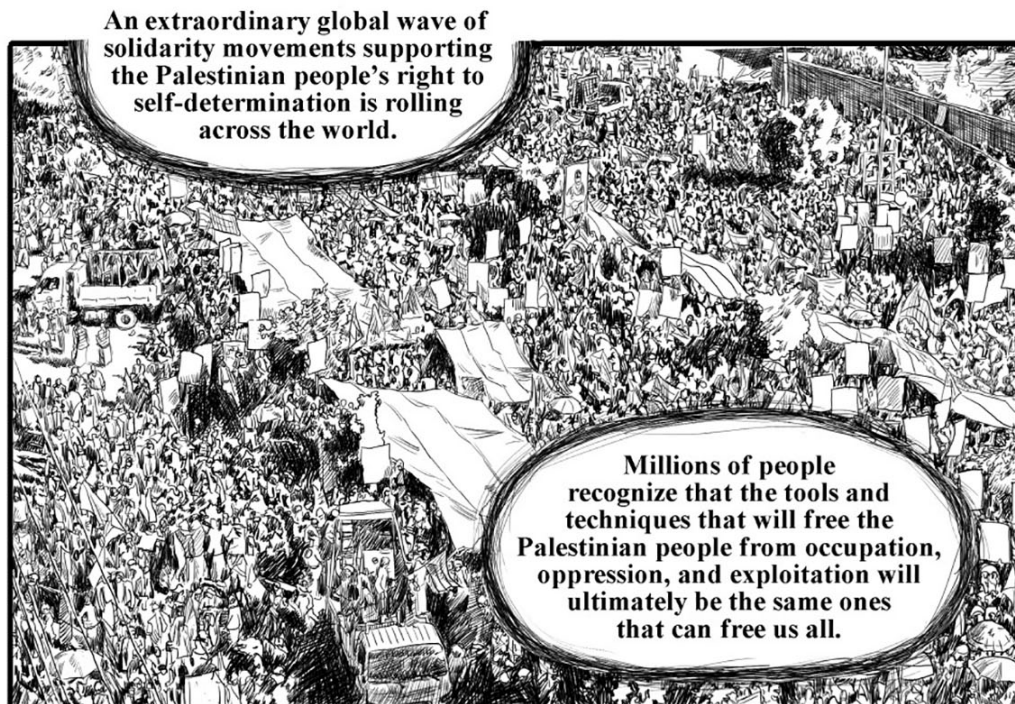


STATEMENT FROM THE UN SPECIAL RAPPORTEUR ON THE RIGHTS OF
FREEDOM OF PEACEFUL ASSEMBLY AND OF ASSOCIATION

Recommendations for universities worldwide for the second semester of 2024: Safeguarding the right to freedom of peaceful assembly and association on campuses in the context of international solidarity with the Palestinian people and victims

Date: 02 October 2024

By **Gina Romero**, UN Special Rapporteur on the rights to freedom of peaceful assembly and of association (FoAA).



“Starvation and the right to food, with an emphasis on the Palestinian people’s food sovereignty”. Michael Fakhri, SR on the Right to Food. Illustrated by Omar Khouri.

Since October 2023, when 1,200 civilians were killed by a Hamas attack on Israel, the Gaza Strip has been subjected to genocidal violence and intensified assault that have reportedly claimed the lives of more than 40,000 people, almost half of them - over 16,000 - are children, and have destroyed most educational facilities, including schools, universities, public libraries, and hospitals, among other vital civilian infrastructure, generating a deep humanitarian crisis, including famine.¹ This latest assault on the Palestinian people, part of the decades-long illegal occupation campaign implemented by Israel, has given rise to an increase in international solidarity movements around the world in support to the Palestinian victims, and with Palestinian people's rights to self-determination². Many of these protests have been led by university students.

According to information from various sources, mass demonstrations and protests, as well as occupations, encampments and other types of peaceful assemblies, were held in different parts of the world. Just between 7 October and end-November 2023, around sixty countries witnessed demonstrations to protest the atrocity crimes against Palestinians;³ besides, some reports and independent mapping initiatives indicate that more than 170 camps were established in the first semester of 2024, mainly in university settings, distributed across 35 countries worldwide.

This massive civic mobilisation, which lasted months and is unprecedented in recent history, emerged amidst severe restrictions on the right to freedom of peaceful assembly at a global level. By 2023, 118 countries have serious civic space restrictions and only 2.1 per cent of people live in countries with open civic spaces, resulting in a severe impact on freedom of expression (including intimidation of journalists and media outlets), freedom of peaceful assembly (with use of excessive force and arrests of protesters) and freedom of association (including harassment of human rights defenders and civil society activists).⁴

The last thematic report presented by the previous mandate holder, Clement Voule, “[Preserving gains and pushing back against global attack on civic space and growing authoritarianism](#)” identified widespread trends in threats against the rights to freedom of peaceful assembly and of association (FoAA), including increasing stigmatization and attacks against civil society and social movements, criminalization of activists, indiscriminate and excessive use of force to counter or repress peaceful protests, and growing militarised approaches to peaceful protests; restrictions targeting marginalised groups, among other, that have escalated in scope and severity and have expanded across all regions.⁵

¹ According to the UN Special Rapporteur on the right to food, Michael Fakhri, *Starvation and the right to food, with an emphasis on the Palestinian people's food sovereignty* (A/79/171, 2024), paragraphs 1 and 64. See also A/HRC/56/CRP.4, para 267. Further, on 9 July 2024, the UN independent experts declared a famine spreading across the entire Gaza Strip, and that “Israel's intentional and targeted starvation campaign against the Palestinian people is a form of genocidal violence”, see <https://www.ohchr.org/en/press-releases/2024/07/un-experts-declare-famine-has-spread-throughout-gaza-strip>.

