

## General Allegation

132<sup>nd</sup> Session (29 January to 2 February 2024)

### China

1. The Working Group on Enforced or Involuntary Disappearances received information from credible sources concerning reported obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance ('the Declaration') in the People's Republic of China. In particular, certain forms of deprivation of liberty under the national criminal system seem to have the constitutive elements of an enforced disappearance.
2. Sources reported the ongoing use of the 'Residential Surveillance at a Designated Location' ('RSDL') and the *Liuzhi* detention, to deprive persons of their liberty in conditions of prolonged incommunicado detention in conditions tantamount to an enforced disappearance. The Working Group has received renewed concerns and in view of this stresses its calls previously addressed to your Excellency's Government in a General Allegation,<sup>1</sup> as well as in other Special Procedures communications,<sup>2</sup> to review the conditions of:
  - a) The RSDL, which came into effect in 2013 in the revised Criminal Procedure Law, providing the legal grounds for the holding of persons in custody for up to six months without disclosure of their whereabouts or access to lawyers and/or persons with legitimate interest. According to the information received, RSDL detention is being used in particular to curtail civil liberties by targeting human rights defenders, lawyers, civil society and political activist.
  - b) The *Liuzhi* detention, which has been in operation since 2018 as a disciplinary measure within the Chinese Communist Party's (CCP) structures and is used to specifically punish any public servant or member of the CCP who are alleged to 'violate duties' or commit 'economic crimes', and against those working within academia, State-owned enterprises, State media, local contractors, or anyone related to any of the above.
3. The Working Group was informed that persons deprived of their liberty under the RSLD and *Liuzhi* systems are held in unofficial facilities, chosen at the discretion of the police or national security officers. In addition, detainees are kept isolated in solitary confinement and incommunicado detention for prolonged periods, where they face a heightened risk of ill-treatment. According to the information received, authorities do not disclose the whereabouts of the detainees and therefore persons with a legitimate interest, i.e. family

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<sup>1</sup> See 115th Session [General Allegation](#) (2018); 119th Session [General Allegation](#) (2019)

<sup>2</sup> See [OL CHN 15/2018](#), [UA CHN 3/2017](#)

members or lawyers of those detained are not granted information on their loved ones' fate, whereabouts and state of health. Furthermore, according to the information received, the detainees' rights to access legal counsel of choice or options to appeal the measure are withheld. Such conditions of detention place individuals outside the protection of the law, which is an inherent consequence of an enforced disappearance.

4. Official data disclosed by your Excellency's Government acknowledge the use of RSDL in some 23,700 instances. However, information the Working Group has received estimate that for the period 2013 to 2021, the figure is closer to 85,000. There is also an alleged progressive increase in the use of the two detention systems since their introduction - according to current estimations at least 104,492 people have been subjected to deprivation of liberty under the RSLD and *Liuzhi* systems (47,291 into RSDL and 57,201 into *Liuzhi*).
5. Since 2017, the Working Group has consistently continued to receive and raise with your Excellency's Government the alarming information about the prolonged incommunicado detention in "Vocational Education and Training Centres" (VETC), camps and facilities in the Xinjiang Uyghur Autonomous Region ('XUAR', or Uyghur Region), of Uyghurs and Turkic Muslims.<sup>3</sup> Sources reported that referrals to these facilities, whether for criminal or administrative reasons, occur without proper due process. Moreover, the sentencing lacks transparency, and detainees are held for an indeterminate period. According to information received, detainees in XUAR face a heightened risk of being subjected to forced labour, torture and other ill-treatment. The Working Group is seriously concerned that the detention regime in VETC facilities has no basis in international law and, particularly, in the Declaration.
6. The Working Group has also registered the concerns from reliable sources regarding an alarmingly high number of extraterritorial abductions and transnational transfers (involving arbitrary deprivations of liberty and renditions) from the Mekong region and neighbouring countries of persons who end up in secret detention or other forms of deprivation of liberty. Moreover, information shared with the Working Group demonstrates a systemic pattern pursuant to which such practices are designed to pressure and to control dissenting groups seeking protection abroad, including people belonging to ethnic and religious minorities, political dissidents, human rights defenders, journalists, refugees, and asylum seekers.
7. The Working Group was informed that individuals whose family members allegedly are or were forcibly disappeared by Chinese authorities and believed to be detained in the XUAR have no effective remedy at their disposal to establish the fate and whereabouts of their

