

## Jubilee Campaign



### **Special Rapporteur on the rights to freedom of peaceful assembly and of association Report to the United Nations Human Rights Council 47<sup>th</sup> Session NGO Submission by Jubilee Campaign regarding the People's Republic of China**

#### ***I. Introduction***

The Constitution of China states in Article 36 that “citizens of the People’s Republic of China enjoy freedom of religious belief”, and the Criminal Law of the People’s Republic of China asserts that “any functionary of a State organ who unlawfully deprives a citizen of his or her freedom of religious belief or infringes upon the customs and habits of an ethnic group...shall be sentenced to fixed-term imprisonment...”<sup>1</sup> In spite of both domestic legislation and China’s ratification of international treaties protecting religious freedom (i.e., International Covenant on Civil and Political Rights), the government of China consistently targets the nation’s religious minorities for surveillance, persecution, and imprisonment. Meanwhile, Chinese human rights lawyers and legal counselors bravely take up the responsibilities of advocating for religious and ethno-religious minorities whose rights are violated by the State. Such includes the right to freedom of religion or belief, but also relevant and mutually inclusive rights such as the right to freedom of association [church or religious/spiritual group membership and participation] and freedom of assembly [religious worship and spiritual gatherings].

This submission to the Special Rapporteur on the rights to freedom of peaceful assembly and of association by Jubilee Campaign seeks to highlight both the essential work of Chinese human rights lawyers as well as the unjust reprisal they face from the Chinese government.

#### ***II. Addressing the Special Rapporteur’s Questions***

***(1) “What has the Government in your country done to ensure the right to an effective remedy, access to justice and accountability for violations and abuses of the rights to freedom of peaceful assembly and association (FoAA), both in law and in practice?”***

***(2) “Some groups face particular obstacles to their rights to FoAA and are at even greater risk of violations of such rights, due to intersecting forms of discrimination (including but not exhaustively women and girls, persons with disabilities, indigenous groups, LGBT persons, children, etc.) How has this translated into further gaps in access to justice and accountability? What are their specific situations, views and needs to ensure that these groups have access to justice and accountability?”***

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<sup>1</sup> World Intellectual Property Organization, *The Constitution law of People’s Republic of China*.  
International Labour Organization, *Criminal Law of the People’s Republic of China*.

The Chinese Communist Party has taken no steps to ensure that citizens' whose rights and freedoms were violated have the ability to seek effective remedy. Due to the overwhelming negative attitude of China towards religion and worship, individuals from religious communities face even more obstacles and discrimination in the justice system. Often, when an individual comes forth to local authorities to explain their situation as victims of religious persecution, they receive punishment – rather than redress – in retribution for their participation in religion in the first place. Jubilee Campaign received questionnaire responses from individuals who experienced religious persecution in China; when asked if they pursued legal remedies, one replied “we could not ask for remedy, because, [to] practice Christian faith in China is illegal, if we do we will receive more persecution.” Another respondent stated that “since the corruption of the laws, the lawyer couldn’t help my family with this type of cause.” Individuals who have appealed their sentences have been flatly rejected or discouraged from appealing due to the likelihood of imminent rejection. Pastor Yang Xibo of Xunsiding Church attempted to appeal a penalty from the local branch of the Ethnic and Religious Affairs Bureau, and his church was forcibly dissolved.<sup>2</sup> Chinese Christian woman Wang Ping was charged with organizing “illegal gatherings” because she hosted in-home worship services; when she tried to appeal her sentence, she was told it would be fruitless.<sup>3</sup> In 2016, Chinese authorities ambushed a worship service at Emmanuel Church and arrested five leaders and 17 congregants; when one of the pastors appealed his charge of “subversion of state power”, the higher court responded by adding a year in prison and a 200,000 RMB (≈ USD \$28,000) fine to his sentence.<sup>4</sup>

***(3) “Are there existing barriers, in law and in practice, for lawyers to be able to protect those exercising their right to freedom of peaceful assembly in your country?”***

China’s judicial system is fraught with corruption, patronage, and “miscarriage[s] of justice”, having a conviction rate of no less than 99.9%.<sup>5</sup> Such is often the case under absolute governance – rule of law is ignored and instead the government leverages arbitrary and prolonged detention, secret trials, and superfluous charges against political activists and religious believers who are perceived as dissidents and threats to the superiority of the regime. Moreover, even though courts are legally supposed to provide lawyers to detained individuals that cannot afford to hire their own, this is not common practice.

