

Mandates of the Special Rapporteur in the field of cultural rights; the Working Group on Enforced or Involuntary Disappearances; 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 Working Group on discrimination against women and girls

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3 September 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on minority issues and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 55/5, 54/14, 52/9, 52/5 and 59/14.

In this capacity, we would like to bring to the attention of your Excellency's Government information we have received concerning **the arrest and prolonged arbitrary detention of artist Yaxia'er Xiaohelaiti, and the enforced disappearance of academic Rahile Dawut, both belonging to the Uyghurs communities. Both appear to be related with the legitimate exercise of their cultural rights and freedom of expression, and are alleged to be examples of a broader patterns of similar violations towards Uyghurs individuals in Xinjiang.**

Mr. Yaxia'er Xiaohelaiti (亚夏尔·肖合拉提) is a Uyghur songwriter, born in 1998. From 2017 until his detention in 2023, he composed, produced and performed songs in his native Uyghur language and published 53 original songs on the NetEase Cloud Music platform", using the stage name "Uigga". The account had 419 followers.

Ms. Rahile Dawut (热依拉·达吾提) is an established Uyghur ethnographer and academic, specialised in the study of Uyghur cultural traditions, including folklore and music. She was the first woman to complete a PhD in ethnography at the National Minorities University in Beijing. She published extensively and founded in 2007 the Ethnic Minorities Research Center at Xinjiang University. She supported the Chinese Government's successful submissions to inscribe the cultural practice of "meshrep" and the musical art form "muqam" on the UNESCO Lists of Intangible Cultural Heritage, respectively in 2005 and 2009. At the time of her detention, she was serving as a professor at the Xinjiang University College of Humanities.

Previous communications from the Special Procedures mandate holders raised concerns about widespread and grave violations of the rights of Uyghurs individuals and communities, including about forced labour, arbitrary detention and trafficking in persons of Uyghurs and other minority workers ([CHN 18/2020](#)), the conditions in detention centres ([CHN 21/2020](#)), the disappearances of Uyghur human rights defenders and academics ([CHN 5/2025](#), [CHN 9/2024](#), and [CHN 21/2019](#)), mass arbitrary arrests, and the use of national security and anti-extremism policies to target Uyghur identity, religion and culture ([CHN 12/2022](#), [CHN 18/2019](#), [CHN 21/2018](#)

and [CHN 1/2018](#)). These communications highlighted the need to protect the Uyghur minority against ethnic, religious and cultural assimilation, a concern which was also directly raised with your Excellency's Government ([CHN 13/2023](#)). We thank the Government for the responses provided to most of these communications, but remain concerned at the repeated allegations of continued violations.

According to the information received:

Case of Yaxia'er Xiaohelaiti (亚夏尔·肖合拉提)

On 27 November 2022, Mr. Xiaohelaiti (亚夏尔·肖合拉提) was arrested in Chengdu on charges of “gathering a crowd to disturb social order”, as he was participating in the “A4” or “White Paper’s protests”. These demonstrations were initially sparked by the “Urumqi fire”, which claimed the lives of Uyghur victims, and evolved into a broader movement denouncing the repression faced by Uyghurs in China and demanding an end to Covid-19 lockdowns. He was released on bail after 21 days.

On 11 August 2023, Mr. Yaxia'er Xiaohelaiti was arrested again on suspicion of “advocacy of extremism” and detained by the Bole City Public Security Bureau. His arrest was allegedly approved by the Bole City People's Procuratorate on 14 September 2023.

On 13 December 2023, the Bole City People's Procuratorate formally filed charges against Mr. Xiaohelaiti with the Court, accusing him of “promoting extremism” and “illegally possessing extremist materials”, respectively under articles 120.3 and 120.6 of the Criminal Law.

It is alleged that the charges of “promoting extremism” are based on assessments of his songs, conducted by the Autonomous Region Cultural Products Review Center between 2020 and 2023, which considered that approximately 80% of his works constituted “promotion of extremism”. In court, the Prosecutor argued that the writing, recording and performance of these songs “slandered the image of the Chinese Communist Party and the state.”

The charges of “illegally possessing extremist materials” are based on Mr. Xiaohelaiti's possession of eight Uyghur-language books, that have allegedly been classified by the Chinese authorities as part of a list of “questionable authors and books”, promoting “terrorism” and “religious extremism”. Within the Uyghur community, these books are regarded as classics, essential to shaping public understanding of Uyghur history, culture and identity and hold therefore significant cultural value.

