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Human Rights Council
Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its 102nd session, 1–10 April 2025

Opinion No. 7/2025 concerning Reyihanguli Tuoheti, Kuerban Maimaitimin and Ali Mehmet (China)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.

2. In accordance with its methods of work,[1] on 4 July 2024 the Working Group transmitted to the Government of China a communication concerning Reyihanguli Tuoheti, Kuerban Maimaitimin and Ali Mehmet. The Government has not replied to the communication. The State is not a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States Parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination, based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

[1] A/HRC/36/38.

1. Submissions

(a) Communication from the source

4. Reyihanguli Tuoheti is a citizen of China, born in 1967. Her usual place of residence is in the Xinjiang Uighur Autonomous Region. She has a close family member who has been residing in Türkiye since 2016.

5. Kuerban Maimaitimin is a citizen of China, born in 1967. His usual place of residence is in the Xinjiang Uighur Autonomous Region. He is the husband of Reyihanguli Tuoheti and has a close family member who has been residing in Türkiye since 2016.

6. Ali Mehmet is a citizen of China, born in 1992. He is originally from the city of Ghulja, located in the north-western part of the Xinjiang Uighur Autonomous Region.

(i) Arrest and detention of Ms. Tuoheti

7. The source indicates that, in March 2017, Ms. Tuoheti was taken into custody by the authorities at her home. Prior to that, she was requested to report to a police station. No warrant was shown, and no reasons for the arrest were given.

8. Since the time of her arrest, she has been held in detention. The place of her detention is unknown and there has been no information concerning her status or condition, effectively making this an incommunicado detention. The authorities have not given reasons for her detention, or the legal basis for detention, including the legislation applied.

(ii) Arrest and detention of Mr. Maimaitimin

9. The source states that, in February 2017, Mr. Maimaitimin was arrested at his home by the police authorities of the Xinjiang Uighur Autonomous Region. No arrest warrant was shown, and no reasons for the arrest were given.

10. Furthermore, the authorities have not given reasons for Mr. Maimaitimin's continued detention. The legal basis for his detention, including the legislation applied, also remains unknown. Since his arrest, Mr. Maimaitimin's exact whereabouts have remained unknown, and he cannot be contacted. It is also reported that other members of the family have been arrested, are held in detention and are subjected to inhumane conditions, abuse and torture.

11. The source submits that the ongoing incommunicado detention of Mr. Maimaitimin and Ms. Tuoheti without charges is an example of persecution by the authorities against persons of Uighur ethnicity and constitutes a violation of their most fundamental rights under the Universal Declaration of Human Rights.

12. It is further submitted that these two cases are emblematic of the targeting of family members of individuals who are either studying or residing in Türkiye for allegedly refusing to be informants for the Chinese authorities.

(iii) Arrest and detention of Mr. Mehmet

13. The source indicates that Mr. Mehmet was arrested in October 2023 by police officers from the city of Ghulja, who came to the city of Urumqi and took him into custody. No arrest warrant was shown, and no reasons for the arrest were given. The source underlines that Mr. Mehmet is an ordinary craftsman and had no problems with the law before his detention.

14. After his arrest in October 2023, Mr. Mehmet was reportedly transferred to one of the "re-education camps" located in the Xinjiang Uighur Autonomous Region. In January 2024, his family learned of his detention. Mr. Mehmet will reportedly remain detained in a "re-education camp" until October 2028. There have been no trials or legal process, and he has not had an opportunity to receive the support of a lawyer.

15. Mr. Mehmet's whereabouts are unknown, and grave concerns exist about his life and health.

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(iv) Legal analysis

16. The source submits that the detention of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet, being in contravention of articles 2, 3, 6, 7, 8, 9, 10 and 11 (1) of the Universal Declaration of Human Rights, is arbitrary and falls under categories I, III and V of the Working Group.

17. In relation to category I, the source submits that, since 2017, the authorities have detained a large number of men and women in internment camps or prisons located throughout Xinjiang Uighur Autonomous Region. The source asserts that Uighurs and other primarily Muslim ethnic minorities in the Xinjiang Uighur Autonomous Region are subject to arbitrary detention, torture, restrictions on religious practice and extensive digitized surveillance.

