

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 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

REFERENCE:
UA CHN 4/2016:

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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 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 24/7, 25/2, 24/6, 25/18 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the continued detention, the serious health deterioration, and ill-treatment including the denial of medical care of seven human rights defenders: **Guo Hongwei** (male, 52 years old); **Xiao Yunling** (female, 76 years old), mother of Guo Hongwei; **Pei Guodong** (male, 62 years old); **Huang Yan** (female, 46 years old); **Zhang Shuzhi** (female, 56 years old); **Guo Feixiong** (male); and **Chen Xi** (male, 62 years old).

Ms. Zhang was the subject of a previous joint urgent appeal by 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 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, dated 22 April 2016 (case no. CHN 3/2016).

Mr. GUO Feixiong (also known as Mr. YANG Maodong) was the subject of urgent appeals and allegations letters sent on 6 March 2006 (case no CHN 8/2006) by the Special Rapporteur on the independence of judges and lawyers and the then Special Representative of the Secretary-General on the situation of human rights defenders; on 19 October 2006 (case no CHN 39/2006) by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; on 1 December 2006 (case no. CHN 40/2006); on 30 November 2007 (case no. CHN 42/2007) by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and

expression and the then Special Representative of the Secretary-General on the situation of human rights defenders; on 22 August 2013 by 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 of the rights to freedom of peaceful assembly and association, and the Special Rapporteur on the situation of human rights defenders (case no. CHN 9/2013); and on 7 August 2015 by 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 situation of human rights defenders, and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (case no. CHN 8/2015). We acknowledge receipt of the responses of your Excellency's Government dated 17 May 2006, 4 January 2007, 17 January 2007, 15 January 2008, 22 August 2013 and 2 September 2015. We however reiterate our concerns light of the reports received.

Mr. Chen Xi was the subject of previous communications by: the Special Rapporteur on the situation of human rights defenders, dated 11 December 2009 (case no. CHN 34/2009); the Working Group on Arbitrary Detention, and the Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression, situation of human rights defenders, and torture and other cruel, inhuman or degrading treatment or punishment, dated 7 December 2010 (case no. CHN 29/2010); and Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression, situation of human rights defenders, independence of judges and lawyers, and torture and other cruel, inhuman or degrading treatment or punishment, dated 6 February 2012 (case no. CHN 1/2012). It is reported that he has developed chronic enteritis which causes diarrhoea, dehydration and fever. Each winter he has contracted severe frostbite on his hands, ears, and abdominal area, with prison authorities rejecting warm clothing sent by Mr. Chen's family, and refusing to provide a thicker blanket or heating device. In addition, it is reported that Mr. Chen is subjected to ill-treatment through harassment by cellmates and solitary confinement. It is alleged that Mr. Chen's human rights advocacy work is linked to his current and previous two convictions, which have meant that he has been sentenced to a total of 23 years in prison.

According to the information received on Guo Hongwei

On 9 March 2015, Guo Hongwei and his mother Xiao Yunling were forcibly taken to Siping City Detention Centre by Siping City PSB and national security officers. Mr. Guo was reportedly subjected to numerous incidents of physical assault. On 4 October 2015, critically ill from hunger striking, Mr. Guo was sent to emergency care at Siping City No. 1 People's Hospital. On 16 October 2015, Mr. Guo was transferred to Xinkang Prison Hospital in Jilin Province and stayed there until after his trial ended in December 2015, when he was returned to Siping City Detention Centre. During his trial period, Mr. Guo was beaten by court bailiffs in a waiting room at the Tiedong District People's Court in Siping. On 26 April, 2016, Mr. Guo was moved to Zhenlai Prison in Baicheng City in Jilin,

where he sustained injuries to his head, face, and neck after cellmates assaulted him with scissors. It is reported that Mr. Guo has been deprived of medical treatment for several serious health conditions, including high blood pressure and heart disease, which he developed in 2009. Mr. Guo has stage 3 hypertension, which requires urgent medical treatment and could lead to a stroke if left untreated. Moreover, in October 2015 it is reported that a doctor at the Siping City No. 1 People's Hospital confirmed that the Mr Guo was not suitable for detention as he was at high risk of internal haemorrhage. Between November and December 2015, Mr. Guo needed an oxygen tank and wheelchair when appearing for trial proceedings. On 27 April 2016, it is reported that Mr. Guo was beaten by cellmates leading to his transfer to emergency care at No. 8 Prison Hospital of Zhenlai Prison. It is reported that due to his critical condition, he has been transferred to the 4th Floor, Building 5 of Jilin Province People's Hospital, used as a Special Supervision ward for detainees of Xinkang Prison. A request for medical parole submitted on May 9 has been rejected. It is alleged that the cellmates who beat Mr. Guo have told him that they are acting on orders from detention centre authorities.

