



> Report Series

ACCESS DENIED #2

# CHINA'S FALSE FREEDOM



safeguard  
DEFENDERS

## ACCESS DENIED

Access Denied is a three-part report series that looks at the serious deterioration in due process in China. This second volume, **Access Denied: China's False Freedom**, researches the 'non-release release' phenomenon, as first coined by US professor of law Jerome A. Cohen, in which prisoners, once freed from jail or a detention centre, continue to be arbitrarily detained by the police at their home, at a hotel or in a secret location for weeks, months or even years. The first volume, **Access Denied: China's Vanishing Suspects**, examines the police practice of registering suspects under fake names at pre-trial detention centres to prevent lawyers seeing their clients or families knowing where their loved ones are being held. The final volume, **Access Denied: China's Legal Blockade**, looks at the multitude of ways police employ to deny suspects legal assistance, including the use of threats or torture to force them into renouncing their own lawyer and accepting state-appointed counsel.

### About Safeguard Defenders

Safeguard Defenders is a human rights NGO founded in late 2016. It undertakes and supports local field activities that contribute to the protection of basic rights, promote the rule of law and enhance the ability of local civil society and human rights defenders in some of the most hostile environments in Asia.

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Access Denied: China's False Freedom

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Keywords: China, Human Rights, Criminal Justice, Enforced or Involuntary Disappearances.

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## Introduction

*"I think [my] release should be in quotes"*  
Human rights lawyer Gao Zhisheng.

For Wang Quanzhang, the 5th April 2020 was a crucial date. It marked the day that this 44-year-old Chinese human rights lawyer would finally be released from prison after police had disappeared him for almost five years.

Wang was snatched up in the 709 Crackdown, a nationwide strike in the summer of 2015 against hundreds of human rights lawyers and activists aimed at crushing the emerging rights movement in the country. He was kept incommunicado in a secret location for six months of what is called Residential Surveillance at a Designated Location (RSDL)<sup>1</sup>, shuttled around detention centres and sentenced to four and a half years for subversion following a secret trial in December 2018. During that time, he never saw his wife and young son even once, nor did he meet with a lawyer of his own choice. Until a state-appointed lawyer met with him in the summer of 2018<sup>2</sup>, he had been missing for so long, some speculated he was dead.

The 5th of April was a Sunday. Wang's family, friends, supporters and the human rights community were waiting with bated breath to see if he would be allowed to go home or, like many other human rights defenders before him, simply disappear into another form of detention.

Wang walked through the gates of Linyi Prison in Shandong province and straight into a police car. But instead of being taken home to reunite with his wife and son, he was driven to the provincial capital, Jinan; a city 400km away from his family in Beijing.

### **Wang would not be allowed home for another 22 days.**

Police confined him to an apartment in Jinan: for the first 14 days it was on the pretext of being

held under Covid-19 quarantine although he had already undergone quarantine in jail before his release<sup>3</sup>, and then another nine days under limited freedom of movement but restricted to the city. It wasn't until his wife was hospitalised with acute appendicitis on 26 April in Beijing that he was driven back to the capital the following day and the couple were finally allowed to reunite, close to five years since he was first disappeared<sup>4</sup>.

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Wang's case is not unique.

China is increasingly using what renowned scholar on Chinese law Jerome A. Cohen has christened **Non-Release Release** (NRR). In Chinese, the preferred term is weishifang (伪释放)<sup>5</sup>. NRR is the extra-legal and extra-judicial practice of re-detaining someone informally who under law should be set free, for example after having served their sentence, been given a suspended sentence or been released on bail from a detention centre. The informal detention may take the form of house arrest, enforced travel and confinement to a hotel room, or confinement at a police-owned facility. While Chinese police employ many kinds of arbitrary detention, NRR is the only one that is imposed on a victim immediately after they have spent months or even years in custody and thus represents a particular cruelty for the victim and their loved ones.

In the words of Taiwanese lawyer and scholar Yujie Chen, NRR is "an additional sentence" and "a suspension from life"<sup>6</sup>. "For Chinese human rights activists, prison is only one way of losing one's freedom. House arrest, restrictions on movements, and enforced disappearances are often what awaits them upon release," is how China director at Human Rights Watch Sophie Richardson described it.<sup>7</sup>

NRR causes unimaginable anguish for the family or friends of those subjected to NRR following a long jail sentence. When they arrive at the prison gates hoping to take their loved one home after

waiting years to be reunited, prison officers simply tell them that the person has already left and they don't know where they are.

Sometimes, the victim of NRR is held under house arrest, a practice that is often called "soft detention" or "house arrest" (*ruanjin*, 软禁). This can take place in their own home, a family property or an apartment rented by the police. When the individual is occasionally allowed outside with a police escort, it is termed "being placed under guard" (*beishanggang*, 被上岗). Alternatively, the victim can be held captive in a hotel or resort, a practice known as "to be holidayed" or "to be travelled" (*bei lvyou*, 被旅遊) or locked away at some kind of custodial facility owned or used by the police, such as a training centre. Usually they are allowed very limited and monitored contact with the outside world. In extreme circumstances, they are simply disappeared again.

**It is extra-legal; it is arbitrary and it appears to be happening at an increasing rate.** There is nothing in Chinese law that allows police to restrict the freedom of individuals in this way. Limits on one's freedom imposed legally, for example by bail conditions or the application of Deprivation of Political Rights (DPR) following the completion of a prison sentence, can in no way be interpreted to give the police powers to impose NRR.

It violates Article 37 of the Constitution of the People's Republic of China, which protects the personal freedom of citizens. It also violates international rights laws pertaining to the right of liberty and freedom of movement. There are no provisions in Chinese criminal law for the further imposition of penalties (unless a fresh investigation on new charges is brought) outside of DPR once sentence has been served and the prisoner is released. For the most serious forms of NRR, where the individual is disappeared, it amounts to an enforced disappearance as defined in the UN Convention for the Protection of all Persons from Enforced Disappearances.

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***NRR is "an additional sentence" and "a suspension from life"***

Taiwanese lawyer and scholar Yu-jie Chen

Research undertaken for this report revealed that while victims are usually confined to an apartment or a hotel room rather than a prison cell, NRR is very much still a form of detention. Guards often sleep in the same room as the victim; there is no freedom to leave; no freedom to contact friends and family; even access to medical care is controlled. Hotels or rented apartments are the most common locations for NRR and police impose it across the whole of China, from the far north-eastern province of Heilongjiang to Guangdong in the south. It is carried out in an ad hoc manner—the place of detention varies and outside events can sometimes cut short an NRR "sentence", indicating that there are no clear guidelines for police to follow. Rather it appears they are told to keep the victim until they are no longer thought to pose any trouble to the Party<sup>8</sup> (such as by talking to the press or engaging in human right defense work). This also makes sense for a practice that is completely outside the legal system and resource heavy. While NRR may last from a few days to several months, others can languish for years. Lawyer Gao Zhisheng was made to suffer years of NRR, and remains disappeared by the state to this day.

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*Access Denied #2: China's False Freedom* shines a spotlight on this illegal treatment imposed by Chinese police on individuals who have already suffered greatly in the system. It documents examples of NRR and examines data and first-person accounts to better understand how it is being used and how it violates both domestic and international laws. It is the second volume in the three-part Access Denied series that charts the serious deterioration in the rule of law in China since Xi Jinping came to power in 2012.

## Backstory

### History: From labour camps to re-education camps

As an authoritarian dictatorship, the People's Republic of China has practised some form of NRR since the early years after its founding in 1949. Regulations from the 1950s, governing how detainees at the infamous system of administrative detention called Re-education Through Labour (*laodongjiaoyang*, 劳动教养), ruled that camp inmates who had no home, family or job to go back to once their sentence had been served could be kept on at the camp indefinitely<sup>9</sup>. This allowed the state to extract cheap labour without the need to go through the pretence of a legal process<sup>10</sup>. Such gross violation of personal freedom may not have been as shocking at the time as it appears today. Until the 1990s, the average Chinese citizen did not enjoy freedom of movement; people were restricted by the household registration system to an area and by their work unit to a job and place of residence.

As China's human rights movement emerged at the turn of the century, NRR became another way to control activists. A serial victim of house arrest, both generally and as part of NRR, is rights activist Hu Jia (胡佳). With his partner Zeng Jinyan (曾金燕), Hu made an amateur documentary, *Prisoners in Freedom City*, documenting his months of house arrest from mid-2006 to 2007<sup>11</sup>. The footage focuses on the relentless security detail that was posted outside their residential building, stopping him from leaving and also tailing Zeng whenever she left to go to work or go shopping. A year later, Hu was arrested and sentenced to three and a half years for posting critical comments online and talking to foreign media. When he was released in 2011, police and security guards were again stationed outside his apartment complex, periodically preventing him from leaving, including through the use of violence<sup>12 13</sup>.

*It has almost become standard practice for police to enforce a period of NRR on "freed" activists*

Like regular forms of house arrest (soft detention, placed under guard and to be travelled), NRR tends to be more often used during sensitive political times, such as major international events when the world's press is focussed on China and key anniversaries like the 4 June Tiananmen Square massacre. The goal appears to be to prevent them from speaking to global media and "embarrassing" China<sup>14</sup>. In 2008, during the Beijing Olympics, ethnic Mongolian activist Naranbilig was released from 20 days of detention and straight into house arrest<sup>15</sup>.

Party officials are not immune from this treatment. Perhaps the most famous example is Bao Tong (鲍彤). Bao was the senior advisor to former Chinese Communist Party leader Zhao Ziyang (赵紫阳), who was himself confined to his home for 16 years until his death in 2005<sup>16</sup>. Bao served seven years for revealing state secrets but upon his release in 1996, he was illegally confined to a government compound. At the time, a police officer told Bao that since he had been sentenced to two years Deprivation of Political Rights then he would remain a "criminal outside of prison". He was not allowed to see a doctor, despite serious health issues<sup>17</sup>. When that ended, Bao was given more freedoms but until today remains under heavy surveillance, and is periodically subjected to house arrest or forced to travel.

Since Xi Jinping took power in 2012, the use of NRR appears to have expanded along with an intensifying campaign to suppress the rights movement. For example, many of those caught up in the 709 Crackdown were subjected (and continue to be subjected) to NRR. It has almost become standard practice for police to enforce a period of NRR on "freed" activists. At least for the highest profile victims, NRR helps police control media access to releasees by keeping

them hidden until the attention of the press has died down or been diverted. The 709 Crackdown targeted hundreds of people and thus an abundance of NRR subjects, and that, argued Cohen, has allowed Chinese police to perfect the system of NRR<sup>18</sup>.

