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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 extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders

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31 March 2026

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 extrajudicial, summary or arbitrary executions; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 58/14, 60/8, 54/14, 53/4, 59/4 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **Armed Forces Special Powers Act (AFSPA), 1958.** We are concerned about the AFSPA's compatibility with India's international human rights law obligations. We have previously raised concerns about elements of the AFSPA as part of a broader matrix of Indian counter-terrorism laws, including the Unlawful Activities (Prevention) Act, the Prevention of Money Laundering Act, and the Foreign Contribution (Regulation) Act (IND 7/2020; IND 10/2023).

We highlight the need for review and repeal or revision of the AFSPA, as its continued application may result in further violations of the International Covenant on Civil and Political Rights (ICCPR), acceded to by India on 10 April 1979, and the Convention on the Rights of the Child (CRC), acceded to on 11 December 1992. We recall that various United Nations mechanisms have called for its repeal, including the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the former United Nations High Commissioner for Human Rights, the former Special Rapporteur on extrajudicial, summary or arbitrary executions (following his country visit to India, A/HRC/23/47/Add.1) and the former Special Rapporteur on the situation of human rights defenders. Civil society organisations have also continuously called for its repeal.

Background and Context of the AFSPA

The AFSPA's roots can be traced to a 1942 colonial ordinance implemented during British rule to suppress struggles for Indian independence. The AFSPA was first enacted as an ordinance in the State of Assam and the then Union Territory of Manipur on 22 May 1958, in response to armed resistance by the Naga people. The Act vests expansive powers in the armed forces, which include members of any armed forces of the Union of India and both army and paramilitary forces, such as the Border Security

Force, Assam Rifles, National Security Guards, and others, to aid the civilian power. In 1972, the AFSPA was extended to other states in the Northeast, such as Nagaland and Tripura. By December 1990, the AFSPA also applied to the districts of Jammu and Kashmir. Today, the AFSPA applies in certain districts of four Northeast states (Manipur, Nagaland, Arunachal Pradesh and Assam) and to Jammu and Kashmir. Most of these areas are predominantly composed of Indigenous Peoples and religious and ethnic minorities. Both the Northeast and Jammu and Kashmir have been the site of ongoing separatist movements and Indigenous struggles, with serious violations of human rights being reported.

The Act was challenged in the Supreme Court of India by human rights groups on the basis that it constituted legislative overreach, violated numerous fundamental constitutional rights, and was ripe for misuse. In *Naga People's Movement of Human Rights v. Union of India,* the Supreme Court found the Act to be constitutional, while acknowledging that the State should implement certain guidelines to protect against abuses. In particular, the Supreme Court proposed a list of formal guidelines for military conduct and ruled that a "disturbed area" designation must be limited in duration and reviewed every six months.[1] It appears, based on the findings of multiple commissions established to review the application of the AFSPA, that these safeguards have not been substantially or fully implemented, leading to extensive persisting human rights violations.[2]

Human Rights Concerns

Ambiguous Threshold of Application

Section 3 of the AFSPA, which allows the Government to classify regions as "disturbed areas" and authorize the use of special military powers in those areas, uses vague and overbroad language and omits reference to any legal norms or standards to guide and delimit such classifications. What constitutes a "disturbed area" is largely undefined, including because the Indian courts have excessively deferred to the executive authorities to make such determinations,[3] thus leaving the decision to activate or de-activate the AFSPA, and thus to trigger its human rights-limiting provisions, almost entirely to the discretion of Government officials.

Further, although the Supreme Court has called for "disturbed area" designations to be reviewed every six months,[4] the AFSPA does not impose any time limit or expiry on declarations, unlike the emergency power under article 365 of the Indian Constitution. The Act has remained in place in some regions for over six decades without effective review. Moreover, there is little transparency regarding the criteria used by your Excellency's Government to review a region's "disturbed area" status. Section 3 appears to allow the Government to maintain an indefinite military regime in regions it deems "dangerous", with little effective oversight of or accountability concerning the substantive grounds, necessity and proportionality of the designation.

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1 *Naga People's Movement of Human Rights vs. Union of India*, Supreme Court of India, 27 November 1997, at para. 38.

