

Civil Society Submission to the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances’ call for inputs with a view to issuing a joint statement on the notion of short-term enforced disappearance

The People’s Republic of China (PRC) operates several short-term enforced disappearance methods, both as part of their judicial processes and extra-judicially. Their duration vary from a few days or weeks up to six months, depending on practice and existing provisions incorporating such practices into law. While all these methods gravely contravene international human rights law and practices as denounced by UN human rights mechanisms, over the past years, some of these methods have been written into PRC law. Additionally, we have documented a worrying trend of enforced disappearances operated transnationally by PRC actors, and gradually incorporated into law. This submission will briefly highlight main methods, available data and actors responsible for these activities, as well as additional issues of concern.

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1. Enforced disappearances under the judicial process

A. Residential Surveillance at a Designated Location (RSDL)

1. RSDL is operated by the Ministry of Public Security (MPS).

2. In 2012 China amended its Criminal Procedure Law¹ (CPL) to incorporate provisions allowing for RSDL in its Article 73; this provision was further amended and expanded in 2018 under articles 74 to 79 of the Law. This provision authorises holding someone incommunicado – during an investigation period prior to arrest – for up to six months. Human rights lawyers believe RSDL incorporates into Chinese law a pre-existing practice of enforced disappearance in secret locations to extract confessions through torture.

3. While the revised CPL theoretically obliges authorities to notify family within 24 hours, this does not include information on the whereabouts of the detainee. Moreover, in practice, relatives are most often not informed or are informed only months later. Furthermore, basic due process guarantees under the CPL such as family notification within 24 hours (Article 85) and the right to meet with a lawyer of choice within 48 hours (Article 29), are waived in cases of national security crimes as per China's Criminal Law (subversion of State power, separatism, collusion with foreign forces, leaking State secrets).

4. The approval of RSDL is entrusted to a people's procuratorate or to a public security organ. In other words, the MPS may itself approve, review and enforce RSDL, without any further oversight by a judicial organ. Civil society groups have documented dire conditions for those held under RSDL, including unsanitary conditions, constant surveillance, deprivation of access to outdoor spaces or exercise, forced solitary confinement and oppressive interrogations with the aim of extracting confessions.

5. In August 2018, ten UN Special Procedures mandates² asserted that RSDL “denies the fundamental right to fair trial, potentially undermines the right to physical and mental integrity, and denies persons held under these conditions of their rights to counsel and family visits”. They stressed that RSDL gives the police and public security too much power, that is abused in order to allow arbitrary arrest, and that it is being used to muzzle rights to freedom of expression, assembly, association and the right to defend rights.

6. The experts underscored that, by allowing individuals “to be held incommunicado, for long periods, in undisclosed location”, RSDL “may *per se* amount to cruel, inhuman or degrading treatment or punishment, or even torture, and additionally may expose [those held under RSDL] to an increased risk of further abuse, including acts of torture”.

¹ <http://english.mofcom.gov.cn/aarticle/lawsdata/chineselaw/200211/20021100053376.html>.

² <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23997>.

7. In a March 2020 public statement³, six UN Special Procedures – including the UN’s Working Group on Enforced or Involuntary Disappearances (WGEID) – “expressed their alarm at the ongoing use of RSDL in China, despite having for many years reiterated the position that RSDL is not compatible with international human rights law.”

8. The PRC’s official court records database⁴ points to an exponential growth of the RSDL system with a logged use of 24,223 cases by 15 May 2023. Bearing in mind missing data, Safeguard Defenders assumes a conservative estimate of close to 64,900 individuals placed under RSDL since 2013 (see below).

9. This official database has significant gaps (notably for national security cases) and is increasingly difficult to access outside of China. Combined with the requirement of individual registration for access, provisions under the newly adopted Cyber-Espionage Law (2023) are likely to further exacerbate the lack of reliable data and independent monitoring.

B. Scale of RSDL usage

Official data

10. The most basic data on the government’s use of RSDL derives from the number of criminal verdicts from courts of first instance that refers to RSDL: these can be found in the China Judgments Online (CJO) database, run by the Supreme People’s Court and established in 2013, the same year the current form of RSDL came into effect.

