

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; 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 the situation of human rights in the Palestinian territory occupied since 1967

Ref.: AL EGY 8/2025
(Please use this reference in your reply)

24 December 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 Arbitrary Detention; 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 the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 58/14, 60/8, 54/14, 52/9, 59/4 and 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest of at least 88 people during and after peaceful demonstrations in October 2023 expressing solidarity with the Palestinian people, the enforced disappearance of several of them, the pre-trial detention of 67 individuals, including Messrs. Mohamed Ibrahim Abdulfattah Selim and Omar Khaled Ragab Mahmoud Ghazy, in overcrowded and inadequate detention conditions in the 10th of Ramadan Prison, and the denial of access to legal counsel. The arrests reportedly involved the use of counter-terrorism and national security related accusations and relied, at least in part, on Law No. 107/2013 on the Regulation of Public Meetings, Processions and Peaceful Protests, previously the subject of concerns [raised](#) by the then United Nations High Commissioner for Human Rights and other United Nations mechanisms¹ due to its potential to unduly restrict peaceful assemblies. The information received suggests a broader pattern in which counter-terrorism and public order legislation are applied to restrict civic space and suppress peaceful expressions of solidarity with the Palestinian people, leading to arbitrary arrests, enforced disappearance, denial of access to legal counsel and poor detention conditions

According to the information received:

Between 20 and 25 October 2023, demonstrations took place in several governorates, including Cairo and Alexandria, where protesters expressed solidarity with the Palestinian people following the escalation of hostilities by

¹ See [EGY 16/2013](#); Working Group on Arbitrary Detention, [opinion No. 6/2016](#); Report of the Working Group on the Universal Periodic Review, [A/HRC/28/16](#).

His Excellency
Mr. Badr Ahmed Mohamed Abdelatty
Minister for Foreign Affairs, Emigration and Egyptian Expatriates

Israel in Gaza. The demonstrations are reported to have been peaceful in nature and included gatherings in and around Tahrir Square in Cairo and the Alexandria Corniche.

Security forces reportedly carried out a wide arrest campaign targeting individuals participating in, observing, or in proximity to, these demonstrations. At least 88 individuals were arrested. Of these, 67 were ordered into pre-trial detention, 17 were later released, and six were allegedly subjected to enforced disappearance for periods ranging between two and five days, during which their families and lawyers were not informed of their fate or whereabouts.

The cases were brought before the Supreme State Security Prosecution. Those arrested were reportedly charged with a range of criminal and national security offences, including joining a terrorist group, participating in an illegal assembly, committing a terrorist act, and vandalism. The charges were registered under case Nos. 2468/2023 and 2469/2023, and in other State Security cases connected to the demonstrations.

Many of the detainees were transferred to the 10th of Ramadan Prison, where many remain in pre-trial detention. The facility is reported to be overcrowded, with poor sanitation, inadequate medical care, and little or no access to legal counsel. Families have reportedly received very limited information about their relatives' conditions or treatment. In January 2024, detainees in the facility reportedly undertook a hunger strike to protest the conditions, although no improvements were subsequently reported.

It is further reported that lawyers have been unable to attend interrogations conducted by the State Security Prosecution or to communicate freely with their clients. The arrests occurred against a broader backdrop of restrictions on civic space and follow earlier waves of arrests around demonstrations in 2019 and previous years. The information also suggests continued reliance on Law No. 107/2013 on the Regulation of Public Meetings, Processions and Peaceful Protests, whose provisions enable broad restrictions on assemblies and grant security forces significant discretion to disperse or prevent public gatherings.

Two individual cases are highlighted below as illustrative of the broader pattern of arrests and detention arising from the October 2023 demonstrations.

Mr. Mohamed Ibrahim Abdulfattah Selim

Mr. Selim, a worker residing in Alexandria governorate, was arrested by security forces on 20 October 2023 while participating in demonstrations in Alexandria. He was allegedly subjected to two days of enforced disappearance before being brought before the State Security Prosecution on 22 October 2023, where he was charged under case No. 2469/2023 with joining a terrorist group and participating in an illegal assembly. He remains in pre-trial detention.

