

**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 rights to freedom of peaceful assembly and of association and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: AL CHN 2/2022  
(Please use this reference in your reply)

3 February 2022

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 rights to freedom of peaceful assembly and of association and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 43/16, 42/22, 45/3, 43/4, 41/12 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arrest and subsequent enforced disappearances of human rights defenders Mr. Wang Jianbing and Mr. Yang Maodong (pen-name Guo Feixiong), who are facing the charge of "inciting subversion of State power", and concerning Mr. Tang Jitian, who has been reported as forcibly disappeared since 10 December 2021.**

Mr. **Wang Jianbing** is a human rights defender who works to promote labour rights and the rights of persons with disabilities. For the last few years, Mr. Wang has worked for an NGO championing equitable treatment for people with disabilities and in 2018 turned his attention to supporting the cause of workers with occupational diseases. He has also been an outspoken advocate of the #metoo campaign in China.

Mr. **Yang Maodong**, commonly known by his pen-name Guo Feixiong, is a veteran human rights defender who has been the subject of eight urgent appeals and allegation letters sent to your Excellency's Government; on 6 March 2006; on 19 October 2006; on 1 December 2006; on 30 November 2007 and on 22 October 2013 respectively ([CHN 12/2013](#)), 7 August 2015 ([CHN 8/2015](#)), 23 December 2015 ([CHN 13/2015](#)), 3 June 2016 ([CHN 4/2016](#)) and 20 July 2016 ([CHN 6/2016](#)).

He has served a total of 11 years in prison since 2007. In 2019, he was released following the completion of a six-year sentence for "gathering crowds to disturb social order" and "picking quarrels and provoking trouble".

Mr. **Tang Jitian** is a human rights lawyer who was disbarred in 2010, allegedly as a result of his taking on of human rights cases. He was the subject of four previous communications sent to your Excellency's Government, dated 7 November 2008, see A/HRC/10/12/Add.1, para. 586- 591, 10 June 2009, see A/HRC/13/22/Add.1, para. 345-352, 27 April 2010, see A/HRC/16/44/Add.1, para. 388-392, and 428-465 and 16 July 2014 ([CHN 7/2014](#)).

We would further like to follow up on cases raised in a communication sent to your Excellency's government dated 28 April 2021 (CHN 4/2021), namely those of Mr. Qin Yongpei, Mr. Ding Jiayi, Mr. Chang Weiping, Mr. Xu Zhiyong, Ms. Li Qiaochu and Mr. Gao Zhisheng. We thank your Excellency's Government for its response, dated 26 June 2021, and note that it stated, "Information on the cases mentioned in the letter will be provided subsequently". We regret that this information has not yet been received and use this opportunity to seek further clarification. Furthermore, during its 91<sup>st</sup> session in September 2021, the Working Group on Arbitrary Detention issued an opinion finding the detention of Mr. Ding Jiayi to be arbitrary (A/HRC/WGAD/2021/30).

According to the information received:

*The case of Mr. Wang Jianbing*

Mr. Wang Jianbing was detained by police officers from the Guangzhou Public Security Bureau at his home on 19 September 2021, in conditions amounting to enforced disappearance (i.e. deprived of his liberty and this was followed by a denial of such deprivation and the concealment of his fate and whereabouts). His residence was also searched and a number of personal items were confiscated. It is believed that Mr. Wang Jianbing was detained as a result of his holding a number of private gatherings at his residence in the preceding months. In the aftermath of his arrest, a number of his acquaintances were questioned as to who had attended the meetings, and were allegedly pressured to testify that the meetings were of a political nature, and to sign a document stating that Mr. Wang Jianbing had participated in meetings which "subvert State power".

A formal arrest notice dated 27 October 2021 (i.e. more than one month after the actual deprivation of liberty took place) was received by Mr. Wang Jianbing's family stating that the human rights defender had been arrested on suspicion of "inciting subversion of State power" and is being held in Guangzhou No.1 Detention Centre, although his case has not yet been sent to the prosecutor. Prior to their receipt of this notice, Mr. Wang Jianbing's family had not received any legal documentation as to his status, his whereabouts or the charges he was facing. Neither Mr. Wang Jianbing's lawyer nor his family have been permitted access to visit him since his detention on 19 September 2021 to confirm his whereabouts.

