

Mandates of the Special Rapporteur on minority issues; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the right to education and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues; Special Rapporteur in the field of cultural rights; Special Rapporteur on the right to education and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 34/6, 28/9, 26/17 and 34/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **directive on bilingual education issued on 28 June 2017 by Hotan's Education Department**.

According to the information received:

On 28 June 2017, the Education Department in Hotan prefecture, in the northwestern Xinjiang Uyghur Autonomous Region of China, issued a five point directive on bilingual education in this region, involving teaching in pre-school, primary and middle school levels.

The directive provides that as of autumn 2017, the authorities will firmly implement the teaching in the national common language (Mandarin Chinese, or Putonghua) in the three years of pre-school and the first years of elementary and middle school, with the view to achieving full coverage by 2020. In addition, the directive firmly prohibits the use, in the educational system, of texts, slogans and pictures in Uyghur language, as well as the use of the Uyghur language for collective activities, public activities and management work.

According to the directive, the authorities in Xinjiang Uyghur Autonomous Region also intend to "correct the flawed practice" of providing Uyghur language training to Chinese language teachers.

The new directive indicates also that those schools and individuals who fail to meet the criteria will be "severely punished".

The directive of 28 June 2017 is placed within the context of the bilingual education policy of the Government of the People's Republic of China, which has been promoted since early 1990s with a view to strengthening the teaching of the Mandarin Chinese language in the region. However, this policy has allegedly led to the progressive marginalization of and reduction in the use of minority

languages in education in the region, and in particular the Uyghur language. According to the information received, a total of 5,533 students of Xinjiang Uyghur Autonomous Region were enrolled in so-called “bilingual schools” in 1995; 294,000 in 2007; 994,300 in 2010; and 1,410,000 in 2012. The local authorities have reportedly set a target of 2,600,000 students in the region by 2020, which constitutes nearly all ethnic minority students.

Since the early 2000s, a number of policies have reportedly reduced the availability of education in the Uyghur language. Such policies include the merger of Uyghur schools with Chinese medium schools in a number of cities in the Xinjiang Uyghur Autonomous Region and the implementation by the Chinese Government of the so-called “Xinjiang classes”, which has led to the enrolment of tens of thousands of ethnic minority students in Chinese language high schools, mainly in cities located throughout eastern China. In addition, the Chinese Government has reportedly implemented a policy of monetary incentives to attract and relocate teachers whose first language is Mandarin Chinese and who do not have sufficient knowledge of the Uyghur language, or other minority language, to teach in Mandarin Chinese in schools in the Xinjiang region. At the same time, it is reported that Uyghur teachers are required to pass a standardized test to prove their proficiency in Mandarin Chinese language, and those who fail are either laid off or shifted into non-teaching roles.

While we do not wish to prejudge the accuracy of the information made available to us, we would like to express our serious concern over the directive issued by the Education Department in Hotan Prefecture on 28 June 2017 and its potential negative impact on the enjoyment of the right to education without discrimination by the Uyghur minority in the Xinjiang Uyghur Autonomous Region of China, their right to use their own language freely without interference or any form of discrimination and to take part in cultural life, and the right of members of a linguistic and ethnic minority to use their own language among themselves. We are concerned at the disproportionate and hence discriminatory provisions of the directive, which impose a ban on, or seriously reduce, the use of the Uyghur language in educational settings in the Xinjiang Uyghur Autonomous Region, and which will progressively impose the Mandarin Chinese language as the main or even sole language of instruction at pre-school, elementary school and middle-schools levels. We note with concern that such measures may contravene the national legal framework and in particular article 10 of the Law of the People’s Republic of China on Regional National Autonomy of 1984, which provides that “[t]he organs of self-government of national autonomous areas shall guarantee the freedom of nationalities in these areas to use and develop their own spoken and written languages and their freedom to preserve or reform their own folkways and customs.” This legislation also indicates that minorities should have textbooks written in their own languages ‘whenever possible’ and be able to use their languages as the medium of instruction.

We express additional concern that the restrictions against the use of Uyghur language in education, and the prohibition of the use of Uyghur among school children,

likewise represent unnecessary and disproportionate restrictions to the right to freedom of expression as access to language is a necessary component for the ability to receive and impart information.

In addition, we are concerned at the reported governmental policies in the area of education that have allegedly reduced access to Uyghur medium education, including through the merge of Uyghur medium schools with Chinese medium schools, the systematic recruitment in bilingual education schools of monolingual Chinese-speaking teachers and the progressive replacement of Uyghur-speaking teachers.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations and concerns.
2. Please provide information on the directive of 28 June 2017 issued by the Education Department of Hotan Prefecture, its implementation, and its impact on the use of the Uyghur language as a working language and medium of instruction in schools.
3. Please provide data on the schools in Hotan Prefecture affected by the directive of 28 June 2017 that include 2016 data on the number of schools; the level of education provided by these schools; the number of students in these schools; the number of classes taught in each through the Uyghur language medium; the number of classes taught in each through the Chinese (Putonghua) language medium; the proportion of students per year taught through the Uyghur language and the proportion taught through Putonghua, and the same data after the directive of 28 June 2017.
4. Please provide information on the compatibility of the directive of 28 June 2017 with the national laws and international obligations of the People's Republic of China, including those relevant to the rights of minorities and to the protection and promotion of the existence and expression of cultural diversity.
5. Please indicate whether there has been any complaint lodged with regard to the issuance and/or implementation of this directive, and the measures taken by the Government to follow-up on these complaints. If there has been no follow-up on lodged complaints, please explain the reasons why.