2 Hegde Committee Report on the Armed Forces (Special Powers) Act (AFSPA) (2013), at p. 89 ("the important conditions laid down by the Hon'ble Supreme Court and Do's and Don'ts issued by the Army Hqrs have remained largely on paper only. They are mostly followed in violation").

3 See *Indrajit Baraua v. State of Assam,* Delhi High Court, para. 63.

4 *Naga People's Movement of Human Rights vs. Union of India,* Supreme Court of India, 27 November 1997, para. 38.

Critically, the classification of an area as “disturbed” appears not to be subject to robust due process or to appeal or judicial review, thus depriving affected persons and groups of their right to an effective remedy under article 2 of the ICCPR.

We recall that domestic security and counter-terrorism powers should be conferred, to the greatest extent possible, upon the civilian authorities entrusted with the functions related to the combating of crime, and in the exercise of their ordinary powers, with appropriate measures to ensure that discretionary powers are not exercised arbitrarily or unreasonably (see A/HRC/16/51, practice 3 and para. 15; see also A/HRC/60/21, para. 61(k)). Whereas police forces ordinarily have expertise, training and experience in relation to the scope of criminal offences, forming reasonable suspicion about offences in order to make arrests, and using necessary and proportionate force in law enforcement settings, militaries are usually trained and equipped for the different purposes of national defence and the conduct of hostilities, and this different paradigm is often ill-suited to being tasked to perform civilian policing functions, with risks of more aggressive and excessive use of force, or of making arrests where there is not sufficient suspicion of an offence to satisfy a criminal law standard.

We note that India has not declared a public emergency threatening the life of the nation in the areas covered by the AFSPA so as to permit derogation from rights under article 4 of the ICCPR. The AFSPA applies separately from the emergency power in article 365 of the Indian Constitution. As such, it must be assessed in the light of the full application of ICCPR rights.

Overbroad Authorization of Force

We are concerned that certain provisions of the AFSPA permit the excessive use of force which generates a serious risk of arbitrary deprivations of life contrary to article 6 of the ICCPR. Section 4(a) of the AFSPA broadly empowers military personnel to:

> if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances.

Section 4(a) does not limit the use of force to individuals posing an imminent threat to life, or require any assessment of necessity and proportionality in this regard, including consideration of less intrusive means, including warnings, dispersal, arrest, non-lethal alternatives, and the graduated use of force. Indiscriminate “shoot on sight” and “shoot to kill” policies are not consistent with the duty to respect the right to life, including in response to the mere fact of individuals assembling or carrying weapons. Other elements of the threshold for using force are also low and subjective, namely a personal “opinion” by military personnel that it is necessary to use force “for the maintenance of public order”. The reference to “any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the

carrying of weapons" is also not limited to laws prohibiting assemblies or carrying of weapons in circumstances where these present an imminent threat to life.

We recall that under article 6 of the ICCPR, the right not to be arbitrarily deprived of life is a paramount *jus cogens* norm that cannot be derogated from, even in armed conflict or public emergency (general comment No. 36, para. 12). The use of potentially lethal force for law enforcement purposes is an extreme measure that should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat (para. 12). It must be strictly necessary in view of the threat posed by the attacker; it must represent a method of last resort after other alternatives have been exhausted or deemed inadequate; the amount of force applied cannot exceed the amount strictly needed for responding to the threat; the force applied must be carefully directed, only against the attacker; and the threat responded to must involve imminent death or serious injury (ibid). It should also comply with relevant international standards, including the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life (Basic Principles, principle 9). Even exceptional circumstances such as "internal political instability" or a "public emergency" cannot be used to justify departing from the standards regulating law enforcement's use of force (Basic Principles, principle 8).

Further, while section 4(a) requires military personnel to first give such "due warning as he may consider necessary", this element is less stringent than international standards, which require law enforcement to "give a clear warning of their intent to use firearms" unless doing so would unduly place the officer or another person at risk (Basic Principles, principle 10). Notably, the Indian Supreme Court has decided that, in using force under the AFSPA, armed officers are required to conform to certain restrictions under a set of legally binding guidelines, known as the "Do's and Don'ts".[5] However, the requirement under the "Do's and Don'ts" that military actors issue a warning before opening fire appears not to have been implemented.[6] More generally, the "Do's and Don'ts" do not sufficiently limit the vague and overbroad grounds for the use of force under the AFSPA so as to render its operation consistent with the right to life.