The United States Department of State explained in its 2019 report on China that judicial power is exercised neither independently nor impartially. Many judges are influenced and coached to make decisions in line with the CCP’s opinion, especially in “sensitive cases.” This means that judges are bound by the Communist Party’s climate of religious intolerance and withholding of civil and political rights and freedoms, and are therefore rarely likely to rule in favor of individuals whose liberties are violated – especially when they are violated by State authorities.

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<sup>2</sup> Massimo Introvigne, “Xunsiding Church: The Rise and Fall of a House Church”, *Bitter Winter*, 28 August 2019.

<sup>3</sup> Bitter Winter, “Shanxi Christians Undergo Heavy Prison Sentences, One Crippled”, 29 July 2018.

<sup>4</sup> Bitter Winter, “Remembering the Emmanuel Church in Liaoyang”, 11 June 2018.

<sup>5</sup> Cary Huang, “No sign of change in China’s deeply flawed criminal justice system”, *South China Morning Post*, 14 December 2016.

### *III. Notable and Current Case Studies*

#### ***Gao Zhisheng***

Gao Zhisheng is one of the most widely respected human rights lawyers in China, notably for his work defending religious minorities and victims of state persecution, highlighting the torture of Falun Gong practitioners, and defending political activists and critics of the CCP.<sup>6</sup> In 2005, Gao was essentially placed under house arrest, confined to his own home, while tens of police officers initiate 24-hour surveillance and monitoring of his activities.

In the summer of 2006, Gao Zhisheng was arbitrarily detained and disappeared, and in December of the same year, he was charged with ‘inciting to undermine the state’. Gao experienced this torture and arbitrary detention for six weeks, and in November 2007 he was officially placed under house arrest, during which he was revoked access to his bank account, denied from receiving family visits, and his family members reported being monitored and pestered by authorities. Gao disappeared again in April 2010, and no news was released regarding his status and whereabouts until December 2011 when it was announced that he was re-arrested with a three-year imprisonment sentence for allegedly violating his probation terms.<sup>7</sup> After his release from prison in August 2014, Gao still languished under house arrest for three years until he escaped on April 13, 2017 and lived without restraint for three weeks before vanishing into police custody without formal charges

#### ***Wang Quanzhang***

Wang Quanzhang is a human rights lawyer and employee at Fengrui Law Firm in the nation’s capital of Beijing. The majority of Wang’s cases were in defense of Falun Gong practitioners, investigative journalists, democracy advocates, and “political campaigners and victims of land seizures”, all of whom had their inalienable freedoms unduly encroached upon by Chinese authorities.<sup>8</sup> Wang was initially detained, alongside some 200 other human rights and civil rights lawyers, in the ‘709 Crackdown’ which was undertaken by Chinese officials in July 2015. Other than a written letter notifying Wang’s wife, Li Wenzu, of his arrest, Wang remained disappeared without a trace for four years.<sup>9</sup> He was officially released in April 2020.<sup>10</sup>

#### ***Xu Zhiyong & Ding Jiayi***

Xu Zhiyong is a human rights legal advocate and founder of the legal aid center Open Constitution Initiative. He is also the founder of New Citizens’ Movement, an NGO focusing on civil rights advocacy. In December 2019, Xu participated in a civil rights gathering with other prominent activists, and Chinese

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<sup>6</sup> Teng Biao, “‘The Bravest Lawyer in China’ - Gao Zhisheng”, *Amnesty International*, 13 August 2019.

