

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL EGY 3/2025
(Please use this reference in your reply)

7 May 2025

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; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 58/14, 54/14, 52/9, 50/17 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of arrest, enforced disappearance, torture and ill-treatment, and criminal prosecution, including on terrorism charges of four Egyptian citizens, Mr. Ali Ramdan Ali Ahmed, Mr. Ali Fathy Ali Mabrouk Qadeeb, Mr. Soliman Mawod Soliman Mohamed, and Mr. Emad Adel Abdulaziz Maaty, for expressing their opinions on social media about the economic situation in Egypt. We would also like to bring to the attention of your Excellency's Government information we have received concerning the detention and multiple instances of enforced disappearance of a political activist, Mr. Ahmad Assayed Suleiman (also known as Ahmad Gika or Gika), who is at risk of further instances of enforced disappearance while he remains detained in pre-trial detention charged with terrorism-related offenses.

We wish to recall that we have previously raised concerns about the alleged arbitrary detention and criminal prosecution of citizens, many on terrorism charges, for expressing critical opinions, including on social media ([AL EGY 8/2024](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34381), [AL EGY 3/2024](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38705), [AL EGY 2/2024](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38705), [AL EGY 3/2023](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38915), [UA EGY 7/2018](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38915) and [AL EGY 4/2017](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38915)). We thank your Excellency's Government for the replies provided to UA EGY 7/2018¹, AL EGY 3/2024², and AL EGY 8/2024³, while encouraging a substantive reply to those communications that remain unanswered. We also recall [OL EGY 4/2020](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38915) in which we expressed concerns regarding Egypt's Anti-Terrorism law No. 94/2015, and thank the Government for its [reply](https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38915) dated 10 March 2021.

¹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34381>

² <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38705>

³ <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38915>

According to the information received:

Since 2013, Egyptian security agents have arrested citizens who express their opinions against the Government's policies on the pretext of "protecting national security". Citizens have reportedly been charged with joining a terrorist group, publishing false news and/or misusing social media on the basis of Egypt's Anti-Cyber and Information Technology Crimes Law No. 175/2018 and the Anti-terrorism Law No. 94/2015.

Since December 2024, many citizens have voiced their dissent against Government policies on social media, using the hashtag #Mafasel_revolution "ثورة المفاسل", and called for protests on the anniversary of the January 2011 Revolution. Since then, the Egyptian authorities have reportedly arrested more than 50 citizens and charged them with terrorism-related offences. The crackdown is known as the "Mafasel Revolution".

As detailed below, Mr. Ahmed, Mr. Qadeeb, Mr. Mohamed, and Mr. Maaty were reportedly all arrested, detained and charged in relation to several posts and videos they made on social media opposing the Egyptian Government's economic policies, including price raises and high inflation rates, and for calling for demonstrations on 25 January 2025. During interrogations by National Security agents and by the Prosecution, all four individuals were questioned about their posts and videos related to the hashtag #Mafasel_revolution "ثورة المفاسل". They were all charged with joining a terrorist group, funding a terrorist group, inciting to commit a terrorist crime and publishing false news on the basis of articles 6, 12 and 13 of the Anti-Terrorism Law No. 94/2015 and articles 80, 86 and 188 of the Penal Code. Reportedly, none of the four individuals has been able to meet with their lawyers as interrogation sessions are held via video conference while they are in prison. Their lawyers only saw them once during the first interrogation session.

Similarly, Mr. Suleiman has reportedly been subjected to multiple instances of arrest, detention and enforced disappearance in relation to his opposition to Government policies and his peaceful participation in protests. He has also been charged with terrorism-related offences.

Mr. Ali Ramdan Ali Ahmed

Mr. Ahmed is a 53-year-old Egyptian citizen who worked as a sales agent at the time of his arrest.

On 2 January 2025, Mr. Ahmed was arrested by National Security agents at his place of residence in Alexandria. He was taken to the National Security Agency (NSA) premises in Semoha district where he was subjected to enforced disappearance for 35 days. During this period, he was reportedly subjected to beatings and his family and lawyer were unaware of his fate and whereabouts.

