

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right to education and the Special Rapporteur on the situation of human rights defenders

Ref.: AL GBR 4/2022
(Please use this reference in your reply)

2 March 2022

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right to education and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 43/4, 44/3 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding threats against academic and human rights lawyer, Mr. Colin Harvey.

Mr. **Colin Harvey** is an academic and human rights lawyer based in Belfast, Northern Ireland. He is a professor of Human Rights Law in the School of Law at Queen's University Belfast and a Fellow of the Senator George J Mitchell Institute for Global Peace, Security and Justice. He was previously the Commissioner of the Northern Ireland Human Rights Commission.

According to the information received:

Mr. Colin Harvey has reportedly been the subject of intense threats and stigmatisation for a number of years from elected officials, members of the media and individuals on social media. Attacks target his academic standing, his participation in public debate on the constitutional future of Northern Ireland, and his participation in the formulation of the proposed Bill of Rights for Northern Ireland.

Smears against Mr. Colin Harvey's academic credibility reportedly began to intensify in 2018 and 2019 and were particularly strong following the publication of an academic paper he wrote at Queen's University Belfast on constitutional change in Northern Ireland in October 2019. Journalists in the traditional media, local commentators and elected officials began sharing negative comments about Mr. Harvey among their followers and questioned how the paper could be published with the logo of Queen's University Belfast. This was reportedly followed by a smear campaign on social media, where scores of online messages attacked Mr. Harvey, labelling him a terrorist, and calling for him to be silenced or removed from his position in the university.

In 2020 and 2021 Mr. Harvey was among a number of high-profile individuals in Irish public life who were targeted by threats and smears by an anonymous Twitter account, which has since been discovered to be linked to a well-known

journalist.

In June 2020, Mr. Harvey was interviewed for one of five positions on a panel of experts that would advise Northern Ireland Assembly's Ad Hoc Committee on the Bill of Rights. The proposed Bill of Rights is an instrument that would seek to uphold human rights with regard to the historical circumstances and ethno-national divisions in Northern Ireland. The appointment of the panel of experts was stalled for 18 months, initially for unknown reasons. In November 2021, it was suggested by the chair of the Northern Ireland Assembly's Ad Hoc Committee on the Bill of Rights that Mr. Harvey's appointment to a panel of experts to advise the committee was being blocked by the then First Minister of Northern Ireland. There was reportedly no justification given for blocking the appointment. In January 2022, a member of the House of Lords wrote a forward for a pamphlet produced by a Northern Irish organisation in which she alleged that there were "justified concerns that many professional vocations have become dominated by those of a nationalist persuasion... to exert influence on those in power."

Since both of these suggestions were made, threats and hate speech directed against Mr. Harvey online have greatly intensified. Smears on social media are prolific and are at times violent; hundreds of social media comments conflate his legal work on the constitutional future of Northern Ireland with violent republicanism or Nazism, or they imply that he was involved in bombing and violence committed by paramilitary groups in Northern Ireland; he is being called "dangerous;" his academic teaching is being labelled as propaganda and indoctrination; and there are calls to strip him of his profession or to "get rid" of him entirely.

Mr. Harvey has reported the threats to the police, who are reportedly investigating the situation.

Without prejudging the accuracy of the above-mentioned allegations, we express our deep concerns that the threats against Mr. Harvey are an undue infringement upon his rights to freedom of opinion and expression, particularly in the academic context, and may escalate into real life violence. We fear that the campaign against Mr. Harvey may constitute incitement of national hatred that constitutes incitement to violence, and that the likelihood of real harm being committed may be considerably high, in particular given the nature of the threats and the social context in which the attacks take place. We urge the authorities to take early steps to prevent such threats from escalating.

We are also deeply concerned that Mr. Harvey's human rights, legal and academic work may be purposefully discredited in an attempt to undermine and silence him, in violation of his right to freedom of expression. We are particularly concerned by comments and moves made by elected officials which would reinforce a narrative that his work is illegitimate or lacks credibility. In an annual report presented to the Human Rights Council in 2020, the former Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression noted that "attacks on academic freedom corrode the pillars of democratic life, of scientific

progress and of human development”. Furthermore, when public officials publicly attack the work of human rights advocates and academics, they legitimise attacks from other members of society, which may be more vicious in nature. Such a context would, whether intentional or not, lead to the suppression of academic freedom, by contributing to a context in which academics from certain national groups may refrain from engaging in debates or self-censor for fear that legal or academic opinions that meet with disagreement may be the target of hate, discrediting campaigns or threat of violence.

