

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on 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 the rights of Indigenous Peoples; the Special Rapporteur on the right to privacy and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: OL PNG 1/2026

(Please use this reference in your reply)

14 October 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 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 the rights of Indigenous Peoples; Special Rapporteur on the right to privacy and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 58/14, 63/34, 62/10, 61/14, 59/4, 60/4, 55/3 and 61/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **Counter-Terrorism Act 2024**, adopted on 28 November 2024 and certified on 13 December 2024, which replaced the Internal Security Act 1993. The Act creates establishes terrorism offences, authorizes certain counter-terrorism powers, and establishes a Counter-Terrorism Joint Security Task Force, with military participation under civilian police command. We are concerned that certain provisions of the Act are not consistent with international human rights law.

While we welcome the reference in section 1 to constitutional human rights protections, we would respectfully note that such a provision, in and of itself, does not necessarily ensure that the substantive provisions of the Act are compatible with constitutional and international human rights standards.

Definition of terrorism

We are concerned that the definition of terrorism in section 2 sets the threshold for terrorism too low, and contains vague and overbroad elements that are inconsistent with the principle of legal certainty under article 15 of the International Covenant on Civil and Political Rights (ICCPR), and does not conform to best practice international standards on the definition of terrorism. In particular, we are concerned that the definition includes terms such as merely "influencing" a government (instead of unduly compelling or coercing it), "affecting" an identifiable group (an element not found in international standards), and serious property damage (instead of properly limiting terrorism to intentionally killing or serious bodily injury).

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 constitute a criminal offence and what would be the legal consequences. This principle prevents ill-defined and/or overly broad laws which are open to arbitrary application and abuse, including targeting 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).

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,¹ the General Assembly’s Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004). Based on these authoritative sources, the revised 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/61/52). The model definition is as follows:

- 1 Any person commits a terrorist offence if that person, by any serious criminal act, intentionally causes death, serious bodily injury, or hostage-taking, where:
 - (a) The purpose of the conduct, by its nature or context, is:
 - (i) To provoke a state of terror in the public or a group of persons; or
 - (ii) To unduly compel a Government or an international organization to do or to abstain from doing any act;
 - (b) The conduct is intended to advance a political or ideological purpose, which must be a substantial purpose; and
 - (c) The conduct, given its nature or context, intentionally causes serious damage to a country or an international organization.

The model definition does not recommend including harm to property as terrorism; where such harm is included, it should require high thresholds in accordance with the recommended clauses in A/HRC/61/52, para. 69.

The definition of terrorism should further contain exclusion clauses as follows:

2. A terrorist offence does not include:
 - (a) An act of advocacy, protest, dissent or industrial action that does not intentionally cause death or serious bodily injury;

¹ See https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml.

- (b) Conduct committed in armed conflict that does not violate international humanitarian law;
- (c) The provision of humanitarian activities by impartial humanitarian organizations in accordance with international humanitarian law;
- (d) The activities of State military forces in the exercise of their official duties, inasmuch as they are accordance with international law; and
- (e) An act intended to establish or re-establish democracy, constitutional Government or the rule of law, or to exercise or safeguard human rights.

We are further concerned that reference to groups of persons “identifiable by a shared custom, ethnicity or place of residence” in the Act’s definition of terrorism may unjustifiably conflate distinct tribal or other communal violence in Papua New Guinea with terrorism, despite the existence of customised frameworks such as the Tribal Fight Act 1977, and may unjustifiably stigmatize tribal peoples as national security threats. We note that the peaceful exercise of Indigenous Peoples’ rights, including through ancestral forms of self-organization and the protection of their lands, territories and resources, must not be conflated with terrorism or subjected to counter-terrorism measures in the absence of conduct meeting a precise and appropriately high legal threshold. Further, the Indigenous Peoples’ traditional institutions, knowledge and systems of territorial governance can contribute positively to security, and that they should be recognized as allies and partners in this regard ([A/80/181](#)).

Terrorism offences

The mental element of all terrorism offences under Part IV should be expressly specified and should be limited to intention or knowledge. The incitement offence (section 23) should require not only that the expression was intended but also that it intended to incite terrorism, and that there was objectively a real risk of terrorism occurring as a result. The offence of possession of articles for the purpose of terrorism (section 24) should require more than a mere “connection” to terrorism, namely that the articles were intended to contribute to terrorism and that they were objectively likely to do so. Offences of membership, support and meetings concerning proscribed organizations (section 30) should require that such acts were likely to causally contribute to the commission of terrorist violence by the organization, not merely any of its activities. The offence of display of support in public (section 31) should involve a higher threshold than a mere “reasonable apprehension” of membership or support.

