

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights in Cambodia; the Working Group on Enforced or Involuntary Disappearances; 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; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on discrimination against women and girls

Ref.: AL KHM 5/2025
(Please use this reference in your reply)

24 July 2025

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights in Cambodia; Working Group on Enforced or Involuntary Disappearances; 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; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 51/8, 54/36, 54/14, 53/4, 52/9, 50/17, 58/5, 58/14, 52/7 and 50/18.

In this connection, we would like to bring to the urgent attention of your Excellency's Government information we have received concerning **a reported surge in human rights violations of a transnational nature in the Greater Mekong Subregion, including Cambodia, Lao Peoples' Democratic Republic, Thailand and Viet Nam, Malaysia and China.**

Concerns regarding the abovementioned allegations in the region were raised by Special Procedures mandate-holders on previous occasions ([KHM 4/2020](#), [KHM 5/2020](#) and [KHM 7.2020](#)). We thank your Excellency's Government for the responses provided to the respective communications.

In December 2020, several Special Procedures mandate-holders raised concerns about the apparent pattern of cooperation among some Member States in the region (Cambodia, Lao People's Democratic Republic, Thailand and Viet Nam) for the purposes of enforced disappearance, extra-judicial execution and rendition. We regret that we have not yet received a detailed response to the concerns we highlighted in those letters.

According to the information received:

Killings in Thailand

On 7 January 2025, Mr. **Lim Kim Ya**, a 73-year-old former parliamentarian from the dissolved Cambodian opposition party, the “Cambodia National Rescue Party” (CNRP), which was banned in 2017, and a national of France and Cambodia, was killed by an individual believed to have accomplices linked with the ruling party, the “Cambodian People’s Party” (CPP). According to the Thai police, he was hit in the chest by two bullets. He had just arrived in Bangkok with his wife on a bus from Cambodia. Mr. Lim Kim Ya had been active on his social media criticizing the Government of Cambodia. His last Facebook post was on 3 January 2025.

An investigation was initiated into Mr. Lim Kim Ya’s death. On 8 January 2025, the Thai criminal court approved an arrest warrant for a Thai suspect, who was charged with premeditated murder, carrying a firearm in public without valid reason, and discharging a firearm in a public area. Later in January 2025, the Thai police issued an arrest warrant for two Cambodian nationals, one believed to have acted as a spotter in the killing and the other believed to have hired the gunman. Both suspects are believed to be in Cambodia.

Mr. Lim Kim Ya’s family has not been provided with any updated information on the status of the investigation.

Forced returns from Thailand and Malaysia

In November 2024, Thailand reportedly forcibly returned five Cambodian political opposition activists, the adult daughter of one of the activists and a five-year old child back to Cambodia. The Cambodian political activists were members of the dissolved CNRP and the opposition “Candlelight Party” (CLP). They had fled to Thailand in 2022, where the five activists had been recognised by the UN High Commissioner for Refugees (UNHCR) as refugees and the sixth adult was awaiting refugee status determination from UNHCR. They were charged with “plotting” under article 453 of Cambodia’s Criminal Code on 15 August 2024, during widespread public opposition in July and August 2024 to a trade and cooperation agreement between Cambodia, Lao PDR and Viet Nam, and the subsequent crackdown by Cambodian authorities which led to mass arrests in the country.

On return to Cambodia, the six adults were arrested under these charges and remain in prison on pre-trial detention. Two of them had difficulties accessing legal aid and, as of early 2025, were still being held without access to a lawyer.

Additionally, on 28 September 2024, Ms. **Nuon Toeun** – a Cambodian domestic worker in Malaysia – was arrested by three Malaysian police officials at her workplace, where she had worked for 15 years. She was reportedly arrested without explanation, spent two nights at a Malaysian police station, and was then deported to Cambodia. The Malaysian police told her that she was arrested for insulting the King on Facebook and for inciting discrimination in

Cambodia, and that they had been working on her case for 8 months.

On 30 September 2024, she was brought to a Malaysian airport by three Cambodian men who may have been representatives from the Cambodian Embassy. She was brought to a plane handcuffed and sat next to the three Cambodian men. During the flight, no explanations were given regarding her destination. After her arrival, she was sent to the National Police to be questioned on the videos and Facebook comments found on her personal account. She said she commented on many critical social issues in Cambodia in the past years.

