

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the right to education; the Special Rapporteur on the right to food; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

Ref.: AL USA 12/2024
(Please use this reference in your reply)

10 May 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur in the field of cultural rights; Special Rapporteur on the right to education; Special Rapporteur on the right to food; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 52/4, 55/5, 53/7, 49/13, 52/9, 50/17, 52/10, 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the dispersal of peaceful protests against the war in Gaza and universities' ties with companies implicated in alleged war crimes and the arrests of peaceful student protesters at various University campuses in the United States, including Columbia University, New York University in Manhattan, Yale University, University of Southern California, Emerson College, in Boston Massachusetts, Washington University in St. Louis, Texas University in Austin, among others. The information further indicates that some of the students in these and other universities such as the Massachusetts Institute of Technology or Harvard University exercising their rights to freedom of expression and peaceful assembly are now threatened with, or even facing summons and/or sanctions that could have disproportionate consequences, including suspension, loss of university-based housing and their immigration status. While we examine further these incidents, we would like to draw your attention to the situation at Columbia University most specifically.

According to the information received:

Since 7 October 2023, a number of protests have taken place in various University campuses across the United States.

On 17 April 2024, more than 100 individuals gathered and set up a protest encampment in the center of Columbia University's campus, building tents on the campus lawn in New York City. The student protesters called on the

university to divest from companies with ties to Israel, owing to the gross human rights violations committed in Gaza.

In response, the University administrators reportedly requested the assistance of the police, specifically the New York Police Department (NYPD), to remove the protesters, arguing that the encampment was raising “safety concerns [and] pose[d] a clear and present danger to the substantial functioning of the University”.

On 18 April 2024, Columbia University suspended *en masse*—and without following due process procedures—students who were present at the peaceful protest. In response to the University’s call¹ to the New York Police Department to remove the protestors, the NYPD conducted a raid and proceeded to arrest at least 108 students, including human rights defenders. Students who were arrested had their hands placed in zip ties, and none appear to have resisted the arrests. NYPD stated that protesters were “peaceful, offered no resistance whatsoever, and were saying what they wanted to say in a peaceful manner.”²

Reports indicate that all arrested students have been released from custody later that same day. It is reported that those facing criminal charges had their cases dropped, while the others are facing summons, which are non-criminal violations, though they may have severe consequences, including impact on the students’ immigration status. In addition, some students lost their university accommodation and only regained it once lawyers filed complaints.

It is reported that these measures took place only a few days after the President of the University had been called to testify to Congress and put under considerable pressure by political and other actors about “rising antisemitism” at Columbia University. This was the second hearing that the U.S. House Committee on Education & the Workforce held. The first was on 5 December 2023 on “Holding campus leaders accountable and confronting antisemitism”, where presidents of Harvard University, University of Pennsylvania, and the Massachusetts Institute of Technology were called to testify. Two of three individuals subsequently resigned, at least partly as a consequence of allegations made against them at the hearing.

It is also reported that this is the first time that the NYPD has been allowed on campus of Columbia University since the 1968 protests against the Vietnam war.

Further, more and more universities threaten those of their students that are participating in the protests with suspension, which may entail the loss of university-based housing, and for foreign students may entail the loss of immigration status. For example, on 6 May, the management of both Harvard University and the Massachusetts Institute of Technology warned student protesters of the risk of disciplinary measures including suspension, which may entail the loss of university housing.

1 <https://publicsafety.columbia.edu/content/letter-nypd>

2 <https://twitter.com/NYPDnews/status/1781083770306879710>

While we do not wish to prejudge the accuracy of these allegations, we express our most serious concern at the restrictions imposed on peaceful protests by students expressing solidarity with the Palestinian victims of the ongoing conflict in Gaza and opposing what they deemed to be the University's support of Israeli policies and its relationships with companies having ties to Israel or profiting from the conflict or the occupation of Palestine. In particular, we are concerned by the dispersal of peaceful protests and by reports of violent arrests of peaceful protesters, which risks creating a chilling effect on diverse views. We are troubled by allegations that these developments reflect a deliberate effort to restrict dissenting and critical voices regarding the United States and Israeli Governments and University policies regarding Israel. If confirmed, this would be in violation of your Excellency's Government's obligations to respect and protect under international human rights law, in particular articles 9, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR).

