

Chinese Government's Use of Enforced Disappearance as Political Persecution

China has expanded its use of enforced disappearance in recent years, increasingly leveraging Article 73 of the Criminal Procedure Law (CPL) to present a veneer of legality for forcibly disappearing individuals. Article 73, which has been in effect since January 2013, allows police to put an individual under “residential surveillance at a (police-) designated location” (RSDL), whereby police can hold individuals in secret for up to six months, without access to lawyers or family members, if they are suspected of “endangering state security,” “terrorism,” or significant bribery crimes. The government has routinely disappeared human rights defenders (HRDs) by invoking Article 73. RSDL has even been applied to detain HRDs who have not been charged with offenses stipulated in Article 73, such as “picking quarrels and provoking trouble” and “disrupting court order.”¹ This indicates that police may be exploiting legal loopholes which allow police to label any criminal act as a threat to “national security.”²

Some Data on Enforced Disappearances

While the Chinese government does not provide statistics on the number of RSDL cases or the number of RSDL detainees granted a visit by their lawyer, we have documented 42 cases between 2015-2017 of HRDs forcibly disappeared in RSDL for up to six months.³ None of these individuals were granted a meeting with a lawyer of their or their families' choosing. There is a significant risk of torture in RSDL; at least eight of these 42 individuals later alleged that police tortured and ill-treated them while they were under RSDL.⁴

Authorities have continued to use “black jails”—unlawful temporary detention facilities run by state agents or government-hired thugs—even as government officials have declared that such facilities do not exist in China. Black jails have been used to deprive the liberty of individuals without due process, and often to enforce government policies or punish dissent.⁵ Though no official statistics on black jails have been made available, civil society rights groups in China tracking their use documented at least 189 cases of HRDs held in black jails between 2013-2017.⁶ There are likely many more unreported or undocumented cases.

In 2017, Chinese authorities continued to resort to enforced disappearance to silence and punish HRDs. Police held detainees under “residential surveillance in a (police-) designated location” (RSDL), a legalized type of enforced disappearance, denying requests for lawyer visits and refusing to inform families of detainees' whereabouts. Authorities put under RSDL at least 17 human rights lawyers and activists after rounding them up as part of the “709 Crackdown” in 2015.⁷ This form of detention, which is stipulated in Article 73 of China's Criminal Procedure Law (CPL), authorizes police and procuratorial officials to hold detainees in secret locations for up to six months and with access to counsel subject to approval, on the basis that their cases allegedly involve acts that “endanger national security.”⁸ China's ongoing use of RSDL defies international human rights conventions signed by China. Having received and considered information from Chinese HRDs, the UN Committee Against Torture, in concluding its 2015 review of China, called on the government to repeal CPL's Article 73 as a “matter of urgency.”⁹

Individual Cases of Enforced Disappearance

CHRD recently obtained updated information on **Zhao Suli** (赵素利) from an individual inside China familiar with her case. (The source is also a member of the “Rose Team,” a rights advocacy group that Zhao’s husband, Qin Yongmin, had founded. Qin himself is currently awaiting trial on a criminal charge of “subversion of state power.”)

According to Zhao’s family, Ms. Zhao was held inside a “black jail” (an illegal makeshift detention facility) for over two years, beginning from January 2015, when she was disappeared. She then was held for eight months in a medical hospital, apparently to receive treatment for health problems (Zhao herself is unable to identify the facility, and the nature of her illnesses and treatment are unknown). In early February 2018, her health reportedly improved, Zhao briefly reappeared, and the information source, along with some of Zhao’s relatives, was able to meet her in a public park in Wuhan City, Hubei Province. However, plainclothes police were also in the vicinity and closely monitoring her, and very soon after placed Zhao under “residential surveillance” in her residence (in a five-floor apartment complex). Since that time, national security officers have held Zhao under close guard and not allowed her any visitors. With Zhao’s residence on the fourth floor, officers are stationed as monitors on the first and third floors of the building. In further efforts to surveil Zhao and tightly control her movements, authorities had an iron door installed in the corridor leading up to her residence, and windows were built into the exterior walls on the first and third floors. Moreover, officers stop vehicles at the corner adjacent to her street, and question drivers. Zhao’s son, who attends school in Anhui Province, is also being monitored by national security officers.

