

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders

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31 October 2023

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; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 49/10, 52/9, 50/17 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the 2006 Foreign Contribution (Regulation) Act (FCRA) and its amendments, the 2002 Prevention of Money Laundering Act (PMLA) and its amendments, and the Unlawful Activities (Prevention) Act (UAPA) and its amendments, as well as the National Investigation Agency (NIA) and Enforcement Directorate (ED)**. These acts and agencies outline and enforce India's Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) legislation. We offer review and insight on this legislation in light of India's international and human rights law obligations. In light of these considerations, we highlight the need for further review and revision, as the continued enforcement of these acts may result in violations of fundamental human rights and freedoms guaranteed under international law, including under the International Covenant on Civil and Political Rights ("ICCPR") and International Covenant on Economic, Social and Cultural Rights ("ICESCR") to which your Excellency's Government acceded on 10 April 1979.

As you will recall, the compatibility of the UAPA with the international human rights obligations of your Excellency's Government was identified by several Special Procedures mandate holders on 6 May 2020 ([OL IND 7/2020](#))¹, where they cautioned that the legislation did not appear to conform to international human rights law and standards on counter-terrorism legislation. On that occasion, we strongly encouraged your Excellency's Government to refrain from using these pieces of legislation to designate religious and other minorities, political dissidents, and human rights defenders as "terrorists." We note with regret that this communication has not received, to this day, a response from your Excellency's Government.

¹ The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 the Independence of Judges and Lawyers; the Special Rapporteur on minority issues; the Special Rapporteur on the right to privacy; and the Special Rapporteur on freedom of religion or belief,

We respectfully underline the continued importance of maintaining and upholding the fundamental guarantees of international human rights law as your Excellency's Government moves to implement the guidance of the Financial Action Task Force (FATF). We stress that respect for international human rights law treaties and norms is a complementary and mutually reinforcing objective in any effective counter-terrorism effort at the national level. Consequently, we recommend ongoing review and reconsideration of these acts and their enforcement agencies to ensure they are in compliance with your Excellency's Government's international human rights obligations.

Applicable International and Human Rights Law Standards

We respectfully call your Excellency's Government's attention to the relevant international human rights law provisions enshrined in the ICCPR, ICESCR, and Universal Declaration of Human Rights (UDHR). In particular, we consider international human rights standards applicable under ICCPR article 15(1) and UDHR article 11, which provide for the principle of legality; ICCPR articles 19, 21 and 22 and UDHR articles 19 and 20, which guarantee the rights of everyone to freedom of opinion, expression, peaceful assembly and association; ICCPR article 26, which recognizes the right to equality and the prohibition of discrimination; ICCPR article 14(2) and UDHR article 11(1), which prohibit reversal of the burden of proof by a state and undue delay in pre-trial detention; ICCPR article 25, which guarantees the right of every citizen to take part in the conduct of public affairs; ICCPR article 17 and UDHR article 12, which protect against arbitrary or unlawful interference with a person's privacy, reputation and home; and ICESCR articles 3 and 6, which ensure the equal right of women to enjoy all enumerated economic, social and cultural rights, including the right to work.

Pursuant to article 2 of the ICCPR and ICESCR, your Excellency's Government is under a duty to take deliberate, concrete, and targeted steps towards meeting the obligations recognized in the respective Covenants, including by adopting laws and legislative measures as necessary to give domestic legal effect to the rights stipulated in the Covenants and to ensure that the domestic legal system is compatible with the treaties.

In addition, we refer your Excellency's Government to 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, the Declaration reaffirms each State's responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, including every person's right, individually and in association with others, "at the national and international levels [...] to form, join and participate in non-governmental organizations, associations or groups" and "to solicit, receive and utilise resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means" (A/RES/53/144, art. 5).

We further refer to the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. These resolutions

require that States ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with all of their obligations under international law.