Mr. Omar Khaled Ragab Mahmoud Ghazy

Mr. Ghazy, a student residing in Alexandria governorate, was arrested during demonstrations in Alexandria on 20 October 2023. He was allegedly subjected to two days of enforced disappearance before being brought before the State Security Prosecution on 22 October 2023 and charged under case No. 2469/2023 with joining a terrorist group and participating in an illegal assembly. He remains in pre-trial detention.

Detention conditions

The individuals referenced above, along with many others arrested in connection with the October 2023 demonstrations, are being held in the 10th of Ramadan Prison. The prison is reported to suffer from severe overcrowding, poor ventilation, limited access to sanitation and hygiene, and insufficient medical care.

Detainees are reportedly unable to communicate freely with legal counsel, and families have received minimal information regarding their relatives' well-being. A hunger strike undertaken by detainees in January 2024 to protest these conditions reportedly did not lead to improvements.

Without wishing to prejudge the accuracy of the allegations received, we express serious concern that the arrests, enforced disappearances, and continued pre-trial detention of the aforementioned individuals and other prisoners associated with the October 2023 demonstrations may amount to violations of Egypt's obligations under the International Covenant on Civil and Political Rights (ICCPR), which Egypt ratified on 14 January 1982. The allegations suggest potential infringements of the right to liberty and security of person (article 9); the prohibition of torture and other cruel, inhuman or degrading treatment (article 7); the right to humane and dignified treatment of persons deprived of their liberty (article 10); the right to a fair trial and due process (article 14); the principle of legality (article 15); the right to recognition everywhere as a person before the law (article 16); and the rights to freedom of opinion and expression (article 19), peaceful assembly (article 21), and association (article 22), and to participate in public affairs (article 25), read alone and in conjunction with article 2(3). Moreover, they would entail a violation of article 7 of the ICCPR, read alone and in conjunction with article 2(3) of the ICCPR, with regard to the relatives of the disappeared person, as well as of Egypt's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded to by Egypt in 1986 and the United Nations Declaration on the Protection of All Persons from Enforced Disappearance.

We are further concerned by the reported reliance on counter-terrorism and national security legislation, including Law No. 107/2013 on the Regulation of Public Meetings, Processions and Peaceful Protests, to restrict or criminalise peaceful assemblies (see [EGY 16/2013](#)). Such measures may not meet the strict requirements of legality, necessity and proportionality under the ICCPR. The allegations of enforced disappearance, prolonged and non-individualised pre-trial detention, and denial of access to legal counsel raise further concerns regarding Egypt's compliance with its obligations.

We are concerned that taken together, the information received appears to indicate a broader pattern of undue restrictions on civil and political rights, civic space and the use of counter-terrorism legislation to suppress peaceful dissent, contrary to international law, as repeatedly identified by Special Procedures mandate holders, the Human Rights Council during Egypt's Universal Periodic Review, and United Nations treaty bodies.

Arbitrary arrest and detention

We are concerned that a significant number of individuals were arbitrarily arrested, detained and charged in connection with peaceful solidarity demonstrations in support of the Palestinian people, contrary to article 9 of the ICCPR (see also general comment No. 35, para. 15; general comment No. 37, para. 44). Any deprivation of liberty must be lawful, reasonable, necessary and proportionate, and must not be imposed in response to the exercise of rights protected under articles 19, 21 or 22 (general comment No. 35, paras. 12 and 17).

We are further concerned that the individuals may not have been informed at the time of arrest of the reasons for their arrest and promptly informed of any charges, contrary to article 9(2) of the ICCPR. The Human Rights Committee has emphasised that this safeguard must be provided "immediately upon apprehension, not delayed until interrogation or formal charging" (general comment No. 35, para. 25).

We further note that the individuals concerned are being investigated under the jurisdiction of the Supreme State Security Prosecution. We recall that article 9(4) requires that judicial review of detention be substantive, effective, and carried out by a body that is independent of the executive (general comment No. 35, para. 39). Proceedings before State Security bodies, which form part of the executive branch and conduct national-security investigations, may limit the availability of independent judicial scrutiny, particularly where access to counsel is restricted or where remand decisions are based on broad and indeterminate national-security grounds. These structural features raise concerns as to whether the individuals detained in the present cases have been able to effectively exercise their right to challenge the lawfulness of their detention.

