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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by United Nations Watch, 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.

[22 May 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



China Must Release Human Rights Activist Zhang Baocheng

United Nations Watch submits this written statement to call on China to immediately release human rights defender Zhang Baocheng who has been arbitrarily detained by China since 27 May 2019 for exercising his rights to freedom of expression and association. Mr. Zhang had criticized the Chinese government's crimes against the Uighurs in Xinjiang Uighur Autonomous Region (UAR), China and provided aid to another dissident.

The UN Working Group on Arbitrary Detention ("Working Group"), a quasi-judicial panel of five experts, recently upheld in full United Nations Watch's 23-page petition¹ and determined that China is "arbitrarily detaining" Zhang Baocheng.

In its Opinion no. 54/2021,² the Working Group found that China arrested Mr. Zhang without a legal basis and that the detention was arbitrary under four of the five categories for arbitrary detention set out in the Working Group's methods of work. The UN panel called on China to immediately release Mr. Zhang and grant him reparations, and to conduct a full and independent investigation of the circumstances that led to Mr. Zhang's arbitrary detention.

China is widely considered to commit gross and systematic human rights violations affecting its 1.3 billion people. China arbitrarily detains human rights defenders like Zhang Baocheng and Wang Binzhang as a matter of policy and practice to suppress criticism. It is rated "Not Free" by Freedom House³, and "Very serious situation" by Reporters Without Borders with the sixth worst ranking in the world (175 out of 180) on its Press Freedom Index.⁴

Mr. Zhang is a 63-year-old Chinese human rights activist. Since 2006, he has engaged in human rights advocacy, specifically to promote democracy and the rule of law in China. Mr. Zhang was a leader of the now-defunct New Citizens' Movement ("NCM"), a decentralized civil rights movement which campaigned for democracy and government transparency. In 2013-14 the Chinese government cracked down on NCM members due in part to their heavy focus on government corruption, arresting more than 18 NCM activists, including Mr. Zhang who spent almost one year in jail. Following his release, Mr. Zhang continued his human rights advocacy.

Mr. Zhang was again detained on 27 May 2019 ahead of the 30th anniversary of the Tiananmen Square Massacres and has been imprisoned since. The alleged reason for the detention was suspicion of "hiding guns." However, this was only a pretext as no guns or other illegal objects were found after police searched Mr. Zhang personally, as well as his home and car. On November 10, 2020, following a one-day closed trial, Mr. Zhang was convicted of two crimes: picking quarrels and provoking trouble and promoting terrorism and extremism and received a sentence of three years and six months plus a fine of 2000 yuan. At the trial, the only evidence presented concerned Mr. Zhang's tweets concerning reeducation camps for Uighurs and the interrogation record about how he accommodated fellow dissident Huang Qi's mother.

China's detention of Mr. Zhang violates his right to the freedoms of association and expression under Articles 17 and 19 of the Universal Declaration of Human Rights ("UDHR"). As the Working Group explained in its opinion, "Article 29 (2) of the Universal Declaration of Human Rights provides that the only legitimate limitations to the exercise of one's rights and freedoms must be for the purposes of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society." The Working Group specifically found that the detention contravened UDHR guarantees on the right to be free from arbitrary arrest, the right to a fair trial, the right to presumption of innocence, freedom expression, and freedom of association.

Regarding Category I, lack of a legal basis, the Working Group found:

"In the present case, Mr. Zhang was charged under two vague and imprecise offences: picking quarrels and provoking troubles" and "promoting terrorism and extremism and inciting terrorist attacks". The Working Group considers that the charges against Mr. Zhang "are so vague and broad that they could be used to deprive individuals of their liberty without a specific legal basis." As the Working Group has previously stated, the principle of legality

requires that laws be formulated with sufficient precision so that the individual can access and understand the law, and regulate his or her conduct accordingly.”

“The Working Group recommended that those crimes be defined in precise terms and that legislative measures be taken to introduce an exemption from criminal responsibility for those who peacefully exercise their rights guaranteed by the Universal Declaration of Human Rights. The Working Group considers that, in the present case, the laws used to charge the detainees were so vague and overly broad that it was impossible to invoke a legal basis justifying the deprivation of liberty.”

“Noting all the above, the Working Group therefore concludes that the arrest and subsequent detention of Mr. Zhang, was arbitrary and falls under category I as lacking legal basis in breach of article 9 of the Universal Declaration of Human Rights.”

Regarding Category II, contravention of rights to freedom of expression and association, the Working Group found:

“The Working Group finds that the situation in the present case falls short of such requirement. Aside from the vague accusations of “picking quarrels and provoking trouble”, the Working Group has not seen information that would reasonably implicate Mr. Zhang in specific violent or criminal acts that pose threats to the rights and freedoms of others, morality, public order and the general welfare. The Working Group notes the source’s submission that the only prosecution evidence against Mr. Zhang during his trial was his tweets about re-education camps for Uighurs and interrogation records of how he accommodated a family member of an imprisoned activist. As such, the Working Group finds no legitimate aim or objective to justify his deprivation of liberty for his exercise of freedom of expression and association.”

“The Working Group concludes that the detention of Mr. Zhang, resulted from his peaceful exercise of the right to freedom of opinion and expression, and association, and as such was contrary to articles 19 and 20 of the Universal Declaration of Human Rights. In the present case, the application of vague and overly broad provisions as discussed above adds weight to the Working Group’s conclusion that Mr. Zhang’s deprivation of liberty falls within category II.”

Regarding Category III, violation of right to a fair trial, the Working Group said:

“The Working Group finds that Mr. Zhang’s right to legal assistance at all times was not respected as he was denied access to counsel for several weeks. The right to legal assistance is inherent in the right to liberty and security of person as well as in the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, in accordance with articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights. The Working Group considers that this violation substantially undermined and compromised Mr. Zhang’s capacity to defend himself in any subsequent judicial proceedings.”

“The Working Group is satisfied that the source has established that Mr. Zhang’s trial did not meet the standards of a fair and public hearing by an independent and impartial tribunal, in violation of article 10 of the Universal Declaration of Human Rights.”

Regarding Category V, violation of equality before the law, the Working Group found:

“The Working Group has determined that detaining individuals on the basis of their activities as human rights defenders violates their right to equality before the law and equal protection of the law under article 7 of the Universal Declaration of Human Rights. Accordingly, the Working Group finds that Mr. Zhang was deprived of his liberty on discriminatory grounds, that is, due to his status as a human rights defender, as well as on the basis of his political or other opinions. This amounts to a violation of articles 2 and 7 of the Universal Declaration of Human Rights. His deprivation of liberty is thus arbitrary and falls within category V.”

Conclusion and Call to Action

United Nations Watch calls on China, a member of this Human Rights Council, to immediately release Mr. Zhang. Furthermore, United Nations Watch urges UN Secretary-

General Antonio Guterres, UN High Commissioner for Human Rights Michelle Bachelet, and all other relevant UN human rights mandate-holders and special procedures, including the Special Rapporteur on freedom of expression, to condemn China's imprisonment of Mr. Zhang and to demand his immediate release, together with all other political prisoners detained by China.

1 Petition to UN Working Group on Arbitrary Detention, Zhang Baocheng v. China, UN WATCH (Jan. 6, 2019), <https://unwatch.org/wp-content/uploads/2012/01/FINAL-Submitted-Complaint-for-Zhang-Baocheng-v-China.pdf>.

2 <https://www.ohchr.org/sites/default/files/2022-03/A-HRC-WGAD-2021-54-China-AEV.pdf>.

3 Freedom in the World 2022: China, FREEDOM HOUSE (2019), <https://freedomhouse.org/country/china/freedom-world/2022>.

4 2022 World Press Freedom Index, REPORTERS WITHOUT BORDERS (last visited May 11, 2022), <https://rsf.org/en/index>.