On 8 February 2025, Mr. Ahmed was brought before the State Security Prosecution and charged under case No. 846/2025. He is currently held in pretrial detention in the 10th of Ramadan prison.

Mr. Ali Fathy Ali Mabrouk Qadeeb

Mr. Qadeeb is a 48-year-old Egyptian citizen who used to work at the Ministry of Education.

On 11 January 2025, Mr. Qadeeb was arrested by National Security agents without being shown an arrest warrant. He was taken to the NSA premises of Damanhur and was subjected to enforced disappearance for 27 days, during which he was handcuffed and blindfolded and his family and lawyer were unaware of his fate and whereabouts.

On 7 February 2025, Mr. Qadeeb was brought before the State Security Prosecution and charged under case No. 446/2025. The Prosecution reportedly disregarded Mr. Qadeeb's testimony regarding his enforced disappearance and the arrest report was dated 7 February 2025. Mr. Qadeeb is currently held in pre-trial detention in the 10th of Ramadan prison.

Mr. Soliman Mawod Soliman Mohamed

Mr. Mohamed is a 46-year-old Egyptian citizen who used to be a worker.

On 23 December 2024, National Security agents raided and searched Mr. Mohamed's residence. The agents arrested Mr. Mohamed without showing a warrant and took him to the NSA premises of Shubra El-Khaima, Qalyubia, where he was subjected to enforced disappearance for 45 days. During that time, he was reportedly subjected to severe torture through beatings and electric shocks, and was blindfolded and handcuffed. His family and lawyer were unaware of his fate and whereabouts until his appearance before the State Security Prosecution.

On 8 February 2025, Mr. Mohamed was brought before the State Security Prosecution and charged under case No. 846/2025. The Prosecution reportedly disregarded Mr. Mohamed's testimony regarding his enforced disappearance and the arrest report was dated 8 February 2025. He is currently being held in pre-trial detention in the 10th of Ramadan prison.

Mr. Emad Adel Abdulaziz Maaty

Mr. Maaty is a 44-year-old Egyptian citizen who used to be a storekeeper.

On 11 January 2025, Mr. Maaty was arrested in his residence and taken to the NSA premises of Mansora. He was reportedly subjected to enforced disappearance for a week during which he was blindfolded and handcuffed. His family and lawyer were unaware of his fate and whereabouts.

On 7 February 2025, Mr. Maaty was brought before the State Security Prosecution and charged under case No. 851/2025. The Prosecution reportedly disregarded Mr. Maaty's testimony regarding his enforced disappearance and the arrest report was dated 7 February 2025. He is currently being held in pre-trial

detention in the 10th of Ramadan prison.

Mr. Ahmad Assayed Suleiman

Mr. Suleiman is a 28-year-old Egyptian national and political activist. In 2016, he was arrested and detained for three months after taking part in protests denouncing Egypt's official cession of the islands of Tinar and Sanafir to Saudi Arabia.

He was arrested again in 2017, following his participation in a peaceful demonstration marking the anniversary of the 2011 Egyptian revolution. After 17 months of detention at the NSA facility in Shubra al-Khaima, Mr. Suleiman was released and required to report regularly to the NSA premises. In 2021, further to a request for Mr. Suleiman to report to the NSA premises in Shubra al-Khaima, the NSA detained him for one month.

Between 2023 and 2024, Mr. Suleiman was subjected to multiple instances of enforced disappearances, as described below, and is currently being held in pre-trial detention.

First period of enforced disappearance (13 to 11 August 2023)

On 13 June 2023, persons associated with Mr. Suleiman were informed by a NSA official that Mr. Suleiman was unofficially summoned to the NSA headquarters in the police station of Shubra al-Khaima, without providing a reason. Mr. Suleiman presented himself at the NSA headquarters and five officers in civilian clothes went to Mr. Suleiman's house with him. They proceeded to search the house and confiscate mobile phones belonging to his family, before leaving with Mr. Suleiman, without advising where they were taking him.

