

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Working Group on Arbitrary Detention; 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 situation of human rights defenders; the Special Rapporteur on minority issues; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on discrimination against women and girls

Ref.: AL CHN 9/2025
(Please use this reference in your reply)

24 July 2025

Excellency,

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

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **a reported surge in human rights violations of a transnational nature against activists, human rights defenders and ethnic and religious minorities from China who have fled to other countries.**

Concerns regarding the abovementioned violations, including transnational transfers leading to enforced disappearances, were raised by Special Procedures' mandate-holders on previous occasions ([CHN 9/2021](#), [CHN 16/2023](#), [CHN 5/2024](#), [CHN 15/2024](#); CHN 8/2025, CHN 10/2025; [LAO 1/2023](#), [THA 2/2024](#), and [THA 1/2025](#)). We thank your Excellency's Government for the responses provided to the respective communications.

In November 2024, several Special Procedures' mandate-holders raised concern about the alleged systematic targeting - often in connivance with Governments of third countries - of journalists, human rights defenders, political dissidents and Uyghur migrants and refugees who fled or reside overseas (CHN 15/2024). Mandate-holders also requested information regarding any measure taken to address allegations of *refoulement* of its nationals, including of Mr. **Lu Siwei**. They also requested detailed information on Government efforts to investigate any miscarriage of justice, ill-treatment in pre-trial and post-trial detention and in cases of death in custody. While we thank your Excellency's Government for its [response](#), dated 13 January 2025, we regret that these concerns were not fully addressed in the response provided.

On 26 May 2025, several Special Procedures mandate-holders raised concern for the reported forced return on 27 February 2025 of 40 Uyghurs from Thailand to

China (CHN 8/2025). On 27 May 2025, the Working Group on Enforced or Involuntary Disappearances transmitted an urgent appeal to the Government of China requesting information on the fate and whereabouts of 40 Uyghur men that were forcibly returned to China from Thailand on 27 February 2025, namely Messrs. **Abdulla Abdukerim, Muttelip Awut, Kewser Osman, Aishan Maimaiti, Aimaier Awuti, Abdurazak Abdulla, Abduwali Idris, Abudirezhake Yasen, Abudureheman Maitiruzi, Abudurexiti Tuersun, Abudurezhake Halike, Abudurusuli Wusiman, Abulaiti Kasimu, Aimaier Aizezi, Aimaierjiang MaimaitiAisa, Anwar Tilek, Imin Tohti Meydinahun, Keyimu Huojiaabudulla, Kurbanliyaz Toheti, Maimaiti Aihaiti, Maimaiti Aili Sulitan, Maimaiti Aili Niyazi Maimaiti, Maimaitiniyazi Maimaituoheti, MaimaitiTuersun Sawuti, Memet Karimu, Maimutimin Abula, Memet Tursun Eysa, Reheman Tuersun, Rejipuniyazi Ahongniyazi, SaidiMaimaiti Maiti Tuersun, Siyitiwumaier Kawuzi, Sulaiman Maimaiti, Tuerdi Maimait Balati, Tuerdi Tuoheti, Yasen Maimaiti, Yasen Keyoumu, Yasin Yusup Palta, Yusufu Aihemaiti, Naibijang Mamut and MaimaitiNiyazi Tuersun.** We look forward to your Excellency's response to the allegations and questions raised in those letters.

According to the information received:

Forced return of a human rights defender to China

In July 2023, Mr. **Lu Siwei**, a Chinese human rights lawyer, was forced to flee China irregularly after being imposed a travel ban and experiencing harassment and intimidation due to his legitimate human rights work. On 28 July 2023, he was detained and questioned by the Lao People's Democratic Republic (Lao PDR) police while preparing to board a train for Thailand at the Thanaleng railway station in Vientiane, with the aim of flying from Thailand to the United States to reunite with his family. He forcibly disappeared from July to September 2023, until the Government of Lao PDR confirmed in October 2023 that Mr. Lu Siwei was deported back to China around mid-September 2023.

According to your Excellency's Government, the deportation was carried out based on the mechanism for bilateral cooperation between the countries. Upon deportation to China, Mr. Lu Siwei was released on bail, pending an investigation into the crime of "illegally crossing the national border". On 15 October 2024, he was arrested again on the basis of "sufficient evidence". On 18 April 2025, the Chenghua District People's Court sentenced Mr. Lu Siwei to 11 months in prison and a fine of Yuan 10,000 for "illegally crossing the national border".

