

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the right to privacy and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

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3 July 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of human rights in the context of climate change; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the right to privacy and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 50/17, 51/8, 57/31, 52/4, 55/3 and 58/14.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the Crime and Policing Bill (hereafter, the "Bill")**.¹ Introduced to the House of Commons on 25 February 2025, the Bill is currently at the Commons Report stage. We are concerned that, if passed, clauses 108 to 110 may impose inordinate and substantial restrictions on the rights to freedom of peaceful assembly and of association and to freedom of expression. We are especially concerned that, if passed, these provisions may deepen the risk of misuse of surveillance technologies, while giving rise to chilling effects undermining the exercise of the rights to freedom of peaceful assembly and of association and to freedom of expression. Furthermore, we are specifically concerned about the impact of the bill could have on human rights defenders and their legitimate work on a range of issues including climate change and the environment.

In previous communications (GBR 5/2022, GBR 16/2022, GBR 13/2024,) we had expressed to your Excellency's Government our concerns about the adoption of legislation that have a broad scope and vague and overbroad definitions. We have also previously raised our concerns with regard to the apparently unjustified use of anti-terrorism legislation against political protesters, especially in relation to the domestic support for Palestinian self-determination and political activism against the United Kingdom's foreign policy on the conflict in the occupied Palestinian territory of Gaza (GBR 15/2024). We appreciate the reply received from your Excellency's Government with regard to that communication.

About the bill

Clause 108 will create the offence of persons concealing their own, or someone else's identity during protests.

¹ <https://publications.parliament.uk/pa/bills/cbill/59-01/0235/240235.pdf>.

Subsection (1): provides that “a person commits an offence if the person is (a) in a public place that is in a locality designated under section 87, and (b) wearing or otherwise using an item that conceals their identity or another person's identity”.

Subsection (2): stipulates that it is a defence for persons charged with this offence to cover their face for reasons of “health of persons or others”, “religious observance” or “relating to the person’s work”.

Subsection (3): specifies that “[w]here the conduct described in subsection (1) takes place during the initial period specified under section 109(1), a person commits the offence under [section 108] only if section 109(2) has been complied with in relation to the designation”, notably the designated localities and notice requirements.

Subsection (4): specifies that “[w]here the conduct described in subsection (1) takes place during a further period directed under section 109(3), a person commits the offence under this section only if section 109(4) has been complied with in relation to the designation”, with section 109(3) authorizing a constable whose rank is at least that of superintendent to extend the designation of the locality for an additional 24 hour-time period.

Subsection (5): sets out the sanction for committing this offence to up to one month imprisonment and/or a fine not exceeding level 3 on the standard scale, which is £1,000.

Clause 109 will enable constables with at least the rank of inspector to temporarily designate a locality in England or Wales within which face coverings are prohibited for a maximum period of 24 hours if the “protest may take place or is taking place in the locality; the protest is likely to involve or has involved the commission of offences, and it is expedient, in order to prevent or limit the commission of offences, to designate the locality”, provided that the public is duly notified. Significantly, subsection (6) retains the power of any constable under section 60AA of the Criminal Justice and Public Order Act 1994 to oblige the removal of disguises.

Clause 110 requires that constables who have at least the rank of inspector and who designate localities under clause 108 must promptly inform a constable whose rank is at least that of a superintendent in writing, with signature and specified grounds on which the designation is made, the locality to which it applies and duration of the designation. Oral designations are permitted only if it is not reasonably practicable to make a written designation and the designation is subsequently recorded in writing as soon as reasonably practicable.

General Observations

We wish to express our grave concerns that the aforementioned clauses of the Bill are incompatible with various articles of the International Convention on Civil and Political Rights (ICCPR) to which the United Kingdom is a party, in particular, the right to freedom of peaceful assembly (article 21), the right to freedom of expression (article 19), the right to freedom of religion (article 18) and the right to privacy (article 17). These rights are also enshrined in the European Convention on Human

Rights (ECHR)² and have been incorporated into the domestic law of the United Kingdom through the Human Rights Act (HRA) 1998.³

