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Chen Guangcheng and Gao Zhisheng: Human Rights in China

**Before the Subcommittee on Africa, Global Health, Global Human Rights, and
International Organizations**

**Testimony by
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April 9, 2013

Thank you Mr. Chairman and members of this Committee; Amnesty International USA is pleased to testify at this important and timely hearing.

This hearing is important because of the scale of human rights abuses in China and the urgent need for the US to address those abuses. It's timely because Secretary Kerry will be making his first trip as the Secretary of State soon.

We strongly believe that Secretary Kerry should set the tone of US – China relations in the new Obama Administration. This is a crucial moment to signal to the Chinese Government that the quality of its relationship with the United States will depend in part on whether the Chinese Government lives by universally accepted human rights norms in its domestic and foreign policies.

Failure to speak up and address serious human rights concerns will send a wrong message to the new Chinese leaders about US priorities, and may encourage them to allow abuses to continue. While we do not oppose the US seriously engaging with the Chinese Government on other issues, including economic relations, the crisis on the Korean Peninsula, and other security issues, we strongly urge Secretary Kerry to engage with the same vigor on human rights concerns.

Secretary Kerry should remember that his audience in China includes not just the Chinese government, but the Chinese people. Secretary Kerry should not miss this opportunity to speak directly to the Chinese people about issues they care deeply about, including justice and equality before the law.

It would be impossible for me to cover the vast scope of human rights violations in China, which is staggering. Let me speak briefly to the major categories of violations.

First, hundreds of thousands of individuals are held under administrative detention, including the “re-education through labor” system. They may be detained in these “laogai” forced labor camps

for up to four years without trial. Secretary Kerry should echo calls from prominent Chinese, including many in government, to abolish the laogai system.

Second, China often intimidates, harasses, assaults, abducts, arrests, and places under house arrest lawyers and other human rights defenders who dare to speak out against injustice or try to protect the rights of others.

Third, China continues to execute more prisoners than the rest of the world combined, usually following unfair trials with no right of appeal.

Fourth, torture by law enforcement personnel is endemic, resulting in many prisoners' deaths while in custody.

Fifth, as a consequence of the government's one-child policy, women are still compelled to undergo forced abortion and sterilization, notwithstanding official assurances that such practices violate Beijing's wishes.

Sixth, thousands face brutal religious persecution and political repression. Religious persecution has led to the detention and repression of thousands of Tibetans, Uighurs, "unofficial church" members, and Falun Gong practitioners. Other targets for repression include democracy activists, political dissidents, advocates of political reform, and people using the Internet to disseminate information deemed by the authorities to be politically sensitive or corrosive to state authority.

Mr. Chairman, the Chinese government's record on keeping its promises on human rights has not been impressive. Assurances by authorities that the human rights situation in China would improve if Beijing were awarded the 2008 Olympics have proved false, and repeated promises to reform the system of administrative detention in China have been left unfulfilled.

Below are some of Amnesty International's specific concerns:

Freedom of Expression

The authorities continue to abuse criminal law to suppress freedom of expression. They detained or arrested close to 50 people and harassed and intimidated dozens more during the crackdown on "Jasmine" protests that began in February 2012 in response to the popular movements in the Middle East and North Africa. An initially anonymous call for peaceful Sunday strolls spread across a growing number of cities as a form of protest against corruption, the suppression of rights, and the lack of political reform.

Amendments in March 2012 to the Regulations on the Administration of Publications added a new requirement that those who distributed publications over the internet or information networks must be licensed, or risk criminal penalties. The authorities shut down or took direct control of a number of publications that had published investigative journalism pieces on sensitive issues. They reportedly banned hundreds of words from mobile phone text messages, including "democracy" and "human rights".

The authorities continued to harass, intimidate, persecute and criminalize pro-democracy and human rights activists. Activists supporting the China Democracy Party were sentenced to long prison terms.

Enforced Disappearances

The number of people subjected to enforced disappearances grew in recent years. Many were held in secret detention, including Hada, a Mongolian political activist. Many others remained or were placed under illegal house arrest. They included Liu Xia, wife of Nobel Peace Prize winner Liu Xiaobo, and Zheng Enchong, a housing rights lawyer from Shanghai.

