

**Mandates of the Working Group on Enforced or Involuntary Disappearances; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
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Excellency,

We have the honour to address you in our capacities as Working Group on Enforced or Involuntary Disappearances; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 45/3, 42/22, 44/5, 43/4, 41/12 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning alleged human rights violations, including arbitrary detentions and arrests, enforced disappearances, extrajudicial killings, torture, impediments to the exercise of freedom of opinion and expression as well as obstacles to freedom of peaceful assembly that have been reported in the context of the electoral process 2020-2021. Concerns related to similar violations were transmitted in communications [UGA 4/2020](#) and [UGA 5/2020](#).

According to the information received:

Between 3 September 2020 and March 2021, an important number of human rights violations were reported to have taken place in Uganda in pre-electoral and post-electoral contexts:

**Right to life**

In addition to the 47 people killed by security forces during the riots and protests of 18 and 19 November 2020 -- addressed in [UGA 4/2020](#) -- we were informed that seven additional individuals were also killed including as a result of disproportionate, indiscriminate or careless use of force by security forces. One of them was a woman who died following injuries suffered after she was run over by a car painted with the colors, emblem and acronyms of the ruling party. The other six persons were reportedly killed by stray bullets, without any indication about the possible identity of the perpetrators. We understand that firearms were on those days exclusively carried out by state security and law enforcement agencies. More than 70 persons have lost their lives in the electoral context.

On 27 December 2020, one person participating in an opposition campaign rally was reportedly deliberately run over by a military police truck and succumbed to his ensuing injuries.

Since 2018, widespread use of ‘shoot to kill’ authorization has been practiced by Ugandan police and military. In comments in 2019, which came to light in early 2020, the Deputy Commander of the Local Defense Units in Kampala publicly stated that “shoot to kill” orders would apply even for non-violent offences such as stealing. The use of such orders has intensified in the policing of the November 2020 protests and riots. The Security Minister has issued “shoot to kill” instructions without any specific guidelines on the use of lethal force. He stated in November 2020 that “police have a right to shoot and kill you if you reach a certain level of violence....Can I repeat? Police have a right to shoot you and you die for nothing....do it at your own risk.”

### **Torture and other cruel, inhuman or degrading treatment**

At least 127 people were affected by violations to their physical and mental integrity, including at least thirty-eight women and girls.

These figures include cases of ill-treatment resulting from use of force in the policing of assemblies and electoral activities – including injuries as consequence of tear gas suffocation - as well as ill-treatment and instances of torture in the context of arrests procedures and detention. Acts of torture included beatings, and other ill treatment, which led to bodily wounds, were also brought to our attention.

For example, on 27 December 2020, one opposition party campaign staff was allegedly chased and severely beaten with batons by four soldiers. The incident was reportedly taped. On the same day, a media consultant and a journalist were injured when tear gas canisters were aimed at their heads.

On 7 January 2021, a prominent opposition figure, Mr. Kyagulanyi (known as Bobi Wine) was ill-treated while holding a video press conference out of his campaign vehicle. Multiple times during the press conference, a military vehicle fired tear gas canisters at Mr. Kyagulanyi and into his vehicle. Gunshots were fired in the air over and in front of the campaign vehicle. At some point, as Mr. Kyagulanyi’s vehicle was parked on the roadside, he was dragged out by police officers who held him by the head and neck and put him on his knees. Police aimed tear gas at him and assaulted him, and then fired several gunshots into the air and on the ground as he was held down on the roadside. The incident lasted five minutes and was reportedly largely covered by international media outlets.

High ranking Government figures are said to have held intimidating public speeches inciting violence against protesters. Injuries sustained by the wounded reportedly depict the use of blunt instruments on the head, neck, arms, hands and torso or gunshots, with a pattern of severe injury on the head, above the eyes. These patterns of injuries have been interpreted to be evidence of policing practices aiming to inflict harm by targeting victims’ heads.

Allegations of torture were also reported, of persons who were arrested or detained by security forces in the context of the elections. This includes approximately forty civilians who were arrested on 30 December 2020 in Kalangala District and who were reportedly subjected to torture before transferral to Makindye Military Barracks in Kampala, to be presented before a Military Court.