In addition, reports that lawyers have been unable to meet their clients in detention or attend interrogations raise concerns about the effective exercise of the right to challenge the lawfulness of detention before a court under article 9(4) of the ICCPR. Access to legal counsel from the outset of detention is an essential component of this safeguard (general comment No. 35, para. 46; general comment No. 32, paras. 32-34).

Protracted pre-trial detention on the basis of broadly framed terrorism-related investigations raise serious concerns that the requirements of article 9(3) have also not been met, namely that anyone arrested on a criminal charge must be brought promptly before a judge and be tried within a reasonable time or released, and that pre-trial detention must be exceptional, subject to regular judicial oversight and based on an individualised assessment of necessity and proportionality (general comment No. 35, paras. 33 and 38-39).

Enforced disappearance

We express serious concern at reports that at least six individuals were forcibly disappeared for periods ranging from two to five days, during which their families and lawyers were not informed of their fate and whereabouts, constituting enforced disappearances and heightening risks of torture and other ill-treatment, contrary to Egypt's obligations under articles 2, 7, 9, 14 and 16, read alone and in conjunction with article 2(3) of the ICCPR (see Annex to this letter). We wish to reiterate that duration is not a constitutive element of enforced disappearance under international human rights law, as reaffirmed by 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 echo the calls of the Human Rights Council, during Egypt's most recent Universal Periodic Review in January 2025, for Egypt to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and establish effective accountability mechanisms to investigate and prevent enforced disappearances (A/HRC/62/11, para. 38(6)).

Freedoms of peaceful assembly and of association

We are concerned that the individuals may have been arrested for participating in, or being present near, peaceful demonstrations expressing solidarity with the Palestinian people, or for their perceived involvement in student networks, solidarity initiatives or other informal groups connected to the demonstrations, which appears to violate the right of peaceful assembly and to freedom of association under articles 21 and 22 of the ICCPR. The right to peaceful assembly is central to democratic life and enables individuals to express political views, convey solidarity and advocate on matters of public concern (general comment No. 37, paras. 1-2).

Any restrictions on peaceful assembly and freedom of association must be prescribed by law, pursue a legitimate aim and be necessary in a democratic society (see e.g. general comment No. 37, paras. 36-38). The use of criminal sanctions in response to peaceful assemblies is generally incompatible with article 21, and that measures which deter or discourage participation, such as the threat of terrorism-related charges, may have an impermissible "chilling effect" on the exercise of assembly rights (paras. 34 and 46-47). States may not interfere with associations, or penalise individuals, solely on the basis of their political opinions or peaceful civic engagement, and broad national-security justifications cannot be used to curtail legitimate associative activity (general comment No. 25, para. 8; general comment No. 34, para. 46).

Freedom of expression

The information received suggests that many of the individuals were arrested primarily because they expressed, through protest or related activities, their political views in support of civilians in Gaza and opposition to Israel's hostilities, in apparent violation of the right to freedom of expression under article 19 of the ICCPR. That article protects the right to hold opinions without interference and to seek, receive and

impart information and ideas of all kinds, including political expression and commentary on international affairs.

Under article 19(3), restrictions on expression must be provided by law and be necessary and proportionate for one of the legitimate aims it enumerates, such as national security or public order. The Human Rights Committee has stressed that these grounds must be interpreted narrowly and that States may not invoke national security to suppress or withhold information of legitimate public interest, nor to silence peaceful advocacy on political matters (general comment No. 34, paras. 22, 34, 38 and 46). Criminalising expressions of solidarity – particularly through the use of terrorism-related accusations – does not satisfy the strict requirements of legality, necessity and proportionality under article 19(3).

In her report on “Global threats to freedom of expression arising from the conflict in Gaza”, the Special Rapporteur on freedom of opinion and expression emphasized that, in light of the Advisory Opinion of the International Court of Justice issued in July 2024, States should repeal – or refrain from adopting – laws and policies that penalise opposition to or impede advocacy against illegal Israeli occupation and segregation, and recalled that any decision to restrict forms expression in support of the Palestinian people on the grounds of incitement must be done on a case-by-case basis, taking into account international legal standards as well as specific contextual and other factors, as articulated in the Rabat Plan of Action (A/79/319, paras. 93 and 94).

