

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the independence of judges and lawyers

Ref.: AL CHN 9/2024
(Please use this reference in your reply)

7 June 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 52/4, 52/9, 51/21 and 53/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the imprisonment of, and near total absence of information about, Dr Gulshan Abbas, in retaliation for the human rights activism of her sister in the USA.**

Ms. Gulshan Abbas is a medical doctor from Urumqi, Xinjiang Uyghur Autonomous Region (XUAR), China. She is the sister of US-based Uyghur human rights defender Ms. Rushan Abbas, Executive Director of the non-governmental organisation Campaign for Uyghurs which works to promote and advocate for the human rights of Uyghurs in the XUAR. Since relocating to the US in 1989, Rushan Abbas has campaigned for the rights of Uyghurs and worked for the Uyghur American Association and Radio Free Asia before founding Campaign for Uyghurs in 2017. Gulshan Abbas retired from her medical career early due to ill-health. She was not engaged in political or human rights activism.

At its ninety-fifth session, the UN Working Group on Arbitrary Detention issued an opinion (no 88/2022) determining that Dr. Gulshan Abbas' deprivation of liberty was arbitrary and expressed concerns about the "total secrecy that appears to surround the fate and whereabouts" of Dr Abbas. Furthermore, in her *Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China*, the former High Commissioner for Human Rights, Michelle Bachelet, stated that the "widespread arbitrary deprivation of liberty of Uyghurs and other predominantly Muslim communities in XUAR, often shrouded in secrecy, has led to many families being separated and unaware of the whereabouts of their loved ones. This has been particularly so for the diaspora community where there have additionally been allegations of reprisals and intimidations against those seeking information about their family members or expressing concern publicly."¹

¹ OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China [UN Human Rights Office issues assessment of human rights concerns in Xinjiang, China | OHCHR](#)

According to the information received:

On 5 September 2018, Ms. Rushan Abbas spoke at a public event at the Hudson Institute in Washington D.C., USA, in which she criticised alleged human rights violations against the Uyghur population in China. Six days after her speech, on 11 September 2018, the family of Dr. Gulshan Abbas reported that they were no longer able to make contact with her.

Her family received no further information about Dr. Abbas' whereabouts until December 2020 when they were informed by a trusted source that Dr Abbas had been sentenced to 20 years in prison in a secret trial in March 2019. It is believed that she was arrested on 10 September 2018 by officials of the Public Security Bureau in XUAR. On 31 December 2020 Chinese Foreign Ministry Spokesperson Mr. Wang Wenbin confirmed for the first time that Dr Abbas had been imprisoned for "crimes of participating in a terrorist organization, aiding terrorist activities and assembling crowds to disrupt social order."²

Dr. Abbas' family have not received information relating to the evidence produced to convict her, the court verdict, her ability or otherwise to be represented by legal counsel, the prison in which she is being detained or her state of health. Dr. Abbas suffers from a number of medical conditions, including high blood pressure, migraines, back pain, visual impairment and acid reflux.

Without wishing to prejudge the accuracy of the information received, we express serious concern at the conviction and imprisonment of Dr. Gulshan Abbas without due process. We are further concerned by the alleged failure of the Chinese authorities to provide any information to Dr. Abbas' family regarding her legal situation, her whereabouts - thereby denying them the opportunity to request to visit her - or her health condition. We are concerned that these measures may have been taken in retaliation for the human rights advocacy carried out by her sister, Ms. Rushan Abbas, on behalf of the Uyghur people.

We wish to recall that, when depriving persons of their liberty, States assume responsibility to care for their life and bodily integrity. Due to this heightened duty of care, States must take any necessary measures to protect the lives of individuals deprived of their liberty. Inadequate conditions of detention can be a factor contributing serious harm in detention, including injury and even death, and when conditions are seriously inadequate, they can constitute an immediate or long-term danger to life. We reiterate our concern at the alleged denial of due process of Dr. Gulshan Abbas, including in connection to her access to legal counsel and the alleged breach of her right not to be arbitrarily detained or deprived of liberty.