NRR has been used to an extreme extent on possibly hundreds of thousands of Muslim minorities (Uighurs and Kazakhs) from Xinjiang who have been imprisoned en masse in re-education camps from 2017. In the March 2020 report, *Uyghurs for Sale*<sup>19</sup>, the Australian Strategic Policy Institute estimated that more than 80,000 people were moved out of Xinjiang to work in factories across China, many of them transferred from the camps. In the factories, they are under constant surveillance and have limited freedom of movement.

The Chinese authorities have shown remarkable flexibility in how they implement NRR. Entire neighbourhoods can become NRR prisons. In August 2020, Radio Free Asia described what amounts to a ghetto for Uighurs “released” from the camps<sup>20</sup>. A special walled-off area, called the 14<sup>th</sup> Neighbourhood Committee, has been set up in Kashgar in southern Xinjiang with a capacity for thousands, possibly up to 7,000 people. Even though they can live with their families, residents are not allowed to leave without special permission. Police guard the only exit, according to the report. Inside, the “ghetto” has factories and schools.

### **Purpose: the hard reality of soft detention**

Since NRR is an extra-legal process, there are no official guidelines on how or under what circumstances it should be imposed. Because it is an extra-judicial process, there is no oversight and Chinese police use NRR with impunity. Since it is outside the system—NRR does not take place at detention centres, prisons or other custodial facilities—the police need to find additional funds to pay for manpower and accommodation, whether it be apartments or hotel rooms for the

victim and the security outfit. There may also be a cost to China’s reputation, since NGOs and family will seek global media help in exposing this illegal form of detention.

Why then do Chinese police go to the trouble and expense of putting someone under NRR when there is no legal requirement to do so and there are costs, both financially and reputationally?

**NRR gives police a way to impose further punishments and restrictions on human rights defenders once legal channels have been exhausted.** NRR is used to silence victims—under NRR it is very difficult, for example, although not always impossible, to speak to the press. With the police literally looking over your shoulder, even if they do have phone access, they are very unlikely to use it to tell the world how they were tortured or coerced into confessing.

*“As long as I was in their hands, as long as I wasn’t at home, the fear was still with me”*

Rights lawyer Xie Yanyi

Rights lawyer Xie Yanyi, who was interviewed for this report, said that he was subjected to two weeks of NRR because the police wanted to prevent him from talking to the press about how he had been tortured in RSDL. While he was under NRR, officers told him not to talk to certain people or be used by “outside forces” once they let him go. They wanted to be sure he wouldn’t cause any “trouble” after he was released.

**NRR offers police a way to control someone while being less exposed to criticism and media coverage.** The appearance of being confined to one’s home or a hotel room looks “better” than a long prison sentence. Advocacy efforts are also more difficult when an individual is not in formal detention because they appear to be free. A death sentence or lengthy prison term may elicit strong criticism, but this “softer” form allows China to blur the lines between detention and freedom. NRR gives police the space for plausible deniability:

they often claim the individual has been freed and therefore no longer their responsibility. Xie Yanyi described being transferred from detention into NRR as like moving from “hell to heaven”, but “as long as I was in their hands, as long as I wasn’t at home, the fear was still with me.”

In cases with intense media scrutiny, for example high-profile victims from the 709 Crackdown, police know that their release date will be closely followed by western reporters. By imposing NRR for a period after the official release, they can control this media coverage. This becomes particularly relevant when the individual has suffered visibly under RSDL, detention or in prison. For example, Xie Yanyi had lost a lot of weight in detention. He went from 75kg down to 45kg. “I looked horrible,” he said. During NRR, he ate well and gained about 10kg.

When Jin Bianling, the wife of rights lawyer Jiang Tianyong, finally saw her husband by video call three days after he was supposed to be released from prison, she cried. It was the first time she had been able to see him since 2013. “He looked much thinner than before. His face seemed a lot darker, and he can no longer see things close by clearly,” she told the South China Morning Post<sup>21</sup>. “He couldn’t say much, as he told me he was still not free,” she added.

There was heightened interest in Swedish publisher Gui Minhai following his “release” from prison in October 2017, because he held the answer behind his mysterious disappearance from his Thailand holiday home in 2015. It is widely suspected that he was kidnapped by Chinese stage agents and smuggled to China. But Gui could not talk because he was in NRR. He was not allowed to take calls from the media, and while he often skyped his daughter, their conversations were clearly monitored by police so that he could reveal very little about his situation. Gui is now serving a 10-year sentence on national security charges and the world is still waiting to learn the truth about his case (please see page 22).

## Degree: spectrum of suppression

Because human rights lawyers and legal activists are never truly free in China, we can think of NRR as being on a spectrum from the most severe—complete disappearance (please see Gao Zhisheng, page 9)—to some form of house arrest, with or without family members present, limited phone contact and occasional monitored trips outdoors.

For this report, we have divided NRR into three levels, as follows:

**Total disappearance (TD)** → Victim is kept incommunicado from everyone.

**House Arrest (HA)** → Confined indoors, isolated, with very limited and monitored phone access. Police live with victim or in a flat/room nearby.

**Under Guard (UG)** → Mostly confined indoors, allowed out with police escort, constant surveillance, limited but usually greater phone usage compared with HA.

Victims may sometimes be moved from one level to another. For example, rights lawyer Wang Yu moved from House Arrest to Under Guard, while Gao Zhisheng was forced into a more severe level from Under Guard to Total Disappearance. For most victims though, at some point, the NRR is relaxed to a state of heavy surveillance, an everyday reality for most human rights defenders in China today. What marks the end of NRR, for the purposes of the definition used in this report, is the removal of the 24-7 police watch stationed at or near the place of residence.

## China's most famous human rights lawyer is missing



Source: YouTube. Still from video interview with Gao Zhisheng while he was under NRR in Shaanxi province in his brother's cave home.



Gao Zhisheng (高智晟) disappeared on 13 August 2017 and hasn't been seen since. The last news we have of him came in September that year when police told his brother he was in custody in Beijing. No detention notice has ever been provided. Gao simply vanished.

An outspoken self-taught human rights lawyer and Nobel Peace Prize nominee, Gao is arguably China's most famous victim of NRR, having been disappeared so many times and for so long by Chinese police.

Gao, now in his mid 50s, was born in a cave to a poor family. After spells as a soldier, a miner, a factory worker and a market vendor, he started teaching himself rights law, driven by his strong conviction

for justice. He became one of China's earliest and most formidable rights lawyers. He took on cases that battled religious oppression (underground Christian church members and Falun Gong practitioners), police abuse, corruption and illegal property seizures. But his tireless rights defense work quickly earned him the attention of the authorities. In 2006 he was disappeared, tortured and sentenced to prison. From that time on, according to fellow human rights lawyer Teng Biao, he has never known a day's freedom.

**Every release from jail or a detention centre has taken him straight back into some form of NRR.**

Gao was aware early on what would likely happen to him. In 2005 he said: "You cannot be a rights lawyer in this country without becoming a rights case yourself<sup>22</sup>."

Timeline of Gao's unending persecution.	
Aug 2006	Police kidnap Gao
Sep 2006	Gao is formally arrested
Dec 2006	Gao is sentenced to three years for subversion of the state, shortly after this is commuted to five years suspended sentence and deprivation of political rights after an international outcry
Sep 2007	Gao disappears for six weeks; later reveals he was kidnapped by police and severely tortured
Jan 2009	Gao's wife and children flee to the US
Feb 2009	Gao disappears again, this time for 14 months
Mar 2010	Gao emerges, explains he was detained & tortured
April 2010	Gao disappears again, this time for 20 months
Dec 2011	Media report he is in prison for three years because he broke his probation from Dec 2006 sentence
Aug 2014	Gao is released but forced to live in a cave with his brother in Shaanxi province. Police prevent him from leaving the village or seeking medical treatment. He appears thin and ill, with teeth missing. In a video interview that was smuggled out he says he was held in solitary confinement for three years. "Release", he says, should be in quotes <sup>23</sup>
Aug 2017	Gao disappears again
Sep 2017	Police inform Gao's brother that he is in custody in Beijing but no news has been heard of him since then

## DATA

This study identified **39** NRR cases imposed by police on **35** victims between **2014 and 2020**<sup>24</sup>. **Four** of the victims (Gao Zhisheng, Wang Yu, Jiang Tianyong and Wang Quanzhang) were moved from one level to another level of NRR; each level is counted as a separate case. Limitations connected with identifying victims and conducting sensitive interviews meant that we could only count a fraction of the true number of NRR

cases. Police warn victims not to talk about their experiences with anyone, and so many NRR cases go unreported. Others go under the radar because they are local activists or petitioners, neither in the media spotlight nor known by NGOs and the wider rights defense movement. Thus, the real figure of NRR cases is likely much higher than the 39 cases detailed in this report.

**Table 1: The 39 NRR cases**

Name	Name (CH)	Local	Sex	Year	Level	Duration	Type	Entry point	Location
Gao Zhisheng	高智晟	y	m	2014	UG	3 years	house	prison	Shaanxi
Kou Yanding	寇延丁	y	f	2015	UG	1 year	house	RSDL	Shandong
Chen Taihe	陈泰和	y	m	2015	UG	1 month	house	detention	Guangxi
Peng Zhonglin	彭中林	y	m	2015	HA	1 year+	hotel	detention	Jiangxi
Wang Yu	王宇	y	f	2016	HA	3 weeks	facility, hotel	detention	Tianjin
Wang Yu	王宇	y	f	2016	UG	4 months	house	NRR	Inner Mongolia
Bao Longjun	包龙军	y	m	2016	UG	1 month	house	detention	Tianjin
Zhai Yanmin	翟岩民	y	m	2016	HA	2 months	hotel	trial	Tianjin
Liu Sixin	刘四新	y	m	2016	HA	2 months 2 weeks	hotel	detention	Tianjin
Liu Yongping	刘永平	y	m	2016	HA	2 months 3 weeks	hotel	detention	Tianjin
Lin Bin (Wang Yun)	林斌 (望云和尚)	y	m	2016	UG	2 years	monastery	detention	Fujian
Ren Quanniu	任全牛	y	m	2016	HA	2 months	house	detention	Henan
Zhang Kai	张凯	y	m	2016	HA	6 months	house	detention	Inner Mongolia
Lam Wing-kee	林荣基	n	m	2016	UG	2 months	house	RSDL	Guangdong
Gao Zhisheng	高智晟	y	m	2017	TD	3 years +	?	NRR	?
Su Changlan	苏昌兰	y	f	2017	HA	15 days	hotels	prison	Guandong, Guangxi, Guizhou, Sichuan
Xie Yanyi	谢燕益	y	m	2017	HA	13 days	hotel	detention	Tianjin
Li Xiaoling	李小玲	y	f	2017	HA	14 days	facility	detention	Guangdong
Li Chunfu	李春富	y	m	2017	?	7 days	?	detention	?
Gui Minhai	桂民海	n	m	2017	UG	3 months	house	prison	Zhejiang
Xie Yang	谢阳	y	m	2017	UG	3 months	house	trial	Hunan
Jiang Tianyong	江天勇	y	m	2019	TD	2 days	hotel	prison	Henan
Jiang Tianyong	江天勇	y	m	2019	UG	1 year+	house	NRR	Henan
Jiang Rong	蒋蓉	y	f	2019	HA	1 year+	house	detention	Sichuan

