

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 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 freedom of religion or belief

Ref.: AL IND 10/2024

(Please use this reference in your reply)

19 November 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 freedom of religion or belief, pursuant to Human Rights Council resolutions 49/10, 53/4, 52/9, 50/17 and 49/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged killing of a Canadian citizen, Mr. Hardeep Singh Nijjar, in Canada on 18 June 2023, in apparent retaliation against his political and human rights advocacy for the Sikh minority in India**. We also draw attention to allegations of other credible threats to life and measures of intimidation and harassment against Sikh activists outside India. Such activities may involve violations of the human rights to life, security of person, freedom of opinion and expression, freedom of religion or belief, and minority rights. We also express concern about the listing of Mr. Nijjar as a "terrorist" and the listing of an organization he led, "Sikhs for Justice", as an "unlawful association" under Indian law.

According to the information received:

Mr. Hardeep Singh Nijjar was born in Punjab, India in 1977, migrated to Canada in 1997 and acquired Canadian citizenship in 2007. He lived in Surrey, British Columbia, where he became the president of a Sikh temple, Guru Nanak Sikh Gurdwara, in 2018. He was married with two sons. He was active in the local community, including in religious, educational, sporting, mental health, pandemic and natural disaster relief, and indigenous reconciliation activities.

Mr. Nijjar was a political activist and human rights defender who promoted claims for Sikh self-determination, sovereignty and the establishment of an independent Sikh homeland, "Khalistan", in India. He was a leader of Sikhs for Justice, an organization that advocates for Khalistan through legal and democratic means, including a non-binding referendum among the Sikh diaspora on the secession of Punjab from India.

Mr. Nijjar also advocated for the protection of Sikh human rights in India, including in relation to the alleged persecution of Sikh activists and the

repression of democratic space for Sikh political dissent in Punjab; Sikh minority cultural rights; and freedom of religion or belief, including campaigning against Sikhs being subject to Hindu personal and family law under article 25(b) of the Constitution of India.

A prominent theme of his campaigning was the pursuit of accountability for alleged historical violence by Indian authorities against Sikhs, including “Operation Blue Star” in June 1984 to regain control of the Golden Temple in Amritsar from Sikh militants, resulting in about 400 deaths; anti-Sikh violence in October-November 1984, which killed at least 3,325 people, following the assassination of Prime Minister Gandhi; and alleged extrajudicial killings in subsequent Indian military operations against Sikh insurgency in the 1980s and 1990s.

Mr. Nijjar also supported the rights of other minority groups in India, concerning attacks on lower caste people and violence against the Kuki-Zomi ethnic group in Manipur.

Legal processes against Mr. Nijjar

Mr. Nijjar was subject to multiple legal processes under Indian law reportedly to silence his political and human rights advocacy. Relevant given his association with the organization, on 10 July 2019, Sikhs for Justice was listed as an “unlawful organization” under section 3 of the UAPA, and the designation was renewed for another five years in 2024. In 2020, Mr. Nijjar was listed as an individual “terrorist” under section 35 and Schedule 4 of the Unlawful Activities (Prevention) Act (UAPA), as amended in 2019.

In the same year, the Indian authorities ordered an attachment of immovable properties on his ancestral home in the village of Bhar Singh Pura, Punjab, as part of the NIA investigation into Sikhs for Justice and the campaign for an independent Khalistan. On 22 September 2023, a legal notice from a district court addressed to him was posted on the family’s ancestral home, declaring an intention to seize the home and associated property, apparently pursuant to section 25 of the UAPA. The NIA also offered a one million rupee reward for his arrest.

The Indian authorities sought the extradition of Mr. Nijjar from Canada on multiple occasions. He was accused of conspiracy in a 2007 bombing in Punjab. It is understood that all other accused persons were acquitted yet Mr. Nijjar’s name was not raised in the proceedings. Interpol reportedly did not act on Indian requests to issue an international “red notice” for his arrest in 2014 and 2016. No Canadian proceedings ruled him eligible for extradition. He was briefly detained by Canadian authorities after India alleged that he was involved in an imminent attack in India, but he was promptly released without charge. It is noteworthy that Mr. Nijjar was not tried or convicted for any criminal offence in India. Mr. Nijjar always denied any association with terrorist or violent activities in India.

Threats against Mr. Nijjar

From 2015 onwards, Mr. Nijjar received sporadic phone calls from blocked numbers with threats to kill him and his family unless he ceased his activism and advocacy for Khalistan. The phone calls increased during upsurges in global Sikh activism tied to events in Punjab.

