

BRIEFING PAPER

United Nations documentation of Residential Surveillance at a Designated Location (RSDL) as a form of enforced disappearance, arbitrary detention, and torture

In August 2018, a group of 10 UN Special Rapporteurs and Working Groups wrote a long [letter to the Chinese government](#) inquiring about the legal provisions allowing for RSDL. Since the issuance of this first letter, UN experts have consistently developed and detailed their position on RSDL in light of China's international human rights law obligations. As a result, eight countries including Australia, France, Luxembourg, Sweden, United Kingdom, United States, Germany and Switzerland have called for the repeal of provisions allowing for RSDL during China's Universal Periodic Review cycles in 2018 and 2024.

In the August 2018 letter, the UN Special Rapporteurs had received information that China's legislative body, the National People's Congress, would be revising again the Criminal Procedure Law, and that civil society groups and Chinese lawyers had great concerns with Article 73 allowing for RSDL. The experts studied the law as a whole – in particular Article 73 – and explained the ways in which it did not meet international standards, including the human rights treaties that China had itself ratified.

Based on the information they had received, their knowledge of the situation in China, and their expertise in international human rights standards, the UN experts made a series of clear conclusions about RSDL, both in its legal definition, and actual use. They assert that RSDL:

- Denies [those held in RSDL] 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;
- Gives the police and public security too much power, that is abused in order to allow arbitrary arrest;
- Is being used to muzzle peaceful and legitimate rights to freedom of expression, assembly, association and the right to defend rights

In a nutshell: by enacting and making use of RSDL, China is failing to meet its binding international law obligations.

In a March 2020 [public statement](#) on the disappearance of three human rights defenders, a group of experts 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**'. They asserted that 'as a **form of enforced disappearance**, RSDL allows authorities to circumvent ordinary processes provided for by the criminal law and detain individuals in an undisclosed location for up to six months, without trial or access to a lawyer. This puts individuals at heightened risk of torture, inhuman or degrading treatment or punishment.'

UN human rights experts have further reiterated their concerns over RSDL in letters to the Chinese government on the cases of Guo Feixiong and Tang Jitian ([February 2022](#)), Chang Weiping ([September 2022](#)), Huang Xueqin, Wang Jianbing and He Fangmei ([December 2022](#)), and Xu Zhiyong ([May 2023](#)).

Most recently, in an ‘omnibus’ letter on patterns of human rights violations targeting human rights lawyers in China ([February 2024](#)), a UN Special Rapporteur **‘echoed the call that UN experts have made on China to repeal any provisions allowing for the use of RSDL.’**

In a September 2021 [legal opinion](#) on the cases of Zhang Zhan, Chen Mei, and Cai Wei, the UN’s Working Group on Arbitrary Detention (WGAD) ‘calls upon the Government to repeal the provisions governing RSDL’. It underscores the joint position adopted with other UN experts, that RSDL:

- ‘amounts to secret detention and is a form of enforced disappearance’
- ‘contravenes the right[s] of every person not to be arbitrarily deprived of his or her liberty, [to] challenge the lawfulness of detention before a court without delay, as well as the right of accused persons to defend themselves through legal counsel of their choosing’
- ‘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’
- is ‘used to restrict the exercise of the right[s] to freedom of expression, [of] peaceful assembly and of association by human rights defenders and their lawyers’

The WGAD later recalled this position in its legal opinions on the cases of [Yu Wensheng](#); [Li Kai](#); [Xu Zhiyong](#); [Ding Jiayi](#), [Zhang Zhongshun](#) and [Dai Zhenya](#); and [Wang Jianbing](#).

In its [2023 annual report](#), the WGEID noted that the Chinese government has still – after more than ten years – failed to positively respond to their request to visit the country; at the same time, the overall number of outstanding cases of enforced disappearances taken on by the Working Group in the past six years increased by 147%, from 68 to 168.

Following her official visit to China in April 2022, the then UN High Commissioner for Human Rights Michelle Bachelet [reiterated](#) that UN human rights bodies have categorised RSDL as a form of arbitrary detention and called for its repeal.

