

**Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; 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; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on minority issues; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; the Special Rapporteur on the right to privacy and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: AL ISR 6/2024  
(Please use this reference in your reply)

18 April 2024

Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; 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; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on minority issues; Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; Special Rapporteur on the right to privacy and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 53/3, 52/9, 50/17, 53/12, 52/5, 1993/2A, 46/16 and 49/10.

We would like to bring to your attention information we have received concerning a **number of alleged human rights violations in Israel and the occupied Palestinian territory since 7 October 2023, including increased criminalization, surveillance, harassment and attacks against individuals who are peacefully expressing dissent or advocating for Palestinian rights on social media. The proliferation of hate speech, incitement to violence, disinformation, and bias and systematic censorship of Palestinian and pro-Palestinian human rights voices and content related to Palestine are allegedly also on the rise on social media platforms including Meta, X, Google (headquartered in the United States of America), and Telegram (headquartered in the United Arab Emirates).**

Letters expressing related concerns were sent to your Excellency's Government on 22 November 2023 (ISR 9/2023), 9 August 2023 (ISR 6/2023), 5 May 2022 (ISR 6/2022), 3 August 2021 (ISR 6/2021), 2 July 2021 (ISR 5/2021), and 27 May 2021 (ISR 3/2021). We regret that, in each instance, we did not receive a response from your Excellency's Government.

According to the information received:

*Criminalization and political repression*

Online harassment and targeting of Palestinians for their social media activity, particularly Palestinian citizens of Israel and residents of East Jerusalem, has surged since 7 October 2023. As of 7 November 2023, Israeli authorities have arrested and detained over 250 Palestinians for their social media posts and

activity, usually in circumstances where there is no reasonable basis for suspecting them of genuinely inciting terrorist violence. Individuals expressing dissent or advocating for Palestinian rights may face arbitrary detention without clear charges or may have their professional or academic careers negatively impacted. Many Palestinians have also been charged with vague and overly broad offences of “incitement to terrorism” or “identifying with a terrorist organization” under the 2016 Struggle against Terrorism Law, “consumption of terrorist materials” under article 24 of the Counter-terrorism Law, or have been submitted to administrative detention.

According to the information received, there have been more than 90 cases where Palestinians were suspended or terminated from their workplaces due to their social media posts or other expressions. Additionally, at least 113 Palestinian students from 33 Israeli academic institutions have lodged complaints regarding disciplinary procedures initiated against them as part of a crackdown on free speech since 7 October.

Further, reports of arbitrary and unjustifiable forced phone inspections without reasonable suspicion by Israeli forces in East Jerusalem and at military checkpoints in the occupied West Bank have risen since 7 October, leading to arbitrary arrests and violence against Palestinians expressing solidarity with Palestinians in occupied Gaza or documenting human rights violations.

In an interview with the Washington Post on 12 November, the head of security at the State Attorney’s Office Shlomi Abramson stated that, “one publication, even a status or a story that is deleted after 24 hours, is enough for us to open an investigation and prosecute in the appropriate cases.”

### *Disproportionate censorship of Palestinian voices and content in Palestine*

Israel’s Cyber Unit at the State Attorney’s Office has submitted more than 21,000 requests to social media companies to remove “inciting terrorist content”,<sup>1</sup> seemingly based on vague and over-broad concepts of “incitement” and “terrorist content”. According to the Cyber Unit’s statement, Meta and TikTok have complied with over 92% of the submitted requests, and content was removed. There have also been volunteer-led initiatives allegedly working with the Cyber Unit to report content to social media companies. In fact, according to a leaked memo from Facebook in 2021, Israel was the top country in the world to report content under the company’s rules for terrorism and came third in flagging content under the company’s rules on violence and hate speech.