In parallel, the FATF has set forth international practices and guidelines aimed at preventing global money laundering and terrorist financing. The FATF recommendations, while non-binding, provide recognized international guidance for the countering of terrorism financing. Recommendation 8 provides guidance to States on the laws and regulations that should be adopted to oversee and protect NPOs that have been identified as being vulnerable to terrorist financing concerns (Recommendation 8). Such measures must be “focused and proportionate”; “a ‘one size fits all’ approach to address all NPOs is not appropriate.” FATF has reaffirmed that State compliance with Recommendation 8 and the other FATF Recommendations “should not contravene a country’s obligations under the Charter of the United Nations and international human rights law to promote universal respect for, and observance of, fundamental human rights and freedoms, such as freedom of expression, religion or belief and freedom of peaceful assembly and of association.”

The Interpretive Note to Recommendation 8 also stresses the vital role played by NPOs “providing essential services, comfort and hope to those in need around the world” and emphasizes that CFT measures “should not disrupt or discourage legitimate charitable activities.” FATF-compliant risk assessment proceedings must therefore address not only problems caused by under-regulation of the NPO sector but also tackle shortcomings linked to over-regulation, a phenomenon negatively affecting civil society globally (A/HRC/40/52, para. 31).

Context

India has been a member of the FATF, an international body mandated to combat money laundering and terrorism financing, since 2010. India underwent its first “Mutual Evaluation Review” (MER) by the FATF in 2010.² The review determined that India was “partially compliant” with FATF Special Recommendations II, terrorism financing, and 3, confiscation of laundered property. The MER recommended that India amend its UAPA and PMLA to move toward compliance with FATF standards. In response, India amended the UAPA in 2012 and the PMLA in 2012 and 2018.³ In 2020, India also amended the FCRA.⁴

On the UAPA, the 2010 FATF MER recommended that the law be amended to make the financing of terrorist acts a crime, regardless of specific intent or knowledge of the money’s use for terrorism. This recommendation was based on findings that the then-existing UAPA did not include provisions for the confiscation of laundered property, that financing terrorism was not a crime in itself, and that many Treaty offenses were not designated as terrorist acts. As such, India’s 2012 amendment to the UAPA created a broader definition of terrorism, under which it is a crime to collect money to support terrorist acts, regardless of whether the funds are ultimately used for this purpose or not.⁵ This broad definition has been construed widely.

² See Mutual Evaluation Report, 2010, available at <https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/MER%20India%20full.pdf.coredownload.pdf>.

³ The Unlawful Activities (Prevention) Amendment Act, 2012; The Prevention of Money-Laundering (Amendment) Act, 2012; The Prevention of Money-Laundering (Amendment) Act, 2018.

⁴ Foreign Contribution (Regulation) Amendment Act, 2020.

⁵ *Ibid.*

The 2010 FATF MER further determined that India's PMLA was only partially compliant with FATF money laundering standards. In response, India amended the PMLA in 2012. The amended act criminalizes as money laundering the concealment, possession, acquisition, or use of the proceeds of crime, as well as "projecting" such proceeds as "untainted property."⁶ Further, the 2010 MER found that the PMLA was largely ineffective, and as such recommended India increase investigations into such issues. The amended act broadens the powers and resources of the ED in this aim, causing an increase in the number of investigations conducted.

We note that the 2010 MER further designated India as non-compliant with FATF special recommendation 8 because only a small portion of NPOs in India were being monitored under the FCRA. As such, the FATF recommended that India perform a risk assessment of its NPO sector and increase monitoring beyond those organizations registered under the existing FCRA. Noting small progress, the FATF designated India as largely compliant with special recommendation 8 in its 2013 MER. While there is no evidence that this risk assessment was made, the information provided suggests FCRA license cancellations have substantially increased. In 2020, the FCRA was amended. The cancellations simultaneously continue to spread.