On 28 July 2022, Mr. Nijjar and four other Sikh leaders were personally warned by the Canadian authorities that they faced imminent threat of being killed. The warning came from an Integrated National Security Enforcement Team in Surrey, comprising a multi-agency group of officials from the Royal Canadian Mounted Police (RCMP), Canadian Security Intelligence Service (CSIS), Canadian Border Services Agency and other partners. These teams address criminal activities which pose a threat to Canada's national security.

Between January and June 2023, Mr. Nijjar was met personally with CSIS officers on a weekly basis to discuss the continuing threats, including a meeting two days before his killing on 18 June 2023. He was scheduled to meet with a CSIS officer two days after his killing, on 20 June 2023, to receive further information about a specific threat.

For a number of years, Mr. Nijjar's family in Punjab also faced intimidation and threats to pressure him to stop his political activism. In mid-2023, his family home in Punjab was raided by Indian police and intelligence officers.

A former Canadian resident allegedly faced threats, and intimidation and torture to give false testimony against Mr. Nijjar. He has reportedly been prohibited from returning to Canada since 2016 and was arrested and accused of criminal activity in Punjab.

The killing of Mr. Nijjar and Canadian investigations

On 18 June 2023, Mr. Nijjar was approached by two masked people, shot by approximately 34 bullets, and killed while in his vehicle in the car park of the Guru Nanak Sikh Gurudwara.

On 18 September 2023, the Canadian Prime Minister stated in the Canadian Parliament that "Canadian security agencies have been actively pursuing credible allegations of a potential link between agents of the Government of India and the killing of a Canadian citizen, Hardeep Singh Nijjar". He called on the Indian Government to cooperate with the investigation and declared that "[a]ny involvement of a foreign government in the killing of a Canadian citizen on Canadian soil is an unacceptable violation of our sovereignty."

In May 2024, the RCMP arrested and charged three Indian nationals with murder and conspiracy to commit murder in relation to Mr. Nijjar's killing.

On 14 October 2024, an investigation by the RCMP reported "well over a dozen credible and imminent threats to life which have led to the conduct of Duty to Warn by law enforcement with members of the South Asian

community, and specifically members of the pro-Khalistan movement”.¹ It identified “[l]inks tying agents of the Government of India (GOI) to homicides and violent acts” and stated that, despite law enforcement action to disrupt these activities, “[w]e reached a point where we felt it was imperative to confront the Government of India and inform the public about some very serious findings that have been uncovered through our investigations”.

On 14 October 2024, Indian authorities stated that Canadian authorities had informed them that six Indian diplomats in Canada, including the High Commissioner, were “persons of interests” in a criminal investigation. The same month, the six diplomats were expelled from Canada.

On 16 October 2024, the Canadian Prime Minister testified before a judge-led public inquiry into foreign interference in Canada that “we had clear and certainly now ever clearer indications that India had violated Canada’s sovereignty” in the killing of Mr. Nijjar.

On 29 October 2024, Canada’s Deputy Minister of Foreign Affairs stated to Canada’s Standing Committee on Public Safety and National Security that Canada believed that the Indian Minister of Home Affairs was responsible for a campaign targeting Sikh activists in Canada.

It is understood that the Indian Government denies involvement in the killing of Mr. Nijjar but committed to undertake some kind of investigation into the incident. It is further reported that the Indian Government has not adequately cooperated with the Canadian Government in investigating the killing.

In March 2024, the Indian authorities ordered the social media companies YouTube and X to block access to a Canadian documentary examining Mr. Nijjar's killing.

Related investigations in the United States

In November 2023, an Indian national with links to organized crime was indicted for a plot to murder four Sikh activists in Canada and the United States, including the legal counsel for Sikhs for Justice, allegedly on the orders of an Indian Government official. The indictment provides apparent evidence that the Indian official may also have also been connected with the murder of Mr. Nijjar. The suspect was extradited to the U.S. from Czechia in June 2024 and has been charged.

On 17 October 2024, the U.S. unsealed another indictment naming and charging the above-mentioned Indian Government official with murder-for-hire in relation to a plot to kill a U.S. national in New York.² The indictment confirms a link between the official and Mr. Nijjar’s killing. At the time of the events, the official was employed by the Government of India’s Cabinet

¹ <https://www.rcmp-grc.gc.ca/en/news/2024/rcmp-statement-violent-criminal-activity-occurring-canada-connections-agents-the>.