On 7 August 2023, persons associated with Mr. Suleiman submitted a written request for the Public Prosecutor to reveal the place of his detention. The request was filed as petition No. 43094 of 2023 but remains unanswered.

On 11 August 2023, Mr. Suleiman was brought before the Qalyubia Governorate Prosecution Office and interrogated by the Deputy Public Prosecutor (DPP) about supposed links to "terrorist" organizations, his upbringing and family life. While at the Prosecution Office, Mr. Suleiman informed his lawyer that he had been detained at the NSA headquarters since 13 June 2023. Mr. Suleiman was charged in case No. 13034/2023 with "joining a 'terrorist' group that was established in violation of the Constitution and the law" under the Anti-Terrorism Law No. 94/2015. He was granted conditional bail pending trial but, instead of being released, was subjected to a second period of enforced disappearance.

Second period of enforced disappearance (11 August to 2 September 2023)

On 15 August 2023, Mr. Suleiman's lawyer filed petition No. 4518 of 2023 requesting an investigation into the non-execution of the Prosecutor's grant of

bail and Mr. Suleiman's subsequent enforced disappearance. The Public Prosecutor refused to open an investigation.

On 2 September 2023, Mr. Suleiman was brought before the Public Prosecutor of Kafr Chokr, Qalyubia Governorate, and interrogated in connection with case No. 3117/2023, regarding his supposed links to "terrorist" organizations. He was charged with publishing and broadcasting false news under article 188 of the Criminal Code and remanded in custody. On the same day, he was transferred to the Abu Zaabal Correction and Rehabilitation Centre in Qalyubia. Mr. Suleiman reportedly showed signs of severe fatigue during his interrogation. He was able to inform his lawyer that he had been detained at the NSA headquarters.

On 21 January 2024, Mr. Suleiman appeared before the investigating judge of the Banha Criminal Court in case No. 3117/2023. He was granted conditional bail but, as a result of the appeal filed by the Public Prosecutor, Mr. Suleiman was not released and was once again taken to the NSA headquarters. The appeal was dismissed the next day.

On 23 January 2024, Mr. Suleiman paid the 3,000 Egyptian pounds security for his bail. However, despite satisfying the grant of bail, Mr. Suleiman was not released.

On 3 February 2024, Mr. Suleiman's lawyer filed petition No. 669834 of 2024 to request that the Public Prosecutor disclose Mr. Suleiman's place of detention and investigate his enforced disappearances and the non-execution of the two bail orders. The Public Prosecutor informed Mr. Suleiman's lawyer that the petition was being "processed", refusing to initiate an investigation or acknowledge his detention.

On 4 February 2024, a person associated with Mr. Suleiman inquired about his whereabouts at the Qalyubia Police Station. A police officer stated that Mr. Suleiman was not at the police station and did not acknowledge his detention at any other facility.

On 7 February 2024, Mr. Suleiman's lawyer filed petition No. 674582 of 2024 with the same requests as in the 3 February petition. However, the Public Prosecutor refused to disclose Mr. Suleiman's place of detention or acknowledge that he was detained.

On 26 February 2024, the authorities brought Mr. Suleiman before the Supreme State Security Prosecution (SSSP) headquarters in the Fifth Settlement, Cairo. The SSSP interrogated Mr. Suleiman as part of case No. 165/2024, again regarding his supposed links to "terrorist" organizations. The SSSP charged him with "joining and financing a terrorist group" and remanded him in pre-trial detention. Mr. Suleiman was able to inform his lawyer that he had been detained at the NSA headquarters since 23 January 2024. Mr. Suleiman was then transferred to the 10th of Ramadan Prison in Sharkia Governorate pending trial. No trial date has been set.

It is reported that the SSSP renewed Mr. Suleiman's pre-trial detention 10 times between 4 March and 15 July 2024. During a pre-trial hearing on 28 May 2024, the presiding judge rejected Mr. Suleiman's lawyer's request to be given access to his client's files and the details of the charges against him. On 15 July 2024, the Appellate Misdemeanour Court in Cairo extended Mr. Suleiman's pre-trial detention for 45 days.