Issues Concerning Human Rights

Definition of Terrorism

We note that the provisions of the UAPA were broadened to include terrorist financing in 2004. The 2004 amendments to the Act added sections 15, 17, 21, and 40, which provided a definition for the term "terrorist act," and created offences for raising funds to be used in the commission of a terrorist attack, raising funds to support a terrorist organization, and holding proceeds of terrorism.⁷ Since then, this definition has been broadened twice more. In 2008, the term "terrorist act" was amended to include acts that disrupt "services essential to the life of the community" through "means of whatever nature."⁸ Further, the 2008 amendment allows the government to freeze, attach, seize, and restrict the use of assets, funds, or other economic resources of those suspected or convicted of engaging in terrorism. Then, in 2012, the term was further expanded to include acts disrupting the "economic security of the country."⁹ Subsequently, the offences of fundraising for the commission of terrorist acts or in support of terrorist organizations was expanded to include scenarios in which the funds were not ultimately used for these purposes. Counterfeit currency smuggling was also added as an offence.

We respectfully remind your Excellency's Government that counter-terrorism legislation should define terrorist offences on the basis of the provisions of international counter-terrorism instruments, including the Suppression Conventions,¹⁰ the definition found in Security Council resolution 1566 (2004), the Declaration on

⁶ The Prevention of Money-Laundering (Amendment) Act, 2012.

⁷ The Unlawful Activities (Prevention) Amendment Act, 2004.

⁸ The Unlawful Activities (Prevention) Amendment Act, 2008.

⁹ The Unlawful Activities (Prevention) Amendment Act, 2012.

¹⁰ See e.g. the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo Convention) of 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention) (1970); the International Convention on the Taking of Hostages (Hostages Convention) of 1979; the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 1971; and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973; E/CN.4/2006/98 paras. 25-50.

Measures to Eliminate International Terrorism, and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, which were approved by the General Assembly.¹¹ Counter-terrorism legislation should also define such acts with strict adherence to the principles of legality, necessity and proportionality.

We note that the above definition of a “terrorist act” differs from the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.¹² The definition of terrorism and related offences must be “accessible, formulated with precision, non-discriminatory and non-retroactive.”¹³ Moreover, to categorise an offense as a “terrorist act” consistent with good practice in international law, three elements must be cumulatively present: a) the means used must be deadly; b) the intent behind the act must be to cause fear among the population or to compel a government or international organization to do or refrain from doing something; and c) the aim must be to further an ideological goal. In contrast, the UAPA’s definition of a “terrorist act” is broad and ambiguous, encompassing disruption to essential services and economic services by “means of whatever nature.”¹⁴

According to our assessment, the broad character of these phrases implicates a range of speech and association activities protected under international human rights law, which are characterised domestically as ‘terrorism’. Such a characterization may permit the arrest, detention or harassment of individuals exercising their internationally protected rights, restrictions which could constitute arbitrary deprivations of liberty under international law, and ultimately risk the conflation of domestic protest, dissent, or peaceful defence of human rights with terrorism.

We would like to bring again to your Excellency Government’s attention the “principle of legal certainty” enshrined in article 11 of the UDHR. This principle requires that national criminal laws are sufficiently precise, so it is clear what types of behaviour and conduct constitute a criminal offence, in order to reduce the risk of their arbitrary application, recognizing that ill-defined or overly broad laws are open to arbitrary application and abuse. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has highlighted the dangers of overly broad definitions of terrorism in domestic law that fall short of international treaty obligations.¹⁵ Such broad definitions risk the deliberate misuse of counter-terrorism legislation. Where such laws and measures restrict the enjoyment of rights and freedoms, they offend the principles of necessity and proportionality that govern the permissibility of any restriction on human rights.¹⁶

¹¹ S/RES/1566; A/RES/51/210.

¹² A/59/565 (2004), para. 164 (d).

¹³ A/HRC/16/51, paragraph 27 (citing International Covenant on Civil and Political Rights, art. 15, General Assembly resolution 63/185, para. 18, and E/CN.4/2006/98, para. 49).

¹⁴ The Unlawful Activities (Prevention) Amendment Act, 2008; The Unlawful Activities (Prevention) Amendment Act, 2012.

