



中华人民共和国常驻联合国日内瓦办事处和瑞士其他国际组织代表团

PERMANENT MISSION OF THE PEOPLE'S REPUBLIC OF CHINA

11 Chemin de Surville, 1213 Petit-Lancy
Tel: +41 (0)22 879 56 78 Fax: +41 (0) 22 793 70 14
Email: chinamission_gva@mfa.gov.cn Website: www.china-un.ch

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The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the joint communication [AL CHN 5/ 2021] dated by 10 June 2021, has the honour to transmit herewith the reply by the Chinese Government.

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 9 August 2021



Office of the High Commissioner for Human Rights
GENEVA

[Translated from Chinese]

Reply from China dated 9 August 2021 to OHCHR joint communication [AL CHN 5/2021] of 10 June 2021

Receipt is hereby acknowledged of the letter dated 10 June 2021 addressed jointly by the United Nations Human Rights Council's Special Rapporteur on trafficking in persons, especially women and children; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on minority issues; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences (ref. AL CHN 5/2021).

The communication sent by the above-mentioned special mechanisms is based on false information, makes groundless accusations against China and is filled with malice and prejudice. We note that Gulbakhar Jalili and Omir Bekali are "actors" who repeatedly engage in slander and rumour-mongering on the issue of human rights in China; they have concocted a few so-called "witness testimonies" falsely alleging "repression of ethnic minorities", "persecution of Muslims", "forced organ harvesting" and "forced labour" in Xinjiang and depicting it as a "prison" or "concentration camp" in order to achieve their ulterior motive of dishonestly drawing the attention of international public opinion to themselves. These despicable machinations regarding the Xinjiang issue are doomed to failure.

China firmly rejects the anti-Chinese lies of the special mechanisms concerned that politicize human rights issues and attack and slander sovereign States. China urges the experts of the special mechanisms concerned to maintain a scrupulous and fact-based adherence to the purposes and principles of the Charter of the United Nations and to the rules of conduct of the special mechanisms, and to carry out their duties with fairness and objectivity. The Chinese Government wishes to provide the following clarifications and replies to the content of the communication, and urges the special mechanisms concerned to take note of the authoritative information provided by the Chinese Government and to cease the practice of levelling unfounded accusations against Member States on the basis of unsubstantiated material.

A. Individual cases

1. Gulbakhar Jalili case

During her investigation by the Chinese public security organs, all of Gulbakhar Jalili's rights were fully safeguarded in accordance with the law, and her fellow inmates at the facility in which she was detained can all confirm that the "arrest experiences and observations" she alleges are entirely false. During the review of her summons, the Chinese unit handling her case filed a report with the immigration authorities in accordance with the law; the foreign affairs office of the People's Government of the Xinjiang Uyghur Autonomous Region of China thereupon presented a note to the Embassy of Kazakhstan in China to inform it that Gulbakhar Jalili had been taken into custody by the public security authorities of the city of Urumqi on suspicion of aiding and abetting terrorist activities.

Gulbakhar Jalili's allegations of "compulsory medical examinations" are entirely inconsistent with the facts. Under the relevant laws and regulations, in order to maintain the physical health of persons held in criminal detention facilities and to safeguard their lawful rights and interests, China is required to carry out medical examinations of persons newly admitted to such facilities. Furthermore, under the laws and regulations, criminal suspects or defendants taken into the custody of the detention facility of a public security organ must be medically examined by a doctor; all medical examination checklist forms are signed by the persons detained, who confirm them with their fingerprints. There are no involuntary or forced medical examinations.

With regard to the treatment of Gulbakhar Jalili's illnesses during her detention, her allegations of "injections every 10 days and a full check-up once a month" are entirely fabricated and defamatory. During her detention she received specialized treatment for hypertension and coronary heart disease, in accordance with the law, and her lawful rights and interests were safeguarded; when interviewed by hostile overseas media, however, she "backtracked" and made groundless and slanderous accusations. In order to maintain the physical health of detained persons and to safeguard their lawful rights and interests, the detention facilities in Urumqi rely on the "three-tier medical system"; facility doctors conduct visiting rounds three times daily to provide prompt examinations and treatment for persons who are ill. While being held in the No. 3 Criminal Detention Facility, Gulbakhar Jalili suffered Level 3 hypertensive crises during the periods 15 to 20 December 2017, 13 to 22 March 2018, and 29 August to 2 September 2018, and was transferred to the prison hospital for treatment on each occasion.

