

I. Introduction

The accelerated disintegration of democracy and the evaporation of fundamental rights in the United States (hereinafter U.S.) witnessed since the second inauguration of President Donald Trump is the culmination of decades of bi-partisan suspension of international human rights obligations. Increasing concentration of unchecked power in the executive branch, failure to address past harms, and noncompliance with international recommendations created the context currently being exploited and weaponized by a right-wing authoritarian regime. Motivated by racial and ethnic animus, operating without regard for the rule of law, and equipped with advanced technological tools, the new administration is positioned to supercharge the dissolution of human rights protections.

Since the U.S.'s last Universal Periodic Review, state actors across all levels of government have committed violations to stifle dissent and debate, criminalize protest, and threaten human rights defenders. A central feature of the repression is a metastasizing "terrorism" framework that escalated in the aftermath of September 11th. The methods deployed in the name of "counter-terrorism" and "national security" evolved from emergency measures to common practices, ensnaring new populations and cannibalizing a broader range of issues. Today, University students and professors that challenge support for Israel's genocide of Palestinians are being targeted. Environmental activists that oppose the plan to build a police training facility in a clear-cut forest outside of Atlanta, Georgia have been prosecuted as "domestic terrorists." And key to the administration advancing its anti-democratic and anti-rights agenda is the expansion of a vast surveillance infrastructure of law enforcement agencies with the aid of unaccountable tech magnates.

Chillingly, the government's repeated and rising attacks on civil society as well as lawyers seek to erode the infrastructure of support for the most marginalized communities and to neutralize the very mechanisms by which government power can be checked and constrained. These patterns are familiar to any reader of history or observer of comparative case studies in authoritarianism. The current submission documents evidence of human rights violations committed by the U.S. government in the areas of freedom of expression, due process, and privacy rights. Given the rapid deterioration of the human rights situation and the pronounced consolidation of power underway, the submission requests that member states of the Human Rights Council not only urgently consider raising these issues during the 2025 Universal Periodic Review of the U.S., but to use all available means to hold the present administration accountable to its obligations under international human rights law.

II. The Metastasizing “Terrorism” Framework: Guantánamo and the Alien Enemies Act

In the first two months of the Trump administration, the U.S. government swiftly deployed the so-called “counter-terrorism” and “national security” frameworks to target marginalized communities. Through early executive actions the administration sought to recycle and expand the use of Guantánamo Bay as a detention site for migrants, and invoked the 1798 Alien Enemies Act – a sweeping war time authority – to deport hundreds of Venezuelans to El Salvador. That the administration was poised to take advantage of the infrastructure and ideology of an ever-expanding “terrorism” framework that is designed to avoid legal and judicial scrutiny, is both a logical consequence and damning indictment of an international legal system that has tolerated U.S. impunity for the complete suspension of Constitutional rights and international norms.

1. The Metastasizing “Terrorism” Framework

With its roots in anti-Palestinian racism,¹ the U.S. terrorism framework has long been an effective tool of the government to strip human rights and enlist its extensive military apparatus in the service of a regressive political, economic and ideological agenda.² The broad interpretations and sweeping measures of the anti-terror effort, with its emphasis on preventative policing, has brought lawful protest, religious practice and political speech within its ambit.³

To date, and by design, there is no singular definition of terrorism in U.S. Law, which is a subjective and political categorization.⁴ For example, in 1992, Congress together with pharmaceutical and other industries passed the Animal Enterprise Protection Act and created the new crime of “animal enterprise terrorism,” as a way to criminalize protests targeting their sector. And while the U.S. government has long targeted and criminalized Muslims, particularly Black Muslims,⁵ counter-terrorism efforts ramped up in the aftermath of 9/11 with the government conducting dragnet surveillance and massive spying operations on Muslim and

¹ *Anti-Palestinian at the Core: The Origins and Growing Dangers of U.S. Antiterrorism Law*, CTR. CONSTITUTIONAL RTS. & PALESTINE LEGAL (Feb. 20, 2024), https://ccrjustice.org/sites/default/files/attach/2024/02/Anti-Palestinian%20at%20the%20Core_White%20Paper_0.pdf

² *Letter from global civil society organizations providing information for the UN Human Rights Committee’s upcoming review of the United States of America under the International Covenant on Civil and Political Rights*, AL-HAQ et al. (Sept. 12, 2023), <https://ccrjustice.org/sites/default/files/attach/2023/09/Global%20Civil%20Society%20Letter%20-%20US%20ICCPR%20Review.pdf>

³ *Illusion of Justice: Human Rights Abuses in US Terrorism Prosecutions*, HUMAN RTS. WATCH, (July 21, 2014) (Hereinafter “Illusion of Justice”) <https://www.hrw.org/report/2014/07/21/illusion-justice/human-rights-abuses-us-terrorism-prosecutions>.

⁴ See Sudha Setty, *Country Report on Counterterrorism: United States of America*, 62 AM. J. COMP. L. 643 (2014), <https://digitalcommons.law.wne.edu/facschol/285/>.

⁵ See *Spying on the Margins: The History, Law, and Practice of U.S. Surveillance Against Muslim, Black, and Immigrant Communities and Contemporary Strategies of Resistance*, PROJECT SOUTH (Feb. 2021), https://projectsouth.org/wp-content/uploads/2021/04/FINAL-Project-South_Spying-on-the-Margins_04.26.2021.pdf.

Black, African, Arab, Middle Eastern, Muslim, and South Asian communities, and individuals perceived to be Muslim.⁶ Relatedly, “Material Support to Terrorism” laws have been broadly interpreted by legislators and the courts to include such efforts as advocacy and humanitarian assistance if it is deemed to be “in coordination” with designated terrorist organizations.⁷ And in recent years, through state and federal legislation and policies, environmental justice movements,⁸ racial justice activists,⁹ and students protesting Israel’s genocide against Palestinians¹⁰ have all been targeted and maligned under the terrorism framework. Recently, President Trump took to social media to denounce protestors targeting Tesla, the electric vehicle company founded by Elon Musk, as “sick terrorist thugs” who could perhaps “serve [their 20 year jail sentences] in the prisons of El Salvador, which have become so recently famous for such lovely conditions!”¹¹

The Trump administration, like other authoritarian regimes, recognizes the value of an inherently nebulous and malleable “counter-terrorism” framework to advance its political objectives. Without meaningful action by the international community, the necessary work by social movements to combat abusive state power and to promote human rights, racial justice, Indigenous sovereignty, and ecological harmony will, to our collective peril, be stifled for generations.

2. *Guantánamo Bay*

One of the Trump administration’s earliest executive actions on January 29, 2025 sought to expand the Migrant Operations Center at Guantánamo Bay to full capacity “to provide additional

⁶ See, e.g., *Hassan v. City of New York*, 804 F. 3d 277 (3^d Cir. 2015); *Losing Liberty: the State of Freedom 10 Years After the Patriot Act*, MUSLIM ADVOCATES, https://muslimadvocates.org/wp-content/uploads/2019/06/Losing_Liberty_The_State_of_Freedom_10_Years_After_the_PATRIOT_Act.pdf; see also Nabihah Maqbool, *Defunding the Police Must Include Ending the Surveillance of Muslims*, THE INTERCEPT (June 25, 2020), <https://theintercept.com/2020/06/25/defund-police-dhs-cve-program/>.

⁷ *Holder v. Humanitarian Law Project*, 130 S. Ct. 2705, 2712 (2010).

⁸ Elsa Maria Mota, *An activist challenges her “Terrorism” sentence for civil disobedience in the fight against the Dakota Access Pipeline*, CTR. CONSTITUTIONAL RTS. (Nov. 15, 2021)

[https://ccrjustice.org/home/blog/2021/11/15/activist-challenges-her-terrorism-sentence-civil-disobedience-fight-against-;](https://ccrjustice.org/home/blog/2021/11/15/activist-challenges-her-terrorism-sentence-civil-disobedience-fight-against-) West Virginia Legislature, House Bill 2916 (Introduced January 23, 2023),

http://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=hb2916%20intr.htm&yr=2023&sesstype=RS&i=2916.

