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## Human Rights Council

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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 European Centre for Law and Justice, The / Centre Européen pour le droit, les Justice et les droits de l'homme, 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.

[03 June 2019]

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

## **REQUESTING THAT THE U.N. DEMAND THE RELEASE OF WRONGFULLY IMPRISONED PASTOR JOHN CAO THEREBY RECOGNISING AND PROTECTING HIS RIGHT TO FREELY PRACTICE HIS RELIGION**

### **INTRODUCTION AND BACKGROUND**

Cao Sanqiang, a U.S. Lawful Permanent Resident has been unlawfully detained in China at the Menglian Detention Center in Yunnan Province since 5 March 2017.

Pastor Cao has been assisting the poor in China and surrounding areas for over two decades. In fact, China awarded him for these efforts when he established the Yangmeng Elementary School in a very remote and poor village in Guizhou. In an official declaration the Chinese government praised Pastor Cao stating, “You invested in the education with your love for the children and this generous deed will last forever and pass to generations.”

Pastor Cao was continuing those same praiseworthy efforts, simply following China’s own “One Belt, One Road Policy” by assisting in poverty alleviation and education in the Wa State of Northern Myanmar. Therefore, it is no surprise that his efforts there were applauded by the Wa government as well, with the Wa State Education Committee stating:

In 2014, Mr. Cao Sanqiang went to Wa State to carry out poverty alleviation, schooling and school building. By 2017, in the poverty-stricken mountainous areas of Wa State, more than a dozen schools have been built for the poor children of rubber farmers. In order to allow students to go to school free of charge and enjoy basic education such as Chinese, many teachers have volunteered to teach and donate school bags, clothes, stationery and other daily necessities.

The Wa State Education Committee is very grateful for the care and friendship from China, for the extending of China’s “One Belt, One Road” policy to us here, and for the love and support from the teachers who have come to teach and help the children living in abject poverty to learn Chinese and understand Chinese culture.

At all times, Pastor Cao performed his poverty alleviating and educational efforts openly, as sixteen schools were built in three years. During this time, neither China nor Myanmar ever prohibited the exportation or importation of building materials and supplies. In fact, the Wa State Ministry of Foreign Affairs and Wa State Education Committee wrote to Wa Customs clearing the materials and stating:

Currently, Mr. Cao Sanqiang and other warm-hearted Chinese devoted to the Wa State education, are helping Wa State to build schools. So far, seven poverty alleviation primary schools have been successfully built, which has enabled a large number of children who could not go to school before to have their own schools.

Additionally, on several occasions Pastor Cao met directly with Chinese local national security police specifically discussing his charitable work in and travel to Myanmar, with absolutely no problems.

But, on 5 March 2017, Pastor Cao was targeted and detained by police when he was entering China, where he is a citizen and holds a valid passport. He was taken to the Menglian Detention Center and held. Then on 28 March 2017, while still being held at the Menglian Detention Center, Pastor Cao was officially arrested. His case had to be returned to the police twice for further investigation due to lack of sufficient evidence for an indictment, which was finally handed down on 26 September 2017.

Although PRC Criminal Procedural Law Art. 208 states that the trial period shall be concluded and a sentence announced within 3 months of acceptance of the case, not only had a sentence not been announced by the end of December, 2017, there had not even been a trial. In fact, on 20 December 2017, the Menglian County Court, claiming that this case is extremely complicated, obtained the approval from Pu'er Intermediate Court and extra-judicially extended the trial period three months as noted below.

Finally, on 9 February 2018, a short 2.5-hour trial was held, an exceptionally short amount of time for what the Menglian County Court had claimed to be an “extremely complicated” case. Astonishingly, there were no Procuratorate witnesses present, nor was Pastor Cao allowed to provide a defense.

On or about 22 March 2018 (three months past the date required by law), despite trial defects and extreme extrajudicial delays, Pastor Cao was convicted of organizing illegal border crossings, and sentenced to seven years imprisonment. Pastor Cao appealed his conviction and sentencing, and on 22 April 2018, the Pu'er Intermediate Court accepted the appeal.

Even though PRC Criminal Procedural Law Art. 243 states that an appeal must be concluded within two months from the acceptance of an appeal, by mid-June, 2018, with a *subsequent* approval of the Yunnan Provincial High People's Court, the Pu'er Intermediate Court extended the appeal period, for the first time, delaying the deadline for a period of three months to be concluded on 22 September 2018. The subsequent approval is important to note, as Art. 173 of the Judicial Interpretation of Criminal Procedural Law requires the approval of an extension be granted at least five days before the expiration of the appeal period, which did not happen here.

According to PRC Criminal Procedural Law Art. 158 and Art. 243, there are four circumstances that can extend the appeal period by two months, but require an approval by a higher people's court. If a further extension is needed under special circumstances, approval must come from the Supreme People's Court.

Although none of the four circumstances allowing for an extension are present in this case, the Supreme People's Court has approved *three* additional extensions through 22 March 2019.

On 8 March 2019, the Pu'er Intermediate Court issued *The Notice on Changing the Appeal Period*, extending the appeal period for the fourth time to 22 May 2019. However, the notice showed that this extension has not yet been approved by the Supreme People's Court, nevertheless, they have already implemented it, once again in violation of Art. 173 of the Judicial Interpretation of Criminal Procedural Law. As of today, the appeal has still not been heard. The 22 May 2019 deadline came and went, this time without any notification or justification from the court.

Due to these unjustified and extrajudicial delays, Pastor Cao remains in the Menglian Detention Center, which is a temporary holding facility and as a temporary facility is therefore provided limited resources. As such, he is being denied basic rights that would be allowed him in prison; including but not limited to the following:

- a. Visitation;
- b. Medical attention;
- c. Individual bed;
- d. Ample nutrition;
- e. Regulated work and rest periods;
- f. Outside activities with sunshine;
- g. Potential reduction of sentence.

As the Menglian Detention Center does not allow or accommodate the same rights as those afforded in prison, Pastor Cao has been denied visitation rights, among the others delineated above.

According to the PRC Regulation on the Detention Center, Art. 28, the detainee may be visited by immediate family members with the approval of both the case-handling authority and the public security bureau. Nevertheless, Pastor Cao's wife and children have been denied visitation rights to see their husband and father, despite an official request from the U.S. Department of State through its Chengdu Consulate. Furthermore, all family visitation requests filed or made by the attorneys of Pastor Cao have been ignored.

Had the appeal been heard in a timely manner on or before 22 June 2018 as required by law, Pastor Cao would now either be exonerated and home in the United States, or in prison. In either situation, Pastor Cao would be allowed to see his family.

Although Pastor Cao has been suffering significant health issues, he has not been allowed proper medical treatment.

According to the PRC Regulation on the Detention Center, Art. 26, the detainee shall receive timely medical treatment. The detainee shall be put on bail if the health issue is severe. The defense attorneys for Pastor Cao have applied for bail on medical grounds three times. Each of the three applications have been ignored by the Pu'er Intermediate Court.

Due to the continued unjustifiable delay of the appeal hearing, visitation and other basic necessities and rights are being denied Pastor Cao.

**REQUEST**

This Council should respectfully and firmly remind China of its continuing obligations as a Charter member of the United Nations and a signatory to the UDHR and ICCPR. The purpose of this Council and those bodies of law is to protect the human rights of individuals living around the world. China has an obligation to ensure that the rights of all of its citizens are protected, including the rights to freedom of religion and belief, and the right to receive equal treatment under the law.

**CONCLUSION**

Therefore, the ECLJ and more than 169,000 individuals worldwide who have signed our petition to free Pastor Cao, respectfully request that this Council demand the immediate release of Pastor Cao from prison in China and ensure his safe return to his family in the United States.

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