

**United Nations Reports on
Violations against Falun Gong Practitioners
& the Human Rights Situation in China**

(2000 - 2010)

First Edition July 2010

United Nations Reports on Violations Against Falun Gong
Practitioners and the Human Rights Situation in China

www.falunhr.org
The Falun Gong Human Rights Working Group

Despite more than eleven years of heinous crimes and horrific atrocities against tens of millions of innocent and peaceful Falun Gong practitioners, the PRC government continues to deny any use of violence—because the violations are so blatant that even the PRC government can find no defense but to resort to categorical denial. What the PRC government counts on is effecting indifference in the international community through deceit and coercion.

However, ink-printed lies can never conceal bloodstained facts.

Collected in this book are excerpts from annual reports of the United Nations Special Rapporteurs, independent experts, documenting cases of human rights violations committed by the PRC government against its citizens. The PRC government is a member of the UN Human Rights Council and a permanent member of the UN Security Council with veto power.

It cannot, however, veto the findings of the Special Rapporteurs.

These findings are just the tip of the iceberg of the ongoing slaughter. Many Special Rapporteurs and their assistants have indicated that the vast number of cases is simply beyond their capacity to process.

We hope, however, that this small collection will serve adequately as independent and authoritative evidence for those who still wishfully believe that the PRC government is moving towards rule of law and that Falun Gong practitioners are “all treated according to the law.”

We further hope that this small collection is enough to stir the conscience of the international community—including the United Nations Human Rights Commission, which appointed those Special Rapporteurs—to come to the aid of the victims.

In publishing these reports, we wish to express our utmost respect and indebtedness to the Special Rapporteurs and their assistants, many of whom have faced hardship because of pressure from those who do not want the reports to see the light of day.

Everyone who has worked for human rights causes knows that the first and most difficult step in ending systematic violations is to expose the evil. Falun Gong practitioners in China have courageously taken this first step; isn't it upon our conscience to come to their defense, so that their sacrifices shall not have been in vain?

About Special Rapporteurs and the United Nations' Thematic Mechanism

UN Special Rapporteurs (also called independent experts) are elected by the United Nations and work on a voluntary basis. Each Special Rapporteur holds a particular thematic mandate which is in place to monitor the human rights situation in each country.

The following excerpts from Special Rapporteur Manfred Nowak's report (A/HRC/13/39/Add.5) explain the UN's thematic mechanism and the working methods related to the torture mandate.

"Independent experts have played an increasingly active role within the human rights system of the United Nations since the late 1960s. On the basis of ECOSOC Res. 1235 (XLII) of 1967, the former Commission on Human Rights entrusted working groups and later individual experts to investigate the overall human rights situation in those States which were particularly criticized for gross and systematic violations of human rights (country-specific mandates). With the establishment of the UN Working Group on Enforced or Involuntary Disappearances in 1980, the Commission created the first thematic mechanism with a global mandate. The UN Special Rapporteur on Torture was established in 1985 with a mandate to investigate the phenomena of torture, cruel, inhuman or degrading treatment or punishment in all States and to provide annual reports and assessments to the United Nations. Independent experts have also been elected to UN human rights treaty bodies entrusted with the monitoring of States parties' compliance with their respective treaty obligations."

"As an independent UN expert, I am not employed by the United Nations and do not receive a salary or honorarium. In other words, I earn my living as full-time Professor of Human Rights at Vienna University and can only dedicate a certain amount

of my time (de facto certainly more than half of my time) to my function as UN Special Rapporteur for a limited period of six years."

"Since 1 December 2004, I have been entrusted as the fourth mandate holder to carry out the tasks of the UN Special Rapporteur on Torture (SRT). These tasks have been laid down in various resolutions of the Commission on Human Rights, the General Assembly and the Human Rights Council and were developed over the years through the practice of my predecessors and myself. They are manifold and include the following: to receive and send on a daily basis individual communications (allegation letters and urgent appeals) to Governments and to study the respective replies from Governments; to carry out country missions, follow-up and other visits; to gather reliable information about torture and ill-treatment from various sources, including Governments, inter-governmental and nongovernmental organizations, victims and witnesses; to conduct academic research into certain legal and factual aspects concerning torture; to cooperate with other universal, regional and national bodies active in the fight against torture; to respond to media requests and inform the public about torture-related matters; to participate in meetings and conferences relating to my mandate; to engage in torture-specific training, human rights education and awareness raising activities and, most importantly, to report regularly to the Human Rights Council and the General Assembly about my activities and my independent assessment of the situation of torture, cruel, inhuman or degrading treatment or punishment (CIDT) globally and in relation to specific States, specific groups of individuals (e.g. women, children, persons with disabilities, detainees, drug-users) or specific aspects of torture, such as its use in the global fight against terrorism."

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**Report Excerpts from the First UN Visit to
China on the Investigation of Torture**

By the Special Rapporteur on torture, Manfred Nowak

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Sixty-second session
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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION
OF TORTURE AND DETENTION**

**Report of the Special Rapporteur on torture and other cruel, inhuman or
degrading treatment or punishment, Manfred Nowak**

MISSION TO CHINA*

* The summary of this mission report is being circulated in all official languages. The report itself is contained in the annex to the summary and is being circulated in the language of submission and in Chinese. The appendices are available in English only and are circulated as received.

41. Since 2000, the Special Rapporteur and his predecessors have reported 314 cases of alleged torture to the Government of China. These cases represent well over 1,160 individuals.⁴⁹ Over the past five years, the Special Rapporteur has received 52 responses from the Government of China relating to a total of 90 cases.⁵⁰

42. The following table indicates the typology of the victims of alleged torture and ill-treatment.

Table 1

Victims of alleged torture

Victims	Percentage
Falun Gong practitioners	66
Uighurs	11
Sex workers	8
Tibetans	6
Human rights defenders	5
Political dissidents	2
Other (persons infected with HIV/AIDS and members of religious groups)	2

43. The following table indicates the locations where alleged torture and ill-treatment took place.

Table 2

Locations of alleged torture

Places	Percentage
Pretrial detention centres	27
Re-education through labour (RTL) camps	25
Police stations	17
Psychiatric hospitals (<i>ankang</i>)	8
Public places	5
Other (police transit, birth control offices, army barracks, private residences)	18

44. The following table indicates the typology of the alleged perpetrators.

Table 3

Typology of alleged perpetrators

Perpetrators	Percentage
Police and other public security officers	47
RTL staff	21
Prison staff	13
Pretrial detention centre staff	7
Psychiatric hospital (<i>ankang</i>) staff	7
Fellow prisoners at the instigation or acquiescence of detention facility staff	5

45. The methods of torture alleged include, among others: beatings with sticks and batons; use of electric shock batons; cigarette burns; hooding/blindfolding; guard-instructed or permitted beatings by fellow prisoners; use of handcuffs or ankle fetters for extended periods (including in solitary confinement or secure holding areas); submersion in pits of water or sewage; exposure to conditions of extreme heat or cold; being forced to maintain uncomfortable positions, such as sitting, squatting, lying down, or standing for long periods of time, sometimes with objects held under arms; deprivation of sleep, food or water; prolonged solitary confinement; denial of medical treatment and medication; hard labour; and suspension from overhead fixtures with handcuffs. In several cases, the techniques employed have been given particular terminologies, such as the “tiger bench”, where one is forced to sit motionless on a tiny stool a few centimetres off the ground; “reversing an airplane”, where one is forced to bend over while holding legs straight, feet close together and arms lifted high; or “exhausting an eagle”, where one is forced to stand on a tall stool and subjected to beatings until exhaustion. Several of these forms of torture have been corroborated by studies carried out by Chinese academics.⁵¹ On the basis of the information he received during his mission, the Special Rapporteur confirms that many of these methods of torture have been used in China.

of the CAT. RTL constitutes not only a serious violation of the human right to personal liberty, but can also be considered as a form of inhuman and degrading treatment or punishment, if not mental torture. RTL and similar measures of forced re-education in prisons, pretrial detention centres, religious institutions and psychiatric hospitals should therefore be abolished.

65. The human rights to privacy, freedom of expression, religion, assembly and association lie at the very heart of a democratic society, which, according to its White Paper on Democracy, China has committed itself to achieve.⁷⁰ Under international human rights law, Governments can only interfere with the expression of political opinions, religious convictions, moral values or minority views when they constitute incitement to hatred or violence or a direct threat to national security or public safety in the country. A system of State surveillance of citizens with non-conformist views and with severe punishments for such “deviant behaviour”, such as long-term prison sentences for vaguely defined crimes, including endangering national security, undermining the unity of the country, subverting State power, or unlawfully supplying State secrets to individuals outside the territory, as well as subjecting them to RTL, seems to be incompatible with the core values of a society based upon a culture of human rights and leads to intimidation, submissiveness, self-censorship and a “culture of fear”, which in turn interferes with the right not to be subjected to inhuman and degrading treatment or punishment.

V. CONDITIONS IN DETENTION

In general

66. The Special Rapporteur visited a total of 10 detention facilities. As is the usual practice, during visits to places of detention, the Special Rapporteur held private interviews with detainees (summaries of which are included in appendix 2). However, he observed that a considerable number of detainees that were approached for interviews did not express a willingness to speak with the Special Rapporteur, and several of those who did requested absolute confidentiality. Consequently, the information contained in appendix 2 does not reflect the full situation, as a significant amount of the information on torture practices was received in confidence.

67. In general, the Special Rapporteur found that although the specific conditions of the facilities varied, in terms of basic conditions, such as food, medicine and hygiene, they were generally satisfactory (detailed findings on conditions in detention are listed for each facility visited in appendix 2). However, the Special Rapporteur noticed a palpable level of fear when talking to detainees. He also was struck by the strict level of discipline exerted on detainees in different facilities. Time and again, he entered cells and found all detainees sitting cross-legged on a mattress or in similar forced positions reading the CL or prison rules. According to information provided by detainees, such forced re-education, in particular in pretrial detention centres, goes on for most of the day. It is usually conducted on the order of one of the fellow detainees who is considered “chief” of the cell. There is very little privacy and opportunity for individual recreation, such as reading a book, etc. Even when serving long prison sentences, persons convicted of political offences usually have no right to work and very little time for recreation. They are not allowed to practise their religion (e.g. Buddhism in Tibet, Islam in Xinjiang).

Circumstances surrounding capital punishment

68. The Special Rapporteur is also concerned about the circumstances surrounding the death penalty, including the situation of prisoners on death row. At the Beijing Municipality Detention Centre, where the Special Rapporteur spoke with prisoners sentenced to death at first instance awaiting appeal, he noted that these prisoners were handcuffed and shackled with leg irons weighing approximately 3 kg, 24 hours per day and in all circumstances (i.e. including during meals, visits to the toilet, etc).⁷¹ In the opinion of the Special Rapporteur this practice is inhuman and degrading and serves only as an additional form of punishment of someone already subjected to the stress and grief associated with having been sentenced to death.

69. The Special Rapporteur wishes to express concern at the high number of crimes for which the death penalty can be applied, and the lack of official statistics on the application of the death penalty, which contributes to the perception of secrecy.⁷² He encourages the Government to both narrow its scope and to be more transparent towards family members and the public at large regarding its use, including by making statistics on the death penalty public information. The Special Rapporteur notes allegations that some provincial authorities are introducing mobile execution vans (converted 24-seater buses) manufactured by a State-owned company.⁷³ These mobile execution vans were reportedly approved by Yunnan Provincial authorities on 6 March 2003, and 18 such vans were distributed to all intermediate courts and one high court in Yunnan Province in 2003. In December 2003, the SPC in Beijing reportedly urged all provinces to acquire execution vans “that can put to death convicted criminals immediately after sentencing”.

70. The Special Rapporteur welcomes the anticipated recovery by the Supreme People’s Court of responsibility for final approval of the death penalty.⁷⁴

VI. CONCLUSIONS AND RECOMMENDATIONS

Conclusions

71. The Special Rapporteur wishes to express his sincere gratitude to the Government of China for having invited him and for having facilitated his mission in general accordance with his terms of reference. He welcomes the Government’s willingness to acknowledge the pervasiveness of torture in the criminal justice system and various efforts undertaken in recent years at the central and the provincial level to combat torture and ill-treatment. In particular, he notes the 2004 regulations issued by the Ministry of Public Security prohibiting the use of torture and threats to gain confessions and the announcement by the Supreme People’s Procuratorate in 2005 that eliminating interrogation through torture was a priority of its work agenda. Recent efforts to eradicate torture include a nationwide campaign to clear up and rectify extended police custody, large-scale training of the police, piloting systems of audio and video recording in interrogation rooms, placing lawyers on a 24-hour basis in pilot police stations and establishing resident procurators in places of detention and near public security bureaux to supervise law enforcement personnel.

72. These and similar measures have contributed to a steady decline of torture practices over recent years. Nevertheless, on the basis of a considerable number of allegations that he and his predecessors received over the years, as well as other reliable governmental and

non-governmental information and his own fact-finding during the mission, the Special Rapporteur believes that torture, though on the decline particularly in urban areas, remains widespread in China.

73. Many factors contribute to the continuing practice of torture in China. They include rules of evidence that create incentives for interrogators to obtain confessions through torture, the excessive length of time that criminal suspects are held in police custody without judicial control, the absence of a legal culture based on the presumption of innocence (including the absence of an effective right to remain silent); and restricted rights and access of defence counsel.

74. The situation is aggravated by the lack of self-generating and/or self-sustaining social and political institutions including: a free and investigatory press, citizen-based independent human rights monitoring organizations, and independent, fair and accessible courts and prosecutors.

75. Judicial oversight is particularly important. One of the largest overall obstacles to eliminating torture in China is the institutional weakness and lack of independence of the judiciary, particularly in a context where police exercise wide discretion in matters of arrest and detention and are under great pressure to solve cases. Nor do there seem to currently be any truly independent monitoring mechanisms of places of detention or complaints mechanisms in China. The procuratorate is not perceived as an independent monitoring organ given its role in convicting suspects. Nor does the procuratorate have the requisite independence to meet the international criteria of a judicial officer authorized by law to exercise judicial power to take decisions on arrest.

76. At the provincial and municipal levels, the efforts of the central Government to reduce the practice of torture are significantly hampered by the degree of "localism" inherent in policing and criminal procedure, impeding the effective implementation of central regulations, guidance, training, prohibitions, etc. Such localism also impedes effective accountability and oversight.

77. The basic conditions in the detention facilities visited by the Special Rapporteur including food, medical care and hygienic conditions, seem to be generally satisfactory. But the Special Rapporteur was struck by the strictness of prison discipline and a palpable level of fear and self-censorship when talking to detainees. Detainees, particularly in pretrial detention facilities where they should enjoy the presumption of innocence, seem to spend many hours a day sitting in a fixed position and being forced to read to each other the Criminal Law or prison rules.

78. Even when serving long prison sentences, persons convicted of political crimes often have no right to work and very little time for recreation. They are usually not allowed to practise their religion. Convicted prisoners who have not confessed to their crimes are put under special education systems and are deprived of certain rights and privileges which converted prisoners enjoy, such as family visits, access to a telephone or the incentive of reduced sentences. Prisoners on death row are mixed with pretrial detainees and shackled with leg irons and sometimes also handcuffed for 24 hours a day. Such additional punishment is not compatible with the right to personal integrity, dignity and humanity.

79. The criminal justice system and its strong focus on admission of culpability, confessions and re-education is particularly disturbing in relation to political crimes, such as “counter-revolutionary crimes” before the 1997 CL reform, or crimes “endangering national security” thereafter. In addition, persons with politically deviant or dissident behaviour are often subjected to Re-education through Labour and other administrative detention for up to four years for having disturbed the social order.

80. Many prisoners serving sentences for political crimes and detainees subjected to RTL claimed that the disproportionate, discriminatory and unjust deprivation of liberty, together with the forced re-education, caused more severe pain or suffering than the physical torture during police interrogation.

81. In the opinion of the Special Rapporteur, the combination of deprivation of liberty as a sanction for the peaceful exercise of freedom of expression, assembly and religion, with measures of re-education through coercion, humiliation and punishment aimed at admission of culpability and altering the personality of detainees up to the point of even breaking their will, strike at the very core of the human right to personal integrity, dignity and humanity. It constitutes a form of inhuman and degrading treatment or punishment leading to submissiveness and a “culture of fear”, which is incompatible with the core values of any democratic society based upon a culture of human rights.

Recommendations

82. **On the basis of his conclusions, the Special Rapporteur puts forward a number of recommendations and expresses his hope that the Government will take them into account in the context of ongoing reform efforts aimed at the eradication of torture and ill-treatment.**

Investigation and prosecution of torture

(a) **The crime of torture should be defined as a matter of priority in accordance with article 1 of the Convention against Torture, with penalties commensurate with the gravity of torture.**

(b) **All allegations of torture and ill-treatment should be promptly and thoroughly investigated by an independent authority with no connection to the authority investigating or prosecuting the case against the alleged victim.**

(c) **Any public official indicted for abuse or torture, including prosecutors and judges implicated in colluding in torture or ignoring evidence, should be immediately suspended from duty pending trial, and prosecuted.**

(d) **The declaration should be made with respect to article 22 of CAT recognizing the competence of the Committee against Torture to receive and consider communications from individuals who claim to be victims of a violation of the provisions of the Convention.**

held in solitary confinement. During his visit, he inspected the 'Intensive Training' section which houses 10 small solitary confinement cells and was informed by the prison authorities that the maximum duration in solitary confinement was seven days. However, on consulting the registry the Special Rapporteur noted that of the six people held in solitary confinement between 1 January 2005 and 24 November 2005, three had been held for 60 days and one for 27 days. Detainees also stated that Falun Gong practitioners who had not renounced their beliefs after six months in detention were placed in the Intensive Training section until they were 'reformed'. Falun Gong practitioners formerly detained at this facility mentioned that they would refer to this section as the "Intensive Torture Section".

11. The Special Rapporteur notes that a number of detainees declined to speak to him, and others requested absolute confidentiality. The only person willing to speak openly with the Special Rapporteur was the following:

12. Ms. **Yang Yu Ming**, a Falun Gong practitioner. Since 14 April 2005, she has been detained for "disrupting social order." She described her treatment in detention as 'quite good'. She said that she is allocated study time and sometimes is able to do physical exercise. It is her first time in RTL and she has had no encounter with ill-treatment to date. She said that the majority of detainees are Falun Gong practitioners.

B. Lhasa, Tibet Autonomous Region

IV. Lhasa Prison No. 1 (Visited on 26 November 2005)

13. The prison has a male prison population of 800 detainees of which approximately 70% are Tibetan, 20% are Han Chinese and 10% belong to other ethnic groups. General conditions were satisfactory and inmates can work by weaving Tibetan mats, planting flowers and fixing cars. In terms of solitary confinement, the Special Rapporteur noted that the cells measured 4m x 8m, with a large window and concrete floor. He was told that a detainee can spend between one and 15 days in solitary confinement. The Special Rapporteur was not given access to any prison registers as the relevant Officer was not present.

14. The first set of prisoners that the Special Rapporteur approached for an interview all declined the opportunity to speak with him. After lengthy assurances, one prisoner was willing to speak openly with the Special Rapporteur.

15. **Tseren Puntso**, aged 23. On 13 July 2002 at his business, he was arrested in connection with the homicide of a person who died as a result of a fight the previous day. He confessed immediately at the police station and was detained at the Shikaze Pretrial Detention Centre until January 2003, when he was transferred to Lhasa Prison to serve a seven-year sentence, which has been reduced to six. From this time until April 2003 he was held in the section known as the "Team for New Prisoners", where new arrivals undergo education on prison rules. He indicated that he has not been ill-treated. In the summer time he carries out basic mechanical repairs. Recreation includes basketball games in the main court of the prison. Tibetan, Chinese and mathematics are taught at the prison.

Report on Deaths in Custody in China

**By the Special Rapporteur on extrajudicial, summary or
arbitrary executions, Philip Alston**

29 May 2009



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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS,
CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL
RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on extrajudicial, summary or
arbitrary executions, Philip Alston***

Addendum

**SUMMARY OF CASES TRANSMITTED TO GOVERNMENTS
AND REPLIES RECEIVED****

* Late submission.

** The present report is circulated as received, in the languages of submission only, as it greatly exceeds the word limitation currently imposed by the relevant General Assembly resolutions.

China: Deaths of Falun Gong practitioners

Violation alleged: Deaths in custody owing to torture, neglect, or the use of force, or fear of death in custody due to life-threatening conditions of detention

Subject(s) of appeal: 7 females; 9 males

Character of reply: No response (recent communication)

Observations of the Special Rapporteur

The Special Rapporteur looks forward to receiving a response concerning these allegations.

Allegation letter dated 13 March 2009, sent with the Special Rapporteur on the question of torture and the Special Rapporteur on freedom of religion or belief

We would like to bring to your Government's attention information we have received regarding the cases of **16 deaths of Falun Gong practitioners due to injuries allegedly sustained in custody** in China. While the circumstances under which the deaths occurred differ, all the victims were Falun Gong practitioners and they all died under the supervision of law enforcement officers or soon after their release from custody. Concern is expressed that the arrests and deaths of these individuals were solely connected with their activities as Falun Gong practitioners. In the Annex of this letter, we have reproduced detailed information on each of the 16 cases.

While we do not wish to prejudge the accuracy of these reports, we would like to refer you Government to the relevant principles of international law. In order to overcome the presumption of State responsibility for a death resulting from injuries sustained in custody, there must be a "thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances" (Principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). This principle was reiterated by the Human Rights Council as recently as at its 8th Session in Resolution 8/3 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" (OP 4), stating that all States have "to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions".

The Council added that this obligation includes the obligation "to identify and bring to justice those responsible, [...], to grant adequate compensation within a reasonable time to the victims or their families and to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and prevent the recurrence of such executions". These obligations to investigate, identify those responsible and bring them to justice arise also under Articles 7 and 12 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which China is a Party.

In addition to the above, we would like to appeal to your Government to ensure the right to freedom of religion or belief in accordance with the principles set forth in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the Universal Declaration on Human Rights.

We also would like to recall that in its resolution 63/181, the General Assembly “urges States to step up their efforts to protect and promote freedom of thought, conscience, religion or belief and to this end [...] 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 other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights”.

Moreover, it is our responsibility under the mandate 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:

1. Are the facts alleged in the case summaries in the Annex accurate? If not so, please share all information and documents proving their inaccuracy.
2. Please provide the details, and where available the results, of the investigations, and judicial or other inquiries carried out in relation to each of the cases mentioned in the Annex.
3. Please provide the details of any disciplinary measures imposed on, and criminal prosecutions against persons found to be responsible, as perpetrators or as responsible commanders, for the killings mentioned in the Annex.
4. Please provide the details of any compensation payments made to the families or dependants, if any, of the victims in the cases mentioned in the Annex.

Annex

Ms **Hu Yanrong**, from Xiaoyushulin Village, Beilu Township, Lingyuan City, Liaoning Province

On 1 August 2007 around 10 p.m., police officers blocked the entrance of the home of a Falun Gong practitioner, where some 40 persons including Hu Yanrong were present. About midnight, a dozen police officers arrested those practitioners trapped in the house. They beat the practitioners with electric batons and two-inch long metal rods and forced them into police vehicles. The police claimed that Hu Yanrong tried to jump out of a police car. She sustained severe injuries and fell into a coma after being taken to the Lingyuan Prison Hospital. Her head was swollen, her eyes, nose and mouth were bruised, the area between her temples and eyes was coloured in dark purple. There were traces of blood on her face. Doctors at Lingyuan Prison hospital performed two brain surgeries, but Ms. Hu died at 2 a.m. on 5 August 2007.

Mr. **Huang Fajun**, resident of Acheng District, Harbin City, Heilongjiang Province

On 24 July 2007, policemen from the Sougfengshan Town Police Station arrested Mr. Huang and beat him until both of his feet broke. The police detained him in the Acheng District First Detention Centre. He went on a hunger strike to protest the detention and was force-fed. He developed open sores, and his hands and feet were swollen and showed deep scars caused by shackles and cuffs. On 2 November 2007, the police notified his family that he was dying and that they could visit him at the Archeng District Traditional Medicine Hospital. He was allowed to return home on 4 November 2007, where he died at around 8 p.m. on 6 November 2007.

Mr. **Xiong Zhengming**

On 15 March 2007, police officers took Xiong Zhengming to the Wanyuan City First Detention Center, indicating that they had detected that Mr. Xiong visited overseas websites. Following eight months of detention, the police sentenced Mr. Xiong to one year of forced labour. Later, he was transferred to the Wanyuan City Second Detention Center. On 3 December 2007, he was informed of a second transfer to a forced labour camp outside the town. He refused to go, but was taken away at around 9 a.m. on 4 December 2007. On 5 December 2007, Mr. Xiong's family was notified that he had committed suicide while on his way to the Sichuan Province Xinhua Forced Labor Camp, by jumping out of the vehicle. Mr. Xiong's father was forced to sign the paper authorizing his body to be cremated immediately. He was also asked not to leak any information to the public; otherwise, his other two sons would lose their jobs. According to information received, the authorities gave inconsistent accounts of the cause of death, saying that he committed suicide in one instance and that he died in a traffic accident in other instances.

Mr. **Bai Heguo**, lived in Xiguangshan Village, Liutiao Town in Dengta City, Liaoning Province

Bai Heguo was taken into custody on 9 June 2002 by police officers from Tonggerpu District Police Department, for practicing Falun Gong. He was sentenced to 11 years in prison and was held in Liaoning Province Huazi Prison. He was secretly transferred to the Nanganling Prison in Dalian city at the end of December 2007. On 5 January 2008, at 3 p.m., the prison administration notified Mr. Bai's family that he had died. His body was covered in bruises and he had a bump on his head and a cut in his tongue. His leg was broken and his testicles had been crushed. Authorities hurriedly cremated the body. The Nanganling prison authorities claimed that Mr. Bai had committed suicide.

Ms. **Zong Xiuxia**, lived in the Fangzi District in Weifang City, Shandong Province

In February 2008, Zong Xiuxia was taken to the Guangwen Police Station in Kuiwen District, at around 11.30 a.m., after she had discussed issues relating to Falun Gong at a supermarket. Police said that they took Ms. Zong to the Weifang City People's Hospital for a physical check-up at around 1 p.m., where she died at 3 p.m. The family was told that she died from jumping out of the elevator in the hospital.

Mr. **Yu Zhou**, a well-known singer from Beijing

Yu Zhou was arrested in Tongzhou District, Beijing, on 26 January 2008, along with his wife, Xu Na. The police stopped their vehicle when they were on their way home, arrested them and took them directly to the Tongzhou District Detention Centre. On 6 February 2008 Yu Zhou died at the Qinghe District Emergency Centre. The police claimed that this was a result of him going on hunger strike although he had diabetes. However, other sources indicate that he had been healthy and had never been suffering from diabetes. When the family requested to see the body and to have an autopsy performed, the authorities refused and threatened them.

Ms. **Gu Jianmin**, lived in Pudong New District, Shanghai

Gu Jianmin was arrested on 1 March 2008, by officers from the Yangjing Police Station in Pudong New District, Shanghai. Her husband was called and told to go to the Pudong New District Police Department and to the Neighbourhood Administration to do some medical parole paper work. When he arrived at the hospital, he saw that his wife's eyes were protruding, her pupils were enlarged, and that she was bleeding from the mouth. No one treated her although more than thirty agents of the 610 Office were present. She died on 13 March 2008.

Mr. **Gu Qun**

Gu Qun was arrested and taken to the Tianjin Street Police Station, for distributing Falun Gong materials, on 16 March 2008. On the following day, he was transferred to the Yaojia Detention Center. To protest his detention, he went on a hunger strike, but was forced-fed. On 7 April 2008, the detention centre took him to the Dalian City Third People's Hospital. The doctor there said he was in need of treatment, but the detention staff indicated that he would be taken to the Police hospital. However, they returned him to the detention centre. At 9 a.m. on 8 April 2008, he was taken to the hospital once again, but died on the way.

Mr. **Fan Dezhen**, lived in Huludao City, Liaoning Province

On 25 February 2008, Fan Dezhen was arrested with eleven other Falun Gong practitioners, by the Suizhong Country Domestic Security Division Leader. He died at around 7 a.m. on 20 April 2008, in the Suizhong Country Detention Centre. Officers notified his family after 4 p.m., indicating that, if they wanted to see the body, they had to do so on that same evening, because on the following day, an autopsy and cremation would be performed.

Mr. **Liu Quan**, lived in Benxi City, Liaoning Province

On 4 May 2008, the Nan'guanling Prison Administration in Dalian City called Mr. Liu Quan's family to inform them that Liu Quan had died at 2 a.m. due to a heart attack. His face was yellow, the flesh around his eyes and lips was purple, there were large purple bruises on his back, and his nose was filled with cotton balls. No autopsy was carried out and the authorities refused to authorize the transfer of Liu's body to Benxi City, where he had lived.

Mr. **Wu Xinming**, a resident of Xuanwuo Town, Hanyin County, in Shaanxi Province

Wu Xinming was arrested on 15 June 2006 after talking about Falun Gong to people in the countryside. The police sent him to Zaozihe Forced Labor Camp. There, the guards tied him with a rope. When he went on a hunger strike to protest the detention, the guards force-fed him with a highly concentrated salt solution, chilli powder, water and even laundry detergent. They also tied up his body, and whipped him with wire, resulting in his whole body being covered with bruises. He was returned home on 25 June 2008 after he began coughing up and vomiting blood. He died on the following day, 26 June 2008.

Ms **Chen Yumei**, resident of Shenyang City, Liaoning Province

On the evening of 3 July 2008, officers from the Chang'an Police Station in Dadong District, Shenyang City, arrested Chen Yumei on Pangjiang Street. During the arrest, they beat and kicked her. Her family was asked to identify her in the ambulance, at around 9 p.m. of the same day, before she was taken to #463 Military Hospital. Having detected bleeding in her skull, the doctor had to perform an operation, for which the family paid. Her arms and legs were covered in bruises, and there were deep scratches on her body. Doctors said the marks were caused by beating or dragging. She died at around 8.30 p.m. on 4 July 2008.