11. On 15 May 2023, the database contains 24,223 such cases, broken down as follows (by year):

Year	Verdicts
2013	255
2014	1,585
2015	2,002
2016	3,086
2017	3,268
2018	3,083
2019	2,430
2020	4,669
2021	2,793
2022	876
2023	176
Total	24,223

³ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25735&LangID=E>.

⁴ <https://wenshu.court.gov.cn/>.

12. However, the authorities have increasingly removed verdicts referring to RSDL from the CJO database. For example, between 6 May 2022 and 15 May 2023 , 692 verdicts pertaining to the entire 2013-2020 period disappeared from the database, representing around 3.4% of all current RSDL cases in the database. Including these removed cases the total number of RSDL cases from the CJO database stands at 24,915.

	2022-05-06	2022-09-16	2023-05-15	<i>Total missing</i>
2013	270	268	255	15
2014	1,669	1,656	1,585	84
2015	2,089	2,071	2,002	87
2016	3,185	3,164	3,086	99
2017	3,379	3,360	3,268	111
2018	3,204	3,161	3,083	121
2019	2,498	2,473	2,430	68
2020	4,776	4,741	4,669	107
			Total	692

13. Additionally, an in-depth study performed by a former prosecutor and now professor of law at Jiangxi University of Finance and Economics found that each studied verdict referring to RSDL concerned, on average, 1.191 persons⁵. With that in mind, the minimum number of people placed into RSDL – as recorded in China’s official database – between 2013 and 2023 stands at 28,850. When including the now missing cases above, this would amount to a minimum total of 29,674.

Year	Verdicts	Missing	People affected
2013	270	15	322
2014	1,669	84	1,988
2015	2,089	87	2,488
2016	3,185	99	3,793
2017	3,379	111	4,024
2018	3,204	121	3,816
2019	2,498	68	2,975
2020	4,776	107	5,688
2021	2,793		3,326
2022	876		1,043
2023	176		210
Total	24,915		29,674

⁵ Reflection of Public Security Organs’ application of RSDL, based on 5955 big data samples, "China Law Review", Issue 6, Thought Column (pages 74-87) 谢小剑、朱春吉：用 5955 个大数据样本·反思公安机关适用指定居所监视居住 | 中法评, 中国法律评论 https://mp.weixin.qq.com/s/WVlg_qoEBYKoVnpXRUBGGw

Extrapolations for true scale of usage

14. RSDL is consistently used against individuals accused of national security crimes: the authorities explicitly instruct that such cases should never be recorded in the database. An important number of verdicts of human rights lawyers targeted during and since the July 2015 ‘709 Crackdown’ do not appear in the database. Despite the absence of a method to account for these cases, a 2023 report by the Supreme People’s Procuratorate⁶ pointed to over 1,400 individuals prosecuted for national security crimes between 2018 and 2022: these are **not** accounted for in the data presented in this report, but merit noting.

15. Several Chinese and international studies point to the important lack of data in the CJO database. One study⁷ found an upload rate of only 37.02% for RSDL cases, with great variations between provinces/regions (low estimate). However, by comparing the number of trials held each year as released by the Supreme People’s Court in its annual official work reports with the number of verdicts that are uploaded the same year on CJO, on average only 51.73% of verdicts appear in CJO (medium estimate) between 2013-2021⁸. This reaches 63.02% (high estimate) for the period 2014-2020. Bearing in mind the above information and the average of 1.1191 individuals for each verdict, we conclude the following low, medium and high estimates of actual RSDL usage:

Year	Baseline	Estimate		
		Low	Medium	High
2013	322	510	622	869
2014	1,988	3,154	3,843	5,369
2015	2,488	3,948	4,810	6,721
2016	3,793	6,019	7,333	10,247
2017	4,024	6,386	7,780	10,871
2018	3,816	6,055	7,377	10,308
2019	2,975	4,721	5,751	8,037
2020	5,688	9,026	10,996	15,365
2021	3,326	5,278	6,430	8,986
2022	1,043	1,656	2,017	2,818
2023	210	333	405	566
Total	29,674	47,086	57,363	80,156

