

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 27/1, 34/18, 34/5 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of the disappearance of the human rights defender Mr. **Gao Zhisheng** from his home, which was reported by a member of his family on 13 August 2017. Mr. Gao Zhisheng has been kept under close surveillance by authorities of Yulin City, Shaanxi Province following his release from detention on 8 August 2014.

Mr. Gao Zhisheng is a human rights defender and lawyer who regularly represents victims of human rights violations; involving persecution of religious minorities, including Falun Gong practitioners and those associated with the unofficial 'house church' movement. In the past, Mr. Zhisheng also represented clients who sought to hold the State accountable for corruption and negligence including forced evictions, as well as clients involved in cases related to freedom of expression and the press.

During the past 12 years, Mr. Zhisheng has reportedly been subjected to continuous surveillance, instances of enforced disappearance, detention, imprisonment and torture which seem to have been directly related to his activities as a human rights defender and lawyer.

In December 2005, his law firm, Shengzhzhi Law Firm, was ordered to cease operations from 30 November 2005 to 29 November 2006.

On 22 December 2006, he was sentenced to three years imprisonment with five years' probation and was deprived of his political rights for one year, having been charged with incitement of subverting state power.

On 16 December 2011, the Beijing Intermediate People's Court No.1 decided to cancel the five years' probation but to maintain and implement the 3 year prison sentence with a one year deprivation of Mr. Zhisheng's political rights.

In June 2017, Mr. Gao Zhisheng's written memoirs of his detention and torture by Chinese authorities were published in Taiwan.

Mr. Gao Zhisheng has been the subject of several communication letters addressed to the Chinese Government since 2005. The most recent communication letter was sent on 1 April 2014. We thank the Chinese authorities for the response which was provided in a letter addressed to the UN Independent Experts dated 30 May 2014.

According to the new information received:

On 13 August 2017, at approximately 8.00 a.m., a member of the family of Mr. Zhisheng visited the human rights defender's home and notified local police when he was unable to find Mr. Zhisheng at home. Local police allegedly failed to locate the human rights defender in the vicinity. Mr. Zhisheng's wife, who fled to the United States in 2009 after repeated instances of harassment by authorities, has also reportedly been unable to reach her husband by phone.

As of the date of this communication, the fate and whereabouts of Mr. Zhisheng are unknown, a situation which places him at great risk of torture and other ill-treatment.

Grave concern is expressed about Mr. Gao Zhisheng's disappearance, personal security and physical and psychological integrity. We cannot dismiss the likelihood that he has been disappeared by the Chinese authorities in relation to his peaceful activities directed at the protection and promotion of human rights in China and as an act of retaliation in response to the recent publication of his memoirs in Taiwan. Our concerns are further aggravated in light of previous instances of forced disappearance of Mr. Zhisheng, who has been held under residential surveillance, incarceration, and incommunicado detention on several occasions since 2006 and been reportedly subjected to torture and other cruel and inhuman treatment.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to these issues brought forth by the situation described above.

In relation to the allegations according to which the fate and whereabouts of Mr. Gao Zhisheng are unknown for nearly a month, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of

All Persons from Enforced Disappearance, which sets out the necessary protection by the State, in particular article 10 (2), which provides that accurate information on the detention of persons deprived of liberty and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.

We are also drawing your Excellency's Government's attention to paragraph 8 (b) of Human Rights Council Resolution 16/23, which reminds States that "Prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished."

We also wish to draw your Excellency's Government attention to articles 3, 9, 10 and 11 of the Universal Declaration of Human Rights, enshrining protection for the right to liberty and security of the person, the right to not be subject to arbitrary detention, as well as the right to a fair and public hearing before an independent and impartial tribunal in the determination of rights and obligations. We would further like to appeal to your Excellency's Government to take all necessary steps to secure the right of Mr. Gao Zhisheng's to freedom of opinion and expression in accordance with the fundamental principles set forth in article 19 of the Universal Declaration of Human Rights.

We would also like to draw your Excellency's Government attention to articles 1 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded by China in 1988, which provides a prohibition on all forms of torture under international law.

We would also like to refer your Excellency's Government to the fundamental principles set forth 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, and in particular articles 1, 2, 9 para. 3, 12 para. 2 and 3.

We would also like to bring your Excellency's attention to the UN Basic Principles on the Role of Lawyers, in particular Principles 16 and 17.

We would also like to bring to the attention of your Excellency's Government that should sources submit the allegations of enforced disappearance mentioned in this communication as a case to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by a separate correspondence.

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

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Zhisheng in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and comments which you may have on the above mentioned allegations.
2. Please provide information on the fate or whereabouts of Mr. Zhisheng. If his fate or whereabouts are unknown to your Excellency's Government, please provide information on the actions taken to investigate his reported disappearance.
3. Please provide details of any specific measures taken by your Excellency's Government to ensure his physical and psychological integrity and well-being, as well as to locate Mr. Zhisheng and provide that information to his family, counsel or to any other persons having a legitimate interest in the information.
4. If Mr. Zhisheng has been arrested and detained, please provide the legal grounds of his arrest, and indicate whether he has been provided access to lawyers of his choosing and any medical care that he may require.
5. Please provide detailed information concerning measures to ensure that human rights defenders in China are able to carry out their legitimate work in a safe and enabling environment without fear of violence, threats or acts of intimidation, harassment or prosecution of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Houria Es-Slami
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
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