According to the information received, social media companies, in applying their policies and procedures for moderating online content, have been complicit in these violations, including by facilitating disproportionate censorship of Palestinian voices and content on Palestine. For instance, Meta’s internal documents acknowledged that the company had lowered the level of certainty its algorithmic censorship system needed to remove Arabic posts from 80 percent confidence that the post broke the rules, to 25 percent. In other

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<sup>1</sup> <https://www.gov.il/en/departments/news/news-26-11>

words, Meta was less sure that the Arabic posts it was suppressing or deleting actually contained policy violations. Further, they indicated that the Hebrew hostile speech classifiers were not as effective as they should be, because they didn't have enough data for the system to function adequately.

*Dissemination of hate speech, incitement to violence and the dehumanization of Palestinians*

While hate speech against Israelis, Jews and antisemitism are also strongly on the rise, social media platforms appear to have a biased and discriminatory approach when it comes to protecting Palestinians against hate speech. We have received reports that content relating to hate speech, incitement to violence, dehumanization and calls for genocide against Palestinians remains uncensored and prominent on social media platforms.

According to the information received, the Israeli Foreign Ministry has spent over \$1.5 million on internet ads to disseminate war propaganda online, including on social media platforms, since 7 October 2023. These ads, which can contain graphic information, have reportedly been streamed by children. Further, images of mutilated and burned corpses—alongside videos of armed attacks by Israeli soldiers—billed as ‘exclusive content from the Gaza Strip’, are reportedly circulated in Israel via a Telegram channel allegedly run by the Israeli military. On 9 October, the Israeli Defense Minister, in an update uploaded on Google’s YouTube, referred to Palestinians as ‘human animals’. On 11 October, the Israeli army reportedly used X to broadcast a speech inciting soldiers to genocide. The paid advertising sponsored by the Israeli Foreign Ministry could have adverse impacts, appearing to justify violence and hatred against Palestinians and their collective punishment.

According to the information received, social media companies have failed to take sufficient measures to combat the dissemination of hate speech and incitement to violence against Palestinians. For example, Telegram hosts several Hebrew-language channels with thousands or hundreds of thousands of subscribers which actively incite violence against Palestinian individuals, share and celebrate graphic content from occupied Gaza, propagate widespread hate and dehumanizing speech. On X, hate speech and incitement to violence has soared, with 99.4% of the hate speech and violent Hebrew-language content detected by 7amleh’s “Violence Indicator” being posted on the platform. Further, Google’s YouTube broadcasted advertising sponsored by the Israeli Foreign Ministry that could be considered incitement to violence. At some point, there were 75 different ads released, many of which contained particularly graphic material, or were directed at children.

Without prejudging the accuracy of these allegations, we express our deep concern that the criminalization and repression of Palestinian citizens in Israel, the discriminatory, disproportionate and unjustified censorship of Palestinian voices, and the dissemination of hate speech, incitement to violence and the dehumanisation of Palestinians, all infringe and chill the lawful exercise of freedoms of expression and political participation. These actions not only affect activists and human rights defenders, but also impede journalists’ ability to report effectively. We respectfully

remind your Excellency's Government of the need to maintain an open and inclusive dialogue with individuals and groups wishing to express their views and dissenting opinions, particularly regarding situations that directly affect them.

We would like to underscore that any restriction on expression or on information that a government seeks to justify on grounds of national security must have a genuine purpose and demonstrable effect of protecting national security interests (CCPR/C/GC/34). The applicable law must further satisfy the principle of legality, which requires that criminal laws are sufficiently precise so it is clear in advance what types of behaviour and conduct constitute an offence and what would be the consequence of committing such an offence. This requirement recognizes that ill-defined and/or overly broad laws are inherently susceptible to arbitrary application and abuse, including discrimination; and cannot serve as a lawful basis for necessary or proportionate restrictions on rights or freedoms (A/HRC/43/46, para. 15). In this respect we express once again our concern about the vagueness and overbreadth of the notions such as "consumption of terrorist material", "incitement to terrorism" (defined to include praising, expressing sympathy for, or encouraging terrorism) and "identifying with a terrorist organization" under Israeli law (see A/HRC/53/CRP.1 and ISR 9/2023). Even when the law pursues a legitimate aim and is sufficiently clear, the restriction would be unlawful if the law, or its application, amounts to a disproportionate or discriminatory interference with the rights of individuals (CCPR/C/GC/34, para 34).

