

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 6/2019

23 April 2019

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 34/18, 33/9 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning reported acts of harassment and intimidation against human rights defender Ms. **Liu Ximei**, allegedly as an act of reprisals for denouncing the human rights violations against AIDS patients in rural China at the United Nations in Geneva.

Ms. Liu Ximei is a human rights defender and survivor of the 1990s AIDS epidemic in rural China. She advocates on behalf of marginalised AIDS patients, demanding compensation for the costs of medicines and health care and requesting to receive new generation imported medicines available to patients in larger cities. She runs the Mutual Aid Home, a halfway house that provides food, shelter, day care for children, and counselling for marginalized survivors.

According to the information received:

In the 1990s, the Government encouraged poor villagers to sell their blood plasma. Contaminated equipment led to the infection of blood donors and recipients alike. Survivors of the infection, as well as the next generation of children who have been infected through mother-to-child transmission, still do not have access to adequate treatment. Local health authorities reportedly provide inferior domestic medicines and limit this population's admission to costly and difficult to reach hospitals. Due to reported discrimination and exclusion from education, the population in rural areas is largely uneducated and unemployed.

Ms. Liu Ximei was the subject of the 2019 film "Ximei", which documents the plight of AIDS survivors and the human rights work of Ms. Liu in this context. Ms. Liu has faced various forms of harassment for her work advocating for the rights of people living with HIV/AIDS. Ms. Liu's Mutual Aid Home was forcibly closed and relocated on several occasions. Ms. Liu was previously placed under surveillance, prohibited from traveling, and forbidden from assembling with fellow survivors. She had also previously been subject to arrest and interrogation at police stations, her phone confiscated and her private information monitored.

The harassment has markedly increased since the film's premiere in Geneva at the Festival international du film sur les droits humains (FIFDH), which she attended. On 20 March 2019, she participated in a press conference organised for UN-accredited journalists of the UN Correspondents Association (ACANU), inside the Palais des Nations, on the margins of the 40th session of the Human Rights Council. During the press conference, she explained the discrepancy between the medical treatment of AIDS patients in China's major cities who can live normal lives and those in rural China who experience discrimination and exclusion.

Upon her return from Geneva, on 22 March 2019, the local party secretary visited her without warning. He demanded a copy of the film, explaining that the county leaders had criticised him for failing to "manage" Ms. Liu Ximei.

On 26 March 2019, Ms. Liu and her husband were called to the local police station. While the officer claimed that the purpose of the discussion was her latest petition in Beijing on behalf of people living with HIV/AIDS, the petition was allegedly not mentioned. Instead, she was interrogated for over three hours, questioned about the film and about her stay in Geneva. She was asked to describe how the film was made and asked to recount anything negative she had said against the government at the FIFDH or the UN. She was further warned not to say anything to journalists that could damage China's image in Geneva.

On 29 March 2019, Ms. Liu went to the County Public Security Bureau, where the director allegedly made her contact the film's director and took pictures of his private information on WeChat.

Without prejudging the accuracy of the information received, we wish to express our serious concern at the reported acts of harassment and intimidation against Ms. Liu Ximei, which appears to be related to her human rights work, in particular her advocacy work on behalf of poor people living with AIDS. Our concerns are heightened by the fact that acts of intimidation and harassment seem to have increased since the premiere of the documentary movie and her advocacy work in Geneva, where she highlighted the discrimination faced by AIDS patients in rural China.

In connection with these alleged facts and concerns, and in particular with regard to the alleged discrimination of HIV/AIDS patients in rural areas, we would like to respectfully draw your Excellency's Government, to article 25 of the Universal Declaration of Human Rights which recognises the right of everyone to a standard of living adequate for the health and well-being of himself and of his family, including food and medical care. This right is further elaborated in article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which guarantees the rights of everyone to an adequate standard of living and the enjoyment of the highest attainable standard of physical and mental health, respectively. The ICESCR was ratified by China on 28 February 2001 and its implementation constitutes an obligation under international law.