² Throughout the document, when talking about ‘pro-Palestine movement’ it will refer to the global movement of international solidarity in support to the Palestinian victims, with Palestinian people's rights to self-determination, and that is defending and speaking out for a ceasefire in Gaza, call for peace, prevention of genocide, an end to the occupation, and justice.

³ Demonstrations in support of Israel were recorded in at least 39 countries. See Carnegie Endowment for International Peace.

⁴ CIVICUS, 2024 State of Civic Society Report, <https://shorturl.at/xUPBI>

⁵ A/HRC/56/50

Also, the report indicated that pro-Palestinian peaceful protests and social movements faced significant restrictions, protest bans and arbitrary arrests, especially in Western countries, which created a hostile environment and a chilling effect for those defending and speaking out for the rights of Palestinians, a ceasefire in Gaza, prevention of genocide, an end to the occupation, and justice.⁶ Special procedures mandate holders called for an end to the harassment and criminalisation of pro-Palestinian activists and protesters, and urged States to stop misusing hate speech imposing undue restrictions on legitimate protests, including in academic institutions, and online.⁷

The first report that the new UN Special Rapporteur on the rights to freedom of peaceful assembly and association, Ms Gina Romero, will present at the United Nations General Assembly in 2024, “[Protecting the rights to freedom of peaceful assembly and of association from stigmatization](#)” further found that students participating in pro-Palestinian solidarity protests have been targeted with severe stigmatizing narratives and unjustifiably “vilified by public authorities in some States as supporting ‘terrorism’”. The Special Rapporteur stated in her report that:

*“Pro-Palestinian solidarity movements are among those facing increased levels of stigmatization online and offline by authorities and non-State actors. This stigmatization has triggered further sweeping restrictions and repression (...) have created a hostile environment for pro-Palestinian expressions and activists, (...) and had increased racism and hate”.*⁸

To assess the situation and respond to several persistent allegations of serious violations against peaceful student protesters received by the mandate between May and July 2024, the Special Rapporteur, held seven virtual consultations and interviews with 30 students who either lead or participated in on-campus peaceful protests and encampments in six universities in four countries: France, the Netherlands, the United Kingdom, and the United States of America; and held face to face discussion with a group of 10 scholars, students, civil society organizations, and human rights defenders in Germany.

Additionally, the Special Rapporteur participated in two group meetings with other mandate holders: one online, attended by approximately 35 students from at least nine universities in the USA; and a face to face meeting held in Geneva with the participation of students from schools and universities in Switzerland, or their representatives. Additionally, the Special Rapporteur consulted about the experiences in leading and/or participating and monitoring pro-Palestine peaceful assemblies with a group of 39 activists, journalists and human rights defenders from the Middle East and North of Africa Region, including Palestinian activists, during a regional consultation in May 2024. She also received detailed written information from various civil society and academics from Switzerland, Canada and Australia, and inputs during several events in which she participated during the months of May and July 2024.

Besides, the Special Rapporteur held a virtual discussion with 10 Dutch law enforcement experts who participated in police operations related to Pro-Palestine solidarity protests in different universities and cities in the Netherlands. Furthermore, the Special Rapporteur held various meetings and bilateral conversations with government officials and parliamentarians.

⁶ www.ohchr.org/en/press-releases/2023/11/speaking-out-gaza-israel-must-be-allowed-un-expert

⁷ www.ohchr.org/en/statements/2024/02/israelopt-enabling-human-rights-defenders-and-peaceful-protests-vital-achievements

⁸ A/79/263

In total, the Special Rapporteur collected information during 15 meetings, with at least 150 participants from different sectors, from around 30 countries.

The following is a summary analysis of the key findings by the Special Rapporteur, concerning the pro-Palestine solidarity movement that has taken place in both private and public universities worldwide.⁹ This will be followed by a set of concrete recommendations by the Special Rapporteur to universities, to ensure they protect the rights to freedom of peaceful assembly, expression and association of all within their campuses, while expecting the resurgence of peaceful assemblies in the second semester of the year, in line with the growing movement and international attention on the issue, and anticipating commemoration mobilizations by both, Israeli and Palestinian solidarity groups in October.

Summary of main findings concerning the right to freedom of peaceful assembly in the context of University-based pro-Palestine solidarity protest movement

1. The university pro-Palestine solidarity protest movement has been robust, diverse, creative and innovative. The assemblies took on various forms, demonstrating the profound sensibility, civic responsibility, and creative potential of youth, despite facing severe restrictions, intimidation and threats. This reaffirms observations made also by the Special Rapporteur on human rights defenders, that youth and children's "activism and mobilization are at the forefront, and often the main driving force, of societal, economic and political change, (...) even with pervasive age-based 'discrimination'" ¹⁰
2. While this movement has primarily been led by young students and coordinated by student associations, it garnered broad support from the academic community, including colleges, faculty, administrative staff, unions, parents, local communities, civil society organizations, and broader social movements. This illustrates that these student assemblies were part of a wider, broader social movement of mobilization, activism and solidarity with Palestinian people, which also has been seen online and on the streets of many cities around the world.
3. Predominantly the on-campus assemblies of the movement were peaceful, meaning that "they did not entail the use by participants of physical force against others that was likely to result in injury or death, or serious damage to property",¹¹ and even if there have been reports of some isolated incidents of violent behaviours by some of the participants, the assemblies were not characterised by a widespread violence required for a protest to be declared non-peaceful in its entirety. According to the international standards, disruption of daily activities and/or ordinary life, including pedestrian and/or vehicular movement, cannot be considered as act of violence and therefore do not remove the protection of these acts under the right to peaceful assembly.

