

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders**

REFERENCE:  
AL RUS 6/2019

19 September 2019

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 33/30, 34/18, 41/12 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **restrictions on the rights to freedom of expression and of peaceful assembly, and also concerning the use of force against, and detention of, peaceful protesters, in conjunction with public demonstrations against the exclusion of certain candidates in the elections for the Moscow City Duma, held on 8 September 2019.**

According to the information received:

The Moscow City Duma is both a city council for the capital of the Russian Federation and a regional parliament of a constituent entity of the Russian Federation. The elections for the city Duma were held on 8 September 2019. A number of independent opposition politicians, including local councillors from a number of Moscow municipalities, attempted to run as candidates for the elections. In order to be registered as a candidate, it is required to collect signatures of a certain percentage of voters on the electoral lists in one's constituency. However, the Moscow Electoral Commission and subsequently the Central Electoral Commission refused to register the individuals as candidates on formal grounds, applied in a manner that disproportionately excluded opposition candidates from running. For example, some signatures were allegedly invalidated based on either incomplete or erroneous information on the signatories or those collecting signatures after a crosscheck with certificates issued by a government agency under the Ministry of Internal Affairs. Others were allegedly invalidated after examination by graphologists at the Ministry of Internal Affairs. On 14 July 2019, a demonstration involving an estimated 2,000 individuals was held near the seat of the Moscow Electoral Commission, requesting the registration of opposition candidates for the elections to the Moscow City Duma, candidates who were alleged to have been unjustly denied registration. Law enforcement authorities reportedly detained around 40 individuals during the protests of

14 July. On 20 July 2019 an estimated 20,000 individuals gathered for protest in Moscow to demand that would-be candidates be registered as such by the Moscow Electoral Commission. The demonstration was authorised by the authorities.

On 27 July, tens of thousands of individuals gathered in Moscow to protest. The authorities did not authorise the demonstration. Law enforcement officials blocked access to the streets where the demonstration was supposed to be held, and the demonstrators who had gathered in surrounding areas of the city were dispersed through the use of force, including rubber batons, inflicting injuries on demonstrators. Mr. **Konstantin Konovalov** was arrested while jogging on the morning of 27 July. He showed no resistance during the arrest. Besides the multiple bruises inflicted by police officers beating him with rubber batons, he suffered a broken leg during the arrest. Police forces also injured a local councillor from an opposition party, Ms. **Alexandra Parushina**. She was hit on the head by a police officer with a rubber baton, causing extensive bleeding. Similarly, Messrs. **Aleksey Semenov**, **Evgeny Dubinin**, **Kirill Belousov**, **Yury Terekhov**, **Andrey Zaburlyaev** and **Boris Kantorovich**, and Ms. **Alisa Goluenko** were all beaten by police officers with rubber batons, causing bruises and haematomas. A total of 1,388 individuals were reportedly detained by law enforcement agents.

On 3 August 2019, another peaceful demonstration was held in central Moscow, which gathered around 1,500 individuals. The authorities did not authorise the demonstration. The city centre was again closed by police forces. The police used force to disperse the gathering of people, leading to at least 18 people being hospitalised. Amongst those injured were Messrs. **Andrey Kurgin**, **Andrey Statov** and **Aleksandr Kostyuk**, who were all beaten by police using rubber batons, causing bruises and haematomas. A total of 1,001 individuals were detained by police, including 80 children and 14 journalists.

On 10 August 2019, a demonstration gathering tens of thousands of individuals was held in central Moscow. The demonstration was authorised by the authorities. However, the police dispersed the demonstrators who peacefully walked in groups in the city centre, and arrested those who remained in groups during the evening. A total of 256 individuals were detained by the authorities. Reports suggest excessive use of force by the authorities in the dispersal and detention of individuals, including through the use of rubber batons. For example, Ms. **Daria Sosnovskaya** was arrested by several policemen while walking in the city centre after the demonstration. Despite not showing resistance during the arrest, she was punched in the stomach and had her head bashed against a police bus by a policeman. Similarly, Mr. **Konstantin Mikhaylov** was beaten by police using rubber batons, causing bruises and haematomas.