On 20 June 2024, Mr. Xiaohelaiti was convicted by the Bole City People's Court on both charges, sentenced to three years' imprisonment, including time served, and ordered to pay a fine of 3000 RMB. Mr. Xiaohelaiti's legal counsel was present during the trial.

According to the information received, Mr. Xiaohelaiti remains until today incarcerated in Wusu Prison, in the Xinjiang Uyghur Autonomous Region, and was expected to be released on 10 August 2026. He suffers from bronchitis and is receiving regular medication from the detention center authorities. His family has been allowed to visit him once a month.

Civil society organizations have expressed deep concern over Mr. Xiaohelaiti's unjust conviction, which allegedly appears to be motivated solely by his work as a Uyghur artist expressing his cultural identity through music, his use of the Uyghurs language in his creative endeavours, and for possessing books related to Uyghur culture, identity and history.

Case of Rahile Dawut (热依拉·达吾提)

In December 2017, while traveling to Beijing for an academic conference, Ms. Dawut disappeared. Despite repeated attempts from family and colleagues outside China to locate her, no information could be found to confirm her whereabouts or well-being.

In late 2018, reports emerged suggesting that Ms. Dawut had been allegedly tried in secret on charges of "separatism", a crime classified under the framework of "endangering national security."

On 21 September 2023, a non-profit organization announced that it had verified through official channels that Ms. Dawut had been convicted and sentenced to life imprisonment. When approached by journalists, a spokesperson of the Chinese Government's diplomatic representation in the United States allegedly stated that they were "not aware of the specific case".

On 26 April 2024, an investigative media report on the case sustained that, according to contacts in Urumqi, Ms. Dawut was alive and in the custody of Chinese authorities. The report also highlighted the emotional toll on Ms. Dawut's family and friends due to the alleged lack of transparency surrounding her abduction, detention and trial.

Until now, no information about Ms. Dawut's fate and whereabouts have been confirmed or shared by Chinese authorities.

National legal frameworks on extremism and on ethnic minorities

It is alleged that Mr. Xiaohelaiti and Ms. Dawut's cases are not unique but are part of a pattern of broader systemic issues concerning the treatment of Uyghurs who are considered as extremists for the promotion of their minority language and identities and for disseminating knowledge relating to their cultural identity, beliefs and practices.

It is alleged that the absence of details and transparency in Ms. Dawut's case is representative of the difficulties encountered by many Uyghur families and communities in accessing clear information about legal proceedings, especially when cases are classified as matters of "national security".

Concerning extremism, Special procedures communication CHN 12/2022 asked the Chinese Government to repeal the *Xinjiang Uyghur Autonomous Region De-extremification Regulation*, citing its impermissible aim and unlawful infringement on rights, including freedom of religion or belief, freedom of expression and opinion, peaceful assembly and association, and cultural rights. One of the crimes enumerated in that regulation is “the act of publishing or possessing articles, publications, audio, or video with “extremification” content”, which appears to have been used in Court against Mr. Xiaohelaiti.

In January 2024, China issued the *Legal Framework and Measures for Counterterrorism*, which includes the “Protection of Human Rights in Counterterrorism Practices”. Concerns have been raised about the fact that the framework allegedly does not establish any independent mechanisms to monitor or review the implementation of counterterrorism policies, which may leave space for the continuation of abuses, and does not repeal or amend existing repressive regulations, such as the 2015 *Counter-Terrorism Law* and the 2017 *Xinjiang Regulation on De-extremification*, both of which have been widely criticized for their broad and vague definitions of extremism (OL [CHN 18/2019](#) and [CHN 21/2018](#)).

It is further alleged that the Chinese national legal framework’s provisions guaranteeing “the freedom of nationalities (ethnic minorities) in those (autonomous) areas to use and develop their own spoken and written languages and their freedom to preserve or reform their own folkways and customs” are generally not respected in the Xinjiang Uyghur Autonomous Region and, more broadly, for individuals belonging to the Uyghur community.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our serious concern about the arbitrary detention of Mr. Xiaohelaiti and about the abduction and enforced disappearance of Ms. Dawut, for what appears to be the legitimate and peaceful exercise of their cultural rights, freedom of opinion and expression and academic freedom.

