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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

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

was one of the first States to become party to the Convention against Torture. It upholds the prohibition on torture and other cruel, inhuman or degrading treatment or punishment and has adopted many specific measures under domestic law. In handling the case in question, the relevant Chinese Government departments abided strictly by their treaty obligations and proceeded in accordance with domestic law. There was no instance of torture or ill-treatment.

79. The Chinese Government has always taken great care to safeguard the legitimate rights of convicts and detainees. The Prisons Act and the Remand Facility Regulations cover all aspects of the protection of offenders' and detainees' rights including their right to security of the person, lawful possessions, health protection and education, and their rights to a defence, to appeal, to lodge complaints and report matters to the authorities, and such other rights as have not been restricted or taken from them by law. All legitimate rights of Zhang Rongliang have been safeguarded, and it is not true that when he fell ill he was refused medical treatment.

Observations

80. The Special Rapporteur is grateful for the Government's reply. She would like to make reference to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, of his mission to China from 20 November to 2 December 2005 (E/CN.4/2006/6/Add.6, para. 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."

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

81. The Special Rapporteurs brought the two following cases to the attention of the Government: On 21 May 2002, police officers from the Zhonggong police station arrested Ms. **Ren Shujie**, aged 42, living in the Tiexi District, Shengyang City, Liaoning Province, for practicing Falun Gong. She was later sentenced to three years of forced labour and was detained at the Longshan Labour Camp. No charges were brought against her and she was provided no hearing before a court of law. She went on hunger strike for 64 days, during which time she was subjected to torture and harsh labour for fifteen hours daily. After bringing an end to her hunger strike she continued to be tortured by the prison guards, 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.

Response from the Government dated 12 December 2005

83. The Government informed that Ren Shujie, female, was born in February 1964 in Han Chinese. She was educated to lower middle-school level, from Shengyang City, Liaoning Province; formerly on the kitchen staff at the Shengyang New Model Building Materials Corporation. She was assigned to three years' re-education through labour (21 May 2002 to 20 May 2005) in April 2002 for disrupting public order and committed to the Longshan Re-education through Labour Facility in Shengyang on 21 May 2002. On 22 March 2004 she was moved to the provincial Masanjia Facility. During her assignment she resisted education and often refused to eat, but under careful, patient coaxing from the wardens she resumed eating normally. There was no question of ill-treatment during her period of re-education. Upon the completion of her term she was released in high spirits and good health.

84. Liu Yunxiang, female, aged 38, is from Weifang City in Shandong Province. She was taken into criminal custody by the local public security authorities in October 2000 for disturbing the peace, but released after being taught a lesson. On 30 August 2001, with the approval of the local Re-education through Labour Management Committee, she was assigned to three years re-education for repeatedly distributing, putting up and spray-painting Falun Gong cult material. She was granted early release from re-education on 1 December 2003. Throughout their handling of this case the public security authorities acted rigorously, properly and in a civilized manner. They did not cause Ms. Liu to have a miscarriage. The claims of beatings and electric shocks are sheer rumour mongering.

85. The Government wants to clarify that respect and upholding freedom of religion and belief is one of the Chinese Government's basic national policies. China has over 100 million religious adherents and about 300,000 clerics. The rule of law prevails, and the Constitution guarantees citizens' freedom of religion. No one can be attacked for their religious beliefs. In the cases at issue, Ren and Liu were subjected to re-education through labour for activities that disrupted public order; their treatment had nothing to do with freedom of religion.

86. China was one of the first States to become party to the Convention against Torture, and strictly prohibits torture and other cruel, inhuman and degrading treatment and punishment. Its laws clearly establish that detainees have extensive rights. The Penal Code, Code of Criminal Procedure, Prisons Act and much other legislation strictly prohibit beatings, abuse, corporal punishment and ill-treatment. When violations of detainees' rights come to light, those responsible are punished in accordance with the law. In dealing with the cases above, the

Chinese Government departments concerned complied strictly with their treaty obligations and acted within national law. There was no ill-treatment or use of torture.

Observations

87. The Special Rapporteur is grateful for the Government's reply. She 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.