His trial in China was closed to the public.

Transnational repression of activists and human rights defenders and their families from Hong Kong

On 3 July 2023, the Hong Kong police issued a warrant for Ms. **Anna Kwok** – a pro-democracy activist and Executive Director of the U.S.-based NGO "Hong Kong Democracy Council" – and 1 million Hong Kong Dollar (HKD) bounty for her arrest, accusing her of foreign collusion and incitement to secession

under the National Security Law (NSL). The authorities cited her international advocacy as evidence. In August 2023, two of her relatives were detained for questioning, suspected of aiding her alleged activities.

On 24 December 2024, the Hong Kong authorities designated Ms. Kwok as an “absconder” under the 2024 Safeguarding National Security Ordinance. She was reportedly banned from handling funds, property, or business in Hong Kong and her passport was cancelled. On 30 April 2025, police arrested two of her relatives, who were later released on bail. On 2 May 2025, a relative was charged with handling the finances of an absconder - a crime punishable for up to seven years. Her relative was denied bail on 8 May 2025 and remains in custody awaiting trial.

On 24 December 2024, the Hong Kong authorities issued an arrest warrant for Ms. **Carmen Lau** – a former district councilor and ex-Secretary-General of the disbanded “Civic Party” and a member also of “Hong Kong Democracy Council” – and 1 million HKD bounty for her arrest, accusing her of “foreign collusion” and “inciting secession” under the NSL. The authorities cited her international advocacy and public statements as evidence. On 10 February 2025, two of her relatives were taken in for questioning as an intimidation tactic following her overseas activism.

On 17 February 2025, Ms. Lau revealed on X that two more relatives had been interrogated by the Hong Kong National Security Police, with one taken to Tuen Mun Police Station. In March 2025, several persons associated with her in the United Kingdom received flyers – mailed with Hong Kong stamps – urging them to report her to Hong Kong authorities or take her to the Chinese Embassy, referencing the million HKD bounty.

Also on 24 December 2024, Ms. **Chloe Cheung**, a former student activist, who fled Hong Kong at 15, was charged at age 19 under the NSL and placed under a 1 million HKD bounty for alleged “foreign collusion” and “incitement to secession”. The authorities cited her advocacy work in the United Kingdom. Since the bounty, Ms. Cheung has faced severe gender-based online harassment and lives in constant fear, forcing her to take safety precautions like carrying a GPS tracker and altering her daily routes due to fear of being attacked or abducted.

On 15 February 2025, the BBC published a profile of Ms. Cheung’s human rights work and the impact of the arbitrary charges and the transnational repression against her. The following day, the Hong Kong Secretary for Security rebuked the article as ‘unfounded and fact-twisting’ in a letter to the BBC. The Hong Kong Secretary claimed that Ms. Cheung and the others similarly targeted were wanted for continuing to commit offenses under the NSL, reiterating that Hong Kong will exhaust all means to pursue those charged under the law.

On 14 December 2023, the Hong Kong police issued an arrest warrant for Ms. **Frances Hui** and a 1 million HKD bounty for her arrest, also accusing her of “foreign collusion” and “incitement to secession”. Ms. Hui was associated with the advocacy group Scholarism and is a current member of the U.S.-based

“Committee for Freedom in Hong Kong Foundation”. Ms. Hui is reportedly facing a campaign of transnational repression, including gender-based harassment, threats, and surveillance. The authorities also interrogated a relative and searched her family’s home. People associated with her have also received anonymous texts warning her to ‘keep [her] voice down.’

On 24 December 2024, Ms. Hui’s passport was canceled under the Safeguarding National Security Ordinance (SNSO). The authorities warned that any financial or material exchanges with her by Hong Kong’s entities would be criminalized. On 10 April 2025, two of her relatives were again taken in for questioning, and their electronic devices were confiscated. Allegedly, police officials arranged media coverage of their release to publicly shame them, calling it an intimidation tactic. Photos and videos of their exit were widely circulated in local media.

On 3 July 2023, the Hong Kong authorities issued an arrest warrant for Mr. **Ted Hui** – a human rights lawyer and former Hong Kong legislator who went into exile in Australia in November 2020 - and a 1 million HKD bounty for his arrest, accusing him of “foreign collusion” and “inciting secession” under the NSL. The authorities cited his role in launching the “2021 Hong Kong Charter” and his pro-democracy advocacy. On 24 December 2024, the authorities cancelled his passport. Ms. Hui’s relatives were later also detained and questioned, and in February 2024, he was declared bankrupt in absentia after his assets were frozen.