⁹ Although the Special Rapporteur contacted and established dialogue with Jewish organizations, the predominant allegations received were related to restrictions on the right to freedom of peaceful assembly in the context of the pro-Palestinian movement on campuses, hence this is the focus of the document.

¹⁰ Mary Lawlor, 'We are not just the future': challenges faced by child and youth human rights defenders (A/HRC/55/50), par 1 and 3.

¹¹ General comment 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37 (Hereinafter General Comment 37). It also establishes that the following actions cannot be considered as violence and are protected: i) mere pushing and shoving, ii) disruption of vehicular or pedestrian movement or daily activities (para 15), iii) non-violent collective civil disobedience or direct action campaigns (para 16), iv) "carrying by participants of objects that are or could be viewed as weapons or of protective equipment such as gas masks or helmets" which should be assessed on a case-by case basis (para 20).

4. The predominant messages of these assemblies have been legitimate calls in line with States obligations to prevent and address atrocity crimes, including genocide and apartheid, to protect human rights, including the right to self-determination, enshrined in the international human rights legal instruments; and have carried legitimate calls for ending of the Israel unlawful occupation of Palestinian territory as reaffirmed by the recently Advisory Opinion by the International Court of Justice (ICJ)¹², which also asserted the obligation of States “not to render aid or assistance in maintaining the situation created by the continued presence of the State of Israel in the Occupied Palestinian Territory”. Many of these calls, including of ceasing the provision or transfer of arms to Israel that may be used in the Occupied Palestinian Territory, have been continuously reiterated publicly by various UN experts¹³ as well as by the latest UN General Assembly Resolution calling for an end to the occupation of Palestine.¹⁴ The student solidarity movement has been at the heart of the global advocacy campaign contributing to these unprecedented initiatives undertaken by the international community towards protecting the rights and lives of Palestinians.
5. The student pro-Palestine solidarity movement has faced systematic and concerted violent attacks of various forms - physical, threat and intimidation, moral, reputational, administrative, criminalisation and symbolic- both online and offline, including unlawful surveillance, smear campaigns and doxing. These attacks came from a range of sources, including colleges leaders, other students, staff and faculty and the administration. While a few clashes between protesters and counter-protesters have been documented, there are many allegations of violent attacks against protests leaders and participants, by individuals opposing the protests from outside the universities. Reports of harassment include students being followed to their residences, verbally assaulted on the streets, and subjected to smear campaigns both on and off campuses.¹⁵ Additionally, in several countries, authorities and public officials at various levels, including mayors, governors, parliamentarians, members of cabinets and other political leaders, have used hostile rhetoric that contributed to stigmatizing students and their legitimate actions, and to the increased hostility and attacks they faced.
6. The Special Rapporteur found that “Protesters have been vilified and criminalized for using Palestinian symbols, such as flags and the keffiyeh (traditional scarf), and for slogans such as “from the river to the sea” (which advocates for freedom, human rights and dignity for all in Israel and the Occupied Palestinian Territory), or slogans written in Arabic, and for the use of the hijab. These actions have increased the hostile environment for pro-Palestinian expressions and activists”, and has increased racism and hatred.¹⁶ Allegations suggest that Jewish student supporters of or participating in the movement and encampments have also faced persecution and violence for their involvement. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression indicate that “Equating advocacy of Palestinian rights with terrorism or antisemitism is not only a disproportionate response, but may indicate an underlying institutional racism against Palestinians, violating fundamental human rights.”. Furthermore, general bans on Palestinian symbols violate the right to freedom of expression as these fail to meet the requirements of necessity and proportionality.¹⁷

¹² The ICJ declared Israel's occupation of Palestinian territory, encompassing the West Bank, including East Jerusalem, and the Gaza Strip, as unlawful under international law, in addition to the previous ruling by the ICJ ordering preventing acts of genocide against the Palestinians in Gaza. Calling for boycotts, divestment and sanctions is further protected under the right to freedom of expression.

¹³ See [https://www.ohchr.org/en/statements/2024/09/un-experts-warn-international-order-knives-edge-urge-states-comply-icj-advisory#:~:text=GENEVA%20\(18%20September%202024\)%20%E2%80%93,with%20most%20States%20failing%20to](https://www.ohchr.org/en/statements/2024/09/un-experts-warn-international-order-knives-edge-urge-states-comply-icj-advisory#:~:text=GENEVA%20(18%20September%202024)%20%E2%80%93,with%20most%20States%20failing%20to)

¹⁴ A/ES-10/L.31/Rev.1

¹⁵ At least in one city in the US, there have been reports of the presence of a small truck wandering around campuses displaying photos and names of students leading or participating in the Palestine solidarity protests.

¹⁶ Gina Romero, Special Rapporteur for the Rights to freedom of assembly and of association, “Protecting the rights to freedom of peaceful assembly and of association from stigmatization” (A/79/263), paragraphs 57 and 61.