Before presenting specific observations on this proposed legislation, we wish to remind your Excellency's Government that the right to freedom of peaceful assembly, the right to privacy and the right to freedom of expression are human rights which are guaranteed to all people, including human rights defenders. The right to freedom of peaceful assembly is significant as its own right but also plays an essential role in the realization of other human rights.⁴ Furthermore, safeguarding anonymity during assemblies is essential to give effect to the rights of peaceful assembly and freedom of expression.⁵ Restrictions to these rights must be established by law and be a proportionate response to a legitimate aim which is demonstrably "necessary in a democratic society".⁶ Previously, the Special Rapporteur on freedom of peaceful assembly and of association has clarified that the word 'necessary', while not inferring 'indispensable', does not mean 'convenient'; there must be "a pressing social need" for any restrictions on the right to freedom of peaceful assembly.⁷ The Human Rights Committee has emphasized that the "failure to respect and ensure the right of peaceful assembly is typically a marker of repression".⁸

We recall that the principle of legal certainty expressed in article 15 of the ICCPR requires that criminal laws be sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence. This principle recognises that ill-defined and/or overly broad laws are inherently susceptible to arbitrary application and abuse, including discrimination, and cannot serve as a legal basis for necessary or proportionate restrictions on rights or freedoms (A/HRC/43/46, para. 15).

We respectfully bring these key points to the attention of your Excellency's Government:

1. Disruptions caused by peaceful assemblies, including protests, should be met with a substantial degree of tolerance by both the general public and law enforcement.
2. Restrictions on the use of face coverings during protests must be based on a case-by-case assessment and justified by a demonstrable risk of harm. As such, a blanket ban on face coverings is inherently disproportionate.
3. Prohibiting items that may conceal one's identity, such as placards, infringes on participants' right to decide how to express themselves during protests.

² See ECHR, Arts, 8, 10 and 11.

³ See HRA, Arts, 8, 10 and 11.

⁴ CCPR/C/GC/37, para. 1

⁵ CCPR/C/GC/37, para. 60; see also OSCE/ODIHR, and Venice Commission, Guidelines on Peaceful Assembly, para. 71

⁶ A/HRC/20/27, para. 15

⁷ A/HRC/20/27, para. 17

⁸ CCPR/C/GC/37, para. 2

4. The right to privacy extends to public spaces, including the right to participate anonymously in peaceful protests.
5. The vague and over-broad language in certain clauses of the Bill would grant law enforcement excessive discretion in pursuing legal action.
6. The ambiguity of “commission of offences” is concerning, as it may enable law enforcement to justify rights restrictions based on minor offences.

Objectives of the Bill

The Government has justified the introduction of the Bill by referencing protests following the events in Israel and Gaza on 7 October 2023, which it claims exposed gaps in existing legislation, particularly the Public Order Acts of 1986 and 2023.⁹ The cited concerns include difficulties in ensuring that face coverings remain removed and are not replaced, which reportedly hampers the police's ability to identify and apprehend individuals committing offences.

We recognize the challenges police face in managing large-scale public gatherings and appreciate the importance of addressing legitimate criminal activity within protest contexts. However, we are concerned that the Bill does not acknowledge the positive obligation on State authorities to facilitate and safeguard peaceful protests, irrespective of their nature or size.¹⁰

Furthermore, the timing and framing of these provisions as a response to specific protests, raises concern about the potential targeting or criminalization of demonstrations. We respectfully remind your Excellency's Government that the interpretation and application of laws must not discriminate against individuals' right to peaceful assembly on any grounds, including, notably in this context, religion or belief, political or other opinion, or national or social origin.¹¹

Finally, we wish to emphasize the long-standing principle that authorities and the general public must afford a considerable margin of tolerance for the disruptions that may arise from peaceful assemblies.¹²

Specific Comments on certain clauses of the Bill

We respectfully emphasize that a blanket ban on face coverings lacks a demonstrable link to the prevention of violence or discrimination. We are gravely concerned that clause 108, titled “Offence of concealing identity at protests,” is incompatible with your Excellency's Government's obligations under international human rights law.

Under clause 108(1)(b), it becomes a criminal offence if a person is “wearing or otherwise using an item that conceals their identity or another person's identity.” In line

⁹ publications.parliament.uk/pa/bills/cbill/59-01/0187/en/240187en.pdf at para 115.

¹⁰ CCPR/C/GC/37, paras. 8, 23, 24, 36 and 74; and CDL-AD(2019)017 rev, para. 155

¹¹ CCPR/C/GC/37, para. 25

¹² CCPR/C/GC/37, para. 44; see also *Disk and Kesik v. Turkey*, Judgment of 27 November 2012, para 29

with international human rights law, the use of face coverings at peaceful protests must not be prohibited, save where there is clear evidence of imminent violence.¹³ Such a threat must always be assessed on an individual basis because any blanket ban during peaceful assemblies is disproportionate.¹⁴ Therefore, the blanket ban of face coverings at protests, even ones in designated localities under clause 108, is inconsistent with the ICCPR.