We are further concerned that the AFSPA does not provide sufficient guardrails to regulate the use of potentially excessive force in the process of arrests, searches, and seizures. Sections 4(c) and 4(d) enable military actors to apply "such force as may be necessary" for the purpose of carrying out warrantless arrests, searches and seizures. While the "necessary" test appears to be objective rather than subjective, there is no further safeguard requiring proportionate force to be used. It thus appears to authorize such force as is necessary (to effect an arrest or to enter and search premises for the additional purpose of freeing a captive or recover property or weapons) even if it is excessive or disproportionate to those objectives.

[5] *Naga People's Movement of Human Rights vs. Union of India,* Supreme Court of India, November 27, 1997.

[6] See e.g., the Justice Hegde Commission established by the Indian government to assess lethal incidents under AFSPA, which reported that the guidelines exist "largely on paper," and "are mostly followed in violation." *See* Commission of Inquiry, Santosh Hegde Commission report, p. 84 (2013).

Arbitrary Detention

Further, certain provisions of the AFSPA may permit arbitrary detention, in violation of the right liberty and security of person, including the prohibition on arbitrary arrest and detention, under article 9 of the ICCPR. Section 4(c) provides for the arrest without warrant of "any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence". The power to arrest a person whom it is reasonably suspected "is about to commit" an offence is vague and overbroad to the extent that it goes beyond objective imminent risks of crime, and this subjective and discretionary power could be prone to abuse in its application. Under article 9 of the ICCPR, the prohibition on "arbitrary" detention "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" (general comment No. 35, para. 12).

Further, the authorization of arrest in the absence of reasonable suspicion of any imminent offence appears to constitute a form of preventive, administrative security detention. However, this threshold under section 4(c) does not meet the stringent requirements of security detention under international human rights law, which permits security detention only in "the most exceptional circumstances" where a person poses a "present, direct and imperative threat" and alternative effective measures, including criminal proceedings, are unavailable (general comment No. 35, para. 15; see also A/80/284, paras. 40 to 61). The Human Rights Committee has emphasized that security detention "presents severe risks of arbitrary deprivation of liberty" and would normally amount to arbitrary detention where criminal justice measures are available (general comment No. 35, para. 15). Preventive detention is only permissible in relation to terrorism where it is likely on the balance of probabilities that the person would participate in the commission of an imminent terrorist act intended to cause death or serious injury, as properly defined (A/80/284, para. 45).

We are also concerned that the AFSPA could permit periods of protracted detention without "prompt" judicial review as required under article 9 of the ICCPR, which generally means within 48 hours (general comment No. 35, para. 33). Section 5 of the AFSPA requires those arrested by the military to be transferred to police custody "with the least possible delay." India's Supreme Court has insisted that this must result in the person arrested being produced before a magistrate within 24 hours, excluding travel time, in accordance with article 22 of the Indian Constitution.[7] The "Do's and Don'ts" further indicate that the least possible delay may be 2-3 hours extendable to 24 hours or so depending upon the particular case, although the upper limit could make it very difficult for police to then bring the person before the magistrate within the 24 hour maximum limit of judicial review. Despite these protections, these limits do not appear to always be respected in practice. Further, the unlimited travel time exclusion could potentially invite abuse and result in protracted military detention outside judicial control. To strengthen these protections further, it is recommended that the AFSPA both refer to the requirement that the person be brought before a magistrate within 24 hours, and specify a maximum period of hours within this overall period within which the person must be transferred from military to police custody, and a maximum travel time

[7] *Naga People's Movement of Human Rights vs. Union of India,* Supreme Court of India, 27 November 1997.

exclusion period, thus giving unambiguous guidance to the military, preventing risks of abuse, and allowing police sufficient time to bring the person before a court.

We highlight that protracted periods of detention prior to judicial review, whether on suspicion of a criminal offence or in the nature of preventive detention, bring risks of other human rights violations, including arbitrary killings, enforced disappearances, torture and cruel, inhuman or degrading treatment or punishment, inadequate detention conditions, discrimination, and lack of due process and judicial safeguards (A/80/284, para. 40). Strengthening the time frames for judicial safeguards is vital to addressing these risks.

