

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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; the Special Rapporteur on the situation of human rights defenders; the Independent expert on the promotion of a democratic and equitable international order; the Independent Expert on human rights and international solidarity; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

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18 August 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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; Special Rapporteur on the situation of human rights defenders; Independent expert on the promotion of a democratic and equitable international order; Independent Expert on human rights and international solidarity; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 50/17, 57/31, 55/2, 52/9, 52/4, 57/7, 53/5, 52/36 and 58/14.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning a worrying consistent **pattern of undue and overbroad restrictions and alleged human rights violations committed by the authorities in the context of peaceful protests and activism supporting climate justice and solidarity with the Palestinian people across several cities in Germany, particularly Berlin, with a marked escalation since October 2023**. We are deeply concerned that at the time of writing this communication, we continue to receive complaints of similar patterns of abuse, undermining and creating a chilling effect on freedom of peaceful assembly, of association and of expression.

With regards to the Palestine solidarity activism, we have received numerous consistent allegations of authorities imposing unjustified, disproportionate and discriminatory restrictions and pre-emptive bans of peaceful protests; arbitrary cancellation, disruption and closure of peaceful events; arbitrary arrests and detentions, police violence and repression (including against children), and threat to deportations of activists and human rights defenders; stigmatization, bans and defunding of associations, and raid on activists, human rights defenders, and associations members' homes.

We have previously expressed concerns about your Excellency's Government's unjustified restrictions on the "Boycott, Divestment, Sanction" ("BDS") movement

([DEU 7/2024](#) and [DEU 3/2019](#)). In particular, in our communication [DEU 7/2024](#), we raised concerns about the classification of the entire BDS movement as a “suspected extremist threat” by Germany’s domestic federal intelligence agency, the Bundesamt für Verfassungsschutz (“BfV”), which unjustifiably interfere with the human rights to freedom of opinion and expression, association, and assembly, the right to participate in public affairs, and the right to privacy and reputation. We thank your Excellency’s Government for the replies received on 14 January 2020 and [27 February 2025](#) but emphasize that we remain concerned about the disproportionate nature of this measure.

Regarding alleged restrictions on the climate justice peaceful protests, we have previously raised concerns about targeting peaceful environmental activists and human rights defenders with criminal proceedings and investigations, in particular against members of the climate action group Letzte Generation ([DEU 6/2024](#)). We thank your Excellency’s Government for the reply dated 21 November 2024 ([Pol-10 381.70](#)).

According to the information received:

Regarding systematic undue restrictions and repression of Palestine Solidarity Activism

Restrictions and banning of peaceful protests

Reports indicate that in certain areas peaceful public assemblies related to Palestinian advocacy have been restricted in an arbitrary and disproportionate manner that is not in accordance with international standards. In some of Germany’s biggest cities, when an organization requested a permit for a rally relating to Palestinian advocacy, the protest was reportedly banned, as was any substitute demonstrations in the following days, without providing evidence-based compelling justification to support the necessity and proportionality of such decisions, in practice creating a blanket preemptive ban. Courts have upheld some of these decisions while ruling against some others.

According to the information received, police have regularly justified preemptive banning of peaceful Palestine solidarity assemblies on the basis of concerns of potential incidents of hate speech. Peaceful demonstrations were frequently prohibited by authorities based on the potential presence of Palestinian symbols of expression such as Palestinian flags, keffiyehs (Palestinian scarves), or expressions in Arabic language, which appear to have been characterized by authorities as symbols/expressions associated with support for terrorism, inherently threatening and antisemitic. Such blanket characterization of Palestinian symbols and slogans is not in line with international standards of freedom of expression and amount to stigmatization of those advocating for Palestinian rights (see *A/79/319*, paras. 69 - 74).

According to information provided by the Berlin Senate Department for the Interior and Sport (*Senatsverwaltung für Inneres und Sport*), in a response to a Written Question to a member of the Berlin House of Representatives, (written question No. 19/17059, dated 17 October 2023 on rallies in solidarity with Palestine and repression, October 2023): from 7 October to 26 October 2023, around 18 planned protests in Berlin (out of 48 assemblies held in the same

period in Berlin related to the Middle East context) were banned; however the banned assemblies, includes almost all protests related explicitly to solidarity with Palestine including announced vigils for children in Gaza.¹ According to the official information provided in the stated response, the bans were imposed under vague allegations of “anticipated inflammatory and anti-Semitic statements as well as violent riots and the resulting immediate threat to public safety”. Predominantly the prohibited assemblies concerned expressing solidarity with Palestinians in Gaza or calling for ceasefire, including assemblies organized by Jewish activists. These restrictions occurred despite official statistics indicating that the number of criminal investigations involving incitement to hatred (*Volksverhetzung*) and public disorder (*Landfriedensbruch*), or public incitement to criminal acts (öffentlicher Aufruf zu Straftaten) represented a small fraction of the total number of investigations in the context of assemblies concerning Gaza-related protests in this period.²

Universities have also seen their role as hubs of freedom of expression reduced. Reports indicate that the Freie Universität Berlin has called riot police on several occasions to evict non-violent protests and has pressed charges against students. Management at the university has justified these actions on the basis of unspecified security concerns or the protestors not having authorisation for the demonstrations, among others.³ In a press release, concerning the “Campus Occupation on 7 May 2024”, the Freie Universität Berlin, stated that during the protest, which was “calling for solidarity with the civilians in Gaza and criticizing the Israeli army’s actions as well as the German government’s response to the conflict”, “antisemitic sentiments were also witnessed”, that there was also “property damage and physical altercations”; and that “according to police, some people were taken into police custody for inciting the public and disturbing the peace”; the Freie Universität Berlin also reportedly filed several criminal complaints.⁴ On 7 May 2024, reportedly around 150 people set up tents in a courtyard on FU Berlin’s campus, with students from universities across Berlin joining, and around 50 protesters occupied an adjacent building. According to the information, around 79 protesters were arrested after the university administration called police to evacuate the peaceful protesters from the campus. According to videographic evidence student protestors formed a “human chain” and were chanting “Free Palestine”, “Stop the genocide” and “shame on you” while peacefully standing in front of the encampments. As they refused to leave the campus following the police announcement, police officers forcefully detained non-violent protesters. Apparently, there was no clear and genuine attempt for negotiations prior to police officers starting to arrest the students. According to public reports by students, student protesters were subjected to “unjustified police violence and racially motivated detentions”, insults, intimidation using racist language, and physical attacks by police, causing some students serious injuries.⁵

¹ <https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-17059.pdf>

² <https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-17059.pdf>

³ <https://www.fu-berlin.de/en/presse/informationen/fup/faq/nahost/index.html>

⁴ https://www.fu-berlin.de/en/presse/informationen/fup/2024/fup_24-099-statement-besetzung/index.html

⁵ <https://www.scholarsatrisk.org/report/2024-05-07-free-university-of-berlin/>

Arbitrary arrest and detention of activists and human rights defenders (prior, during, and post-assemblies)

Prior to Palestine solidarity assemblies, activists and human rights defenders have been allegedly targeted, followed and arrested by police to prevent them from organizing or participating in peaceful protest activities. Such acts have been enabled by legislation that permits administrative arrest or preventive deprivation of liberty, such as the Bavarian Police Tasks Act which allows the police to request detention without concrete suspicion of a crime.

In one instance, an activist reported being followed by the Berlin police and shortly detained several times during a single day without protests. No charges followed from those short detentions.

