

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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**

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(Please use this reference in your reply)

15 November 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/4, 42/22, 44/5, 42/16, 43/16 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the rapidly deteriorating and life threatening health condition of Chinese journalist and woman human rights defender Zhang Zhan, who is currently serving a four-year prison sentence in Shanghai Women's Prison, and strongly urge your Excellency's Government to grant her immediate release on humanitarian grounds.

**Zhang Zhan** is a journalist, a woman human rights defender and a former lawyer. Her law license was previously cancelled by the authorities in response to her participation in various activities in defence of human rights, including the signing of petitions and her reporting on the early handling of the COVID-19 pandemic. She has used her legal knowledge and background to assist human rights defenders to access redress through legal avenues, including in relation to the demonstrations protesting the national security law in Hong Kong. In this context, Zhang Zhan was allegedly arbitrarily detained on more than one occasion, and in one instance was detained for over two months, and subjected to two forced psychiatric examinations whilst in custody.

The detention of Zhang Zhan was deemed arbitrary by the Working Group on Arbitrary Detention in its Opinion No. 25/2021 at its 91<sup>st</sup> session, and falls under categories I, II, III and V. The Working Group requested her immediate release and that she be accorded her enforceable right to compensation and other reparations.

According to the information received:

In early February 2020, Zhang Zhan travelled from her home in Shanghai to Wuhan, Hubei Province to report on the evolving COVID-19 pandemic and the response of the authorities to containing the virus. Zhang Zhan posted

stories on WeChat, Twitter and 122 videos on her YouTube channel on topics related to the pandemic including videos of scenes from Wuhan during the strictly enforced lockdown, the detention of other journalists reporting from the city and interviews with residents speaking about the impact of the lockdown on their livelihoods, as well as scenes from an overwhelmed hospital and a crematorium.

On 14 May 2020, Zhang Zhan was reported as having gone missing in Wuhan, one day after she had shared a video which criticised the government's response to containing the spread of the virus, including the use of intimidation tactics and threats against residents. The following day it was reported that she had been arrested by the authorities in Wuhan and had been transported to Shanghai, where she was being held in custody by the Pudong branch of the Shanghai Public Security Bureau on allegations of "picking quarrels and provoking trouble". On 15 May 2020, officers from the Pudong New District of the Shanghai Public Security Bureau gave Zhang Zhan's criminal detention notice and her luggage to her family.

On 19 June 2020, Zhang Zhan's arrest was approved by the Pudong New District Procuratorate. From June to December 2020, Zhang Zhan went on hunger strike in Pudong New District Detention Centre to protest her detention. During this period, she was reportedly force-fed using a naso-gastric tube, shackled and her hands restrained for more than three months.

On 15 September 2020, Zhang Zhan was indicted by the Pudong New District Procuratorate, accusing her of "spreading false information" and "maliciously stirring up the Wuhan epidemic situation".

On 28 December 2020, Zhang Zhan stood trial and was convicted of the charge "picking quarrels and provoking trouble", Article 293 of the Chinese Criminal Law, and sentenced to four years' imprisonment. Zhang Zhan was brought to the Pudong New District Court in a wheelchair, due to her weakened state following her hunger strike, and reportedly appeared extremely frail. Following her conviction, she was transferred to the Shanghai Women's Prison, where she remains detained.

Zhang Zhan declined to appeal her conviction, stating that she refused to acknowledge the validity of the legal process used to arrest and convict her. Zhang Zhan reportedly continued her hunger strike, however on a partial basis to avoid punishment and forced naso-gastric feeding.

In February 2021, the law license of Zhang Zhan's lawyer was revoked in relation to a separate case, in which he was representing Zhang Zhan and other pro-democracy activists. Her mother has also reportedly been threatened by the authorities against discussing Zhang Zhan's case with the media.

Between 31 July and 11 August 2021, Zhang Zhan was hospitalised in a prison hospital due to her deteriorating health, during which time she was reportedly tied to the hospital bed and force-fed by the prison authorities. On 11 August

2021, she was transferred back to the Shanghai Women's Prison.

On 28 October 2021, Zhang Zhan was permitted to have a video call with her mother. Prior to this call, Zhang Zhan's family had only been permitted one other video call with her in February 2021, and a phone call on 2 August 2021, aside from which they have been denied contact with her and visitation rights. Zhang Zhan's mother has also reportedly requested permission to visit her in prison and attempt to persuade her to abandon her hunger strike, however she has not received any response at the time of writing.