18. The source argues that the assertion that mass detention and incommunicado detention are justified in order prevent extremism is inconsistent with the Government's international law obligations. In this context, the source recalls the joint communication by special procedure mandate holders in which they stated that the Xinjiang Uigur Autonomous Region regulation on "de-extremification" was incompatible with the obligations of China under international human rights law.[2]

19. The source also recalls that, as has been emphasized by the Working Group, the principle of legality requires that laws be formulated with sufficient precision so that the individual can access and understand the law and regulate his or her conduct accordingly.[3] Nevertheless, an arrest or detention may be authorized by domestic law and nonetheless be arbitrary. The notion of "arbitrariness" is not to be equated with "against the law" but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality.[4] With respect to the "re-education centres", the source notes that, according to the joint communication by the special procedure mandate holders, due to their coercive character, these centres amount to detention centres.[5]

20. Moreover, it is recalled that the term "extremism", when operative as a criminal legal category, is irreconcilable with the principle of legal certainty and is therefore, per se, incompatible with the exercise of certain fundamental human rights.[6] Domestic law authorizing and setting out the grounds and procedures for arrest and detention must conform to international legal standards. Any deprivation of liberty outside the context of criminal charges cannot amount to an evasion of the limits on the criminal justice system by providing the equivalent of criminal punishment without applicable protections. The source submits that the internment of persons of Uighur ethnicity, including the above-mentioned individuals, is arbitrary, since it is based on overly broad and notoriously vague counter-terrorism legislation.

21. The source notes that, following its visits to China in 1997 and 2004, the Working Group emphasized in its reports that charges involving vague and imprecise offences jeopardized the ability of individuals to exercise their fundamental rights and were likely to result in arbitrary deprivation of liberty.[7] Furthermore, prolonged detention without charge or trial, and secret, prolonged incommunicado or indefinite detention without review, as well as keeping a person in any form of detention without periodic re-evaluation of the justification for continuing the detention, are forms of arbitrary detention.[8]

22. The source states that Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet remain forcibly disappeared. It recalls in this regard that the International Convention for the Protection of

[2] See communication CHN 21/2018, available at https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=24182.
[3] Opinion No. 66/2021, para. 54.
[4] Human Rights Committee, general comment No. 35 (2014), para. 12.
[5] See communication CHN 21/2018.
[6] A/HRC/49/45, paras. 33 and 34.
[7] Opinion No. 15/2019, para. 33.
[8] Human Rights Committee, general comment No. 35 (2014), paras. 11 and 12.

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All Persons from Enforced Disappearances defines the act of enforced disappearance in its article 2.

23. The source argues that, although China is not a party to the Convention, it is bound by the prohibition on committing enforced disappearance under customary international law. It is submitted that persons taken to re-education camps, including the three above-mentioned individuals, are effectively subject to enforced disappearance. The source asserts that the camps constitute a case of enforced disappearance and arbitrary detention.[9]

24. The source submits that the internment of persons of Uighur ethnicity, including Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet, constitutes a prima facie violation of articles 3 and 9 of the Universal Declaration of Human Rights, as well as principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

25. Furthermore, the source states that no formal charges were presented against Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet, who, furthermore, are denied access to legal remedies, are denied contact with the world outside the re-education camps and have been held for unspecified periods of time, circumstances that are tantamount to enforced disappearance and arbitrary detention. Accordingly, the prolonged incommunicado detention of the above-mentioned individuals constitutes deprivation of liberty under category I of the Working Group.

26. The source submits that enforced disappearance is a prima facie form of arbitrary detention, and therefore the period during which the three above-mentioned individuals were or have been forcibly detained constitutes a violation of their right to be considered persons before the law, in contravention of article 6 of the Universal Declaration of Human Rights.

27. The source also submits that, in placing Ms. Tuoheti, Mr. Kuerban and Mr. Mehmet outside the protection of the law, the enforced disappearance deprived them of the protection of legal safeguards for detainees, including the right to habeas corpus and the right to be promptly brought before a judicial authority, in violation of their rights under articles 8, 9 and 10 of the Universal Declaration of Human Rights and principles 11, 32 and 37 of the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment.

