

# BATTERED AND BRUISED

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why torture continues to stand at  
the heart of China's judicial system



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### About Safeguard Defenders



Responding to the rise of authoritarian politics, erosion of the rule of law and media freedom across Asia, **Safeguard Defenders** works directly with human rights defenders (HRDs), women human rights defenders (WHRDs), and civil society at large toward sustainable solutions and to press for change. With an extensive background in developing and managing programs under repressive conditions, training civil society, and coordinating urgent action for at risk human rights defenders, **Safeguard Defenders** provides support and mentorship to frontline defenders struggling for basic rights and freedoms.

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### About RSDLmonitor.com



The RSDLmonitor platform shares the latest news, research and opinions on China's new and expanding system of state-sanctioned kidnappings. So little is understood about RSDL, its alarming implications for the rule of law in China, and the potential for this transgression of international law to become normalized overseas. Given this urgent need for better information, RSDLmonitor was founded to collect – and also generate – the best intelligence on this grave human rights violation, as well as on related violations, such as torture, forced TV confessions and more.

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## SUMMARY

Torture is often thought of in its most immediate form – extreme physical pain. It brings to mind images of a person lying on the floor, being beaten, screaming for the pain to stop, willing to do or say anything for the pain to stop. This form of torture exists in China; human rights lawyer Gao Zhisheng's own story is testimony to that, but torture in China takes many forms. It can be both physical *and* mental.

Wang Yu, another lawyer, has written about how Beijing police kept her in solitary confinement and made her sit for most hours of the days inside a 40x40 cm square painted on the floor of her cell. If any part of her body crossed the line, she could be punished. This form of torture, over a prolonged period, is not as instant or as dramatic as a beating, but its effects can be intense pain and mental anguish. Stress positions, such as being hung by the wrists or sat on a tall stool with one's feet dangling off the floor, thus cutting off the flow of blood, are commonly reported by Chinese detainees. Testimony in this report describes many different forms of stress torture.

In these pages, we set out to highlight why China has been unable to eradicate, or even seemingly curb, its systematic use of torture. At the heart of the problem is its failure to reform the legislative framework. Even though China ratified The Convention Against Torture (CAT) as early as 1988, it has still not properly defined torture in domestic law, an important procedural safeguard to prevent it, or fully criminalized all acts of torture, which is an explicit State obligation under Article 4 of the CAT. China has, furthermore, failed to established either a national system for independently monitoring those most often engaged in torture or a system for effective remedy. The lack of an effective system for victims

to seek redress amplifies the legal limitations and cruelly prolongs the suffering of torture survivors and their family members.

There is also a huge divide between legal theory and practical enforcement. With so little effort made to discourage the use of torture, at the central and even more so at the local levels, torture remains rampant in China. And, rather than making the necessary changes to eradicate torture, China is forging ahead with new custodial systems that encourage and essentially guarantee impunity for acts of torture.

Since Chinese Communist Party General Secretary Xi Jinping came to office in 2012, the legalisation of two new custodial systems *outside* the regular judicial system has meant that there is now an even greater risk of torture. 'Residential Surveillance at a Designated Location' (RSDL), (指定居所监视居住), is by design a system that is not subject to oversight, denies detainees the right to legal counsel, and in effect does not even provide the limited safeguards afforded to those in detention centres or prisons. Testimonies from victims of RSDL describe *systematic* use of torture.

The National Supervision Commission (国家监察委员会) (NSC), established this year, is an agency that is outside the court system and is empowered to detain and investigate all Communist Party members *and* government workers for corruption and also anyone who is connected with a case they are overseeing. The system, *liuzhi* (留置), is strikingly similar to RSDL, and replaces and expands on the feared *shuanggui* (双规) system, where the use of torture to extract confessions was widely reported.

Despite China's promises to eradicate torture, under current law and practice, torture is set to continue and torturers to act with impunity. With RSDL and *liuzhi*, China is also set to expand use of systems where such torture will be systematic.

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## BACKGROUND

In the spring of 2017, a number of lawyers got together in China to investigate how they could better represent clients who had been tortured and to explore what capacity they had to give them real help. The purpose, to create a practical manual on feasible actions lawyers could take that would have a real impact and counter the rampant use of torture in China. The lawyers had the freedom to explore this subject in any way they wanted, and they were to draw up a manual based entirely on their findings.

Over the course of the next six months, a lead lawyer with the help of two groups of lawyers providing assistance and feedback (in total 26 lawyers and 'barefoot' lawyers) explored this issue. Initial results clarified that China had still not incorporated a full and reasonable definition of torture into domestic law, even though it had committed to do so by having ratified the Convention Against Torture (CAT). It also became clear that any legal reforms that have been made concerning torture have, on the contrary, *enhanced* protections against criminal culpability for those who were doing the torturing. They also found out that China's State Compensation Law, which theoretically could be used to sue the state and secure compensation to victims, is of little use.

They concluded the only way lawyers could help someone who was a victim of state torture was to provide sufficient evidence in court that their client was tortured (using only the official narrow definition of torture) and if successful the most that they could achieve was to force the product of that torture – evidence or their client's confession – to be deemed inadmissible in court. Further, because of the domestic law's shortcomings, Chinese lawyers must resort to using international instruments, despite their limited impact, to highlight the continued use of torture in China.

With this in mind, the manual focuses on how the law can be used to limit torture and how lawyers can help victims. It highlights the accepted standards of handling such cases, how to interview victims, how to properly collect evidence of torture and how to present it in the courtroom. It also introduces which international instruments can be used to highlight cases of torture.

**This brief English-language** report summarises the findings of their study. It also covers the legal limitations in domestic law on torture, and the most commonly reported torture methods, using case studies. The Chinese-language manual is not published online or available publicly; for security reasons it is shared person to person within the greater lawyer community. The fact that it is too dangerous in China to publish a manual on how to legally use the law to defend victims of torture is testament to the dire situation China's "rule of law" and also evidence for how difficult it is for lawyers to defend clients who have been tortured. The case of the lead lawyer responsible for this study is emblematic. Not long after initiating this project, he was detained and now remains incommunicado. There is credible evidence to believe he has since been tortured in police custody.

