

**Mandates of the Special Rapporteur on the independence of judges and lawyers; 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 promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: AL CHN 16/2023  
(Please use this reference in your reply)

31 August 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers; 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 promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 53/12, 52/9, 50/17 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the implementation of the National Security Legislation (NSL) in the Hong Kong Special Administrative Region (SAR), specifically in the 6 February 2023 start of the first trial of 47 individuals accused of crimes under the NSL; as well as the issuance of arrest warrants by the Hong Kong SAR's National Security Police for seven individuals, all self-exiled, for crimes under the NSL, reportedly for acts that, *inter alia*, occurred outside Hong Kong SAR's territory.

The defendants in the First National Security Law trial are 47 individuals - including former elected legislators, activists, social workers, academics, trade unionists, and journalists – who organised and stood for election in unofficial primaries in July 2020.

The individuals for whom arrest warrants were issued:

- Ted Hui (HUI Chi-fung) is a former lawmaker. He represented the Chung Wan constituency in the Central and Western District Council, and was the Legislative Councillor for the Hong Kong Island constituency.
- Anna Kwok (KWOK Fung-yee) is a human rights activist and the Executive Director of Hong Kong Democracy Council (HKDC). HKDC is a Washington, DC-based nonpartisan, non-governmental organization.
- Dennis Kwok (KWOK Wing-hang) is a barrister and former lawmaker. He was a member of the Hong Kong SAR Legislative Council from 2012 to 2020 and founding member of Civic Party.

- Finn Lau (LAU Cho-dik) is a political activist from Hong Kong known for popularising a protesting strategy coined "Lam Chau" and being the founder of two organisations, Hong Kong Liberty and Stand with Hong Kong.
- Nathan Law (LAW Kwun-chung) is a former lawmaker and activist from Hong Kong SAR. As a former student leader, he has been chairman of the Representative Council of the Lingnan University Students' Union (LUSU), acting president of the LUSU, and secretary-general of the Hong Kong Federation of Students.
- Christopher Mung (MUNG Siu-tat) is a labour unionist and Executive Director of the Hong Kong Confederation of Trade Unions (HKCTU). HKCTU was a pro-democracy labour and political group in the Hong Kong SAR.
- Kevin Yam (YAM Kevin) is a lawyer in financial regulatory and commercial litigation, and a rule of law and democracy activist.

The potential human rights impact of the implementation of the National Security Law (NSL) have been previously addressed by Special Procedures mandate-holders in communications sent on 23 April 2020 (CHN 7/2020), 19 June 2020 (CHN 13/2020) and on 14 February 2022 (CHN 3/2022). Furthermore, in CHN 3/2022 the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism outlined that the ICCPR is applicable to the Hong Kong SAR to law enforcement and judicial activity carried out under the National Security Law and applies to its implementation. We thank Your Excellency's Government for the reply received to CHN 7/2020 and CHN 3/2022. We take the opportunity to highlight that the Special Rapporteur on the independence of judges and lawyers also provided comments to the NSL on 19 April 2023 (OL CHN 2/2023). We thank you for the reply received in June 2023. We would also like to further refer your Excellency's Government to the Concluding Observations from the Human Rights Committee dated 11 November 2022.<sup>1</sup>

However, these recent allegations raise new, pressing concerns about the implementation of the NSL.

According to the information received:

*First mass trial under the NSL*

Reports indicate that Hong Kong SAR authorities have made at least 100 arrests under the National Security Legislation (NSL) since it became law on 1 July 2020. The largest set of prosecutions began in January and February 2021 with the arrest of 47 pro-democracy leaders ranging in age from 23 to 64 years old. They were initially arrested on 6 January 2021, and summoned to the police station on 28 February 2021, where they were detained ahead of their bail

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<sup>1</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCHN-HKG%2FCO%2F4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FCHN-HKG%2FCO%2F4&Lang=en)

hearing. The group of 47 Hong Kong SAR nationals was jointly charged in March 2021 with "conspiracy to commit subversion" for organising an unofficial primary in 2021 to select opposition candidates for legislative elections.

On 6 February 2023, the trial began on case HCCC 69/2022; the trial is ongoing<sup>2</sup>. This is the largest prosecution under the NSL.

The trial is expected to last until the end of 2023.

### *Criminal charges, arrest warrants and reward offered under the NSL*

The NSL includes a provision extending its application extraterritorially. In addition to the ongoing use of the NSL against pro-democracy leaders in Hong Kong SAR, information further suggests that the crackdown targets individuals not residing in Hong Kong SAR.