² Office of Public Affairs, U.S. Department of Justice, “Justice Department Announces Charges Against Indian Government Employee in Connection with Foiled Plot to Assassinate U.S. Citizen in New York City” (Web Page, 17 October 2024) <<https://www.justice.gov/opa/pr/justice-department-announces-charges-against-indian-government-employee-connection-foiled>>; United States District Court Southern District of New York, Sealed Superseding Indictment S2 23 Cr. 289 (VM), <<https://www.justice.gov/opa/media/1373831/dl>>.

Secretariat, which houses Indian's foreign intelligence service, the Research and Analysis Wing.

It is understood that a number of other States have made representations to the Indian Government about the killing of Mr. Nijjar.

Continuing threats to Sikh activists

On 14 October 2024, the above-mentioned investigation by the RCMP, which identified Indian Government links to murders and violent acts against the pro-Khalistan movement in Canada, stated that “[d]espite law enforcement action, the harm has continued, posing a serious threat to our public safety”. The RCMP further exposed alleged clandestine and coercive information collection by Indian diplomats and consular officials in Canada, directly or through proxies, which “is then used to target members of the South Asian community”. The RCMP declared that it “will not tolerate any form of intimidation, harassment, or harmful targeting of communities or individuals in Canada”.

Without prejudging the accuracy of these allegations, if the allegations prove to be true, they may constitute violations of the right to life (International Covenant on Civil and Political Rights (‘ICCPR’), acceded to by India on 10 April 1979, article 6); the right to security of person, including bodily and mental integrity (ICCPR, article 9(1)); due process and judicial protection (ICCPR, article 14); the requirement of legality (ICCPR, article 15); freedom from unlawful attacks on one’s honour and reputation (ICCPR, article 17); freedom from arbitrary or unlawful interference in the family (ICCPR, article 17); freedom of religion or belief (ICCPR, article 18); freedom of opinion and expression (ICCPR, article 19); and minority rights (ICCPR, article 27).

We are concerned that these allegations are part of a pattern of transnational repression of Sikh activists in multiple countries. We urge your Excellency’s Government to refrain from directly or indirectly committing any acts of transnational repression and to ensure that all such acts are independently and impartially investigated and promptly and effectively prosecuted.

Rights to life and security of person

We are alarmed by the alleged killing of Mr. Nijjar on the instruction of an official or officials of your Excellency’s Government, which violates his right to life (ICCPR, article 6). The State’s obligation to refrain from arbitrarily depriving a person of their right to life has extraterritorial effect, applying to all activities “having a direct and reasonably foreseeable impact on the right to life of individuals outside their territory” (general comment No. 36, para. 22). The intentional taking of life is permissible only if it is strictly necessary to protect life from an imminent threat (general comment No. 36, para. 12), and may normally be only exercised on the State’s own territory where it enjoys law enforcement jurisdiction, not on the sovereign territory of another State. A State that kills a person in another country, where there is no basis in individual self-defence or under international humanitarian law, commits an arbitrary deprivation of life and an extrajudicial killing.

The state is internationally responsible for such killing whether it is committed directly by state officials, or by private actors instructed, directed or controlled by the state (International Law Commission, Responsibility of States for Internationally Wrongful Acts 2001, article 8). This includes the use of individuals involved in organized crime. We emphasize that States are required to investigate potential unlawful deprivations of life through an independent, impartial, thorough, effective and transparent investigation and, where appropriate, to prosecute the perpetrators (see Annex).

Where a violation is found, full reparation must be provided, including adequate compensation, rehabilitation and satisfaction; as well as steps to prevent re-occurrence in future.

We emphasize that threats of violence made against Mr. Nijjar prior to his murder, as well as such threats made to other Sikh activists previously and since his killing, may also violate the right to life. In addition, the right to security of person in article 9(1) of the ICCPR protects individuals against intentional infliction of bodily or mental injury even if it is not life-threatening (general comment No. 35, para. 55), again whether an attack is committed by state officials or carried out by other actors on behalf of the state, and including where the state acts extraterritorially. It obliges states to prevent and suppress threats to life or bodily integrity from any government or private actor and to redress unjustifiable use of force by law enforcement authorities (general comment No. 35, para. 9).

We note that acts and threats of violence, and other measures of intimidation and harassment reportedly by the Indian authorities or its proxies against persons in Canada or other states, may amount to violations of the sovereignty of those states.

Freedoms of opinion, expression, peaceful assembly and association, and freedom of religion or belief

We express our grave concern at reports of continuing, systematic attacks by the Indian authorities on Sikh activists in Canada, the United States, and other countries, including private and public harassment and intimidation, threats of violence and death, and the planning of physical attacks. This campaign appears to be aimed at preventing them from continuing their legitimate activities as activists, including criticism of the Indian Government, and at impairing the legitimate exercise of the right to freedom of expression. We are further concerned that such attacks may have a chilling effect on the work of other Sikh activists in India and other countries. These measures appear to constitute an attempt to silence Sikh political activism and human rights activism.

We appeal to your Excellency's Government to take all measures to guarantee the right to freedom of opinion and expression, as provided in article 19 of the ICCPR (see Annex). We highlight that the Human Rights Committee in general comment No. 34 stated that under no circumstance can an attack on a person because of the exercise of his or her freedom of opinion or expression be compatible with article 19 (para. 23).

We also draw attention to paragraphs 75 (a) to (i) of the 2018 report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/40/52) on the negative impacts of

counter-terrorism measures on civic space and human rights defenders and recommendations to ensure respect for human rights in this context.

We note that attacks on freedom of expression abroad contribute to the hostile environment in Punjab, India, not only for the exercise of freedom of opinion and expression, but consequently also for the right of Sikh activists in Punjab to peaceful assembly and association, as enshrined in articles 21 and 22 of the ICCPR (see Annex).

We further highlight the right of citizens to take part in the conduct of public affairs under article 25 (a) of the ICCPR, which includes by exerting influence through public debate and dialogue with political representatives or through their capacity to organize themselves, a right which is supported by ensuring freedom of expression, assembly and association (general comment No. 25, para. 8).

We wish to stress that the obligation to respect and to ensure respect of the human rights of political activists and all human rights defenders rests on the State. It encompasses a positive duty of States to ensure that persons are protected from any act that would impair the enjoyment of their rights, including by taking effective measures or exercising due diligence to prevent any harm caused by private persons or entities (see e.g. A/HRC/17/27, para. 66 and A/HRC/29/25/Add.1).

We also wish to note the chilling effect on minority rights (ICCPR, article 27) and freedom of religion or belief (ICCPR, article 18) considering the fact that Mr. Nijjar was shot so violently in the car park of the Guru Nanak Sikh Gurdwara.

Individual “terrorist” designation under the UAPA

We are concerned at the apparent misuse of the UAPA to list Mr. Nijjar as a “terrorist” in 2020, and measures to seize his family property in Punjab, in the absence of credible evidence that Mr. Nijjar was involved in terrorist violence as properly defined under international law. Under international law, a listing must be based on reasonable grounds to believe that the individual has knowingly carried out, participated in or facilitated a terrorist act (A/HRC/16/51, para. 35), which requires substantiation with credible evidence. Further, the operative definition of a terrorist act must itself be limited to conduct that is genuinely terrorist in nature and consistent with international standards on the definition (A/HRC/16/51, para. 35).³

In 2019, nine Special Procedures mandate holders criticized section 15 of the UAPA as containing “an overbroad and ambiguous definition of terrorism due to the vast array of activities that might fall within its scope” ([IND 7/2020](#)). We regret that no reply has been received to this communication to date. The UAPA definition contains terms which are vague and imprecise and seem incompatible with the principle of legal certainty. We recall that the principle of legality under article 15(1) of the ICCPR requires that criminal laws be sufficiently precise so that it is clear what types of behaviour and conduct constitute an offence, so as to avoid overly broad or arbitrary application (general comment No. 35, para. 22) or the impermissible

³ As defined by the 19 United Nations sectoral conventions on terrorist offences, Security Council resolution 1566 (2004) and the Declaration on Measures to Eliminate International Terrorism and the Declaration supplementing the 1994 Declaration on Measures to Eliminate International Terrorism, approved by the General Assembly in 1997, as well as the model definition of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism (E/CN.4/2006/98, para. 72).

targeting of civil society on political or other unjustified grounds (A/70/371, para. 46). Further, the UAPA definition extends beyond acts that are truly of a terrorist nature according to “best practice” international standards (see Annex). The definition may allow the arrest, detention or harassment, including through property seizures, of individuals exercising their internationally protected rights, including freedoms of expression, assembly, association, and religion, the right to participate in public affairs, minority cultural rights, and the right to privacy, including in relation to family property. Mr. Nijjar’s listing appears to be related to his legitimate activities as an activist and may thus infringe the aforementioned rights.

