

To:

The Special Rapporteur on counter-terrorism and human rights

**Submission:**

**A review on the implications of mass biometric data collection and the use of biometric recognition technologies by public security organs in the Tibet Autonomous Region and Qinghai Province on the fulfillment by the People's Republic of China of its international human rights obligations and commitments**

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## I. Overview

1. The Citizen Lab is an interdisciplinary laboratory focused on research, development, and high-level strategic policy and legal engagement at the intersection of information and communication technologies, human rights, and global security.<sup>1</sup> We would like to recognize and express our appreciation for the Special Rapporteur on counter-terrorism and human rights' attention to the human rights situation in the People's Republic of China (China) and for the opportunity to contribute to this global study on the impact of counter-terrorism measures on civil society and civic space.
2. This submission focuses on mass biometric data collection programs conducted by public security organs in two regions of China, as documented by Citizen Lab researchers: (1) a mass DNA collection program in the Tibet Autonomous Region (the TAR), and (2) a mass iris scan collection program in Qinghai Province.<sup>2</sup> Both of these regions have large populations of non-Han people, with roughly 90% of the TAR's population being Tibetan or other ethnic minorities, and roughly 49% of Qinghai's population being Tibetan, Hui, Tu, Mongol, Salar, or other ethnic minorities.<sup>3</sup> Previous reports by UN Experts, civil society organizations, and journalists have documented state surveillance of entire communities, restrictions on religious worship, and detention of human rights defenders in both the TAR and Qinghai.<sup>4</sup>
3. While these mass biometric data collection programs in the TAR and Qinghai are led by public security organs, our analysis of publicly available Chinese government sources indicates that these programs are unconnected to investigations into criminal or terrorist activity and do not appear to be specifically authorized by Chinese law. Instead, these two programs appear to be part of broader public security surveillance and social control programs. Mass biometric data collection programs in the TAR and Qinghai violate the human rights of those subjected to biometric data collection, in particular the right to privacy, freedom of expression, the right of peaceful assembly, and freedom from discrimination.

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<sup>1</sup> The Citizen Lab, [link](#)

<sup>2</sup> Emile Dirks, "Mass DNA Collection in the Tibet Autonomous Region from 2016–2022," The Citizen Lab, September 13, 2022, [link](#); Emile Dirks, "Mass Iris Scan Collection in Qinghai: 2019–2022," The Citizen Lab, December 14, 2022, [link](#)

<sup>3</sup> "Announcement of Major Data from the Seventh National Population Census, Tibet Autonomous Region" (西藏自治区第七次全国人口普查主要数据公报), *People's Government of the Tibet Autonomous Region*, May 20, 2021, [link](#); "5.92 million! Data released from the Seventh National Population Census, Qinghai, Province's population of long-term residents maintains low growth rate" (592万！青海第七次全国人口普查数据出炉，全省常住人口继续保持低速增长态势), *People's Government of Qinghai Province*, [link](#)

<sup>4</sup> "China: Alarming New Surveillance, Security in Tibet," Human Rights Watch, March 20, 2013, [link](#); "China: No End to Tibet Surveillance Program," Human Rights Watch, January 18, 2016, [link](#); "China: Ban on Tibet Religious Activity Toughened," Human Rights Watch, September 11, 2019, [link](#); "China renews attacks on remaining Tibetan-language schools," International Campaign for Tibet, November 30, 2021, [link](#); "China enforces compulsory Mandarin Chinese learning for preschool children in Tibet," Tibetan Centre for Human Rights and Democracy, September 17, 2021, [link](#); "China: Tibetan Children Denied Mother-Tongue Classes," Human Rights Watch, March 5, 2020, [link](#); "China continues campaign to forcibly displace Tibetan nomads," Tibet Watch, October 22, 2021, [link](#); Emily Feng, "China is removing domes from mosques as part of a push to make them more 'Chinese'," NPR, October 24, 2021, [link](#); "China: UN human rights experts condemn 5-year jail term for Tibetan activist," Office of the United Nations High Commissioner for Human Rights, June 6, 2018, [link](#); "UN experts urge China to drop charges against jailed Tibetan minority human rights defender," Office of the United Nations High Commissioner for Human Rights, May 19, 2020, [link](#)

4. The present submission aims to provide an explanation of these mass biometric data collection programs, their legal background, and their impacts on internationally-recognized human rights. We hope that the Special Rapporteur on counter-terrorism and human rights can use this submission to explore whether and how the relationship of public security organ-led mass biometric data collection programs are consistent with China's human rights obligations. Further exploration of these issues by the Special Rapporteur will help strengthen understanding of the serious risks to fundamental human rights posed by the collection of biometric data by domestic security organs in China, and more broadly by domestic security organs in States around the world.

5. The sections that follow include:

- Legal background on state biometric data collection for the purposes of state surveillance
- Illustrative cases
- Infringement of internationally-recognized human rights
- Conclusion and recommendations

## **II. Legal background on state biometric data collection for the purposes of state surveillance**

6. Biometrics is the measurement or calculation of human characteristics, including physical characteristics like faces, fingerprints, irises, voices, and DNA, and behavioral characteristics like gait.<sup>5</sup> The measurement or calculation of these characteristics can in turn be used by the operator to identify a person or verify a person's identity.

7. Biometric data are sensitive forms of personal information. The Office of the Privacy Commissioner of Canada has highlighted that "[t]he special nature of the characteristics used in biometric systems can present privacy challenges that might not arise with traditional identification methods, such as paper documents."<sup>6</sup> These challenges include biometric data collected for one purpose which are then used for a secondary purpose, without the consent or knowledge of the individual.