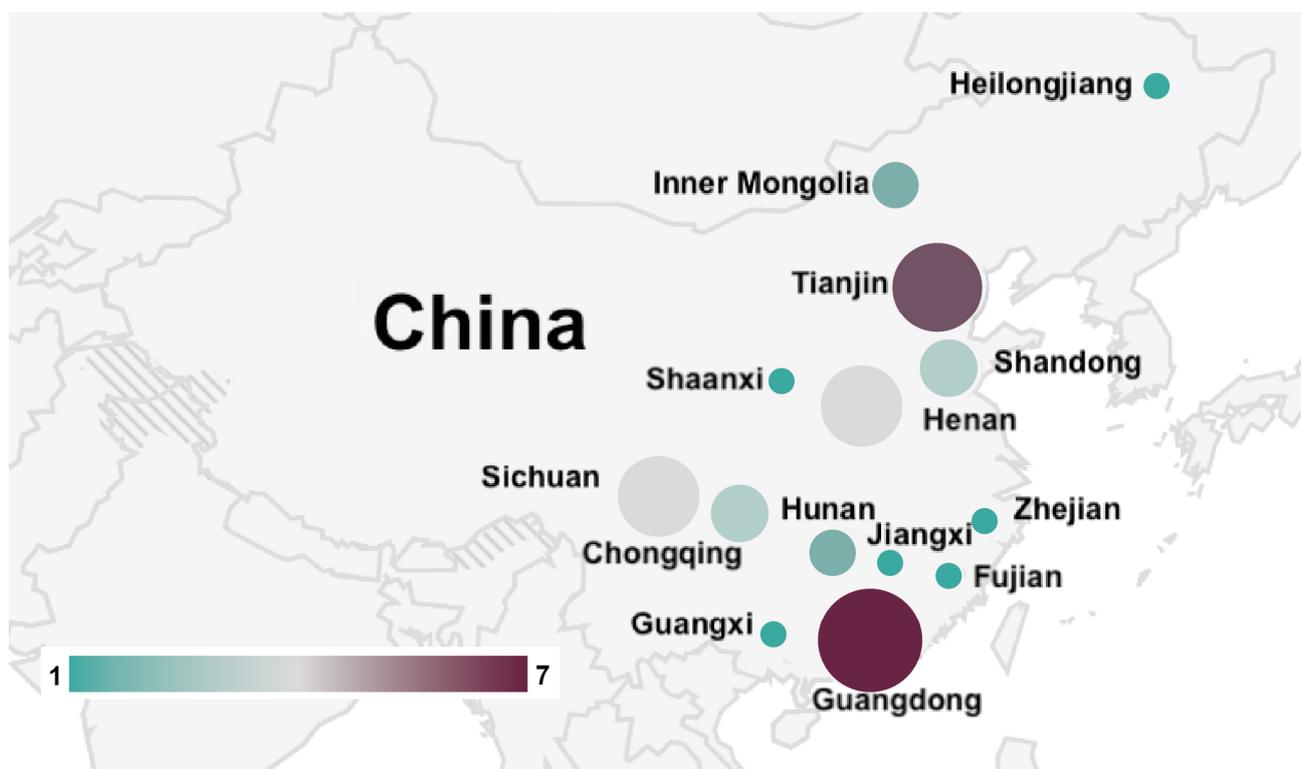
Name	Name (CH)	Local	Sex	Year	Level	Duration	Type	Entry point	Location
Zhang Zhiru	张治儒	y	m	2020	Q	14 days	?	trial	Guangdong
Wu Guijun	吴贵军	y	m	2020	Q	14 days	?	trial	Guangdong
Jian Hui	简辉	y	m	2020	Q	14 days	?	trial	Hunan
Song Jiahui	宋佳慧	y	m	2020	Q	14 days	?	trial	Guangdong
He Yuancheng	何远程	y	m	2020	Q	14 days	?	trial	Guangdong
Liu Gaosheng	刘高胜	y	m	2020	Q	14 days	house	prison	Chongqing
Tan Min	谭敏	y	m	2020	Q	14 days	house	prison	Chongqing
He Chaozheng	何朝正	y	m	2020	Q	14 days	house	prison	Chongqing
Wang Quanzhang	王全璋	y	m	2020	Q	14 days	house	prison	Shandong
Wang Quanzhang	王全璋	y	m	2020	UG	9 days	house	NRR	Shandong
Xing Wangli	刑望力	y	m	2020	Q	14 days	hotel	prison	Henan
Li Bifeng	李必丰	y	m	2020	Q	14 days	hotel	prison	Sichuan
Ding Yajun	丁亚军	y	f	2020	Q	1 month	facility	prison	Heilongjiang
Liu Xianbin	刘贤斌	y	m	2020	Q	14 days	house	prison	Sichuan
Chen Wei	陈卫	y	m	2020	Q	14 days	house	prison	Sichuan

**Table key:** The Local column indicates whether the victim was mainland Chinese; Q in the level column indicates the NRR was related to Covid-19 quarantine; durations over one month are rounded to the nearest week; house here is used to refer to any kind of residence including flats, standalone houses and cave homes.

## Location

NRR is practiced across China from the north in Heilongjiang to the southern province of Guangdong.

**Chart 1: Geo-map of NRR case locations, China (2014-2020)**



Note: Su Changlan's forced travel was counted only as Guangdong; the two unknown locations (Gao Zhisheng and Li Chunfu) were not included.

The widespread occurrence of NRR in this study indicates that it has become common practice across China, systematic and is an integral part of the Chinese police's toolbox of repression.

The sensitivity of conducting research in Xinjiang and Tibet prevented us from attempting to collect data from these two regions. We know from reports mentioned earlier (see page 7) that there are many tens of thousands of NRR victims in Xinjiang released from re-education camps to work as forced labourers, so the absence of cases shown on Chart 1 for western China must not be interpreted as there being no cases here, only that we did not collect data on that area.

Tianjin and Guangdong were inflated by the large numbers of human rights activists held in detention in Tianjin under the 709 Crackdown and the quarantine-type NRRs of labour rights activists in 2020, respectively<sup>25</sup>.

*The practice of NRR has become systematic and is an integral part of the Chinese police's toolbox of repression*

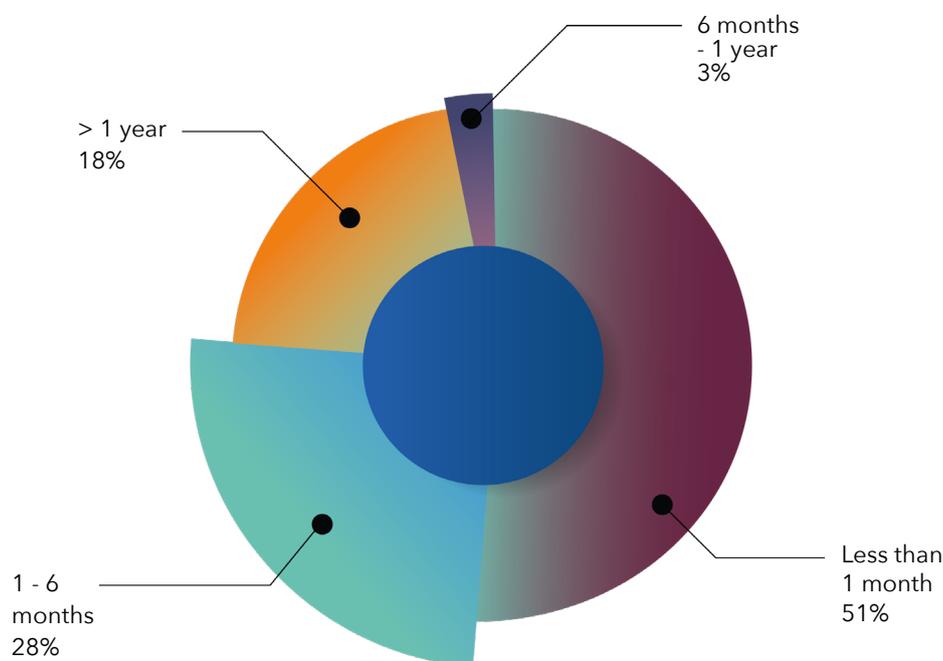
NRR does not always take place in the same region as the detention centre or prison where the victim was previously held. While Zhai Yanmin, Xie Yang and Liu Sixin were placed under NRR in hotels in Tianjin, the same city as their place of detention, other victims were handed over to police in

other jurisdictions, usually in the same region as the victim's home. For example, Jiangxi-based activist Peng Zhonglin was released from a Beijing detention centre and placed under hotel arrest in Jingdezhen city in Jiangxi<sup>26</sup>.

## Duration

**Length of NRR varies, weeks to a few months is typical, but can be years**

**Chart 2: NRR duration, China (2014-2020)**



Of the 39 NRR cases in our study, the shortest episode recorded was two days (Jiang Tianyong), with the longest over three years (Gao Zhisheng).

The spike at two weeks can be explained by the 13 cases of Covid-19 quarantine and should be considered atypical.

The duration of NRR appears to be highly case sensitive. Some victims seem to have leverage based on media scrutiny on their case, their ability to resist and pressure from friends and family. For example, Jiang Tianyong was able to get his NRR reduced from House Arrest in a resort to Under Guard at his parents' house by going on a

protest hunger strike. A family emergency helped Wang Quanzhang. His wife, Li Wenzu, who had campaigned tirelessly on his behalf throughout his more than four years ordeal, was rushed to hospital, forcing police to allow him to return to Beijing to be with her. In such cases, it is likely that police are afraid of the media coverage that would result if they did not ease the NRR. Zhai Yanmin's NRR ended after his aged father was rushed to hospital; Wang Yu's House Arrest NRR was reduced to Under Guard after her husband threatened to divorce her if she wasn't released.

Others are not so lucky. Beijing-based activist Liu Yongping, who was released on bail in August

2016 after a year of RSDL and detention, was held at a Tianjin guesthouse under NRR. He was allowed to visit his father when he fell ill but had to return to his House Arrest in the hotel. He was set free only in October that year<sup>27</sup>.

Police must weigh up the costs and benefits of continuing the NRR, which is resource heavy. Long-term NRR, extending more than six months,

is usually reserved for those who represent the greatest threat, such as Gao Zhisheng.

