

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

Ref.: AL CHN 5/2025
(Please use this reference in your reply)

28 February 2025

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 and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 52/4, 51/8, 54/14, 52/9 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **ongoing imprisonment of ten human rights defenders, Ding Jiayi, Huang Qi, Huang Yunmin, Ilham Tohti, Qin Yongmin, Zhang Haitao and Zhao Haitong, serving prison sentences of ten years or longer, and the conditions of their detention. In addition, we wish to express our concern at the enforced disappearance of human rights defender Gao Zhisheng, whose fate and whereabouts are unknown since 2017.**

This letter is a follow up to communication AL CHN 4/2021 sent on the situation of human rights defenders Ding Jiayi, Gao Zhisheng, Huang Qi, Huang Yunmin, Ilham Tohti, Qin Yongmin, Zhang Haitao and Zhao Haitong; and to communication AL CHN 15/2024 concerning Ilham Tohti and AL CHN 5/2023 concerning Ding Jiayi.

We thank your Excellency's Government for its replies of 26 June 2021 to AL CHN 4/2021, of 13 January 2025 to AL CHN 15/2024 and of 21 July 2023 to AL CHN 5/2023, but regret that answers to certain specific questions posed relating to the conditions of detention were not provided. We further note that the reply of 26 June 2021 stated that "Information on the cases mentioned in the letter will be provided subsequently". We regret that no such additional information was received further to the reply of 26 June 2021.

Furthermore, the case of Mr. Gao Zhisheng has been transmitted to your Excellency' Government through separate correspondence, under the humanitarian procedure of the Working Group on Enforced or Involuntary Disappearances. The case remains outstanding.

In addition to the previous concerns we raised, which were not responded to and which we would like to reiterate, we have also received some further information on the above mentioned cases that we would like to bring to the attention of Your Excellency's Government.

According to the new information received:

Cases of human rights defenders serving prison sentences of ten years to life in connection with the defense of human rights and/or exercise of public freedoms

The case of Mr. Ding Jiayi

Mr. Ding Jiayi was sentenced to 12 years in prison by the Linshu County Court in Linyi City, Shandong on 12 April 2023, having been found guilty of “subversion of State power” under article 105(2) of the Criminal Law of the People's Republic of China.

This sentence was the subject of AL CHN 5/2023, which also asked whether the full text of the verdict and evidence substantiating the burden of the proof in his trial was made available to his family and for information on his access to appropriate and adequate medical care while in detention as well as to be allowed to send and receive correspondence. No such information was provided.

AL CHN 4/2021 requested details of any investigation, medical examinations and judicial or other inquiries related to allegations of torture and/or cruel, inhuman or degrading treatment against Mr. Ding Jiayi. At the time of sending the present communication, this has not been provided.

The case of Mr. Gao Zhisheng

In its reply to AL CHN 4/2021, Your Excellency's Government repeats that Mr. Gao Zhisheng was released in August 2014, having served a sentence of three years imprisonment, five years' probation and one year's deprivation of political rights. The reply states that ‘it is understood that the public security authorities have not taken any criminal coercive measures against him’. However, since 2017, the fate and whereabouts of Mr. Gao Zhisheng remain unknown, and his family have reportedly been unable to make contact with him.

The case of Mr. Huang Qi

Mr. Huang Qi is detained in Bazhong Prison, Bazhong City, Sichuan Province, where he is serving a 12-year sentence on charges of ‘intentionally leaking State secrets’ and “illegally providing state secrets to foreign entities”. In CHN 4/2021 we expressed concerns over Mr. Huang Qi's medical condition and sought information on his access to adequate medical care. We further requested details of any investigation, medical examinations and judicial or other inquiries related to allegations of torture and/or cruel, inhuman or degrading treatment against Mr. Huang Qi. This information was not provided in your Excellency's Government response dated 26 June 2021.

It has been alleged that since the previous communication on Mr. Huang Qi was sent, he has been prevented from receiving family visits, in contravention of section 4, article 48 of the Chinese Prison Law of 1994. Furthermore, Mr. Huang Qi's mother, who is 90, reportedly remains under surveillance.

The case of Mr. Huang Yunmin

In September 2017, Mr. Huang Yunmin was sentenced to ten years in prison on charges of “organising, leading and actively participating in a terrorist organization” in relation to online content he published in 2009 on the situation of human rights in Xinjiang Uyghur Autonomous Region.

It is unclear whether Mr. Huang Yunmin’s family or legal representatives have been successful in visiting him in prison.

The case of Mr. Ilham Tohti

Ilham Tohti is serving a life sentence in Xinjiang Autonomous Region Prison No.1. In AL CHN 4/2021 we expressed serious concerns related to the reported torture and ill-treatment of Ilham Tohti while in prison, and we requested that Your Excellency’s Government provide an update on his health condition, his access to adequate healthcare and access to family visits and communication. This information was not provided.

Ilham Tohti has not been permitted to receive any family visits/contact since 2017, in contravention of section 4, article 48 of the Chinese Prison Law of 1994. His health condition remains unknown, as does his access to healthcare.