On 2 October 2024, Ms. Nuon Toeun was sent to pre-trial detention in Correctional Centre 2 on two separate charges, including charges of “insulting the King” under article 437 (bis); “incitement to commit a felony” under articles 494 and 495; and “incitement to discrimination” under article 496 of Cambodia’s Criminal code. She was not shown any arrest warrant in Malaysia or Cambodia, nor was she provided with the reasons for her pre-trial detention. In March 2025, she was found guilty on the two separate charges and was sentenced to 24 months in prison.

Harassment and persecution in Thailand

In early November 2024, two members of the ruling party CPP reportedly approached Ms. **Chhin Chou**, a Cambodian opposition leader, with an offer to defect and take on a role within the commune administration. After she declined this proposal, police officers reportedly visited her home in Cambodia and informed her father that she needed to publicly apologize and confess to her alleged wrongdoing, namely her alleged association with a known activist and former politician. The police warned that failure to comply could result in her arrest. At the time, she decided not to return home.

On 10 November 2024, Ms. Chhin Chou fled to Thailand after experiencing close surveillance from unidentified individuals monitoring her daily activities and being accused by the Cambodian police of secretly engaging in political activism with Cambodian opposition leaders who were abroad. On 2 December 2024, she received a UNHCR refugee card.

It is reported that Ms. Chhin Chou was recently targeted by the Cambodian authorities for posting a video on Facebook criticizing the Cambodian Ministry of Commerce's recent trade negotiations with the United States of America. On 23 May 2025, Cambodia's National Police issued a press release stating that Ms. Chhin Chou is accused of disseminating a video via three social media accounts that is considered "false" and "inciteful." The authorities further allege that the video is intended to "poison and destroy society" and qualified her conduct as criminal. The police also reported that Ms. Chhin Chou had been previously charged in November 2024 for “conspiring to commit treason through activities with extremists rebel groups to attack the Government” and that she evaded arrest by fleeing to Thailand. They informed that Cambodian and Thai law enforcement agencies are working together to apprehend and extradite her.

Based on the above, there are concerns that Ms. Chhin Chou is at risk of *refoulement*.

Harassment of family members

Mr. **Sok Sunnareth** is the father of Mr. **Sorn Dara**, a leading supporter of the banned opposition party CNRP with refugee status in France. In 2017, Mr. Sorn Dara fled Cambodia and, since then, he has continued to criticize the Cambodian Government via widely followed broadcasts on Facebook.

In May 2023, the President of the Cambodian Senate reportedly threatened to fire Mr. Sorn Dara's relatives from Government employment due to his activism. On 13 November 2024, Mr. Sok Sunnareth was allegedly summoned to a special meeting at military premises in Kampong Speu Province. Upon arrival, his car was taken over by a member of the military and driven into the compound while he was still inside his vehicle. The compound was reportedly surrounded by military police and the street had been cleared from traffic. As he went into the meeting, he was informed that he was under arrest for drug trafficking. Drugs were reportedly discovered in his car after the meeting.

Since then, Mr. Sok Sunnareth has been held in pre-trial detention with deteriorating health status, including concerns with a knee operation he had shortly before his arrest and other pre-existing lung and back problems. It is believed that he has been targeted to silence his son, Mr. Sorn Dara.

Killings and enforced disappearances of Thai political activists

At least nine Thai political activists disappeared from Cambodia, Lao PDR and Viet Nam between 2016 and 2021. While all of them were politically active and critical of the authorities, several faced charges for *lese-majesté*/sedition or Strategic Lawsuits against Public Participation lawsuits; and most were also online journalists. Among them, two were found dead; two are suspected to be dead; four were presumably handed over to Thai authorities; and no information is available regarding the fate of the ninth person. None of them has ever been seen again, and the perpetrators remain unknown.

