

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; 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 and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL CHN 13/2025
(Please use this reference in your reply)

16 July 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; 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 and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 52/4, 51/8, 54/14, 52/9, 50/17 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary detention, sentencing and ill-treatment in prison of Ms. **Namkyi**.

Ms. Namkyi is a woman human rights defender, from a nomadic pastoral family from the Aba (Ngaba) Tibetan and Qiang Autonomous Prefecture, who peacefully expressed support for the Dalai Lama and the freedom and dignity of the Tibetan people.

According to the information received:

On 21 October 2015, Ms. Namkyi, who was 15 years old at the time of the events, along with her cousin [REDACTED], peacefully marched through Martyr's Square in Ngaba (Aba) County, carrying portraits of His Holiness the 14th Dalai Lama and His Eminence Kirti Rinpoche. They peacefully called for their return to Tibet and for the freedom and dignity of the Tibetan people. The protest reportedly lasted for about 10 minutes, before they were both violently arrested by Chinese police officers, without presenting an arrest warrant.

During the arrest, they were reportedly physically assaulted, pinned to the ground with their mouths covered. The policemen forcibly removed the photos they carried. They were first detained at Ngaba County Detention Center and then transferred to Barkham Detention Center around midnight on the same day.

Over the next six days, Ms. Namkyi was reportedly subjected to torture and inhuman or degrading treatment or punishment. In a confined interrogation room, she reportedly faced extreme heat exposure, sleep deprivation and repeated beatings. She was reportedly accused of 'betraying the Chinese state', and interrogators demanded that she reveal the source of the protest materials, as well as who 'instigated' them. She was then transferred to two other detention

centers until her trial in November 2016, where she endured similar conditions of detention.

For over a year after her arrest, Ms. Namkyi was reportedly also subjected to enforced disappearance, as her parents were not informed about her arrest and trial or her place of detention. Her parents learned about her whereabouts only one year after 21 October 2015. She was denied access to a lawyer of her own choosing throughout her detention.

On 23 November 2016, Ms. Namkyi was tried in the Trochu (Heishui) County People's Court on charges of 'separatist activities', and 'causing problems to the nation'. The prosecutors reportedly offered to reduce her sentence if she expressed regret for her actions or falsely confessed to other crimes, like theft or drug dealing, which she refused. Ms. Namkyi was subsequently sentenced to three years in prison for 'separatist activities' and 'devotion to the Dalai Lama'.

Ms. Niamkyi was transferred to Sichuan Province Women's Prison, where she was reportedly subjected to inhumane treatment, including military drills, freezing conditions, forced labour and patriotic education. She was reportedly forced to work without recreation, manufacturing copper wires under harsh electric lighting that damaged her eyes. The food given to her was never enough to fill her stomach or provide proper nutrition, and when she fell sick, she was denied medical care. Tibetan inmates held in the same facility were reportedly prevented from making contact with each other. Her family was also rarely allowed to visit her while in detention.

On 21 October 2018, Ms. Namkyi was released from the Sichuan Province Women's Prison but was detained for another month at Padma Lhatang Dispatch Centre. After her last detention, which was reportedly intended to further intimidate her, Ms. Namkyi was surveilled 24 hours by video cameras, and she often questioned by police officers. She was unable to move freely in her own village, and her entire community risked facing the same treatment should Ms. Namkyi decide to do another protest. The family allegedly had to submit guarantee letters, given that her brother was also imprisoned at that time and the family remained blacklisted.

After fleeing from China shortly after, the police reportedly threatened Ms. Namkyi on the phone to "act better" in exile and informed her that they had detained her parents. She later learned some of her friends had been also detained or unfriended her on WeChat and ended contact with her.

There have been reportedly no investigations carried out into the alleged violations, nor reparation for the harm suffered.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our concerns regarding the alleged arbitrary detention and torture or other cruel, inhuman or degrading treatment or punishment of Ms. Namkyi in retaliation for her peaceful human rights activities when she was a minor. We express further concerns regarding the judicial process which lead to her sentencing, which appears to lack due process and fair trial guarantees, as well as the inhumane conditions in which she served

her sentence.