8. The advancement of biometric recognition technologies has given rise to concerns about the impact of these technologies on human rights, especially in the absence of clear legal guidelines concerning the appropriate use of these technologies. Because biometric recognition technologies can be used to categorize people according to socially salient characteristics like age, gender, and skin colour, these technologies have the potential to contribute to discrimination against particular social groups. In the absence of clear legal guidelines on the use of these technologies, some civil society organizations have called for a halt on the development and use of biometric technologies.<sup>7</sup>

9. In the report *The right to privacy in the digital age*, the UN Human Rights Office observed that "[w]hile there are increasing efforts by regulators and lawmakers at the local, national and regional

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<sup>5</sup> United Nations Security Council Counter-Terrorism Committee Executive Directorate and United Nations Office of Counter-Terrorism, "United Nations Compendium of recommended practices for the responsible use and sharing of biometrics in counter-terrorism," June 18, 2018, [link](#)

<sup>6</sup> Office of the Privacy Commissioner of Canada, "Data at Your Fingertips Biometrics and the Challenges to Privacy," February 2011, [link](#)

<sup>7</sup> "When bodies become data: Biometric technologies and free expression," Article 19, April 2021, [link](#)

level to regulate facial recognition and other biometric surveillance tools, most authorities are continuing to operate biometric surveillance systems despite the lack of a legal basis for such activity.”<sup>8</sup> Article 12 of the *International Declaration on Human Genetic Data* also states that genetic data collected in “civil, criminal or other legal proceedings” should be done “in accordance with domestic law consistent with the international law of human rights.”

10. The use of biometric recognition technologies by domestic security agencies also has the potential to infringe on human rights. The UN Security Council has noted that along with the role played by biometric recognition technologies in counter-terrorism, “the expansive technical scope and rapid development of this technology deserves greater attention in terms of its relation to the protection of human rights, including, but not limited to, the right to be free from arbitrary or unlawful interference with privacy.”<sup>9</sup>

11. Human rights concerns about the collection and use of biometric data also extend to the field of domestic law enforcement. A policy report from the World Economic Forum observed that remote biometric technologies like facial recognition systems used by law enforcement can “result in major abuses of human rights and cause harm to citizens, particularly those in underserved communities.”<sup>10</sup>

12. These underserved communities also include ethnic minority communities. Emerging digital technologies like biometric recognition systems are, according to the Special Rapporteur on contemporary forms of racism, “capable of creating and sustaining racial and ethnic exclusion in systemic or structural terms,” including through “racialized surveillance and racialized predictive analytics.”<sup>11</sup> Crucially, the Special Rapporteur warns that the potential for emerging digital technologies to contribute to systems of discrimination is present “[e]ven where discrimination is not intended,” given that “indirect discrimination can result from using innocuous and genuinely relevant criteria that also operate as proxies for race and ethnicity.”<sup>12</sup>

13. The Special Rapporteur on counter-terrorism and human rights has also called for an “equality-based approach to human rights governance of emerging digital technologies,” one which pays “careful attention to their racialized and ethnic impact, from government officials, the United Nations and other multilateral organizations, and the private sector.”<sup>13</sup>

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<sup>8</sup> Office of the United Nations High Commissioner for Human Rights, “The right to privacy in the digital age,” UN Doc. A/HRC/48/31, September 13, 2021, [link](#)

<sup>9</sup> United Nations Security Council Counter-Terrorism Committee, “Security Council Guiding Principles on Foreign Terrorist Fighters: The 2015 Madrid Guiding Principles + 2018 Addendum,” 2019, [link](#)

<sup>10</sup> World Economic Forum, “A Policy Framework for Responsible Limits on Facial Recognition Use Case: Law Enforcement Investigations,” November 2022, [link](#)

<sup>11</sup> Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, “Racial discrimination and emerging digital technologies: a human rights analysis,” UN Doc. A/HRC/44/57, June 18, 2020, [link](#)

<sup>12</sup> Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, “Racial discrimination and emerging digital technologies: a human rights analysis,” UN Doc. A/HRC/44/57, June 18, 2020, [link](#)

<sup>13</sup> Special Rapporteur on counter-terrorism and human rights, “Upholding human rights and promoting gender responsiveness while countering terrorism in the age of transformative technologies,” June 29, 2021, [link](#)

14. Concerns about the human rights impacts of biometric recognition technologies, and in particular the human rights impacts of these technologies on minority communities, extend to biometric data collection programs conducted by public security organs in China. China's national Ministry of Public Security and sub-national Public Security Bureaus have for years demonstrated an interest in biometric data collection.<sup>14</sup> Public security organs across China have used DNA recognition technologies for the purpose of criminal investigations and identifying missing people and potential victims of human trafficking.<sup>15</sup> As part of broader efforts to address the issue of missing and trafficked children, authorities have also established programs whereby parents can volunteer to have their children's irises scanned and added to a database, for the purpose of future identification.<sup>16</sup>
15. Under Chinese law, public security organs have the authority to collect biometric data under certain conditions. Article 132 of China's *Criminal Procedure Law* states that public security officers may collect biological samples (including fingerprints, blood, and urine) from victims or suspects in criminal proceedings.<sup>17</sup> Article 50 of the *Anti-Terrorism Law* states that public security organs can collect biometric information (including facial images, fingerprints, and iris scans) and biological samples (including blood, urine, and exfoliative cells) when investigating suspected terrorist activity.<sup>18</sup> And Article 3 of the *Resident Identity Card Law* states that Chinese citizens applying for resident identity cards must register their fingerprints with the authorities.<sup>19</sup>
16. Outside of these laws, China has also introduced legislation concerning the management of personal (biometric) data. These include the *Regulations on Human Genetic Resources Management* and the *Personal Information Protection Law*.<sup>20</sup> However, it is not clear that these legal documents place explicit limits on the power of public security organs to collect, analyze, or store biometric data. Article 16 of the *Regulations on Human Genetic Resources Management* states that government authorities can in accordance with the law use any genetic resources collected in China for reasons of public

