

**Mandates of 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 situation of human rights defenders; the Independent expert on the promotion of a democratic and equitable international order; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; the Special Rapporteur on the right to privacy; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: AL DEU 7/2024  
(Please use this reference in your reply)

16 December 2024

Excellency,

We have the honour to address you in our capacities as 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 situation of human rights defenders; Independent expert on the promotion of a democratic and equitable international order; Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; Special Rapporteur on the right to privacy; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 52/9, 50/17, 52/4, 57/7, 1993/2A, 55/3, 52/36 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 classification of the "Boycott, Divestment, Sanction" ("BDS") movement as a "suspected extremist threat" by Germany's domestic federal intelligence agency, the *Bundesamt für Verfassungsschutz* ("BfV"). We are concerned that this classification may unjustifiably interfere with the human rights to freedom of opinion and expression, association, and assembly, the right to participate in public affairs, and the right to privacy and reputation.

We have previously expressed concern about your Excellency's Government's unjustified restrictions on the BDS movement ([DEU 3/2019](#)). We thank your Excellency's Government for its reply dated 14 January 2020. However, we wish to reiterate our concerns in that communication that the *Bundestag* resolution against the BDS movement risks unduly limiting the rights to freedom of opinion, expression, and peaceful assembly, including the right to express support for the BDS movement, and risks denying civic space to express legitimate grievances. We note that the *Bundestag* resolution influenced the BfV's recent decision that is the subject of the present communication.

According to the information received:

On 18 June 2024, Germany's domestic federal intelligence agency, *Bundesamt für Verfassungsschutz* ("BfV") published its "2023 Report on the Protection of

the Constitution”, an annual report informing the public about alleged threats posed to the free democratic basic order in Germany.<sup>1</sup> In that report, at page 286, the BfV designated the BDS-movement as a “suspected extremist threat”, reinforcing an earlier indication to this effect of 29 November 2023.<sup>2</sup>

The legal basis for this designation is stated in section 3(1)(4) of the law governing the BfV (“BVerfSchG”), according to which it is the task of the BfV to gather and process information concerning “organizations [...] who violate the principle of international understanding, [...] especially the peaceful co-existence of peoples”. The principle of “international understanding” in turn is drawn from article 9 of Germany’s Basic Law. The concept can cover, for instance, advocacy of aggressive war, grave violations of international law, or support for terrorism.<sup>3</sup>

There are essentially three levels at which a group suspected of unconstitutional behavior can be designated: (1) case subject to review (“Prüffall”); (2) suspected (extremist) case or subject of extended investigation to verify a suspicion (“Verdachtsfall”); and (3) extremist endeavour corroborated by hard evidence (“gesichert extremistisch”). The BDS movement was designated as falling into the second category, which implies that there is, over a longer period of time, reason to believe that there exists unconstitutional behavior.<sup>4</sup> The publication of this classification by the BfV is significant because not every such designation is made public because of the stigmatization and the intensive infringement of constitutional rights that go with it.<sup>5</sup> Thus, section 16(1) of the BVerfSchG requires “sufficiently strong factual indications” (“hinreichend gewichtige tatsächliche Anhaltspunkte”) for a classification.<sup>6</sup>

A designation under the second category means that the BDS movement has become an object of observation (“Beobachtungsobjekt”), which allows, subject to limitations including the principle of proportionality, for the use of intelligence gathering methods to compile further information, including the use of confidential informants and audio/visual recordings (see section 9(2) of the BVerfSchG).

The BfV gives a number of reasons for designating the BDS movement. Firstly, it refers to the movement’s founding document, the 2005 “Palestinian Civil Society Call for BDS”, the first demand of which is to boycott Israel with the aim of “ending its occupation and colonization of all Arab lands and dismantling the Wall”. The BfV interprets this as a call to end Israel’s existence as a State, providing a credible reason to believe that the BDS-movement violates the “idea of international understanding”.

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<sup>1</sup> ‘Verfassungsschutzbericht 2023’ (Bundesministerium des Innern und für Heimat 2024), 23.

<sup>2</sup> <https://www.verfassungsschutz.de/SharedDocs/pressemitteilungen/DE/2023/presseinformation-2023-8-nahost.html>

<sup>3</sup> See e.g. 1 BvR 1474/12; and ECtHR App. No. 11214/19 of 10 October 2023.

