

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights defenders and the Working Group on discrimination against women and girls

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(Please use this reference in your reply)

1 December 2022

Excellency,

We have the honour to address you in our capacities as Working Group on Enforced or Involuntary Disappearances; Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights defenders and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 45/3, 51/8, 43/16 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of denial of legal assistance, torture and ill-treatment, incommunicado detention and enforced disappearance of Ms. **Xueqin Huang**, Mr. **Jianbing Wang**, Ms. **Fangmei He**, Mr. **Maodong Yang** and Mr. **Jitian Tang**; and that with the exception of one of these 5 cases, at the time of writing this letter the families of these persons have not received accurate and official information regarding their whereabouts, their health status and well-being, and have not been allowed full and unrestricted access to the detainees after they were detained.

Additionally, we have received further information regarding the widespread use of COVID-19 prevention measures in the People's Republic of China as grounds invoked for incommunicado detention and enforced disappearance aimed at deterring activists and human rights defenders from exercising, defending or promoting human rights. The use of COVID-19 prevention measures as a restrictive measure to curtail or limit the enjoyment of human rights was addressed already in numerous communications by the Special Procedures ([JAL CHN 8/2020](#); [JUA CHN 10/2021](#); [JUA CHN 12/2021](#) and [JAL CHN 4/2021](#)). While appreciating your Excellency's Government's response to these allegations and the information provided, we continue to be concerned by allegations that illustrate what seems to be a **widespread use of alternative forms of incommunicado detention and enforced disappearance** of Government critics, and the systematic targeting and harassment of relatives, acquaintances or persons connected to them aimed at generating a chilling effect in their communities.

According to these allegations, public authorities are authorizing incommunicado detention of Government critics in secret or unofficial places of detention. These detainees are alleged to be subjected to harsh and inhuman interrogation practices, including forms of torture and ill-treatment, and to prolonged periods of solitary confinement. Authorities systematically fail or decline to provide any information whatsoever to the families or legal representatives regarding the whereabouts, conditions of detention and well-being of the detainees, deny them access to adequate legal assistance or legal representation of their choice and prevent them from contacting the outside world; placing them outside of the protection of the law.

Other allegations of incommunicado detention and enforced disappearance were transmitted to your Excellency's Government in the past, including the case of Mr. Jianbing Wang ([JAL CHN 2/2022](#)) of 3 February 2022. We would like to thank your Excellency's Government for its response of 1 April 2022. Upon consideration of the case, on 11 May 2022 the Working Group on Arbitrary Detention determined that Mr. Wang's detention was arbitrary under categories I, II and III given the lack of legal basis for his detention, the infringement on his rights and freedoms and on his right to a fair trial ([WGAD Opinion 2022/9](#)).

Moreover, the Working Group on Enforced or Involuntary Disappearances transmitted the case of Ms. Xueqin Huang (10010311) to your Excellency's Government on 5 March 2020. We regret that no response has been received to that communication. In its annual report to the 50th session of the Human Rights Council, the Working Group recalled that enforced disappearances should not be used as repressive measure or a tool to deter the legitimate exercise, defense or promotion of the enjoyment of economic, social and cultural rights in China. It further reiterated that authorities are responsible for providing accurate information to the families, legal representatives or persons with a legitimate interest promptly upon detention, and that failure to do so amounts to enforced disappearance ([A/HRC/51/31](#)).

The Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances have also raised concerns regarding the lack of access to legal assistance, including on grounds of "national security-related" charges, repeatedly since 2018 ([JOL CHN 15/2018](#)). Similarly, the Working Group on Enforced or Involuntary Disappearances adopted two General Allegations during its 115th (23 April – 2 May 2018) and 119th (16–20 September 2019) sessions regarding the respective introduction of "re-education" camps by the Government in the Uyghur Autonomous Region, and of the *liuzhi* detention system by the National Supervision Law.

In this regard, we would further like to follow up to a previous communication sent to your Excellency's Government containing serious allegations of incommunicado detention and enforced disappearance of Mr. **Wang Yi** and Ms. **Rong Jiang**, co-founders of Chengdu's "Early Rain House Church", and for which no response or acknowledgement has been received from your Excellency's Government ([CHN 17/2019](#)). Relevant authorities reportedly detained Mr. Yi incommunicado in an undisclosed location, and placed Ms. Rong under "Residential Surveillance in a Designated Location (RSDL)".