⁹ William P. Barr, U.S. Dep’t of Justice, Statement on the Death of Mr. George Floyd (May 31, 2020), <https://www.justice.gov/opa/pr/attorney-general-william-p-barrs-statement-riots-and-domestic-terrorism>.

¹⁰ *Palestinian Columbia Activist Detained by ICE, Sent to Louisiana Over Weekend Files Emergency Petition to Be Returned to New York*, CTR. CONSTITUTIONAL RTS. (Mar. 10, 2025), <https://ccrjustice.org/home/press-center/press-releases/palestinian-columbia-activist-detained-ice-sent-louisiana-over>.

¹¹ Perry Stein, *Trump Escalates Threats Against Those Who Destroy Tesla Vehicles*, WA. POST (Mar. 21, 2025) <https://www.washingtonpost.com/national-security/2025/03/21/trump-tesla-vehicles-elon-musk-bondi-vandalism/>.

detention space for high-priority criminal aliens unlawfully present in the U.S., and to address attendant immigration enforcement needs identified by the Department of Defense and the Department of Homeland Security.”¹²

For decades, the U.S. government has exploited its unlawful military presence at Guantánamo Bay, on land stolen from Cuba, as a site to warehouse and abuse the dehumanized and criminalized “Other” or “terrorist” or “national security threat” - a broad and adaptable designation that has served the security theater of successive U.S. administrations. Since the 1990s, the U.S. has detained migrants (largely from Cuba and Haiti) who have been interdicted at sea at the Migrant Operations Center, a detention facility condemned for its lack of due process and oversight as well as poor conditions of confinement.¹³ And following 9/11, the U.S. government established the Military Detention Center to indefinitely detain hundreds of Muslim men and boys, captured in the so-called “Global War on Terror.”

Rampant human rights abuses at Guantánamo, including indefinite detention without charge, abuse, and torture, have long been the subject of treaty bodies,¹⁴ the Inter-American Commission on Human Rights¹⁵ and UN Special Procedures,¹⁶ including most recently in a 2023 report by the UN special rapporteur on counterterrorism and human rights.¹⁷ Member states have used every Universal Periodic Review of the U.S. to call on the closure of Guantánamo,¹⁸ but in the absence of meaningful U.S. accountability for grave violations of international law and the continued operation of the military prison, as well as the failure of the international community to effectively intervene, the Trump administration is intent on using Guantánamo and its logic to

¹² *Expanding Migrant Operations Center at Naval Station Guantanamo Bay to Full Capacity*, THE WHITE HOUSE (Jan. 29, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/expanding-migrant-operations-center-at-naval-station-guantanamo-bay-to-full-capacity/>.

¹³ Fact Sheet: Detention Operations at Guantánamo, CTR. VICTIMS OF TORTURE (Feb. 14, 2025), <https://www.cvt.org/what-we-do/advocating-for-change/legacy-of-us-torture/detention-operations-at-guantanamo/>.

¹⁴ See U.N. Comm. against Torture, *Concluding Observations on the Combined Third to Fifth Periodic Reports of the United States of America*, U.N. Doc. CAT/C/USA/CO/3-5 (Dec. 19, 2014), <https://www.ohchr.org/en/documents/concluding-observations/catcusaco3-5-concluding-observations-combined-third-fifth>; U.N. H.R.C., *Concluding Observations on the Fifth Periodic Review of the United States of America*, U.N. Doc. CCPR/C/USA/CO/5, (Dec. 4, 2023), <https://docs.un.org/en/CCPR/C/USA/CO/5>.

¹⁵ The Inter-American Commission on Human Rights (IACHR), Report No. 29/20 case 12.865– Djamel Ameziane, concerning the United States of America (June 22, 2020).

¹⁶ See Statement by Professor Martin Scheinin, Hearing before the LIBE Committee Inquiry on Electronic Mass Surveillance of EU Citizens, European Parliament, October, 14, 2013, <http://www.europarl.europa.eu/document/activities/cont/201310/20131017ATT72929/20131017ATT72929EN.pdf>; Clément Nyaletsossi Voule (Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association), *Protection of Human Rights in the Context of Peaceful Protests During Crisis Situations*, U.N. Doc. A/HRC/50/42 (May 16, 2022), <https://www.ohchr.org/en/documents/thematic-reports/ahrc5042-protection-human-rights-context-peaceful-protests-during-crisis>.

¹⁷ See Fionnuala Ní Aoláin (Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms), *Global Study on the Impact of Counter-Terrorism on Civil Society and Civic Space* (June 2023), https://unglobalstudy.wpengine.com/wp-content/uploads/2023/06/SRCT_GlobalStudy.pdf.

¹⁸ Recommendations from the Third Cycle of US UPR (175, 176, 177), A/HRC/46/15/Add.1, paras. 15 and 16; Recommendations from the Second Cycle of US UPR (247, 248, 241, 243, 245, 250) A/HRC/30/12/Add.1, para. 15; Recommendations from the First Cycle of US UPR (88, 89, 136, 137, 141, 147, 155, 156, 157, 158, 159, 160), A/HRC/16/11.

absorb the newest constructed “enemy.”

3. *The Alien Enemies Act*

On Saturday, March 15th, 2025, President Trump issued an Executive Order invoking the 1798 Alien Enemies Act¹⁹ (hereinafter AEA). The AEA is a wartime authority that specifically permits the President to detain or deport the natives, citizens or ‘denizens’ of an ‘enemy nation’ without any hearing or standard process.²⁰ Since its passage, it has only been invoked three times - the War of 1812, World War I and World War II²¹ - underscoring the extraordinary and wartime nature of the measures it authorizes. Significantly, these three declared wartime invocations of the AEA have been widely decried as abuses of executive power shaped by racist notions of who is and is not “American”, and who should be regarded as inherently suspect and a threat to “national security.”²² During WWII, the AEA invocation presaged the mass relocation and internment of over 100,000 Japanese American immigrants and U.S. citizens.²³ The U.S. has since formally apologized for what it described as “a grave injustice . . . motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership.”²⁴

Now, despite consistent advocacy to repeal the AEA given its ripeness for abuse,²⁵ the Trump Administration is not only invoking the law, but is doing so outside of the context of a declared state of war and without identifying a so-called “enemy nation.”²⁶ Instead, the U.S. government is falsely claiming that the country is being “invaded” by a South American criminal economic enterprise: the Tren de Aragua cartel,²⁷ which had been previously designated as a foreign terrorist organization.²⁸ Over two decades of “War on Terror” propaganda have allowed the administration to exploit distorted views of warfare and “national security threats,” criminalizing entire communities as enemies in order to suspend human rights protections.

¹⁹ Alien Enemies Act of 1798, 50 U.S.C. § 21-24 (1918) [hereinafter AEA].

²⁰ Katherine Yon Ebright, *The Alien Enemies Act, Explained*, BRENNAN CTR. JUSTICE (Oct. 9, 2024), <https://www.brennancenter.org/our-work/research-reports/alien-enemies-act-explained>.

²¹ *The Alien Enemy Act: History and Potential Use to Remove Members of International Criminal Cartels*, CONG. RSCH. SERV. LEGAL SIDEBAR (Updated Apr. 2, 2025), pg. 3, <https://www.congress.gov/crs-product/LSB11269>.

²² Alice Yang, *Redress Movement*, DENSHO ENCYCLOPEDIA (Sep. 6, 2024), https://encyclopedia.densho.org/Redress_movement/; *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 207 (2023) (confirming that *Korematsu v. United States*, 323 U.S. 214, 216 (1944) (upholding Japanese incarceration during WWII) was overruled by *Trump v. Hawaii*, 585 U.S. 667 (2018)); *Trump v. Hawaii*, 585 U.S. 667, 710 (2018) (“*Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—has no place in law under the Constitution”) (internal citations omitted).