Without wishing to prejudge the accuracy of the above-mentioned allegations, we express grave concern regarding the allegations of arrest, enforced disappearance, and criminal prosecution, including on terrorism charges, of Mr. Ahmed, Mr. Qadeeb, Mr. Mohamed and Mr. Maaty, for expressing their opinions about the economic situation in Egypt and calling for protests through social media posts and videos, and of Mr. Suleiman for participating in protests denouncing governmental policies. Furthermore, we are alarmed at the allegations of torture or other cruel, inhuman or degrading treatment or punishment while in custody. We express grave concern at the multiple allegations of enforced disappearance, and failure and/or refusal of the authorities to inform the individuals' relatives of their fate and whereabouts. We are further concerned about the allegations that the individuals were denied access to legal representation and that they were not brought promptly before a court after their arrest in order for their detention to be reviewed, as required by international law.

We are concerned by what appears to be a misuse of counter-terrorism and national security legislation to target individuals who express their concerns and opinions on social media about the economic situation in the country, thereby unduly restricting their right to freedom of expression and their right to participate in public affairs in Egypt. We are further concerned about the potential chilling effect on society as a whole, as it may deter individuals from exercising their right to freedom of expression and from meaningfully participating in civic and political life.

We reiterate concerns raised in EGY 4/2020 as well as by the Human Rights Committee in its 2023 Concluding observations on the fifth periodic report of Egypt⁴ regarding the vagueness of Egypt's counter-terrorism and national security legislation, and its reported abuse to target individuals critical of the Government under the pretext of countering terrorism. We regret that your Excellency's Government appears not to have taken steps to bring its anti-terrorism legislation in full conformity with international law. We remind your Excellency's Government that the definition of terrorism under domestic legislation must be consistent with international law, including the principle of legal certainty enshrined in article 15 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Egypt on 14 January 1982, and article 11 of the Universal Declaration of Human Rights (UDHR), which requires that criminal laws be sufficiently precise and certain so that it is clear what behaviour constitutes a criminal offence. States must further ensure that counter-terrorism legislation is limited to criminalizing conduct that is genuinely terrorist in nature, based on the provisions of the international counter-terrorism instruments, Security Council resolution 1566 and the model definition of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/16/51, para. 28). Counter-terrorism laws must also be strictly guided by the principles of necessity, proportionality and non-discrimination. Counter-terrorism

⁴ CCPR/C/EGY/CO/5, para. 13-

offences and laws should never be misused against individuals exercising their rights and freedoms protected under international law.

Should they be confirmed, the allegations above may amount to several violations of the ICCPR, in particular, the right to life, the absolute prohibition of torture, cruel, inhuman or degrading treatment or punishment, the right to liberty and security of person, which includes the right not to be subjected to arbitrary arrest or detention, the right to humane treatment when deprived of liberty, the right to a fair trial and due process, the right to recognition everywhere as a person before the law, the right to freedom of opinion and expression, the right to freedom of peaceful assembly, the right to freedom of association and the right to participate in public affairs, enshrined in articles 6, 7, 9, 10, 14, 16, 19, 21, 22 and 25 of the ICCPR, read alone and in conjunction with the right to an effective remedy in article 2(3).

We recall Egypt's obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment, including through the implementation of all necessary legal and procedural safeguards for those held in custody, pursuant to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which it ratified on 25 June 1986.

With respect to the allegations of enforced disappearance, we wish to recall that, under international law, a deprivation of liberty (including in the form of incommunicado detention), followed by the failure or refusal to acknowledge a deprivation of liberty by State agents or the concealment of the fate or whereabouts of the person, are constitutive elements of an enforced disappearance. This holds true regardless of the duration of the said deprivation of liberty or concealment, as reiterated in the joint statement of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances on so-called "short-term" enforced disappearances. We draw the attention of your Excellency's Government to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which establishes that no State shall practice, permit or tolerate enforced disappearances. The absolute and non-derogable prohibition of enforced disappearances has attained the status of *jus cogens*. We echo the Human Rights Council's recommendations made to Egypt on the occasion of its last Universal Periodic Review on 28 January 2025, to consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and to create effective accountability mechanisms to investigate enforced disappearances.