On 4 June 2020, Mr. **Wanchalearm Satsaksit**, a Thai pro-democracy activist who had lived in exile in Cambodia since 2014, was abducted by armed men outside his apartment building in Phnom Penh. Shortly after the abduction of Mr. Wanchalearm Satsaksit, his sister, Ms. Sitanun Satsaksit submitted the complaint to the Phnom Penh Municipal Court in Cambodia. Later, she was summoned to provide testimony and submit additional evidence regarding her brother's whereabouts and the circumstances of his disappearance. On 27 February 2024 – nearly four years after the incident – the Cambodian Government stated that it had concluded its investigation and submitted a report to the Phnom Penh Municipal Court. However, the contents of the report have not been disclosed to the family or their legal representatives, and no official findings have been communicated.

The Office of the Attorney General and the National Human Rights Commission of Thailand

On 25 October 2022, Thailand adopted the first domestic law on the “Prevention and Suppression of Torture and Enforced Disappearance” Act (B.E.2565, 2022). The law came into effect on 22 February 2023. Sections 14 and 19 of the Act allows the establishment of the National Committee on the Prevention and Suppression of Torture and Enforced Disappearance to monitor and suggest the amendment of laws and policies to prevent and end torture and enforced disappearance.

Despite the new law, several complaints submitted by the families of disappeared victims were dismissed by the Centre for the Prevention and Suppression of Torture and Enforced Disappearance established under the Office of the Attorney General of Thailand.

On 8 January 2024, the Centre informed Mr. Wanchalearm Satsaksit’s family that the complaint that it had submitted on 1 June 2023 was not accepted, and that the case was closed. The Centre informed his family that the case could only proceed under the Act if the perpetrator was confirmed to be a State official – an element that remains unverified to date. As a result, his fate and whereabouts remain unknown, and no effective remedy has been provided to the family.

On 10 June 2024, the National Human Rights Commission of Thailand (NHRCT) presented its investigation report on the nine cases of enforced disappearances of Thai refugees residing in neighbouring countries (Cambodia, Lao PDR and Viet Nam) between 2016 and 2021. The NHRCT concluded that the nine individuals are “believed to be cases of enforced disappearance” under the International Convention on the Protection of All Persons from Enforced Disappearance and related laws and that the officials may have been involved in the disappearances and deaths. The NHRCT also stated that “ineffective actions” of Thai Government authorities in the investigations and the lack of progress in prosecuting the perpetrators are considered negligent and a violation of human rights.

The NHRCT also pointed out that the “Damages for the Injured Person and Compensation and Expenses for the Accused in Criminal Case” Act (BE 2544, 2001) does not lay down criteria for compensation by the Government in cases of enforced disappearances and recommended to the Committee under the Prevention and Suppression of Torture and Enforced Disappearance Act to investigate these cases of enforced disappearances till the truth is established and take remedial measures for the families of the victims, including developing strategies and measures for physical and psychological rehabilitation and financial and psychological compensation for the victims. It also recommended that the Committee develop a guideline to investigate cases of enforced disappearances of Thai persons living abroad.

On 30 August 2024, the National Committee on the Prevention and Suppression of Torture and Enforced Disappearance established a sub-committee to investigate the case of the nine Thai individuals disappeared abroad. However,

no significant progress has reportedly been made so far.

On 21 March 2025, the “Regulation of the National Committee on the Prevention and Suppression of Torture and Enforced Disappearance regarding Assistance, Remedies, and Rehabilitation for Victims” (B.E.2568) was published in the Royal Gazette and came into effect on the following day. The Regulation, which took almost two years to be completed, lays down instructions on the criteria and procedures for victims to request for both non-monetary and monetary compensation. A lump sum compensation will be granted to victims of enforced disappearance and torture, while those allegedly subjected to ill-treatment will be granted financial remedies in varying ranges.

Prior to the endorsement of the Regulation, none of the victims’ families received compensation from the State, either by the Damages for the Injured Person and Compensation and Expenses for the Accused in Criminal Case Act (B.E. 2544, 2001) or the “Justice Fund” Act (B.E.2558, 2015).