According to the information received on Ms. Xiao Yunling

In April 2015, Xiao Yunling was officially arrested on suspicion of “extorting the government” and “picking quarrels and provoking trouble” after she sought redress for her son Mr. Guo. On 26 April 2016, Ms. Xiao was transferred to Changchun Women's Prison in Jilin Province. It is alleged that Ms. Xiao has not received adequate treatment for her medical conditions including high blood pressure. In August 2015 she fainted, but was reportedly not given medical care or a comprehensive medical examination. Ms. Xiao's treatment in detention is of particular concern given her elderly age.

According to the information received on Mr. Pei Guodong

On 29 October 2015, Pei Guodong was seized by Beijing police near Beijing West Railway Station, before being forcibly transferred by police from Weichang County Xinbo Police Station in Hebei Province to Weichang County Detention Center. On 30 October 2015, Mr. Pei was given a 15 day administrative detention, after which, on 14 November 2015, he was criminally detained on suspicion of “picking quarrels and provoking troubles” by Weichang County PSB. Around 18 November, Mr. Pei was sent to No. 5 Emergency Department of Weichang County Hospital, critically ill from his hunger strike in protest of his detention, and having been detained without treatment for heart disease, diabetes and high blood pressure. He was then incarcerated at the hospital for months, subjected to daily force-feeding by a tube through his nose. Mr. Pei was then transferred to No. 7 Ward District of Chengde (承德) City Shangbancheng (上板城) Prison in Hebei Province. On 5 May, Mr. Pei's appeal hearing took place in a private trial, without

Mr. Pei or his lawyer being informed. His original sentence of 4.5 years was upheld. It is alleged that his detention is linked to his human rights activism, particularly for sharing photographs of mainland activists holding a banner with a message of support for the pro-democracy movement in Hong Kong in 2014.

According to the information received on Ms. Huang Yan

On 26 November 2015, Huang Yan was seized by police officers of the Shunde Public Security Bureau for questioning, before being put under criminal detention for being suspected of “deliberately disseminating terrorist information”. She has since remained in Cell 254 of Shunde (順德) District Detention Center in Foshan City, Guangdong Province. On 31 December 2015, she was formally arrested on charges of “obstructing official duties”. It is reported that in addition to being consistently denied medical treatment for her diabetes, late-stage ovarian cancer, her deteriorating eyesight, open wounds on her legs and back, and a foot problem which makes it difficult for her to walk, Ms. Huang has been subjected to other inhuman treatment. She has reportedly suffered two miscarriages due to severe beatings by police, and on another occasion was forced to undergo an abortion. Ms. Huang had a medical examination in early April 2016, and was sent to the military hospital in early May 2016. On 6 May her case was transferred to Guangzhou Liwan (荔灣) District Procurator. It is alleged that her treatment is linked to her human rights advocacy work, including advocating the freeing of Guo Feixiong, among others. Further to this, it is reported that authorities are denying Ms. Yan’s family social benefits as a low-income family and planning to take away their home.

According to the information received on Ms. Zhang Shuzhi

On 27 October 2015, Zhang Shuzhi was seized by officers from Suihua County of Heilongjiang Province while waiting in line at the Letters and Visits Office where citizens make complaints about official wrongdoing. It is alleged that she was brutally beaten during her abduction, leaving her unable to walk without extreme difficulty.

On 28 October 2015 she was put under criminal detention at Wangkui County Detention Center on suspicion of “picking quarrels and provoking troubles”. On 4 January 2016 she was transferred to Suihua City Detention Center. On 28 January 2016 she was sentenced to 4 years in prison, and on 6 April 2016 she was transferred to Harbin Women’s Prison in Heilongjiang. It is reported that she was tortured at all three facilities. Until recently, she was denied medical treatment for terminal thyroid cancer, which had begun spreading to parts of her body prior to her detention, and liver disease. Her family recently requested and paid for a comprehensive medical examination and required medication. The prison authorities denied bail on medical grounds claiming that her cancer is manageable

with the medication she has started to receive. It is alleged that her detention and subsequent mistreatment is linked to her advocacy and her refusal to admit any wrongdoing – as suggested by the Suihua City Intermediate People’s Court’s decision to reject Ms Zhang’s appeal on 29 March 2016.

According to the information received on Mr. Guo Feixiong

On 27 November 2015, Guo Feixiong, also known as Mr. Yang Maodong, a lawyer in charge of human rights cases, was sentenced to six years in prison by the Tianhe District People’s Court in Guangzhou on charges of “gathering crowds to disturb social order” and “picking quarrels and provoking trouble”. There are reports that during his prison sentence between November 2007 and September 2011 for “illegal business activity”, after Mr. Guo published a book documenting a political scandal, he was previously shackled to a wooden bed for 42 days and hung naked from a ceiling by his arms while police used an electric baton to electrocute him. On 7 April 2016 he was admitted to hospital, after experiencing intermittent blood in his stools and bleeding in his mouth and throat for over one year. On 19 April 2016 he experienced heavy bleeding and was unable to walk steadily, on 25 April he was barely able to stand. It is reported that Ms. Yang Maoping, Mr. Guo’s sister, asked the prison warden to transfer him to a higher level hospital, to which the warden responded that Mr. Guo had not made such a request but would be transferred if he lost consciousness.