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<sup>14</sup> Ausma Bernotaite, "Building of the World's Largest DNA Database: The China Case," in *Forensic DNA Typing: Principles, Applications and Advancements*, eds. Pankaj Shrivastava, HIRAK Ranjan Dash, Jose A. Lorente, Jahangir Imam, Singapore: Springer, 2020, [link](#); Paul Mozur, "Inside China's Dystopian Dreams: A.I., Shame and Lots of Cameras," *The New York Times*, July 8, 2018, [link](#)

<sup>15</sup> Ausma Bernotaite, "Building of the World's Largest DNA Database: The China Case," in *Forensic DNA Typing: Principles, Applications and Advancements*, eds. Pankaj Shrivastava, HIRAK Ranjan Dash, Jose A. Lorente, Jahangir Imam, Singapore: Springer, 2020, [link](#); Zhao Yusha and Fan Anqi, "Reunion after 24 years puts China's DNA database for missing children under spotlight," *Global Times*, July 15, 2021, [link](#)

<sup>16</sup> Zhang Huan, "China launches anti-lost iris network platform for Chinese kids," *People's Daily*, November 23, 2017, [link](#); "in Brief," *People's Daily*, May 4, 2017, [link](#)

<sup>17</sup> Criminal Procedure Law of the People's Republic of China (中华人民共和国刑事诉讼法), *People's Daily*, [link](#);

<sup>18</sup> Anti-Terrorism Law of the People's Republic of China, (中华人民共和国反恐怖主义法), State Council of the People's Republic of China, [link](#)

<sup>19</sup> Resident Identity Card Law of the People's Republic of China (中华人民共和国居民身份证法), Beijing Traffic Management Bureau, [link](#)

<sup>20</sup> Regulations on Human Genetic Resources Management of the People's Republic of China (中华人民共和国人类遗传资源管理条例), State Council of the People's Republic of China, [link](#); Personal Information Protection Law (中华人民共和国个人信息保护法), The National People's Congress of the People's Republic of China, [link](#)

health, national security, and the public interest.<sup>21</sup> What constitutes a reason related to public health, national security, and the public interest is left undefined. It is also unclear if there are methods for challenging what the government deems a reason for public health, national security, or public interest.

17. Article 34 of the *Personal Information Protection Law* states that “[s]tate organs handling personal information to fulfill their statutory duties and responsibilities shall do so according to the powers and procedures provided in laws or administrative regulations,” and that state organs “may not exceed the scope or extent necessary to fulfill their statutory duties and responsibilities.”<sup>22</sup> However, it is not clear which specific domestic laws or administrative regulations authorize public security organs to collect biometric data from individuals or entire communities outside of the conditions stipulated in the *Criminal Procedure Law*, the *Anti-Terrorism Law*, and the *Resident Identity Card Law*.

18. In recent years, experts have discussed the issue of biometric data collection in China. In the report of the 2019 country visit to China by the Independent Expert on the enjoyment of all human rights by older persons, the Independent Expert “stress[ed] the need to ensure that the collection, retention and use of data, notably biometric data, is regulated in law and in practice.”<sup>23</sup> However, it is also known that public security organs across China have conducted mass biometric data collection programs targeting communities outside of investigations into criminal or terrorist activity.<sup>24</sup> These programs appear to have been conducted without a clear basis in Chinese domestic law and in ways that may be at odds with China’s obligations under international human rights instruments to which China is party.

19. Particularly worrying have been public security organ-led mass biometric data collection programs targeting ethnic and religious minority communities. The Office of the UN High Commissioner for Human Rights (OHCHR), civil society organizations, researchers, and journalists have all raised concerns that public security organs in the Xinjiang Uyghur Autonomous Region (Xinjiang) have used biometric data collection as part of broader programs of state surveillance and control targeting ethnic and religious minorities in the region.<sup>25</sup> Biometric data collected by public security organs in Xinjiang

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<sup>21</sup> Regulations on Human Genetic Resources Management of the People’s Republic of China (中华人民共和国人类遗传资源管理条例), State Council of the People’s Republic of China, [link](#);

<sup>22</sup> Personal Information Protection Law (中华人民共和国个人信息保护法), The National People’s Congress of the People’s Republic of China, [link](#)

<sup>23</sup> Independent Expert on the enjoyment of all human rights by older persons, “Visit to China,” UN Doc. A/HRC/45/14/Add.1, August 7, 2020, [link](#)

<sup>24</sup> Emile Dirks and James Leibold, “Genomic Surveillance: Inside China’s DNA dragnet,” Australian Strategic Policy Institute, June 17, 2020, [link](#)

<sup>25</sup> Office of the United Nations High Commissioner for Human Rights, “OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People’s Republic of China,” August 31, 2022, [link](#); “China: Minority Region Collects DNA from Millions,” Human Rights Watch, December 13, 2017, [link](#); Jessica Batke, “This Is Not Forensic Genetics Anymore. This Is Surveillance: A Q&A with Yves Moreau on DNA Profiling in Xinjiang and Corporate Ethics,” ChinaFile, March 18, 2020, [link](#); Sui-Lee Wee, “China Uses DNA to Track Its People, With the Help of American Expertise,” The New York Times, February 19, 2019, [link](#)

have included DNA and iris scans.<sup>26</sup> The Special Rapporteur on contemporary forms of racism has also observed that “China uses biometric identification and surveillance to track and restrict the movements and activities of the Uighur ethnic minority group, violating members of this group’s rights to equality and non-discrimination, among others,” and that systemic discrimination by China against Uyghurs has been “supported and indeed made possible by a number of emerging digital technologies.”<sup>27</sup>