¹⁵ A/70/371, para. 46(c); A/73/361, para. 34.

¹⁶ A/HRC/16/51, para. 26.

Criminalization and Penalties

We note that the PMLA initially defined the crime of money laundering to include proceeds from criminal behavior arising out of the Act's schedules.¹⁷ However, in response to the recommendation of the FATF in India's 2010 MER, the 2012 amendment to the PMLA expanded this crime to include concealing, possessing, acquiring, or using such proceeds while claiming them to be "untainted."¹⁸ Moreover, 2019 amendments to the Finance Act altered the definition of the term "proceeds." The term is no longer confined to the Act's schedules, and instead includes "any property which may directly or indirectly be derived or obtained as a result of any criminal activity relating to the scheduled offence."¹⁹

We further note that the PMLA allows your Excellency's Government ED officers to conduct investigations into money laundering and attach property. However, the powers afforded to the ED appear to lack procedural safeguards necessary to ensure due process protections: documents related to the investigation initiated are not public, nor required to be seen by alleged perpetrators.²⁰ Further, the investigation process enables the ED to require accused individuals to provide a statement, and the PMLA shifts the burden of proof to the accused to show their proceeds are "untainted," effectively discarding the presumption of innocence.²¹

While we recognize the need to prevent and deter terrorism financing and terrorism-related offenses, we are concerned that, as the information provided suggests, criminal penalties appear to be misused by authorities as a tool to silence civil society actors and human rights defenders and may disproportionately impinge on the rights to freedom of opinion and expression and freedom of peaceful assembly and association (A/HRC/26/29, para. 60). Criminal penalties may deter individuals from taking part in even the legitimate activities of NPOs. Moreover, where penalties penalize and stigmatize individuals disproportionately and unnecessarily, such stigmatization may affect not only their expression and association rights but also socioeconomic rights protected under the ICESCR like the ability to find work and housing. As such, we reiterate the importance of ensuring that any penalties incorporated in the PMLA are legal, strictly proportional to a legitimate aim, and are absolutely necessary.

Moreover, we emphasize that such penalties must be enacted in accordance with non-discrimination, due process, and procedural rights. On the assessment undertaken, it appears that such legislation could be used to arbitrarily target political opponents, civil society actors, and human rights defenders. Independent oversight mechanisms and judicial review processes are vital in minimizing arbitrariness and abuse in the implementation of such penalties. In this respect, we urge your Excellency's Government to ensure the availability of independent oversight mechanisms and judicial review to minimize arbitrariness and abuse in the implementation of any penalties.

¹⁷ The Prevention of Money-Laundering Act, 2002.

¹⁸ The Prevention of Money-Laundering (Amendment) Act, 2012.

¹⁹ 87 Finance (No. 2) Act, 2019, Part XIII.

²⁰ The Prevention of Money-Laundering Act, 2002, Sec. 19

²¹ The Prevention of Money-Laundering Act, 2002, Sec. 24

NPO Licensing Requirements

We observe that the amended FCRA prohibits NPOs from transferring foreign funds, a practice typically used by large NPOs to help fund local charities.²² Moreover, it decreases the ceiling on foreign contributions for NPO “administrative expenses,” an undefined term, from 50% to 20%, restricts NPOs from receiving foreign funds unless through an FCRA account with the State Bank of India’s Parliament Street branch, located in New Delhi, and requires all office holders of licensees to provide identification documents. We further note that the amended Act allows officials to take action on unutilized foreign funds if they have subjective “reason to believe” the NPO has violated the law and allows the government to cancel the registration of such organizations for an additional 180 days for a determination of whether the cancellation supports the “public interest” or the NPO violated the law. Moreover, the 2010 amendments to the FCRA require NPOs to undergo the process of renewing their licenses every five years.²³ The FATF noted 51 NPOs whose assets were frozen or who were restricted from receiving foreign contributions in India’s 2010 MER (India, Mutual Evaluation Report, 2010, p. 216). We understand that at least 20,693 NPO licenses were canceled as of July 2023.