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 detail the factual and legal basis for the arrest and detention of Mr. Ahmed, Mr. Qadeeb, Mr. Mohamed, Mr. Maaty and Mr. Suleiman. Please provide detailed information on the terrorism-related charges against them and explain how these conform to the principles of legality, necessity, proportionality and non-discrimination.
3. Please indicate what measures have been taken by your Excellency's Government to ensure the rights of all five individuals to a fair trial and due process, including the right to access a lawyer immediately after arrest, in conformity with international human rights law.
4. Please indicate how the arrest, detention and prosecution of all five individuals are in line with Egypt's international human rights obligations, including the right to freedom of expression and opinion, freedom of peaceful assembly, freedom of association and the right to participate in public affairs, as well as the prohibition of enforced disappearance and of torture or ill-treatment.
5. Please provide information about any investigation initiated into the allegations of enforced disappearance of all five individuals, as well as the allegations of torture or other cruel, inhuman or degrading treatment or punishment, and whether these were conducted in compliance with international standards, including – with regard to the allegations of torture or ill-treatment – the Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition). Please explain the results of such investigations. If no investigation has been carried out, please explain the reason for not investigating such allegations and how this is compatible with international law, in particular the Convention against Torture and the ICCPR. Please further provide information on the policies, procedures and measures adopted to prevent and investigate enforced disappearances as well as torture or other cruel, inhuman or degrading treatment or punishment carried out by members of State security forces, and the steps taken to ensure the accountability of any person(s) responsible.
6. Please detail what measures your Excellency's Government is taking to ensure that citizens are able to exercise their right to freedom of expression, including public criticism of the Government and other public authorities as well as their decisions and policies, in a safe and enabling environment without fear of harassment, criminalisation or acts of intimidation of any kind in retaliation for expressing views critical of the Government.
7. Please provide detailed information as to how the definition of terrorism in Egypt's Anti-Terrorism Law No. 94/2015 is construed in conformity with the principle of legal certainty and so as to ensure that measures taken pursuant to it do not unduly interfere with human rights guaranteed by the Egyptian Constitution and Egypt's international obligations under the Conventions it has ratified, while complying with the principles of

legality, necessity, proportionality and non-discrimination.

8. Please detail steps taken by your Excellency's Government to amend Egypt's Anti-terrorism legislation in line with international human rights standards, as detailed in EGY 4/2020 and recommended by the Human Rights Council.

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 prevent any irreparable damage to the life and personal integrity of Mr. Ali Ramdan Ali Ahmed, Mr. Ali Fathy Ali Mabrouk Qadeeb, Mr. Soliman Mawod Soliman Mohamed, Mr. Emad Adel Abdulaziz Maaty, and Mr. Ahmad Assayed Suleiman.

We also urge your Excellency's Government to take the necessary steps to promptly and impartially review the charges against the above-mentioned individuals and, if found to be unsubstantiated, to discard the charges and release the individuals as soon as possible. We urge the Government to exhaustively investigate the allegations described above and adopt the appropriate measures to ensure accountability and redress for any human rights violation found to have been committed. Further, we respectfully urge your Excellency's Government to review its policies, legislation and practices, including the use of counter-terrorism legislation, to ensure that they are not used to unjustifiably curtail rights and freedoms protected under international human rights law.

We would like to bring to your attention that should sources submit the allegations concerning individual cases of enforced disappearances for the consideration of the Working Group on Enforced or Involuntary Disappearances under its humanitarian procedure, the case will be examined by the Working Group according to its methods of work, in which case you will be informed by separate correspondence.