On 4 March 2024, a complaint referencing Mr. Hui’s contempt conviction and NSL criticism was filed with South Australian legal authorities. In October 2024, Adelaide mosques received false pamphlets portraying Mr. Hui as a pro-Israel lawyer attacking Islam – an effort believed to incite hostility. On 17 February 2025, Hong Kong authorities confiscated over 800,000 HKD from Mr. Hui and his family under NSL rules. After he condemned the move online, officials accused him of spreading “malicious attacks.” In March 2025, his Adelaide office received a flyer offering a bounty for information on him and his family, echoing similar tactics used against other overseas activists.

Without prejudging the veracity of the allegations, we wish to express our profound concern regarding the reported rise in transnational repression, including acts conducted or directed by a State, or its proxy, to deter, silence or punish dissent, criticism or human rights advocacy towards it, expressed from outside its territory. This includes serious claims of extrajudicial executions, forced returns resulting in enforced disappearances, and the arbitrary detention of activists, dissidents, human rights defenders, and members of ethnic and religious minorities, for the purpose of rendition. We also reiterate our grave concern for the arbitrary detention and enforced disappearance of the abovementioned 40 Uyghur men, who were forcibly returned to China on 27 February 2025, following nearly 11 years of incommunicado detention in Thailand. We regret that these cases may be evidencing an apparent coordination, acquiescence and cooperation between China and the Governments of other countries, to reach across borders to silence human rights defenders and other dissenting voices from these countries. Such practices create a profound chilling effect among citizens, discouraging them from freely expressing their opinions or carrying out their work as

journalists, lawyers, or social activists.

We are deeply concerned that many individuals are currently reported to be deprived of their liberty, often in incommunicado detention and without access to the outside world simply for exercising their fundamental rights and freedoms, including opinion and expression, religion or belief, peaceful assembly, and association, or for conducting legitimate human rights work. We reiterate that, under international law, the failure or refusal to acknowledge a deprivation of liberty by State agents or persons acting with their authorization, support, or acquiescence constitutes enforced disappearance, regardless of the duration or type of concealment involved. State authorities are thus obliged to take all necessary measures to effectively protect the rights of persons deprived of their liberty, as they automatically assume responsibility for their lives, physical integrity, and wellbeing. State authorities are also obliged to promptly provide accurate information on the detention of persons deprived of liberty and their place or places of detention, including transfers, to their family members, counsel, or any other persons with a legitimate interest. The State should also fully recognize the legal personality of disappeared persons and their families, thus protecting them, bearing in mind their special vulnerability. It should also respect their right to reparation, including adequate compensation for any damage (physical or mental injury, lost opportunities, material damage and loss of income, damage to reputation, and costs incurred in obtaining legal or expert assistance) resulting from an enforced disappearance.

Moreover, we emphasize the profound and devastating impact that enforced disappearances have on the families of the disappeared individuals and their communities. Enforced disappearances not only cause immense personal suffering but also disrupt the social fabric and cohesion of communities. The enforced disappearances of religious believers and minorities and human rights defenders, in particular, violate the economic, social, and cultural rights of those involved in related activities; they harm the larger community that depended on the disappeared individuals to advocate for and defend their rights.

We recall that, in its [General allegation](#) of 2024, the Working Group on Enforced or Involuntary Disappearances reiterated concerns regarding the use of prolonged incommunicado detention and enforced disappearances. Notably, the Working Group expressed regret at the lack of response by your Excellency's Government regarding measures to ensure: (a) that families can realize their right to know the truth about the fate and whereabouts of their family members who are deprived of their liberty; (b) that human rights defenders, political activists, members of ethnic minorities, and refugees can benefit from protective measures during deportation and return processes to neighbouring countries; and (c) that relatives overseas have the right to communicate with their loved ones who are deprived of liberty, without fear of threats and reprisals.