*The case of Mr. Yang Maodong (Guo Feixiong)*

Mr. Yang Maodong was forcibly disappeared on 5 December 2021 and family or friends did not receive any information as to his fate and whereabouts until 12 January 2022, when the Guangzhou Municipal Public Security Bureau sent a notification to his family that he had been formally arrested. He has reportedly been charged with "inciting subversion of State power" under article 105(2) of China's Criminal Law, and is being held in Guangzhou No.1 Detention Centre. Neither Mr. Yang Maodong's lawyer nor his family have been permitted access to visit him since his detention to confirm his whereabouts. Prior to his enforced disappearance, Mr. Yang Maodong had been prevented from leaving China to travel to the USA to be with his wife, Ms. Zhang Qing, who was suffering from late stage bowel cancer. On

29 November 2021, Mr. Yang Maodong wrote an open letter to Premier Li Keqiang asking him to investigate why the Ministry for Public Security was continuing to block his application to go abroad. Ms. Zhang Qing died on 10 January 2022.

*The case of Mr. Tang Jitian*

The fate and whereabouts of Mr. Tang Jitian have been unknown since 10 December 2021 and there are legitimate fears that he is detained by authorities. He was due to attend an event hosted by the European Union Delegation in Beijing on 10 December to mark Human Rights Day, but he did not appear at the event and friends and family were not able to contact him for several weeks thereafter. In June 2021, Mr. Tang Jitian was allegedly barred from leaving China to visit his gravely ill daughter in Japan on the grounds that his travel abroad may “endanger national security”. Although Mr. Tang Jitian’s family were reportedly able to reach him by telephone on two occasions prior to 5 January 2022, there has not been any further contact and he has not been given access to any means to contact his family or lawyer. It is further believed that he was under police control during those phone calls. At present, his fate and whereabouts are unknown.

*The cases of Mr. Ding Jiayi, Mr. Xu Zhiyong, Mr. Chang Weiping, Mr. Qin Yongpei, Ms. Li Qiaochu and Mr. Gao Zhisheng*

Further to the information contained in the communication sent to your Excellency’s Government dated 28 April 2021 (CHN 4/2021), it has been alleged that the health of Mr. Ding Jiayi, Mr. Xu Zhiyong, Mr. Chang Weiping, Mr. Qin Yongpei and Ms. Li Qiaochu has deteriorated significantly while in detention. It has been further alleged that the lawyers of these five human rights defenders have been obstructed in their defence of their clients including by not being permitted to make copies of case files and in some instances, to review case files at all. During its 91<sup>st</sup> session in September 2021, the Working Group on Arbitrary Detention issued an opinion finding the detention of Mr. Ding Jiayi to be arbitrary (A/HRC/WGAD/2021/30). On 31 December 2021, Mr. Qin Yongpei was tried in what was a closed hearing, with his wife being the only person from Mr. Qin Yongpei’s side permitted to attend.

There has been no further information on the whereabouts or wellbeing of Mr. Gao Zhisheng since the above communication was sent to your Excellency’s Government. According to reports, he has been forcibly disappeared since 13 August 2017 and his family have not received any further information on his fate and whereabouts.

While we do not wish to prejudge the accuracy of these allegations, we express our serious concern regarding the detention and subsequent enforced disappearance of human rights defenders Messrs. Wang Jianbing and Yang Maodong, and their subsequent charging. We also raise grave concerns at the continued enforced disappearance of Messrs. Gao Zhisheng and Tang Jitian, and the allegations of lack of due process in the judicial proceedings against and the treatment in detention of Mr. Ding Jiayi, Mr. Xu Zhiyong, Mr. Chang Weiping, Mr. Qin Yongpei and Ms. Li Qiaochu.

These arrests of human rights defenders for carrying out their legitimate work, or the exercise of human rights, under the pretext of national security is incompatible with international human rights law. Given that six of the nine human rights defenders named in this communication have been detained on suspicion of, or charged with, subversion of state power “inciting subversion of state power”, which falls under China’s national security legislation, we reiterate our alarm at the continued use of national security provisions of the Criminal Code to restrict the rights to freedom of expression, association, and peaceful assembly. These rights are enshrined in articles 19 and 20(1) of the Universal Declaration of Human Rights, and in this regard we also wish to refer to the Declaration on the Right and Responsibility of Individuals, 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 articles 1, 2, 5, 6 and 12.