We would like to express our deep concern about the actions taken by the police and the university authorities in relation to the protest, which appear to violate the right of the students to peaceful assembly. We note that the NYPD stated that protesters were "peaceful, offered no resistance whatsoever, and were saying what they wanted to say in a peaceful manner."³ Hence, the dispersal of the protest seems to be lacking legal justification under article 21 of the ICCPR. We would also like to respectfully remind your Excellency's Government that peaceful assemblies may only be dispersed in exceptional cases. Even on a private campus, freedom of peaceful assembly must be respected, and the limits established must be content-neutral, reasonable, necessary and proportionate, leaving in all cases ample available room to protest for students, professors and other members of the academic community. In this context, we refer your Excellency's Government to joint statements⁴ issued by various UN experts calling on States to ensure that peaceful protests and rights movements are facilitated rather than restricted or criminalised for advocating on human rights and international criminal accountability.

We are concerned by the potential for further arbitrary arrests, suspensions and other sanctions in the coming days, which could further lead to loss of housing and immigration status. We remind your Excellency's Government that the State has a responsibility to protect peaceful protesters, and to ensure that there is an enabling environment for protesters to assemble safely.

The State also has a responsibility to respect and protect academic freedom, including the autonomy of academic institutions by virtue of their special role in society, which is underpinned by a range of human rights, including the rights to freedom of opinion, expression, association and peaceful assembly. In this context, we would like to express our deep concern at the political pressure exerted on university administrators and academics to take certain positions and actions regarding the student protests on campuses on the situation in Gaza. We fear that such pressure and public attacks on scholars and institutions can result in repression of free expression and in self-censorship, thus damaging academic freedom and the autonomy of universities. In addition, as noted by the former Special Rapporteur on freedom of opinion and

³ <https://twitter.com/NYPDnews/status/1781083770306879710>

⁴ <https://www.ohchr.org/en/statements/2024/02/israelopt-enabling-human-rights-defenders-and-peaceful-protests-vital-achieving> and <https://www.ohchr.org/en/press-releases/2023/11/speaking-out-gaza-israel-must-be-allowed-un-experts>

expression, “external interference in the selection, appointment and dismissal of leadership and professors in academic institutions ultimately constitutes a restriction on academic freedom often based on grounds that are neither academic nor rooted in article 19 (3).” In addition, “the willingness of universities to submit to public pressure can erode academic freedom and freedom of expression” (See A/HRC/75/261, paras. 39 and 41). Finally, we wish to underscore that the right to express views on a campus inside or outside of class is at the heart of academic freedom, which is a key part of the right to education.

We strongly denounce anti-Semitism as a most serious form of racial hatred and intolerance, and underline that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence must be prohibited by law in accordance with article 20(2) of the International Covenant on Civil and Political Rights. The Government and the University administration must act firmly against all forms of racial and religious harassment, including antisemitism and Islamophobia. However, we are disturbed by the vague and overly broad use of the term “antisemitism” to label, denounce and repress peaceful protests and other forms of expression of solidarity with Palestinian victims, calls for a ceasefire in Gaza or the legitimate criticism of the Government of Israel’s policies and practices, including its conduct of the conflict in Gaza and allegations of genocide. We stress firmly that any restriction of freedom of expression must meet the conditions of legality, necessity and proportionality set out in articles 19(3) and article 20 of the International Covenant of Civil and Political Rights. Furthermore, all accusations and concerns of rising antisemitism on Columbia and other University campuses must be grounded in concrete, factual evidence and properly investigated with due process guarantees, with the objective of protecting all students from hate speech while upholding the right to freedom of expression in accordance with international human rights standards.