16. Lastly, RDSL is employed at the very start of a judicial proceeding, after initial detention but before formal arrest. Taken together with the periods of indictment and of preparation for trial by the

⁶ 五年来追诉刑事犯罪 583 万余件。我国已成为犯罪率最低、安全感最高的国家之一, In the past five years, more than 5.83 million criminal offenses have been prosecuted, and my country has become one of the countries with the lowest crime rate and the highest sense of security, https://www.spp.gov.cn/spp/zdgz/202302/t20230215_601758.shtml

⁷ Xie Xiaojian (谢小剑), PhD, Professor at the Research Center for Rule of Law, Jiangxi University of Finance and Economics, former staff of People’s Procuratorate of Yichun City, Jiangxi, Application of RSDL on duty crime: statistical analysis - based on samples of 1694 verdicts, SJTU Law Review No.4 (2018) 谢小剑, 江西财经大学法学院教授、法学博士。” 谢小剑:职务犯罪指定居所监视居住的适用: 统计分析——以 1694 份判决书为样本” 《交大法学》2018 年第 4 期, 注释已略。 , available at: <http://law.sjtu.edu.cn/uploads/fckeditor/file/%E4%BA%A4%E5%A4%A7%E6%B3%95%E5%AD%A6/2018%E5%B9%B4%E7%AC%AC%E6%9C%9F/20180412.pdf>.

⁸ China’s criminal justice system in the Age of Covid, 8 June 2022, Safeguard Defenders <https://safeguarddefenders.com/en/blog/china-s-criminal-justice-system-age-covid>

prosecutor, cases including the use of RSDL will not appear in the database until after the trial has been held and the *verdict delivered*. This means that the latest years in the database are very incomplete, as those placed in RSDL in 2022 will not appear in the database until 2023 or 2024 (or occasionally later). However, the above-mentioned study found that 45% of verdicts are delivered the same year, while 55% the following year.⁹ Bearing this mind, the rectified estimates of RSDL cases (excluding 2023) would stand as follows:

Year	Estimate			
	Baseline	Low	Medium	High
2013	322	510	622	869
2014	1,988	3,154	3,843	5,369
2015	2,488	3,948	4,810	6,721
2016	3,793	6,019	7,333	10,247
2017	4,024	6,386	7,780	10,871
2018	3,816	6,055	7,377	10,308
2019	2,975	4,721	5,751	8,037
2020	5,688	9,026	10,996	15,365
2021	3,326	5,278	6,430	8,986
2022	2,318	8,175	9,960	13,917
2023	210	No estimate possible yet		
Total	30,627	53,274	64,900	90,689

C. Disappeared in detention

17. Additional research by Safeguard Defenders¹⁰ shows how, in recent years, police and detention authorities are increasingly resorting to a variety of tools - some legal and others extra-legal - to detain individuals incommunicado, keeping them more helpless and isolated from their family and legal representatives. These methods are used as an alternative to, or subsequent to disappearance in RSDL.

18. Authorities have increasingly resorted to illegally registering individuals under fake names in detention centres. This ensures they are untraceable to their families, friends and lawyers, effectively denying them the right to see a lawyer once they have been formally arrested and placed in a detention centre. This is done with no legal authority. Safeguard Defenders' research indicates that victims live with a fake name for around six months, and up to three or more years.

19. This practice not only violates international standards, but directly contravenes the PRC's Domestic law. Under Chinese law, detention centre staff must verify incoming detainees' details and allow them access to a lawyer within 48 hours of a request being made - by the victim, or their family (which has power of attorney to appoint a lawyer)¹¹. The first Article of Section 9 of the DLEDC, which covers special procedures for admitting detainees, stipulates that detention centres must inform the family

⁹ Application of RSDL on duty crime: statistical analysis - based on samples of 1694 verdicts, SJTU Law Review No.4 (2018) 谢小剑, 江西财经大学法学院教授、法学博士。”谢小剑:职务犯罪指定居所监视居住的适用: 统计分析——以 1694 份判决书为样本”《交大法学》2018 年第 4 期, 注释已略。

¹⁰ See more: Safeguard Defenders, *Access Denied: China's Vanishing Suspects*, 2020, available at: <https://safeguarddefenders.com/en/access-denied-chinas-vanishing-suspects>.