## Source material

This brief report is largely based on the torture manual referenced above. Additional material is drawn from three previous research projects of Safeguard Defenders': a book, *The People's Republic of the Disappeared*, on China's 'RSDL' prisons, a database project collecting detailed information on treatment inside the RSDL system, and a report, *Scripted and Staged: Behind the scenes of China's TV confessions*, on the recent phenomenon of airing forced confessions by detainees, mostly on state TV. This has been complemented by additional interviews and research.

# WHAT IS TORTURE?

## Definition

Torture can have both physical and mental forms. As examples in this report show, the reality of torture in China can be horrific and range from the use of electric batons on genitals, to forcible medication with psychological effects. However, there are also many other forms of torture that may appear to be less serious, but when administered for prolonged periods, result in extreme pain and other serious consequences.

Torture “means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him [or her] or a third person information or a confession, punishing him [or her] for an act he [or she] or a third person has committed or is suspected of having committed, or intimidating or coercing him [or her] or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”<sup>1</sup>

To meet this definition of torture a crime must include the following elements:

- The infliction of severe pain or suffering, whether physical or mental;
- It must be inflicted by a State official or someone acting on behalf of the State, or with the consent or acquiescence of the State;
- It must be intentional;

- There must be a specific purpose, including but not limited to intimidation or punishment or obtaining a confession.

A note on defining victims of torture: In addition to the direct victim of torture, family members may also be considered as victims depending on the circumstances. This is particularly applicable in cases of enforced disappearance and death resulting from torture or the death penalty.

## Torture in international law

The main international instruments that address torture and the conditions that often give rise to torture, from police conduct, detention facility conditions, arbitrary detention, to enforced disappearances, are:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- International Convention for the Protection of All Persons from Enforced Disappearance
- Standard Minimum Rules of the treatment of prisoners
- Guidelines on detention facilities
- Code of conduct for law enforcement

## China's obligations

On 12 December 1986, the Chinese government signed the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). It went into effect on 3 November 1988.

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<sup>1</sup> Article 1, United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Although China signed the Convention, and despite a treaty obligation to provide a clear definition of torture in domestic law, the definition of torture in China is very narrow and fails to meet the requirements of international law. China made a Reservation against Article 20 of the CAT, meaning it does not accept the competence of the Committee Against Torture, so that it does not allow it handle individual complaints of torture or to co-operate in examining allegations of torture.

Under the CAT, China has specific legal obligations to **prevent**, **punish** and **compensate** for acts of torture.

These legal obligations to **prevent** torture come from:

- Enacting administrative and monitoring procedures to prevent torture in all detention facilities (Art. 2 CAT);
- Ensuring that any statement obtained as a result of torture is not used as evidence against that person in any proceedings (Art. 15 CAT);
- Ensuring that information on the prohibition of torture is fully included in the training of law enforcement and related public officials (Art. 10 CAT);
- Ensuring they do not expel, return or extradite an individual to another State where there are grounds to believe they are at risk of torture (Art. 3 CAT);<sup>2</sup>
- Further preventive measures include: not holding individuals in secret detention, such as Residential Surveillance at a Designated Location; allowing detainees immediate and unlimited access to lawyers or doctors; informing detainees' family members of their detention and location and allowing them to visit.

The legal obligation to **punish** those responsible comes from:

- Ensuring torture is an offence under criminal law (Art. 4 CAT);
- Establishing a complaints procedure, including adequate protection from reprisal against victims and other complainants of torture such as lawyers or family members (Art. 13 CAT);
- Promptly initiating an investigation where there are reasonable grounds to believe an act of torture has been committed. It is not necessary for the victim to have filed a formal complaint in order for the authorities to be required to investigate (Art. 12 CAT);
- Guaranteeing that perpetrators are subjected to criminal prosecution (Art. 7 CAT);
- And, there should be no exceptions or pardons for crimes of torture, such as using the excuse of national security.

Finally, the legal obligation to provide **redress** for victims of torture comes from:

- Ensuring domestic law provides avenues for torture victims to obtain effective redress and adequate compensation as recognized under international law, such as restitution, rehabilitation, compensation, including financial compensation, and guarantees of non-repetition (Art. 14 CAT).

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<sup>2</sup> China has often violated this principle by returning North Korean refugees to North Korea, and it has also violated this principle many times in pressuring other countries to return individuals to

China. This has been the case with ethnic minorities and Han Chinese human rights defenders, especially those attempting to relocate through Southeast Asia.

# IMPUNITY: THE LIMITATIONS OF CHINESE LAW

Torture remains rampant in China today because of a number of reasons. First, police and other law enforcement workers operate with near impunity, encouraging the continued use of torture and maltreatment. Secondly, because China has not reformed its laws so that they comply with international commitments it has made, the country's legal framework does not effectively protect against torture. Thirdly, new custodial systems introduced since Xi Jinping's rise to power are designed to further weaken the limited protections that do exist in law, removing any hope to limit torture or monitor those at risk of torture.

## China has not revised its law to comply with the CAT despite ratification in 1988

The first step to curbing the use of torture was taken not in law but in interpretations issued by the Procuratorate.<sup>3</sup> Those interpretations dealt with excluding evidence extracted by torture at trial. Parts of those interpretations (but not their entirety) have since made it into the revised Criminal Law and Criminal Procedure Law. Another issue is that the Criminal Law, Criminal Procedure Law, and the laws on Police, on Detention Centres, the Prison Law and also new interpretations, use different terminology which causes confusion.

As it stands today, the definitions of torture in the Criminal Law and Criminal Procedure Law are still not in accordance with the Convention. Many

forms of torture are not specifically prohibited nor criminalised.

## China only defines torture in terms of extracting confessions

They also do not define torture outside of the investigatory phase; it is only defined in relation to the purpose of extracting confessions or evidence. Furthermore, the Procuratorate will only investigate accusations of torture involving police attempts to secure evidence. Other forms of torture, such as torture perpetrated by people other than police, or torture conducted outside of the investigation phase, remain undefined.

