

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the right to education and the Special Rapporteur on the rights to freedom of peaceful assembly and of association

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16 October 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the right to education and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 58/14, 53/7 and 59/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Senate Bill 2233 ("the Bill"), introduced on 10 March 2025 in the 89th Texas Legislature and passed by the Senate on 15 April 2025. On 23 May 2025 it was referred to the House Higher Education Committee, where it remains pending. We note that under the law of State responsibility, a federal State is responsible for violations of international law by its territorial units, and that a State may not rely on internal law as justification for failure to comply with its international obligations (International Law Commission (ILC), Responsibility of States for Internationally Wrongful Acts 2001, articles 4 and 32 respectively).

According to the sponsoring Senator's Statement of Intent, the policy intention of the Bill is to enhance the security and integrity of public institutions of higher education in Texas by addressing concerns related to terrorism and national security, in particular by prohibiting individuals on non-immigrant visas from engaging in or supporting terrorist activities. It has been further explained in committee hearings and to the media that the measure is intended to "crack down on terrorist activity on college campuses" by requiring universities to adopt clear policies for investigating, sanctioning, or expelling students and organisations deemed to support terrorism.

If enacted, SB 2233 would add a new section 51.989 to the Texas Education Code. This provision would, *inter alia*:

- Authorise the State of Texas and university governing boards to designate persons holding non-immigrant visas (students or employees) who publicly support terrorist activity related to an ongoing conflict, or who persuade others to support terrorist activity or a terrorist organisation; and require institutions to adopt policies prohibiting that conduct (section 51.989(b)(1)–(2), Education Code).
- Permit disciplinary and administrative sanctions, including suspension for at least one year for a first violation and expulsion or termination of employment upon a second violation; and obligate institutions to report

such sanctions to the U.S. Department of Homeland Security through the Student and Exchange Visitor Program (SEVIS) (section 51.989(c)–(d)(1)–(3), Education Code).

- Establish reporting and investigatory obligations: where an institution receives a report of a violation under the policy, it must investigate whether a violation occurred (section 51.989(c), Education Code).
- Broaden the definition of “terrorist activity” and “terrorist organisation” by adopting the meanings assigned in federal law (8 U.S.C. §1182), which are very wide and could cover peaceful speech, protest, or membership in certain groups, even where there is no connection to violence; the policy prohibits “publicly supporting” or “persuading others” in relation to those definitions (section 51.989(a)(2), (b), Education Code).
- Authorise the Attorney-General to bring an action against an institution that fails to comply, with possible fines of up to one percent of the institution’s annual budget for each instance of non-compliance (section 51.989(f), Education Code).

Human Rights Concerns

While we recognise the responsibility of States to prevent terrorism, we are concerned that the Bill risks unduly restricting fundamental rights and freedoms protected under international human rights law. We note that the Bill transposes exceptional counter-terrorism frameworks into the governance of universities, which risks producing a chilling effect on freedom of expression and academic freedom. The Human Rights Committee has consistently emphasised that restrictions on fundamental rights must be provided by law, pursue a legitimate aim, and be strictly necessary, proportionate and non-discriminatory.

Section 51.989(b): Prohibited conduct

Section 51.989(b)(1)-(2) requires institutions to prohibit any student or employee on a non-immigrant visa from “publicly supporting” terrorist activity related to an ongoing conflict, or from persuading others to support terrorist activity or a terrorist organisation. These prohibitions are defined by reference to 8 U.S.C. § 1182, a federal immigration statute which has been criticised for its vagueness and overbreadth.

We are concerned that this provision risks encompassing a wide range of expressive conduct, including speech critical of US foreign policy or supportive of causes perceived as controversial or politically sensitive. The reference to “public support” is open-ended, and could extend to advocacy, protest, or peaceful assembly that falls squarely within the protection of article 19 (freedom of expression), article 21 (peaceful assembly), and article 22 (association) of the International Covenant on Civil and Political Rights (ICCPR), which the US ratified in 1992.

In General Comment No. 34, the Human Rights Committee emphasized that freedom of expression extends to “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). Human Rights Council resolution 12/16 called for refraining from imposing restrictions that are not consistent with article 19 (3), including discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Further, the right to education can only be enjoyed if accompanied by the academic freedom of staff and students, who must be free to pursue, develop and transmit knowledge and ideas, to express freely opinions about the institution or system in which they work, and to fulfil their functions without discrimination or fear of repression by the State (Committee on Economic, Social and Cultural Rights (CESCR), general comment No. 13, paras. 38-39). The State must avoid measures that hinder or prevent the right to education (*ibid*, para. 47). Expulsion of a student based on a breach of unnecessary or disproportionate restrictions on freedom of expression would not only also violate the right to education, but would likely result in the loss of the student’s visa and thus lead to the arbitrary expulsion of the student from United States, contrary to customary international law (see ILC, Draft Articles on the Expulsion of Aliens 2014, article 5).

