

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief

Ref.: AL SAU 3/2022
(Please use this reference in your reply)

3 March 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on minority issues and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 43/20, 43/4, 43/8 and 40/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and detention of Messrs. **Hemdullah Abduweli and Nurmemet Rozi**, both Chinese nationals belonging to the Muslim Uyghur minority, at risk of being forcibly returned from Saudi Arabia to the People's Republic of China, despite the potential risk of torture and other forms of ill-treatment.

United Nations independent experts have regularly expressed concern about allegations of arbitrary arrests and detention, possible ill-treatment, as well as other violations of their rights including forced labor against the Uyghur minority in Xinjiang.

According to the information received:

Mr. Hemdullah Abduweli, or Waili Aimidoula as written on his Chinese passport, is a Chinese national of Muslim Uyghur ethnicity, born on 8 November 1968. He is a tailor and is married with four children.

From 2004 until 2014, Mr. Abduweli ran a business in Urumchi in China, whilst teaching religion. In 2013, he was arrested and detained after being accused of helping organise an attack on 26 June 2013, in which 27 people were killed after a series of strikes on police stations, government offices and construction sites in Lukchun. He was further accused of having organised the Tiananmen Square attack on 28 October 2013 in Beijing.

In early 2014, Mr. Abduweli was released and acquitted after having been found innocent. Following the arrest, detention and release, he was informed by local authorities that he should leave Urumchi; he consequently moved to Toshun and on 27 February 2016 travelled to Turkey, accompanied by his family, where he was granted a residency permit issued by the Turkish authorities.

Mr. Nurmemet Rozi, or Nuermaimaiti Ruze as written on his Chinese passport, is a Chinese national, born on 6 January 1976. He is originally from the Kashgar Prefecture in the Xinjiang Uyghur Autonomous Region and is a

member of the Uyghur minority and a Muslim. Mr. Rozi travelled to Turkey in 2016 where he was granted a residence permit issued by the Turkish authorities.

Arrest and detention in Saudi Arabia

On 3 february 2020, Mr. Abduweli travelled to Saudi Arabia on a one-year tourist visa to perform the *umrah* pilgrimage. Due to the COVID-19 pandemic, he was prevented from travelling back to Turkey where his family is residing. Mr. Rozi travelled to Saudi Arabia the same year, and was granted a residence permit which will expire in March 2023.

Once in Mecca, local Uyghur people invited Mr. Abduweli to perform missionary work, known as *tabligh*. Soon after, Mr. Abduweli and Mr. Rozi were informed by a Uyghur community member that the Saudi police were looking for them. Relatives of Mr. Abduweli were also questioned about him by the Chinese consulate in Mecca.

On 20 November 2020, Mr. Abduweli and Mr. Rozi were arrested by Saudi police officers, who raided the house they were residing in, in Makkah. They were not informed of the reason of the arrest and after being interrogated were transferred to Al Dhadban prison in Jeddah, where they are currently detained. They have yet to be brought before a judicial authority to be charged.

On 3 January 2022, Saudi authorities informed Mr. Abuweli and Mr. Rozi that they would be imminently extradited to China, without giving further details. Mr. Abduweli's relatives have been unable to speak to him since his arrest. Additionally, the relatives were informed about his upcoming extradition through Uyghur contacts living in Saudi Arabia.

Neither men were ever brought before a judge or a court, nor have they been provided access to any case file or evidence against them that might explain or justify their continued detention, and to prepare their defence. Mr. Abuweli's lawyer in Istanbul has attempted to understand the legal proceedings in progress and the reasons of his arrest and detention in Saudi Arabia, but the authorities reportedly refused to provide any information.

While we do not wish to prejudge the accuracy of the aforementioned allegations, we would like to express our urgent concern at the deportation to China of Mr. Abuweli and Mr. Rozi, where they may be at risk of torture or ill-treatment.

Article 3 of the Convention against Torture (CAT) provides that no State party shall expel, return ("refouler"), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this regard, paragraph 9 of General Comment no. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, in which the Human Rights Committee states that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement". Furthermore, paragraph 9 of the Resolution A/RES/61/253 of the UN General Assembly urges States "not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for

believing that the person would be in danger of being subjected to torture”.