We are also concerned that the detention and charges against Ms. Namkyi, and the pressure on her family seem to be measures that have been adopted in direct retribution for Ms. Namkyi's exercise of her right to freedom of expression and peaceful assembly, and her work to protect religious freedom in Tibet. Such practices create a profound chilling effect, which deters citizens from expressing their opinions and views, as well as discouraging human rights defenders from carrying out their legitimate work.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please also provide information about the legal basis of the arrest, detention and sentencing of Ms. Namkyi, as well as detailed information about the conditions of her imprisonment and her access to legal assistance.
3. Please indicate the legal basis for not informing Ms. Namkyi's family about her arrest, detention and trial.
4. Please indicate the measures undertaken by the Chinese authorities to ensure the application of due process and the effective protection of her rights as a minor before the law.
5. Please provide information of whether any investigation was launched into the allegations of torture and other cruel, inhuman or degrading treatment or punishment in compliance with international standards, including the Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition). Please provide information on the outcome of any such investigation, particularly in terms of accountability. Please also provide detailed information on any investigations undertaken on her alleged enforced disappearance. If no investigation was launched, please explain why.
6. Please indicate what measures have been taken to ensure the rights to freedom of expression and freedom of peaceful assembly of human rights defenders exercising their legitimate rights are guaranteed.

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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Matthew Gillett
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Gabriella Citroni
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

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

Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to articles 10, 11, 19, 20 and 21(3) of the Universal Declaration of Human Rights (UDHR), and articles 7, 14, 16, 19, 21, and 22 of the International Covenant on Civil and Political Rights (ICCPR), signed by China on 5 October 1998, read alone and in conjunction with article 2.3, which provide for the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, due process rights, the right to recognition before the law, the rights to freedom of expression, and freedom of peaceful assembly and association, and the right to an effective remedy. As established by the Vienna Convention on the Law of Treaties (VCLT), where the signature to a treaty is not subject to ratification, acceptance or approval, the signature does not establish the consent to be bound. However, it is a means of authentication and expresses the willingness of the signatory State to continue the treaty-making process. The signature qualifies the signatory state to proceed to ratification, acceptance or approval. It also creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty (VCLT, articles 10 and 18).

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right applies online as well as offline and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (CCPR/C/GC/34, para. 11). The Committee states that article 19 also covers the right of a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion and a corresponding right of the public to receive media output.

The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23). Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that “all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress” (para. 23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national

security or of public order (ordre public), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34, para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed. In this regard, the Human Rights Committee stated that the restrictions must be “the least intrusive instrument among those which might achieve their protective function”. (CCPR/C/GC/34, para. 34).

We would also like to recall your excellency’s Government of articles 21 and 22 of the ICCPR which states that the right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others” (ICCPR, art. 21)

“No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right” (ICCPR, art. 22)

We would like to draw the attention of your Excellency’s Government to Human Rights Council resolution 12/16 calling on States to refrain from imposing restrictions that are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups (A/HRC/RES/12/26). Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 29 of the UDHR. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality, must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

We would like to draw the attention of your Excellency’s Government 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, otherwise known as the UN Declaration on Human Rights Defenders, which was adopted by consensus at the UN General Assembly in 1998. In particular, we would like to highlight articles 1 and 2 of the Declaration, which state that everyone, individually and in association with others, has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms and that each State has a prime responsibility and duty to promote, protect and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6(b) and (c), which reiterates the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 12(2) and (3), which provides that the State shall take all necessary measures to ensure the protection of everyone 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.

We also recall article 7 of the ICCPR, articles 1, 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by China in 1988, as well as article 37 of the Convention on the Rights of the Child, ratified by China in 1992, which refer to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. We stress that attached to such prohibition are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute suspects, to punish those responsible and to provide remedies to victims.¹

We wish to reiterate that the absolute prohibition of enforced disappearance has attained the status of *jus cogens*. In this regard, we wish to recall that the United Nations Declaration on the Protection of All Persons from Enforced Disappearances establishes that "all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness (article 4), no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance (article 6). Furthermore, no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7).