We emphasize that 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. To be provided by law, a restriction must be formulated with sufficient precision to enable individuals to regulate their conduct accordingly, must not confer unfettered discretion, and must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not (para. 25).

In particular, restrictions on expression relating to countering terrorism should require an objective intention to incite terrorism as well as an objectively reasonable probability that a terrorist act will be committed (A/HRC/40/52, para. 37). The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has set out the following criteria, providing that such restrictions: (a) must be limited to the incitement to conduct that is truly terrorist in nature, as properly defined according to best practice international standards; (b) must restrict the freedom of expression no more than is necessary for the protection of national security, public order and safety or public health or morals; (c) must be prescribed by law in precise language, including by avoiding reference to vague terms such as “glorifying” or “promoting” terrorism; (d) must include an actual (objective) risk that the act incited will be committed; (e) should expressly refer to two elements of intent, namely intent to communicate a message and intent that this message incite the commission of a terrorist act; and (f) should preserve the application of legal defences or principles leading to the exclusion of criminal liability by referring to “unlawful” incitement to terrorism (A/HRC/16/51, para. 31).

In addition, by authorizing the termination of employment based on vague and overbroad restrictions on free expression, the Bill may result in violations of the customary international law right to work of university staff, which includes the right not to be arbitrarily or unfairly deprived of work (CESCR, general comment No. 18, para. 6). Further, the right to work requires non-discrimination and equality in the maintenance of employment (*ibid*, para. 12), and the Law may have the effect of targeting staff based on their political opinions.

We are further concerned that these measures may disproportionately affect minority and Muslim students, or those engaged in advocacy on issues such as the situation in Palestine, climate justice, or social equality. Framing such activism as terrorism may stigmatise entire communities, entrench discrimination contrary to articles 2 and 26 of the ICCPR, and deter the exercise of rights central to academic freedom as protected under the customary international human right to education.

Section 51.989(f): Enforcement and sanctions

Section 51.989(f) empowers the Attorney-General to initiate enforcement proceedings against non-compliant institutions and to seek heavy fines of up to one percent of an institution's annual budget for each violation. We are concerned the potential financial penalties are disproportionate and risk coercing universities into adopting overly restrictive interpretations of the Bill's requirements. This framework may incentivise institutions to over-regulate student expression, dissolve student associations pre-emptively, or impose disproportionate disciplinary measures in order to avoid liability. This may deter universities from hosting legitimate debates or academic events and risks undermining pluralism, academic freedom, and open discourse on campus. We recall that the UN Global Counter-Terrorism Strategy (pillar I) underscores that effective counter-terrorism measures must be rooted in the respect for human rights, fundamental freedoms, and the rule of law. The normalisation of punitive counter-terrorism powers in university governance risks eroding those principles.

Due process and remedies

We further note the absence of clear due process guarantees for individuals or organisations designated or sanctioned under the Bill. The broad discretion afforded to university governing boards and state authorities to impose sanctions without explicit due process protections or effective judicial oversight raises concerns under articles 2(3) (right to effective remedy) and 13 (due process in the expulsion of aliens) of the ICCPR. The lack of effective remedies for affected students, faculty, or associations compounds these risks.

In light of the above, we respectfully request your Excellency's Government to provide information on the following:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned analysis.
2. Please indicate the manner in which your Excellency's Government assess the compatibility of Senate Bill 2233 with its obligations under the ICCPR, in particular articles 2(3), 13, 19, 21 and 22.
3. Please indicate the existing safeguards, or are envisaged, to ensure that the definitions of "terrorism" and "material support" in the Bill are applied in a manner consistent with the principles of legality, necessity, proportionality and non-discrimination under international human rights law.
4. Please indicate which due process safeguards and effective remedies are available to students, faculty members, and universities who may be adversely affected by designations or sanctions imposed under the Bill.
5. Please indicate the steps undertaken to ensure that measures adopted in the name of countering terrorism on campuses do not disproportionately affect or stigmatise particular groups, including minority or Muslim students, or those engaged in legitimate political or academic expression.
6. Please provide information on what measures your Excellency's Government intends to take to ensure that the Law is reviewed to conform with international human rights law.

We stand ready to provide any technical advice your Excellency's Government may require in ensuring that legislation is consistent with international human rights standards and with the principles of the UN Global Counter-Terrorism Strategy.

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

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

Ben Saul

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