According to the information received on Mr. Chen Xi

In December 2011, Chen Xi was arrested on suspicion of “inciting subversion of state power” and was sentenced to ten years in prison. Since 17 January 2012, he is incarcerated at Xingyi Prison in Guizhou Province. It is reported that he has developed chronic enteritis which causes diarrhoea, dehydration and fever. Each winter he has contracted severe frostbite on his hands, ears, and abdominal area, with prison authorities rejecting warm clothing sent by Mr. Chen’s family, and refusing to provide a thicker blanket or heating device. In addition, it is reported that Mr. Chen is subjected to ill-treatment through harassment by cellmates and solitary confinement. It is alleged that Mr. Chen’s human rights advocacy work is linked to his current and previous two convictions, which have meant that he has been sentenced to a total of 23 years in prison.

While we do not wish to prejudge the accuracy of these allegations, we are concerned that the detention and treatment of the individuals named above are related to their human rights activities legitimately exercising their right to freedom of opinion and expression. We express serious concern that these individuals are alleged to have been subjected to torture or otherwise seriously ill-treated and subjected to inhumane treatment, that several of them are either being denied medical treatment or provided

inadequate medical attention, although in some cases they suffer life threatening conditions or conditions that may seriously impair their health.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the above-mentioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their 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, and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) which the People's Republic of China signed on 5 October 1998.

We are drawing your Excellency's Government to the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which China ratified in 1988. Article 12 of the same Convention establishes the obligation of States party to it to proceed with a prompt and impartial investigation wherever there is a reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction. Article 14 provides that victims of acts of torture should be afforded a right to redress and to fair and adequate compensation.

Regarding allegations of denial of adequate medical treatment to these individuals while detention, we are referring to the right of everyone to the highest attainable standards of physical and mental health. This right is reflected, inter alia, in article 12 of the International Covenant of Economic, Social and Cultural Rights, acceded by China on 21 March 2001, and includes the obligation to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination.

The Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111, underline that prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation (Principle 9). In addition, the 1955 Standard Minimum Rules for the Treatment of Prisoners as revised in 2015 (known as 'Mandela Rules') recognize that the provision of health care for prisoners is a State responsibility, without discrimination, and should pay special attention to those with special health-care needs (Rules 24, and 25). The rules clearly stress the absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment, including solitary confinement (Rules 43-45).

With regard to the allegations that the detention and treatment of the individuals named above are related to their human rights activities legitimately exercising their right to freedom of opinion and expression, we would also like to refer to article 19 of the UDHR and the ICCPR which enshrines the right to freedom of opinion and expression.

We further 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, 9 and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 the above-mentioned person(s) 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 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 on how the right to a fair and public trial, as established in international norms and standards, has been respected in these cases including the right of these individuals to adequate time and facilities to mount a defence.
3. Please provide information concerning the legal grounds for the sentencing of the individuals concerned and details how the trial, detention and sentencing of the individuals concerned relates to their human rights work and exercise of their human rights.
4. Has a complaint been lodged by or on behalf of the alleged victims, in relation to the allegations of arbitrary detention and ill-treatment?
5. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to the allegations that several of these persons have been tortured or otherwise ill-treated by security or other personnel during their arrest or detention. If no inquiries have taken place, or if they have been inconclusive, please explain why, and how this is in conformity with the obligations of China under the Convention against torture
6. Please kindly indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work in a safe

and enabling environment without fear of threats or acts of intimidation, harassment and persecution of any sort.

7. Please indicate what measures have been taken to ensure that the physical and psychological integrity of the individuals named above and of human rights defenders in general in China is guaranteed.
8. Please provide detailed information about the health status of the individuals named above and the medical treatment they receive while in detention, including access to physicians, necessary medicines, and specialized health care.
9. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
10. Please indicate any remedial action taken vis à vis the victim or his/her family.

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.

After having joined this urgent appeal by several mandates to the Government, the Working Group on Arbitrary Detention (WGAD) may transmit these cases to the Government through its regular procedure in order to render an opinion on whether the deprivation of liberty is arbitrary or not. Urgent appeals like the present one — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group on Arbitrary Detention may render. If the case arises, the Government will be expected to respond separately to this urgent appeal and to WGAD's 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.

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Vice-Chair-Rapporteur of the Working Group on Arbitrary Detention

David Kaye
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