

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Working Group on discrimination against women and girls

REFERENCE:
AL CHN 4/2021

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 43/16, 42/22, 45/3, 43/4, 42/16, 44/8, 43/20 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the arbitrary detention of seventeen human rights defenders sentenced or under investigation or trial for the alleged commission of crimes against the State, that carry prison sentences of 10 years or more. Such crimes would have been perpetrated in connection to activities aimed to the promotion and defence of human rights and in the exercise of their public freedoms.**

This letter is a follow up to previous communications sent on human rights defenders Huang Qi, Guo Hongwei, Chen Xi, Qin Yongmin, Xia Lin, Liu Xiaobo, Li Wangyang, Xu Zhiyong, Chang Weiping, Qin Yongpei, Ding Jiayi and Gao Zhisheng. It also addresses for the first time allegations concerning woman human rights defender Li Qiaochu and human rights defenders Ilham Tohti, Zhang Haitao, Huang Yunmin and Zhao Haitong.

Eleven human rights defenders sentenced of 10 years up to life in prison in connection to the defence of human rights and/ or exercise of public freedoms

The case of Huang Qi

Huang Qi is a journalist and human rights defender. He was the head of the human rights organization Tianwang Human Rights Service and founder of the human rights website 64tianwang, which disseminated reports about alleged cases of enforced disappearances and trafficking in persons. He has been the subject of four previous communications by special procedures (CHN 17/2019, CHN 19/2009, CHN 25/2008, CHN 2/2003). We thank the Government for its replies of 17 December 2009 and of 7 August 2008, but regret the lack of reply to the most recent communication. In April 2018, the

Working Group on Arbitrary Detention found that his deprivation of liberty was arbitrary and fell within categories II and III, in breach of articles 9, 10, 19 and 20 of the Universal Declaration of Human Rights (UDHR) (A/HRC/WGAD/2018/22).

According to information received:

Mr. Huang has been deprived of his liberty since 28 November 2016.

On 29 July 2019, he was sentenced to 12 years in prison by Mianyang City Intermediate People's Court. He was handed a combined sentenced for the charges of "intentionally leaking State secrets" (article 398 of the Criminal Code of the People's Republic of China, hereafter 'the Criminal Code') and for "illegally providing State secrets to foreign entities (article 111 of the Criminal Code). He was also imposed a fine of 20,000 Chinese Yuan (approximately 2,900 USD). While in detention, he was reportedly tortured and ill-treated by the authorities to extract a confession on the offences he had had been accused of.

His current deprivation of liberty is allegedly connected to his reporting on human rights issues, including the publication in the Tianwang Human Rights Centre of a police document issued by the Sichuan Province Public Security Department allegedly ordering the suppression Mr. Huang's journalistic activity and the reporting by the Tianwang Human Rights Center.

According to the State reply of 18 December 2009, Mr. Huang had served at least 8 years in prison before. In 1986, he was sentenced to two years and six months imprisonment on charges of blackmail. In February 2003, he was sentenced to five years in prison on charges of incitement to subvert State power. On 23 November 2009, he was sentenced to three-year imprisonment on charges of illegal possession of confidential State documents. Reportedly, these prior sentences were also linked to Mr. Huang's journalistic and human rights work.

Huang Qi is currently serving his sentence at Bazhong Prison, Bazhong city, Sichuan province. Reportedly, he intends to appeal his verdict to the Supreme Court.

For the first eight months of his detention, he had no access to a lawyer. Two of his lawyers were disbarred first in February 2018 and later few days before his trial on 14 January 2019. Mr. Huang was allowed to talk to his elderly mother via video-link only twice, in September 2020 and on 8 February 2021. On 17 March 2021, two lawyers went to the Bazhong Prison and attempted to meet Huang to discuss the process of appeal to the Supreme Court. Prison authorities denied access, noting that "regulations" stipulate that lawyers are not allowed to meet prisoners during the pandemic. The prison authorities also refused to provide the exact legal basis for their decision, telling the lawyers that such regulations are State secrets.

Mr. Huang suffers from high blood pressure, heart disease, chronic kidney condition and hydrocephalus. Reportedly, Mr. Huang has not had adequate access to health care in prison, and his health conditions have deteriorated

during imprisonment. His life-threatening health problems would allegedly qualify him for release on medical grounds, according to “Measures for Carrying Out Medical Parole for Prisoners” (issued by China’s Ministry of Justice).

The case of Guo Hongwei

Guo Hongwei is a human rights defender exposing alleged corruption by government officials and advocating for democracy in Hong Kong. He has been the subject of two previous communications (CHN 4/2016 and CHN 29/2010). We thank the Government for its reply of 8 August 2016, and regret that no response to CHN 29/2010 have been received so far.

According to information received:

Mr. Guo has been deprived of his liberty since 9 March 2015. On 22 April 2016, at the age of 52, he was sentenced to 13 years in prison for “extorting the government and racketeering” (article 390 of the Criminal Code) and for “picking quarrels and provoking trouble” (article 293 of the Criminal Code) by the Siping intermediate municipal court in Jilin Province.

Mr. Guo had been previously convicted to five years in prison in 2005. Reportedly, in both instances, his detention and convictions were connected to his reporting on government officials’ alleged implication in the embezzlement of public funds and on his pro-democracy activism.

He had access to a lawyer for the first time on 27 May 2015, nearly 3 months after his initial detention.

Reportedly, Mr. Guo has been subjected to physical assault by Court bailiffs and has been beaten by cellmates, who reportedly acted under the orders of detention center authorities.

He suffers from serious health conditions, including high blood pressure and heart disease, which have deteriorated over time due to a lack of adequate medical treatment while in prison.

In April 2018 Mr. Guo’s first appeal to the Supreme Court was rejected. He appeal in October 2018, which remains unanswered to this date. At the time the second appeal was filled, the Court did not acknowledge receipt of his appeal, and no name or contact information was shared with him or his legal representatives.

In May 2020, Mr. Guo was reportedly put in solitary confinement. Reportedly, a prison guard poured disinfectant into the room while he was locked up inside. His family complained about this incident and the general poor living conditions (lack of food and exposure to the cold). In December 2020, the prison gave the guard a warning and transferred the guard to another prison.

On 9 April 2021, Mr. Guo died in a hospital in Jilin province, after unsuccessful brain surgery to treat cerebral hemorrhage.

