

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on Arbitrary Detention; the Special Rapporteur on minority issues; the Special Rapporteur on the right to privacy; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

REFERENCE:  
AL CHN 14/2020

7 July 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Working Group on Arbitrary Detention; Special Rapporteur on minority issues; Special Rapporteur on the right to privacy; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 34/18, 42/22, 34/6, 37/2, 40/10 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged use of surveillance to monitor, track, and ultimately detain persons who belong to Muslim minorities within China.**

The revision of the Xinjiang Uyghur Autonomous Region Regulation on De-extremification was the subject of a previous communication sent to your Excellency's Government sent on 12 November 2018 (OL CHN 21/2018). We regret that to date no formal response was received to this communication. We remain particularly concerned in the light of the information we continue to receive in this respect.

According to the information received:

Since 2017, hundreds of thousands of Uyghur, Kazaks, and other Muslim minority groups have been mass surveilled and then arrested, facing alleged arbitrary detention, forced political indoctrination, mistreatment and punishment, and religious repression. The authorities have sought to justify mass surveillance in Xinjiang as a means to fight terrorism, despite the fact that the Regulation on De-extremification is the subject of concerns previously raised by a number of Special Procedures (OL CHN 21/2018).

Information we received indicates that officials and police use the Integrated Joint Operations Platform (IJOP) to engage in mass surveillance. IJOP is a system that gathers information from, but not limited to, checkpoints, gas stations, CCTV cameras, and controlled areas like schools. This information is monitored for activities or circumstances deemed suspicious and then used to alert authorities to further investigate. Through the aggregated data collected, over 300 individuals

belonging to minorities have been targeted for regular, every-day activities such as attending funerals, praying, using electricity, having packages delivered, or participating in religious ceremonies. This intrusive surveillance also flagged behavior such as the use of encrypted communication apps or Virtual Private Networks. It is alleged that such information has been used for arrest and detention of those monitored and that their relatives and neighbors were also subject to surveillance. Some of the data tracked included names, identification numbers, photographs, addresses, and the “trajectory” of movement of individuals. This list also included categorization of households with what was defined as a “dense religious atmosphere.”

Some of those targeted are detained and sent to ‘political education camps’ and other facilities on the basis that, according to reports we received, “[they have] been infected by unhealthy thoughts” and that “[their] freedom is only [going to be] possible when this ‘virus’ in their thinking is eradicated and they are in good health.”

Without prejudging the accuracy of the received information, we wish to express our grave concerns regarding the use of extreme high-tech surveillance measures, including the reported use of facial recognition technology, collection of biometric data and use of artificial intelligence and others, like the Integrated Joint Operations Platform. These programmes or systems must be expressly, exhaustively, precisely and clearly established by law; be truly exceptional; be limited to what is strictly necessary for the fulfilment of imperative purposes, and subject to rigorous independent oversight. In this sense, measures to limit the right to privacy must be proportional, in terms of the balance between the imperative and necessary objective, and the impact of the proposed limitation on the individual right. In this regard, we draw your attention to the guidance on this subject (A/HRC/37/62) developed by the Special Rapporteur on the right to privacy.

We are aware of the duty of the State to ensure the safety and security of its people, including through preventive approaches, however, we are gravely concerned that the abovementioned measures to address this objective are neither necessary nor proportionate. The disproportionate emphasis placed by the authorities on the control of minorities risks is likely to worsen any security risk. As such, the repression of the freedoms of thought, conscience, opinion, expression and religion or belief, the rights of minorities and other rights, including the right to privacy, through different kinds of regulations and policies may be undermining the very security and public order goals that the authorities purport to be pursuing.

In this connection, we would also like to express our grave concern regarding the alleged detention and indoctrination of religious minority Muslim groups. we are particularly concerned that this mission to eradicate extremists might be connected to repressing of thought, opinion and speech of minority communities when it comes to the legitimate exercise of these rights such as practicing their own religion or belief, speaking their own language, and participating in cultural activities, as provided for in article 27 of

the International Covenant on Civil and Political Rights. In the absence of clear information, we also wish to express our serious concerns for safety and physical wellness and psychological integrity of the Uyghur, Kazaks, and other Muslim minorities detained in China.

Further concerns are expressed that forced neurological interventions, indoctrination programs, such as “re-education camps”, or threats of violence designed to compel individuals to form particular opinions or change their opinion violate articles 18 (1), 18(2) and 19(1) of the International Covenant on Civil and Political Rights, as further explained in the below annex. The freedom of thought and conscience and the freedom to hold opinions or beliefs without interference are absolute rights under international law. An essential element of the right to hold an opinion is the right to form an opinion and to develop this by way of reasoning. The Human Rights Committee has concluded that these rights require freedom from undue coercion in the development of an individuals’ beliefs, ideologies, reactions and positions (General Comment No. 34, para. 28 and General Comment 22 paras. 3 & 5). Accordingly, indoctrination programs, such as “re-education camps”, violate international law.