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

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

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please clarify how the extraterritorial application of national security charges under the NSL and SNSO against Ms. **Anna Kwok**, Ms. **Carmen Lau**, Ms. **Chloe Cheung**, and Ms. **Frances Hui**, and to members of their families, is compatible with their rights to freedom of expression, association, and peaceful assembly, the right to a fair trial and the principle of proportionality under international human rights law. Please provide information on the measures taken by your Excellency's Government to notify and allow access of the detainees to their families, counsel, or any other person of their choice.
3. Please provide information about the factual and legal basis for the travel ban and detention of Mr. **Lu Siwei**, as well as for the classification of his case as secret and the decision to close the trial to the public. Please clarify how your Excellency's Government justifies that, in the contexts articulated above, most people are tried in closed-door trials, and families and defence lawyers of one's choosing are reportedly rarely notified on time of the charges, date of trial, or location of detention (both pre-trial and post-trial).
4. Please explain how your Excellency's Government guarantees that persons deprived of their liberty are provided with adequate medical care (physical and psychological), proper treatment, and medication.
5. Please provide detailed information on how China addresses allegations of forced returns of vulnerable individuals from third countries to China, and how such returns comply with peremptory norms of international law relating to the principle of *non-refoulement* and the absolute prohibition of enforced disappearance, torture and arbitrary detention.
6. Please provide information on cooperation and extradition agreements with third countries, including from the Greater Mekong Subregion, and the measures in place to prevent individuals being returned if they may be at risk of enforced disappearance, torture, or other serious human rights violations such as arbitrary deprivation of life, during or after their forced return. Please provide copies of such agreements.
7. Please explain which measures are taken to ensure that activists, human rights defenders, journalists, and lawyers can perform their work in a safe and enabling environment, free from fear of reprisals, as well as the measures in place to safeguard their fundamental rights and freedoms, including the freedoms of expression, peaceful assembly, and association that encompass the right to express dissenting or opposing views including through artistic, cultural, or religious activities.

8. Please explain which measures are being taken to ensure that ethnic and religious minorities can exercise their right to freedom of religion or belief and perform cultural, religious, and artistic practices.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable damage to physical and psychological integrity of the abovementioned individuals, to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

Please note that similar letters were transmitted to the Association of South-East Asian Nations, and the Governments of Lao People's Democratic Republic and Thailand. A copy of this letter has been sent to Australia, United Kingdom, and the United States of America.

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

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

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
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Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Nicolas Levrat
Special Rapporteur on minority issues

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

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

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

Annex

Reference to international human rights law and standards

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards applicable to this communication. We note that while China is yet to ratify the International Covenant on Civil and Political Rights (ICCPR), as a signatory to the ICCPR since 5 October 1998, it has an obligation to refrain from any acts which would defeat the object and purpose of the Covenant prior to its entry into force (article 18 of the 1969 Vienna Convention on the Law of Treaties).

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

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

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

Prohibition of torture

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

Furthermore, torture and cruel, inhuman or degrading treatment or punishment are prohibited in articles 1, 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by China on 4 October 1988. Accordingly, pursuant article 2 of the CAT, China has undertaken to ensure to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

Prohibition of arbitrary detention

We would furthermore like to refer to article 9 of the ICCPR, which provides that no one shall be subjected to arbitrary arrest or detention or deprived of their liberty except on such grounds and in accordance with such procedure as are established by law.

As interpreted by the Human Rights Committee in General Comment No. 35 ([CCPR/C/GC/35](#)), the notion of “arbitrariness” is not to be equated with “against the law” but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity, and proportionality. According to the same General Comment and the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention of an individual as punishment for the legitimate exercise of the rights guaranteed by the ICCPR, including freedom of opinion and expression, is arbitrary. Further, the Working Group on Arbitrary Detention has reiterated that a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings. In this respect, the Working Group concluded that being a human rights defender is a protected status under article 26 of the ICCPR.

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

The prohibition of enforced disappearance

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

In this regard, we wish to recall that the [United Nations Declaration on the Protection of All Persons from Enforced Disappearances](#) establishes that “all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness” (article 4); “no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance” (article 6). Furthermore, “no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances” (article 7);

and “the right to a prompt and effective judicial remedy must be guaranteed as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances” (article 9).

Additionally, the Working Group on Enforced or Involuntary Disappearances has noted the increasing practice of forced returns by States in violation of article 8 of the Declaration. It further underlined the importance of preventing human rights violations by ensuring procedural safeguards upon detention and during the first hours of deprivation of liberty, including immediate registration, judicial oversight of the detention, prompt notification of family members, and the availability of a defence lawyer of one’s choice. The Working Group observes that transnational transfers embody a denial of justice insofar as individuals are deprived of liberty in the form of secret detention and are removed from the protection of the law. They are, as such, deprived of the rights to an effective remedy and fair trial, in denial of the presumption of innocence. In addition, the individuals concerned are unable to challenge the lawfulness of their detention, denied access to legal representation, and often induced to forced confession of guilt under duress. The Working Group recalls that such practices can also facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment under certain circumstances ([A/HRC/48/57](#)).