²³ Ben Fenwick, ‘*Stop Repeating History*’: *Plan to Keep Migrant Children at Former Internment Camp Draws Outrage*, N.Y. TIMES (June 22, 2019), <https://www.nytimes.com/2019/06/22/us/fort-sill-protests-japanese-internment.html>.

²⁴ 50 U.S.C. § 4202 (2022) (formerly classified to § 1989a of this title prior to editorial reclassification and renumbering) [hereinafter Civil Liberties Act].

²⁵ *The Neighbors Not Enemies Act*, JAPANESE AM. CITIZENS LEAGUE, <https://jacl.org/nnea> (providing overview of The Neighbors Not Enemies Act); Rep. Ilhan Omar Reintroduces the Neighbors Not Enemies Act to Repeal Alien Enemies Act, ILHAN OMAR (Jan. 22, 2025), <https://omar.house.gov/media/press-releases/rep-ilhan-omar-reintroduces-neighbors-not-enemies-act-repeal-alien-enemies-act> (describes the reintroduction of the Act in 2025).

²⁶ Exec. Order No. 10,903, 90 Fed. Reg. 13,033 (March 14, 2025).

²⁷ *Id.*

²⁸ *Id.*

Using the AEA to target alleged gang affiliation²⁹ has made many in the U.S. vulnerable to summary detention and deportation without due process, based solely on government officials' discretion, often influenced by racist and classist markers of gang-affiliation.³⁰ For example, immigration attorneys have raised the alarm that their clients are being targeted as gang members and deported solely on the basis of their tattoos.³¹ Even more troubling are the reports that the individuals disappeared and detained under the AEA have been deported to Salvadoran prisons known for torture and otherwise inhuman and degrading treatment,³² in violation of international human rights law (Article V of the Universal Declaration of Human Rights).³³

Recommendations:

The U.S.' severely bloated counterterrorism and national security infrastructure, laws, policies and practices are used to criminalize racialized and marginalized communities and are being weaponized against human rights defenders and to suppress social movements. Member states should demand that the U.S.:

1. End military detention at Guantánamo Bay by safely transferring the remaining six uncharged men, including those who have been cleared for release, and allowing for the resolution of the cases of charged men through mutually acceptable plea deals; and cease using the Migrant Operations Center to detain individuals deported by the U.S.
2. Immediately engage in a whole-of-government review of War on Terror infrastructure, laws, policies and practices, specifically taking immediate steps toward ending the criminalization of communities by eliminating laws and policies that are ripe for abuse against activists as well as Black, Muslim, Arab, and South Asian, Indigenous, Latinx, and LGBTQIA+ communities.
3. Cease the weaponization of the terrorism framework and immediately repeal 18 U.S.C. §2339B of the material support statute, and oppose any new domestic terrorism crime legislation, the creation of a list of designated domestic terrorist organizations, or any other expansion of existing terrorism-related authorities.
4. Immediately revoke the ongoing invocation of the Alien Enemies Act and repeal its status as valid law, and define and commit to a plan to prevent future occurrences of the

²⁹ AEA, *supra* note 19.

³⁰ Beth Caldwell, *Reifying Injustice: Using Culturally Specific Tattoos as a Marker of Gang Membership*, 98 WASH. L. REV. 787 (2023) (describing how “the ‘gang’ label has been highly racialized and targets, in particular, Black and Latino individuals and communities”); Julianne Hing, *ICE Admits Gang Operations are Designed to Lock Up Immigrants*, THE NATION (Nov. 20, 2017), <https://www.thenation.com/article/archive/ice-admits-gang-operations-are-designed-to-lock-up-immigrants/> (describing how Immigration and Customs Enforcement inadvertently admitted to “leveraging the fearsome reputation of MS-13 [a gang] as political cover...to identify, criminalize, detain, and eventually deport large numbers of immigrants of color.”).

³¹ Isa Farfan, *Venezuelan Migrants Allegedly Labeled as Gang Members Based on Tattoos*, HYPERALLERGIC (Mar. 24, 2025), <https://hyperallergic.com/998373/venezuelan-migrants-allegedly-labeled-as-gang-members-based-on-tattoos/>.

³² Maanvi Singh, *US deportees face brutal conditions in El Salvador mega-prison: ‘Severe overcrowding, inadequate food,’* THE GUARDIAN (Mar. 20, 2025), <https://www.theguardian.com/us-news/2025/mar/20/trump-deportations-venezuela-prison>.

³³ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/811 (Dec. 16 1948) [hereinafter UDHR].

human rights violations inherent in the invocation of this law.

III. Shrinking Space for Civil Society and the Targeting of Legal Infrastructure

The Trump administration, utilizing an unprecedented and likely unconstitutional level of authority, has issued executive orders and directives attacking the funding of nongovernmental organizations (NGOs) that do not align with the administration's regressive ideological stances. A January 2025 memo from the Office of Management and Budget, which ordered a funding freeze of federal spending on grants, loans and other initiatives to NGOs said, "[t]he use of Federal resources to advance Marxist equity, transgenderism, and green new deal social engineering policies is a waste of taxpayer dollars that does not improve the day-to-day lives of those we serve."³⁴ Even though a Federal District Court found that such a broad and sweeping freeze of federal funds was likely unconstitutional, the fight to force the administration to resume funding continues.³⁵ The loss of trillions of dollars in annual funding to NGOs across this country will have profound real-life implications on essential services to the most vulnerable in this country.

The Trump administration has also exerted pressure on NGOs to not raise public awareness on these attacks. Trump officials warned aid groups not to complain to the media about the freeze in aid, stoking fear at humanitarian organizations including Save the Children, Mercy Corps, and other nonprofit institutions about speaking out against the administration's actions.³⁶ By targeting NGOs that support and engage in work the Trump Administration deems to be progressive and out of line with Trump's stated anti-immigrant, anti-diversity, and anti-climate priorities, the U.S. is in violation of its human rights obligations, including ICCPR Article 19.

Alarming, President Trump is also utilizing the full force and weight of the U.S. government to target lawyers and law firms against whom he has a personal grievance. In the past month, President Trump has signed executive orders targeting powerful, multinational firms such as Perkins Coie³⁷, Paul Weiss³⁸ and Jenner & Block³⁹ by suspending security clearances for their lawyers, restricting their access to government buildings and officials and threatening to cancel federal contracts held by their clients, unless and until they agree to such terms as providing free legal services to advance the administration's agenda.⁴⁰ These firms have lawyers who

³⁴Office of Management and Budget Memorandum M-25-13: Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs, January 27, 2025 (Office of Management and Budget), rescinded via OMB Memorandum M-25-14: Rescission of M-25-13 (Jan. 29, 2025).

³⁵Kaei Li, *Judge Orders White House to Unblock Funding for NIH, Others*, DEMOCRACY DOCKET (Feb. 10, 2025), <https://www.democracymarket.com/news-alerts/federal-judge-issues-new-ruling-in-funding-freeze-case/>.

³⁶John Hudson and Jeff Stein, *Senior USAID staff put on leave amid Trump's order halting foreign aid*, WA. POST (Jan. 27, 2025), <https://www.washingtonpost.com/national-security/2025/01/27/senior-usaid-staff-put-leave-amid-trumps-order-halting-foreign-aid/>.

³⁷ Exec Order No. 14230, 90 Fed. Reg. 46 (March 11, 2025).

³⁸ Exec Order No. 14237, 90 Fed. Reg. 53 (March 20, 2025).

³⁹ Exec Order No. 14246, 90 Fed. Reg. 59 (March 28, 2025).