We call on your Excellency's Government to implement the Rabat Plan of Action threshold test, which sets the right balance between protecting freedom of expression and prohibiting incitement to hatred, based on a case-by-case assessment of the context, speaker, intent, content, extent of dissemination and likelihood of harm. We further recall the 'best practices' on incitement to terrorism of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/16/51, paras 29-32), which recommend that that laws on incitement to terrorism must: (a) be limited to the incitement of conduct that is genuinely terrorist in nature in line with international standards; (b) be strictly necessary and proportionate in pursuit of a legitimate security aim; (c) be clearly defined by law and avoid vague terms such as "glorifying" or "promoting" terrorism; (d) involve an objective risk that the act incited will be committed; (e) require an intent to communicate the message and an intent that the message incite the commission of a terrorist act; (f) preserve legal defences and justifications.

We further note that the Committee on the Elimination of Racial Discrimination in its statement on 23 October 2023 called upon Israel to combat the spread of racist hate speech in the media, on the Internet and in social media, in close cooperation with media outlets, Internet service providers and social media platforms as well as members of groups vulnerable to racist hate speech. On 27 October 2023, the Committee underscored that it was "[h]ighly concerned about the sharp increase in racist hate speech and dehumanization directed at Palestinians since 7 October, particularly on the internet and in social media, including by senior officials, politicians, members of the Parliament, and public figures, particularly the statement of 9 October made by the Israeli Minister of Defense, Yoav Gallant, in which he referred to Palestinians as 'human animals', language which could incite genocidal action". We further urge your Excellency's Government to continue promoting religious pluralism and dismantle

discriminatory structures that propagate negative stereotypes of persons based on religious, racial, gendered, migratory and disability status.

We are particularly concerned that these arrests, detentions, and criminal charges seem to form part of a broader operation to impose undue restrictions on freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, as well as the freedom of peaceful assembly, which not only affect activists and human rights defenders but also hinder journalists' ability to report effectively.

Finally, we wish to highlight A/HRC/55/L.30 on the human rights situation in the occupied Palestinian territory and the obligation to ensure accountability and justice. This resolution includes a call for an end to all ongoing policies of harassment, threats, intimidation and reprisals, detention and expulsion against human rights defenders, journalists, media workers and civil society actors who peacefully advocate for the rights of the Palestinian people, and underscores the need to investigate all such acts and to ensure accountability and effective remedies. The resolution also includes an expression of concern at the spread of disinformation and propaganda, including on the Internet, which can be designed and implemented so as to mislead, to violate human rights, including the right to freedom of expression, to spread hatred, racism, xenophobia, negative stereotyping or stigmatization and to incite violence, discrimination and hostility, and emphasizes the important contribution by journalists in countering this trend. Further, the resolution expresses deep concern at the condition of Palestinian prisoners and detainees, including minors, and at the continued use of administrative detention.

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.

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. In this regard, we would be grateful to have your cooperation and comments on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. In view of the concerns expressed by several Special Procedures mandate holders on the practice of administrative detention, please indicate the manner in which the applicable laws and practices are compatible with Israel's international human rights obligations, including the requirements of necessity, proportionality, non-discrimination, due process, and judicial protection.
3. Please explain how criminal offences such as "consumption of terrorist material", "incitement to terrorism" and "identifying with a terrorist organization" are compatible with the right to freedom of expression, the Rabat Plan of Action and the best practices of the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