<sup>4</sup> *OVG Münster 5 B 163/21 - AfD als „Verdachtsfall“* [2021], para. 24.

<sup>5</sup> *BVerfGE 1 BvR 1072/01*, para. 81ff.

<sup>6</sup> See also *BVerfGE 1 BvR 1072/01*, para. 68.

Secondly, the BfV refers to a non-binding, political resolution of the German *Bundestag* entitled “Resolutely countering the BDS-movement – fight Antisemitism” (“BDS-Bewegung entschlossen entgegentreten – Antisemitismus bekämpfen”) from 2019.<sup>7</sup> In this resolution, the *Bundestag* characterized BDS as an “all-encompassing call to boycott, [which] in its radicality, leads to a branding of Israeli citizens of Jewish belief as a whole. This is unacceptable and must be strongly condemned. The line of argumentation and the methods of the BDS movement are antisemitic.” The resolution refers to “Don’t Buy” stickers of the BDS movement, which it asserts “inevitably creates association to the N[ational]S[ocialist]-slogan ‘Don’t buy from Jews’”. It does not, however, designate all or certain supporters of the BDS-movement as antisemites.<sup>8</sup> The resolution concludes that the *Bundestag* decides *inter alia* (1) not to provide access to public premises administered by the *Bundestag*, (2) not to financially support organizations that question Israel’s right to exist, (3) not to financially support projects that call for the boycott of Israel or that actively support the BDS-movement, and (4) to call upon all States (*Länder*), cities and municipalities and all public figures to adopt a similar attitude.<sup>9</sup>

The BfV report also observes that among the more than 170 Palestinian organizations that support BDS are Palestinian terrorist groups, namely Hamas, Palestinian Islamic Jihad, and Popular Front for the Liberation of Palestine.

The *Bundestag* and the German Government, apparently including the BfV, use as basis for their understanding of antisemitism the controversial working definition of the International Holocaust Remembrance Alliance (“IHRA”), which includes as an example of possible antisemitism the targeting of the state of Israel, conceived as a Jewish collectivity.

While we do not wish to prejudge the accuracy of these allegations, we express our concern that the designation of the BDS movement appears to unjustifiably interfere with the human rights to freedom of opinion and expression (ICCPR, article 19), peaceful assembly (ICCPR, article 21) and association (ICCPR, article 22), the right to participate in public affairs, and the rights to privacy and reputation (ICCPR, article 17) (as a result of intrusive BfV investigations) enabled by this designation.

In particular, it risks stigmatizing and chilling legitimate criticism in a democratic society of the conduct of a foreign state, including serious violations of international law, and legitimate actions aimed at bringing that foreign state back into compliance with international law. As such, the designation undermines civic-led efforts to protect human rights and enforce international law. While citing parts of the 2005 “Palestinian Civil Society Call for BDS”, the BfV omits to mention that the title of that document calls for a boycott “against Israel Until it Complies with International Law and Universal Principles of Human Rights”, and that a core demand

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<sup>7</sup> ‘Der BDS-Bewegung Entschlossen Entgegentreten - Antisemitismus Bekämpfen’ (Deutscher Bundestag 2019) BT-Drs. 19/10191.

<sup>8</sup> *Verwaltungsgericht Berlin 2 K 79/20* [2021] [88].

<sup>9</sup> ‘Der BDS-Bewegung Entschlossen Entgegentreten - Antisemitismus Bekämpfen, above, 2.

of the document is “recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality”. The BDS movement defines itself as “an inclusive, anti-racist human rights movement that is opposed on principle to all forms of discrimination, including anti-Semitism and/or Islamophobia”. We note that the BDS call to end Israel’s occupation and dismantle the Wall finds clear support in international law, including the two advisory opinions of the International Court of Justice (ICJ) of 2004 and 2024 as well as numerous United Nations resolutions, and cannot rationally be interpreted as a call to end Israel’s existence as a State as the BfV suggests. We recall that the ICJ Advisory Opinion of 2024 declared violations of international law in relation to self-determination, annexation of Palestinian land and the non-acquisition of territory by force, law of occupation, Israeli settlements and land confiscations in occupied territory, exploitation of natural resources, and racial segregation and apartheid. The Court indicated that declares the continued presence of Israel in the entirety of the Palestinian territory occupied by Israel in 1967 is illegal, and that Israel must bring an end to this illegal presence as rapidly as possible. We also note pending proceedings before the ICJ concerning allegations of genocide by Israel. We further note that resistance to occupation, exercised in accordance with international law, is not unlawful, as indicated by the General Assembly and Human Rights Council.