Several core safeguards are required to prevent any form of enforced disappearance, regardless of duration, including legal guarantees for all persons deprived of liberty, accurate and centralized detention registers, prohibition of secret detention, and protections at the moment of release. A key preventive measure is ensuring that all persons with a legitimate interest –such as relatives or lawyers– have prompt, accurate and accessible information on the detention and any transfers. To prevent short-term enforced disappearances, authorities must immediately notify judicial or prosecutorial bodies of any deprivation of liberty and allow the detainee to contact family or legal counsel. Once the legal time limit for bringing a detainee before a competent authority expires and this does not occur, the person is placed outside the protection of the law, thereby meeting the conditions for an enforced disappearance (CED/C/11).

Further, the lack of any requirement under the AFSPA that the military inform the person of the reasons for the arrest at the time of arrest appears contrary to article 9 of the ICCPR. We recommend that such right be expressly required under the AFSPA, just as the AFSPA already requires the military to present a report of the circumstances occasioning the arrest to the police officer upon transferring the suspect.

Immunity from Prosecution and Accountability

Under section 6 of the AFSPA, no military official acting under the Act may be subjected to prosecution, suit or other legal proceeding without prior sanction from the Central Government. The requirement of prior Government sanction to prosecute military actors risks preventing accountability and fostering impunity for violations, contrary to international human rights law. We recall that article 2(3) of the ICCPR requires States to ensure access to effective remedies for rights violations, even where the violation has been "committed by persons acting in an official capacity." A failure by a State to investigate allegations of misconduct by law enforcement officials, including excessive use of force, could in and of itself give rise to a breach of the ICCPR (general comment No. 36, para. 31; general comment No. 31, para. 18). Where investigations reveal violations of ICCPR rights, the State must ensure that those responsible are brought to justice, including through criminal prosecution. Relieving State authorities of "personal responsibility" for violations of core legal protections, such as the right to life or the prohibition on torture, through prior legal immunities and indemnities is prohibited (general comment No. 31, para. 18). "[N]o official status" may justify such immunities (ibid).

Furthermore, the process for evaluating sanction requests remains opaque and seemingly arbitrary, and sanctions for prosecution appear to rarely, if ever, be granted. According to the Office of the High Commissioner for Human Rights, in nearly three decades in which the AFSPA was in force in Jammu and Kashmir, "there [was] not […] a single prosecution of armed forces personnel granted by the central government" and the AFSPA is "a key obstacle to accountability."[8] Government officials have reportedly acknowledged that there are no procedures or criteria that the Ministry of Defense or the Ministry of Home Affairs are required to follow when evaluating whether sanctions for prosecution should be granted.

Although Government officials have suggested that India's military justice system is well-equipped to handle allegations of human rights violations, military justice mechanisms are not viable substitutes for access to civilian courts, as they tend to lack transparency, impartiality and independence and may not meet fair trial standards. The Human Rights Committee has emphasized that when human rights violations are alleged to have been committed by military actors, investigations should be carried out by civilian authorities to ensure independence of proceedings (CCPR/C/79/Add.76, paras. 19, 23, 32, 34). Similarly, article 16 of the Declaration on the Protection of All Persons from Enforced Disappearance observes that only competent ordinary courts, not special or military tribunals, may try individuals accused of enforced disappearance.The Indian Supreme Court has acknowledged that India's military tribunals are "ad-hoc bodies" that have always been "subject to varying degrees of command and influence."[9] Alternatively, the State has relied on various committees and commissions established in "disturbed areas" to review allegations of human rights violations under the AFSPA. However, these bodies appear to be ad hoc in nature, often established reactively to address civilian anger in the wake of human rights abuses. They also lack enforcement power. While such bodies have submitted numerous reports on the AFSPA, recommending amendments or even the repeal of the legislation, these recommendations have been largely ignored or rejected by the Central Government.

We urge your Excellency's Government to ensure that military actors engaging in abusive or otherwise unlawful conduct are promptly and effectively brought to justice.