We are greatly concerned that Mr. Xiaohelaiti’s trial and conviction are based on considering that his creative outputs and his possession of Uyghur-language books are expressions of extremism, despite them being legitimate expressions of his Uyghur identity and heritage. His detention on these grounds could be perceived as an indication that further such arbitrary arrests may follow, sending a chilling effect to all Uyghur artists, musicians, scholars, and cultural figures as well as to those using the Uyghur language, who may fear to also be labeled as “extremists” by authorities.

We are deeply concerned by the reported abduction and enforced disappearance of Ms. Dawut, in clear violation of the absolute and *jus cogens* prohibition of such acts under international law. We emphasize that, under international law, any failure or refusal by the authorities to acknowledge the deprivation of liberty constitutes an enforced disappearance, regardless of the duration or the methods used to conceal the detention. Accordingly, State authorities have an obligation to take all necessary measures to ensure the effective protection of the rights of persons deprived of liberty

and to prevent any irreparable damage to their physical and psychological wellbeing. We regret that Ms. Dawut's case also appears to be intended to produce a comparable chilling effect—aiming to discourage and delegitimize Uyghur cultural productions, and efforts to document, preserve, and protect them.

Furthermore, we are deeply concerned by the reports suggesting that the charges, arrests and detentions for expressing and promoting the Uyghur identity are not isolated incidents, but rather part of a pattern of arbitrary detention, including incommunicado detention and enforced disappearances, followed by secret trials, undisclosed charges, and verdicts against members of Uyghur and other communities in China.

Should the information received be confirmed, they would contravene multiple provisions of international human rights law regarding the principle of non-discrimination, the right to life, liberty and security of the person, the right to recognition as a person before the law, the prohibition of torture and the right to a fair trial, and amount to severe violations of the rights to freedom of opinion and expression, including artistic expression, academic freedoms and cultural rights, including the right to have and to express one's cultural identity, to use one's language, to access to heritage and to participate freely in cultural life without discrimination.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law and standards** 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 information regarding the legal basis on which Mr. Xiaohelaiti's songs were determined to "promote extremism." Additionally, please share his court verdict and explain how the charges and sentence are compatible with international human rights standards regarding cultural rights and freedom of expression, including freedom of artistic expression and creativity.
3. Please provide information regarding Mr. Xiaohelaiti's physical and mental health and conditions of detention, including his access to necessary medical care, his lawyer and visits of his family.
4. Please provide information regarding any documentation, including official documents such as police or court records, that could clarify the fate and whereabouts of Ms. Dawut, the charges brought against her, the details of her indictment, verdict and sentence, and that could provide assurances of fair trial guarantees.

5. Please provide information regarding the measures taken by the authorities to ensure that Ms. Dawut's has access to her family and a lawyer of her choice, in accordance with Chinese law, in particular the Prison Law and Criminal Procedure Law.
6. Please provide concrete information regarding measures taken to bring conditions of detention for women into compliance with international standards, including the Bangkok Rules, and to guarantee that women from Uyghur and other minority communities are not subjected to gender-based discrimination or violence in detention facilities
7. Please provide information regarding the policy for classifying books on Uyghur history, culture and identity as extremist materials. Please share the comprehensive list of books and authors categorized as "extremist," specifying when and by what criteria this classification was determined, and indicate whether this information has been made publicly accessible to citizens. Please also explain how is this compatible with international human rights standards, including on freedom of expression.
8. Please provide information regarding the number of individuals from Uyghur and other minority groups who, as of today, have been detained, convicted and imprisoned on charges of "extremism", "separatism", "terrorism", or similar charges. Please also indicate how many of these cases involved cultural productions or the creation and dissemination of arts, including music, song, folklore and literature. We would appreciate if this data could be disaggregated by demographic indicators such as age, gender, location of household registration, and habitual residence.
9. Please provide information regarding any safeguards and measures that have been taken by your Excellency's Government to ensure that all Uyghur artists, academics, and individuals belonging to the Uyghur community, can fully enjoy their cultural rights and freedom of expression and express their cultural identity without fear of arrest, reprisal and detention.

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.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable damage to the physical and psychological wellbeing of the aforementioned persons, 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.