⁴⁰ Mike Scarcella, *Why target these law firms? For Trump, it's personal*, REUTERS (Mar. 26, 2025), <https://www.reuters.com/world/us/why-target-these-law-firms-trump-its-personal-2025-03-26/>.

previously worked on the investigation into Russian interference in the 2016 election, worked on behalf of presidential nominee Hillary Clinton, and some who have investigated Trump and his prior business practices.⁴¹ Trump's attacks are not limited to these firms. In a memorandum dated March 22, 2025, Trump directed the U.S. Department of Justice to investigate firms that brought cases against the federal government over the past eight years and to “seek sanctions against attorneys and law firms who engage in frivolous, unreasonable, and vexatious litigation against the U.S.”⁴² His administration has further directed the Equal Employment Opportunity Commission (EEOC) to investigate 20 top law firms regarding their DEI programs.⁴³ Trump’s conduct is a blatant attempt to harass, intimidate, and chill the conduct of this nation’s most resourced legal advocates. In doing so, the administration attempts to send a clear signal to legal advocates nationwide that they are subject to its priorities and that the federal government will use all available force to impose its political objectives. Neama Rahmani, a former federal prosecutor and president of West Coast Trial Lawyers sums up these attacks as, “[a] kind of a constitutional crisis...our legal system is under attack, and it's a question of who's going to step up and defend it.”⁴⁴

Recommendation:

We suggest Member States make the following recommendations to the U.S.:

1. Repeal all executive orders and directives
 - a. reducing and/or eliminating funding for nongovernmental organizations that have received prior Congressional budgetary approval;
 - b. targeting lawyers and law firms that have represented parties or entities that have taken a position in opposition to President Trump;
 - c. targeting lawyers and law firms that have and/or continue to engage in diversity, equity and inclusion policies.

IV. Freedom of Expression and Thought

1. The Targeting of Palestinian Rights Advocacy

⁴¹ *Id.*

⁴² Memorandum Preventing Abuses of the Legal System and the Federal Court (Mar. 22, 2025), <https://www.whitehouse.gov/presidential-actions/2025/03/preventing-abuses-of-the-legal-system-and-the-federal-court/>

⁴³ Rebecca Beitsch, *Law firms divided over response to Trump orders*, THE HILL (Mar. 25, 2025), <https://thehill.com/regulation/court-battles/5211686-trump-administration-targets-law-firms/>.

⁴⁴ Katherine Tangelakis-Lippert, *Jenner & Block signals it will stand its ground after being targeted in Trump's war on Big Law*, BUS. INSIDER (Mar. 25, 2025), <https://www.businessinsider.com/donald-trump-war-big-law-targets-jenner-block-firm-resists-2025-3>.

The U.S.’ ongoing campaign against advocates for Palestinian lives and liberation is an escalation of its longstanding⁴⁵ suppression of social movements that center Palestinian rights, Muslim and Arab communities, Black people, and intersectional communities of color. The latest iteration weaponizes criminal law,⁴⁶ immigration enforcement,⁴⁷ and general retaliation⁴⁸ to chill and punish dissent. Since October 2023, thousands of students, faculty, and community members have faced arrest, suspension, surveillance, and employment consequences for participating in nonviolent protests against U.S. complicity in Israel’s genocide of Palestinians in Gaza. Many universities summoned state, local, and campus police to brutally crack down on student activists at a scale not seen in decades; amounting to over 3,000 student, professor, and solidarity activist arrests on more than 80 campuses in the spring of 2024 alone.⁴⁹ At UNC-Chapel Hill, for example, students engaged in a nonviolent protest encampment in April 2024 were met with mass arrests and wrongful discipline.⁵⁰ Similarly, at Columbia University, over 100 students were arrested and suspended for participating in an encampment for Palestinian lives.⁵¹ In an attempt to further silence dissent, universities have gone beyond individual sanctions and arrests to suspending and banning student organizations.⁵² All of these actions violate the rights protected under Articles 19, 21, and 22 of the ICCPR, which guarantee the freedoms of expression, assembly, and association.⁵³

⁴⁵ *How the “War on Terror” has Metastasized to Silence U.S. Social Movements and Shrink Civic Space*, Movement for Black Lives et al., submitted to U.N. H.R.C., 139th Sess., (Sept. 12, 2023), <https://ccrjustice.org/sites/default/files/attach/2023/09/ICCPR%20Terrorism%20Frame%20Shadow%20Report%209.12.23.pdf>.

⁴⁶ April Rubin et al., *Mapped: Where pro-Palestinian student protestors have been arrested*, AXIOS, (May 10, 2024), <https://www.axios.com/2024/04/27/palestinian-college-protest-arrest-encampment>.

⁴⁷ Chip Gibbons, *Crushing Dissent Through Immigration Law*, JACOBIN (Mar. 24, 2025), <https://jacobin.com/2025/03/khalil-dissent-immigration-law-deportation>.

⁴⁸ Sarah Lazare, *Bosses Are Retaliation Against Workers for Showing Solidarity With Palestinians*, THE NATION, (Nov. 22, 2024), <https://www.thenation.com/article/society/palestine-solidarity-workplace-retaliation/>; While employer retaliation originates from private actors, it is part of a broader pattern of repression encouraged and emboldened by U.S. government rhetoric and policies. The state’s labeling of Palestinian rights advocacy as dangerous or antisemitic has created cover for private institutions—including employers and private universities—to penalize individuals engaged in constitutionally protected expression. *See, e.g.,* Mahmoud Khalil, *Pro-Israel group says it has ‘deportation list’ and has sent ‘thousands’ of names to Trump officials*, THE GUARDIAN, (Mar. 14, 2025), <https://www.theguardian.com/us-news/2025/mar/14/israel-betar-deportation-list-trump>; *Three Palestinian students aged 20 shot in Vermont, US: What to know*, AL JAZEERA, (Nov. 27, 2023), <https://www.aljazeera.com/news/2023/11/27/three-palestinian-students-aged-20-shot-injured-in-vermont-what-to-know>.

⁴⁹ *Palestine Legal Condemns Wave of Campus Anti-Protest Policies Intended to Suppress Student Activism*, PALESTINE LEGAL (Sept. 12, 2024), <https://palestinelegal.org/news/2024/9/12/palestine-legal-condemns-wave-of-campus-anti-protest-policies-intended-to-suppress-student-activism>.

⁵⁰ *ACLU OF NC, EMANCIPATE NC, AND MUSLIM ADVOCATES FILE SUIT AGAINST UNC*, ACLU NORTH CAROLINA (Mar. 11, 2025), <https://www.acluofnorthcarolina.org/en/press-releases/suit-filed-against-unc>.

⁵¹ Bill Hutchinson & Meredith Deliso, *Columbia University protest, Over 100 pro-Palestinian demonstrators, including Rep. Omar’s daughter, arrested*, ABC NEWS (Apr. 18, 2024), <https://abcnews.go.com/US/rep-omars-daughter-suspended-columbia-university-protests-break/story?id=109391129>.

⁵² Jonathan Friedman, *Suspensions of Students for Justice in Palestine Chapters Raise Questions and Concerns about Chilled Campus Environments*, PEN AMERICA (Dec. 8, 2024), <https://pen.org/suspensions-of-students-for-justice-in-palestine-chapters-raise-questions-and-concerns-about-chilled-campus-environments/>.

⁵³ International Covenant on Civil and Political Rights art. 19, 21, 22, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR]

History teaches, and the reality of the U.S.’ ongoing suppression of advocacy for Palestinian rights demonstrates, that attacks on free expression are too often intertwined with attacks on religious freedom.⁵⁴ Two recent examples include the removal of hijab from a protester’s head during her arrest at Arizona State University⁵⁵ and multiple Muslim women having their hijabs ripped off at the University of Texas at Austin.⁵⁶ These actions violate Article 18 of the ICCPR, in addition to violating Articles 19, 21, and 22.

More recently, President Trump’s 2025 executive orders—Executive Order to Combat Antisemitism⁵⁷ and Executive Order on Protecting the U.S.⁵⁸—weaponize federal authority to investigate, surveil, and deport students under the guise of combating antisemitism⁵⁹ and protecting national security.⁶⁰ And on March 27, 2025, the U.S. House of Representatives Committee on Education and the Workforce sent letters to five colleges maligning student protest against Israel’s genocide and demanding information regarding the schools’ “lackluster response to the rise in antisemitism on their campuses.”⁶¹ Together, these orders and Congressional investigations conflate criticism of Israeli government policy with hate speech and “material support for terrorism” and direct government action against individuals and institutions based on their political and cultural views, raising serious constitutional and human rights concerns. In parallel, state-level bills⁶² and congressional hearings⁶³ have promoted a climate of censorship, subjecting Palestine advocacy to heightened scrutiny and criminalization.