### *Actions against journalists and other media*

Beyond those detained during the protests, authorities have taken action against other individuals broadcasting the events. For instance, Mr. **Vladimir Milov**, who was commenting live on the events of 27 July as a guest host to the YouTube channel “Navalny Live” was arrested in the studio during his live coverage of the events, and detained for 48 hours without information on the charges against him. Upon his release, he was immediately detained again and charged under article 20.2 para. 8 of the Russian Administrative Offences Code for repeated breach of the established procedure for conducting public assemblies, and under article 19.3 para. 1 of the same code for refusing to obey a lawful order of a police officer. The basis for the former charge was the mentioning of the upcoming 27 July demonstration on a radio programme (“Gde Dengi?”) on 25 July. The basis for the latter charge was that the door was not opened at the request of the police officers while Mr. Milov was guest hosting the “Navalny Live” broadcast on 27 July. Despite several shortcomings in the examination of evidence in the first instance (Simonovsky District Court), the Moscow District Court upheld the decision in the first instance to place Mr. Milov on pre-trial detention for 30 days in its appeal decision on 31 July.

### *Internet shutdown, surveillance measures and public disclosure of personal data*

Reports suggest that the authorities were responsible for disruptions of mobile internet and telephone connectivity on 27 July and 3 August in central Moscow during the demonstrations.

Some participants who had been arrested were put on watch lists. As a result, police were authorised to visit them at home to ensure they do not engage in illegal activities, such as participating in unsanctioned demonstrations.

On 9 August, personal data of the protesters arrested by the police were anonymously published on the Internet. The personal details are reported either to have been taken from administrative offence files or from electoral signatures lists, suggesting that the authorities were the source of the leak. Many of those whose personal details were published now face threats and intimidation by phone or online.

### *Judicial proceedings against protesters*

Reports suggest that hundreds of individuals have been fined 15,000 to 20,000 Russian roubles (USD 273–303, however, ranging 150,000 – 300,000 roubles or USD 2,273–4,545 for repeat offenders). Others have been sentenced to 30 days of administrative detention, in conjunction with the demonstrations.

Reportedly, nine criminal investigations have been opened into the events. The cases include participation in and calls for “mass disorders”, interference with electoral procedures, money laundering and violence against policemen. The major investigations are reportedly conducted under articles 212 and 212.1 of the Russian Criminal Code (“mass disorders accompanied by violence, pogroms, arsons, destruction of property” and “multiple violations of the regulations on public assemblies”), but also under 318.1 (violence against police officers). Among those arrested and accused of participation in mass disorders is Mr. **Egor Zhukov**, a liberal candidate for the elections. The factual basis for the charges against Mr Egor Zhukov is reportedly “gesturing to the right, in the direction of the police”. Mr. **Kirill Zhukov** is accused of attempting to lift the visor off a police officer’s helmet. Mr. **Evgeny Kovalenko** is accused of pushing a police officer who was arresting a protester and subsequently throwing a waste bin towards police officers who were arresting and beating a protester. Mr. **Sergey Abanichev** is accused of throwing a paper coffee cup towards a police officer. Other examples include Messrs. **Daniil Konon** and **Aleksey Minyaylo**, who were detained on different dates in July and August, and placed in pre-trial detention on charges of mass disorders and violence against officials.

All the mentioned individuals appealed their detention orders and the Moscow City Court dismissed all appeals, meaning their release is scheduled for late September or early October. The courts have so far dismissed requests to post bail or to be placed under house arrest, with the reasoning that they are facing serious crimes and would be able to flee.

Early September, charges were dropped against Messrs. **Daniil Konon** and **Sergey Abanichev**, and they were both released. Mr **Evgeny Kovalenko** was sentenced to 3 years and 6 months of imprisonment. **Kirill Zhukov** was sentenced to 3 years of imprisonment. **Konstantin Kotov** was sentenced to 4 years imprisonment. Mr. **Sergey Fomin** was placed in house arrest based on the charges under Article 212 of the Criminal Code. After the charges against Mr. **Egor Zhukov** under article 212 of the Criminal Code were dropped, he was placed in house arrest and charged with incitement to extremism under article 280 of the Criminal Code for a video blog.

### *Failure to investigate complaints of excessive use of force by law enforcement officials*

There have been several attempts to raise complaints regarding the use of force by law enforcement officials during the abovementioned protests. So far, the Moscow Investigative Committee has dismissed a request for an investigation on the excessive use of force against Mr. **Konstantin Konovalov**, on the basis that no investigation was required because the actions were in conformity with the law. Mr. Konovalov sought judicial review of the decision not to investigate. The Tverskoy District Court of Moscow rejected the appeal on 30 August 2019. Messrs. **Aleksandr Kostyuk**, **Aleksey Semenov** and **Andrey Kurgin** have

received similar decisions rejecting requests for investigations into the actions of law enforcement officials, as there were no unlawful acts identified. These individuals have all sought judicial review of the decision not to investigate, and are awaiting judicial decisions on the matter.