¹⁷ A/79/319, para 72; for further details and guidance see also section VI of this report related to Protected and prohibited expression

7. Protesters have been treated unequally and subjected to excessive restrictions and harsh treatment due to their political stance and message, which reveals double standards. Responses by State and public authorities in various national, local and university contexts were very different; but, a general violation of the principle of content-neutrality of responding to peaceful assemblies and non-discrimination is identified. While, in many cases, demonstrations against Hamas' attack on Israel and actions of solidarity with victims and people living in Israel were allowed to proceed without interference, similar demonstrations showing solidarity with the Palestinians victims of atrocities, were met with violent repression, blanket bans of peaceful protests, and excessive sanctions. Arab and Middle Eastern student groups, as well as student's unions associations involved in the Palestinian solidary peaceful protests, have faced closures, funding cut or suspensions of their leaders, severely impacting the right to freedom of association in addition to other rights. It is worth noting that some universities respected pro-Palestinian campus activism and demonstrations without interference, however many imposed arbitrary restrictions, lacked transparency and objectivity in decision-making concerning handling of the protests, and failed to protect students and faculty members from violence, and at times the university administration appeared to have facilitated the violence against peaceful activists due to their actions or omissions. Often, appeals processes against restrictions and sanctions of student protesters were unavailable. Although the universities increased security, these seem to have been used to intimidate, surveil, and to discourage and suppress protests, but were unable to protect participants from counter-protesters and threats from external actors.
8. Campus regulations were frequently and arbitrarily changed,¹⁸ intentionally or unintentionally unduly restricting protesters rights, with some rules being revised hourly in extreme cases and lacking transparency. Building closures, including of libraries, during exam periods and the use of fire regulations, that allegedly were unjustified, aiming to disperse peaceful protest actions of occupations, were seen as forms of collective punishment, designed to turn students against protesters and hinder protest participation. These severely limited the right to peaceful assembly. According to the international standards, "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".¹⁹
9. Universities employed three distinct approaches to engaging with the student movement: i) some established dialogue and coordination from the beginning, ii) other refrained from direct engagement and dialogue, but maintained limited communication channels, iii) other opted to ignore the existence and calls of the movement entirely. In cases where dialogue was sustained, even if substantial agreements were not reached, disciplinary measures and police intervention were minimal or unnecessary, de-escalating the situation.²⁰ Where agreements were reached, these often resulted in accepting some of the students' demands, and/or the dismantling of the camps or ending of the occupations.

¹⁸ Including sudden prohibitions of displaying Palestinian symbols (accepted previously without problem in all campus buildings), spontaneous assemblies, weekly changes of number of days requested for announcing a mobilization, restrictions on specific campus locations ('demonstrations areas'), the possibility of hanging posters on the walls, or to stick messages around campus.

¹⁹ General Comment 37, paragraph 22.

²⁰ In one case, harassment actions were carried out disguised as a dialogue: such as phone calls at 1 a.m. to advance negotiations.

- 10.** Some Universities facilitated and even called for and encouraged that law enforcement agencies suppress the peaceful protest and dismantle the encampments, which in certain cases led to excessive use of force against young peaceful protesters. Such actions have not only escalated the violence, but have deeply traumatised students and created an atmosphere of hostility and mistrust between the students and the administration, hampering the academic environment.
- 11.** The response of law enforcement varied significantly – across countries, cities, and even between different universities in the same city. In some locations, police refrained from enforcing restrictions or using force, opting instead to create ‘peace units’ to maintain open lines of communication and negotiations with protesters. Such measures have significantly de-escalated the tension and avoided the use of force. However, in other cases, there was disproportionate use of force,²¹ including the deployment of less-lethal weapons,²² arrests, preventive detention, and the use of undercover officers. In many countries,²³ students and faculty were arrested on charges such as trespassing, refusal to comply with police orders, failure to disperse, conspiracy to commit an unspecified crime, disturbance of peace, or hate-related offences. Some have faced criminal charges.
- 12.** Similar harsh responses were noted across various types of pro-Palestine on-campus protests. Riot police, bomb squads and anti-terrorism units were deployed in some instances, to control or disperse low-intensity gatherings such as silent vigils, illustrating the extent of the excessive and disproportionate use of force. In some European universities, there are disturbing allegations of private investigators being hired by university administration to surveil, including outside the campuses, and collect information on students involved in organizing the encampments, which has been deeply intimidating and had a chilling effect.
- 13.** Interviewees from multiple countries reported a significant increase in surveillance on campuses, including the installation of new cameras, facial recognition systems, and enhanced online monitoring, particularly of social media activities. There has been a lack of transparency on the type of data collected and how it is being used by the universities. In many cases, police and external actors photographed and filmed protesters, including through the use of drones. Allegations suggest that some universities were sharing personal data of students participating in the protest actions with law enforcement agencies and private companies, including with businesses offering job opportunities to the students. Additionally, reports indicated that in some cases police were feeding universities with intelligence gathered of students participating in Palestine solidarity protests off-campus. These actions not only violated the students right to privacy (protected under Article 17 of the ICCPR) but also jeopardizes the future career prospects of students participating in the solidarity protests, as data – including related to arrests of students – for their peaceful protest acts have been retained and shared with future employers. Students reported of receiving refusals of hiring them from the companies once they graduated due to their participation in the peaceful protest camps.