On 30 August, the authorities released draft revisions of China's Criminal Procedure Law, the first proposed changes since 1997. Notwithstanding some positive amendments, the revisions proposed to legalize detention of individuals for up to six months without notification of their family or friends. Many legal commentators regarded this as a legalization of enforced disappearances. Prohibitions against the use of illegal evidence, including coerced confessions and other evidence obtained through torture and other ill-treatment, were incorporated into the draft revisions. However, torture remained pervasive in places of detention, as government policies, such as ones requiring prison and detention center staff to "transform" religious dissidents to renounce their faith, fostered a climate conducive to torture.

FORCED EVICTIONS

Despite international scrutiny and censure of incidents of forced eviction of people from their homes and farmland amid preparations for the Beijing Olympics in 2008, the pace of forced evictions has not subsided. On the contrary, Chinese housing rights activists, lawyers and academics report that such abuses remain widespread and that the problem has intensified over the past four years amid a nationwide construction boom that has spurred as the local authorities attempt to cover debt incurred during the global financial crisis. Amnesty International is concerned that the forced eviction of people from their homes and farmland has become a routine occurrence in China.

The Chinese authorities have not made public official statistics or disaggregated data on evictions or homelessness across the country as was recommended by the Committee in its 2005 Concluding Observations; but Amnesty International estimates that in the past four years, millions of people across the country have been forced from their homes without appropriate legal protection and safeguards.

Chinese authorities fail people at every stage of the eviction process. Chinese citizens are rarely legitimately consulted prior to evictions and there is little to no transparency over the proposed evictions in most cases. Those who resist are subjected to a range of high-pressure tactics aimed at forcing them to cooperate. Amnesty International has been told of many instances where the authorities have cut services such as water, heat and electricity in an attempt to drive residents out of their homes.

In a number of cases, these campaigns to pressure residents into surrendering their property escalate into violence. People facing evictions have been beaten, abducted, murdered, and in at

least one case, buried alive by an excavator. In many cases, violence is carried out by state actors such as police, *chengguan* (“urban management” para-police) or other government employees. In other cases, local authorities have colluded with developers to hire thugs to intimidate and rough up residents. In such cases, police often refuse to respond to calls for help. The incidents are rarely investigated and perpetrators brought to justice except when a case involves a particularly violent incident that receives a lot of public attention.

Amnesty International has recommended to the government to immediately halt all forced evictions, and to develop and adopt guidelines for evictions based on the Basic Principles on Development-Based Evictions and Displacement of the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the right to nondiscrimination in this context that comply with international standards.

REEDUCATION THROUGH LABOR

Under the current system, public security officials (police) can assign people up to four years in Re-education Through Labor without trial or judicial overview. People who are assigned to Re-education Through Labor are accused of minor offences which do not amount to “crime” and which therefore are not prosecuted under the Chinese criminal justice system. The system is also often used against perceived “troublemakers”, activists and human rights defenders, as well as Falun Gong practitioners and others who practice their religion outside officially sanctioned channels.

People assigned to Re-education Through Labor are typically forced to work for many hours a day, often up to 16 hours or until they meet their “quota”, frequently under extremely harsh and unsafe working conditions, and for little or no pay. The type of work they are required to undertake includes manufacturing small electronics and clothing and packaging goods. Despite often having to work with hazardous materials, inmates are given little or no safety equipment. In addition to systematic torture of political prisoners, inmates may be beaten by guards or other inmates for minor infractions or simply at random.

Furthermore, Re-education Through Labor inmates report extremely poor living conditions. They are sometimes held in excessively overcrowded cells, often made to sleep on hard boards with inadequate bedding, and are sometimes not able to go to the toilets freely. They are being fed inadequately on a nutrient poor diet of rice or bread, with small quantities of vegetables and generally no meat. They are also typically not provided with basic necessities such as soap, toothpaste, and shampoo but have to purchase these at a “store” within the facility with money provided by relatives. However, items in these stores are reported to be extremely expensive and money provided to inmates by their families often “disappears” from their “accounts”.