The Police Law, which also applies to the Procuratorate and officers of State Security, prohibits officers from extracting confessions through torture. However, it does not define what acts constitute torture, instead it relies on the flawed and limited definition given in the Criminal Law. The punishment for torture in the Police Law is restricted to suspension or dismissal.

The Criminal Law stipulates that only "judicial officers"<sup>4</sup> can be held accountable for acts of torture, if others are involved, such as detainees or inmates, they cannot be prosecuted for torture. The only circumstance in which a judicial officer can be prosecuted for torture, and theoretically given a prison sentence, is for the purpose of extracting a confession or evidence.

The Criminal Law does say that supervisory and management personnel in detention centres, prisons and other facilities may face criminal liability for ordering or inflicting physical abuse, but it is not defined as torture.

## The limited definition of torture in law

<sup>3</sup> Provisions on Several Issues Concerning the Exclusion of Illegal Evidence in Criminal Cases  
<http://en.pkulaw.cn/display.aspx?cgid=134374&lib=law>

<sup>4</sup> That is, "personnel engaged in the functions of investigating, prosecuting, adjudicating, supervising and controlling offenders."



The limited definition of torture in Chinese law weakens a victim's ability to seek redress or challenge the use of torture. In general, it is only possible to use accusations of torture as a means to get evidence extracted through torture to be dismissed at trial.

Despite new regulations and extensive legal reforms over the last few years, the definition of torture still does not include any form of mental torture (including threats to family, prolonged periods of solitary confinement, excessively lengthy interrogations etc.). This means there is absolutely no legal channel for redress for mental torture.

The Criminal Law and Criminal Procedure Law define torture as direct, severe and physical. For a behaviour to qualify as torture, there must be a direct physical consequence (defined as "indirect forms of physical punishment" in the Supreme People's Procuratorate's 1999 interpretation).<sup>5</sup> In the revised 2006 interpretation,<sup>6</sup> "cruel behaviour" was added to the definition, but this was also limited to situations when "serious damage" was done to the "physical health" of the victim. Subsequent interpretations by the Supreme Court since then have included the term "mental pain" but only as a result of *physical* torture.<sup>7</sup>

However, police often use methods of torture that skirt the legal definitions, for example, they target parts of the body that do not easily bruise so that there is no visual evidence. For example, beating the torso but not the face.

### The narrow remit of the Procuratorate in investigating accusations of torture

In law, the Procuratorate only needs to investigate accusations of torture when it is used to gather evidence and only when it is alleged to be

perpetrated by investigators. This significantly weakens the legal basis for any effective oversight of police and their use of torture.

### China has no effective mechanism to invalidate evidence extracted by torture

The only tool that can be used by lawyers in China to counter the use of torture or help their clients who are victims of torture, is to use the law to invalidate at trial any evidence collected through its use. This, however, is the sole responsibility of the defendant or his or her lawyer and this also requires evidence to be gathered. Lawyers in China face great difficulties in collecting such evidence because police routinely limit their access to clients. In some cases, they have no access at all. Weak legal regulations on sharing evidence with defence lawyers also hampers their ability to help.

Even though the law now specifies that if investigators are accused of torture, the burden of proof to the court is with the Procuratorate to prove that evidence was *not* extracted through torture, in practice the courts move the burden of proof onto the defendant and his or her lawyer. In reality, it is rare for defence lawyers to successfully have evidence removed at trial because of the use of torture.

Those victims who are kept under extra-judicial systems (RSDL, the former *shuanggui* system, and the new *liuzhi* system) have even less recourse to justice because they are denied even the simple protections afforded to normal detainees. With no access to their client, it is virtually impossible to get evidence or confessions extracted through torture when the victim has been held under one of these extra-judicial systems to be thrown out at trial because the lawyer cannot secure evidence of the torture.

<sup>5</sup> 1999 the Supreme People's Procuratorate (SPP) issued a set of criminal investigation standards  
<http://www.spp.gov.cn/site2006/2006-02-22/00024-104.html>

<sup>6</sup> 2006 the Supreme People's Procuratorate (SPP) issued a set of criminal investigation standards  
<http://www.spp.gov.cn/site2006/2007-03-01/0026912477.html>

<sup>7</sup> Supreme People's Court (SPC) interpretation  
<http://www.court.gov.cn/shenpan-xiangqing-6618.html>

## China blocks investigatory and redress channels at the United Nations

When it ratified the CAT, China lodged a reservation against Article 20, this effectively means it does not recognise the mandate of the Committee Against Torture, the treaty body established by CAT, to receive individual complaints, communicate such allegations with the State and to investigate such claims. Since China has not established a proper domestic mechanism itself the consequences of this reservation are serious.

The above failings have allowed the continued and prevalent use of torture in China during pre-trial detention and during imprisonment.

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The following three extra-judicial custodial systems are of additional concern due to the prevalence of torture.

### Residential Surveillance at a Designated Location

China formally legalized Residential Surveillance at a Designated Location (RSDL) on 1 January 2013, significantly expanding the risks of torture to detainees. The system, which operates outside the normal judicial system, allows officers to inflict torture with impunity. Under RSDL, police may detain a suspect for up to six months in special facilities outside the normal custodial system. They are permitted to deny the suspect's family and legal counsel access or even a notification of where they are being held. While exceptions (usually in cases of national security concerns) must be invoked for the police to do so, it is clear from data collected and published in this report, that they routinely do so.

<sup>8</sup> Regulations on Oversight of Residential Surveillance in a Designated Location by People's Procuratorates (2015). <https://www.hrichina.org/en/peoples-procuratorates-regulations-supervision-implementation-residential-surveillance-designated>

<sup>9</sup> [https://en.wikipedia.org/wiki/Sun\\_Zhigang\\_incident](https://en.wikipedia.org/wiki/Sun_Zhigang_incident)

RSDL prisoners can be kept for up to six months and are always kept in conditions of solitary confinement. Legal adjustments made in 2015<sup>8</sup> have further eroded safeguards in that they remove any responsibility for the Procuratorate to make inspections of facilities and detainees and give the police powers to block such visits if made. Apart from the power of the Procuratorate to review a police decision to place a suspect in RSDL, there is no mechanism to appeal such a decision for the detainee's family or lawyer. This effectively means there is no means by which the RSDL decision can be challenged.