Further, we would like to inform you that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

Gabriella Citroni
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

Nicolas Levrat
Special Rapporteur on minority issues

Claudia Flores
Chair-Rapporteur of the Working Group on discrimination against women and girls

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 relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to reiterate your Excellency Government's obligation to respect and protect individual rights guaranteed under the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), which was ratified by China on 27 March 2001, the International Covenant on Civil and Political Rights (ICCPR), signed by China on 5 October 1998, and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), acceded to by China on 29 December 1981. We would like to remind Your Excellency's Government of the 2022 OHCHR *Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China*, which already raised concerns similar to the ones included above, and raise your attention to the recommendations it included.

In particular, we refer to the articles 3 and 9 of the UDHR, which reflect customary international law, whereby the State is under a duty to respect and ensure the right to life, liberty and security and of a person including the right not to be deprived arbitrarily of liberty. We also refer to articles 7, 11, 12, 13, 18, 19, 20 and 27 of the UDHR, articles 2 and 15 of the ICESCR, articles 6, 9, 16 and 27 of the ICCPR, read alone and in conjunction with article 2.3, and articles 2 and 5 of the ICERD, which guarantee the right to life, the right to be free from discrimination, the right to a fair trial, the right to an effective remedy, the right to freedom of opinion and expression, the right to freedom of thought, conscience, and religion, the right to freedom of movement and freedom of peaceful assembly and association, as well as the cultural rights, including of ethnic, religious and linguistic minorities. Many of the core elements of the UDHR, such as right to security and the prohibition on arbitrary detention, are also considered reflective of customary international law. Pursuant to the Vienna Convention on the Law of Treaties, acceded to by China on 3 September 1997, as a signatory, your Excellency's Government has an obligation not to carry out conduct that would defeat the object and purpose of the Covenants, such as adopting laws that openly contradict the basic rights guaranteed in the Covenants, or committing acts that nullify the essential protections set out in them.

Anti-terrorism measures and human rights

We respectfully remind your Excellency's Government of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. All these resolutions require that States ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with all of their obligations under international law.

Articles 19 of the UDHR and ICCPR guarantees the right of everyone to freedom of expression; this includes 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. In its [general comment No. 34](#), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” ([CCPR/C/GC/34](#), para. 11). As indicated by the Human Rights Committee, attacks against individuals for exercising their right to freedom of expression, including through arbitrary detention, torture, inhuman or degrading treatment or punishment, and enforced disappearance are incompatible with the ICCPR.

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” ([CCPR/C/GC/34](#), para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed. In this regard, the Human Rights Committee stated that the restrictions must be “the least intrusive instrument among those which might achieve their protective function” ([CCPR/C/GC/34](#), para. 34).

Prohibition of arbitrary detention and enforced disappearances

We recall that a person may only be deprived of liberty in accordance to procedural safeguards governing detention and if this detention is not arbitrary in the sense of being inappropriate, unjust, unreasonable, or unnecessary. We would like to further remind your Excellency's Government that the right to challenge the lawfulness of detention before a court, protected under article 9 of the ICCPR, is a self-standing human right and a peremptory norm of international law, which applies to all forms of arbitrary deprivation of liberty.

The prohibition of enforced disappearance has attained the status of *jus cogens*. In this regard, we wish to recall articles 2, 3 and 7 of the *United Nations Declaration on the Protection of All Persons from Enforced Disappearances* which state respectively that that “no State shall practise, permit or tolerate enforced disappearances and that states should take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction and that no circumstances whatsoever may be invoked to justify enforced disappearances.” Article 4 of the Declaration establishes that “all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness”, and

article 6, that “no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance”. Furthermore, article 9 further stipulates that “the right to a prompt and effective judicial remedy must be guaranteed as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances.” The Declaration further sets out the necessary protection relating to the rights to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to the maintenance in every place of detention of official up-to-date registers of all detained persons (articles 10 and 12). The Declaration also establishes that “States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance” (article 14), and that “the persons responsible for these acts shall be tried only by ordinary courts and not by other special tribunal, notably military courts” (article 16); “not benefit from any amnesty law” (article 18); and the victims and their family have the right to “obtain redress, including adequate compensation” (article 19).

Furthermore, the [Guiding Principles for the Search for Disappeared Persons](#) establish that the search for the disappeared should be undertaken without delay (principle 2); respect the right to participation of the family of the disappeared (principle 5); be considered a continuing obligation (principle 7); be interrelated with the criminal investigation (principle 13), and be carried out safely (principle 14).