The “prohibition of arbitrary deprivation of liberty is non-derogable and recognized in all major international and regional instruments for the promotion and protection of human rights.” (A/HRC/22/44, para. 42). Moreover, we remind that incommunicado detention constitutes “the most heinous violation of the norm protecting the right to liberty of human being under customary international law,” as the individual is “left outside the cloak of any legal protection.” (A/HRC/22/44, para. 60).

We also highlight that among the core elements of a fair trial is the right to legal assistance, which undergirds “the right to a fair and public hearing by a competent, independent and impartial tribunal, as established by law under articles 3 and 9 of the UDHR.

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 any comment you may have on the above-mentioned allegations.
2. Please provide information on the legal and factual ground for the request of the Chinese Government to extradite these two men to China.
3. Please provide information about existing legal, institutional and procedural safeguards in Saudi Arabia to fairly assess the risks for their liberty, and physical and mental integrity of Chinese nationals of Uyghur origin should they be forcibly returned to China;
3. Please provide detailed information on the factual and legal grounds of the arrest and detention of Mr. Adbuweli and Mr. Rozi.
4. Please clarify that the legal proceedings relating to the extradition of these two individuals comply with the norms of due process recognised by international law, and the observance of fundamental safeguards, such as unrestrained and confidential access to a lawyer of their choice to present their evidence and defend themselves; and that they have access to an independent medical doctor and visits by their families.
5. Please provide information on the measures taken to ensure that members of the Uyghur minority legally residing in Saudi Arabia can exercise their legitimate right to freedom of religion, peacefully, including observance their beliefs, their rites, their studies and related activities, without fear of arrest, detention, deportation or any other violation of their rights.

We would appreciate receiving a response within 60 days. Past 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.

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Irene Khan

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

Fernand de Varennes

Special Rapporteur on minority issues

Ahmed Shaheed

Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the principles and international standards applicable to this communication.

We would also like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Saudi Arabia acceded to on 23 September 1997. We would also like to emphasise that “[A]ll methods of torture are subject to the same prohibition and give rise to the same legal obligations, regardless of whether the inflicted pain or suffering is of a “physical” or “mental” character, or a combination thereof” (A/HRC/43/49).

We also like to bring to your Excellency's Government attention the legal and procedural safeguards against torture and ill-treatment including the right to legal counsel and to contact one's family from the outset of arrest provided in the UN Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment (Body of Principles). According to body of principles the “Communication of the detained or imprisoned person with the outside world, and in particular his family . . . shall not be denied for more than a matter of days.”(Principle 15). Notwithstanding, the right to immediately inform a person of his choice of the arrest (Principle 16.1) and to further correspond with family “detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world.”(Principle 19). We also refer to paragraph 28 of the General Assembly resolution 68/156 (2014) which emphasises that conditions of detention must respect the dignity and human rights of persons deprived of their liberty and calls upon States to address and prevent detention conditions that amount to torture or cruel, inhuman or degrading treatment or punishment.

We would like to further refer to article 9 of the CCPR, taking into account the Human Rights Committee (HRC) general comment No. 35 (2014) on liberty and security of person. The State should, inter alia, ensure that, in practice, all persons deprived of their liberty are informed promptly of their rights and guaranteed all fundamental legal safeguards from the very outset of detention, including prompt access to counsel of their own choosing and confidential meetings with counsel. The State should also ensure that any failure in that regard constitutes a violation of procedural rights entailing appropriate sanctions and remedies. In addition, holding persons incommunicado violates their right to challenge the lawfulness of detention before a court under article 9(3) and 9(4) of the Covenant. Judicial oversight of detention is a fundamental safeguard of personal liberty and is essential in ensuring the legality of detention and the right to Habeas Corpus, consequently the right to an effective remedy as stated under article 8 of the Universal Declaration of Human Rights and article 2(3) of the Covenant. We also recall paragraph 27 of General Assembly Resolution 68/156, which, “[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards

concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished.”

We would like to draw the attention of your Excellency’s Government to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that “Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture.”

Lastly, we wish to refer to the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in General Assembly resolution 47/135, 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).