We remind your Excellency’s Government that the exercise of the right to freedom of opinion and expression includes the right to a critical or dissenting opinion of Government activities and policy. If the above allegations are confirmed, the misuse of national security legislation with penal sanctions against individuals peacefully exercising their right to freedom of expression would be contrary to China’s obligations under international human rights law. We are also concerned that this is indicative of a broader pattern of growing restrictions on the space for discussion and debate in China, where those who defend and exercise this right find themselves increasingly at risk of medium to long-term incarceration, often under the framework of national security or counter-terrorism legislation.

We are seriously concerned by the lack of information about the physical integrity of the human rights defenders included in this communication, and their access to adequate medical care and treatment while deprived of their liberty. This is particularly true for Messrs. Gao Zhisheng and Tang Jitian, whose fate and whereabouts remain unknown or unconfirmed, and for Mr. Yang Maodong who was detained incommunicado and subjected to enforced disappearance for over a month. We wish to recall that, failure to acknowledge a deprivation of liberty by State agents or the refusal to acknowledge detention are constitutive elements of an enforced disappearance, regardless of the duration of the deprivation of liberty or concealment concerned. Also, by depriving persons of their liberty, States assume responsibility to care for their life and bodily integrity. Due to this heightened duty of care, States must take any necessary measures to protect the lives of individuals deprived of their liberty. Inadequate conditions of detention can be a factor contributing to deaths and serious injury in detention, and when they are seriously inadequate they can constitute an immediate or long-term danger to life.

In view of the above, we would also like to refer to articles 9 and 10 of the Universal Declaration on Human Rights which prohibits in absolute terms arbitrary deprivation of liberty and guarantees everyone the right to a fair and public hearing by an independent and impartial tribunal, in the determination of their rights and obligations and of any criminal charge against them. 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.

The United Nations Declaration on the Protection of All Persons from Enforced Disappearances also recognises the right to be held in an officially recognised place of detention, and 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).

We reiterate our concern at the alleged denial of due process of the abovementioned human rights defenders, including in connection to their access to legal counsel. In this regard, we would like to refer to articles 10 and 11 of the Universal Declaration of Human Rights providing for trial in a fair and public hearing by an independent and impartial tribunal at which all the guarantees necessary for an adequate defence are respected. These include, among others, the right to legal counsel of one's own choosing and to communicate with it as necessary, the right to be tried without delay, and the right to be protected from having to testify against oneself or to confess guilt.

We are deeply concerned that the travel bans issued against Mr. Yang Maodong and Mr. Tang Jitian are in retaliation for their human rights work and moreover, such bans are preventing, or have prevented, them from assisting close family members during the terminal phases of serious illnesses. We would like to refer to article 13(2) of the Universal Declaration of Human Rights in this regard.

We reiterate the concerns expressed in previous communications sent to Your Excellency's Government on 13 August 2020 (AL CHN 16/2020), on 20 September 2020 (OL CHN 17/2020) and on 28 April 2021 (AL CHN 4/2021) at the broad scope of the crime defined as subversion in national legislation; its negative impact on freedoms of expression, peaceful assembly, and association; its implications on the rule of law; and the interference with the ability of civil society organizations to perform their lawful function. We underscore that security and human rights are intertwined and not separate.<sup>1</sup> Effective security demands the protection of rights in a holistic and integrated way. Here we stress the collective interdependency of the compendium of rights set out in the UDHR, which function to collectively complement and enhance the advancement of the security and rights of each individual in society. We acknowledge your Excellency's Government's reply of 23 and 30 October 2020.

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.

We are issuing this appeal in order to safeguard the rights of abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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.

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<sup>1</sup> A/HRC/43/46, para. 5; A/HRC/37/52, para. 5; A/HRC/40/52, para. 11.