Misuse of counter-terrorism legislation and Law No. 107/2013

We note with concern the reliance on terrorism-related accusations – such as joining a terrorist group or committing a terrorist act – against individuals engaged in peaceful protest activities. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has repeatedly stressed that counter-terrorism measures must not be used to suppress rights protected under the ICCPR, and that terrorism offences must be defined with precision and applied only to conduct that genuinely falls within the scope of terrorism, including to satisfy the principle of legality under article 15 of the ICCPR (see e.g., [EGY 5/2025](#); [EGY 3/2025](#); and [EGY 4/2020](#)). The Human Rights Committee has similarly warned against overly broad definitions of terrorism or extremism that can be used to stifle dissent (general comment No. 34, para. 46; general comment No. 35, para. 12).

Law No. 107/2013 grants the authorities a broad discretion to restrict, relocate or prevent assemblies on wide and indeterminate grounds. The United Nations High Commissioner for Human Rights², several Special Procedure mandate holders³, and other United Nations mechanisms⁴ have previously expressed concern that the law risks imposing serious and unnecessary restrictions on the right of peaceful assembly. The breadth of the law’s provisions and the severity of its penalties raise concerns regarding foreseeability, proportionality and the least-restrictive-means requirement under articles 19, 21 and 22 of the ICCPR (general comment No. 34, para. 25; general comment No. 37, paras. 36-38).

² https://www.ohchr.org/en/press-releases/2013/11/new-law-demonstrations-egypt-seriously-flawed-and-must-be-amended-pillay?sub-site=HRC&utm_source=chatgpt.com.

³ See [EGY 16/2013](#); Working Group on Arbitrary Detention, [opinion no. 6/2016](#).

⁴ Report of the Working Group on the Universal Periodic Review, [A/HRC/28/16](#).

Fair trial and due process

We are concerned that detainees may not have had adequate time or facilities to prepare their defence, particularly where access to counsel was restricted, contrary to the right to fair trial under article 14 of the ICCPR. The Human Rights Committee has stressed that access to legal assistance should be available from the first interrogation by the authorities, and that statements made in the absence of counsel raise concerns under article 14(3)(b)-(d) (general comment No. 32, paras. 32-34 and 41).

Treatment and conditions of detention

Reports of extremely poor conditions in the 10th of Ramadan Prison, where detainees from the October 2023 demonstrations are held, raise concerns about violations of articles 7 and 10 of the ICCPR, which require that persons deprived of their liberty be treated with humanity and respect for their inherent dignity. Overcrowding, inadequate sanitation, insufficient access to medical care and sustained restrictions on communication with family or legal counsel may, individually or cumulatively, amount to inhuman or degrading treatment (general comment No. 21, para. 3; general comment No. 35, para. 3). The reported hunger strike undertaken by detainees in January 2024 further underscores the seriousness of the alleged conditions.

Pattern of undue restriction of civic space

We are concerned that the alleged arrests and prosecution of individuals participating in peaceful solidarity demonstrations appear to form part of a broader pattern of undue restriction of civil and political rights and civic space in Egypt. Over recent years, Special Procedures have repeatedly⁵ expressed concern about the use of counter-terrorism and public order legislation to target peaceful dissent, restrict freedom of expression, disperse assemblies, and impose extended pre-trial detention on individuals engaged in legitimate civic and political activity.

In light of the above, we raise serious concerns that the response to the October 2023 demonstrations reflects a systemic approach by Egyptian authorities to regulating dissent and restricting participation in public life.

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.

⁵ See e.g., [EGY 3/2025](#); [EGY 8/2024](#); [EGY 9/2022](#); [EGY 6/2021](#); [EGY 4/2020](#); [EGY 7/2019](#); [EGY 16/2017](#); [EGY 13/2017](#); and [EGY 7/2017](#).