The case of Mr. Qin Yongmin

Mr. Qin Yongmin was sentenced to 13 years in prison on 10 July 2018 for “subversion of State power” and is serving his sentence in Guanghua Prison, Qianjiang City, Hubei Province. AL CHN 4/2021 raised allegations that Qin Yongmin had not been permitted to meet with his lawyer and requested information on his access to adequate medical treatment. This information was not provided.

The case of Mr. Zhang Haitao

Mr. Zhang Haitao is serving a 19-year sentence, handed down in January 2016 for “inciting subversion of State power” and “providing intelligence overseas”. The charges allegedly stem from his advocacy in relation to the treatment of the Uyghur population in Xinjiang Uyghur Autonomous Region.

AL CHN 4/2021 requested details of any investigation, medical examinations and judicial or other inquiries related to allegations of torture and/or cruel, inhuman or degrading treatment against Mr. Zhang Haitao. No such information was provided.

According to the information received, Mr. Zhang Haitao’s family members have experienced challenges in visiting him in prison.

The case of Mr. Zhao Haitong

In May 2014, Mr. Zhao Haitong was sentenced to 14 years in prison on charges of “inciting subversion of State power” under article 105.2 of the Chinese Criminal Code and is serving his sentence in Wusu Prison in Xinjiang Uyghur Autonomous Region. In communication AL CHN 4/2021, we raised concerns about an alleged deterioration in the health of Mr. Zhao Haitong during his incarceration, about which we did not receive any further information in Your Excellency’s Government reply of 26 June 2021.

While we do not wish to prejudge the accuracy of the information received, we reiterate our grave concern relating to multiple allegations of torture and/or mistreatment, denial of prison visits, denial of access to information by family members and lack of information on the health and wellbeing of the imprisoned individuals. We also express our concern regarding the enforced disappearance of Mr. Gao Zhisheng, whose fate and whereabouts remain unknown since 2017. We express our regret that the specific information requested in the previous communications on the above-mentioned human rights defenders was not provided in the replies sent by Your Excellency’s Government.

We reiterate that any form of incommunicado detention which places the detainee out of contact with the outside world can constitute an enforced disappearance insofar as State agents or other persons acting with their support or acquiescence, fail or refuse to acknowledge the deprivation of liberty or conceal the fate or whereabouts of the person deprived of liberty. State authorities are obliged to promptly provide accurate information on the detention of persons deprived of liberty and on their place or places of detention, including transfers, to their family members, to their counsel or to any other persons having a legitimate interest.

Concerns about the lengthy imprisonment of Uyghurs were also mentioned in the 2022 OHCHR report¹.

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 detailed information on the fate and whereabouts of Mr. Gao Zhisheng and on the measures taken to search for him and to investigate on his reported enforced disappearance, identify those responsible and prosecute them. In case no investigations have been undertaken, please provide the reasons why.

¹ OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People’s Republic of China, 31 August 2022. Paras 58 to 68.

3. Please provide detailed information as to the health condition of Ding Jiayi, Huang Qi, Huang Yunmin, Ilham Tohti, Qin Yongmin, Zhang Haitao and Zhao Haitong, including dates of their last medical assessments.
4. Please provide information on why restrictions have been imposed on in-person visits by family members and legal representatives to Ding Jiayi, Huang Qi, Huang Yunmin, Ilham Tohti, Qin Yongmin, Zhang Haitao and Zhao Haitong.
5. Please provide details of any investigation, medical examinations and judicial or other inquiries related to allegations of torture and cruel, inhuman or degrading treatment against Ding Jiayi, Huang Qi, and Zhang Haitao. In case no investigations have been undertaken, please provide the reasons why.

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 prevent any irreparable damage to life and personal integrity of the persons referred to in the present communications, 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.

The cases referred to in this communication are without prejudice to their consideration under the humanitarian procedure of the Working Group on Enforced or Involuntary Disappearances and should be considered under separate correspondence.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and the regular procedure.

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.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Ganna Yudkivska
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Gabriella Citroni
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

Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

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) and the International Covenant on Civil and Political Rights (ICCPR), signed by China on 5 October 1998. While China is yet to ratify the ICCPR, as a signatory to the ICCPR, China has an obligation to refrain from any acts which would defeat the object and purpose of the Covenant prior to its entry into force (article 18 of the 1969 Vienna Convention on the Law of Treaties).

We would like to draw the attention of your Excellency's Government to articles 5, 9 and 19 of the UDHR, as well as articles 6, 7, 9, 10, 16 and 19 of the ICCPR read alone or in conjunction with article 2.3, which guarantee the right to life, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the right to liberty and security of person those deprived of their liberty are treated with humanity and respect for the inherent dignity of the human person, the right to a fair trial, the right to freedom of opinion and expression, and the right to an effective remedy. In this sense, we would like to recall that the prohibition of torture (article 7) should be read alone and in conjunction with article 2.3 with regard to the rights of the relatives of the victims.

Torture and cruel, inhuman or degrading treatment or punishment are prohibited under article 5 of the UDHR and article 7 of the ICCPR. Whilst China has not ratified the ICCPR, we wish to reiterate that the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment is a *jus cogens* norm that creates obligations *erga omnes*, as expressed as a principle of customary international law.