The case of Chen Xi

Chen Xi is a writer, human rights defender and a member of the NGO Guizhou Human Rights Forum. He was the subject of four previous communications (CHN 4/2016, CHN 1/2012, CHN 29/2010 and CHN 34/2009). We thank your Excellency's Government for its replies of 5 August 2016, 2 April 2012 and of 6 January 2010.

Mr. Chen was arrested in November 2011 by Guiyang police and has been deprived of his liberty since then. On 5 December 2011, the Ghizhou Human Rights Forum was declared illegal.

On 26 December 2011, at the age of 57 years old, Mr. Chen was sentenced to 10 years in prison and 3 years of deprivation of political rights by the Guiyang Intermediate People's Court for the offence of "instigating subversion of the political power of the State" (article 105 (2) 55 para 1, Article 56 para 1) of the Criminal Code).

In 1990, he had been convicted to three years' imprisonment for "counter-revolutionary propaganda and agitation" (art. 102 of the 1979 Criminal Code, which was removed in 1997 amendments Law) in connection to his participation in student movements. In 1996, he was sentenced to ten years' imprisonment "for organizing and leading counter-revolutionary group" (article 98 of the 1979 Criminal Code that was removed in 1997, amendments to the said Code).

It is alleged that Mr. Chen's human rights advocacy work is linked to his current and previous two convictions. In his lifetime, Mr. Chen has been sentenced to 23 years in prison.

It is reported that Mr. Chen has been subjected to ill-treatment and possibly torture, including through harassment by cellmates and solitary confinement. He has developed chronic enteritis which causes diarrhoea, dehydration and fever. Each winter he has contracted severe frostbite on his hands, ears, and abdominal area.

His release from prison is expected on 28 November 2021, at the age of 67.

The case of Ilham Tohti

Ilham Tohti is an ethnic Uyghur of Chinese nationality, a university professor of economics and a defender of the human rights of the Uyghur minority. A significant portion of Mr. Ilham's academic work delved into the high level of unemployment of young Uyghurs. He has specifically called for the implementation of regional autonomy laws in Xinjiang Uyghur Autonomous Region, and has also criticised the Government's development policies for allegedly disadvantaging Uyghurs in their homeland.

He has been awarded numerous international awards in recognition of his human rights work, including the 2019 Sakharov Prize by the European Parliament, the 2019 Vaclav Havel Human Rights by the Council of Europe, the 2017 Prize for freedom award, by Liberal International, and the 2016

Laureate Martin-Ennals award.

Mr. Tohti has been the subject of an Opinion by the Working Group on Arbitrary Detention, issued in July 2014 (A/HRC/WGAD/2014/3). In that Opinion, the Working Group considered the deprivation of liberty of Mr. Tohti arbitrary and in contravention to articles 9, 10, 11, 18, 19, 20 and 21 of the Universal Declaration of Human Rights, and falling under categories II and III.

According to information received:

On 15 January 2014 Mr. Ilham was held incommunicado for ten days, and detained without being informed of the charges against him and without access to a lawyer of his choice.

On 26 January 2014, Mr. Ilham was officially charged for separatism under article 103.1 of the Criminal Code.

On 26 June 2014, he had access to his lawyer for the first time, and three months later, on 23 September 2014, he was sentenced to life imprisonment for the aforementioned charges of separatism. His appeal to Xinjiang Higher People's Court was rejected and the original sentence was upheld.

Reportedly, during his incarceration, Mr. Ilham has been subjected to torture and ill-treatment, including solitary confinement, deprivation of food and intimidation. He suffers from a number of medical conditions regarding his liver, a heart disease, pharyngitis (an inflammation of the pharynx), and prostatitis (infection of the prostate). His current health status is unknown. As a result, it is unclear whether he is receiving adequate medical care. He also faces limitations of family visits, and his communications are reportedly intercepted.

The case of Zhang Haitao

Zhang Haitao has actively written and posted opinions online, critical with Chinese government policies, particularly regarding restrictions on freedom of religion for Uyghur minority in the Xinjiang Uyghur Autonomous Region. For a brief period, he contributed articles to the website of a Chinese human rights group. In 2009, he began to submit petitions to authorities in Xinjiang requesting redress over cases of “wrongful detention.”

According to information received:

On 26 June 2015, Mr. Zhang was arrested by officers of Urumqi City Public Security Bureau under suspicion of “inciting ethnic hatred” under article 249 of the Criminal Law. The officers that carried out the arrest showed a warrant issued by Urumqi City Public Security Bureau.

On 31 July 2015, he was formally arrested on charges of “picking quarrels and provoking trouble” (article 293 Criminal Code).

On 25 December 2015, he was indicted, and on 15 January 2016 convicted for “inciting subversion of State power” under article 105 (2) of the Criminal Law and for “providing intelligence overseas” under article 111 of the Criminal Law. He was sentenced to 19 years in prison for the aforementioned crimes.

Reportedly, the verdict referred to 274 online posts from 2010 to 2015 that “resisted, attacked and smeared” the Communist Party and its policies, “damag[ing] ethnic minority unity and national unity.” He was also found guilty of having “colluded” with “hostile foreign forces” by accepting interviews from foreign media and for “providing intelligence overseas,” by sending articles, emails, and interviews to overseas websites.

Mr. Zhang appealed the sentence arguing, among other things, having been tortured in order to extract a confession. Xinjiang Higher People’s Court should have heard the appeal on 19 April 2016, but the hearing only took place on 28 November 2016. Thirty minutes after the start of the hearing, the court issued a decision upholding the original sentence.

As of 14 January 2021, his family has been able to meet him in prison five times, the last time being on 26 April 2018.

The case of Huang Yunmin

Huang Yunmin is a former soldier and ex-judge, who has exposed alleged corruption within the judiciary and promoted human rights in the Xinjiang Uyghur Autonomous Region since 2008. Mr. Huang has also supported ex-soldiers in seeking medical testing and State compensation for damages suffered in connection to their past work protecting nuclear sites and conducting nuclear tests.

According to information received:

Mr. Huang has been deprived of his liberty since 12 March 2017, when he was arrested from his home by the Public Security Bureau of the Third Division of the Xinjiang Production and Construction Corps Brigade, in Xinjiang Uyghur Autonomous region (criminal detention), with a warrant, for “inciting ethnic hatred and discrimination (article 249 of the Criminal Law).”

On 17 April 2017 he was formally arrested (criminal detention) and on 24 July 2017 indicted on charges of “organising, leading and actively participating in a terrorist organization” under article 120 of the Criminal Law.