### **Arrests and violations to the right to liberty and security of persons**

In addition to the allegations expressed in UGA 4/2020 and UGA 5/2020, on 30 December 2020, at an organised National Unity Platform (NUP) party electoral campaign rally in Kalangala District, at least 94 of the NUP organizers, campaign staff, members and supporters were arrested and taken to different Ugandan Police Forces (UPF) and military detention facilities in Kalangala, Masaka, and later in Kampala. A number of those arrested and detained are facing charges of possession of illegal ammunition, before the Military Court in Makindye, Kampala.

Alleged arbitrary arrests and detention of opposition presidential candidates and their supporters have intensified during the electoral campaign period and in the aftermath of the elections. 1,110 persons were arrested in relation to the riots and protests of 18-19 November 2020, most of whom were reportedly subsequently released. Information received indicates that following the elections, several thousands more individuals, for the most part supporters of the NUP, were arrested and detained.

On 7 January 2021, twenty-three opposition campaign staff were arrested by police without any specific stated motives. On 12 January, Mr. Kyagulanyi's home was reportedly raided by military personnel and two security guards were beaten and arrested while two other persons were abducted and taken to an unknown location. Their fate and whereabouts remain unknown at the time of receiving the information.

On 14 January 2021, after casting his vote for the presidential election, presidential candidate Kyagulanyi was arbitrarily detained at his home by combined UPF and Uganda People's Defence Forces (UPDF) forces. He was not released until the evening of 25 January 2021 when a High Court ruled that the house arrest was unlawful and unconstitutional, requiring security forces to evacuate his residence. Another presidential candidate was also arbitrarily arrested and detained for short periods on several occasions. More than thirty civil society activists and seven journalists have also faced arbitrary arrests during the electoral process 2020-2021.

Other information received indicates arrests and detention over prolonged period of time without any charges.

### **Missing persons and enforced disappearances**

In the aftermath of the presidential and parliamentary elections, increasing numbers of enforced disappearances have been reported.

For example on 12 January 2021, two opposition campaign figures were abducted without any information as to their fate or whereabouts. While one of them is now known to be in detention, the other person's fate and whereabouts remains unknown.

At least 138 cases of enforced disappeared were documented as of 8 February 2021. Some of the individuals whose whereabouts are unknown have been arrested by military and/or police forces before being taken to undisclosed locations. The enforced disappearances have mostly occurred in the districts of Kampala, Wakiso, Mukono, Masaka, Jinja, Ssembabule, Luwero, Mpigi.

For example, on 3 December 2020, while on a routine campaign stop in Kalangala Island, Lake Victoria, candidate Kyagulanyi was arrested by Ugandan police along with his campaign staff and transported via helicopter to Kampala where he was released with no charges filed. However, all one hundred and twenty-four campaign staff members who were with him, were arrested, separated from Kyagulanyi and taken to an unknown location. On 2 February 2021, Kyagulanyi learned that his campaign staff were brought to a military court for a bail hearing two months following their initial arrest. The delay in the court hearing was in clear violation of the law under which defendants are to be brought before a civilian court within 48 hours of the arrest for bail and other procedural matters. The bail hearing was subsequently further deferred for another eight days, keeping concerned individuals in military custody without any civil charges. A court ordered bail for eighty-five out of the one hundred and twenty-four staff members, but none were released and it is believed they were transferred to military custody.

On 13 February 2021, the President of Uganda, H.E. Yoweri Kaguta Museveni, addressed the nation and admitted that the security forces have been rounding up people across the country. He instructed the police and all other agencies to provide a detailed update about all those who were arrested. On 4 March 2021, the Minister of Internal Affairs, Mr. Jeje Odongo, presented a report on missing persons at Parliament, in which he gave an official explanation that accounted for 222 people, who at that moment were or had been under detention. He informed that 156 individuals were under detention for being in possession of military weapons and equipment. He stated that 43 people were in custody for participating in the riots of 18 and 19 November 2020. He announced that 17 people were in detention for planning post-election violence; and he finally announced that six detained persons were released on police bond. The minister only read the names of 177 individuals alleged to be in state detention. However, no information was provided on whether the relatives have been informed or not about their fate and whereabouts.