²¹ Several cases in at least four countries includes cases with encampment participants being hospitalized as a result of the forced used by law enforcement to dismantle the camps. In one case a bulldozer was used to bring down a barricade while students were sitting on the structure. In some cases, encampments and occupations were dismantled without prior warning, and students were left locked in buildings and classrooms.

²² Such less lethal weapons reportedly used by law enforcement for dispersing the student encampments include among others teasers, tear gas/ pepper spray, flash-bangs and rubber bullets.

²³ See for example communications: OTH 71/2024 and AL USA 12/2024 for specific information about the USA.

14. In addition to the restrictions and violent responses to peaceful protests, some universities have imposed severe and disproportionate retaliations on protesting students, including disciplinary measures such as suspensions, expulsions, and actions that prevented students from graduating. These have been described by students as designed to silence them through threatening their future. These sanctions have particularly affected international students, whose migrant status was jeopardized. In certain cases, university sanctions have weaponized access to housing and food services. Allegations have surfaced that some universities coerced students into agreements, such as mandatory community service or waiving their right to take legal actions against institution, in exchange for the ability to continue their studies or graduate. Similar reprisals have been reported against faculty and staff, including unjustified dismissals and premature contracts terminations, including unfounded accusation of anti-Semitism.

15. Both police repression, when applied, and university disciplinary sanctions have disproportionately targeted migrant students, students of specific ethnic groups, and student's leaders. Reports indicated selective targeting of Arab, Latinos and Afro-descendant students and faculty, as well as those engaged in academic research (including PHD students) related to the Nakba, racism towards Arab/Palestinians, social movements (particularly international solidarity), Israeli politics, and Middle East and North Africa studies. Allegations also point to the cancellation of events and academic activities led by Palestinian or Arab students, as well as by organizations discussing these topics.

16. A clear pattern of profiling has been observed in the enforcement of suspensions and other disciplinary actions, which contradicts the principle of non-discrimination. In some instances, the discrimination extended to police repression that hindered the access and the work of student journalist, legal observers, and protest monitors in Palestine solidarity demonstrations on campuses.

The situation surrounding protests and solidarity actions within university environments, coupled with institutional responses, reveals a potentially hostile environment for the exercise of the rights to freedom of peaceful assembly and association. This has also deeply affected the working conditions of campus staff who face harassment and persecution due to their support or participation in the Palestinian solidarity activism, leading to self-censorship and significant emotional and psychological distress, in addition to some facing disciplinary sanctions and loss of jobs. As a result, both academic freedom and labour rights are being undermined and violated.

Moreover, these actions threaten and discourage public participation and open discourse, severely impacting the rights to freedom of expression, particularly for Palestinian and Arab students in expressing their identity. This poses a profound threat to democratic systems and institutions, especially when young people are affected. It risks alienating an entire generation, damaging their participation and perception of their role in democratic processes. Universities must recognize that their responsibility extends beyond campus borders – their actions have the potential to shape political discourse, culture, civic education, and ultimately, the future sustainability of democracy, freedoms and human rights.

Throughout the world history, universities have been the sites of dissent and at the forefront of important movements. Student protests have played a vital historic role for advancing democracy and rights, including in the civil rights movement and for helping to bring an end to the apartheid in South Africa and fighting colonialism. Respecting and guaranteeing dissent is essential to ensure the universities remain spaces for free thought, speech and academic freedom.

Recommendations for universities, academic communities and other relevant actors

1. It is vital to publicly and unequivocally recognize the importance of youth engagement in public discourse and their contributions for human rights, dignity, peace, and justice. At a time when apathy and mistrust increasingly dominates policy-making spaces, and younger generations are often isolated and stigmatized based on perceived “disconnection from reality” or being “inexperienced”, the fact that hundreds of thousands of diverse students worldwide are exercising their academic and fundamental freedoms to advocate for collective change, to protect human rights and end atrocity crimes and promote peace, should be encouraged and facilitated, not condemned, silenced, repressed or criminalised. The Special Rapporteur reiterates previous calls by the mandate for ensuring the meaningful participation of children and youth in public debates that affect them, and for ensuring youth participation in peace-building and transition processes.²⁴
2. The support these movements receive from other segments of society reflect the critical intergenerational dialogue needed to confront humanity’s shared challenges. It is also worth reflecting on how we can unlock the potential and foster this kind of civic engagement among youth in more marginalized communities, where fewer privileges may exist, but the passion and determination to shape their future and the world around them are present.
3. It is crucial to immediately cease the stigmatization and hostilities that directly or indirectly silence members of the academic community and discourage the exercise of their rights to freedom of expression, peaceful assembly, and of association, among others. The Special Rapporteur reiterates that hate speech is unacceptable, and that specific incidents of hate speech should be properly addressed by targeting specific individuals or groups involved, 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.²⁵ Universities should review their internal regulations on hate speech and anti-Semitism and align them with international standards for the protection of freedom of expression, respecting that a critical political opinion, including expressions of political opposition to a government, or the pursuit of self-determination are protected under the right to freedom of expression.²⁶ It is advisable that this process be carried out by guaranteeing the participation of civil society and the academic community in all its diversity.

²⁴ A/78/246.

²⁵ Gina Romero, A/79/263, “Protecting the rights to freedom of peaceful assembly and of association from stigmatization”. <https://documents.un.org/doc/undoc/gen/n24/226/62/pdf/n2422662.pdf>

²⁶ General Comment 37, par 49.

