

**Follow-up Submission to select UN Special Procedures on
China's National Supervision Commission and its detention tool *liuzhi* –
Cooperation with UNODC**

22 July 2021

To the urgent attention of:

- UN Working Group on arbitrary detention
- UN Working Group on enforced or involuntary disappearances
- UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- UN Special Rapporteur on the independence of judges and lawyers
- UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- UN Special Rapporteur on the situation of human rights defenders
- UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
- UN Special Rapporteur on the rights to freedom of peaceful assembly and of association

Object of submission:

On 21 August 2019, Safeguard Defenders submitted [a review of China's liuzhi system](#) and pertaining National Supervision Law and National Supervisory Commission (NSC). The Working Group on Enforced and Involuntary Disappearances took up the information submitted in a general allegation to the Chinese Government ([A/HRC/WGEID/119/1](#), annex I, paras. 12–15) and reiterated its concern over what may in its opinion amount to 'enforced disappearances' in its Report to the forty-fifth session of the Human Rights Council ([A/HRC/45/13](#), par. 59). China has **not publicly responded** to the general allegation. The letter of allegation was filed in September 2019.

This submission aims to **supplement data** provided in the initial report, as well as raise grave concerns over the Memorandum of Understanding on strengthening cooperation in combating corruption between the **United Nations Office on Drugs and Crime** (UNODC) and the NSC, as announced in a [joint press release](#) on 17 October 2019. Furthermore, following our inquiries into the content of this MOU, UNODC informed us by email of the status of the extra-judicial National Commission of Supervision (NSC) as *"the supreme supervisory body of the People's Republic of China and is recognized as a legitimate representative of the Government"* for the **United Nations Office on Drugs and Crime**, serving as *"the main focal point for China's work related to the Convention"*. The exact extent of this cooperation remains unknown.

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About Safeguard Defenders:

[Safeguard Defenders](#) is a human rights NGO founded in 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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Liuzhi official data update

1. The system of *liuzhi*, which employs **mass use of enforced disappearances and torture**, and undermines any chance of a fair trial, was denounced by Safeguard Defenders (SD) and a coalition of 26 other human rights organizations on the International Day of the Disappeared in 2019 and a [comprehensive review of the system was provided to the relevant UN organs at that time](#), along with a call to review the system and condemn any and all practices found to be in violation of key human rights protections, including the prohibition of torture.
2. SD's call for such a condemnation was based on ten UN Special Procedures issuing a strong [joint letter of allegation](#) on the use of RSDL (Residential Surveillance at a Designated Location) on August 24, 2018, following a [similar submission](#) by SD, Network of Chinese Human Rights Defenders (CHRD), International Service for Human Rights (ISHR), and the Rights Practice, which declared use of RSDL often tantamount to enforced disappearance, and noted the heightened use of torture. Already in February 2016, in its [Concluding observations on the fifth periodic report of China](#), the Committee against Torture had called upon China to repeal this system of incommunicado detentions as a matter of urgency.
3. As *liuzhi* is almost identical to RSDL but operates outside the bounds of a judicial process, thereby removing even the very few protections RSDL offers, SD expected an equally strong allegation against the NSC and its use of *liuzhi*. Such a review and condemnation has not materialized, nor has any joint letter of allegation been made despite the strong overlap between the mandate of the WGEID, WGAD and SR on Torture concerning this issue.
4. Once placed into the *liuzhi* system, the victim can be held for up to six months, without the right to consult a lawyer or the right for judicial review, without contact with family or any information shared with family members about the victims whereabouts. There is no external appeal or (administrative) redress possible, even when the suspect is kept beyond the time limit of six months or when there are credible allegations of torture.
5. Based on the one-year pilot project in 2017 before the NSC's *liuzhi* launch in March 2018, SD estimated it has a mandate to investigate a group of up to 300,000,000 people, not counting those placed into *liuzhi* for being related to an investigation, even if they are not themselves being investigated. The system was created to expand the scope of supervising and 'controlling' not only party members, state functionaries, management at schools, hospitals, universities, mass organizations and state-owned enterprises, but also journalists, business people and local contractors.
6. On the basis of data available at that time, SD estimated a minimum average of 16 to 76 people are put into the NSC's *liuzhi* detention system every single day. Although highly fragmented, additional official data has become available, allowing us to update an estimated calculation of the total number of victims and the expansion of the system. No nationwide data is made

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available, but some sporadic province-level data has been released. Using extrapolation, such data can be used to get an idea on how many victims of the system exist nationwide.