20. In the *Concluding observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China)*, the Committee on the Elimination of Racial Discrimination expressed their alarm at “the mandatory collection of extensive biometric data in the Xinjiang Uighur Autonomous Region, including DNA samples and iris scans.”<sup>28</sup> The Committee recommended that “all collection, retention and use of biometric data is regulated in law and in practice, is narrow in scope, transparent, necessary and proportionate to meeting a legitimate security goal, and is not based on any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin.”<sup>29</sup>

21. In its response to the Committee, the government of China listed laws, jurisprudence, and standards which they asserted protected the personal information and privacy of Chinese citizens.<sup>30</sup> This response did not meaningfully address the Experts’ concerns about racial profiling, nor outline steps taken to implement the Committee’s recommendations with respect to collection and analysis of biometric data, including biometric data taken from ethnic and religious minority communities.

### III. Illustrative cases

22. In addition to mass biometric data collection by public security organs in Xinjiang, there is extensive evidence indicating that public security organs have engaged in mass biometric data collection in two other regions of China: the Tibet Autonomous Region (the TAR) and Qinghai Province. These two regions are home to large ethnic and religious minority populations, in particular Tibetans, Hui, Tu, Mongol, Salar, or others whose rights are at risk of being disproportionately impacted by public security organ-led mass biometric data collection programs.

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<sup>26</sup> “China: Minority Region Collects DNA from Millions,” Human Rights Watch, December 13, 2017, [link](#); Sui-Lee Wee, “China Uses DNA to Track Its People, With the Help of American Expertise,” The New York Times, February 19, 2019, [link](#); Li Li, Shengguang Li, Shiwei Zhao, and Lin Tan, “Research on Security of Public Security Iris Application,” in Jie Zhou, Yunhong Wang, Zhenan Sun, Zhenhong Jia, Jianjiang Feng, Shiguang Shan, Kurban Ubul, Zhenhua Gao (eds.), *Biometric Recognition: 13th Chinese Conference, CCBP 2018, Urumqi, China, August 11-12, 2018, Proceedings*, Springer, [link](#)

<sup>27</sup> Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, “Racial discrimination and emerging digital technologies: a human rights analysis,” UN Doc. A/HRC/44/57, June 18, 2020, [link](#)

<sup>28</sup> Committee on the Elimination of Racial Discrimination, “Concluding observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China),” UN Doc. CERD/C/CHN/CO/14-17, September 19, 2018, [link](#)

<sup>29</sup> Committee on the Elimination of Racial Discrimination, “Concluding observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China),” UN Doc. CERD/C/CHN/CO/14-17, September 19, 2018, [link](#)

<sup>30</sup> “Information received from China on follow-up to the concluding observations on its combined 14th to 17th periodic reports : Committee on the Elimination of Racial Discrimination,” UN Doc. CERD/C/CHN/FCO/14-17, February 5, 2020, [link](#)



23. Mass biometric data collection by public security organs in the TAR and Qinghai appears to be unconnected to investigations into criminal or terrorist activities. It is therefore unclear if public security organs are relying on Article 132 of the *Criminal Procedure Law* or Article 50 of the *Anti-Terrorism Law* as a legal basis for mass biometric data collection in these two regions.

- Mass DNA collection in the Tibet Autonomous Region

24. Since at least 2016, public security organs in the TAR have implemented a program of mass DNA collection targeting men, women, and children.<sup>31</sup> Based on photographs published on public security organ-linked social media accounts, public security organs have collected DNA samples via a pinprick to the finger of a targeted individual, with a blood sample then collected on a piece of paper specially treated to preserve DNA.<sup>32</sup> A full downloadable list of the 100 Chinese government sources detailing mass DNA collection in the TAR which were collected and analyzed by Citizen Lab researchers is available online.<sup>33</sup>

25. In the TAR, local authorities have asserted that mass DNA collection is part of efforts to combat criminal or terrorist activity, maintain social stability, find missing people and combat human trafficking, and assist with population management.<sup>34</sup> However, mass DNA collection in the TAR does not appear to be connected to specific investigations into criminal or terrorist activity. It is also unclear if mass DNA collection is directly related to addressing the issues of missing or trafficked children and adults, as the collection of DNA data by public security organs in other areas of China for these purposes is generally restricted to the family members of missing or trafficked individuals.<sup>35</sup> Nor does DNA collection appear to be part of public health programs, though in some instances public health workers appear to be working with public security officers to collect DNA samples.<sup>36</sup> Instead, public

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<sup>31</sup> Emile Dirks, “Mass DNA Collection in the Tibet Autonomous Region from 2016–2022,” *The Citizen Lab*, September 13, 2022, [link](#)

<sup>32</sup> “Criminal investigation team of the Motuo County Public Security Bureau conducts DNA blood sample collection in the district” (墨脱县公安局刑侦大队深入辖区开展 DNA 血样采集工作), WeChat, November 5, 2021, [link](#)

<sup>33</sup> Emile Dirks, “Mass DNA Collection in the Tibet Autonomous Region from 2016–2022,” *The Citizen Lab*, September 13, 2022, [link](#)