4. Please explain what measures have been taken to ensure that all Palestinians in Israel, including human rights defenders and journalists, in particular those working to combat violations against Palestinians, can carry out their peaceful and legitimate activities without fear of judicial harassment, violence, stigmatization, criminalization, discriminatory or disproportionate censorship or other restrictions.
5. Please provide information on any steps that have been taken to maintain an open and inclusive dialogue with individuals and groups wishing to express their views and sometimes dissenting opinions, particularly regarding situations that are directly affecting them.
6. Please provide information on steps that your Excellency's Government has taken, or is considering taking, to prevent and protect individuals and groups subjected to its jurisdiction against human rights abuses, including violations of freedom of expression, by business enterprises, and in particular by the products and services of social media companies, in line with the UN Guiding Principles on business and human rights.
7. Please indicate the steps that your Excellency's Government has taken to combat the spread of racist hate speech in the media, on the Internet and in social media, in cooperation with business enterprises as well as members of groups vulnerable to racist hate speech.
8. Please provide information about any existing mechanisms for victims or other individuals to report on the adverse human rights impacts linked to business activities, and in particular social media companies, and thereby gain access to remedy.

We would appreciate receiving a response within 60 days. After this time, 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 note that letters expressing similar concerns will also be sent to the chief executive officers of the relevant social media companies and the States where they are domiciled.

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

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transnational corporations and other business enterprises

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Francesca Albanese  
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Ana Brian Nougrères  
Special Rapporteur on the right to privacy

Ben Saul  
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freedoms while countering terrorism

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer to the articles 12 and 19 of the Universal Declaration of Human Rights, adopted by the UN General Assembly on 10 December 1948 (UDHR), and articles 17 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, which guarantee the rights to not be subjected to arbitrary or unlawful interference with one's family or home and to freedom of opinion and expression.

We underscore the importance of fully implementing international human rights standards applicable under the ICCPR including ICCPR article 9, protecting against arbitrary arrest and detention, ICCPR article 14, guaranteeing the right to a fair trial, article 19, guaranteeing the right of everyone to freedom of opinion and expression; ICCPR articles 21 and 22, guaranteeing the rights of everyone to peaceful assembly and freedom of association; and ICCPR article 17, protecting against arbitrary or unlawful interference with a person's privacy, reputation, and home.

Furthermore, we wish to refer to article 6 (b) and c) which provide that everyone has the right, individually and in association with others to freely to 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.

In a report to the Human Rights Council (A/HRC/41/41), the Special Rapporteur on freedom of peaceful assembly and of association recalled that the General Assembly has also called upon all States to "ensure that the same rights that individuals have offline, including the rights to freedom of expression, of peaceful assembly and of association, are also fully protected online, in accordance with human rights law". The Special Rapporteur went on to state in the same report that "States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards," and that in the digital age "the positive obligation to facilitate the exercise of the rights to freedom of peaceful assembly and of association includes efforts 'to bridge the digital divides, including the gender digital divide, and to enhance the use of information and communications technology, in order to promote the full enjoyment of human rights for all'. The obligation to protect requires that positive measures be taken to prevent actions by non-State actors, including businesses, that could unduly interfere with the rights to freedom of peaceful assembly and of association."

In addition, the Special Rapporteur on the rights to freedom of peaceful assembly and association has emphasized in various reports the importance of digital technology to exercise the mentioned rights, and in his report on freedom of assembly and association in the digital age, he detailed that those "(...) technologies are important tools for organizers who seek to mobilize a large group of people in a prompt and effective manner, and at little cost, and also serve as online spaces for groups of people

that are marginalized by society and are confronted with restrictions when operating in physical spaces” (A/HRC/41/41 para. 11).

In his recommendations in the abovementioned report, the Special Rapporteur on freedom of peaceful assembly and of association put forward that “States should duly implement their duty to protect against abuses of the rights to freedom of peaceful assembly and of association by business enterprises by taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication. This includes adopting and enforcing laws and policies that focus on creating mandatory requirements for digital technology companies to exercise due diligence to identify, prevent, mitigate and account for how they address any human rights impacts of their business services and products, as well as for robust transparency and remediation mechanisms. These laws should be adopted only after a fully inclusive and participatory consultation process with all stakeholders.”