2. Omir Bekali case

The allegation concerning "forced organ harvesting targeting ethnic minorities in detention" in the communication from the special mechanisms is also entirely fabricated and defamatory. China is a country governed by the rule of law, and the law stipulates that all ethnic groups in the People's Republic of China are equal. The State guarantees the lawful rights and interests of ethnic minorities. The law applies equally to any person who commits an offence. Any person whose violation of criminal law rises to the level of a crime shall be prosecuted in accordance with the law regardless of such factors as ethnicity, religious belief, occupation or sex. Moreover, in strict accordance with the Constitution, laws and regulations, all persons held in custody are treated equally and without discrimination, no matter what status they have, what ethnic group they belong to or what religion they believe in; their human dignity and lawful rights are guaranteed in accordance with the law. There is absolutely no forced harvesting of the organs of persons held in custody.

Omira Bekali has acquired Kazakhstan nationality. Under the provisions of the Criminal Law of China, foreigners who commit crimes within the territory of China are subject to Chinese law. From 26 March to 24 November 2017, Omira Bekali was investigated by the public security organs on suspicion of organizing, leading or participating in terrorist organizations. That investigation established that Omira Bekali had repeatedly encouraged, abetted and financed the participation of others in terrorist organizations, and that in June 2006, he had allocated US\$ 22,000 to the financing of "jihad" personnel abroad. The facts of his crime were clear and the evidence was irrefutable, and the coercive measures taken against him by China were fully compliant with legal procedure. Omira Bekali is in good physical health and excellent condition. The coercive measures taken against him were lifted in November 2017, on condition that he leave the country within a specified time. He left the country in December 2017.

Chinese law provides that persons taken into the custody of criminal detention facilities shall undergo health examinations; the rights enjoyed by detained persons in accordance with the law include medical examinations on admittance to such facilities and prompt treatment in case of illness. These provisions apply equally to all citizens, regardless of ethnicity, language or religious belief. Omira Bekali was examined for infectious diseases and general physical health prior to being formally detained, in full compliance with the provisions of Chinese law. He confirmed the physical-health examination checklist form by personally signing it; there was never an alleged failure to inform him personally of the medical examination results.

B. Issues relating to medical examinations

With respect to the legal grounds for the performance of medical examinations on detainees, under the provisions of such relevant laws as the Regulations of the People's Republic of China on Detention Facilities (Order No. 52 of the State Council of the People's Republic of China), the Measures for the Implementation of the Regulations of the People's Republic of China on Detention Facilities (Public Communication [1991] No. 87) and the Ministry of Public Security Notice on Regulating and Strengthening the Management of Detention Facilities to Ensure the Health of Persons Held in Custody (Public Regulation [2010] No. 214), the physical health of persons admitted to criminal detention facilities shall be checked; medical examinations on admittance to such facilities and prompt treatment in case of illness are among the lawful rights that detained persons enjoy in accordance with the law.

With respect to guaranteeing freedom of medical examination for detainees, article 5 of the Measures for the Implementation of the Regulations of the People's Republic of China on Detention Facilities provides that "before taking a prisoner into its custody, a criminal detention facility shall ensure that the prisoner is given a medical examination conducted by a doctor". This is for the purpose of determining the detainee's physical condition at the time of admittance to the facility and providing prompt treatment in the event of illness.

With respect to guaranteeing the detainee's right to be informed, there are no cases where the persons examined in detention facilities "are not informed of the results" of their medical examinations. When a detention facility takes a person into its custody, it always has a doctor perform an in-person medical examination and complete a physical-health examination checklist form, which is then confirmed by the detainee's signature. The detainee's right to know is fully protected in accordance with the law.

C. Organ transplantation issues

China has a sound system of laws and regulations for the donation and transplantation of human organs. Human-organ donation is governed by the principle that such donation is voluntary and non-remunerative; organ trading and involuntary organ harvesting have been criminalized. China has established a framework for human organ donation and transplantation in line with the World Health Organization (WHO) Guiding Principles on Human Cell, Tissue and Organ Transplantation, constituting a system of regulations and policies covering the entire process of organ donation, acquisition and transplantation.