Without prejudging the veracity of the allegations, we wish to express our profound concern regarding the reported rise in transnational repression, including acts conducted or directed by a State, or its proxy, to deter, silence or punish dissent, criticism or human rights advocacy towards it, expressed from outside its territory. This includes serious claims of extrajudicial executions, forced return, enforced disappearance and the arbitrary detention of activists, dissidents and human rights defenders, for the purpose of rendition, simply for exercising their fundamental rights, such as freedom of opinion and expression, or for engaging in legitimate human rights advocacy. Such practices have a profound chilling effect, deterring individuals from freely expressing their opposing political views or pursuing their work as journalists, lawyers, or social activists.

We reiterate that, under international law, the failure or refusal to acknowledge a deprivation of liberty by State agents or persons acting with their authorization, support, or acquiescence constitutes enforced disappearance, regardless of the duration or type of concealment involved. State authorities are thus obliged to take all necessary measures to effectively protect the rights of persons deprived of their liberty, as they automatically assume responsibility for their lives, physical integrity, and wellbeing. State authorities are also obliged to promptly provide accurate information on the detention of persons deprived of liberty and their place or places of detention, including transfers, to their family members, counsel, or any other persons with a legitimate interest. The State should also fully recognize the legal personality of disappeared persons and their families, thus protecting them, bearing in mind their special vulnerability. It should also respect their rights to reparation, including adequate compensation for any damage (physical or mental injury, lost opportunities, material damage and loss of income, damage to reputation, and costs incurred in obtaining legal or expert assistance) resulting from an enforced disappearance.

Moreover, we emphasize the profound and devastating impact that enforced disappearances have on the families of the disappeared individuals and their communities. Enforced disappearances not only cause immense personal suffering but also disrupt the social fabric and cohesion of communities. The enforced disappearances of religious believers and minorities and human rights defenders, in

particular, violate the economic, social, and cultural rights of those involved in related activities; they harm the larger community that depended on the disappeared individuals to advocate for and defend their rights.

We further emphasize that the right to life gives rise to an obligation to investigate all cases of unlawful killings. Such investigations should comply with international standards including the [Minnesota Protocol on the Investigation of Potentially Unlawful Death](#) and must be independent, impartial, prompt, thorough, effective, credible and transparent. The failure of the State to promptly investigate does not relieve it of its duty to investigate at a later time: the duty does not cease even with the passing of significant time. States also have a duty to cooperate internationally in investigations of potentially unlawful death, in particular when it concerns an alleged international crime such as extrajudicial execution.

The Special Rapporteur on extrajudicial summary or arbitrary executions would like to convey his willingness to provide technical assistance to your Excellency's Government in relation to the investigation of potentially unlawful deaths in line with international standards including the Minnesota Protocol. Other mandate-holders remain available to offer technical assistance on matters falling within the scope of their respective mandates.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law and standards** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the steps taken by your Excellency's Government to contribute to the investigation of Mr. **Lim Kim Ya's killing** in line with international standards including the Minnesota Protocol and to search for and arrest the two Cambodian suspects believed to be in Cambodia.
3. Please provide information as to the involvement of Cambodian authorities in the forced return of the Cambodian political activists, a relative of one of the activists and a young child, and of Ms. **Nuon Toeun** and how the Cambodian authorities ensured mutual respect for the obligations of *non-refoulement*. Please clarify the location where each individual was returned, and the procedures for receiving the repatriated individuals, including the types of services and assistance provided to them. If they are detained, please provide detailed information on the factual and legal basis for each detention, any charges brought against them, their detention conditions, and whether they are afforded with access to legal assistance, medical care, means of

contacting their relatives, as well as regular visits.

4. Please explain how your Excellency's Government justifies the detention and forced return of children, and the steps taken to ensure that its policies are in line with international human rights law.
5. Please provide information on any measures undertaken to unveil the fate and whereabouts of Mr. **Wanchalearm Satsaksit**, and to inform his family accordingly.
6. Please provide information on any measures taken to effectively, independently, impartially, and thoroughly investigate any allegations of serious human rights violations, including extrajudicial executions, enforced disappearance, arbitrary detention and torture and ill-treatment, and, if proven to be correct, prosecute those responsible.
7. Please provide information on cooperation and extradition agreements with countries from the Greater Mekong Subregion, and the measures in place to prevent individuals from being returned if they may be at risk of enforced disappearance, arbitrary detention, torture, arbitrary deprivation of life and other serious human rights violations during or after their forced return. Please include copies of the agreements.