According to the information received:

Ms. Xueqin Huang and Mr. Jianbing Wang ("Xuebing case")

On 19 September 2021, human rights defenders Ms. Xueqin Huang (黄雪琴), a #MeToo activist and independent journalist, and Mr. Jianbing Wang (王建兵), a labour rights advocate, were detained by the Guangzhou police on suspicion of inciting subversion of state power.

Authorities held them without charge for 37 days until formally charging them on 27 October 2021. Their cases were transferred to the Procuratorate Office on

27 March 2022. During this time, there was no “notice of detention” as required by law to either of the two individuals’ families, and no access to legal assistance provided. In both cases, the authorities held them incommunicado and in solitary confinement in an unknown or unofficial place of detention while subjecting them to secret interrogations, torture and ill-treatment.

Around mid-August 2022, the authorities finally transferred the cases to the Guangzhou’s first instance Intermediate People’s Court, after being returned for supplementary investigation on two occasions.

Mr. Jianbing Wang

The authorities detained Mr. Wang in an unofficial place of detention for the first five months where he experienced violence and abuse. On 1 April 2022, authorities allowed him to meet his lawyer for the first time since his deprivation of liberty on 19 September 2021. He was able to have contact with his family five months later, in August 2022, and he is now being detained in the Guangzhou No. 3 Detention Centre.

Ms. Xueqin Huang

After transferring Ms. Huang’s case to the Procuratorate, in March 2020 the authorities reportedly authorized a family appointed lawyer to represent Ms. Huang through a letter confirming representation (or “weituoshu”). However, less than two weeks later the authorities reverted with a dismissal letter, signed by Ms. Huang, which terminated the arrangement proposed by the family. A Court-appointed lawyer is currently representing Ms. Huang, although there has been no contact with the family and neither her family nor persons with a legitimate interest have received any information about the status of the case.

Based on scanty information, her family believes that Ms. Huang is currently being held at the Guangzhou No. 3 Detention Centre, but has not been able to verify this independently.

Cases similar to this have illustrated the inadequacy of State-appointed lawyers to effectively discharge their duty of legal counsel and protect the right of defence assigned to them; they are often unknown to the families, which do not trust their ability to properly defend their relatives.

No other information or update has been reported regarding either Ms. Huang or Mr. Wang. 19 September 2022 marked one year since their disappearance.

Ms. Fangmei He

Ms. Fangmei He (何方美), born in 1985, is a health rights defender who advocates for vaccine safety and for access to remedies for victims of defective vaccines. She began seeking accountability and compensation after her daughter was paralyzed with a neurological disease after receiving defective vaccines in March 2018, when the child was ten months old. She then co-founded the

“Home for Vaccine Babies” (疫苗宝宝之家), an informal network of families whose young children became seriously ill or developed a disability after being injected defective vaccines.

On 9 October 2020, Ms. He went to the local Government Office and splashed black ink at the front entrance, to protest the Government’s failure to provide her remedies for her daughter’s illness and compensation for her previous detention in 2019. She was also protesting against the close police surveillance and restrictions of movement she and her family were subjected to which obstructed their travel to Beijing, where her daughter could obtain better quality medical care. She was taken by authorities on site, detained without notice and effectively forcibly disappeared. At the time, she was a mother of two young children, and was pregnant.

Since October 2020, Ms. He’s family made several visits to the local police station and the Prosecutor’s Office, among other places, to inquire about her whereabouts, but these authorities consistently refused to provide any information. Her family received no formal notification until 23 March 2022, when it was informed that she had been detained on charges of “picking quarrels and provoking troubles” and that her case had already gone to a court of first instance. The notice confirmed her detention at the Xinxiang City Detention Centre, Henan province.

Her family-appointed lawyers were denied access to the case files and the authorities denied them meeting with her on grounds of “COVID-19 prevention measures”. When they finally obtained permission to meet her in June 2022, they learned she had been detained, along with her daughter with a disability, from October 2020 to early 2022 in a psychiatric hospital, where she gave birth to her third child, another daughter.

On or around March 2022, when Ms. He was transferred to Xinxiang City Detention Centre she was forcibly separated from her daughters, including her newborn child. Her two daughters reportedly remain confined in the local psychiatric hospital, but the hospital does not have the capacity to provide appropriate care. Her second daughter requires special care due to a physical disability inflicted by defective vaccines, and her youngest daughter was at the time suffering from pneumonia.