The possible abolition of Re-education Through Labor, a form of punitive administrative detention, that includes detention without trial and forced labor, is currently again the subject of legal debate in China. In January 2013, the Chinese Communist Party’s National Conference on Political and Legal Work announced four areas that are a priority for reform this year; these included Re-education Through Labor and the household registration (*hukou*) system.

The head of the Chinese Communist Party's central Political Legal Committee Meng Jianzhu was quoted in the press saying that China will "stop" using Reeducation Through Labor by the end of 2013 and once the Standing Committee of the National People's Congress approves it. However, the authorities have not made public the details of their plan for the abolition or significant reform of Re-education Through Labor. The reform of Re-education Through Labor was on China's legislative agenda between 2005-2010 but to date has not resulted in any concrete reforms.

During China's first Universal Periodic Review (UPR) in 2009, a Chinese Ministry of Justice representative stated that at the end of 2008, approximately 190,000 individuals were being held in China's 320 Re-education Through Labor facilities. More recently, Chinese authorities have been quoted in the media citing significantly lower numbers for Re-education Through Labor inmates. However, it is clear that even on the lowest estimates provided by the government tens of thousands of individuals are still being subjected to forced labor under the Re-education Through Labor system and other forms of administrative detention.

China has not ratified ILO Convention No 29 on forced labor, nor have they implemented the recommendation of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, following his visit to China in 2005, to abolish Re-education Through Labor and similar forms of re-education in prisons, pre-trial detention centers and psychiatric hospitals.

Amnesty International has systematically over the years called on the Chinese authorities to abolish Re-education Through Labor and other forms of punitive administrative detention.

DEATH PENALTY

In February, the National People's Congress passed the eighth revision of China's Criminal Law which removed the death penalty as punishment for 13 crimes. At the same time, it added a number of new capital crimes and expanded the scope of others. China continued to use the death penalty extensively, including for non-violent crimes, and to impose it after unfair trials. Executions were estimated to number in the thousands. However, statistics on death sentences and executions remained classified.

FREEDOM OF RELIGION OR BELIEF

The authorities pursued their goal of bringing all religious practice under state control, including state oversight over religious doctrine, appointment of religious leaders, the registration of religious groups and construction of sites of worship. People practicing religions banned by the state, or without state sanction, risked harassment, detention, imprisonment, and in some cases, violent persecution. Banned religions included underground Protestant house churches and Catholics who accept the authority of the Holy See. Around 40 Catholic bishops remained unaccounted for, and were presumed to be held by the authorities.

- Between 10 April and the end of the year, members of the underground Shouwang Church in Beijing were detained on a weekly basis as they attempted to hold an outdoor Sunday service in north-west Beijing. Most detainees were held in police stations or under house arrest to prevent the service from taking place. The Church had been repeatedly expelled from rented locations and prevented from taking possession of a building it had purchased years ago.

Falun Gong

The authorities continued to pursue a systematic, nationwide, often violent campaign against the Falun Gong, a spiritual group banned since 1999 as a “heretical cult”. The government was in the second year of a three-year campaign to increase the “transformation” rates of Falun Gong practitioners, a process through which individuals were pressured, often through mental and physical torture, to renounce their belief in and practice of Falun Gong. Practitioners who refused to renounce their faith were at risk of escalating levels of torture and other ill-treatment. The authorities operated illegal detention centers, informally referred to as “brainwashing centers”, for this process. Falun Gong sources reported that one practitioner died every three days while in official custody or shortly after release, and said that thousands remained unaccounted for.

XINJIANG UIGHUR AUTONOMOUS REGION (XUAR)

The authorities escalated security measures through a succession of “strike hard” campaigns which increased around-the-clock street patrols and involved “mobilizing society to wage battle” against acts the authorities claimed harmed state security. In Urumqi, whole neighborhoods were reported to have been sealed off by security checkpoints. Extreme restrictions on the flow of information within and from the XUAR left uncertain the fate of many hundreds detained in the aftermath of the 2009 crackdown on protests in Urumqi. In January, the head of the XUAR High People’s Court referred to ongoing cases connected to the 2009 protests, but the authorities provided no information on the trials. Family members of detained individuals were often not informed of the fate or whereabouts of their loved ones and were often too afraid to communicate with those outside China, for fear of retribution by the authorities.