Province	Year	Province pop. (m)	Tot pop. (m)	% of Tot pop.	Liuzhi in province	Estimation nationwide	Added extrapolation	
Jiangxi	2018	45	1398	3.22%	308	9,569		
Guizhou	2018	38	1398	2.72%	346	12,729		
Fujian	2018	41	1398	2.93%	224	7,638		
Heilongjiang	2018	32	1398	2.29%	487	21,276		
Yunnan	2018	47	1398	3.36%	485	14,426		
Shanghai	2018	25	1398	1.79%	65	3,635		
Zhejiang	2018	65	1398	4.65%	700	15,055		
Liaoning	2018	43	1398	3.08%	718	23,343		
Jiangsu	2019	85	1398	6.08%	844	13,881	3,469	17,350
Beijing	2019	22	1398	1.57%	204	12,963	1,080	14,043
Henan	2019	99	1398	7.08%	877	12,384		
Jilin	2020	24	1398	1.72%	275	16,019	1,334	17,353
Heilongjiang	2020	32	1398	2.29%	376	16,427		

7. Based on the above data, even though the data sources for 2019 and 2020 are limited, one can make an estimation of the nationwide average, as follows:

Nationwide average

Average 2018	13,459
Average 2019	14,593
Average 2020	16,890

Official data extrapolation and estimates, 2018-2020. Full *data table* and sources at end of submission.

8. All data points under “*Liuzhi in province*” were obtained from official NSC-CCDI statistics, of which full sources are indicated in the attached Annex I Excel sheet. While available for a limited number of provinces, the trend **confirms** the daily average estimate made by SD in its 2019 submission. Despite the **very partial** availability of official data for only a few select provinces, the data shows that NSC itself confirms having placed 5,909 people into *liuzhi*. Using the average for 2018, 2019, and 2020 (and using 2020 average for first five months of 2021), this would mean some **51,978 victims since the system came into effect 2018**.

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9. On the basis of available data, SD makes a further conservative nation-wide estimate on the basis of proportionality to national population percentage. Greater fluctuations in such estimated extrapolations are evident for 2018, year for which a larger amount of provincial data is available, whereas extrapolated estimations for 2019 and 2020 are stable across the limited data available. **These extrapolations result in an estimated annual average for the years 2018-2019 at respectively 13,459 and 14,593 victims at the national level, or between 37 to 40 people placed into *liuzhi* every single day.**
10. While not enough data is available to confirm these estimated nation-wide averages, they are in line with SD's original daily average estimate and show the firm and wide-spread implementation of this extra-judicial system, which the UN Working Group on Enforced and Involuntary Disappearances indicated as amounting to 'enforced disappearances' in its Report to the forty-fifth Human Rights Council and citing "*torture or ill-treatment in the form of solitary confinement, sleep deprivation, forced stress positions, beatings, and physical abuse are reportedly widespread in liuzhi*" in its a general allegation to the Chinese Government ([A/HRC/WGEID/119/1](#), annex I, paras. 12–15)
11. Even if no extrapolation is made, and one relies only on the data released by NSC-CCDI nonetheless indicates that **in the select provinces** for which data has been made available, 5,909 people has been placed into *liuzhi*. Again, this is data directly released by the official body. It is therefore, no matter which data is used, irrefutable proof that the practice is widespread and systematic.