In a recent online lecture<sup>28</sup>, Chinese human rights lawyer Teng Biao, who now lives in exile in the US, said the arbitrariness of treatment is also partly intentional. Rules are deliberately kept murky to breed uncertainty and fear. Intimidation can only work when there is "extreme arbitrariness," he argued.

## The lawyer who stopped eating for his freedom



Jiang Tianyong (江天勇) is a prominent human rights lawyer, who has represented persecuted religious minorities as well as other rights lawyers, most famously blind activist Chen Guangcheng and Gao Zhisheng (see page 9).

Jiang disappeared whilst on a train in November 2016 after trying to help other lawyers detained as part of the 709 Crackdown. He was kidnapped by police, subjected to RSDL, and forced to falsely confess on camera that he had fabricated stories of fellow lawyer Xie Yang being tortured in detention. He himself was forced to take medication and was physically tortured in RSDL and detention. In December 2017, he was sentenced to two years for inciting state subversion and deprived of political rights for three years.

### NRR

Jiang was released from prison on 28 February 2019, but he was not allowed to return home, instead he was held under house arrest in a resort in Xinmi, in Henan province. He was accompanied by more than 25 police officers. According to Jiang, the resort was publicly-run but since it was winter it was low season and he did not see any other guests. Police officers stayed in adjoining rooms.

Meanwhile, friends had gone to the prison to pick him up but were told Jiang had already left. Later, Jiang learned that his father and sister were put under house arrest in different hotels the night before his release to prevent them from trying to collect him from prison. They were both very scared.

During check-in, police reserved several rooms. The staff did not know that Jiang was being kept against his will until the next day when he started shouting at the police to let him go. The staff cooperated with the police, and did not help him. Jiang noticed that some villagers who lived near the resort could also hear him shouting.

He was followed by at least three officers whenever he left his room. He was allowed to walk in the grounds of the resort but whenever he got close to the exit, officers would rush over and prevent



him from leaving. Two officers were stationed inside his room to guard him while he slept. At mealtimes, nine officers ate at the same table with Jiang. Two female police officers handled the meals and room reservations. Three officers would constantly talk to Jiang in an effort to brainwash him and give him books on Xi Jinping thought. During this time, Jiang was not allowed to use the internet, make phone calls or meet with anyone. He was completely isolated from anyone outside the resort.

Police insisted that keeping him there “was for his own good, to protect him from being used by anti-China forces.” When he asked why they would not simply let him walk out of the resort, they said: “We’re taking a holiday with you.” They never openly admitted they were holding him against his will.

On the first day, he overheard the officers trying to organise some kind of schedule to monitor him, and he realised they were planning to hold him for a long time.

That first evening he began a hunger strike in protest. He told the officers that his high blood pressure was serious and warned that they would be in trouble if he died on their watch. The following day, he said he’d stop taking his medicine and drinking water. He was prepared to die if they wouldn’t free him.

The police panicked and made several frantic phone calls. On the evening of 1 March, they told him he would be freed the next day. The following day at noon, police escorted him to Luoshan, a county-level city near Jiang’s hometown, also in Henan. Local police there booked him into a hotel. They called some of Jiang’s former classmates to persuade him to start eating. Jiang refused, saying he would only eat if he could go home and eat his mother’s food. A few hours later, the police brought his father to the hotel to take him back home.

But that wasn’t the end of Jiang’s NRR. He simply went from Total Disappearance to Under Guard.

At his parent’s house, Jiang was allowed to use the internet and had phone access, allowing him to speak with his wife, who lives in exile in the US. She told media that he is monitored by around 20 “minders” every day, who are stationed outside his parent’s house. Surveillance cameras were installed outside his front door and a small hut was built to house the guards who keep watch at the entrance to the alley leading to his home.

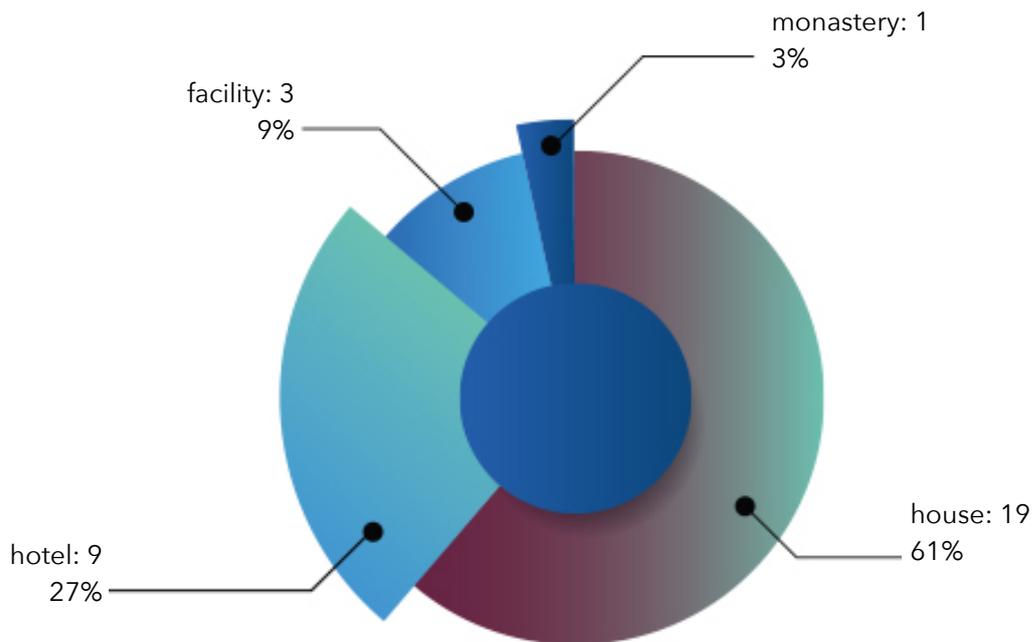
Whenever Jiang leaves home, even if it is to walk his dog or buy food from the market, he is followed by black-clad minders. Sometimes they walk so close to him, he could reach out and touch them.

He has several health problems stemming from the torture and forced medication he endured while he was detained and imprisoned. When he began suffering from swollen feet and legs, police initially prevented him from seeking medical help. They only relented after he agreed to “cooperate” and travel in a police car to the hospital.

# Type

Houses are the most common, followed by hotels; facilities are rare

**Chart 3: NRR type, China (2014-2020)**



*Note: Only 32 of the 39 cases had a known type; Wang Yu's facility/hotel is recorded as facility only.*

The most common type was a house (more than half of the known cases). This was sometimes the victim's home, or one belonging to the victim's family; other times it was a flat rented out by the police. In about a quarter of the known cases, the individual was held in a hotel room. This included city hotels and one country resort. We also identified a few examples of special facilities being

used, such as police training centres, and one instance where the victim was held in a monastery – the monk Lin Bin (Wang Yun).

NRR held at a house tends to be for much longer spells (years rather than weeks or months). The longest NRR held in a hotel room in our sample was 80 days. It is more costly for the police to rent hotel rooms than it is to keep someone under house arrest.

**In one of the most extreme examples, police installed a barred security gate in the hallway leading to Xie Yang's NRR home, which could only be opened with a fingerprint reader**

Buddhist monk Lin Bin, who is also a rights activist, was imprisoned in Ziguo Temple in Fuding in Fujian for two years following his release on bail. Lin, who also goes by his religious name Wang Yun, was caught up in the 709 Crackdown<sup>29</sup>.

## House

If house arrest is imposed, then there are several options for the police. First, the individual is kept under house arrest at their home (Wang Yu), an apartment owned by the family (Jiang Tianyong was made to live with his parents, Gao Zhisheng was confined to his brother's cave home), an apartment owned by the victim or their family but not used by them (Xie Yang, Wang Quanzhang), or a flat rented out by the police (Jiang Rong).

To impose house arrest or to place someone under guard, police often install surveillance cameras outside the front door and also the entrance to the building. They may rent the apartment next door

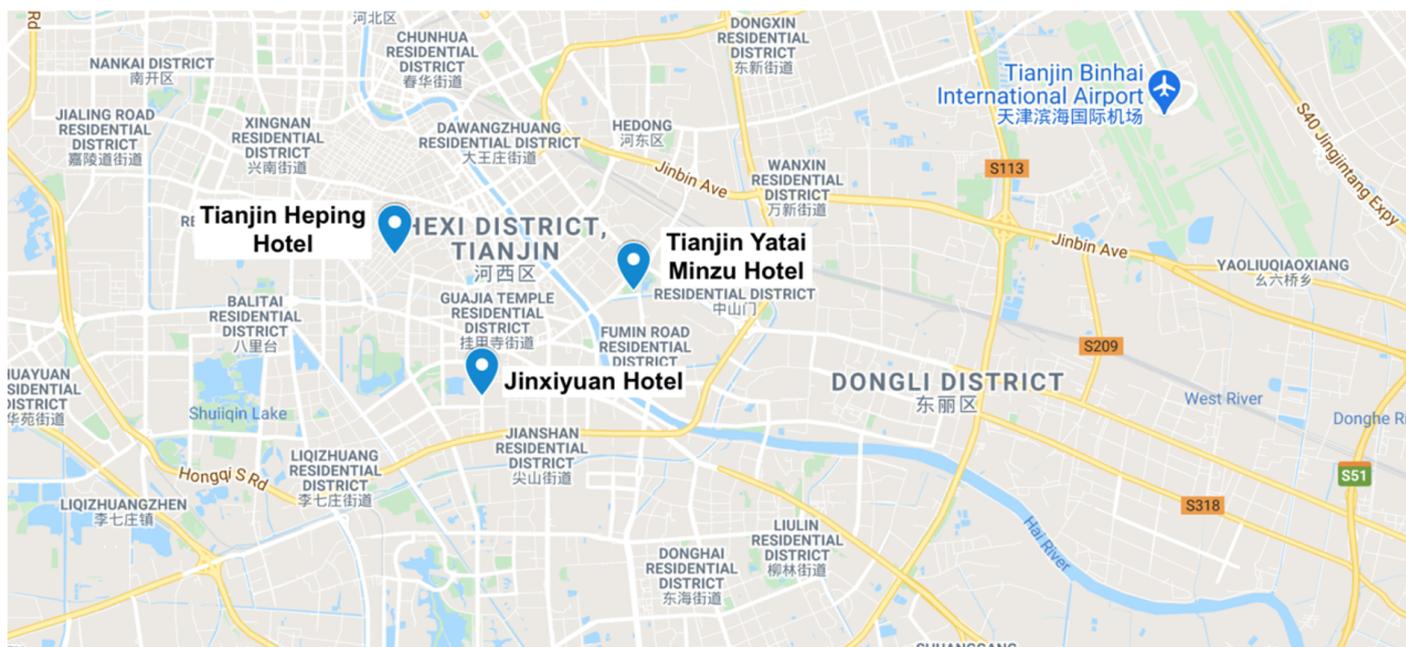
(Wang Yu, Xie Yang). Guards are usually stationed at the bottom of the building to prevent visitors coming in and the victim from leaving. These preparations are made in the days and weeks before the individual is "released". For example, shortly before police put Sichuan-based democracy activist Liu Xianbin under NRR house arrest for reasons of Covid-19 quarantine, they installed security cameras around his residential compound<sup>30</sup>. Liu had just finished a 10-year sentence for inciting subversion of state power.