The apparently false classification and consequent public stigmatization of Mr. Nijjar as a “terrorist”, coupled with public statements by Indian authorities condemning him as a terrorist, also constitutes an unlawful attack on his honour and reputation, contrary to article 17 of the ICCPR (see Annex). The Human Rights Committee has found a violation of article 17 where a State is responsible for unjustly listing persons as terrorist in view of the “negative associations” it publicly generates and the resulting public opprobrium (*Sayadi and Vinck v. Belgium*, CCPR/C/94/D/1472/2006, paras. 10.13-10.14).

We also emphasize that the designation does not appear to meet all of the requirements of due process and judicial protection under international human rights law, as set out by the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism (A/HRC/16/51, para. 35). Specifically, a listed organization must be promptly informed of the listing and its factual grounds, the consequences of such listing and the applicable procedural rights; there must be a right to apply for de-listing and to judicial review of any resulting decision; listings must lapse automatically after 12 months unless renewed afresh; and compensation must be available for wrongful listing. A person or organization designated as a terrorist under UAPA has a limited ability to contest their designation. The Government must “believe” the person or organization is involved in terrorism and publish the designation in the Official Gazette, but no statement of reasons is required to be provided (unlike the separate procedure for “unlawful associations”). The person or organization may apply to the Government, and thereafter to an administrative Review Committee applying the “principles applicable on an application for judicial review”, to be delisted under section 36 of the UAPA. However, the Review Committee is not composed as an independent and impartial court and thus does not actually conduct a genuine judicial review; the person or organization may not be able to effectively challenge the listing in the absence of an explicit right to disclosure of the information and reasons on which the original listing was based; the applicable procedural rights are not expressly articulated; and the Review Committee is itself not required to give reasons and is not bound by any time limit for making a decision. Listings appear to be indefinite, not time limited; and no compensation appears to be available for erroneous or abusive listings.

Designation as an “unlawful association”

We are concerned that the designation of Sikhs for Justice as an “unlawful association” under section 3 of the UAPA appears to be based, in part, on evidence⁴ of

⁴ See Unlawful Activities (Prevention) Tribunal Court No. 1, Delhi High Court, Decision of 6 January 2020, Re: Notification No. S.O. 2469(E) dated 10th July, 2019 issued by the Central Government under Section 3(1) & 3(3) of the Unlawful Activities (Prevention) Act, 1967 declaring Sikhs For Justice (SFJ) as an unlawful association, read with Notification No. S.O. 2856(E) dated 7th August, 2019.

peaceful political advocacy by the group that constitutes protected freedom of expression under international law. The definition of an “unlawful activity” (UAPA, section 2), on which the designation of an unlawful association is based, is excessive in that it captures any speech supporting or inciting cession or secession in relation to Indian territory, even peaceful advocacy that does not incite violence in any way. In this respect the UAPA extends beyond the accepted scope of legitimate restrictions on freedom of expression and the media based on countering terrorism or hate speech, as set out in the six-part test on hate speech in the Rabat Plan of Action (A/HRC/22/17/Add.4) (referring to context; speaker; intent; content or form; extent of the speech; and likelihood of harm occurring, including imminence) and in the recommendations 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, practice 8) (including requirements that incitement must: be precisely prescribed by law and avoid vague terms; be based on a precise underlying definition of terrorism; be strictly necessary and proportionate to counter terrorism; and include both an intent to incite terrorism and an objective risk that it will be committed).

To the extent that Sikhs for Justice is advocating for Sikh minority cultural and/or religious rights, the listing may infringe on the right of ethnic, religious or linguistic minorities to enjoy their own culture (article 27 of the ICCPR) and the right to take part in cultural life (article 15 (1)(a) of the ICESCR, ratified by India on 10 April 1979).

We also express serious concern about inadequate due process in designations of unlawful associations generally. The Government is only required to provide its reasons to establish “sufficient cause” for a listing to the judicial Unlawful Activities (Prevention) Tribunal thirty days *after* the decision, and while the Tribunal must make its determination “as expeditiously as possible” there is an outer possible limit of six months before such determination may be made (UAPA, section 4). The ability to withhold evidence from the unlawful association on overwhelming public interest grounds⁵ could potentially impair a fair hearing in certain cases if the balancing of interests under the applicable evidentiary rules is not rigorously applied.