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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. Similarly, the Working Group on Enforced or Involuntary Disappearances may also consider the cases under its humanitarian procedure. The Government is required to respond separately to the present communication and the procedures of each Working Group.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please note that similar letters were transmitted to the Association of Southeast Asian Nations, and the Governments of Lao People's Democratic Republic, Thailand, Viet Nam, and Malaysia. A copy of this letter was sent to the Government of France.

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

Matthew Gillett
Vice-Chair of the Working Group on Arbitrary Detention

Vitit Muntarbhorn
Special Rapporteur on the situation of human rights in Cambodia

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

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

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

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

Laura Nyirinkindi
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law and standards

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international standards applicable to this communication, including under the International Covenant on Civil and Political Rights (ICCPR), ratified by Cambodia on 26 May 1992.

We would like to refer to articles 3, 6, 7, 9, 10, 14, 16, 18, 19, 21 and 22 of the ICCPR, read alone or in conjunction with article 2.3, which guarantee the right to life; the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; the right to liberty and security of person and the prohibition on arbitrary detentions, which includes the right to challenge the legality of the detention before the courts and to be released subject to guarantees to appear for trial; the right to be recognized as a person before the law; , to a fair and public trial before an independent and impartial tribunal without undue delay and with legal assistance of their choosing; the right to be treated with humanity and with respect for the inherent dignity of the human person;; the right to freedom of religion or belief, the right to freedom of opinion and expression; and the rights to freedom of peaceful assembly and of association, and the right to an effective remedy.

We would like to remind your Excellency's Government of the obligation to investigate gross human rights violations, to hold those responsible to account and to provide reparations to the victims. Article 2 of the ICCPR states that States must take measures to ensure that persons whose rights or freedoms are violated have an effective remedy and that competent authorities ensure the enforcement of such a remedy when it is granted.

As established by the Human Rights Committee in its general comment No. 31, States have an obligation to investigate and punish serious human rights violations, such as torture, extrajudicial executions and enforced disappearances ([CCPR/C/21/Rev.1/Add.13](#)). The failure to investigate and prosecute such violations is in itself a violation of human rights treaty norms (para. 18). Principle 2 of the Updated set of principles for the protection and promotion of human rights through action to combat impunity calls on States to undertake prompt, thorough, independent and impartial investigations into violations of human rights and international humanitarian law and to ensure that those responsible for serious crimes under international law are prosecuted, judged and duly punished ([E/CN.4/2005/102/Add.1](#)).

Right to life

We stress that the duty to protect the right to life requires States parties to adopt special measures of protection for persons in situations of vulnerability whose lives are at particular risk due to specific threats or pre-existing patterns of violence. Such persons include human rights defenders. The obligation of States parties to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life. States parties may be in violation of article 6 of the ICCPR even if such threats and situations do not result in loss of life ([CCPR/C/GC/36](#)). In this regard, enforced disappearance is a serious violation of the

right to life, which involves the deprivation of liberty followed by concealment or denial, depriving people of any legal protection and exposing them to constant risk. It also violates other rights set forth in the ICCPR, including the prohibition of torture, liberty and security, and legal recognition. States must prevent such acts, investigate promptly and impartially, prosecute alleged perpetrators, and ensure that victims and families receive full reparations. Families should not be forced to declare the disappeared dead in order to access remedies and should be supported in regularizing their legal status after a reasonable period of time.

We would also like to highlight that, as stated in Human Rights Committee, general comment No. 36 an important element of the right to life is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents. Investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations. Investigations into allegations of violations of article 6 must always be independent, impartial, prompt, thorough, effective, credible and transparent.

Prohibition of torture

We reiterate the absolute and non-derogable prohibition of torture is an *erga omnes* and *jus cogens* norm, as expressed as a principle of customary international law, including article 7 of the ICCPR. The prohibition of other cruel, inhuman or degrading treatment or punishment is also a well-established rule of customary international law.