The obligation to investigate and punish serious human rights violations, such as torture and enforced disappearances was also affirmed by the Human Rights Committee in its general comment No. 31. Failure to investigate and prosecute such violations is in itself a breach of the norms of human rights treaties (paragraph 18). The Committee further acknowledged in general comment No. 36 that the deprivation of liberty, followed by a refusal to acknowledge that deprivation of liberty or by concealment of the fate of the disappeared person, in effect removes that person from the protection of the law and places his or her life at serious and constant risk, for which the State is accountable. Moreover, in its report on standards and public policies for an effective investigation of enforced disappearances ([A/HRC/45/13/Add.3](#)), the Working Group on Enforced or Involuntary Disappearances recommended that States define enforced disappearance as an autonomous crime in national legislation and establish different modes of criminal liability, including abetting, instigating, acquiescing and actively covering up an enforced disappearance, as well as criminal liability for command or superior responsibility; and create mechanisms that can promptly receive and process complaints of enforced disappearances, under the responsibility of authorities who are independent of the institutions to which the alleged perpetrators belong or may be linked. These mechanisms should be empowered to trigger prompt investigations of the complaints received.

In its general comment on the right to recognition as a person before the law in the context of enforced disappearance, the Working Group on Enforced or Involuntary Disappearances noted that when a person deprived of liberty is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total

defencelessness. The crime of enforced disappearance puts the detainee outside of the protection of the law, denies the person of legal existence and prevents the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms. Additionally, in the study on enforced disappearances and economic, social and cultural rights, the Working Group observed that the enforced disappearance of persons actively promoting the enjoyment of economic, social and cultural rights are used as a repressive tool to deter the legitimate exercise, defence or promotion of the enjoyment of these rights. Due to their collective character, such measures also violate their economic, social and cultural rights, the rights of others engaged in related activities, and of the larger community of people who relied on the disappeared person to represent and fight for their rights ([A/HRC/30/38/Add.5](#)). Similarly, in its general comment on women and enforced disappearances, the Working Group also noted that States have an obligation to recognize the particular types of harm women suffer based on their gender and the resulting psychological damage and social stigma as well as the disruption of family structures ([A/HRC/WGEID/98/2](#)).

The rights to express one's identity, to access and transmit heritage and respect for cultural diversity

We would like to refer your Excellency's Government to article 15 paragraph 1(a) of International Covenant on Economic, Social and Cultural Rights (ICESCR), and article 27 of the International Covenant on Civil and Political Rights, recognizing the right of everyone to take part in cultural life and to enjoy and contribute to his or her culture. Under this provision, States Parties have also undertaken to respect the enjoyment and development of cultural practices and respect the freedom indispensable for creative activity.

The Committee on Economic, Social and Cultural Rights, in its 2009 general comment No. 21 on the right to take part in cultural life ([E/C.12/GC/21](#)) stressed that States must refrain from interfering with the exercise of and the access to cultural practices, goods and services. It recalled the right of everyone not to be subjected to any form of discrimination based on cultural identity, exclusion or forced assimilation, to express their cultural identity freely, to exercise their cultural practices and way of life and to access to their own cultural and linguistic heritage and to that of others. States parties should consequently ensure that their legislation does not impair the enjoyment of these rights through direct or indirect discrimination ([E/C.12/GC/21](#), paragraphs 44, 48, 49). Thus, States are reminded that in many instances, the obligations to respect and to protect freedoms, cultural heritage and diversity are interconnected (para. 50).

In her first thematic report to the Human Rights Council, the Special Rapporteur in the field of cultural rights stresses that ensuring the mutual protection of cultural rights and cultural diversity shall be based on (a) the recognition of the diversity of cultural identities and expressions; (b) equal treatment and respect for the equal dignity of all persons and communities, without discrimination based on their cultural identities; and (c) openness to others, discussion and intercultural exchanges ([A/HRC/14/36](#), para. 30).

The Committee noted the obligation of States to respect and protect cultural heritage in all its forms. Cultural heritage must be preserved, developed, enriched and

transmitted to future generations as a record of human experience and aspirations, in order to encourage creativity in all its diversity and to inspire a genuine dialogue between cultures (paragraph 50.a).