<sup>34</sup> “[Police work dynamics] Recent work dynamics of the Bailang County Public Security Bureau” (【警务动态】白朗县公安局近期工作动态), WeChat, August 24, 2020, [link](#); “[Department dynamics] Gerze County Public Security organs actively conduct DNA blood sample collection” (【部门动态】改则公安机关积极开展 DNA 血样采集工作), WeChat, April 24, 2020, [link](#); “[Comprehensive dynamics] Each departments’ work dynamics” (【综合动态】各部门工作动态), WeChat, February 26, 2021, [link](#); “[Police work dynamics]” (【警务工作动态】), WeChat, August 3, 2020, [link](#); “Xuexiang Police Station of Dazi District’s Public Security Bureau organized police to conduct DNA blood sample information collection” (达孜区公安局雪乡派出所组织警力扎实开展 DNA 血样信息采集工作), People’s Government of Lhasa, March 10, 2021, [link](#)

<sup>35</sup> “Ministry of Public Security builds national “anti kidnapping” DNA database to find abducted children,” (公安部建成全国“打拐”DNA 数据库 查找被拐卖儿童), The Central People’s Government of the People’s Republic of China, April 29, 2009, [link](#)

<sup>36</sup> “Police station dynamics” (【派出所动态】), WeChat, May 26, 2022, [link](#)

security organs appear to be targeting entire communities in the TAR for DNA collection as part of broader public security organ-led surveillance and social control programs.<sup>37</sup>

26. DNA collection has been documented in locations in all seven of the TAR's administrative regions: Lhasa (Ch. Lasa), Shigatse (Ch. Rikaze), Chamdo (Ch. Changdu), Nyingtri (Ch. Linzhi), Lhoka (Ch. Shannan), Nagchu (Ch. Naqu), and Ngari (Ch. Ali).<sup>38</sup> DNA data collected by public security organs is reportedly added to "local population gene databases" managed by public security organs.<sup>39</sup> It is not clear if these local population gene databases are in turn connected to existing forensic DNA databases. However, because public security organs have led this program of mass DNA collection, it appears that all data collected is held by and remains under the control of these same public security organs. It is also unclear if there is any independent oversight of this program or the activities of officers tasked with collecting DNA samples.

27. Treating available data from Lhorong County, Dragyab County, and Lhasa as exemplars, we estimate that between June 2016 and July 2022, public security organs collected between 919,282 and 1,206,962 DNA samples, representing between 25.1% and 32.9% of the TAR's total population of 3.66 million.<sup>40</sup> In the TAR's capital city of Lhasa, as of January 2021 public security organs had collected 94,588 DNA samples, representing roughly 9.9% of the city's total population of 950,000.<sup>41</sup> Lhasa's population is approximately 64% ethnic Tibetan.<sup>42</sup> In areas of the TAR with a higher percentage of ethnic Tibetan residents like Lhorong County (approximately 95% ethnic Tibetan), reported figures for DNA collection are even higher as a proportion of the local population.<sup>43</sup> Between June and October 2016, public security organs reportedly collected 17,194 DNA samples from local residents, representing roughly 32.3% of the county's total population of 53,185.<sup>44</sup>

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<sup>37</sup> Emile Dirks, "Mass DNA Collection in the Tibet Autonomous Region from 2016–2022," *The Citizen Lab*, September 13, 2022, [link](#)

<sup>38</sup> Emile Dirks, "Mass DNA Collection in the Tibet Autonomous Region from 2016–2022," *The Citizen Lab*, September 13, 2022, [link](#)

<sup>39</sup> "Grassroots dynamics" (基层动态), WeChat, October 22, 2020, [link](#)

<sup>40</sup> Emile Dirks, "Mass DNA Collection in the Tibet Autonomous Region from 2016–2022," *The Citizen Lab*, September 13, 2022, [link](#)

<sup>41</sup> "Exploring and innovating a new pattern of social governance, creating a new 'Fengqiao' model in Lhasa, the Qushui Public Security has done these things" (探索创新社会治理新格局 打造拉萨“枫桥”新样板 曲水公安做了这些), WeChat, January 27, 2021, [link](#)

<sup>42</sup> "Announcement of Major Data from the Seventh National Population Census, Lhasa" (关于发布拉萨市第七次全国人口普查主要数据公报), People's Government of Lhasa, June 9, 2021, [link](#)

<sup>43</sup> "Administrative Divisions" (行政区划), Today's Tibet Chamdo, December 5, 2022, [link](#)

<sup>44</sup> Emile Dirks, "Mass DNA Collection in the Tibet Autonomous Region from 2016–2022," *The Citizen Lab*, September 13, 2022, [link](#)

28. Mass DNA collection has been documented in a range of locations, including homes, public areas, and private businesses.<sup>45</sup> Public security officers have collected DNA samples from Buddhist monks, as well as from children and youths, including at schools.<sup>46</sup> It is not clear from publicly available reports if consent was sought or obtained from the parents or guardians of children or youths targeted by public security officers for DNA collection.

- Mass iris scan collection in Qinghai Province

29. Since at least 2019, public security organs in Qinghai have implemented a program of mass iris scan collection targeting men, women, and children.<sup>47</sup> Based on photographs published on social media accounts linked to local public security organs, it is clear that those targeted by public security organs for iris scan collection include Tibetans and Hui Muslims. Photographs published on public security organ-linked social media accounts indicate that public security officers have collected iris scans using handheld devices connected to a laptop computer.<sup>48</sup> A full downloadable list of the 189 Chinese government sources describing mass iris scan collection in Qinghai which were collected and analyzed by Citizen Lab researchers is available online.<sup>49</sup>

30. In Qinghai, local authorities have asserted that iris scan collection can be used to upgrade national ID cards, find missing people, prevent crime, improve public security information, and for the purpose of counter-terrorism.<sup>50</sup> However, mass iris scan collection in Qinghai does not appear to be connected to specific investigations into criminal or terrorist activity. It is also not clear why public security organs need to collect iris scans to upgrade national ID cards, given that iris scans are not routinely collected

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<sup>45</sup> “【Working of the people】 Visiting the people, doing work, seeking development, promoting harmony”

(【为民办实事】访民情 办实事 谋发展 促和谐), WeChat, March 24, 2022, [link](#);  
“Dangxiong County Public Security Bureau: Geda Township Police Station continues to conduct DNA collection” (当雄县公安局: 格达乡派出所持续开展DNA采集工作), WeChat, June 22, 2022, [link](#); “Duilong Deqing Branch of Lhasa Municipal Public Security Bureau organizes police to carry out a major clean-up and inspection of Duilong District” (拉萨市公安局堆龙德庆分局组织警力对堆龙辖区开展大清理大清查行动), WeChat, April 20, 2022, [link](#)

<sup>46</sup> “[Comprehensive dynamic] Police dispatch” (【综合动态】警迅速览), WeChat, April 20, 2022, [link](#); “Nimu County Public Security Bureau concentrates on conducting the work of collecting DNA samples” (尼木县公安局集中开展采集DNA样本工作), WeChat, April 22, 2022, [link](#); “Dangxiong County Public Security Bureau: Geda Township Police Station continues to conduct DNA collection” (当雄县公安局: 格达乡派出所持续开展DNA采集工作), WeChat, June 22, 2022, [link](#)

<sup>47</sup> Emile Dirks, “Mass Iris Scan Collection in Qinghai: 2019–2022,” The Citizen Lab, December 14, 2022, [link](#)

<sup>48</sup> “[Moeller Police Station] Implement the “Fengqiao Experience,” conduct basic work” (【默勒派出所】践行“枫桥经验”做基础工作), The Paper, April 22, 2020, [link](#)

<sup>49</sup> Emile Dirks, “Mass Iris Scan Collection in Qinghai: 2019–2022,” The Citizen Lab, December 14, 2022, [link](#)

<sup>50</sup> “Notice on Iris Information Collection” (关于虹膜信息采集的通知), WeChat, May 13, 2019, [link](#); “Notice of Minhe County Public Security Bureau on Conducting Iris Information Collection” (民和县公安局关于开展虹膜信息采集的通告), WeChat, November 22, 2019, [link](#); “[Minhe Public Security] Our bureau adopts multiple measures to strengthen iris collection work” (【民和公安】我局多措并举强力推进虹膜采集工作), WeChat, October 25, 2019, [link](#); “Network security team deepens information infrastructure construction, facilitates the people and benefits the people” (网安大队深化信息基础设施建设便民利民再发力), The Paper, April 24, 2019, [link](#); “Wufeng Police Station adopts various measures to conduct iris collection” (五峰派出所多措并举扎实开展虹膜采集工作), The Paper, March 29, 2019, [link](#)

in other areas of China when citizens register for residence cards. Nor does mass iris scan collection from children appear to be part of voluntary iris scan collection efforts implemented in other parts of China. Instead, public security organs seem to be targeting entire communities in Qinghai Province for iris scan collection as part of broader public security organ-led surveillance and social control programs.<sup>51</sup>

31. Iris scan collection has been documented in three of Qinghai's nine administrative regions: Tsoshar (Ch. Haidong), Tsojang (Ch. Haibei), and Yulshul (Ch. Yushu).<sup>52</sup> Of these three regions, two are ethnic autonomous prefectures: Haibei Tibetan Autonomous Prefecture and Yushu Tibetan Autonomous Prefecture. Extrapolating from available data in these three regions, we estimate that between March 2019 and July 2022, public security organs collected between 1,248,075 and 1,452,035 iris scans, representing between 21.1% and 25.6% of Qinghai's total population of 5.9 million.<sup>53</sup> In the city of Tsoshar alone, by March 2022 public security organs had collected 1.04 million iris scans, representing roughly 77% of the city's total population of 1.35 million.<sup>54</sup>

32. Mass iris scan collection has been documented in a range of locations, including homes, public areas, and schools.<sup>55</sup> Public security officers have collected iris scans from children and youths.<sup>56</sup> It is not clear from publicly available reports if consent was sought or obtained from the parents or guardians of children or youths targeted by public security officers for iris scan collection. Photographs from public security organ-linked social media accounts also indicate that public security officers have collected iris scans from Buddhist nuns.<sup>57</sup>

33. Because this program of mass iris scan collection has been led by public security officers, it appears that all data collected is held by and remains under the control of public security organs. It is also unclear if there is any independent oversight of this program or the activities of public security officers tasked with collecting iris scans.