The Regulations of the People's Republic of China on the Transplantation of Human Organs came into force in 2007, and stipulate that the donation of human organs should be governed by the principle that such donation is voluntary and non-remunerative; medical institutions and medical personnel engaged in human organ transplantation should have appropriate qualifications; applications for ethical review and risk assessment should be completed before organ transplantation; informed consent forms should be signed by donors before organ transplantation can be carried out; and medical personnel engaged in human organ transplantation should also maintain the confidentiality of the personal data of human organ donors, recipients and patients who apply for organ transplantation.

In 2010, the Ministry of Health issued a Circular on Strengthening the Direct Reporting Management of the Human Organ Transplant Data Network, which stipulates that the Ministry of Health is responsible for the construction of human-organ transplant data centres; departments of health and health administration at the provincial level are responsible for the supervision of transplant data networks within their jurisdiction; human-organ transplant data centres are responsible for the daily maintenance of the transplant data submission software system; transplant hospitals are required to submit transplant data to the corresponding human-organ transplant data centres in a timely, accurate, truthful and complete manner; and no non-transplantation facility or medical personnel shall perform any type of organ transplantation, nor shall they remove organs from healthy human beings for any reason.

In 2011, Amendment (VIII) to the Criminal Law of the People's Republic of China came into force, and stipulates that "Whoever removes any other person's organ without such other person's consent, removes any organ of a person under the age of 18, or forces or deceives any other person into donating any organ" shall, in accordance with the law, be deemed to have committed the crimes of intentional injury or of intentional homicide and shall be convicted and punished accordingly. This Amendment to the Criminal Law strongly curbs and combats the sale of organs and related offences.

In 2013, the former National Health and Family Planning Commission of the People's Republic of China introduced the Regulation on the Management of Procurement and Distribution of Human Donor Organs (for Trial Implementation) to ensure transparency, fairness and traceability of donor organ transplants.

China has created an organ donation system, establishing human organ procurement organizations and the computerized Chinese Organ Transplant Response System, which takes medical indicators, such as the degree of urgency of the recipients' need and the degree to which organs match that need, as the sole principle for the allocation of organ resources, and ensures the transparency and fairness of the organ

allocation process. We have further strengthened the transplant service system and technical capacity-building, set up transplant data centres, made the information-based regulatory system sounder, and implemented methods of organ traceability management.

China's organ transplant reform has garnered the endorsement of the international transplant community, including WHO. At the China-International Organ Donation Conference in October 2016, the then Director General of WHO, Margaret Chan, expressed high appreciation for China's progress in organ donation and transplantation, and said that many of China's successful experiences could be used as models for other countries. At the seventy-first World Health Assembly side event on organ transplantation in 2018, the "Chinese model" of organ donation and transplantation was praised by WHO Director General Tedros and participating countries.

D. Issues related to human trafficking

First, article 240 of the Criminal Law of the People's Republic of China stipulates that the abduction, kidnapping, purchase, trafficking, transport or transfer of women and children for the purpose of sale shall constitute a crime of abduction and trafficking of women and children. Under less grave circumstances, this crime carries a sentence of fixed-term imprisonment of not less than five years but not more than ten years; under graver circumstances, it carries a sentence of fixed-term imprisonment of not less than ten years or life imprisonment; if the circumstances are particularly grave, it carries a death sentence.

Second, on 26 December 2009, China decided to accede to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and formally ratified it in February 2010.

Third, the National Action Plan against Trafficking in Human Beings (2013–2020) was formulated and put into effect in March 2013; the National Action Plan against Human Abduction and Trafficking (2021–2030) was formulated and put into effect on 9 April 2021 to effectively prevent and combat, in accordance with the law, the crime of trafficking in human beings, to actively assist and properly place victims of trafficking, and to ensure the lawful rights and interests of citizens.