Urgent appeal sent on 6 December 2005 jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture

90. The Special Rapporteurs brought to the attention of the Government of the People's Republic of China information they had received regarding five Buddhist monks from Drepung Monastery in Lhasa. Their names are **Ngawang Namdrol** of Tsotod Township, Phenpo Lhundrup County, Lhasa Municipality; **Ngawang Nyingpo** of Khartse Township, Phenpo Lhundrup County, Lhasa Municipality; **Ngawang Thupen a.k.a. Shogbu Metok** of Lhasa Inner City, Lhasa Municipality; **Khenpo Ngawang Phelgyal** of Rinpong County, Shigatse Prefecture and **Phuntsok Thupwang** of Gongkar County, Lhoka Prefecture. According to the allegations received, on 23 November 2005, the five monks were arrested following a patriotic re-education ceremony that had been taking place at Drepung Monastery in Lhasa since October 2005. They 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.

91. On 25 November 2005, approximately **400 monks** held a silent sit-down protest in the monastery courtyard. There is concern that members of the army and officers from the People's

Armed Police and the Public Security Bureau beat a number of the monks in thier efforts to disperse them.

92. The Special Rapporteurs also brought to the attention of the Government information they received concerning **Tsering Dhondup**, aged 30, a monk at Sera Monastery, near Lhasa and **Changchup Gyaltzen**, a disciplinarian at Sera Monastery. According to the information received, in July 2005, the authorities expelled Changchup Gyaltzen from Sera Monastery after he read out a request for prayer, which referred to the Dalai Lama. He was placed under surveillance for a year. Tsering Dhondup, who is alleged to have drafted the prayer, disappeared on the same day. He is thought to be held incommunicado at Gutsa prison in northern Lhasa. He is alleged to have possessed and distributed documents criticizing China and supporting Tibetan independence.

Response from the Government dated 12 January 2006

93. The Government indicated that, recently, five monks at the Drepung monastery in the Tibet Autonomous Region were expelled from the monastery by the monastery's management committee, for having breached the monastery regulations. After announcement of this administrative decision, a number of monks from the monastery came to the management committee to demand an explanation. After hearing the explanation provided by the committee, the assembled monks all dispersed and the five monks who had been expelled also expressed their acceptance of the decision and returned to their places of origin. Drepung monastery remains open to the public and its religious activities are continuing as normal. Throughout this entire process, there has been no instance of any monk being physically or verbally assaulted or detained, nor has any monastery been shut down.

94. The Government also explained that article 36 of the Chinese Constitution stipulates that "Citizens of the People's Republic of China enjoy freedom of religion and belief." In accordance with the law, the Chinese Government protects the conduct of normal religious activities by the congregation of Buddhist clergy and laity. Currently, there are more than 40,000 monks and nuns living in more than 1,700 Tibetan Buddhist monasteries in the Tibet Autonomous Region and other religious centres, engaging freely in the study of Buddhist scriptures and conducting all kinds of religious activities. The right to freedom of religious assembly and religious belief is fully respected and their religious needs are fully satisfied. The Government affirms that any person going to Tibet and gaining an understanding of the real situation will reach this same conclusion.

95. In the Tibet Autonomous Region, the monks of every monastery elect their own monastery management committees through a democratic process, enact democratic management rules for each monastery and carry out its routine work. Each monastery, acting in accordance with the relevant management rules, carries out an assessment at regular intervals of the monks under its responsibility, the content of which includes such topics as religious regulations and precepts, monastic rules and general knowledge of the law.

96. The five monks from Drepung monastery were expelled by the monastery's management committee because they had breached the monastery rules and had failed the relevant assessment: this demonstrates that the monastery's management committee was carrying out its routine duties, according to the internal running of the monastery, acting in accordance with the relevant

provisions of Chinese law and the democratic management rules of the monastery, and it has nothing whatsoever to do with freedom of religion or belief.

97. The case of Tsering Dhondupo and Changchup Gyaltzen, monks at Sera monastery in the Tibet Autonomous Region and also mentioned in the communication, is in the process of being investigated by the Chinese Government.

Additional response from the Government dated 18 April 2006

98. The Chinese Government has carefully examined the circumstances of the two monks from Sera Monastery, Tsering Dhondup and Changchup Gyaltzen.