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<sup>51</sup> Emile Dirks, "Mass Iris Scan Collection in Qinghai: 2019–2022," The Citizen Lab, December 14, 2022, [link](#)

<sup>52</sup> Emile Dirks, "Mass Iris Scan Collection in Qinghai: 2019–2022," The Citizen Lab, December 14, 2022, [link](#)

<sup>53</sup> Emile Dirks, "Mass Iris Scan Collection in Qinghai: 2019–2022," The Citizen Lab, December 14, 2022, [link](#)

<sup>54</sup> "Strive to advance the "three modernizations" task and build a safe defense line in Haidong" (奋力推进“三化”任务 筑牢海东平安防线), WeChat, March 29, 2022, [link](#)

<sup>55</sup> "[Hualong Public Security] Tackling difficulties: Fourth Xiachen group continues to implement various tasks and resolutely implements recent tasks" (【化隆公安】 集中攻坚： 第四下沉组持续开展各项工作， 坚决落实近期任务), WeChat, March 9, 2020, [link](#); "Danma and Songduo police stations deepen legal propaganda activities in their jurisdictions" (丹麻、 松多派出所深入辖区开展法制宣传活动), The Paper, June 24, 2020, [link](#); "Wufeng Police Station adopts various measures to conduct iris collection" (五峰派出所多措并举扎实开展虹膜采集工作), The Paper, March 29, 2019, [link](#)

<sup>56</sup> "[Minhe public security] Three measures to strengthen the implementation of iris collection" (【民和公安】 三个强化抓落实虹膜采集列前茅), WeChat, January 5, 2020, [link](#)

<sup>57</sup> "Base level developments at the Gangcha County Public Security Bureau" (刚察县公安局基层动态), WeChat, April 8, 2020, [link](#)

#### IV. Infringement of internationally-recognized human rights

- Right to privacy

34. Public security organ-led mass collection of DNA samples in the TAR and iris scans in Qinghai has the potential to undermine the right to privacy of those targeted for biometric data collection. In the report *The right to privacy in the digital age*, the Office of the UNHCR warned of the potential effect of biometric surveillance on the right to privacy:

35. “Remote biometric recognition is linked to deep interference with the right to privacy. A person’s biometric information constitutes one of the key attributes of her or his personality as it reveals unique characteristics distinguishing her or him from other persons. Moreover, remote biometric recognition dramatically increases the ability of State authorities to systematically identify and track individuals in public spaces, undermining the ability of people to go about their lives unobserved and resulting in a direct negative effect on the exercise of the rights to freedom of expression, of peaceful assembly and of association, as well as freedom of movement.”<sup>58</sup>

36. Biometric data collection programs in the TAR and Qinghai may be in conflict with Article 17(1) of the *International Covenant on Civil and Political Rights* that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence.” The collection of DNA samples and iris scans from children and youths may also be in conflict with Article 16(1) of the *Convention of the Rights of the Child* that “[n]o child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence.”

37. China has signed but not ratified the *International Covenant on Civil and Political Rights*, indicating its intent to act in accordance with the obligations under this instrument. As a State Party to the *Convention on the Rights of the Child*, China has a responsibility to act in accordance with its obligations and commitments under this instrument.

- Freedom from discrimination

38. The mass collection of biometric data by public security organs in the TAR and Qinghai may contribute to discrimination against minority groups. The Office of the UNHCR’s report *The right to privacy in the digital age* highlighted the potential impact of mass surveillance on minority communities: “Surveillance operations tend to disproportionately target minorities and marginalized communities. The use of artificial intelligence risks perpetuating such patterns of discrimination, including the use of facial recognition technologies for racial and ethnic profiling. Predictive systems for policing and the administration of justice have been shown to disproportionately affect minorities.”<sup>59</sup>

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<sup>58</sup> Office of the United Nations High Commissioner for Human Rights, “The right to privacy in the digital age,” UN Doc. A/HRC/48/31, September 13, 2021, [link](#)

<sup>59</sup> Office of the United Nations High Commissioner for Human Rights, “The right to privacy in the digital age,” UN Doc. GE.21-12684(E), September 13, 2021, [link](#)

39. Through the use of particular biometric recognition technologies like iris scanners, public security organs can identify ethnic minority individuals for the purpose of restricting movement, denying access to particular spaces or neighbourhoods, excluding people from services, or detention and interrogation. Targeting particular minority communities for public security organ-led mass biometric data collection can also serve as a form of discriminatory profiling, signalling to targeted individuals and the community that they are under state surveillance simply by virtue of their ethnicity, religion, or other socially salient category.

40. For these reasons, public security organs' use of biometric recognition technologies or the collection of biometric data may be at odds with Article 26 of the *International Covenant on Civil and Political Rights*, which states that "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

41. Public security organs' compulsory collection of biometric data in the TAR and Qinghai may also be at odds with Article 4 of the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, which states that "[s]tates shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law."

42. Having signed but not ratified the *International Covenant on Civil and Political Rights*, China has indicated its intention to act in accordance with the obligations under this instrument.

- Freedom of expression and peaceful assembly

43. Public security organs' compulsory collection of biometric data may impact the ability of people in the TAR and Qinghai to exercise their freedom of expression and peaceful assembly, including the freedoms of both those specifically targeted for data collection and the wider community. As the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression observed in the report *Surveillance and human rights*:

44. "In environments subject to rampant illicit surveillance, the targeted communities know of or suspect such attempts at surveillance, which in turn shapes and restricts their capacity to exercise the rights to freedom of expression, association, religious belief, culture and so forth. In short, interference with privacy through targeted surveillance is designed to repress the exercise of the right to freedom of expression."<sup>60</sup>

45. Biometric surveillance can also impact freedom of expression and peaceful assembly when implemented by a state. As the OHCHR highlights in the report *The right to privacy in the digital age*, the systematic surveillance of people in offline public spaces "may constitute a threat to freedom of expression and peaceful assembly, participation and democracy and should therefore be approached with utmost caution and only in strict adherence with human rights requirements."<sup>61</sup>

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<sup>60</sup> Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, "Surveillance and human rights," UN Doc. A/HRC/41/35, May 28, 2019, [link](#)

<sup>61</sup> Office of the United Nations High Commissioner for Human Rights, "The right to privacy in the digital age," UN Doc. GE.21-12684(E), September 13, 2021, [link](#)



46. The Freedom Online Coalition has also warned about the human rights impacts of remote biometric identification (RBI) technologies: “In particular, the use of RBI for repressive and authoritarian purposes threatens the enjoyment of the rights to freedom of religion or belief, freedom of association, peaceful assembly, and liberty of movement.”<sup>62</sup>

47. Article 19(2) of the *International Covenant on Civil and Political Rights* states that “[e]veryone shall have the right to freedom of expression,” while Article 21 states that regarding the right of peaceful assembly “[n]o restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” The UNHRC’s *General comment No. 34* on Article 19 of the *International Covenant on Civil and Political Rights* further clarifies that any restrictions placed on this freedom “must conform to the strict tests of necessity and proportionality.”<sup>63</sup>

48. Having signed but not ratified the *International Covenant on Civil and Political Rights*, China has indicated its intention to act in accordance with the obligations under this instrument.