E. Detainees are not discriminated against on the basis of their culture, religious beliefs or language.

As a State governed by the rule of law, China is engaged in a struggle against terrorism and extremism in accordance with the law that in no way targets any particular ethnic group or religion, but protects all persons threatened by terrorism and extremism. This is an essential principle that we have always upheld. In our substantive work, we uphold the equality of all persons before the law, and any person, no matter who he or she may be, who violates the laws of China, engages in terrorist or extremist activities, and endangers the lives and property of the people will be subject to prosecution under the law. We uphold the principles of legally prescribed punishment for specific crimes, innocence until guilt is proven, and evidence-based judgment, through all stages of investigation, prosecution, trial and sentencing, fully ensuring the lawful rights of criminal suspects and arresting no one without cause.

No detainee may be discriminated against on the basis of his or her culture, religious beliefs or language. The Constitution of the People's Republic of China stipulates that all citizens of the People's Republic of China are equal before the law. Article 4 of the Criminal Law of the People's Republic of China stipulates that the law shall be applied equally to any person who commits a crime, and that no one shall be above the law. Article 251 of the Criminal Law of the People's Republic of China stipulates that any functionary of a State organ who unlawfully deprives a citizen of his or her freedom of religious belief or infringes upon the customs and habits of an ethnic group shall be sentenced to fixed-term imprisonment or criminal detention of not more than two years. The law enforcement authorities at all levels in China strictly implement the provisions of the law and ensure that no detainee will be subjected to detention on the basis of his or her culture, religious beliefs or language.

联合国人权理事会贩卖人口问题特别报告员、任意拘留问题工作组、强迫失踪问题工作组、健康权问题特别报告员、少数群体问题特别报告员、宗教信仰自由问题特别报告员、反恐中促进和保护人权问题特别报告员、酷刑问题特别报告员、暴力侵害妇女问题特别报告员 2021 年 6 月 10 日来函【AL CHN 5/2021】收悉。

上述特别机制的来文基于虚假信息，对中国进行无端指责，充满了恶意和偏见。我们注意到，造谣污蔑中国人权问题的翻来覆去就是古丽巴哈尔·贾里里、吾买尔·白克力这几个“演员”，他们编造一些所谓“证人证言”，诬称新疆“镇压少数民族”“迫害穆斯林”“强摘器官”“强迫劳动”等，把新疆描绘成“监狱”“集中营”，以此吸引、误导国际舆论关注，达到他们不可告人的目的。这些在涉疆问题上的卑劣做法，注定失败。

中方坚决反对有关特别机制基于反华分子的谎言，将人权问题政治化，对主权国家进行攻击和污蔑。中方敦促有关特别机制专家基于事实，恪守《联合国宪章》宗旨和原则和特别机制行为准则，公正、客观履职。对于来文提及内容，中国政府愿作出以下澄清和答复，中方敦促有关特别机制重视中国政府提供的权威信息，停止依据未经证实的材料对会员国无端指责的作法。

一、有关个案情况

（一）古丽巴哈尔·贾里里案

古丽巴哈尔·贾里里在依法接受中国公安机关调查期

间，各项权利均得到了充分保障，与她同监舍人员都能证实其所谓“被捕的经历和见闻”完全是谎言。传唤审查期间，中国办案单位依法向出入境管理部门进行报备，中国新疆维吾尔自治区人民政府外事办公室向哈萨克斯坦驻中国大使馆照会，告知古丽巴哈尔·贾里里因涉嫌帮助恐怖活动罪被乌鲁木齐市公安机关收押。

所谓对古丽巴哈尔·贾里里“强制体检”完全与事实不符，中国根据相关法律法规，为维护看守所押人员身体健康，保障在押人员合法权益，对新入所人员必须进行体检。此外，根据法律规定，公安机关看守所收押犯罪嫌疑人、被告人，必须由医生进行健康检查，健康检查表均由在押人员签名捺手印确认，不存在未经同意强迫体检的情形。