Freedom of expression in the XUAR continued to be severely restricted, including by vaguely defined crimes of “ethnic separatism” and “terrorism”, which included distributing materials or literary works with “separatist content”.

- Noor-Ul-Islam Sherbaz died on 13 November, allegedly as a result of torture in prison. He was serving a life sentence on charges of “murder” and “provoking an incident” after an unfair trial. He was alleged to have thrown stones during the July 2009 protests, and was aged 17 at the time of his detention. According to a family friend with access to information from the jail, Noor Ul-Islam had been regularly beaten with electric batons in prison. His family were not allowed access to his body and the authorities buried him before an autopsy was done. The authorities failed to provide adequate evidence at his trial, except for his “confession”, which may have been extracted through torture. During his trial, he was represented by a lawyer appointed by the court.

The Chinese government used economic and diplomatic pressure on other countries, including Kazakhstan, Malaysia, Pakistan and Thailand, to forcibly expel or hand over more than a dozen Uighurs to the Chinese authorities. Uighurs forcibly returned to China were at high risk of torture, arbitrary detention and unfair trials, and were often held incommunicado.

TIBET AUTONOMOUS REGION

From 16 March to the end of the year, 10 monks or former monks and two nuns in the Tibetan areas of China set themselves on fire. Six were believed to have died as a result. These protests appeared to be in response to increasingly punitive security measures imposed on religious institutions and lay communities in the region, following the March 2008 protests. The first self-

immolation, by Phuntsok Jarutsang, was followed by protests, mass arrests (including of 300 Kirti Monastery monks), enforced disappearances and possible killings by security forces. Two elderly Tibetans (a man and a woman) died after local residents clashed with security forces while trying to stop the arrests. A third man died from injuries sustained following a police crackdown on demonstrators outside a police station. Individuals connected to protests around the immolations were sentenced to prison terms ranging from three to 13 years. Despite the rash of self-immolations, there was no indication that the Chinese authorities intended to address the underlying causes of the protests or acknowledge the grievances of the Tibetan community.

Gao Zhisheng

Gao Zhisheng is one of the most respected human rights lawyers in China, and has been subjected to enforced disappearance, torture, illegal house arrest and detention as a result of his work. He is currently imprisoned in Shaya county prison in Xinjiang Uighur Autonomous Region in northwest China, after being sent to prison in December 2011 for apparently violating the conditions of his suspended three-year sentence. Prior to this, his whereabouts had been unknown for almost 20 months. He has been repeatedly tortured since 2006, and continues to be at high risk of further torture.

Family members were able to visit Gao Zhisheng in prison on 12 January. This is the first time a visit has been granted in nine months. The visit was tightly controlled - Gao Zhisheng's brother and father-in-law were only allowed to meet with him for half an hour, and were told that they could not ask any questions about Gao Zhisheng's treatment, any case details or ask if he has received any letters in prison. The family was allowed to send him 600 yuan (USD 96) but not any clothes or necessities. He looked fine physically and appeared clear-minded. Gao Zhisheng did not speak or ask much about the family but simply asked that his wife Geng He take good care of the children and not worry too much about him in the prison.

His wife has passed on the following message to Amnesty activists:

"Following a Letter Writing Marathon organized by Amnesty International at the end of last year and actions from the international community, the family of the Gao Zhisheng was granted a second prison visit on 12 January of this year. It is a small improvement, but it could not be achieved without the international community's concerns and the effort and support from the membership of Amnesty International, for which my family and I feel most grateful. I hope Amnesty International will continue to promote this activity, allowing more people to come to know my husband's situation, until he gains his freedom."

What follows is more detailed information about his case:

Enforced disappearance and torture

In December 2011, state media announced that Gao Zhisheng had violated terms of his suspended sentence and was being sent to serve his sentence in prison. This news shocked his friends and family, who had not heard from him since April 2010, and did not even know if he was dead or alive.

Gao Zhisheng disappeared for the first time on 4 February 2009, when police took him from his

family home in Shaanxi Province whilst he was under illegal house arrest. Fourteen months later at the end of March 2010, he re-appeared in Beijing for two weeks.