We also respectfully call the attention of your Excellency’s Government to the rights stipulated under ICESCR, to which your Government is a party, including article 6, which guarantees the right to work, article 15, which recognizes the right of everyone to “take part in cultural life” and protects the freedom indispensable for scientific research and creative activity and article 3, which ensures the equal right of women to enjoy these and other enumerated economic, social, and cultural rights. Article 7 of CEDAW articulates women’s right to equal participation in political and public life, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country. Pursuant to article 2 of the ICCPR, ICESCR and CEDAW, your Excellency’s Government is under a duty to give domestic legal effect and to take deliberate, concrete, and targeted steps to respect and ensure the enjoyment of the Covenants’ rights for all individuals within your territory and/or subject to their jurisdiction. While certain rights, including the rights to freedom of association and peaceful assembly, may be subject to derogation in times of public emergency, including for specific, empirically based national security aims, such limitations must meet the objective criteria of proportionality, necessity, legality, and non-discrimination, as required under international law.

We underline that international human rights law already provides a robust framework and guidance for regulating against racial discrimination and incitement to discrimination or violence, including the Convention on the Elimination of All Forms of Racial Discrimination and the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence when criminalizing (A/HRC/22/17/Add.4, annex, appendix, para. 29). We echo the Committee on the Elimination of Racial Discrimination’s concern that your Excellency’s Government has taken the position that “the Convention [on the Elimination of All Forms of Racial Discrimination] does not apply to all the territories under the State party’s effective control”—a position that “is not in accordance with the letter and spirit of the Convention and international law, as also affirmed by the International Court of Justice” (CERD/C/ISR/CO/17-19, para. 9).

In addition, we refer 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. The

Declaration reaffirms each State's responsibility and duty to protect, promote, and implement all human rights and fundamental freedoms, including every person's right, individually and in association with others, "to form, join and participate in non-governmental organizations, associations or groups" and "to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means" (A/RES/53/144, arts. 5, 13).

As expressed by the Human Rights Committee, "A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights", *id.* para. 13. As further expressed by the Committee, "the penalization of a media outlet, publishers or journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression, *id.* para. 42. Furthermore, and as generally held, attacks against individuals for the exercise of their right to freedom of expression is incompatible with the Covenant, see CCPR/C/GC/34 para 23. Any such attacks should be subject to independent and impartial investigations, *id.*

As stated by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, "[t]he right to access and use internet and other digital technologies for the purposes of peaceful assembly is protected under article 20 of the Universal Declaration of Human Rights and article 21 of the International Covenant on Civil and Political Rights" (A/HRC/47/24/Add.2, para. 8).

We would also like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) following years of consultations involving Governments, civil society, and the business community. The Guiding Principles have been established as the authoritative global standard for all States and business enterprises with regard to preventing and addressing adverse business-related human rights impacts. These Guiding Principles are grounded in recognition of:

- a. "States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b. The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- c. The need for rights and obligations to be matched to appropriate and effective remedies when breached."

It is a recognized principle that States must protect against human rights abuses by business enterprises within their territory and/or jurisdiction. As part of their duty to protect against business-related human rights abuses, States are required to take appropriate steps to "prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication" (Guiding Principle 1). This requires States to "state clearly that all companies domiciled within their territory and/or jurisdiction are expected to respect human rights in all their activities" (Guiding Principle 2). In addition, States should "enforce laws that are aimed at, or have the effect

of, requiring business enterprises to respect human rights...” (Guiding Principle 3). The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur.

States may be considered to have breached their international human law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures.

Business enterprises, in turn, have an independent responsibility to respect all internationally recognized human rights (Guiding Principle 11). They are expected to carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address their impacts on human rights (Guiding Principle 15). Where a business enterprise causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact. Similarly, where a business enterprise contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible (commentary to Guiding Principle 19).