An earlier case of detention of Ms. He in 2018-2019 was addressed by the Working Group on Arbitrary Detention in its [Opinion No. 32/2020](#). The Working Group determined that Ms. He’s detention was arbitrary and fell into categories I, II, III and V. In particular, her secret detention at an extrajudicial location was considered arbitrary *per se* – given that it involved elements of incommunicado detention and enforced disappearance.

The cases of Mr. Maodong Yang and Mr. Jitian Tang

Mr. Maodong Yang (the pen name of democracy activist Guo Feixiong) and lawyer Mr. Jitian Tang were both addressed in a previous communication sent by several Special Procedures mandate-holders ([JAL CHN 2/2022](#)) which also

referred to the aforementioned case of Mr. Jianbing Wang. They were forcibly disappeared on 5 December and 10 December 2021, respectively.

Mr. Maodong Yang

On 16 June 2022, the authorities finally gave access to Mr. Yang's legal representative to the Guangzhou No. 1 Detention Centre, six months after his detention, to confirm his whereabouts and well-being. Up to then, Mr. Yang's access to legal counsel was denied on the grounds that the case "endangered national security". During a videoconference with his lawyer on 6 July 2022, Mr. Yang revealed that he was on hunger strike over the conditions of his detention. He was indicted two days later for "inciting subversion of state power". The case is currently with the Guangzhou Municipal Intermediate Court.

Mr. Jitian Tang

After more than eleven months since he was detained and disappeared the authorities continue to deny Mr. Tang's right to meet with his family and legal representatives. They reportedly informally allowed him to connect with persons close to him on social media platform WeChat. It is believed that he is currently being held by the authorities in a hotel room in Yanji City, Jilin province.

Mr. Tang repeatedly requested that he be allowed to go to Japan to provide medical care to his daughter and to be treated for his own illness. These requests were turned down by the authorities who agreed that he undergoes a medical examination. On 3 June 2022, Mr. Tang reportedly fainted in the bathroom, suffering from bleeding and concussion, among other symptoms. His current state of health is of great concern as he is reportedly being held in a windowless hotel room without access to sunlight.

COVID-19 prevention to justify incommunicado detention and enforced disappearance

As highlighted in the cases of Ms. Fangmei He, Ms. Xueqin Huang and Mr. Jianbing Wang, the authorities invoked COVID-19 prevention measures to justify the deprivation of their due process rights, the right to access legal representation of one's choosing and the right of their families to be promptly informed about their fate and whereabouts, and to meet and communicate with them.

According to the information received, numerous cases have been documented by civil society actors in which State authorities have systematically denied lawyers' access to their detained clients citing "COVID-19" as an excuse. As a trend, such restrictions in the name of COVID-19 prevention continued in 2021 throughout China as a pretense to control or obstruct their human rights activities.

Evolution of the application of RSDL

With regard to the widespread practice of “Residential Surveillance in a Designated Location” (RSDL), authorities have reportedly resorted to additional methods of deprivation of liberty without calling them RSDL.

The circumstances in which Ms. Huang and Mr. Wang were held during the first five months of their detention, from approximately October 2021 to March 2022, mirror the conditions reported by past detainees subjected to RSDL. In this regard, nearly seventy individuals connected to Ms. Huang and Mr. Wang (in the so-called “Xuebing case”) were subjected to coercive measures by the Guangzhou police, who, in conjunction with Public Security Departments across the country, issued local or cross-regional subpoenas or summoned them for interrogation. Without following legal procedure, the Guangzhou police reportedly interrogated human rights activists and persons connected to the detainees for up to 24 hours, some even multiple times, and forcibly searched and downloaded content from their electronic devices.

In doing so, the Guangzhou police reportedly sought evidence to incriminate Ms. Huang and Mr. Wang, threatening and forcing activists into signing false statements fabricated by the police. They were pressured to allege that their engagement with Ms. Huang and Mr. Wang, generally in the form of meetings or gatherings, were intended as political events and that they had both been involved in training activities to “subvert state power”. At no time during the interrogations were individuals allowed to have a lawyer present.

The aim of these repressive measures appears to be to discourage human rights activism. Reportedly, more than ten persons connected to Ms. Huang and Mr. Wang were evicted from their homes or pressured to leave Guangzhou by the police through various means, including by pressurizing landlords, intimidating family members, and continuously harassing the activists.