National Supervision Commission and UNODC

12. The National Supervision Commission (NSC) was established by the National Supervision Law (NSL), alongside revision in the Chinese Constitution, in March 2018. While technically an individual organ, the NSC operates side by side with the Chinese Communist Party's Central Commission for Discipline Committee (CCDI). They share both offices and staff, and are in reality the same organ, with CCDI the name used when Party members are investigated and the NSC name used when non-Party members are.
13. In the establishment of the NSC, the former Ministry of Supervision, the Procuratorate's anti-corruption bureau and the National Audit Office were merged. All these bodies handled investigation of economic crimes by state functionaries. The CCDI has long been tasked with both 'discipline inspection' and investigating economic crimes by party members.
14. Before the establishment of the NSC, any investigation into breach of law, including for economic crimes had to be investigated and pursued through the legal system, unless the suspect was a member of the Chinese Communist Party. By creating the NSC, those thought to be in violation of duties and economic crimes can - and must - now be investigated by this non-judicial organ, with

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the judicial system effectively deprived of their competence to investigate such crimes, even when involving non-party individuals.

15. The NSC is the body responsible for operating the *liuzhi* system under the NSL, which codified the rights of NSC-CCDI to perform a wide range of tasks related to carrying out investigations, such as:
 - i. Summoning suspects, and others, for interrogation;
 - ii. Carry out technical surveillance;
 - iii. Search and confiscate;
 - iv. Place exit-ban on people investigated, and others relevant for an investigation;
 - v. Instruct police (and any other state organ) to provide assistance;
 - vi. Issue warrants for those to be detained, which police should carry out;
 - vii. **Detain suspects, or persons implicated, at a designated location (*liuzhi*);**
 - viii. Freeze and confiscate assets.

16. The NSC, as established by the Chinese Constitution, sits on the same level as the State Council and The Supreme Court, and is supervised by the National People's Congress, China's rubberstamp parliament, and is thus, like the Council and Court, controlled only by the Chinese Communist Party's Standing Committee of the Politburo and firmly outside the bounds of judicial or administrative control.

17. NSC officers are not classified as "judicial officers or personnel" and therefore the **special provisions concerning torture in the Criminal Law do not apply to them**. Testimonies by victims and victim's family members and lawyers shows rampant use of torture inside the facilities, aimed at procuring confessions from the suspects. From data collected, the abuse mirrors the abuse in China's other system for enforced or involuntary disappearances, RSDL. The NSC is not an administrative body, which thus prohibits use of administrative law in China against it, which means that the NSC cannot be targeted with lawsuits, even when breaches of law is clear and substantiated. It operates with impunity, by definition.

18. The establishment of the NSC as the prime anti-corruption body and its ample investigative powers coincide with a global push for 'anti-corruption' judicial cooperation and bilateral extradition treaties under operations *Skynet* and *Foxhunt* since Xi Jinping came to power¹, as well as adding an increasingly extra-territorial component to its national security legislation and Criminal Law.

19. In this overall context, on 17 October 2019 the **United Nations Office on Drugs and Crime** signed a Memorandum of Understanding (MOU) with Yang Xiaodu, Chairman of the NSC, on which the [joint press release](#) cites:

¹ In October 2020, the [Global Times](#) stated China has concluded 59 extradition treaties with foreign countries, more than the 54 countries reportedly announced in September 2019, and had so far extradited 50 people from overseas since 2014 in accordance with the law amid an anti-corruption campaign.

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20. *“Under the agreement, UNODC and China will enhance information sharing with respect to research and best practices on the prevention of corruption, trends in international judiciary and law enforcement cooperation related to corruption offences, and stolen asset recovery. Joint training, capacity building programmes and support through projects such as the UNODC and World Bank Stolen Asset Recovery Initiative (StAR) are envisioned.”*
21. *“UNODC and China will also reinforce dialogue and communication on the implementation of UNCAC and work on establishing a communication platform to facilitate exchanges among anti-corruption authorities of UNCAC States parties. Bilateral meetings will be held every six months to advance collaborative projects and review progress.”*
22. When SD provided UNODC with information on the NSC and its *liuzhi* system and [openly questioned it on the MOU with the NSC](#), Mr John Brandolino, UNODC Director of the Division for Treaty Affairs, stated the agreement *“does not foresee anti-corruption cooperation at an operational level”* and adding: *“The United Nations has attached great importance to human rights. In February 2020, Mr. António Guterres, Secretary General of the United Nations, launched a Call to Action to put human dignity and the promise of the Universal Declaration of Human Rights at the core of UN’s work. As part of the UN secretariat, UNODC will continue fulfilling its commitment to respect, protect and promote human rights through its support and cooperation with Member States to strengthen their response to threats of crime (including corruption), drugs and terrorism. We stand ready for such cooperation, including with other stakeholders, with a view to contributing to the achievement of the sustainable development goals which, inter alia, underpin the significance of human rights.”*
23. He also added, *“As you are aware, **the National Commission of Supervision (NCS) is the supreme supervisory body of the People’s Republic of China and is recognized as a legitimate representative of the Government. It is also the main focal point for China’s work related to the Convention.**”*
24. Using the data presented above, since UNODC signed the MOU with the NSC, the NSC has likely placed 28,982 people into *liuzhi*, the vast majority – or entire cohort - who will have been in a state of being ‘enforcedly disappeared’, arbitrarily detained, and tortured* (paragraph 24).
25. The UN has clearly laid firm that the use of solitary confinement, which is a prerequisite in law for both *liuzhi* and RSDL, amounts to both torture (article 1, CAT) and maltreatment (article 16, CAT) if it is a) prolonged (over two weeks) and b) performed during the investigative period and for investigative purposes. A [detailed analysis](#) released by SD of this is available here.
26. While SD has since **reiterated its request to publish the content of the MOU** in line with the principle of transparency contained in the UN Convention Against Corruption, as well as the Evaluation Norms and Standards of UNEG and UNODC Independent Evaluation Section, according to which human rights considerations need to be fully included in the evaluation of UNODC

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interventions, as well as the particular relevance to the mandate of UNODC under the Convention against Corruption to be a self-practicing guardian of the four UNEG guiding ethical principles of integrity, accountability, respect and beneficence, **this request has been refused** .

27. We further believe the designation of the NSC as the official representative of the Government and the main focal point for China's work related to the Convention Against Corruption poses a dangerous risk of legitimization of an extra-judicial body that stands credibly accused of operating a system of incommunicado detention and to which the General letter of allegation by the WGEID still stands unanswered.
28. This provides further legitimated reach to the aim of extra-territorial reach of China's National Security Law provisions, which appears fully out of line with the UN's universal human rights principles and mandate to which all its specialized agencies are bound and as reiterated under Secretary General Guterres' Global Call to Action, and may add to the number of victims at risk globally.

Recommendations

29. The NSC system and its use of enforced or involuntary disappearances through *liuzhi* is designed to deprive the suspects of even the more modest protections that exist within Chinese law, gravely undermining the framework of international law designed to prevent torture, prevent enforced or involuntary disappearances, prevent arbitrary detention, and guarantee the right to access to legal counsel and effective remedies. We therefore call upon the Special Procedures addressed to a) **perform a comprehensive analysis** of the system and how it stands in line with international legal and human rights obligations, and b) **launch requests** to the Chinese Government concerning the scope and operations of the NSC, in particular the *liuzhi* system; and c) with a **joint letter of allegation**, ask for the abolition of this system and bring the investigation, prosecution and detention of those suspected of economic crimes fully under the mandate of the State prosecutor and in line with key international law provisions.
30. To **inform and raise concerns with all United Nations bodies**, in particular its specialized agencies, on existing or future cooperation agreements with this extra-judicial body and its operations in violation of key international law provisions. This applies especially to the UNODC, who launched its MOU the very next month after the WGEID issued its initial letter of allegation, seemingly entirely unaware of the situation of the NSC and its *liuzhi* system.

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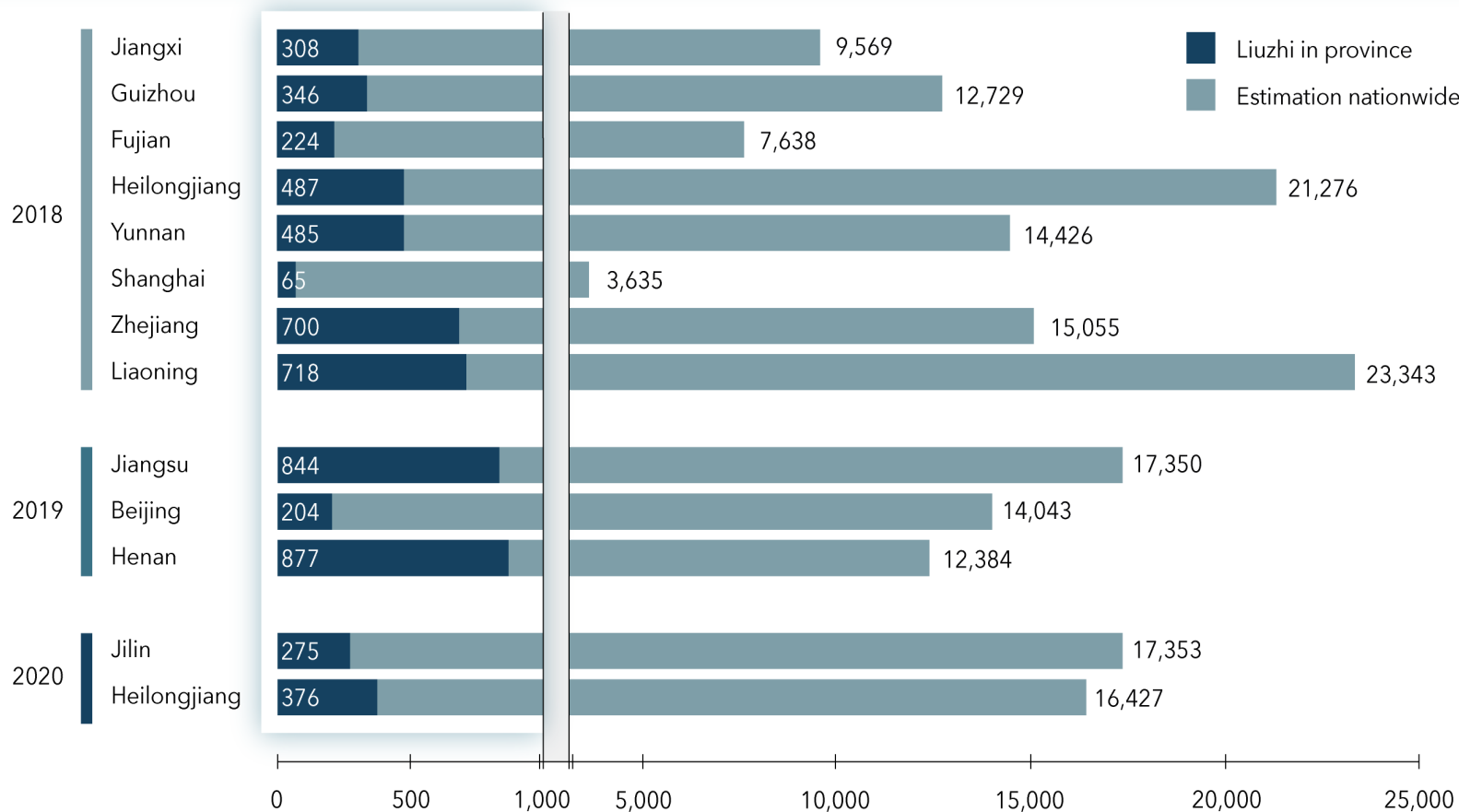
Table of data