Zhang Zhan is reportedly suffering from severe malnutrition, a gastric ulcer and advanced oedema of her lower limbs. She reportedly now weighs less than 40kg, which is half of what she weighed when she was initially detained. She is reportedly unable to walk or raise her head without assistance. There are serious concerns for her life if unable to receive adequate and proper medical care.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our most serious concern at the rapid deterioration of Zhang Zhan's health in prison, and the potentially imminent risk to her life if she is not immediately granted medical parole and granted access to the necessary medical treatment. The gravity of these concerns is further compounded by the number of reported deaths in custody or shortly after their release from custody in recent years of individuals whose cases have previously been raised with your Excellency's Government by a number of Special Procedures mandate holders, contributing to a demonstrable pattern (CHN 49/2004, CHN 37/2008, CHN 2/2014, CHN 13/2013, CHN 12/2016). Given the profoundly concerning allegations regarding Zhang Zhan's current physical and psychological state, we also wish to refer to Article 17 of the Prison Law in China, which stipulates that individuals sentenced to either life imprisonment or fixed-term imprisonment may, following physical examination, be temporarily released from prison on parole for medical treatment if they are seriously ill.

In line with these concerns, we wish to refer to articles 3 of the Universal Declaration of Human Rights (UDHR) as well as articles 6 and 10 of the International Covenant on Civil and Political Rights (ICCPR), signed by China on 5 October 1998, which guarantee the right to life, that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and the right of all persons deprived of their liberty to be treated with humanity and respect for the inherent dignity of the human person. In order to ensure the enjoyment of such rights, the State is obliged to provide adequate or appropriate and timely medical care. The ultimate responsibility to care for the lives and bodily integrity of any persons deprived of their liberty resides with States.

Furthermore, the suffering experienced by Zhang Zhan during the alleged forced nasal tube feeding and the denial of adequate medical care may amount to a violation of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment; codified in article 7 of the ICCPR, and in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which China ratified on 4 October

1988.

We further recall the obligations of your Excellency's Government as regards to the right to health under article 12 of the Covenant on Economic Social and Cultural Rights, ratified by China on 27 March 2001. Accordingly, States have the obligation to ensure equal access of all persons, including prisoners or detainees, to health services (Committee on Economic, Social and Cultural Rights, General Comment 14 para. 34). Further, the UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), adopted unanimously by the UN General Assembly (A/RES/70/175), establish States' responsibility to provide healthcare for prisoners (Rules 24 to 35) and to particularly ensure prompt access to medical attention in urgent cases (Rule 27.1). We would also like to underline the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) adopted by the General Assembly in resolution 65/229, providing guidance for specific characteristics and needs for women in prison. The Bangkok Rules stress that the principle of non-discrimination requires States to address the unique challenges that women prisoners face. It further takes into account their gender-specific needs and provide comprehensive standards for the treatment of women prisoners and offenders.

Finally, we wish to refer your Excellency's Government to article 19 of the UDHR and the ICCPR, which guarantees the right of every individual to freedom of opinion and expression. The arrest and detention of Zhang Zhan in apparent retaliation for her exercising of this right through her reporting on the COVID-19 pandemic in Wuhan is incompatible with international human rights law. We also express further concern regarding the use of vaguely worded provisions such as "picking quarrels and provoking trouble" to unduly criminalize the exercise of the right to freedom of expression, and recall that any law restricting the right to freedom of expression in accordance with the exceptions established in article 19(3), must be formulated with "sufficient precision" (CCPR/C/GC/34, para. 25). Moreover, it is incompatible with article 19(3) to invoke such laws to suppress or withhold from the public information of legitimate public interest, such as information relating to the COVID-19 pandemic as in the case of Zhang Zhan (CCPR/C/GC/34, para. 30).

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.

In view of the urgency of the matter, we would appreciate early consideration of our appeal for the urgent release of Zhang Zhan on humanitarian grounds and a response on the initial steps taken by your Excellency's Government to safeguard her rights in compliance with international human rights standards.

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 indicate whether the authorities have considered or are considering the release of Zhang Zhan on humanitarian grounds and if not, please explain the reasons for not doing so.
3. Please provide details on the steps taken to ensure Zhang Zhan is afforded the necessary medical care for her rapidly deteriorating health and prevent the potentially imminent risk to her life. If she has not been receiving treatment, please explain how this is consistent with your obligations under international law.
4. Please provide information on the current detention conditions of Zhang Zhan, including explanation as to why she continues to be denied visits from her family.
5. Please provide information as to the factual and legal basis for the detention, charges and conviction of Zhang Zhan, and her continued access to legal counsel.
6. Please indicate what measures have been taken to ensure that human rights defenders, including civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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.

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

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

Miriam Estrada-Castillo  
Vice-Chair of the Working Group on Arbitrary Detention

Morris Tidball-Binz  
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Tlaleng Mofokeng  
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Mary Lawlor  
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