Following the information received, we highlight that the heightened licensing requirements under the FCRA and its 2020 amendments may not be applied in a risk-based, targeted, and proportionate manner, and may rather create undue disruption and discouragement of legitimate NPO activities. In particular, we assess that the Act creates overly broad and complex registration, compliance, and disclosure requirements that impinge on the rights to freedom of opinion and expression, freedom of peaceful assembly and association, and privacy as guaranteed under the ICCPR. Restrictions on these rights on counter-terrorism grounds must comply with the objective criteria of legality, proportionality, necessity and non-discrimination under international law, and as such they must be the least intrusive means possible to achieve a legitimate aim (ICCPR, arts. 17, 19, 22; A/69/397, para. 30). States shall not invoke national security as a justification for measures aimed at suppressing opposition or to justify repressive practices against its population (A/61/267, para. 20).

States implementing NPO registration procedures must ensure that they are “transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration, in accordance with national legislation, and are in conformity with international human rights law.” (HRC Resolution 22/6, para. 8). Further, as the Special Rapporteur on the right to freedom of peaceful assembly and of association observed, “the right to freedom of association equally protects associations that are not registered,” and “[m]andatory registration, particularly where authorities have broad discretion to grant or deny registration, provides an opportunity for the State to refuse or delay registration to groups that do not espouse ‘favourable’ views” (A/HRC/20/27, para. 96, A/HRC/26/29, para. 54). We underscore that States are obligated to treat all associations equitably, and this treatment must be guided by objective criteria in compliance with the State’s human rights obligations.

We therefore note that the FCRA and its amendments seem to be used to arbitrarily target NPOs, particularly those with diverse or critical views in

²² Foreign Contribution (Regulation) (Amendment) Act, 2020.

²³ Foreign Contribution (Regulation) Amendment Act, 2010.

contravention of the legal requirements of proportionality and necessity. This pattern would deplete budgets, detract from the abilities of NPOs to carry out legitimate activities and charity work, and deter individuals from starting or joining associations, in potential violation of the rights to freedom of opinion and expression and freedom of peaceful assembly and association as guaranteed by the ICCPR. As the Special Rapporteur on the freedom of peaceful assembly noted in a previous report, “the right of associations to freely access human, material and financial resources – from domestic, foreign, and international sources – is inherent in the right to freedom of association and essential to the existence and effective operations of any association” (A/HRC/50/23).

As interpreted by the Human Rights Committee in General Comment No. 34 the right to seek, receive, and impart information and ideas of all kinds stated in article 19 of the ICCPR includes, inter alia, political discourse, commentary on one's own and on public affairs, cultural and artistic expression, and discussion of human rights (CCPR/C/GC/34, paragraph 11) as well as expression of criticism or dissent. In this context, we remind your Excellency's Government of its obligation to “create and maintain a safe and enabling environment in which civil society and human rights defenders can operate free from hindrance and insecurity” (A/HRC/RES/27 /31).

As such, we respectfully urge your Excellency's Government to ensure that any procedures governing NPO licensing under the FCRA are transparent, accessible, non-discriminatory, expeditious, inexpensive, and allow for the possibility of appeal. In regard to the latter, we refer to the Special Rapporteur on the rights to freedom of peaceful assembly and of association's observation that “[A]ssociations whose submissions or applications have been rejected should have the opportunity to challenge the decision before an independent and impartial court.” (A/HRC/20/27, para. 61).

Due Process and The Right to a Fair Trial

Additionally, we note that the UAPA’s 2008 amendments allow for the pre-trial detention of those accused for up to 180 days with no charges formally filed against them.²⁴ The only showing required is that the magistrate involved approves of progress made on the investigation into the individual. Furthermore, the UAPA provides that an accused person is ineligible for release on bail if the Court finds reasonable grounds exist suggesting the individual is guilty.²⁵ In the process, only the information provided by the prosecution can be considered by the courts.