28. The source concludes that the arrest and detention of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet is arbitrary and falls under category I as lacking legal basis, in breach of article 9 of the Universal Declaration of Human Rights.

29. In regard to category III of the Working Group, the source states that due process is one the tenets of the right to a fair trial. It recalls that Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet were arrested without a warrant and were not informed either of the reasons for their arrest or of any charges against them. It is recalled that Mr. Mehmet was forcibly sent to a re-education camp. The three individuals have been held incommunicado since the time of their arrest. They did not enjoy their right to notify and communicate with their families or their right to have a lawyer.

30. The source argues that these elements constitute prima facie violations of principles of 15, 16, 17, 18 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Furthermore, the United Nations Declaration on the Protection of All Persons from Enforced Disappearances recognizes the right to be brought before a judicial authority promptly after detention in order to challenge the legality of the detention. Article 10 (2) of the same Declaration establishes the obligation of the detaining authorities to make available accurate information on the detention of persons and their place of detention to their family, to their counsel or to other persons with a legitimate interest. The Declaration, in its article 10 (3), also establishes the obligation to maintain in every place of detention an official up-to-date register of detained persons.

31. It is argued that, in the present case, the rights of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet not to be deprived arbitrarily of their liberty and to fair proceedings before an

[9] See A/HRC/WGEID/115/1, annex I.

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independent and impartial court have been violated. Thus, the Government has violated, inter alia, articles 9 and 10 of the Universal Declaration of Human Rights and article 14 of the Covenant.

32. The source submits that, although arrest and prolonged incommunicado detention fall within category I of the Working Group, such practices constitute violations of the right to a fair trial as well. Secret and incommunicado detention constitutes a very serious violation of the norm protecting the right to liberty of person under international law. The inherent arbitrariness of these forms of deprivation of liberty lies in the fact that the individual is left outside the cloak of any legal protection.[10]

33. The source recalls that incommunicado detention refers to a type of deprivation of liberty in which a detainee's communication with other human beings is either highly restricted or non-existent and, accordingly, the detainee is held outside the reach of the law, without the possibility of resorting to legal procedures, including habeas corpus. Thus, denying a detainee contact with his or her family and legal counsel renders a detention incommunicado.

34. Another concern with regard to incommunicado detention is the fact that it may facilitate or in and of itself constitute torture.[11] The Body of Principles for the Protection of All Persons under Any Form of Detention expressly states that communication of the detained or imprisoned person with the outside world and, in particular, his or her family or counsel is not to be denied for more than a matter of days.[12] Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet have been denied contact with their families and legal counsel.

35. The source notes that it is acknowledged among United Nations human rights bodies that prolonged incommunicado detention is capable of facilitating and constituting torture. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has deemed that prolonged incommunicado detention in a secret place may amount to torture as described in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.[13] The source submits that there is credible information regarding extensive and sustained torture and ill-treatment occurring in the re-education camps. It is therefore submitted that the pattern of physical and psychological violence that has been committed in these camps, and the prolonged incommunicado detention of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet, allow it to be inferred that they have been subjected to torture and ill-treatment, thus rendering their detention arbitrary under category III of the Working Group.

36. Lastly, in relation to category V, the source submits that the cases of the three above-mentioned individuals are representative of a widespread pattern of detentions in the Xinjiang Uighur Autonomous Region. It recalls that Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet are ordinary people residing in the Xinjiang Uighur Autonomous Region who happen to be of Uighur ethnicity. According to the source, they were targeted and detained because of their Uighur, Muslim and Turkic identities.

37. The source therefore submits that the three above-mentioned individuals were deprived of their liberty on discriminatory grounds due to, inter alia, their ethnic origin, language and religion. It also submits that the deprivation of liberty of the aforementioned individuals is a prima facie case of deprivation of liberty on discriminatory grounds and forms part of a pattern of persecution against persons with similarly distinguishing characteristics.[14] The source notes that more than 1 million Uighurs are still in detention for reasons of their ethnicity.

38. The source concludes that the detention of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet on discriminatory grounds amounts to a violation of the right to equal protection of the law and freedom from discrimination under article 7 of the Universal Declaration of

[10] A/HRC/22/44, para. 60.
[11] See opinion No. 77/2023.
[12] Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 15.
[13] A/56/156, para. 14. See also opinion No. 55/2019, para. 39.
[14] A/HRC/36/37, para. 48.