Without prejudging the accuracy of the information received, we express serious concern for the physical and psychological integrity Ms. **Xueqin Huang**, Mr. **Jianbing Wang**, Ms. **Fangmei He**, Mr. **Maodong Yang** and Mr. **Jitian Tang**, and the alleged denial of legal assistance during prolonged periods of arbitrary detention, during which they were forcibly disappeared, often for the ostensible reason of COVID-19 prevention.

These allegations of serious deprivation of due process rights and judicial safeguards might be emblematic of a pattern of incommunicado detention and enforced disappearance for prolonged periods of time. Chinese authorities are reportedly using COVID-19 to keep activists and human rights defenders deprived of their liberty in unknown or secret detention centres and subjecting them to harsh interrogation practices and in solitary confinement. These practices, prohibited under international human rights law, are often accompanied by pressure, harassment and intimidation of family members, friends and colleagues of the detainees to encourage them to denounce their alleged crimes, and to deter them from getting involved in human rights activism. The widespread denial by the authorities of due process rights and judicial safeguards, the withholding of accurate information about their detention, health and well-being to

the families, their legal counsel or persons with a legitimate interest immediately from the day of deprivation of liberty constitute serious crimes under international law.

We are reiterating our long-standing concern about the continuing practice in China of prolonged incommunicado detention and enforced disappearance, often in solitary confinement, of individuals who have been expressing their concerns regarding matters affecting their lives peacefully; who have been drawing the attention of local and other authorities to their situation; and who have been protesting against the lack of response.

While there have been numerous and documented engagements of Special Procedures mandate-holders with your Excellency's Government, and despite the responses provided which we thankfully acknowledged, the information we have continued to receive still depicts a systematic pattern of State practice, as described in this letter, aimed at discouraging the legitimate exercise of human rights activities, including in the context of COVID-19.

Furthermore, we are further concerned by the persistent allegations that these periods of prolonged secret detention have facilitated the imposition of coercive measures upon detained human rights activists. Such measures included interrogation practices during which torture and ill-treatment are said to have occurred in a variety of places of illegal detention.

Under international human rights law, the failure or refusal to acknowledge the fate and whereabouts of the detainees by State agents are constitutive elements of an enforced disappearance regardless of the duration of the deprivation of liberty. By apprehending and detaining individuals, whoever they are, whatever is reproached to them, the State assumes responsibility for their lives, health and physical and mental integrity. This heightened duty of care obliges States to take the necessary measures to protect the lives of all individuals they take into their custody. State obligations are also invoked with respect to children victim of their parents' enforced disappearance as they are prevented from exercising their rights, including their economic, social and cultural ones, due to the legal uncertainty created by the absence of the disappeared parent.

In the case of women and girls, and especially pregnant women as illustrated by the case of Ms. Fangmei He, the State's duty to act in due diligence is strengthened. Inadequate or substandard conditions of detention can be a factor contributing to deaths and serious bodily injury while in detention, and when such conditions are seriously inadequate, they can constitute greater risk to life and long-term irreparable damage. States have a duty to recognize the particular types of harm that women and girls suffer based on their gender, including sexual violence, and the resulting psychological damage and social stigma and the disruption of their family life. Additionally, given the continuous nature of the crime of enforced disappearance, victim children can suffer and carry on its specific effects well into adulthood and impair the enjoyment of their rights, especially economic, social and cultural rights.

If confirmed, these allegations would constitute *prima facie* gross violations of fundamental human rights, including the right to hold opinions without interference and to express them peacefully, the right to non-discrimination, the right to personal security, the right not to be arbitrarily deprived of liberty, the right not to be subjected

to enforced disappearance, the right to be protected against any form of torture and other ill-treatment, the right to recognition as a person before the law, the right to due process and judicial safeguards and the right to association and peaceful assembly, pursuant to the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights, which was signed by China on 5 October 1998; the International Covenant on Economic, Social and Cultural Rights, ratified on 27 March 2001; the International Convention against Torture and other Cruel, Inhuman or Degrading Treatment, ratified on 4 October 1988; and the International Convention for the Elimination of All Forms of Discrimination against Women, ratified on 4 November 1980; and the Convention on the Rights of the Child, ratified on 2 March 1992.