In the indictment, the prosecutor referred mainly to Mr. Huang’s online activities between 2009 and 2017, in relation to the “5 July 2009 protest” by Uyghurs in Urümqi, Xinjiang. According to the indictment, Mr. Huang allegedly committed “incitement to violence and terror”, “extremist recordings,” and scaling China’s “firewall” of cyber censorship. In his defence statement, Mr. Huang’s lawyer argued that his online behaviour for which he had been indicted did not constitute crimes tied to terrorism.

In September 2017, Mr. Huang was sentenced to 10 years in prison for “Organizing, leading, and actively participating in a terrorist organization”,

under articles 69 and 120 (3) and (6) of the Criminal Law and article 172 of the Criminal Procedural Law.

The case of Zhao Haitong

According to information received:

Zhao Haitong is a human rights defender and Internet writer. He has engaged in advocacy against Internet censorship and corruption, and called for the promotion and protection of the rights of Uyghurs. Mr. Zhao had also supported detained human rights defenders and activists by visiting them, giving financial donations, and attending their trials.

On 10 August 2013 Mr. Zhao was detained - On 12 September 2013 he was formally arrested on suspicion of “inciting subversion of state power.” - On 17 June 2014, he met with his lawyers for the first time, and informed them he had been tried and convicted on 14 May 2014, to 14 years in prison for “inciting subversion of State power” in the category of “endangering state security”, under article 105.2 of the Criminal Law. He is serving his sentence in Wusu Prison in Wusu City in Xinjiang Uyghur Autonomous Region. Reportedly his health has deteriorated in detention.

The case of Qin Yongmin

Qin Yongmin is a human rights defender and pro-democracy activist. He was the head of an organization named “Human Rights Watch in China”, also known as the “Rose Team”, which has promoted democracy and the protection of rights.

Mr. Qin was the subject of a previous communication of Special Procedures’ mandate holders (CHN 5/2011) and of an Opinion by the Working Group on Arbitrary Detention, adopted in May 2019 (A/HRC/WGAD/2019/20). According to the Working Group, the deprivation of liberty of Qin Yongmin contravenes articles 2, 3, 6, 7, 8, 9, 10, 11 (1) and (2), 18, 19, 20 (1) and 25 of the Universal Declaration of Human Rights, is arbitrary and falls within categories I, II, III and V.

His case was included in the Secretary General’s report on cooperation with the UN in 2020 ([A/HRC/45/36](#) Annex II, paras. 22, 31), 2019 ([A/HRC/42/30](#) Annex II, para. 20), and 2018 ([A/HRC/39/41](#) Annex I, paras. 13, 14, 17), in connection with his prosecution partly for his advocacy in favour of civil society engagement with United Nations human rights mechanisms and bodies.

According to information received:

Mr. Qin was taken into custody on 15 January 2015 and was forcibly disappeared for 70 days.

On 30 March 2015, he was criminally detained and transferred to Wuhan City No. 2 Detention Centre.

On 6 May 2015, he was formally arrested by Wuhan Municipal Public Security Bureau officials on suspicions of “inciting subversion of State power” under article 105 (2) of the Criminal Law

His wife, Ms. Zhao Suli, was forcibly disappeared since early January 2015 (which year?) for 3 years in unknown locations and was released in 2018. She remains under 24-hour surveillance.

Reportedly, he spent three years in police custody without being brought before a judge. On 17 June 2016 he was indicted. On 10 July 2018, the Wuhan City Intermediate People’s Court sentenced him to 13 years in prison and deprivation of political rights for 3 years, for “subversion of State power” under article 105 (1) of the criminal Law. Reportedly, Mr. Qin was also accused of promoting engagement with the UN human rights mechanisms (A/HRC/45/36, Annex II para. 22). In its Opinion adopted in May 2019 concerning Mr. Qin, the Working Group on Arbitrary Detention stated its concerns that “the presence of multiple cases found in violation of international norms on detention indicates a systemic problem with arbitrary detention” (A/HRC/WGAD/2019, 20, para. 92).

He is now serving his prison sentence in Guanghua Prison in Qianjiang city, Hubei province.

In the past Mr. Qin had served a twelve-year sentence from 1998 until 2010, also for “subversion of State power” and from 1982 until 1989, he served an eight year sentence for “counter-revolutionary propaganda and incitement.” Prior to that, in 1993, he served two years in Re-Education Through Labour sentence for “disrupting social order”. In his lifetime, Mr. Qin has been sentenced to 35 years in prison in connection to his human rights work.

On 17 January 2020, Mr. Qin’s family visited him in prison.

On 4 November 2020, the family-appointed lawyer went to the Guanghua Prison to meet with his client, but he was not granted access. The authorities only agreed to receive the documents, including the letter Mr. Qin needed to sign to appoint the lawyer, a prerequisite to enable the authorities decide whether to grant a meeting between Qin and the lawyer.

Mr. Qin suffers from high blood pressure and it is unknown whether he is receiving adequate medical treatment.

The case of Xia Lin

Xia Lin is a human rights lawyer, who has been practicing since 1992. Towards the end of his career he founded a pro-bono legal service firm to take on public interest cases and represent individuals from marginalized groups.

He was the subject of a previous communication (CHN 1/2015). We thank the Government of China for its substantive response of 30 March 2015. Mr. Xia was also the subject of an Opinion by the Working Group on Arbitrary Detention, adopted in August 2016 (A/HRC/WGAD/2016/43).

According to information received:

Mr. Xia has been deprived of his liberty since 8 November 2014, when he was arrested on suspicion of committing the crime of “gambling and fraud” under article 266 (3) of the Criminal Code (criminal detention).

On 3 January 2015, he was formally arrested on the basis of a warrant issued by Beijing Municipal No. 2 People’s Procurator’s office for having allegedly defrauded over 10 million RMB (approximately 1.5 million USD).

Mr Xia was held in pre-trial detention for nearly 20 months before being brought to a judge and no access to a lawyer in the first six months of his deprivation of liberty. Reportedly, his arrest, detention and sentencing is connected to his legal defence and the taking of sensitive cases, including those of well-known activists.

On 26 August 2016, the Working Group on Arbitrary Detention concluded that the deprivation of liberty of Mr. Xia was arbitrary, being in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights.

On 22 September 2016 Mr. Xia was sentenced to 12 years in prison for fraud under article 266 (3) of the Criminal Law.

On appeal, on 21 April 2017, the Beijing Higher People’s Court reduced his sentence to 10 years.