The language of “otherwise using an item” is particularly concerning due to its overly broad scope. In the context of limiting human rights, vague or expansive definitions significantly heighten the risk of arbitrary or unnecessary restrictions. As affirmed by the European Court of Human Rights, the right to freedom of peaceful assembly must not be interpreted narrowly.¹⁵ Unclear wording risks the criminalizing of lawful behavior, such as carrying umbrellas, particularly where individuals may be unaware that items fall within the scope of an offence, or that they are even within a designated locality.

In the same vein, the Explanatory Notes for the Bill explicitly confirm that “otherwise using an item” is deliberately broad as to encompass objects such as placards if used to conceal identity.¹⁶ This interpretation is troubling, particularly when combined with the clause’s reference to concealing “another person’s identity.” In large-scale protests, it is inevitable that signs or other items may temporarily obscure participants’ faces due to crowd density. This raises concern that clause 108 could be used to suppress participation in protests.

Moreover, the restriction of items such as placards implies that banners and other forms of signages can also be restricted, which undermines the principle that State authorities must respect participants’ right to determine the “expressive content of an assembly”.¹⁷ We take this opportunity to recall that political expression is afforded heightened protection under the right to freedom of expression; accordingly, political assemblies, such as protests, must have increased safeguarding.¹⁸ The use of face coverings, masks, or any similar item, may be an integral part of the message during protests. For instance, the ‘Guy Fawkes’ mask is commonly used to symbolize oppression, corruption and broad political dissent. Prohibiting their use may significantly reduce the expressive impact of the protest.

Law enforcement authorities are obliged to respect the right to freedom of expression during protests, which includes affording participants the freedom to utilize placards, signs and banners, and other items, in so far as they do not incite violence or discrimination.¹⁹ This principle, which requires that restrictions on expression be strictly necessary and proportionate, is affirmed by the Human Rights Committee²⁰ and reinforced by the Organization for Security and Co-operation in Europe²¹ (OSCE).

¹³ OSCE/ODIHR, Comments on draft of General Comment 37, para. 41

¹⁴ CCPR/C/GC/37, para. 38

¹⁵ *Djavit An v. Turkey*, 2003, para. 56

¹⁶ publications.parliament.uk/pa/bills/cbill/59-01/0187/en/240187en.pdf at para. 732

¹⁷ CCPR/C/GC/37, para. 22

¹⁸ CCPR/C/GC/37, para. 32

¹⁹ A/HRC/55/60, para. 69

²⁰ CCPR/C/GC/37, para. 60

²¹ OSCE/ODIHR, Comments on draft of General Comment 37, para. 34

ODIHR-Venice Commission Guidelines on Freedom of Peaceful Assembly indicate that there should be no blanket or routine restrictions on the wearing of masks and face-coverings as their use for expressive purposes (including expression of particular viewpoints or religious beliefs) is a form of communication protected by the rights to freedom of expression and of peaceful assembly.²²

We remind your Excellency's Government that any restriction on expression that a government seeks to justify on grounds of national security and counter-terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (Human Rights Committee, general comment No. 34).

In addition, we respectfully bring to the attention of your Excellency's Government that, as a State Party to the ICCPR, the United Kingdom must uphold the right to privacy as enshrined in article 17. The right to privacy is not confined to the private sphere but applies equally in public spaces.²³ Accordingly, the right of individuals to participate anonymously in protests must be protected, unless their presence presents a legitimate basis for arrest.²⁴ The mere act of wearing a disguise should not be a presumption of violent intent,²⁵ and by criminalizing face coverings, this clause risks reinforcing such an assumption.

