agents reportedly conducted a two-hour search of her home and confiscated two computers and human rights materials. According to reports, no reason was provided for Ms. Ge Zhihui's arrest and the search of her home.

Ms. Ge Zhihui is currently detained in Fengtai District Detention Centre. Reportedly, she was initially charged with "illegal assembly". She was subsequently charged with "creating a disturbance" and, most recently, with "using a cult to undermine implementation of the law" under article 300 of the Criminal Law of the People's Republic of China, which carries a prison sentence of 3-7 years. The interrogations in detention have reportedly focused on Ms. Ge Zhihui's visit of Ms. Cao Shunli in hospital, her links to a Christian house church, her participation in a training on the UN human rights mechanisms outside of China, and her personal finances.

Ms. Ge Zhihui has allegedly not had access to her lawyer or her family while in detention. According to reports, her lawyer was denied permission to visit Ms. Ge Zhihui seven times and was granted permission to see her on 15 April 2014 only after filing a complaint to the Procuratorate.

According to reports, Ms. Ge Zhihui has been ill-treated while in detention. She has been handcuffed and chained despite reported mobility problems and her need for crutches to walk. She has also been denied permission to shower for twenty days and denied toilet breaks during interrogations. Furthermore, she has reportedly been threatened and intimidated by guards on a daily basis and has been forbidden from speaking with other detainees.

Ms. Ge Zhihui was allegedly transferred to hospital on two occasions in relation to a brain infarction, anemia and kaliopenia, reportedly resulting from her ill-treatment in detention. On 25 March 2014, she was allegedly transferred to Beijing 307 Military Hospital and was transferred to Beijing Public Security Hospital the following day. She was allegedly returned to Fengtai District Detention Centre in Beijing on 4 April 2014, where she remains in detention.

Grave concern is expressed regarding the arrest and detention, and the ill-treatment in detention, of Ms. Ge Zhihui. Similar concern is expressed that her arrest and detention may be related to her legitimate work in defending human rights in China, as well as her human rights activities in the exercise of the right to freedom of religion or belief and her participation in a training about the United Nations human rights mechanisms.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Ms. Ge Zhihui 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.

We would like to refer to your Excellency's Government to 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."

Similarly, we would also like to refer to article 20 of the Universal Declaration of Human Rights, which provides that "[e]veryone has the right to freedom of peaceful assembly and association."

Furthermore, we would like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 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."

We would also 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, article 5 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, as endorsed in E/CN.4/1996/39 of

1996 states that no one may be subjected to any sort of restraint, disadvantage or sanction because of his or her opinion or beliefs.

We would also like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- 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 also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, "condemns all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and "calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)" (OP 3).

Regarding the right to access and communicate with international bodies, we would draw the attention of your Excellency's Government article 5, paragraph c) of the Declaration which states that in order to promote and defend human rights and freedoms

fundamental everyone has the right, individually or collectively, both nationally and internationally, “c) to communicate with non-governmental or intergovernmental organizations.” Similarly, Article 9, paragraph 4, states that “(a (...) everyone has the right, individually or collectively, in conformity with applicable international instruments and procedures, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.”

Concerning the possibility that the detention of Ms. Ge Zhihui might also be related to her legitimate human rights activities in the exercise of freedom of religion or belief and the allegation that she has been charged with “using cult to undermine implementation of the law” under article 300 of the Criminal Law, we would like to appeal to your Excellency’s Government to ensure the right to freedom of religion or belief in accordance with article 18 of the Universal Declaration of Human Rights.

In this context, we would like to draw the attention of your Excellency’s Government to paragraph 4(f) of Resolution 2005/40 of the former Commission on Human Rights, which urges States, “To ensure that no one within their jurisdiction is deprived of the right to life, liberty, or security of person because of religion or belief and that no one is subjected to torture or arbitrary arrest or detention on that account, and to bring to justice all perpetrators of violations of these rights.” We would also like to recall paragraph 38 of Deliberation No. 9 of the UN Working Group on Arbitrary Detention concerning the definition and scope of arbitrary deprivation of liberty under customary international law (A/HRC/22/44), in which the Working Group specifically refers to article 18 and “regards cases of deprivation of liberty as arbitrary under customary international law in cases where: (b) The deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights.

As regards the particular allegations that the interrogations of Ms. Ge Zhihui in detention have focused on her links to a Christian house church, we would like to respectfully remind your Excellency’s Government that the right to right to freedom of thought, conscience, religion or belief includes the freedom, “to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes”, as is made clear by article 6(a) of the General Assembly's Declaration on religious intolerance and discrimination 36/55 (A/RES/36/55).

Furthermore, the Commission on Human Rights resolution 2005/40 (paragraph 4 (d), Human Rights Council resolution 6/37 (paragraph 9(g)) and General Assembly resolution 65/211 (paragraph 12 (g)) urge States “[t]o ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief [...].”

We would also like to refer your Excellency’s Government to Human Rights Council resolution 19/8 (paragraph 9) and General Assembly resolution 66/168

(paragraph 12), which urge States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end “To ensure, in particular, (...) the right of all persons to seek, receive and impart information and ideas in these areas”.

In addition, we would like to recall the principles set forth in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief, which provide that the right to freedom of thought, conscience, religion or belief includes the freedom “to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.”

We appeal to your Excellency’s Government to take all necessary measures to guarantee to Ms. Ge Zhihui, the right to be free from any gender-based violence, discrimination and abuse. Towards that end, we would like to draw Your Excellency’s attention Article 1 of the United Nations Declaration on the Elimination of Violence against Women which provides that the term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. We would also wish to recall article 4 (b) of the Declaration, 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. Furthermore, article 4 (c & d) of the Declaration 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.

In this context, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by your Excellency’s Government on 5 October, 1981) whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, and to provide adequate compensation without delay.

We would also like to bring to your Excellency’s Government’s attention to article 7 (c) of the International 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.

Regarding the allegation that Ms. Ge Zhihui did not have access to a lawyer, we would like to refer your Excellency's Government to article 14(3) of the International Covenant on Civil and Political Rights, which states: "In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing."

The right to be assisted by a lawyer is also set forth in 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 in principle 1, which states: "All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings"; and principle 7, which states: "Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention."

We would like to draw your Excellency's Government's attention to the Standard Minimum Rules for the Treatment of Prisoners. (Adopted by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). We would also like to draw your Excellency's Government's attention to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988. (Adopted by General Assembly resolution 43/173 of 9 December 1988). The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

We would like to draw your Excellency's Government's attention to paragraph 7 (b) of Resolution 8/8 of the Human Rights Council, which stated that "Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture;"

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. Ge Zhihui 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. Has a complaint been lodged by or on behalf of Ms. Ge Zhihui?
3. Please provide the details, and where available the results, of any investigation, 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.
4. Please provide information concerning the legal grounds for the arrest and detention of Ms. Ge Zhihui and how these measures are compatible with international norms and standards.
5. In connection with the above, please kindly provide information about the state of health of Ms. Ge Zhihui, as well as details of her access to independent medical professionals, independent legal representation and family members.
6. Please explain what measures have been taken to ensure that all human rights defenders in China can carry out their peaceful and legitimate activities without fear of harassment, intimidation or restrictions of any sort.
7. Please indicate what measures have been taken to ensure the free exercise of the right to freedom of religion or belief in compliance with international human rights standards.

We undertake to ensure that your Excellency's Government's response will be available 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 Ms. Ge Zhihui 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.

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Mads Andenas

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