On 3 July 2023, the Hong Kong SAR National Security Department issued arrest warrants for seven people. At the same time, HK\$ 1million rewards were offered for information leading to the arrest of each individual. The arrest warrants state the following:

- Mr. Hui is accused of “Incitement to secession”, “Incitement to subversion”, and “Collusion with a foreign country or with external elements to endanger national security”; for the following alleged actions: “Since March 2021, HUI Chi-fung, jointly with others, has initiated the “2021 Hong Kong Charter” and repeatedly advocated “Taiwan independence”, “Hong Kong independence” and the overthrow of the basic system of the PRC established by the Constitution of the PRC through social media platforms. Between January 2021 and December 2022, HUI published posts on social media to request foreign countries to impose “sanctions” and engage in other hostile activities against the PRC and the HKSAR”<sup>3</sup>.
- Ms. Kwok is accused of “Collusion with a foreign country or with external elements to endanger national security” for the following alleged actions: “Between September 2021 and February 2022, KWOK Fung-yee attended meetings and campaigns in foreign countries in the capacity of a core member of the “Hong Kong Democracy Council” and met foreign politicians and government officials to request imposing “sanctions” and blockade, and engaging in other hostile activities against the People’s Republic of China (“PRC”) and the HKSAR”<sup>4</sup>.
- Mr. Kwok is accused of “Collusion with a foreign country or with external elements to endanger national security” for the following alleged actions: “In September 2021, KWOK Wing-hang wrote in a report published by an organisation outside Hong Kong to voice his

<sup>2</sup> [https://e-services.judiciary.hk/hr\\_enq/HC\\_hr\\_results.jsp?lang=EN](https://e-services.judiciary.hk/hr_enq/HC_hr_results.jsp?lang=EN)

<sup>3</sup> [https://www.police.gov.hk/ppp\\_en/06\\_appeals\\_public/nsc/detail.html?id=20230005](https://www.police.gov.hk/ppp_en/06_appeals_public/nsc/detail.html?id=20230005)

<sup>4</sup> [https://www.police.gov.hk/ppp\\_en/06\\_appeals\\_public/nsc/detail.html?id=20230003](https://www.police.gov.hk/ppp_en/06_appeals_public/nsc/detail.html?id=20230003)

support for a series of “policy recommendations” in the report that requested governments across the globe to impose “sanctions” and blockade, and engage in other hostile activities against the PRC and the HKSAR. In December 2022, in a meeting held by an organisation outside Hong Kong, KWOK also appealed for imposing financial sanctions and engaging in other hostile activities against the HKSAR”<sup>5</sup>.

- Mr. Lau is accused of “Collusion with a foreign country or with external elements to endanger national security” for the following alleged actions: “Between July 2020 and June 2021, through various kinds of platforms and establishing the “Hong Kong Liberty”, LAU Cho-dik continuously requested foreign countries to impose “sanctions” or blockade or engage in other hostile activities against the PRC and the HKSAR”<sup>6</sup>.
- Mr. Law is accused of “Incitement to secession” and “Collusion with a foreign country or with external elements to endanger national security” for the following alleged actions: “Between July 2020 and November 2022, LAW Kwun-chung, through various means including attending hearings, meeting foreign politicians, participating in media interviews, issuing open letters, taking part in petitions and publishing posts or videos on social media, advocated separating the HKSAR from the PRC and requested foreign countries to impose “sanctions” or blockade, or engage in other hostile activities against the PRC and the HKSAR”<sup>7</sup>.
- Mr. Mung is accused of “Incitement to secession” for the following alleged actions: “In June 2022, in a conference held by an organisation outside Hong Kong, MUNG Siu-tat smeared the Central Authorities and the HKSAR Government and advocated separating the HKSAR from the PRC”<sup>8</sup>.
- Mr. Yam is accused of “Collusion with a foreign country or with external elements to endanger national security”, for the following alleged actions: “In November and December 2022, YAM Kevin met foreign government officials to instigate “sanctions” to be imposed by foreign countries against officials of the Hong Kong Special Administrative Region (“HKSAR”) Government. In May 2023, in a hearing held by a foreign official organisation, YAM also requested foreign countries to impose “sanctions” against members of the Judiciary and prosecutors of the HKSAR”<sup>9</sup>.

The crime of “incitement” carries 10 years in prison while the offences of “collusion” and “subversion” carry a maximum sentence of life in prison. All those for whom arrest warrants were issued are reportedly living abroad. The Experts note that in our evaluation of the NSA of 23 April 2020 (CHN 17/2020),

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<sup>5</sup> [https://www.police.gov.hk/ppp\\_en/06\\_appeals\\_public/nsc/detail.html?id=20230004](https://www.police.gov.hk/ppp_en/06_appeals_public/nsc/detail.html?id=20230004)

<sup>6</sup> [https://www.police.gov.hk/ppp\\_en/06\\_appeals\\_public/nsc/detail.html?id=20230007](https://www.police.gov.hk/ppp_en/06_appeals_public/nsc/detail.html?id=20230007)

<sup>7</sup> [https://www.police.gov.hk/ppp\\_en/06\\_appeals\\_public/nsc/detail.html?id=20230008](https://www.police.gov.hk/ppp_en/06_appeals_public/nsc/detail.html?id=20230008)

<sup>8</sup> [https://www.police.gov.hk/ppp\\_en/06\\_appeals\\_public/nsc/detail.html?id=20230006](https://www.police.gov.hk/ppp_en/06_appeals_public/nsc/detail.html?id=20230006)

<sup>9</sup> [https://www.police.gov.hk/ppp\\_en/06\\_appeals\\_public/nsc/detail.html?id=20230001](https://www.police.gov.hk/ppp_en/06_appeals_public/nsc/detail.html?id=20230001)

that the various provisions of the law appeared interchangeable and that the categories of offences defined therein raised grave concerns as regards the principle of legal certainty.

All of the charges against the 47 defendants in the mass trial and those against whom arrest warrants were issued relate to activities protected under international human rights law, including the rights to freedom of expression, freedom of peaceful assembly and association, as well as the right to engage freely in the legal profession.

In a letter to *The Wall Street Journal* dated 4 July 2023, the Secretary for Security for Hong Kong SAR, asserted that the Government's actions are in line with the practice of numerous States that have applied national security laws extraterritorially.

The Chief Superintendent of the National Security Department of the Hong Kong Police Force, has acknowledged that the Force would not be able to arrest the charged individuals if they did not return to Hong Kong SAR, but maintained that the arrest warrants would be useful for future law enforcement actions. The Government has stated that the purpose of offering reward notices was to allow the Hong Kong SAR authorities to determine the whereabouts of the charged individuals and be prepared to make "effective arrests" in case they return one day.

The National Security Department of the Hong Kong Police Force said that the seven persons for whom arrest warrants were issued should come forward and surrender, saying the courts may consider imposing a lighter penalty if they did so. Officials in the Hong Kong SAR indicated that they will also be investigating contacts and sources of financial support to the wanted individuals, both in Hong Kong and overseas.

The Senior Superintendent of the National Security Department of the Hong Kong Police Force said the Force would take "necessary and effective measures" to cut off the chain of funding to the activists, tracking down contacts of the wanted individuals in Hong Kong and overseas, as well as investigating the sources of their funding. He also reportedly said "I want to remind everyone that assisting, instigating and using money or other properties to fund others in committing offences endangering national security also amounts to breaching the law".

#### *Complaints of professional misconduct*

On 7 July 2023, the Secretary for Justice of the Hong Kong SAR lodged complaints of professional misconduct against barrister Dennis Kwok and lawyer Kevin Yam with the Hong Kong Bar Association and the Law Society of Hong Kong.

The Secretary for Justice stated that the lawyers "...[M]ade use of their professional capacity as a Hong Kong barrister and a Hong Kong solicitor to lend perceived credibility and authority to their smearing of Hong Kong's

judicial system and rule of law, and made slanderous remarks against Hong Kong judges and prosecutors. They advocated and supported foreign ‘sanctions’ against China and [the Hong Kong SAR], in particular judicial officers and prosecutors of the HKSAR... These acts have undermined the judicial system and overall interests of the HKSAR.”

He also alleged that “Mr. Kwok called for undermining Hong Kong’s financial system and attempted to interfere with the judges’ hearing of national security cases in accordance with the law.”

He argued that the acts of Mr. Kwok and Mr Yam “bring the profession into disrepute and undermine public confidence in the HKSAR’s judicial system and rule of law”.

While we do not wish to prejudge the accuracy of these allegations, we would like to recall the concerns that mandate-holders have expressed before about how the NSL may affect the guarantees of due process provided for in the right to a fair trial and for this reason, we write now to express our consternation at the charging of these 7 individuals, who appear to stand accused under the NSL for activities that are protected by international human rights law, and the inception of the mass trial, which raises serious due process concerns of its own.

The right to a fair trial is a key element of human rights protection and serves as a procedural means to safeguard the rule of law. International human rights standards, for example those included in article 14 of the Covenant on Civil and Political Rights, aim at ensuring the proper administration of justice, and to this end guarantee a series of specific rights. We wish to reiterate that the guarantees of fair trial may never be circumvented through reference to national security concerns.

In its general comment 32 (2007) on article 14, the Human Rights Committee stressed that States must respect the guarantees contained in article 14, regardless of their legal traditions and their domestic law (CCPR/C/GC/32, para. 4).

For this case in particular, we are concerned about the use of mass trials and how they may negatively affect the safeguards described above, which are in place to ensure due process and the right to fair trial. By not allowing cases to be considered individually, and by eroding the ability of defendants to have the necessary preparation, access to counsel of their choice, and provision of resources, mass trials weaken equality of arms and the right to fair trial of the accused.

We are particularly concerned about the nature of the charges for which these individuals were indicted and reiterate our concerns expressed in communication CHN 17/2020 in relation to these national security-related provisions, which, in our view, raise questions of legality and undue limitation of freedom of expression, as well as negative human rights implications for the Hong Kong SAR, including through the chilling effect on individuals and civil society. We reiterate that any restriction on expression or information that a government seeks to justify on grounds of national security must have a genuine purpose and demonstrable effect of protecting a legitimate national security interest (CCPR/C/GC/34). Furthermore, national security legislation with criminal sanctions should never be misused against those exercising their rights to

freedom of expression and association and of peaceful assembly, nor to deprive such persons of their personal liberty through arrest and detention.

We also express our grave concern about the arrest warrants issued against the individuals living abroad, which appear to be aimed at criminalizing their human rights and political activism for human rights in Hong Kong SAR. The charges appear to seek to punish statements allegedly made by each individual criticizing the Chinese government's policies in Hong Kong SAR, as well as their activities in support of democracy in Hong Kong SAR. Further, many of the specific actions discussed in the arrest warrants occurred in States outside of Hong Kong SAR or China. While Government officials appear to rely on the practice of other States in justifying the extraterritorial reach of the NSL, this application of such law appears to be aimed at punishing speech and actions advocating for human rights and democracy, not at criminal acts involving acts or planned acts of terrorism.

We are also concerned at the threatening language used for those who participate in crowdfunding campaigns in support of lawyers, human rights defenders and democracy activists and the chilling effect it may have on civic space in and related to Hong Kong SAR.

Political expression is permissible speech under article 19 of the ICCPR, which remains in force in Hong Kong SAR, as referred to in the Annex below. These arrest warrants are not only a direct undue restriction to their freedom of expression in Hong Kong SAR, but they are also likely to have broader negative implications on human rights in Hong Kong SAR, inter alia through their likely chilling effect on other individuals who wish to express themselves, demonstrate peacefully, and participate in public and political life in or related to Hong Kong SAR.

The lodging of complaints of professional misconduct against barrister Dennis Kwok and lawyer Kevin Yam appear to be aimed at preventing them from exercising their profession without intimidation, hindrance, harassment, or improper interference, in violation of principle 16 of the Basic Principles on the Role of Lawyers. Principle 16 also makes clear that lawyers "shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics." Principle 23 makes clear that lawyers, like other citizens, are entitled to freedoms of expression, peaceful assembly, and association, and have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights. Expression of political opinion is plainly in line with recognized professional duties, and it should not be punished by criminal sanctions. The free exercise of the legal profession contributes to ensuring access to justice, oversight of state power, protection of due process and judicial guarantees.

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 comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information about the current trial of 47 individuals accused under the NSL, and explain the measures undertaken to ensure due process guarantees in this trial, in line with international human rights standards.
3. Please clarify the factual and legal grounds for the arrest warrant issued against these seven individuals, including how these grounds comply with the legality, necessity and proportionality standards set out in article 19(3) of the ICCPR.
4. Please clarify how your Excellency's Government ensures that the implementation of the National Security Law in and outside of Hong Kong SAR respects its own article 4 and international human rights norms and standards.
5. Please provide information about measures taken to ensure that lawyers, civil society actors and human rights defenders in and outside of Hong Kong SAR, can carry out their professional activities in line with international human rights standards and in a safe and enabling environment without fear of harassment, criminalisation, or acts of intimidation of any kind.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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 may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

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

Margaret Satterthwaite  
Special Rapporteur on the independence of judges and lawyers

Irene Khan

Special Rapporteur on the promotion and protection of the right to freedom of opinion  
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Clement Nyaletsossi Voule

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freedoms while countering terrorism

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we wish to recall that applicable international human rights law and standards remain in force in the Hong Kong Special Administrative Region of the People's Republic of China in accordance with Section XI of Annex I of the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong and article 39 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

Article 39 of the Basic Law of the Hong Kong Special Administrative Region holds that 'The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region.' It further holds that 'The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this article'.

We also recall that article 4 of the National Security Law states that "Human rights shall be respected and protected in safeguarding national security in the Hong Kong Special Administrative Region [...] including the freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration".

In connection with the above, we would like to refer your Excellency's Government to articles 6(1), 14, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), and articles 19 and 20 of the Universal Declaration of Human Rights (UDHR) which provides that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. [...] Everyone has the right to freedom of peaceful assembly and association."

In addition, we wish to bring to the attention of your Excellency's Government the right to an effective remedy established by article 2.3(a) of the ICCPR and article 14 of the ICCPR, which enshrines the right to a fair trial and due process. In particular, article 14(1) of the ICCPR sets out a general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent, and impartial tribunal established by law. As emphasized by the Human Rights Committee in general comment no. 32 (CCPR/C/GC/32), all trials in criminal matters must in principle be conducted orally and publicly (paragraph 28). (Id.). Article 14(3) of the ICCPR also guarantees the right of any individual charged with a criminal offence to have adequate time and facilities for the preparation of their defence, to communicate with counsel of their own choosing, to be tried without undue delay, to defend themselves through legal assistance of their own choosing, and not to be compelled to testify against themselves or to confess guilt.

We would like to recall that article 19 of the ICCPR guarantees the right to opinion and expression. In its general comment 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of opinion and expression, including inter alia ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’, subject only to admissible restrictions as well as the prohibition of propaganda for war and advocacy of national, racial or religious hatred that constitutes incitement to hostility, violence or discrimination.

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. In this connection, the Human Rights Committee in general comment 34 has held that “under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19”.

We would also like to note that under article 21 the ICCPR, the right to freedom of peaceful assembly should be enjoyed by everyone, as provided for by article 2 of the Covenant and resolutions 15/21, 21/16 and 24/5 of the Human Rights Council. In its resolution 24/5, the Council reminded States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs and human rights defenders (A/HRC/26/29, para. 22.). We also recall that article 22 of the ICCPR protects the right to freedom of association, under which everyone has the right to associate with others and pursue common interests. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly, and these rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose recognized by international standards and are necessary and proportionate for achieving that purpose.

We would also like to refer your Excellency’s Government to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana (Cuba), 27 August-7 September 1990).

Principle 16 requires governments to take all appropriate measures to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and to prevent lawyers from being threatened with prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Principle 23 stipulates that lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful

organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

We would like to remind your Excellency's Government that, in its resolutions, A/HRC/RES/25/18, A/HRC/RES/27/31, A/HRC/RES/32/31 and A/HRC/RES/34/5, the Human Rights Council noted with grave concern that "in some instances, national security and counterterrorism legislation and other measures ... have been misused to target human rights defenders or have hindered their work and endangered their safety in a manner contrary to international law".

In this regard, we would like to bring to the attention of your Excellency's Government that in his report to the General Assembly on the impact of counterterrorism measures on civil society, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, so as to prevent the possibility that it may be used to target civil society on political or other unjustified grounds (A/70/371, para 46(c)).

In its general comment no. 35 on the Right to Liberty and Security of Person, the Human Rights Committee recalled that when national security functions as a legal basis for criminal sanction it must, meet the requirements of precision and clarity under the ICCPR (article 9(1)), be expressly linked to a defined set of criminal acts and not criminalize acts and entitlements which are lawful under international law (CCPR/C/GC/35).

We would also like to stress that national security and/or counter-terrorism legislation with penal sanctions should never be misused against individuals exercising their rights to freedom of expression and freedom of association and of peaceful assembly, and should not be misused to deprive such individuals of their personal liberty through arrests and detention. These rights are protected under ICCPR and the application of criminal law to the non-violent exercise of these rights would for most purposes be contrary to the Covenant. Counter-terrorism and/or security legislation cannot be used as an excuse to suppress peaceful groups and their members, nor can it have the chilling effect of suppressing the legitimate exercise of their rights. National security legislation cannot be used to hinder the work and safety of individuals, groups, and organs of society engaged in promoting and defending human rights (A/HRC/RES/22/6, para. 10).

We also bring your Excellency's Government attention to the "principle of legal certainty" under article 15(1) of the ICCPR, which requires that criminal laws are sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence. This principle recognizes and seeks to prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse and may lead to arbitrary deprivation of liberty.