Mr. Xia is now placed with convicted violent criminals, and exposed to bullying from them. Since early 2020, the monthly 30-minutes in person visits of his wife were interrupted in the context of the implementation of Covid-19 measures. Mr. Xia is now allowed to speak on the phone with his wife for 5 to 15 minutes once a month.

The case of Liu Xiaobo

Liu Xiaobo was a prominent, intellectual, writer and human rights defender, the editor of the online journal Democratic China and the former president of the independent Chinese PEN that advocated for human rights and political reform. He was awarded the 2010 Nobel Peace Prize. He was the subject of four previous communications (CHN 1/2010, CHN 50/2008, CHN 60/2004 and CHN 43/2004). We thank the Government for the replies of 13 February 2009 and 9 April 2010.

According to information received:

On 25 December 2009, Mr. Liu was sentenced to 11 years in prison on the charge of “inciting subversion of the State power” (article 105 (2) of the Criminal Code) and to two years’ deprivation of political rights, in connection to publishing articles and collecting signatures on websites outside China to promote democracy and public freedoms.

On 11 February 2010, the Beijing High People’s Court announced publicly its decision to dismiss the appeal and render the initial verdict as final.

In 1989, Mr. Liu had been jailed for 18 months for participating in the student democracy movement and in 1996 and was sent to three years of re-education.

On 13 July 2017, Mr. Liu died shortly after he had been released on medical parole and having served eight and a half years of an 11-year sentence, in connection to his human rights work and for exercising his right to freedom of expression.

The case of Li Wangyang

Li Wangyang was a prominent human and labour rights defender in China. He was the subject of a previous communication (CHN 6/2012). We thank the Government for the substantive reply received on 11 July 2012.

Mr. Li was arrested on 9 June 1989 in connection to his participation in the events of 4 June 1989 in Tiananmen Square.

On 25 October 1989, he was sentenced to 13 years in prison for “counterrevolutionary propaganda and incitement” (article 102 of the Criminal Code). Reportedly, during his first term in prison, he was subjected to severe physical abuse and torture, in connection to which he reportedly lost his eyesight.

Mr. Li was granted medical parole from July 1996 until March 1997. He was released before the end of his term in June 2000, after having served more than 10 years in prison.

Three months after his release, he was sentenced again to 10 years in prison, this time for “inciting subversion of State power” (article 105 (2) of the Criminal Code). During this second term in detention, he was reportedly subjected to torture. He was reportedly locked inside a cell of less than 1.5 m in height and width for several months, with no basic sanitation. Reportedly, at the moment of his release in May 2011 he was completely blind and almost deaf.

Soon after his release from prison in 2011, Mr. Li was admitted to Daxiang District People’s Hospital in Shaoyang City, Hunan Province, for medical treatment.

In 2012, he was brought under 24-hour police surveillance in the hospital, allegedly in connection to interviews he had given.

In the morning of 6 June 2012, Mr. Li was found dead in his room at the Daxiang District People’s Hospital. Two days earlier, he had allegedly given an interview on the events in Tiananmen Square of 4 June 1989, and the possibility of a system of multi-party democracy in China. He was allegedly found hanged, with a noose, made of cloth, around his neck, and tied to a window bar.

Reportedly, Shaoyang City and Daxiang District’s public security authorities carried out on-site and post-event investigations. On 8 June 2012, upon

authorities' request, the independent Forensic Identification Center at Sun Yat-sen University carried out a post mortem examination. On 19 June, the "Forensic Expert Opinion Report" concluded that Mr. Li had committed suicide by hanging.

On 21 June 2012, a team of experts from the Chinese Forensic Association released a 'Forensic Expert Opinion Report', concluding that 'Li Wangyang's death was caused by self-inflicted hanging.'

For further verification, the Hunan police authority proceeded with the launching of a follow-up examination. The joint investigation team concluded that in line with the conclusion of the Zhongshan University Forensic Identification Center, Mr. Li committed suicide by hanging himself. Reportedly, the investigations launched into his death were characterized by serious deficiencies.

Six human rights defenders detained under suspicion of, formally arrested or indicted under national security charges

The case of Li Qiaochu

Li Qiaochu is a women's and labour's rights defender. Since 2017, she has documented and disseminated information to help evicted migrant workers to secure new jobs and find affordable accommodation. She has also supported various #MeToo campaigns and during the COVID-19 outbreak in 2020, she joined a team of volunteers to provide free masks to sanitation workers and help women experiencing domestic violence during the pandemic. She also started an online campaign for the release of human rights defenders, including Mr. Xu, her partner.

According to information received:

On 31 January 2021, Ms. Li filed a "freedom of information request" to the Detention Centre where Mr. Xu is held, inquiring about food portions for detainees and prices of goods sold to them.

On 2 February 2021, she lodged a complaint before the Shandong Provincial Department of Public Security, alleging that Mr. Xu received reduced food portions to as a form of punishment, in violation of national standards.

On 5 February 2021, she tweeted that a police officer from the Haidian District in Beijing asked to meet her shortly before she was supposed to meet her husband. In her tweet, she posted details of torture and ill treatment suffered by Mr. Xu during his RSDL in 2020.

On 6 February 2021, she was detained on suspicion of "subversion of State power" under article 105 (1) of the Criminal Code and on 15 March she was reportedly formally arrested on the same charge. Initially, she was held at a hospital in Linyi for "quarantine purpose." It is unclear, whether she is still there or whether she was later on transferred to the Linyi City Detention Center in Shandong province.

Individuals prosecuted for “incitement to subversion of State power” (article 105(2) of the Criminal Law) may be sentenced up to five years in prison. Article 105(1) allows for sentences longer than five years, without specifying an upper limit, if the judiciary deems a defendant to be a “ringleader” or that the “incitement” constitutes a “major crime.”

Previously, on 16 February 2020, Ms. Li was detained and placed under RSDL until her release on bail on 19 June 2020. At that time, her detention was allegedly due to her activism against gender violence and in favour of the release of her partner, Xu Zhiyong. She suffered from harassment after her release, due to her writing on her RSDL experience.

So far, Ms. Li has not managed to have access to a lawyer of her choice.

The case of Xu Zhiyong

Xu Zhiyong is a human rights defender and legal activist that has worked since 2003 to promote non-violence, provide legal assistance to the homeless and individuals facing the death penalty and advocate for legal reform in China. He founded the “Open Constitution Initiative”, which later gave rise to the “New Citizen’s Movement”, a network of human rights defenders, academics, lawyers and other activists to discuss human rights, political reform, social justice and democracy.