Further, we are concerned that placing the entire BDS movement under investigation is over-broad and indiscriminate, since it casts unjustified suspicion on the movement as a whole without focusing solely on any specific actors within the movement that may present a risk to the rights of freedoms of others or other legitimate public interests. We also note the serious stigmatizing impact this designation may have on a large number of diverse groups that participate in or are associated with the movement, including human rights defenders, gravely impacting their access to public funding or their ability to organize events or assemblies in public spaces. This is all the more serious given the global public interest in Israel’s response to the Hamas-led attack from Gaza on Israel since 7 October 2023. The designation and associated investigation restrict fundamental rights in a manner that is not necessary or proportionate under international human rights law. We note that the concept of acts against the “idea of international understanding” under German law itself requires a proportionality assessment and does not tolerate blanket restrictions.

**We emphasize that in the case of *Baldassi and others v. France*, the European Court of Human Rights (ECtHR) held that France violated the right to freedom of expression of local BDS activists by convicting them for participating in a call to boycott products from Israel, on charges of inciting economic discrimination against producers of goods in Israel.<sup>10</sup> The ECtHR found that boycotts are a protected form of free expression, and that calling for differential treatment is not the same as incitement to discrimination. The applicants were not convicted of making racist or antisemitic statements, inciting hatred, violence, discrimination or intolerance, or committing violence or causing damage. The ECtHR found that the limitation was not necessary in a democratic society, especially in the light of the general public’s interest in the topic and the debate surrounding Israel’s compliance with public international law and human rights. The ECtHR said that there was “little scope [...] for restrictions on political expression or on debate on questions of public**

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<sup>10</sup> *Baldassi and Others v France* [2020] ECtHR App. No. 15271/16 et al.

interest”. This decision laid the foundations for the French Criminal Court of Lyon (Tribunal judiciaire de Lyon) to similarly hold, on 18 May 2021, that a call for boycott did not constitute incitement to discrimination.

**We note that a number of decisions by German courts have stated that restrictions on the BDS movement violate the right to freedom of expression.** The Administrative Court of Cologne overturned a restriction on the access of BDS-related groups to a public festival as unjustified, on the basis that the BDS-movement is not homogenous and all of its supporters cannot be regarded as antisemitic (14 L 1747/19). The Court further noted that the aforementioned non-binding Bundestag resolution cannot limit a legal entitlement and exclusion from public spaces was not compatible with the basic right to freedom of expression.

The Higher Administrative Court of Lüneburg similarly rejected a restriction on access to public space by a BDS group where it was claimed that the group was violating the “free democratic basic order”, i.e., due to racism/antisemitism (10 ME 48/19). The Court found that the authorities had not provided evidence of any such violation by the group, and indicated that it would be an “unacceptable impediment to the protected freedom of expression if anyone wishing to express their opinion at an event on municipal premises were first required to provide proof that they stand up for the free democratic basic order”.

The Federal Administrative Court overturned the refusal of a public museum to host a BDS-related event, based on a city council regulation banning such events, on the basis that it violated the basic right to freedom of opinion (Decision of 20 January 2022 (8 C 35/20)). The Court found that there was no reason to believe the event would involve criminal conduct, such as incitement of the masses or insults, or that the BDS movement aimed at Israel would cross the line of peacefulness and target Jews in Germany or incite hatred against them.

As mentioned, mandate holders have previously expressed concern about your Excellency’s Government’s unjustified restrictions on the BDS movement ([DEU 3/2019](#)). **We also draw attention to previous concerns raised by mandate holders regarding unjustified restrictions imposed on the BDS movement generally.** We endorse the view of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, in her recent report (A/79/319) that the demands of the BDS movement are in principle aligned with Israel’s international obligations, that “campaigns to boycott, seek divestment and promote sanctions are legitimate forms of political expression that should not be prohibited or criminalized, and that Israeli violations of international law are matters of public interest and that there is “no scope for restricting freedom of expression on such matters”, in including advocacy for Palestinians’ human rights and self-determination (A/79/319, paras. 85 and 88).