We express our concern at the alleged repression of protests from 14 July to 10 August 2019. The overall picture of the events raises concerns that the acts of the authorities served to repress the legitimate exercise of the rights of individuals to public participation, freedom of expression and freedom peaceful assembly in the context of the local elections. In this regard, we remind your Excellency's Government of the obligations under international human rights law, including the International Covenant on Civil and Political Rights, which the Russian Federation ratified 16 October 1973, and the Convention on the Rights of the Child, which the Russian Federation ratified 16 August 1990. We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5(a), 6(b) and (c), and 8 para. 1.

The approach by the Government towards peaceful protesters, particularly from 27 July 2019 onwards, has been characterised by extensive and excessive use of force, leading to hospitalisation and the relatively serious injury of multiple individuals. We express serious concern that the use of force and detentions seem arbitrarily applied, without consideration to the necessity and proportionality of the measures. We remind, in particular, of the duties of the State under the ICCPR art. 21 in conjunction with art. 2. The exercise of the right to peaceful assembly should not be subject to prior authorization by the authorities. Authorities should at most have a system of notification, provided that the system does not function as a *de facto* requirement for authorisation, A/HRC/31/66 para. 21. In the circumstance that a peaceful assembly is not authorised, this does not entail a greater permissibility of the use of force or deprivation of liberty than what is otherwise authorised under the Covenant. To the contrary, the primary duty of law enforcement agencies is to facilitate peaceful assemblies and protect individuals from harm, CCPR/C/AGO/CO/1, para. 21. Where justified, the State is under a duty to adopt the minimum force necessary to achieve its protective aim, see Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 4, see also CCPR/C/GC/36, para 14. Under Article 9 of the Covenant, the right to security of persons enshrines the "freedom from injury to the body and the mind, or bodily and mental integrity", CCPR/C/GC/35 para. 3. As indicated by the Human Rights Committee, "officials of States parties violate the right to personal security when they unjustifiably inflict bodily injury", *id.* para. 9. The deprivation of liberty is permissible only where it is not arbitrary. As indicated by the Human Rights Committee, the notion of arbitrariness includes "inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality", *id.* para 12. In this regard, we also note that the use of pre-trial or preventive detention seems motivated by the fact of individuals exercising their human rights. We remind that the use of force against or detention of individuals for exercising their rights is contrary to the Covenant,

see CCPR/C/GC/34 para. 23 and A/HRC/31/66 para 45ff. Furthermore, we express particular concern at the number of children detained during the peaceful protests. Under the CRC Article 37 (b), “the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”.

The right to freedom of expression and the right to peaceful assembly are preconditions for democratic societies, and their safeguarding is crucial in the context of elections, see for example CCPR/C.21/Rev.1/Add.7, paras. 8 and 12 and CCPR/C/GC/34 para. 2. As regards the allegations of unjust application of domestic rules and measures relating to the registration of candidates, we remind that any conditions on the exercise of the rights under art. 25 of the Covenant must be based on “objective and reasonable criteria”, see CCPR/C.21/Rev.1/Add.7 para. 4. We are particularly alarmed that the acts by the authorities seem targeted to silence public criticism of alleged flaws in the democratic process and the public’s call for greater plurality in the political sphere, values at the core of several rights guaranteed by international human rights treaties. We remind that restrictions on the right to peaceful assembly that indirectly serves the purpose of silencing political opposition is contrary to Article 21, see CCPR/C/79/Add.86, para. 18. Any restrictions on the right to freedom of expression and of peaceful assembly must meet the requirements of legality, legitimate aim and proportionality, see Arts. 19 (3) and 21 (3). Importantly, any restrictions must be the least restrictive means to achieve the legitimate objective, see e.g. CCPR/C/GC/34 para. 34. As a main rule, this entails the duty to accommodate assemblies to the greatest degree possible, rather than banning them, see *Turchenyak et al. v. Belarus* (CCPR/C/108/D/1948/2010 and Corr.1), para. 7.4.

Concerning reports of detention of journalists, we remind your Excellency’s Government that journalism, broadly construed, enjoys particularly strong protection under ICCPR art. 19, see CCPR/C/GC/34 para. 13. Consequently, the detention of journalists covering demonstrations constitutes a serious interference not only with their freedom of expression and liberty, but also against the right of the public to access information. Furthermore, we express concern at the initial detention of 48 hours of Mr. Milov. We remind, in this regard, of the right under Article 9 to be informed, at the time of arrest, of the reasons thereof. Secondly, we express concern that the charges under Article 20.2 para. 8 and Article 19.3 of the Administrative Offences Code seem directly motivated by the coverage of the protests.