Penalties for terrorism offences

Heavy mandatory minimum terms of imprisonment for certain offences (life under section 26, 50 years under sections 20 to 24 and 27, and 20 years under sections 25, 30 and 31) under the Act are inconsistent with the requirements of international human rights law that penalties must be proportionate to the gravity of the crime in the particular circumstances, including taking into account mitigating factors, and that judges must be able to exercise discretion in sentencing to ensure the proportionality

and fairness of sentences and to avoid arbitrary detention. Such heavy mandatory penalties are likely to be excessive in many individual cases and thus result in arbitrary detention contrary to article 9 of the ICCPR.

Penalties for certain lesser offences are grossly excessive, such as mandatory life imprisonment for merely intending to fund a terrorist act (even if it does not occur and regardless of its anticipated severity); 50 years imprisonment for incitement, possessing articles for the purpose of terrorism, training for terrorism, or causing harm to officers; and 20 years for information relating to officers, membership, support and meetings of proscribed organizations, display of support in public, and presence in a prohibited area – again, all regardless whether any terrorist act occurs or whether there are any victims, loss of life or serious injury. Mandatory life sentences may additionally violate the prohibition on torture or cruel, inhuman or degrading punishment under article 7 of the ICCPR and the Convention against Torture.

Declaration of proscribed organizations

The executive power to declare proscribed organizations (sections 28 and 29 of the Law) is inconsistent with international human rights law and best practice international standards. The threshold for proscription is too low and does not require any assessment of the necessity and proportionality of proscription. Appeal lies with the executive and accordingly does not provide an independent and impartial remedy, just as by a court. Due process is inadequate, including because the 28 day time limit to file an appeal is too short; and there is no provision for disclosure of essential evidence, an oral hearing allowing an opportunity to be heard, legal representation, or compensation for wrongful designation. Designations further appear to have no time expiry and are not subject to periodic independent review.

We recall international standards on terrorist designations. The designation of “terrorist” individuals or organizations must satisfy the grounds for listing, and ensure due process and judicial protection, under international human rights law, as set out by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/16/51, para. 35 and A/80/284, paras. 17-39). Specifically, the criteria for listing must be clearly established by law and publicized. There must be reasonable grounds to believe, based on credible and convincing evidence, that the individual or entity: (a) has knowingly carried out, participated in or facilitated a terrorist act; (b) intends to engage further in terrorism; and (c) is capable of so engaging. A higher standard of proof, such as the balance of probabilities, is recommended. The definition of terrorism must be limited to conduct that is genuinely terrorist in accordance with best practice international standards. To list an organization, it must have the substantial purpose of engaging in terrorist offences. Even where an individual or entity meets the formal criteria, listing must still be necessary and proportionate in the circumstances, including by demonstrating that less invasive means, such as surveillance and criminal investigation, would be ineffective.

Any restriction of rights resulting from listing, including financial and criminal law measures, must be necessary and proportionate in pursuit of the counter-terrorism aim and be non-discriminatory. Measures must be applied individually and not automatically or en masse. The protracted or indefinite maintenance of restrictive

measures, including asset freezes and travel bans, may become disproportionate and quasi-punitive over time. Protracted listings should also be more intensively scrutinized because they will likely have reduced the threat over time.

The following minimum due process rights should apply to listings: (a) A right to be promptly informed of the listing (ordinarily *ex ante*, exceptionally *ex post facto*) and its factual grounds, the consequences of listing and the procedural rights. There must be sufficient disclosure of the information supporting the listing to enable the person to effectively challenge it, instruct legal counsel and enjoy equality of arms in proceedings; (b) A right to apply to the decision maker for delisting or non-implementation of the measures, and a subsequent right to re-apply for such relief where there is a material change of circumstances or new evidence; (c) A right to judicial review of the listing, affording due process, legal assistance and legal aid as required. The court must have the power to suspend the listing pending final decision. Judicial review should be prompt and automatic, not only on application; (d) The listing should be regularly reviewed, at least every six months, to determine whether the listing and the measures are still lawful, necessary and proportionate; (e) The listing should lapse automatically after 12 months, unless renewed afresh; (f) Reparation, including compensation, must be available for wrongful listing, including for affected third parties.