Furthermore, torture and cruel, inhuman or degrading treatment or punishment are prohibited in articles 1, 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded to by Cambodia on 15 October 1992. Accordingly, pursuant article 2 of the CAT, Cambodia has undertaken to ensure to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

Prohibition of arbitrary detention

Furthermore, we would like to refer to article 9 of the ICCPR, which provides that no one shall be subjected to arbitrary arrest or detention or deprived of their liberty except on such grounds and in accordance with such procedure as are established by law. As interpreted by the Human Rights Committee in general comment No. 35 ([CCPR/C/GC/35](#)), the notion of “arbitrariness” is not to be equated with “against the law” but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity, and proportionality. According to the same General Comment and the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, is arbitrary. Further, the Working Group on Arbitrary Detention has reiterated that a deprivation of

liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings. In this respect, the Working Group on Arbitrary Detention has concluded that being a human rights defender is a protected status under article 26 of the ICCPR.

We would like to further remind your Excellency's Government that the right to challenge the lawfulness of detention before a court, protected under article 9 of the ICCPR, is a self-standing human right and a peremptory norm of international law, which applies to all forms of arbitrary deprivation of liberty.

The prohibition of enforced disappearance

We wish to reiterate that the prohibition of enforced disappearance has also attained the status of *jus cogens*. It is a particularly aggravated form of arbitrary detention, and it may amount to torture or other cruel, inhuman or degrading treatment or punishment both regarding the disappeared and their family members, due to the anguish and uncertainty concerning the fate and whereabouts of loved ones.

In this regard, we wish to recall articles 1, 2, 12, 16, 17, 18, 19, 20, 21 and 24 of the [International Convention on the Protection of All Persons from Enforced Disappearance](#) (ICPPED), acceded to by Cambodia on 27 June 2013, particularly as regards the right to report a disappearance, the obligation to undertake a thorough and impartial investigation, the prohibition of refoulement, the prohibition of secret detention, the right to obtain information and the right to an effective remedy. We further highlight that the [United Nations Declaration on the Protection of All Persons from Enforced Disappearance](#) establishes that “all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness” (article 4), “no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance” (article 6). Furthermore, “no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances” (article 7), and “the right to a prompt and effective judicial remedy must be guaranteed as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances” (article 9).

Additionally, the Working Group on Enforced or Involuntary Disappearances has noted the increasing practice of forced returns by States in violation of article 8 of the Declaration. It further underlined the importance of preventing human rights violations by ensuring procedural safeguards upon detention and during the first hours of deprivation of liberty, including immediate registration, judicial oversight of the detention, prompt notification of family members, and the availability of a defence lawyer of one's choice. The Working Group observes that transnational transfers embody a denial of justice insofar as individuals are deprived of liberty in the form of secret detention and are removed from the protection of the law. They are, as such, deprived of the rights to an effective remedy and fair trial, in denial of the presumption of innocence. In addition, the individuals concerned are unable to challenge the

lawfulness of their detention, denied access to legal representation, and often induced to forced confession of guilt under duress. The Working Group recalls that such practices can also facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment under certain circumstances ([A/HRC/48/57](#)).

The Declaration further sets out the necessary protection relating to the rights 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 “the maintenance in every place of detention of official up-to-date registers of all detained persons” (articles 10 and 12). The Declaration further stipulates that “any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority” (article 13), that “States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance” (article 14), and that “the persons responsible for these acts shall be tried only by ordinary courts and not by other special tribunal, notably military courts” (article 16); “not benefit from any amnesty law” (article 18); and that “the victims or family relatives have the right to obtain redress, including adequate compensation” (article 19).

We also wish to recall that the [Guiding Principles for the Search for Disappeared Persons](#) establish that the search for the disappeared should be undertaken without delay (principle 2); respect the right to participation of the family of the disappeared (principle 5); be considered a continuing obligation (principle 7); and be interrelated with the criminal investigation (principle 13).

In the joint statement on short-term enforced disappearances, the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances highlighted that, under international law, the duration is not a constituent element of enforced disappearance, stating that “whatever its duration, any enforced disappearance entails serious harm and consequences for the disappeared persons and their families, and poses practical difficulties for the protection of these persons and the defence of their rights”([CED/C/11](#)).