We express concern at the disruption of internet services on 27 July and 3 August 2019, which prevented the communication participated in the demonstrations, livestreaming the events to the wider public. In this regard, we remind that the freedom of expression applies to expressions online, see CCPR/C/GC/34 para 11. Any restrictions with the rights under Article 19 (2) must comply with the requirements of legality, legitimate aim and proportionality enshrined in Article 19 (3). We further note that although an assembly has generally been understood as a physical gathering of people, human rights protections, including for the rights to freedom of peaceful assembly, of expression and of association, may apply to analogous interactions taking place online,

see A/HRC/RES/38/11, and thus restrictions of these rights online must similarly conform with the limitations outlined above.

Lastly, we express concern at the refusal by the authorities to open investigations into alleged violations of human rights law. We refer in this regard to the practice of the Human Rights Committee under Article 2 (3) of the Covenant, see CCPR/C/21/Rev.1/Add. 13 para. 15 and CCPR/C/GC/34 para. 23.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have.
2. Please provide information on the measures taken to ensure that the rights of individuals taking part in peaceful assemblies are respected. In particular, please provide information on the practice and legal consequences under Russian law of the failure to notify the authorities of peaceful assemblies, as well as on measures taken to ensure that the least restrictive measures were implemented prior to denying the authorisation of assemblies held in July and August.
3. Please provide information on what measures are being taken in order to ensure that any requirements placed on the registration of candidates are based on objective and reasonable requirements in compliance the international human rights obligations of the Russian Federation.
4. Please provide information on the number of individuals detained, including children, and the factual and legal basis for their detention.
5. Please provide information as to the measures taken to ensure that no arbitrary restrictions are placed on the exercise of freedom of expression, including the reporting and commenting on the demonstrations. Please also indicate how the Government is addressing leaks of personal data of individuals partaking in the protests.
6. Please provide information on what measures are being taken, including during training and in the planning and carrying out of police operations, to ensure that law enforcement authorities use force within the limits permitted under international human rights obligations of the Russian Federation.

7. Please provide information on what measures are being taken to ensure that administrative or criminal proceedings are conducted in accordance with standards under international human rights law.
8. Please provide information as to the under international human rights law justification for the alleged disruption of mobile internet and landline services on 27 July and 3 August in the centre of Moscow.
9. Please indicate what measures have been taken to ensure prompt, effective and impartial investigations into alleged human rights violations, including reports of the excessive use of force by law enforcement authorities, and, more generally, what measures are being taken in order to provide effective remedies to victims.
10. Please indicate what measures have been taken to ensure that human rights defenders in the Russian Federation are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Leigh Toomey  
Vice-Chair of the Working Group on Arbitrary Detention

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



Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
Special Rapporteur on the situation of human rights defenders

## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

#### *General legal obligations*

We remind your Excellency's Government of the general legal obligations under article 2 of the *International Covenant on Civil and Political Rights* (ICCPR). Interferences with rights under the Covenant are only permissible insofar as they comply with the requirements under "the relevant provisions of the Covenant. Where such restrictions are made, States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights. In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right", CCPR/C/21/Rev.1/Add. 13 para. 6. Furthermore, the Human Rights Committee has confirmed, as established under the *Vienna Convention on the Law of Treaties* article 27, that a "party may not invoke the provisions of its internal law as justification for its failure to perform a treaty", see CCPR/C/21/Rev.1/Add. 13 para. 4.

In case of allegations of human rights violations, the State is under an obligation to provide effective remedies, see ICCPR art. 2 (3). This may entail a duty to investigate allegations of human rights violations, see CCPR/C/21/Rev.1/Add. 13 para. 15 and CCPR/C/GC/34 para. 23.

#### *The rights to freedom of expression and peaceful assembly, and the duty of law enforcement in the policing of assemblies*

Limitations on the freedom of expression and the right to peaceful assembly is legitimate only insofar as they comply with the purposes enumerated in articles 19(3) and 21 of the ICCPR. Furthermore, they must be in accordance with the law, and comply with the requirement of proportionality. This latter requirement entails that any restrictive measure must be "appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve their protective function; they must be proportionate to the interest to be protected", see CCPR/C/GC/34, para. 34. As a main rule, this entails the duty to accommodate assemblies to the greatest degree possible, rather than banning them, see *Turchenyak et al. v. Belarus* (CCPR/C/108/D/1948/2010 and Corr.1), para. 7.4. In the context of elections, the exercise of the rights under article 19 and 21 must be read in conjunction with the State's obligations under article 25. The right to freedom of expression and the right to peaceful assembly are preconditions for democratic societies, and their safeguarding is crucial in the context of elections, see for example CCPR/C.21/Rev.1/Add.7, paras. 8 and 12 and CCPR/C/GC/34 para. 2. Consequently, the State has a particular duty not to interfere with expressions constituting participation in the public affairs of the State.