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

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

In the [Joint statement](#) on short-term enforced disappearances, the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances highlighted that, under international law, the duration is not a constituent element of enforced disappearance, stating that “whatever its duration, any enforced disappearance entails serious harm and consequences for the disappeared

persons and their families, and poses practical difficulties for the protection of these persons and the defence of their rights".

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

In its report on standards and public policies for an effective investigation of enforced disappearances ([A/HRC/45/13/Add.3](#)), the Working Group on Enforced or Involuntary Disappearances recommended that States define enforced disappearance as an autonomous crime in national legislation and establish different modes of criminal liability, including abetting, instigating, acquiescing and actively covering up an enforced disappearance, as well as criminal liability for command or superior responsibility; and create mechanisms that can promptly receive and process complaints of enforced disappearances, under the responsibility of authorities who are independent of the institutions to which the alleged perpetrators belong or may be linked. These mechanisms should be empowered to trigger prompt investigations of the complaints received.

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

Freedom of thought, conscience and religion

We would like to draw the attention of your Excellency's Government to article 18 of the ICCPR, whereby everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching. Furthermore, article 18(2) bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25

and other provisions of the ICCPR, are similarly inconsistent with article 18(2). The same protection is enjoyed by holders of all beliefs of a non-religious nature (Human Rights Committee, General Comment No. 22, para. 5). According to article 18(3), freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Freedom of expression

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

In its General Comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (CCPR/C/GC/34 para. 11). The Committee asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23). Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that “all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims be in receipt of appropriate forms of redress” (ibid). Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) of the ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order, or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed. While certain restrictions may be placed on freedom of expression, for the protection of national security or of public order, or of public health or morals, they may not be arbitrarily imposed on those sharing legitimate concerns, observations or opinions on health or Government policy.

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

Peaceful assembly and association

We would like to recall the rights to freedom of peaceful assembly and of association which are enshrined in articles 21 and 22 of the ICCPR. The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others” (ICCPR, art. 21). “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests” (ICCPR, art. 22 (1)).

“No restrictions may be placed on the exercise of this right other than those which are prescribed by law, and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right” (ICCPR, art. 22 (2)).

Human rights defenders

We would further like to recall the fundamental principles set forth in the [Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#), also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2, which state that everyone has the right to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. We would like to also refer to article 6 paragraph (b), which guarantees the right to freely publish, impart or disseminate views, information and knowledge on human rights and fundamental freedoms. Furthermore, we would also like to make explicit reference to article 9 of the Declaration, which states that everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of their rights, and that “everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person’s rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay”. Finally, we would like to reference article 11 of the Declaration, which states that everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession.

We would like to stress that the duty to protect the right to life requires States parties to adopt special protection measures for persons in situations of vulnerability whose lives are at particular risk due to specific threats or pre-existing patterns of violence. Such persons include human rights defenders. The obligation of States parties to respect and ensure the right to life extends to reasonably foreseeable threats and life-

threatening situations that can result in loss of life. States parties may be in violation of article 6 of the ICCPR even if such threats and situations do not result in loss of life ([CCPR/C/GC/36](#)).

Discrimination against women

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

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

The principle of *non-refoulement*

Interconnected with the issues raised above, *non-refoulement*, embodying the rule that refugee must not be sent back to areas where they might have a well-founded fear of persecution, is a long-established principle of international law and is considered binding on all States and other stakeholders as part of customary international law. It applies universally to all individuals, including migrants and refugees, at all times and under all circumstances, irrespective of their citizenship, nationality, statelessness, or migration status. The norm strictly prohibits the removal or transfer of any individual - regardless of their legal status - when there are substantial grounds to believe that such action would expose them to a real risk of irreparable harm. This includes, but is not limited to, risks of death, torture, cruel, inhuman or degrading treatment or punishment, persecution, enforced disappearance, or other serious violations of human rights in the destination country.

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

authority.”

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

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

Lastly, we reiterate the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and the universal significance of *non-refoulement* as part of customary international law, obliging States and other stakeholders to respect and abide by it as *lex lata* (binding, existing law) at the national and other levels.