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Criminalizing dissent

The celebration of the 40th anniversary of diplomatic relations between Canada and People's Republic of China reflects the increasing Canada-China connection on rule of law issues, as well as the emergence of China as a global economic power that has domestically lifted millions of its citizens from poverty and enhanced the education of its citizens.

But China's imprisonment of two of its most distinguished human rights activists -- Mr. Gao Zhisheng, and Dr. Liu Xiaobo, the latter recently awarded the Nobel Peace Prize for his extraordinary contribution to the protection of liberty in his country -- is a betrayal both of its global leadership aspirations and the values that underpin the great Chinese civilization.

Let me make full disclosure: I write as a member of the legal defence team of both these political prisoners, and as someone who has represented political prisoners all over the world.

Regrettably, Gao and Liu's imprisonment reflects the increased assaults on the rule of law and the repression faced by human rights advocates in China.

Accordingly, the release of Gao and Liu is crucial in affirming a China that respects the rule of law and the protection of human rights. It will also demonstrate to Canada and to the international community that the Chinese government is committed to its domestic and international legal obligations.

Gao is a human rights lawyer whose advocacy on behalf of religious minorities, coal miners and disabled children earned him recognition as "the conscience of China."

He received a suspended sentence for "incitement to subvert state power" in 2006 and has since been repeatedly tortured by government authorities.

After his "disappearance" in February 2009 -- and substantial international attention -- he "reappeared" in March 2010. The government again caused him to disappear in April 2010; his current whereabouts are unknown.

In particular, Gao has been denied his fundamental rights, including the protection against arbitrary arrest and detention, the denial of a fair trial and the protection against coercive interrogation and torture, while being victimized by trumped-up charges.

Simply put, Gao's detention is a case in point of the Chinese government's forcing human rights lawyers to abandon their advocacy on behalf of persecuted groups. In a word, the government shuts down law firms, disbars lawyers, and pressures judges to dismiss cases. And now, as is the case with Gao, lawyers seem to vanish for the "crime" of defending their clients. This is a line that no rights-respecting rule-of-law country should cross.

As for Liu, the internationally renowned scholar and human rights advocate remains confined in a remote prison in northeast China. His role in co-authoring Charter 08 -- calling on the Chinese government to honour rights entrenched in the Chinese Constitution and to institute democratic reforms -- led to his current illegal and unjust imprisonment.

After a trial that violated Chinese law as well as international law -- and indeed the bilateral undertakings of China to Canada to uphold the rule of law as set forth in our agreements -- Liu was sentenced to 11 years of imprisonment on charges of "incitement to subvert state power and overthrow the socialist system".

As Liu himself wrote after his arrest, "I have long been aware that when an independent intellectual stands up to an autocratic state, step one toward freedom is often a step into prison.

"Now I am taking that step; and true freedom is that much nearer."

Regrettably, the imprisonment of Gao and Liu reflects the increased assault on China's own constitution as well as the related criminalization of dissent in China.

But this need not be regarded as simply a moment of shame for China. Rather, it can be looked upon as a moment of tribute to the heroism of its citizens -- including Dr. Liu's moral courage -- while making true freedom, as he put it, "that much nearer."

Releasing Gao and Liu would demonstrate that China is ready to take its place in the community of nations, prepared not only to be an economic superpower, but to empower its people to compete in the marketplace of ideas.

The choice for China is clear: it can continue to repress its citizens and put itself on the wrong side of history -- fighting a losing battle against the forces of freedom and democracy that its own premier recently called "irresistible" -- or it can stand on the side of justice.

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