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 draw your Excellency's Government attention to safeguard the rights of the individuals mentioned in this letter 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;
2. Please provide detailed information on the factual and legal grounds of the detention of these persons; and on any criminal charges imposed on each detainee;
3. Please provide detailed information on the reasons for their prolonged incommunicado detention, including solitary confinement, and enforced disappearance, and for the denial of their due process rights and judicial safeguards, particularly their right to a legal defence of their own choosing and to communicate with their families, legal representatives and persons with a legitimate interest;
4. Please provide detailed information clarifying how these practices are compatible with China's international obligations and their adherence to preemptory norms of international law relating to the absolute prohibition of torture and the systematic use of arbitrary detention and enforced disappearance, including the relevant provisions of the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment, the Convention on the Elimination of all Forms of Discrimination against Women, and the Convention on the Rights of the Child;

5. Please indicate what measures have been taken to ensure that forced confessions and any criminal evidence otherwise obtained under duress or in the course of intimidating secret interrogations are effectively identified and declared inadmissible in judicial proceedings;
6. Please provide information about any inquiry or investigation, judicial or otherwise - and on the conclusions of such inquiries, if any - that may have been undertaken in connection with the aforementioned alleged violations concerning Ms. Xueqin Huang, Mr. Jianbing Wang, Ms. Fangmei He, Mr. Maodong Yang and Mr. Jitian Tang; to see to it the protection of their human rights, including their right to liberty, to personal security, to recognition as a person before the law, to health and to physical and psychological integrity, and to fair trial;
7. Please provide information on the measures taken to individually assess the protection needs of each detainee and their family members, including for Ms. He and her detained children, and in particular as regards their state of health, access to essential medicines, medical treatment and other basic services, and any other measures to prevent serious and irreparable damage to their life and personal integrity and that they have access to special health care, medications and other relevant medical treatment;
8. Please provide information on measures taken to ensure that children are not arbitrarily deprived of their liberty when their parents are detained, especially when they are infants or are of young age, and what measures are in place to ensure continued communication and support from their parents, so they are not in turn themselves victimized. In cases when the deprivation of liberty of children is envisaged, please specify measures taken to ensure that the deprivation of liberty is only used a measure of last resort, and that special guarantees are provided in accordance with international human rights law, especially article 37 of the Convention on the Rights of the Child;
9. Please provide information on any measures taken to effectively remove any undue restrictions to the free communication of the detainees with their families, legal representatives and persons with a legitimate interest, whether in writing or over the phone;
10. Please provide information on the measures taken to assure the compilation and maintenance of updated official records and registers of persons deprived of their liberty in the context of COVID-19 prevention measures, and to make them promptly available, upon request, to judicial and other competent authorities and to any persons with a legitimate interest in this information, relatives of the persons deprived of their liberty and their legal representatives;
11. Please provide information on the measures in place to protect the legitimate work of independent human rights organizations, activists and human rights defenders in the country; and of persons expressing

opinions in a peaceful manner and protesting and criticizing the lack of response by relevant authorities to what appear to be their legitimate grievances. In this regard, please kindly provide specific details of any measure or public engagement by the authorities aimed at ensuring that activists and human rights defenders can freely carry their legitimate human rights work without fearing harassment, threats or any form of violence by the police or state institutions or acts of reprisals for cooperating with the United Nations.

We would also 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 cases 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. Similarly, the Working Group on Enforced or Involuntary Disappearances may also transmit the cases through its standard procedure. The Government is required to respond separately to the allegation letter and the regular procedures of each Working Group.

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.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable harm to the life and physical integrity of all aforementioned persons deprived of their liberty, halt the alleged violations and prevent their re-occurrence. 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.

Aua Baldé
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Mumba Malila
Vice-Chair of the Working Group on Arbitrary Detention

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Dorothy Estrada-Tanck
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 articles 3, 5, 9 and 19 of the Universal Declaration of Human Rights (UDHR). which guarantee that no one should be subjected to torture, cruel, inhuman or degrading treatment or punishment, that everyone has the right to liberty and security of person, to be recognized as a person before the law and to a trial within a reasonable time, to challenge the legality of the detention before the courts, to be released subject to guarantees to appear for trial, to a fair and public trial before an independent and impartial tribunal without undue delay and with legal assistance of their choosing, free of discrimination. Articles 19 and 20 of the UDHR guarantee that everyone has the rights to freedom of opinion and expression and to freedom of peaceful assembly and association, respectively.