2. Please provide the factual and legal basis for the arrest and continued pre-trial detention of the individuals mentioned above, including the specific evidence supporting the accusations of joining specific terrorist groups or participating in an illegal assembly. Please indicate how their ongoing pre-trial detention and their prosecution is compatible with international human rights law.
3. Please clarify the legal and procedural safeguards in place to ensure that individuals deprived of their liberty are informed of the reasons for their arrest at the time of arrest, are promptly informed of any charges, and are brought without delay before a judge, in accordance with article 9 of the ICCPR.
4. Please explain the procedural basis for the involvement of the Supreme State Security Prosecution in these cases, and how the independence and effectiveness of judicial review is ensured when detention and investigation fall under its jurisdiction.
5. Please provide information on the steps taken to guarantee the right to a fair trial and due process, including access to legal counsel from the outset of detention, during interrogations, and throughout pre-trial proceedings.
6. Please clarify the measures in place to prevent enforced disappearance and incommunicado detention, and explain how the authorities ensure that families and lawyers are promptly informed of the fate and whereabouts of individuals deprived of their liberty.
7. Please provide information on the measures taken by your Excellency's Government to investigate the allegations of enforced disappearance, identify those responsible and hold them accountable. If no inquiry has taken place, please explain why.
8. Please provide detailed information about the conditions of detention in the 10th of Ramadan Prison, including access to medical care, sanitation, overcrowding, family visits and access to legal assistance, and independent inspections of prison facilities, and explain what measures have been taken in response to reported hunger strikes.
9. Please explain how the application of Law No. 107/2013 and counter-terrorism legislation to individuals participating in peaceful solidarity demonstrations is consistent with Egypt's obligations under articles 15, 19, 21 and 22 of the ICCPR.
10. Please explain the steps taken by your Excellency's Government to ensure that counter-terrorism measures and public order laws are applied in a manner compatible with Egypt's international human rights obligations and do not unduly restrict civic space or penalise peaceful dissent.

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 harm to the life and personal integrity of all individuals held in pre-trial detention since October 2023, including Messrs. Mohamed Ibrahim Abdulfattah Selim and Omar Khaled Ragab Mahmoud Ghazy, 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. The Government is required to respond separately to the letter of allegation and the regular procedure.

As well, should the source submit 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 your Excellency's Government 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

Matthew Gillett

Vice-Chair on communications of the Working Group on Arbitrary Detention

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

Francesca Albanese

Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

Annex

Reference to international human rights law

In connection with the 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.

Equality and non-discrimination

Article 2 of the ICCPR requires that States respect and ensure to all individuals within their territory and jurisdiction the rights protected under the Covenant without distinction of any kind, including of political or other opinion. Article 26 of the ICCPR further provides that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. It requires that the law "prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Right to liberty and security of person

Article 9 of the ICCPR guarantees the right to liberty and security of person and provides that "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." As interpreted by the Human Rights Committee in general comment No. 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. The Human Rights Committee has noted that "[e]nforced disappearances violate numerous substantive and procedural provisions of the Covenant and constitute a particularly aggravated form of arbitrary detention" (general comment No. 35, para. 17).

Article 9(2) provides that 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) provides that anyone arrested or detained on a criminal charge must be brought promptly before a judge or other officer authorized by law to exercise judicial power and is entitled to trial within a reasonable time or to release. It further provides that detention pending trial should not be the general rule. 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).

Article 9(4) provides that anyone deprived of liberty by arrest or detention is entitled to take proceedings before a court so that the court may decide without delay on the lawfulness of the detention and order release if the detention is found to be unlawful. As noted by the Human Rights Committee, this right applies "to all detention by official action or pursuant to official authorization, including detention in connection with criminal proceedings, military detention, security detention, counter-terrorism

detention” (para. 40). Access to a lawyer, including immediately after arrest, is an essential safeguard of the right to challenge the legal basis of one’s detention under article 9(4) of the ICCPR.

Any detention due to the peaceful exercise of rights, including the rights to freedom of expression, freedom of assembly and freedom of association, is arbitrary (general comment No. 35, para 17). Detention is arbitrary where it is based on discrimination, including on the basis of political or other opinion (general comment No. 35, para. 17).