Mr. Xu has been the subject of six communications sent to your Excellency’s Government (CHN 8/2020, CHN12/2013, CHN 8/2013, CHN 29/2010, CHN 21/2009 and CHN 10/2006). We thank your Excellency’s Government for the replies received to these communications, but we regret not having received a response to one of them, UA CHN 29/2010. Mr. Xu’s case is also related to the arrest of a number of human rights defenders in December 2019, communicated in CHN 6/2020. We thank your Excellency’s Government for the reply received to this communication on 2 April 2020.

According to information received:

On 15 February 2020, Mr. Xu was placed in an undisclosed location under RSDL, by Beijing PSB National Security.

On 25 February 2020, the family of Mr. Xu was visited by Keigen national security officers who informed them about his placement in RSDL, and on 30 June 2020, they were officially informed of his arrest. Allegedly, he was held on suspicion of “inciting subversion of State power”, under article 105.2 of the Criminal Law. (See reference above regarding the prison sentences this charge may carry).

On 19 November 2020, Shandnong Provincial Prosecutor extended the investigation period to 10 January 2021. This would have been the third time that the authorities have extended the investigation period. Reportedly, this decision was based on Article 159 of the Criminal Procedure Law, that enables extending the investigation period for 2 additional months, if the person may be sentenced for over 10 year prison sentence.

On 21 January 2021, Mr. Xu's lawyers were allowed to talk to him via a video-link. Mr. Xu is detained in Linshu County Detention Centre. He is said to have received inadequate food both in quantity and quality.

Reportedly, the detention of Mr. Xu is linked to his human rights work, and in particular to the views he expressed on the State response to the COVID-19 pandemic. On 7 and 8 December 2020, he participated in an informal gathering of lawyers and human rights defenders in Xiamen, after which he went into hiding, following multiple arrests of other lawyers that had also taken part in the meeting.

Mr. Xu had been previously imprisoned and sentenced to four years in jail for "gathering crowds to disrupt public order" (article 290 of the Criminal Law), along with other members of the New Citizen's Movement, in connection to his human rights work within the Movement. He was released in July 2017.

The case of Chang Weiping

Chang Weiping is a human rights defender and lawyer. He has defended cases of human rights defenders, discrimination based on health status, sex, gender identity and sexual orientation, and provided pro bono legal services for victims of defective vaccines, as well as for women, LGBTI persons, and persons living with HIV/AIDS or hepatitis B who face discrimination in the workplace. His licence to practice law was suspended on 14 October 2018, and he was disbarred on 13 January 2020 by the Baoji City Judicial Bureau.

He has been the subject of a previous communication (CHN 20/2020) and an urgent action procedure of the Working Group on Enforced or Involuntary Disappearances, dated 5 November 2020. We thank the Government for the reply received on his case on 5 January 2021. However, we regret that no information has been provided clarifying his fate or whereabouts.

According to information received:

Mr. Chang has been forcibly disappeared since 22 October 2020, when he was detained and placed in "residential surveillance at a designated location" (RSDL) by police officers of the Baoji City PSB Gaoxin District Sub-bureau. He was suspected of "inciting subversion of State power" (Art. 105 (2) of the Criminal Law).

On 7 April 2021, Mr. Chang was formally arrested on the charge of "subversion of State power" (Art. 105.(1) of the Criminal Law). At the time of the present communication the whereabouts of Mr. Chang remain unknown.

Six days before his disappearance, on 16 October 2020, Mr. Chang published a video on Youtube where he spoke about his experience of alleged torture during his previous placement in RSDL, from 12 to 21 January 2020. This followed his participation in an informal gathering of lawyers and defenders that took place on 7 and 8 December in Xiamen City, Fujian. On 21 January 2020, he was released from RSDL under bail pending further investigation.

On 3 March 2021, Mr. Chang's lawyer resigned. Since Mr Chang's disappearance of 22 October 2020, this is the fourth lawyers who renounces to defend Mr. Chang, reportedly due to pressure from the authorities on the defence lawyers and their families.

On 6 January 2021, Mr. Chang's wife, **Chen Zijuan** submitted a complaint to the Baoji Municipal Procuratorate against local public security officials who visited her eight times between 22 October and 23 December 2020 in order to exert pressure on her.

The parents of Mr. Chang have been summoned for interrogation several times and a CCTV camera was installed outside their home after they held a demonstration in front of the Gaoxin branch of the Baoji Municipal Public Security Bureau on 14 December 2020 to protest against their son's detention. Mr. Chang's father and brother in law Their mobile phones had their mobiles confiscated and the family is under de facto incommunicado house arrest.

The case of Qin Yongpei

Qin Yongpei is a human rights defender and lawyer from Nanning City in the Guangxi Zhuang Autonomous Region. He has been a vocal critic on social media of alleged Government corruption, human rights violations and abuse of power in China. In his legal work, he has defended other human rights lawyers and acted on behalf of protestors detained in connection with demonstrations against environmental pollution allegedly caused by State-owned mining companies.

Mr. Qin had his license to practise law revoked by the Guangxi Justice Bureau, which also ordered to shut his legal practice. He has been the subject of a previous communication sent to Your Excellency's Government (CHN 20/2020). We thank the Government for the substantive reply received on his case on 5 January 2021.

According to information received:

Mr. Qin has been deprived of his liberty since 31 October 2019. He was detained on 1 November 2020 by Nanning City police officers, suspected of "inciting subversion of State power (article 105 (2) of the Criminal Law).

On 3 December 2019, the police formally confirmed his arrest under the above-mentioned charges, and on 30 April 2020 he was formally indicted by the Nanning city Procuratorate, under the same article 105 (2) of the Criminal Law.

His indictment allegedly refers to Mr. Qin's posts and comments on social media platforms (Weibo and WeChat), as well as to interviews he gave to overseas media, where he allegedly "maliciously slandered and spread rumours against State leaders, attacked the State power and the socialist system and incited members of the public, to doubt the State power and socialist system." The indictment also referred to his plans to conduct "moot court" to openly challenge the State's judicial public powers."

There is no information known regarding the trial date. No pre-trial meeting has been held, nor has a hearing date been registered.

In late January 2021, Mr. Qin was transferred from Nanning City No. 1 Detention Centre, to Nanning Municipal No. 2 detention centre.

Mr. Qin was able to meet his lawyer for the first time only on 1 May 2020, six months after his detention. Since then, he was able to meet with the legal counsel only on few other occasions (4 February 2021; 9 December 2020; 7 and 31 August 2020).