We are particularly concerned about the implications of clause 108(1)(b) for the anonymity of protestors in the context of digital surveillance. While we acknowledge the vital role of technology in contemporary society and its value to law enforcement in maintaining public safety, we must emphasize that human rights obligations under the ICCPR remain fully applicable within the digital environment. The Human Rights Committee has affirmed that the right to privacy in the context of peaceful assemblies includes the use of face coverings or other measures to conceal one's identity, including for the purpose of protecting individuals from surveillance.²⁶ We take this opportunity to remind that any collection of data must be strictly limited to the facilitation of peaceful assemblies, and must never be used to "categorize, profile or remotely identify individuals".²⁷

Technological safeguards are particularly important when applied to children, who face additional risks under Bill's blanket ban. Measures must be in place to ensure that the rights of children are not violated during digital data gathering in protests,²⁸ and that their equal right to participate in peaceful assemblies is ensured.²⁹

Under clause 108(2), individuals charged with the proposed offence can raise a defence that the item they wore or otherwise used to conceal their identity or another person's identity are used for reasons related to health, religious observance or a person's work. However, several aspects of this provision raise serious concerns regarding its compatibility with international human rights law.

²² OSCE/ODIHR, and Venice Commission, Guidelines on Peaceful Assembly, para. 153

²³ A/HRC/39/29, para. 6

²⁴ OSCE and Venice Commission, Guidelines on Peaceful Assembly, para. 153

²⁵ CCPR/C/GC/37, para. 60

²⁶ CCPR/C/GC/37, para. 60

²⁷ A/HRC/55/60, para. 32 and 53(b)

²⁸ A/HRC/55/60, para. 53(c)

²⁹ A/HRC/55/60, para. 16

Firstly, the vague wording of clause 108(1)(b) affords law enforcement broad discretion to initiate prosecutions. Despite the defences outlined in clause 108(2), the financial, emotional, and prolonged burdens placed on individuals required to defend themselves may deter people, including human rights defenders, from exercising their right to freedom of peaceful assembly.

Secondly, the Explanatory Notes to the Bill indicate that the burden of proof rests on the defendant to demonstrate that their use of a face covering meets the defence criteria³⁰ under clause 108(2). Such partial reversal of the burden of proof is particularly concerning in the context of protest activity, where individuals are exercising fundamental rights.

Thirdly, clause 109(6) maintains the power of constables to require the removal of disguises under section 60AA of the Criminal Justice and Public Order Act 1994.³¹ In this regard, clause 109(6) appears to undermine the defences set out in clause 108(2), and we urge reconsideration to ensure consistency with the United Kingdom's international human rights obligations. We wish to respectfully recall that the right to freedom of peaceful assembly as well as the right to freedom of religion applies to all individuals, including human rights defenders, and those belonging to vulnerable or marginalized groups must be afforded heightened protections.³² In particular, protective measures must be in place to ensure, for example, that women wearing religious coverings, such as burkas, are genuinely protected under the exemption for religious observance, and that if removal is necessary, it is conducted with cultural and social sensitivity, such as by ensuring that only female officers are involved.

Under clause 108, subsections (2) to (4), law enforcement officials must notify the public when a locality has been designated, when the offence concerning face coverings under clause 108 is in effect, its specific location, and the duration of the designation. Under clause 108(4) specifically, the public must also be notified that the period has been extended by 24 hours.

As the right to freedom of peaceful assembly is afforded to all, and is often most essential to minorities, it must be ensured that notification is accessible. If warnings are only given in English, online or orally, this presumes a level of literacy, digital access and language proficiency which may not be inclusive. Law enforcement officials must be transparent with participants, organizers, and the public regarding policing strategies and initiatives.³³

Under clause 108(5), individuals found in violation may face “imprisonment for a term not exceeding one month or a fine not exceeding level 3 on the standard scale (or both).” We respectfully contend that such a penalty is disproportionate and should be revised. As recalled by the former Special Rapporteurs on the rights to freedom of peaceful assembly and of association, and on extrajudicial, summary or arbitrary executions, “no person should be held criminally, civilly or administratively liable for the mere act of organizing or participating in a peaceful protest.”³⁴ As previously noted,

³⁰ publications.parliament.uk/pa/bills/cbill/59-01/0187/en/240187en.pdf at para. 733

³¹ <https://www.legislation.gov.uk/ukpga/1994/33/section/60AA>

³² A/HRC/55/60, para. 65

³³ A/HRC/55/60, para. 45

³⁴ A/HRC/31/66, para. 27

the wearing of face coverings should not preclude an individual's participation in a peaceful protest, unless there is an imminent threat of violence.

We are profoundly concerned that clause 109 titled "concealing identity at protests: designating localities and giving notice" could undermine the international human rights obligations to which your Excellency's Government is bound.