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment and right to humane treatment in detention

The absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law, codified in 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 CAT.

Attached to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment 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.

In line with the principles enshrined in the CAT, States should establish all acts of torture as offences under domestic law (article 4); exercise jurisdiction over said offences (article 5); receive complaints and examine them promptly and impartially (article 13); and investigate those allegations promptly and impartially (article 12). 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 statement was made (article 15).

The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. Paragraphs 12, 13, 15, 16 and 17 of General Assembly resolution 77/209 (2022) emphasize that conditions of detention must respect the dignity and human rights of persons deprived of their liberty and call for addressing and preventing detention conditions that amount to torture or cruel, inhuman or degrading treatment or punishment. The standards of conditions and treatment of persons deprived of their liberty are also contained in the United Nations 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. 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 enforced disappearances

The absolute prohibition of enforced disappearances and the corresponding obligation to investigate them are peremptory norms of *jus cogens*, which establish obligations applicable *erga omnes*. The United Nations Declaration on the Protection of All Persons from Enforced Disappearances provides that an enforced disappearance occurs when “persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government,” and such arrest or detention is “followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.” 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.

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 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 further recall that the Declaration sets out the necessary guarantees to be offered by the State. In particular, articles 9 to 13 relate to 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; to the maintenance in every place of detention of official up-to-date registers of all detained persons; and the right of any person to complain, when having knowledge of or a legitimate interest in the fact that a person has been subjected to enforced disappearance.

Right to a fair trial and due process

Article 14 of the ICCPR guarantees the right to a fair trial and due process. This right includes the right of everyone charged with a criminal offence to “have adequate time and facilities for the preparation of [their] defence and to communicate with counsel of [their] own choosing” and to be tried in their presence and defended through

chosen legal assistance, and to legal aid (ICCPR, article 14 (3) (b) and (d)). 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. The right to legal assistance at all times is inherent to the right to liberty and security of the person and to the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, enshrined in articles 3, 9, 10 and 11(1) of the Universal Declaration of Human Rights and article 14 of the ICCPR. In accordance with the Basic Principles on the Role of Lawyers, lawyer must be able “to perform all of their professional functions without intimidation, hindrance, harassment or improper interference” and should “not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics” (para. 16).

Additionally, article 14(3)(c) requires that anyone facing a criminal charge be tried without undue delay. As noted by the Human Rights Committee, where the accused are denied bail by the court, they must be tried as expeditiously as possible, and all stages of the proceedings, from the first instance to the appeal, must take place “without undue delay” (general comment No. 32, para. 35).

The provisions of article 14 apply to all courts and tribunals whether ordinary or specialized, civilian or military and trials of civilians in military or special courts must fully conform with the requirements of article 14 (general comment No. 32, para. 22). The Human Rights Committee has raised concern that trials of civilians before such courts may not comply with the equitable, impartial and independent administration of justice and should therefore be exceptional, limited to cases where it can be shown that “resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials” (para. 22).

The General Assembly in resolution 72/180, paragraph 5(s), has urged States to ensure due process guarantees while countering terrorism, consistent with all relevant provisions of the Universal Declaration of Human Rights and the ICCPR, the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, and the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto in their respective fields of applicability.

Right to freedom of opinion and expression

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

In general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (para. 11). The Committee further noted that States parties to the ICCPR “shall put in place effective measures to protect against attacks aimed at silencing those who exercise their right to freedom of expression” (para. 23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) of the ICCPR. Restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. To be provided by law, a restriction must be formulated with sufficient precision to enable individuals to regulate their conduct accordingly, must not confer unfettered discretion, and must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not (para. 25). The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (general comment No. 34, para. 35). The relation between right and restriction and between norm and exception must not be reversed. Any restriction must be “the least intrusive instrument among those which might achieve their protective function” (para. 34). Restrictions on expression or information that a government seek to justify on grounds of national security and counter-terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (general comment No. 34).