In its General Comment on the right to recognition as a person before the law in the context of enforced disappearance), the Working Group noted that when a person deprived of liberty is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total defencelessness. The crime of enforced disappearance puts the detainee outside of the protection of the law, denies the person of legal existence and prevents the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms ([A/HRC/19/58/Rev.1](#)).

In its report on standards and public policies for an effective investigation of enforced disappearances, the Working Group recommended that States define enforced disappearance as an autonomous crime in national legislation and establish different modes of criminal liability, including abetting, instigating, acquiescing and actively

covering up an enforced disappearance, as well as criminal liability for command or superior responsibility; and create mechanisms that can promptly receive and process complaints of enforced disappearances, under the responsibility of authorities who are independent of the institutions to which the alleged perpetrators belong or may be linked. These mechanisms should be empowered to trigger prompt investigations of the complaints received ([A/HRC/45/13/Add.3](#)).

Additionally, in the study on enforced disappearances and economic, social and cultural rights, the Working Group observed that the enforced disappearance of journalists, religious leaders or persons actively promoting the enjoyment of economic, social and cultural rights, are used as a repressive tool to deter the legitimate exercise, defence or promotion of the enjoyment of these rights. Due to their collective character, such measures also violate their economic, social and cultural rights, the rights of others engaged in related activities, and of the larger community of people who relied on the disappeared person to represent and fight for their rights ([A/HRC/30/38/Add.5](#)). Similarly, in its General Comment on Women and enforced disappearances, the Working Group also noted that States have an obligation to recognize the particular types of harm women suffer based on their gender and the resulting psychological damage and social stigma as well as the disruption of family structures ([A/HRC/WGEID/98/2](#)).

Freedom of thought, conscience and religion

Article 18 of the ICCPR recognises the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching. Furthermore, article 18(2) bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the ICCPR, are similarly inconsistent with article 18(2). The same protection is enjoyed by holders of all beliefs of a non-religious nature (Human Rights Committee general comment No. 22, para. 5). According to article 18(3), freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Freedom of 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” ([CCPR/C/GC/34](#), para. 11). The Committee asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. 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, including judges and lawyers, 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 be in receipt of appropriate forms of redress” (*ibid*).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, 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, 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” ([CCPR/C/GC/34](#), para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed. While certain restrictions may be placed on freedom of expression, for the protection of national security or of public order, or of public health or morals, they may not be arbitrarily imposed on those sharing legitimate concerns, observations or opinions on health or Government policy.

Indeed, any restriction on expression or information that are invoked on grounds of national security and counterterrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest ([CCPR/C/GC/34](#)). 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 ([A/HRC/RES/22/6](#), para. 10(a)). Any measures taken to combat terrorism or violent extremism must comply with the obligations of States under international law, in particular international human rights law, refugee law and international humanitarian law (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). According to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, “the term ‘extremism’ has no place in binding international legal standards and, when operating as a criminal legal category, is irreconcilable with the principle of legal certainty; it is therefore per se incompatible with the exercise of certain fundamental human rights” ([A/HRC/43/46](#), para. 14).

In addition, as indicated by the Human Rights Committee, attacks against individuals for exercising their right to freedom of expression, including through arbitrary detention, torture, inhuman or degrading treatment or punishment, and

enforced disappearance is incompatible with the ICCPR.

Human rights defenders

We would further like to recall the fundamental principles set forth in the [Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#), also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2, which 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.

We would like to also refer to article 6 paragraph (b), which guarantees the right to freely publish, impart or disseminate views, information and knowledge on human rights and fundamental freedoms. Furthermore, we would also like to make explicit reference to article 9 of the Declaration, which states that everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of their rights, and that “everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person’s rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay”. Finally, we would like to reference article 11 of the Declaration, which states that everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession.

Discrimination against women and girls

We would also like to reiterate to your Excellency’s Government the obligations of Cambodia through its ratification in 15 October 1992 of the International Convention on the Elimination of Discrimination against Women, and in particular article 7, which provides that States shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country.

The Working Group on Discrimination against Women and Girls, in one of its reports to the Human Rights Council ([A/HRC/23/50](#)), stated that stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women human rights defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape; they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group on Discrimination against Women and Girls, recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive

legal framework to combat impunity, in order to fulfil women’s human rights and to improve the enabling conditions for women’s participation in political and public life.