<sup>7</sup> Benedict Rogers, “Where is Gao Zhisheng?”, *UCA News*, 30 April 2019.

<sup>8</sup> BBC News, “Wang Quanzhang: China releases jailed human rights lawyer”, 5 April 2020.

<sup>9</sup> John Sudworth, “Wang Quanzhang: The lawyer who simply vanished”, *BBC News*, 22 May 2017.

<sup>10</sup> Marina Riera, “Chinese Human Rights Lawyer Released After 4 Years”, *Human Rights Watch*, 5 June 2020.

authorities began arresting participants indiscriminately. While Xu was able to escape arrest, one of his colleagues, human rights lawyer Ding Jiayi, was detained in the incident.<sup>11</sup> Ding remains detained to this day under investigation for “incitement of subversion”<sup>12</sup>, and if he is convicted, it will be his second charge; he was previously charged in 2014 for “gathering a crowd to disrupt order of a public space”.<sup>13</sup> Though Xi Zhiyong was able to evade arrest and hide out in a friend’s home, he was apprehended by authorities in February 2020. Both lawyers were arbitrarily imprisoned for their human and civil rights advocacy, and they themselves were apprehended for exercising their own freedom of assembly.

***Li Heping & Li Chunfu***

Li Heping is a prominent human rights lawyer who is “well known for defending the disenfranchised, including Christian house churches, victims of forced evictions and free speech advocates.” Like Wang Quanzhang, Li was detained during the ‘709 Crackdown’, and he was targeted for his legal work as well as for using foreign media outlets and social media platforms to publicly criticize China’s corrupt legal system. He was tried in a clandestine trial and convicted of “subversion of state power.”<sup>14</sup> After two years in detained, he was released in 2017 and returned to his family looking “emaciated” and “unrecognisable” further solidifying his claims of torture while in custody.<sup>15</sup> Li Heping’s brother, Li Chunfu, is another well-known human rights lawyer detained during the crackdown and who spent over a year in secret detention and was released with his mind “shattered” from the ill treatment he received.<sup>16</sup>

#### ***IV. Conclusion and Recommendations***

Jubilee Campaign recommends the Special Rapporteur on freedom of peaceful assembly and association to make the following requests to the People’s Republic of China:

- (1) Cease the practice of persecuting and arresting peaceful religious and spiritual adherents. Likewise, cease the practice of arbitrary detention, prolonged imprisonment, and enforced disappearances of human rights lawyers and activists.
- (2) Release unconditionally and with immediate effect all religious and political prisoners of conscience as well as the rights lawyers that have advocated on their behalf and become targets themselves.

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<sup>11</sup> Human Rights Watch, “[China: Free Prominent Legal Advocate Xu Zhiyong Detained Amid Crackdown on Activists](#)”, 18 February 2020.

<sup>12</sup> Mimi Lau, “[China human rights activist Ding Jiayi under investigation for ‘incitement of subversion’](#)”, *South China Morning Post*, 11 January 2020.

<sup>13</sup> Lawyers for Lawyers, [Ding Jiayi](#).

<sup>14</sup> Benjamin Haas, “[China convicts rights lawyer Li Heping of ‘subversion of state power’](#)”, *The Guardian*, 28 April 2017.

Benjamin Haas, “[EU demands China investigate torture of lawyer and release political prisoners](#)”, *The Guardian*, 28 January 2017.

<sup>15</sup> Tom Phillips, “[‘Emaciated, unrecognisable’: China releases human rights lawyer from custody](#)”, *The Guardian*, 10 May 2017.

<sup>16</sup> Maya Wang, “[China Breaks a Human Rights Lawyer](#)”, *Human Rights Watch*, 18 January 2017.

(3) Combat corruption in China's judiciary by allowing for independent and impartial judicial decisions; providing equal opportunities for legal remedy to individuals whose rights have been violated; and eliminating obstacles to legal representation.

(4) Ratify the UN Convention for the Protection of All Persons from Enforced Disappearance's as well as the Optional Protocol of the Convention against Torture.