¹¹ Article 37 of China's Criminal Procedure Law.

or guardian of the detainee of their location within five days following the completion of procedures to admit him or her. In addition, according to Article 85 of the 2012 CPL, the case-handling organ should inform the family within 24 hours of placing an individual in a detention centre. Exceptions are made if ‘family members cannot be located or notifying them would obstruct the investigation’ (for example, the suspected crime is terrorism-related or concerns national security, widely employed against human rights defenders).

20. The DCL does not clearly stipulate that a detainee’s identity must be confirmed, but it does stipulate that details of the detainee must be entered into various forms. We cite in particular:

- Article 12 of the DCL says that when receiving “criminals”¹² a file on the individual should be created.
- Section 2-1 of the DLEDC on receiving a suspect into custody covers the needed paperwork for registering a new inmate to the detention centre. These include a “detention certificate” and an “arrest certificate,” which should clearly include the correct name of the individual.
- Mimicking Article 7 of the UN Standard Minimum Rules for the Treatment of Prisoners, Article 2.1.10 of the DLEDC also clearly states that if any details on the paperwork appear incorrect then the individual “shall not be admitted into custody [at the detention centre].¹³”
- Section 2-2, on verifying identity, makes this even clearer: “Detention centre police shall question the detainee and verify their identity. If their identity information is inconsistent, then the individual shall not be admitted into custody.”

21. The use of ID cards in China is so entrenched that it is inconceivable that it is not standard procedure to check the ID card of any new detainee. It can only be concluded that the police either order the detention centre staff to ignore the requirement to verify the identity with the ID card or tell staff that they must register the suspect with a fake name.

22. As noted in a joint statement by six UN Special Procedures mandates on 23 March 2020, *“it has also unfortunately become common practice for Chinese authorities to provide limited or conflicting information on the victims and the charges they face. The families are often kept in the dark about the well-being of their loved ones.”*¹⁴

¹² At this stage, of course, the individual would still be a suspect, but the language of the DCL of 1990 refers to them as criminals. A new draft version of the law, that was still not passed as of May 2021, changes that language to the more internationally accepted “suspect”.

¹³ The relevant articles are as follows: • Article 2-1.1 Suspects and defendants detained and arrested shall be taken into custody on the basis of the “detention certificate” and the “arrest certificate” according to the law. • Article 2-1.2 During the investigation stage, those who are detained in different administrative areas at or above the county level shall be taken into custody by providing “detention certificate”, “arrest certificate” and the approval procedures of the common higher-level public security supervision department of the two places. • Article 2-1.3 If the jurisdiction is changed, the legal documents that change the jurisdiction of the case-handling authority and the designated jurisdictional decision letter shall be provided in order to take the individual into custody. • Article 2-1.10 If the above-mentioned certificates are not provided, or any stamp is not clear, or the content of the certificate does not match the actual situation, [the person] shall not be admitted into custody [at the detention centre].

¹⁴ *China: UN experts gravely concerned by enforced disappearance of three human rights defenders*, Joint Statement by Mr. Michel Forst, Special Rapporteur on the situation of human rights defenders; The UN Working Group on Enforced or Involuntary Disappearances: Mr. Luciano Hazan (Chair), Mr. Tae-Ung Baik (Vice Chair), Mr. Bernard Duhaime, Ms. Houria Es-Slami, and Mr. Henrikas Mickevičius; Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Mr. Clement Nyatsosssi Voule; the Special Rapporteur on the rights to freedom of peaceful assembly and association; Ms. Fionnuala Ní Aoláin, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while counter-terrorism; Mr. Nils Melzer Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 23 March 2020, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25735&LangID=E>.