The case of Mr. Ding Jiayi

Ding Jiayi is a human rights lawyer who holds a prominent role in the New Citizens' Movement, a network of human rights defenders and activists who meet to discuss social justice and legal and political reforms. In the past, he has promoted the rights of children of migrants. Currently, he campaigns for fairer governance, greater State transparency and increased equality in the education system. On 18 April 2014, Mr. Ding was sentenced to three and a half years in prison for "gathering a crowd to disrupt order" (article 290 of the Criminal Law), after peacefully exercising his right to protest and over his role in small-scale demonstrations associated with the New Citizens Movement.

He was the subject of a previous communication (CHN 6/2020) and we thank your Excellency's Government for the reply received on 2 April 2020. His case has also been treated under the humanitarian mandate of the Working Group on Enforced or Involuntary Disappearance.

According to information received:

On the weekend of 7 and 8 December 2020, Mr. Ding participated in a gatherings in Xiamen city with other human rights defenders, activists and lawyers.

On 26 December 2020, he was arrested.

On 7 January 2021, his lawyer was notified he had been placed in RSDL; and few days later, he was informed about the chargers faced by his client. Initially, he was charged with "inciting subversion of the State power" under article 105 (1) of the Criminal Code, and on 20 January 2021, the People Procuratorate of Linyi Shi informed Mr. Ding's Lawyer that he was charged with "subversion of state power" under article 105.2 of the Criminal Code (See reference above regarding the prison sentences this charge may carry).

On 2 February 2021, Mr. Ding spoke to his lawyer.

Reportedly, Mr. Ding had been subjected to torture and ill-treatment during the first six months he was placed under RSDL. He was subjected to severe sleep deprivation and prolonged interrogation, including in a device known as "tiger chair." In late January 2020, and for ten straight days, he was played a political propaganda film at the highest volume, 24 hours a day. Mr. Ding did not see the sunlight for six months. A fluorescent lamp was turned on in his

cell 24 hours a day. He was not allowed to shower or brush his teeth and when he went to the toilet and out to the hallways, a black hood was placed over his head.

On 20 February 2021, the People Procuratorate of Linyi city informed Mr. Ding's lawyer, that the deadline to decide on whether to prosecute Mr. Ding had been extended 15 days.

The case of Gao Zhisheng

Gao Zhisheng is a lawyer and human rights defender who regularly represents victims of human rights violations. Mr. Gao Zhisheng has been the subject of several communications addressed to your Excellency's Government since 2005. The most recent communication concerning Mr. Gao's disappearance is dated 12 March 2020 (CHN 5/2020), and was preceded by CHN 8/2017, CHN 3/2014, CHN 29/2010, CHN 4/2009, CHN 31/2017, CHN 40/2006, CHN 42/2006, CN 33/2005, and CHN 27/2005.

We thank your Excellency's Government for the reply of 18 May 2020 to the last communication where information on his previous sentences is repeated, namely that in December 2006 he was sentenced to 3 years imprisonment, a suspended sentence of 5 years and that he was stripped of his political rights for 1 year, for instigation of subversion of the political power of the State and that on 6 January 2011, the Beijing Municipal Intermediate People's Court No. 1 revoked his suspended sentence and assigned him to serve his original sentence. The State reply reiterates that in August 2014 Mr. Gao was released, having served his sentence and clarified that since his release, the public security authorities have not taken any coercive measures against him.

During its 117th session, based on new information provided by the source, the Working Group decided to reopen the case of Mr. Gao, which remains outstanding under its individual case procedure.

Reportedly, Mr. Gao remains disappeared since 13 August 2017 and his family has not received any information about his whereabouts.

While we do not wish to prejudge the accuracy of the information received, we express serious concern about the misuse of criminal legislation to impose lengthy prison sentences against individuals that protect and promote human rights, defend others before national courts, and/or exercise their freedoms of expression, peaceful assembly and association. In exercising their public freedoms, they have exposed alleged human rights violations and called for the respect and implementation of human rights, including the right to participate in political life or to express dissent or/and critical views on the Government and its policies. We stress that such expressions are protected under international human rights law.

We are seriously concerned that human rights defenders Huang Qi, Guo Hongwei, Liu Xiaobo, Li Wangyang, Iham Tohti, Zhang Haitao, Huang Yunmin, Qin Yongmin, Chen Xi, and Zhao Haitong have been convicted with long-term prison sentences of 10 years or more up to life imprisonment in connection to their human rights work or for exercising their public freedoms, under national security crimes typified in the Criminal Code, mainly subversion of State power (or inciting

subversion) but also espionage, terrorism, separatism or for extorting, racketeering, picking quarrels and provoking trouble, or under the crime of fraud, like Xia Lin.

We reiterate our concern for the targeting of those that protect the human rights of minorities, in particular of Uyghurs. We are also seriously concerned that Chang Weiping, Qin Yongpei, Xu Ziyong, Li Qiaochu, and Ding Jiayi are all detained under suspicion of, formally arrested or indicted for subversion or inciting subversion of state power under article 105 (1) and (2) of the Criminal Code, and thus risk long-term imprisonment, if finally convicted. The basis for these charges seem to be related to the legitimate exercise of the legal profession, their right to promote and defend human rights, and/or their right to freedom of expression, association and peaceful assembly.

This criminalisation of the legitimate defence of the human rights of others or the exercise of human rights with reference to national security is incompatible with international human rights law. These cases also reveal what seems to be a broader pattern of restrictions on space for discussion and debate in China, whereby critical or dissenting opinions are characterised as threats to national security. As such, there appears to be a systematic stifling of dissent and targeting of those who exercise their right to freedom of expression, as well as those who promote public freedoms.

We again reiterate our alarm at the continued use of national security provisions of the Criminal Code that have been used to restrict the rights to freedom of expression, of association, and of peaceful assembly. In particular, we are concerned about the length of imprisonment stipulated in articles 105 and 120 of the Criminal Code, among others, raise concerns about proportionality. The concepts of “ringleader”, “major crime”, and “serious circumstances” are broad and vague. The lack of an upper limit on the length of imprisonment in articles 105(2) and 120 (a) does not meet the principle of legal certainty and allows for the imposition of long sentences. In this context, we are particularly concerned about the situation of human rights defenders Chen Xi, Liu Xiaobo, Li Wangyang and Zhang Haitao and Qin Yongmin, who were convicted under article 105(2) and sentenced to 10, 11, 10, 19 and 13 years’ imprisonment, respectively. Likewise, we are concerned that woman human rights defender Li Qiaochu and human rights defenders Chang Weiping, Xu Zhiyong, Qin Yongpei and *Ding Jiayi* are being prosecuted under one of the abovementioned charges.