Human rights lawyer **Wang Quanzhang’s** (王全璋) has endured the longest period of incommunicado detention among the enforced disappearances linked to the “709 Crackdown.”¹⁰ Wang has been held incommunicado ever since he was detained, in August 2015. There are grave concerns that Wang has been tortured in custody, considering his lengthy disappearance and the mistreatment reported in the cases of many other “709” detainees. The Chinese government continues to hold Wang incommunicado despite domestic and global calls urging his release, including inquiries and pressure from foreign governments and UN human rights bodies.

Disbarred human rights lawyer **Gao Zhisheng** (高智晟), who had been under house arrest in Shaanxi Province since 2014, disappeared in August 2017. Mr. Gao reportedly had escaped from house arrest that month after revealing that authorities still did not allow him access to medical treatment for serious dental problems, but police apparently captured him.¹¹ In November 2017, it was reported that Gao was being held in a completely darkened room in an unknown location in Shaanxi Province. Several activists were detained on suspicion of having aided Gao’s escape.

The poet and artist **Liu Xia** (刘霞), who is the widow of the deceased Nobel Peace laureate Liu Xiaobo, was last seen publicly in July 2017, after appearing in a state-released video following the staged funeral of her husband.¹² Last August, Ms. Liu again appeared in a video that was posted online. It was apparently leaked by the government, however, and it was impossible to know if Liu was speaking freely or where she was located. Soon after Liu Xiaobo won the Nobel Peace Prize in October 2010, Chinese

authorities put Liu Xia under illegal house arrest, cut off her access to the Internet, and barred her from seeing visitors, leaving her isolated for years.

Enforced Disappearance in Xinjiang

Reports indicate the use of enforced disappearance has vastly expanded in the Xinjiang Uyghur Autonomous Region since the August 2016 appointment of a new Communist Party secretary for the region.¹³ Based solely on their ethnicity and religion, thousands of ethnic Uyghurs, Kazaks, and Kyrgyz have reportedly been held in “camps,” or essentially black jails, which China’s state media has referred to as “counter-extremism training centers” or “education and transformation training centers.”¹⁴ New regulations on counter-extremism in Xinjiang, which went into effect in April 2017, have provided “legal basis” for forcibly disappearing individuals to force them undergo ideological “re-education.”¹⁵ Eating Halal meat, having a beard, or wearing a headscarf are all grounds for detention in “re-education” camps. The regulations do not ensure that provisions in the Criminal Procedure Law on deprived liberty are adhered to, including written notification to families stating the reason for detention and location of the detention.

One Chinese NGO reported that many villagers in Southern Xinjiang had been sent to “counter-extremism” camps before the 19th Party Congress in October 2017.¹⁶ There have been reports that, in January 2018, approximately 120,000 ethnic Uyghurs were being held in such re-education camps in the prefecture of Kashgar, and that one township had 10% of its population in camps in December 2017.¹⁷

¹ CHRD, *China Human Rights Briefing March 20-23, 2017*, <https://www.nchrd.org/2017/03/chrb-detentions-in-suzhou-new-measures-curb-free-expression-320-23-2017/>.

² Article 374: Crimes of “endangering national security” in this provision include those included in 102-112 of the Criminal Law as well as other crimes that endanger national security: terrorist activities, including generating terror in society, endangering public safety, or threatening state agencies or foreign organizations; use of violent, destructive, or threatening means to plot to kill or injure people, inflict serious harm, damage public infrastructure, create social chaos; and other serious crimes that harm social stability. “Ministry of Public Security Provision on Procedures for Handling Criminal Cases” (公安机关办理刑事案件程序规定), <http://www.mps.gov.cn/n2254314/n2254409/n2254443/n2254452/c3708286/content.html>;

³ This number includes: 17 in the “709 Crackdown” on human rights lawyers, nine in Suzhou, 12 in Shenzhen, and individual cases of Huang Qi, Gu Yuese (Joseph Gu), Jiang Tianyong, and Liu Feiyue. “Repression & Resilience: Annual Report on the Situation of Human Rights Defenders in China (2017),” pgs. 3-14, https://www.nchrd.org/wp-content/uploads/2018/02/CHRD-2017-Annual-Report-of-Situation-of-HRDs-in-China_Feb-2018.pdf.