## V. Conclusion and recommendations

49. Public security organ-led mass biometric data collection programs in the Tibet Autonomous Region and Qinghai Province are deeply concerning. We have found no publicly accessible information from state media or social media, nor official documentation from the Chinese State, detailing the intended scope, specific purpose, or precise legal justification for the mass collection of DNA samples in the TAR or iris scans in Qinghai.

50. In the past, state-led compulsory biometric data collection programs implemented or proposed in the United Kingdom and Kuwait have elicited public concern. The United Kingdom’s National DNA Database previously stored DNA samples taken from people suspected (but not convicted) of recordable offences. A 2008 ruling by the European Court of Human Rights found that the United Kingdom’s National DNA Database “fail[ed] to strike a fair balance between the competing public and private interests.”<sup>64</sup> This ruling by the European Court of Human Rights led to the UK’s *Protection of Freedoms Act* in 2012 and the destruction of 1.76 million DNA profiles taken from people innocent of any criminal offence which were previously stored in the National DNA Database.<sup>65</sup>

51. In 2016, the UN Human Rights Committee’s periodic review of Kuwait highlighted concerns about a law proposed in 2015 which would have required that all residents of and visitors to Kuwait provide DNA samples to the authorities. In the periodic review, the Committee pointed to the “compulsory nature and the sweeping scope” of the mass DNA collection program, the “lack of clarity on whether

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<sup>62</sup> “FOC Joint Statement on Artificial Intelligence and Human Rights,” Government of Canada, November 5, 2020, [link](#)

<sup>63</sup> United Nations Human Rights Committee, “General comment No. 34, Article 19: Freedoms of opinion and expression,” UN Doc. CCPR/C/GC/34, September 12, 2011, [link](#)

<sup>64</sup> European Court of Human Rights, “Case of S. and Marper vs. The United Kingdom,” Application No. 30562/04 and 30566/04, December 4, 2008, [link](#)

<sup>65</sup> “Protection of Freedoms Act 2012,” Legislation.gov.uk, [link](#); “Protection of Freedoms Act,” Gene Watch UK, [link](#)

necessary safeguards are in place to guarantee the confidentiality and prevent the arbitrary use of the DNA samples collected,” and “the absence of independent control” over the program.<sup>66</sup> In 2017, Kuwait’s Superior Constitutional Court found that the proposed law violated constitutional protections of personal liberty and privacy, and the program was scrapped.

52. The United Kingdom’s decision to destroy DNA samples previously stored in the National DNA Database, and the ruling of Kuwait’s Superior Constitutional Court concerning a proposed DNA collection program, demonstrate the positive impact that external oversight can have on state-led biometric data collection programs. We hope that the work of the Special Rapporteur on counter-terrorism and human rights can encourage similar external oversight of the two programs of mass biometric data collection detailed in this submission.
53. We have found credible evidence concerning public security organ-led mass biometric data collection in the TAR and Qinghai. However, there remains much that is unknown. In light of the facts presented in this submission, and in light of remaining questions about these two programs of mass biometric data collection, we urge the Special Rapporteur on counter-terrorism and human rights to take the following steps to investigate these programs and determine whether they infringe on protected rights:
  54. Request the Chinese state to clarify the purpose for mass DNA collection in the TAR and mass iris scan collection in Qinghai, how data are stored, and who has access to the stored data.
  55. Request the Chinese state to clarify if programs of mass DNA collection in the TAR and mass iris scan collection in Qinghai have been completed, and if public security organs plan to conduct other programs of mass biometric data collection in these regions.
  56. Request the Chinese state to specify the legal basis for mass DNA collection in the TAR and mass iris scan collection in Qinghai, and how these biometric data collection programs are in keeping with China’s existing treaty obligations as well as its obligation to act in good faith according to the International Covenant on Civil and Political Rights.
  57. Request the Chinese state to clarify if individuals targeted as part of these mass biometric data collection programs in the TAR and Qinghai are free to refuse requests to provide public security organs with biometric data, without fear of intimidation, reprisal, or punishment.
  58. Request the Chinese state to provide timely and accurate data on how many people public security organs in the TAR and Qinghai have targeted for biometric data collection, disaggregated by age, gender, ethnicity, and region.
  59. Request the Chinese state to indicate if similar mass biometric data collection programs have been implemented or are planned to be implemented by public security organs in other regions of China.

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<sup>66</sup> United Nations Human Rights Committee, “Concluding observations on the third periodic report of Kuwait,” UN Doc. CCPR/C/KWT/CO/3, August 11, 2016, [link](#); “Kuwait: Court Strikes Down Draconian DNA Law,” Human Rights Watch, October 17, 2017, [link](#)



60. Following communications with the Chinese state concerning public security organ-led mass biometric data collection programs, issue a public press release addressing whether these programs are consistent with China's human rights obligations.