Other information received indicates that an important number, at the very least more than one hundred, NUP staff and aides have been subjected to enforced disappearance following arrests or abductions, have not been produced in civilian courts and not been heard from, in many cases since mid-November 2020. Ugandans have reported break-ins and arrests by agents in plain clothes using unmarked white vehicles with concealed plate numbers, commonly

known as “drones”. Arrested individuals are reportedly being held at undisclosed locations throughout Uganda. Disappearances reportedly began on 18 November 2020, time at which the government reportedly started conducting abductions operations across the country.

### **Violations to Freedom of expression and media freedom**

On 8 January 2021, Uganda’s Police Chief Martin Okoth Ochola publically warned that journalists who sought to cover election or campaign matters would be met with violence. He was quoted as saying: “You are insisting you must go where there is danger. Yes, we shall beat you for your own sake to help you understand that you do not go there. Yes, we shall use reasonable force to ensure that you don’t go where there is a risk. Actually, I have no apology.” His comments were relayed by international news agency.

The Government of Uganda decided to shut down the internet connection countrywide during the days around the presidential and parliamentary elections from 13 to 18 January 2021. The internet shutdown reportedly interfered with the prompt collating of voting results. Uganda reportedly uses an internet-based system for collecting and forwarding voting results but no transparent information was provided as to how the vote tally was conducted in the absence of the internet. The lack of internet access also had a negative impact on the use of biometric scanning machines to identify voters, further delaying voting which negatively affected turnout.

Official directives were issued by the Uganda Communication Commission (UCC) and the Uganda Media Council (UMC) to restrict journalists and media houses from covering electoral events. The Uganda Media Council requested that Google.inc block the accounts of fourteen Ugandan social media outlets.

In addition, security forces closed or attempted to close media houses such as radio stations, and interrupted radio interviews with electoral candidates. According to reports, there were at least 18 reported incidents of beating, harassment and confiscation of journalist’s material, as well as arrests of journalists while they were covering electoral campaign activities, especially relating to the opposition. The arrested journalists were subsequently released.

### **Violation and suppression of voting rights**

In the week prior to the election, the Electoral Commission banned campaigning in most of Kampala and other towns under the guise of preventing the spread of the COVID-19 virus, but the regulation was reportedly applied unevenly and mainly targeted urban opposition strongholds.

The election itself is said to have been held in a repressive and coercive context. Military personnel and police were seen moving throughout Uganda starting the day before the election. Convoys of armed personnel carriers and other military vehicles were deployed in Kampala and other towns and cities. This was perceived as intimidation to discourage opposition supporters and voters to go to the polls.

Soldiers, armed with weapons and batons, patrolled polling places. Large groups of soldiers voted at polling places while they reportedly normally would vote at their barracks. At one polling station, four soldiers dragged an opposition electoral agent out of the polling premises. Some opposition poll watchers and polling staff were taken into custody by the military before the election. Civil society actors, voters and party observers were unable to observe the vote count.

While we do not wish to prejudge the accuracy and the veracity of the above-mentioned, we are gravely alarmed by these allegations, which if they were to be proven would constitute gross and serious violations of human rights, in breach of international human rights law. Our concerns include the use of excessive and lethal use of force, including the alleged “shoot to kill” policy, torture and ill-treatment, enforced disappearance, arbitrary arrest and detention of demonstrators participating in election campaigns or supporters of opposition parties, as well as journalists and civil society activists. We are also concerned by the continued violations of the exercise of freedom of opinion and expression as well as freedom of peaceful assembly and of association, and the allegation of suppression of voting rights.

The alleged violations have occurred in a tense electoral and post-electoral context, which has made it particularly challenging for victims and their relatives to access justice, including effective search and investigation into cases of enforced disappearance and access remedy, investigation into extrajudicial killings as well as access to justice more generally.

Should they be confirmed, the facts alleged would amount to violations by your Excellency’s Government of the state of Uganda’s international obligations under articles 6 (1), 7, 9, 14, 17, 19, 21 and 25 of the International Covenant on Civil and Political Rights (ICCPR), to which Uganda acceded on 21 June 1995. These norms protect the right to life, right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, right to security of person, right to privacy, right to freedom of expression, the rights to freedom of peaceful assembly and to “take part in the conduct of public affairs, directly or through freely chosen representatives” respectively.