In her report on “Global threats to freedom of expression arising from the conflict in Gaza”, the Special Rapporteur on freedom of opinion and expression noted that “the most fundamental principle of human rights – that all persons have an equal right to enjoy all human rights – has been endangered by an extensive pattern of unlawful, discriminatory and disproportionate restrictions and repression of freedom of expression, primarily of Palestinian activists and their supporters in Western Europe and North America” (A/79/319, paras. 83 and 85). She made the following recommendations:

- States must respect, protect and fulfil the right to freedom of opinion and expression without discrimination against any individual or groups on the grounds of race, religion, political beliefs or other protected characteristics. Any restriction of expression, including in relation to counter-terrorism laws or antisemitism, must follow strictly the criteria set out in articles 19(3) and 20(2) of the ICCPR (para. 92).
- States must refrain from blanket prohibitions of demonstrations, slogans, symbols or other forms expression in support of the Palestinian people. Any decision to prohibit such acts or expressions on the grounds of

incitement must be done on a case-by-case basis, taking into account international legal standards as well as specific contextual and other factors, as articulated in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (para. 93).

- In the light of the advisory opinion of the International Court of Justice issued in July 2024, States should repeal – or refrain from adopting – laws and policies that penalize opposition to or impede advocacy against Israeli occupation and segregation, such as laws against the boycott, divest and sanctions movement (para. 94).

Right to peaceful assembly and association

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

Article 22 of the ICCPR protects the right to freedom of association with others. States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards (A/HRC/17/27, para. 66 and A/HRC/29/25/Add.1). 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. These rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose as recognized by international standards and are necessary and proportionate for achieving that purpose.

The Human Rights Committee stated that “the imposition of any restrictions should be guided by the objective of facilitating the right, rather than seeking unnecessary and disproportionate limitations on it. Restrictions must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect” (general comment No. 37, para. 36). In addition, the Special Rapporteur on the rights to freedom of peaceful assembly and of association highlighted that “negative and hostile narratives increasingly used to vilify and criminalize civil society and activists deepen the stigmatization of those exercising their rights to peaceful assembly and association. Stigmatization, whether intentional or not, especially when propagated by authorities, effectively denies these fundamental rights. It misrepresents legitimate exercises of freedom as illegal and those involved as criminals or threats to national security, public order or morals. This fuels harmful stereotypes, fosters hostility, justifies punitive measures and triggers undue restrictions on these rights” (A/79/263, para. 11). The Special Rapporteur emphasized the weaponization of unjustified accusations of terrorism, facilitated by broad anti-terrorism laws, to stifle civic activism and civil society critical of government policies (paras. 32-35).

Right to participate in public affairs

Article 25(a) of the ICCPR provides that: “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions... [t]o take part in the conduct of public affairs”. The Human Rights Committee noted that “[c]itizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association” (general comment No. 25, para. 8).

Protection of Human Rights Defenders

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

- article 5(a) provides for the right to meet or assemble peacefully.
- article 5(b) provides for the right to form, join and participate in non-governmental organizations, associations or groups.
- article 6(a) provides for the right, individually and in association with others, to “know, seek, obtain, receive and hold information about all human rights and fundamental freedoms”;
- article 6(b) provides for the right “to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms”;
- article 9(1) provides for the right to benefit from an effective remedy and to be protected in the event of the violation of those rights; and
- article 12(2)-(3) provide that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

Respect of human rights while countering terrorism

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.⁶ Counter-terrorism measures must conform to fundamental requirements of legality, proportionality, necessity and non-discrimination. Disregard for these principles can have exceptionally harmful effects on the protection of fundamental rights, particularly for minorities, historically marginalized communities, and civil society. States must ensure that measures to combat terrorism 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)).

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,⁷ the General Assembly’s Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004). 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 terrorism provides clear, “best practice” guidance, by identifying conduct that is genuinely terrorist in nature and precisely defining the elements (A/HRC/16/51, para. 28).

The principle of legality under article 15(1) of the ICCPR requires that criminal laws are sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and what would be the legal consequences of committing such an offence. This principle recognizes and seeks to prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse, including to target civil society on political or other unjustified grounds (A/70/371, para. 46(b)) and suppress the exercise of fundamental rights and freedoms (A/HRC/40/52).

⁶ 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.

⁷ See https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml.