

# China legalises secret detention

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The Chinese government is about to enact legislation to “legalise” the existing police-state practice of secret detention. Individuals simply disappear into the hands of the state security apparatus for months without any contact with friends, relatives or the outside world. The new law is part of broader repressive measures directed at a range of political opponents, from social networking bloggers to Uigher separatists, amid rising social tensions.

A draft amendment to the Criminal Procedure Code released on Tuesday has been sent to the National Peoples Congress (NPC) for approval by the end of September. All of this is supposedly to allow public discussion on an amendment to enhance the “human rights” of suspects and protect privacy. In reality, significant changes expanding the police power of “residential surveillance” are buried in the middle of the draft new Article 73.

“Residential surveillance” is a form of house arrest, enforced by the police or other state security agencies. It has been a routine practice against human rights advocates, dissidents and social activists. Often detainees disappear for months to unknown locations and could be subject to torture and abuse. Strictly speaking, the practice of “forced disappearance” was banned under the current criminal procedural code, last revised in 1996.

In the draft amendment, Article 72 defines “residential surveillance” as restricting the freedom of suspects or defendants at their residence if the courts, prosecutors and police have decided that they meet the conditions for arrest. This, it is claimed, would be a more humane form of detention, allowing those who are seriously ill, or pregnant and breast-feeding women, to stay at home rather than in a detention centre.

While stipulating that “residential surveillance” would generally be the home of a suspect or defendant, the new Article 73 allows for exceptions. “For suspects involved in national security crimes, terrorist activities and major corruption, when staying at their residence will obstruct investigations, this can also be carried out at a specified residence, with approval from a superior Peoples Procuratorate or Public Security authority.”

In other words, for a broad range of offences, the police and courts will be allowed to detain suspects at other locations. National security crimes mainly refer to “subverting state power” or “inciting to subvert the state power”—the offence that is often used to charge organisers of protests or dissidents who publicly call for changes in the current political and social order.

The article also stipulates that family members will be informed within 24 hours of where and why such a suspect has been detained at a “specified location”. But again the amendment allows for exceptions when “the suspect is involved in crimes endangering state security, terrorist activities, or when informing them [family members] may cause obstruction to the investigation.” In short, “residential surveillance” can be transformed into “forced disappearance” for a broad range of charges that can and are used against political dissidents.

The law has already been condemned within China and internationally. An expert on Chinese law at New York University, Jerome Cohen, told the *Guardian*: “The proposed ‘reform’ is designed to legitimise this blatantly unfair, police-state practice, while leaving the rest of the criminal procedural law as misleading decoration.” He explained that under the old rules issued in 1996, police were specifically banned from

holding suspects at an address other than his or her home. “This is a perfect illustration of the dangers of revising the law in repressive times.”

Jiang Tianyong is a Beijing lawyer who disappeared for two months earlier this year without any contact with his family, amid a crackdown on online critics calling for a “Jasmine Revolution” in China in line with the mass uprisings in Tunisia and Egypt. Speaking to Reuters, he warned: “More people would face the risk of being disappeared.”

The most prominent figure targeted in that crackdown was artist Ai Weiwei. He was taken away by security agents at an airport in April and disappeared for 80 days. While Ai was eventually charged with tax evasion, it was clearly a political prosecution for his public criticism of the regime’s endemic corruption and lack of democratic rights.

Ai’s lawyer Liu Xiaoyuan told Associated Press that the new detention power would leave suspects with less legal protection than if they were held in a detention centre that was at least monitored. “This is a step backward for Chinese law,” he said. “I think they need to do this because when it comes to state security crimes, investigators usually don’t have enough evidence and want to hold the person for a long time but the detention centre’s procedures make it less convenient.”

Amid growing public criticism, the official Xinhua news agency insisted that the criminal procedure code amendment “conforms to rather than contradicts international conventions.” In fact, it is the growing use of repressive measures in the US, Europe and internationally—including detention without charge—that is increasingly conforming to the police-state system in force in China.

The tightening of police powers in China reflects deepening fears in the regime of social unrest amid revolutionary upheavals in the Middle East and a growing radicalisation of the working class in the US and Europe. The Chinese Communist Party (CCP) is clearly worried that workers in China will draw inspiration from these struggles and challenge the

regime in Beijing.

Chinese authorities are particularly sensitive to the way in which the Internet is being used to organise protests, including the Shanghai truckers’ strike in April, protests by migrant workers in Zengcheng in Guangdong in June and the public uproar over the bullet train crash in Wenzhou in July. More recently, a major protest in Dalian against toxic chemical spills was mainly organised online and forced the closure of a multi-billion dollar chemical plant.

In response, the CCP regime has initiated a crackdown on social networking users and micro-bloggers. The Politburo issued a direct order on August 22 to Sina.com’s Twitter-like Weibo microblog service to “resolutely put an end to fake and misleading information.” A number of bloggers have had their accounts temporarily suspended for spreading “rumours”. The Xinhua news agency has set the line for the media by declaring war on the “cancer” of online rumours because they present “a massive social threat”.

At the same time, Beijing has issued a heightened alert throughout the country, especially at airports, on the grounds that Uighur separatists and Islamic extremists from the Central Asian province of Xinjiang might launch a major attack. Like its counterparts in the US and Europe, the regime exploits its own “war on terror” to justify repressive methods. Above all, these are directed against the working class.



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