	Province	# Liuzhi	Est nationwide		
2018	Jiangxi (1)	308	9,569	Confirmed cases by NSC (CCDI)	5,909
	Guizhou (2)	346	12,729		
	Fujian (3)	224	7,638	Average 2018	13,459
	Heilongjiang (4)	487	21,276	Average 2019	14,593
	Yunnan (5)	485	14,426	Average 2020	16,890
	Shanghai (6)	65	3,635		
	Zhejiang (7)	700	15,055	Estimated # victims since UNODC signed MOU with NSC	28,983
	Liaoning (8)	718	23,343		
			Estimated # victims since NSC came into effect	51,978	
2019	Jiangsu (9)	844	17,350		
	Beijing (10)	204	14,043		
	Henan (11)	877	12,384		
2020	Jilin (12)	275	17,353		
	Heilongjiang (13)	376	16,427		

Sources

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|---|---|----|---|
| 1 | https://www.ccdi.gov.cn/yaowen/201901/t20190117_187267.html | | |
| 2 | https://www.ccdi.gov.cn/yaowen/201901/t20190108_186564.html | 9 | |
| 3 | https://www.ccdi.gov.cn/yaowen/201901/t20190109_186683.html | 10 | |
| 4 | https://www.ccdi.gov.cn/yaowen/201901/t20190117_187286.html | 11 | |
| 5 | https://www.ccdi.gov.cn/yaowen/201901/t20190111_186860.html | | |
| 6 | https://www.ccdi.gov.cn/yaowen/201903/t20190301_189508.html | 12 | |
| 7 | https://www.ccdi.gov.cn/special/jwsjtth/wqhg_jwsjtth/201904/t20190411_1 | 13 | |
| 8 | https://www.ccdi.gov.cn/yaowen/201905/t20190521_194315.html | | |
| | | | https://www.ccdi.gov.cn/yaowen/201910/t20191030_203250.html |
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| | | | https://www.ccdi.gov.cn/yaowen/202012/t20201230_232796.html |
| | | | https://www.ccdi.gov.cn/yaowen/202101/t20210119_234173.html |

Use of secret detentions (liuzhi) by China's National Supervision Commission (NSC)



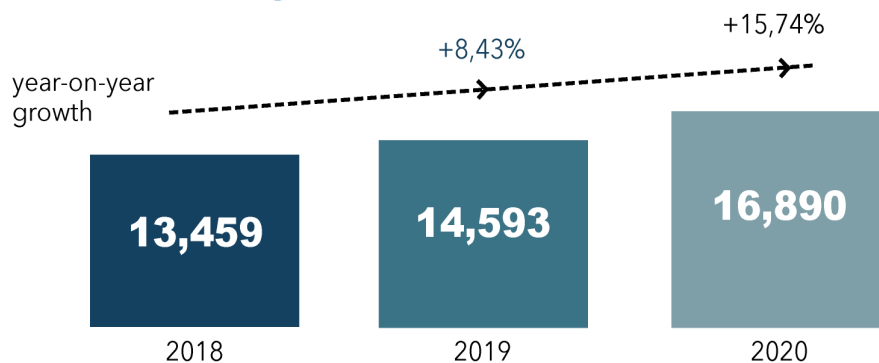
Confirmed cases by NSC (CCDI)

5,909
people

Estimated number of victims since UNODC signed MOU with NSC in Oct 2019

28,983
people

Annual average



The NSC is, in reality, the private police force of the Chinese Communist Party and its system for detention (liuzhi) their private jails. The system is used to target party members, state functionaries, and management of State-owned enterprises. It is not a judicial organ and detention or investigation not a judicial process (arbitrary detention) - with no right to legal counsel. When inside liuzhi the victims' whereabouts are kept secret (enforced disappearance). Detention must be in solitary confinement and is long-term and for investigation purposes (torture).