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### Human Rights Council

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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**

### **Written statement\* submitted by Jubilee Campaign, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 August 2020]

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\* Issued as received, in the language(s) of submission only.

## Arbitrary and Enforced Disappearance in the People's Republic of China

Jubilee Campaign would like to draw the Council's attention to the pattern of arbitrary detention and enforced disappearances of human rights advocates and lawyers in the People's Republic of China.

The Chinese Communist Party has repeatedly arrested and imprisoned multiple human rights advocates, lawyers, religious minorities, scholars, and journalists for their activism, and has charged these individuals with crimes such as 'inciting subversion of state power.' In July 2015, Chinese authorities embarked on a major suppression campaign, known as "709 Crackdown" in which they conducted mass arrests of over 200 civil rights and human rights defenders and attorneys, many of whom remain imprisoned or disappeared to this day.

The stifling of the activism and work of Chinese human rights lawyers continues despite that it violates China's own domestic law and constitutional provisions. Article 37 of the Constitution of the People's Republic of China states that "Unlawful deprivation or restriction of citizens' personal freedom by detention or other means is prohibited; and unlawful search of the person or citizens is prohibited." Moreover, Article 41 states that "Citizens of the People's Republic of China have the right to criticize and make suggestions to any state organ or functionary. Citizens have the right to make to relevant state organs complaints and charges against, or exposures of, any state organ or functionary for violation of the law or dereliction of duty; but fabrication or distortion of facts for the purpose of libel or frame-up is prohibited."<sup>1</sup>

Despite these constitutional protections, Chinese lawyers- citizens of the People's Republic of China- are unjustly punished, silenced, and targeted for protecting other citizens from human rights violations and persecution from state and non-state actors. They are deemed as separatists, radicals, and enemies of the State. One Chinese human rights lawyer Chen Jiangang, reflects on the situation in China:

"On the program, I noted that the environment for lawyers in China today is continuously deteriorating. One manifestation of this is that government organs are recklessly trampling on the law, without remorse or any need to hide what they are doing.... Of course, in the face of the Chinese judicial system, what we have lost, and what we are dispirited about, is this: We have lost not only the possibility of striving for fairness and justice, but also our work, and the safety of ourselves and our families."<sup>2</sup>

### The Case of Gao Zhisheng

Gao Zhisheng is one of the most widely-known 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>3</sup> Gao spoke out on issues that many people dared not to, for fear of retribution and penalization by state authorities. As a result of Gao's fearless activism, and much like the citizens he has defended and represented, Gao himself has become one of the victims of the CCP's unjust encroachment upon human rights and judicial liberty.

In 2005, not long after Gao withdrew from the Party and issued open letters to CCP officials calling for an end to the persecution and torture of Falun Gong practitioners, government officials swiftly revoked his law license and shut down his firm.<sup>4</sup> Within the same year, Gao was essentially placed under house arrest,

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<sup>1</sup> *The Constitution law of People's Republic of China*, World Intellectual Property Organization, available at: <https://www.wipo.int/edocs/lexdocs/laws/en/cn/cn147en.pdf>

<sup>2</sup> Chen Jiangang, "The Plight of Chinese Human Rights Lawyers" [translation], *Human Rights in China*, 6 July 2020, available at: <https://www.hrichina.org/en/citizens-square/plight-chinese-human-rights-lawyers>

<sup>3</sup> Teng Biao, "'The Bravest Lawyer in China' - Gao Zhisheng," *Amnesty International*, 13 August 2019, available at: <https://www.amnesty.org/en/latest/news/2019/08/bravest-lawyer-china-gao-zhisheng/>

<sup>4</sup> *Gao Zhisheng*, Lawyers for Lawyers, available at: <https://lawyersforlawyers.org/en/lawyers/gao-zhisheng/>

confined to his own home, while tens of police officers initiate 24-hour surveillance and monitoring of his activities when he rarely went outside. Despite this unlawful activity on part of the government, Gao remained spirited and altruistic, even towards his perpetrators.