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

Gabriella Citroni

Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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

Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Annex

Reference to international human rights law

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

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,⁵ the General Assembly's Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004).⁶ 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 terrorism⁷ 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 be sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and the legal consequences of committing such an offence. This principle 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.⁸

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.⁹ Counter-terrorism measures must conform to fundamental requirements of legality, proportionality, necessity and non-discrimination. The wholesale adoption of security and counter-terrorism regulations without due regard for 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 are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights.¹⁰

⁵ See https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml.

⁶ A/RES/49/49, annex, para. 3.

⁷ A/HRC/16/51, para. 28.

⁸ [A/70/371](#), para. 46(b).

⁹ 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.

¹⁰ See [A/HRC/RES/22/6](#), para. 10(a); [A/70/371](#), para 46(c).

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 (Human Rights Committee, general comment No. 34). We stress that counter-terrorism legislation with penal sanctions should not be misused against individuals peacefully exercising their rights protected under international law, including to freedom of expression, peaceful assembly and association. These rights enjoy international legal protection and non-violent criticism of the State or its institutions cannot be made a criminal offence in any society governed by the rule of law and abiding by human rights principles and obligations. Countering terrorism should not be used as an excuse to suppress peaceful critics (A/HRC/RES/25/18).

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

The absolute and non-derogable prohibition of torture or other cruel, inhuman or degrading treatment or punishment is provided in article 5 of the UDHR; article 7, read alone and in conjunction with article 2(3), of the ICCPR; and at least, articles 1, 2, 15 and 16 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), ratified by Egypt on 25 June 1986.¹¹

Attached to such prohibition are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute suspects, to punish those responsible and to provide remedies to victims.¹² States parties to the CAT have explicit treaty duties to establish all acts of torture as offences under domestic law (article 4), to exercise jurisdiction over said offences (article 5), to receive complaints and examine them promptly and impartially (article 13), and to investigate those allegations promptly and impartially (article 12).

Defendants cannot rely on orders of a superior or public authority, or states of emergency, to exonerate their actions (articles 2(3) and 2(2)), while any legal mechanisms which interfere with that obligation, such as statutes of limitations, immunities or amnesties, are considered contrary to the non-derogable nature of the prohibition (article 2(2)). Amnesties provided by domestic law do not remove criminal liability pursuant to international tribunals or universal jurisdiction. Prosecutors and courts have a duty to refuse evidence obtained, or suspected of having been obtained, through torture or other illicit means (article 15).

Victims are to be protected from reprisals or intimidation during said investigations (article 13) and they have an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible (article 14).

At no time shall torture be used to extract information or a confession (article 1), and any statement which has been obtained via such methods, shall be excluded from any proceedings except against a person accused of torture as evidence that the

¹¹ For a full explanation of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and the related States' obligations to criminalize, investigate and prosecute crimes of torture and other ill-treatment, see the reports of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/77/502) and (A/HRC/52/30).

¹² *Ibid.*

statement was made (article 15).

States parties to CAT have overarching obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment via effective legislative, administrative, judicial and other measures (articles 2 and 16), to educate and train relevant personnel on the prohibition (article 10) and to keep all rules, instructions, methods and practices relating to interrogation, custody and treatment under systematic review (article 11).

The standards of conditions and treatment of persons deprived of their liberty are contained in the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which establish that all prisoners shall be treated with dignity and no prisoner shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.¹³ Similarly, article 10 of the ICCPR requires States to treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person.

Prohibition of arbitrary detentions

Article 9 of the ICCPR provides that everyone has the right to liberty and security of person, no one shall be subjected to arbitrary arrest or detention, and no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. Under article 9(2) of the ICCPR, anyone arrested must be informed of the reasons for the arrest at the time of the arrest, and of the charges against him or her promptly.