With regard to article 9 of the UDHR, we would also like to remind your Excellency's Government that it is both a norm of customary international law and peremptory norm of international law. In this regard, the use of prolonged incommunicado detention, including in unknown or unofficial detention settings that routinely deny access of detainees to their families or legal representatives of their choice could constitute one of the worst forms of arbitrary detention. The reported consistent failure to present detainees promptly before an impartial judge inherently violates the international standards relating to the right to liberty and security of the person and to arbitrary detention. In this regard, detention pending trial shall be the exception, not the rule, and it should be based on the individual circumstances of the case and subject to judicial oversight.

In this regard, as indicated by the Human Rights Committee, attacks against individuals for exercising their right to freedom of expression, including through arbitrary detention, torture, inhuman or degrading treatment or punishment, and enforced disappearance is incompatible with the ICCPR. Additionally, as per the jurisprudence of the Working Group on Arbitrary Detention, any detention due to the peaceful exercise of rights is arbitrary, and enforced disappearances constitute a particularly aggravated form of arbitrary detention. As stated by the Human Rights Committee in its General Comment No. 24 and reiterated in the jurisprudence of the Working Group on Arbitrary Detention, the deprivation of liberty of children should only be used as a measure of last resort and for the shortest appropriate period of time. We would like to further remind your Excellency's Government that the right to challenge the lawfulness of detention before a court, protected under article 9 of the ICCPR, is a self-standing human right and a peremptory norm of international law, which applies to all forms of arbitrary deprivation of liberty. In accordance with General Comment No. 24, every child arrested and deprived of his or her liberty should be brought before a competent authority within 24 hours to examine the legality of the deprivation of liberty or its continuation.

Moreover, as established by the Human Rights Committee in its General Comment No. 31, States have an obligation to investigate and punish serious human rights violations, such as torture, extrajudicial killings and enforced disappearances.

Failure to investigate and prosecute such violations is in itself a breach of the norms of human rights treaties (paragraph 18). Impunity for such violations can be an important element contributing to the recurrence of violations. The Human Rights Committee further stipulated in General Comment No. 36 that the loss of life occurring in custody, in unnatural circumstances, creates a presumption of arbitrary deprivation of life, which can only be rebutted on the basis of a proper investigation by the State (paragraph 29). It further noted that extreme forms of arbitrary detention that are themselves life-threatening, in particular enforced disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life (paragraph 57). The deprivation of liberty followed by a refusal to acknowledge that deprivation of liberty or by concealment of the fate of the disappeared person, in effect removes that person from the protection of the law and places his or her life at serious and constant risk, for which the State is accountable (paragraph 58).

Furthermore, the Working Group on discrimination against women and girls noted in its report on women deprived of liberty (A/HRC/41/33) that State authorities responding to conflict may detain and confine women in the service of their own cause. Women who are able to escape from non-State armed groups or who are simply suspected of having been involved with them have been held by the military and other State actors in camps, prisons and other detention sites, rather than receiving the services they need. Measures to combat terrorism and corresponding national security measures sometimes profile and target women, in particular, those from certain groups, and sometimes even women human rights defenders. The Working Group further recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders, and eliminate any laws or policy measures designed to criminalize the public roles of women. In addition, the Working Group has expressed that women who seek to participate in political, economic, social or cultural leadership in their communities or nations may be acting in defiance of stereotypes obliging women to stay quiet and invisible and defer to male governance. They may thus be stigmatized, or even criminalized or confined, to prevent them from speaking out or taking action. For example, violence or confinement may be used to stifle and punish women politicians, or those who have an active voice in public, for transgressing traditional gender norms. Women human rights defenders, perceived as challenging traditional notions of family and gender roles in society, are increasingly at risk of facing criminalization and detention as a result of their legitimate public activism. In a number of States, women who work specifically to combat gender stereotypes and advance women's rights are most likely to be targets for criminal persecution and imprisonment. Certain laws, including "complicity" laws, and "public order" laws or even anti-terrorism laws, may be particularly instrumentalized to target women human rights defenders. The Working Group recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders, and eliminate any laws or policy measures designed to criminalize the public roles of women.

In addition, the Working Group on discrimination against women and girls' in one of its reports to the Human Rights Council (A/HRC/23/50), stated that 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.