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.” 2007, however, was the year in which Gao Zhisheng experienced the most human rights violations by his own government, as he later explained in the below statement<sup>5</sup>:

“I was walking down the street one day and when I turned a corner, about six or seven strangers started walking towards me. I suddenly felt a strong blow to the back of my neck and fell face down on the ground.”

“Then, four men with electric shock prods began beating my head and all over my body. Nothing but the noise of the beating and my anxious breathing could be heard. I was beaten so severely that my whole body began uncontrollably shaking.”

“Then, the electric shock baton was put all over me. And my full body, my heart, lungs and muscles began jumping under my skin uncontrollably. I was writhing on the ground in pain, trying to crawl away.”

“After the 12<sup>th</sup> and 13<sup>th</sup> day of my kidnapping, and when I could partially open my eyes, I saw my body was in a horrifying condition. Not a single square centimeter of my skin was normal. It was bruised and damaged over every part.”

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.<sup>6</sup> Starting in January 2009, Gao was disappeared for 14 months- looking back on the incident, Gao explained that “he had been sentenced, but released by the end of September 2009.” 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 August 13, 2017 and lived without restraint for three weeks before vanishing into police custody without formal charges. This is the most recent news we have regarding the status of human rights defender Gao Zhisheng.

While China has neither signed nor ratified the UN Convention for the Protection of All Persons from Enforced Disappearance (CED), it has ratified in 1988 the UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT). For which the definition of torture is “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”<sup>8</sup> the Chinese Communist Party has violated the entire foundation of Convention by (1)

<sup>5</sup> Gao Zhisheng, “Dark Night, Dark Hood and Kidnapping by Dark Mafia: My account of more than 50 days of torture in 2007,” *Human Rights in China*, available at:

[https://www.hrchina.org/sites/default/files/PDFs/PressReleases/2009.02.08\\_Gao\\_Zhisheng\\_account\\_ENG.pdf](https://www.hrchina.org/sites/default/files/PDFs/PressReleases/2009.02.08_Gao_Zhisheng_account_ENG.pdf)

<sup>6</sup> Gao Zhisheng, *Lawyers for Lawyers*, *supra* note 4.

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

<https://www.ucanews.com/news/where-is-gao-zhisheng/85031>

<sup>8</sup> *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment*

committing acts of torture, (2) failing to prevent acts of torture, and (3) failing to prosecute perpetrators of torture.

### **A Call to Action**

In light of the three-year anniversary of Gao Zhisheng's most recent enforced disappearance, we present a quote below from Gao Zhisheng himself to call on the international community to hold the Chinese Communist Party accountable for its oppressive leadership that thrives on the violation of its own citizens' human rights:

“In today's society, it is absurd to think that we should even be discussing whether human rights should be rejected, and yet this is the dark reality we Chinese people have to face year after year! In China, discussing human rights openly has become taboo and has been suppressed by the government as an extremely terrifying threat with even more terrifying measures....Humanity has the innate ability to discover and understand issues, which is not only a part of human rights, but also a prerequisite for society and civilization to advance and perfect itself. This ought to be basic common sense for all humanity and yet again, China is excluded from the universal common sense.”<sup>9</sup>

### **Recommendations to the Council**

- Hold China accountable to its domestic and international human rights obligations- and violations thereof- enshrined in the Constitution of the People's Republic of China and the UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment.
- Urge China to accept international intervention and supervision to install permanent and effective human rights mechanisms to protect all citizens of China, including dissidents and minorities.
- Encourage China to ratify and implement important UN human rights mechanisms.
- Pressure China to release prisoners of conscience such as Gao Zhisheng

### **Recommendations to China**

- Cease the practice of arbitrary detention, prolonged imprisonment, and enforced disappearances of human rights activists and lawyers.
- Release unconditionally and with immediate effect all political and religious prisoners of conscience, including lawyer Gao Zhisheng.
- Ratify the UN Convention for the Protection of All Persons from Enforced Disappearances as well as the Optional Protocol of the Convention against Torture.

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<sup>9</sup> Gao Zhisheng, *2016 Human Rights Report for China* [translated by Christian Solidarity Worldwide, ChinaAid, and Human Rights Foundation, available at: <https://www.csw.org.uk/2017/10/16/report/3754/article.htm>