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.
2. Please provide further information regarding the Integrated Joint Operations Platform and how its use complies with international human rights law.
3. Please provide further information regarding any judicial oversight over those who are subject to surveillance. Please provide information about the legal basis for the arrest and placement in “political education camps”.
4. Please provide information on any safeguards put in place to ensure the measure taken comply with international human rights law, in particular the rights to freedom of thought, conscience and religion or belief and freedom of expression and opinion of Muslim minorities.
5. Please indicate the measures undertaken by your Excellency’s Government to ensure protection and promotion of the right of everyone, including persons belonging to the Muslim minority, to hold opinions without

interference and to enjoy the right of freedom of expression, as well as to practice their own religion with other members of their communities.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

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

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

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Fernand de Varennes  
Special Rapporteur on minority issues

Joseph Cannataci  
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Ahmed Shaheed  
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Fionnuala Ní Aoláin  
Special Rapporteur on the promotion and protection of human rights and fundamental  
freedoms while countering terrorism

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer to your Excellency's Government's obligation to respect and protect individual rights guaranteed under the Universal Declaration of Human Rights (UDHR) and 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.<sup>1</sup>

The right to freedom of opinion and expression is guaranteed under article 19 of the UDHR and article 19 of the ICCPR. The freedom to hold opinions without interference is an absolute right under international law. An essential element of the right to hold an opinion is the right to form an opinion and to develop this by way of reasoning. The Human Rights Committee has concluded that this right requires freedom from undue coercion in the development of an individual's beliefs, ideologies, reactions and positions.<sup>2</sup> Accordingly, forced neurological interventions, indoctrination programs, such as "re-education camps", or threats of violence designed to compel individuals to form particular opinions or change their opinion violate article 19(1). The Human Rights Committee has also found that coercive "inducements of preferential treatment" may rise to a level of persuasion that interferes with the right to form and hold opinions.

Article 19 of the UDHR and article 19(2) of the ICCPR furthermore guarantees an expansive right to "seek, receive and impart information and ideas of all kinds", one which must be protected and respected regardless of frontiers or type of media. Enjoyment of the right to freedom of expression is intimately related to the exercise of other rights and foundational to the effective functioning of democratic institutions, and accordingly the duties it entails include the promotion of media diversity and independence, and the protection of access to information.

Unlike the right to form and hold opinions, the rights to express and access information and ideas may be subject to restrictions under limited circumstances as prescribed by the UDHR and in article 19(3) of the ICCPR. Restrictions must meet the standards of *legality*, meaning that they are publicly provided by a law which meets standards of clarity and precision, and are interpreted by independent judicial authorities; *legitimacy*, meaning that they must be in pursuit of an enumerated legitimate interest, namely the protection of rights or reputations of others, national security or public order, or public health or morals; and *necessity and proportionality*, meaning that they are the least intrusive measure necessary to achieve the legitimate interest at hand, and do not imperil the essence of the right.<sup>3</sup>

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<sup>1</sup> United Nations, Vienna Convention on the Law of Treaties, 23 May 1969, Art. 18

<sup>2</sup> U.N. Human Rights Committee, General Comment No. 34, para. 28.

<sup>3</sup> U.N. Human Rights Committee, General Comment No. 34, paras. 22-37

The invocation of national security considerations, although constituting a legitimate aim under article 19(3), does not provide a blanket competence to restrict rights. National security considerations should be “limited in application to situations in which the interest of the whole nation is at stake, which would thereby exclude restrictions in the sole interest of a Government, regime, or power group.”<sup>4</sup> States should “demonstrate the risk that specific expression poses to a definite interest in national security or public order, that the measure chosen complies with necessity and proportionality and is the least restrictive means to protect the interest, and that any restriction is subject to independent oversight.”<sup>5</sup>

The right to freedom of opinion and expression also includes religious opinion and expression. Furthermore, article 18 of the UDHR and article 18 of the ICCPR protect everyone’s right not only to freedom of thought, conscience and religion, but also freedom, either individually or in community with others, to manifest his religion or belief in worship, observance, practice and teaching.<sup>6</sup> The ICCPR establishes narrow scope for permissible restrictions to the right to freedom of religion, providing in article 18(3) that the manifestation of one’s religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others. Any such restriction must also meet the conditions identified above in regard to article 19.

We would also like to recall article 9 of the ICCPR and article 9 of the IUDHR which provide for the right of everyone has the right to liberty and security of person and the freedom from arbitrary arrest or detention. We wish to emphasize that detention on the basis of religion is discriminatory, that practicing religion is a legitimate right and detention because of it may render detention arbitrary.

Furthermore, article 12 of the UDHR and article 17 of the ICCPR protect individuals against “arbitrary or unlawful interference with his or her privacy, family, home or correspondence”, and provides that “everyone has the right to the protection of the law against such interference or attacks”.

Article 26 of the ICCPR contains a general right to equality without discrimination on grounds such as religion, language or ethnicity, in fact or in practice, and stresses that all persons are equal before the law and entitled without discrimination to the equal protection of the law. In this regard, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on grounds such as religion. Moreover, article 27 of the ICCPR protects persons who belong to ethnic, linguistic and religious minorities to enjoy their own culture, use their own language, and practice their own religion with other members of their group. This right imposes positive obligations on states not to deny the exercise of these rights among themselves.

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<sup>4</sup> A/71/373, para.18

<sup>5</sup> A/71/373, para. 19

<sup>6</sup> A/HRC/31/18

We would also like to remind your Excellency's Government of its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), to which the State has been a party since 1981. In particular, we would like to recall article 1 on the prohibition of racial discrimination; article 2 on the obligation of the States to eliminate any act or practice of racial discrimination against persons and/or groups of persons; article 5 on the right of everyone, without any distinction, to equality before the law in the enjoyment of human rights and fundamental freedoms; and article 6 on the right of everyone to effective protection and remedy against any acts of racial discrimination.

We also refer to 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measure to that end (Art. 1), as well as to adopt the required measure to ensure that persons belonging to minorities can exercise their human rights with discrimination (Art. 4). Article 2 further establishes that persons belonging to 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, feely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them.