### Arbitrary detention, black jails and political re-education camps

The Custody and Repatriation procedure was abolished in 2003 following an outcry over the death of a young man in custody.<sup>9</sup> However, in the following years, it was simply replaced with black jails. Although these have been partially replaced by the legal RSDL system, black jails are still widely used today. They are run by township, district and even provincial level police; their victims are usually petitioners in major cities. There have been many stories of terrible abuse in black jails – mental and physical torture, sexual abuse and rape. Because black jails are not legal custodial centres, officially they do not exist, and victims have no protection.

The Re-education through Labour System was also abolished in 2013,<sup>10</sup> but people continue to be rounded up and sent to re-education camps. They have merely been renamed as administrative facilities. Most recently (as of April 2018) tens of thousands of Uighur suspects have been sent to political re-education camps in Xinjiang. They are completely outside the judicial process and can be detained indefinitely.<sup>11</sup>

<sup>10</sup> <http://www.scmp.com/news/china/article/1391659/china-formally-abolishes-re-education-labour-camps-eases-one-child-policy>

<sup>11</sup> <https://www.rfa.org/english/news/uyghur/ghulja-04242018132236.html>

## The *shuanggui* and new *liuzhi* systems

The *shuanggui* system, which has now been replaced by the *liuzhi* system, was an extra-judicial and secretive disciplinary system that was used to detain and interrogate corruption suspects who were members of the Chinese Communist Party. It was overseen by the Central Commission on Discipline Inspection (CDIC), a Party body. Because it was entirely separate from the state and completely outside the law there was no judicial oversight, and no safeguards at all for any of the detainees. Because it was so secretive, there is little publicly-available data on the system, such as names of detainees and duration of detention. Conditions under *shuanggui* appear to be similar to RSDL – the detainee is kept in solitary confinement at a location outside the normal custodial facilities; they are interrogated until a confession is extracted; and then handed over to the regular police for prosecution, and for the few victims that have spoken out, torture appears to be rampant.<sup>12</sup> Under Xi Jinping's anti-corruption drive, the number of *shuanggui* investigations rose sharply.

At the 19<sup>th</sup> Party Congress (in November 2017) Xi Jinping announced that *shuanggui* would be abolished. It has since been replaced by the *liuzhi* system under the newly-established **National Supervision Commission (NSC)**. This appears to have simply legalized the extra-legal *shuanggui* system and expanded those who may be detained from just CCP members to include all state employees in the same way that the legalization of RSDL, legalized the extra-legal black jails. This theoretically would include staff of state-owned corporations, teachers, doctors, and so on. Non CCP and state workers may also be caught up in its net if they are implicated in a case that involves Party or state personnel. Investigations will be conducted by the Supervision Commissions around the country under the NSC. Unlike RSDL,

it is outside the Criminal Procedure Law.<sup>13</sup> There are no legal protections or safeguards to protect against torture in the *liuzhi* system, and it is very likely that this new system will mean the rapid and widespread expansion of torture in China. Just two months in after its official start, the first death of a detainee in *liuzhi* -- a former driver, Chen Yong (陈勇) to a government worker -- was reported by the Chinese media.<sup>14</sup>

<sup>12</sup> <https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>

<sup>13</sup> <https://thediplomat.com/2018/02/chinas-detention-law-ccp-curbs-courts/>

<sup>14</sup> <http://rsdlmonitor.com/first-death-new-liuzhi-system/>

# TORTURE METHODS USED IN CHINA

Torture can be physical or psychological. Examples of **physical torture** are slapping, punching, beating or being shocked by an electric baton; prolonged restraint; burns; suffocation or immersion in water or covering the victim's head with a plastic bag; prolonged exposure to heat or cold; forced consumption of chemicals or drugs; and sexual abuse. Examples of **psychological torture** are enforced disappearance; solitary confinement; sleep deprivation; sensory deprivation such as prolonged periods in a blindfold; sensory stimulation, such as exposure to loud, strange noises or prolonged exposure to artificial light; threats to family members; forcing victims to obey humiliating or degrading orders, or mocking religious beliefs. Thirdly, the CAT also prohibits **punishments amounting to torture or cruel, inhuman or degrading treatment**, where mental or physical suffering reaches a certain level but is below that of torture. All three are practiced in China.

## Physical torture

### Tie up, hang up and the big hang up

These usually employ rope to bind the victim's arms or wrists to cause pain and to restrain them for the infliction of other forms of torture.

Lawyer Ge Bingyuan (pseudonym) told Amnesty International how police tied his client's arms to the top of a bunkbed, with one her legs bound to the lower frame for extended periods of time (a "tie up"). She was not allowed to use the toilet and was

beaten with hangers and pieces of plywood. Later, she was suspended from the ceiling (a "hang up") for a period of 27 days.<sup>15</sup>

Victims can be interrogated while in the "hang up" position, where they are suspended by their arms or wrists. The victim's body weight (sometimes extra weight may be added) causes extreme pain in the wrists or arms. This torture also makes it difficult to breathe. If the victim is suspended from their feet for prolonged periods it may cause difficulties breathing, asphyxiation, or a brain haemorrhage.

Often, in the "hang up", the victim's toes just reach the floor, but not far enough to support the weight of the body. A particularly painful version is when the victim is suspended by their thumbs.

According to a Chinese human rights group,<sup>16</sup> a Falun Gong practitioner called Liu Fanqin (刘范钦) was permanently disabled after she was handcuffed and hung from the top of a window for more than 30 hours, with her toes barely touching the ground. The torture dislocated her arms.

The "big hang up" is when the victim's arms and thumbs are tied behind their back and then suspended. The victim's weight is enough to dislocate their shoulders, causing immense pain and suffering.