In [GBR 19/2023](#), mandate holders highlighted the lack of evidence that BDS campaigns incite hate crimes, antisemitism or anti-Muslim hatred; queried whether a ban on BDS campaigns could be considered necessary and proportionate to the aim of combating antisemitism; warned that antisemitism “should not be instrumentalized to silence individuals and groups who oppose the Israeli Government’s policies and practices”; and noted the stifling effect that laws targeting BDS campaigns may have

on civil society participation in and advocacy for activities promoting respect for human rights. In [USA 2/2019](#) and A/74/358, other mandate holders emphasized that boycotts are a legitimate form of expression. In [AUT 2/2022](#), the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and other mandate holders pointed out that expressing support for, or opposition to, BDS, is fully guaranteed by the rights to freedom of opinion, expression and association and that this is also in line with the Jerusalem Declaration on Antisemitism (JDA), developed and signed by renowned Jewish scholars and intellectuals in 2020. In view of protecting “a space for an open debate about the vexed question of the future of Israel/Palestine”, the JDA stipulates that “boycott, divestment and sanctions are commonplace, non-violent forms of political protest against states. In the Israeli case, they are not, in and of themselves, antisemitic”.

**We are concerned that Germany endorses the IHRA working definition of antisemitism** and that this informs the work of the BfV, the *Bundestag* and other public authorities. Hundreds of Jewish scholars and civil society actors are among those who have condemned this definition as a weaponization of antisemitism to silence criticism of Israel’s practices, including violations of international law. We recall that numerous mandate holders have criticized the IHRA definition as inconsistent with international human rights law, particularly the right to freedom of expression. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression stated that it is vague and overbroad and produces false accusations; is not limited to cases of incitement as required by article 20(2) of the ICCPR; unjustifiably shields a State, Israel, from criticism, including by conflating anti-Zionism with antisemitism; and is unnecessary because international law already addresses all forms of racial and religious hatred (A/79/319). The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance has observed that the IHRA definition “is susceptible to being instrumentalized for political goals” and has been used “to suppress human rights and fundamental freedoms, such as freedom of expression, assembly and political participation and the right to equality and non-discrimination”, including to prevent and suppress legitimate criticism of Israel and harm human rights defenders advocating for Palestinians (A/77/512). The Special Rapporteur on freedom of religion or belief noted the potential of a chilling effect on speech that may occur when public bodies use the examples given by the IHRA in contexts which are not necessarily antisemitic (A/74/358, para. 54).

**Finally, we are concerned that the BfV has identified the BDS movement as “extremist”** in circumstances where the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has insisted that “the term ‘extremism’ has no purchase in binding international legal standards” and is “incompatible with the exercise of certain fundamental human rights” (A/HRC/43/46). Further, we are concerned that the BfV has referred to “extremism” without limiting its focus to “violent” extremism, thus placing under suspicion opinions and beliefs that are not linked to incitement to violence or hatred.

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 on what legal and factual bases the whole BDS movement has been designated as a suspected (extremist) case or subject of extended investigation to verify a suspicion (“Verdachtsfall”). In particular, please indicate how the BDS call to end Israel’s occupation and dismantle the Wall can be interpreted as an “extremist” call to end Israel’s existence as a State, when such calls are consistent with international law.
3. Please indicate how the consequent BfV investigation is a necessary and proportionate restriction under international human rights law, including in relation to the direct or indirect impacts on the rights to freedom of opinion and expression, assembly and association, the right to participate in public affairs, and the rights to privacy and reputation.
4. Please explain whether the German authorities will discontinue using the discredited IHRA definition of “antisemitism”, in light of the fact that this definition has been heavily and repeatedly criticized as being inconsistent with international human rights law.

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

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

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

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

Gina Romero  
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Mary Lawlor  
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## 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.

#### *Freedom of opinion and expression*

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right applies online as well as offline, and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

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).

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).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) of the ICCPR. Restrictions 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. 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). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed. A restriction must be “the least intrusive instrument among those which might achieve their protective function” (para. 34).