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Human Rights. It constitutes a violation of international law on prohibited grounds of discrimination. Their deprivation of liberty is thus arbitrary and falls within category V of the Working Group.

(b) Response from the Government

39. On 4 July 2024, the Working Group transmitted the allegations from the source to the Government of China under its regular communications procedure. The Working Group requested the Government to provide, by 4 September 2024, detailed information about the current situation of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet and to clarify the legal provisions justifying their detention, as well as its compatibility with the obligations of China under international human rights law. The Working Group called upon the Government of China to ensure their physical and mental integrity.

40. The Working Group regrets that the Government did not submit a reply or seek an extension in accordance with paragraph 16 of the Working Group's methods of work.

2. Discussion

41. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

42. In determining whether the detention of the above-mentioned individuals is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations.[15] In the present case, the Government has chosen not to challenge the prima facie credible allegations made by the source.

43. The Working Group reaffirms that States have an obligation to respect, protect and fulfil all human rights and fundamental freedoms, including liberty of person, and that any national law allowing the deprivation of liberty should be made and implemented in conformity with the relevant international standards set forth in the Universal Declaration of Human Rights and other applicable international and regional instruments.[16] Consequently, even if the detention is in conformity with national legislation, regulations and practices, the Working Group is entitled and obliged to assess the circumstances of the detention and the law itself to determine whether such detention is also consistent with the relevant provisions of international human rights law.[17]

44. As a preliminary matter, the Working Group notes that the allegations in the present case concern three individuals belonging to the Uighur minority in the Xinjiang Uighur Autonomous Region of China. The Working Group recalls the assessment of human rights concerns in the Xinjiang Uighur Autonomous Region of China issued by the Office of the United Nations High Commissioner for Human Rights in 2022, in which the Office documented the persistent failure of the authorities to provide any information concerning the detention of individuals belonging to the Uighur minority group and the near

[15] A/HRC/19/57, para. 68.

[16] General Assembly resolution 72/180, preambular para. 5; Human Rights Council resolutions 41/2, preambular para. 2; 41/6, para. 5 (b); 41/10, para. 6; 41/17, preambular para. 1; 43/26, preambular para. 13; 44/16, preambular para. 25; 45/19, preambular para. 9; 45/20, preambular para. 2; 45/21, preambular para. 3; and 45/29, preambular para. 3. See also Commission on Human Rights resolutions 1991/42, para. 2; and 1997/50, para. 15; Human Rights Council resolutions 6/4, para. 1 (a); and 10/9, para. 4 (b); and opinions No. 41/2014, para. 24; No. 3/2018, para. 39; No. 18/2019, para. 24; No. 36/2019, para. 33; No. 42/2019, para. 43; No. 51/2019, para. 53; No. 56/2019, para. 74; No. 76/2019, para. 36; No. 6/2020, para. 36; No. 13/2020, para. 39; No. 14/2020, para. 45; and No. 32/2020, para. 29.

[17] See opinions No. 1/1998, para. 13; No. 82/2018, para. 25; No. 36/2019, para. 33; No. 42/2019, para. 43; No. 51/2019, para. 53; No. 56/2019, para. 74; No. 76/2019, para. 36; No. 6/2020, para. 36; No. 13/2020, para. 39; No. 14/2020, para. 45; and No. 32/2020, para. 29.

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impossibility for their family members or others to ascertain the fate of the detainees.[18] The Working Group has also experienced similarly scarce information concerning the detention of Uighurs in the Xinjiang Uighur Autonomous Region.[19] In the present case, although the source has not provided full particulars, the allegations raised are grave and can easily be identified with the Working Group's categorizations.

45. The source has argued that the detention of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet is arbitrary and falls under categories I, III and V. The Working Group shall proceed to examine these in turn.

(a) Category I

46. From the information provided by the source, the arrests of each of the three individuals were made without an arrest warrant or information about the charges, followed by confinement and incommunicado detention.