2. Enforced disappearances outside the judicial process: the *liuzhi* (留置) system

23. The Central Commission for Discipline Inspection (CCDI) has long been an internal Party-run police force tasked with investigating corruption, political morale, and ensuring loyalty to the Communist Party of China (CCP). The CCDI is known for its past use of *shuanggui* (双规), a black jail system allowing the CCDI to keep suspects in incommunicado detention and torture them until they confessed. When the CCDI's state front, the National Commission of Supervision (NCS), was launched in 2018, this system has been renamed as *liuzhi* (留置) since 2018 and extended to civil servants who are not Party members.

24. The NCS does not operate independently and is merely an extension of the Party's CCDI, sharing offices, command structures and staff. Annual work reports are presented each year by CCDI, with no distinction made between the work of the NCS and CCDI 'branches'; CCDI also represents in official capacity, such as in events hosted by the UN Office on Drugs and Crime. In the words of its former international fugitive recovery chief Liu Jianchao, "the supervisory organ is co-located with the Party's discipline inspection organs."¹⁵

25. The CCDI is exclusively controlled by the CCP and stands firmly outside the limits of judicial or administrative control. It is a non-judicial body which cannot be subjected to judicial or administrative appeals. Officers are not classified as "judicial officers or personnel" and CPL provisions banning the use of confessions extracted under torture do not apply to them. Testimonies of victims, relatives and lawyers consistently point to a rampant use of torture inside the facilities, aimed at obtaining confessions.

26. *Liuzhi* mimicks RSDL in that it also provides for detention at a secret location for up to six months without access to legal counsel. Unlike RSDL, it is not part of the judicial process.

27. The system has been formally denounced by the UN WGEID in a General Allegation Letter of September 2019¹⁶ and reiterated in its 2020 report to the 45th Human Rights Council¹⁷, as well as its 2021 Fall Session report¹⁸.

28. Official data on the use of *liuzhi* is sporadically released, often only from a few provinces at a time and limited to a certain type of cases or operations. A conservative estimate by Safeguard Defenders based on such limited numbers points to nearly 78,000 potential victims between March 2018 and June 2023.

¹⁵ <https://www.kannewyork.com/news/2015/10/04/21107.html>.

¹⁶ https://www.ohchr.org/Documents/Issues/Disappearances/Allegations/119_China.pdf.

¹⁷ <https://undocs.org/pdf?symbol=en/A/HRC/45/13>.

¹⁸ https://www.ohchr.org/sites/default/files/2021-12/A_HRC_WGEID_125_1_AdvanceEditedVersion.docx.

Scale of *liuzhi* usage

29. Since *liuzhi* is implemented by a non-judicial organ, there is no data in the CJO nor in any work reports by the Supreme People’s Procuratorate or the Supreme People’s Court. However, the CCDI does on occasion release some minor datasets (despite a steady decrease in such disclosures) providing the following minimum number in select provinces and regions over some years.

Province	Year	# in province	Corrected
Beijing	2017	61	
Shanxi	2017	42	
Zhejiang	2017	266	
Jiangxi	2018	308	
Guizhou	2018	346	
Fujian	2018	224	
Heilongjiang	2018	487	
Yunnan	2018	485	
Shanghai	2018	65	
Zhejiang	2018	700	
Liaoning	2018	718	
Jiangsu	2019	844	1125
Beijing	2019	204	245
Henan	2019	877	
Jilin	2020	275	300
Heilongjiang	2020	376	
Jilin	2021	61	92
Shanxi	2021	457	914
Inner Mongolia	2021	185	317
Nationwide	2021	5,006	
Hunan	2018-2021	328	
Gansu	2018-2020	234	
		11,846	12,193

30. As clear from above, based on cases publicly reported by the Party organ responsible, *liuzhi* has been used on at least 11,846 individuals. An adjusted of 6-months data to a full year points to 12,193 individuals.

31. Since data is only released for some provinces or regions, which vary from year by year, the average numbers for these provinces may be extrapolated to the entire country to provide a clearer scale of the use of *liuzhi*:

Year	Average
2017	3,758
2018	13,459
2019	13,076
2020	16,223
2021	10,863
2022	?