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 explain what steps have been taken to investigate the killing of Mr. Nijjar, to hold accountable any perpetrators, to provide reparation, and to prevent the reoccurrence of such attacks on other Sikh activists or critics of the Indian authorities. Please provide information on how

⁵ See *Jamaat-E-Islami Hind vs Union of India*, 7 December 1994, 1 SCC 428 (1995) at para. 20; *Mohammad Jafar v. Union of India*, 18 March 1994 (1994 SCC) at para. 3, 10.

the investigations undertaken comply with international standards including the Minnesota Protocol on the Investigation of Potentially Unlawful Death.

3. Please provide information on measures taken to independently and impartially investigate credible allegations of threats to life or of violence, or other forms of harassment or intimidation, against Sikh activists and human rights defenders. Please also explain what measures of accountability have been taken in response, including prosecutions of any perpetrators and reparation for the victims. If no investigation has been opened or is envisaged, please explain why.
4. Please indicate what measures have been taken by your Excellency's Government to ensure that other Sikh activists and human rights defenders are able to carry out their legitimate activities without fear of threats or acts of violence, intimidation or harassment of any sort, both inside and outside of India, including so as to safeguard their freedoms of opinion and expression, assembly, association, and religion, their right to participate in public affairs, and their minority cultural rights.
5. Please explain the legal grounds and factual bases for the 2020 listing of Mr. Nijjar as a "terrorist" under the UAPA and the measures to seize his family property in Punjab. Please clarify how these are compatible with the requirements of legal certainty, due process, judicial protection and other applicable human rights, including freedom from unlawful attacks on honour and reputation and arbitrary or unlawful interference in family life. Kindly indicate how terrorist listings comply with a strict understanding of the definition of terrorism as elucidated by international law norms including, but not limited to, United Nations Security Council resolution 1566 (2004).
6. Please explain the legal grounds and factual bases for the 2020 listing of Sikhs for Justice as an "unlawful association" under the UAPA. Please clarify how these are compatible with the requirements of legal certainty, due process, judicial protection and other applicable human rights.
7. Please explain what administrative, legislative and judicial measures have been, or will be, taken to ensure that the violations detailed in this communication will not reoccur.

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.

Please be informed that a letter on this subject matter has also been sent to the Permanent Missions of Canada and the United States.

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

Ben Saul

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan

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

Gina Romero

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

Nazila Ghanea

Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the principles and international standards applicable to this communication.

Right to life

The right to life is guaranteed under article 6 of the ICCPR, which states that "every human being has the inherent right to life [which] shall be protected by law. No 1 shall be arbitrarily deprived of his life." The State has a responsibility to take "all appropriate measures to deter, prevent and punish the perpetrators as well as to address any attitudes or conditions within society which encourage or facilitate such crimes violence or killings committed by non-State actors" (E/CN.4/2005/7, para. 71). Paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65 requires States to provide "effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats".

In addition, we recall the importance of investigating all potentially unlawful killings in line with international standards. The right to life requires states to investigate potentially unlawful deprivations of life and, where appropriate, prosecute the perpetrators (general comment No. 36, para. 27). Investigations must always be independent, impartial, prompt, thorough, effective, and transparent (general comment No. 36, para. 28), and must be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death. The Minnesota Protocol on the investigation of potentially unlawful deaths (para. 10) states that persons whose rights have been violated have the right to a full and effective remedy. Family members of victims of unlawful death have the right to equal and effective access to justice; to adequate, effective and prompt reparation; to recognition of their status before the law; and to have access to relevant information concerning the violations and relevant accountability mechanisms. International law further requires that all investigations be prompt, effective and thorough; independent and impartial; and transparent (A/HRC/50/34, para. 80). Investigations must also be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations, and at ensuring the responsibility of superior officials with regard to violations committed by their subordinates (general comment No. 36, para. 27).

Respect for human rights while countering terrorism

Although no universal treaty generally defines "terrorism", States should ensure that counter-terrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the international counter-terrorism

instruments,⁶ the General Assembly's Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004).⁷ Based on these authoritative sources, the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism⁸ provides clear, "best practice" guidance, by identifying conduct that is genuinely terrorist in nature and precisely defining the elements.