In her report on “Global threats to freedom of expression arising from the conflict in Gaza”, the Special Rapporteur on freedom of opinion and expression noted that “civil disobedience or non-violent protests aimed at challenging unjust proscriptions, as well as campaigns to boycott, seek divestment and promote sanctions, are legitimate forms of political expression that should not be prohibited or criminalized”. She also concluded that “the most fundamental principle of human rights – that all persons have an equal right to enjoy all human rights – has been endangered by an extensive pattern of unlawful, discriminatory and disproportionate restrictions and repression of freedom of expression, primarily of Palestinian activists and their supporters in Western Europe and North America” (A/79/319, paras. 83 and 85).

In the report, she made the following recommendations:

- States must respect, protect and fulfil the right to freedom of opinion and expression without discrimination against any individual or groups on the grounds of race, religion, political beliefs or other protected characteristics. Any restriction of expression, including in relation to counter-terrorism laws or antisemitism, must follow strictly the criteria set out in articles 19(3) and 20(2) of the ICCPR (para. 92).
- States must refrain from blanket prohibitions of demonstrations, slogans, symbols or other forms expression in support of the Palestinian people. Any decision to prohibit such acts or expressions on the grounds of incitement must be done on a case-by-case basis, taking into account international legal standards as well as specific contextual and other factors, as articulated in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (para. 93).
- In the light of the advisory opinion of the International Court of Justice issued in July 2024, States should repeal – or refrain from adopting – laws and policies that penalize opposition to or impede advocacy against Israeli occupation and segregation, such as laws against the boycott, divest and sanctions movement (para. 94).

#### *Freedom of peaceful assembly and of association*

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 standards (A/HRC/17/27, para. 66 and A/HRC/29/25/Add.1).

In addition, the Special Rapporteur on the rights to freedom of peaceful assembly and of association highlighted that “negative and hostile narratives increasingly used to vilify and criminalize civil society and activists deepen the stigmatization of those exercising their rights to peaceful assembly and association. Stigmatization, whether intentional or not, especially when propagated by authorities, effectively denies these fundamental rights. It misrepresents legitimate exercises of freedom as illegal and those involved as criminals or threats to national security, public order or morals. This fuels harmful stereotypes, fosters hostility, justifies punitive measures and triggers undue restrictions on these rights” (A/79/263, para. 11).

#### *Right to participate in public affairs*

Article 25(a) of the ICCPR provides that: “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions... [t]o take part in the conduct of public affairs”.

#### *Right to privacy and to reputation*

Article 17 of the ICCPR provides that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on honour and reputation, and that everyone has the right to protection of the law against such interference or attacks. Further, in its general comment No. 16 in relation to article 17, the Human Rights Committee asserted that surveillance, whether electronic or otherwise, should ordinarily be prohibited.

#### *Human rights defenders*

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 (the UN Declaration on Human Rights Defenders), articles 1 and 2, state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Articles 5(a), 6(c), 9 and 12 state that everyone has the right, individually and in association with others, to meet or assemble peacefully for the purpose of promoting and protecting human rights; to study, discuss, form or hold opinions on the observance of all human rights and fundamental freedoms; to draw public attention to these matters; to benefit from an effective remedy and be protected in the event of the violation of these rights; and to participate in peaceful activities against violations of human rights and fundamental freedoms. Human Rights Council resolution 13/13 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.

*Principle of legality and terrorism or security related offences*

The principle of legality under article 15(1) of the ICCPR requires that criminal laws must be sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and what would be the legal consequences of committing such an offence, so as to avoid overly broad or arbitrary application (general comment No. 35, para. 22) or the impermissible targeting of civil society on political or other unjustified grounds (A/70/371, para. 46). The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has highlighted the misuse of overly broad definitions of terrorism to quell legitimate activities protected by international law.

The General Assembly has unanimously recognized that effectively combatting terrorism and ensuring respect for human rights are not competing but complementary and mutually reinforcing goals in the Global Counter-Terrorism Strategy (A/HRC/60/288). Moreover, United Nations resolutions<sup>11</sup> require that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with States' obligations under international law, in particular international human rights law, refugee law and international humanitarian law. Counter-terrorism measures must conform to fundamental assumptions of legality, proportionality, necessity and non-discrimination. Laws which disregard these principles can have deleterious effects on the protection of fundamental rights, particularly for minorities, historically marginalized communities and civil society.

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<sup>11</sup> See e.g. Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); General Assembly resolutions 49/60, 51/210, 72/123 and 72/180; and Human Rights Council resolution 35/34.