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<sup>3</sup> See [A/HRC/39/46](#), para 88; [A/HRC/42/40](#), para 69; [A/HRC/45/13](#), para 46; [A/HRC/48/57](#), para 71; [A/HRC/51/31](#), para 48; [A/HRC/54/22](#), para 68

loved ones. They reportedly rarely receive official confirmation regarding their family member's status, and efforts to gather information have been largely unsuccessful. Very few detainees are allowed contact with the outside world, and even nominally 'free' Uyghurs living in XUAR have been effectively forbidden to speak with their family or friends abroad. Pursuant to the information received by the Working Group, Uyghurs, both in the country and overseas, are consistently deprived of their right to free speech, as well as their freedom to seek, receive and impart information and their right to know the truth about the fate and whereabouts of their loved ones.

8. The Working Group would like to bring to the Government's attention the following provisions of the Declaration, which are directly related to the present allegations:

*Article 2*

1. *No State shall practise, permit or tolerate enforced disappearances.*
2. *States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.*

*Article 3*

*Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction .*

*Article 8*

1. *No State shall expel, return (refouler) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of enforced disappearance.*
2. *For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.*

*Article 9*

1. *The right to a prompt and effective judicial remedy 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, including those referred to in article 7 above.*
2. *In such proceedings, competent national authorities shall have access to all places where persons deprived of their liberty are being held and to each part of those places, as well as to any place in which there are grounds to believe that such persons may be found.*

*3. Any other competent authority entitled under the law of the State or by any international legal instrument to which the State is a party may also have access to such places.*

#### *Article 10*

*1. Any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.*

*2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.*

*3. An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any judicial or other competent and independent national authority and to any other competent authority entitled under the law of the State concerned or any international legal instrument to which a State concerned is a party, seeking to trace the whereabouts of a detained person.*

#### *Article 11*

*All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured.*

#### *Article 12*

*1. Each State shall establish rules under its national law indicating those officials authorized to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention.*

*2. Each State shall likewise ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorized by law to use force and firearms.*

#### *Article 13*

*1. Each State shall ensure 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. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall*

*promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.*

*2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.*

*3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.*

*4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.*

*5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.*

*6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.*

#### *Article 19*

*The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation.*

9. The Working Group would be grateful for your Excellency's Government cooperation and observations on the following questions:

- a) Please provide any additional information and any comment on the allegations mentioned above.
- b) Please provide information on the measures implemented by your Excellency's Government to safeguard the civil and political rights of ethnic minorities, human rights defenders, and political activists. Please elucidate how these efforts align with international human rights law and ensure the respectful treatment of these individuals.
- c) Please provide information on how your Excellency's Government ensures that families can realise their right to know the truth about the fate and whereabouts of their family members who are deprived of their liberty pursuant to Article 10 of the Declaration and what steps your Excellency's Government is putting in place to

ensure that information about the fate and whereabouts of persons deprived of their liberty and access to their loved ones, as well as to a legal counsel of choice are guaranteed.

- d) Please illustrate the applicable procedures for the arrest, deportation and deprivation of liberty of nationals residing in third countries and how your Excellency's Government ensures they are compatible with international legal obligations. In particular, provide information on the protective measures put in place when deportation and return processes concern human rights defenders, political activists, ethnic minorities, and refugees who seek asylum in neighbouring countries.
- e) Please provide information on how your Excellency's Government ensures that the family members of individuals living overseas have the right to communicate with their relatives who are deprived of liberty without fear of threats and reprisals.

10. The Working Group requests your Excellency's Government to provide a response to the above questions within 60 days. The text of the general allegation will be published along with the Working Group's post-session report and on its website, where also any response received by your Excellency's Government will be uploaded.