4. States and public authorities must end the vilification of peaceful Pro-Palestinian solidarity protesters by labelling them as “supporters of terrorism”, for their legitimate demands for an end of the genocidal violence, apartheid and illegal occupation of Palestinian people. It is also essential to refrain from adopting any legislative reforms or administrative regulations that threaten to penalize students for participating in peaceful protests, such as by denying them access to loans or loans forgiveness, or deporting foreign students for the exercise of their right to freedom of peaceful assembly. Similarly, universities should not face limitations on accreditation or access to public funds based on their stance and response to protests, nor should any other undue restrictive measures be pursued against academic institutions. Political pressure on universities must end immediately. Such pressure, accompanied by public attacks on scholars and institutions, seriously affects university autonomy and academic freedom, as well as freedom of expression.²⁷
5. While the primary obligation to respect, protect and facilitate human rights rests with States, all actors -including universities and educational institutions (even if they are private-owned) - share the responsibility to respect and uphold human rights and fundamental freedoms. All academic institutions, public and private, must take proactive steps to create a safe and supporting environment for exercising the rights of peaceful assembly, association and expression. These responsibilities also apply to private academic institutions, in line with the UN Guiding Principles on Business and Human Rights, as these principles apply to “all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure”.²⁸ Therefore, investors, as business actors, also have responsibility to respect and protect human rights, and must refrain from exerting pressure on universities to suppress pro-Palestinian student protests, including in connection to protest calls for divestment from companies linked to Israel and gross human rights and international law violations in occupied Palestine territory.
6. In universities located on private property, gatherings and peaceful protests are still protected under the right to freedom of peaceful assembly. While certain restrictions may be applied to safeguard the rights and interests of others property stakeholders, these must be assessed on a case-by-case basis. This evaluation should consider “whether the space is routinely publicly accessible, the nature and extent of the potential interference caused, whether those holding rights in the property approve of such use, whether the ownership of the space is contested through the gathering and whether participants have other reasonable means to achieve the purpose of the assembly, in accordance with the sight and sound principle”.²⁹ This underscores the importance of refraining from imposing blanket restrictions. 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.

²⁷ See a Statement by the Special Rapporteur on the right to education in relation to the United States, which applies equally to any other State: “Statement by the Special Rapporteur on the right to education, Ms. Farida Shaheed on her visit to the United States of America, 29 April – 10 May 2024” <https://www.ohchr.org/sites/default/files/documents/issues/education/statements/20240510-stm-eom-sr-education-usa.pdf>

²⁸ UN Guiding Principles on Business and Human Rights, Guiding Principles.

²⁹ General Comment 37, pars 57 and 73.

7. Academic institutions should actively facilitate and protect peaceful assemblies, including by prioritising negotiation and mediation where necessary. Dialogue with organisers and participants must be prioritised and actively pursued from the start throughout the assembly cycle, ensuring it is free from stigmatization, coercion or threats from any party, especially threats of academic or disciplinary sanctions for the exercise of fundamental freedoms must not be imposed. If agreements are reached, it is crucial that university and other relevant authority honour them and transparently communicate any delays or necessary changes in their implementation.
8. Academic institutions should ensure that their regulations are in line with the international standards to promote, protect and facilitate the rights to freedom of peaceful assembly, of expression and of association; and ensure that restrictions when necessary are timely, clearly and transparently disseminated, with an option of appeal. A focal point within the administration should be available to receive and adequately respond to concerns of protesters, including ensuring there is an independent mechanism for handling and responding to complaints of violations, threats and abuse, including of stigmatization and hate speech against protesters, providing protection to all without discrimination. All academic institutions should establish, or review existing, mechanisms for participatory evaluation of internal regulations concerning peaceful assemblies on campuses. These evaluation mechanisms should be triggered when specific assemblies require analysis and especially with the view to prevent and protect participants from undue restrictions of their rights and violations; and should ensure the meaningful participation of the academic community, including student groups. This process must guarantee open, transparent, and inclusive consultation, particularly with minority groups affected.
9. Universities and other academic institutions must refrain from and cease any surveillance against students and staff for expressing their views or participating in peaceful assemblies, and review and adjust their use of digital technologies to ensure these are not used for surveillance or intimidation of students or staff exercising their fundamental freedoms. The collection and use of information and data of students and scholars participating in assemblies, including by monitoring social media, must not result in suppressing rights, violate the right to privacy, or create a chilling effect. The “way in which data are collected, shared, retained and accessed, must strictly conform to applicable international standards, including on the right to privacy, and may never be aimed at intimidating or harassing participants or would-be participants in assemblies. Independent and transparent scrutiny and oversight must be exercised over the decision to collect the personal information and data of those engaged in peaceful assemblies and over its sharing or retention”.³⁰ This applies to law enforcement authorities but should be also ensured by the university administration, including private universities, as part of their duty to protect human rights.