We warn of the potential for the misuse of overbroad terrorist designation frameworks to suppress and criminalize organizations and individuals, including civil society organizations, journalists, dissidents, peaceful protesters, and human rights defenders, who are engaged in the legitimate exercise of freedoms of peaceful assembly, association, expression and the right to take part in in public affairs (see e.g. A/80/284 and A/79/263).

Deployment of the military

Aid to civil power by the Defence Force (section 6), and the military's participation in the Counter-Terrorism Joint Security Task Force, raises potential risks for compliance with international human rights law. According to international standards, outside armed conflict, the military should only be used to assist civilian law enforcement authorities temporarily in exceptional situations, where the civilian authorities are not able to adequately address the threat, for instance in a public emergency threatening the life of the nation that is duly declared under article 4 of the ICCPR, or in other grave situations. Since the military are trained and equipped primarily for armed conflict, it is not usually appropriate to involve them in civilian law enforcement activities such as peacetime counter-terrorism.

Where, in exceptional circumstances, military personnel carry out law enforcement functions and must be bound by the domestic and international human rights law standards applicable to law enforcement. The duty to prevent arbitrary deprivations of life under article 6 of the ICCPR thus requires military personnel to respect the rules on the minimum use of force, including the use of potentially lethal force only in response to an imminent threat to life, in accordance with the Human Rights Committee's general comment No. 36 and principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (principle 4) (see also CCPR/C/GC/36, para. 14, and A/HRC/55/60, para. 79(h)). Military personnel should

also be adequately trained in human rights and human rights-based law enforcement (Special Rapporteur on extrajudicial, summary or arbitrary executions, A/66/330, para. 96; see also A/HRC/31/66, para. 66). Further, the military must remain subordinate to the civilian authorities and be accountable under civilian law (see Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66, para. 66).

Authorized officers

We are concerned that the power of the Minister to appoint “authorized officers” does not require the person to hold any specific qualifications or other attributes (section 7), raising questions about whether such persons would be sufficiently trained and otherwise qualified to carry out counter-terrorism functions. The Act should impose adequate safeguards on such appointments.

Immunities

We are concerned that section 9 provides that police officers or any members of the Counter-Terrorism Joint Security Task Force (which include military personnel) “shall not be held criminally or civilly liable for any action or omission taken in the performance of his duties under this Act or in accordance with a lawful diurection under this Act”. We emphasize that international human rights law establishes a right to an effective remedy for any person whose rights are violated, even where the violation has been “committed by persons acting in an official capacity” (ICCPR, article 2(3)). This includes in situations such as arbitrary deprivation of life (ICCPR, article 6), torture or other ill-treatment (ICCPR, article 7), arbitrary detention or other violations of (physical or mental) security of person (ICCPR, article 9), and enforced disappearance, among others. Effective remedy require the investigation of violations, accountability of perpetrators (including prosecution), reparation (such as compensation, whether through administrative, civil or criminal proceedings), and guarantees of non-repetition. Section 9 appears to provide blanket impunity and is thus also likely to fail to deter future violations. 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). Relieving State authorities of “personal responsibility” for violations through prior legal immunities and indemnities is prohibited (general comment No. 31, para. 18). “[N]o official status” may justify such immunities (*ibid*).

Powers

The power to arrest and detain without warrant (section 11) should be subject to additional requirements such that it is necessary to ensuring court attendance, preserving evidence, protecting witnesses, or preventing further offending.

The power to use reasonable force under section 10 should be limited to specified (not any) powers under the Act, for instance in relation to arrest, detention, and stop and search.

The power to stop and search in section 12 of the Law is overbroad and should be limited to terrorist suspects (not any person) who is suspected of possessing anything connected with an offence; and a maximum period of stop should be specified (not merely a “reasonable period”).

The power to search a conveyance, place or premises without warrant (section 13), at least in respect of places/premises, should require a judicial warrant, unless in exceptional circumstances that should be specified in the Act – for example, preventing imminent threat to life or imminent destruction of evidence

Surveillance

We are concerned that sections 14 and 15 of the Act empower the Attorney-General and the Commissioner of Police to authorize the use of surveillance devices, with associated intrusive entry and installation powers, without prior judicial warrant or post facto judicial confirmation or review (or by some comparable independent and impartial body), and in circumstances where surveillance is not directed towards identifying imminent threats to life. In the absence of a public emergency declared in accordance with the derogation procedure under article 4 of the ICCPR, the use of such powers would likely constitute unnecessary and disproportionate restrictions on the right to privacy and data protection under article 17 of the ICCPR, and may further infringe the right to effective remedy under article 2(3) of the ICCPR. We recall that surveillance powers must be subject to rigorous independent oversight, including prior authorization and post facto review by independent and sufficiently resourced bodies (A/HRC/37/62). Counter-terrorism surveillance measures lacking in safeguards can be subject to misuse, violate the right to privacy, and have a chilling effect on the exercise of human rights (see e.g. A/HRC/62/45).