Mr. **Zhong Zhenfu**, lived in Zhongjia Village, Changle Town, Pingdu City, Shandong Province

On 4 May 2008, Zhong Zhenfu was arrested at his house at around 6 p.m., as officers from the Pingdu City 610 Office and the City Police Department stormed into houses rented by Falun Gong practitioners in Pingdu City. The police confiscated some of their possessions and interrogated them at the police station. When they refused to reveal any information, the officers poured boiling water over their necks and bodies. Three days later, they were taken to Pingdu City Detention Centre. Guards put shackles on Zhong Zhenfu and whipped him about the head with metal wires. He was detained in a metal cage with the shackles still on, and the guards ordered other inmates to ill-treat him. The latter tried to force him to curse the founder of Falun Gong. When he refused, they beat him for over an hour. He was sent to the hospital and released on medical parole, after having been forced to pay over 100,000 Yuan in medical expenses. He died on 20 July 2008.

Ms. **Yang Jingfen**, a resident of Panjin City, Liaoning Province

At approximately 7:30 a.m. on 18 August 2008, six police officers from the Xinglongtai District State Security Division entered the apartment of Ms. Yang Jingfen, aged 59, and her husband to arrest her and search the apartment on the ground that she practiced Falun Gong. At around 9 a.m., her husband had to run an errand and left Ms. Yang alone with the police officers. When he returned at around 9:30 a.m. he found Ms. Yang's lifeless body in front of their apartment building. The police officers claimed that she had jumped out of a window of her sixth floor apartment to commit suicide.

Ms. **Sun Aimei**, resident of Xinhua Village, Zhucheng City, Shandong Province

Sun Aimei, aged about 60, was sentenced to detention at the Wangcun Women's Forced Labour Camp on 28 March 2008, three days after being arrested for distributing literature about

the persecution of Falun Gong. At the end of 2008, her family was informed that she had suffered a stroke and had undergone surgery. They were not, however, allowed to see her. On 1 February 2009, Ms. Sun's family was told to go to Wangcun Women's Forced Labour Camp to collect her ashes.

Ms. **Hou Lihua**, resident of Dongan District, Mudanjiang City, Heilongjiang Province

Hou Lihua was arrested at her workplace on 17 November 2008 and taken to the Mudanjiang City State Security unit. According to witnesses, she was beaten and otherwise ill-treated while in custody there. She was released in December 2008 but died on 14 February 2009 due to the injuries sustained in custody.

**Report on the Persecution of Human Rights
Activists and Chinese Lawyers**

**By the Special Rapporteur on the situation of human rights
defenders, Margaret Sekaggya**

24 February 2010



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HUMAN RIGHTS COUNCIL
Thirteenth session
Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on the situation of
human rights defenders, Margaret Sekagya**

Addendum

Summary of cases transmitted to Governments and replies received*

* The present document is being circulated in the languages of submission only, as it greatly exceeds the word limitations currently imposed by the relevant General Assembly resolutions.

Urgent appeal

325. On 31 March 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding **Wei Liangyue**, director of the Harbin-based Jiaodian Law Firm and a human rights lawyer, and his wife, **Du Yongjing**. According to the information received, on 28 February 2009, Wei Liangyue and his wife Du Yongjing were arrested by public security officers in the city of Harbin, Heilongjiang Province, while attending a Falun Gong meeting. Subsequently, Wei Liangyue and Du Yongjing were reportedly held in Nangang District Detention Center and in the Harbin City Women's No. 2 Detention Center, respectively.

326. While Wei Liangyue was detained on suspicion of “gathering a crowd to disturb social order” and reportedly received one and a half years of re-education through labour, his wife is suspected of “using heretical organization to obstruct the implementation of the law” and might face criminal prosecution under article 300 of the Criminal Law.

327. Both were reportedly warned by the authorities not to discuss the case publicly and not to hire a lawyer to represent them.

328. During over 20 years of his law practice, Wei Liangyue has provided legal aid to local people facing human rights violations, including Falun Gong practitioners who have been detained for their beliefs.

329. Concern was expressed for the physical and psychological integrity of Wei Liangyue and Du Yongjing while in detention.

Response from the Government

330. At the time this report was finalized, the reply of the Government of 22 May 2009 had not been translated.

Urgent appeal

331. On 19 May 2009, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal regarding two lawyers, Mr. **Zhang Kai** and Mr. **Li Chunfu**. According to the information received:

332. Zhang Kai and Li Chunfu were hired by the family of Jiang Xiqing, a Falun Gong practitioner who died in the Chongqing Xishanping Reeducation Center on 28 January 2009. Authorities stated that he died of a heart attack, but the family, suspicious of the cause of death, decided to hire a lawyer for legal support. A first lawyer was hired from Chongqing, but he declined to be retained by the family after having formally inquired with the police. Zhang Kai, from a Beijing Yijia Law Firm, and Li Chunfu, from the Beijing Globe Law Firm, were hired afterwards.

333. On 13 May 2009, they met with their clients at their home in the Jiangjin District, Chongqing, to discuss the case. At around 4 p.m., four policemen went to the home claiming that they were delivering materials from the public security bureau's judicial administrative office. They then started to interrogate the two lawyers and their clients. Subsequently, about 20 more individuals from the state security unit of the Jiangjin District Public Security Bureau and the Jijiang Police Substation also came to the house. When the police asked the two lawyers to show their identity cards, Li Chunfu presented his lawyer's license and Zhang Kai his passport, which were, however, not accepted by the police. Subsequently, the police officers began pulling their hair, twisting their arms and beating them while pinning them on the ground. Afterwards, the two lawyers were handcuffed and taken to the police station.

334. At the police station, Zhang Kai was hung up with handcuffs in an iron cage and Li Chunfu was slapped in the face by a police officer. During their interrogation they were both threatened not to defend any Falun Gong cases. They were released at 12:40 a.m., on 14 May 2009. Their hands were covered with bruises and scars; Zhang Kai's hands were also numb and swollen and Li Chunfu had troubled hearing in one ear. They are currently being examined at the Jiangjin District People's Hospital.

335. We urge your Government to take all necessary measures to guarantee that the rights of the aforementioned persons are respected and that accountability of any person guilty of the alleged violations is ensured.

Response from the Government

336. At the time this report was finalized, the reply of the Government of 9 June 2009 had not been translated.

Letter of allegations

337. On 2 June 2009, the Special Rapporteur, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent a letter of allegations concerning **Jiang Cunde**, sentenced to life in prison in 1987. According to the information received:

338. Jiang Cunde was active in the democracy movement that began in China in December 1986. In late 1986, he was arrested after giving a speech supporting the students at Shanghai's People's Square. He was charged with plotting to hijack an aircraft and sentenced to life in prison for the crime of counterrevolutionary sabotage and related offenses.

339. In early 1993, he received parole on the grounds of mental illness. It is believed that this illness developed while he was in prison, since he would not have been given that sentence if he had been diagnosed as mentally ill at the time of his conviction.

340. After his release, Jiang Cunde returned to his previous activities. In June 1999, he was arrested and returned to Tilanqiao Prison to continue serving his sentence. However, the reasons given for his re-incarceration do not include the cure of his mental illness.

341. In 2004, Jiang Cunde's life sentence was commuted to a fixed term of 20 years. The latest information reportedly provided by the Government in late 2007 indicated that Jiang is

application and several new provisions of the amended Law on Lawyers. The Special Rapporteurs regret that no reply has been received so far from the Government to that communication. According to the information received:

348. Jiang Tianyong, Li Heping, Li Xiongbing, Li Chunfu, Wang Yajun, Cheng Hai, Tang Jitian, Yang Huiwen, Xie Yanyi, Li Dunyong, Wen Haibo, Liu Wei, Zhang Lihui, Li Jinglin, Wei Liangyue, Yang Zaixin and Sun Wenbing had applied for the renewal of their lawyers' licenses in the 'Annual Inspection and Registration' procedure, which was concluded on 31 May 2009. The above-mentioned individuals have not been granted re-registration by early June 2009 and thus are in effect disbarred from carrying out their professional functions. As a consequence, they will not be able to proceed in the cases they are currently representing.

349. Most of the aforementioned lawyers have worked on a number of human rights related cases. They represented parents in the melamine milk-powder affair and parents of children killed during the Sichuan earthquake who are pressing for an investigation into the causes of the disproportionately high rate of school collapses. Others have been involved in representing HIV/AIDS patients, victims of police abuses, farmers evicted from their land, and Falun Gong practitioners. In addition, many of those lawyers supported the call for direct elections of representatives of the Lawyers Association.

350. Many law firms have received instructions by their judicial and administrative departments and lawyers associations of their localities to either 'fail' those lawyers in their annual performance evaluation (a pre-requisite for successful re-licensing) who take on sensitive cases or to immediately terminate their contracts.

351. Furthermore, at least three law firms, i.e. Anhui, Gongxin and Shunhe in Beijing, were also denied the approval by local lawyers associations in the 'Annual Inspection and Registration' exercise. This rejection affects at least 30 more lawyers employed by those firms. On 17 February 2009, Beijing's Yitong Law Firm was forced to close for six months. It is alleged that this closure was in retaliation for the advocating of some of the firm's lawyers in the direct election of the representatives of the Lawyers Association.

352. Concern was expressed that the rejection to re-register the above-mentioned lawyers and the law firms is related to their activities in representing victims of alleged human rights violations and their families in their capacity as defense lawyers.

Response from the Government

353. At the time this report was finalized, the reply of the Government of 21 August 2009 had not been translated.

Urgent appeal

354. On 30 July 2009, the Special Rapporteur, together with the Chairperson-Rapporteur 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 and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,

Report on the Extensive Violations of Falun Gong Practitioners' Rights to Religion

**By the Special Rapporteur on freedom of religion or belief,
Asma Jahangir**

28 February 2008



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HUMAN RIGHTS COUNCIL
Seventh session
Agenda Item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS,
CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL
RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on freedom of religion or belief,
Asma Jahangir**

Addendum

Summary of cases transmitted to Governments and replies received * **

* The present document is being circulated in the languages of submission only as it greatly exceeds the word limitations currently imposed by the relevant General Assembly resolutions.

** The present report was submitted later than the indicated deadline, in order to incorporate the latest available information on the subject matter.

*China***Communication sent on 29 December 2005 jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences**

21. The Special Rapporteurs brought to the attention of the Government information they had received concerning **two female Falun Gong practitioners**. According to the information received, on the night of 24 November 2005, one woman aged 51 was abducted by an estimated seven policemen. Her home was ransacked and all Falun Gong materials were seized. She was taken to Dongchengfang Town Police Station in Tunzhou City, Hebei Province, where she was interrogated, beaten with rubber clubs and shocked with stun batons. At approximately 2 p.m. on 25 November 2005, a police officer took her to a room, where he lifted her shirt and touched her breasts. He then shocked her breasts with a stun baton. Another police officer came into the room and raped her. During the rape, he repeatedly slapped her in the face. He then brought another woman aged 42 into the same room and raped her too. The two rapes took place in the presence of another police officer, who made no attempt to intervene or prevent the incidents.

Observations

25. The Special Rapporteur would like to reiterate that women and detainees are in a particularly vulnerable situation and it is of the utmost importance to ensure that the States' legislative and administrative systems provide adequate protection to victims and effective remedies. The Special Rapporteur would also appreciate further information about the allegation that the two rapes took place in the presence of another police officer, who reportedly made no attempt to intervene or prevent the incidents.

Urgent appeal sent on 31 August 2006 jointly with the Special Rapporteur on the question of torture

26. The Special Rapporteurs received information concerning Bu Dongwei (also known as David Bu), aged 38, and Falun Gong practitioner. According to the allegations received, on 19 May 2006, he was detained by around seven police officers at his home in the Haidian district of Beijing. On 19 June 2006, he was assigned to two and a half years re-education through labour in connection with his activities as a member of the Falun Gong spiritual movement by Beijing's Re-education through Labour Committee, which has the power to impose periods of arbitrary detention without charge or trial. He was accused of "resisting the implementation of national laws" and "disturbing social order" on the basis of evidence including a verbal confession he made to the police and 80 copies of Falun Gong literature discovered in his home. He is due to be released on 18 November 2008.

27. Despite repeated requests to the authorities, his family has not been told where he is being detained although unconfirmed reports have been received that he may have been transferred to Tuanhe Re-education through Labour facility in Beijing on 21 August 2006. There are concerns that he is at risk of torture or other ill-treatment. Bu Dongwei had previously served a term of ten months re-education through labour from August 2000 to May 2001 in Tuanhe for "using a heretical organization to disrupt the implementation of the law" after he petitioned the authorities asking them to review their ban on Falun Gong. During this period, he was reportedly beaten and made to sit all day in a small chair. He was also subjected to sleep deprivation aimed at forcing him to renounce his belief in Falun Gong.

Observations

32. The Special Rapporteur is grateful for the Government's response. With regard to the question of "cults" or "sects", she would like to refer to the chapter on "Religious minorities and new religious movements" in her report to the fourth session of the Human Rights Council (see A/HRC/4/21, paras. 43-47). The Special Rapporteur reiterates her predecessor's assessment that, apart from the legal courses available against harmful activities, "it is not the business of the State or any other group or community to act as the guardian of people's consciences and encourage, impose or censure any religious belief or conviction" (E/CN.4/1997/91, para. 99). Similarly, during the elaboration of general comment No. 22, Human Rights Committee member Rosalyn Higgins was "resolutely opposed the idea that States could have complete latitude to decide what was and what was not a genuine religious belief. The contents of a religion should be defined by the worshippers themselves; as for manifestations, article 18, paragraph 3, existed to prevent them from violating the rights of others" (CCPR/C/SR.1166, para. 48). The terms 'belief' and 'religion' are to be broadly construed, bearing in mind that manifestations of this freedom may be subject to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. The Special Rapporteur continues to be very concerned by the continued violations of freedom of religion or belief suffered by Falun Gong practitioners (see E/CN.4/2005/61, paras. 37-38; E/CN.4/2006/5/Add.1, para. 109; A/HRC/4/21/Add.1, para. 88).

Urgent appeal sent on 1 December 2006 jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture

33. The Special Procedures mandate holders brought to the attention of the Government information they had received regarding Mr. **Zhang Hongwei**, member of the "Falun Gong", detained in Jilin prison at the time the communication was sent. According to the information received, Mr. Hongwei was arrested in Beijing and sentenced to 11 years of imprisonment in 2001. He was transferred to Tiebei Prison in Changchun city, where he went on a 53-day hunger strike, and subsequently to Jilin Prison in March 2002. He was held in solitary confinement for two years and five months and ill-treated. His conditions of health were severe. By the beginning of 2006, Mr. Zhang was continuously coughing and type III tuberculosis was diagnosed. Body fluid was accumulating in his chest and in March 2006 he also suffered from pleurisy, high blood pressure and heart disease. Thereafter, he was transferred to the prison hospital, however, still ill-treated by prison guards. Several applications by Mr. Zhang's family for medical parole and access to his X-rays were refused. Further, his family was denied to visit him.

Urgent appeal sent on 22 December 2006 jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention

38. The Special Procedures mandate holders brought to the attention of the Government information they had received concerning Mr. **Cao Dong**, a Falun Gong practitioner. According to the information received, on 21 May 2006, Mr. Dong met with the Vice-President of the European Parliament, Mr. Edward McMillan-Scott, in Beijing. Following this meeting, he was arrested and transferred to the Gansu Province State Security Bureau Detention Centre. On 29 September 2006, Mr. Dong was charged with “producing Falun Gong material”. His current whereabouts are unclear and his family has not been allowed to visit him since the arrest. Gansu local authorities informed Mr. Dong’s family that he will be on trial soon. Mr. Dong has previously been placed in administrative custody for being a Falun Gong practitioner.

Observations

39. The Special Rapporteur regrets that she has not received a reply from the Government concerning the above mentioned allegation. She would like to refer to her predecessor’s conclusions and recommendations after his country visit (E/CN.4/1995/91, page 133): “The Special Rapporteur considers that there must be no interference with religious activity falling within the scope of the 1981 Declaration. At all events, there must not be any surveillance of a kind to infringe the right to freedom of belief and to manifest one’s belief. With regard to sects, the Special Rapporteur particularly wishes to point out that the 1981 Declaration protects not only religion, but also theist beliefs and that article 1, paragraph 3, of that Declaration states that freedom to manifest one’s religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.”

Communication sent on 25 January 2007 jointly with the Special Rapporteur on the question of torture.

40. The Special Rapporteurs sent a letter to the Government of the People’s Republic of China as a follow-up to a communication sent on 11 August 2006 (see A/HRC/4/21/Add.1, paras. 107-111). To this communication China had sent a response on 28 November 2006 (see A/HRC/4/21/Add.1, paras. 112-118), in which however the following issue was not addressed. It was reported that there were many more organ transplants than identifiable sources of organs, even taking into account figures for identifiable sources. Moreover, the reportedly short waiting times that had been advertised for perfectly-matched organs would have suggested the existence of a computerised matching system for transplants and a large bank of live prospective donors. It was alleged that the discrepancy between available organs and numbers from identifiable sources was explained by organs harvested from Falun Gong practitioners, and that the rise in transplants from 2000 coincided and correlated with the beginning of the persecution of these persons. The Special Rapporteurs noted reports that on 15 November 2006, Vice-Minister Huang reiterated at a conference of surgeons in Guangzhou that most organs harvested come from executed prisoners. Notwithstanding the reported stringent criteria in place for donors, including for those sentenced to death, the Government informed in its response of 28 November 2007, that voluntary donations and donations between relatives were the two other legitimate sources of transplant organs. The Special Rapporteurs also noted that between the years 2000 and 2005 there were 60,000 transplantations performed, or approximately 10,000 per year for six years. This period coincides with the alleged rise in the persecution of Falun Gong practitioners. In 2005, it was reported that only 0.5% of total transplants were accounted for by donations by relatives;

non-relative brain dead donors were around nine in 2006; and estimates—given that the Government does not make public statistics on executions—for 2005 indicate 1770 executions were reportedly carried out, and 3900 persons sentenced to death. It was alleged that the discrepancy between the number of transplants carried out and the number of available sources is made up from the harvesting of organs from Falun Gong practitioners.

41. The Special Rapporteurs asked for a full explanation of the source of organ transplants that would disprove the allegation of organ harvesting of Falun Gong practitioners, particularly if they could be traced to willing donors or executed prisoners. Therefore, they reiterated their request for an explanation for the discrepancy in the number of transplants between the years 2000 to 2005 and the numbers from identifiable sources of organs.

Report on the Extensive Violations of Falun Gong Practitioners' Rights to Religion

**By the Special Rapporteur on freedom of religion or belief,
Asma Jahangir**

8 March 2007



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HUMAN RIGHTS COUNCIL
Fourth session
Item 2 of the provisional agenda

**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Report of the Special Rapporteur on freedom of religion or belief,
Asma Jahangir***

Addendum

Summary of cases transmitted to Governments and replies received

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Urgent appeal sent on 13 September 2005 jointly with the Special Rapporteur on violence against women, its causes and consequences

, including Tang Yubao, who subjected her

to electric shocks. On 22 March 2004, she was transferred to Masanjia Labour Camp where she was forced to sleep on cement floors for three months. She was released on 24 December 2004, due to her extremely weak conditions, weighing less than 40 kg, whereas at the time of her arrest she weighed 80 kg. The several complaints that Ren Shujie made to the prison guards, who were the only authorities she had access to, provided no response or amelioration to her conditions of detention.

82. On 21 January 2000, Ms. **Liu Yunxiang**, aged 32, living in Yangjiazhuang village in Junbukou Township was arrested by police officers belonging to the Junbukou Township of Weifang City in Shandong province, for practicing Falun Gong. No charges were brought against her and she was provided no hearing before a court of law. She was subjected to severe beatings, and the men who were also arrested with her were forced to beat her and the other arrested women on their hips. During her detention, she was forced to curse the founder of Falun Gong, drink alcohol and smoke cigarettes, which is against Falun Gong principles. As a result of this treatment, Ms. Liu Yunxiang miscarried. She was released after having paid for her release. In the Summer of 2001, she was arrested again for practicing Falun Gong and was once again subjected to torture including electric shocks, as a result of which she miscarried a second time. After twenty days of torture, she was sent to a detention centre for another month, after which she was released.

Observations

87. The Special Rapporteur would like to make reference to her predecessor's conclusions after his country visit to China from 19 to 30 November 1994 (E/CN.4/1995/91, para. 189): "The Special Rapporteur considers that there must be no interference with religious activity falling within the scope of the 1981 Declaration. At all events, there must not be any surveillance of a kind to infringe the right to freedom of belief and to manifest one's belief. With regard to sects, the Special Rapporteur particularly wishes to point out that the 1981 Declaration protects not only religion, but also theist beliefs and that article 1, paragraph 3, of that Declaration states that freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others."

88. The Special Rapporteur continues to be very concerned by the continued violations of freedom of religion or belief suffered by members of the Falun Gong. In her previous reports to the Commission on Human Rights, she explicitly mentioned members of the Falun Gong as targets of various human rights violations because of their beliefs and she strongly condemns the continued lack of freedom of belief of members of Falun Gong (see E/CN.4/2005/61, paras. 37-38 and E/CN.4/2006/5/Add.1, para. 109).

89. The Special Rapporteur would like to thank the Government for the invitation it has extended in 2004 for a follow-up visit and she hopes to receive a reply from the Government further to her last letter of September 2006 requesting dates for this visit. were handed over to the Public Security Bureau of their respective places of origin after they refused to sign a statement denouncing the Dalai Lama and recognizing Tibet as a part of China. They are currently being held in Public Security Bureau places of detention. There are concerns that they may be subjected to torture or ill-treatment.

Communication sent on 29 December 2005 jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences

105. The Special Rapporteurs brought to the attention of the Government information they had received concerning **two female Falun Gong practitioners**. According to the information received, on the night of 24 November 2005, one woman aged 51 was abducted by an estimated seven policemen. Her home was ransacked and all Falun Gong materials were seized. She was taken to Dongchengfang Town Police Station in Tunzhou City, Hebei Province, where she was interrogated, beaten with rubber clubs and shocked with stun batons. At approximately 2 p.m. on 25 November 2005, a police officer took her to a room, where he lifted her shirt and touched her breasts. He then shocked her breasts with a stun baton. Another police officer came into the room and raped her. During the rape, he repeatedly slapped her in the face. He then brought another woman aged 42 into the same room and raped her too. The two rapes took place in the presence of another police officer, who made no attempt to intervene or prevent the incidents.

Communication sent on 11 August 2006 jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on trafficking in persons, especially in women and children

107. The Special Rapporteurs brought to the attention of the Government information they had received concerning **organ harvesting**. According to the allegations received, organ harvesting has been inflicted on a large number of unwilling Falun Gong practitioners at a wide variety of locations, for the purpose of making available organs for transplant operations. Vital organs including hearts, kidneys, livers and corneas were systematically harvested from Falun Gong practitioners at Sujiatan Hospital, Shenyang, Liaoning province, beginning in 2001. The practitioners were given injections to induce heart failure, and therefore were killed in the course of the organ harvesting operations or immediately thereafter.

108. It is reported that employees of several transplant centres have indicated that they have used organs from live Falun Gong practitioners for transplants. After the organs were removed, the bodies were cremated, and no corpse is left to examine for identification as the source of an organ transplant. Once the organs were removed they were shipped to transplant centres to be used for transplants for both domestic and foreign patients. Officials from several detention facilities have indicated that courts have been involved in the administering the use of organs from Falun Gong detainees.

109. It is reported that there are many more organ transplants than identifiable sources of organs, even taking into account figures for identifiable sources, namely: estimates of executed prisoners annually, of which a high percentage of organs are donated by, according to the statement in 2005 of the Vice Minister of Health Mr. Huang Jiefu; willing donor family members, who for cultural reasons, are often reluctant to donate their organs after death; and brain-dead donors. Moreover, the reportedly short waiting times that have been advertised for perfectly-

matched organs would suggest the existence of a computerized matching system for transplants and a large bank of live prospective donors.

110. It is alleged that the discrepancy between available organs and numbers from identifiable sources is explained by organs harvested from Falun Gong practitioners, and that the rise in transplants from 2000 coincides and correlates with the beginning of the persecution of these persons.

111. On organ transplants, in general, it has been reported that in March 2006, legislation was introduced which bans the sale of human organs and requires the donor to give written permission. The legislation also limits transplants to certain institutions, which must verify the source of the organs. This law came in force on 1 July 2006. Contrary to the Government assertion that human organs have been prohibited from sale, in accordance with the 1991 WHO guiding principles, it has been reported that up to this time Chinese law has allowed the buying and selling of organs, has not required that donors give written permission for their organs to be transplanted, there has been no restriction on the institutions which could engage in organ harvesting or transplants, there was no requirement that the institutions engaged in transplants had to verify that the organs being transplanted were from legal sources, and there was no obligation to have transplant ethics committees approve all transplants in advance. Moreover, evidence exists, for example, that at least up until April 2006 price lists for organ transplants in China were published on the Internet.

Urgent appeal sent on 31 August 2006 jointly with the Special Rapporteur on the question of torture 120.

The Special Rapporteurs received information concerning Bu Dongwei (also known as David Bu), aged 38, and Falun Gong practitioner. According to the allegations received, on 19 May 2006, he was detained by around seven police officers at his home in the Haidian district of Beijing. On 19 June 2006, he was assigned to two and a half years re-education through labour in connection with his activities as a member of the Falun Gong spiritual movement by Beijing's Re-education through Labour Committee, which has the power to impose periods of arbitrary detention without charge or trial. He was accused of "resisting the implementation of national laws" and "disturbing social order" on the basis of evidence including a verbal confession he made to the police and 80 copies of Falun Gong literature discovered in his home. He is due to be released on 18 November 2008.

121. Despite repeated requests to the authorities, his family has not been told where he is being detained although unconfirmed reports have been received that he may have been transferred to Tuanhe Re-education through Labour facility in Beijing on 21 August 2006. There are concerns that he is at risk of torture or other ill-treatment. Bu Dongwei had previously served a term of ten months re-education through labour from August 2000 to May 2001 in Tuanhe for 'using a heretical organization to disrupt the implementation of the law' after he petitioned the authorities asking them to review their ban on Falun Gong. During this period, he was reportedly beaten and made to sit all day in a small chair. He was also subjected to sleep deprivation aimed at forcing him to renounce his belief in Falun Gong.

Report on the Extensive Violations of Falun Gong Practitioners' Rights to Religion

**By the Special Rapporteur on freedom of religion or belief,
Asma Jahangir**

15 March 2005



**Economic and Social
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COMMISSION ON HUMAN RIGHTS

Sixty-first session

Item 11(e) of the provisional agenda

**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF
RELIGIOUS INTOLERANCE**

**Report of the Special Rapporteur on freedom of religion or belief, Asma
Jahangir**

Addendum

Summary of cases transmitted to Governments and replies received*

* The present document is being circulated in the languages of submission only as it greatly exceeds the page limitations currently imposed by the relevant General Assembly resolutions

China

Communications and replies received

55. On 14 June 2004, the Special Rapporteur sent a communication to the Government of China in connection with information received according to which, since 20 July 1999, when the Chinese Government banned Falun Gong, over 1,600 practitioners of Falun Gong had been tortured or beaten, several hundred had been given prison sentences of over 20 years, others had been interned in mental hospitals and a high number of practitioners had been sent to labour camps without trial. An unspecified number of practitioners were allegedly being held without trial. It was also reported that at least 907 practitioners had died while in detention.

56. Reports indicated that the campaign against the Falun Gong continued unabated across China. According to information received, practitioners of Falun Gong continued to be subject to ill-treatment and torture by State officials in their attempts to force the practitioners to renounce their belief in Falun Gong. It was also reported that individual practitioners who had been subjected to torture and other inhuman and degrading treatment whilst detained had not been provided appropriate and effective remedies. In particular, the system of administrative detention, re-education through labour (RTL), reportedly continued to be imposed on Falun Gong practitioners. It was reported that RTL involves detention without charge or trial, and without judicial review, for between one and three years – which can be further extended by one year. People receiving terms of RTL allegedly have no right of access to a lawyer and there is no hearing for them to defend themselves.

57. In this connection, the Special Rapporteur drew the attention of the Government to the following individual cases:

(a) On 10 March 2004, information was received concerning the critical health condition of **Tang Yiewen**, a Falun Gong practitioner from Zuhai suburb of Guangzhou City (Guangdong Province), who was reportedly detained at the Chutou Law School, in Guangzhou Baiyun district. On 23 February 2004, Ms. Tang was reportedly taken away from her home and it was reported that she had been on hunger strike for 17 days to protest her detention. Reports indicated that Ms. Tang had previously been detained and was subjected to torture for practising Falun Gong;

(b) On 27 February 2004, **Zhao Fengyun** a Falun Gong practitioner from Harbin City (Heilongjiang Province), reportedly died at the Wanjia Labour Camp. It was reported that Ms. Zhao was illegally arrested and that she was subjected to torture while in detention. Her husband, **Li Weiguo**, was also a Falun Gong practitioner and it was reported that he was imprisoned at the Changlinzi Labour Camp in Harbin City, Heilongjiang Province;

(c) On 31 January 2004, **Zhang Guoqing** from Hebei Province reportedly died after being severely beaten while in detention at Rujiang Labour Camp in Fuzhou City, Fujian Province. Mr. Zhang was reportedly arrested and sentenced to two years of forced labour on 31 May 2003 for practising Falun Gong. In June 2003, he allegedly held a hunger strike to protest the ill-treatment by guards while in detention and was sent to the Jianxin Hospital in Fuzhou City where he was force-fed. In August 2003, Zhang Guoqing was reportedly transferred to Rujiang Labour Camp where he was reportedly subjected to regular severe beatings. On 19 January 2004, he allegedly suffered internal injuries after being beaten by guards and was again sent to the Jianxin Hospital. He was reportedly sent back to the labour camp the same day. On 29 January 2004 Zhang Guoqing's health condition was reportedly critical and he was sent again to the Jianxin Hospital where he died on 31 January 2004.