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 elaborates on the international human rights norms and standards relevant to these allegations.

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

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide updated information about the number of deaths and injuries following the electoral campaign and presidential election. What investigations are being conducted to clarify the specific circumstances

in which individuals were killed and, where perpetrators are identified, to prosecute them? What remedies are provided to the victims and their relatives?

3. Please provide information on the steps that have been taken to prevent excessive use of force by the Ugandan Police and military. Please provide information on the alleged “shoot to kill” policies including specific details on when and by whom they were issued and how they comply with international standards on the use of force by law enforcement officials.
4. Please provide detailed information about all alleged instances of enforced disappearances and clarify in each case the fate and whereabouts of the victims, the circumstances of their disappearance, and the institutions under whose authority they were arrested, detained and disappeared.
5. Please provide the details of any investigation, or judicial or other inquiries, including the specific State entity responsible for such investigation or inquiry, which may have been carried out in relation to the numerous instances of arbitrary arrest, detention, torture and other cruel, inhuman or degrading treatment or punishment, and/or killings to establish accountability and ensure justice. If no inquiries or investigations have taken place, or if they have been inconclusive, please explain the reasons for this, and how this is compatible with the state of Uganda’s international human rights obligations under ICCPR and CAT. What remedies and reparations have been provided to the victims and their families? What legal framework is in place to protect individuals against enforced disappearance?
6. Please provide information on the legal basis used for mass arrest of protestors, presidential candidates and their supporters, as well as the arrest of journalists and civil society activists and explain how these actions are consistent with Uganda’s obligations under international human rights law.
7. Please, provide concrete information about the number of all people arrested and detained in relation to the electoral process 2020-2021, including those charged with electoral offenses as well as with other charges related to their participation in public assemblies, electoral campaign activities, or due to their media coverage of the political events. Please, indicate their names, places of detention, as well as the periods in which they were submitted to detention, before being produced to court.
8. If the state has recognized that a large number of people who had been initially reported as missing persons were actually arrested by security forces, please indicate whether they were held under detention in police detention facilities, in other official places of detention for civilian, or in military detention facilities, whether official or not. If they were held in

unofficial detention facilities, please explain why and under whose authority.

9. Please provide information about Internet disruptions, and explain how these measures were consistent with Uganda's obligations under international human rights law, especially Article 19 of the International Covenant on civil and political rights.

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.

We would like to inform your Excellency's Government that after having transmitted this letter of allegations 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. This communication in no way prejudge any opinion the Working Group may render. The Government is required to respond separately for the letter of allegations procedure and the regular procedure

Likewise, we would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on enforced or involuntary disappearances may transmit, under its humanitarian procedure, any individual case that may be brought to its attention by sources.

Given the scale and the gravity of the human rights violations reported before, during and after the election, and their nature (extrajudicial executions, killings, beatings, torture, arbitrary detention, enforced disappearances, violations of the rights to freedom of expression, assembly and information) would appreciate a prompt and thorough response to this letter. For the same reason, we may consider to publicly express our concerns in the near future, and believe that it is important that the people of Uganda be reliably informed about the consequences of these violations on the peaceful exercise of their human rights. Any public expression on our part will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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Agnes Callamard  
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Irene Khan  
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Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment

## **Annex**

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

In connection with above alleged facts and concerns, we would like to remind your Excellency's Government of its international obligations under articles 6 (1), 7, 9, 14, 19, 21 and 25 of the International Covenant on Civil and Political Rights (ICCPR), to which Uganda acceded on 21 June 1995, which protect the right to life, right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, right to security of person, right to freedom of expression, the rights to freedom of peaceful assembly, and the right to "take part in the conduct of public affairs, directly or through freely chosen representatives" respectively.

Arresting or detaining an individual as punishment for the legitimate exercise of the rights as guaranteed by the Covenant constitutes a violation of article 9 (CCPR/C/GC/35 para 17). According to article, 9 of the ICCPR, any arrest or detention shall be carried out in accordance with the grounds and procedures established by law. In addition, anyone deprived of his liberty shall be entitled to challenge the legality of such detention before a court or judicial authority; this is a self-standing human right, the absence of which constitutes a human rights violation (A/HRC/30/37). Moreover, the deprivation of liberty as punishment for the legitimate exercise of rights guaranteed by the ICCPR and the UDHR is arbitrary, this includes protections for the rights to freedom of opinion and expression, as well as freedom of assembly and association (CCPR/C/GC/35), this has been confirmed by the jurisprudence of the Working Group on Arbitrary Detention (A/HRC/36/38, para. 8(b)).