The vague and anticipatory language of clause 109(1) requires further clarification. For instance, "reasonably believe" in 109(1), "may take place" in 109(1)(a), and "likely to involve" the "commission of offences" in 109(1)(b) and (c) all need greater precision to ensure compliance with human rights standards and the international principle of proportionality.

As previously mentioned, there must be a "pressing social need" for any restrictions on the right to freedom of peaceful assembly, and a public assembly that "may take place" does not meet this criterion. The use of the term "expedient" in clause 109(1)(c) is not sufficient and contradicts the understanding of the right to freedom of peaceful assembly. In the context of assemblies, uncertainty must default to the presumption that the assembly is peaceful.³⁵

The lack of definition regarding the "commission of offences" raises significant concerns with regard to adherence to international human rights law. This vague term could be used to justify removing face coverings based on potential offences, such as vandalism or breaches of public order, which would be disproportionate in a democratic society. Law enforcement should not use ambiguous concepts of public order to impose excessive constraints on the right to freedom of peaceful assembly.³⁶

The possibility that a public assembly "may take place" under clause 109(1)(a) as one of the elements for banning face coverings during protests introduces a criminalizing tone to assemblies, which undermines the exercise of human rights and the role of protests as a tool for political change.

We emphasize the importance of public spaces for protests and that a protest occurring in a police-designated area should not be a justifiable reason for restrictions. Peaceful assemblies should be allowed in all public spaces,³⁷ as participants must be able to determine the location of their protests to achieve the greatest impact.³⁸ Legislation that criminalizes public assemblies' risks marginalizing protests, pushing them out of public view, which contradicts the State's positive obligation to facilitate such activities.

The categorization of activity as the "commission of offences" must be assessed on a case-by-case basis. The assumption in clause 109(1)(c) that it is legitimate to designate a locality for banning face coverings based on potential for crime must be reconsidered. Any restrictions on the right to freedom of peaceful assembly must be based on individual assessments of behaviour.³⁹ Even in cases of violence, the right to

³⁵ A/HRC/31/66, para. 18

³⁶ CCPR/C/DZA/CO/4, paras. 45-46

³⁷ CCPR/C/GC/37, para. 55

³⁸ A/HRC/23/39, para. 66

³⁹ CCPR/C/GC/37, para. 38

freedom of peaceful assembly should remain intact, and individual participants must not lose this right due to “sporadic violence”.⁴⁰ While this Bill does not entirely prohibit protests, it removes essential elements such as privacy and freedom of expression, potentially deterring participation by criminalizing lawful acts of protest, and therefore affecting the possibility to exercise the right to freedom of peaceful assembly.

Regarding the public notification requirements in clause 109, subsections (2) and (4), although already addressed in the context of clause 108, we reiterate the need for accessible notifications. Additionally, law enforcement officers monitoring protests must be adequately trained in protest facilitation⁴¹ to make informed and legally consistent decisions when designating localities under clause 109. Besides, taking into consideration that the legal provisions already permit law enforcement officials to remove face coverings, this new power lacks appropriated justification and seems to rest on police convenience and not on the case-to-case risk assessment needed to ensure the principles of necessity and proportionality.

Clause 109(6) appears to undermine the defences provided under clause 108(2) for religion, health, and occupation. We take this opportunity to remind Your Excellency’s Government that stop and search powers in the context of protests must never be discriminatory. Such powers should only be exercised based on the threat of serious offences, and participation in a peaceful assembly should not justify their use.⁴²

Clause 110 outlines the procedural elements for designating localities. We raise concerns regarding the safeguarding of verbal recordings under clause 110(4), which could be exploited to interfere with the rights enshrined in the ICCPR, particularly with respect to the content of protests or for discriminatory purposes. The ability to make verbal designations suggests that decisions can be made on the spot, which does not allow sufficient prior notification to the public. We urge your Excellency’s Government to adopt guarantees that protest participants, organizers, and the general public will be adequately informed of police plans, in accordance with their right to know about any restrictions.⁴³

Finally, we respectfully remind your Excellency’s Government that appropriate accountability measures must be in place for law enforcement officers during protests.⁴⁴ While clause 110(1) ensures constables who designate localities must inform at least a superintendent, we question whether this level of oversight is adequate when human rights, such as the rights to freedom of peaceful assembly, privacy, and expression, are at stake.