Moreover, articles 9 to 12 of the Declaration further spell out the rights of detained persons to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty. Access by competent national authorities to all places of detention must be ensured and any deprivation of liberty be held in officially recognized places of detention. Detainees have the right to be released also in a manner permitting verification of whether their human rights have been fully ensured. Article 13 further stipulates that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority.

The Declaration also establishes that States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of

¹ For a full explanation see A/HRC/52/30: <https://documents.un.org/doc/undoc/gen/g23/033/16/pdf/g2303316.pdf?token=clzfg4HLIHmm6KknXQ&fe=true>.

enforced disappearance (article 14), and that the persons responsible for these acts shall be tried only by ordinary courts and not by other special tribunal, notably military courts (article 16); not benefit from any amnesty law (article 18); and the victims or family relatives have the right to obtain redress, including adequate compensation (article 19).

In the [Joint statement](#) on short-term enforced disappearances, the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances highlighted that, under international law, the duration is not a constitutive element of enforced disappearance, stating that "whatever its duration, any enforced disappearance entails serious harm and consequences for the disappeared persons and their families, and poses practical difficulties for the protection of these persons and the defence of their rights".

In its general comment on the right to recognition as a person before the law in the context of enforced disappearance, the Working Group noted that when a person deprived of liberty is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total defencelessness. The crime of enforced disappearance puts the detainee outside of the protection of the law, denies the person of legal existence and prevents the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms.

In its report on standards and public policies for an effective investigation of enforced disappearances ([A/HRC/45/13/Add.3](#)), the Working Group on Enforced or Involuntary Disappearances recommended that States define enforced disappearance as an autonomous crime in national legislation and establish different modes of criminal liability, including abetting, instigating, acquiescing and actively covering up an enforced disappearance, as well as criminal liability for command or superior responsibility; and create mechanisms that can promptly receive and process complaints of enforced disappearances, under the responsibility of authorities who are independent of the institutions to which the alleged perpetrators belong or may be linked. These mechanisms should be empowered to trigger prompt investigations of the complaints received. In this regard, in its general comment on the right to life, the Human Rights Committee observed enforced disappearance as an extreme and life-threatening form of arbitrary detention, that violates the rights to liberty, security and life. It removes individuals from legal protection, placing their lives at constant risk and making the State accountable. Failure to uphold procedural safeguards under Article 9 of the ICCPR can also lead to violations of the right to life under Article 6 and the prohibition of torture under Article 7. States must take effective measures to prevent disappearances, investigate promptly and impartially, prosecute perpetrators, and ensure victims and their families receive full reparation ([CCPR/C/GC/36](#) paras. 57-58).

Additionally, in the study on enforced disappearances and economic, social and cultural rights, the Working Group observed that the enforced disappearance of persons actively promoting the enjoyment of economic, social and cultural rights, are used as a repressive tool to deter the legitimate exercise, defence or promotion of the enjoyment of these rights. Due to their collective character, such measures also violate their economic, social and cultural rights, the rights of others engaged in related activities, and of the larger community of people who relied on the disappeared person to represent and fight for their rights ([A/HRC/30/38/Add.5](#)). Similarly, in its General Comment on women and enforced disappearances, the Working Group noted that States have an

obligation to recognize the particular types of harm women suffer based on their gender and the resulting psychological damage and social stigma as well as the disruption of family structures ([A/HRC/WGEID/98/2](#)). Moreover, in its general comment on children and enforced disappearances, the Working Group acknowledged the specific and especially serious lasting effects that the separation of children from their families has on their personal integrity. In this regard, many of the rights of children of disappeared parents are affected, including economic, social and cultural rights given the legal uncertainty created by the absence of the disappeared parents.