When the Working Group visited China in 2013, it emphasized that the goal of gender equality cannot be fulfilled in China unless women's rights defenders can function in an environment of freedom and transparency and recommended the State to provide legal protection for all defenders of women's human rights and autonomous women's groups and coalitions in civil society to allow them to advance implementation of the law and advocate for policy changes affecting gender equality as part of the overall strengthening of the rule of law, democracy and human rights in China (A/HRC/26/39/Add.2).

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. In its report on girls' and young women's activism, the Working Group has noted that among others, the devastating effects of the COVID-19 pandemic has had a considerable impact on the possibilities for girls and young women to exert their activism and recommended States to take all appropriate measures to create safe and enabling spaces for girls and young women activists, there they can exercise their activism and express their views freely, equally and meaningfully (A/HRC/50/25).

With specific regard to Ms. He's pregnancy status, we would like to draw your Excellency's Government's attention to the Working Group's recommendation that States must ensure timely access to maternal health services and emergency obstetric care, including treatment for pregnancy-related morbidities, to all women without discrimination (A/HRC/47/38, para 77, c.).

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 Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity establishes the duty of States to undertake prompt, thorough, independent and impartial investigations of violations of human rights and international humanitarian law and to ensure that those responsible for serious crimes under international law are prosecuted, tried and duly punished (principle 19). We recall that the full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations (principle 5).

The information received would also appear to indicate contraventions of several of the principles of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 on 9 December 1988. In this regard, we would like to specifically cite articles 1, 15, 16(1), 18, 19, 37 and 38 concerning the dignity of detained persons, their communication with the outside world, notification of persons connected with detainees of their arrest and/or transfer, access to legal counsel, the right to visits and the right to trial within a reasonable time.

Furthermore, the 1992 United Nations Declaration on the Protection of All Persons from Enforced Disappearance sets forth States' obligations to prevent and eradicate this practice. In particular, articles 2 and 3 state that no State shall practice, permit or tolerate enforced disappearances and that 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. We are further drawing your Excellency's Government's attention to the absolute and non-derogable prohibition of enforced disappearances (articles 2 and 7) which has attained the status of *jus cogens*. Moreover articles 9-13 of the Declaration spell out the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to ensure that all involved in the investigation are protected against ill-treatment, intimidation or reprisal. article 14 further establishes that States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance. The Declaration also stipulates 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 would also like to refer to the Joint Key Guidelines on COVID-19 and Enforced Disappearances of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances stipulate that international law governing enforced disappearances strictly prohibit States from practicing, permitting or tolerating enforced disappearances at any time, including during the pandemic (Guideline 1). In this connection, in its General Comment on article 10 of the 1992 United Nations Declaration on the Protection of All Persons from Enforced Disappearance, the Working Group stipulated that any deprivation of liberty must be done in an officially recognized place of detention and that in no circumstances a State interest may be invoked to justify or legitimize secret or unofficial places of detention (E/CN.4/1997/34 paras 23-24).

Moreover, in the study on enforced disappearances and economic, social and cultural rights, the Working Group on Enforced or Involuntary Disappearances noted that due to the collective character of certain economic, social and cultural rights, enforced disappearances of human rights activists 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 (A/HRC/30/38/Add.5 paras. 34-40). In its General Comment on Women and enforced Disappearances, the Working Group also noted that States have an obligation to recognize the particular types of harm women suffer based on their gender and the resulting psychological damage and social stigma as well as the disruption of family structures (A/HRC/WGEID/98/2 para. 5). Similarly, in its General Comment on Children and Enforced Disappearances, the Working Group acknowledged the specific and especially serious lasting effects that the separation of children from their families has on their personal integrity. In this regard, many of the rights of children of disappeared parents are affected, including economic, social and cultural rights given the legal uncertainty created by the absence of the disappeared parent (A/HRC/WGEID/98/1 paras 6-7).

Finally, we would 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 articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. We also wish to refer to articles 5(a), 6(c), 9 and 12, which state that everyone has the right, individually and in association with others, to meet or assemble peacefully for the purpose of promoting and protecting human rights; to study, discuss, form or hold opinions on the observance of all human rights and fundamental freedoms and to draw public attention to these matters; to benefit from an effective remedy and be protected in the event of the violation of these rights; and to participate in peaceful activities against violations of human rights and fundamental freedoms.