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

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

1. Please provide any additional information and comments you may have on the above-mentioned allegations.
2. Please provide information about the measures taken to ensure the physical and psychological integrity of Mr. Harvey.
3. Please provide information on measures in place to ensure that academics and human rights lawyers can exercise their right to freedom of expression and their academic freedom without fear of discrimination, threats or attack.
4. Please provide information on the remedies available to those who have allegedly been discriminated against on one or more of these grounds

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

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

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

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

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

Koumbou Boly Barry
Special Rapporteur on the right to education

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, and while we do not wish to prejudge the accuracy of these allegations, we would like to refer to your Excellency's Government to the international norms and standards applicable to the case.

We call to the attention of your Excellency's Government the international standards regarding the right to liberty and security of all persons and the right to freedom of expression, enshrined in article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the United Kingdom of Great Britain and Northern Ireland on 20 May 1976. Article 19 (2) of the ICCPR upholds the right of everyone to freedom of expression, including the freedom to seek, receive and impart information of all kinds.

We note the importance of the right to freedom of opinion and expression for the fulfilment of other rights, for the principle of democracy and for ensuring accountability (General Comment no. 34 paras. 2 and 3). Attacks against individuals for exercising their right to freedom of expression are particularly serious and we note the State's duty not only to respect the right to freedom of expression, but to act with due diligence to protect from such attacks by private actors or third-States (Id. para. 23).

We would like to refer your Excellency's Government to the Rabat Plan for Action (2013) on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The Rabat Plan outlines a six-part threshold for the legitimate restriction of freedom of expression in the case of incitement of hatred: test taking into account (1) the social and political context, (2) status of the speaker, (3) intent to incite the audience against a target group, (4) content and form of the speech, (5) extent of its dissemination and (6) likelihood of harm, including imminence.

We further recall that the former Special Rapporteur on freedom of opinion and expression highlighted in his report to the General Assembly in 2020 (A/75/261) the special role played by academics and academic institutions in democratic society. He wrote that "the freedom to form an opinion and to develop this by way of reasoning was held to be absolute and, in contrast to freedom of expression, not allowed to be restricted by law or other power" and "scholars should not be subject to interference, such as intimidation and harassment, in accordance with article 19 (1) of the Covenant."

In relation to the allegations indicating that Mr. Harvey may have been targeted because of his activities defending human rights, we would also like to 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, we would like to refer to articles 1 and 2 of the Declaration

which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government article 6 (b) and c) which provide that everyone has the right, individually and in association with others to freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters.

We would further draw the attention of your Excellency's Government to article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the United Kingdom of Great Britain and Northern Ireland on 20 May 1976, according to which "education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms".

Concerning article 13 of the ICESCR and as noted by the Committee on Economic, Social and Cultural Rights, education is both a human right in itself and an indispensable means of realizing other human rights" (General Comment 13, para.1), and the right to education can only be enjoyed if accompanied by the academic freedom of staff and students" (para. 38). Academic freedom includes the liberty of individuals to express freely opinions about the institution or system in which they work, to fulfil their functions without discrimination or fear of repression by the State or any other actor, to participate in professional or representative academic bodies, and to enjoy all the internationally recognized human rights applicable to other individuals in the same jurisdiction. The enjoyment of academic freedom carries with it obligations, such as the duty to respect the academic freedom of others, to ensure the fair discussion of contrary views, and to treat all without discrimination on any of the prohibited grounds. Members of the academic community, individually or collectively, are free to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing (para. 39).

We would also like to refer to paragraph 26 of the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (para.26), which states that: "[h]igher-education teaching personnel, like all other groups and individuals, should enjoy those internationally recognized civil, political, social and cultural rights applicable to all citizens. Therefore, all higher-education teaching personnel should enjoy freedom of thought, conscience, religion, expression, assembly and association as well as the right to liberty and security of the person and liberty of movement. They should not be hindered or impeded in exercising their civil rights as citizens, including the right to contribute to social change through freely expressing their opinion of state policies and of policies affecting higher education. They should not suffer any penalties simply because of the exercise of such rights. Higher-education teaching personnel should not be subject to arbitrary arrest or detention, nor to torture, nor to

cruel, inhuman or degrading treatment.”