⁴ Network of Chinese Human Rights Defenders (CHRD) in Collaboration with a Consortium of Chinese Civil Society Groups, Civil Society Follow-Up Report Submitted to the UN Committee Against Torture: Responses to the Committee’s Requests & to China’s Follow-up Report, June 2017, para. 3, <https://www.nchrd.org/2017/06/civil-society-follow-up-report-submitted-to-un-committee-against-torture-jun-2017/>; “Repression & Resilience: Annual Report on the Situation of Human Rights Defenders in China (2017),” pg. 5.

⁵ CHRD, “‘We Can Beat You to Death With Impunity’: Secret Detention and Abuse of Women in China’s ‘Black Jails,’” October 21, 2014, <https://www.nchrd.org/wp-content/uploads/2014/10/‘We’ll-Beat-You-to-Death-With-Impunity’-Secret-Detention-Abuse-of-Women-in-China’s-Black-Jails.pdf>.

⁶ CHRD, Deprivation of Liberty of Human Rights Defenders in China (partial data), accessed February 1, 2018.

⁷ CHRD, “End 2-Year Crackdown on Lawyers, Hold Chinese Government Accountable,” July 6, 2017, <https://www.nchrd.org/2017/07/end-2-year-crackdown-on-lawyers-hold-chinese-government-accountable/>.

⁸ Under Article 73 of the Criminal Procedure Law, lawyers’ visits with clients held on suspicion of crimes in the category of “endangering state security,” terrorism, or involving significant amounts of bribes must first be approved by investigating organs. The “Ministry of Public Security Provision on Procedures for Handling Criminal Cases” expands police power to deny lawyers’ visits on “national security” grounds beyond the crimes of “endangering state security” in the Criminal Law. Ministry of Public

Security Provision on Procedures for Handling Criminal Cases (公安机关办理刑事案件程序规定), 2012, www.mps.gov.cn/n2254314/n2254409/n2254443/n2254452/c3708286/content.html.

⁹ UN Committee Against Torture (CAT), Concluding Observations on the Fifth Periodic Report of China, CAT/C/CHN/CO/5, February 2016, para. 15.

¹⁰ CHRD, Portrait of a Defender – Wang Quanzhang, <https://www.nchrd.org/2016/01/wang-quanzhang/>.

¹¹ CHRD, Portrait of a Defender – Gao Zhisheng, <https://www.nchrd.org/2011/02/prisoner-of-conscience-gao-zhisheng/>.

¹² CHRD, Portrait of a Defender – Liu Xia, <https://www.nchrd.org/2017/02/liu-xia/>.

¹³ *The Guardian*, “China ‘holding at least 120,000 Uighurs in re-education camps’,” January 25, 2018, <https://www.theguardian.com/world/2018/jan/25/at-least-120000-muslim-uighurs-held-in-chinese-re-education-camps-report>.

¹⁴ Human Rights Watch, “China: Free Xinjiang ‘Political Education’ Detainees,” September 10, 2017, <https://www.hrw.org/news/2017/09/10/china-free-xinjiang-political-education-detainees>.

¹⁵ Article 46, Xinjiang Uyghur Autonomous Region Counter-Extremism Regulations (新疆维吾尔自治区去极端化条例), Standing Committee of Peoples Congress of Xinjiang Uyghur Autonomous Region, March 29, 2017, http://news.ts.cn/content/2017-03/29/content_12577663.htm.

¹⁶ CHRD interviews, 2018.

¹⁷ Radio Free Asia (RFA), “Around 120,000 Uyghurs Detained For Political Re-Education in Xinjiang’s Kashgar Prefecture,” January 22, 2018, <https://www.rfa.org/english/news/uyghur/detentions-01222018171657.html>; RFA, “Nearly 10 Percent of Residents of a Xinjiang Township Detained by Chinese Authorities,” December 14, 2017, <https://www.rfa.org/english/news/uyghur/detained-12142017140125.html>.