6. Please provide detailed information on the measures undertaken by the Government of the People's Republic of China to ensure promotion and protection of minority linguistic rights and access to quality education by minorities, including to education with minority language as medium of instruction at all levels, in particular in relation to the Uyghur minority

We would appreciate receiving a response within 60 days.

Finally, we would like to inform your Excellency's Government that this communication, as a comment on pending or recently adopted legislation, regulations or policies, will be made available to the public and posted on the website page for the mandate of the Special Rapporteur on the right to freedom of expression: <http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/LegislationAndPolicy.aspx>.

Your Excellency's Government's response will be made available on the same website as well as in a report to be presented to the Human Rights Council for its consideration.

Please, accept, Excellency, the assurances of our highest consideration.

Fernand de Varennes
Special Rapporteur on minority issues

Karima Bennoune
Special Rapporteur in the field of cultural rights

Koumbou Boly Barry
Special Rapporteur on the right to education

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to article 26 (2) of the Universal Declaration of Human Rights (UDHR), which stipulates that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms and that it shall promote understanding, tolerance and friendship among all nations.

We would like to recall your Excellency's Government's obligations that your Excellency's Government has undertaken. In particular, we would like to refer to the International Covenant on Civil and Political Rights (ICCPR) signed by China on 5 October 1998.. We would like to remind your Excellency's Government that upon signing the ICCPR, a State is obliged to refrain, in good faith, from acts that would defeat the object and purpose of the treaty (Vienna Convention on the Law of Treaties, Article 18).

Article 27 of the Covenant states that: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language". Article 26 of ICCPR also prohibits any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds, including race, language, religion, national or social origin, property, birth or other status.

We would equally like to refer to article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". This right is protected also through article 19 of the UDHR and article 13 of the Convention on the Rights of the Child (CRC), ratified by China on 2 March 1992.

In this connection, we reiterate the principle enunciated in Human Rights Council Resolution 12/16 which calls on States to refrain from imposing restrictions on freedom of expression, including by persons belonging to minorities or vulnerable groups.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) to which China has been a party since 27 March 2001, establishes in article 15 that States Parties recognize the right of everyone to take part in cultural life. As stressed by the Committee on Economic, Social and Cultural Rights, article 15, paragraph 1 (a), of "the Covenant also includes the right of minorities and of persons belonging to minorities to take part in the cultural life of society, and also to conserve, promote and develop their own culture. This right entails the obligation of States parties to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves. Consequently, minorities have the right to their cultural diversity, traditions,

customs, religion, forms of education, languages, communication media (press, radio, television, Internet) and other manifestations of their cultural identity and membership”. (General Comment 21, para. 32).

In the same General Comment, the Committee on Economic, Social and Cultural Rights also recalled that the protection of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, and requires the full implementation of cultural rights, including the right to take part in cultural life (para. 40). Thus, States are reminded that in many instances, the obligations to respect and to protect freedoms, cultural heritage and diversity are interconnected (para. 50).

We would also like to draw your attention to the reports of the Special Rapporteur in the field of cultural rights, which emphasize that it is the responsibility of States to create an environment favourable to cultural diversity and the enjoyment of cultural rights, by meeting their obligations to respect, protect and fulfil those rights (A/HRC/14/36), and that States have a duty not to destroy, damage or alter cultural heritage and to take measure to respect and protect cultural heritage in all its forms and of all groups, which includes, inter alia, traditions, customs and practices, aesthetic and spiritual beliefs, vernacular or other languages, artistic expressions and folklore (A/HRC/31/59, in particular paras. 49, 52 and 53). These obligations to respect and promote cultural diversity are also stated in the 2005 UNESCO Convention on the protection and promotion of the diversity of cultural expressions, which China ratified on 30 January 2007.

The International Convention on the Rights of the Child, ratified by China on 2 March 1992, establishes under article 29 (c) that the education of the child shall be directed to: “The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.” Article 30 of the Convention requires that “In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.”

The International Convention on the Elimination of all Forms of Racial Discrimination to which China is also party stipulates under article 5 that States Parties should undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the right to education and training. Article 7 of the Convention requires that “States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups.”

We would also like to refer your Excellency's Government to the Durban Declaration and Programme of Action, and in particular to article 47, that "urges States to guarantee the rights of persons belonging to national or ethnic, religious and linguistic minorities, individually or in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference, and to participate effectively in the cultural, social, economic and political life of the country in which they live, in order to protect them from any form of racism, racial discrimination, xenophobia and related intolerance that they are or may be subjected to". Paragraph 82 of the Outcome Document of the Durban Review Conference requires that "the existence and the national or ethnic, cultural, religious and linguistic identity of minorities shall be protected, and that the persons belonging to these minorities should be treated equally and enjoy human rights and fundamental freedoms without discrimination of any kind."

We would also like to refer to the 2012 report by the Special Rapporteur on minority issues, which warned against state policies promoting a single national language as a means of reinforcing sovereignty, national unity and territorial integrity and called on states to ensure the legal recognition and legislative protection of minority languages and to make provisions and undertake policies to enable minorities to learn and be taught in their mother tongue (A/HRC/22/49, paragraphs 39, 41 and 83).

Furthermore, we draw the attention of your Excellency's Government to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 1 requires that "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity". Article 2 states that "Persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

In addition, article 4 (1) of the Declaration states that: "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law". Article 4 (2) requires that "States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards." Article 4 (3) establishes that "States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue." With respect to the rights of minorities to quality education and education in their mother-tongue languages, we draw attention to the recommendations of the first Forum on Minority Issues (A/HRC/10/11/Add.1) and urge your Excellency's Government to consider implementation of relevant recommendations of the Forum.