Access to information and related detention powers

The power to compel a person to provide information or documents in relation to a terrorism investigation and to relatedly detain the person for a reasonable period of time (section 16) does not provide protection against self-incrimination or safeguard the right to silence in this respect, and as such is not consistent with international human rights law. Further, there is no maximum detention period and a “reasonable period” may be open to abuse and result in arbitrary detention. There is also no guarantee of access to a lawyer or notification to family members of the person’s whereabouts, raising risks of enforced disappearance.

Directions to telecommunications providers, financial institutions, and government bodies

Sections 17 and 18 empower the Commissioner of Police to direct telecommunications providers, financial institutions, and government bodies to provide such assistance as he considers reasonably necessary in terrorism cases, and requires them to comply with such requests, backed by criminal offences carrying 5 years imprisonment. While there is a defence of reasonable excuse, the powers themselves are not limited to lawful directions by the Commissioner, raising concerns about legality given the inevitable real-time pressures to comply such directions. The scope of the powers is also vague and may potentially lead to arbitrary interferences in rights without

clear and specific legislative guidance. For instance, internet service providers could be directed to suspend or shut down accounts or message services, censor online content, or surveil and collect information on users, potentially in violations of the rights to privacy and freedoms of expression, association, peaceful assembly and to take part in public affairs.

Prohibited areas

Sections 32 to 36 empower the executive to declare an area prohibited for up to three months, where there is likely to be an act of terrorism, backed by criminal penalties, and subject to legislative exemptions and discretionary exemptions decided by the police. Such power is highly invasive, applying regardless of the anticipated scale of the terrorist act, and regardless of any proportionality assessment; applying even to residents, and “in any area of the country” (i.e., without geographic limitation on size or place); lasting for up to three months; and being indefinitely renewable. The power potentially affects a very wide range of human rights, including the right to freedom of movement, the right to privacy, family life and the home; the right to an adequate standard of living (including work and housing); and the rights to education and health, among others. In the absence of a public emergency declared in accordance with the derogation procedure under article 4 of the ICCPR, the use of such an invasive power would likely constitute unnecessary and disproportionate restrictions on fundamental rights. Further, while a declaration must be notified to Parliament, it is not subject to prior or *post facto* judicial (or other independent and impartial) authorization or review, including as regards its legality, necessity and proportionality. While there are express automatic exemptions for certain security officials and fire and medical emergencies, other grounds of exemption by permit are unspecified and rely upon the discretion of the Commissioner of Police. Thus, there is no guaranteed right of access by, for instance, judges, parliamentarians, the Ombudsman Commission of Papua New Guinea, journalists, or human rights monitors, thus reducing oversight and accountability in the exercise of exceptional security powers in closed areas. Further, there are no exemptions for other public or essential services, such as those relating to primary health care, schools, water, sanitation, energy and public administration.

Oversight and accountability

In general, we are concerned that the exercise of the powers under the Act is not subject to sufficient oversight and accountability relative to their highly intrusive scope and character. Annual reporting to the National Executive Council (section 19) is not a sufficiently robust, independent and impartial safeguard. We refer your Excellency's Government to international standards on oversight and accountability, including the need to empower effective external independent mechanisms in national security contexts (such as courts and national human rights institutions), dedicated mechanisms such as independent national security legislation monitors or reviewers, parliamentary review, and implementation of standards such as the Brussels Memorandum on Good Practices for Oversight and Accountability Mechanisms in Counterterrorism.

We stand ready to provide any technical advice your Excellency's Government may require in ensuring that counter-terrorism measures are consistent with international human rights law and international humanitarian law.

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

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please explain how the provisions of the Act are consistent with international human rights law.
3. Please indicate whether and how the provisions of the Act will be reviewed and amended to comply with international human rights 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

Grazyna Baranowska

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

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Leopoldo Maldonado Gutiérrez

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

Albert K. Barume

Special Rapporteur on the rights of Indigenous Peoples

Ana Brian Nougrères

Special Rapporteur on the right to privacy

Pau Pérez Sales

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