³⁰ General comment 37, paras 61 and 62. Also see the “Principled-based guidance for the human-rights compliant use of digital technologies in the context of peaceful protests”, available here <https://www.ohchr.org/sites/default/files/2024-03/Toolkit-law-enforcement-Component-on-Digital-Technologies.pdf>

10. As a general rule, peaceful assemblies should be facilitated with no resort to the use of force; the use of force must be exceptional, after all non-violent means have been exhausted, and must comply with the requirements of necessity, proportionality and precaution. State is ultimately responsible for law enforcement during an assembly,³¹ and universities should avoid tasking private security providers with policing of assemblies as they lack the training sufficient for facilitating peaceful assemblies and may cause confusion and undermine accountability for violations against protesters. Law enforcement agencies should ensure that they prioritise tactics of de-escalation at all times, including through negotiations and communication with all involved parties (including protesters, counter-protesters, staff and university administration) to avoid the use of force; dialogue units should be at the fore of dealing with peaceful protests and refrain from the use of disproportionate equipment, including protective gear, which is also stigmatizing and risk intimidating and escalating tensions leading to violence.³²

11. As reiterated above, acts of sporadic violence or other punishable acts committed by others within the assembly, do not deprive peaceful individuals of their right to freedom of peaceful assembly. It is important that Universities and academic institutions understand that the following acts or expressions cannot be deemed as violent acts and cannot be used to justify banning, suppression, or dispersal of peaceful protest³³:

- **a.** The pursuit of contentious ideas or goals³⁴ and the use of expressions that can be seen as offensive, shocking, impacting, indecent, scandalous or eccentric.
- **b.** The use of flags, uniforms, signs and banners, even if such symbols are reminders of a painful past.³⁵
- **c.** The disruption created, and its consequences. Assemblies are “a legitimate use of public and other spaces” and that protests by their very nature may entail a “certain level of disruption to ordinary life”, and according to the international standards such disruptions must be accommodated, unless they impose a disproportionate burden.³⁶ It is recommended that the assessment of when a burden due to disruption created by the peaceful assembly could be considered disproportionate, is done with the meaningful and active participation of the diverse staff of the academic institution, including protest organisers, minority groups and students that could be affected by the decision to restrict or disperse the peaceful assembly. All least intrusive measures should be explored, including negotiations, and ensure a decision of a dispersal is only a measure of last resort.
- **d.** Damage of property and any physical asset that do not effectively destroy it (making it lose its form to the point that its use is impeded), render it useless (making it useless for the purposes inherent to it, even if it has not been destroyed), or disappear it (the object loses its existence).³⁷

³¹ General Comment 37, para 93.

³² See UN Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests, A/HRC/55/60.

³³ In exceptional cases, where such expressions or symbols are “directly and predominantly associated with incitement to discrimination, hostility or violence, appropriate restrictions should apply” (General Comment 37, para 50-51), however such restrictions must be targeted at the individual perpetrators not the assembly as a whole, and be in line with the six-part threshold of the Rabat Plan of Action.

³⁴ General comment 37, para 7.

³⁵ As provided by General Comment 37 (par 51). In exceptional cases, where such symbols are directly and predominantly associated with incitement to discrimination, hostility or violence, appropriate restrictions should apply.

³⁶ General Comment 37, paras 7, 31, 47.

³⁷ CSJ. AP 5278-2015. 14 sep. 2015, rad. 35780 idem attorney general

- e. The use of face coverings or other disguises and tools, which are otherwise considered legitimate to ensure people can participate anonymously, or may be part of the expressive element of a peaceful assembly or serve to counter reprisals or to protect privacy, including in the context of new surveillance technologies.³⁸

12. Universities and other academic institutions must ensure transparent and independent investigation into human rights violations that occurred in the context of the camps and other peaceful assemblies, including evaluating the role of the administration in contributing to these violations by their decisions, actions or omissions. Any sanctions unduly imposed on students and staff should be reversed, and institutions, including private universities, must establish processes for internal remedy and accountability, acknowledgment of the impact of their decisions or omissions, reparations and guarantees of non-repetition. Remedial mechanisms should be adequate and responsive to the diverse experiences and needs of rights holders; ensuring that remedies are accessible and that the affected students and staff are not victimized when seeking remedies. Private universities, under the Guiding Principles on Business and Human Rights, also should ensure effective remedies for the violations against peaceful protesters, which should include “preventive, redressive and deterrent remedies” for each human rights abuse.³⁹

A significant number of academic institutions, although pledging publicly that they respect the right to peaceful assembly on campuses, demonstrated limited understanding of their role and capacity to facilitate peaceful protests, including occupations and camps, in compliance with the international standards on the right to peaceful assembly. To ensure compliance with the international human rights standards and to guarantee respect and protection of the right to peaceful assembly, public and private academic institutions, should dully implement through their policies and actions the following key requirements:

- a. Peaceful campus assemblies should be guaranteed and protected wherever they take place (outdoors, indoors, online; in public and private spaces; or a combination thereof), and regardless of their forms (demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs, civil disobedience campaigns, camps, etc.), whether they are stationary or mobile.⁴⁰ Counter-protests should be facilitated, respecting the sight and sound principle.
- b. All actors must abstain from unduly interfering with the rights to freedom of peaceful assembly and of association, and should take all appropriate measures to facilitate and protect these rights. This means also ensuring that these rights are enjoyed equally, freely and safely by everyone, without discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, and age.
- c. Particular efforts must be made to ensure the equal and effective facilitation and protection of the right of peaceful assembly of individuals who are members of groups that are or have been subjected to discrimination, or that may face particular challenges in participating in assemblies,⁴¹ such as foreign students vulnerable to visa cancellation policies.

³⁸ General Comment 37, para 60.

³⁹ See Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, A/72/162, paras 38-42.

⁴⁰ General Comment 37.

⁴¹ General Comment 37, para 25.