The U.S. government is leveraging immigration law as a tool of political repression, violating ICCPR Articles 13 and 19, which protect non-citizens from arbitrary expulsion based on political expression. In violation of international law and the First Amendment of the U.S. Constitution,

⁵⁴ *Settlement Reached in NYPD Muslim Surveillance Lawsuit*, CTR. CONSTITUTIONAL RTS. (Apr. 9, 2018), <https://ccrjustice.org/home/press-center/press-releases/settlement-reached-nypd-muslim-surveillance-lawsuit>.

⁵⁵ Rachel Ramirez et al., *April 30, 2024 - US university protests*, CNN BUS. (May 1, 2024), <https://www.cnn.com/business/live-news/university-protests-palestine-04-30-24/index.html>.

⁵⁶ The Texan Recap, *Sheriff’s Office new guidelines for hijabs, new women-led club, UT soccer player injured*, DAILY TEXAN, (Oct. 2, 2024), <https://thedailytexan.com/2024/10/02/the-texan-recap-sheriffs-office-new-guidelines-for-hijabs-new-women-led-club-ut-soccer-player-injured/>.

⁵⁷ Exec. Order No. 13988, 84 Fed. Reg. 68779 (Dec. 16, 2019), <https://www.whitehouse.gov/presidential-actions/2025/01/additional-measures-to-combat-anti-semitism/>.

⁵⁸ Exec. Order No. 14161, 90 Fed. Reg. 8451 (Jan. 30, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-united-states-from-foreign-terrorists-and-othernational-security-and-public-safety-threats/>.

⁵⁹ *Palestine Legal: Trump’s Executive Order Aims to Punish Protests of Israel’s Genocide in Gaza, Promotes Anti-Palestinian Discrimination*, PALESTINE LEGAL (Jan. 30, 2025), <https://palestinelegal.org/news/trump-eo-january-2025>.

⁶⁰ Faiza Patel, *Trump’s Executive Order on Foreign Terrorists: Implications for the Rights of Non-Citizens*, BRENNAN CTR. JUSTICE (Feb. 6, 2025), <https://www.brennancenter.org/our-work/analysis-opinion/trumps-executive-order-foreign-terrorists-implications-rights-non>.

⁶¹ House Committee on Education and Workforce. “Walberg, Owens Demand Answers from Five Colleges Following Their Lackluster Response to Antisemitism.” (March 27, 2025). <https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=412306>

⁶² *US Protest Tracker*, International Center for Not-For-Profit Law, <https://icnl.org/usprotestlawtracker/index.php?location=&status=pending&issue=&date=&type=legislative>.

⁶³ *Senate Hearing on Antisemitism on College Campuses* (C-SPAN television broadcast Mar. 27, 2025), <https://www.c-span.org/event/senate-committee/hearing-on-antisemitism-on-college-campuses/432005>.

international students, many of them on F-1 visas, face threats of deportation for their participation in advocacy for Palestinian rights and against Israel's genocide in Gaza.⁶⁴ In March 2025, Columbia University student Mahmoud Khalil was abducted by federal agents from Columbia student housing and transferred to an immigration detention facility in Louisiana (1,400 miles away).⁶⁵ The abduction and detention followed months of disciplinary harassment by the university,⁶⁶ which had subjected him and others to draconian disciplinary measures and public targeting by pro-Israel groups (see Appendix 4). Similarly, DHS labeled Columbia graduate student Ranjani Srinivasan a "terrorist sympathizer" for her activism for Palestine and revoked her student visa.⁶⁷ Fearing that she would be detained, Ranjani Srinivasan fled the U.S.⁶⁸ These are just two examples of the immigration-based threats and removals creating a chilling effect on student activism, disproportionately silencing Black, African, Arab, Middle Eastern, Muslim, and/or South Asian (BAAMEMSA) students, and reinforcing a system of racist state retaliation against political dissent. As of the submission of this report, at least six more students have been targeted for immigration enforcement over their campus activism for Palestine.⁶⁹

The U.S. government's suppression of pro-Palestinian expression and association constitutes a systematic attempt to delegitimize a global human rights movement, and it reflects a broader pattern of silencing dissent that has historically targeted Black activists, antiwar movements, and immigrant communities. Left unchecked, this repression threatens not only those advocating for Palestinian rights but the fundamental freedoms of all who seek to decry injustices wherever they occur.

Recommendations:

As yet, Member States have not sufficiently addressed the U.S.' continued defiance of its obligations under the ICCPR, and in the escalating environment of repression and the targeting of political dissidents, should recommend that the U.S.:

1. Cease its policy and practice of arresting and detaining individuals, including noncitizens, who have exercised freedom of expression and engaged in First Amendment-protected activity in support of Palestinian rights;

⁶⁴ Gloria Oladipo, 'A warning for students of color': Ice agents are targeting certain protesters, say experts, THE GUARDIAN (Mar. 26, 2025), <https://www.theguardian.com/us-news/2025/mar/26/us-universities-students-israel-palestine-protests>.

⁶⁵ *Khalil v. Trump*, CTR. CONSTITUTIONAL RTS. (Apr. 3, 2025), <https://ccrjustice.org/home/what-we-do/our-cases/khalil-v-trump>.

⁶⁶ Jake Offenhartz, *Immigration agents arrest Palestinian activist who helped lead Columbia University protests*, AP NEWS, (Mar. 9, 2025), <https://apnews.com/article/columbia-university-mahmoud-khalil-ice-15014bcb921f21a9f704d5acdcae7a8>.

⁶⁷ Luis Ferré-Sadurní & Hamed Aleaziz, *How a Columbia Student Fled to Canada After ICE Came Looking for Her*, NY TIMES, (Mar. 15, 2025), <https://www.nytimes.com/2025/03/15/nyregion/columbia-student-kristi-noem-video.html>.

⁶⁸ *Grad student who fled U.S. says claims about her alleged support for Hamas are 'absurd'*, CBC (Mar. 19, 2025), <https://www.cbc.ca/news/world/ranjani-srinivasan-columbia-university-student-1.7488104>.

⁶⁹ Karina Tsui, *What we know about the federal detention of activists, students and scholars connected to universities*, CNN (April 2, 2025), <https://www.cnn.com/2025/03/31/us/what-we-know-college-activists-immigration-hnk/index.html>.

2. Cease its policy and practice of targeting political dissenters, including noncitizens, on the basis of their support for Palestinian rights; and
3. Make efforts to repeal laws at state and local levels that criminalize or otherwise unduly restrict lawful assembly and advocacy for Palestine, such as domestic terrorism.

2. The Killing and Criminalization of Environmental Human Rights Defenders

Manuel Esteban Paez Terán, affectionately known as “Tortuguita,” is the first environmental human rights defender in U.S. history to be killed by law enforcement.⁷⁰ On January 18, 2023, Manuel was killed by Georgia State Patrol while sitting cross-legged, engaged in a peaceful protest of plans by City of Atlanta officials to raze an urban forest for construction of a militarized police training facility known as Cop City.

