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China must not legalize “disappearances” and ‘two-track justice’

A major overhaul of China’s criminal procedure law could legalize “disappearances” of people deemed “subversive” by the state through a dangerous extension of police power, Amnesty International said.

In a [memorandum to the country’s National People’s Congress](#), which is considering multiple changes to the law, Amnesty International called for the rejection of a proposed amendment - Article 73 - which would make legal the increasingly common practice by police of subjecting persons the state authorities see as politically “subversive” to enforced disappearance.

“Such an extension of police powers would effectively legalize secret detentions and disappearances,” said Catherine Baber, Amnesty International’s Deputy Director for Asia-Pacific.

Over the past year the Chinese authorities reacted to peaceful calls for a “Jasmine revolution”, inspired by events in the Middle East and North Africa, by arbitrarily detaining dozens of activists. Some were held incommunicado, many were beaten and tortured.

Amnesty International commends some of the proposed legal reforms, including improved legal protections for minors and the mentally ill, and the exclusion of illegally obtained evidence from criminal proceedings and for those appealing the death penalty.

The human rights organization also urged the inclusion in the amendments of a “right to silence”, a right to be “presumed innocent until proven guilty,” and specific safeguards to prevent the abuse of “technical surveillance” techniques such as wiretapping, in criminal investigations.

The charge of “endangering national security” has long been used to silence government critics in China. The proposed revision would deprive persons suspected of this crime or “terrorism” and other “serious crimes” of basic rights, including the right to have family informed of their detention and access to a lawyer.

“China is at risk of creating a two-track criminal justice system, where basic legal protections for those suspected of vaguely defined crimes such as “endangering national security” are stripped away,” Baber said.

“This would fundamentally undermine China’s long-stated commitment to the rule of law as well as the leadership’s claim that they have drafted these revisions to ‘ensure people’s freedom’ and ‘protect human rights’“, said Catherine Baber.

Background

For Amnesty International's memorandum to the National People's Congress [please click here](#)

For more on enforced disappearance cases including that of Gao Zhisheng, a human rights lawyer [please click here](#)