Impacts on Freedoms of Peaceful Assembly, Association, and Expression

In authorizing the use of potentially excessive force to police assemblies prohibited under "other laws and orders", the AFSPA risks additionally resulting in infringements of the rights to freedom of peaceful assembly, association, and expression under articles 21, 22(1), and 19 of the ICCPR.

As a general rule, the military should not be deployed to police assemblies, but where temporarily deployed, the military's use of force must comply with the above-mentioned limitations on the use of force by law enforcement officials (general comment No. 37, para. 80), including necessity and proportionality. A report of the former Special Rapporteur on the rights to freedom of peaceful assembly and of association indicated that "[w]herever possible, law enforcement authorities should not

[8] OHCHR, "Update of the Situation of Human Rights in India-Administered Kashmir and Pakistan-Administered Kashmir from May 2018 to April 201", 8 July 2019, para. 95.

[9] *Lt. Col. Prithi Pal Singh Bedi ETC. vs. Union Of India & Others*, Supreme Court of India (1982), para. 44.

resort to force during peaceful assemblies and ensure that, 'where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force' (A/HRC/RES/19/35, para. 6)" (A/HRC/20/27, para. 89).

It follows from these considerations that acts of sporadic violence or other punishable acts committed by others do not deprive peaceful individuals of their right to freedom of peaceful assembly (A/HRC/20/27, para. 25, A/HRC/23/39, para. 49). Actions by individuals or small groups of protestors can thus not serve to justify the use of force against other, peaceful protestors, or assemblies as a whole: any force used should be targeted at individuals using violence or posing an imminent threat (A/HRC/31/66, para. 57). Law enforcement officials may not use greater force than is proportionate to the legitimate objective of either dispersing an assembly, preventing a crime or effecting or assisting in the lawful arrest of offenders or suspected offenders (Code of Conduct for Law Enforcement Officials, commentary to article 3). Once the need for any use of force has passed, such as when a violent individual is safely apprehended, no further resort to force is permissible (ibid, article 3).

We are concerned that section 4(a) of the AFSPA does not conform to these safeguards and carries severe risks of allowing for violations of the right to freedom of peaceful assembly under article 21 of the ICCPR. In order to ensure this right, domestic law must not grant officials largely unrestricted powers, for example to use "force" or "all necessary force" to disperse assemblies, or allow use of force against participants in an assembly on a wanton, excessive or discriminatory basis (CCPR/C/MAR/CO/6, paras. 45–46; CCPR/C/BHR/CO/1, para. 55; and CCPR/C/GC/37, para. 79).

We again highlight the United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Firearms should never be used simply to disperse an assembly, and indiscriminate firing into a crowd is always unlawful (A/HRC/26/36, para. 75).

States also have a heightened duty to investigate whenever State authorities appear to have used firearms "against demonstrators" (general comment No. 36, para. 29). The Human Rights Committee in its general comment No. 37 on the right to freedom of peaceful assembly has further specified that "[a]ll use of force by law enforcement officials should be recorded and reflected promptly in a transparent report. Where injury or damage occurs, the report should contain sufficient information to establish whether the use of force was necessary and proportionate by setting out the details of the incident, including the reasons for the use of force, its effectiveness and the consequences of it" (para. 91).

Further, as mentioned, the authority to use force against assemblies prohibited under "other laws and orders" is not required to take into account whether those laws and orders themselves constitute necessary and proportionate restrictions on the affected rights, and thus whether any level of force to disperse the prohibited assemblies would be justified. The rights to freedom of peaceful assembly, freedom of association, and freedom of expression may only be subject to restrictions that are prescribed by law and in pursuit of a legitimate aim, and restrictions must be necessary and proportionate to the stated aim. Blanket bans on assemblies presumptively do not meet the requirements of necessity and proportionality in restricting the right to peaceful assembly (A/HRC/55/60, para. 24).

We caution against the potential chilling effect of the AFSPA on the ability of human rights defenders and protesters to carry out protests, human rights work and civic engagement as protected under international human rights law, in the context of historically excessive uses of force by the military against assemblies in areas declared as “disturbed” under the AFSPA. Counterterrorism measures must not be used to “curtail or discourage” the right to peaceful assembly (general comment No. 37, para. 68) or constrain dissenting viewpoints (A/HRC/20/27, para. 23). We underline your Excellency’s Government’s obligation to ensure an enabling environment for the freedom of association, peaceful assembly, and expression and to protect human rights defenders.