In this connection, we would like to draw your Excellency's Government's attention to the reports of successive Special Rapporteurs in the field of cultural rights relating to the right of access to and enjoyment of cultural heritage ([A/HRC/17/38](#)) and to the protection of cultural heritage ([A/HRC/31/59](#) and [A/71/317](#)). They stressed the significance of accessing and enjoying cultural heritage by individuals and communities as part of their collective identity and development processes. They underscored that the right to participate in cultural life implies that individuals and communities have access to and enjoy cultural heritages that are meaningful to them, and that their freedom to continuously (re)create cultural heritage and transmit it to future generations should be protected. As cultural heritage represents values linked with the cultural identity of individuals and groups, access to and enjoyment of cultural heritage also include "contributing to the identification, interpretation and development of cultural heritage, as well as to the design and implementation of preservation/safeguard policies and programmes". The mandate holders in the field of cultural rights have therefore recommended that States recognize and value the diversity of cultural heritages present in their territories and under their jurisdiction, and acknowledge, respect and protect the choices of individuals and groups to feel associated (or not) with specific elements of cultural heritages, to access, enjoy and continuously (re)create the cultural heritages that are meaningful to them; and to transmit this heritage to future generations.

The provisions also address the rights of minorities and of persons belonging to minorities to take part in cultural life and to conserve, promote and develop their own culture. These rights entail 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" ([E/C.12/GC/21](#), para. 32).

We would also like to draw your attention to the report by the Special Rapporteur in the field of cultural rights, stating that fundamental and extremist ideologies aim at forcing or coercing people into specific world visions, beliefs systems and cultural practices, therefore threatening human rights, and especially cultural rights ([A/HRC/34/56](#)). Noting that fundamentalist and extremist assaults on minorities and their cultural sites and practices have become widespread around the world, she also recommended that States develop plans of action that are fully gender sensitive to protect religious, ethnic and sexual minorities and women from extremism and fundamentalism, and implement urgent action policies when such groups are the targets of fundamentalist and extremist threats or violence ([A/HRC/34/56](#), para. 97).

The right to freedom of artistic expression and creativity

Regarding freedom of artistic expression and creativity, the Committee recalled the right of everyone to seek, receive and impart information and ideas of all kinds and forms including art forms; to enjoy the freedom to create, individually, in

association with others, or within a community or group, which implies that States parties must abolish censorship of cultural activities in the arts and other forms of expression.

The Special Rapporteur in the field of cultural rights stressed that all persons enjoy the right to freedom of artistic expression and creativity, which includes the right to freely experience and contribute to artistic expressions and creations, through individual or joint practice, to have access to and enjoy the arts, and to disseminate their expressions and creations. Decision makers, including judges, when resorting to possible limitations to artistic freedoms, should take into consideration the nature of artistic creativity (as opposed to its value or merit), as well as the right of artists to dissent, to use political, religious and economic symbols as a counter-discourse to dominant powers, and to express their own belief and world vision ([A/HRC/23/34](#), paras. 85 and 89d). In addition, the use of imaginary and fiction must be understood and respected as a crucial element of the freedom indispensable for creative activities. Representations of the real must not be confused with the real, which means, for example, that what a character says in a novel cannot be equated with the author's personal views. Hence, artists should be able to explore the darker side of humanity, and to represent crimes or what some may consider as "immorality", without being accused of promoting these ([A/HRC/23/34](#), paras. 37, 85 and 89d). Thus, States have the challenge of ensuring the full implementation of artistic freedoms and resort to limitations only when absolutely necessary ([A/HRC/23/34](#), paras. 3 and 32).

Regarding the imposition of sanctions, including criminal sanctions, deprivation of liberty and the closing of public space, we would like to recall the recommendations made by the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur in the field of cultural rights to distinguish between a) expression that constitutes a criminal offence; (b) expression that is not criminally punishable but may justify a civil suit or administrative sanctions; and (c) expression that does not give rise to criminal, civil or administrative sanctions but still raises a concern in terms of tolerance, civility and respect for the rights of others ([A/66/290](#), para. 18; [A/HRC/23/34](#), para. 31). What may be morally objectionable (from one point of view) may not necessarily be legally inadmissible or condemnable. Criminal sanctions should be the very last resort measures only, to be applied in strictly justifiable situations. In this regard, we would like to draw your Excellency's Government attention to a particularly useful suggestion in the Rabat Plan of Action, to use a six-part threshold test for those expressions that are criminally prohibited, implying an analysis of the context, speaker, content or form (which implicitly also refers to "the form of art"), extent of the speech, and likelihood, including imminence ([A/HRC/22/17/Add.4](#)).