We express deep concern with regard to allegations of torture and other cruel, inhuman or degrading treatment or punishment and other human rights violations allegedly faced by a number of the abovementioned human rights defenders while in detention, as well as regarding their inadequate access to food and poor prison conditions. Of particular concern is the case of Mr. Li, who was allegedly subjected to torture during his second term in detention and who at the moment of his release in May 2011 was completely blind, almost deaf, and required medical treatment after his release.

Likewise, there are serious concerns about the lack of information about the physical integrity of the human rights defenders included in this communication and regarding their access to adequate medical care and treatment while deprived of their liberty, in particular regarding those whose health conditions are and were known to be critical or life-threatening, such as in the case of Huan Qi, Chen Xi, Ilham Tohti, as well as Guo Hongwei, who died recently in detention while undergoing a surgery and

Liu Xiaobo, who died shortly after being released on medical parole and after having served eight and a half years of his 11 years prison sentence.

Of particular concern are the alleged denial of due process of the human rights defenders included in this communication, including in connection to their access to legal counselling and the alleged breach of their right not to be arbitrarily detained or deprived of liberty. We also wish to reiterate our serious concern regarding the detention of Xu Zhiyong, Li Qiaochu, Ding Jiayi and Chang Weiping in RSDL, the use of which has been found by the Working Group on Enforced or Involuntary Disappearances and the Working Group on Arbitrary Detention, to amount to a form of enforced disappearance¹ as well as the disappearance of Mr. Gao. Grave concern is expressed about Mr. Gao Zhisheng's disappearance, personal security and physical and mental integrity. We cannot dismiss the likelihood that he has been forcibly disappeared by the Chinese authorities in relation to his peaceful activities directed at the protection and promotion of human rights in China.

Furthermore, multiple UN actors have identified alleged intimidation and reprisals for cooperation with the UN, its representatives and mechanisms in the field of human rights, including in the form of arbitrary arrest, detention, ill-treatment and torture, and forcible disappearance into residential surveillance at designated location (A/HRC/45/36, Annex I, para. 25).

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information as to the factual basis for the sentencing of Huang Qi, Guo Hongwei, Chen Xi, Liu Xiaobo, Li Wangyang, Iham Tohti, Zhang Haitao, Huang Yunmin, Zhao Haitong, Qin Yongmin and Xia Lin and how their sentencing is consistent with international human rights law.
3. Please provide information as to the factual basis for the detention and arrest of Chang Weiping, Qin Yongpei, Xu Ziyong, Li Qiaochu, and Ding Jiayi and how it is consistent with international human rights law. Please provide further information on the use of charges related to the "subversion of state power" or incitement thereto in these cases. In the case of Mr. Chang Weiping please indicate his precise place of detention.
4. Please provide information on the legal and factual basis for having detained and placed in RSDL Xu Zhiyong, Li Qiaochu, Ding Jiayi and

¹ See: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session84/A_HRC_WGAD_2019_15.pdf, CHN 15/2018, A/HRC/36/39, para. 71 and A/HRC/19/58/rev.1 pages 36-37

Chang Weiping.

5. Please provide information on whether the National People's Congress has taken steps to amend the Criminal Law to address inconsistencies with international human rights law, particularly vague and ill-defined concepts like "ringleader", "major crime", and "serious circumstances" under article 105.1 and 1052 of the Criminal code? If so please describe these steps and their outcomes.
6. Please provide information about the legal assistance received by the defenders included in this communication since their arrest, detention and where appropriate during trial and appeal, as well as details of how access to legal representation of their choosing has been assured for the human rights defenders since these incidents. In particular, please share information on whether Mr. Huang Qi' had access to his lawyers to be able to file an appeal against his verdict to the Supreme Court.
7. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to consistent allegations of torture and/or cruel, inhuman or degrading treatment against the defenders listed above, in particular Huang Qi, Guo Hongwei, Chen Xi, Li Wangyang, Ilham Tohti, Zhang Haitao, Chang Weiping, Xu Zhiyong and Ding Jiayi. If no investigation has been initiated, please explain why and how this is compatible with the international human rights obligations of China. Please also provide information concerning the prison conditions, including access to adequate food of all defenders included in this communication that are deprived of their liberty.
8. Please provide detailed information about Huan Qi, and Ilham Tohti current health status and about the measures taken by Your Excellency's Government to ensure that they have access to appropriate health care, including medical treatment. Please provide additional information on the reasons why Mr. Guo, needed a surgery and why he died in this process, while in detention.
9. Please provide details as to measures taken by the authorities to ensure the right of lawyers to practice their profession in a safe and enabling environment is guaranteed. If no such measures have been taken, please indicate a manner in which we may engage with your Excellency's Government as to the development of such measures.
10. Please provide information on the fate or whereabouts of Mr. Gao Zhisheng. If his fate or whereabouts are unknown to your Excellency's Government, please provide information on the actions taken to investigate his reported disappearance and the outcomes of any investigation.
11. In relation to the case of Ms. Li Quiaochu, please provide any available information on implemented policies and measures taken regarding the protection of women's human rights defenders.

12. Please indicate any measures taken to prevent the occurrence of acts of intimidation or reprisal, including where necessary, by adopting and implementing specific legislation and policies in order to effectively protect those who seek to cooperate or have cooperated with the United Nations, its representatives, bodies and mechanisms in the field of human rights.
13. Please provide detailed information on measures taken to ensure that human rights defenders in China are able to carry out their legitimate work in a safe and enabling environment without fear of violence, threats or acts of intimidation, harassment or prosecution of any sort.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

We would like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such communications in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

Please accept, Excellency, the assurances of our highest consideration.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Tae-Ung Baik
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

Diego García-Sayán
Special Rapporteur on the independence of judges and lawyers

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Elizabeth Broderick
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the Universal Declaration of Human Rights (UDHR) We would like to refer to articles 9 and 10 of the Universal Declaration on Human Rights, which prohibits in absolute terms arbitrary arrest and guarantees everyone the right to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. In this context, we would also like refer to relevant provisions of the United Nations Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court. More specifically, Principles 7 and 10 refer to the right to be informed of the reasons justifying the deprivation of liberty as well as the right to bring proceedings before a court to challenge the arbitrariness and lawfulness of the deprivation of liberty.