We urge your Excellency’s Government to uphold the fundamental right to freedom of expression, recognized by the United States in its Constitution, and the right to peaceful assembly, thus ensuring a free and safe environment for all those peacefully protesting against the conflict in Gaza and/or for the rights of Palestinian people. We encourage your Excellency’s Government to ensure that Federal and State authorities and public and private academic institutions “adopt and enforce policies that ensure the protection of the free expression rights of the members of their communities, resisting official or social pressure and promising human rights compliance institutionally.” (A/HRC/75/261, para. 12).

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/or comment(s) you may have on the above-mentioned allegations.

2. Please provide the details of any investigation, and judicial or other inquiries which may have been carried out in relation to allegations of human rights violations during the protests on university campuses, including at Columbia University. If no inquiries have taken place, or if they have been inconclusive, please explain why. Please also indicate any measures taken by your Excellency's Government to ensure that the victims of alleged violations have access to an effective remedy.
3. Please provide information on the justification for the dispersal of the protests, and how these measures comply with articles 9, 19 and 21 of the ICCPR. In particular, please indicate what the "clear and present danger" that the Columbia President referred to in her decision to ask the NYPD to remove protestors was, and how that relates to the NYPD's own assessment that the protests were peaceful.
4. Please provide information about the measures your Excellency's Government intends to take to protect the rights of students, including student human rights defenders, calling for a ceasefire in Gaza, calling for accountability of gross human rights violations and/or expressing support to Palestinian and/or Israeli victims, to participate in protests.
5. Please provide information about the measures taken to ensure that accusations and concerns of rising antisemitism on Columbia and other University campuses are grounded in concrete, factual evidence and properly investigated with due process guarantees, in line with articles 19(3) and article 20 of the International Covenant of Civil and Political Rights, while upholding the right to freedom of expression in accordance with international human rights standards.
6. Please provide information on how your Excellency's Government plans to ensure that no university student may lose their university accommodation and/or their immigration status merely as a result of participating in peaceful protests.

We 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, 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(s) responsible for the alleged violations.

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 be informed that a letter on this subject matter has been also sent to the President of the University of Columbia.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

Farida Shaheed
Special Rapporteur on the right to education

Michael Fakhri
Special Rapporteur on the right to food

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

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

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 9, 19, and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the United States on 8 June 1992.

Article 19 of the ICCPR guarantees the right to freedom of opinion and expression. Articles 21 and 22 protect the rights to freedom of peaceful assembly and of association. Article 21 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 previously affirmed that States "should effectively guarantee and protect the freedom of peaceful assembly and avoid restrictions that do not respond to the requirements under article 4 of the Covenant. In particular, it should refrain from imposing detention on individuals who are exercising their rights and who do not present a serious risk to national security or public safety" (CCPR/C/THA/CO/2, para. 40). In this regard, we would also like to refer to the recently adopted General Comment No. 37 of the Human Rights Committee on the right of peaceful assembly (CCPR/C/GC/37), which stressed that "the possibility that a peaceful assembly may provoke adverse or even violent reactions from some members of the public is not sufficient grounds to prohibit or restrict the assembly. [...] States are obliged to take all reasonable measures that do not impose disproportionate burdens upon them to protect all participants and to allow such assemblies to take place in an uninterrupted manner".

Article 19 (3) of the ICCPR requires that any restriction on the right to freedom of expression (i) is provided by law; (ii) serves a legitimate purpose; and (iii) is necessary and proportional to meet the ends it seeks to serve. In this connection, we wish to recall that the arbitrary arrest or torture of individuals because of the exercise of their freedom of expression will under no circumstance be compatible with article 19 of the ICCPR, CCPR/C/GC/34 para. 23. In particular, Human Rights Council Resolution 12/16 calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Regarding the significant number of arrests, without expressing at this stage an opinion on the facts of the case and on whether the reported detentions were arbitrary or not, we recall that the Human Rights Committee's General Comment no. 35 affirms that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21) and freedom of association (art. 22), freedom of

religion (art. 18) and the right to privacy (art. 17). Arrest or detention on discriminatory grounds in violation of article 2, paragraph 1, article 3 or article 26 is also in principle arbitrary.

We draw the attention of your Excellency's Government to article 9 of the ICCPR, whereby everyone has the right to liberty and security of person, no one shall be subjected to arbitrary arrest or detention and no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. We recall that a deprivation of liberty is considered arbitrary when it constitutes a violation of international law on the grounds of discrimination, including discrimination based on the status of an individual as a journalist or a human rights defender.

Further, we would like to refer your Excellency's Government to the report on academic freedom of the former Special Rapporteur on the right to freedom of opinion and expression. Mr. David Kaye. The Special Rapporteur stressed that although there are many ways in which the freedom of opinion and expression protects and promotes academic freedom, there is no single, exclusive international human rights framework for the subject. Within the corpus of civil and political rights, protected under the Universal Declaration of Human Rights and codified in the International Covenant on Civil and Political Rights, the rights to peaceful assembly and association, privacy, and thought, conscience and religious belief can promote and protect academic freedom. Articles 13 (right to education) and 15 (right to scientific advancements) of the International Covenant on Economic, Social and Cultural Rights, signed by the United States in 1977, expressly promote rights at the centre of academic freedom (A/75/261, para. 5). The Special Rapporteur also recommended that States recognize the vital importance of academic freedom by refraining from attacks on academic institutions and those who constitute academic communities, and by protecting them from attacks – insulating them from assault – by third parties. He stressed that States should at the minimum ensure “the institutional autonomy of universities, research institutes and other bodies that constitute the academic community. The recognition of such autonomy includes recognition of the special autonomous space of academic campuses and the importance of allowing that space to be a vibrant space for the exercise of the rights to expression, protest and other fundamental freedoms.” (A/75/261, para. 56).

We further wish to draw your attention to the right to adequate housing, enshrined in article 25.1 of UDHR and article 11.1 of the ICESCR. In its general comment No. 7, the Committee on Economic, Social and Cultural Rights stressed that evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Those who are unable to provide for themselves must be provided with adequate alternative housing, among others.

In addition, we refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, 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. Article 5 (a) also provides for the right to meet or assemble peacefully.

Moreover, we would like to draw your attention to the General Assembly Resolution 68/181, which urges States to acknowledge publicly the important and legitimate role of women human rights defenders in the promotion and protection of human rights, democracy, the rule of law and development as an essential component of ensuring their protection, including by publicly condemning violence and discrimination against them.

We invite you to refer to the Human Rights Council resolution 31/32 as well, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights.

We would also like to recall to your Excellency's Government that the Working Group on discrimination against women and girls, in its report on public and political life (A/HRC/23/50), stated that women human rights defenders are often the target of gender-specific violence, such as intimidation and attacks, which is sometimes condoned or perpetrated by State actors, including through police harassment of female demonstrators. The Working Group has called upon States to eliminate all forms of violence against women in order to fulfil women's human rights and to improve the enabling condition for women's participation in public and political life.

Moreover, the Working Group on discrimination against women and girls' report on girls' and young women's activism (A/HRC/50/25) expressed that girls and young women are mobilizing worldwide to demand and catalyse change on critical global issues. The realization of girls' and young women's human right to participate in public and political life is essential for the protection of their human rights. The Working Group called on States to take all appropriate measures to create safe and enabling spaces for girl and young women activists, where they can exercise their activism and express their views freely, equally, fully and meaningfully on all matters of relevance to them.

Furthermore, in its thematic report on women deprived of liberty (A/HRC/41/33), the Working Group on discrimination against women and girls underlined the increasing risk of criminalization and detention faced by women human rights defenders as a result of their legitimate public activism. The Working Group recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders, and eliminate any laws or policy measures designed to criminalize the public roles of women.

We also refer you to the thematic report of the Special Rapporteur on violence against women and girls, its causes and consequences on violence against women in politics, which emphasizes that in addition to the right to freedom of association and peaceful assembly, the right of women and girls to assemble, associate and express their political views and participate in political life must be upheld (A/73/301). Furthermore, the Declaration on the Elimination of Violence against Women defines the scope of

violence against women to include the public and private sphere and refers to the equal protection of the right of women to enjoy all human rights and fundamental freedoms in the political field, amongst others (article 3).