32. Additional datasets for specific political ‘campaigns’ demonstrate that the use of *liuzhi* greatly exceeds these numbers. For example, for the period of February 26 to July 31, 2021, *liuzhi* was employed 2,875 times as part of specific campaign targeting law enforcement officials: as the campaign is ongoing, extending data to an entire year would point to 6,900 individuals placed into *liuzhi* in this specific campaign alone for 2021. This number alone exceeds the total estimate for the entire year of 2021.

3. Transnational enforced disappearances

33. In 2018, the National Supervision Law was adopted. An accompanying written legal interpretation of its article 52 by the CCDI formalized the techniques used for the forced repatriation of so-called ‘fugitives’ to the PRC¹⁹.

34. Beyond the traditional means of *extradition* under international judicial and police cooperation mechanisms, this legal interpretation also includes *repatriation* on the basis of immigration laws, and *off-site prosecution* where an individual is convicted and sentenced under ceded jurisdiction. Moreover, it includes the following special measures:

35. “**Persuasion to return**, which refers to the persuasion and education of fugitives so that they can take the initiative to return to China and accept prosecution, trial or execution of punishment. Persuasion is an ideological and political work.”

36. “**An unconventional measure**. There are two kinds of common ones, (1) **kidnapping**, using the means of kidnapping to arrest the fugitives and return to China; (2) **trapping** or **lure** the suspect to the territory, the international high seas, the international airspace or a third country with an extradition treaty, and then [move for their] arrest or extradition.”

37. As official annual data released by the CCDI on operations Fox Hunt / Sky Net - which have claimed a total of close to 12,000 successful operations “from over 120 countries” between 2014 and October 2022 - demonstrates, ‘persuasion to return’ is by far the most frequently used method to force repatriation. The use of these methods is not limited to these operations. On 17 August 2022, the

¹⁹ National Supervisory Commission of the Central Commission for Discipline Inspection, *Interpretation of the Supervision Law of the People's Republic of China: Chapter VI Anti-Corruption International Cooperation Article 52*, 4 July 2018, available at: https://www.ccdi.gov.cn/difg/fgsy/201807/t20180704_175037.html.

Ministry for Public Security publicly announced the successful “persuasion to return” of 230,000 individuals between April 2021 and July 2022 alone, in an anti-telecom fraud campaign.²⁰

38. While known cases of kidnappings and ensuing disappearances remain rare, they do exist. Notable cases are those of Swedish citizen Gui Minhui, kidnapped in Thailand in 2015, or the 2023 suspected kidnapping cases of 36-year-old exiled Chinese critic Yang Zewei (also known as Qiao Xinxin) from Laos²¹ and 80-year-old historian and activist Lhamjab Borjigin from Mongolia²², who still remain disappeared.

39. Other ongoing cases of enforced disappearances abroad include the case of Chinese human rights lawyer Lu Siwei in Laos (August 2023)²³, and the enduring disappearance in Saudi Arabia of Uyghurs Nurmemet Rozi (Nuermeiti Ruze), Hemdullah Abduweli (Aimidoula Waili), Abula Buheliqiemu and her teenage daughter Baibure Miremaiti (who was 13 years old at the time of her detention in March 2022)²⁴.

4. Concerns around UNODC – CCDI/NCS cooperation

40. The formal use of illegal repatriation methods and enforced disappearances under the *liuzhi* system by the CCDI and NCS are particularly worrisome in the context of the PRC’s push for the recognition of the latter as the main interlocutor for any form of international judicial cooperation.

41. This is of significant concern in light of the undisclosed Memorandum of Understanding (MoU) concluded between the NCS and the United Nations Office on Drugs and Crime (UNODC), signed on 17 October 2019²⁵.

42. In a CCDI press statement on the conclusion of the MoU²⁶, NCS Chairman Yang Xiaodu makes express reference to the role of the MoU in “step[ping] up practical cooperation in the area of fugitive repatriation”.