We further recall that in its 2019 annual report, the Working Group on Arbitrary Detention, which states that the right to legal assistance is one of the key safeguards in preventing the arbitrary deprivation of liberty. The right to legal assistance is essential to preserve the right to fair trial, as it safeguards the principle of the equality of arms envisaged in articles 10 and 11 (1) of the Universal Declaration of Human Rights.

We would also like to recall that the prohibition of incommunicado detention. According to the jurisprudence of the Working Group on Arbitrary Detention, enforced disappearances constitute a particularly aggravated form of arbitrary detention.

Furthermore, we would like to refer to article 19 of the UDHR, which guarantees the right to freedom of opinion and expression. It includes the freedom to hold opinions without interference and the right to seek, receive and impart information and ideas through any media and regardless of frontiers.

The conditions for permissible restrictions are reflected in the UDHR:

First, any restriction must pursue a legitimate objective. The UDHR in article 29, for example, limits those objectives strictly ("solely for the purpose of") to the "respect for the rights and freedoms of others and to meet just requirements of morality, public order and general welfare in a democratic society". Secondly, as expressed in article 29 of the UDHR, as well as in other human rights treaties, any restriction must be "determined by law." Third, restrictions must be necessary and proportionate. The UDHR art. 30, for example, prohibits the use of overbroad restrictions, which would destroy the essence of the right itself. This has been interpreted as an expression of the principle of proportionality. The requirement further entails that the measure must be the least intrusive measure necessary amongst those, which might achieve their protective function in order to protect a specified legitimate objective.

The right to freedom of expression is a precondition for democracy, the enjoyment of other human rights and for sustainable development. It follows that the systematic use of criminal law to silence dissent is incompatible with international human rights law.

We wish to emphasize that any detention due to peaceful exercise of rights is arbitrary as per the jurisprudence of the Working Group on Arbitrary Detention.

Moreover, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and also provided for in article 5 of the UDHR and article 7 of the ICCPR. In its resolution 3452 (XXX), the General Assembly rightly declared any act of torture or ill-treatment is an offence to human dignity and "a denial of the purposes of the Charter of the United Nations" (annex, para. 2).

We would like to reiterate to your Excellency's Government the obligations of China through its ratification in 1980 of the International Convention on the Elimination of Discrimination against Women (CEDAW), in particular Article 7 which provides that States shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

As stressed by the Working Group on discrimination against women and girl's in one of its reports to the Human Rights Council (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life.

In a joint declaration, the Working Group on discrimination against women and girls emphasized that women human rights defenders face unique challenges, driven by deep-rooted discrimination against women and stereotypes about their appropriate role in society. Today's rising fundamentalisms of all kinds and political populism, as well as unchecked authoritarian rule and uncontrolled greed for profit-making further fuel discrimination against women, intensifying the obstacles facing women human rights defenders. In addition to the risks of threats, attacks and violence faced by all human rights defenders, women human rights defenders are exposed to specific risks, such as misogynistic attacks, gender-based violence (including sexual violence), lack of protection and access to justice as well as lack of resources.

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20938&LangID=E>)

We would also like to refer to General Assembly resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to, respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law.

The United Nations Declaration on the Protection of All Persons from Enforced Disappearances recognises the right to be held in an officially recognised place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention in order to challenge the legality of the detention (article 10). The same article of the Declaration establishes the obligation of the detaining authorities to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (article 10). The Declaration also establishes the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 12) and provides that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7).

China has expressed on several occasions its support for the international community's efforts to eliminate and prevent enforced disappearances, including at the UN Human Rights Council.² The Working Group on Enforced Disappearances observes that RSDL, where it consists of placing individuals under incommunicado detention for investigation for prolonged periods without disclosing their whereabouts amount to secret detention and is a form of enforced disappearance (A/HRC/36/39, para. 71 and A/HRC/19/58/rev.1 pages 36-37).

We would like to refer to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990. The Basic Principles require governments to take all appropriate measures to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and to prevent that lawyers be threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics (principle 16).

The Basic Principles include a specific provision on the exercise of fundamental freedoms, stating that like other individuals, lawyers "are entitled to freedom of expression, belief, association and assembly", and have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights. Lawyers are also free "to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization" (principle 23).

We would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals,

² Statement made at the 36th session of the Human Rights Council, September 2017

Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular we would like to refer to article 6 paragraph (b), which guarantees the right to freely publish, impart or disseminate views, information and knowledge on human rights and fundamental freedoms; and article 6 paragraph (c), which guarantees the right to study, discuss, form and hold opinions on the observance, both in law and practice, of all human rights and fundamental freedoms and to draw attention to these matters. We would also like to make explicit reference to article 9 of the Declaration, and its third clause in particular, which in its paragraph (c) states that everyone has the right, individually and association with others, to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms. Finally, we would like to reference article 11 of the Declaration, which states that everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession.

We would like to remind your Excellency's Government of principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, which state that all persons deprived of their liberty have the right to legal assistance by counsel of their choice at any time during their detention, including immediately after their apprehension, and such access shall be provided without delay. The denial of access to lawyers of one's choosing violates the right to legal assistance guaranteed under articles 10 and 11 (1) of the Universal Declaration of Human Rights, principles 15, 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 61 (1) of the Nelson Mandela Rules.

Furthermore, we would like to refer your Excellency's Government to the International Covenant on Economic, Social and Cultural Rights (ICESC), ratified by China on 27 March 2001, which in its article 12 provides for the right to mental and physical health. This includes an obligation on the part of all States parties to, inter alia, refrain from denying or limiting equal access for all persons, including prisoners or detainees, to medical care (General Comment 14 of the Committee on Economic, Social, and Cultural rights, para 34). In this connection, we would like to refer to the UN Standard Minimum Rules for the Treatment of Prisoners adopted unanimously by the UN General Assembly (A/Res/70/175) in December 2015 ("Mandela Rules"). Rules 24 to 35 establish that healthcare for prisoners is a State responsibility; prisoners should be ensured prompt access to medical attention in urgent cases and those requiring specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals.

Finally, we would like to again respectfully draw your Excellency's Government attention to Human Rights Council resolutions 12/2 and 24/24 and 36/21 and 42/28 reaffirming the right of everyone, individually or in association with other, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. In these resolutions, States are urged to refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. The Human Rights Council also urges States to ensure accountability for reprisals by providing access to remedies for victims, and preventing any recurrence. It calls on States to combat impunity by conducting prompt, impartial and independent investigations,

pursuing accountability, and publicly condemning all such acts.