58. In the same communication, the Special Rapporteur also referred to the case of Pastor **Gong Shengliang** of the South China Church, who has allegedly begged to be transferred from Hongshan Prison, Wuhan City, Hubei Province, telling his sisters, "If you are able in any way, please transfer me to another prison - otherwise just come and pick up my corpse." It is reported that Pastor Gong was unable to walk into the visiting hall and had to be carried in by four other inmates. One of the sisters allegedly asked the guard for an explanation and was told that he had fallen washing windows. When one of the sisters complained to the prison director, Sun Wenquan, about Gong's injuries, the director reportedly told her that Gong was a model prisoner in all ways but one, namely that he refused to denounce his Christian faith and would not stop praying and preaching.

59. On 15 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, 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 violence against women, its causes and consequences, wrote a letter to the Chinese Government in which they expressed their concern at

reports of systemic repression against the Falun Gong and other “heretical organizations” (“*xiejiao zuzhi*”). Over the past five years, hundreds of cases of alleged violations of the human rights of Falun Gong practitioners have been brought to the attention of the Special Rapporteurs. Many of these allegations have been reported back to the Chinese authorities and were reflected in reports of the Special Rapporteurs to the Commission on Human Rights.

60. The Special Rapporteurs were concerned that reports of arrest, detention, ill-treatment, torture, denial of adequate medical treatment, sexual violence, deaths, and unfair trial of members of so-called “heretical organizations”, in particular Falun Gong practitioners, are increasing. They were concerned that these allegations may reflect a deliberate and institutionalized policy of the authorities to target specific groups such as the Falun Gong.

61. According to information received, on 10 June 1999, the Central Committee of the Chinese Communist Party established an office for dealing with the Falun Gong, commonly referred to as the “610 Office” (for the date of its establishment), and officially later as the State Council Office for the Prevention and Handling of Cults. This institution reportedly was given a mandate to repress Falun Gong and other “heretical organizations”, and is operating outside of the rule of law. Reports indicate that the Falun Gong was officially banned on 22 July 1999 through a decision of the Ministry of Civil Affairs and since then several decisions, notices, regulations and other judicial interpretations have been issued by the Government and judicial authorities to legitimize the official repression against “heretical organizations”, including the Falun Gong.

62. In addition, according to reports, a media campaign was launched against the Falun Gong and Falun Gong practitioners in June 1999. It is believed that this campaign followed a protest gathering in Beijing on 25 April 1999, involving more than 10,000 Falun Gong practitioners.

63. Further reports indicate that in February 2001, the Central Committee of the Communist Party called for a Central Work Conference of high-level party officials. The purpose of this meeting was reportedly to adopt a plan calling for the formation of local “anti-cult task forces” in all universities, State enterprises and social organizations, to reinforce the “610 Office” and strengthen local control over the Falun Gong.

64. An analysis of reports received by the Special Rapporteurs indicates that the alleged human rights violations against Falun Gong practitioners, including systematic arrest and detention, are part of a pattern of repression against members of this group. Most of those arrested are reportedly heavily fined and released, but many are detained and ill-treated in order to force them to formally renounce Falun Gong. Those who refuse are sent to re-education through labour camps, where reportedly torture is used routinely, resulting in many deaths.

65. The Special Rapporteurs were further concerned at reports that few Falun Gong practitioners are prosecuted. When charges are laid they reportedly include allegations such as “disturbing social order”, “assembling to disrupt public order”, “stealing or leaking State secrets” or “using a heretical organization to undermine the

implementation of the law”. According to the information received, those prosecuted have been unfairly tried and many have received lengthy prison sentences. In this respect it is reported that on 5 November 1999, a Notice issued by the Supreme People’s Court instructed all local courts to do their “political duty” in bringing to trial and punishing “severely” those charged with “crimes of heretical organizations”, “particularly Falun Gong”, and to handle these cases “under the leadership of the Party committees”.

66. On 19 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government of China regarding **Tenzin Deleg Rinpoche**, a 54-year-old Buddhist religious leader whose case has been addressed by the Special Rapporteur in the past (see, inter alia, A/58/296, para. 33). According to information received, he was at imminent risk of execution, following a conviction based on a confession obtained under torture. It was reported that he was arrested on 7 April 2002 following a bombing incident in Chengdu, Sichuan Province, on 3 April 2002. He was found guilty on 29 November 2002 in a secret trial by the Kardze (Ganzi) Intermediate People's Court in the Kardze Tibetan Autonomous Prefecture, Sichuan Province, for "causing explosions" and "inciting separatism". On 2 December 2002 he was sentenced to death with a two-year suspension of execution, which would expire on 2 December 2004. Tenzin Deleg Rinpoche was reportedly held incommunicado for eight months, from the time of his arrest until the time of his trial. He was reportedly tortured in detention, including by being shackled hand and foot and suspended from above, and forced to confess. His conviction was upheld on 26 January 2003 by the Sichuan High People's Court, and he was moved to a secret location afterwards. Numerous and credible reports have referred to serious procedural flaws during Tenzin Deleg Rinpoche’s closed trial, in particular: violation of the right to a public trial; violation of the right to choose his own lawyer; denial of the right to know and have the opportunity to examine the evidence presented against him in court. In view of his alleged detention incommunicado and allegations of torture, concern was expressed for his mental and physical integrity, and that he may not have received a fair trial in accordance with international standards.

67. On 3 November 2004, the Special Rapporteur transmitted a communication to the Government of China in relation to information received according to which, on 21 September 2004, in the Dungan mosque of Burqin, in the north-western Xinjiang-Uighur autonomous region, the authorities compelled the local imam, Musa Ma, to put in his office an instructional display outlining banned activities. Among banned activities were: teaching religion "privately"; allowing children under 18 years old to attend a mosque; allowing Islam to influence family life and birth planning behaviour; propaganda associated with terrorism and separatism; religious professionals acquiring large sums of money; the declaration of "holy war" (jihad); and promoting "superstitious thoughts". The display also reportedly required all religious venues to display land certificates, building certificates, imam qualification certificates, operating permits, joint management contracts, and the appointment certificate of the head of the religious venue. Reports indicated that these displays were not compulsory in non-Muslim places of worship, like in the Xinjiang's two Orthodox churches. It was further reported that similar displays hung in the offices of nearly all the imams of Xinjiang's mosques.

68. Moreover, reports indicated that the Party-appointed committees, also called the mosque's "democratic management committee", must conduct regular sessions for religious professionals and lay persons disseminating legal regulations and Party policies. Such committees allegedly oversee activities in places of worship and are also known to exist in Tibetan Buddhist temples.

69. Finally, it was alleged that national-religious committees, which form part of the administration of every city, also maintain control over the lives of believers. Communities may only function once they have registered with the national-religious committee, and their leaders have to be drawn from people whose candidacy has been approved by the authorities. The leaders of all religious communities reportedly have to attend meetings of the national-religious committees during which officials explain to them what policy they should pursue with believers.

70. The Special Rapporteur also brought to the Government's attention information she had received according to which, following what was believed to be the largest survey to date on the extent to which the Chinese Government's Golden Shield Internet firewall denies access to religious web sites, certain religious web sites appear to be consistently blocked, although Chinese Internet users do have access to a range of web sites based outside the country that cover religious themes in Chinese or other languages. The tests that led to this conclusion were reportedly carried out from mid-May to mid-July 2004 and monitored Internet access in a variety of locations in China. The web sites to which access is reportedly automatically barred included those relating to the persecution of Christians and other religious faiths, the Dalai Lama, the Falun Gong religious movement, the Muslim Uigurs of Xinjiang and a number of Catholic sites, including the web site of the Hong Kong diocese and the Divine Word Missionaries in Taiwan. However, the web sites in European languages covering religious freedom issues, including those covering repression within China, were not blocked.

71. It was further reported that, in an alleged attempt to help remove "unacceptable" content from the web, the authorities launched a web site in June 2004 encouraging users to report "illegal" sites, including those on religious cult activity. Reports indicated that while "reporters" were assured of the confidentiality of the information they provided, they were warned that they would bear personal responsibility for reporting erroneous information.

Observations

72. The Special Rapporteur is grateful for the replies provided by the Government on 31 December 2004 related to the communications of 15 and 19 October 2004. The content of these replies, which are still being translated, will be reflected in next year's report.

73. The Special Rapporteur still awaits a reply to her communication of 3 November 2004. In this regard, she would like to refer to the most recent concluding observations of the Committee on the Elimination of Racial Discrimination of 9 August 2001 (A/56/18, paras. 231-255) in which some members of the Committee remained "concerned with regard to the actual enjoyment of the right to freedom of

religion by people belonging to national minorities in the State party, particularly in the Muslim part of Xinjiang and in Tibet”. The Committee recalled “that a distinctive religion is integral to the identity of several minorities and urge[d] the State party to review legislation and practices that may restrict the right of persons belonging to minorities to freedom of religion.”

Report on the Extensive Violations of Falun Gong Practitioners' Rights to Religion

**By the Special Rapporteur on freedom of religion or belief,
Asma Jahangir**

16 September 2004



General Assembly

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Item 107 (b) of the provisional agenda*

**Human rights questions: human rights questions including
alternative approaches for improving the effective
enjoyment of human rights and fundamental freedoms**

Elimination of all forms of religious intolerance

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report prepared by the Special Rapporteur of the Commission on Human Rights on freedom of religion or belief, Asma Jahangir, submitted in accordance with General Assembly resolution 58/184 of 22 December 2003.

* A/59/150.

** The present report is being submitted after the deadline due to the late appointment of the new Special Rapporteur.

China

18. On 16 June 2004, the Special Rapporteur sent information to the Government of China stating that, since 20 July 1999, when the Government banned Falun Gong, over 1,600 practitioners of Falun Gong had been tortured or beaten, several hundred had been given prison sentences of over 20 years, others had been interned in mental hospitals and a large number had been sent to labour camps without trial. At the time of the communication, an unspecified number of practitioners were

allegedly being held without trial. It was also reported that at least 907 practitioners had died in detention.

19. Reports indicate that the campaign against the Falun Gong continued unabated across China. Practitioners of Falun Gong continued to be subject to ill-treatment and torture by State officials in their attempts to force the practitioners to renounce their belief in Falun Gong. It was also reported that individual practitioners who had been subjected to torture and other inhuman and degrading treatment while detained had not been provided with appropriate and effective remedies. In particular, the system of administrative detention referred to as “Re-education Through Labour” (RTL) reportedly continued to be imposed on Falun Gong practitioners. It was reported that RTL involves detention without charge or trial, and without judicial review, for between one and three years — which could be further extended by one year. People receiving terms of RTL allegedly had no right of access to a lawyer and there was no hearing where they could defend themselves. As an illustration, the Special Rapporteur referred in his letter to a number of individual cases including the ones of Ms. Yiewen Tang, Ms. Zhao Fengyun, and Mr. Zhang Guoqing.

20. The Special Rapporteur also mentioned the allegedly serious state of health of detained Pastor Gong Shengliang of the South China Church.

Report on the Freedom of Expression

**By the Special Rapporteur on the promotion and protection
of the right to freedom of opinion and expression,
Ambeyi Ligabo**

27 March 2006



**Economic and Social
Council**

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COMMISSION ON HUMAN RIGHTS
Sixty-second session
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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF
FREEDOM OF EXPRESSION**

The right to freedom of opinion and expression

Report of the Special Rapporteur, Ambeyi Ligabo

Addendum

**Summary of cases transmitted to Governments
and replies received***

* The present document is being circulated as received, in the languages of submission only, as it greatly exceeds the word limitations currently imposed by the relevant General Assembly resolutions.

China

149. On 10 January 2005, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr. **Yang Tianshui**, a freelance writer. He spent ten years in prison for "counter-revolutionary activities" from 1990 to 2000 after publicly voicing his opinion on the 1989 events in Tiananmen Square. He was again detained from 27 May to 11 June 2004, reportedly on account of articles marking the 15th anniversary of the 1989 events in Tiananmen Square. He then wrote articles about the torture of human rights activists and the official protection of some criminals. According to the information received:

- i. Police of the People's Republic of China detained Mr. Yang Tianshui in Hangzhou, Zhejiang Province, on 24 December 2004.
- ii. On 31 December 2004, an arrest warrant was issued by the Baixia Branch of the Public Security Bureau, Nanjing City, stating that Mr. Yang had been transferred to Nanjing, 200km north of Hangzhou. The Public Security Bureau accuses him of "incitement to subversion of state power". According to the information

received, except for this warrant, his family had no news of him. Concern was expressed that the arrest and detention of Mr. Yang may have been motivated by his writing, including on alleged human rights abuses in China, and aimed at preventing his further reporting.

150. On 16 June 2005 the Government of China replied to the communication of 10 January 2005. At the time this report was finalized, this reply was still in the process of being translated.

151. On 20 January 2005, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a letter of allegation concerning three members of the unofficial Protestant Christian church: **Liu Fenggang**, **Xu Yonghai**, and **Zhang Shengqi**, a computer technician. They have already been the subject of a communication to the Government by the Special Rapporteur on Freedom of Religion or Belief dated 14 November 2004. The case of Mr. Liu was also the subject of a communication dated 6 October 2004, by the Working Group on Arbitrary Detention acting in its procedure involving the investigation of individual cases. According to information received, Mr. Liu was arrested on 13 October 2003, while Mr. Xu and Mr. Zhang were arrested in November 2003. They were reportedly charged with “providing state secrets to foreign organizations” pursuant to article 111 of the Criminal Law. These charges reportedly related to reports Mr. Liu had written documenting the destruction by the authorities of more than a dozen house churches and the arrest of at least 300 Christians, some of whom were allegedly ill-treated, in Zhejiang province in July 2003. Mr. Xu sent these reports to a US-based Chinese-language magazine, *Christian Life Quarterly*, and Mr. Zhang e-mailed the reports to foreign addressees. Allegedly, on 16 March 2004, these men were tried in secret by the Hangzhou Intermediate People’s Court in Zhejiang Province, and, on 6 August 2004, the court sentenced Mr. Liu, Mr. Xu and Mr. Zhang to three years, two years and one year of imprisonment respectively. Since the period of detention before the date of the judgment was credited towards the sentence imposed, Mr. Zhang should have completed his sentence by the time this communication was sent. It was not, however, known whether he had been released at the date this communication was sent.

152. On 16 June 2005 the Government of China replied to the communication of 20 January 2005. At the time this report was finalized, this reply was still in the process of being translated.

153. On 2 February 2005, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr. **Hada**. According to the allegations received, Mr. Hada, detained in Chifeng prison, Inner Mongolia Autonomous Region, was subjected to disciplinary punishment on the ground that he was “resisting reform”. The punishments included being held in solitary confinement and being handcuffed overnight to a metal board. He was prohibited from talking to other inmates, allowed only limited contact with his family and denied proper medical care. He reportedly suffered from a serious stomach ulcer, coronary heart disease, rheumatoid arthritis, and experienced psychological problems. In 1992, Mr. Hada was one of the founders of the Southern Mongolian Democratic Alliance (SMDA), and in an underground journal and a book he published, he alleged that the Government had committed systematic violations of the human rights of the Mongols of Inner Mongolia, including mass killings, deprivation of social and political rights, and suppression of Mongol culture. In 1995, Mr. Hada

and the SMDA organized several peaceful demonstrations in Hohhot, to demand that the Government respect the rights of the Mongols. Mr. Hada was arrested in December 1995 and was still being detained at the time this communication was sent. On 6 December 1996, he was tried behind closed doors, convicted on charges of "conspiring to overthrow the government" and "espionage", and was convicted to 15 years imprisonment. In view of the alleged ill-treatment, concern was expressed that he might have been at risk of torture or other forms of ill-treatment.

154. On 12 May 2005 the Government replied to the communication of 2 February 2005. At the time this report was finalized, this reply was still in the process of being translated.

155. On 22 February 2005, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Zhang Lin**, a dissident writer and pro-democracy advocate. According to information received, Mr. Zhang was arrested on 29 January 2005 by the National Security Police from the Public Security Bureau of Bangbu City, Anhui Province for "disturbing social order". He was placed in detention for a period of 15 days. His house was searched by police on 6 and 12 February 2005, and shortly before he was due to be released, he was charged with "suspicion of endangering national security" and placed in detention for an additional 30 days. Mr. Zhang was reportedly being detained incommunicado at the No. 1 Detention Centre of Bangbu City, Anhui province, at the time this communication was sent. His lawyer had not had access to him and was in the process of requesting a visitors' permit. The Notice of the Administrative Detention issued by the Public Security Bureau of Bangbu City stated that Mr. Zhang Lin was being detained because of allegations that he had written "radical" articles that were posted on the internet.

156. On 8 July 2005 the Government of China replied to the communication of 22 February 2005. At the time this report was finalized, this reply was still in the process of being translated.

157. On 17 March 2005, the Special Rapporteur sent an urgent appeal concerning a petitioner Mrs. **Jiang Meili**, the wife of Mr. Zheng Enchong (subject of two urgent appeals sent on 16 March 2004 by the Special Rapporteur jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Representative of the Secretary-General on the situation of human rights defenders; and on 1 December 2004 by the Special Rapporteur jointly with the Special Rapporteur on the independence of judges and lawyers, and the Special Representative of the Secretary-General on the situation of human rights defenders), who was the subject of an urgent appeal sent on 16 March 2004 by the Special Rapporteur jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Representative of the Secretary-General on the situation of human rights defenders, a petitioner Mr. **Li Jianhong**, operator for the Qimeng website, petitioner Mr. **Wu Xuwei**, husband of a detained petitioner Mrs. Mao Hengfeng concerning whom an urgent appeal was already sent on 12 October 2004 by the Special Rapporteur jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences, a petitioner Mrs. **Shen Yongmei**, a petitioner Mr. **Xu Yongdao**, a petitioner Mr. **Tian Baocheng** and a petitioner Mrs. **Zhang Cuiping**. According to information received, people travelled to Beijing from all over China to present

their complaints to and to petition the central Government during the annual meeting of the National People's Congress (NPC) which commenced on 3 March 2005. Security was increased in Beijing during this event, and security forces reportedly arrested and detained various petitioners and persons holding protests. Moreover, some petitioners were prohibited from travelling to Beijing and were arrested and detained at their home villages. The following cases were brought to the attention of the Special Rapporteurs:

- i. On 10 March 2005, Jiang Meli, the wife of Zheng Enchong, together with her sister, was arrested outside the home of her husband's lawyer by the security police. They were both, at the time this communication was sent, being detained by Shanghai police at the Beicai Dispatch Station in Pudong Xinqu District. No arrest warrant was presented. Li Jianhong was also arrested outside Jiang Meli's home, where he had reportedly planned to meet her to accompany her to her husband's lawyer. Mrs. Jiang had intended to petition the National People's Congress on behalf of her husband.
- ii. Wu Xuewei, whose wife was being detained at the Re-education Through Labour camp at the time this communication was sent, had been under strict surveillance by security forces in Shanghai since 25 February 2005. He was moreover prevented from leaving his home at night.
- iii. On 6 March 2005, Shen Yohgmei, who had gone to Beijing to petition over redevelopment projects, was arrested and forcibly returned to Shanghai where she was being detained at the time this communication was sent.
- iv. On 5 March 2005, a 74-year old petitioner, Xu Yongdao, was arrested for petitioning in Beijing on behalf of his son Xu Zhengqing and was reportedly being kept under house arrest in Shanghai at the time this communication was sent.
- v. On 3 March 2005, Tian Baocheng and Zhang Cuiping were reportedly arrested by the security police and were being detained in a training centre, at the time this communication was sent. Both Tian Baocheng and Zhang Cuiping had already been detained, together with 80 other petitioners, in October 2003 for having petitioned the Government over forced relocation.
- vi. On 8 March 2005, a dissident artist Yan Zhengxue went to the court in Jiaojiang District, Taizhou City, Zhejiang Province, to ask for two copies of the written judgment relating to his lawsuit concerning alleged abuse of power and other unlawful activity by various local officials. Police officers reportedly beat and kicked him. He was then forced into a holding pen measuring 90 cm by 120 cm by 60 cm and transported to Jiaojiang Prison.

158. On 22 July 2005 the Government of China replied to the communication of 17 March 2005. At the time this report was finalized, this reply was still in the process of being translated.

159. On 18 March 2005, the Special Rapporteur sent an urgent appeal concerning a journalist **Shi Tao**, with regards to whom an urgent appeal was sent on 15 December 2004 by the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. According to information received, on 11 March 2005, Shi Tao appeared before the State Prosecutor in the southern city of Changsha and was found guilty of illegally divulging state secrets abroad. He faced from 10 years to life imprisonment. The sentence was to be pronounced on 25 March 2005. It was reported that Shi Tao was assisted by a colleague of his lawyer, since his lawyer was, on 4 March 2005, banned by the Justice Department in the eastern city of Shanghai from practicing law for a year. The two-hour hearing was held behind closed doors. Despite the fact that Shi Tao suffered from the flu, the authorities did not allow his family to give him medication.

160. On 8 July 2005 the Government of China replied to the communication of 18 March 2005. At the time this report was finalized, this reply was still in the process of being translated.

161. On 5 April 2005, the Special Rapporteur, jointly with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr. **Guozhu Ye**, a housing rights activist who, on 24 August 2004, allegedly applied for legal permission to hold a 10000 people protest march against forced evictions in Beijing in mid-September 2004. According to information received, on 27 August 2004, the police arrested Mr. Guozhu and searched his house. He was reportedly charged with “disturbing social order” in connection with the application to hold the protest march. Allegedly, on 18 December 2004, the Beijing Intermediate People’s Court sentenced Mr. Guozhu to four years imprisonment because his actions “seriously interfered with the work and order of state organs and public order”. Information indicated that he was detained at an unknown location, at the time this communication was sent.

162. On 8 April 2005, the Special Rapporteur sent a letter of allegation concerning **Jiao Guobiao**, a journalism lecturer at the Beijing University. According to information received, on 21 March 2005, Jiao Guobiao received a letter from the university authorities demanding that he voluntarily resign from his post as lecturer. It appeared that this request followed various actions taken by the authorities against Mr. Jiao. At the end of 2004, Mr. Guobiao was not allowed to work at the Journalism and Communications Faculty, and in November 2004 the Public Department ordered the official media to stop publishing articles written by six pro-reform political commentators, including Mr. Jiao. Moreover, in September 2004, Mr. Jiao Guobiao was barred from supervising doctoral students and the journalism course he gave was closed; he was offered to work at the Archives Department instead. Concern was expressed that harassment of Jiao Guobiao by the authorities was directly linked to his criticisms of the Publicity Department. In an article he wrote entitled, "Crusade Against the Propaganda Department", which was circulated on the Internet in Summer in 2004, he accused the ruling Communist Party of obstructing the civilised growth of Chinese society through its censorship policies.

163. On 22 July 2005 the Government of China replied to the communication of 8 April 2005. At the time this report was finalized, this reply was still in the process of being translated.

164. On 22 April 2005, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning five Tibetan monks: **Tashi Gyaltsen, Lobsang Dhargay, Thoe Samden, Tsultrim Phelgay and Jampel Gyatso**. According to information received, on 16 January 2005, they were arrested for having published a journal containing poems and articles of a political nature. They were sentenced to two to three years of re-education through labour and were being detained at Qinghai labour camp, close to Xining, north central China, at the time this communication was sent. The Special Rapporteurs expressed their concern that the five monks had been sanctioned solely for expressing their views.

165. On 12 July 2005 the Government of China replied to the communication of 22 April 2005. At the time this report was finalized, this reply was still in the process of being translated.

166. On 27 April 2005, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Liu Yawen**. According to the allegations received, on 31 March 2005, she was arrested by the police when she was seen distributing Falun Gong Video-CDs in Beijing, and was being held at the Xuanwu District Detention Centre, at the date this communication was sent. After she was detained, police officers searched her home for other Falun Gong materials. She was denied visits by her family and it was not known whether she had been charged with any offence. In view of her alleged detention incommunicado, concern was expressed that she might have been at risk of torture or other forms of ill-treatment.

167. On 22 July 2005 the Government of China replied to the communication of 27 April 2005. At the time this report was finalized, this reply was still in the process of being translated.

168. On 1 July 2005, the Special Rapporteur, jointly with the Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning family members and business associates of Rebiya Kadeer, a human rights defender for the minority Uighur community in the northwest region of Xinjiang, in particular, her son **Ablikim Abdiryim**, and two employees of her company Kadeer Trade Centre, **Ruzi Mamat** and **Aysham Kerim**. According to the information received, in August 1999, Rebiya Kadeer was detained in Urumqi on her way to meet with a United States Congressional Research delegation which was then visiting China. In March 2000, she was sentenced to eight years imprisonment on charges of "providing secret information to foreigners". On 17 March 2005, she was released on medical parole after serving five and a half years of this sentence and then joined her husband in exile in the United States. According to the new information received, on 11 May 2005, Ruzi Mamat and Aysham Kerim, the secretary and the director of the company respectively, were detained by the police. It was reported that Aysham Kerim was ill-treated by police during her arrest. Both were allegedly taken to the Fifth Branch of the Public Security Bureau in Urumqi. On 13 May 2005, the police reportedly took Ruzi Mamat and Aysham Kerim back to the Kadeer Trade Centre, and conducted a search of the office, under the pretext of a loan the Kadeer Trading Center had received from the state-owned Bank of China. During the raid it was reported that 100 security personnel were present both inside and outside the office, and that a large quantity of documents were removed from the office. Allegedly, at the time of the raid, police also tried to arrest Ablikim Abdiryim, but he managed to escape and his whereabouts

were unknown, at the time this communication was sent. After the raid, Ruzi Mamat and Aysham Kerim were once again taken into the police custody. Concern was expressed that the harassment and intimidation of Ruzi Mamat, Aysham Kerim and Ablikim Abdiriyim may have been in retaliation for Rebiya Kadeer's activities in defending the human rights of the minority Uighur community. These concerns are heightened by allegations that, three days before her release on 17 March 2005, Rebiya Kadeer was threatened by prison guards that her business and children would be targeted if she associated with Uighurs abroad or revealed sensitive information about the Xingjiang. Nevertheless, since her release, Rebiya Kadeer had continued her work in defence of the human rights of the Uighur community, and had talked openly about her experiences in prison.

169. On 1 July 2005, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning **Zhu Jiuhu**, a lawyer from the Jietong Law Office of Beijing. According to information received, at the time of his arrest Mr. Zhu was staying in Yulin City, Jingbian County, Shaanxi Province, where he was serving as lead counsel for the plaintiffs in the Shaanxi Petroleum Case. On 26 May 2005, approximately at 1.00 am, 17 officers of the Jingbian County Police arrived at the Shoufin Hotel, Yulin City. Seven of them entered Mr. Zhu's room and detained him, while the other ten waited outside. They did not show Mr. Zhu an arrest warrant or other document justifying his detention. Mr. Zhu's wife received a warrant through the post on 6 June 2005. The warrant, issued on 27 May 2005, charged Mr. Zhu with "involvement in illegal gathering, [and] disruption of social order". Since then Mr. Zhu was held by the Jingbian County Police at the Jingbian County Police Detention Centre. On 27 May 2005 he was placed under criminal detention. On 22 June 2005 a declaration of formal arrest was issued. On two occasions, 3 June 2005 and 13 June 2005, lawyers attempted to see Mr. Zhu but were not allowed admittance. The reason given was that Zhu's case was "a matter of national security". Mr. Zhu's wife had been denied the right to visit him, too.

170. On 6 July 2005, the Special Rapporteur sent a letter of allegation concerning **more than 30 petitioners** from Shanghai including **Wang Qiaojuan, Wang Mingqing and Yang Weiming**. According to information received, on 24 June 2005 at Shanghai's West train station, several police officers attacked the petitioners and stopped them from boarding a train going to Beijing. The police officers also prevented the petitioners from taking Wang Qiaojuan to a hospital to be treated for the injuries she sustained during the attack by the police officers. The petitioners were planning on going to Beijing to express their dissatisfaction with the new petitions regulations, which came into force on 1 May 2005, aimed at reducing the number of people going to the central authorities to file their complaints. These new regulations were aimed at improving the system of petitioning local officials. Many petitioners felt, however, that the local officials were not committed to properly dealing with their work as a result of which petitioners went back to filing their complaints before the central authorities.

171. On 19 September 2005, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Mr. **CG**, aged 34, a blind peasant from Linyi, Shandong Province. Chen Guangchen was leading a legal campaign

against the use of forced sterilization and abortion in the city of Linyi. According to the information received, on the afternoon of 6 September 2005, several men in plain clothes grabbed CG as he left an apartment building in Beijing, dragged him across a parking lot and pushed him into an unmarked car with tinted windows. The men did not identify themselves. As he shouted for help and could be heard screaming in pain from inside the car, a small group of persons surrounded the vehicle and prevented it from driving away. Residents of the area called the Beijing police. Two uniformed officers arrived, consulted with the men who had seized CG, and then cleared the way for the car to drive away. The Beijing police officers informed the bystanders that the men who seized CG were police from Shandong province. A spokesman for the Shandong public security bureau stated, however, that he did not have any information about CG's detention. It was reported that the Shandong province police took Chen Guangcheng back to Linyi, where he was, at the time this communication was sent, confined to his farmhouse by a group of about 50 men acting on behalf of the Yinan county and Linyi city governments. CG was reportedly preparing a class-action lawsuit to challenge the population-control policies of the authorities of Linyi. In March 2005, the Linyi city government began requiring parents with two children to be sterilized and forcing women pregnant with a third child to have abortions. Officials also detained family members of persons who fled to avoid sterilization or abortion, beating them and holding them hostage until their relatives returned and submitted them to the operation.