47. The source states that Ms. Tuoheti was arrested at her home in March 2017 by the authorities. She was not shown any arrest warrant, nor were the reasons for her arrest given. She remains in detention in an unknown location. Likewise, Mr. Maimaitimin was arrested at his home in February 2017 without being shown an arrest warrant or being furnished with the reasons for the arrest. He too remains detained at an unknown place. Similarly, the arrest of Mr. Mehmet was carried out in October 2023 without a warrant, and no reasons for the detention were given by the authorities. He was reportedly transferred to one of the "re-education camps" located in the Xinjiang Uighur Autonomous Region where he is thought to be detained without trial and without the services of a lawyer until October 2028.

48. The Working Group has previously stated that, for deprivation of liberty to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case.[20] This is typically done through an arrest warrant or arrest order (or equivalent document).[21] Persons who are detained have the right to be promptly informed of the charges against them. This right is inherent in article 9 of the Universal Declaration of Human Rights, as well as in principles 2 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. In the absence of a response from the Government and in the light of the source's submissions, the Working Group concludes that the rights of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet under article 9 of the Universal Declaration of Human Rights, as well as under principles 2 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, were violated.

49. The Working Group also notes the source's unrebutted submission that, following their arrests, Ms. Tuoheti and Mr. Maimaitimin have been kept in detention in undisclosed locations, have been unable to communicate with their family members and have no access to a lawyer.

50. The Working Group recalls that secret detention, involving the denial or concealment of a person's detention, whereabouts or fate, has the inherent consequence of placing the person outside the protection of the law[22] and violates the person's right to contest the legality of his or her detention before a court or tribunal. Judicial oversight of detention is a fundamental safeguard of personal liberty and is essential in ensuring that detention has a legitimate basis. In the circumstance attending the incarceration of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet, they were unable to challenge their detention before a court. Consequently, their right to an effective remedy under article 8 of the Universal Declaration of Human Rights was violated.

[18] Office of the United Nations High Commissioner for Human Rights, "Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region", para. 132. Available at www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf.

[19] See, for example, opinion No. 6/2022.

[20] Opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39. In cases of arrests made in flagrante delicto, the opportunity to obtain a warrant will typically not be available.

[21] See, for example, opinion No. 30/2017, paras. 58 and 59.

[22] A/HRC/13/42, para. 36.

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51. The act of keeping detainees at a location unknown to their families and lawyers, accompanied by a refusal to disclose their fate, entails a wilful refusal to disclose the fate or whereabouts of the persons concerned or to acknowledge their detention. The detention thus lacks any valid legal basis under those circumstances and is inherently arbitrary as it places the person outside the protection of the law, in violation of article 6 of the Universal Declaration of Human Rights. The Government's failure to provide notification of the arrest and location of detention to their families also violated principle 16 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

52. Furthermore, international standards set out in the Working Group's jurisprudence prescribe that an arrested person is to be brought before a judge within 48 hours.[23] The Working Group finds that, in failing to bring Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet before a judicial authority promptly, the Government violated articles 3 and 9 of the Universal Declaration of Human Rights and principles 11, 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.[24]

53. For the reasons stated, the Working Group finds that the Government failed to provide the legal basis for the detention of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet. Their detention is therefore arbitrary under category I of the Working Group.

(b) Category III

54. In relation to category III concerning total or partial non-observance of international norms relating to the right to a fair trial, the Working Group notes that very little appears to be known about the trial proceedings regarding the three individuals. The charges against them are unknown, and the dates of their trials, as well as details of the proceedings, if they ever took place, are equally unknown. The Government had an opportunity to clarify these points but chose not to do so.

55. In terms of procedural safeguards relevant to arbitrariness as envisaged under category III, there is considerable overlap with the issues raised in the discussion of category I above. There is a connection between lack of grounds for detention, as envisaged in category I, and lack of due process, as envisaged in category III.[25] The source alleges violations of due process rights, which are fundamental to the right to a fair trial. In the absence of any explanation from the Government, the Working Group observes that the serious opacity pertaining to the charges under which the three above-mentioned individuals are being detained, with no indication that any clarification will be provided, the incommunicado detention of the three individuals, the lack of clarity about a trial, if any took place, the absence of a forum in which to challenge the detention, the lack of access to counsel and the failure to release them amount to arbitrariness under category III and violate articles 9 and 10 of the Universal Declaration of Human Rights and principles 10, 11, 15, 16, 17, 18, 19, 32 (1), 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