- **d.** The facilitation and response to assemblies, including all types of protests and encampments, must be content neutral, and respect the principle of non-discrimination.
- **e.** A regime of notification should be prioritised, and spontaneous assemblies must be possible. If for the sake of coordinating actions to guarantee the right to education, a regime of notification has been established, participants in spontaneous peaceful protests should not be sanctioned or penalised.
- **f.** Any restriction on the exercise of the right to freedom of peaceful assembly must “not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect”.⁴² Restrictions on the right⁴³ must comply with the requirements of:
 - i. Legality:** universities should ensure that any restrictions are written, and that the administrative regulations related to assemblies on campuses are precise, respectful of the law and in compliance with the international standards of human rights. Universities are encouraged to create diverse multi stakeholder processes to review and amend accordingly the current normative framework to ensure its compliance with the right to peaceful assembly and related rights.
 - ii. Necessity:** need to ensure that any restrictions are necessary in a democratic society, considering the social value of the protests and taking into account its contribution to democracy and ensuring pluralistic society, as well as the opportunity for students to learn, in practice, the exercise of their rights, as well as its relation with the rule of law and human rights, without prejudice based on stigmatization. Such restrictions must be the least intrusive.
 - iii. Proportionality:** must be proportionate for achieving the legitimate objective, and the nature and the impact of the harmful effect must be weighed against the resulting benefit. This includes the impact of the restrictions on the rights of academic freedom, expression and freedom of peaceful assembly.
- **g.** Restrictions, unless justified as necessary on a case-by-cases basis, should not be imposed on elements of:⁴⁴
 - i.** The time of assemblies, as “participants must have sufficient opportunity to manifest their views or to pursue their other purposes effectively”,
 - ii.** Their frequency, as “the timing, duration or frequency of a demonstration may, play a central role in achieving its objective. However, the cumulative impact of sustained gatherings may be weighed in a proportionality assessment of a restriction”,
 - iii.** The number of participants and their place, as “peaceful assemblies may in principle be conducted in all spaces to which the public has access or should have access (...) they should not be relegated to remote areas where they cannot effectively capture the attention of those who are being addressed or the general public”.
 - iv.** The equipment used, as “participants should be left to determine whether they want to use posters, megaphones, musical instruments or other technical means, such as projection equipment, to convey their message. Assemblies may entail the temporary erection of structures, including sound systems, to reach their audience and achieve their purpose”.

⁴² General Comment 37, para 36.

⁴³ Under article 21 of the ICCPR, restrictions of the right to freedom of peaceful assembly may be permitted only on the following legitimate grounds: the interests of national security; public safety; public order (ordre public); the protection of public health or morals; or the protection of the rights and freedoms of others. This is an exhaustive list and restrictions on other grounds not included in this list are not justified. The onus is on the authorities to justify any restrictions, which should be on case-by-case basis.

⁴⁴ General Comment 37, paras 53, 54, 56, 59, 58.

- **h.** The prohibition of a specific assembly or its dispersal may be considered only as a measure of last resort; and after applying the least intrusive measures, and fostering open, secure and transparent dialogue among the parties involved.
- **i.** “Where sanctions are imposed on organizers of or participants in a peaceful assembly for their unlawful conduct, such sanctions must be proportionate, non-discriminatory in nature and must not be based on ambiguous or overbroadly defined offences”.⁴⁵
- **j.** The right to freedom of assembly includes and protects the right to monitor, as media workers (including journalist students), monitors and other observers, lawyers, human rights defenders and medical personnel contribute to the full enjoyment of the right. They should be protected and their work facilitated, even if the protest is dispersed.⁴⁶ Actors, including students carrying out such functions in relation to the on-campus protests, must not be prohibited from, or face undue restrictions, reprisals or other harassment, for conducting these activities, including with respect to monitoring the actions of law enforcement officials when called to disperse the protest; and their equipment must not be confiscated or damaged.⁴⁷

Given the pressing public need addressed by the student protests in the face of the mounting atrocity crimes against the Palestinians, as most recently reaffirmed by the ICJ rulings and the latest UN resolution, authorities and academic institutions should seek ways to facilitate these protests with higher level of tolerance.

Universities and other educational institutions have an important window of opportunity to learn from the experiences of the University-Based Pro-Palestine Solidarity movement. It is vital to create healthy and thriving campus environments for all students, guaranteeing viewpoint diversity, to foster more open discussions and constructive dialogue on controversial issues, counter stigmatizing narratives, contest echo chambers that impede the genuine interchange of ideas and “reduce the deleterious effects of ideological extremism”⁴⁸. Universities need to foster a culture of open inquiry and respectful dialogue, that ensure the survival of democratic institutions and of human rights and freedoms.

Quoting the students that the discourse insisting that “protest is not an academic activity, therefore needs to be exercised off campus”, is neglecting the possibility to recognize that the exercise of the rights to freedom of expression, peaceful assembly and association are per se essential actions of learning skills for the citizenry, and in sum for life itself.



⁴⁵ General Comment 37, para 67.

⁴⁶ See General Comment 37, para 30, and Model Protocol, A/HRC/55/60, para 17.

⁴⁷ Ibid.

⁴⁸ Heterodox academy, “Discussing Israeli-Palestinian Conflict on Campus: Political Affiliation, Ideology, and Institutional Support for Viewpoint Diversity”, <https://heterodoxacademy.org/reports/discussing-israeli-palestinian-conflict-on-campus-political-affiliation-ideology-and-institutional-support-for-viewpoint-diversity/>