172. On 12 December 2005 the Government of China replied to the communication of 19 September 2005. At the time this report was finalized, this reply was still in the process of being translated.

173. On 29 September 2005, the Special Rapporteur, jointly with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal concerning **Zeng Yichun**, a writer and poet. According to information received, on 22 September 2005, following a conviction against him for 'incitement to subversion', a court in Yingkou sentenced him to seven years in prison. The conviction against him was linked to 63 articles he wrote for foreign based publications and websites which were critical of the Communist party and Chinese government policy. Mr. Zeng called for political reform, increased capitalism in China and an end to the practice of imprisoning writers. He was, moreover, a regular contributor to overseas online news web-sites that are blocked in China. Mr. Zeng's trial lasted less than three hours. Mr. Zeng suffered from diabetes and was not receiving the necessary medical treatment for it in prison, at the time this communication was sent. He had been in No. 1 jail in Panjin, Liaoning Province, since 3 December 2004. His health had seriously deteriorated and he was suffering from a depression, at the date this communication was sent. His family had been under pressure by the authorities not to contact foreign human rights organizations and the media on his case. A US journalist who attempted to attend the trial of Mr. Zeng was detained for six hours and was only released after being forced to sign a confession admitting to unauthorised activity in China.

174. On 12 December 2005 the Government of China replied to the communication of 29 September 2005. At the time this report was finalized, this reply was still in the process of being translated.

175. On 29 November 2005, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal

concerning **Zhao Xin**, the director of the Empowerment and Rights Institute in Beijing. According to information received, on 17 November 2005, Zhao Xin was severely beaten by seven men in Maoxin, Sichuan province. The men, reportedly armed with steel pipes and knives, confronted Zhao Xin as he left a restaurant with seven of his friends. Zhao Xin was the only target of the attack; his friends were intimidated and forcibly prevented from intervening. Following the attack Mr. Zhao was taken to a nearby hospital, where he received 11 stitches for a wound to his head; he also suffered a shattered knee cap. It had been reported that the police had refused to investigate the attack and that Zhao Xin had not been offered any protection when leaving the hospital. Zhao Xin was a former chief organizer of the banned opposition group the China Democracy Party and a student leader during the Tiananmen democratic movement in 1989. He had written articles, many under the pseudonym Zhao Zixian, advocating human rights and democracy in China. Reports also indicated that Zhao Xin had been instructed by officers from the Beijing Public Security Bureau (PSB) to leave Beijing during visits to China by the US President, George W. Bush, in mid-November, and the United Nations Special Rapporteur on Torture, Manfred Nowak, at the end of November. Zhao Xin had reported that since he arrived in Maoxin, and despite assurances from the PSB that he would be safe there, two cars, a black Audi and a VW Passat, had been following him.

176. On 14 December 2005 the Special Rapporteur, jointly with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal, concerning the detention of approximately **60 human rights defenders** who attempted to express their concern over ongoing forced evictions and lack of protection of adequate housing of affected communities in Shanghai. According to information received, on 1 December 2005, 60 persons were detained in front of the Oriental Pearl building in Shanghai as they attempted to deliver a letter addressed to UN Secretary-General, Kofi Annan to United Nations officials who were attending the UN Global Compact Summit. It was reported that approximately 40 of the activists were detained at the Century Plaza police station in Pudong, Shanghai and were subsequently released. It was reported that another twenty were returned to their home districts by local district officials. One of the activists, **Cai Wenjun**, who had been released after serving one year of “Re-education through Labour”, was officially notified that she remained under police investigation on suspicion of ‘disturbing public order’.

177. On 22 December 2005 the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal regarding **Dae Sub Hwang** of Korean Catholic Farmers Association, **Kyoung Kyu Yang** and **Dae Hyuk Lim** from the Korean Confederation of Trade Unions, **Seung Kyu Kang**, **Young Hoon Lee**, **In Hwan Park**, **Il Kwon Yoon**, **Suk Namgung**, **Chang Joon Kim**, **Dong Ung Han** and **Hyung Jin Lee** from Korean Peasants League (KPL), **Chien Ching Lee**, a Taiwanese Student, **Kosuke Makakiri**, a Japanese journalist for *People Newspaper*, and others arrested at the World Trade Organisation (WTO) Ministerial meeting in Hong Kong. According to information received, on 18 December 2005, at approximately 03:00, over 600 peaceful protesters were arrested at the WTO Ministerial meeting in Hong Kong. The above-mentioned persons and other individuals remained in detention, at the date this communication was sent, and had been charged with unlawful assembly under the Hong Kong Public Order Ordinance. Reports indicated that they were to face trial on 23 December 2005 at the Kwun Tong Magistrates Court, Hong Kong. According to reports many of those arrested were mishandled by the police and were denied medical aid, food, water and bathroom facilities.

187. With regard to the communication dated 18 March 2005 concerning **Shi Tao**, the Special Rapporteur was further informed from another source that that he was sentenced on 27 April 2005 to 10 years imprisonment in a closed trial before the Intermediate People's Court of Changsha in central China's Hunan Province. He was reportedly subject to forced labour in a jewellery factory at the high-security Chishan prison in Hunan Province, where he was transferred on 5 September 2005, and was suffering from respiratory problems and a skin inflammation at the time the information was received.

188. With regard to the communication dated 19 September 2005 concerning **Chen Guangcheng**, the Special Rapporteur was further informed from another source that his case was due to be heard on 10 October, but was postponed.

189. Moreover, in view of the allegations concerned in the communications sent to the Government in 2005, the Special Rapporteur deems it appropriate to call to the Government's attention the Commission on Human Rights' concerns as expressed in resolution 2005/38, that violations of the right to freedom of opinion and expression continue to occur, often with impunity, including extrajudicial killings, arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence and of discrimination, including gender-based violence and discrimination, increased abuse of legal provisions on defamation and criminal libel as well as on surveillance, search and seizure, and censorship, against persons who exercise, seek to promote or defend these rights, including journalists, writers and other media workers, Internet users and human rights defenders. In this context the Commission defined as unlawful those restrictions to the right to freedom of opinion and expression which are incompatible with paragraph 3 of article 19 of the International Covenant on Civil and Political Rights, including on i. discussions of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, 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; ii. the free flow of information and ideas, including practices such as the banning or closing of publications or other media and the abuse of administrative measures and censorship; and iii. access to or use of information and communication technologies, including radio, television and the Internet.

190. Furthermore, the Special Rapporteur deems it appropriate to make reference to the fundamental principles enunciated 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, 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.

Singapore

886. On 3 May 2005 the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning Singapore national **NCH** (F) 41, and Chinese national **Ms. CLJ** (F) 37, both Falun Gong practitioners. According to information received, NCH (F) and CLJ (F) were arrested and charged in May 2004 for having participated in an illegal assembly in February 2003 and for having distributed flyers and VCDs at the Esplanade Park in Singapore exposing the persecution against Falun Gong practitioners. On 27 April 2005, the Court 39 of the Subordinate Courts in Singapore sentenced NCH to S\$20,000 and CLJ to S\$24,000 on charges including 'assembly without permit' and 'possession and distribution of illegal VCDs'. They both appealed the decision and refused to pay the fine, as a result of which the fines imposed were converted into prison terms: NCH was sentenced to 20 weeks imprisonment and CLJ to 24 weeks imprisonment. The two women were immediately taken to the Changi Women's Prison and had not, until the moment that this communication was sent, had access to a lawyer or been allowed visitors. NCH, who was not

given the time to make arrangements for her six-month old baby girl whom she was reportedly nursing until then, had also been prohibited from seeing her child in prison. At the time this communication was sent, they had both been on hunger strike, in protest of the court decision against them of 27 April 2005 and prison authorities had reportedly threatened to punish them further if they continued their hunger strike.

United Kingdom of Great Britain and Northern Ireland

1057. On 25 April 2005, the Special Rapporteur, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **HJ**, a 35 year-old student and national of the People's Republic of China, residing in Manchester. According to the allegations received, he was, at the time this communication was sent, being detained at Harmondsworth Immigration Removal Centre and was at risk of

imminent forcible return to China, following the rejection of his asylum application. On 10 September 2003 around 2am, while on vacation in China, he was arrested together with another person, **ZZ**, in Jinxi City, Liaoning, by officers of the Jinxi City Lianshan District Police. At the time of their arrest, they were distributing Falun Gong-related flyers in a residential area. They were brought to separate interrogation rooms on the second floor of the station and interrogated about their activities. **ZZ** was beaten, including with handcuffs. **HJ** was slapped, beaten and kicked by three police officers, and lost a tooth. The two men were later held together in a room, from which **HJ** escaped through a window. He reportedly remained in hiding for ten days in Taiyuan City, Shanxi, before boarding a flight back to the United Kingdom on 21 September 2003. He had also been involved with Falun Gong activities prior to his arrival as a student in the UK, for which his family has been threatened. Moreover, he continued to be involved in such activities, including in protests against the persecution of Falun Gong practitioners, including before the Chinese consulate in Manchester. In view of allegations of ill-treatment of **HJ** and threats related to his practice of Falun Gong in China, concern was expressed that he might have been at risk of torture or other forms of ill-treatment should he be returned.

Report on Torture and Other Cruel, Inhuman or Degrading Treatment in China

By the Special Rapporteur on torture, Manfred Nowak

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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS,
CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL
RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on torture and other cruel, inhuman or
degrading treatment or punishment, Manfred Nowak**

Addendum

**Summary of information, including individual cases, transmitted
to Governments and replies received***

* The present document is being circulated in the languages of submission only as it greatly exceeds the page limitations currently imposed by the relevant General Assembly resolutions.

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
33.	People's Republic of China	21/12/06	JUA	FRDX; HRD; IJL; TOR; VAW	<p>Chen Guangcheng (subject of previously transmitted communications, E/CN.4/2006/6/Add.1, para. 24, and A/HRC/4/33/Add.1, paras. 34, 38), his wife, Ms. Yuan Weijing, his lawyers Li Jinsong and Li Fangping, a member of his defence team, Teng Biao, and witnesses to his trial, Chen Gengjiang, Chen Guangdong, Chen Guangyu and Chen Guanghe. Notwithstanding the previous replies of the Government, there are consistent reports that a number of individuals involved in his trial have been targeted by the security forces including his wife, his lawyers, a member of his defence team and witnesses to his trial. On 27 November 2006, Chen Guangcheng's retrial before the Yinan County People's Court lasted approximately 10 hours. It is reported that on 1 December 2006, he was sentenced to four years and three months' imprisonment for "gathering crowds to disrupt traffic" and "intentional destruction of property". According to reports, Chen Guangcheng's wife, Yuan Weijing, has been under <i>de facto</i> house arrest from 12 August 2005 until 25 November 2006. Since then, she had been continuously followed by local security personnel and persons in civilian clothes believed to have been hired by the police. On 28 November 2006, around midday, she was arrested by members of the Yinan County Public Security Bureau and detained for questioning. Their one-year-old child was also taken but was</p>	<p>tiempo y en el espacio, sin referir molestias y con un estado de salud estable.</p> <p>By letter dated 14/02/07, the Government informed that on 10 June 2006, Chen was arrested, in accordance with the law, by the Yinan county public security bureau in Shandong province on suspicion of the offences of wilful age to property and assembling a mob to disrupt the flow of traffic and, on 21 June, he was taken into custody with the approval of the procuratorial authorities. On 19 August 2006, the Yinan county people's court, meeting at first instance, found Chen guilty of the offence of causing wilful damage to property and sentenced him to seven months' fixed term imprisonment; it also found him guilty of the offence of gathering a mob to disrupt the flow of traffic and sentenced him to serve four years' fixed term imprisonment; the court decided that he should serve a combined sentence of four years and three months' fixed term imprisonment. Following his sentencing at first instance, Chen refused to accept the court's verdict and lodged an appeal. The Linyi city people's high court in Shandong province, meeting at second instance, found that the court of first instance had restricted Chen's right to defence (the assigned defence counsel had not been accepted by Chen), a factor which might have adversely influenced the fairness of the proceedings, and, on 31 October 2006, it quashed the original judgement and sent the case back to the court of first instance for retrial. The allegations in the letter that we have received that the case was sent back to the</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
					<p>sent home later that day. Approximately eight hours later, Yuan Weijing, was dragged out of police car and left in a barely conscious state on the side of the road near her village. She was taken to Mengyin County Menglianggu Hospital where she was treated for extreme trauma however she was accompanied by up to 20 policemen as an order of "residential surveillance" had been issued while she was in detention. She is also suspected of the offences of "gathering crowds to disrupt traffic" and for "intentional destruction of property". Furthermore it is reported that the local authorities have intimidated witnesses and withheld evidence in order to prejudice Chen Guangcheng's retrial. Four other key witnesses have been subject to police harassment in relation to the most recent trial and were subjected to torture in order to provide false testimony against Mr. Chen Guangcheng in his previous trial. According to reports, Mr. Chen Gengjiang was detained on 26 November 2006 and held until after the hearing had taken place. He was forced to sign papers in which he agreed not to participate in the case. On the same day, Mr. Chen Guangdong and Mr. Chen Guangyu disappeared after they had agreed to testify on behalf of the defence. Later the same evening, Mr. Chen Guanghe was abducted by undercover police officers as he was on his way to meet with Mr. Li Fanning regarding the upcoming trial in which he was scheduled to testify the following day. He was formally arrested on 28 November but his family was not informed of his arrest or his</p>	<p>original court because there had been insufficient evidence to convict Chen Guangcheng for the offence of gathering a mob to disrupt the flow of traffic are unfounded. On 27 November 2006, sitting at a reconstituted bench, the Yinan county people's court reopened the case in open proceedings, Chen's brother attended the court in the public gallery, and Chen's defence was conducted by the lawyers Li Fangping from the Beijing Ruifeng law firm and Li Jinsong from the Beijing Yitong law firm. During the proceedings, Chen's rights in litigation were fully upheld: he exercised his own rights to defence and the lawyers appointed by him also made submissions in his defence. On 1 December 2006 the court ruled at first instance and made public its verdict: for the offence of wilful damage to property, it sentenced Chen to seven months' fixed term imprisonment and, for the offence of gathering a mob to disrupt the flow of traffic, it sentenced him to four years' fixed term imprisonment, ruling that he should serve a combined term of four years and three months. After sentencing at first instance, Chen refused to accept the court's verdict and once again lodged an appeal. The Linyi city intermediate people's court, after hearing the case at second instance, ruled that Chen, as a means of giving vent to personal grievances, had caused and incited others to cause wilful damage to property, the amount of which was considerable, and that his conduct had infringed public and private ownership rights and constituted the offence of wilful damage to</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
					<p>whereabouts until 3 December 2006. Previously, it is alleged that Mr. Chen Guanghe was detained and tortured before the first trial by members of the Yinan police in order to procure a false confession and to testify against Mr. Chen Guangcheng. He was convicted on the basis of the false confession but granted a suspended sentence. It is feared that his recent detention may be related to the fact that he has submitted written testimony stating that his prior evidence had been coerced through torture. Members of Chen Guangcheng's defence team have also been harassed, including his lawyers Mr. Li Jinsong, Mr. Li Fangping and Dr. Teng Biao. The two lawyers were apparently prevented from interviewing witnesses and obtaining further evidence for the retrial. On 27 November 2006, as the trial was taking place, Dr Teng Biao was detained for five hours during which he was pushed to the ground by six or seven policemen who held him down while they searched him. They also apparently searched his bags and computer and confiscated his mobile phone.</p>	<p>property; it found further that Chen, with the aim of influencing and exerting pressure on the Government, had assembled a mob in order to block the flow of traffic, that the circumstances of his offence had been particularly serious, that he had been responsible for organizing the process of assembling a mob to block traffic, that he had directed the operation and had served as the ringleader and that his conduct had therefore constituted the offence of assembling a mob for the purpose of disrupting traffic. As the original court judgement had been based on clear facts, the conviction had been correct, the sentence had been commensurate with the offence and the trial proceedings had followed due process, the court dismissed the appeal and ruled that the original judgement should stand. This ruling was published on 12 January 2007. During the proceedings at second instance, the court also heard the views of Chen's defence counsel and, in accordance with the applicable evidence, found that the facts set out in the accusation by the procuratorial authorities and the charges brought against the defendant were sound and accordingly handed down the judgement referred to above. In their conduct of the proceedings against Chen, the public security authorities fully upheld his rights in litigation and those of his family members, acted in strict compliance with the law and applied the law in a civilized manner. The proceedings in this case were all conducted in accordance with the law, the facts underlying the court's judgement were clear, the evidence was ample and</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
34.		22/12/06	JUA	WGAD; RINT; TOR	Cao Dong, a Falun Gong practitioner. On 21 May 2006, Mr. Cao Dong met with the vice-president of the European Parliament in Beijing. Following this	conclusive, the sentence was commensurate with the offence and the trial proceedings followed due process. With regard to the allegations in the letter which we have received to the effect that, on 30 October 2005, Chen's lawyers endeavoured to lay charges with the Yinan county court against public security officials from Shuangzhou township for having caused intentional bodily harm to Chen, but that the court ignored this suit, it is our understanding that the Yinan county court did indeed receive an application from the lawyers to bring charges, but because the lawyers did not have Chen's power of attorney, following an investigation the court determined that the lawyers were not authorized to act for the plaintiff and rejected the application. With regard to the allegations in the letter to the effect that Li Jinsong and Li Fangping filed an administrative and civil action with the Linyi city intermediate people's court against the Linyi city public security bureau (including the bureau chief) and other government agencies, it is our understanding that the court did indeed receive such an application from the lawyers, in December 2006, which had been sent by expedited mail service, and that the matter is currently being investigated and no conclusion has been reached as yet. The allegations in the letter that public security officials have been harassing members of Chen's family, his lawyers and other persons are entirely without substance.

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
35.		04/01/07	JUA	WGAD; FRDX; TOR	<p>meeting, he was arrested and transferred to Gansu Province State Security Bureau Detention Centre. On 29 September 2006, Mr. Cao Dong was charged with “producing Falun Gong material”. His current whereabouts are unclear and his family has not been allowed to visit him since the arrest. Gansu local authorities informed Mr. Cao Dong’s family that he will be on trial soon. He has previously been placed in administrative custody for being a Falun Gong practitioner.</p> <p>Jigme Gyatso, currently detained at Qushui Prison on the outskirts of Lhasa. Mr. Gyatso was already the subject matter of Opinion N° 8/2000 adopted by the Working Group on WGAD on 17 May 2000. Further, the Special Rapporteur on torture visited Mr. Gyatso at Qushui Prison on 27 November 2005 during his mission to China. Mr. Jigme Gyatso was sentenced to 15 years of imprisonment and five years of deprivation of political rights by the Lhasa Municipal Intermediate People’s Court on 25 November 1996 on charges of “planning to found an illegal organization and to seek to divide the country and to damage its unity”. During the meeting with the Special Rapporteur on torture, Mr. Gyatso explained that in May 2004 his sentence was extended by two years after shouting pro-Dalai Lama slogans at the Tibet Autonomous Region (TAR) Prison, upon which he was also kicked and beaten, and shocked with electric batons. Since meeting with the Special Rapporteur, Mr. Gyatso has been ill-treated and held in solitary confinement in particularly restricted conditions.</p>	<p>By letter dated 9/03/07, the Government informed that in November 1996, he was sentenced by the Lhasa Intermediate People’s Court to 15 years’ imprisonment and 5 years’ deprivation of political rights for the crime of seeking to divide the State. He accepted the judgement and did not file an appeal. In March 2004, while serving his sentence, Jinmei Jiacao became involved in activities aimed at inciting separation of the State, for which he was indicted by the procuratorial authorities. On 18 May 2004 the Lhasa Intermediate People’s Court sentenced him to 3 years’ imprisonment for the crime of inciting separation of the State, to be added on to the 7 years and 27 days remaining from his original sentence; he was thus ordered to serve a further 9 years and 27 days, with the expiry of his sentence to fall on 30 March 2014. Jin accepted the judgement and did not file an appeal; he is currently serving his sentence in the Qushui prison in Tibet Autonomous Region. According to article 71 of the Criminal Law of the People’s Republic of China, if a convicted criminal, having</p>

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					<p>Further restrictions have been placed upon Mr. Gyatso regarding his monthly family visits rights and that his health is rapidly deteriorating. Earlier in 2006 he was hospitalized for several weeks and is currently unable to walk normally due to a leg injury. Also, contrary to information provided by Mr. Gyatso during his meeting with the Special Rapporteur on torture, Mr. Gyatso's prison term was actually extended by three years for "inciting splittism" following the incident at TAR Prison. This means that Mr. Gyatso is scheduled for release only in 2014.</p>	<p>been sentenced but not having served the sentence in its entirety, commits a new crime, a judgement shall be rendered in respect of the new offence; taking the crime into account, the duration of the combined punishment shall not exceed the length of the individual sentences taken together, nor shall it be any shorter than the longest of the individual sentences. It was pursuant to this provision that the Lhasa Intermediate People's Court issued the above-mentioned sentence in respect of Jinmei Jiacuo. After entering prison, Jinmei Jiacuo enjoyed the same rights and treatment as other criminals. From November 2005, before he met with the Special Rapporteur on the question of torture in November 2005, until the present he has remained in a double cell, and his conditions of detention have not changed; there is no substance to the allegation in the letter that "since meeting with the Special Rapporteur [he] has been ill-treated and held in solitary confinement in particularly restricted conditions". Jinmei Jiacuo is currently in excellent health and receives regular visits from family members, and the allegations in the letter that "restrictions have been placed on [him] regarding his ... family visits and that his health is rapidly deteriorating" are not true.</p>
36.		25/01/07	JAL	RINT; TOR	<p>Organ harvesting (see also A/HRC/4/33/Add.1, para. 40). A critical issue was not addressed in the Government's previous responses, in particular: it is reported that there are many more organ transplants than identifiable sources of organs, even taking into account figures for identifiable</p>	<p>By letter dated 19/03/07, the Government informed that it has carefully examined the matters referred to in the communication and, with particular attention to the request put forward in the communication that the Chinese Government explain the discrepancy in the number of</p>

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					<p>sources, namely: annual estimates of executed prisoners by whom a high percentage of organs are donated, according to the statement in 2005 of the Vice Minister of HLTH, Mr. Huang Jiefu; willing donor family members, who for cultural reasons, are often reluctant to donate their organs after death; and brain-dead donors. Moreover, the short waiting times that have been advertised for perfectly-matched organs would suggest the existence of a computerized matching system for transplants and a large bank of live prospective donors. It is alleged that the discrepancy between available organs and numbers from identifiable sources is explained by organs harvested from Falun Gong practitioners, and that the rise in transplants from 2000 coincides and correlates with the beginning of the persecution of these persons. The Special Rapporteurs note reports that on 15 November 2006, Vice-Minister Huang reiterated at a conference of surgeons in Guangzhou that most organs harvested come from executed prisoners. And notwithstanding the reported stringent criteria in place for donors, including for those sentenced to death, the Government informed in its response of 28 November, that voluntary donations, and donations between relatives are the two other legitimate sources of transplant organs. According to the allegations, based on data from the China Medical Organ Transplant Association, between the years 2000 and 2005 there were 60,000 transplantations performed, or approximately 10,000 per year for six years. This period</p>	<p>transplants between the years 2000-2005 and the numbers from identifiable sources of organs, submits the following response. First, China's annual health statistics are compiled on the basis of categories of health disorder and not in accordance with the various types of treatment provided. For that reason, to date no Chinese authority has compiled official statistics on organ transplants for the period 2000-2005 and the allegations in the communication that we have received that, between the years 2000 and 2005, 60,000 transplantations were performed are drawn from erroneous data cited in a report compiled by two Canadians investigating allegations of organ harvesting of Falun Gong practitioners in China. The report claims: "Professor Bingyi Shi, vice-chair of the China Medical Organ Transplant Association, says there were about 90,000 [organ transplants] in total up until 2005, leaving about 60,000 in the six-year period 2000 to 2005 since the persecution of Falun Gong began." It has been ascertained that, in January 2007, during an interview with the BBC, Professor Shi Bingyi expressly clarified that on no occasion had he made such a statement or given figures of this kind, and these allegations and the related figures are pure fabrication. Given the above situation, the so-called "discrepancy" referred to in the communication that we have received does not make sense. In addition, from the point of view of medical science, during a person's lifetime that person may express the wish to donate one or more organs after his or her</p>

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					<p>coincides with the alleged rise in the persecution of Falun Gong practitioners. In 2005, it is reported that only 0.5% of total transplants were accounted for by donations by relatives; non-relative brain dead donors were around nine in 2006; and estimates—given that the Government does not make public statistics on executions—for 2005 indicate 1770 executions were carried out, and 3900 persons sentenced to death. It is alleged that the discrepancy between the number of transplants carried out and the number of available sources is made up from the harvesting of organs from Falun Gong practitioners. However, it is also reported that the true number of executions is estimated to be around 8,000 to 10,000 per year, rather than the figure of 1770 executions referred above. As the Special Rapporteur on torture recommended in his report on his visit to China, he reiterates that the Government (E/CN.4/2006/6/para. 82, recommendation q) should use the opportunity of the restoration of the power of review of all death sentences by the Supreme People's Court to publish national statistics on the death penalty. A full explanation of the source of organ transplants would disprove the allegation of organ harvesting of Falun Gong practitioners, particularly if they could be traced to willing donors or executed prisoners. The request for an explanation for the discrepancy in the number of transplants between the years 2000 to 2005 and the numbers from identifiable sources of organs is reiterated.</p>	<p>death, so it is not possible to estimate the number of organ donors on the basis of a one-to-one correlation with the number of organ transplants. Second, as a State member of the World Health Organization (WHO), in carrying out organ transplants China unswervingly respects the WHO Guiding Principles on Human Organ Transplantation of 1991, strictly prohibits the buying and selling of human organs and insists on the principle that donations of human organs may only be made on a purely voluntary basis, with the prior written agreement of the organ donor. On 1 July 2006, the Chinese Government promulgated its interim provisions on the clinical application and management of human organ transplantation, reaffirming that human organs may not be bought or sold; that medical establishments may only use transplanted human organs with the written agreement of the donors; that donors have the right at any time prior to transplantation to refuse donation of their organs; that medical establishments conducting human organ transplantation must be properly equipped to be able to ensure the quality and safety of medical treatment; and that ethical principles must be respected. The aim of these provisions is to standardize and strengthen the clinical application and management of human organ transplantation, and to ensure the quality and safety of medical treatment. In China, it is categorically prohibited to coerce persons sentenced to death into donating their bodies or organs or for their bodies or organs to be resold for profit. The organs and bodies of</p>

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						<p>people sentenced to death may only be used in strict compliance with the relevant regulations. Primary among these are the following: (a) they may only be used with the prior written agreement of the prisoners themselves and of their family members; (b) they may only be used with the approval of the health authorities at the provincial level and of the provincial high court; and (c) units using such organs or bodies must secure the approval of the health authorities at the provincial and higher level and must be properly equipped to conduct the applicable medical research or to carry out the relevant transplantation surgery. Although China has strict prohibitory regulations in place relating to organ transplants, it is still hard to put a stop to certain unlawful practices. As soon as the relevant administrative bodies discover and verify that such unlawful activities are being conducted, the necessary action is taken to punish them in accordance with the law. Currently, regulations on the transplantation of human organs, as drafted by the Ministry of Health, have been issued and submitted to the State Council for its consideration and the State Council is soliciting the views of relevant Chinese and foreign experts and of WHO on the content of the draft text. It is our belief that the formulation of these regulations will help set in place a more standardized system for the management of human organ transplantation. Third, in order to ensure optimal use of the limited sources of organs, by drawing on current international practice, the relevant departments are currently</p>

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37.		31/01/07	JUA	WGAD; FRDX; RINT; HRD; TOR	<p>Jamyang Gyatso, a monk at Bora Monastery in Xiahe, Northwest Gansu. On 8 January 2007, Mr. Jamyang Gyatso was arrested by plain-clothed security officials outside Bora Monastery in Xiahe. Officials at the monastery later discovered that Mr. Jamyang Gyatso's room had been searched and that a bag full of religious scriptures, including CD's, had been removed. Several calls made to</p>	<p>giving close attention to the formulation of laws and regulations governing transplantation of human organs, exploring the creation of a human organ transplantation allocation system and applying the same organ allocation principles as WHO, the United States of America, the European Union and other bodies. It must be noted that the allegation in the report by the United Nations Special Rapporteur that China has "a computerized matching system for transplants" is inaccurate. To date, there is no institution in China responsible for coordinating and allocating organs and no network system in this area, nor does it have a live organ donor base and is not likely to establish such a donor base in the foreseeable future. Currently, the sourcing of organs and surgical operations involving organs are the responsibility of medical institutions. Fourth, the Chinese Government wishes to draw the Special Rapporteur's attention to the following fact: the situation and the figures alleged in the communication that we have received are merely the product of agitation by Falun Gong; furthermore, most of them have already been revealed to be unfounded rumours.</p> <p>By letter dated 23/03/07, the Government informed that on 9 January 2007, in accordance with the law, he was placed under investigation by the State security authorities, on suspicion of having conducted unlawful acts which endangered State security. In the course of the investigation Gyatso confessed in full to having committed the offence of incitement to separatism. On 3</p>