In view of the above, we would also like to refer to articles 9, 10 and 11 of the Universal Declaration on Human Rights which prohibits in absolute terms arbitrary arrest and guarantees everyone the right to a fair and public hearing by an independent and impartial tribunal, in the determination of their rights and obligations and of any criminal charge against them. These include, among others, the right to legal counsel of own choosing and to communicate with them as necessary, the right to be tried

² <https://govt.chinadaily.com.cn/s/202101/04/WS5ff528ee498eaba5051be604/foreign-ministry-spokesperson-wang-wenbins-regular-press-conference-on-december-31-2020.html>

without delay, and the right to be protected from having to testify against oneself or to confess guilt. In this context, we would also like refer to relevant provisions of the United Nations Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court. We also refer to article 19 of the Universal Declaration on Human Rights that guarantees the right to freedom of opinion and expression.

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 detailed information with regard to the arrest, charges and conviction of Dr. Gulshan Abbas, and indicate the measures undertaken by the authorities of your Excellency's Government to ensure the application of due process and the effective protection of her rights before the law, including her right to freedom of opinion and expression. Please also provide detailed information about her place of imprisonment.
3. Please indicate whether the family and relatives of Dr. Gulshan Abbas have been provided with information regarding the official charges brought against her and her place of detention, and whether access to the place of detention has been granted to these family members and relatives.
4. Please provide updated information with regard to the state of Dr. Gulshan Abbas' health, as well as the measures undertaken to ensure her access to appropriate and adequate medical care while in detention.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider

public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Irene Khan

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

Tlaleng Mofokeng

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Margaret Satterthwaite

Special Rapporteur on the independence of judges and lawyers

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 articles 9, 10, 14, 16, 19, 21 and 22, to be read alone and in conjunction with article 2.3 of the International Covenant on Civil and Political Rights (ICCPR), signed by China on 5 October 1998, as well as articles 3, 7 and 9 of the Universal Declaration of Human Rights (UDHR), which guarantee that everyone has the right to liberty and security of person, to a trial within a reasonable time, to challenge the legality of a detention before the courts, to be released subject to guarantees to appear for trial, to a fair and public trial before an independent and impartial tribunal without undue delay and with legal assistance of their choosing, and that everyone shall be granted these rights free of discrimination.

In addition, we wish to recall that article 5(1) of the ICCPR reiterates that “Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.” Furthermore, article 26 of the ICCPR also provides that “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground.”

As established by the Vienna Convention on the Law of Treaties (VCLT), where the signature to a treaty is not subject to ratification, acceptance or approval, the signature does not establish the consent to be bound. However, it is a means of authentication and expresses the willingness of the signatory State to continue the treaty-making process. The signature qualifies the signatory state to proceed to ratification, acceptance or approval. It also creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty (VCLT, articles 10 and 18).

We would like to draw the attention of your Excellency's Government to Human Rights Council resolution 12/16, calling on States to recognise the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society. Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 29 of the UDHR. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality, must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

We would like to draw the attention of your Excellency's Government to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, otherwise known as the UN Declaration on Human Rights Defenders, which was adopted by consensus at the UN General Assembly in 1998. In particular we would like to highlight articles 1 and 2 of the Declaration, which state that everyone, individually and in association with others, has the right to promote and

to strive for the protection and realization of human rights and fundamental freedoms and that each State has a prime responsibility and duty to promote, protect and implement all human rights and fundamental freedoms.

In its resolution 37/3, the Human Rights Council stressed that no one shall be held in secret detention and called upon States to investigate all alleged cases of secret detention, including under the pretext of countering terrorism. We further draw your attention to the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 17 December 2015 and renamed the “Mandela Rules”), in particular to rule 24 that establishes that the provision of health care for prisoners is a State responsibility and that the state should ensure continuity of medical treatment for chronic conditions; rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases, as well as rule 58 which establishes that prisoners shall be allowed to communicate with their family and friends at regular intervals.

We also wish to draw your Excellency’s Government’s attention to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which was ratified by China on 27 March 2001, which stipulates the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health. In this regard, the Committee on Economic, Social and Cultural Rights (CESCR) adopted General Comment No. 14. This general comment describes the normative content of article 12 of ICESCR and the legal obligations undertaken by the States parties to the Covenant to respect, protect and fulfil the right to health. General comment 14 indicates that States are under the obligation to *respect* the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services. (para. 34). In this connection, we would also like to refer your Excellency’s Government to The Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation” (Basic Principles for the Treatment of Prisoners. principle 9).