Manuel’s death occurs in the context of increasing police violence in the U.S. and assassinations of environmental defenders globally. In 2024, U.S. law enforcement killed 1,366 people, making it the deadliest year on record for killings by police.⁷¹ Globally, almost 2,000 environmental activists were killed between 2012 and 2022.⁷² Failure by governments around the world to properly investigate the murders encourages more attacks and impunity.⁷³

Alarming, in the wake of Manuel’s death, government officials failed to properly investigate their death and instead opted to impose domestic terrorism charges against Cop City protestors. On September 5, 2023, Georgia Attorney General Chris Carr announced the prosecution of 61 people in an indictment under Georgia’s Racketeer Influenced and Corrupt Organizations Act (commonly referred to as “RICO”).⁷⁴ This indictment, in unprecedented fashion, alleges that the belief systems of those opposed to the construction of Cop City constitute a criminal enterprise. The document begins by maligning organizing tactics such as mutual aid as nefarious. By doing this, the Georgia Attorney General lays the groundwork for criminalizing conduct as benign as purchasing camping supplies and passing out flyers as an overt act in furtherance of an ideological conspiracy.⁷⁵ The far-reaching implications of this indictment include chilling freedom of expression, freedom of assembly, and community organizing that centers the well-

⁷⁰ Timothy Pratt, *Shot 14 Times, No Charges For Police: Family’s Grief Over Death Of Cop City Activist*, THE GUARDIAN (Oct. 8, 2023), <https://www.theguardian.com/us-news/2023/oct/08/cop-city-activist-tortuguita-georgia-manuel-paez-teran>.

⁷¹ N’dea Yancey-Bragg, *US Sets Another Grim Record for Killings by Police in 2024*, USA TODAY (Feb. 26, 2025), <https://www.usatoday.com/story/news/nation/2025/02/26/police-killings-2024-data/80281722007/>.

⁷² *Almost 2,000 Land and Environmental Defenders Killed Between 2012 and 2022 for Protecting the Planet*, GLOBAL WITNESS (Sept. 13, 2023), <https://www.globalwitness.org/en/press-releases/almost-2000-land-and-environmental-defenders-killed-between-2012-and-2022-protecting-planet/>.

⁷³ *Id.*

⁷⁴ R.J. Rico, *61 Indicted in Georgia on RICO Charges*, ASSOC. PRESS (Sept. 5, 2023), <https://apnews.com/article/atlanta-cop-city-protests-rico-charges-3177a63ac1bd31a1594bed6584e9f330>. See the text of the indictment, which was secured before the government announced its existence, *available at*, <https://www.fultonclerk.org/DocumentCenter/View/2156/CRIMINAL-INDICTMENT>.

⁷⁵ For example, Count XI of the indictment alleges one count of Money Laundering by bail fund organizers for allegedly providing \$93.04 to an organizer for the purpose of purchasing camping supplies.

being of marginalized communities most impacted by state violence and mass incarceration. As a result of such bold overreach, state actors in the Georgia State Legislature have attempted to pass several laws that would criminalize protestors, and another that would make passing out flyers a criminal offense, as they try to silence the voices of dissidents and control the dissemination of information.

Recommendations:

Police brutality and state violence in the U.S. have long been concerns of Member States⁷⁶ and the international human rights community, including inspiring the establishment of the International Independent Expert Mechanism to Advance Racial Justice and Equality in the context of Law Enforcement (UNEMLER). Member States must reiterate previous calls and recommend that the U.S.:

1. Adequately account for the harms of discriminatory police violence, including by providing a remedy for the killing of Terán by Georgia State Patrol.
2. Recommit to the protection of human rights defenders, and provide information on the changes that will be made in policing practices to protect human rights defenders in the future.

V. Repression of Privacy: Dragnet Surveillance by U.S. Agencies

The U.S. government has engaged in illegitimate, overly intrusive, and disproportionate surveillance with no or insufficient transparency and oversight, in violation of the right to privacy (Article 17 of ICCPR). In a comprehensively surveilled environment, people may reasonably fear that any action they take will provoke, or be used to justify, intervention by government authorities in their lives or the lives of those they associate with. This fear disincentivizes people from exercising their human rights, including the right to political speech or participation in a protest, which are core to the right to freedom of expression (Article 19(2)(3)) or of association (Article 21).⁷⁷

Immigrants—particularly people of color, who are overpoliced in America—are especially impacted by illegal surveillance. It is crucial to emphasize that the right to privacy, freedom of expression and peaceful assembly and of association are equally guaranteed to *all* individuals within a state's territory or jurisdiction, including non-citizens.⁷⁸

⁷⁶ See Recommendations from the Third Cycle of US UPR (219, 238, 255), A/HRC/46/15/Add.1, paras. 7 and 12.

⁷⁷ David Kaye (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), *Surveillance and Human Rights*, U.N. Doc. A/HRC/41/35 (May 28, 2019), <https://www.ohchr.org/en/calls-for-input/report-adverse-effect-surveillance-industry-freedom-expression>.

⁷⁸ Article 2(1) of International Covenant on Civil and Political Rights (entered into force 23 March 1976), article 2, para. 1; and Human Rights Committee, General Comment No. 31: Nature of the General Legal Obligation on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (26 May 2004), para.10.

1. Case Studies

#1: *The Foreign Intelligence Surveillance Act allows for intelligence agencies' widespread violations of the right to privacy and freedom of expression of people in the U.S.*

The U.S. government has a long history of using foreign intelligence powers against Americans, in particular against immigrant and/or Black, Arab, Middle Eastern, Muslim, and South Asian American (“BAMEMSA”) communities, in violation of international human rights law. **Section 702 of the Foreign Intelligence Surveillance Act (FISA)** permits intelligence agencies to spy on foreign individuals without a warrant or any individualized court review. It has enabled “persistent and widespread” privacy abuses against persons in the U.S. since its enactment, including against more than 130 participants in racial justice protests during the summer of 2020.⁷⁹

Beyond privacy implications, Section 702 is used to chill the voices of non-citizens that are either (1) critical of the United States and its allies or (2) are present in the United States without documentation. A recent example is when now-Speaker Mike Johnson scapegoated protesters calling for a ceasefire in Gaza as a reason to keep 702 powers.⁸⁰ The use of 702 powers to target protestors creates fear and dissuades immigrants from political expression. These fears are further pronounced after the State Department announced its use of an AI social media surveillance tool to identify and revoke visas for students who appear to be pro-Palestine.⁸¹

In 2014 and 2023, the Human Rights Committee expressed grave concerns in its Concluding Observations⁸² that the surveillance under Section 702 does not align with the Article 17 of ICCPR and recommended that the U.S. government rectify the noncompliance. However, as described above, the U.S. has continued to violate the ICCPR.

#2: *The Department of Homeland Security and its components' dragnet surveillance violates the right to privacy, the freedom of expression, peaceful assembly, and association of people in the U.S.*

⁷⁹Privacy and Civil Liberties Oversight Board, *Report on the Surveillance Program Operated Pursuant to Section 702 of the Foreign Intelligence Surveillance Act* (Sept. 28, 2023), [https://documents.pclob.gov/prod/Documents/OversightReport/e9e72454-4156-49b9-961a-855706216063/2023%20PCLOB%20702%20Report%20\(002\).pdf](https://documents.pclob.gov/prod/Documents/OversightReport/e9e72454-4156-49b9-961a-855706216063/2023%20PCLOB%20702%20Report%20(002).pdf).

⁸⁰ Dell Cameron, *US Lawmaker Cited NYC Protests in a Defense of Warrantless Spying*, WIRED (Mar. 12, 2024), <https://www.wired.com/story/hpsci-us-protests-section-702-presentation/>.

⁸¹ Marc Caputo, *Scoop: State Dept. to use AI to revoke visas of foreign students who appear “pro-Hamas,”* AXIOS (Mar. 6, 2025), <https://www.axios.com/2025/03/06/state-department-ai-revoke-foreign-student-visas-hamas>.

⁸² See U.N. H.R.C., *Concluding Observations on the Fourth Periodic Review of the United States of America*, U.N. Doc. CCPR/C/USA/CO/4, (Apr. 23, 2014), <https://docs.un.org/en/CCPR/C/USA/CO/4>; U.N. H.R.C., *Concluding Observations on the Fifth Periodic Review of the United States of America*, U.N. Doc. CCPR/C/USA/CO/5, (Dec. 4, 2023), <https://docs.un.org/en/CCPR/C/USA/CO/5>.

