

Mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change

Ref.: AL GBR 16/2023
(Please use this reference in your reply)

15 August 2023

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of human rights in the context of climate change, pursuant to Human Rights Council resolution 48/14.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the arrest and imprisonment of Mr. **Marcus Decker** and Mr. **Morgan Trowland**, environmental human rights defenders who have been working on the issue of climate change and fossil fuels, including in participating in initiatives and protests related to the climate emergency. Mr. Decker is a German citizen.

According to the information received:

On 17 October 2022 at around 3:45 am, Mr. Decker and Mr. Trowland started climbing up the Queen Elizabeth II Bridge, located in Dartford in the United Kingdom of Great Britain and Northern Ireland, using cables and climbing equipment. They were also carrying water and food supplies with them.

Around 3 hours later, on the same day, Mr. Decker and Mr. Trowland reached the top part of the bridge, 60 meters above the bridge deck. From this point, a banner indicating "Just Stop Oil" was released by the environmental human right defenders. The aim of the action was to request the Government of the United Kingdom of Great Britain and Northern Ireland to refrain from engaging in all new oil and gas licences and consent and to put an end to oil and gas.

According to the information received, after the banner was released, Mr. Decker and Mr. Trowland installed hammocks around 55 meters above from the bridge deck and remained suspended to the infrastructure for around 36 hours. During this period, the protest remained nonviolent and peaceful, and the police arrived on site and blocked the circulation on the bridge using a rolling roadblock. The traffic remained blocked for around 40 hours.

On 18 October 2022 at around 17:30, the police brought Mr. Decker and Mr. Trowland down from the bridge, using a cherry picker crane. Both were then arrested on the charge of "public nuisance" and were put under custody.

On 4 April 2023, following a 7-day trial, Mr. Decker and Mr. Trowland were convicted by jury of causing a public nuisance contrary to s.78(1) and (4) of the Police, Crime, Sentencing and Courts Act 2022.

On 21 April 2023, both environmental human rights defenders appeared before the Southend Crown Court for their respective sentence. On the same day, Mr. Decker was sentenced to 2 years and 7 months of imprisonment, while Mr. Trowland was sentenced 3 years of imprisonment.

Mr. Decker and Mr. Trowland lodged an appeal against the length of their prison sentences, arguing that they constituted a disproportionate interference with the exercise of their rights to the freedoms of expression and peaceful assembly and that the sentences were excessive.

On 25 May 2023, Mr. Decker was informed that he was facing automatic deportation through official correspondence from the Home Office.

On 4 June 2023, a petition was launched to stop the deportation of Mr. Decker, which has received more than 100,000 signatures until this day.

On 31 July 2023, the court dismissed the appeal against of Mr. Decker and Mr. Trowland against their respective sentence, on the basis that no material error of principle had been made by the sentencing judge.

Without prejudging the accuracy of the above-mentioned allegations, I wish to express my concerns regarding the arrest and severity of the sentences of Mr. Trowland and Mr. Decker in relation to their work as environmental human rights defender. I am particularly concerned about the sentencing of both environmental human rights defenders in connection with the exercise of their rights to freedom of expression and freedom of peaceful assembly and association, as being significantly more severe than previous sentences imposed for this type of offending in the past.

I am aware that your Excellency's Government introduced the Public Order Bill in May 2022, which has since become law as of May 2023 and which appears to be a direct attack on the right to the freedom of peaceful assembly. In this regard, I would like to refer to OL GBR 16/2022, sent on 22 December 2022, noting that no response has been received so far.

In addition, I am gravely concerned about the potential flow-on effect that the severity of the sentences could have on civil society and the work of activists, expressing concerns about the triple planetary crisis and, in particular, the impacts of climate change on human rights and on future generations. I would like to recall that human rights are being negatively affected and violated as a consequence of climate change throughout the world and for many millions, climate change constitutes a serious threat to the ability of present and future generations to enjoy the right to life. It should also be noted that "Human-induced climate change is the largest, most pervasive threat to the natural environment and human societies the world has ever experienced".¹

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 my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/438/51/PDF/N2243851.pdf?OpenElement>

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide further information concerning why your Excellency's Government has deemed it necessary to take actions and introduce legislation to limit the exercise of the right to the freedom of peaceful assembly.
3. Please provide further information on why, in light of the current climate crisis, it was necessary to introduce and pass the Public Order Act and how both the Public Order Act as well as the sentencing of Mr. Decker and Mr. Trowland are compatible with international norms and standards as stated, among other things, in the UDHR and the ICCPR.
4. Please indicate what steps have been taken and measures put in place by your Excellency's Government to ensure that non-governmental organizations, civil society organizations and all human rights defenders can carry out their peaceful work free from fear of threat, violence, harassment or retaliation of any sort.

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

While awaiting a reply, I 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(s) responsible for the alleged violations.

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

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

Ian Fry
Special Rapporteur on the promotion and protection of human rights in the context of
climate change

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, article 21 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of peaceful assembly. It states that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”. The Human Rights Committee’s General Comment 37 also stresses that “Peaceful assemblies can in some cases be inherently or deliberately disruptive and require a significant degree of toleration. “Public order” and “law and order” are not synonyms, and the prohibition of “public disorder” in domestic law should not be used unduly to restrict peaceful assemblies.”² Article 22 of the ICCPR protects the right to freedom of association with others. As stated in a report by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards [A/HRC/17/27, para. 66; and A/HRC/29/25/Add.1]. This means ensuring that the rights to freedom of peaceful assembly and of association are enjoyed by everyone, without discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (article 2 (1) of the International Covenant on Civil and Political Rights) [see also ICCPR, art. 26].

In addition, I would like to recall articles 5 and 6 of 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 (A/RES/53/144, adopted on 9 December 1998), also known as the UN Declaration on Human Rights Defenders. These articles guarantee the right to meet or assemble peacefully; as well as the right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms, while each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Furthermore, I would also like to refer to article 12 (1) and (2), which provide that everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms, and that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

The Human Rights Council resolution 31/32 in paragraph 2 calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards realization of economic, social and cultural rights and who, in so doing, exercise other human rights, such as the rights to

² CCPR/C/GC/37

freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy.

I recall in this context that the Human Rights Council recognized the right to a clean, healthy and sustainable environment with the adoption of resolution 48/13 on 8 October 2021. The Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. Principle 4 provides, specifically, that “States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.”

As detailed by the Special Rapporteur on Human Rights and the Environment, the right to a clean, healthy and sustainable environment comprises six substantive elements, including the need to ensure a sustainable climate for humanity, which was further elaborated in a report to the UN General Assembly in 2019 (A/74/161). To this end, the Special Rapporteur on human rights and climate change supported " all of the recommendations made by the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment in his report to the General Assembly in 2019 with respect to mitigation action" (A/77/226). In addition, in March 2008, the Human Rights Council, in resolution 7/23, expressed its concern that "climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights”.

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