We would also like to refer to General Assembly resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law.

In a joint declaration, the Working Group on discrimination against women and girls emphasized that women human rights defenders face unique challenges, driven by deep-rooted discrimination against women and stereotypes about their appropriate role in society. In its report on girls’ and young women’s activism ([A/HRC/50/25](#)), the Working Group on discrimination against women and girls expressed that girls and young women are mobilizing worldwide to demand and catalyse change on critical global issues. They are at the forefront of initiatives aimed at transforming societies towards social justice, gender equality and sustainability. The realization of girls’ and young women’s human right to participate in public and political life, including organizing and engaging actively with a variety of State and non-State actors, is essential for the protection of their human rights. The Working Group on discrimination against women and girls has called on States to ensure that mechanisms are in place to solicit the views of girls and young women in all matters of public interest affecting them directly or indirectly and to give due weight to those views.

Furthermore, in its thematic report on women deprived of liberty ([A/HRC/41/33](#)), the Working Group on discrimination against women and girls underlined the increasing risk faced by women human rights defenders of criminalization and detention as a result of their legitimate work and recommended States to support and protect women’s engagement in public and political life, including the work of women human rights defenders. Women who work specifically to combat gender stereotypes and advance women’s rights are most likely to be targets for criminal persecution and imprisonment. Certain laws, including “complicity” laws, and “public order” laws or even anti-terrorism laws, may be particularly instrumentalized to target women human rights defenders. The Working Group recommended States to support and protect women’s engagement in public and political life, including the work of women human rights defenders, and eliminate any laws or policy measures designed to criminalize the public roles of women.

The principle of non-refoulement

Interconnected with the issues raised above, *non-refoulement*, embodying the rule that no one should be sent back to areas where their life or freedom is threatened, is a long-established principle of international law and is considered binding on all States and other stakeholders as part of customary international law. It applies universally to all individuals, including migrants and refugees, at all times and under all circumstances, irrespective of their citizenship, nationality, statelessness, or migration status. The norm strictly prohibits the removal or transfer of any individual - regardless

of their legal status - when there are substantial grounds to believe that such action would expose them to a real risk of irreparable harm. This includes, but is not limited to, risks of death, torture, cruel, inhuman or degrading treatment or punishment, persecution, enforced disappearance, or other serious violations of human rights in the destination country.

The principle of *non-refoulement* interrelates with the Universal Declaration on Human Rights (UDHR), and is inherent in article 3, 5 and 14 relating to the right life, liberty and the security of person; the prohibition of torture or to cruel, inhuman or degrading treatment or punishment; and the right to seek and to enjoy in other countries asylum from persecution.

Moreover, it interrelates also with the ICCPR – to which several ASEAN countries are State parties – including article 13 which provides that “[an] alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.”

In this regard, general comment No. 31 of the Human Rights Committee specifies that article 2 of the ICCPR entails ‘an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm’ (para. 12). General comment No. 36 adds that the duty to respect and ensure the right to life under article 6 of the ICCPR requires States parties to refrain from deporting, extraditing or otherwise transferring individuals to countries in which there are substantial grounds for believing that a real risk exists that their right to life would be violated (para. 30). In this regard, State parties to the ICCPR must adopt special measures and respond urgently and effectively in order to protect individuals who find themselves under a specific threat (para. 23).

Non-refoulement is an absolute rule under the CAT – to which several ASEAN countries are State parties – and this is underlined in article 3 which states that: “[no] State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”, and that “[for] the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.”

Moreover, article 16 of the ICPPED – to which several ASEAN countries are parties – stipulates that “[no] State Party shall expel, return (“refouler”), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.”, and that “[for] the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian

law.”

Lastly, in the ASEAN region, there are two countries which are parties to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, which were acceded to by Cambodia on 15 October 1992, and are key international instruments which incorporate the principle of *non-refoulement*. This reiterates the universal significance of *non-refoulement* as part of customary international law, obliging States and other stakeholders to respect and abide by it as *lex lata* (existing, binding law) at the national and other levels.