关于对古丽巴哈尔·贾里里羁押期间患病治疗情况，古丽巴哈尔·贾里里所谓“每十日接受一次注射，每月接受全面体检”完全是无中生有、造谣污蔑，其患有高血压、冠心病，羁押期间依法享受了专业治疗，其合法权益获得保障，但在境外敌对媒体采访时却“倒打一耙”，无端诬陷造谣。为维护在押人员身体健康，保障在押人员合法权益，乌鲁木齐监管场所依托“三级医疗体系”，驻所医生每日三次巡诊，及时对患病人员进行检查治疗。古丽巴哈尔·贾里里曾于2017年12月15日至2017年12月20日因患高血压3级，由第三看守所转监所医院住院治疗。2018年3月13日至2018年3月22日因患高血压3级，由第三看守所转监所医院住院治疗。2018年8月29日至2018年9月2日因患高血压3级，由第三看守所转监所医院住院治疗。

（二）吾买尔·白克力案

有关特别机制来文所谓“被羁押人员中的少数民族遭受了强摘器官”亦纯属造谣污蔑。中国是法治国家，法律规定中华人民共和国各民族一律平等。国家保障各少数民族合法的权利和利益。对任何人犯罪，在适用法律上一律平等。对触犯刑法、构成犯罪的任何人，不受民族、宗教信仰、职业、性别等因素的影响，都应当依法予以追究。同时，严格按照宪法和各项法律法规，对被羁押人员，不论其身份如何，是哪个民族，信仰何种宗教，都是平等对待、一视同仁，依法保障其人格尊严和合法权利，绝不存在强摘被羁押人员器官的情况。

吾买尔·白克力已加入哈萨克斯坦国籍，根据中国《刑法》规定，外国人在中国领域内犯罪的，适用中国法律。2017年3月26日至2017年11月24日，吾买尔·白克力因涉嫌组织、领导、参加恐怖组织罪，曾被公安机关依法调查。公安机关查明，吾买尔·白克力多次怂恿、教唆、资助他人参加恐怖组织。2006年6月，他还将2.2万美元用于资助境外“圣战”人员。其犯罪事实清楚、证据确凿，中方对其采取强制措施完全符合法律程序。吾买尔·白克力本人身体健康，状况良好。2017年11月，他被解除强制措施，限期出境。2017年12月，吾买尔·白克力出境。

中国法律规定：看守所收押人犯，应当进行健康检查；在押人员依法享有权利中包括入所时获得健康体检，患病时获得及时治疗等。这些规定对所有公民，不分民族、语言、宗教信仰，一视同仁。在吾买尔·白克力被羁押前对其进行传染病、身体健康检查，完全符合中国法律规定。其本人已在身体健康检查表上签字确认，根本不存在所谓未将体检结

果告知其本人的情况。

二、有关体检问题

对被羁押者进行体检的法律依据方面：根据《中华人民共和国看守所条例》(中华人民共和国国务院令第52号)、《中华人民共和国看守所条例实施办法》(公通字〔1991〕87号)、公安部《关于规范和加强看守所管理确保在押人员身体健康的通知》(公监管〔2010〕214号)等相关法律规定，看守所收押人员，应当进行健康检查；在押人员依法享有权利中包括入所时获得健康体检，患病时获得及时治疗的权利。

保障被羁押者体检自由方面：《中华人民共和国看守所条例实施办法》第五条规定：“看守所对人犯收押前，应当由医生对人犯进行健康检查”。这是为了确定被羁押者入所时的身体状况，以及在患病时获得及时治疗。

保障被羁押者知情权方面：看守所从未“不将体检结果告知受检人”，看守所在羁押人员时，均会通过医生体检，当面问诊，填写健康检查表，再由本人签字确认，被羁押者的知情权均得到依法保护。

三、器官移植问题

中国对人体器官的捐献和移植有完善的法律法规体系，人体器官的捐献遵循自愿、无偿的原则，器官买卖和非自愿摘取器官已入刑。中国建立了符合世界卫生组织（WHO）《人体细胞、组织和器官移植指导原则》的人体器官捐献与移植工作体系，形成了覆盖器官捐献、获取及移植全过程的法规和政策体系。

2007年，《中华人民共和国人体器官移植条例》施行，规定：人体器官的捐献应遵循自愿、无偿的原则；从事人体

器官移植的医疗机构和医务人员应具备相应资质，在开展器官移植前应进行伦理审查申请并完成相应的风险评估、捐献人签署知情同意书等方可开展器官移植诊疗活动；从事人体器官移植的医务人员应当对人体器官捐献人、接受人和申请人器官移植手术的患者个人资料保密。

