

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ref.: AL GBR 7/2024
(Please use this reference in your reply)

8 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 on the promotion and protection of human rights in the context of climate change; Special Rapporteur on the human right to a clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 52/4, 48/14, 55/2, 52/9 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning information received about the sentencing of Mr **Stephen Gingell**, for his participation in a slow march protest in London on 13 November 2023.

Stephen Gingell is a businessman and environmental human rights defender who has been working on the issue of climate change and fossil fuels, including by participating in initiatives and peaceful protests related to the climate emergency.

Previous communications had been sent on the arrest and sentencing of other 'Just Stop Oil' protesters (GBR 16/2023) on 15 August 2023, as well as on the implications of the adoption of the Public Order Act of 2023 in OL GBR 16/2022, on 22 December 2022. We thank Your Excellency's Government for the replies provided in response to both communications.

In the analysis of the Public Order Bill (GBR 16/2022), Special Procedures mandate holders expressed their view that could result in undue and grave restrictions on the exercise of the rights to freedom of peaceful assembly and of association, as well as of expression. That communication followed an earlier communication sent to your Excellency's Government on 25 May 2021 (GBR 7/2021), in which other concerns relating to the freedom of peaceful assembly and of association, as well as of expression were raised in relation to the Police, Crime, Sentencing, and Courts Bill that has since become law in April 2022.

According to the information received:

Mr. Stephen Gingell was arrested on 13 November 2023 in London for slow marching peacefully. Along with about 100 other protesters, he spent approximately 30 minutes on a road in North London.

The slow march was organized by 'Just Stop Oil', as part of their campaign demanding that the government stop all new oil, gas and coal projects in the

United Kingdom.

The slow march on 13 November 2023 involved about 100 activists. At 8.30 a.m. the protesters started marching at Hendon Way in North London. Metropolitan Police were reportedly immediately on the scene, with over seven vans of officers. The police allegedly began arresting 'Just Stop Oil' supporters as soon as they began marching for allegedly breaching section 7 of the Public Order Act 2023.

Mr. Gingell pleaded guilty in November 2023 at Wimbledon Magistrates Court, London, and was transferred to Manchester Magistrates court for sentencing.

On 14 December 2023, the Manchester Magistrates Court sentenced Mr. Gingell to six months in prison for marching in the road after he pleaded guilty to breaching section 7 of the Public Order Act.

Section 7 of the Public Order Act 2023 bans any act that prevents newspaper printing presses, power plants, oil and gas extraction or distribution sites, harbours, airports, railways or roads "from being used or operated to any extent", with a potential penalty of 12 months in jail.

Without prejudging the accuracy of the above-mentioned allegations, we wish to express our concerns regarding the arrest and sentencing of Mr. Stephen Gingell, for his peaceful activities in defence of environmental human rights.

We note that in reply to a previous communication (GBR 16/2021) Your Excellency's Government stated that 'the Government introduced the Public Order Act 2023 (the Act), alongside other legislation, to improve the police's ability to manage seriously disruptive protests and take a proactive approach to prevent such disruption happening in the first place. This will ensure the police can better balance the rights of protesters against the rights of others to go about their daily business'.

We maintain our previously expressed concern however that the effect of the application of the Public Order Act, in particular with regard to peaceful protest action, such as the slow marches organized by 'Just Stop Oil' are in violation of the right to peaceful assembly, and that the proportionality assessments alleged to have been carried out were not accurate.

The slow march in North London in November 2023 had barely begun when police officers arrested a group of participants. We are concerned that a peaceful protest lasting less than 30 minutes and about 100 people is considered as 'serious disruption' under the provisions of the Public Order Act, which appear to be contrary to the standards under article 21 of the ICCPR and the General Comment No 37.

We stress that protests, which aim to express dissent and to draw attention to a particular issue, are by their nature often disruptive. The fact that they cause disruption or involve civil disobedience does not mean that they are not peaceful. As the UN Human Rights Committee has made clear, States have a duty to facilitate the right to protest, and private entities and broader society may be expected to accept some level of disruption as a result of the exercise of this right. Even when the stated intent of a peaceful protest is to cause the disruption of vehicular or pedestrian movement, or economic activities, this does not necessarily call into question the

protection such assemblies should enjoy (General Comment No 37, para. 7).

We are gravely concerned about the potential chilling effect that the severity and number of the sentences against environmental human rights defenders under the Public Order Bill could have on civil society and the work of activists and human rights defenders, expressing concerns about the triple planetary crises and, in particular, the impacts of climate change on human rights and on future generations.

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 further information concerning the application of the Public Order Act and how the act is in compliance with the obligations of your Excellency's Government under international human rights law.
3. Please provide information for the basis of the charges against Mr. Stephen Gingell, and other similar cases pending, and how these are compatible with the obligations of your Excellency's Government under international human rights law.
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.

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.

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

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Special Rapporteur on the situation of human rights defenders

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

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Gina Romero
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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.” Article 19 of the ICCPR protects the right to freedom of opinion and expression, while 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, we 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 other 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, we 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 freedom of opinion, expression, peaceful assembly and association, to participate in

public affairs, and to seek an effective remedy.

We recall in this context that the Human Rights Council and the United Nations General Assembly respectively recognized the right to a clean, healthy and sustainable environment with the adoption of resolution 48/13 and 76/300. 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”.