General Comment 14 of the Committee on Economic, Social and Cultural Rights, advises that health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups, such as persons with HIV/AIDS. Accessibility also implies that medical services and underlying determinants of health, such as safe and potable water and adequate sanitation facilities, are within safe physical reach, including in rural areas (GC 14, Para.12).

With regard to the peaceful advocacy work undertaken by Mr. Liu in China and recently in Geneva, we are referring to article 19 of the Universal Declaration of Human Rights (UDHR) guaranteeing the right to freedom of opinion and expression. We further wish to refer to resolution 12/16 of the Human Rights Council, which calls on States to refrain from imposing restrictions on discussion of government policies and political debate and reporting on human rights. Paragraph 5 (k) of the same resolution, calls upon states to “[t]o adopt and implement policies and programmes that aim to effectively raise awareness of, and disseminate information and education on, prevention and treatment of HIV/AIDS and other diseases through effective and equal access to information and all appropriate means, including through the media and availability of information and communication technologies, and targeted at specific vulnerable groups.

We would further like to draw your Excellency’s Government’s attention to articles 9, 12, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), signed by China on 5 October 1998, which provide for the rights to liberty and security of person, the right not to be arbitrarily detained, the right to freedom of movements and to be free to leave any country, the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association.

The Human Rights Council resolution 31/32, in its paragraph 2, calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards realisation of economic, social and cultural rights and who, in so doing, exercise other human rights, such as the rights to freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy. It further underlines in paragraph 10 the legitimate role of human rights defenders in mediation efforts, where relevant, and in supporting victims in accessing effective remedies for violations and abuses of their economic, cultural rights, including for members of impoverished communities, groups and communities vulnerable to discrimination, and those belonging to minorities and indigenous peoples.

Furthermore, we wish to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2 , 5, 5 and 12.

Finally, we refer to Human Rights Council Resolutions 12/2, 24/24 and 36/21, which reaffirm the right of everyone, individually or in association with others, to unhindered access to and communication with international bodies, in particular the

United Nations, its representatives and mechanisms in the field of human rights. In these resolutions, the Human Rights Council calls on States to prevent and refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies [as well as the issuance of appropriate guidance to national authorities] in order to effectively protect those who seek to cooperate, cooperate or have cooperated with the United Nations. The Council also urges States to ensure accountability for any act of intimidation or reprisal by ensuring impartial, prompt and thorough investigations of any alleged act of intimidation or reprisal in order to bring the perpetrators to justice; to provide access to effective remedies for victims in accordance with their international human rights obligations and commitments; and to prevent any recurrence.

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. Liu Ximei 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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate what measures have been taken to ensure that AIDS patients in rural China can access affordable adequate treatment without discrimination as equal citizens, as part of China's obligations under the ICESCR;
3. Please provide the legal basis for interrogating Ms. Liu Ximei at the local police station on 26 March 2019, and how this complies with China's the UDHR and the ICCPR, signed by China.
4. Please indicate what measures are being taken to ensure that Chinese citizens can exercise their right, peacefully, to cooperate with United Nations, its representatives and mechanisms in the field of human rights, without fear of reprisals of any sort..
5. Please indicate what measures have been taken to ensure that human rights defenders in China can operate in an enabling environment and can carry out their legitimate activities, in a peaceful manner, without fear of reprisals, threats, harassment or criminalisation of any kind.
6. Please provide information regarding the measures that your Excellency's Government is taking or considering to take to ensure all survivors of the AIDS epidemic caused by contaminated medical equipment have access to effective remedy, including compensation.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

We may consider publicly expressing our concerns in the near future as, in our view, the information upon which they are based appears to be sufficiently reliable to indicate a matter warranting serious attention. We also believe that the wider public should be alerted to the potential human rights implications of these allegations. Any public expression of concern on our part would indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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

Dainius Puras  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable  
standard of physical and mental health

Michel Forst  
Special Rapporteur on the situation of human rights defender