2010年，中国卫生部印发《关于加强人体器官移植数据网络直报管理的通知》，规定：卫生部负责人体器官移植数据中心建设，省级卫生健康行政部门负责辖区内移植数据网络监管，各人体器官移植数据中心对移植数据报送软件系统进行日常维护，各移植医院按照移植数据报送软件要求及时、准确、真实、完整地向相应的人体器官移植数据中心报送移植数据；任何非移植机构和医务人员不得开展任何形式的器官移植手术，也不得以任何理由摘取健康人体的器官。

2011年，《中华人民共和国刑法修正案（八）》施行，规定：“未经本人同意摘取其器官，或者摘取不满十八周岁的人的器官，或者强迫、欺骗他人捐献器官的”依法被认为故意伤害罪或故意杀人罪，并予以定罪处罚。该刑法修正案有力遏制和打击了器官买卖等违法行为。

2013年，卫生计生委出台《人体捐献器官获取与分配管理规定（试行）》以确保器官捐献移植的透明、公正、可溯源性。

中国建立了器官捐献体系，成立人体器官获取组织（OPO），建立中国人体器官分配与共享计算机系统（COTRS），将患者病情紧急程度和器官匹配程度等医学指标作为分配器官资源的唯一原则，确保了器官分配过程透明、公正。进一步加强移植服务体系和技术能力建设；成立移植数据中

心，强化以信息化为基础的监管体系，实现器官可溯源管理。

中国器官移植改革得到了包括世界卫生组织在内的国际移植界高度认可。2016年10月，在中国-国际器官捐献大会上，时任世卫组织总干事陈冯富珍高度赞赏中国在器官捐献与移植领域的进展，表示中国许多成功经验可以作为样板供其他国家学习借鉴。在第71届世界卫生大会器官移植边会上，器官捐献和移植的“中国模式”受到世卫组织总干事谭德塞和参会各国赞赏。

四、人口贩卖相关问题

一是《中华人民共和国刑法》第二百四十条规定：以出卖为目的，拐骗、绑架、收买、贩卖、接送、中转妇女、儿童的行为均构成拐卖妇女、儿童罪。情节较轻者，处5年以上10年以下有期徒刑；情节较重的，处10年以上有期徒刑或者无期徒刑；情节特别严重的，处死刑。

二是2009年12月26日，中国决定加入《〈联合国打击跨国有组织犯罪公约〉关于预防、禁止和惩治贩运人口特别是妇女儿童行为的补充议定书》，并于2010年2月正式批准。

三是2013年3月，《中国反对贩卖人口行动计划（2013-2020年）》制定并施行；2021年4月9日《中国反对拐卖人口行动计划（2021-2030年）》制定并施行，有效预防、依法打击拐卖人口犯罪，积极救助、妥善安置被拐卖受害人，切实保障了公民合法权益。

五、被羁押者不会因其文化、宗教信仰或语言遭受歧视。

中国是法治国家，依法开展反恐、去极端化斗争，绝不针对任何特定民族和宗教，而是要保护所有受到恐怖主义、

极端主义威胁的人，这是我们始终坚持的重要原则。在具体工作中，我们坚持法律面前人人平等，无论是谁，只要触犯中国法律，只要从事恐怖主义、极端主义活动，只要危害人民群众的生命财产安全，都将受到法律追究，我们坚持罪刑法定、疑罪从无、证据裁判等原则，从侦查、检察、审判、执行等各环节，充分保障犯罪嫌疑人合法权利，没有人会被无故逮捕。

任何被羁押者不会因其文化、宗教信仰或语言遭到歧视。《中华人民共和国宪法》规定：中华人民共和国公民在法律面前一律平等。《中华人民共和国刑法》第4条规定：对任何人犯罪，在适用法律上一律平等。不允许任何人有超越法律的特权。《中华人民共和国刑法》第251条规定：国家机关工作人员非法剥夺公民的宗教信仰自由和侵犯少数民族风俗习惯，情节严重的，处二年以下有期徒刑或拘役。中国各级执法部门严格落实法律规定，保障了任何被羁押者都不会因其文化、宗教信仰或语言遭到歧视。