

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on minority issues

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 36/6, 35/15 and 34/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the situation of Mr. **Tashpolat Tiyip**, a Chinese national of Uyghur origin, who was reportedly sentenced to death and may be at risk of execution.

According to the information received:

Mr. Tashpolat Tiyip, born in 1958, is a renowned Uyghur researcher and scholar who specialized in arid regions. He graduated from universities in China and Japan, and collaborated with eminent Chinese universities such as Quinhua University, as well as other institutions in a number of countries. His research was honoured by the distinction of Docteur honoris causa by the French École Pratique des Hautes Études. Mr. Tiyip was the President of Xinjiang University from 2010 to March 2017, when he was reportedly dismissed.

He was arrested two months later while on his way to travel to Germany with a group of students to attend a conference. He has disappeared since. He is believed to have been detained since in an unknown location, tried *in camera*, convicted and sentenced to death. Given the secrecy surrounding his arrest, detention and trial it is not clear what he has been accused of and charged with. He was reportedly accused of "separatism". His trial was held in secret and reportedly did not meet a number of other fair trial and due process standards.

Mr. Tiyip was sentenced to death with a two years reprieve. Depending on the date of the verdict, he could thus be executed at any moment. Since he disappeared in March 2017, his whereabouts have remained unknown.

Without prejudging the accuracy of these allegations, given the limited knowledge existing about the situation of Mr. Tiyip since his arrest, we are drawing the urgent attention of Your Excellency's Government to his case, and respectfully recommend that any order of execution be stayed, and this his trial and sentence are independently reviewed taking into account his right to fair trial and due process of law, in accordance

with the spirit of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which was signed by the People's Republic of China in 1998 (articles 6, 9, 10, 14, 18 and 19).

In view of the irreversibility of the punishment of the death penalty, we urge your Excellency's Government to take all steps necessary to ensure Mr. Tiyip is not executed, which, based on the facts available to us, if carried out would be in a violation of applicable international human rights standards, and thus constitute an arbitrary execution. We further urge that his **death sentence be annulled**.

We would like to bring to the attention of your Excellency's Government article 1 of the United Nations Safeguards Protecting the Rights of those facing the Death Penalty, which provides that countries which have not abolished the death penalty may only impose it for the most serious crimes, being understood as intentional killing. Article 5 provides that capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial.

In its reply to the Report of the Working Group on the Universal Periodic Review, issued on 15 February 2019, your Excellency's Government indicated that countries have the right to determine the application of the death penalty within the framework of international law, and that China's basic policy in this regard is that the death penalty should be retained with its application strictly and prudently limited. However, this is clearly not the case for Mr. Tiyip, who has allegedly been sentenced to death for the crime of separatism, which does not meet the required threshold of the "most serious crimes".

We further highlight that the United Nations Declaration on the Protection of All Persons from Enforced Disappearance states that no State shall practice, permit or tolerate enforced disappearances (article 2) and that accurate information on detention persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information (article 10 (2)) In this regard, we would be grateful to receive information on Mr. Tiyip's current place of detention.

Should sources submit the allegation of enforced disappearance mentioned in this communication as a case to the Working Group on Enforced or Involuntary Disappearances, it will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by a separate correspondence.

We wish to recall the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which was adopted by the UN General Assembly in 1992, and which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1), as well as to adopt the required measures to ensure that

persons belonging to minorities can exercise their human rights without discrimination (article 4).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we recommend a thorough review of this case, so that his rights are duly taken into account and safeguarded in compliance with international conventions that are binding on the People's Republic of China.

As it is our responsibility, under the mandate 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 any additional information and any comment you may have on the above-mentioned allegations. In particular, we would be grateful for the observations of your Excellency's Government on the following matters:

1. Please provide information about the fate and whereabouts of Mr. Tiyip.
2. Has his family been informed about his current place of detention, and allowed to visit him on a regular basis?
3. Please provide information about the factual and legal grounds for his arrest and detention, and the charges filed against him.
4. Please provide information about the trial, verdict and sentence. If he was tried *in camera*, please explain why and how this is compatible with the international legal obligations of China under the human rights treaties it has ratified and signed.
5. Please provide information about the legal proceedings undertaken against Mr. Tiyip, and the respect of basic guarantees of due procedure for fair trial.
6. Please indicate whether Mr. Tiyip was able to seek the assistance of a lawyer of his choice, to prepare his defence, and to enjoy the right to defend himself against the charges levelled against him in a fair manner.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We may publicly express our concerns in the near future as, in our view, the risk of execution of that person is sufficiently high to require urgent attention and preventive action. We believe that the wider public should be alerted to the potential implications of the above-mentioned allegations, should they be true. Any public expression of concern

on our part will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question. We would thus welcome a response to this communication at your earliest convenience.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Luciano Hazan
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