In one of the most extreme examples, police installed a barred security gate in the hallway leading to Xie Yang's NRR home, which could only be opened with a fingerprint reader, according to Xie's wife<sup>31</sup>.

## Hotel

In our study, the locations of known hotels were always close to the prison or detention centre in which the victim was held. Since many of the 709 Crackdown victims were kept in Tianjin municipality, their NRR hotels were in Tianjin (Wang Yu, Liu Sixin, Xie Yanyi and Zhai Yanmin). In Su Changlan's case, multiple hotels were used—she was forced to go on a police-escorted tour through three provinces and one region.

Three hotels were identified from interviews made with victims for this report. They are all located in adjacent districts in southwestern Tianjin, a major metropolis and former treaty port near Beijing, with a population of nearly 16 million<sup>32</sup>. The three hotels are all within about 4km of each other. They are fairly standard three-star offerings with free WiFi, something which the victims were almost certainly not allowed to enjoy.



## Tianjin Heping Hotel



Tianjin Heping (天津和平賓館, 66 Dali Road, Heping District) is a three-star hotel set in its own grounds. It had a 4.0 rating on Tripadvisor as of October 2020. Wang Yu stayed here for a few days in July/August 2016 when she was forced to appear in front of media to perform her forced confessions.

## Tianjin Yatai Minzu



Tianjin Yatai Minzu (亞泰民族飯, 2 Guanghua Rd, Hedong District) was also rated 4.0 on Tripadvisor (October 2020) and is a nondescript three-star establishment. Zhai Yanmin was kept in NRR here from August to October 2016 for **60 days**, while Xie Yanyi was confined here for **13 days** in January 2017. One whole floor of the hotel was booked by the police during Zhai's NRR. He took his meals in the hotel and was not allowed to leave his floor. Two police officers slept in the same room as him. Xie was also assigned a guard to sleep in his room. Both men were occasionally allowed to walk around the hotel's grounds escorted by police.

Zhai and Liu's hotel NRR period overlapped—Zhai's began on 2 August, while Liu's began four days later on 6 August. The two men were kept in two different hotels, just a few kilometres apart.

## Jinxiyuan Hotel



Jinxiyuan Hotel (金禧園賓館, 106 Longchang Road, Hexi District) appears to have been closed during Liu Sixin's time there, reopened again in 2017, but it appears to be closed again now. The hotel only rates 2.5 on Tripadvisor. Liu was a prisoner here for 2.5 months, guarded by four police, with one officer sharing the room with him.

## The 709 Crackdown's first victim



Wang Yu (王宇) is one of China's most respected human rights lawyers and a recipient of numerous human rights awards. Wang dedicated herself to rights defense work in 2011 after her own experiences with police abuse and wrongful imprisonment. Her most high-profile cases include defending Uighur scholar Ilham Tohti (who was given a life sentence for separatism in 2014) and Cao Shunli, a women's rights defender (who died in police custody that same year).

In the middle of the night, on 9 July 2015, the authorities abducted Wang from her home in Beijing, sparking the 709 Crackdown. She was not allowed to see a lawyer throughout the two years she was kept in RSDL and detention.

Accused of state subversion, but never tried in a court of law, Wang was instead released on bail in August 2016 when she agreed to appear in several televised confessions. Police threatened she would never see her teenage son again if she refused.

### **NRR**

Wang Yu was released from Tianjin Detention Centre on 22 July 2016 and held illegally at a police training facility for 20 days in Jixian county, in Tianjin. She was held in a building with eight police officers—three female officers who lived on the same floor but in separate rooms, while five male officers lived on another floor. They were the only people, as far as she could tell, that were living in the facility. During the day, she was allowed to walk around the facility's courtyard, but always flanked by officers. The building was completely isolated. She spent her days reading or memorizing the script of the forced confession. Sometimes she would play cards with the officers. For the two days when media recorded their "interviews" with Wang—the scripted confessions—she was locked up in a room at Tianjin Heping Hotel (see page 19).

The police had planned to keep her illegally locked up at the police training centre until October, but in mid-August, after she had made her televised confessions and had lived in the facility for 20 days, she was taken to see her husband Bao Longjun and son at the home of Bao's parents, which was in Tianjin. Bao intentionally told Wang in front of the police that if she couldn't return home then he would divorce her. Police then decided to send her back to her hometown, Ulanhot, in Inner Mongolia, essentially easing her House Arrest to Under Guard.

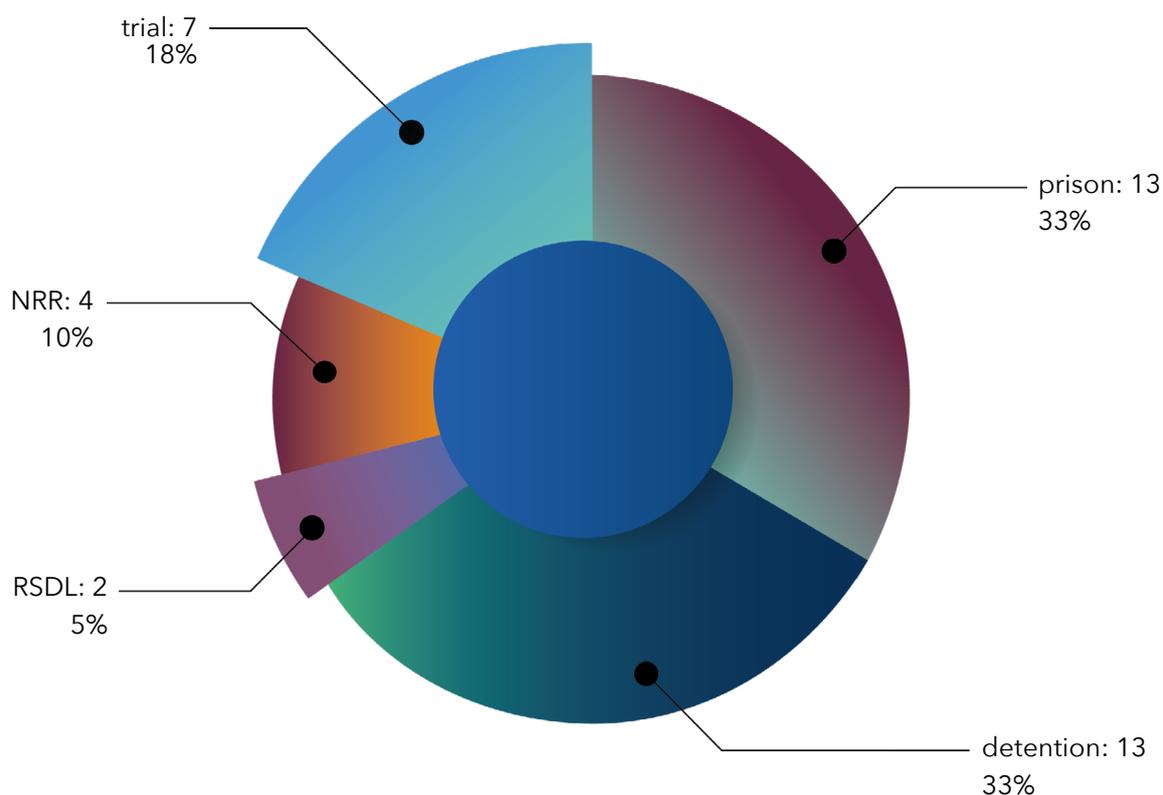
The apartment they were forced to live in was arranged by the police, and Wang was effectively placed under house arrest here for almost six months. The police rented a flat opposite them from which around a dozen officers kept watch on them in shifts 24 hours a day. There were surveillance cameras surrounding their house—in the corridor outside their door, on the main door to the apartment building and all around the building itself. Police followed them everywhere, even if they were just going outside to put out the rubbish. Wang was only allowed out with a police escort and only to visit family in Ulanhot (Wang's family, also in Inner Mongolia) or Tianjin (to visit Bao's parents).

For the first few months of house arrest, Wang was not allowed to keep a phone or have access to the Internet. By the end of 2016, she was allowed a phone and the Internet but was not allowed to make contact with friends. After around six months of house arrest, she was slowly able to contact the outside world.

## Entry point

Most after prison or detention, a few cases straight from trial

Chart 4: Entry point into NRR in China (2014-2020)



A third of the NRR cases in this report were of the victim being “released” from prison and another third, from detention. Many of these people would have already been locked up for years before

the NRR began. About a fifth were released at trial from court, having been given a suspended sentence. A small number of cases were NRR that moved to different levels or directly after RSDL.

## The Swedish publisher kidnapped twice by Chinese agents



Gui Minhai (桂敏海) was a victim of one of the most notorious state-sanctioned kidnappings by China in recent history, also known as the Case of the Missing Hong Kong Booksellers.

Gui, who was born in China but who had received Swedish nationality in 1993, was the co-owner of a Hong Kong-based publishing company called Mighty Current that specialized in gossipy stories about China's political elite, including Xi Jinping. In 2015, Gui was kidnapped by Chinese

state security agents from his holiday home in Thailand. Meanwhile, three other men connected with Mighty Current were grabbed inside the Chinese mainland, and one other kidnapped from Hong Kong. The five of them surfaced on Chinese TV several months later, confessing to "crimes". While the others were eventually allowed to leave China, Gui remained incommunicado in RSDL, detention and prison until October 2017, two years after he was first kidnapped. China's Foreign Ministry said he had been released on 17 October after serving time for a decades-old "traffic offence"<sup>33</sup>. But for the first few days, no one could find him. Finally, his daughter, Angela Gui, received a call from him. He appeared to be living in Ningbo, but clearly in some form of NRR.

Because he could not talk freely on the phone to his daughter, exact details of his NRR cannot be determined, but it is certain that he was not allowed to leave the city and was under heavy surveillance. Every time he went out, he was accompanied by "minders". His apartment had been "arranged" by police. It is very likely that police lived with him, or in a flat next door to him so that he could be monitored 24/7. During this time, he was able to meet with his family, spend time with his wife (who flew to China to meet with him), and was taken to Shanghai twice to apply for a Swedish passport (his was stolen at some point during his kidnapping in Thailand). He was also able to use Skype to talk to Angela, but from the guarded way he talked, their conversations were almost certainly monitored.