56. The source further submits that the right of the three individuals to fair proceedings before an independent and impartial court has been violated. The Working Group regrets that it is unable to make a finding on this allegation due to insufficient information but notes the secrecy and scarcity of information surrounding the legal proceedings, if any took place, pertaining to the three individuals. It observes that the Government is in possession of this information but has neither provided it to the families of the individuals nor responded to the allegations raised in this regard. The Working Group is disturbed at the secrecy that appears to surround the fate and whereabouts of the three individuals. Their family members have been unable to establish the exact details of their arrests and trials or their exact whereabouts. The Human Rights Council, in its resolution 37/3, stressed that no one should be held in

[23] Opinions No. 57/2016, paras. 110 and 111; No. 2/2018, para. 49; No. 83/2018, para. 47; No. 11/2019, para. 63; No. 20/2019, para. 66; No. 26/2019, para. 89; No. 30/2019, para. 30; No. 36/2019, para. 36; No. 42/2019, para. 49; No. 51/2019, para. 59; No. 56/2019, para. 80; No. 76/2019, para. 38; No. 82/2019, para. 76; No. 6/2020, para. 45; No. 14/2020, para. 53; No. 31/2020, para. 45; No. 32/2020, para. 38; No. 33/2020, para. 75; and No. 34/2020, para. 51.

[24] See also articles 14 (1) and (5) and 23 of the Arab Charter on Human Rights.

[25] For example, opinion No. 89/2017, para. 44.

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secret detention and called upon States to investigate all alleged cases of secret detention, including on the pretext of countering terrorism.[26]

57. In this regard, the source recalls that the prolonged incommunicado detention of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet may facilitate or in and of itself constitute torture. The source notes that it is acknowledged among United Nations human rights bodies that prolonged incommunicado detention is capable of facilitating and constituting torture. Despite these allegations, the Working Group is unable to make a finding due to insufficient information on the acts of torture alleged. Nonetheless, it recalls the finding in the joint study on global practices in relation to secret detention in the context of countering terrorism that secret detention is connected to the practice of torture and other cruel, inhuman and degrading treatment or punishment.[27]

58. Noting the serious violations alleged above and the preceding findings, the Working Group considers that the violations of the three detainees' fair trial rights are of sufficient gravity as to meet the threshold for category III. In making these findings, the Working Group is especially mindful of its conclusions related specifically to re-education camps after its follow-up mission to China in 2004[28] and the absence of a response from the Government in the present case.

(c) Category V

59. The source submits that Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet were deprived of their liberty on discriminatory grounds due to, inter alia, their ethnic origin, language and religion. It also submits that the detention of the three individuals is part of a pattern of persecution against persons with similarly distinguishing characteristics. The source recalls that more than 1 million Uyghurs are still in detention for reasons of their ethnicity.

60. In this regard, the Working Group also notes the unrebutted submission by the source that Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet are ordinary citizens of Uighur ethnicity residing in the Xinjiang Uighur Autonomous Region who have been detained because of their Uighur, Muslim and Turkic identities.

61. The Working Group recalls the follow-up report on the joint study on global practices in relation to secret detention in the context of countering terrorism, by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. In her report, the Special Rapporteur detailed the "practices of arbitrary mass and secret detention with other serious violations of international law directed at the Uighurs" and recorded the "ongoing flow of credible information pointing to a sustained practice of mass arbitrary detention".[29] The Working Group also recalls its own jurisprudence on the same subject.[30]

62. In the absence of any explanation by the Government as to the reasons for the arrest and detention of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet or a rebuttal of the very serious allegations presented by the source, the Working Group concludes that the arrest and detention of the above-mentioned individuals was based on discrimination on the basis of their belonging to the Uighur ethnicity and Muslim faith, in violation of articles 2 and 7 of the Universal Declaration of Human Rights. Their deprivation of liberty is therefore arbitrary, falling under category V of the Working Group. The Working Group refers the present case to the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief, for further consideration.

[26] A/HRC/13/42, paras. 18–23.
[27] Ibid., para. 6; and opinion No. 55/2019, para. 39.
[28] E/CN.4/2005/6/Add.4, paras. 54–59.
[29] A/HRC/49/45, para. 33.
[30] See, for example, opinions No. 6/2022 and No. 88/2022.