99. Mi Ma, which is the dharma name of Changchup Gyaltzen (male, ethnic Tibetan, born in 1963, resident of Phenpo Lundup, county of Lhasa, Tibet) was expelled from the monastery for engaging in activities within Sera monastery calling for the division of Chinese territory and has currently returned to his place of origin.

100. Tsering Dhondup, which is the dharma name of Ngawang Yönten (male, ethnic Tibetan, born 1976, resident of Phenpo Lundup, county of Lhasa, Tibet) was detained on 26 August 2005 by the Tibetan public security authorities, in accordance with the law, for preparing propaganda materials calling for “Tibetan independence” and advocating division of the State. On 25 October 2005, proceedings were instituted against him, in accordance with the law, by the Lhasa people’s procurator’s office on suspicion of the offence of fomenting division of the State.

101. Article 52 of the Chinese Constitution stipulates that “It is the duty of citizens of the People’s Republic of China to safeguard the unity of the country and the unity of all its nationalities.” China is a country run by the rule of law and its people - regardless of whether or not they are religious believers - are all obliged to respect Chinese law and may not conduct activities in the name of religion which are in breach of the law.

102. The two men referred to above, on repeated occasions, prepared propaganda materials which advocated division of the Chinese State and conducted activities calling for the division of Chinese territory, violated Chinese law and the relevant provisions of the monastery regulations and received the appropriate penalty. The Government states that all this has nothing to do with freedom of religious belief.

103. The Chinese judicial authorities acted in strict accordance with laws and regulations under the Chinese Criminal Code, the Chinese Code of Criminal Procedure and other instruments, and there was no question of any “arbitrary detention” or “torture”.

Observations

104. The Special Rapporteur is grateful for the Government’s responses. She would also 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.

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.

Response from the Government dated 28 June 2006

106. At the time this report was finalized, this reply was still in the process of being translated.

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.

Response from the Government dated 28 November 2006

112. The Government replied that in March 2006, Falun Gong began fabricating the so-called “Sujiatun Concentration Camp” issue, saying that 6,000 Falun Gong 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-the-scene interviews; and two visits were paid by consular personnel from the US embassy. 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 6,000 persons. There was no such basement for incarcerating Falun Gong practitioners, as alleged by Falun Gong. The so-called “cremation oven” announced by Falun Gong 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, with such a physical setting, there is simply no way to cremate corpses in secret, continuously, and in large volume. The rumors fabricated by Falun Gong collapse on their own. Everyone recognizes that Sujiatun Hospital is nothing but a simple hospital and that there is no evidence to show that it is being used for any purpose other than as a public hospital. This once again proves that the “Sujiatun Concentration Camp” fabricated by Falun Gong is nothing more than a rumor.

113. As a WHO member-state, the Chinese Government resolutely abides by the WHO’s 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.

114. 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 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.

115. Presently, the relevant Chinese Government agencies are drafting Human Organ Transplant Regulations in order to create the necessary regulation of human organ donation, registration, matching, and transplant.

116. 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: (1) Written consent must be received from the criminal to be executed and his family; (2) Approval must be received from the provincial-level health authority and the provincial-level higher people's court; (3) The unit using the organs must have the approval of the health authorities at the provincial level or higher and must have the authority/capacity to conduct medical science research or transplant operations.

117. 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 are sentenced to death are those criminals who have committed extremely serious crimes and who should be sentenced to death and executed immediately, not whether they are Falun Gong practitioners. For this reason, there are no statistical data for Falun Gong practitioners who have been executed.

118. In order to deal with the problem of organ supply, each country typically uses two methods: firstly, to increase social awareness and mobilize the population to donate organs; and secondly, to facilitate live organ donation and transplant between relatives. China's methods are not exceptions, but 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; the live organ recipient must be the spouse, direct blood relative, or within three generations of collateral blood relatives.

Observations

119. The Special Rapporteur is grateful for the Government's reply. She has sent a follow-up letter on 25 January 2007 which will be covered in her next addendum on cases transmitted to Governments and replies received.

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.

Response from the Government dated 28 November 2006

122. At the time this report was finalized, this reply was still in the process of being translated.