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38.		13/03/07	JUA	FRDX; HRD; TOR	<p>the listed number for the local police were dismissed as a wrong number, or the recipient hung up when enquiries were made as to Mr. Jamyang Gyatso's whereabouts. Mr. Jamyang Gyatso is currently being detained at an unknown location.</p> <p>Ablikim Abduriyim (subject of previously transmitted communications (E/CN.4/2006/95/Add.1, para. 85 and A/HRC/4/37/Add.1, para. 152). He is currently being detained at Tianshan Detention Centre in Urumchi, Xinjiang Uighur Autonomous Region (XUAR). Mr. Abduriyim was arrested on 13 June 2006, along with his brothers Mr. Alim Abduriyim and Mr. Kahar Abduriyim. Subsequently, Mr. Ablikim Abduriyim was subjected to prolonged interrogations and beatings whilst awaiting trial. As a result of this treatment and the detention conditions, he is suffering from ill health. However, he is being denied access to medical treatment. He has also been prevented from wearing warm clothes provided by his family. Furthermore, on 26 November 2006, Mr. Ablikim Abduriyim was seen being carried out of Tianshan Detention Centre on a stretcher. On 28 January 2007, Mr. Abduriyim was charged and tried with "subversion of state power", "ethnic separatism" and "sending information over the Internet to Ms. Kadeer".</p>	<p>February, the Chinese security authorities ordered that he be placed under restricted freedom of movement, on his own recognizance, pending trial.</p> <p>By letter dated 17/07/07, the Government informed the on 13 June 2006, he was taken into custody. The Urumchi city people's procurator's office in the Xinjiang Uighur Autonomous Region laid charges against the defendant Ablikim Abdureyym for the offence of incitement to separatism and instituted proceedings against him with the Urumchi city people's intermediate court. On 17 April 2007, the Urumchi city people's intermediate level court handed down its judgement and published its verdict: pursuant to the provisions of article 103, paragraph 2, article 56, article 55, paragraph 1, and article 106 of the Criminal Code of the People's Republic of China, Ablikim Abdureyym was sentenced to nine years' fixed term imprisonment and stripped of his political rights for three years, for the offence of incitement to separatism. In the course of this case, the courts, in accordance with the law, safeguarded Ablikim Abdureyym's lawful rights. Ablikim Abdureyym did not appoint defence counsel, nor did he request the court to assign a defence lawyer on his behalf. Article 34 of the Chinese Code of Criminal Procedure provides that, "if a defendant is blind, deaf or mute, or is a minor, and has not appointed defence counsel," or "could be sentenced to death, but has not</p>

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39.		29/03/07	JUA	WGAD; TOR	<p>Ms. Liang Wenjian, aged 39, her husband, Lin Zhiyong, aged 40, Ms. Li Dongmei, Wang He, Wu Jiangyan, and three other persons whose identities have yet to be established. All eight individuals were arrested on 10 February 2007 by around ten plain-clothed police officers for participating in an illegal gathering at the residence of Liang Wenjian. The police also</p>	<p>appointed defence counsel, the people's court shall designate a lawyer to undertake the duty of providing legal assistance". As in this case there was no duly appointed defence counsel, as stipulated by law, thus during the trial at first instance there was no defence counsel participating in the proceedings. During the trial, the defendant Ablikim Abdureyim made a full confession to having perpetrated a criminal offence. Three days before the trial opened, the court of first instance, as prescribed by law, posted an advance announcement of the date and venue of the trial on the bulletin board and notified the procuratorial authorities and the defence thereof. Following the proceedings at first instance, Ablikim Abdureyim did not lodge an appeal and the judgement has since become enforceable. During the period over which Ablikim Abdureyim has been held in custody, the Chinese public security authorities have conducted all proceedings in strict compliance with the law and there have been no instances of intimidation, excessively long custody, use of torture to extract confessions or other such practices being used against him.</p> <p>By letter dated 30/04/07, the Government informed that on 10 February 2007, the five persons named above colluded with others to form an unlawful gathering. Acting in accordance with the law, the public security authorities apprehended these persons, and, at the site of the gathering, seized a large quantity of Falun Gong publicity materials and equipment for the</p>

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					<p>searched their home and confiscated Falun Gong literature and a computer. About one month later seven of the eight individuals mentioned above were assigned to two years of "Re-education through Labour" (RTL) in connection with their Falun Gong activities without formal charges, trial or any other judicial process. One person, an elderly woman whose identity has yet to be established, was assigned to one and a half years of "RTL". All eight persons are currently being detained at Panyu detention centre in Guangzhou city, Guangdong province, awaiting transfer to an "RTL" camp. Their families have not been notified of their orders of detention and have not been allowed to visit them. Liang Wenjian had previously been assigned to "RTL" at Guangzhou Chaitou Xiaodao from February 2000 to April 2001. During this period she was subjected to ill-treatment. She was hung up by her wrists so that her feet could barely touch the ground for two hours for practicing Falun Gong in detention. Liang Wenjian was also required to work for up to 14 hours per day to make artificial flowers.</p>	<p>preparation of such materials. On 11 March, the labour re-education committee of Guangzhou city government in Guangdong province, in accordance with the law, ordered four of the persons, namely, Liang Wenjian, Lin Zhiyong, Wang He and Wu Jiangan, to serve terms of two years' labour education, to run from 10 February 2007 to 9 February 2009; Li Dongmei, Li Qinghua and Zhu Yubiao were ordered to serve terms of one year and six months' labour re-education, to run from 10 February 2007 to 9 August 2008; and Yu Baozhu was ordered to serve a term of one year and three months' labour re-education, to run from 10 February 2007 until 9 May 2008. On 22 March 2007, Liang Wenjian, Li Dongmei, Wu Jiangan, Yu Baozhu and Li Qinghua were admitted to the Chaitou labour re-education facility and Lin Zhiyong, Wang He and Zhu Yubiao to labour re-education facility No. 3 in Guangzhou city to serve their respective terms of labour re-education. As has been ascertained, the eight persons named above, in common with other persons undergoing labour re-education, are accommodated in living quarters holding three to five persons per room, and there is no question of their being held in solitary confinement. In addition, they are able to receive visits from members of their families once per month. The Chaitou labour re-education facility and labour re-education facility No. 3 in Guangzhou city instructed the eight persons to write to their families, notifying them of the location of their particular labour re-education facility. On 28</p>

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						<p>March, Lin Zhiyong's parents and younger brother came to labour re-education facility No. 3 in Guangzhou city to visit him and, on the afternoon of that same day, went to Chaitou labour re-education facility to visit Liang Wenjian. The allegation in the communication that we have received that "their families have not been notified of their orders of detention and have not been allowed to visit them", and that they are being held in incommunicado detention and subjected to ill-treatment, are unfounded. Liang Wenjian underwent a period of labour re-education from December 1999 to April 2001 in the Chaitou labour re-education facility. During that period, the labour re education authorities dealt with her, in accordance with the law, in a civilized manner and there were no instances of her being required to perform overtime work or excessive physical labour, or being subjected to corporal punishment. Furthermore, as she demonstrated that she had responded well to re-education, on 25 April 2001 the labour re-education facility arranged for her to complete her term outside the facility. The legal basis for the labour re-education order served on the eight persons named above is provided by the Chinese State Council directive on labour re-education and the Council's proposed modalities for labour re-education approved by the Standing Committee of the National People's Congress. The eight persons in question were ordered, in accordance with the law, to serve terms of labour re education for disrupting social order and their "arrests and detention" are not, as alleged in the</p>

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40.		10/05/07	JAL	HOUS; HRD; IJL; TOR	<p>Ms. Mao Hengfeng (subject of previously transmitted communications, e.g. A/HRC/4/33/Add.1, para. 32). Prior to her trial on 16 April 2007, she was detained in a small cell in which the floor was covered with excrement with the smell preventing her from sleeping. Reports also claim that prison guards had covered the only window in the cell. Ms Hengfeng's current conditions of detention are unknown.</p>	<p>communication which we have received, "solely connected with their legitimate exercise of the right to freedom of religion or belief". According to the relevant regulations, if persons undergoing labour re-education do not accept the labour re-education order served on them, they may, within a period of 60 days of the date of receipt of the written order, apply to the Guangzhou city people's government or to the Guangdong provincial labour re-education management committee for administrative review of the order, or, within a period of three months of the date of receipt of the written order, lodge an administrative appeal directly with the people's court. As has been ascertained, Wu Jiangan and Liang Wenjian separately submitted applications for administrative review, on 3 April and 6 April respectively. The labour re-education authorities duly referred their applications for administrative review to the relevant department, on 4 April and 7 April respectively.</p> <p>By letter dated 15/08/07, the Government informed that on 16 April 2007 she was sentenced by the Yangpu district people's court to two years and six months' fixed-term imprisonment for the offence of causing malicious damage to property, to run from 30 May 2006 to 29 November 2008. She is currently serving her sentence in the Shanghai women's prison. Upon being admitted to prison, Mao underwent a physical examination which showed that, apart from an inclination to high blood pressure, all other indications were within the normal range. Mao is currently sharing</p>

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41.		27/06/07	JUA	HRD; IJL; TOR	<p>Chen Guangcheng (subject of previously transmitted communications, see above). On 16 June 2007, several fellow prisoners were ordered by the prison guards to beat him. As a result of the beatings, one of his ribs broke and he suffered from severe pain in the chest area. He was denied medical treatment. That same day, he began a hunger strike to protest against the beatings and the lack of medical treatment. The beatings were aimed at punishing him for having requested to file an appeal with the provincial high court. Being blind from birth, Mr. Chen Guangcheng needs the assistance of a lawyer to draft an appeal, but is now unable to do so, since he is has not been allowed to meet with him for more than 30 minutes per month.</p>	<p>a cell with two other women prisoners, she has not been sent to the punishment cells nor has she been placed in solitary confinement. Her eating and sleeping arrangements are normal. With regard to the issue of appeal, to date Mao has not submitted any written application, nor has she applied to see her lawyer, so there is no case here of the prison not allowing her to lodge an appeal. The prison officers, acting in accordance with the law, treat the prisoners in a civilized manner. Mao enjoys her rights on the same footing as the other prisoners, including the right to health and the right to appeal. The allegation that Mao has been subjected to ill-treatment is not supported by the facts.</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
42.		12/07/07	JUA	HOUS; HRD; TOR; VAW	<p>Ms. Mao Hengfeng (subject of previously transmitted communications, see above). On 15 May 2007 at approximately 6 a.m., she was transferred from the police detention centre to prison. She was given inadequate clothing which left her virtually naked. When she protested this treatment, she was beaten by police officers and placed in solitary confinement upon her arrival at the prison. Ms. Mao Hengfeng embarked upon a hunger strike as a gesture of protest against her situation. She was subsequently subjected to forced feeding on three occasions by prison guards who tied her hands and forced a tube down her throat. She was placed under constant surveillance by inmates that had been assigned the task by prison guards. They were also ordered to harass and verbally abuse her. Ms. Mao Hengfeng is currently in poor health, suffering from high blood pressure and arthritis. These conditions are further aggravated by her inadequate living conditions. She has neither been provided with a chair, nor a bed. She has no choice but to lie on the floor, often in cold and damp conditions. Ms. Mao Hengfeng was visited by her husband on 28 June 2007. At this time her husband reported her ill-treatment and requested that the prison officials grant her lawyers access to visit her in order to prepare for her upcoming appeal.</p>	
43.		27/07/07	JUA	HOUS; HRD; TOR	<p>Zheng Enchong, a human rights lawyer (subject of a previously transmitted communication, A/HRC/4/37/Add.1, para. 151), and his wife Ms. Jiang Meili, Shanghai. On 24 July 2007 at</p>	<p>By letter dated 18/12/07, the Government informed that the allegations in the letter that "on 24 July 2007 at approximately 7.30 a.m., Mr. Zheng Enchong went to the Shanghai Municipal</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
					<p>approximately 7.30 a.m., Mr. Zheng Enchong went to the Shanghai Municipal Higher People's Court with his wife to register to attend the trial of Mr. Zhou Zhengyi, a property developer. On their arrival at the courthouse they were surrounded by six police officers. Mr. Zheng Enchong was knocked to the ground, and they dragged him along the ground and beat him for almost an hour. Mr. Enchong sustained injuries to his left hand in the course of the assault which was witnessed by hundreds of residents in the vicinity. The police officers forced Mr. Zheng Enchong and his wife into a taxi and were driven to his sister-in-law's house, where they were met by five police vehicles and more than 30 police officers who prevented them from leaving.</p>	<p>Higher People's Court ..., in order to register to attend the trial of Mr. Zhou Zhengyi", that he was dragged 200 metres along the ground by six police officers, and subjected to an assault which lasted for one hour and that he was then forced to leave, and that, on that same day, at approximately 9 a.m., "more than 50 displaced residents ... presented themselves ... in order to attend the trial of Mr. Zhou Zhengyi" but that "security guards and police officers prevented them from entering the building" are simply not true. Enquiries have shown that the second division of the Shanghai city people's procurator's office only filed charges against Zhou Zhengyi with the Shanghai people's intermediate court on 17 August 2007: thus it was not possible for anyone to have attended the trial at the Shanghai people's high court on 24 July. The six persons named in the letter are not to be found among the judicial police of the Shanghai people's high court. At about 9 a.m. on 24 July, dozens of people claiming to be forcibly relocated residents from "Dongbakuai" ("Lot East 8") demanded to attend the trial of Zhou Zhengyi. But following a perusal of the schedule of court hearings, and confirmation and notification that the Shanghai people's high court was not holding any hearings that day, the people that had gathered promptly withdrew, no one tried to gain entry to the court and the security guards and police did not need to take any preventive action.</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
44.		29/08/07	JUA	WGAD; TOR	Adruk Lopoe , a 45-year-old Tibetan monk of Lithang Monastery. On the evening of 21 August 2007, he reported to the public security bureau and was subsequently arrested without warrant and taken to an unknown location. He is the nephew of Ronggye A'drak, who was the subject of a communication transmitted on 14 August 2007. Adruk Lopoe, had publicly campaigned for his uncle's release. In the evening of 21 August 2007, two of Mr. Lopoe's cousins were also arrested in Yonru Kharshul village, Ponkar township, Lithang county, but later released.	By letter dated 20/11/07, the Government informed that on 22 August 2007 he was taken into criminal custody, in accordance with the law, by the Lithang county public security authorities on suspicion of having unlawfully gathered State secrets and having then transmitted these secrets to persons or bodies outside the country. On 12 September, in accordance with the provisions of paragraph 111 of the Criminal Code of the People's Republic of China, his arrest was approved by the Garzê prefecture people's procuratorate and he is currently being held at the Garzê Prefecture detention centre. Inquiries have established that, in their handling of this case, the public security authorities were not culpable of any acts of torture. After being placed under measures of restraint by the public security authorities, Andruk Lopoe did not submit any complaints to the relevant judicial bodies. His case is currently still at the preliminary investigation and pretrial inquiry stage, in accordance with the law, and has not yet been handed over to the procurator's office.
45.		28/09/07	JUA	HRD; IJL; TOR	Gao Zhisheng (subject of previously transmitted communications, e.g. A/HRC/4/33/Add.1, para. 41). On 22 September 2007, he was taken from his apartment in Beijing by plain-clothed policemen. His whereabouts remain unknown and concern is expressed that he is being held in incommunicado detention. Mr. Gao's arrest is directly related to an open letter he sent to the United States Congress last week expressing his deep concerns over the deterioration of the	By letter dated 18/12/07, the Government informed that he recently left Beijing to travel abroad to visit relatives on family business and he has been able to move freely and to communicate by letter without any impediment. The allegations in the communication which we have received to the effect that, because of an open letter which he sent, he has been taken from his home and is being held in incommunicado detention are not consistent with the facts.

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
46.		03/10/07	JAL	IJL; TERR; TOR	<p>human rights situation in China ahead of the 2008 Beijing Olympics. The police had previously threatened Mr. Gao with jail if he released any more open letters or statements.</p> <p>Husein Dzhelil, an ethnic-Uighur of Canadian nationality. On 19 April 2007, he was sentenced to life imprisonment for “plotting to split the country” and to 10 years’ imprisonment for joining a “terrorist organization.” These sentences were the result of an unfair trial and based on a confession extracted through torture. The High People’s Court of Xinjiang Uighur Autonomous Region (XUAR) denied Mr. Dzhelil’s appeal, assessing that the facts were clear, and that the evidence was reliable and adequate. During the trial, the court-appointed lawyer did not make any statements on behalf of Mr. Dzhelil. In relation to Mr. Ismail Samed (subject of a previously transmitted communication, A/HRC/4/33/Add.1, para. 35), the Government’s reply stated that the case is still under consideration. It is regretted that no information was provided in relation to the allegations of torture, especially in light of recent information that Mr. Samed was executed on 8 February 2007, for offences of attempting to split the country and possession of firearms and explosives.</p>	

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
47.		09/10/07	JUA	HOUS; WGAD; FRDX; HRD; TOR	<p>Zheng Dajing, a petitioner and human rights defender. He was arrested and detained on 9 September 2007 by officials of the public security bureau of Shiyan city, Yunxi county, Hubei province, on criminal charges of “petitioning leading to disturbance of social order.” Mr. Zheng was believed to be held at the Yunxi Detention Centre, however, on 18 September 2007 it appeared that he is being detained at Yanco Station in Hongtai Yuansigou village, where he has been beaten and subjected to other forms of ill-treatment. Yanco Station is an unofficial detention facility established by local authorities for the purpose of detaining petitioners. Local government authorities allege that Yanco Station is in fact merely a “class for petitioners who have adopted unusual means to petition” and was set up following directives of the central government. Before Mr. Zheng was arrested he had been forcibly returned from Beijing to his hometown on 7 September 2007 by unidentified officials believed to be from Hubei province. In Beijing he had met with other petitioners and received information about the destruction of a village where other petitioners were living.</p>	
48.		24/10/07	JUA	TOR; WGAD	<p>C. K., T. K., D. T., and G., all aged 15, and belonging to nomad families. On 7 September 2007, they were arrested in Amchok Bora village, Xiahe county, Gansu province, on suspicion of writing political statements on the walls of a local police station. They are detained at Xiahe county Detention Centre. They were arrested together with about 36 other students, who have since</p>	

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
49.		5/11/07	JUA	TOR; HOUS; HRD; VAW	<p>been released. Parents of two of these boys had paid fines of 2000 Yuan each and pledged that their sons would never leave the country or ever again engage in any form of political activity. The boys were initially held at a police station in Amchok Bora and allowed to see their families before plain-clothed officers believed to be state security agents transferred them to the city of Xiahe, Xiahe county. All were beaten during or shortly after the arrest, one of whom sustained head injuries and had to be hospitalised in Xiahe county.</p> <p>Ms. Mao Hengfeng (subject of previously transmitted communications, see above). On 13 September 2007, prison authorities ordered a fellow inmate to beat her for punishment for revealing that she had been held in solitary confinement for 70 days in July and August 2007, in violation of Article 15 of the Chinese Prison Law, which stipulates a maximum of 15 days for solitary confinement. Ms. Mao was badly bruised as a result of the beating. On 24 September 2007, prison authorities sent her to Nanhui Prison Hospital. She previously refused to undergo a medical examination for fear that she would be forcibly injected with drugs, as had happened when she was held in a psychiatric institution in the 1980s. At the hospital, her clothes were removed and she was tied to a bed and force-fed by other inmates. Ms. Mao's husband was prevented from visiting her at Shanghai Women's Prison until 26 October 2007. During his supervised visit, Ms. Mao was repeatedly silenced</p>	

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
50.		Follow-up to past cases			<p>by prison guards when she attempted to inform him of having been force-fed.</p> <p>Shi Xing-wu (E/CN.4/2006/6/Add.1, para. 25).</p>	<p>By letter dated 18/04/06, the Government informed that on 2 November 2001 Wu Zeheng was sentenced by the Beijing Supreme People's Court to 11 years' imprisonment (from 21 July 1999 to 30 July 2010) and deprived of his political rights for two years for the crime of illegal business operations and unauthorized floating of stocks. He is currently serving his sentence in the Huaiji Prison in Guangdong Province. A physical examination conducted after Wu entered prison yielded a positive reaction for tuberculosis. As a carrier of the tuberculin bacillus, he was treated with medication and was cured; he did not "suffer...from a fever of 40.2 Celsius", and his health is now normal. After entering prison Wu was able to visit with family members for the time prescribed by regulation, and he received more than 80 letters and six parcels. He has submitted written appeals to the National People's Council and to judicial bodies, which the prison authorities always transmit promptly. Like other criminals, Wu works eight hours a day; on no day does he ever work more than 13 hours. Wu has never been placed in solitary confinement, and the room where he is detained has a surface area of 26.4 square metres and has excellent light and</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
51.					<p>Mao Hengfeng (A/HRC/4/33/Add.1, para. 32):</p>	<p>ventilation. Wu's legitimate rights and interests are guaranteed in accordance with the law. An investigation has revealed that there is no one in any Chinese prison by the name of Shi Xingwu.</p> <p>By letter dated 18/04/06, the Government informed that on 28 December 2005, a group of more than 60 people including Mao Hengfeng, Sun Xicheng and He Guoguang gathered about the flagpole at Tianmen Square to cause trouble, disrupting the normal order of the Square. Acting pursuant to article 34 of the Regulations on Public Security Administration Punishment, the Shanghai public security authorities lawfully issued a public order summon to Mao and others. During this process, the Shanghai public security authorities never employed any kind of coercive measures in respect of anyone, nor did any instances of beating occur. Moreover, there is no Yangpu District dispatch station in Shanghai. On 15 December 2005, Zhou Xiudi, Chen Zonglai, Wu Yuping and Jin Huijun convened more than 30 persons to assemble at the entrance of Shanghai Municipal Government in order to cause trouble and create a public disturbance; despite efforts to educate and negotiate with them, they refused to disperse, severely disrupting the normal order of State organs. Acting pursuant to article 19 of the Regulations on Public Security Administration Punishment, the Shanghai public security authorities punished Zhou and others by placing them in administrative detention for 15 days. Careful checking has revealed that during the period from 22 to 28 December 2005 no coercive</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
52.					<p>Bu Dongwei (also known as David Bu) (A/HRC/4/33/Add.1, para. 42).</p>	<p>measures of any kind were taken by the Shanghai public security authorities in respect of Ma Yalian. In dealing with the above cases, the relevant authorities strictly complied with their obligations under the Convention against Torture and acted in accordance with domestic legislation; there was no instance of beating or any other form of ill-treatment.</p> <p>By letter date 28/11/06, the Government informed that in July 2000, Bu was ordered to serve a term of one year's labour re-education for using a heretical cult to disrupt law and order. On 13 June 2006, Bu was ordered by the Beijing city labour re-education committee to serve a further two and a half years' labour re-education, to run from 19 June 2006 to 18 November 2008, for using a heretical cult to disrupt law and order. Bu is currently serving this term in the Tuanhe labour re-education facility in Beijing. Inquiries have established that, while being held in the Tuanhe labour re-education facility, Bu has not been subjected to any ill-treatment. The accusations in the letter that we have received that he was beaten by the police in the labour re-education facility and subjected to sleep deprivation are without substance. The Chinese labour re-education facility operates a strict management system, under which the ill treatment of inmates undergoing labour re-education is categorically prohibited, and any persons disobeying this rule shall be punished in accordance with the law. Within the labour re-education facilities there are procuratorial representatives, specializing in</p>

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						<p>supervision of the conduct of law-enforcement activities by the police in the labour re-education facility. As to the question whether Bu lodged an appeal or whether an appeal was lodged on his behalf by a representative, Chinese laws and regulations stipulate that persons undergoing labour re-education may, within 60 days of receipt of the labour re-education order, submit an application for administrative review to the local government office that issued the order or, within three months of receipt of the labour re-education order, lodge an administrative appeal directly with the local people's court. This right is explicitly stated in the labour re-education order that was issued to Bu. On 5 May, Bu presented a power of attorney to the people's police in the labour re-education facility, naming his wife as his legal representative in dealing with all matters relating to his application for administrative review. The Chinese Government wishes to draw the attention of the Special Rapporteur to the fact that Falun Gong is not a religion, nor is it a spiritual movement. It is an anti-scientific, anti human, anti-social cult. Falun Gong poses a serious menace to Chinese society, leading great numbers of its duped followers to cause harm to themselves, and even to take their own lives. The Chinese Government conducts patient persuasive counselling and educational work among rank-and-file Falun Gong practitioners, fully upholds all their rights and helps them return to their normal lives. A small number of Falun Gong practitioners receive punishments in accordance with the law,</p>

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53.					<p>Gao Zhisheng (A/HRC/4/33/Add.1, para. 44).</p>	<p>but this is not because of their opinions or belief: it is because their activities have breached the law, harming the interests of the State, society and individuals. In the course of the present case, the relevant departments have strictly observed due process and have guaranteed the exercise by the parties involved of their lawful rights and interests.</p> <p>By letter dated 12/02/07, the Government informed that on 15 August 2006, he was placed under investigation by the Beijing public security authorities, in accordance with the law, on suspicion of the commission of a criminal offence, and, on 21 September, his arrest warrant was approved by the procurator's office. Beijing people's procurator's office No. 1 laid charges against Gao for the offence of fomenting subversion of the authority of the State and initiated proceedings against him with Beijing people's intermediate court No. 1. On 22 December 2006, the Beijing city people's intermediate court No. 1 ruled that Gao's conduct constituted the offence of incitement to subversion of the authority of the State, but in view of his meritorious conduct denouncing the offences of other culprits, decided, in accordance with the law, that his penalty should be rendered more lenient and to reduce it below the statutory level. Thus, he was sentenced to three years' fixed term imprisonment, to be suspended for five years, and stripped of his political rights for one year. After the court handed down its judgment at first instance, Gao declared himself willing to accept the verdict and did not lodge an appeal. The</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
54.					<p>Zhang Hongwei (A/HRC/4/33/Add.1, para. 45).</p>	<p>judgment has since become enforceable. In the course of the proceedings against Gao on the charge of incitement to subversion of the authority of the State, the public security authorities fully upheld his rights in litigation and those of his family and conducted the proceedings in strict compliance with the law, applying the law in a civilized manner. Three days before proceedings opened in this case, the court of first instance, in accordance with the stipulation of the law, notified the procurator's office and the defence counsel and published in advance the dates and venue of the trial. When the court rendered its judgment, Gao's family were present in the public gallery. When serving papers on Gao, the court expressly informed him of his rights in litigation to appoint a lawyer to conduct his defence. Gao indicated that, as he was himself a lawyer, he did not need to assign a lawyer and he did not agree to his family appoint one for him. For that reason, the lawyers from the Mo Shaoping law firm, appointed by his brother, were unable to act in his defence. Under these circumstances, the court decided, in order to ensure Gao's rights in litigation were fully upheld, that it should appoint two lawyers to defend him, and Gao agreed to this appointment. In the course of the trial, in addition to conducting his own defence, Gao also received full defence services from his defence lawyers. The allegations that the police harassed Gao's family members and others are unfounded.</p> <p>By letter dated 26/02/07, the Government informed that on 20 January 2001, Mr. Zhang was</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government response
						<p>sentenced to 13 years' fixed-term imprisonment by the Fangshan district people's court in Beijing for the offence of using a heretical sect to engage in criminal activities and stripped of his political rights for 3 years. He is currently serving his sentence in Jilin city penitentiary in Jilin province. In December 2005, when undergoing a health check-up in prison, Zhang was found to be suffering from tuberculosis, but he maintained his firm conviction that, as a Falun Gong practitioner, when he fell ill he should not take any medicine or receive any injections, and that, as he himself was a disciple of the "dafa" - the major law, the master's "dharma body" would protect and save him, and for these reasons he refused medical treatment. In February 2006, the prison management found that his condition had taken a turn for the worse, and only after being repeatedly advised and encouraged did he agree to receive treatment. While in hospital, Zhang received meticulous medical treatment and nursing care; his condition has now clearly improved and in clinical terms, he has been cured of his illness. He has undergone two medical examinations by Jilin City Central Hospital and showed no symptoms of fever; his breathing was smooth; both lungs free of rales; his heart rate normal and heartbeat regular and without murmur; his blood routine, erythrocyte sedimentation rate and myocardial enzyme count all normal; and his ECG normal. The results of a frontal chest X-ray show a calcification focus in the right pulmonary field. Zhang's family members enquired as to whether</p>

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55.	Colombia	Follow-up to past cases			<p>Incidentes ocurridos con motivo de una serie de manifestaciones (A/HRC/4/33/Add.1, párr. 48).</p>	<p>he could be released for medical treatment outside the facility; the prison authorities deemed that his case did not meet the conditions for seeking medical attention outside the facility but special dispensation was granted to his family to be able to visit him outside regular visiting hours, with a view to fostering stronger relations between him and his family. To summarize, Zhang has now fully recovered from his illness and has been discharged from hospital, his state of mind is stable. His family members make frequent visits, and have expressed their satisfaction with the work of the prison staff. There is no question here of Zhang being subjected to ill-treatment or of his family being refused permission to visit him.</p> <p>Por carta de fecha 26/07/07, el Gobierno informó de que según las conclusiones del Informe de la Policía Nacional, la fuerza utilizada por el ESMAD estaba dentro del marco de cumplimiento de los tratados internacionales y normas constitucionales, legales y reglamentarias de policía sobre el empleo de la fuerza y utilización de gases no letales. La intervención policial inicialmente desplegó el personal de la policía como una simple demostración de fuerza. Sin embargo, se aclara que posteriormente se emplearon bastones de mando, agua y gases lacrimógenos, en vista del grado de violencia ejercido por los manifestantes. La Policía Nacional afirma que los manifestantes utilizaron armas y explosivos de fabricación casera tales como: papas explosivas, bombas molotov, lanzas, garrotes, caucheras y hondas. Durante los</p>

Report on Torture and Other Cruel, Inhuman or Degrading Treatment in China

By the Special Rapporteur on torture, Manfred Nowak

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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Report of the Special Rapporteur on torture and other cruel, inhuman or
degrading treatment or punishment, Manfred Nowak**

Addendum

**Summary of information, including individual cases, transmitted
to Governments and replies received***

* The present document is being circulated in the languages of submission only as it greatly exceeds the page limitations currently imposed by the relevant General Assembly resolutions.