Article 9(3) of the ICCPR specifically requires that anyone arrested or detained on a criminal charge be brought promptly before a judge. As noted by the Human Rights Committee, “[i]t is inherent to the proper exercise of judicial power that it be exercised by an authority which is independent, objective and impartial in relation to the issues dealt with” and consequently, “a public prosecutor cannot be considered as an officer exercising judicial power under paragraph 3” (general comment No. 35, para. 32). Article 9(3) further provides that “[i]t shall not be the general rule that persons awaiting trial shall be detained in custody”. In this regard, the Human Rights Committee has noted that “[d]etention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime” (para. 38).

Additionally, article 9(4) of the ICCPR guarantees the right to take proceedings before a court, in order for that court to decide without delay on the lawfulness of the detention and order the person’s release if the detention is not lawful. Access to a lawyer, including immediately after arrest, is an essential safeguard of the right to challenge the legal basis of one’s detention.

Furthermore, in accordance with the jurisprudence of the Working Group on Arbitrary Detention, and general comment No. 35, arrest or detention of an individual

¹³ See further the Special Rapporteur on Torture’s report on Current Issues and Good Practices in Prison Management, A/HRC/55/52: <https://www.ohchr.org/en/documents/thematic-reports/ahrc5552-current-issues-and-good-practices-prison-management-report>

as punishment for the legitimate exercise of rights guaranteed by the ICCPR, including freedom of opinion and expression, freedom of peaceful assembly and freedom of association, is arbitrary.

Right to a fair trial and due process

The right to a fair trial and due process enshrined in article 14 of the ICCPR includes the right of everyone charged with a criminal offence to “have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing”. In its general comment No. 32, the Human Rights Committee noted that “[t]he right to communicate with counsel requires that the accused is granted prompt access to counsel” (para. 34). In that regard, principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court provide that the right to legal assistance is applicable at any time during the detention, including immediately after apprehension. All persons apprehended must be promptly advised of this right and access to legal counsel must be provided without delay.

In addition, the Human Rights Committee has noted that the right to “adequate time and facilities” under article 14 of the ICCPR “must include access to documents and other evidence”, including all inculpatory and exculpatory materials that the prosecution plans to offer in court. In that regard, guideline 5 of the UN Basic Principles and Guidelines provides that “[t]he factual and legal basis for the detention shall be disclosed to the detainee and/or his or her representative without delay so as to provide adequate time to prepare the challenge. Disclosure includes a copy of the detention order, access to and a copy of the case file, in addition to the disclosure of any material in the possession of the authorities or to which they may gain access relating to the reasons for the deprivation of liberty.”

Right to freedom of expression and opinion

Article 19 of the ICCPR guarantees the right to freedom of opinion and 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 protects the freedom of the press as one of its core elements. Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with article 19 (general comment No. 34, para. 23).

In its general comment No. 34, the Human Rights Committee, interpreting article 19, 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 there is a duty on States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression

(para. 23).

Further, Human Rights Council resolution 12/16 called on States to refrain from imposing restrictions that are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups. We also wish to refer to the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on Disinformation and freedom of opinion and expression (A/HRC/47/25), in which she stated that “in keeping with their obligation to respect human rights, States should (...) refrain from restricting freedom of expression online or offline except in accordance with the requirements of articles 19(3) and 20(2) of the International Covenant on Civil and Political Rights, strictly and narrowly construed”. Further, the Special Rapporteur highlighted that “criminal law should be used only in very exceptional and most egregious circumstances of incitement to violence, hatred or discrimination,” in the efforts to counter disinformation (para. 89).

Rights to freedom of peaceful assembly and freedom of association

Article 21 of the ICCPR guarantees the right of peaceful assembly and states that “[n]o 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.” In its general comment No. 37, the Human Rights Committee noted that “the right of peaceful assembly imposes a corresponding obligation on States parties to respect and ensure its exercise without discrimination. This requires States to allow such assemblies to take place without unwarranted interference and to facilitate the exercise of the right and to protect the participants” (para. 8). The Committee further emphasized that while the right to freedom of peaceful assembly may in some cases be restricted under the conditions listed in article 21, “[r]estrictions on peaceful assemblies must thus not be used, explicitly or implicitly, to stifle expression of political opposition to a government” (para. 49).