We recall that incommunicado detention is inherently arbitrary as it places the persons outside the protection of the law and deprive them of any legal safeguards. It also violates their rights under articles 9(3) and 9(4) of the ICCPR. We would also like to refer your Excellency's Government to the recent report of the Working Group on Arbitrary Detention to the Human Rights Council (A/HRC/45/16), paras 50-55), where the Working Group underlined that the right to legal assistance is one of the key safeguards in preventing the arbitrary deprivation of liberty. This right must be ensured from the moment of deprivation of liberty and, in the context of the criminal justice setting, prior to questioning by authorities. In addition, the Human Rights Committee has emphasized that enforced disappearance constitute a particularly aggravated form of arbitrary detention (CCPR/C/GC/35, see also A/HRC/WGAD/2020/77, par. 61 and A/HRC/WGAD/2020/78, par. 44).

Article 14 of the ICCPR further stipulates that, in the determination of any criminal charge, everyone shall be entitled to adequate time to communicate with counsel of choice. Article 14 also guarantees the right to be tried without undue delay. The right to have access to a lawyer without delay and in full confidentiality is also enshrined in principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37), and the Basic Principles on the Role of Lawyers (Principles 7 and 8). In addition, we would like to highlight that the trial of civilians by military courts is incompatible with international human rights law (A/HRC/27/48, para. 66 to 71, see also CCPR/C/GC/32 par. 22).

We also make reference to the Declaration on the Protection of All Persons from Enforced Disappearances, which establishes that no State shall practice, permit or tolerate enforced disappearances (Article 2) and that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (Article 7). It also proclaims that each State shall ensure the right to be held in an officially recognized place of detention, in conformity with national law, and to be brought before a judicial authority promptly after detention; and accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest (Article 10). The Declaration outlines the obligation of States to promptly, thoroughly and impartially investigate any acts constituting enforced disappearance (Article 13) and that the victim and his/her family shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible (Article 19).

We would like to draw your attention to Article 6 of the ICCPR, which protects the right to life through the prohibition on the arbitrary deprivation of life. The Human Rights Committee, charged with monitoring compliance with the Covenant, has indicated that the obligation under Article 6 entails taking all necessary measures to prevent arbitrary deprivations of life, including by soldiers tasked with law enforcement missions, (CCPR/C/GC/36 para. 13).

We further wish to draw to your Excellency's Government attention articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which Uganda acceded to on 3 November 1986.

We wish to stress that law enforcement officials shall at all times respect and protect fundamental human rights and freedoms, in particular when they are considering the use of force of any kind. Furthermore, the report of the Special Rapporteur on Torture (A/72/178) states that, "any extra-custodial use of force that does not pursue a lawful purpose (legality), or that is unnecessary for the achievement of a lawful purpose (necessity), or that inflicts excessive harm compared to the purpose pursued (proportionality) contradicts established international legal principles governing the use of force by law enforcement officials and amounts to cruel, inhuman or degrading treatment or punishment." Any use of force by law enforcement officials shall comply with the principles of legality, precaution, necessity, proportionality, non-discrimination and accountability. The use of potentially lethal force for law enforcement purposes is an extreme measure, which should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat. Even less lethal weapons must be employed only when they are subject to strict requirements of necessity and proportionality, in situations in which other less harmful measures have proven to be or are clearly ineffective to address the threat.