### Tiger chair

The tiger chair is a well-known torture device in China. Either made from wood or metal, it is designed to inflict pain by allowing the legs to be shackled and the hands to be cuffed while a board is placed and locked over the thighs, forcing the person into a highly uncomfortable position. For prolonged periods it can restrict blood circulation,

<sup>15</sup> [https://www.amnestyusa.org/files/no-end-in-sight\\_torture-and-forced-confessions-in-china.pdf](https://www.amnestyusa.org/files/no-end-in-sight_torture-and-forced-confessions-in-china.pdf)

<sup>16</sup> <http://en.minghui.org/html/articles/2014/12/20/147374.html>



especially in the legs, intensifying pain. Tiger chairs are routinely used during interrogations.

Other forms of the tiger chair, for example, the tiger bench can inflict even greater pain. These typically focus on applying pressure to joints, for example, by twisting them. On a tiger bench, the victim sits with their back against a board and their legs tied along the bench's length. Bricks or weights are tied under the feet or ankles to put pressure on the joints and cause pain.

### Dangling chair

A dangling chair is a stack of stools that is high enough to prevent the feet touching the ground. Sitting on the chair, which has no back and usually a very small sitting area, restricts blood flow and causes the legs and back to swell and become very painful. Many of the torture victims our organization has contacted report being tortured by this method.

Lawyer Xie Yang (谢阳), a victim of the 709 Crackdown,<sup>17</sup> was forced to sit in a "dangling chair" for up to 20 hours a day for days on end. Lawyer Xie was not allowed to adjust his position on the chair, if he tried to move, the guards would punish him. They would also interrogate him while he was sitting in the chair and blow cigarette smoke in his face. The chair almost crippled him. Sometimes they would throw Lawyer Xie off the chair to a corner of the room not covered by the surveillance cameras where they would punch and kick him but avoided his face, so the bruises would not show. He was also hung from the ceiling by his wrists.<sup>18</sup>

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<sup>17</sup> The 709 Crackdown was a nationwide strike against both individual rights defense lawyers and the larger rights defense movement; also known as the "war on lawyers." The name, 709, comes from the date when the first lawyer was detained, Wang Yu, on 9 July 2015. Over a period of months, some 300 lawyers were targeted.

### Stress positions

Similar to the tiger chair and dangling stool, stress positions are designed to produce extreme discomfort and pain. The victim is ordered to adopt a position, for example to squat, for long periods of time. Any movement outside the position can be punished with a beating.

Wang Yu (王宇), a well-known rights lawyer, was made to sit for hours for days at a time inside a 40x40 cm square drawn on the floor of her cell when she was held in RSDL. If any part of her body crossed the line she could be punished. This form of torture, over a prolonged period, is not as instant or as dramatic as a beating, but its effects are discomfort, pain and incredible stress.<sup>19</sup>

Rights lawyer Xie Yanyi (谢燕益), another victim of the 709 Crackdown, was forced to sit on a block for 12-16 hours a day without moving. He was not allowed to support himself with his hands. He had to sit with his chest out, head up, black straight, hands on knees without moving from 6am to 10pm. He was in such pain he could no longer urinate.<sup>20</sup>

### Beatings

Beatings are often delivered with heavy sticks or bamboo boards and cause both pain and physical damage to muscle, bones, and possible disability. Depending on where the body is being beaten, it may cause internal organ damage, such as to the kidneys. This type of torture is seldom used during interrogations, but is inflicted later as a form of punishment. Often the victim's mid-section will be

<sup>18</sup> <https://chinachange.org/2017/01/21/transcript-of-interviews-with-lawyer-xie-yang-3-dangling-chair-beating-threatening-lives-of-loved-ones-and-framing-others/>

<sup>19</sup> Caster, M. (Ed.) (2017) *The People's Republic of the Disappeared* [E Book]. Tacoma, Washington: Safeguard Defenders

<sup>20</sup> <https://chinachange.org/tag/xie-yanyi/>

beaten so as to avoid showing bruises on the face, legs and hands, which are usually visible.

One journalist, speaking anonymously, explained how, after he was escorted back to his cell to use the toilet following an interrogation where he was being "uncooperative", he was attacked by his guards. They beat him to the ground, purposefully avoided hitting his face. He described how even though the beating was exceptionally painful, his body had few bruises to show for it.<sup>21</sup>

### Handcuffing and shackling

Handcuffing and shackling are not only used as an attack on the victim's dignity but also to inflict pain, especially when they are kept on for days at a time. The victim is rendered virtually helpless.

Lawyer Yu Wensheng (余文生) told Amnesty International about his treatment in detention in Beijing in 2014-2015, describing how his hands were cuffed behind his back while he was sat in an iron chair, and his muscles and joints were stretched painfully.<sup>22</sup>

"My hands were swollen and I felt so much pain that I didn't want to live. The two police officers repeatedly yanked the handcuffs. I screamed every time they pulled them."

### Electric shock torture

Electric shocks can inflict extreme pain on the victim's body, but, if carefully applied, they leave no visible sign. Usually electrodes are attached to the body and wires wound around the fingers, toes, or tongue; attached to the genitals; or inserted into the vagina.

Lawyer Gao Zhisheng (高智晟) has been tortured many times. The following passage is taken from a 2007 article he wrote about one torture event. "The electric shock prods were put on my face and upper body shocking me. Wang then said, "Come on guys, deliver the second course!" Then, the electric shock baton was put all over me. And my full body, my heart, lungs and muscles began jumping under my skin uncontrollably. I was writhing on the ground in pain, trying to crawl away. Wang then shocked me in my genitals. My begging them to stop only returned laughing and more unbelievable torture. Wang then used the electric shock baton three more times on my genitals while shouting loudly."<sup>23</sup>

Zhu Guiqin (朱桂琴), a petitioner from Liaoning province, has been tortured in labour camps, black jails, and detention centres since 2004. On 21 October 2010, while at home, she was awoken when police burst in and beat her unconscious with electric batons. They then dragged her into a car, drove into the countryside, and kicked her out, having taken her ID card, wallet and phone.<sup>24</sup>

### Attempted murder

The lawlessness of a system that allows police to torture with impunity, also, on occasion, allows the violence to escalate so that the attack is essentially attempted murder.