Relation with surveillance and chilling effects

The wearing of face coverings or other disguises by assembly participants and organizers, or taking any other step to participate anonymously, have been recognized as central to the right to freedom of peaceful assembly, including in the context of new surveillance technologies.⁴⁵ As indicated by the Special Rapporteur on the Rights to

⁴⁰ OSCE/ODIHR, Comments on draft of General Comment 37, para. 8

⁴¹ CCPR/C/GC/37, para. 35

⁴² A/HRC/31/66, para. 43

⁴³ A/HRC/55/60, para. 45

⁴⁴ A/HRC/55/60, para. 50

⁴⁵ CCPR/C/GC/37, para. 60

freedom of peaceful assembly and of association in ‘Human Rights compliant uses of digital technologies by law enforcement for the facilitation of peaceful protests’,⁴⁶ law enforcement uses of digital technologies can interfere with the right to freedom of peaceful assembly and other human rights due to the creation of chilling effects that may unduly restrict, or otherwise impact, the free participation and exercise of human rights in digital and offline spaces.⁴⁷

The use of technology in the context of peaceful assemblies, including the practice of routinely making audio-visual recordings of assembly participants, often in combination with the deployment of facial recognition technology, has been identified as particularly problematic for the guarantee of the right to freedom of assembly.⁴⁸ The use of facial recognition technology also amplifies discrimination against minorities and vulnerable populations.⁴⁹

In that context, individuals have a legitimate expectation of a degree of anonymity in online and offline spaces.⁵⁰ ODIHR-Venice Commission Guidelines on Freedom of Peaceful Assembly indicate that mask and face coverings at assemblies are also used to protect an assembly participant from retaliation, and that an individual should not be required to remove a mask unless his/her conduct creates probable cause for arrest and the face covering prevents his/her identification.⁵¹ In the context of protests relating to the conflict in Gaza, there is a real risk of protesters facing adverse media scrutiny and retaliation from employers or others for their protest activity.

Therefore, the ban on the use of masks and other face coverings deepens the risk of misuse of surveillance technologies. Taking into account that chilling effects arise when individuals, including human rights defenders, modify otherwise lawful behavior due to the fear of reprisals, use of face coverings may in some cases be the result of chilling effects created by concerns surrounding police surveillance. If a ban on face coverings is established, chilling effects may be seriously aggravated increasing the risks of “self-censorship, an unwillingness to engage with individuals or organizations believed to be subject to surveillance, and an erosion of trust which affected a group’s ability to organize and mobilize, and therefore to be effective politically”.⁵² This, therefore, affects the exercise of the rights to freedom of peaceful assembly and of association, freedom of expression, freedom of religion and belief, the possibility for human rights defenders to conduct their legitimate work and for individuals to develop and express their identity and personality freely, as well as the right to participate in political and public life, risking the sustainability of democratic societies.

⁴⁶ Supplements the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests, and is one of the key components of a technical practical toolkit developed by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association in collaboration with the United Nations Office on Drugs and Crime and the Office of the United Nations High Commissioner for Human Rights, pursuant to Human Rights Council Resolution 50/21.

⁴⁷ “Human rights compliant uses of digital technologies by law enforcement for the facilitation of peaceful protests”, <https://www.ohchr.org/sites/default/files/2024-03/Toolkit-law-enforcement-Component-on-Digital-Technologies.pdf>

⁴⁸ A/HRC/44/24, para. 30.

⁴⁹ A/HRC/44/24, para. 31.

⁵⁰ A/HRC/55/60, para. 71(d)

⁵¹ OSCE and Venice Commission, Guidelines on Peaceful Assembly, para. 153

⁵² Daragh Murray, Pete Fussey, Kuda Hove, Wairagala Wakabi, Paul Kimumwe, Otto Saky and Amy Stevens, “The chilling effect of surveillance and Human rights: insights from qualitative research in Zimbabwe and Uganda” (2023) Journal of Human Rights Practice.

Restrictions of the right to freedom of peaceful assembly must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect.⁵³ Therefore, they must be proportionate, which requires a value assessment, weighing the nature and detrimental impact of the interference on the exercise of the right against the resultant benefit to one of the grounds for interfering: if the detriment outweighs the benefit, the restriction is disproportionate and thus not permissible.⁵⁴ We consider that the harm of the highlighted provisions is too great compared to the uncertain benefit provided, and therefore the draft bill should not be adopted.