During Palestine solidarity assemblies, hundreds of peaceful protestors, including minors and disabled persons, were arrested. The arrests were frequently carried out with excessive use of force, and with denying access to legal representation or communication with family, including for detained children. Reports indicate that, throughout 2024, protest stewards and racialized young men and boys were disproportionately targeted. There are disturbing reports of detention of minors as young as 7-year-olds, and for a child arrested for carrying a Palestinian flag. On 22 June 2024 in Berlin, a total of 6 minors were arrested, one of them 13 years old. On 22 July 2024 in Berlin, 2 minors were arrested, one of whom had to seek medical treatment for injuries in the face, arms and upper body. On 17 August 2024 in Berlin, 2 minors were arrested, one of whom reported being beaten inside a police car. On 21 September 2024 in Berlin, during the protest "Solidarity with Palestine. Stop the genocide. No weapons for Israel", an 11-year-old child was chased down and arrested by a number of police officers, while the child was running carrying a Palestinian flag in his hand, and another 4 minors were also arrested. The arrested 11-year-old boy allegedly was held in the police car for 90 minutes until his father arrived, resulting in the boy being traumatized following the detention. Around 60 demonstrators were arrested in a group after the protest. On 19 October 2024 in Berlin, during the protest "Palestinian blood is not worthless", 2 minors were arrested. On 24 November 2024 in Berlin, 1 minor was arrested.

Peaceful activists and human rights defenders were detained often for exercising their right to freedom of expression during the Palestine solidarity protests. (see below) According to the information received, between June 2024 and May 2025, near to 1000 detentions were reported in the context of protests, most of them in protests held in Berlin. During these arrests many charges were made, including public disorder (Landfriedensbruch); resistance to authority (Widerstand gegen Vollstreckungsbeamte para. 113 StGB); physical assault against law enforcement officers (Tätlicher Angriff auf Vollstreckungsbeamte para. 114 StGB); damage to property (Sachbeschädigung); unlawful entry / trespassing (Hausfriedensbruch para. 123 StGB); incitement to hatred (Volksverhetzung para. 130 StGB); endorsement or approval of criminal offences (Billigung von Straftaten para. 140 StGB); use of symbols of unconstitutional or terrorist organizations (Verwendung von Kennzeichen

verfassungswidriger oder terroristischer Organisationen para. 86a StGB); breach of the peace / rioting (Landfriedensbruch para. 125 StGB). According to information received, many of these charges are based on vague or collective allegations rather than specific individual acts. While many of those detained have been released without charges, the exact number of convictions remains unknown.

There have been allegations of police profiling and targeting the Palestinian and Arab community broadly. Public spaces frequented by Arab communities, such as Sonnenallee in Neukölln, Berlin, have also been targeted for police raids and arbitrary arrests, in connection to expressing solidarity with Palestinians in Gaza, and on allegedly false accusation of expressing support for Hamas, which has spread fear among the whole community. In February 2025, a café in Sonnenallee, with no protest or political activity taking place at the time, reportedly saw some of its customers arrested by police, including 2 of whom facing deportation, one refugee and one asylum seeker. These arrests and deportation threats appear to be part of a campaign targeting Palestinian refugees in Berlin under the guise of immigration enforcement.

Restrictions, cancellation and banning of peaceful events

Since October 2023, numerous events, including conferences, lectures, concerts and cultural events in solidarity with Palestine and calling for protection of Palestinians' human rights, were reportedly cancelled or indefinitely "postponed" or otherwise restricted on the grounds that the organisers, presenters or participants would express support for BDS, call for an end to the genocide in Gaza, or on unfounded broad allegations of anti-semitism.

Some illustrative examples include:

- Cancellation of major cultural and academic events due to alleged antisemitism, often without individualized assessment or concrete evidence. For example, the Hochschule für Grafik und Buchkunst/Academy of Fine Arts Leipzig (a public university), cancelled the event "The Art of Memory in Times of Trauma and Grief", which was part of a series organized to bring attention to the restriction of academic freedom and freedom of expression in Germany, planned to take place on 4-6 December 2024.
- On 22 November 2023, the fourth Biennale for Contemporary Photography in Mannheim, Ludwigshafen, and Heidelberg were cancelled by the respective cities' authorities, based on the allegation that comments by the curator on social media accusing Israel of committing genocide against the Palestinian population were antisemitic.
- Jewish or Palestinian individuals, including artists, journalists, human rights defenders, and scholars, were disinvited or dismissed book fairs, conferences, television and other spaces. As one reported example, in October 2023 the Frankfurt Book Fair postponed the award ceremony

for Palestinian writer who had been set to receive the LiBeraturpreis for her novel 'Minor Detail.', The decision was apparently made “in light of the terror against Israel”.⁶ Another reported example includes the case of German-Israeli activist, a psychoanalyst and member of the Jewish Voice for Just Peace in the Middle East, who was disinvited from Deutschlandfunk (a major public broadcast) in November 2023 on a discussion about the war in Gaza.

- In April 2024, the Berlin police interrupted a 3-day Palestine congress soon after it started and forcefully shut it down. The congress reportedly planned to express solidarity with Palestinian people and draw attention to the genocide against Palestinians. The reported reasons by police for shutting down the event, was the possibility that a speaker with a “ban on political activity” whom German authorities had accused of antisemitism in the past could join the congress online and potentially convey alleged hate speech. Speakers were also banned by the authorities from entering the country, including a leading British-Palestinian surgeon who wanted to provide eyewitness testimonies about atrocities in Gaza, on the grounds that his presence might endanger “the safety of the people at the conference and public order”. He was warned that if he attempted to participate remotely or sent in a video message to the conference, it would be a criminal offence for which he could face up to one year imprisonment.⁷
- In February 2025, Freie Universität Berlin and Ludwig Maximilian University in Munich cancelled separate public lectures with the UN Special Rapporteur on the Occupied Palestinian territories, Francesca Albanese, citing unspecified security concerns, apparently under pressure by the authorities.⁸

House raids of activists

On 16 May 2024, in the state of North Rhine-Westphalia, police conducted raids on the homes of individuals associated with the group Palästina-Solidarität Duisburg (PSDU), following the ban on the same day of the group by the North Rhine-Westphalia's Interior Minister over allegations of antisemitism, inciting hatred against the State of Israel, and “intellectual support of Hamas” (see below).⁹ The group has organized protests and events advocating for Palestinians’ rights and opposed Germany's financial and military support of Israel. During the house raids, police seized campaign materials, such as Palestinian flags and keffiyehs, as well as speaker systems, megaphones and a pavilion, which are instrumental to the exercise of freedom of expression in the context of assemblies. These house searches were allegedly accompanied by media reports portraying the group and its members as “terrorists” and “Hammas supporters” further stigmatising the group and its members.

⁶ <https://www.pen-international.org/news/litprom-decision-to-postpone-award-ceremony-for-palestinian-author-adania-shibli>

⁷ <https://www.hrw.org/news/2024/05/10/germany-british-palestinian-doctor-denied-schengen-entry>

⁸ <https://www.fu-berlin.de/en/presse/informationen/fup/faq/nahost/index.html>

⁹ <https://www.land.nrw/pressemitteilung/innenministerium-verbietet-gruppierung-palaestina-solidaritaet-duisburg>

Use of deliberate violence and excessive force against peaceful activists

Reports by civil society organisations, INGOs, and video recordings of incidents shared on social media, depict the police widespread use of violence and disproportionate force against peaceful activists and human rights defenders in the context of assemblies. Tactics include pain holds (*schmerzgriffe*), dragging, chokeholds, beatings, and sexualised abuse of peaceful protesters. Sexualised abuse reportedly has increased during police arrests of female participants, including grabbing women's breasts, and sexualized insults. Also, there were reports of sexualised abuse against young male participants in assemblies.