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(d) Concluding remarks

63. In its over 30-year history, the Working Group has found China to be in violation of its international human rights obligations in over 100 cases.[31] The Working Group is concerned that this might indicate a widespread or systemic practice of arbitrary detention in the country. The Working Group underlines that States have the obligation not to engage in acts that could constitute crimes against humanity and to prevent and punish them if they are committed.

64. The Working Group would welcome the opportunity to conduct a country visit to China. Given that a significant period of time has passed since its previous mission to China in September 2004, the Working Group considers that it is an appropriate time to conduct another visit. The Working Group looks forward to a positive response to its request of 15 April 2015.

3. Disposition

65. In the light of the foregoing, the Working Group renders the following opinion:

> The deprivation of liberty of Reyihanguli Tuoheti, Kuerban Maimaitimin and Ali Mehmet, being in contravention of articles 2, 3, 6, 7, 8, 9 and 10 of the Universal Declaration of Human Rights, is arbitrary and falls within categories I, III and V.

66. The Working Group requests the Government of China to take the steps necessary to remedy the situation of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights.

67. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law.

68. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet and to take appropriate measures against those responsible for the violation of their rights.

69. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief, for appropriate action.

70. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

[31] See decisions No. 43/1993, No. 44/1993, No. 53/1993, No. 63/1993, No. 65/1993, No. 66/1993, No. 46/1995 and No. 19/1996, and opinions No. 30/1998, No. 1/1999, No. 2/1999, No. 16/1999, No. 17/1999, No. 19/1999, No. 21/1999, No. 8/2000, No. 14/2000, No. 19/2000, No. 28/2000, No. 30/2000, No. 35/2000, No. 36/2000, No. 7/2001, No. 8/2001, No. 20/2001, No. 1/2002, No. 5/2002, No. 15/2002, No. 2/2003, No. 7/2003, No. 10/2003, No. 12/2003, No. 13/2003, No. 21/2003, No. 23/2003, No. 25/2003, No. 26/2003, No. 14/2004, No. 15/2004, No. 24/2004, No. 17/2005, No. 20/2005, No. 32/2005, No. 33/2005, No. 38/2005, No. 43/2005, No. 11/2006, No. 27/2006, No. 41/2006, No. 47/2006, No. 32/2007, No. 33/2007, No. 36/2007, No. 21/2008, No. 29/2008, No. 26/2010, No. 29/2010, No. 15/2011, No. 16/2011, No. 23/2011, No. 29/2011, No. 7/2012, No. 29/2012, No. 36/2012, No. 51/2012, No. 59/2012, No. 2/2014, No. 3/2014, No. 4/2014, No. 8/2014, No. 21/2014, No. 49/2014, No. 55/2014, No. 3/2015, No. 39/2015, No. 11/2016, No. 12/2016, No. 30/2016, No. 43/2016, No. 46/2016, No. 4/2017, No. 5/2017, No. 59/2017, No. 69/2017, No. 81/2017, No. 22/2018, No. 54/2018, No. 62/2018, No. 15/2019, No. 36/2019, No. 35/2019, No. 72/2019, No. 76/2019, No. 32/2020, No. 11/2020, No. 78/2020, No. 82/2020, No. 25/2021, No. 30/2021, No. 54/2021, No. 76/2021, No. 66/2021, No. 64/2021, No. 64/2022, No. 41/2022, No. 88/2022, No. 30/2023, No. 6/2023, No. 38/2023, No. 77/2023, No. 4/2024, No. 2/2024, No. 34/2024 and No. 37/2024.

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4. Follow-up procedure

71. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

(a) Whether Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet have been released and, if so, on what date;

(b) Whether compensation or other reparations have been made to Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet;

(c) Whether an investigation has been conducted into the violation of the rights of Ms. Tuoheti, Mr. Maimaitimin and Mr. Mehmet and, if so, the outcome of the investigation;

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of China with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

72. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

73. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well of as any failure to take action.

74. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.[32]

[*Adopted on 2 April 2025*]

[32] Human Rights Council resolution 51/8, paras. 6 and 9.

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