While Gui was allowed access to the internet and trips to see family in Ningbo, but as a Swedish citizen, the extraordinary limits placed upon his movements went well beyond an exit ban<sup>34</sup>.

Gui's NRR ended three months later on 20 January 2018 with yet another kidnapping. This time, Chinese police snatched Gui from a train in front of Swedish diplomats who were accompanying him to see a doctor in Beijing after Gui complained of serious neurological symptoms. A month later, he surfaced in yet another forced confession, and two years later in 2020, he was sentenced to 10 years for "illegally providing intelligence overseas". Sweden was not informed about his trial, nor have they been given access to him, in violation of their bilateral consular agreement. Chinese media announced Gui had renounced his Swedish citizenship to reclaim his Chinese citizenship. But Sweden said that Gui had not applied to renounce his citizenship and that as far as they are concerned, he remains Swedish.



Angela Gui provided the following account of her father's NRR from 2017 to 2018.

*We were told my father had been released in October 2017 but the then Swedish ambassador, who had travelled to the detention centre to assist [my father], did not see him anywhere and was told by people there that he'd already left, and that they didn't know where he was as he was now free to do whatever he liked. As far as I'm aware, nobody knew where he was or heard from him for several days afterwards, so I issued a statement stating my concern that he may have been kidnapped again. He then rang me to say he had been released, but that he had chosen to stay in China "for a while", and that he'd rented an apartment in Ningbo. He said we could speak as often as I wanted to. We Skyped nearly every day between late October 2017 and the day before he was abducted on the train in January 2018.*

*He wasn't able to describe directly what had happened to him and what his situation was (he implied he was under surveillance), but I gathered after a few calls that his stay in the apartment had been arranged by police (he couldn't say what organs) and that he could move freely around Ningbo in the company of minders. He often went out for dinner with our family there, and his minders took photos of him around the city, smiling, presumably to create some sort of evidence that he was there voluntarily.*

***"He seemed to have anticipated that he might be detained again, and was very anxious that Swedish authorities weren't offering him enough protection"***

Angela Gui

*He wasn't able to tell me where exactly he was staying, but tried to give me hints, which I would try to analyse and share with Swedish authorities. Travel outside Ningbo seemed to only have been permitted when absolutely necessary: his minders wanted him to travel to Shanghai twice, to apply for a new passport at the Swedish consulate (as his previous one had been left in Thailand), and then to collect it when it was ready.*

*He told me that he wanted to go home, but that he didn't know when he would be allowed to. He seemed to have anticipated that he might be detained again, and was very anxious that Swedish authorities weren't offering him enough protection.*

## Police excuses

### Reasons given vary, include victim's safety, Covid-19, or orders from above

Police routinely offered no reasonable explanation for the imposition of NRR. For example, in 2009, scholar of Chinese law Jerome Cohen tried to meet with human rights lawyer Zheng Enchong (郑恩宠), shortly after Zheng's release from prison. Police blocked his way when Cohen tried to enter Zheng's Shanghai apartment and they were also preventing Zheng from leaving. When Cohen pressed the officers to explain the legal basis for this restriction, they simply repeated: "Because we are the police"<sup>35</sup>.

Interviews conducted for this report and media reports yielded a variety of police excuses.

**Zhai Yanmin** was told that it was for his own safety; police said someone was planning to murder him!

**Jiang Tianyong** was told that "it was for his own good," so that he would not be used by "anti-China forces". Police also said they were just taking him for a holiday!

**Xie Yanyi** said the police simply explained it as "orders from above".

In 2020, at least eight people<sup>36</sup> released from detention or prison were kept for a further 14 days and longer in isolation for Covid-19 "quarantine"

reasons even though many had received negative tests and undertook quarantine before release. For example, the first 14 days of **Wang Quanzhang's** NRR was described as "quarantine" for Covid-19, even though he had tested negative five times for the virus, completed a 14-day quarantine before his release in jail; and Jinan, the city he was confined to, had the virus under control with people free to leave their homes and work<sup>37</sup>. In addition, he later told reporters, he was not completely isolated during those 14 days "quarantine" as police officers frequently came to check on him.

**Ding Yajun**, who had finished a three-year prison sentence on 11 May 2020 for protesting the demolition of her home, was quarantined in prison before her release and then forced to do another month of "quarantine" in a windowless room<sup>38</sup>.

For **Wang Quanzhang's** second episode of NRR, once his "quarantine" had ended, police told him he needed more time to "get used to things". Wang's sister asked police why her brother could not go free and their response was that he was under Deprivation of Political Rights and he must serve out his sentence in Shandong province because local police would need to administer it.

## STORIES

### Wang Quanzhang



**LOCATION:** Shandong/ apartment

**ENTRY POINT:** Prison/ served 4.5 years for subversion of state power. Held for years in RSDL and detention

**NRR DURATION:** 14 + 9 days

Wang Quanzhang (王全璋), a prominent human rights lawyer, first disappeared in the summer of 2015, a victim of the 709 Crackdown. He was finally released in April 2020. In that time, he had only been allowed to meet with his wife and young son once (in a harrowing half hour prison visit<sup>39</sup>). However, instead of being allowed to go home at the end of his sentence, police took him to an apartment in Jinan, 400km from his family in Beijing. They told him he was being subjected to 14 days of quarantine because of the Covid-19 pandemic. Later, Wang told media that he had already tested negative for the virus five times and had completed a 14-day quarantine in jail

just before his release<sup>40</sup>. On 19 April, the end of his second Covid quarantine, police returned his phone, allowed him limited freedom of movement but kept him in Jinan. Wang told his wife that one officer had said Wang needed more time “to get used to things” so would not be freed as soon as the quarantine ended<sup>41</sup>; another said he was serving five years of deprivation of political rights (DPR), which would be administered by the local police office in Jinan so he must stay in the city. It wasn’t until his wife was hospitalized with acute appendicitis on 26 April in Beijing that he was finally driven back to the capital and the couple, long parted, were allowed to finally reunite<sup>42</sup>.

## Su Changlan



**LOCATION:** Guangdong, Guangxi, Guizhou & Sichuan/ hotels

**ENTRY POINT:** Prison/ served three years for inciting subversion of state power

**NRR DURATION:** 15 days

The day Su Changlan (苏昌兰), a women’s rights activist, was released from Nanhai Detention Centre, Guangdong (26 October 2017), police had stationed armed guards around the centre to prevent her friends or journalists talking to her. Police escorted her home, where she changed clothes and made offerings to ancestors. Less than two hours later, three vans filled with police forced Su, her brother and her husband to take a

trip with them, staying at various isolated hotels in Guangdong, Guizhou and Sichuan provinces and the Guangxi region. Her phone, money and ID card were confiscated; she was cut off from the outside world. Among the officers accompanying her was one from the Political and Legal Committee (a Party organ) and a team leader from the domestic security police.

## Xie Yanyi



**LOCATION:** Tianjin/ hotel

**ENTRY POINT:** Detention, released on bail/ accused of inciting subversion of state power. Held in RSDL and detention for 1.5 years.

**NRR DURATION:** 13 days

Human rights lawyer Xie Yanyi (谢燕益) was released on bail 5 January 2017 and taken by police straight to Yatai Minzu Hotel (the same hotel as Zhai Yanmin, see page 19). One guard slept with Xie in the room, the other guards slept next door. For the first three days he was not allowed any contact with the outside world. On the third day he was allowed to speak to his wife on one of the guard's phones. He was confined to the hotel. In the second week, Xie was allowed to exercise in the hotel grounds and to take two trips to buy

new clothes, always accompanied by his guards. Two days before he was released, two officers that had been handling his case interrogated him. Xie believes this was a final warning that if he didn't behave when they finally freed him he would be arrested again. Throughout his period of NRR, his wife Yuan Shanshan campaigned tirelessly for him to be set free. Without this pressure, it is possible Xie would have been held under NRR for much longer.

## Zhai Yanmin



**LOCATION:** Tianjin/ hotel

**ENTRY POINT:** After trial/ given suspended sentence for subversion of state power following more than 1 year in RSDL and detention.

**NRR DURATION:** 60 days

Zhai Yanmin (翟岩民), a rights activist who worked with Fengrui Law Firm<sup>43</sup>, was released from Tianjin Detention Centre on 2 August 2016 into the custody of seven police officers who escorted him to nearby Yatai Minzu Hotel. One entire floor of the hotel had been booked by the police; two officers from the special case handling organ slept in Zhai's room with him. Zhai took his meals

in one of the rooms; he was not allowed even to walk around the hotel. Outdoor exercise was only permitted with an escort of seven police officers and restricted to the hotel grounds. Twice he was escorted to restaurants to eat, again with police. He was released after 60 days so that he could visit his father, who was critically ill.

## Liu Sixin



**LOCATION:** Tianjin/ hotel

**ENTRY POINT:** Detention, released on bail/ accused of subversion of state power. Liu was held for six months in RSDL and six months in detention.

**NRR DURATION:** 75 days

Liu Sixin (刘四新), a lawyer and law professor, was released on bail on 6 August 2016, but escorted to Jinxiyuan Hotel in Tianjin, where four police officers monitored him 24/7 for the next two and a half months. He was not allowed to go online, use his computer or even keep a mobile phone. He was only permitted to make two phone calls, one to his brother and one to his sister. He ate all his meals with the police, and one officer stood

guard over him overnight in his room. Two of the officers were from his interrogation team. He could walk outside accompanied by at least one officer. During this time, he made a trip to his hometown escorted by police officers for two days. He was eventually allowed to return home after 75 days, but police continued to keep him under surveillance.

## Jiang Rong



**LOCATION:** Chengdu/ apartment

**ENTRY POINT:** Detention, released on bail/ accused of inciting subversion of state power. Initially held in RSDL.

**NRR DURATION:** 1 year

Jiang Rong (蒋蓉), the wife of imprisoned pastor Wang Yi of the underground Early Rain Covenant Church, was released on bail in June 2019, but sent to the same residential community as her brother, a civil servant, where she lived for the next year under house arrest. As a state worker, her brother was ordered to also monitor Jiang. In addition, three to four guards watched her apartment every day in shifts to prevent her leaving.

She had almost no contact with the outside world, allowed only to call her parents on an old-style Nokia phone a few times a month. After they were given permission, her parents were allowed to see her, but guards monitored each visit and prevented them from getting closer than 3 metres to her. Guards would examine any items they wanted to give to her to ensure they were not trying to smuggle her in a phone.

## LAWLESS

This section includes commentary by Chinese rights lawyers who, for their own protection, will remain anonymous.

### Domestic Law

Non-Release Release has no legal basis.