In this regard, we refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the United Nations Declaration on Human Rights Defenders. In particular, articles 1 and 2 of the Declaration state that everyone has the right to promote and to strive for the protection and realization of human rights at the national and international levels and each State has a prime responsibility and duty to protect, promote and implement all human rights. Further, article 5(a) of the Declaration provides that everyone has the right to meet or assemble peacefully, and article 6(b) states that everyone has the right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms.

Rights of Children

We recall that international human rights law requires special protection for children, including in relation to the use of force and arrest and detention, pursuant to articles 6, 9 and 24 of the ICCPR, as well as the Convention on the Rights of the Child (CRC), ratified by India on 11 December 1992. Special measures are required to protect the right to life of children (general comment No. 36, para. 60). Article 37(b) of the CRC provides that children should not be deprived of liberty, except as a last resort and for the shortest appropriate period of time. Worryingly, the AFSPA does not make specific provision for the vulnerabilities, needs and rights of children in this regard.

Potential Impacts on Indigenous Peoples and Minorities

We note that the disturbed areas to which the AFSPA applies are predominantly comprised of Indigenous and ethnic minority communities, including areas where there have been historic tensions over land, resources and political representation. We recall that human rights, including the rights to life and liberty, must be respected and ensured without distinction of any kind. Under articles 2 and 26 of the ICCPR, States must respect and ensure the rights protected under the Covenant without discrimination and every individual is equal before the law and entitled without any discrimination to the equal protection of the law. We also draw attention to the rights of Indigenous Peoples under international law (see UN Declaration on the Rights of Indigenous Peoples) and the rights of minorities, including under article 27 of the ICCPR, as well as to the Convention on the Elimination of Racial Discrimination, which India ratified on 3 December 1968.

We further recall Pillar I of the UN Global Counter-Terrorism Strategy, which calls on States to address the conditions conducive to the spread of violence, including protracted unresolved conflict, political exclusion, economic marginalization, discrimination and State violations of human rights. We emphasize that excessively repressive responses to perceived security threats can have counter-productive effects that entrench insecurity.

We urge your Excellency's Government to review and repeal or amend the AFSPA in order to bring it into conformity with international human rights law.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all matters 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 analysis of the AFSPA.

2. Please provide additional information regarding the standards and criteria used to classify areas as "disturbed," including any specific metrics or qualifications that are used in the determination. Please also clarify what measures are in place to challenge the designation of a "disturbed area" and how these conform with the requirements of due process and effective remedies under international human rights law.

3. Please clarify what safeguards are in place to prevent excessive uses of force as well as arbitrary deprivations of life by military actors acting under the AFSPA. Relatedly, please provide more information regarding how your Excellency's Government is complying with its duties to prevent and investigate unlawful deprivations of life.

4. Please explain how the military interprets and applies the power to arrest a person whom it is reasonably suspected "is about to commit" an offence.

5. Please provide information or statistics on the numbers of persons detained by the military, the duration of their detention, the length of travel periods, and the length of time before which they are produced before a judge.

6. Please indicate whether the time limits on military detention will be amended.

7. Please clarify what measures are in place to ensure that persons subject to human rights violations arising under AFSPA can obtain accessible and effective legal and judicial remedies. Relatedly, please clarify what mechanisms of justice and accountability are available to victims when sanctions for prosecution are not granted, including mechanisms to appeal the denial of sanctions.

8. Please clarify how your Excellency's Government is creating an enabling environment for individuals in disturbed areas, including human rights defenders, to exercise their rights to freedom of expression, assembly, and association without fear of reprisal or excessive force.

9. Please indicate what measures are taken to protect the rights of children when applying the AFSPA, including in the context of use of force and arrest and detention.

10. Please explain what steps are being taken to respect and protect the rights of Indigenous Peoples and minorities in connection with the application of the AFSPA, including to address underlying grievances conducive to disturbances.

11. Please indicate whether the AFSPA will be reviewed and repealed or amended to ensure it is consistent with international law.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting website after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Gina Romero
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Mary Lawlor
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