Furthermore, business enterprises should remedy any actual adverse impact that it causes or contributes to. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome (commentary to Guiding Principle 25).

The Guiding Principles also recognise the important and valuable role played by independent civil society organisations and human rights defenders. In particular, Principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. The Commentary to Principle 26 underlines how States, to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed. In its recent guidance on ensuring respect for human rights defenders (A/HRC/47/39/Add.2), the Working Group on Business and Human Rights highlighted the urgent need to address the adverse impacts of business activities on human rights defenders. It unpacked, for States and businesses, the normative and practical implications of the Guiding Principles in relation to protecting and respecting the vital work of human rights defenders.

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism recalls that any restrictions on the rights to freedom of opinion and expression, freedom of peaceful assembly and association, and privacy on counter-terrorism grounds must comply with the objective criteria of legality, proportionality, necessity and non-discrimination under international law, including by being least intrusive means capable to achieve a legitimate aim

(ICCPR, arts. 17, 19, 22; A/69/397, para 30). States shall not invoke national security as a justification for measures aimed at suppressing opposition or to justify repressive practices against its population (A/61/267, para. 20).

We would also like to recall that international human rights law and international humanitarian law apply concurrently in the entirety of the occupied Palestinian territory. In this regard, we reaffirm the Human Rights Committee's previous observation to your Excellency's Government that:

The applicability of [the State of Israel's] human rights obligations in the Occupied Palestinian Territory, as well as the concurrent application of international human rights law and international humanitarian law in a situation of armed conflict or occupation, have been affirmed by the International Court of Justice in its advisory opinion rendered on 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. This is also the view consistently adopted by various human rights treaty bodies, including the Committee, and expressed in the relevant resolutions of the General Assembly and in the reports of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, the Secretary-General and the United Nations High Commissioner for Human Rights (E/C.12/ISR/CO/4, sec. 9).

International humanitarian law, alongside international human rights law and international criminal law, therefore, applies in full force in the occupied Palestinian territory. It is well-settled that international humanitarian law requires the protection of humanitarian assistance without discrimination and according to the principles of humanity, neutrality, and impartiality (see A/75/337, paras. 15-17). Among other relevant provisions, Article 23 of the Fourth Geneva Convention requires States to "allow the free passage of all consignments of medical and hospital stores" intended only for civilians and "the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases" and Article 70(2) of Additional Protocol I covers the "rapid and unimpeded passage of all relief consignments, equipment and personnel." State practice also establishes such unimpeded access to humanitarian relief as customary law norms (see ICRC, Customary International Humanitarian Law, Rule 55). International humanitarian law also reaffirms the protection of civilian rights in the occupied Palestinian territory, including entitlement "in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs" (GCIV, art. 27).

We respectfully remind your Excellency's Government that although there is no multilateral treaty which *inter alia* defines terrorism, States should ensure that counterterrorism legislation is limited to criminalizing conduct which is properly and precisely defined and strictly guided by the principles of legality, necessity, and proportionality and non-discrimination. The definition of terrorism in national legislation should be guided by the provisions of international counterterrorism instruments and the definitions found in Security Council resolution 1566 (2004), the UN General Assembly's Declaration on Measures to Eliminate International Terrorism and the model definition recommended by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

Counter-terrorism legislation should comply with all relevant international human rights obligations, including due process, the prohibition on arbitrary detention, freedom of expression and opinion, freedom of peaceful assembly, and minority and cultural rights.

We emphasize that the ‘principle of legal certainty’ under international law, including article 15(1) of the ICCPR requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offence and are the consequences of committing such an offence. This principle recognizes that ill-defined and/or overly broad laws are susceptible to arbitrary application and abuse, including in the context of vague counter-terrorism laws. Article 9 (1) ICCPR affirms the principle of legal certainty by requiring that any substantive grounds for arrest or detention must be prescribed by law and defined with sufficient precision to avoid overly broad or arbitrary interpretation or application, and thus to avoid arbitrary deprivation of liberty.