Para	Country	Date	Type	Mandate	Allegations transmitted	Government Response
30.		21/12/05	JAL	HRD; IJL; TOR;	<p>Gao Zhisheng, a lawyer, Beijing, (the subject of a previously transmitted communication, E/CN.4/2006/95/Add.1, para. 90). On 2 December 2005, his law firm, Shengzhi Law Firm, was ordered by the Justice Bureau, Beijing, to cease operations from 30 November 2005 to 29 November 2006. The authorities ruled that the firm improperly changed the registration of the firm when it moved office in June 2005, in contravention of Lawyers Law, article 9 (2); and, in violation of article 47 of the Lawyers Law, it failed to use the firm's formal letterhead when it issued a letter of introduction for two of its lawyers, one of whom was not registered at the firm, to visit a client, Mr Yang Maodong, detained in Gunagzhou Panyu Police Detention Centre. Accordingly Mr Gao is required to handover the firm's license, official stamps, financial records, and licenses of its lawyers to the authorities before 29 December, or face further penalties. Mr Gao met with the Special Rapporteur on torture during his recent mission to China, in the context of his work as a human rights defender, including in areas related to the mandate.</p>	

Para	Country	Date	Type	Mandate	Allegations transmitted	Government Response
31.		29/12/05	JAL	RINT; TOR; VAW;	<p>Ms L. J., aged 51 and Ms H. Y., aged 42, both of whom are Falun Gong practitioners. On the night of 24 November 2005, L. J. was abducted by an estimated seven policemen. Her home was ransacked and all Falun Gong materials were seized. She was taken to Dongchengfang Town Police Station in Tunzhou City, Hebei Province, where she was interrogated, beaten with rubber clubs and given electric shocks with stun batons. At approximately 2pm on 25 November 2005, a police officer took L. J. to a room, where he lifted her shirt and touched her breasts. He then gave her electric shocks on her breasts with a stun baton. Another police officer briefly came into the room, encouraged the officer to beat her up, and left. The first officer raped L. J. While raping her, he repeatedly slapped her in the face. He then brought H. Y. into the same room and raped her too. Both rapes took place in the presence of another police officer, who made no attempt to intervene or prevent the incidents.</p>	<p>By letter dated 28/06/06, the Government reported that on 24 November 2005, they were taken in to the local public security office for questioning, on suspicion of involvement in illegal activities, and were released in the afternoon of the same day. On 26 November, the Dashiqiao criminal police team in the Tunzhou City Public Security Bureau received a complaint from H. Y., claiming that she had been raped by an officer. On 27 November, L. J. also filed a report with the Tunzhou Public Security Bureau, stating that she too had been raped. The authorities promptly summoned the police officer in question. In the ensuing questioning and investigation, it was ascertained that he was a temporary employee in the Dongchengfang Township Public Security Office. He admitted that, in the afternoon of 25 November 2005, he had taken L. J. and H. Y. in turn back to his hostel, where he had indecently assaulted L. J. and had raped H. Y. On 9 December, following approval from the procuratorial authorities, he was taken into custody. On 29 April 2006, the Baoding City People's Procuratorate, Hebei Province, instituted criminal proceedings with the Baoding City People's Intermediate Level Court against the defendant for the commission of the offences of rape and indecent assault of a woman. On 19 May 2006, after hearing the case, the court sentenced the defendant to eight years' fixed term imprisonment. On appeal, on 7 June, the Hebei People's High Court dismissed the appeal and upheld the original judgement.</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government Response
32.		05/01/06	JUA	HRD; TOR;	<p>Ms Mao Hengfeng (the subject of a previously transmitted communication, E/CN.4/2005/62/Add.1, para. 296; she was interviewed on 24 November 2005 during the mission to China of the Special Rapporteur on torture). On 28 December 2005 in the afternoon, she was among about a dozen persons who were detained in Beijing by police when they went to view the ceremonial lowering of the flag in Tiananmen Square. Ms Mao, who has petitioned the Government in relation to a number of human rights violations, and her two daughters, along with petitioners Zhang Cuizhi and Zhang Xueying, were forcibly taken to Beijing's Tianhai Reception Center that evening, while the others were immediately put onto the next train back to Shanghai. Among the latter group, Sun Xicheng, He Guoguang and others were reportedly beaten by Shanghai officials (jiefang renyuan). Mr Sun suffered a concussion as a result of his beating. Ms Mao was dragged by her feet down a flight of stairs by three policemen. She and her daughters, along with Zhang Cuizhi and Zhang Xueying, were forced to return to Shanghai by train on the evening of December 29. Following her arrival in Shanghai on December 30, Ms Mao immediately returned to Beijing with her daughters, but early on the morning of 1 January 2006, she was detained again and forcibly returned to Shanghai, where she and her daughters were taken directly to the Yangpu District dispatch station. Ms Mao's daughters were released that afternoon, but she remains in custody of the Daqiao neighborhood</p>	<p>By letter dated 18/04/06, the Government reported that On 15 December 2005, Zhou Xiudi, Chen Zonglai, Wu Yuping and Jin Huijun convened more than 30 persons to assemble at the entrance of Shanghai Municipal Government in order to cause trouble and create a public disturbance; despite efforts to educate and negotiate with them, they refused to disperse, severely disrupting the normal order of State organs. Acting pursuant to article 19 of the Regulations on Public Security Administration Punishment, the Shanghai public security authorities punished Zhou and others by placing them in administrative detention for 15 days. Careful checking has revealed that during the period from 22 to 28 December 2005 no coercive measures of any kind were taken by the Shanghai public security authorities in respect of Ma Yalian. On 28 December 2005, a group of more than 60 people including Mao Hengfeng, Sun Xicheng and He Guoguang gathered about the flagpole at Tianmen Square to cause trouble, disrupting the normal order of the Square. Acting pursuant to article 34 of the Regulations on Public Security Administration Punishment, the Shanghai public security authorities lawfully issued a public order summons to Mao and others. During this process, the Shanghai public security authorities never employed any kind of coercive measures in respect of anyone, nor did any instances of beating occur. Moreover, there is no Yangpu District</p>

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33.		01/02/06	JUA	WGAD; HRD; TOR; VAW	<p>municipal office. When her husband telephoned the office, an official, Mr Jiang, he indicated that she would remain for several days. Her family has had no contact with her since her detention in Daqiao. On 15 December, petitioners Zhou Xiudi, Chen Zonglai, Wu Yuping, Jin Huijun and others have been placed under criminal detention on charges of "disturbing public order" by Shanghai Hongkou public security authorities for their participation in a petition to the Shanghai municipal committee conference. On December 22, Shanghai petitioner Ma Yalian was also detained by local police and neighborhood committee members and held until December 28 without informing her family of her whereabouts.</p> <p>Ms Mao Hengfeng, Shanghai (subject of a previously transmitted communication, see above). On 15 January, Mao Hengfeng had traveled to Beijing with her daughter to take part in an unofficial memorial service marking the first anniversary of the death of former Chinese leader Zhao Ziyang. On 24 January, they were detained by four Shanghai police officers at their hotel in Beijing. According to her daughter, the police treated Mao Hengfeng roughly, lifting her in an arm-lock and leaving her with bruising to her neck, arms and legs. The police took them to another hotel where Shanghai Residents' Committee officials were waiting to take them back to Shanghai by train. When the train arrived in Shanghai early the next day, Mao's daughter was released but Mao Hengfeng was taken to Daqiao Police Station, Yangpu District. She was held</p>	<p>dispatch station in Shanghai. In dealing with Mao Hengfeng, Zhou Xiudi and others by issuing summonses or placing them in administrative detention, the Shanghai public security authorities acted in accordance with the law; the case had nothing to do with freedom of expression and opinion.</p> <p>By letter dated 14/06/06, the Government reported that on 17 January 2006, she and other persons assembled a crowd in a public area in Chongwen District in Beijing, thereby disturbing the peace. Pursuant to the provisions of article 34 of the regulations on punishments relating to the maintenance of law and order, the Yangpu Office of the Shanghai Public Security Bureau, acting in accordance with the law, served a summons on Mao Hengfeng for a public order offence, for the period from 7.45 am on 25 January 2006 to 7.45 am on 26 January. Upon expiry of this period, no further measures of restraint were applied against Mao Hengfeng and, in the course of this process, all her lawful rights were fully upheld, and the allegations that she was subjected to beatings have no foundation</p>

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34.		07/04/06	JUA	WGAD; IJL; TOR; HRD	<p>there for questioning for 24 hours. The next morning, Mao was able to telephone her husband, Wu Xuewei. She told him that she was being taken away from the police station by Yangpu District Residents' Committee officials but that she did not know where. He then heard Mao Hengfeng scream and the line went dead. Wu Xuewei immediately telephoned the District Residents' Committee to find out where his wife was being taken, but they first denied that they were holding her. After repeated calls, the committee secretary confirmed that Mao Hengfeng was "in their hands" and that they wanted to "educate her" because her protests about human rights violations were creating "social instability". They have refused to indicate where she is detained and her family has not had access to her. With respect to her detention as alleged in the 5 January 2006 letter, further information received indicates that she was detained by seven Residents' Committee officials in a Shanghai hotel from 3-6 January. The officials reportedly beat her several times, grabbed her breasts and prevented her from sleeping during this period.</p> <p>Chen Guancheng (the subject of previously transmitted communications, E/CN.4/2006/6/Add.1, para. 24). He was interviewed on 28 November 2005, during the visit of the Special Rapporteur on torture (E/CN.4/2006/6/Add.6, page 58). On 11 March 2006, Chen Guancheng's neighbour and cousin, Mr Chen Guangyu, was beaten by four hooded</p>	<p>in fact.</p> <p>By letter dated 14/06/06, the Government reported that on 11 March 2006, Chen Guancheng and his family members Chen Guangjun, Chen Guangyu and others, assembled a crowd of villagers and obstructed traffic, causing a major traffic jam on national highway 205. On 12 March, Chen Guangjun and Chen Guangyu were taken into criminal</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government Response
35.		13/04/06	JUA	SUMX; TOR; CTR	<p>men who were waiting for him nearby his home. When Chen Guangcheng discovered this, he went out from his house with another villager, Chen Guangjun, towards the Yinan Local Government to seek an investigation into the beating. When they were a few meters from the house, the three of them were arrested (Chen Guangcheng, Chen Guangyu and Chen Guangjun) by officers of the Yinan Public Security Bureau, and taken to the local police station. Their families were notified that they would be detained for 24 hours in order to investigate their participation in an offence named "blocking the traffic". However, they are still detained. Chen Guangcheng has not been allowed to contact his lawyer, nor his family since his detention on 11 March 2006. Moreover, it is reported that law lecturer, Xu Zhiyong, and lawyers Li Fangping and Li Subinhad, are facing harassment from the authorities and their employers because they provided advice to Chen Guangcheng in cases related to forced sterilization and abortion policies in Linyi.</p>	<p>detention, in accordance with the law, on suspicion of having committed an offence under article 291 of the Chinese Criminal Code, on the gathering of crowds for the purpose of disrupting the movement of traffic. Chen Guangcheng was held for questioning by the local public security authorities, in accordance with the law, on suspicion of involvement in the offence at the scene of the crime, and was released at 9 pm on 12 March. In dealing with Chen and his associates, the public security authorities acted in compliance with the law, in remanding them in custody or holding them for questioning. Throughout this period their lawful rights were fully protected and there is no substance to the allegation that Chen Guangcheng was subjected to beatings and placed under house arrest.</p>
					<p>Ismail Semed, an ethnic Uighur from Xinjiang Uighur Autonomous Region (XUAR), who is believed to be at imminent risk of execution. Ismail Semed was convicted by the Urumqi Intermediate People's Court on 31 October 2005 for "attempting to split the motherland" and other charges related to possession of firearms and explosives. The possession of firearms charges against Ismail Semed appear to have been based on old testimonies taken from other Uighurs, some of whom were reportedly executed in 1999.</p>	<p>By letter dated 12/07/06, the Government reported that on 13 August 2004, the Urumchi City procuratorial authorities instituted criminal proceedings against him with the Urumchi City Intermediate Level People's Court for the offences of separatism, unlawful manufacture of ammunition and the causing of explosions. In January 1997, Ismail Semed, together with Hasan Mahsum (later shot dead in Pakistan) and Abdukadir Amat (now on the run), slipped out of the country through the City of Xiamen</p>

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					<p>According to reports, those testimonies might have been extracted through torture.</p>	<p>and made their way to Saudi Arabia to meet Kurban Aji and other persons, to propagate the notion of an independent Xinjiang, to carry out separatist activities and to drum up support. Soon after, Semed and the two other men travelled to Rawalpindi in Pakistan, to meet Uighur students and other young Uighurs engaged in business in that city, preaching to them and urging them to form an organization and to go to Afghanistan to receive training, for the purpose of waging a holy war. In March of that same year, Semed and the other men convened a preparatory meeting of the East Turkestan Islamic Movement and, following a division of tasks, Ismail Semed was appointed in charge of military operations. Thereafter, Ismail Semed and the other men continued to develop and expand the organization, establishing military bases, recruiting members, conducting fund-raising and other activities and forging links with Afghan Taliban bases and bases run by Bin Laden, striking an agreement with them on the provision of free training for their jihadists. From May 1997 to January 1998 Semed and his accomplices organized the transport of some 100 Uighur jihadists from Pakistan and the Middle East to the above-mentioned military camps for training. After completing their training, Semed and the others appointed Usman Imat in charge and sent him to take 13 men to Xinjiang to set up workshops to manufacture explosives, to conduct training and to develop</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government Response
						<p> jihadist columns. After arriving in Xinjiang, Usman and the others purchased 1,053 boxes of erbium nitrate, for use in preparing chemicals and other reagents for the manufacture of explosives, and set up explosive manufacturing workshops in Turfan, Hotan and other cities. They trained some 100 men in the use of chemicals and reagents for the manufacture of explosive devices, detonators and blasting fuses and in weapons technology. On 5 December 1997 Semed attended a conference of the formally constituted East Turkestan Islamic Movement, held in Rawalpindi in Pakistan, and was appointed military commander. The conference resolved that the goal of the organization would be to liberate East Turkestan through a holy war and to set in place an Islamic State, and mapped out a strategic plan for the period ahead. In mid-December 1998, Semed and others organized a meeting in Rawalpindi at which they decided to break away from the East Turkestan Islamic Movement and form a separate grouping. They deposed their former leader, Hasan Mahsum, assumed control of their members and funds in Afghanistan and started to look for ways of illegally entering Xinjiang, so as to prepare for the conduct of military jihadist activities in that region. On 16 September 2004 the Urumchi intermediate level people's court commenced hearings on this matter. Given the complexity of this case, it is still under </p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government Response
36.		18/05/06	JUA	WGAD; FRDX; TOR;	<p>Several petitioners in Shanghai. On 13 February 2006, more than a dozen petitioners had a meeting with an American consular official at the house of petitioner Ms Fu Yuxia. Following the meeting, several petitioners were arrested and detained in connection with the meeting. Amongst them were Mr Chen Xiaoming, Ms Fu Yuxia, and Mr Han Zhongming. Chen Xiaoming was arrested on 15 February by police officers from Shanghai's Luwan District Public Security Bureau (PSB) and was held in a room at the PSB station. He is suspected of taking the American consular official to the meeting place. On 6 March, he was stripped naked and physically abused. Reports further indicate that Chen Xiaoming's whereabouts have been unknown since 31 March. Fu Yuxia was also arrested on 15 February. She was released on 5 April, and since then has been kept under house arrest. Han Zhongming and his wife were subjected to surveillance following their participation in the meeting with the American diplomat. On 16 February, Han Zhongming was detained while he was at his friend's house. His wife has reported his disappearance to the police, but no action has been taken by the police. His</p>	<p>consideration.</p> <p>At the time this report was finalized, the reply of the Government of 20/12/06 had not been translated.</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government Response
					whereabouts remain unknown. On the same day, in a separate incident, Ms Ma Yalian , a housing rights petitioner who was the subject of three previously transmitted communications, was arrested at the home of a friend on 15 February. She was held at Fengqi Hotel in Pudong New District under the watch of a dozen police officers. She was released on 6 May, but is reportedly still under house arrest.	
37.		29/06/06	JUA	WGAD; TOR;	Yusuf Kadir Tohti and Abdukadir Sidik , originally from Xinjiang Uighur Autonomous Region (XUAR). After having being forcibly returned from Almaty to Urumqi by Kazakh authorities on 10 May 2006, they are being held in incommunicado detention.	
38.		14/07/06	JUA	FRDX; HRD; IJL; TOR;	Mr Chen Guangcheng , a lawyer and human rights defender in Linyi, Shandong Province in China and Mr Guo Qizhen , a volunteer in the Tianwang Disappeared Persons Service Center in Cangzhou City, Hebei Province. The Tianwang Disappeared Persons Service Center assists relatives of missing persons to publicise their stories on the internet in order to find their relatives. Mr Chen Guangcheng was already the subject of a previously transmitted communication (see above). On 12 May 2006, Mr Guo Qizhen was placed under house arrest by local security forces, while he was participating in a hunger strike to protest against alleged human rights violations committed by the Chinese authorities. On 6 June 2006, Mr Guo Qizhen was reportedly charged with "inciting subversion of state power" and is currently being held in the No. 2 Detention	By letter dated 3/10/06, the Government reported that on 12 May 2006, Guo Qizhen was taken into police custody, in accordance with the law, for breach of the provisions of articles 105, paragraph 2, and 106 of the Criminal Code and on suspicion of having committed the offence of fomenting subversion of the political power of the State. On 6 June his remand in detention was approved by the procuratorial authorities and his case is currently under consideration. Through his conduct, Guo is suspected of having committed the offence of fomenting subversion of the political power of the State. The Government further reported that on 10 June 2006, the public security authorities, acting in accordance with the law, took Chen Guangcheng into police custody and launched

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39.		18/07/06	JUA	SUMX; TOR;	<p>Center in Ganzhou City. On 10 June 2006, Mr Chen Guangcheng was charged with "deliberate destruction of property" and "organizing a mob to disrupt traffic", allegedly after he had spent 89 days in incommunicado detention in the Yinan County Detention Centre, where he remains. It is reported that he was arrested on 11 March 2006 but that his family were not informed of his whereabouts until 11 June 2006. It is still unknown whether Mr Chen Guangcheng has been finally allowed to see his lawyer.</p>	<p>an investigation into his actions. On 21 June his remand in detention was approved by the procuratorial authorities and, on 26 June, the matter was referred to the procuratorial authorities for review and prosecution. On 4 July, the Yinan County Procurator's Office referred his case to the Yinan County People's Court for prosecution for the offences of wilfully causing damage to property and assembling a crowd for the purpose of disrupting traffic. On 24 August, the Yinan County People's Court instituted proceedings in this case. As the offender in this case is blind, leniency could be applied in his case. That same day, the Yinan County People's Court decided as the court of first instance to sentence Chen to seven months' fixed-term imprisonment for the offence of wilfully causing damage to property and to four years' fixed-term imprisonment for the offence of gathering a crowd to disrupt traffic and ordered him, accordingly, to serve a sentence of four years' and three months' fixed-term imprisonment. During the legal proceedings in this case, the court fully upheld the defendant's rights in litigation and in the courtroom his two defence lawyers were able to provide full defence services.</p> <p>By letter dated 21/08/06, the Government reported that from 28 February to 3 March 2006 the Shuangyashan Intermediate People's Court in Heilongjiang Province conducted an open trial in the criminal cases brought against Xu Shuangfu and others for a series of crimes.</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government Response
40.		11/08/06	JAL	RINT; TOR; Trafficking;	<p>Eastern Lightning group. Xu was also accused of defrauding his congregation of over thirty-two million Yuan. Xu Shuangfu, was kidnapped in April 2004 by gun-wielding men in a police car while visiting congregation members in neighboring Haerbin, Heilongjiang Province. Reports indicate that he was held incommunicado for some time before his family was informed of his detention. Concern has been expressed that Xu Shuangfu and Li Maoxing confessed to their murder charges under torture and subsequently denied their guilt during their trial which was held at the Shuangyashan Intermediate Court, from 28 February to 3 March 2006.</p> <p>Organ harvesting. Organ harvesting has been inflicted on a large number of unwilling Falun Gong practitioners at a wide variety of locations, for the purpose making available organs for transplant operations. Vital organs including hearts, kidneys, livers and corneas were systematically harvested from Falun Gong practitioners at Sujiatun Hospital, Shenyang, Liaoning Province, beginning in 2001. The practitioners were given injections to induce heart failure, and therefore were killed in the course of the organ harvesting operations or immediately thereafter. It is reported that employees of the following transplant centres have indicated that they have used organs from live Falun Gong practitioners for transplants: Zhongshan Hospital Organ Transplant Clinic in Shanghai, Qianfoshan City Liver Transplant Hospital in Shangdong, Nanning City Minzu Hospital in Guangxi</p>	<p>On 4 July 2006 the court handed down its sentence: Xu Shuangfu and Li Maoxing were found guilty of the crimes of murder, wilful and malicious injury, unlawful detention and fraud, for which they were sentenced to death, in accordance with the law; they were also deprived of their political rights for life and their personal property was confiscated. In conducting this trial, the Chinese judicial authorities adhered to the facts of the case, took the law as their criterion, applied the law properly and proceeded in accordance with the law.</p> <p>By letter dated 28/11/06, the Government reported that in March 2006, Falun Gong began fabricating the so-called "Sujiatun concentration camp" issue, saying that 6,000 practitioners had been incarcerated in Sujiatun Hospital in Shenyang, Liaoyang Province, and that two thirds of them had had organs removed from their living bodies and the corpses cremated to destroy the evidence. In order to clarify the facts, the Sujiatun District government carried out an investigation at the hospital; domestic and foreign media including Japan's NHK and Hong Kong's Phoenix Satellite Network and Ta Kung Pao conducted on-site interviews; and two visits were paid by US consular personnel. Based on the results of these investigations it was discovered that the hospital only had 300 beds and was completely incapable of housing more than</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government Response
					<p>Autonomous Region, Jiaotong University Liver Transplant Centre in Shanghai, Zhengzhou Medical University Organ Transplant Centre in Henan, Oriental Organ Transplant Centre in Tianjin City, Tongji Hospital in Wuhan City in Hunan and General Hospital of Guangzhou Military Regional in Guangdong. It is reported that employees from the following detention facilities have indicated that organs from Falun Gong detainees have been used for transplants: Mijiang Detention Centre in Heilongjiang, First Detention Centre of Qinhuangdao City in Shangdong Province and Second Detention Centre of Qinhuangdao City in Shangdong Province. After the organs were removed, the bodies were cremated, and no corpse is left to examine for identification as the source of an organ transplant. Once the organs were removed they were shipped to transplant centres to be used for transplants for both domestic and foreign patients. Officials from the following detention facilities have indicated that courts have been involved in administering the use of organs from Falun Gong detainees, namely: Qinhuangdao Intermediate People's Court in Shangdong Province, First Criminal Bureau of the Jinzhou Intermediate People's Court and Kunming Higher People's Court. It is reported that there are many more organ transplants than identifiable sources of organs, even taking into account figures for identifiable sources, namely: estimates of executed prisoners annually, of which a high percentage of organs are donated, according to</p>	<p>6,000 persons. There was no basement for incarcerating practitioners, as alleged. The so-called "cremation oven" is in fact a boiler/furnace room, whose primary function is to provide heat and disinfect medical instruments. This boiler room has several transparent glass windows and a lawn outside that is open to the public where nearby residents come daily to stroll. In such a place, there is simply no way to cremate corpses in secret, continuously, and in large volumes. The rumors fabricated by Falun Gong collapse on their own. Everyone recognizes that Sujiatun Hospital is nothing but a simple hospital to treat coronary disease and that there is no evidence to show that it is being used for any purpose. This once again proves that the "Sujiatun concentration camp" fabricated by Falun Gong is nothing more than a rumor. As a WHO Member State, the Government resolutely abides by the WHO 1991 Guiding Principles on Human Organ Transplants and strictly forbids the sale of human organs. Human organ donation must be done voluntarily and with the written consent of the donor. The human organ transplant regulations that took effect on 1 July 2006 reiterate that human organs must not be sold, that human organs used for transplant by medical facilities must have the written consent of the donor, that a donor has the right to refuse to donate before the organ transplant takes place, and that medical facilities carrying</p>

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					<p>the statement in 2005 of the Vice Minister of Health Mr Huang Jiefu; willing donor family members, who for cultural reasons, are often reluctant to donate their organs after death; and brain-dead donors. Moreover, the reportedly short waiting times that have been advertised for perfectly-matched organs would suggest the existence of a computerized matching system for transplants and a large bank of live prospective donors. It is alleged that the discrepancy between available organs and numbers from identifiable sources is explained by organs harvested from Falun Gong practitioners, and that the rise in transplants from 2000 coincides and correlates with the beginning of the persecution of these persons. On organ transplants, in general, it has been reported that in March 2006, legislation was introduced which bans the sale of human organs and requires the donor to give written permission. The legislation also limits transplants to certain institutions, which must verify the source of the organs. This law came into force on 1 July 2006. Contrary to the Government assertion that human organs have been prohibited from sale, in accordance with the 1991 WHO guiding principles, it has been reported that up to this time Chinese law has allowed the buying and selling of organs; has not required that donors give written permission for their organs to be transplanted; there has been no restriction on the institutions which could engage in organ harvesting or transplants; there was no requirement that the institutions engaged in transplants had to verify</p>	<p>out human organ transplants must have the capacity to ensure medical quality and safety in accordance with ethical principles. The goal of these regulations is to standardize and improve the management of clinical practice of human organ transplant operations in order to safeguard medical quality and safety. Presently, the relevant government agencies are drafting human organ transplant regulations in order to create the necessary regulation of human organ donation, registration, matching, and transplant. China absolutely does not allow forced donation or trafficking in the corpses or organs of executed criminals, which are used in strict accordance with the relevant regulations. Notably: written consent must be received from the criminal to be executed and his family; approval must be received from the provincial-level health authority and the provincial-level higher people's court; and the unit using the organs must have the authority/capacity to conduct medical science research or transplant operations. The question of organ donation is not part of the inquiries made at the time of execution. Those death-row criminals who wish to donate their corpse or organs after they are executed must express this voluntarily in writing. Mobile execution vehicles are used solely by the courts to carry out execution by lethal injection. They do not, and are strictly forbidden to, transport organs. According to Chinese laws and regulations, individuals who</p>

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41.		22/08/06	JUA	HRD; IJL; TOR;	<p>that the organs being transplanted were from legal sources; and there was no obligation to have transplant ethics committees approve all transplants in advance. Moreover, evidence exists, for example, that at least up until April 2006 price lists for organ transplants in China were published on the Internet.</p> <p>Gao Zhisheng, aged 42, a human rights lawyer in Beijing (the subject of previously transmitted communications, see above). On 15 August 2006, he was residing with his sister in the city of Yingshe, Shandong Province. At noon, ten to twelve plain clothes officers of the Beijing Public Security Bureau entered the house and detained him "for questioning related to his suspected involvement in criminal activities". It is reported that Mr Gao had been under strict surveillance by the secret police for several months prior to this. The day before he was detained, the phone of the house where he was residing was disconnected,</p>	<p>are sentenced to death are those criminals who have committed extremely serious crimes and who should be sentenced to death and executed immediately (i.e. without reprieve), not for being Falun Gong practitioners. For this reason, there are no statistical data for Falun Gong practitioners who have been executed. In order to deal with the problem of organ supply, each country typically uses two methods: one, to increase social awareness and mobilize the population to donate organs; and two, to facilitate live organ donation and transplant between relatives. China's methods are not exceptions. Moreover, it has placed serious restrictions: citizens who donate live organs must be at least 18 years old and be in possession of full civil capacities; and the live organ recipient must be the spouse, direct blood relative, or within three generations of collateral blood relatives.</p>

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42.		31/08/06	JUA	RINT; TOR;	<p>as were the phones of many of his relatives, who also received warnings from the police. Mr. Gao's whereabouts remain unknown. The Special Rapporteur (TOR) recalls that he strongly protested to the Ministry of Foreign Affairs against the intimidation and surveillance by the security services that Mr. Gao was subjected to during their meeting in Beijing on 20 November 2005 (E/CN.4/2006/6/Add.6, para. 10; and Appendix 3, paras. 2-3). Moreover, he regrets that despite the numerous further allegations of threats and intimidation he has received concerning Mr. Gao, no measures have been carried out by the Government to investigate and prevent them.</p> <p>Bu Dongwei (also known as David Bu), aged 38, Falun Gong practitioner. On 19 May 2006, he was detained by around seven police officers at his home in the Haidian District of Beijing. On 19 June, he was assigned to two and a half years re-education through labour by the Beijing Re-education Through Labour Committee, which has the power to impose periods of arbitrary detention without charge or trial. He was accused of 'resisting the implementation of national laws' and 'disturbing social order'. Despite repeated requests to the authorities, his family have not been told where he is being detained although unconfirmed reports have been received that he may have been transferred to Tuanhe Re-education Through Labour facility in Beijing on 21 August. There are concerns that he is at risk of torture or other ill-treatment. Bu Dongwei had previously served a term of ten months re-</p>	<p>At the time this report was finalized, the reply of the Government of 28/11/06 had not been translated.</p>

Para	Country	Date	Type	Mandate	Allegations transmitted	Government Response
43.		22/11/06	UA	TOR;	<p>education through labour from August 2000 to May 2001 in Tuanhe for 'using a heretical organization to disrupt the implementation of the law'. During this period, he was reportedly beaten and made to sit all day in a small chair. He was also subjected to sleep deprivation aimed at forcing him to renounce his belief in Falun Gong.</p> <p>He Depu. He was interviewed by the Special Rapporteur on Torture on 22 and 24 November 2005 at Beijing No. 2 Prison, during his visit to the People's Republic of China (E/CN.4/2006/6/Add.6, Appendix 2, para. 6). In the recent past, his diet and physical condition have deteriorated sharply. He is reported to be emaciated, having lost approximately 18kg. Concern is expressed that his physical and mental integrity may be at further risk without provision of medical treatment.</p>	
44.		30/11/06	JUA	WGAD; HRD; IJL; TOR; VAW;	<p>Gao Zhisheng, a lawyer and Director of the Shengzhi Law Office in Beijing, his wife Ms Geng He, their children aged 13 years and two years and his 70 year old mother-in-law. On 24 November 2006 Ms Geng was beaten by members of the State Security police who had been following her movements and keeping her under surveillance. It is reported that Ms Geng, her 13 year old daughter and her mother have been constantly followed by police for approximately three months. The incident reportedly took place on a street in Beijing (Jingsong Road, near the Lidu Hotel on bus route 408), after Ms Geng told three police officers (two</p>	

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					<p>male, one female) to stop following her and her children. As a result of the beating by the two male police officers, Ms Geng is reported to have sustained loosened teeth, a bleeding mouth and gums, her fingernail on one hand completely torn off and her leather clothing ripped into pieces. It is further reported that Mr Gao and Ms Geng's 13 year old daughter, Gege, has also been harassed by the State Security Police who follow her at all times, including while she is in school. It is reported that they follow her to her classroom, in the school corridors and even to the bathroom, which makes her educational environment difficult. Furthermore, on 21 November, it is reported that Beijing police showed their badges and attempted to pick up Tianyu, their two year old son, but his kindergarten teacher refused to comply. It has also been reported that Ms Geng's 70 year old mother is tailed by police if she leaves the house. On 12 October 2006, Mr Gao Zhisheng was formally charged with "incitement to subvert the State". It is reported that on 6 October 2006, Ms Geng's birthday, she was allowed to see her husband at the Beijing No. 2 Detention Centre where they were watched and interrupted by police officers throughout the visit which lasted for approximately 20 minutes. However sources indicate that Mr Gao has still not had access to his lawyer Mr Mo Shaoping despite the recent discovery of his current whereabouts, as the authorities have reportedly stated that his case concerns "State secrets". Prior to 6 October 2006 he had allegedly been held incommunicado since</p>	

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45.		01/12/06	JUA	WGAD; RINT; TOR;	<p>15 August 2006 when he was arrested without a warrant at his sister's house in Dongying City in Shandong Province, by more than 20 plain clothes police officers from the Beijing Public Security Bureau. According to reports, the official Xinhua News Agency released a statement on 18 August 2006 stating that Mr Gao had been arrested "on suspicion of breaking the law" however details of the alleged crime he had committed were not provided.</p> <p>Zhang Hongwei, member of Falun Gong, residing at Tonghua District, Jilin Province, currently detained at Jilin Prison. His health condition is severe. By the beginning of 2006, he was diagnosed with type III tuberculosis. Body fluid was accumulating in his chest and in March 2006 he also suffered from pleurisy, high blood pressure and heart disease. Thereafter, he was transferred to the prison hospital, however, still ill-treated by prison guards. Several applications by Mr Zhang's family for medical parole and access to his x-rays were refused. Further, his family was denied permission to visit him. Concern is expressed as regards his deteriorating health and physical integrity, also in view of his incommunicado and solitary detention. Mr Zhang was arrested in Beijing and sentenced to 11 years of imprisonment in 2001. Later that year he was transferred to Tiebei Prison in Changchun city, where he went on a 53 day hunger strike, and then, in March 2002, to Jilin Prison. There, Mr Zhang was held in solitary confinement for two years and five months and ill-treated.</p>	

**Report on the Persecution of Chinese Lawyers
by the Government of China**

**By the Special Rapporteur on the independence of
judges and lawyers, Leandro Despouy**

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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Report of the Special Rapporteur on the independence of judges and lawyers,
Leandro Despouy**

Addendum

Situations in specific countries or territories*

*The present document is being circulated in the languages of submission only as it greatly exceeds the page limitations imposed by the relevant General Assembly resolutions.

of the chiefs, who usurp judiciary powers, routinely issue rulings that violate the human rights of women and basic precepts of gender equality. In some criminal cases referred to them by community members, chiefs have reportedly carried out the functions of both prosecutor and judge. Examples include chiefs who have levied arbitrary charges against women such as “witchcraft” (a charge that does not exist in Sierra Leonean law). Reportedly, there have also been cases where chiefs have determined guilt without evidence, imposed arbitrary and exorbitant fines, imprisoned women unlawfully in their homes or in illegal “tribal prisons”, or threatened to, or actually did expel women from the community as a form of punishment. Moreover, chiefs also routinely fail to bring to the attention of the competent State authorities cases of rape, which members of local communities often first refer to the chiefs. Moreover, many chiefs also condone violence against women committed by their husbands. The customary law, as applied in the Local Courts, furthers these attitudes since it also condones domestic violence below a certain intensity threshold, regarding it as a justified “chastisement” of the wife.