2. Please explain the factual and legal basis of the charges facing Mr. Wang Jianbing and how the charges are compatible with international law. Furthermore, please provide information about whether Mr. Wang Jianbing has had access to his family and legal counsel, and if so, please provide the dates and times of that access. Please also provide information on the state of health of Mr. Wang Jianbing.
3. Please provide information about the fate and whereabouts of Messrs. Gao Zhisheng and Tang Jitian, and, if detained, the grounds on which they are being held, the authority responsible for supervising the deprivation of liberty, the place where they are held and elements relating to their state of health. Please also confirm whether they, along with Mr. Yang Maodong, have had access to the respective family and legal counsel, and if so, please specify when. Lastly, please provide information about the grounds for Messrs. Yang Maodong and Tang Jitian's continued bans on leaving China.
4. Please provide information regarding measures taken to ensure that those deprived of their liberty, or their representatives, may take proceedings before a court to challenge the lawfulness of the respective deprivation of liberty, and order their release. Please also provide information concerning measures taken to investigate the aforementioned alleged enforced disappearances, to identify those responsible, and prosecute and, where appropriate, sanction them.
5. Please provide the information requested in the communication sent to your Excellency's Government dated 28 April 2021 and furthermore please describe the conditions of detention for Ding Jiayi, Xu Zhiyong, Chang Weiping, Qin Yongpei, and Li Qiaochu. Please confirm if their appointed legal representatives have had unhindered access to information that would aid their clients' defence. Please also provide the information requested in the communication sent to your Excellency's Government dated 28 April 2021 and furthermore please describe the conditions of detention for Mr. Ding Jiayi, Mr. Xu Zhiyong, Mr. Chang Weiping, Mr. Qin Yongpei, and Ms. Li Qiaochu. Please also confirm if their appointed legal representatives have had unhindered access to information that would aid their clients' defence.
6. Please provide information on how the definition of "subversion of State power" is compatible with the principle of legal certainty established under the UDHR.

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

We would like to bring to the attention of your Excellency's Government that should sources submit the allegations concerning Messrs. Gao Zhisheng and Tang

Jitian for the consideration of the Working Group on Enforced or Involuntary Disappearances under its humanitarian procedure, their cases will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

We would also like to inform your Excellency's Government that after having transmitted this joint urgent appeal 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. This communication of allegations in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the urgent action procedure and the Working Group's regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable damage to the life and integrity of the persons concerned, 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.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Miriam Estrada-Castillo  
Vice-Chair of the Working Group on Arbitrary Detention

Luciano Hazan  
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

Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Fionnuala Ní Aoláin  
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

## **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, 10 and 11 of the Universal Declaration on Human Rights, which prohibits in absolute terms arbitrary deprivation of liberty 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 as well as of enforced disappearance. According to the jurisprudence of the Working Group on Arbitrary Detention, enforced disappearance inherently deprives the person from the right to challenge the legality of detention and therefore constitutes 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, protected by the UDHR, including the rights under article 19, is prohibited by international law and therefore arbitrary as per the jurisprudence of the Working Group on Arbitrary Detention.

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).

Moreover, pursuant to article 1(2) of the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, “any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life”. Pursuant to article 13 of the Declaration, States must ensure that complaints concerning alleged enforced disappearances are promptly, thoroughly, independently and impartially investigated. Moreover, article 19 of the Declaration sets forth that victims of enforced disappearance and their family shall obtain redress and have the right to adequate compensation, including the means for as complete a rehabilitation as possible.

We would further like to refer to the study on ECOSOC rights and enforced disappearances (A/HRC/30/38/Add.5), in particular to its paragraphs 33 - 41, which emphasize that enforced disappearance should not be used as a repressive measure and a tool to deter the legitimate exercise, defence, or promotion of the enjoyment of economic, social and cultural rights and that human rights defenders should be able to do so without being subjected to any reprisal.

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.<sup>2</sup> The Working Group on Enforced Disappearances observes that Residential Surveillance at a Designated Location (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, 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.

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<sup>2</sup> Statement made at the 36th session of the Human Rights Council, September 2017

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.

We highlight that the term subversion is problematic given the requirement of legal certainty elucidated under article 11 of the UDHR. Concerns about the use of subversion legislation and misuse of this terminology by your Excellency's Government have already been made on multiple occasions by the mandates of the Working Group on Arbitrary Detention, the Special Rapporteur on the Rights to Freedom of Opinion and Expression and the Special Rapporteur on the Situation of Human Rights Defenders (OL CHN 17/2020, AL CHN 2/2018, UA CHN 10/2015: UA CHN 5/2015: UA CHN 5/2015: and UA CHN 7/2016). Subversion is almost uniformly directed towards the regulation of activity viewed as political under domestic law. Subversion is generally understood as a 'political crime' which has a legal genealogy across the globe: deployed to punish individuals for what they think (or what they are thought to think) rather than on the basis of action or activities which pose a defined criminal threat.