Dragnet surveillance by the Department of Homeland Security (DHS) and its components, such as Immigrations Customs Enforcement (ICE)⁸³ violates the right to privacy of people in the U.S. The primary purpose of DHS surveillance practices is to aggregate as much data as possible to create a surveillance infrastructure in which agencies will be able to use its data infrastructure to carry out **any goal that might arise for the agency at any time in the future**.⁸⁴ The speculative nature of this purpose is in stark opposition to the necessity and proportionality requirements of the ICCPR.

Described as the “surveillance industrial complex,” private industries supply data and technologies that sustain the continuous growth of surveillance infrastructure.⁸⁵

Examples of such DHS’s illegal surveillance include the following:

- Since 2020, DHS has created and operated a sweeping, law-enforcement wide database of DNA, which is a highly sensitive biometric data that warrants special protection.⁸⁶ In 2020, the U.S. Department of Justice amended regulations that once exempted the Secretary of DHS from “the sample-collection requirement [of] certain aliens from whom collection of DNA samples is not feasible because of operational exigencies or resource limitations.”⁸⁷ DHS now forces all immigration detainees—**those whom DHS believes have violated immigration law, the majority of whom are people of color**—to provide DNA samples.⁸⁸ Once collected, the DNA profiles are tested, and then stored in the federal government’s DNA database known as the Combined DNA Index System (CODIS), where data are permanently searchable by law enforcement agencies nationwide. Between 2020 and 2024, DHS agencies have added **1.5 million detainee DNA profiles to CODIS**. Reports indicate that, as of 2024, almost *everyone* who enters at a port of entry with a CBPOne appointment is swabbed for their DNA.⁸⁹

⁸³ ICE is responsible for interior immigration enforcement.

⁸⁴Georgetown Law Center on Privacy & Technology & International Justice Clinic at UCI Law, *Submission to the United Nations Human Rights Committee During its Periodic Review of United States of America*, CCPR/C/USA/CO/5 (Sept. 12, 2023), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FCSS%2FUSA%2F55913&Lang=en.

⁸⁵ *Id.*, at page 4 and footnote 14.

⁸⁶ *S. & Marper v. The United Kingdom*, App. No. 30562/04, ¶ 76 (December 4, 2008), [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-90051%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-90051%22]}).

⁸⁷*DNA-Sample Collection From Immigration Detainees*, FED. REGISTER, <https://www.federalregister.gov/documents/2020/03/09/2020-04256/dna-sample-collection-from-immigration-detainees>. See 28 C.F.R. § 28.12.

⁸⁸Stevie Glaberson, Emerald Tse & Emily Tucker, *Raiding the Genome: How the United States Government Is Abusing Its Immigration Powers to Amass DNA for Future Policing* at 12, CTR. PRIVACY & TECH. AT GEORGETOWN L. (May 21, 2024), <https://www.law.georgetown.edu/privacy-technology-center/publications/raiding-the-genome/>.

⁸⁹ *Id.* at 21.

- ICE has also created a sprawling infrastructure through which it amasses sensitive data from hundreds of public and private sources.⁹⁰ For example, ICE is obtaining **geolocation data and home addresses** by accessing license plate scanning databases, app-based location data, vehicle registration, driver's license databases, utility companies' billing information databases, and data brokerage databases, from private companies.⁹¹ Further, ICE is using **social media monitoring tools**⁹² which collect data from over 200 sources and allows users to derive inferences about lifestyles and physical location of individuals.⁹³ ICE has run facial recognition tools (FRT) over the faces of millions of people, in extreme secrecy and with no oversight. ICE has access to the driver's license data of three in four (74%) adults in the U.S. and runs face searches of one in three (32%).⁹⁴ ICE has also used a private company's notorious FRT such as Clearview AI that collects facial data through automated web scraping.⁹⁵ Without consideration about whether the information is relevant or necessary in its investigation, ICE catalogs this data into databases and feeds it **into automated analytics tools**. In 2023, the Human Rights Committee expressed a grave concern about such a practice's incompatibility with ICCPR;⁹⁶ however, DHS has made no effort to reform the surveillance infrastructure to bring it in line with treaty obligations. The Committee also pointed out **the lack of federal data protection as an enabler of such surveillance infrastructure** and called for data protection regulation at the federal, state, and local level.⁹⁷
- U.S. Citizenship and Immigration Services (USCIS), the DHS agency in charge of the immigration visa issuance, plans to collect social media identifier data on **all** immigration forms.⁹⁸ USCIS' plan to aggregate all social media identifier data for every prospective immigrant shows USCIS' lack of commitment to

⁹⁰ *Id.*, footnote 83.

⁹¹ *Id.* at page 4 and footnote 83.

⁹² *Brennan Center Files Freedom of Information Act Requests for Information on DHS's Use of Social Media Monitoring Tools*, BRENNAN CTR. JUSTICE (Dec. 12, 2023), <https://www.brennancenter.org/our-work/research-reports/brennan-center-files-freedom-information-act-requests-information-dhss>.

⁹³ *Id.*

⁹⁴ Nina Wang et al., *American Dragnet: Data-Driven Deportation in the 21st Century*, pages 32-25, CTR. PRIVACY & TECH. AT GEORGETOWN L., (May 10, 2022), <https://americandragnet.org/>.

⁹⁵ See USA Spending.gov, Contract Summary, Purchase Order (PO) PIID 70CMSD20P00000130; and Contract Summary, Purchase Order (PO) PIID 70CMSD21P00000127.

⁹⁶ Emily Tucker & Hinako Sugiyama, *Does ICE Data Surveillance Violate Human Rights Law? The Answer is Yes, and It's Not Even Close*, TECH POL. PRESS (Nov. 14, 2023), <https://www.techpolicy.press/does-ice-data-surveillance-violate-human-rights-law-the-answer-is-yes-and-its-not-even-close/>.

⁹⁷ *Id.* at footnote 81.

⁹⁸ *Agency Information Collection Activities; New Collection: Generic Clearance for the Collection of Social Media Identifier(s) on Immigration Forms*, FED. REG., <https://public-inspection.federalregister.gov/2025-03492.pdf>. Note that since 2019, the State Department has required almost anyone that applies for a US visa to register every social media handle they have used over the past five years on at least 20 platforms. Please see the following article for more information, see Carrie Decell & Harsha Panduranga, *Social Media Vetting of Visa Applicants Violates the First Amendment*, KNIGHT FIRST AMENDMENT INST. (Dec. 6, 2019), <https://knightcolumbia.org/content/social-media-vetting-of-visa-applicants-violates-the-first-amendment>.

only collect data that is necessary and proportionate for specific law enforcement purposes as required under Article 17 of ICCPR. Documents obtained from the Office of the Director of National Intelligence suggest that the collection of the social media identifiers data from all visa applicants has been **useless** from a security standpoint.⁹⁹ After the State Department began collecting social media handles of nearly all visa applicants in 2019, immigrants began to reduce their social media use, restricting the freedom of expression online.¹⁰⁰

- DHS has been **making efforts to procure spyware**, some of the most intrusive surveillance tools that allows users access to any data stored on or accessible by a target device, including encrypted messages, or even to take full control of the device. In September 2024, DHS entered into a two million dollar contract with **Paragon Solutions (US) Inc.**, an Israeli-headquartered spyware vendor.¹⁰¹ While publicly available information does not specify the exact technologies involved, Paragon Solutions' flagship product, Graphite, is a known spyware which is abused by Italy and other governments.¹⁰² While the contract has been at least suspended according to the public record, there is a lack of transparency in DHS' decision-making, despite strong calls to request transparency from 40 civil society organizations.¹⁰³ DHS' history of abusing agency power under oversight has created serious concerns that this contract would not comply with ICCPR.
- An emerging concern is DHS' **'privacy washing' with the use of Privacy Enhancing Technologies (PETs), disguising surveillance as harmless**. PETs have been touted as a way to protect privacy while nonetheless processing sensitive data. Experts have raised alarms about privacy through PETs – describing how deployers of PETs, often disconnected from impacted communities, overestimate and over-promise the capabilities of PETs while downplaying the harms of the underlying system. For example, in response to

⁹⁹An April 2021 email chain included an assessment of the use of social media identifies in the vetting process of visa applicants has had “very little impact on improving the screening accuracy of relevant systems.” *State Department Rule Requiring Visa Applicants to Register Their Social Media Handles is Ineffective, New Documents Say*, KNIGHT FIRST AMENDMENT INST. (Oct. 5, 2023), <https://knightcolumbia.org/content/state-department-rule-requiring-visa-applicants-to-register-their-social-media-handles-is-ineffective-new-documents-say>.