We would like to remind your Excellency that the Human Rights Committee Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland adopted in May 2024,⁵⁵ expressed concerns about the current legislation that “imposes serious and undue restrictions on the right to peaceful assembly, criminalizing various forms of peaceful protest, creating protests banning orders (...) allowing police forces to impose significant restrictions on protests deemed unduly disruptive” and about the “increased use by police forces of facial recognition technology to monitor peaceful gatherings”.

The Committee precisely recommended your Excellency’s Government to review and amend its legislation in order to “ensure that individuals fully enjoy their right of peaceful assembly and to guarantee that any restrictions of that right comply with the strict requirements of article 21 of the Covenant”, as well to “end the use of facial recognition and other mass surveillance technologies by law enforcement agencies at protest, in order to safeguard privacy, non-discrimination, freedom of expression and association and assembly rights for protesters”.

We note, in particular, the chilling effect that these provisions might have on human rights defenders, including those responsible for the organization of peaceful assemblies, and the disproportionate impact on their ability to carry out their legitimate work. In this regard, we wish to recall the provisions of the UN 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, which establishes that everyone has the right, individually and in association with others, (...) to meet or assemble peacefully (article 5) and to participate in peaceful activities against violations of human rights and fundamental freedoms (article 12). As highlighted by the Special Rapporteur on the Right to freedom of opinion and expression, the surveillance of individuals - often activists - has been shown to lead to arbitrary detention and other human rights violations.⁵⁶ Therefore, the chilling effect of this legislation is likely to have a disproportionate impact on human rights defenders, including defenders working on climate and the environment, impacting their ability to carry out their legitimate human rights work and activism in association with others.

In relation to this, the Framework Principles on human rights and the environment of the Special Rapporteur on human rights and the environment

⁵³ CCPR/C/GC/37, para 36.

⁵⁴ CCPR/C/GC/37, para 40.

⁵⁵ CCPR/C/GBR/CO/8

⁵⁶ <https://undocs.org/A/HRC/41/35>

(A/HRC/37/59, annex), which summarize the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. provides, specifically (principle 4), that “States should provide a safe and enabling environment in which individuals, groups, and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation, and violence.”

We would also like to refer to Human Rights Council resolution 34/7 on "The right to privacy in the digital age", which highlights that "in many countries, individuals and organizations dedicated to promoting and defending human rights and fundamental freedoms frequently face threats, harassment and insecurity, as well as unlawful or arbitrary interference with their right to privacy, as a result of their activities." The resolution calls upon all States, inter alia, to "take measures to put an end to violations of the right to privacy and to create the necessary conditions to prevent them, such as ensuring that relevant national legislation complies with their obligations under international human rights law;" and "to provide access to an effective remedy to individuals whose right to privacy has been violated through surveillance. illegal or arbitrary, in accordance with international human rights obligations."

In compliance with the mandates conferred by the United Nations Human Rights Council and based on articles 9, 17, 18, 19, 21 and 22 of the International Covenant on Civil and Political Rights, as well as on the observations and authoritative interpretations of the Human Rights Committee, we respectfully request the Government of the United Kingdom and Great Britain to refrain from adopting the mentioned provisions.

As it is our responsibility under the mandate 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 issues:

1. Please indicate how restricting face coverings at protest are both necessary and proportionate to achieving the interests of national security, public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.
2. Please provide information regarding the methods in which law enforcement officials will grant notification to the public regarding the designation of a locality under clause 109(2) - (4), as well as clarification regarding the minimum notice period for the public notification prior to the designated locality being activated, and also how the notification will make sure that minorities and vulnerable groups receive the notifications in a non-discriminatory way.
3. Please provide any clarification on how clause 109 is compatible with international human rights standards, including with respect to freedom of peaceful assembly and the right to freedom of expression.
4. Please provide information regarding how the assessments on vague provisions will be included under clause 109(1) such as “likely to involve the “commission of offences”, “reasonably believe” and others

be carried out.

5. Please indicate which offences included under clause 109(1)(b) will be included, as well as the protocol that will be used for ensuring that a case-by-case assessment is realized.
6. Please detail the consequences of the face covering restrictions will be addressed, including potential chilling effects that may undermine the exercise of the rights to assembly, expression and participation, especially for minorities, vulnerable communities and human rights defenders.

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.

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

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

Elisa Morgera
Special Rapporteur on the promotion and protection of human rights in the context of climate change

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Ana Brian Nougrères
Special Rapporteur on the right to privacy

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