

Mandates of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; the Special Rapporteur on the right to education and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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(Please use this reference in your reply)

29 April 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; Special Rapporteur on the right to education and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 1993/2A, 44/3 and 43/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the new "Procedure for Entry and Residency of Foreigners in Judea and Samaria Region", which may have a negative impact on the enjoyment of academic freedom in the Occupied Palestinian Territory.**

Background

In February 2022, the Coordination of Government Activities in the Territories ("COGAT") issued a new directive, "Procedure for Entry and Residency of Foreigners in Judea and Samaria Region", which governs application procedures for foreigners who wish to obtain permits to enter and reside in the Occupied Palestinian Territory. COGAT is a body responsible for coordination and liaison with the Palestinian Authority and reports to the Ministry of Defense. The Procedure is scheduled to take effect in May 2022.

Part 3 of the Procedure specifically sets out processes of issuing permits for "specific purposes", including foreign lecturers, researchers and students in the field of higher education. The Procedure gives COGAT extremely wide discretion to select and limit the number of foreign academics and students who can study and conduct research at Palestinian universities. The Procedure sets an annual quota of 100 for foreign lecturers and researchers in "necessary fields" and 150 for foreign students. The criteria for determining "necessary fields" and approving permit applications of foreign lecturers and researchers are ambiguous and subject to wide interpretation. The Procedure merely provides that applications would be approved "if it is proven, to the satisfaction of the authorized COGAT official, that the lecturer contributes significantly to academic learning, to the Area's economy, or to advancing regional cooperation and peace".¹ Criteria for approving permit applications of foreign students are not spelt out in the Procedure, which appears to suggest that COGAT has unlimited discretion to select foreign students. The Procedure also does not make clear whether and how lecturers, researchers and students could appeal COGAT's decisions, should their applications for entry and residence be denied.

Furthermore, the Procedure places a limit on a period of time that foreign lecturers, researchers and students can teach or study at Palestinian universities. For

¹ Part 3, Section 3 (d)(2).

foreign lecturers and researchers, an initial permit would be valid for one year and renewable for 27 months only once. If they wish to stay beyond that period, they will have to depart the West Bank and wait for 9 months before applying for a new permit. The entire period of residence cannot exceed 5 years cumulatively. Similarly, foreign students are eligible to obtain a permit for a single academic year, which is renewable up to 27 months. They will have to leave the West Bank and apply for a new permit should they wish to stay beyond that period, but their stay must not exceed “a cumulative four years for any given degree, or a cumulative five years for a doctorate or post-doctorate”.²

The Procedure’s impact on the right to education

We express serious concern that the Procedure could curtail academic freedom, in violation of the right to education recognized by article 13 of the International Convention on Economic, Social and Cultural Rights (ICESCR), to which Israel is a State Party. As enunciated by the Committee on Economic, Social and Cultural Rights, academic freedom is an essential component of the right to education and 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”.³ The enjoyment of academic freedom necessitates “the autonomy of institutions of higher education”, so that they can make effective decisions “in relation to their academic work, standards, management and related activities”.⁴

We also draw your attention to article 19 of the International Covenant on Civil and Political Rights, which Israel ratified on 3 October 1991, which protects the right to freedom of opinion and expression as well as many aspects of academic freedom (A/HRC/75/261).

If the Procedure is implemented, Palestinian universities would face undue restrictions in recruiting and attracting foreign lecturers and researchers, and fostering intellectual exchange at their institutions. Given that the Procedure sets a ceiling on a period of residency, it would also inhibit existing long-term academic projects and programs, or the planning of long-term research programs and activities, and undermine the existing accreditation, recruitment, appointment and promotion procedures at Palestinian universities.

Furthermore, in our views, the fact that the Procedure accords the COGAT unfettered discretion in approving entry and residence permits for foreign lecturers, researchers and students, is problematic and would pose an obstacle to the enjoyment of academic freedom. It may have the effects of depriving Palestinian academics and students of opportunities to engage with international scholars and to freely pursue, develop, transmit and exchange knowledge and ideas in their fields of academic interest.

² Part 3, Section 4, paragraph (b) 7.

³ Committee on Economic, Social and Cultural Rights, General Comment No. 13 (Twenty-first session, 1999), The right to education (article 13 of the Covenant), E/C.12/1999/10, 8 December 1999, para. 39.

⁴ Ibid, para. 40.

We are further concerned about the interference by COGAT into decisions that should be solely adopted by academic institutions, in particular when it comes to identify what is a “necessary field” in academic research, which lecturer could contribute significantly to academic learning and research, and which students should be enrolled.

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

1. Please provide any additional information and/or comment(s) you may have on the matter.
2. Please provide information on criteria that will be used in considering applications for entry and residence visas by foreign lecturers, researchers and students.
3. Please indicate whether and how lecturers, researchers and students could appeal COGAT’s decisions, should their applications for entry and residence be denied.
4. Please provide information on the rationale behind limiting the number of permits annually issued to foreign lecturers, researchers and students, as well as the maximum period of residency.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency’s Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please note that a copy of this letter will be simultaneously transmitted to the Palestinian authorities.

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

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occupied since 1967

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