Irrespective of whether the victim is released from jail or from a detention centre, under Chinese law they are free and are automatically entitled to the same rights as other citizens. There may be some limitations with bail conditions or accessory punishments attached to a sentence, such as Deprivation of Political Rights (DPR), but nothing that comes close to NRR.

Under Article 37 of the **Constitution of the People's Republic of China** (中华人民共和国宪法), "the personal freedom of citizens" is "inviolable"; "no citizen may be arrested except with the approval or by decision of a people's procuratorate or by decision of a people's court;" and "unlawful deprivation or restriction of citizens' personal freedom by detention or other means is prohibited<sup>44</sup>."

For cases that attracted international attention, such as those of Wang Quanzhang and Gui Minhai, it is inconceivable that senior Party levels are unaware of their illegal detentions. This suggests that they either ordered or approved it and rules out the possibility that NRR is just the result of some rogue police departments. When NRR involves victims from outside the mainland, such as Gui and Hong Kong bookseller Lam Wing-kee, the decision to impose NRR has an impact on foreign policy.

### Bail conditions

By no means do bail conditions justify imposition of NRR. According to Article 71 of the 2018 **Criminal Procedure Law** (中华人民共和国刑事诉讼

法) (CPL), those released on bail are not allowed to leave the city or county of his or her residence without applying first for permission from the case-handling agency. They may also be prohibited from meeting certain individuals, from visiting certain locations and engaging in certain activities. They must also hand over their passports, travel documents and driver's license to the police until the bail term has ended<sup>45</sup>. These are restrictive but they clearly do not amount to the imprisonment or virtual imprisonment of someone held in NRR. Under Chinese law, they should be able to freely move around their city or county and meet friends and family. According to Articles 68 to 70 of the CPL, a person released on bail must designate a guarantor, who effectively acts as their minder to ensure they do not violate any of the conditions of their bail. Alternatively, they may hand over a sum of money, which would be forfeited in part or in whole, in case of violations. This oversight duty is not the responsibility of police officers. There is no regulation or law that gives the police powers to limit these freedoms beyond the limits set by the CPL.

Media reports sometimes mention that police force those released on bail to sign illegal letters of guarantee (*baozhengshu*, 保证书), promising not to meet with friends nor speak with the press. Such letters have no validity under Chinese law. When Liu Yongping was finally released from his NRR in October, he was forced to sign such a letter of guarantee<sup>46</sup>.

Chinese police also claimed that Gui Minhai had signed such a letter; a common practice for those released from RSDL, detention or prison, even if they do not end up in NRR. They are designed to intimidate the individual into keeping quiet once they are "free". Both Public Security and State Security have pressured people into signing such letters.

## Deprivation of political rights

Police may use Deprivation of Political Rights (DPR) to justify NRR. A DPR sentence may range from one to a maximum of five years for anyone not initially sentenced to death or life imprisonment and starts from the date of release. However, there is nothing in China's Criminal Law on DPR that allows police to continue to detain the individual after they have been officially released. Article 54 of China's **Criminal Law** (中华人民共和国刑法)<sup>47</sup> lists freedoms that are forfeited under DPR. They are: the right to vote and to stand for election; the rights of freedom of speech, of the press, of assembly, of association, of procession and of demonstration; the right to hold a position in a State organ; and the right to hold a leading position in any State-owned company, enterprise, institution or people's organization. None of those amount to NRR.

Using DPR to justify the extra-legal NRR detention is extending its definition beyond the plausible, legal scholars argue. "Such a manoeuvre, while more inscrutable to the public, would stretch the meaning of deprivation of political rights far beyond even the party's broad applications of that punishment to date," according to Jerome Cohen<sup>48</sup>.

According to legal scholar Yu-jie Chen: "Chinese police often resort to distorted interpretations of the law to justify their illegal practice. Using the Deprivation of Political Rights (DPR) to justify house arrest is one of the many examples<sup>49</sup>."

The constraints on freedom of speech, for example, are left—presumably intentionally—vague.

**The Procedural Regulations on the Handling of Criminal Cases by Public Security Organs** (公安机关办理刑事案件程序规定)<sup>50</sup>, first published in 2013, but revised as recently as 2020, has more details on what this covers, although according to Chen it is also "ill-defined and expansive."

Article 312 of that police regulation forbids those under DPR, amongst other activities, to: "publish, draft, or release books or audio-visual

works; accept interviews or make speeches; not say [anything] domestically or abroad that damages the national reputation, national interests or otherwise specifically endanger society." In addition, Article 302 says that: "The police substation for the area of the criminal's<sup>51</sup> residence will enforce deprivation of political rights against convicts sentenced to it."

In Chen's opinion: "This is an excessive, unreasonable restriction on the freedoms of someone who's already been punished by serving their prison term. It's disproportionate and prone to abuse and would not pass the test of international human rights standards."

It is worth noting that DPR places no limits on movement, nor on private speech. Lawyers in China agree that the wording of regulations and laws governing DPR are vague, but argue that, under any reasonable interpretation, it cannot be used to prevent someone from talking to the media or making social media posts.

In the same way that the legalization of RSDL in China violates international rights laws, these police regulations on DPR also violate international standards on the freedom of speech. Since the police hold great power in China, this internal regulation, published by the Ministry of Public Security, is more powerful than the national law, although the latter, as a law published by the National People's Congress, should trump the former.

## International Law

Personal liberty is enshrined as a basic human right in both the Universal Declaration of Human Rights (UDHR)<sup>52</sup> and the International Covenant on Civil and Political Rights (ICCPR)<sup>53</sup>.

NRR imposed at Total Disappearance level amounts to an "enforced disappearance." Enforced disappearances violate a range of fundamental rights, including the right to liberty and security of the person; the right to

be free from arbitrary detention; the right to know the truth regarding the circumstances of a disappearance; the right to legal protection and assistance to the family; and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment<sup>54</sup>. It is explicitly defined as a human rights violation in the UN Convention for the Protection of all Persons from Enforced Disappearances.

All forms of NRR restrict the liberty of a person. NRR is imposed entirely outside the law and

as such it is a form of arbitrary detention. This contravenes Article 9 of the UDHR, which states: "No one shall be subjected to arbitrary arrest, detention or exile" and ICCPR 9(1): "Everyone has the right to liberty and security of person... No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." In addition, UDHR 13(1) reads: "Everyone has the right to freedom of movement and residence within the borders of each state."

### The activist who staged a daring escape from NRR



Activist Li Xiaoling (李小玲)<sup>55</sup> was detained by Beijing police in June 2017 for posting photos of herself on WeChat commemorating the Tiananmen Square massacre. She was released a month later on bail but handed over to Zhuhai city police who took her back to the city in Guangdong province and imprisoned her in a windowless room in a guesthouse, watching over her 24 hours a day. Two weeks later, Li escaped and fled to Beijing. She was caught and brought back to Zhuhai eight days later. Eventually, Li was formally arrested, found guilty of "picking quarrels", and then released in December 2018 on a suspended sentence. Li has campaigned for many years to help petitioners and imprisoned rights defenders.

## CONCLUSION

Since Xi Jinping came to power in 2012, Chinese police have significantly expanded their powers to arbitrarily detain individuals, while intensifying crackdowns on both human rights defenders and ethnic minorities. While Non-Release Release is not the most egregious example of the many violations of human rights in China, it nevertheless amounts to the extra-legal and extra-judicial restriction of an individual's freedom and one that comes after months, sometimes years, of imprisonment and detention, representing an especially cruel extension of punishment for both the victim and their loved ones. As human rights lawyer Xie Yanyi put it in an interview made for this report: "As long as I was in their hands, as long as I wasn't at home, the fear was still with me."

The practice of NRR breaks both domestic laws on the right to personal freedom in China's Constitution and international rights standards that protect a person's liberty and security and the right to be free from arbitrary detention. Bail conditions and restrictions for those sentenced to Deprivation of Political Rights, while excessive from an international human rights standpoint, also would not allow for police to impose NRR.

Our research has shown that police across China are routinely using NRR, indicating that this extra-legal form of unofficial detention is now well entrenched, and certainly in some cases is carried out under the orders or the approval from senior levels. The duration of NRR is unpredictable; some victims are able to shorten their terms, others

cannot. While NRR may last just a few weeks, more than a few victims were and are being held for years. Some individuals, like human rights lawyer Jiang Tianyong, have even been prevented from accessing medical treatment under NRR. NRR neither serves the purposes of a legal criminal investigation nor judicial sentencing. Police are likely using NRR as a form of extra intimidation to discourage human rights work and prevent media coverage of the case.

NRR is yet another way for Chinese police to disappear people rather than legally detain them. These methods include forcing victims to take fake names in detention centres (as exposed by the first volume in this Access Denied series, China's Vanishing Suspects), locking them up in isolated facilities in RSDL (see Safeguard Defenders' book, The People's Republic of the Disappeared (2nd edition), and the parallel system for disappearing suspects in Party and State corruption cases, Liuzhi (留置)<sup>56</sup>.

There is absolutely no defense for Chinese police to continue imprisoning people without any legal basis after they should have been officially released. Safeguard Defenders urges the People's Republic of China to abide by its own domestic laws and respect international human rights standards, immediately halt the practice of Non-Release Release and ensure that the rights of all prisoners or detainees due for release are properly and sincerely protected.

<sup>1</sup> Legalised in 2012, RSDL is a feared system that allows the police, with virtually no oversight, to keep any suspect before arrest at a secret location for up to six months with no contact with the outside world, including family or legal counsel. The system places the victim at a high risk of torture and maltreatment and has been criticized as a form of enforced disappearance by the UN.

<sup>2</sup> Human Rights in China, 20 July 2018. *Update on Wang Quanzhang—No “Hard Violence”*. Accessed from: <https://www.hrichina.org/en/citizens-square/update-wang-quanzhang-no-hard-violence>

<sup>3</sup> Wee, S-L., 30 July 2020, *China Uses Quarantines as Cover to Detain Dissidents, Activists Say*, The New York Times. Accessed from: <https://www.nytimes.com/2020/07/30/world/asia/coronavirus-china-quarantine.html>

<sup>4</sup> Please see: <http://www.jeromecohen.net/jerrys-blog/wang-quanzhang-and-deprivation-of-political-rights?rq=wang%20quanzhang> and <https://thediplomat.com/2020/04/wang-quanzhang-and-chinas-non-release-release/>

<sup>5</sup> Private correspondence with Yu-jie Chen, Taiwanese lawyer and scholar of Chinese law.

<sup>6</sup> Chen, Y.J., 28 April 2020, *A decade of the human rights lawyer movement in China*, The China Collection. Accessed from: <https://thechinacollection.org/decade-human-rights-lawyer-movement-china/>

<sup>7</sup> Human Rights Watch, 23 June 2011, *China: Don't Subject Activist to House Arrest*. Accessed from: <https://www.hrw.org/news/2011/06/23/china-dont-subject-activist-house-arrest>

<sup>8</sup> Party refers to the Communist Party of China (CCP) throughout this report.

<sup>9</sup> Cohen, J.A., 4 April 2020, *The Many Faces of “Non-Release Release” in China*. Jerry's Blog. Accessed from: <http://www.jeromecohen.net/jerrys-blog/the-many-faces-of-non-release-release-in-china>

<sup>10</sup> Cohen cited an example of one Indonesian Chinese prisoner who was kept working in the camp under this rule for two decades.

<sup>11</sup> The documentary had been uploaded to YouTube and can be viewed here: [https://www.youtube.com/watch?v=l2zvJltBCN8&ab\\_channel=olympicfetish](https://www.youtube.com/watch?v=l2zvJltBCN8&ab_channel=olympicfetish)

<sup>12</sup> Branigan, T., 26 June 2011, *Chinese dissident Hu Jia is ‘freer, not free’ after prison release*, The Guardian. Accessed from: <https://www.theguardian.com/world/2011/jun/26/chinese-dissident-hu-jia-prison-release>

<sup>13</sup> AFP, 22 June 2012, *Hu Jia beaten by Chinese security forces*, Taipei Times. Accessed from: <https://www.taipeitimes.com/News/world/archives/2012/06/22/2003535987>

<sup>14</sup> The New Yorker, 17 December 2017. *China's Bizarre Program to Keep Activists in Check*. Accessed from: <https://www.newyorker.com/magazine/2018/12/24/chinas-bizarre-program-to-keep-activists-in-check>

<sup>15</sup> Congressional-Executive Commission on China, 28 June 2008, *Mongolian Rights Advocate Released From Detention, Placed Under House Arrest*. Accessed from: <https://www.cecc.gov/publications/commission-analysis/mongolian-rights-advocate-released-from-detention-placed-under>

<sup>16</sup> Zhao was removed from his position in May 1989 because he opposed then paramount leader Deng Xiaoping in using force to end the student protests in Tiananmen Square. Although he was never arrested or tried in a court of law, Zhao spent the rest of his life under virtual house arrest in Beijing until his death in 2005.

<sup>17</sup> Human Rights Watch, July 1996. *China: The Cost of Putting Business First*. Accessed from: <https://www.hrw.org/legacy/reports/1996/China2.htm>

<sup>18</sup> Yang, W., 9 July 2020, *The “709 crackdown” has become a permanent and ongoing process*, Medium. Accessed from: <https://williamyang-35700.medium.com/the-709-crackdown-has-become-a-permanent-and-ongoing-process-210d44c3232a>

<sup>19</sup> Xu, V., Cave, D., Leibold, J., Munro, K., & Ruser, N., 1 March 2020, *Uyghurs for Sale*, Australian Strategic Policy Institute. Accessed from: <https://www.aspi.org.au/report/uyghurs-sale>

<sup>20</sup> Radio Free Asia, 4 August 2020, *Xinjiang Authorities Relocate Camp Detainees to Restricted-Access ‘Residential Area’*. Accessed from: <https://www.rfa.org/english/news/uyghur/relocation-08042020145526.html>

<sup>21</sup> Gan, N., 2 March 2019, *Jailed Chinese human rights lawyer Jiang Tianyong back home after going missing on release day*, South China Morning Post. Accessed from: <https://www.scmp.com/news/china/politics/article/2188374/jailed-chinese-human-rights-lawyer-jiang-tianyong-back-home>

<sup>22</sup> Kahn, J., 13 December 2005, *Legal Gadfly Bites Hard, and Beijing Slaps Him*, The New York Times. Accessed from: <https://www.nytimes.com/2005/12/13/world/asia/legal-gadfly-bites-hard-and-beijing-slaps-him.html>

<sup>23</sup> China Aid, 23 September 2015, *Interview with Gao Zhisheng*, YouTube. Accessed from: [https://www.youtube.com/watch?v=DfIUjveJNGU&t=81s&ab\\_channel=ChinaAid](https://www.youtube.com/watch?v=DfIUjveJNGU&t=81s&ab_channel=ChinaAid)

<sup>24</sup> Our focus was on NRR cases after Xi Jinping took power in 2012.

<sup>25</sup> Reuters, 9 May 2020, *China releases five prominent labour rights activists*. Accessed from: <https://www.reuters.com/article/us-china-rights-idUSKBN22L0JW>

<sup>26</sup> Please see: <https://www.rfa.org/mandarin/Xinwen/2-06292015111439.html?searchterm:utf8:ustring=%20%E5%BD%AD%E4%B8%AD%E6%9E%97>

<sup>27</sup> See Chinese Human Rights Defenders' case file on Liu here: <https://www.nchrd.org/2016/01/liu-yongping-%E5%88%98%E6%B0%B8%E5%B9%B3/>

<sup>28</sup> The video lecture can be viewed here: <https://vimeo.com/466663734/eb39fdca69>

<sup>29</sup> Please see: <https://www.rfa.org/mandarin/yataibaodao/renquanfazhi/gf2-07252018093154.html?searchterm:utf8:ustring=%20%E6%9E%97%E6%96%8C>

<sup>30</sup> Please see: <https://www.rfa.org/mandarin/yataibaodao/renquanfazhi/hc-06292020112459.html>

<sup>31</sup> AsiaNews, 3 August 2017, *Xie Yang, human rights lawyer is 'free' but living in a home prison built specially for him*. Accessed from: <http://www.asianews.it/news-en/Xie-Yang,-human-rights-lawyer-is-free-but-living-in-a-home-prison-built-specially-for-him-41452.html>

<sup>32</sup> Population data retrieved from here: <https://www.citypopulation.de/en/china/cities/?admid=406>

<sup>33</sup> Lee, D. & Siu, P., 24 October 2017, *Missing Hong Kong bookseller Gui Minhai 'released', but family cannot find him*, South China Morning Post. Accessed from: <https://www.scmp.com/news/hong-kong/law-crime/article/2116797/detained-hong-kong-book-publisher-gui-minhai-released>

<sup>34</sup> In recent years, China has imposed exit bans on several citizens of foreign countries, often as part of hostage diplomacy. Please see: <https://www.theguardian.com/world/2020/jul/12/you-could-end-up-in-jail-us-warns-its-citizens-in-china>

<sup>35</sup> Cohen, J.A., 19 February 2020, *Coronavirus and Chinese Governance: You Bet the Police are Dangerous!!*, Jerry's Blog. Accessed from: <http://www.jeromecohen.net/jerrys-blog/coronavirus-and-chinese-governance>

<sup>36</sup> These are Wang Quanzhang, poet and activist Li Bifeng; five labour activists Zhang Zhiru, Wu Guijun, Jian Hui, Song Jiahui and He Yuancheng; and protester Ding Yajun. This is in addition to the use of "quarantine" to justify the extra-legal detention of free activists and citizen journalists—Jiang Jiawen and citizen journalist Li Zehua, the latter had gone to Wuhan to post independent reports.

<sup>37</sup> Wee, S-L., 30 July 2020, *China Uses Quarantines as Cover to Detain Dissidents, Activists Say*, The New York Times. Accessed from: <https://www.nytimes.com/2020/07/30/world/asia/coronavirus-china-quarantine.html>

<sup>38</sup> Ibid.

<sup>39</sup> Lau, M., 28 June 2019. *Chinese Human Rights Lawyer Wang Quanzhang 'is a changed man', says wife after first meeting in four years*. South China Morning Post. Accessed from: <https://www.scmp.com/news/china/politics/article/3016499/chinese-human-rights-lawyer-wang-quanzhang-gets-see-his-wife>

<sup>40</sup> Wee, S-L., 30 July 2020, *China Uses Quarantines as Cover to Detain Dissidents, Activists Say*, The New York Times. Accessed from: <https://www.nytimes.com/2020/07/30/world/asia/coronavirus-china-quarantine.html>

<sup>41</sup> Please see: <https://www.chrlawyers.hk/en/content/latest-update-wang-quanzhang%E2%80%99s-status-his-release/>

<sup>42</sup> Feng, Y., Zhang, A., 27 April 2020, *Chinese Human Rights Lawyer Returns Home after Tortuous Journey*. VOA. Accessed from: <https://www.voanews.com/east-asia-pacific/chinese-human-rights-lawyer-returns-home-after-tortuous-journey>

<sup>43</sup> Fengrui Law Firm was a Beijing-based legal office run by Zhou Shifeng that took on many rights cases and was the main target of the 709 Crackdown.

<sup>44</sup> The English translation of the Constitution was accessed from: <https://www.wipo.int/edocs/lexdocs/laws/en/cn/cn147en.pdf>

<sup>45</sup> The conditions of bail are outlined under Article 71 of the Criminal Procedure Law. The English translation was accessed from ChinaLawTranslate at: <https://www.chinalawtranslate.com/en/criminal-procedure-law-2018>

<sup>46</sup> Please see: <https://canview.rfaweb.org/cantonese/news/dissident2-12022016074248.html>

<sup>47</sup> The English translation of the Criminal Law was accessed from: <http://www.lawinfochina.com/display.aspx?id=28346&lib=law&SearchKeyword=&SearchCKeyword=&EncodingName=big5>

<sup>48</sup> Cohen, J.A., 15 April 2020, *China should not use the coronavirus as an excuse to silence human rights activists like Wang Quanzhang*, The South China Morning Post. Accessed from: <https://www.scmp.com/comment/opinion/article/3079793/china-should-not-use-coronavirus-excuse-silence-human-rights>

<sup>49</sup> Personal correspondence

<sup>50</sup> The English translation was accessed from ChinaLawTranslate at: <https://www.chinalawtranslate.com/en/%E5%85%AC%E5%AE%89%E6%9C%BA%E5%85%B3%E5%8A%9E%E7%90%86%E5%88%91%E4%BA%8B%E6%A1%88%E4%BB%B6%E7%A8%8B%E5%BA%8F%E8%A7%84%E5%AE%9A-2020%E5%B9%B4%E-4%BF%AE%E6%94%B9%E7%89%88>

<sup>51</sup> Despite having served their time, released prisoners in China are still referred to as “criminals”.

<sup>52</sup> Please see: [https://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf)

<sup>53</sup> Note that China has signed but not yet ratified the ICCPR. For text please see: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<sup>54</sup> *Enforced or Involuntary Disappearances*, Office of the United Nations High Commissioner for Human Rights. Fact Sheet No. 6/Rev.3, p.3-4.

<sup>55</sup> Please see Chinese Human Rights Defenders’ file on Li here: <https://www.nchrd.org/2017/10/li-xiaoling/>

<sup>56</sup> Please see Safeguard Defenders’ online publications page for links to all these books and reports: <https://safeguarddefenders.com/en/publications>