In addition, article 22 of the ICCPR protects the right to freedom of association, including the rights of everyone to associate with others and to pursue common interests. Freedom of association is closely linked to the rights to freedom of expression and to peaceful assembly and is of fundamental importance to the functioning of democratic societies and can only be limited through necessary and proportionate restrictions that serve a legitimate public purpose that is consistent with international standards.

In its resolution 24/5, the Council reminded States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline.¹⁴

¹⁴ A/HRC/26/29, para. 22.

Further, the Special Rapporteur on the rights to freedom of peaceful assembly and of association has affirmed that access to justice is an integral element of the protection of the rights to freedom of peaceful assembly and of association, and obstructed justice for violations related to the exercise of these rights undermines their essence (A/HRC/47/24, paras. 22 and 72). Further, the Special Rapporteur in his report on advancing accountability and ending impunity, found that broad and ambiguous security-related legislation have been misused and instrumentalized by States as tools to suppress and crack down on activists and protesters, and legitimize abuses by States (A/HRC/53/38, para. 18).

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: ... To take part in the conduct of public affairs, directly or through freely chosen representatives”. This includes the right to exert influence through public debate and dialogue and such participation is supported by ensuring freedom of expression, assembly and association (general comment No. 25, para. 8). To ensure the full enjoyment of the rights under article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential, which implies a free media and freedom to engage in political activity and freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas (ibid., para. 25).

Prohibition of enforced disappearances

Enforced disappearances amount to violations of articles 6, 7, 9 and 16 of the ICCPR, read alone and in conjunction with article 2(3). Moreover, they entail a violation of article 7, read alone and in conjunction with article 2(3) of the ICCPR with regard to the relatives of a disappeared person. The absolute and non-derogable prohibition of enforced disappearances has attained the status of *jus cogens*. It is also enshrined under articles 2 and 7 of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance, adopted by General Assembly resolution 47/133 on 18 December 1992. The Declaration sets forth States’ obligations to prevent and eradicate this practice. In particular, articles 2 and 3 provide that no State shall practice, permit or tolerate enforced disappearances and that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. We underline that the Working Group on Arbitrary Detention has reiterated that enforced disappearances constitute an aggravated form of arbitrary detention.

According to the joint statement of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances on so-called “short-term” enforced disappearances, under international human rights law, duration is not a constitutive element of enforced disappearances, which produce serious harm and consequences for the disappeared and their families regardless of duration and also present practical challenges as regards seeking protection as well as defence of their rights.

Furthermore, articles 9-13 of the Declaration spell out the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to ensure that all involved in the investigations are protected against ill-treatment, intimidation or reprisal. Article 14 further establishes that States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance. Furthermore, article 19 of the Declaration establishes that victims or family relatives have the right to obtain redress, including adequate compensation. In its general comment No. 36 on article 6 of the ICCPR, the Human Rights Committee observed that extreme forms of arbitrary detention that are themselves life-threatening, in particular enforced disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life (para. 57). It noted that States parties must take adequate measures to prevent the enforced disappearance of individuals and conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance (para. 58).

The Working Group's Study on enforced or involuntary disappearances and economic, social and cultural rights (A/HRC/30/38/Add.5) highlights the chilling effect of the disappearance of journalists and human rights defenders (paras. 33-37). States are accordingly called on to "ensur[e] the existence of and respect for cultural diversity and the existence of space where multiple opinions, positions and interpretations of history can find their expression in the public sphere diminishes the level of vulnerability of those questioning in one way or another mainstream ideas and positions, and so prevents against targeting of human rights defenders" (para. 49). The Working Group's study on new technologies and enforced disappearances also raises concern with regards to targeted and mass surveillance to suppress dissent and target human rights defenders (A/HRC/54/22/Add.5, para. 57). The report of the Working Group on Standards and public policies for an effective investigation of enforced disappearances (A/HRC/45/13/Add.3) and the 2019 Guiding Principles for the Search for Disappeared Persons provide further guidance on standards.