We remind that restrictions on the right to peaceful assembly that indirectly serves the purpose of silencing political opposition is contrary to Article 21, see CCPR/C/79/Add.86, para. 18.

The exercise of the right to peaceful assembly should not be subject to prior authorization by the authorities. Authorities should at most have a system of notification for the facilitation of assemblies, provided that the system does not function as a de facto requirement for authorisation, A/HRC/31/66 para. 21.

In the policing of assemblies, the primary duty of law enforcement agencies is to facilitate peaceful assemblies and protect individuals from harm, CCPR/C/AGO/CO/1, para. 21 and A/HRC/31/66 para 50. Where justified, the State is under a duty to adopt the minimum force necessary to achieve its protective aim, see Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 4, see also CCPR/C/GC/36, para 14. As indicated by UN Special Rapporteurs:

“The use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force. Any use of force must comply with the principles of necessity and proportionality. The necessity requirement restricts the kind and degree of force used to the minimum necessary in the circumstances (the least harmful means available), which is a factual cause and effect assessment. Any force used should be targeted at individuals using violence or to avert an imminent threat.” (A/HRC/31/66, para 57)

Furthermore, UN Special rapporteurs have clarified that “[d]ispersing an assembly carries the risk of violating the rights to freedom of expression and to peaceful assembly as well as the right to bodily integrity. Dispersing an assembly also risks escalating tensions between participants and law enforcement. For these reasons, it must be resorted to only when strictly unavoidable”, A/HRC/31/66 para. 61, see also para. 62 – 63.

Under Article 9 of the Covenant, the right to security of persons enshrines the “freedom from injury to the body and the mind, or bodily and mental integrity”, CCPR/C/GC/35 para. 3. As indicated by the Human Rights Committee, “officials of States parties violate the right to personal security when they unjustifiably inflict bodily injury”, id. para. 9. Intentional infliction of harm when policing assemblies contrary to the limitation clause in article 21 will therefore constitute a concurrent violation of article 9 of the Covenant.

#### *Deprivation of liberty*

Under Article 9 of ICCPR, “[d]eprivation of liberty involves more severe restriction of motion within a narrower space than mere interference with liberty of movement under article 12. Examples of deprivation of liberty include police custody, arraigo, remand detention, imprisonment after conviction, house arrest, administrative detention, involuntary hospitalization, institutional custody of children and confinement

to a restricted area of an airport, as well as being involuntarily transported...”, see CCPR/C/GC/35, para. 5.

“Article 9 requires that procedures for carrying out legally authorized deprivation of liberty should also be established by law and States parties should ensure compliance with their legally prescribed procedures. Article 9 further requires compliance with domestic rules that define the procedure for arrest by identifying the officials authorized to arrest or specifying when a warrant is required. It also requires compliance with domestic rules that define when authorization to continue detention must be obtained from a judge or other officer, where individuals may be detained, when the detained person must be brought to court and legal limits on the duration of detention. It also requires compliance with domestic rules providing important safeguards for detained persons, such as making a record of an arrest and permitting access to counsel. Violations of domestic procedural rules not related to such issues may not necessarily raise an issue under article 9.”, *id.* para. 23

We also wish to refer to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, specifically Principle 10, which states that “anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him”, principle 11, which states that “a person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority” and that “a detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law”, and Principle 15 which states that “communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days” (See also Principle 15 and Rule 58 of the Mandela Rules).

Under the CRC Article 37 (b), “the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”.

#### *Protection of journalists and disruption of internet services*

We remind Your Excellency’s Government that journalism, broadly construed, enjoys particularly strong protection under ICCPR Art. 19, see CCPR/C/GC/34 para. 13. Consequently, the detention of journalists covering demonstrations constitutes a serious interference not only with their freedom of expression and liberty, but also against the right of the public to access information.

The right to freedom of expressions In this regard, we remind that the freedom of expression applies to expressions online, see CCPR/C/GC/34 para 11. Consequently, the disruption of landline and internet services constitutes an interference with the rights under art. 19 (2) that must be justified under art. 19 (3). We further note that although an assembly has generally been understood as a physical gathering of people, human rights protections, including for the rights to freedom of peaceful assembly, of expression and of association, may apply to analogous interactions taking place online, see

A/HRC/RES/38/11, and thus restrictions of these rights online must similarly conform with the limitation clause in art. 20.

*Protection of human rights defenders*

We would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels: to meet or assemble peacefully;
- article 6 (b) and c) which provide for the right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters;
- article 8, paragraph 1, which stipulates that everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.