Academic freedom

Academic freedom encompasses the liberty of individuals to express freely opinions about the institution or system in which they work, to fulfil their functions without discrimination or fear of repression by the State or any other actor ([E/C.12/1999/10](#), paras. 38-39). The Special Rapporteur in the field of cultural rights stressed that scientific freedom involves respecting the autonomy of higher education institutions and the freedom of faculty and students to, inter alia, express opinions about the institution or system in which they work, and to fulfil their functions without

discrimination or fear of repression by the State or any other actor ([A/HRC/20/26](#), para. 40).

The protection of ethnic, religious and linguistic minorities

United Nations human rights mechanisms have raised significant concerns about the adequacy of your Excellency's Government national legal framework for protecting cultural rights and the rights of minorities. Special Procedures raised these concerns in the context of a "Sinicization policy [that aims] to homogenize all minorities and communities into the dominant Han Chinese fold"(CHN 6/2022), of the free exercise by Tibetans of their right to participate in cultural life (CHN 8/2024) and of the targeting of Tibetans, including "based on the display of their religion or belief or cultural affiliation" and subsequent to "the criminalization of peaceful civic and religious expression and criminal profiling of ethnic and ethno-religious minorities, including Muslim Uighurs, Buddhist Tibetans and Mongolians" (CHN 8/2023). Of particular resonance with Mr Xiaohelaiti's case is the engagement of a number of mandates on the "arrest, detention and subsequent disappearance" of a Tibetan writer, musician, and teacher "allegedly in connection with their cultural activities in favour of the Tibetan minority language and culture" (CHN 14/2021).

The Committee on the Elimination of Racial Discrimination (CERD) also expressed concern in its 2018 Concluding Observations that "the broad definition of terrorism, the vague references to extremism and the unclear definition of separatism in Chinese laws could potentially lead to the criminalization of peaceful civic and religious expression and facilitate the criminal profiling of ethnic and ethno-religious minorities, including Muslim Uighurs, Buddhist Tibetans and Mongolians." ([CERD/C/CHN/CO/14-17](#), para. 36).

Freedom from gender-based discrimination and violence

We wish to emphasize the obligation of your Excellency's Government, under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by China on 4 November 1980, to protect women against gender-based discrimination and violence as a manifestation of such discrimination, namely, "violence that is directed against a woman because she is a woman or violence that affects women disproportionately". Gender-based violence includes "acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty" (CEDAW Committee, general recommendations No. 19 and 35). Women deprived of their liberty are particularly vulnerable to discrimination through civil and penal laws, regulations and customary law and practices (CEDAW Committee, general recommendation No. 28, paras 19, 31). Gender-based violence takes multiple forms, including acts or omissions intended or likely to cause or result in physical or psychological harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty (general recommendation No. 35, para. 14). Article 3 of CEDAW and rule 81 of the Nelson Mandela Rules require specific procedures for the monitoring and guarding of female prisoners and failure to provide special measures for female detainees may violate article 1 of the Convention ([CEDAW/C/49/D/23/2009](#)).

The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules), complementary to the Nelson Mandela Rules, address specific needs of women in detention. We echo the call of the Committee on the Elimination of Discrimination against Women to bring the conditions of detention for women in line with international standards, including the Bangkok Rules ([CEDAW/C/BLR/CO/9](#), para. 54(a)).

Furthermore, article 4(c) of the Declaration on the Elimination of Violence against Women holds that States should exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women.

We would also like to highlight the findings of the Working Group on Discrimination against Women and Girls ([A/HRC/41/33](#)) that deprivation of liberty is deeply linked to gender. Against the backdrop of unequal power dynamics and systemic discrimination, women are deprived of their liberty, mostly arbitrarily and in a discriminatory fashion, and often in violation of the law and human rights standards. The Working Group highlights the devastating consequences of deprivation of liberty on women's lives and the heightened risk of human rights violations faced in detention by women who experience intersectional forms of discrimination, such as older women ([A/HRC/41/33](#), paras. 74 and 78). Furthermore, the Working Group noted that measures to combat national security measures sometimes profile and target women, in particular those from certain groups, and sometimes even women human rights defenders ([A/HRC/41/33](#), para. 73). It has recommended that States ensure that measures addressing conflict, crisis, terrorism, and national security incorporate a women's human rights focus and do not instrumentalize women's deprivation of liberty for the purposes of pursuing government aims (para. 82(b)).