Communications received

323. None.

Special Rapporteur’s comments and observations

324. The Special Rapporteur regrets the absence of an official reply to the joint allegation letter of 25 August 2006 and urges the Government of Sierra Leone to provide substantive detailed information at the earliest possible date, and preferably before the end of the fourth session of the Human Rights Council.

Singapore

Communications sent

325. On 20 March 2006, the Special Rapporteur sent a joint urgent appeal together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression regarding Dr. Chee Soon Juan, the Secretary-General of the Singapore Democratic Party (SDP) and the Chairman of the NGO Alliance for Reform and Democracy for Asia (ARDA), who is facing a court hearing on 16 March 2006 for contempt of court. According to the information received, Dr. Chee has strongly and consistently criticized the Government’s policies. In 1993, when he was a lecturer at the National University of Singapore, he was fired for misusing his research funds. It is alleged that this occurred because he joined the SDP. When he disputed the dismissal, he was sued by the head of the department of the university and two other staff members for defamation, which resulted in a judgement against him and a fine of approximately US\$ 71,000. In November 1995, Dr. Chee was censured by the Parliament for endorsing attacks on the judiciary during a forum held in the United States in September 1995. It is alleged that these attacks were made by Francis Seow, former Solicitor General, and Christopher Lingle, but the Government affirmed that Dr. Chee’s failure to contradict the attacks constituted positive assent by “clever omission”. In 1996, the Parliament fined him and

other SPD members approximately US\$ 25,000 for contempt of Parliament in the context of a debate on health care. In addition, it is reported that in 1999 Dr. Chee was imprisoned on two occasions for making public speeches without a permit. Moreover, Dr. Chee was fined S\$ 3,000 for speaking on a religious topic at Singapore's Speaker's Corner and S\$ 4,500 under Public Entertainment Acts. However, it is reported that he chose to serve a five-week jail term instead of paying these fines. In 2001, during the national election campaign, Dr. Chee raised questions about alleged government financial support to Indonesia over the previous four years. Dr. Chee was sued for defamation by former Prime Ministers Lee Kuan Yew and Goh Chok Tong. On 11 January 2002, Dr. Chee filed an application asking for Stuart Littlemore to be admitted as his attorney. Mr. Littlemore is an Australian Queen's Counsel and a defamation expert. It is alleged that Dr. Chee submitted this application because he could not find a local lawyer to represent him because they were afraid of government reprisal. It is reported that on 18 January 2002, the High Court ruled that Mr. Littlemore was not a fit person to practise in the country, because he had criticized the judiciary in an earlier case involving another opposition leader when he was an observer for the International Commission of Jurists. Dr. Chee made a second application to admit Martin Lee of Hong Kong and William Nicholas of Australia, both Queen's Counsels. It is reported that the tribunal dismissed the application, declaring that the case was not complex enough to warrant the assistance of Queen's Counsels. Moreover, it is alleged that in the meantime, Lee Kuan Yew and Goh Chok Tong engaged a Senior Counsel, which is Singapore's equivalent to Queen's Counsel, whereas Dr. Chee represented himself. On 19 August 2002, the court allowed a summary judgement, which allegedly took place in the Registrar's private chambers. It is reported that as result of this procedure the two former Prime Ministers were awarded approximately US\$ 300,000 in damages. Dr. Chee appealed the decision, but his appeal was rejected on 4 April 2003. It is reported that Lee Kuan Yew and Goh Chok Tong submitted to the courts a bankruptcy petition against Dr. Chee when he failed to pay. It appears that on 10 February 2006, during the bankruptcy hearing, Dr. Chee accused the judiciary of not being fair and independent, especially when it decides defamation cases involving opposition politicians. It is alleged that the courts declared Dr. Chee bankrupt, a consequence of which is that he would be barred from standing in future elections. Finally, it appears that the Attorney General applied for a hearing to commit Dr. Chee to prison for contempt of court and that the trial took place on 16 March 2006. The details of the hearing are not yet known. Serious concern is expressed at the Government's recourse to criminal sanctions for Dr. Chee's legitimate exercise of his right to freedom of opinion and expression.

326. On 27 October 2006, the Special Rapporteur sent a joint urgent appeal together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders concerning Mr. Ravi, a human rights lawyer who is the defence counsel for 11 Falun Gong practitioners in four separate cases brought by the authorities. According to the information received, on 19 September 2006 Mr Ravi was arrested by the police near MacDonald's restaurant in Yishun, Singapore, while eating with his niece and nephew. He was taken to And Mo Kui Police Station and interrogated without legal counsel. Neither at the time of arrest nor subsequently did the police notify him of any charges against him. The police then sent him to Changi Hospital, and informed the family only after having taken Mr Ravi

there. Mr Ravi's youngest sister complained to the police and questioned the authority on which they did so. The police replied that they were still investigating Mr. Ravi, without specifying the charge. Mr. Ravi's family and friends were informed that they would have to wait for the report of the doctor at Changi Hospital. Mr. Ravi was examined by a doctor on the same day and was declared to be healthy. He was released conditionally into the care of his family. However, two days later, despite the medical results, the police threatened Mr. Ravi's family that unless they sent him to a mental hospital, the police would put Mr. Ravi in jail where they would have no access to him. The family agreed, and Mr. Ravi was forcibly committed to Adam Road Hospital and sedated against his will. He remains in the mental hospital. Concern is expressed that the alleged threats made by the authorities against Mr. Ravi may represent an attempt to prevent him from carrying out his human rights work, in particular his ability to legally represent 11 Falun Gong practitioners whose cases are pending.

327. On 22 December 2006, the Special Rapporteur sent an allegation letter regarding Madasamy Ravi, who was already the subject of a joint urgent appeal of 27 October 2006 sent by the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention (see above). According to the information received, Mr. Ravi had not requested a defence counsel. The Supreme Court of Singapore also suspended Mr. Ravi's licence to practice law. It is alleged that the suspension is related to an exchange in court between Mr. Ravi and a judge, Ms. Wong Chun Ngee, three years ago during which it was alleged that Mr. Ravi showed disrespect for judicial authority. According to the information received, there was no evidence to prove the allegation since the judge concerned was unwilling to testify. In addition, it has been reported that Mr. Ravi was told that if he would drop the current controversial cases he is handling, he would be able to return to the bar after a short period of time. The suspension decision seems disproportionate, all the more so that on 20 June 2006, the disciplinary committee of the court had already condemned Mr Ravi to pay US\$ 2,000 to the Law Society. While taking note of the Government's assurances that the arrest of Mr Ravi had nothing to do with his professional activities, concern is expressed that the decision to suspend Mr Ravi's licence may represent an attempt to prevent him from carrying out his human rights work as a lawyer, and in particular impair his ability to legally represent 11 Falun Gong practitioners whose cases are pending.

Communications received

328. On 4 April 2006, the Government replied to the joint allegation letter sent by the Special Rapporteur on 20 March 2006, stating that the information received by the Special Rapporteur was not fully accurate and even misleading to some extent. It pointed out that Singapore has an open and transparent legal system, enabling critics of the Government and political opponents to freely express their views. According to the Government, many opposition politicians in Singapore are openly vocal in criticizing the Singapore Government, both within and outside Parliament, and are not sued or prosecuted purely because of the expression of their views. It added, however, that no one who commits breaches of the law, including contempt of Parliament or contempt of court, can claim

immunity from prosecution on account of being a politician. Singapore's defamation law follows the common law model. Those who have been defamed without justification have the right to seek legal redress to protect their reputations, since, according to the Government, the right to freedom of speech does not include a right of defamation. In the August 2002 proceedings, a defamation order was made summarily by a Senior Assistant Registrar in chambers. This is a standard procedure by a Senior Assistant Registrar in chambers and in many common law countries. A plaintiff who feels that the defendant does not have a defence may apply for summary judgement under Order 14 of the Rules of Court. In that case, the plaintiff made such an application and the Registrar was satisfied that the defendant did not have a defence. The Government indicated that on 16 March 2006, the High Court found Dr. Chee to be in contempt of court. He compounded his contemptuous statement in court and was sentenced to one day's imprisonment and fined \$6,000 (approximately US\$ 3,700). Dr. Chee chose not to pay the fine and was jailed for another seven days in lieu of the fine. The Government asserted that with respect to the Basic Principles on the Role of Lawyers, Dr. Chee has never been prevented from having legal representation. In the most recent proceedings relating to contempt of court, a lawyer addressed some issues on his behalf while Dr. Chee chose to address the court directly on other points. In earlier cases, Dr. Chee had applied for Queen's Counsels to represent him. The ad hoc admission of Queen's Counsels (QC) in Singapore is provided for by the Legal Profession Act, which sets out the conditions for such admissions, one of which is that the difficulty and complexity of the case should warrant the employment of a QC. One of Dr. Chee's applications was rejected because the case did not comply with this condition. Another application was rejected by the court because the QC in question had, on several previous occasions, made statements that showed contempt and disrespect for the Singapore judiciary, and would thus not have been of assistance to the court in its deliberations upon the proceedings. The Government concluded by stating that Singapore's legal and judicial system is internationally recognized to be independent, efficient and honest and that if Dr. Chee Soon Juan insisted on intentionally flouting the laws of Singapore, he should be prepared to face the courts and answer for his actions.

329. On 6 December 2006, the Government replied to the joint urgent appeal sent by the Special Rapporteur on 27 October 2006 stating that the allegations contained in the letter were completely untrue and that Mr. Ravi's arrest had nothing to do with his professional activities, including his work with the 11 Falungong practitioners, or any of his other activities connected with human rights matters. According to the Government, Mr. Ravi was arrested by the police for disorderly behaviour in public, after a member of the public called the police on 18 September 2006 and reported that a barefoot man was making a nuisance of himself in public. Police allegedly responded to the call and found Mr. Ravi, who was involved in an apparent argument with another individual. Despite advice from his female relative and a female friend who were at the scene, as well as several warnings from the police to behave himself, Mr. Ravi did not do so and continued to shout incoherently. After failing to heed repeated warnings by the police, Mr. Ravi was arrested. At the time of his arrest, Mr. Ravi was informed that he was being placed under arrest for the offence of disorderly behaviour. The police had not decided at the time of arrest whether to charge Mr. Ravi in court. Mr. Ravi was interviewed while in police custody. During this interview, Mr. Ravi allegedly did not request the presence of a lawyer. While

in police custody, Mr. Ravi was examined by a doctor who wrote a referral letter for Mr. Ravi to be further examined at the Institute of Mental Health. This referral letter was allegedly handed to a female relative of Mr. Ravi who bailed him out. She told the police that she did not wish to send him to IMH for examination. The Government asserted that the police did not commit Mr. Ravi to a mental institution, forcibly or otherwise, nor was his family compelled by the police to do so, but a male relative of Mr. Ravi had caused Mr. Ravi to be admitted to Adam Road Hospital (a specialist private hospital offering psychiatric and psychological services) for treatment. The Government stated that Mr. Ravi has since been discharged from Adam Road Hospital.

Special Rapporteur's comments and observations

330. The Special Rapporteur thanks the Government of Singapore for its replies to his communications of 20 March 2006 and 27 October 2006. The Special Rapporteur appreciates the Government's cooperation and its detailed information in response to the allegations.

331. With respect to the reply to the communication of 27 October 2006, the Special Rapporteur wishes to be advised whether Mr. Ravi had been informed immediately upon arrest of his right to be assisted by a lawyer, in accordance with the Basic Principles on the Role of Lawyers, in particular principle 5.

**Report on the Persecution of Chinese Lawyers
by the Government of China**

**By the Special Rapporteur on the independence of
judges and lawyers, Leandro Despouy**

18 March 2005



**Economic and Social
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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE,
IMPUNITY**

**Report of the Special Rapporteur on the independence of judges and lawyers,
Leandro Despouy, submitted in accordance with
Commission on Human Rights resolution 2004/33**

Addendum

Situations in specific countries or territories *

* The present document is being circulated in the languages of submission only as it greatly exceeds the page limitations currently imposed by the relevant General Assembly resolutions

Introduction

1. The present report supplements the main report and the mission reports presented by the Special Rapporteur on the independence of judges and lawyers to the Commission on Human Rights. It includes:

(a) Summaries of the urgent appeals and allegation letters transmitted by the Special Rapporteur to governmental authorities between 1 January and 31 December 2004 and of the press releases issued during the same reporting period. In this connection, the Special Rapporteur wishes to emphasize that the urgent appeals and communications reflected in the report are based exclusively on information that has been transmitted to him directly. Where information was insufficient and it could not be supplemented and cross-checked, or where the information received was outside the mandate, the Special Rapporteur was not in a position to act;

(b) Summaries of all replies received from the States concerned by 31 December 2004 (including replies to cases acted upon by the Special Rapporteur in 2003 or earlier). In this connection, it may be noted that at the time of submitting this document the Special Rapporteur had received responses from the Governments of China, Columbia, Eritrea, the Russian Federation and the United Kingdom to urgent appeals or communications sent during the reporting period: The Special Rapporteur regrets that these replies were either not able to be translated in time or were received after 31 December 2004, and therefore will be reflected in next year's report to the Commission. Due to restrictions on the length of the report, the Special Rapporteur has been obliged to summarize the details of all correspondence sent and received. As a result, requests from Governments to publish their replies in their totality could regrettably not be accommodated;

(c) Wherever possible, observations or specific comments by the Special Rapporteur;

(d) In a limited number of cases, a note on recent important developments affecting the judiciary.

2. For the first time, the Special Rapporteur has included in this report two tables of statistical data for an overview of the extent and nature of the problems faced by the judiciary worldwide:

(a) Table 1 provides an overview of all actions taken by the current Special Rapporteur and his predecessor on specific situations and cases brought to their attention during the years 2003 and 2004, and of any replies received from the Government of the States concerned. It should be noted that on-site missions are not reflected in the table;

(b) Table 2 provides a tentative thematic overview of the types of problems faced by the judiciary in 2004 as reflected in the nature of the complaints brought to the Special Rapporteur's attention. In this connection, the Special Rapporteur wishes to emphasize that the categories presented are subject to further elaboration and analysis in future reports. He would thus welcome comments and suggestions.

3. It can be seen from table 1 that no fewer than 58 States were approached in one way or the other during the last two years, with 17 communications, 107 urgent appeals and 20 allegation letters sent to the authorities of the States concerned, and that 15 press releases were also issued.

4. In the year 2004, 38 States were directly approached by the Special Rapporteur who – in addition to performing on-site missions to Kazakhstan and Brazil - sent 3 communications to 3 States, 59 urgent appeals to 28 States and 18 allegation letters to 13 States, and issued 7 press releases regarding situations in 7 States. It will be noted that, as threats to the independence of the judiciary often go hand in hand with other human rights violations, for the sake of efficiency, most of these action were taken by the Special Rapporteur jointly with other colleagues.

5. Of the 58 States with which the Special Rapporteur was in contact during the last two years, 45 offered their active cooperation by providing a response, and of the 38 States specifically contacted in 2004, 28 sent a response, and while some replies address the concerns raised more comprehensively than others, the Special Rapporteur highly appreciates the responses as they are a positive indication of a Government's willingness to engage in a dialogue. The Special Rapporteur welcomes this attitude and encourages all other States concerned to also offer their cooperation.

6. To the Special Rapporteur's knowledge and concern, the independence and impartiality of the judiciary is being threatened in yet other countries and territories that are not mentioned in this report. It goes without saying that he closely monitors such situations and will, if appropriate, report on them in due time.

Table 1. Communications sent and received in 2003-2004

7. The statistics in table 1 are a compilation from this report (E/CN.4/2005/60/Add.1) and last year's report (E/CN.4/2004/60/Add.) for the period between 1 January 2003 to 31 December 2004 and reflect the communications, urgent appeals, allegation letters and press releases issued by the Special Rapporteur individually (ind.) or jointly (jt.) with other Special Procedures of the Commission on Human Rights and the replies received from the country concerned.

Communications to the Government

Résumé général					
États concernés	Communications	Appels urgents	Lettres d'allégations	Communiqués de presse	Réponses des États concernés
58 États : dont 38 États approchés en 2004	17 : dont 3 communications concernant 3 États en 2004	107 : dont 59 appels urgents concernant 28 États en 2004	20 : dont 18 lettres d'allégations concernant 13 États en 2004	15 : dont 7 communiqués concernant 7 États en 2004	103 réponses provenant de 45 États : dont 53 réponses de 28 États reçues en 2004

China

Communications to the Government

20. On 19 March 2004 the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning the situation of **Yang Jianli**, who was reportedly arrested on 26 April 2002, and for whom an urgent appeal was sent on behalf of the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 11 December 2002. According to more recent information received, Mr. Yang was tried on 4 August 2003. It is reported that the authorities had four months from that date to issue a ruling, in accordance with provisions of the Criminal Code, but as of that date they had failed to pass sentence. It is further reported that Yang Jianli, who was not allowed to have access to his lawyer during the first 14 months of his detention, asked to be allowed to speak to his lawyer without prison guards and security agents recording their conversation, and to be allowed to write letters. Yang Jianli was editor-in-chief of the online review "Yibao" (www.chinaeweekly.com). He was arrested when returning to China to investigate workers' strikes in the country's north-east, after his expulsion from the country for taking part in Tiananmen Square demonstrations in 1989. He was arrested for "failing to have a valid passport", and was charged on 17 July 2003 with "illegal entry into Chinese territory" and "spying for Taiwan". However, it is believed that Mr. Yang's critical stance vis-à-vis the authorities, in particular on the review "Yibao", might be the reason for his detention.

21. On 8 June 2004 the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning reports that, on 18 May 2004, the trial of **Du Daobin** for "incitement to subversion" before the Intermediate Peoples' Court in the city of Xiaogan, Hubei province, which commenced in the absence of Du Daobin's lawyer. Mr. Du's lawyer, who was notified four days before the trial, could not travel to attend the trial and Mr. Du was appointed a lawyer, who refused to enter a not-guilty plea, despite the wishes of his client. It is further reported that the trial was held behind closed doors. Previous urgent appeals were sent on behalf of the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 7 November 2003 and by the Special Rapporteur on the right to freedom of opinion and expression on 3 December 2003, as Mr. Du had previously been denied the services of his lawyer when, on 3 November 2003, his counsel reportedly had his licence withdrawn by his own law firm, preventing him from defending his client.

22. On 27 August 2004, the Special Rapporteur sent an allegation letter concerning the situation of **Wei Jun**, an attorney from the Baicheng law firm in Baise city, Guangxi province, who had allegedly been threatened and harassed for defending **Liang Changying**, a Falun Gong practitioner. Ms. Liang was sentenced to 5 ½ years in prison. After the court adjourned, the public prosecutor allegedly asked about the existence of a regulation stating that lawyers cannot defend Falun Gong practitioners who plead "not guilty". The same day Mr. Wei's home phone, cell phone and office phone were put under surveillance, and several days later police officers asked the Judiciary Bureau to suspend Mr. Wei's licence to practice law and to sentence him to three years of forced labour. After the director of the Judiciary Bureau refused their request, the

police reportedly warned Mr. Wei that in the future he would not be allowed to defend Falun Gong practitioners, and confiscated all of his materials regarding Ms. Liang's case.

23. On 22 September 2004 the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding the situation of **two Nepalese citizens** who were reportedly sentenced to death by a Chinese court in a trial alleged to have fallen short of international fair trial standards. Fears were expressed that the two men, whose names remain unknown, were at risk of imminent execution. The men were reportedly sentenced to death by a court in the Tibet Autonomous Region of China, on charges relating to smuggling arms into Nepal. During their trial, it is believed that they neither had access to legal representation nor to an interpreter. Reportedly, the Government of Nepal announced the sentences on 17 September 2004 and appealed to the Government of China to retry the case and to provide the defendants with legal representation.

24. On 15 October 2004 the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the right to everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women, its causes and consequences, to express their concern at reports of systemic repression against the **Falun Gong** and other “heretical organizations” (“*xiejiao zuzhi*”). Over the past five years, hundreds of cases of alleged violations of the human rights of Falun Gong practitioners have been brought to the attention of the Special Rapporteurs. Many of these allegations have been reported back to the Chinese authorities and are reflected in reports of the Special Rapporteurs to the Commission on Human Rights. The Special Rapporteurs are concerned that reports of arrest, detention, ill-treatment, torture, denial of adequate medical treatment, sexual violence, deaths, and unfair trial of members of so-called “heretical organizations”, in particular Falun Gong practitioners, are increasing. They expressed concern that these allegations may reflect a deliberate and institutionalized policy of the authorities to target specific groups such as the Falun Gong. An analysis of reports indicates that the alleged human rights violations against Falun Gong practitioners, including systematic arrest and detention, are part of a pattern of repression against members of this group. Most of those arrested are reportedly heavily fined and released, but many are detained and ill-treated in order to force them to formally renounce Falun Gong. Those who refuse are sent to re-education through labour camps, where torture is reportedly used routinely and in many cases has resulted in death. When charges are laid they reportedly include allegations such as “disturbing social order”, “assembling to disrupt public order”, “stealing or leaking State secrets”, or “using a heretical organization to undermine the law”. According to the information received, those prosecuted have been unfairly tried and many have received lengthy prison sentences. In this respect it is reported that on 5 November 1999, a notice issued by the Supreme People’s Court instructed all local courts to do their “political duty” in bringing to trial and punishing “severely” those charged with “heretical organization crimes”, “particularly Falun Gong”, and to handle these cases “under the leadership of the Party committees”.

25. On 19 October 2004 the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on torture concerning **Tenzin Deleg**

Rinpoche, a Buddhist religious leader who was at imminent risk of execution, following a conviction based on a confession obtained under torture. It is reported that he was arrested on 7 April 2002 following a bombing incident in Chengdu, Sichuan province, on 3 April 2002. He was found guilty on 29 November 2002 in a secret trial by the Kardze (Ganzi) Intermediate People's Court in the Kardze Tibetan Autonomous Prefecture, Sichuan province, for "causing explosions" and "inciting separatism". On 2 December 2002 he was sentenced to death with a two-year suspension of execution, which will expire on 2 December 2004. Tenzin Deleg Rinpoche was reportedly held incommunicado for eight months from the time of his arrest until the time of his trial. He was reportedly tortured in detention, including by being shackled hand and foot and suspended from above, and forced to confess. His conviction was upheld on 26 January 2003 by the Sichuan High People's Court, and he was moved to a secret location afterwards.

26. On 25 October 2004, the Special Rapporteur sent a joint urgent appeal together with the Special Rapporteur on the question of torture concerning the situation of **Chan Yu Lam**, a British citizen and a resident of Hong Kong who was tried for espionage in a trial closed to his family by the Guangzhou Intermediate People's Court on 24 February 2004. He was convicted based on a confession extracted under torture, and on 5 March 2004, he was sentenced to life imprisonment. Chan Yu Lam was denied access to British consular officials during his detention and trial, and his lawyers were threatened not to meet him by State Security officials. Mr. Lam was abducted in Shenzhen on 31 January 2003 by persons who identified themselves as members of the Debt Collection Group of the Guangdong Province Public Security Bureau, but were reportedly members of the Guangzhou State Security Bureau. In June 2003, the Guangdong Province Foreign Affairs Office informed the British Consulate General in Guangzhou that Chan Yu Lam had been arrested for an unspecified economic crime. Then in December 2003 his family received a letter from him informing them that he had been arrested for espionage and that they should retain lawyers for him. Therefore, since his arrest until 13 December 2003, at which time he was first visited by his lawyers, Chan Yu Lam was held incommunicado.

27. On 1 December 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Zheng Enchong**, a Shanghai lawyer involved in the defence of economic and social rights of displaced persons, who was sentenced on 28 October 2003, Zheng Enchong has been imprisoned and denied access to his lawyer, which reportedly resulted in his not being able to file an appeal application against his sentence before the Shanghai Supreme People's Court. His wife reportedly filed an application on his behalf, but the Court has not acknowledged it. Furthermore, the director of the Shanghai's Judicial Bureau and Prisons Bureau, Miao Xiaobao, reportedly visited Zheng Enchong in Shanghai's Tilanqiao Prison on several occasions, telling him that if he admitted wrongdoing, his three-year sentence would be reduced by one year. However, Zheng Enchong refused to do so. Concern was expressed that the denial of Mr. Zheng's right to see a lawyer and the right to appeal his sentence may be intended to prevent him from resuming his work as a lawyer who defends persons displaced from their homes by real estate projects. Such concerns are reinforced by the alleged attempts to induce Zheng Enchong to repudiate his legal work in defence of human rights, both by offering a reduction of his sentence and by aggravating the conditions of his detention.

Communications from the Government

28. On 5 July 2004 the Government replied to the Special Rapporteurs' joint urgent appeal of 19 March 2004 and advised that Mr. Yang Jianli was sentenced on 13 May 2004 and received five years' imprisonment for the crime of espionage and six months' imprisonment for illegally crossing State borders and a fine. The Government stated that the judicial authorities acted in accordance with internal law and international human rights instruments as Mr. Yang's legal rights were guaranteed during detention (he met with his lawyer 17 times from the investigative to the sentencing stage) and he was sentenced in accordance with articles 110 and 322 of the Criminal Law. The sentence was a result of illegal activities involving threats to State security and had nothing to do with freedom of expression or opinion as the Government ensures these freedoms under article 35 of the Constitution, but citizens must assume their corresponding duties under the law.

29. On 31 December 2004, the Government sent replies to the Special Rapporteurs' joint urgent appeals sent on 15, 19 and 25 October 2004. The replies unfortunately could not be translated in time to be included in this report but will be reflected in next year's report.