¹⁰⁰ *Id.*

¹⁰¹Letter from Access Now et al., to Alejandro Mayorkas, Secretary of Homeland Security, Dept. of Homeland Security (Oct. 31, 2024), https://cdt.org/wp-content/uploads/2024/11/Civil-Society-Letter_DHS-ICE-contract-with-Paragon-Solutions.pdf.

¹⁰²Bill Marczak et al., *Virtue or Vice? A First Look at Paragon's Proliferating Spyware Operations*, CITIZEN LAB (Mar. 19, 2025), <https://citizenlab.ca/2025/03/a-first-look-at-paragons-proliferating-spyware-operations/>; Stephanie Kirchgaessner & Angela Giuffrida, *Owner of spyware used in alleged WhatsApp breach ends contract with Italy*, THE GUARDIAN, (Feb. 6, 2025), <https://www.theguardian.com/technology/2025/feb/06/owner-of-spyware-used-in-alleged-whatsapp-breach-ends-contract-with-italy>.

¹⁰³*Id.* at footnote 100.

the civil society criticism of CBP One app, DHS announced plans to implement “a privacy-preserving biometric ID system” for refugees and asylum seekers using PETs.¹⁰⁴ This amounts to privacy washing as DHS’ communication emphasizes the benevolence of such a system and is silent on the surveillance purpose, while also failing to disclose full details of the systems and associated risks. DHS has further demonstrated an intent to apply PETs to agency-wide data practices.¹⁰⁵

#3: Data brokers, AI and tech-enabled surveillance

Technology such as smartphones, smart cameras, mobile applications, automatic license plate readers (“ALPRs”) and artificial intelligence (“AI”) products add a whole new dimension to surveillance concerns. U.S. federal agencies such as DHS (See case study #2 above), and local and state law enforcement, assert that invasive, personal and sensitive data purchased from data-brokers is not subject to Fourth Amendment protections because it is bought rather than sought in court. Dubbed the “data-broker loophole,” this has enabled widespread surveillance and privacy violations that target marginalized communities including Muslims using prayer and dating apps, women seeking reproductive care, and Black advocates seeking accountability for police violence.¹⁰⁶ Smart cameras and ALPRs enable law enforcement to track, in some cases, the entirety of people’s public movements;¹⁰⁷ entities from the military to local police have contracted with social media surveillance firms access to surveil people engaging in

¹⁰⁴Jim Nash, *US preparing privacy technologies to secure new digital ID for immigrants*, BIOMETRIC UPDATE (Dec. 19, 2023), <https://www.biometricupdate.com/202312/us-preparing-privacy-technologies-to-secure-new-digital-id-for-immigrants>.

¹⁰⁵ See also, PETS4HSE REPORT, available at <https://www.dhs.gov/sites/default/files/2023-02/PETS4HSE-DPIAC-CAOE%20FNL.pdf>; *News Release: Homeland Security Awards Contracts to Six Startups to Identify, Develop, and Implement Privacy-Enhancing Digital Wallets Technologies*, DHS NEWSROOM (Jul. 8, 2024), <https://www.dhs.gov/science-and-technology/news/2024/07/08/homeland-security-awards-contracts-six-startups-identify-develop-and-implement>; *News Release: DHS S&T Awards Contracts to Four Startups to Develop Privacy-Enhancing Synthetic Data Generation Capabilities*, DHS NEWSROOM (Oct. 8, 2024), <https://www.dhs.gov/science-and-technology/news/2024/10/08/st-awards-contracts-four-startups-develop-privacy-enhancing-synthetic-data-generation-capabilities>; *Digital Identity and Trust*, <https://www.dhs.gov/science-and-technology/digital-identity-and-trust>; Justin Doubleday, *DHS privacy chief aims to promote ‘privacy enhancing technologies’*, FED. NEWS NETWORK (Feb. 17, 2022), <https://federalnewsnetwork.com/agency-oversight/2022/02/dhs-privacy-chief-aims-to-promote-privacy-enhancing-technologies/>.

¹⁰⁶Sumayyah Waheed, *The government is surveilling American Muslims by buying their data. It’s time to close the loophole*, THE HILL (Sept. 6, 2023), <https://thehill.com/opinion/congress-blog/4190774-the-government-is-surveilling-american-muslims-by-buying-their-data-its-time-to-close-the-loophole/>; *Warren Announces Two Key Data Brokers’ Commitment to Permanently Stop Selling Location Data of People Seeking Abortion Services* (Jul. 7, 2022), <https://www.warren.senate.gov/newsroom/press-releases/warren-announces-two-key-data-brokers-commitment-to-permanently-stop-selling-location-data-of-people-seeking-abortion-services>; Sam Levin, *ACLU finds social media sites gave data to company tracking black protesters*, THE GUARDIAN (Oct. 11, 2016), <https://www.theguardian.com/technology/2016/oct/11/aclu-geofeedia-facebook-twitter-instagram-black-lives-matter>.

¹⁰⁷ Local police surveillance is also a salient violation of Article 17 of ICCPR. Militarized local law enforcement engages in surveillance of activists in cities across the nation. See Ilica Mahajan, *The High-Tech Tools Police Can Use to Surveil Protestors*, MARSHALL PROJECT (Nov. 12, 2024), <https://www.themarshallproject.org/2024/11/12/protest-surveillance-technologies>.

free expression.¹⁰⁸ AI technology also enables law enforcement to comb through and analyze troves of data to invade the public's privacy at levels that would have been prohibitively expensive or simply impossible just a decade ago.¹⁰⁹

Recommendations:

The U.S. government should: (1) repeal any law, e.g., Section (1)(1)(A) of the DNA Fingerprint Act, that is incompatible with Article 17 of ICCPR and Article 12 of UDHR, (2) investigate all data practices that violate ICCPR such as dragnet surveillance, (3) disclose all the details relating to DHS's contract with Paragon Solutions (US) Inc., (4) cease the collection of DNA profiles from individuals detained by DHS, (5) stop and prevent privacy washing through privacy enhancing technologies (PETs), (6) and establish federal-level privacy protection laws which satisfy the requirements of Article 17 of the ICCPR and Article 12 of UDHR.

We suggest United Nations Member States ask the U.S. government:

1. What mechanism, if any, does the United States have for ensuring that law enforcement operations by DHS or other federal, state, local agencies generally, and in particular with respect to data surveillance, comply with ICCPR?
2. How and when will the United States investigate law enforcement data practices, hold the relevant actors accountable, provide meaningful remedies to people affected, and ensure non-repetition?

¹⁰⁸ Sam Biddle, *LAPD Surveilled Gaza Protests Using this Social Media Tool*, THE INTERCEPT (Mar. 17, 2025), <https://theintercept.com/2025/03/17/lapd-surveillance-gaza-palestine-protests-dataminr/>.

¹⁰⁹ See, e.g., Matthias Pfau, *Artificial Intelligence: The New Eyes Of Surveillance*, FORBES (Feb. 2, 2024), <https://www.forbes.com/councils/forbestechcouncil/2024/02/02/artificial-intelligence-the-new-eyes-of-surveillance/>; Faiza Patel, *U.S. AI-Driven "Catch and Revoke" Initiative Threatens First Amendment Rights*, BRENNAN CTR. JUSTICE (Mar. 20, 2025), <https://www.brennancenter.org/our-work/analysis-opinion/us-ai-driven-catch-and-revoke-initiative-threatens-first-amendment-rights>; <https://www.theguardian.com/world/2025/mar/06/israel-military-ai-surveillance>.