On 3 May 2009, journalist Qi Chonghuai (齐崇怀) was almost murdered while in prison. The head inmate in his cell, acting on orders from a prison guard that had severely beaten Mr. Qi on an earlier

<sup>21</sup> Safeguard Defenders interview, November 2017

<sup>22</sup> [https://www.amnestyusa.org/files/no-end-in-sight\\_torture-and-forced-confessions-in-china.pdf](https://www.amnestyusa.org/files/no-end-in-sight_torture-and-forced-confessions-in-china.pdf)

<sup>23</sup> <http://www.csw.org.uk/2012/03/13/news/1161/article.htm>

<sup>24</sup> Interview with lawyer, 2011

occasion, pushed Mr. Qi down a mineshaft. He was discovered unconscious by two other prisoners working in the mine and rescued. It took three days for Mr. Qi to regain consciousness. Prior to this, while pending trial, his lawyer said that police had told Mr. Qi they could beat him to death and easily disguise it as suicide [he was told this while he was strapped to a metal table and police were beating him until he fell unconscious].<sup>25</sup>

## Asphyxiation

Often the victim is hung upside down, their head submerged in water, to simulate drowning. Even when a small amount of water is used, it can enter the trachea and lungs.

Another method uses water poured into the victim's nose so it flows down into the oesophagus and into the stomach through the nasal cavity. When the victim's belly expands, the torturer presses down strongly, causing the victim to asphyxiate. If chili is added to the water, this causes extra and extreme pain. Other stimulants added include coal oil and gasoline. Sometimes the victim will bleed from the nose, mouth and ears.

Zhu Guiqin (朱桂琴) was placed into a psychiatric hospital against her will twice in June 2005 (June 6 to 16, June 22 to 25), after she petitioned for justice for her detained brother. Whilst inside, she was tied to a bed, and a pillow was placed over her head to partially suffocate her. Her arms and legs were beaten if she tried to move. She was also tied to the bed for six days straight.<sup>26</sup>

<sup>25</sup> Interview with lawyer, 2009

<sup>26</sup> Interview with lawyer, 2011

<sup>27</sup> Caster, M. (Ed.) (2017) *The People's Republic of the Disappeared* [E Book]. Tacoma, Washington: Safeguard Defenders

# Psychological torture

## Sleep deprivation

Depriving a victim of sleep for days at a time is a very common tactic in China and is often combined with stress positions and extended interrogations that go on all night. The psychological effects of this include confusion, memory loss and hallucinations. There are also physical effects such as elevated blood pressure and stress hormones.

In 2011, amid official concerns about a Jasmine Revolution in China, activist Liu Shihui (刘士辉) was detained in a black jail where police deprived him of sleep for six days straight by forcing him to sit on a chair, banging the table or screaming at him whenever he closed his eyes, and subjecting him to lengthy interrogations. In his exhaustion, he developed a ringing in his ears, a severe head pain and dizziness until he collapsed unconscious.<sup>27</sup>

## Deprivation of food and drink

The denial of food and drink is also a common practice. It weakens the body and the spirit in preparation for interrogations and is often combined with sleep deprivation.

Fang Guoshan (a pseudonym) told Human Rights Watch<sup>28</sup> how, when he was kept in shuanggui, his interrogators severely restricted his water intake. "Drinking water is a luxury. Every day they give you only a small paper cup of water to drink, sometimes they don't give you one drink of water for days... Whether water is given depends on

<sup>28</sup> <https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system#d70fd7>

whether the interrogators think I have behaved well.”

### Continuous interrogation

Continuous interrogation is a frequent tactic used to wear down the victim. Interrogations can be extended so that the victim is unable to sleep or rest for days at a time. If the victim tries to sleep or close their eyes, they are yelled at, hit, or have something poured into their mouth.

Human rights lawyer Sui Muqing (隋牧青), caught up in the 709 Crackdown was interrogated for four or five days straight. They used a spotlight and shone it directly in his eyes to stop him from going to sleep during questioning. He described the pain from the lack of sleep and constant interrogations as like being “roasted by a fire, while at the same time feeling extremely cold.” It was so painful he thought that he was dying.<sup>29</sup>

### Enforced Medication

Many of the victims of the 709 Crackdown reported that during their spell in RSDL they were force fed medications, including Li Chunfu (李春富), Li Heping (李和平), Zhai Yanmin (翟岩民), Li Shuyun (李姝云) and Xie Yanyi. Many were told that the medication was for blood pressure, despite them never suffering from blood pressure issues before. The side effects of these drugs have not yet been determined, but one lawyer, Li Heping, appears to have suffered serious consequences.

Human Rights lawyer Li Heping was almost unrecognizable when he was released following his detention under the 709 Crackdown, as he was so emaciated

and his hair had turned grey. During the first weeks of RSDL, Lawyer Li was forced to take between one and six tablets of medicine, supposedly to treat high blood pressure, although he did not suffer from high blood pressure. He was held down and forced to take the medicine. His wife said that the medication caused a number of side effects including muscle pain, blurred vision and brain fog. This carried on for most of the two years he was held.<sup>30</sup>

### Humiliation

Humiliating the victim adds an extra of torture to the more typical infliction of physical pain. It is a deliberate act aimed to attack the dignity of the victim. This often involves forcing the victim to strip naked.

After well-known Beijing rights defender Ni Yulan (倪玉兰) was detained by police in 2008 for protesting a demolition attempt on her home, she was taken into a small unlit room in the police station and kicked and beaten. While convulsing on the ground from the beating, one policeman took out his penis and urinated on her. Repeated beatings have since left Ni in a wheelchair, with deformed ankles and knees.<sup>31</sup>

One male lawyer, speaking anonymously, described how he was kept in solitary confinement in Beijing and forced to strip naked, raise out his arms, and sing the Chinese national anthem in front of a large group of guards.<sup>32</sup>

<sup>29</sup> Caster, M. (Ed.) (2017) *The People's Republic of the Disappeared* [E Book]. Tacoma, Washington: Safeguard Defenders

<sup>30</sup> <https://www.nchr.org/2017/08/submission-to-un-on-li-heping-july-2017/>

<sup>31</sup> <https://www.theguardian.com/world/2012/apr/10/chinese-activist-ni-yulan-jailed>, and Interview with lawyer, 2010

<sup>32</sup> Safeguard Defenders interview, January 2018



## Torture against women and sexual assault

This type of torture encompasses physical attacks on the breasts and/or genitals, sexual violence including rape and threats to do so. Female victims are also often verbally attacked and threatened. Clearly, sexual violence and psychological torture can have long-lasting traumatic effects.

Police grabbed Zhu Guiqin off the streets of Beijing and pulled her into a van and black-hooded her on 11 April 2012. She was driven out of the city. In the car, a man sexually molested her genitals with his hand and climbed on top of her. Later she was placed in a windowless room for two days before being taken back.<sup>33</sup>

Female victims have been asked to strip naked and perform tasks, and sometimes to be interrogated. This tactic has been used against LGBTI rights activists.

In 2015, after human rights lawyer Wang Yu was detained as part of the 709 Crackdown, she was forced to strip in her cell when female guards pushed her to the ground and removed her clothes. She had been searched earlier the same day and the guards had never left her side. The stripping was solely to humiliate her. She was asked to stand naked and turn

around. Her request to do the search in another room without surveillance cameras was denied. After she complained about this treatment her interrogator locked her in shackles and handcuffs. The shackles were so heavy she couldn't walk unaided. The experience was so traumatic she vomited.<sup>34</sup>

## Threats to others

Threatening family members, friends and colleagues of the victim is a particularly powerful coercive tactic and causes intense psychological stress and suffering. Several victims of forced televised confessions reported that they gave their confession because the police threatened to hurt or arrest a loved one.

Activist Tang Zhishun (唐志顺) was detained after police caught him trying to help Wang Yu's son escape China into Myanmar in 2015. While Mr. Tang also endured physical torture, including hours in the dangling chair, he wrote he was most affected by police threats to his family – they threatened to kill his mother, sister, wife and daughter, even if they were not in China.<sup>35</sup>

<sup>33</sup> <https://www.rfa.org/english/women/rape-04202012104328.html?searchterm=None> and Interview with lawyer, 2012

<sup>34</sup> Caster, M. (Ed.) (2017) *The People's Republic of the Disappeared* [E Book]. Tacoma, Washington: Safeguard Defenders

<sup>35</sup> Ibid.

## TORTURE IN EXTRA-LEGAL DETENTION: A LOOK AT 'RSDL'

Because RSDL, *shuanggui* and the extra-legal custodial processes in China are not transparent, it is extremely difficult to get reliable data about the amount of detentions, let alone the treatment inside, other than the occasional and incomplete information from news reports and testimony from a very small group of victims willing to speak.

Using national security exceptions, police and state security are not required to have the case data on use of RSDL reported in the national Supreme Court database. On top of that, that database, launched in 2013, is far from complete. With this in mind, there is little to no official data on the use of RSDL. That is why, starting in early 2018, RSDLmonitor.com established the first ever database on China's use of 'RSDL'. Initial data indicated that mistreatment is systemic. So far **basic data** has been collected on about 100 cases. The database has almost 50 variables. Besides basic data, **detailed data** on treatment is collected from the victims themselves where possible, through family members, lawyers or friends, when possible, and only in last resort through news reports. In its most comprehensive form, a questionnaire is filled out with information related to all near 50 variables.

At the time of writing, such full or near complete documentation has been collected on some 25 cases. Based on this combination of basic and detailed data, patterns emerge on the treatment of those placed in RSDL. **Some key findings are:**

- Among some 25 cases, there is not a single one where the victim has not reported actions that constitute mental or physical torture.

- Of those on which detailed data exist, 80% have experienced threats to their physical well-being, 46% suffered threats to the safety of family members or loved ones, and 88% received non-physical threats against family or loved ones.
- Of those on which detailed data exist, 63% were shackled or handcuffed while inside custodial control, 29% were directly beaten. Amongst stress positions, the dangling chair treatment is most common.
- Of those with detailed data, 36% reports being denied medication or treatment, and 38% reports being force-fed unknown medication or substances.
- All those in RSDL are kept in solitary confinement.
- All of them, 100%, have been denied access to legal counsel.
- Of 27 cases, the whereabouts of the victim has been kept secret from the family in all cases.
- Of near 100 cases, those placed in RSDL will on average spend 123 days inside. Almost half will spend the full maximum 180 days.
- 95% of victims that have been released from RSDL and not been imprisoned have reported being placed in either house arrest, strict surveillance, or been forced to travel against their will after release.
- In almost one fourth of 100 cases of RSDL the victim has been forced to record a 'TV confession'.
- Of the 85 cases where the charge used against the victim, only 59% are related to national security crimes, despite that exceptions, only allowed for those charged under national security crimes, are used (illegally) on almost all the known cases.
- Of data on 94 cases, only 18% of victims are female. 11% are non-mainland Chinese. Lawyers and legal activists constitute some 28% of all known cases.

**Table 1.**  
Extract from RSDL database (39 cases shown)

#	Sex	Length of solitary confinement	Sleep deprivation	Food/drink deprivation	Denial of medicine	Shackled/tied	Beatings	Forced medication	Threats of harm	Threat of harm to others	Non-physical threats to others	Sexual abuse	Access to lawyer?	Family notified whereabouts?	Forced recording of confession	Forced decline own lawyer	Physical health needed after RSDL	Mental health support needed after RSDL?
1	M	180											N		N			
2	F	180											N		N			
3	F	96											N	N			Y	Y
4	F	180											N	N			Y	
5	M	180											N		Y	Y		
6	M	181											N	N		Y		
7	M	180	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N
8	F	180					Y									Y		
9	M	180	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y
10	M	180	Y	Y	N	N	N	N	Y	N	Y	N	N	N	Y	Y	Y	N
11	F	180	Y	Y	N	N	N	N	Y	N	Y	N	N	N	Y (not aired)	Y	Y	N
12	M	180	Y		Y	Y	Y		Y		Y		N	N	N			
13	M	178	Y	Y	N	Y	Y	Y	Y	N	Y	N	N	N	Y (not aired)	Y	N	N
14	M	112	Y						Y				N		Y (not aired)			
15	M	173				Y		Y								Y		
16	F	170														Y		
17	F	181	Y	Y	N	Y	N	N	N	Y	Y	Y	N	N	Y	Y	Y	Y
18	M	150						Y									Y	Y
19	M	152											N			Y	Y	
20	M	10											N		Y (not aired)			
21	M	159(+)											N	N	Y			
22	M	108											N		Y	Y		
23	M	132																
24	M	123								Y			N	N		Y		
25	M	127	N	N	N	Y	N	N	N	N	N	N	N	N	Y	Y	N	N
26	M	132													Y			
27	M	189	Y	Y	Y	N	N	Y	Y	Y	Y	N	N	N	N	Y	Y	N
28	M	180	N	Y	Y	N	Y	N	Y	N	Y	N	N	N	Y (not aired)	Y	Y	N
29	M	84											N	N	Y			
30	F	23	Y	Y	N	N	N	N	Y	N	Y	N	N	N	N		N	N
31	M	23	Y	N	N	N	N	N	Y	N	Y	N	N	N	Y		N	Y
32	M	23	Y	Y	Y	Y	N	N	Y	Y	N	Y	N	N	Y	N	Y	N
33	M	7	Y	N	N	Y	N	N	Y	Y	Y	N	N	N	Y		Y	N
34	F	173	Y	Y	N	Y	N	N	N	Y	Y	N	N	N	Y (not aired)	Y	Y	N
35	M	180								Y			N					
36	M	180											N			Y		
37	M	U				Y				Y			N	N				
38	M	87											N	N		Y		
39	M	180											N	N		Y		

## CONCLUDING REMARKS

This report outlines the main deficiencies in Chinese law and practice that have resulted in the continued widespread use of torture as well as in its shortfalls in relation to its treaty obligations under the CAT. The problems outlined in this brief report has shown that China faces four different type of problems in countering the use of torture, namely; the legal framework does not adequately address torture nor criminalize its use, the system continues to reward, in practice, the use of torture and the gap between legal theory and its enforcement continues unabated, the state has, and continue to develop new, systems for detentions outside the normal judicial system, where torture can be used even more freely, and, there is no effective system for victims to seek remedy after the fact.

These developments are intentional, and makes it clear the Chinese state has no real interest in curtailing the use of torture. The relevant United Nations mechanisms, as well as bi- and multilateral mechanisms, thus need focus their pressure on the Chinese state to resolve these issues, including:

- Broaden the definition of torture in Chinese law so that it is in line with the CAT, with a focus on including mental/psychological maltreatment without physical aspects as part of the definition.
- Adjust Chinese law so that acts outside of the investigatory phase and acts beyond the extraction of evidence and confessions are legally considered torture.
- Strengthen criminal punishment for those that undertake, partake in, encourage or condone the use of torture.
- Establish independent and transparent channels for redress and compensation for torture victims.
- Remove the reservation against article 20 of the CAT to allow the Committee Against Torture to investigate individual cases.
- Extend a Standing Invitation to the Working Group on Torture.
- Abolish Residential Surveillance at a Designated Location ('RSDL') or revise the law to *remove all exceptions* to the denial of oversight, that is to ensure that every case is monitored by the Prosecutor, that in every case, the detainee has access to legal counsel of their choice, and that in every case, the family of the detainee is informed of the detention and the location of the detention.
- Abolish the *liuzhi* system under the National Supervision Commission so that all investigations are conducted by the police with the proper safeguards and scrutiny afforded under Chinese law.



# WHAT'S IN THE MANUAL?

Below is a brief presentation of the materials found in the Chinese language manual upon which this brief report is based on.

## Section on Law:

- Detailed overview of current Chinese legislation as concerning Torture.
- Detailed overview of relevant International law, standard practices and related.
- Status of China's current adoption of law and current limitations.
- The legal basis and actual procedure for seeking exclusion of evidence gathered with torture.

## Section on torture:

- Descriptions of common forms of torture employed in China.

## Section on interviewing victims, collecting evidence:

- A guide to lawyers for how to investigate torture, including exhaustive overview of international standards and best practices for how to conduct interviews, how to identify less obvious form of torture, and how to best document and collect evidence of torture.
- An overview of different kinds of mutually supportive evidence related to torture.
- Checklist and form for needed material.

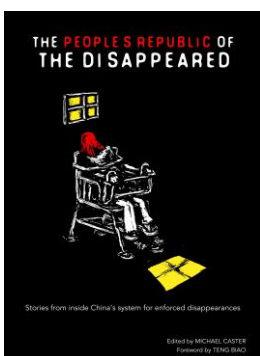
## Section on international mechanisms:

- Overview of relevant bodies, and formats for information collection to support claims of torture.

## ALSO FROM SAFEGUARD DEFENDERS

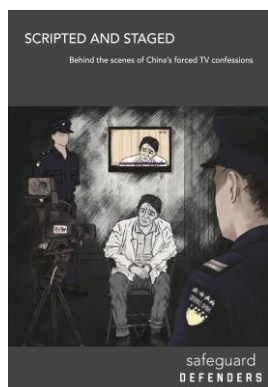
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**The People's Republic of the Disappeared**, the first book on the subject of China's use of Enforced Disappearances through the legalized system euphemistically named Residential Surveillance at a Designated Location (RSDL), exposes the systematic use of secret imprisonment and torture of lawyers, media workers and government critics.

The book, released to widespread praise for its powerful victim testimonies, is available in English as both paperback and kindle editions through Amazon worldwide (ISBN 978-0999370605). The **Chinese edition** (ISBN 978-1981289820) is also available as paperback, and for free download at [RSDLmonitor.com](http://RSDLmonitor.com)



**Scripted and Staged**: Behind the scenes of China's forced televised **confessions** is a groundbreaking publication that gives the reader a backstage pass to China's production and broadcast of coerced confessions by human rights lawyers, journalists, activists and even foreigners.

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