RSDL is strongly interlinked with torture and ill-treatment. According to research by Safeguard Defenders, victims of RSDL report repeated acts of both physical and psychological tortures including sleep deprivation, food deprivation, extended time in combined shackles and cuffs (sometimes for weeks), beatings, forced medication, denial of medical treatment, sexual abuse, stress positions held for extended periods (such as being hung by the wrists) and threats of physical harm to them and their loved ones.

In their joint position, UN experts including the WGAD, clearly [state](#) that RSDL ‘**may in and of itself, amount to cruel, inhuman or degrading treatment or punishment, or even torture**’ and that ‘**additionally may expose such persons to an increased risk of further abuse, including acts of torture.**’

During [China’s 2015 review by the Committee Against Torture \(CAT\)](#), the Committee had expressed ‘grave concern’ over RSDL. It recommended that China:

- ‘**repeal, as a matter of urgency**, the provisions of the Criminal Procedure Law that allow [RSDL], and ‘in the meantime’
- ‘ensure that procuratorates promptly review all the decisions on [RSDL],’ ‘ensure that detainees who are designated for potential prosecution are charged and tried as soon as possible and those who are not to be charged or tried are immediately released’
- make sure that ‘if detention is justified, detainees [are] formally accounted for and held in officially recognised places of detention’
- ensure that ‘officials responsible for abuses of detainees should be held criminally accountable’

The CAT is the independent expert committee tasked with reviewing countries’ implementation of the Convention Against Torture. It is still awaiting the **Chinese government’s periodic report, due since 9 December 2019**, in order to resume China’s periodic review process.

In line with the position of UN human rights experts, ISHR urges States to use all available bilateral and multilateral venues to call on China’s Government to

- review China’s Criminal Procedure Law and repeal the provision that allows suspects to be held under Residential Surveillance at a Designated Location.
- end all forms of enforced disappearance provided by law or carried out extra-legally;
- fully review the legal framework governing national security - including China’s National Security Law, national security crimes under the Criminal Law, and provisions restricting the right to legal counsel and to notification of the family under the Criminal Procedure Law - to ensure they are in line with international human rights law and standards.

Repository of documentation by United Nations experts

Communications from UN Special Procedures

[OL CHN 15/2018](#), 24 August 2018, on the use of RSDL

In August 2018, a group of 10 UN human rights experts wrote a long letter to the Chinese government inquiring about the legal provisions allowing for RSDL. They had received information that China's legislative body, the National People's Congress, would be revising again the Criminal Procedure Law, and that civil society groups and Chinese lawyers had great concerns with Article 73 allowing for RSDL. The experts studied the law as a whole – in particular Article 73 – and explained the ways in which it did not meet international standards, including the human rights treaties that China had itself ratified.

Based on the information they had received, their knowledge of the situation in China, and their expertise in international human rights standards, the UN experts made a series of clear conclusions about RSDL, both in its legal definition, and actual use. They assert that RSDL:

- Denies [those held in RSDL] 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
- Gives the police and public security too much power, that is abused in order to allow arbitrary arrest
- Is being used to muzzle peaceful and legitimate rights to freedom of expression, assembly, association and the right to defend rights

[AL CHN 2/2022](#), 3 February 2022, on Wang Jianbing and Yang Maodong/Guo Feixiong

The Working Group on Enforced Disappearances observes that Residential Surveillance at a Designated Location (RSDL), where it consists of placing individuals under incommunicado detention for investigation for a prolonged periods without disclosing their whereabouts amount to secret detention is a form of enforced disappearance (A/HRC/36/39, para. 71 and A/HRC/19/58/rev.1 pages 36-37)

[AL CHN 8/2022](#), 23 September 2022, on Chang Weiping

Special Rapporteur on the situation of human rights defenders Mary Lawlor and Vice-Chair of the Working Group on Arbitrary Detention Mumba Malila wrote a letter to the Government on China on the situation of Chang Weiping:

“Mr. Chang Weiping is a human rights defender and lawyer from Baoji City, Shanxi Province. He has been a vocal advocate for the rights of lawyers in China and the rule of law. In his work as a lawyer, he has defended other human rights defenders and provided pro bono legal counsel for victims of defective vaccines, as well as women, LGBT persons, and persons living with HIV/AIDS and hepatitis B who face discrimination in the workplace.

In January 2020, Mr. Chang was arrested and placed under residential surveillance at a designated location (RSDL), in conditions amounting to enforced disappearance. On 12 January 2020, his license to practice law was annulled. He was released on bail pending further investigation after one week, suspected of subverting State power. During this period of enforced disappearance, Mr. Chang was allegedly subjected to treatment amounting to torture, which he detailed and denounced, along with harassment he and his family had allegedly been subjected to following his release, in a video published on YouTube in October 2020. Subsequent to his publication of this video, Mr. Chang was re-arrested and placed once again in RSDL.”

[AL CHN 10/2022](#), 1 December 2022, on Huang Xueqin, Wang Jianbing, He Fangmei, Yang Maodong and Tang Jitian

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.

[AL CHN 5/2023](#), 12 May 2023, on Xu Zhiyong, Ding Jiayi and Qin Yongpei

We would also like to reiterate our concern regarding the practice of imposing Residential Surveillance in a Designated Location without access to a lawyer or judicial oversight, without formal charges, and without informing the individual’s families of their place of detention in conditions amounting to an enforced disappearance which increases the risk of being subjected to torture and other cruel, inhuman or degrading treatment or punishment. In addition, the use of RSDL in practice contravenes the right of every person not to be arbitrarily deprived of his or her liberty and to challenge the lawfulness of detention before a court and without delay.

The United Nations Declaration on the Protection of All Persons from Enforced Disappearances recognises the right to be held in an officially recognised place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention in order to challenge the legality of the detention. The same Declaration establishes the obligation of the detaining authorities to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (article 10). The Declaration also establishes the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 12) and provides that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7).

AL CHN 1/2024, 14 February 2024, on patterns of human rights violations affecting human rights lawyers

Prior to formal arrest, lawyers are often held under “Residential Surveillance at a Designated Location” (RSDL), a mechanism defined in article 75 of the 2018- revised Criminal Procedure Law. Further, as colleagues have previously observed (UA CHN 6/2020), China’s Criminal Procedure Law, including articles 39 and 85, also “provides for explicit exemptions and restrictions to [legal provisions guaranteeing due process] for national security crimes, such as notification of family members of arrest within 24 hours, or access to a lawyer within 48 hours”.

RSDL, in conjunction with above-mentioned restrictions to due process, authorises the police to hold an individual in custody for up to six months in any location or building chosen by the police – with the explicit exclusion of detention facilities – without any obligation to disclose such location to family members, with limited or no access to legal counsel, and with very limited possibilities for judicial review. Lawyers held under RSDL are interrogated and often at risk of being tortured to extract confessions.

The practice of imposing RSDL without judicial oversight, without formal charges, in conditions amounting to incommunicado detention or solitary confinement, contravenes article 9 of the UDHR and the right of every person not to be arbitrarily deprived of liberty and to challenge the lawfulness of detention before a court and without delay. Without access to legal counsel or their families, those placed under RSDL are at increased risk of all forms of cruel and inhuman treatment, including torture. In some circumstances, secret incommunicado detention can itself amount to torture or other forms of ill treatment.

I would like to echo the call that UN experts have made on China to repeal article 105 of the Criminal Law, and any legal provisions allowing for the use of RSDL. In 2015, the UN Committee Against Torture called on China to repeal restrictions to the right to counsel and to family notification on national security grounds.

Reports from UN Special Procedures

2020 Annual Report of the Working Group on Enforced or Involuntary Disappearances, [A/HRC/45/13](#), 7 August 2020

In its 2021 annual report, the WGEID noted that the Chinese government has still – after more than seven years – failed to positively respond to their request to visit the country; at the same time, the number of outstanding cases of enforced disappearances taken on by the Working Group increased by over 40% between 2018 and 2019 reporting periods, from 68 to 98.

2021 Annual Report of the Working Group on Enforced or Involuntary Disappearances, [A/HRC/48/57](#), 4 August 2021

The Working Group remains concerned at the continued use of residential surveillance in a designated location. The number of outstanding cases of enforced disappearance increased from 98 to 142 during the reporting period.

Report of the Special Rapporteur on the independence of judges and lawyers, presented at the 56th session of the Human Rights Council, [A/HRC/56/62](#), 9 April 2024

This mandate, along with others, has expressed concern to the People's Republic of China about its use of "Residential Surveillance at a Designated Location" (RSDL) in relation to human rights lawyers prosecuted for their professional activities. Unfortunately, this practice has been codified and accepted by the national courts as a form of permissible detention. The conditions of detention entailed in RSDL are equivalent to incommunicado detention and place those detained at a heightened risk of torture and other inhuman and degrading treatment.

Opinions by the UN Working Group on Arbitrary Detention (WGAD)

Opinion No. 15/2019 concerning Yu Wensheng (China), [A/HRC/WGAD/2019/15](#), 29 May 2019

42. The source also alleges that on 27 January 2018, Mr. Yu was transferred to Xuzhou City Detention Centre in Jiangsu Province, where police placed him under "residential surveillance at a designated location". The Working Group and other special procedure mandate holders have expressed concern that the residential surveillance at a designated location regime, as amended in article 73 of the 2012 Criminal Procedure Law, is being employed in a manner which violates human rights,¹⁴ including:

(a) The practice, which consists of placing individuals under incommunicado detention for investigation for prolonged periods without disclosing their whereabouts, amounts to secret detention and is a form of enforced disappearance;

(b) The practice of imposing residential surveillance at a designated location without judicial oversight and without formal charges contravenes the right of every person not to be arbitrarily deprived of his or her liberty, and to challenge the lawfulness of detention before a court without delay, as well as the right of accused persons to defend themselves through legal counsel of their choosing;

(c) The residential surveillance at a designated location provisions appear to allow those suspected of certain crimes to be held incommunicado for long periods and in undisclosed locations, which may per se amount to cruel, inhuman or degrading treatment or punishment, or even torture, and additionally may expose them to an increased risk of further abuse, including acts of torture;

(d) The residential surveillance at a designated location provisions appear to be used to restrict the exercise of the right to freedom of expression and the rights to freedom of peaceful assembly and of association by human rights defenders and their lawyers.

43. During the most recent review of the human rights record of China in the third cycle of the universal periodic review, held in November 2018, delegations expressed concern about residential surveillance at a designated location, particularly its use in arbitrarily detaining individuals who defend and promote human rights. The Working Group calls upon the Government to repeal the provisions governing residential surveillance at a designated location or bring them into line with its obligations under international human rights law.

44. The Working Group considers that the incommunicado detention of Mr. Yu and his placement in “residential surveillance at a dedicated location” violated articles 9, 10 and 11 (1) of the Universal Declaration of Human Rights. In addition, this means of detention effectively placed Mr. Yu outside the protection of the law, in violation of his right to be recognized as a person before the law under article 6 of the Universal Declaration of Human Rights.

Opinion No. 20/2019 concerning Zhen Jianghua and Qin Yongmin (China),
[A/HRC/WGAD/2019/20](#), 9 October 2019

67. In Mr. Zhen’s case, he was held incommunicado under “residential surveillance at a designated place of residence”. The Working Group, in this regard, considers that such a term lacks clarity since, as in the case of Mr. Zhen, the person subject to it is confined not to his or her usual place of residence but “a designated place of residence”, which may well be a prison. The State prosecutors and the public security organs have, in effect, the power to hold a person incommunicado without judicial oversight. In the Working Group’s view, such an enabling act for the law enforcement officials is devoid of legal basis.

Opinion No. 36/2019 concerning Wang Yi and Jiang Rong (China), [A/HRC/WGAD/2019/36](#),
1 October 2019

38. The Working Group considers that “residential surveillance at a designated place of residence” can be a misnomer in the sense that, as in the example of Ms. Jiang, the criminal suspect or defendant subject to it is confined not to his usual place of residence (i.e. house arrest) but in a “designated place of residence”, which may well be a prison in all but name. The public security organ in effect has the power to make a person disappear without judicial oversight. In the Working Group’s view, such an enabling act for law enforcement officials is devoid of legal basis.

61. In Ms. Jiang’s case, the determination of the legality of the decision and enforcement of “residential surveillance at designated places of residence” by the public security organ under article 75 (previously article 73) of the Criminal Procedure Law does not qualify as a fair and public hearing by a competent, independent and impartial tribunal, as stipulated in article 10 of the Universal Declaration of Human Rights. A non-judicial police or security force cannot sit in judgment of its own investigative conduct.

Opinion No. 78/2020 concerning Kai Li (China), [A/HRC/WGAD/2020/78](#), 18 January 2021

47. The Working Group considers that the term “residential surveillance at a designated place of residence” is a misnomer, since in the example of Mr. Li, the criminal suspect or defendant who is subjected to it is confined not to his usual place of residence – i.e., under house arrest – but in a designated place of residence, which may well be a prison. The Shanghai State Security Bureau, acting through the procuratorate, in effect has the power to make a person disappear without judicial oversight. In the Working Group’s view, such an enabling act for law enforcement officials is devoid of a legal basis.

48. The Working Group and other special procedure mandate holders have expressed concern that the residential surveillance at a designated location regime, as amended in article 73 of the 2012 Criminal Procedure Law, is being employed in a manner which violates human rights. Those concerns include the following:

- (a) The practice, which consists of placing individuals under incommunicado detention for investigation for prolonged periods without disclosing their whereabouts, amounts to secret detention and is a form of enforced disappearance;
- (b) The practice of imposing residential surveillance at a designated location without judicial oversight and without formal charges contravenes the right of every person not to be arbitrarily deprived of his or her liberty, and to challenge the lawfulness of detention before a court without delay, as well as the right of accused persons to defend themselves through legal counsel of their choosing;
- (c) The residential surveillance at a designated location provisions appear to allow those suspected of certain crimes to be held incommunicado for long periods and in undisclosed locations, which may per se amount to cruel, inhuman or degrading treatment or punishment, or

even torture, and additionally may expose them to an increased risk of further abuse, including acts of torture;

(d) The residential surveillance at a designated location provisions appear to be used to restrict the exercise of the right to freedom of expression and the rights to freedom of peaceful assembly and of association by human rights defenders and their lawyers.

Opinion No. 82/2020 concerning Xu Zhiyong (China), [A/HRC/WGAD/2020/82](#), 2 March 2021

44. The Working Group reiterates that “residential surveillance at a designated place of residence” is a misnomer in the sense that, as in the example of Mr. Xu, the criminal suspect or defendant subject to such surveillance is confined not to his or her usual place of residence (i.e., he or she is not placed under house arrest) but in a designated place of residence, which may well be a prison in all but name. The Beijing Municipal Public Security Bureau’s national security team in effect has the power to make a person disappear without judicial oversight. In the Working Group’s view, such power in the hands of law enforcement officials is devoid of legal basis.

45. The Working Group and other special procedures have expressed concern that the residential surveillance at a designated location regime, as amended in article 73 of the 2012 Criminal Procedure Law, is being employed in a manner that violates human rights, and highlight the following:

(a) The practice, which consists of placing individuals under incommunicado detention for investigation for prolonged periods without disclosing their whereabouts, amounts to secret detention and is a form of enforced disappearance;

(b) The practice of imposing residential surveillance at a designated location without judicial oversight and without formal charges contravenes the right of every person not to be arbitrarily deprived of his or her liberty and to challenge the lawfulness of detention before a court without delay, as well as the right of accused persons to defend themselves through legal counsel of their choosing;

(c) The provisions relating to residential surveillance at a designated location appear to allow those suspected of certain crimes to be held incommunicado for long periods and in undisclosed locations, which may in itself amount to cruel, inhuman or degrading treatment or punishment, or even torture, and additionally may expose them to an increased risk of further abuse, including acts of torture;

(d) The provisions relating to residential surveillance at a designated location appear to be used to restrict the exercise of the right to freedom of expression and the rights to freedom of peaceful assembly and of association by human rights defenders and their lawyers.

**Opinion No. 25/2021 concerning Zhan Zhang, Mei Chen and Wei Cai (China),
[A/HRC/WGAD/2021/25](#), 26 October 2021**

45. The source submits that both Mr. Chen and Mr. Chai were placed under residential surveillance in a designated location for 54 days. The Working Group considers that the term “residential surveillance at a designated place of residence” is a misnomer, since, as in the examples of Mr. Chen and Mr. Chai, the criminal suspect or defendant who is subjected to it is confined not to his or her usual place of residence – i.e., under house arrest – but in a designated place of residence, which may well be a prison. The authorities, acting through the procuratorate, in effect have the power to make a person disappear without judicial oversight. In the Working Group’s view, such an enabling act for law enforcement officials is devoid of a legal basis.

46. The Working Group and other special procedures have expressed concern that the residential surveillance at a designated location regime is being employed in a manner that violates human rights. Those concerns include the following:

- (a) The practice, which consists of placing individuals under incommunicado detention for investigation for prolonged periods without disclosing their whereabouts, amounts to secret detention and is a form of enforced disappearance;
- (b) The practice of imposing residential surveillance at a designated location without judicial oversight and without formal charges contravenes the right of every person not to be arbitrarily deprived of his or her liberty, and to challenge the lawfulness of detention before a court without delay, as well as the right of accused persons to defend themselves through legal counsel of their choosing;
- (c) The residential surveillance at a designated location provisions appear to allow those suspected of certain crimes to be held incommunicado for long periods and in undisclosed locations, which may per se amount to cruel, inhuman or degrading treatment or punishment, or even torture, and additionally may expose them to an increased risk of further abuse, including acts of torture;
- (d) The residential surveillance at a designated location provisions appear to be used to restrict the exercise of the right to freedom of expression and the rights to freedom of peaceful assembly and of association by human rights defenders and their lawyers.

47. During the most recent review of the human rights record of China in the third cycle of the universal periodic review, held in November 2018, delegations expressed concern about residential surveillance at a designated location, particularly its use in arbitrarily detaining individuals who defend and promote human rights. The Working Group calls upon the Government to repeal the provisions governing residential surveillance at a designated location or bring them into line with its obligations under international human rights law.

48. The Working Group considers that the incommunicado detention of Mr. Chen and Mr. Chai and their placement in residential surveillance at a dedicated location violated articles 9, 10 and 11 (1) of the Universal Declaration of Human Rights. In addition, this means of detention

effectively placed them outside the protection of the law, in violation of their right to be recognized as a person before the law under article 6 of the Universal Declaration of Human Rights.

Opinion No. 30/2021 concerning Ding Jiayi, Zhang Zhongshun and Dai Zhenya (China), [A/HRC/WGAD/2021/30](#), 12 November 2021

51. The Working Group considers that the term that is sometimes employed, “residential surveillance at a designated place of residence”, is a misnomer, since the criminal suspect or defendant who is subjected to it is confined not in his or her usual place of residence – that is, he or she is not under house arrest – but in a designated place of residence, which may well be a prison. The authorities, in effect, have the power to make a person disappear, without judicial oversight. In the Working Group’s view, such an enabling act for law enforcement officials is devoid of a legal basis. The Working Group finds that placement in residential surveillance at a designated location is a violation of articles 6, 9, 10 and 11 (1) of the Universal Declaration of Human Rights.

52. The Working Group and other special procedure mandate holders have expressed concern that the regime of residential surveillance at a designated location is being employed in a manner which violates human rights. These concerns include the following:

- (a) The practice, which consists of placing individuals in incommunicado detention for investigation for prolonged periods without disclosing their whereabouts, amounts to secret detention and is a form of enforced disappearance;
- (b) The practice of imposing residential surveillance at a designated location without judicial oversight and without formal charges contravenes the right of every person not to be arbitrarily deprived of his or her liberty, and to challenge the lawfulness of detention before a court without delay, as well as the right of accused persons to defend themselves through legal counsel of their choosing;
- (c) The provisions on residential surveillance at a designated location appear to allow persons suspected of certain crimes to be held incommunicado for long periods and in undisclosed locations, which may, in and of itself, amount to cruel, inhuman or degrading treatment or punishment, or even torture, and additionally may expose such persons to an increased risk of further abuse, including acts of torture;
- (d) The provisions on residential surveillance at a designated location appear to be used to restrict the exercise of the right to freedom of expression and the rights to freedom of peaceful assembly and of association by human rights defenders and their lawyers.

Opinion No. 9/2022 concerning Wang Jianbing (China), [A/HRC/WGAD/2022/9](#), 11 May 2022

42. The Working Group notes that these allegations concern the imposition of the so called residential surveillance at a designated location, which it considers a misnomer, as the criminal suspect or defendant who is subjected to it is confined not in his or her usual place of residence – that is, he or she is not under house arrest – but in a designated place of residence, which may well be a prison. The authorities, in effect, have the power to make a person disappear, without judicial oversight. In the Working Group’s view, such an enabling act for law enforcement officials is devoid of a legal basis. The Working Group finds that placement in residential surveillance at a designated location is a violation of articles 6, 9, 10 and 11 (1) of the Universal Declaration of Human Rights.

43. The Working Group and other special procedure mandate holders have expressed concern that the regime of residential surveillance at a designated location is being employed in a manner that violates human rights. These concerns include the following:

(a) The practice, which consists of placing individuals in incommunicado detention for investigation for prolonged periods without disclosing their whereabouts, amounts to secret detention and is a form of enforced disappearance;

(b) The practice of imposing residential surveillance at a designated location without judicial oversight and without formal charges contravenes the right of every person not to be arbitrarily deprived of his or her liberty, and to challenge the lawfulness of detention before a court without delay, as well as the right of accused persons to defend themselves through legal counsel of their choosing;

(c) The provisions on residential surveillance at a designated location appear to allow persons suspected of certain crimes to be held incommunicado for long periods and in undisclosed locations, which may, in and of itself, amount to cruel, inhuman or degrading treatment or punishment, or even torture, and additionally may expose such persons to an increased risk of further abuse, including acts of torture;

(d) The provisions on residential surveillance at a designated location appear to be used to restrict the exercise of the right to freedom of expression and the rights to freedom of peaceful assembly and of association by human rights defenders and their lawyers.

Reviews by UN Treaty Bodies

Committee Against Torture, Concluding observations on the fifth periodic report of China, [CAT/C/CHN/CO/5](#), 3 February 2016

14. The Committee expresses grave concern over the amended articles of the Criminal Procedure Law permitting a person under residential surveillance to be placed “at a designated location” for up to six months, in cases involving crimes of “endangering State security”, “terrorism” or serious “bribery”, and when confinement in their home may impede the

investigation. The Committee notes with concern that, although families must be notified within 24 hours of the decision, the Law does not indicate that they must be told the reason or the place of detention, which could be any unregulated and unmonitored facility. The Committee is of the view that these provisions, together with the possibility of refusing access to a lawyer for these types of crimes, may amount to incommunicado detention in secret places, putting detainees at a high risk of torture or ill-treatment (art. 2).

15. The State party should repeal, as a matter of urgency, the provisions of the Criminal Procedure Law that allow suspects to be held de facto incommunicado, at a designated location, while under residential surveillance. In the meantime, the State party must ensure that procuratorates promptly review all the decisions on residential surveillance taken by public security officers, and ensure that detainees who are designated for potential prosecution are charged and tried as soon as possible and those who are not to be charged or tried are immediately released. If detention is justified, detainees should be formally accounted for and held in officially recognized places of detention. Officials responsible for abuses of detainees should be held criminally accountable.

Press Statements

China: UN experts gravely concerned by enforced disappearance of three human rights defenders, [23 March 2020](#)

In a March 2020 public statement, a group of experts 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. As a form of enforced disappearance, RSDL allows authorities to circumvent ordinary processes provided for by the criminal law, and detain individuals in an undisclosed location for up to six months, without trial or access to a lawyer. This puts individuals at heightened risk of torture, inhuman or degrading treatment or punishment.

The experts 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. As a form of enforced disappearance, RSDL allows authorities to circumvent ordinary processes provided for by the criminal law, and detain individuals in an undisclosed location for up to six months, without trial or access to a lawyer. This puts individuals at heightened risk of torture, inhuman or degrading treatment or punishment.

Statement by UN High Commissioner for Human Rights Michelle Bachelet after official visit to China, [28 May 2022](#)

"I also share the concerns of UN human rights mechanisms about legitimate activities by lawyers, human rights defenders and others being penalized under the national security

framework. UN human rights bodies have found the system of Residential Surveillance constitutes arbitrary detention and have called for its repeal.”