



中华人民共和国常驻联合国日内瓦办事处和瑞士其他国际组织代表团

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The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights (hereafter referred to as "the OHCHR") and with reference to the latter's communication [AL CHN 10/2022] dated 1 December 2022, has the honor to transmit herewith the reply of the Chinese Government.

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 12 January 2023

Office of the High Commissioner for Human Rights
GENEVA

(Translated from Chinese)

Receipt is hereby acknowledged of the joint communication of 1 December 2022 sent by the special procedures of the United Nations Human Rights Council, including the Working Group on Enforced Disappearances. The Chinese Government wishes to reply as follows:

1. Huang Xueqin and Wang Jianbing

The public security agencies have now concluded their investigation of Huang Xueqin and Wang Jianbing, who are suspected of endangering national security. Their cases have been transferred to the procuratorial bodies for examination and prosecution, in accordance with the law. The Chinese judicial authorities have dealt with the relevant cases on the basis of conclusive evidence, in accordance with the law. The cases are being tried at first instance by the Guangzhou Municipal Intermediate People's Court. In this process, the legitimate rights and interests of both persons are fully protected.

2. He Fangmei

On 17 September 2021 the Huixian Municipal People's Procuratorate in Henan Province filed a public prosecution case with the Huixian Municipal People's Court accusing the defendant of bigamy; she is accused of creating serious disturbances and disorder in public places. Her behaviour is being investigated for the offences of bigamy and picking quarrels and making trouble. The case is now being tried in the first instance by the Huixian Municipal People's Court.

3. Yang Maodong

Yang Maodong, whose pen name is Guo Feixiong, is a 55-year-old male originally from Xiangyang, Hubei Province, and now lives in Guangzhou, Guangdong Province. In December 2021, he was subjected to criminal coercive measures by the public security authorities, in accordance with the law, on suspicion of committing a crime. The case is now being tried in the first instance by the Guangzhou Municipal Intermediate People's Court. China is a country that respects the rule of law and protects the rights of criminal suspects, in accordance with the law. Its judicial authorities handle cases in accordance with the law, and there is no such thing as "enforced disappearance" or "suppression of human rights".

4. Tang Jitian

Tang Jitian is a 54-year-old male from Yanji, Jilin Province, whose qualifications to practise law were revoked in 2010 by the Beijing judicial authorities, for acting disruptive and out of order in court. China is a country ruled by law, which guarantees the basic rights of its citizens, in accordance with the law. Its judicial organs handle cases in accordance with the law, and there is no such thing as "enforced disappearance" or "suppression of human rights."

5. Exclusion of illegal evidence

Articles 52 and 56 to 60 of the Criminal Procedure Law of the People's Republic of China clearly stipulate that evidence extracted by torture or collected through other illegal means is to be excluded. In order to further regulate the exclusion of illegal evidence, the Supreme People's Court promulgated the (Provisional) Rules on the Exclusion of Illegal Evidence in Criminal Cases by the People's Courts and established a special section on the exclusion of illegal evidence in the Interpretation by the Supreme People's Court of the Application of the Criminal Procedure Law of the People's Republic of China, clearly stipulating the scope of meaning of illegal evidence and the procedures for its exclusion.

6. Guarantees of the right to of lawyers to practise

The Criminal Procedure Law, the Law of the People's Republic of China on Lawyers and other laws have clear provisions on the protection of the right of lawyers to practise. At the same time, the relevant departments have issued rules such as the Provisions on the Legal Protection of Lawyers' Practising Rights, the Provisions on the Effective Protection of Lawyers' Litigation Rights and the Notice on Establishing and Improving the Rapid Interaction and Response Mechanism for the Protection of Lawyers' Rights to Practise Law to improve the mechanism for guaranteeing lawyers' performance of their duties, in accordance with the law, and to further strengthen the protection of their right to practise. The people's courts try relevant cases in accordance with the law, strictly implement the system for defence of the accused and the rules for excluding illegal evidence and safeguard the legitimate rights and interests of lawyers and defendants, such as the right to practise law and the right to a defence, so as to ensure that guilty persons receive a fair trial and innocent persons are not subject to criminal investigation.

联合国人权理事会强迫失踪问题工作组等特别机制
2022 年 12 月 1 日联合来文收悉，中国政府答复如下：

一、黄雪琴、王建兵

目前，公安机关对黄雪琴、王建兵 2 人涉嫌危害国家安全案件侦查终结，依法移送检察机关审查起诉。中国司法机关在掌握确凿证据的基础上，依法处理相关案件，该案正在广州市中级人民法院一审审理中。在此过程中，二人的各项合法权益得到充分保障。

二、何方美

河南省辉县市人民检察院于 2021 年 9 月 17 日向辉县市人民法院提起公诉，指控被告人何方美有配偶而重婚；在公共场所起哄闹事，造成公共场所秩序严重混乱，其行为应当以重婚罪、寻衅滋事罪追究刑事责任。目前该案正在辉县市人民法院一审审理中。

三、杨茂东

杨茂东，笔名“郭飞雄”，男，55 岁，原籍湖北省襄阳市，现住广东省广州市。2021 年 12 月因涉嫌犯罪被公安机关依法采取刑事强制措施。目前，案件正在广州市中级人民法院一审审理中。中国是法治国家，依法保障犯罪嫌疑人各项权利。中国司法机关依法办案，不存在所谓“强迫失踪”“打压人权”等状况。

四、唐吉田

唐吉田，男，54岁，吉林省延吉市人，2010年因扰乱法庭秩序被北京司法部门依法吊销律师执业资格。中国是法治国家，依法保障公民各项基本权利。中国司法机关依法办案，不存在所谓“强迫失踪”“打压人权”等状况。

五、非法证据排除

《中华人民共和国刑事诉讼法》第五十二条、第五十六至第六十条明确规定，对采取刑讯逼供等非法方法收集的证据予以排除。为进一步规范非法证据排除，最高人民法院出台了《人民法院办理刑事案件排除非法证据规程（试行）》，并在《最高人民法院关于适用〈中华人民共和国刑事诉讼法〉的解释》中设置了“非法证据排除”专节，对非法证据的外延、非法证据排除程序等作出了明确规定。

六、律师执业权利保障

《中华人民共和国刑事诉讼法》《中华人民共和国律师法》等法律对保障律师执业权利作出了明确规定。同时，相关部门先后印发《关于依法保障律师执业权利的规定》《关于依法切实保障律师诉讼权利的规定》《关于建立健全维护律师执业权利快速联动处置机制的通知》等，完善保障律师依法履职机制，进一步加强对律师执业权利的保障。人民法院将依法审理相关案件，严格执行辩护制度和非法证据排除规则，依法维护律师执业权利和被告人的辩护权等合法权益，做到不枉不纵，让有罪的人得到公正审判、无罪的人不受刑事追究。