The Human Rights Committee preventive measures include the adoption of "appropriate legislation controlling the use of lethal force by law enforcement officials, procedures designed to ensure that law enforcement actions are adequately planned in a manner consistent with the need to minimize the risk they pose to human life, mandatory reporting, review, and investigation of lethal incidents and other life-threatening incidents, and the supplying of forces responsible for crowd control with

effective "less-lethal" means and adequate protective equipment in order to obviate their need to resort to lethal force.", CCPR/C/GC/36 para. 13

Governments should, in line with principle 2 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, equip law enforcement officials with a broad range of weapons and ammunition that would allow for a differentiated use of force. Less-lethal weapons, for instance, would allow officials to apply varying degrees of force in situations where it would be unlawful to use firearms loaded with lethal ammunition. At the same time, however, less-lethal weapons can easily be misused or abused. In this regard, we therefore wish to refer your Excellency's Government to the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement<sup>1</sup> issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR) aimed at ensuring that only appropriate force is used, if force is to be used at all. According to the Guidance training law enforcement officials, equipping them with adequate protective equipment and an appropriate range of less-lethal weapons, and making these officials available are essential precautionary measures if unnecessary or excessive harm is to be prevented. Furthermore, law enforcement policies, instructions and operations must give special consideration to those who are particularly vulnerable to the harmful consequences of the use of force in general and to the effects of specific less lethal weapons; such persons include children, pregnant women, the elderly, persons with disabilities, persons with mental health problems and persons under the influence of drugs or alcohol.

Where death or injury is caused by the use of a less-lethal weapon or related equipment by a law enforcement official, the incident shall be reported promptly to the official's superiors. This obligation also applies to any private security company undertaking law enforcement activities. All deaths and injuries resulting from the use of less-lethal weapons or related equipment — and not only where they result from an apparently or potentially unlawful use of force — should be reported without delay to a judicial or other competent authority. This independent authority shall be mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases.

We would like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, endorsed also by the Human Rights Committee, which provides that, "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms", and the Code of Conduct for Law Enforcement Officials, ensuring protesters right to peaceful assembly and without resorting to excessive use of force.

We would also like to refer to the Joint compilation of practical recommendations for the proper management of assemblies of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/31/66, in which was stated that: "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

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<sup>1</sup> [https://www.ohchr.org/Documents/HRBodies/CCPR/LLW\\_Guidance.pdf](https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf)

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. The proportionality requirement sets a ceiling on the use of force based on the threat posed by the person targeted. This is a value judgement that balances harm and benefit, demanding that the harm that might result from the use of force is proportionate and justifiable in relation to the expected benefit” (paras. 57 and 58). Firearms may be used only against an imminent threat either to protect life or to prevent life-threatening injuries (making the use of force proportionate). In addition, there must be no other feasible option, such as capture or the use of non-lethal force to address the threat to life (making the force necessary) (para. 59). Firearms should never be used simply to disperse an assembly; indiscriminate firing into a crowd is always unlawful (para 60).

We wish to stress that the right to life is a foundational and universally recognized right, applicable at all times and in all circumstances, including during armed conflict or other public emergencies. Accordingly, the use of force by law enforcement officials, including firearms, must always be governed in compliance with international obligations. Even under a state of emergency, when law enforcement agencies resort to force, they must continue to abide by the principles of necessity, proportionality and precaution<sup>2</sup>.

With regards to security of person in Article 9(1) of the Covenant, this right concerns freedom from injury to the body and the mind, or bodily and mental integrity regardless of whether the victim is detained or non-detained (CCPR/C/GC/35, para. 3 and 9). As interpreted by the Committee, “the right to personal security also obliges States parties to take appropriate measures (...) to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. States parties must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury”. Furthermore, we would like to recall that “States have a duty to prevent and redress unjustifiable use of force in law enforcement” (CCPR/C/GC/35, para. 9).

We would like to bring to the attention of your Excellency’s Government General Comment 37 of the Human Rights Committee, which recognizes that the right to peaceful assembly “constitutes the very foundation of a system of participatory governance based on democracy, human rights, the rule of law and pluralism. [W]here they are used to air grievances, peaceful assemblies may create opportunities for inclusive, participatory and peaceful resolution of differences.” (CCPR/C/GC/37, para 1). In this regard, the Human Rights Council has stressed “that peaceful protests should not be viewed as a threat, and therefore encouraging all States to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their causes.” (A/HRC/RES/44/20).