Furthermore, torture and cruel, inhuman or degrading treatment or punishment are prohibited in articles 1, 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by China on 4 October 1988. Accordingly, pursuant article 2 of the CAT, China has undertaken to ensure to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

Additionally, the prohibition of enforced disappearance has also attained the status of *jus cogens*. In this regard, we wish to recall that the United Nations Declaration on the Protection of All Persons from Enforced Disappearances establishes that "all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness (article 4), no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance (article 6). Furthermore, 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), and the right to a prompt and effective judicial remedy must be guaranteed as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is

required to prevent enforced disappearances under all circumstances (article 9).

Moreover, articles 9 to 12 of the Declaration further spell out the rights of detained persons to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty. Access by competent national authorities to all places of detention must be ensured and any deprivation of liberty be held in officially recognized places of detention. Detainees have the right to be released also in a manner permitting verification of whether their human rights have been fully ensured. Article 13 further stipulates that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. The Declaration also establishes that States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance (article 14), and that the persons responsible for these acts shall be tried only by ordinary courts and not by other special tribunal, notably military courts (article 16); not benefit from any amnesty law (article 18); and the victims or family relatives have the right to obtain redress, including adequate compensation (article 19).

We further recall that while international law does not define or differentiate short-term enforced disappearances, in various regions of the world, patterns of enforced disappearance of people lasting for a limited period of time, even for a few hours, have been documented and are recurrent. Those instances qualify as enforced disappearances as defined in the preamble of the Declaration as long as they meet the constitutive elements of the definition. Enforced disappearances, including so-called short-term enforced disappearances, can occur both in unofficial and official places of deprivation of liberty, and there is no duration element in the definition of enforced disappearance under international human rights law (CED/C/11).

In its general comment on the right to recognition as a person before the law in the context of enforced disappearance, the Working Group on Enforced or Involuntary Disappearances noted that when a person deprived of liberty is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total defencelessness. The crime of enforced disappearance puts the detainee outside of the protection of the law, denies the person of legal existence and prevents the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms ([A/HRC/19/58/Rev.1](#)).

In its report on standards and public policies for an effective investigation of enforced disappearances, the Working Group on Enforced or Involuntary Disappearances recommended that States define enforced disappearance as an autonomous crime in national legislation and establish different modes of criminal liability, including abetting, instigating, acquiescing and actively covering up an enforced disappearance, as well as criminal liability for command or superior responsibility; and create mechanisms that can promptly receive and process complaints of enforced disappearances, under the responsibility of authorities who are independent of the institutions to which the alleged perpetrators belong or may be linked. These mechanisms should be empowered to trigger prompt investigations of the complaints received ((A/HRC/45/13/Add.3).

Additionally, in the study on enforced disappearances and economic, social and cultural rights, the Working Group on Enforced or Involuntary Disappearances observed that the enforced disappearance of human rights defenders or persons actively promoting the enjoyment of economic, social and cultural rights, are used as a repressive tool to deter the legitimate exercise, defence or promotion of the enjoyment of these rights. Due to their collective character, such measures also violate their economic, social and cultural rights, the rights of others engaged in related activities, and of the larger community of people who relied on the disappeared person to represent and fight for their rights.²

We would like to refer to article 19 of the UDHR, which guarantees the right to freedom of opinion and expression. The rights to freedom of opinion and expression are further expressed in all global and regional human rights treaties on civil and political rights, confirmed in declarations and resolutions, and is considered reflective of customary international law. As expressed in UDHR article 19, “this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” It includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.”

The conditions for permissible restrictions too are reflected in the UDHR and in numerous regional and global human rights treaties:

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 UDHR art. 29, as well as in global and regional human rights treaties, any restriction must be “**determined by law**”. Practice by international monitoring bodies have not only a requirement on the form, but also the quality of the law. Thus, for example, the Human Rights Committee has expressed that laws must be “formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public. A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution”. With respect of criminal laws, the requirement of clarity is even more strict, see UDHR art. 11. 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. Lastly, **States have the burden of proof** to demonstrate that any restriction is compatible with the requirements under customary international law.

The right to freedom of expression is a precondition for democracy, the enjoyment of other human rights and for the accountability of authorities. It follows that the systematic use of criminal law to silent dissent would be incompatible with the human rights obligations of the State.

² [A/HRC/30/38/Add.5](#)

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.

We wish to draw your Excellency's Government's attention to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which was ratified by China on 27 March 2001, which stipulates the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health.

In this regard, the Committee on Economic, Social and Cultural Rights (CESCR) adopted general comment No. 14. This general comment describes the normative content of article 12 of ICESCR and the legal obligations undertaken by the State Parties to the Covenant. The CESCR interprets the right to health as "an inclusive with extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food [and] nutrition" among others (CESCR, general comment No. 14, para. 11).

In this connection, we would also like to refer your Excellency's Government to The Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which "Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation" (Basic Principles for the Treatment of Prisoners principle 9).