43. Since then, the NCS has proudly claimed²⁷ it has signed similar MoUs and agreements with a growing list of countries, including Belarus, Laos, Vietnam, Argentina, Australia (Australian Federal Police announced in Spring 2023 it “will never renew the MoU” which lapses at the end of this year), Denmark (not renewed since), Thailand, the Philippines and Kazakhstan. It stressed how important these agreements have been to successfully seek and return “fugitives” through a variety of means, although rarely through formal extraditions.

²⁰ <https://www.globaltimes.cn/page/202208/1273266.shtml>.

²¹ <https://safeguarddefenders.com/en/blog/disappearance-chinese-critic-laos-feared-kidnapped>.

²² <https://safeguarddefenders.com/en/blog/chinese-police-kidnaps-writer-mongolia>.

²³ <https://safeguarddefenders.com/en/blog/chinese-lawyer-detained-laos-now-disappeared>.

²⁴ <https://safeguarddefenders.com/en/blog/saudi-arabia-uyghur-girl-13-among-four-facing-deportation-china>.

²⁵ <https://www.unodc.org/unodc/en/frontpage/2019/October/the-united-nations-and-china-sign-agreement-on-combating-corruption.html>.

²⁶ https://www.ccdi.gov.cn/xxgk/ldjg/yxd/zyhd/201910/t20191030_203275.html.

²⁷ https://www.ccdi.gov.cn/toutiao/202011/t20201111_229776.html.

44. In the view of the CCDI/NCS²⁸, these MoUs effectively legitimize the PRC's delegation of judicial cooperation and criminal investigation roles to a non-judicial organ: "The signing of a MoU on cooperation... has effectively demonstrated China's good image of comprehensively governing the country according to law, and has enhanced the international community's recognition and trust in China's rule of law."

45. The UNODC MoU was announced only a month after the UN WGEID issued a letter of allegation²⁹ to China on the NCS and its *liuzhi* system, including its ability to arbitrarily detain and disappear, and the reported widespread commission of torture and ill-treatment. The WGEID reiterated its concerns in its September 2020 report to the 45th session of the UN Human Rights Council³⁰, as well as its 125th session report in September 2021³¹.

46. On 2 November 2020, Safeguard Defenders (SD) wrote to UNODC Executive Director Ghada Fathy Ismail Waly³², urging UNODC to urgently reconsider the agreement in order not to participate in or to facilitate the disappearance of "suspects" by the NCS. SD noted in its letter that "it took a mere five weeks after the system's inauguration before the first (known) death by torture inside the system, of a person placed into *liuzhi* not for being a suspect, but merely for being a potential witness. The victim's family has not been given any redress, or even the possibility of such redress. Offering support to track and repatriate those deemed "criminals" by the Chinese government – and hand them over for investigation by a non-judicial organ, the NCS, while in secret detention outside the judicial system – will inevitably lead to enforced disappearances and to maltreatment or torture."

47. While refusing to release the content of the MoU - in clear contradiction of UNODC's own guiding principles on integrity, accountability, respect and beneficence, as well as key anti-corruption principles of ensuring access to, meaningful engagement with, and transparency -, a response on further inquiries by Mr. John Brandolino, UNODC Director of the Division for Treaty Affairs, raises further concern: "As you are aware, the National Commission of Supervision (NCS) is the supreme supervisory body of the People's Republic of China and is recognized as a legitimate representative of the Government. It is also the main focal point for China's work related to the Convention."

48. Submitting organizations express severe concern over the overall lack of transparency governing these agreements with the CCDI/NCS and the failure by UNODC to adopt and maintain a human rights-based approach to its work under the Convention in line with UN governing standards.

²⁸ https://www.ccdi.gov.cn/toutiao/202011/t20201111_229776.html.

²⁹ https://www.ohchr.org/Documents/Issues/Disappearances/Allegations/119_China.pdf.

³⁰ <https://undocs.org/pdf?symbol=en/A/HRC/45/13>.

³¹ https://www.ohchr.org/sites/default/files/2021-12/A_HRC_WGEID_125_1_AdvanceEditedVersion.docx.

³² <https://safeguarddefenders.com/en/blog/call-unodc-end-partnership-chinas-nsc>.