Press release

30. On 14 April 2004, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on human rights defenders issued the following press release:

**“UNITED NATIONS HUMAN RIGHTS EXPERTS
EXPRESS CONCERN OVER THE SITUATION OF TIBETAN MONK**

“We are deeply concerned over the continued detention under a suspended death sentence of Tenzin Deleg Rinpoche, a prominent Lama who was involved in social work in favour of the Tibetan community in the Kardze Tibetan Autonomous Prefecture of the Sichuan Province and who promoted the reestablishment of Tibetan Buddhism in the region.

“Tenzin Deleg Rinpoche was sentenced on 2 December 2002, after he was accused of ‘causing explosions’ and ‘inciting the separation of the State’, charges he denied. His co-accused, Lobsang Dondrup, was executed on 26 January 2003. Numerous and credible reports have referred to serious procedural flaws during the closed trial, in particular violation of the right to a public trial, violation of the right to chose his own lawyer and denial of the right to know and have the opportunity to examine the evidence presented against him in court, and to ill-treatment of the accused during the pre-trial period, including incommunicado detention for the whole pre-trial period and ill-treatment during interrogations.

“We are concerned that Tenzin Deleg might be executed any time until the end of the suspension of his death sentence. We are also concerned that his death sentence will be commuted in a life sentence after 2 December 2004, following a trial which apparently fell short of international norms and standards. Therefore, we urge the authorities to grant

Tenzin Deleg Rinpoche a new trial in accordance with international norms and standards of due process.”

Observations of the Special Rapporteur

31. The Special Rapporteur welcomes the commutation of the death sentence passed against Tenzin Deleg Rinpoche to life imprisonment, while reiterating his concern that the conviction resulted from a trial that did not meet international fair trial standards.

**Opinions Adopted by the United Nations
Working Group on the Arbitrary Detention of
Falun Gong Practitioners**

11 December 2001



**Economic and Social
Council**

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COMMISSION ON HUMAN RIGHTS
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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
TORTURE AND DETENTION**

Opinions adopted by the Working Group on Arbitrary Detention

The present document contains the opinions adopted by the Working Group on Arbitrary Detention at its twenty-ninth, thirtieth and thirty-first sessions, held in November/December 2000, May 2001 and September 2001, respectively. A table listing all the opinions adopted by the Working Group and statistical data concerning these opinions are included in the report of the Working Group to the Commission on Human Rights at its fifty-eighth session (E/CN.4/2002/77).

GE.01-16296 (E)

OPINION No. 35/2000 (PEOPLE'S REPUBLIC OF CHINA)

Communication addressed to the Government on 2 February 2000.

Concerning Yuhui Zhang

The State has signed but not ratified the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by the Commission on Human Rights resolution 1991/42. The mandate of the Working Group was clarified and extended by resolution 1997/50, and reconfirmed by resolution 2000/36. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.
2. The Working Group conveys its appreciation to the Government for having forwarded the requisite information in good time.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);
 - (ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
 - (iii) When the complete or partial non-observance of the relevant international standards set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned relating to the right to a fair trial is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government. The Working Group transmitted the reply provided by the Government to the source and received its comments. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto.

5. It would be appropriate to set forth succinctly the allegations which have been brought to the attention on the Working Group by the source.

- (i) Mr. **Zhang Yuhui**, a Chinese national aged 35 years, who has resided in Macao for over nine years and owns a cleaning business there, was arrested on 10 November 1999 in Kaiping City, Guangdong Province, People's Republic of China. According to the source, it is unclear whether he was presented with an arrest warrant upon arrest, or whether he has been formally charged and, if so, on the basis of what legislation.
- (ii) In early November 1999, Mr. Zhang undertook a business trip to the People's Republic of China with his wife. He was arrested in Kaiping City and detained on the ground that he was practising Falun Gong, a traditional spiritual practice with millions of followers in the People's Republic of China and throughout the world. Falun Gong, as an organization, was banned by the Chinese authorities in July 1999.
- (iii) The source notes that many Falun Gong practitioners have been detained since July 1999 and sent for re-education through labour without trial, because they refuse to denounce their belief. Other followers have been sentenced to prison terms.
- (iv) Yuhui was an active Falun Gong practitioner in Macao. Following the government crackdown on the movement, he wrote numerous articles on Internet web sites to guide readers to think about the Falun Gong issue rationally. His writings were popular among both practitioners and non-practitioners. Yuhui had also written to the Macao office of the Xinhua news agency, voicing opposition to the ban on the movement in July 1999. It is argued that all Yuhui did was lawful and transparent. He himself had told his friends several times that he was in fear of being arrested, as he had been warned by the Xinhua news agency for expressing his beliefs.
- (v) The source does not identify the facility in which Mr. Yuhui is currently detained. It notes, however, that the authorities have thus far refused permission to his family to visit him.

6. The nature of the Government's reply makes it difficult for the Working Group to appreciate the conclusions arrived at by the court when it ruled that the defendant had "posed a threat to national and state security". It is apparent from the file that the activities of Mr. Yuhui were peaceful and that he was in no way directly involved in any violent activity. The Working Group believes that article 19 of the Universal Declaration of Human Rights has been violated. It reiterates that everyone has the right to freedom of opinion and expression and that the said right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media, regardless of frontiers. There is nothing to suggest

that Falun Gong uses other than peaceful means to spread what the organization believes in. The Government of the People's Republic of China in its response has stated that Mr. Zhang Yuhui is a native of Kaiping City in Guangdong Province. In 1986, after graduation from the University of International Business and Economics in Beijing, he was employed to work with the units of the customs houses in Guangzhou and Lianhuashan. He was thereafter transferred to Macao in January 1990. The Government accepts that he was arrested on 11 November 1999 by the Guangdong Province public security authorities because, since July 1999, he had been engaged in illegal activities and disrupted the social order. According to the Government, Zhang had confessed his error and displayed a willingness to correct it, pursuant to which his punishment was converted to house surveillance. The Government states that the public security authorities, in dealing with Zhang Yuhui, have acted in strict compliance with the People's Republic of China's relevant laws and regulations. The Government also informed the Working Group that Zhang Yuhui was released on 21 December 1999 and claims that Zhang was not arbitrarily detained.

7. Taking into account the response of the Government, the Working Group believes that the reasons for Zhang Yuhui's detention have not been denied. It is not denied by the Government that he wrote numerous articles on Internet web sites relating to Falun Gong. The Government also does not deny that his writings were popular both with practitioners and non-practitioners. Neither does the Government deny that Zhang Yuhui opposed the ban on the Falun Gong movement in July 1999. The reasons given for Zhang Yuhui's detention are propagation of his ideas and beliefs. That he expressed his beliefs and opinions peacefully is not in issue. The Government decision that these activities are illegal and disrupt the social order and therefore justify arrest by the public security authorities cannot be justified since his detention is in direct violation of article 19 of the Universal Declaration of Human Rights.

8. The Working Group, consistent with its practice, would not have rendered an opinion with regard to Zhang Yuhui's detention, on account of his release on 21 December 1999. However, the Working Group believes that the fact that Zhang Yuhui was detained for propagating his ideas and beliefs peacefully is sufficient reason for the Working Group to render an opinion, despite Zhang Yuhui's release from detention.

9. In the circumstances, the Working Group is of the opinion that the detention of Zhang Yuhui from 11 November 1999 to 21 December 1999 was arbitrary and contrary to article 19 of the Universal Declaration of Human Rights, and falls within category II of its methods of work.

10. Consequently, the Working Group requests the Government of the People's Republic of China to take all measures necessary to remedy the situation and, consistent with article 19 of the Universal Declaration of Human Rights, not detain people for the peaceful propagation of their opinions.

Adopted on 27 November 2000

**Report Excerpts from the Study
on the Phenomena of Torture, Cruel, Inhuman
or Degrading Treatment or Punishment in the
World, Including an Assessment of Conditions
of Detention**

By the Special Rapporteur on torture, Manfred Nowak

5 February 2010



General Assembly

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Agenda item 3

**Promotion and protection of all human rights,
civil, political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,

Manfred Nowak* **

Addendum

**Study on the phenomena of torture, cruel, inhuman or degrading
treatment or punishment in the world, including an assessment of
conditions of detention**

* The present document is being circulated as received in the language of submission only as it greatly exceeds the page limitations currently imposed by the relevant General Assembly resolutions.

** Late submission.

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threatened when I tried to obtain access to the military barracks in Malabo and when I attempted to visit the police headquarters in Bata a second time, in order to assess whether detainees had been subjected to reprisals after my first visit. All my movements throughout the country were constantly monitored, which was even openly admitted by the Government during my debriefing. The Minister of Interior frankly told me that intelligence sources had informed him about my meetings with the human rights officer of the (only legal) opposition party. The fact of having met members of the legal opposition was even used as the main argument why my report was rejected by the Government as biased.⁷

16. Various Governments obstructed my efforts of independent and objective fact-finding by extensively *preparing detention facilities and instructing detainees* about my visit. In order to better prepare my visits, Governments often demanded that I tell them in advance which facilities I wished to inspect. It was only after long and difficult negotiations that certain Governments such as China, Sri Lanka, Indonesia and Equatorial Guinea, accepted that my visits are, in principle, unannounced. Nevertheless, through extensive monitoring of my movements throughout the respective countries, these Governments could, at least to some extent, predict which detention facilities I intended to visit. This might even have been well-intended, i.e. the authorities responsible for the detention facilities wished to make as good an impression as possible. It also had the positive side-effect that prisons were renovated, cleaned and freshly painted, that the food, health services and recreation possibilities were improved during my missions, and that detainees were released from solitary confinement. Two examples of such well-intended preparations were Indonesia and Kazakhstan, where the prison directors were already waiting outside their facilities to warmly welcome me. In *Indonesia*, where I had to fly from island to island, I even met military intelligence officers who told me that their task was to inform their superiors whether and when all members of my team had left the respective island. In *Kazakhstan*, a police car was sent to escort me to the next city I intended to visit. All prisoners in areas that I could possibly visit were told about my mission and instructed to stage prison bands and parties in order to impress me. The paint on cell doors was so fresh that it had not even dried and we had to be careful not to touch it. Detainees told us exactly how they were instructed to interact with us, and we were later informed that prisoners in other facilities, which we could not visit for lack of time, were disappointed because their extensive preparations were in vain. In *China*, officials of the Ministry of Foreign Affairs had insisted to escort me throughout the mission. In some countries, notably China, Kazakhstan, Sri Lanka, Indonesia and Equatorial Guinea, these efforts of constantly putting me under surveillance and control were so persistent that I considered interrupting or terminating the mission.

17. Even if well-intended, i.e. to assist and protect me, these activities obstruct any efforts of objective fact-finding. My task is to independently assess, to the best of my abilities, conditions of detention and instances of torture as they are in reality. All efforts of the authorities aimed at creating a situation which is not genuine make my task of objective fact-finding much more difficult and may even be counter-productive as they naturally raise suspicions that the Government has something to hide. There is no country in the world without the risk of torture and ill-treatment and where prison conditions could not be improved. If Governments wish to use my findings and reports as a solid basis for a comprehensive needs assessment aimed at improving the situation, it is in their own interest to let me carry out my work as smoothly and effectively as possible. In practice, only relatively few countries enabled me to conduct my fact-finding without any notable interference or obstruction. I wish to particularly mention in this context the Governments of *Georgia, Paraguay, Togo, Denmark, Moldova and Uruguay*. In Uruguay, I was even

⁷ A/HRC/10/44/Add.1, A/HRC/13/39/Add.4.

(iii) Suppression of political dissent

71. Perhaps most dangerously, some Governments seek to intimidate their population through the use of torture against persons who have or who are perceived of having convictions contrary to those held by the Government, or who criticise their policies or practices. The victims are often activists with different agendas, including members of the political opposition, religious or ethnic groups, or human rights defenders. Torture, often in combination with abduction and unaccounted detention, is used to silence their voices of dissent. Perpetrators originate from the ranks of the police, the military or affiliated non-state units. Following widely-reported demonstrations, credible allegations of such politically-motivated torture have been received over the last two years in a number of different countries, including, China, Iran and Zimbabwe. During my missions as Special Rapporteur, I have frequently found evidence of violent abuse or particularly harsh conditions applied to suspects of political crimes. In Equatorial Guinea, I found political prisoners held in solitary confinement for periods of up to four years, most of them in leg irons practically all the time. Furthermore, I have received very serious allegations of severe and prolonged torture of Equatoguinean citizens accused of involvement in attempts to overthrow the political system at unofficial places of detention. According to credible testimonies, this treatment was directly ordered by high-level officials of the Government.⁴⁰ China maintains the most institutionalised method of opposing political dissent that I have encountered. Political dissidents and human rights defenders, ethnic groups that are often suspected of separatism (particularly Tibetans and Uyghurs), as well as spiritual groups such as Falun Gong are often accused of political crimes such as endangering national security through undermining the unity of the country, subversion or unlawfully supplying State secrets to individuals outside the country. Such individuals are not only at a high risk of torture when arrested, but the Re-education Through Labour (RTL) regime that is often used as a sentence for political crimes employs measures of coercion, humiliation and punishment aimed at altering the personality of detainees up to the point of breaking their will,⁴¹ and can itself be considered as inhuman and degrading treatment or punishment, if not mental torture.⁴²

2. Context which allows torture to happen

72. In the course of the last decades an international framework of hard and soft law emerged with a considerable range of norms aimed at protecting the physical and mental integrity as well as the dignity of all human beings. In principle, these standards would be sufficient to prevent and to eradicate torture. However, their effective application is missing.

(a) Deficient legal framework

(i) Lack of a specific crime of torture in accordance with the definition in article 1 CAT

73. The vast majority of States visited during my fact-finding missions did not have a crime of torture in their criminal codes which reflects the definition of torture with article 1 of the UN Convention against Torture, although they are almost all States parties to the treaty. This finding, as surprising as it may appear, is most certainly not only valid for those 15 States I visited, but also holds true for a significant number of other States. I do not believe that this shortcoming indicates bad faith in any way, but it highlights the prevalence of fundamental misconceptions about the elements and the nature of torture and a lack of

⁴⁰ A/HRC/13/39/Add.4.

⁴¹ E/CN.4/2006/6/Add.6, para.62.

⁴² E/CN.4/2006/6/Add.6, para.64.

standard practice, including on ordinary suspects. Attempts to find an explanation for this development concern the wider functioning of the criminal justice cycle and the absence of an effective system of checks and balances. Prosecutors and judges often rubberstamp applications for extended police custody, without looking into the merits of the individual request. The motives may vary, but individual prosecutors often seem to lack the “professional distance” from police authorities and rather engage in a joint effort to fight crime, while neglecting their fundamental rights obligations.

90. This leads to suspects being exposed to their interrogators for weeks and months and finding themselves in a situation which is generally dominated by a feeling of vulnerability and fear. In many of the police stations I visited, there was a palpable level of fear which manifested itself *inter alia* by the strong reluctance of detainees to speak with me. Once detainees were transferred from the police station to a remand facility, I received numerous credible allegations from detainees who did not dare to raise them earlier due to fear of reprisals.

91. Prolonged detention in police cells raises further serious concern regarding the conditions of detentions. Police cells are by design not suitable for extended periods of custody and lack the necessary space and other facilities needed in order to ensure adequate conditions of detention. Often, detainees in police custody are not even provided food or water. Furthermore, the practice of excessive length of police custody contributes to overcrowding which in turn sets the ground for numerous other problems including hygiene, health, bedding and privacy.

92. Another consequence of long periods of police custody is that torture traces may have already disappeared once a detainee is transferred to a remand prison. Against this background, an investigative officer may be more tempted to coerce a confession since no external authority will be able to see any traces. The possibility of securing any medical evidence is more difficult, and the establishment of accountability further unlikely.

(iii) Inadmissibility of evidence obtained under torture

93. The inadmissibility of evidence obtained under torture is one of the most crucial safeguards against abuse in the criminal justice system. Its purpose is twofold: first, given that the vast majority of torture is inflicted in the course of criminal investigations with the purpose to extract a confession, the safeguard intends to remove a prime incentive for torture. Second, evidence obtained under torture is highly unreliable concerning the veracity of the statements obtained. Declaring the evidence inadmissible helps ensure that no innocent person is convicted.

94. The inadmissibility of evidence obtained under torture finds its strongest expression in article 15 CAT which stipulates that each State party shall “ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings”. Similarly, article 14 (3) (g) ICCPR provides that everyone has the right “not to be compelled to testify against himself or to confess guilt” and includes also testimonies obtained by the infliction of CIDT as inadmissible. The Human Rights Committee expands on the resulting obligations for States and holds that “It is important for the discouragement of violations under article 7 that the law must prohibit the use of admissibility in judicial proceedings of statements or confessions obtained through torture or other prohibited treatment”.⁵⁵

95. On the legal level, most States I visited seemed to have complied with this provision by and large. However there were significant deviations which tended to undermine the

⁵⁵ CAT/C/CR/33/3, 2004, para. 5 (d).

essence of the prohibition. In China, for example, in which the admission of guilt receives particularly high attention, the Criminal Procedure Law explicitly prohibits the extortion of confessions by torture and the collection of evidence by threat, enticement, deceit or other unlawful means.⁵⁶ However, this provision has not been matched with a prohibition of using illegally obtained confessions during court proceedings. The Supreme Court in this regard held that confessions under torture cannot become the basis for a criminal charge or conviction, but it did not exclude their overall admissibility. Prohibiting the extraction of a confession by torture but allowing it to form part of the proceedings falls short of the protection the safeguard is meant to have.

96. Another example of a deficient incorporation of the prohibition is Sri Lanka. During my mission, Sri Lanka's ordinary laws provided that confessions made in police custody were inadmissible before the court and any confessions extracted through torture were excluded.⁵⁷ However, while these provisions appeared to go relatively far, there was no such safeguard under the Emergency Regulations. Against this background, it appears particularly worrying but again not that surprising that I found a routine practice of torture in the context of counter-terrorism operations which were conducted under the Emergency Regulations and thus not subjected to the safeguard.

97. In terms of the actual implementation of the safeguard I have to conclude that confessions and other evidence obtained under torture are more frequently admitted at court than not. In most of the countries I have visited I received a very high number of related allegations which were convincingly corroborated by representatives of the civil society, lawyers, local human rights experts and others. While I was evidently not in the position to verify each individual case, it was without doubt that the competent courts which are under the obligation to take up any allegation of torture and at least enquire into their veracity overwhelmingly failed to do so and sweepingly rejected any allegations of torture.

98. There are several elements which seem to explain this structural malfunctioning of the judiciary. In most countries, suspects are confronted with an almost insurmountable credibility deficit. In sharp contrast to the presumption of innocence, they are *a priori* believed to be guilty and to raise torture allegations only in order to evade justice. There is a predominant societal perception that anybody who has been arrested and accused must be in some way criminal. The almost customary dismissal of torture allegations without any investigations suggests that also the judiciary is not immune from this mentality. A second element is that there is no shift in the burden of proof. It is not enough for suspects to indicate that their confession was obtained under torture; they have to establish the ill-treatment. Since torture almost always takes place behind closed doors, lacks any witnesses except its perpetrators, and any independent forensic expertise to document traces of abuse is beyond the survivor's reach, this requirement is the most difficult to satisfy and appears almost taunting. In order for the safeguard against the admissibility of evidence obtained under torture to have any realistic prospect of unfolding, a shift of the burden of proof regarding torture allegations has to take place. This is also reflected in the jurisprudence of domestic courts and international monitoring bodies. As Lord Bingham so eloquently stated in a well-known dissenting opinion, "it is inconsistent with the most rudimentary notions of fairness to blindfold a man and then impose a standard which only the sighted could hope to meet".⁵⁸ A third element concerns many judges and the judiciary in general, who are confronted with an overburdening caseload, chronic understaffing and an overall lack of resources. In such a context, the follow-up of torture allegations from a perceived criminal

⁵⁶ Article 43 CPL; E/CN.4/2006/6/Add. 6, para 37.

⁵⁷ Articles 24–27 Evidence Ordinance.

⁵⁸ *A and others v Secretary of State for the Home Department* [2005] UKHL 71. See also Gary Slapper and David Kelly, *The English Legal System*, 10th edition, Routledge-Cavendish, 2009.

114. The Human Rights Desks in Nigeria are only one example of numerous complaints mechanisms which are utterly ineffective and remind one of Potemkin villages. Whenever I received information from officials that torture is not an issue in the country because no complaint has ever been filed, in practice it has been a clear signal that the opposite is the case; that torture is routine practice and that detainees are actually too afraid to complain. This was also confirmed during my visit to the CID Lagos where I received, in the course of one afternoon, more highly credible complaints than the National Human Rights Commission had received during an entire year.

115. The effectiveness of complaints bodies is severely undermined by the de facto inaccessibility and the lack of prompt, independent and effective examinations of the allegations. I have ample grounds to believe that the vast majority of violations are never brought forward by detainees. One explanation is that detainees are simply not aware of their right to complain and that a complaints mechanism tasked with receiving allegations might exist. In a context of detention characterized by violence and other abuse, it seems beyond imagination for many detainees that they may have a right to complain and that somebody can seriously be tasked to listen to their allegations. In Indonesia, when I asked a death row detainee who reported that he was tortured during his interrogation, and whose confession was admissible during trial, if he had lodged a complaint answered “complain, to whom shall I complain, to the animals?”.

116. If detainees know about their right to complain and the existence of a complaints mechanism, the fear of reprisals and lack of confidence in the overall function of the system silences them. There is no independent complaints body which would be sufficiently detached from the authority that is holding the detainee. Most often detainees only have the option to complain to the colleagues or superiors of those who ill-treated them. Without any possibility to submit a confidential, let alone anonymous complaint, they have every reason to believe that those responsible for the abuse will hear about their complaint and may turn against them.

117. I was able to observe during the numerous visits to places of detention how strong the level of fear can be. In China, many detainees were simply too scared to engage in any conversation with me, even if it was of a rather general nature and did not refer to any compromising issues. The mere fact that they could possibly be perceived to have complained to the UN Special Rapporteur was a risk which many legitimately did not want to take on them. Other, more daring detainees agreed to talk to me only after I assured them confidentiality and not to include their accounts in the appendix on individual cases in my report. The possibility of reprisals against those who I interviewed strongly influenced the conduct of my fact-finding. Irrespective of a Government’s invitation and its acceptance of the terms of reference, which include private interviews with detainees, I could never entirely rule out that those officials who were incriminated would turn against my interlocutors once I would have left the place of detention. My work was therefore shaped both by the need to obtain a first hand account of detainees in order to assess the situation, and the paramount “do no harm” principle.

118. The fear of reprisals and the feeling of vulnerability sometimes go so far that detainees presented stories which were in sharp contrast with their physical or mental state, and which were intended to avoid to be perceived as having denounced their tormentors. During my mission to Paraguay, I encountered a man who had severe bruises all over his body in the punishment cell of a military barrack, which according to the officer in charge was not used. When inquiring into the origins of his injuries, he claimed that he just recently had an accident with his motorbike. The forensic medical examination could not

deliberately inflicts severe pain or suffering on a powerless victim for a specific purpose, such as extracting a confession or information. Cruel and inhuman treatment, on the other hand, means the infliction of severe pain or suffering without purpose or intention and outside a situation where a person is under the de facto control of another. It follows that one may distinguish between justifiable and non-justifiable treatment causing severe suffering. Examples where the causing of severe suffering may be justifiable are the lawful use of force by the police in the exercise of law enforcement policies (e.g. arrest of a criminal suspect, dissolution of a violent demonstration) and by the military in an armed conflict. In such situations, the principle of proportionality has to be strictly observed. If the use of force is not necessary and, in the particular circumstances of the case, disproportional to the purpose achieved, it amounts to cruel or inhuman treatment. In a situation where a person is under the de facto control of another and thus powerless, the test of proportionality is no longer applicable. Other situations which may amount to CIDT are particularly severe conditions of detention, domestic violence, female genital mutilation and trafficking in human beings.

B. Excessive use of force by law enforcement bodies

189. Upon my fact-finding missions I have received numerous worrying allegations of excessive use of force by police authorities outside of the context of detention. As stated above, this may amount to CIDT if it does not meet the test of proportionality.¹²⁸

190. In many countries it is unfortunately not uncommon for police officers to resort to excessively brutal force when apprehending a criminal suspect. Effective methods of recording and monitoring the arrest are often absent, allowing the police to handle suspects at will and giving them a high chance to escape accountability for official misconduct. Particularly disturbing examples have been witnessed in Nigeria where persons suspected of armed robbery were often shot in the legs or feet, a practice that often even amounted to torture. Excessive police force is especially prevalent during large-scale police operations such as raids. In such situations innocent persons also run a risk of becoming victims of cruel and inhuman treatment. During my fact-finding mission to Indonesia, I received consistent and credible allegations about the use of excessive force by mobile paramilitary units in West Papua that routinely conducted largely indiscriminate village “sweeping” operations, while searching for alleged independence activists or raids on university boarding houses.¹²⁹

191. Most cases of excessive police violence occur during demonstrations or public turmoil. Over the past years I received a large number of consistent and credible allegations of excessive force used by police, security and military officers from countries such as Azerbaijan, Bahrain, Cambodia, China, Egypt, Georgia, India, Indonesia, Iran, Kenya, Moldova, Myanmar, Nepal, Pakistan, Paraguay, the Philippines, the Russian Federation, Uzbekistan, Sudan, Turkey and Zimbabwe.¹³⁰ In many of those cases, people were peacefully exercising their right to assembly when police or security officers violently dispersed the demonstration by beatings, the use of pepper and tear gas, sound bombs, water cannons, rubber bullets or firearms indiscriminately fired on the masses. This has all too often led to persons getting severely injured or killed. A particularly concerning example of excessive and indiscriminate violence against protesters occurred in Andijan,

¹²⁸ This was confirmed by the Committee against Torture that has considered cases of excessive use of force in dissolving riots or demonstrations as a violation of article 16 CAT, A/52/44, para. 182; A/54/44, para 76 (g); A/56/44, paras. 58 (a), 95(i), 113(c).

¹²⁹ A/HRC/7/3/Add.7, para. 39.

¹³⁰ E/CN.4/2006/6/Add.1; A/HRC/4/33/Add.1; A/HRC/7/3/Add.1; A/HRC/10/44/Add.4.

Uzbekistan in May 2005, where military and security forces indiscriminately shot at crowds of protesters leading to hundreds of deaths.¹³¹ I criticized the lack of investigation, prosecution and punishment of the perpetrators and other persons responsible. More recently, I received reports of excessive violence during demonstrations in the Tibet Autonomous Region and surrounding areas in China, including the killings of an unconfirmed number of people. I am further concerned with the use of excessive force against Uyghur protesters in the autonomous province of Xinjiang.

192. Violent attacks on protesters have been particularly prevalent in times of post-election turmoil. The elections in Kenya in December 2007 were followed by heavy protests, resulting in ethnic clashes and the widespread disproportionate use of force by the police, which led to many deaths.¹³² In Zimbabwe, following the election victory of the MDC in March 2008, police officers, soldiers and members of the ruling party Zanu PF attacked MDC supporters and journalists as a part of a reprisal campaign. I received a large number of allegations where such attacks have led to broken bones typical of “defence injuries” or even deaths.¹³³ Similarly in Moldova, the elections of April 2009 were met with widespread and often violent protests. I received several allegations of beatings and other cruel, inhuman and degrading treatment upon detention during and after the protests, which were confirmed during my follow-up visit in September 2009. In Iran, where the June 2009 elections were followed by widespread protests of opposition supporters, they were met with excessive violence by the police and Government militias. I received credible allegations on the killing of at least 12 students participating in opposition protests. While the post-election protests have been largely peaceful, agents of the Revolutionary Guards, paramilitary Bassij, and State Security Force (SSF) have reportedly employed extreme force to suppress protesters by opening fire during demonstrations and using pepper spray and batons to disperse demonstrations.

193. Of particular concern are the reports of police brutality against vulnerable, disadvantaged groups and minorities. In Paraguay, I have received numerous allegations of excessive force by the police against members of indigenous communities and the military in dispersing demonstrations of campesino movements. The Committee against Torture has equally expressed its concern about reports of police brutality against vulnerable groups such as racial minorities, migrants and persons of different sexual orientation, which have not been adequately investigated.¹³⁴ Furthermore, journalists covering protests often risk being targeted by police and security officers. I am particularly concerned about the harassment and targeted killings of journalists and human rights defenders in the Russian Federation, including the killings of Anna Politkovskaya¹³⁵ and Natalya Estemirova,¹³⁶ which occurred in relation to their denunciation of human rights abuses in Chechnya.

194. I have repeatedly stated that the use of force must be exercised with restraint and only once non-violent means have been exhausted. Law enforcement bodies shall refrain from the use of firearms, except in self-defence or defence of others from an imminent

¹³¹ OHCHR, Report of the Mission to Kyrgyzstan concerning the killings in Andijan, Uzbekistan of 13–14 May 2005, 12 July 2005.

¹³² ‘Waki report’ of the Commission of Inquiry into Post-Election Violence (CIPEV), pp. 416 et seq. speaking of “a heavy-handed Police response whereby large numbers of citizens were shot — 405 fatally — by Police”, p. 417; Report from OHCHR Fact-finding Mission to Kenya, 6–28 February 2008, <http://www.ohchr.org/Documents/Press/OHCHRKenya-report.pdf>.

¹³³ /HRC/10/44/Add.4, pp. 404 et seq.

¹³⁴ CAT/CUSA/CO/2, para. 37; CAT/C/FRAU/CO/3, para. 5.

¹³⁵ A/HRC/4/33/Add.1, para 229.

¹³⁶ United Nations, “UN experts ready to assist Russia in investigating series of killings of human rights defenders”, Press release, 21 July 2009.

United Nations Reports on Violations Against Falun Gong Practitioners and the Human Rights Situation in China

First Edition July 2010

The Falun Gong Human Rights Working Group