Gao Zhisheng gave a televised interview to the Associated Press at a Beijing teahouse on 7 April 2010. In the interview, Gao Zhisheng said that "I don't have the capacity to persevere. On the one hand, it's my past experiences. It's also that these experiences greatly hurt my loved ones. This ultimate choice of mine, after a process of deep and careful thought, is to seek the goal of peace and calm."

A couple of days later between 9-12 April 2010, Gao Zhisheng was seen leaving his Beijing home and getting into a vehicle parked outside his building. He was carrying just a backpack when he disappeared for the second time.

In April 2010, the Associated Press said that Gao Zhisheng had refused to discuss his disappearance and his treatment during the interview. However, in December 2010, the Associated Press released new details about Gao Zhisheng's ordeal, saying that they had acted upon Gao Zhisheng's request not to make his account public unless he went missing again or made it to "someplace safe" like the US or Europe.

According to the Associated Press report, published in December 2010, during the 14 months between February 2009 and end of March 2010 Gao Zhisheng had been held in hostels, farm houses, apartments and prisons in Beijing, his native Shaanxi province, and in the Xinjiang Uighur Autonomous Region, where his in-laws live. On several occasions during this period, he was hooded, tied up with belts, made sit motionless for 16 hours, told that his children had had a nervous breakdown. Plain-clothed police, who were holding him, threatened to kill him and dump his body in a river.

In the interview with the Associated Press, Gao Zhisheng said that "for 48 hours, my life hung by a thread" in reference to a week of brutality from 25 September 2009. The week culminated with three police officers taking turns for two days and nights to beat him with handguns in holsters and do other things Gao Zhisheng refused to describe in the interview. He was stripped bare, and when the officers needed to catch their breath in between, they bound his arms and legs with plastic bags and threw him to the floor.

Human rights work and the start of his persecution

The Ministry of Justice named Gao Zhisheng "one of the nation's top 10 lawyers" in 2001 for his pro bono work on public interest cases. He had represented human rights activists and worked on other politically sensitive cases including those involving Falun Gong practitioners as well as death penalty cases. In late 2005, the Beijing Municipal Justice Bureau revoked his lawyer's license and suspended the operations of his law firm Shengzhi Law Office. This was a direct result of Gao Zhisheng's open letters to the government calling on them to stop religious persecution, including persecution of Falun Gong practitioners. His letters were published on numerous overseas Chinese-language websites.

In February 2006 Gao Zhisheng organized a hunger strike campaign to draw attention to the persecution of human rights activists in China. Shortly after the campaign ended, the authorities detained Gao Zhisheng, holding him without charge from 22 August until 21 September, when

he was charged with the vaguely-defined offence of "inciting subversion." He remained in custody until he was sentenced, on 22 December 2006, after a closed trial, to three years' imprisonment, suspended for five years, and one year's subsequent deprivation of political rights. His lawyer was not allowed to attend the trial. Gao Zhisheng was allowed to return home a few days after he was sentenced, but he and his family were kept under illegal house arrest.

In April 2007, Gao Zhisheng told other activists he had been tortured during the period of detention before his trial. He said he had been handcuffed and forced to sit, either in an iron chair or cross-legged, for hours at a time, with bright lights shone in his eyes. He also said that he had been forced to confess after state security officials repeatedly threatened they would harm his family. When the authorities discovered he had given out this information, they increased the harassment of him and his family.

On 13 September 2007, Gao Zhisheng had an open letter to the US Congress published in the US-based Epoch Times newspaper, drawing attention to the deteriorating human rights situation in China. In the letter Gao Zhisheng also said that he did not support the country's staging of the 2008 Olympics. On 22 September 2007, a group of plainclothes police came into his home, stripped off his clothes and beat him unconscious. He was then taken from his home and held incommunicado for nearly six weeks.

During this time, the police subjected Gao Zhisheng to beatings and repeated electric shocks to his genitals. They also held lit cigarettes close to his eyes for hours, which left him partially blind for days afterwards. After he was released his acquaintances described him as "a broken man," physically and mentally. Throughout this time and after he returned to his Beijing home in November 2007, Gao Zhisheng's family were continually harassed by the security forces, and under illegal house arrest. Their friends and other human rights activists tried repeatedly to contact his family but were never able to speak freely with them, as the family's telephone line had been cut, and their house surrounded by police.