We remind your Excellency’s Government that the right of peaceful assembly can only be subject to certain restrictions, which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety,

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<sup>2</sup> Special Rapporteur on extrajudicial, arbitrary or summary executions, Human Rights Dispatch No. 1: Police use of force and lethal force in a state of emergency:  
<https://www.ohchr.org/EN/Issues/Executions/Pages/HumanRightsDispatches.aspx>

public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others” (Human Rights Council Resolution 15/21). While the “interests of national security” may serve as a ground for restrictions, the suppression of the right of peaceful assembly cannot be used to justify restrictions on this ground (CCPR/C/GC/37, para 42).

We would also like to recall that during a state of emergency, the rights to freedom of peaceful assembly and of association shall not be derogated since the possibility of restricting the right under article 21 of the Covenant is generally sufficient during such situations and no derogation from the provisions in question would be justified by the exigencies of the situation (A/HRC/20/27, para 19). The Human Rights Committee has emphasized that emergency measures “must be able to justify not only that such a situation constitutes a threat to the life of the nation, but also that all measures derogating from their obligations under the Covenant are strictly required by the exigencies of the situation and comply with the conditions in article 4.” (CCPR/C/GC/37, para 96).

We would like to draw your attention to the ten key principles developed by the Special Rapporteur on the freedoms of peaceful assembly and of association, in which he reminded the States of the necessity of responding to the COVID-19 pandemic in a manner compliant with their human rights obligations<sup>3</sup>. The second principle on “ensuring that the public health emergency is not used as a pretext for rights infringements” stipulates that “It is imperative the crisis not be used as a pretext to suppress rights in general or the rights to freedom of peaceful assembly and of association in particular. The crisis is no justification for excessive force to be used when dispersing assemblies, as the Special Rapporteur on extrajudicial, summary or arbitrary executions has emphasized, nor for disproportionate penalties to be imposed. States have an obligation to inform the Secretary General of the United Nations if and when a state of emergency has been declared and of any resulting derogation of rights, which must themselves be in compliance with the Siracusa Principles...It is particularly important in the context of a crisis moreover that judicial and parliamentary checks and balances be strengthened, in order to avoid excessive and broad power in the executive branch, and to ensure a check on the arbitrary exercise of executive authority”.

With regard to the rights of the media during elections, we would first like to underscore that the media plays a critical role in promoting pluralism, “framing electoral issues, informing the electorate about the main developments, and communicating the platforms, policies and promises of parties and candidates” (Joint Statement from the Special Rapporteurs on freedom of expression).<sup>4</sup> In its General Comment 34, the Human Rights Committee raised concerns at “restrictions on political discourse [such as] the prohibition of door-to-door canvassing, restrictions on the number and type of written materials that may be distributed during election campaigns, blocking access during election periods to sources, including local and international media, of political commentary, and limiting access of opposition parties and politicians to media outlets” (para. 37). The Human Rights Committee further observed that “undue media dominance or concentration by privately controlled media groups”, may be “harmful to the diversity of sources and views” in public discourse. Accordingly, the Committee underscored the duty of States to protect the diversity of media sources and

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<sup>3</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E>

<sup>4</sup> <http://portal.oas.org/en/iachr/expression/showarticle.asp?artID=744&IID=1>

prevent “monopolistic situations” is critical to the dissemination of opposing viewpoints during elections and creating a media environment that is conducive to informed decision making (General Comment no. 34, para. 40).

In a recent Joint Statement from the Special Rapporteurs on freedom of expression<sup>5</sup>, mandate holders “deplor[ed] restrictions on the ability of the public to access the Internet, including complete or partial shutdowns, which seriously limit the ability of media, parties, candidates and others to communicate with the public, as well as the ability of members of the public to access information”. They emphasized that “State actors should never use their positions or power to undertake measures with a view to unduly influencing media reporting, including on elections, whether direct measures, such as through licensing of the media or exercising control over public media or media regulators, or indirect measures, such as by limiting access to newsprint, radio frequencies or the ability of media outlets to distribute their products freely throughout the country”. This call is in line with Human Rights Council’s resolution 32/13 which “condemn[ed] unequivocally measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and call[ed] upon all States to refrain from and cease such measures”.

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<sup>5</sup> [https://www.ohchr.org/Documents/Issues/Opinion/JointDeclarationDigitalAge\\_30April2020\\_EN.pdf](https://www.ohchr.org/Documents/Issues/Opinion/JointDeclarationDigitalAge_30April2020_EN.pdf)