Other abusive and inhumane tactics allegedly used by police during arrests include kneeling on individuals' torsos, pulling protesters by the neck or hair, and violently pinning them to the ground. In several cases, protesters were allegedly gagged -covering eyes, nose, and mouth- while being removed. The use of quartz-sand gloves (*Quarzsandhandschuhen*) by police which apparently cause more pain was also documented. According to reports, during protests in July, August, and November 2024, Palestine solidarity assembly participants in Berlin were beaten inside police vehicles, out of sight of the media. From June 2024 to January 2025 in Berlin, about half out of 12 reported assemblies that experienced use of police excessive force, ended with protesters being hospitalized and receiving medical treatment. However, the risk of injury and harm of activists was present in all of these 12 assemblies due to the reported use of violent tactics, including pain holds (*schmerzgriffe*).

During assemblies, kettling practices have been used to impede protesters from leaving for hours, such as during the assemblies on the 13 July and 17 August 2024. The use of dogs against racialized journalists and paramedics was reported on 19 October 2024 in the protest "Palestinian blood is not worthless". There have been reports of the indiscriminate use of pepper spray, including in the presence of children and people with disabilities, and the use of batons against young people.

On 15 May 2025, during Palestinian solidarity demonstration in Berlin on the commemoration of *Nakba* Day ("catastrophe" in Arabic, refers to the mass displacement and dispossession of Palestinians during the 1948 Arab-Israeli war), authorities-imposed restrictions on the assembly ordering it to remain stationary rejecting its planned marching route. A few hours before the protest, Berlin police appealed to the Higher Administrative Court of Berlin-Brandenburg, which overturned an earlier decision by the lower court, and banned the march, citing apparently public safety concerns. Prior to the beginning of the demonstration, police reportedly put metal barricades around the square, deployed water cannons, police dogs and deployed the special unit (*Beweissicherung und Festnahme Einheit*) and riot police. According to the information, the protesters were surrounded by the police units effectively restricting their mobility and containing the protesters. During the assembly, there were reports of around 88 arrests of protesters, some subjected to police violence during arrest and in detention, including beating during the detention; minors were also detained. Numerous violent police assaults, including

indiscriminate beating of the protesters were reported, on the heads, faces, and lower back, where the kidneys are located, putting protesters' health in serious danger and causing respiratory problems to several protesters. The police officers restricted the work of paramedics, lawyers and journalists. On several occasions, officers prevented and pushed away paramedics from attending the injured; journalists were retained from documenting the abuses and have been pushed aside, beaten, and sexually harassed. Lawyers have been obstructed from reaching the arrested, in one of the reported cases, a lawyer was pushed by several police officers when he tried to provide legal assistance to an injured arrested person. Monitors reported that the majority of police officers did not wear identification numbers, which makes it difficult to identify responsible officers. Several police officers reportedly sustained injuries due to reported clashes with protesters.

Cancellation of migration visa/refugee status and forced deportation of activists and human rights defenders as apparent retribution for civic activism

Most recently, 4 foreign nationals (a US citizen and 3 EU nationals, including two from Ireland and one from Poland) face deportation threats for alleged participation in a sit-in demonstration at Freie Universität Berlin in October 2024. None of the individuals have been convicted of any crime, and all of the charges are minor. The departure orders issued by Berlin migration authorities which include multi-year bans from re-entry, claimed that the activists were a threat to public order and national security, accused them of “antisemitism” and supporting “terrorist organisations”, and were accused of resisting arrest, property damage and “disturbing the peace”. However, at the time of issuing the deportation order, there has been no hearing about these allegations and no court has convicted the activists of a crime. As of mid-May, the Berlin Administrative Court has granted the urgent appeals of the four individuals, halting the deportations until a full hearing on the alleged charges takes place.

The court has argued in a preliminary proceeding that there remain serious doubts whether the individuals really do pose an “actual and sufficiently serious threat” that “affects a fundamental interest of society” which is necessary for the deportation. The court also criticizes the senate’s reasoning based on the notion of “Staatsräson” for the deportation and states that this is “a foreign policy objective that can at best be taken into account in the balancing decision of Section 6 FreizügG/EU in the context of determining the protected good of public order or security” but does not qualify in itself as a valid legal reason for the deportation. Even though the court did not confirm that a criminal conviction is mandatory for deportation, in the first proceedings, the court argued that the immigration office had not “sufficiently fulfilled its official duty of investigation” when deciding to withdraw EU freedom rights. The immigration authority had failed to request the investigation files from the public prosecutor's office.

Foreign and migrant activists and human rights defenders faced deportation or cancellation of residency permits. The Federal Office for Migration and Refugees (BAMF) announced the resumption of deportation of groups with a “particular interest in expulsion”. Dozens of Gazan refugees reportedly have

been affected and are being deported to Greece where they are at risk of inhumane treatment and indirect refoulement. These events are considered in conjunction with police practice of targeting racialized young men in the context of the Palestinian solidarity activism.

Stigmatization

Palestinian and Palestine solidarity activists have been stigmatized in public discourse and in political rhetoric, including through allegations of antisemitism and supporting terrorism. Arabic chants were equated with a risk of incitement to hatred, and peaceful protesters were broadly portrayed as threats to public safety and security risk, regardless of their peaceful/non-violent conduct. For example, high level politicians, including the President of the Federal Republic of Germany, has reportedly called for all Arabs and Palestinians in Germany to “make a clear stance against terrorism”.¹⁰ Such statements in conjunction with the ban on the use of Arabic language during public protests has a stigmatizing effect on the entire Arab community in Germany. Media coverage and political discourse have played a major role in stigmatizing racialized activists and justifying repression of peaceful protests, cancellation of events and bans of associations. Palestinian Solidarity movements have reportedly suffered from stigmatisation in which the media portray them unjustifiably as violent. Police violence against solidarity protests further reinforces the stigmatizing media coverage. Social media has also been a space for harassment. University instructors from various higher education and research institutions in Berlin that criticized Freie Universität Berlin’s order to evacuate the protest held on 7 May 2024, were harassed through social media and newspapers.¹¹

Allegations of violations of the right to freedom of association

Organizations advocating for Palestinian rights have been allegedly subjected to defunding, threats to their legal status, bans, dissolution and denial of access to public spaces, and house raids targeting their members.

The group Palästina-Solidarität Duisburg (PSDU) was banned on 16 May 2024 and dissolved by the North Rhine-Westphalia's Interior Minister, under article 9 related to freedom of association, paragraph 2 of the German Basic Law (*Grundgesetzes*)¹² on allegations that its activities were against “international understanding” and or the constitutional order of Germany “understanding of peoples” (*Völkerverständigung*), and in conjunction with the Association Act section 2, para 1(1).¹³ Following the ban, the association’s website was shut down and its assets were confiscated. Moreover, the ban extends to prohibiting the formation of replacement organizations for the association or to continue existing organizations as replacement organizations. Civil society raised concerns that this extended prohibition exposes civil society associations in Duisburg who stand for Palestinian rights, of being criminalised on charges for

¹⁰ <https://www.aljazeera.com/news/2023/11/8/german-president-says-arab-citizens-must-distance-themselves-from-hamas>

¹¹ <https://www.fu-berlin.de/en/presse/informationen/fup/faq/nahost/index.html>

¹² <https://www.bundesregierung.de/breg-de/schwerpunkte/75-jahre-grundgesetz/artikel-9-gg-2267758>

¹³ <https://www.gesetze-im-internet.de/vereinsg/BJNR005930964.html#BJNR005930964BJNG000300326>

continuing the activities of PSDU, and as such has a wider chilling impact.

In its resolution “Consistently combating antisemitism in Thuringia”, the parliament of the federal state of Thuringia called for cutting financial support for the BDS movement. On 11 September 2018, the state of North Rhine-Westphalia imposed a recognition of the IHRA working definition of antisemitism as a new requirement for providing public funding. Additionally, access to public funding prohibits any kind of support to the BDS movement or similar.¹⁴ Since October 2023, Germany reportedly has defunded at least 15 NGOs, including six Palestinian and two Israeli organizations.¹⁵ Among them, Zochrot and New Profile have seen their budget cut by 25% and 50% respectively in December 2024, allegedly without justifications. The State of Berlin also allegedly defunded the Cultural Center Oyoun (Berlin-Neukölln) for refusing to cancel an event with the “Jewish Voice for a Just Peace in the Middle East” on allegations that the Jewish Voice supports the BDS movement.

Climate Justice Protests

Arbitrary restrictions on peaceful assemblies

Authorities reportedly failed to recognize certain non-violent climate protests as assemblies under legal protection, labeling them as criminal offenses. For example, on 13 April 2024, the police refused to recognise a peaceful sit-in at UV Frankfurter Allee (Berlin) and immediately moved to disperse it using abusive tactics against activists, such as pain holds (*schmerzgriffe*). On 27 April 2024 in UV Dresden, the police announced to the demonstrators that the assembly had been officially relocated to the square in front of the *Staatlichen Ministerium für Regionalentwicklung* -this occurred because of not having an assembly leader. Hence the demonstrators ought to move, or they would be dispersed. However, the relocation was contrary to the objective of the sit-in protest in a street and protesters refused to move.

Use of excessive force to disperse peaceful climate justice assemblies

Excessive force was used across all 6 climate justice protests analyzed, taking place from March to October 2024 in Berlin. According to the information received, police violence has increased against climate justice activists, especially against those using non-violent civil disobedience tactics.

Documented abuses include the use by police of pain holds (*schmerzgriffe*), dragging (including by the neck), beatings, bruises, concussions, and excessive restraint against peaceful protestors. Videographic evidence consistently shows the police manifestly excessive and unnecessary use of violence against protestors. During a protest in Berlin on 25 May 2024, a police officer approached a woman already being handled by 3 officers, and after putting on quartz-sand gloves the officer violently pulled her arm. Unnecessary and wanton use of pain holds (*schmerzgriffe*) are seen while protestors are peacefully sitting down, detained without resistance, being carried away or even cooperating with

¹⁴ <https://www.landtag.nrw.de/portal/WWW/dokumentenarchiv/Dokument/MMD17-3577.pdf>

¹⁵ <https://www.dw.com/en/germany-defunds-2-israeli-human-rights-groups/a-71217628>

police. The 3 most commonly reported pain hold (*schmerzgriffe*) techniques include: carrying or dragging someone while fully bending their wrists that apparently leads to the pain being increased by the full bodyweight; grabbing and shaking by the neck; and inflicting pain under the jaw and behind the ears simultaneously. The latter tactic has been especially reported to inflict pain that endures for weeks. On 13 April 2024 in Berlin, during a sit-in protest, a minor refused to walk into a police processing area for identification and consequently was pressed behind the ears and under the jaw which the minor described as intensely painful. After pain holds (*schmerzgriffe*), witnesses have reported to be threatened of further and “real” pain by police officers.

Arbitrary arrests, detentions and criminalisation

On 16 March 2024 in Berlin, one protester was arrested for ignoring the police area ban. After a few hours in a police cell (*gesa*) and having suffered 2 asthma attacks, a judge ordered his immediate release. Despite the release order, police officers retained the protester for further 90 minutes. On 13 April 2024 in Berlin, protestors were kettled outside the location they were initially protesting, and when 2 protestors tried to return to the initial location, they were detained. On 25 May 2024 in Berlin, before the assembly was dissolved, video recordings show the arrest of 17 protestors. In these videos police officers often ask a sitting protestor to stand up or move away, and when the protestor refuses the police detains the person inside a kettle. Kettling practices have been reported to last for hours after the protests ended. For example, on 16 March 2024 in Warschauer Straße (Berlin), after the protest ended, protestors and passerbyers allegedly continued to be held under the rain and cold for hours.

Stigmatization

In some cases, derogatory comments were made by police officers during interventions. Also, some politicians publicly use narratives against the movement calling its members ‘climate terrorists’ and ‘criminal organizations’ and claiming for ‘harsher and more effective penalties’ including prison sentences. The German media has been taking these narratives and when covering climate peaceful protests, they usually portrait them as illegal, unjustified and violent, and climate activists and environmental human rights defenders are called ‘radicals annoying gluers’¹⁶.

While we do not wish to prejudge the accuracy of the above-mentioned allegations, we are deeply concerned by the consistent pattern of undue interferences with the human rights to freedom of opinion and expression (ICCPR, article 19), the freedom of peaceful assembly (ICCPR, article 21) of association (ICCPR, article 22), and the right to participate in public affairs (ICCPR, article 25).

¹⁶ <https://www.bz-berlin.de/berlin/rechnung-klima-kleber-kosten-blockade> , https://www.bild.de/regional/muenchen/muenchen-aktuell/muenchner-gericht-stuft-klimakleber-als-kriminelle-vereinigung-ein-86192980.bild.html?t_ref=https%3A%2F%2Fm.bild.de%2Fregional%2Fmuenchen%2Fmuenchen-aktuell%2Fmuenchner-gericht-stuft-klimakleber-als-kriminelle-vereinigung-ein-86192980.bild-Mobile.html%3Ft_ref%3Dhttps%253A%252F%252Fwww.bild.de%252Fregional%252Fmuenchen%252Fmuench-en-aktuell%252Fmuenchner-gericht-stuft-klimakleber-als-kriminelle-vereinigung-ein-86192980.bild.html

We are deeply concerned regarding the above-outlined allegations indicating a worrying pattern of continuous and intensified repression and persecution against Palestinian solidarity movement, associations and assemblies who are seeking to bring public attention to the ongoing atrocity crimes against the Palestinian people, defending Palestinians human right including for self-determination, and acting on the urgency to stop the ongoing genocide against the Palestinians in Gaza.

The patterns outlined above also indicate a repression against climate activists, environmental human rights defenders and groups engaged in non-violent civil disobedience acts aimed at bringing about change in public policy and approach to address the climate crisis.

Moreover, we are concerned that the reported abuses **indicate an apparent failure of the State's positive obligation to facilitate the rights to freedom of peaceful assemblies, of association and of expression, and to refrain from unwarranted interference**, with respect to activism related to the defence and promotion of Palestinians' rights and climate justice. The trends indicate an approach to suppress, and silence these groups, and to push them out from the public debate.

We underscore that States have a positive obligation to facilitate peaceful assemblies and protect participants, including through enabling legal and institutional frameworks, and by ensuring that any restrictions are the exception, pass the test of legality, necessity in a democracy society, and proportionality, and are non-discriminatory. States also have a responsibility and duty under international law to create all conditions necessary in the social, economic, political and other fields as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all human rights and fundamental freedoms in practice. This includes the right to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, to participate in peaceful activities against violations of human rights and fundamental freedoms, and to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms.

According to international standards, "States and their law enforcement agencies and officials have a positive obligation to facilitate peaceful assemblies, including protests, by ensuring that those taking part can safely conduct their activities without discrimination or abuse" and "while respecting participants' rights and agency and making it possible for participants to achieve their objectives".¹⁷ Furthermore it is required that "Specific, supportive and protective efforts" are undertaken to facilitate the right to freedom of peaceful assembly of individuals or groups that may be in situations of vulnerability, that have been subjected to discrimination or marginalization (A/HRC/55/60, para 14).

However, we are concerned at the consistent reports that authorities have imposed unjustified bans, failed to recognize spontaneous assemblies, and police increasingly used abusive tactics to disperse non-violent protests, resorted to excessive

¹⁷ See Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests, A/HRC/55/60, para 14.

use of force often without necessity and as a first option, while failing to consider and use other less intrusive means including communication and negotiations with activists; used arbitrary arrests of activists and human rights defenders including as a preventive measure to prevent them from participating in peaceful protests, and as a punitive tactic. It is further concerning that on several occasions police have used excessive force and arbitrary detention against children participating in the assemblies.

We are also deeply concerned at reports that authorities have consistently imposed arbitrary, unnecessary and disproportionate restrictions on peaceful assemblies in the context of Palestinian solidarity activism linked to the legitimate messages and content of the assembly, contrary to the requirement that any restrictions on the right to freedom of peaceful assembly should be content-neutral and non-discriminatory.

We are particularly concerned at the reported pattern of expanding criminalization of expressions and symbols usually used in the context of the global Palestine Solidarity Movements – and that this has been increasingly used as justification for arrests, detentions, imposing undue restrictions on peaceful assemblies, of participation in such assemblies and for dispersing an assembly. We underscore that such overbroad and indiscriminatory restrictions are contrary to the right to freedom of expression, as well as to the right to freedom of peaceful assembly, given the expressive nature of this right, and the requirement that authorities should not unduly interfere and “leave it to the participants to determine freely the purpose or any expressive content of an assembly”. (CCPR/C/GC/37, para. 22) We reiterate that any concerns of antisemitic or hate crime advocacy should be dealt with individually, through proportionate, targeted and justified measures, and applying the six-part threshold established by the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Imposing sweeping bans and restrictions on the whole assembly and movement is disproportionate and as such violates the right to freedom peaceful assembly.¹⁸

We are also concerned at the reported systematic and broad cancellation of events and bans and marginalisation of public speakers expressing solidarity with, and discussing international humanitarian law violations and atrocity crimes against Palestinian people, including the crime of genocide. Such events are protected under the right to freedom of peaceful assembly, which protects both outdoor and indoor gatherings, including conferences and award ceremonies intended to express political, cultural, or academic viewpoints (GC37, paras. 4-6). We also recall the case of Glanz v. Oldenburg, of 2018, concerning revoking a permission on holding an event on BDS in a public building, where the administrative court held that withdrawing permission of an assembly after it already had been granted on the basis of opinion or because the topic of the assembly concerns a certain opinion, was unlawful and a violation of the rights to freedom of assembly and expression.¹⁹

Accordingly, the reported cancellation of conferences, public lectures, and commemoration and solidarity events raises concern over content-based discrimination and politically motivated suppression of freedom of expression and of peaceful assembly and of association. The cancellation and shutdown of entire events on the basis of alleged or potential antisemitic comments of one of the organisers/participants

¹⁸ <https://www.ohchr.org/sites/default/files/documents/issues/association/statements/20241004-stm-sr-association.pdf>

¹⁹ <https://globalfreedomofexpression.columbia.edu/cases/glanz-v-oldenburg/>

is not a proportionate nor necessary measure in a democratic society. Hence, the complete shutdown of the Palestine Congress due to the potential risk of a banned speaker to attend online was an excessive and highly intrusive measure, and cannot be justified as necessary and proportionate and may violate the right to freedom of assembly ([GC37](#), para. 37).

Furthermore, disinviting speakers from public spaces in connection to exercising their freedom of expression is a retrogressive step in a democratic society.

We are alarmed at the reported systematic and escalating use of excessive force, police violence and criminalisation, against peaceful protesters and human rights defenders of climate justice and Palestine solidarity movements. We are also alarmed at the reported use of violence against minors and persons with disabilities, and specifically targeted at racialized individuals. Increased reports of police applying pain holds (*schmerzgriffe*), chokeholds, and beatings -including in situations where individuals were non-violent or already detained- raise serious concerns with regards to the prohibition of torture under article 7 of the ICCPR. The failure to conduct timely investigations and initiate prosecutions for alleged abuses suggests a climate of impunity and contributes to the reported increased and widespread use of such practices.

Often such tactics of force are being manifestly applied unnecessary and disproportionately. The systematic use of police violence against Palestine solidarity protests and climate justice protests indicate that this tactic is used deliberately as a punishment, aimed at preventing people from joining such assemblies out of fear. We reiterate that as part of their duty to facilitate peaceful assemblies, police should avoid and refrain from the use of force, and may use force exceptionally only as a last resort, when absolutely necessary and when other methods have been exhausted, which has not been the case with regards to the climate justice and Palestine solidarity assemblies. Using force as a punitively measure constitutes a violation of the right to freedom of peaceful assembly and may violate the absolute prohibition on torture.

The high number of protest-related arrests with few confirmed criminal offenses, indicates a pattern of arbitrary and disproportionate policing, incompatible with the duty to facilitate peaceful assemblies. The reported preemptive arrests of activists and human rights defenders including short-term detentions without charge, may amount to arbitrary detention. The increased use of this tactic, seems that it is used to intimidate, dissuade and prevent people from participating in peaceful assemblies. Administrative detentions can only be justified when absolutely necessary; however the burden of proof lies on States to show that the individual poses “a present, direct and imperative threat” which cannot be addressed by alternative measures (CCPR/C/GC/35, para. 15). Arrests based on anticipated protest participation violate the right to freedom of peaceful assembly and are arbitrary.

The reported targeting with arrest of racialized individuals, and targeting entire communities, including using the immigration status to threaten individuals with deportation - further breaches the right of non-discrimination under ICCPR articles 2 and 26, and may constitute collective punishment. Arrests and detentions of individuals for non-violent protest actions exercising their right to freedom of expression, such as condemning atrocity crimes and calling for a stop of the ongoing genocide against

Palestinian people in Gaza, not only violates the rights to freedom of expression and assembly, under ICCPR art. 19 and art. 21, but also constitutes unlawful detention. Often containment, arrests and detention of activists in both Palestine solidarity protests and climate justice, seems to have been conducted with a punitive purpose, rather than based on actual offence or threat warranting arrest.

We are alarmed at the reported arrests of children, for participating in Palestine solidarity protests, and the unacceptable use of force and intimidation against them by police officers during arrests, failing to meet the requirement that the arrest of children may only be considered as a last resort. The policing tactics used fail to respect the rights of the child and take their specific vulnerability, and to ensure the best interest of the child.

We are further **deeply concerned by the reported revocation of visas, residency permits, and refugee status of migrant activists and human rights defenders, and forced deportations and threats of deportations due to their participation in Palestinian solidarity activities.** We are concerned at reports that such measures are being justified on vague security grounds, without specific evidence or criminal conviction, and of criminalisation of protected speech. We are further concerned at reports that such measures have been undertaken without proper judicial oversight and without respect to due process rights. These acts would be disproportionate, unnecessary and discriminatory, and may constitute collective punishment; or in some cases indirect refoulement in violation of Germany's obligations under international and refugee law. Regarding the renewed deportations, we note the 2023 [report](#) by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which found that many refugee centres are ill suited in most cases and in some cases are inhumane and degrading.

Furthermore the reported indiscriminate use of the concept of Germany's reason of State (*Staatsräson*), as part of the justification for ordering the deportation of activists is concerning. This concept has no legal basis and undermines human rights and due process rights protections, and impose additional restriction on the right to freedom of peaceful assembly outside the legitimate restrictions allowed under article 21 of ICCPR.

We are concerned at the reported **intensified targeting of associations advocating for Palestinian rights and accountability for atrocity crimes against Palestinian people, and subjecting them to defunding, bans, dissolution and denial of access to public spaces, and home raids of their members.** Such acts are unnecessary in a democratic society and disproportionate and appear aimed at weakening the organisational support structure for Palestine solidarity activism and further criminalising and stigmatising the movement and its supporters. Further concerning is the pressure authorities are reportedly exerting on other entities to prevent and exclude from public spaces the Palestinian solidarity movement, activists and other individuals advocating for Palestinian's rights.

Relying on the problematic IHRA Working Definition on Antisemitism for the provision of public funding for civil society may result in arbitrary and discriminatory treatment based on political opinions. We are concerned that support of the BDS

movement has been used as justification to prohibit access to public funding or to defund civil society organisations. As pointed out by several mandate holders, expressing support for, or opposition to, BDS, is protected under the rights to freedom of opinion, expression and association. Based on the jurisprudence of the European Court on Human Rights, the Special Rapporteur on freedom of opinion and expression has concluded that “campaigns to boycott, seek divestment and promote sanctions, are legitimate forms of political expression that should not be prohibited or criminalized”. (A/79/319, para. 85). Also German domestic courts have already determined that restrictions based on association to the BDS movement violate freedom of expression (see German case-law discussed in [DEU 7/2024](#)). According to the Jerusalem Declaration on Antisemitism, “boycott, divestment and sanctions are commonplace, non-violent forms of political protest against states. In the Israeli case, they are not, in and of themselves, antisemitic”.²⁰

Blanket denial of access to public funding for support to the BDS movement is unjustified. A general decision to defund and prevent access to public spaces to associations exclusively on their association to the BDS movement constitutes a violation of the right to freedom of association, including of associations’ right to access resources. Such restrictions constitute a blanket ban and do not comply with ensuring a risk-based approach that is targeted, necessary, and proportionate to empirically identified, differentiated, and current risk (see A/HRC/53/38/Add.4). As emphasised above and also by the European Court of Human Rights boycotts are a protected form of free expression, and that there was “little scope [...] for restrictions on political expression or on debate on questions of public interest”.²¹

We reiterate our concerns expressed in our previous communication [DEU 7/2024](#) that the classification of the entire BDS movement as a “suspected extremist threat” and the associated intrusive investigation, is overbroad and indiscriminate, and has a disproportionate impact; and that it creates unjustified suspicion on the movement as a whole without individual assessment of the specific actors within the movement whose actions present a real and serious risk to the rights of freedoms of others or warrant restrictions under the legitimate grounds permitted under international law related to the right to freedom of expression. As stated, this also has a serious stigmatizing impact on a large number of diverse groups that participate in or are associated with the movement, gravely impacting their access to public funding or their ability to organize events or assemblies in public spaces. We regret that in your response, your Excellency’s Government has not adequately addressed these concerns.

The Federal government justified their decision to continue treating the BDS movement as a “Verdachtsfall”, restating that “the BDS movement and its ambiguous claims have proved to attract extremist organizations.”, and that the “BDS Call’s first demand [“Ending its occupation and colonization of all Arab lands and dismantling the Wall”] was formulated in an ambiguous way allowing extremist organizations to promote sedition and express hate speech under the umbrella of the BDS movement.” We reiterate that the above interpretation of the BDS movement’s aim is very narrow, and it fails to take into account the main aim of the referred document of 2005 “Palestinian Civil Society Call for BDS”, titled “Palestinian Civil Society Calls for Boycott, Divestment and Sanctions against Israel Until it Complies with International

²⁰ <https://jerusalemdeclaration.org/>

²¹ Baldassi and Others v France [2020] ECtHR App. No. 15271/16 et al.

Law and Universal Principles of Human Rights”, and that a core demand of the document is “recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality”. Furthermore, we reiterate that the BDS call to end Israel’s occupation and dismantle the Wall is in line with the two advisory opinions of the International Court of Justice (ICJ) of 2004 and 2024 as well as numerous United Nations resolutions and should not be interpreted as a call to end Israel’s existence. The justification made in your government’s response reconfirms our concern about the indiscriminate and overboard approach taken without individualized, evidence based assessment, and is incompatible with the right to freedom of association and expression. In the case of reasonable suspicion that “extremist organizations” “under the umbrella of the BDS movement” are engaged” to promote sedition and express hate speech” - such cases must be individually impartially investigated and addressed, instead of criminalizing the entire movement and other actors merely on the basis of their association or expression of support for the BDS movement.

We reiterate that bans and forced dissolution of associations is an exceptional measure and may only be applied as a last resort. This measure is among the severest restrictions on freedom of association and must always comply with the requirements of article 22(2) of the ICCPR, when there is a clear and imminent threat to for example national security or public order. It must be strictly proportional to the legitimate aim pursued and used only when less intrusive measures would be insufficient. Similarly, acts against the “idea of international understanding” under German law, which allow for prohibition of associations, requires a proportionality assessment.

We also **reiterate our concerns related to the reported criminalisation of climate justice activists and environmental human rights defenders.** We acknowledge with appreciation your comments in your replay concerning the criminal proceedings and investigations against members of the climate action group Letzte Generation (with Ref.: Pol-10 381.70 Special Procedures/ Letzte Gen), that “Freedom of expression, freedom of assembly, and the right to private life (through the general right of personality, privacy of correspondence, post and telecommunications, and the inviolability of the home) are constitutionally protected assets, and society and state authorities are well aware of their importance”, and that “The high standing of these rights is always given special consideration when weighed up against any conflicting rights.” In this respect we would like to stress the responsibility by States to ensure that any legal framework is enabling and is not used to deliberately or in effect impact the effective exercise of these rights either on particular groups or in general. We reiterate our strong concerns that using harsh legislation such as on the forming of a criminal organisation under section 129(1) of the German Criminal Code (Strafgesetzbuch) which can incur up to five years’ imprisonment, has a wider criminalising and chilling impact on climate justice activism as a whole, and is disproportionate. As part of the obligations to enable, protect and facilitate the right to freedom of peaceful assembly and of expression, authorities should conduct a thorough and inclusive assessment on the impact that such legislation has on the exercise of these rights.

We are further concerned at reports that criminalisation and police repression of environmental activists and Palestine solidarity peaceful protests have been accompanied by vilifying and stigmatising political rhetoric which is further enabling the harsh repression of these groups, and stress that such rhetoric is unacceptable and is contrary to the obligation to respect and protect the right to freedom of peaceful

assembly.

Finally we are deeply concerned at reports that authorities have resorted to suppression of Palestine solidarity movement, through repression, bans, criminalisation and stigmatisation, without regards to the urgency to stop the ongoing atrocity crimes against Palestinian people, and contrary to State's obligation under international law to prevent [genocide](#) and other grave human rights violations and their international legal responsibility in compliance with the advisory opinion of the International Court of Justice issued in July 2024.²² On the contrary, complying with their international obligations, would require authorities to exercise maximum restraint and tolerance, effectively facilitating the exercise of fundamental freedoms for all affected communities, and taking actions to listen equally to the victims' voices from all communities.

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 explain how the reported continuous criminalisation of peaceful activists and human rights defenders participating in Palestinian solidarity peaceful assemblies and events, the use of excessive force and arbitrary detention, including of children, the expansive criminalisation of expressions connected to defending the Palestinian identity and rights, the forced deportation of Palestinian solidarity activists, and banning of associations, is compatible with the State's obligation to facilitate the right to peaceful assembly, under international human rights law, as well as with respect to the rights to freedom of opinion and expression, of association, and to participate in public affairs.
3. Please provide information on investigations conducted into the alleged use of unlawful force and into repeated reports of police use of unnecessary and disproportionate force, including tactics that seemed aimed at deliberately inflicting pain against non-violent participants in climate justice and Palestinian solidarity protests. Please provide information on the outcomes of such investigations, and what steps have been taken to prevent the recurrence of the use of unlawful force in the context of these assemblies and to protect participants?
4. Please provide information on any strategies taken by authorities to facilitate the right to peaceful assembly of Palestine solidarity movements and climate justice protests, in line with the international

²² See <https://www.ohchr.org/en/statements-and-speeches/2024/09/un-experts-warn-international-order-knifes-edge-urge-states-comply>

obligations and taking into account the standards related to facilitation of assemblies through prevention and avoidance of the use of force, negotiations, and ensuring protection of vulnerable groups, provided by the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests? Have any review and assessment of the policing strategies used been conducted? Please provide any assessment outcomes of such reviews and how lessons learned have been used to adapt the policing methods and policies in the context of these protests?

5. Please provide information on the number of detentions (broken down by age, migration status, and gender), grounds of detentions, relevant charges, and sentences, in the context of Palestine solidarity protests, from October 2023 to July 2025. Please confirm the number of deportations of individuals in connection to Palestine solidarity protests, the grounds for such deportations, and how their due process rights have been guaranteed.
6. Please indicate how the reported bans and restrictions of funding of associations advocating for Palestinian rights, including for exercising their right to freedom of peaceful assembly and expression, are necessary and proportionate restrictions under international human rights law, including the right to freedom of association?
7. Please indicate the measures taken to guarantee the establishment of a safe and enabling environment for the work of human rights defenders, including those protecting and promoting environmental and the rights of Palestinians, so that they can carry out their legitimate human rights work without fear of reprisals such as harassment, injury, arbitrary detention, or criminalisation.

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.

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 be informed that a copy of this letter has been sent to Greece.

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

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

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

Astrid Puentes Riaño
Special Rapporteur on the human right to a clean, healthy and sustainable
environment

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

George Katrougalos
Independent expert on the promotion of a democratic and equitable international order

Cecilia M. Bailliet
Independent Expert on human rights and international solidarity

K.P. Ashwini
Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance

Ben Saul
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the principles and international standards applicable to this communication.

Freedom of opinion and expression article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right applies online as well as offline and includes not only the exchange of information that is favorable, but also that which may criticize, shock, or offend. In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (para. 11). The Committee further asserts that States Parties to the ICCPR “shall put in place effective measures to protect against attacks aimed at silencing those who exercise their right to freedom of expression” (para. 23).

We emphasize that any restriction on expression or information that a government seeks to justify on grounds of national security and counter-terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (general comment No. 34).

We stress that counter-terrorism legislation with penal sanctions should not be misused against individuals peacefully exercising their rights to freedom of expression and freedom of association and peaceful assembly, including to suppress peaceful minority groups and their members (general comment No. 34). Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) of the ICCPR. Restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (general comment No. 34, para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed. A restriction must be “the least intrusive instrument among those which might achieve their protective function” (para. 34).

In her report on “Global threats to freedom of expression arising from the conflict in Gaza”, the Special Rapporteur on freedom of opinion and expression noted that “civil disobedience or non-violent protests aimed at challenging unjust proscriptions, as well as campaigns to boycott, seek divestment and promote sanctions,

are legitimate forms of political expression that should not be prohibited or criminalized”. She also concluded that “the most fundamental principle of human rights – that all persons have an equal right to enjoy all human rights – has been endangered by an extensive pattern of unlawful, discriminatory and disproportionate restrictions and repression of freedom of expression, primarily of Palestinian activists and their supporters in Western Europe and North America” (A/79/319, paras. 83 and 85).

In the report, she made the following recommendations:

- States must respect, protect and fulfil the right to freedom of opinion and expression without discrimination against any individual or groups on the grounds of race, religion, political beliefs or other protected characteristics. Any restriction of expression, including in relation to counter-terrorism laws or antisemitism, must follow strictly the criteria set out in articles 19(3) and 20(2) of the ICCPR (para. 92).
- States must refrain from blanket prohibitions of demonstrations, slogans, symbols or other forms expression in support of the Palestinian people. Any decision to prohibit such acts or expressions on the grounds of incitement must be done on a case-by-case basis, taking into account international legal standards as well as specific contextual and other factors, as articulated in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (para. 93).
- In the light of the advisory opinion of the International Court of Justice issued in July 2024, States should repeal – or refrain from adopting – laws and policies that penalize opposition to or impede advocacy against Israeli occupation and segregation, such as laws against the boycott, divest and sanctions movement (para. 94).

Freedom of peaceful assembly and of association article 21 of the ICCPR 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 in its general comment No. 37 (2020) on the right of peaceful assembly (article 21), stated that the authorities must show that any restrictions on the right to freedom of peaceful assembly meet the requirement of legality, and are also both necessary for and proportionate to at least one of the permissible grounds for restrictions enumerated in article 21. The onus is on the authorities to justify any restrictions and where this onus is not met, States violate article 21 of the ICCPR. The imposition of any restrictions should aim at facilitating the right, rather than seeking unnecessary and disproportionate limitations on it. Restrictions must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect. (GC 37, para. 36) The prohibition of a specific assembly can be considered only as a measure of last resort. Where the imposition of restrictions on an assembly is deemed necessary, the

authorities should first seek to apply the least intrusive measures (GC 37, para. 37). General comment 37, also emphasized that “the approach of the authorities and any restrictions imposed must in principle be content neutral, and must not be based on the identity of the participants or their relationship with the authorities (...) given the typically expressive nature of assemblies, participants must as far as possible be enabled to conduct assemblies within sight and sound of their target audience” (para. 22).

As stated by General comment 37, blanket restrictions on peaceful assemblies are presumptively disproportionate; and any restrictions on participation in peaceful assemblies should be based on a differentiated or individualized assessment of the conduct of the participants and the assembly concerned (GC 37, para. 38). It also stressed that there can be no blanket ban on all assemblies in relation with its location (GC 37, para. 55); and that gatherings in private spaces fall within the scope of the right of peaceful assembly (GC 37, para. 57).

Importantly, as emphasized by general comment 37, peaceful assemblies can in some cases be inherently or deliberately disruptive and require a significant degree of toleration. (GC37, para. 44); and acts of collective non-violent civil disobedience fall under the protection of the right of peaceful assembly, (GC37, para. 16). Causing disruption alone is not a legitimate reason for banning or dispersing peaceful protesters; the dispersal may be justified as a measure of last resort, when the disruption caused by the assembly is both serious and sustained. (GC37, para. 85).

With regards to the police tactic of “containment (“kettling”), where law enforcement officials encircle and close in a section of the participants, may be used only where it is necessary and proportionate to do so, in order to address actual violence or an imminent threat emanating from that section (...) Where containment is used indiscriminately or punitively, it violates the right of peaceful assembly, and may also violate other rights such as freedom from arbitrary detention and freedom of movement” (GC37, para. 84).

Additionally, general comment 37 stressed the obligations of States “to investigate effectively, impartially and in a timely manner any allegation or reasonable suspicion of unlawful use of force or other violations by law enforcement officials, including sexual or gender-based violence, in the context of assemblies. Both intentional and negligent action or inaction can amount to a violation of human rights. Individual officials responsible for violations must be held accountable under domestic and, where relevant, international law, and effective remedies must be available to victims.” (GC 37, para. 90).

We would like to also refer you to the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests, developed by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, in collaboration with the United Nations Office on Drugs and Crime and the Office of the United Nations High Commissioner for Human Rights, which is based on international human rights law and human rights standards and provides guidance to States and law enforcement to ensure that they meet their obligations to facilitate peaceful assemblies.²³ It re-emphasizes that “States and their law enforcement

²³ See <https://www.ohchr.org/en/documents/tools-and-resources/practical-toolkit-law-enforcement-officials-promote-and-protect-human>

agencies and officials have a positive obligation to facilitate peaceful assemblies, including protests, by ensuring that those taking part can safely conduct their activities without discrimination or abuse, including from non-State actors, such as other members of the public, counter demonstrators, armed groups and private security providers, while respecting participants' rights and agency and making it possible for participants to achieve their objectives." (A/HRC/55/60, para. 14). It also emphasizes that "For the effective facilitation of peaceful protests, law enforcement officials must be guided at all times throughout a protest cycle by the primary duties to facilitate the right to freedom of peaceful assembly and promote and protect human rights and freedoms and by the principles of non-discrimination, precaution and accountability." (para. 42).

The Model Protocol provides the following requirements for law enforcement to ensure their actions are in line with their duty to facilitate the right to peaceful assembly:

- Para. 68: "Law enforcement officials must make every effort to facilitate peaceful protests in ways that respect the objectives and preferences of protest organizers and leaders by acting at all times in accordance with their obligation to respect and protect human dignity and maintain and uphold the human rights of all involved in a protest. Law enforcement officials must remain neutral and impartial throughout any protest, prevent harm and protect the right to life, liberty and security of person of those involved, while also fulfilling their duty to maintain public safety and social peace. The deployed officers should adhere to the cross-cutting principles of participation, accountability, non-discrimination, differentiation and attention to vulnerability and equality."
- Para. 69: "During a protest, law enforcement officials must protect and facilitate participants' right to freedom of expression, so that participants are able to freely voice their opinions, slogans and chants and display written placards, signs, banners and symbols, such as flags, or other media of expression, as long as they do not incite discrimination, hostility or violence."
- Para. 72: "Law enforcement officials must prevent and minimize any tension or violence from occurring in the context of protests through the use of timely, pre-emptive and appropriate de-escalation tactics based on the principles of communication, negotiation, community engagement, restraint and minimal use of force."

Furthermore the Model Protocol stress on the requirements for law enforcement to ensure any police response, is differentiated and proportionate and states that "At all times, law enforcement officials must follow the principle of precaution, which requires that all feasible steps are taken and all possible alternatives are considered, including all non-violent means, to prevent and avoid the use of force in the context of protests."

The Model Protocol also stresses the importance of accountability and especially for command responsibility: "Accountability, including command

accountability, applies at all stages of a protest. Superior officials should be held accountable for their decisions or if they did not take all measures in their power to prevent, suppress or report the unlawful use of force or firearms and if they knew or should have known that law enforcement officials under their command had engaged in such abuses.” (A/HRC/55/60, para. 50).

With regards to their duty to facilitating the right to freedom of peaceful assembly by Palestine solidarity student groups on university campuses, the Special Rapporteur on freedom of peaceful assembly and association issued a set of recommendations emphasizing the shared obligations of all actors -including universities and educational institutions (even if they are private-owned) to respect and uphold human rights and fundamental freedoms, stressing that even “in universities located on private property, gatherings and peaceful protests are still protected under the right to freedom of peaceful assembly.”, and institutions should “refrain from imposing blanket restrictions”, prioritize and actively pursue dialogue and negotiations, avoid the use of force and ensuring dispersal if strictly necessary is only a measure of last resort. It also stressed that “The use of “trespassing” offences for peaceful assemblies carried out on the private property of academic institutions should be assessed strictly against the necessity and proportionality principles. Criminal charges for non-violent protest activity are disproportionate.”²⁴

Article 22 of the ICCPR guarantees ‘Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.’ It also states that ‘No restrictions may be placed on the exercise of this right other than those which are prescribed by 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.

In addition, the Special Rapporteur on the rights to freedom of peaceful assembly and of association highlighted that “negative and hostile narratives increasingly used to vilify and criminalize civil society and activists deepen the stigmatization of those exercising their rights to peaceful assembly and association. Stigmatization, whether intentional or not, especially when propagated by authorities, effectively denies these fundamental rights. It misrepresents legitimate exercises of freedom as illegal and those involved as criminals or threats to national security, public order or morals. This fuels harmful stereotypes, fosters hostility, justifies punitive measures and triggers undue restrictions on these rights” (A/79/263, para. 11).

The Special Rapporteur further on the rights to freedom of peaceful assembly and of association raised concerns that “Contrary to international human rights standards on peaceful assembly (see CCPR/C/GC/37), States continue to misinterpret and misrepresent some disruptions and other legitimate forms of peaceful assembly as violence.” and that “Isolated acts of violence within an assembly are often used to brand the entire assembly as violent, legitimizing restrictions on participants or the entire event. Such stigmatization, which labels a whole peaceful assembly or sector as criminal, triggers broad restrictions and criminalization, undermines the principle of individual liability and may amount to collective punishment (see A/77/171), which

²⁴ <https://www.ohchr.org/sites/default/files/documents/issues/association/statements/20241004-stm-sr-association.pdf>

constitute serious human rights violations.” The Special Rapporteur also noted that the “stigmatization of civil society and assemblies creates a broad chilling effect that has a significant impact on public participation. It restricts the ability to participate fully in society, exacerbates inequalities, fosters environments of fear and hostility, increases polarization and erodes trust between authorities and the public.” (A/79/263, paras 70-71). The Special Rapporteur recommended that “As a positive practice to de-escalate violence in the context of protests and prevent the reinforcement of harmful stigmatization, law enforcement and authorities should prioritize dialogue and negotiations, including through the deployment of dedicated appropriate dialogue units (see A/HRC/55/60).” The Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests, also emphasised that as part of the facilitation approach, law enforcement should ensure that “officials and public messages use neutral language and avoid stigmatizing or hostile rhetoric regarding a protest, its organizers or participants or other actors involved” (see A/HRC/55/60).

Right to participate in public affairs article 25(a) of the ICCPR provides that: “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions... [t]o take part in the conduct of public affairs”. Right to privacy and to reputation article 17 of the ICCPR provides that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on honour and reputation, and that everyone has the right to protection of the law against such interference or attacks. Further, in its general comment No. 16 in relation to article 17, the Human Rights Committee asserted that surveillance, whether electronic or otherwise, should ordinarily be prohibited.

In relation to the allegations indicating that the individuals mentioned above are being targeted because of their activities promoting and defending human rights, we would 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 (the UN Declaration on Human Rights Defenders). In particular, articles 1 and 2, 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. Articles 5(a), 6(c), 9, 11, and 12 state that everyone has the right, individually and in association with others, to meet or assemble peacefully for the purpose of promoting and protecting human rights; to study, discuss, form or hold opinions on the observance of all human rights and fundamental freedoms; to draw public attention to these matters; to benefit from an effective remedy and be protected in the event of the violation of these rights; to the lawful exercise of his or her occupation or profession; and to participate in peaceful activities against violations of human rights and fundamental freedoms.

Human Rights Council resolution 13/13 urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has highlighted the misuse of overly broad definitions of terrorism to quell legitimate activities protected by international law.

Regarding the definition of terrorism: Although no universal treaty generally defines “terrorism”, States should ensure that counter-terrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the international counter-terrorism instruments, the General Assembly’s Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004). Based on these authoritative sources, the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism provides clear, “best practice” guidance, by identifying conduct that is genuinely terrorist in nature and precisely defining the elements (A/HRC/16/51, para. 28).

The principle of legality under article 15(1) of the ICCPR requires that criminal laws are sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and what would be the legal consequences of committing such an offence. This principle recognizes and seeks to prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse, including to target civil society on political or other unjustified grounds (A/70/371, para. 46(b)) and suppress the exercise of fundamental rights and freedoms (A/HRC/40/52).

Moreover, United Nations resolutions²⁵ require that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, comply with States’ obligations under international law, in particular international human rights law, refugee law and international humanitarian law. Counter-terrorism measures must conform to fundamental assumptions of legality, proportionality, necessity and non-discrimination. Laws which disregard these principles can have deleterious effects on the protection of fundamental rights, particularly for minorities, historically marginalized communities and civil society.

²⁵ See e.g. Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); General Assembly resolutions 49/60, 51/210, 72/123 and 72/180; and Human Rights Council resolution 35/34.