His family fled China because of constant harassment by the authorities, and arrived in the United States on 11 March 2009. The authorities had prevented his children from attending school since summer 2008 and his family's bank accounts have been frozen. His daughter had attempted suicide as a result of the strain. In October 2010, his daughter wrote an open letter to the President of the United States of America. In her letter, she writes: "President Obama, as the father of two girls yourself, please ask President Hu Jintao of China to tell this daughter where her father is."

Recommendations re Gao Zhisheng:

During the China-US Human rights Dialog and in meetings with the ambassador of the PRC and Chinese authorities, request that:

- Gao Zhisheng is released immediately and unconditionally;
- Gao Zhisheng is not tortured or otherwise ill-treated
- An independent investigation into allegations that Gao Zhisheng has been tortured is conducted with a view of bringing those responsible to justice

- Gao Zhisheng is given access to legal assistance and any medical treatment he may require
- Gao Zhisheng is allowed regular access to his family

Chen Guangcheng

Blind human rights activist Chen Guangcheng was released from prison on 9 September 2010 after serving his four-year and three-month sentence in full. Upon release, he was escorted back to his home village of Donshigu in Linyi city, Shandong province, where he and his family were immediately placed under illegal house arrest.

Chen is best known for exposing forced abortion and sterilization practices in Linyi County, Shandong Province, and for seeking legal redress for the victims. He also gave legal support to many others whose rights have been violated, including farmers forcibly removed from their land without due process or compensation.

Chen escaped from his home in late April 2012 and fled to Beijing where he took refuge in the US embassy. Eventually he and his immediate family were allowed to leave China for the US. Chen has taken up a fellowship at NYU.

Chen's nephew, Chen Kegui, was detained on 30 April 2012, after fleeing for his safety following a violent raid by local authorities on his family's home on 26 April. The raid – which happened just days after Chen Kegui's uncle, human rights activist Chen Guangcheng, escaped from illegal house arrest – was conducted by around 20 plain-clothed individuals who failed to show any identification or search warrant.

According to those present, Chen Kegui picked up a knife in self-defense and injured several of the intruders, before fleeing the house. On 9 May, Chen Kegui's family was notified that he had been arrested on suspicion of "intentional homicide". However, in October when the police submitted the case to the prosecuting official, the charge was changed to "inflicting intentional injury". Chen Kegui was sentenced by the Yinan County Court in Linyi, Shandong province, in November. He was denied the right to a lawyer of his choice and his family were not called as witnesses or allowed to attend the trial.

On 31 January, Chen Kegui's father, mother and wife were able to visit him for the first time since he was detained. His father, Chen Guangfu, said that the visit at Linyi prison took place behind a glass screen, lasted only 30 minutes and was monitored by two prison staff. He reported that Chen Kegui looked in good health, but was agitated and "feeling a sense of injustice". Chen Kegui, nephew of Chinese human rights activist Chen Guangcheng, was sentenced to three years and three months imprisonment in November 2012.

Recommendations re Cheng Guangcheng/Cheng Kegui

The authorities to ensure that Chen Kegui is not subjected to torture or other ill-treatment and to immediately cease all harassment of Chen Kegui's family.

Recommendations:

- Chinese authorities should allow human rights defenders and their families to carry out their peaceful work without fear of hindrance, intimidation, arbitrary detention or imprisonment, in line with the UN Declaration on Human Rights Defenders.
- Chinese authorities should review the Criminal Law and the Criminal Procedure Law, to bring them into line with the UN Convention Against Torture, including by making inadmissible evidence obtained through torture, strengthening the right of detainees to prompt access to legal counsel and regular family visits, and ensuring the definition of torture encompasses mental torture as a form of torture.
- Chinese authorities should put an end to impunity for torture and other ill-treatment by making institutional reforms necessary to ensure effective implementation of existing laws prohibiting torture.

Thank you for inviting Amnesty International to testify in this hearing.

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