The principle of legal certainty under article 15(1) of the ICCPR requires that criminal laws are sufficiently precise so that it is clear what types of behaviour and conduct constitute an offence and the legal consequences 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, to target civil society on political or other unjustified grounds.⁹

Many resolutions of the United Nations General Assembly, Security Council and Human Rights Council reaffirm that any measures taken to combat terrorism and violent extremism must comply with the obligations of States under international law, in particular international human rights law, refugee law and international humanitarian law.¹⁰ Counter-terrorism measures must also conform to fundamental requirements of legality, proportionality, necessity and non-discrimination. Failure to respect these principles can have exceptionally deleterious effects on the protection of fundamental rights, particularly for minorities, historically marginalized communities, and civil society.

States must ensure that measures to combat terrorism and preserve national security do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights.¹¹

Freedom of religion or belief

Article 18 (1) of the ICCPR stresses that "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching". The 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief states in article 2(1) that "[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief". Furthermore, article 4(2) of this Declaration provides that: "All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs".

⁶ See https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml.

⁷ A/RES/49/49, annex, para. 3.

⁸ A/HRC/16/51, para. 28.

⁹ [A/70/371](#), para. 46(b).

¹⁰ Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); Human Rights Council resolution 35/34; and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180, among others.

¹¹ See [A/HRC/RES/22/6](#), para. 10(a).

Freedom of expression

Article 19 of the ICCPR guarantees the right to hold opinions without interference and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media”. This right includes not only the exchange of information that is favorable, but also that which may shock or offend. Under article 9(3) of the ICCPR, any restriction of the right to freedom of expression must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. Any restriction on expression or information that a government seeks to justify on grounds of national security and counter-terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (general comment No. 34). The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (general comment No. 34, para. 35).

In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (para. 11). The Committee further asserts that States Parties to the ICCPR “shall put in place effective measures to protect against attacks aimed at silencing those who exercise their right to freedom of expression” (para. 23). Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that “all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress” (para. 23).

With respect to invoking counter-terrorism and counter-extremism justifications to restrict the legitimate exercise of freedom of expression, any restriction on expression or information that a government seeks to justify on grounds of national security and counter-terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (general comment No. 34). We stress that counter-terrorism legislation with penal sanctions should not be misused against individuals peacefully exercising their rights to freedom of expression and freedom of association and peaceful assembly, including to suppress peaceful minority groups and their members (general comment No. 34).

Freedom of association and peaceful assembly

Article 21 of the ICCPR states that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the

protection of public health or morals or the protection of the rights and freedoms of others”.

Article 22 of the ICCPR protects the right to freedom of association with others. 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 law (A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1). These rights must be guaranteed by everyone, without discrimination (ICCPR, article 2 (1)).

Right to be free from unlawful attacks on one's honour and reputation

Article 17 of the ICCPR provides that “[n]o one shall be subjected to ... unlawful attacks on his honour and reputation” and that “[e]veryone has the right to the protection of the law against such interference or attacks”. Effective remedies must be available for such attacks (general comment No. 16, para. 11).

Listing of individuals and organisations as terrorist

The listing of an individual or organization as “terrorist” must meet the requirements of due process and judicial protection under international human rights law, as set out by the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism (A/HRC/16/51, para. 35). Specifically, a listed organization must be promptly informed of the listing and its factual grounds, the consequences of such listing and the applicable procedural rights; there must be a right to apply for de-listing and to judicial review of any resulting decision; listings must lapse automatically after 12 months unless renewed afresh; and compensation must be available for wrongful listing.

The underlying definitions of terrorism must also be consistent with those in the international terrorism suppression conventions, United Nations Security Council resolution 1566, the UN General Assembly's Declaration on Measures to Eliminate International Terrorism 1994, and the model definition of Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and be consistent with international law.

Human rights defenders

We also refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. Articles 1 and 2 of the Declaration state that everyone has the right to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

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We further highlight the rights in the Declaration to: meet or assemble peacefully for the purpose of promoting and protecting human rights (article 5(a)); form, join and participate in non-governmental organizations, associations or groups (article 5(b)); communicate with non-governmental or intergovernmental organizations (article 5(c)); freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms and to study, discuss and hold opinions on the observance of these rights (article 6(b) and (c)); and unhindered access to and communication with international bodies (article 9(4)(a)); and to participate in peaceful activities against violations of human rights and fundamental freedom (article 12(1)). We would also like to refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.