We bring the attention of your Excellency’s Government to the lengthy periods of pre-trial detention stipulated by the UAPA. Article 19 states that the “Public Prosecution may order the detention of any person accused of a crime provided for in this Law for a period, or successive periods, not exceeding any period above 30 days, and not exceed in total for twelve months. In the cases where the investigation requires longer periods of detention, the matter shall be referred to the specialized criminal court to decide on the extension.”

²⁴ The Unlawful Activities (Prevention) Amendment Act, 2004.

²⁵ The Unlawful Activities (Prevention) Amendment Act, 2004, Sec. 43(D)(5).

We believe that this potential period of six months in pre-trial detention, which seemingly can be further extended by a court's denial of bail, goes far beyond what is reasonable. Furthermore, we recall that under international law, detention pending trial is a preventive measure aimed at averting further harm or obstruction of justice, rather than a punishment, and must not last any longer than is necessary. Pre-trial detention should not be arbitrarily exercised. In addition, this exceptional measure is accompanied by a set of rights that must be respected. Detainees have the right to be informed promptly of the reasons for their arrest and detention, the right to be brought before a judge promptly after their arrest or detention,²⁶ the right to be assisted by a lawyer of their choice, the right to communicate with the outside world and, in particular, to have prompt access to their family, lawyer, physician, and other relevant third parties.²⁷

The Legislation Appears to Exceed the Scope of FATF Standards

We note that the FATF's Recommendation 8 requires that CFT measures be applied to NPOs that have been identified to be at-risk of supporting terrorism through a "risk assessment." (FATF Recommendation 8 Interpretative Note, para. 8). Such assessment requires the State to have transparent risk-assessment policies, to conduct outreach among NPOs to increase awareness of the risk of terrorism and make recommendations, to format next steps with NPOs, and to promote the use of legal financing architecture among NPOs. However, we observe that, given the information provided, no publicly available evidence suggests that the Government of India has undertaken the risk assessment process prior to amending and enforcing the UAPA, PMLA, and FCRA. This finding suggests that this legislation is not being narrowly tailored to the case of each NPO, and rather, a blanket approach is being applied to all, in potential violation of the principles of legality, necessity, and proportionality. (ICCPR, arts. 17, 19, 22; A/69/397, para. 30).

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 provide any additional information and/or comment(s) you may have on the above-mentioned analysis.
2. Please provide further information on the manner in which the definition of "terrorism" in the UAPA is in line with the UN Security Council resolution 1566 and with the model definition discussed previously. In particular, please clarify how the definition of terrorism is in line with the requirements of legal precision and clarity under the ICCPR, and complies with the principles of necessity, proportionality and non-discrimination.

²⁶ A/49/40, vol. I, annex XI, p. 119, para. 2; HRC, General Comment no. 29, ff 9; see also HRC, Concluding Observations: Israel, UN Doc. CCPR/C/ISR/CO/3 (2010), para. 7(c); HRC, Concluding Observations: Thailand, UN Doc. CCPR/CO/84/THA (2005), paras 13 and 15. 30 ICCPR, art. 9(4); CRC art. 37(d; Principle 32 of the UN Body of Principles).

²⁷ ICCPR, articles 9, 14 and United Nations Body of Principles for the Protection of All Persons under Any Form of Detention, Article 16.

3. Please provide further information concerning the risk-based assessment carried out by your Excellency's Government and how it has functioned in line with FATF recommendation 8.
4. Please explain how NPO Licensing Requirements comply with your Excellency's Government obligations to protect and protect freedom of peaceful assembly, freedom of expression and the right to participate in public affairs as established in the International Covenant on Civil and Political Rights, particularly its articles 19, 22 and 25.
5. Please provide more information concerning the safeguards that will be put in place to ensure NPOs can fully engage with the risk assessment process.

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.

A copy of the communication has been sent to FATF.

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

Fionnuala Ní Aoláin

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

Irene Khan

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Clement Nyaletsossi Voule

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders