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# Human Rights Council Starts Interactive Dialogue on the Independence of Judges and Lawyers, Concludes Discussion on the Right to Education

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The Human Rights Council this morning started an interactive dialogue with the Special Rapporteur on the independence of judges and lawyers. It also concluded its interactive dialogue with the Special Rapporteur on the right to education.

Margaret Satterthwaite, Special Rapporteur on the independence of judges and lawyers, presented her report on safeguarding the independence of judicial systems in the face of contemporary challenges to democracy. She said that the report addressed the vital role played by independent justice systems and personnel, judges, prosecutors, lawyers and community justice workers, in safeguarding democracy. This year, 2024, had been described as the biggest election year in history, a landmark for democracy in which nearly half the world's population would vote. However, increasingly, governments that came to power through legitimate elections were wielding their power to undermine democratic systems and rights. In many States, such attacks on democracy had justice systems and actors as their target. Ms. Satterthwaite said the report identified four different categories of threat to these systems: capture, curbing, instrumentalisation and attacks.

Ms. Satterthwaite also presented reports on her country visits to Montenegro and Mongolia, and representatives of those two countries took the floor.

In the ensuing dialogue, some speakers emphasised their support for the work of the Special Rapporteur in documenting attacks and violations against judges, lawyers and prosecutors, and making valuable recommendations to Member States. Some speakers concurred with her report about the pivotal role of democracy in protecting human rights. They stressed the importance of transparent, accountable and democratic law-making processes; effective judicial protection, including access to justice by independent and impartial courts; and the separation of powers. All Member States were encouraged to strengthen their efforts to protect judges and lawyers from persecution, and to fully implement laws that guaranteed the independence of justice and respect for the rule of law.

Speaking in the dialogue were Lithuania on behalf of a group of countries, European Union, Gambia on behalf of the Group of African States, International Development Law Organization, United Nations Development Programme, Peru, Norway, Chile, Armenia, Poland, Egypt, Luxembourg, Costa Rica, Maldives, France, Algeria, Belgium, Lesotho, Iraq, United States, China, Colombia, Iran, Netherlands, Russian Federation, Malaysia, Georgia, Tunisia, United Nations Educational, Scientific and Cultural Organization, Albania, Timor-Leste and Togo.

At the beginning of the meeting, the Council concluded its interactive dialogue with the Special Rapporteur on the right to education, the first half of which is summarised [here](#).

In concluding remarks, Farida Shaheed, Special Rapporteur on the right to education, urged States and other stakeholders to act on her recommendations for instituting academic freedom. There needed to be

efforts to counter the propagation of misleading and false information. Everyone had a responsibility to tackle issues such as digitisation and artificial intelligence, starting with the companies promoting this. Ms. Shaheed closed by calling on States, civil society organizations and academics to take forward efforts to promote academic freedom.

In the dialogue, some speakers, among other things, raised concerns about the threats posed to academic freedoms by political interference, artificial intelligence, privatisation and commodification of education, and the lack of funding for education. They presented measures to promote academic freedom, including education laws promoting the independence of academics; deregulation and decentralisation of universities and schools; and measures to protect students' and academics' right to protest. Some speakers also raised concerns regarding restrictions on academic freedoms in a number of countries and territories.

Speaking in the discussion on the right to education were Qatar, Maldives, Ethiopia, France, Costa Rica, Algeria, Republic of Korea, Honduras, Saudi Arabia, Bangladesh, Iraq, Djibouti, United States, China, Colombia, Russian Federation, Bahrain, Malaysia, Pakistan, Georgia, Côte d'Ivoire, Tunisia, Albania, Senegal, Bulgaria, Timor-Leste, United Nations Educational, Scientific and Cultural Organization, Togo, Cuba, Paraguay, Jordan, Yemen, Zimbabwe, Ghana, Eritrea, Afghanistan, Romania, Denmark, Libya, Kenya, Venezuela, Zambia, Angola, South Africa, Mali, State of Palestine, Sudan, Burkina Faso, Malawi, Vanuatu, South Sudan, Namibia, Cambodia, Suriname, India, Ukraine, Lebanon, Argentina, El Salvador, Azerbaijan, Austria, Belarus and the United Arab Emirates.

Also speaking was the Burundi National Human Rights Commission, as well as the following non-governmental organizations: *Instituto de Desenvolvimento e Direitos Humanos* – IDDH, European Union of Jewish Students, American Civil Liberties Union, Maryam Ghasemi Educational Charity, Baha'i International Community, Helsinki Foundation for Human Rights, *Oeuvre d'Orient*, Maat for Peace, Development and Human Rights Association, Asian-Pacific Resource and Research Centre for Women (ARROW) and *Rajasthan Samgrah Kalyan Sansthan*.

The webcast of the Human Rights Council meetings can be found [here](#). All meeting summaries can be found [here](#). Documents and reports related to the Human Rights Council's fifty-sixth regular session can be found [here](#).

The Council will reconvene at 3 p.m. this afternoon, when it will continue the interactive dialogue with the Special Rapporteur on the independence of judges and lawyers, to be followed by an interactive dialogue with the Special Rapporteur on the human rights of migrants.

## Interactive Dialogue with the Special Rapporteur on the Right to Education

The interactive dialogue with the Special Rapporteur on the right to education started in the previous meeting and a summary can be found [here](#).

## Discussion

Continuing the discussion, some speakers said, among other things, that the right to education was a fundamental right that was vital for promoting development and democracy. Education fostered the empowerment of vulnerable groups and promoted scientific progress for the common good. Providing access to education was a route out of poverty. Failure to adhere to the right of education put both the future of children and the foundations of countries at risk. Transforming education was key to achieving the 2030 Agenda and the Sustainable Development Goals.

Some speakers said academic freedom was an integral part of ensuring the right to quality education and socio-economic progress. It was intrinsically linked to other rights, including the rights to freedom of expression and freedom of thought. It empowered individuals to contribute to a free society. One speaker said academic freedom was important for preparing societies to face challenges such as climate change. All educators, researchers and students needed to be able to exercise academic freedom. Academic freedom needed to be protected at a constitutional level.

A number of speakers expressed solidarity with academics who faced harassment, repression, censorship and restrictions on institutions' autonomy. Some raised concerns about the threats posed to academic freedoms by political interference, artificial intelligence, privatisation and commodification of education, and the lack of funding for education. They presented national measures to promote academic freedom, including education laws promoting the independence of academics; deregulation and decentralisation of universities and schools; observatories where academics could lodge complaints of abuse; and measures to protect students' and academics' right to protest and promote a diversity of opinion.

Several speakers emphasised the importance of international and regional norms that protected academic freedoms. However, many developing countries were struggling to promote access to education, one speaker said. Many international deliberations regarding the right to education were premature for many States. There was diversity in how different countries interpreted academic freedom, one speaker said. It was imperative to continue to work to reach consensus on understandings of academic freedom. Some speakers proposed the development of a joint declaration on the importance of academic freedom.

Around 250 million children were out of school in 2022, one speaker said. Member States needed to implement measures to promote youth's access to education and fight inequality. By investing in youth, States could create a world with durable peace.

Some speakers said attacks on Gaza had resulted in the obliteration of the education system and the killing of students, teachers and education. They condemned attacks on schools and educational establishments in Gaza, which were blatant violations of international humanitarian law that had shattered the hopes and dreams of a whole generation. A number of speakers presented national measures to promote the right to education for refugee children who fled conflict, including Palestinian and Syrian refugees.

Several speakers addressed protests in academic institutions across the globe related to the situation in Israel and the occupied Palestinian territories. Some speakers expressed concern about violent crackdowns of protests supporting Palestine and censorship and repression of academics and students who expressed solidarity with the people of Palestine. Some speakers expressed concern about attempts to conflate criticism of Israel's actions with anti-Semitism. Some speakers expressed concern about the rise of anti-Semitism on university campuses. One speaker rejected the report's assessment of the responses to these protests in the United States. Some speakers disagreed with the report's criticism of the International Holocaust Remembrance Alliance's working definition of "anti-Semitism", saying that they would continue to use the definition to fight anti-Semitism in academic settings.

Some speakers expressed support for the Special Rapporteur's mandate and the recommendations expressed in the report. The report arrived at a crucial juncture, as countries faced increasing threats to academic freedoms across the world, including legal restrictions, threats and politicisation. Some speakers agreed with the report's call to improve working conditions for academics. There was a need to balance autonomy and public accountability. One speaker called on United Nations human rights mechanisms to continue to focus on the issue of academic freedom.

Some speakers said that no right was absolute and all rights needed to be exercised in respect of national sovereignty and individual freedoms. Academic freedom needed to be neutral and unbiased. One speaker expressed regret that the report hyped academic freedom and vilified certain countries. Many speakers pointed at restrictions on the right to education in a number of countries and regions. A number of speakers called on the Special Rapporteur to, in a future report, focus on discrimination against language minorities in education systems in a number of countries and territories.

A number of speakers asked how States and international funds could promote academic freedom and contribute to the fight against disinformation; how the international community could prevent discrimination of academics based on cultural ideologies; how new technologies could promote the right to education and academic freedom; what the world could do to promote the right to education for the children of Gaza; and what resources could be devoted to ensuring that artificial intelligence did not threaten the right to education.

Speakers also inquired about how international cooperation could help to mitigate threats to women's academic freedom; how to devise regulatory measures that balanced academic freedom with other rights; measures to support States with limited resources to provide free education; practical steps to encourage the international community to promote academic freedom as a human right; and when the Special Rapporteur would take a stance against the anti-Semitic response to protests at universities.

## Concluding Remarks

FARIDA SHAHEED, *Special Rapporteur on the right to education*, in concluding remarks, thanked all those who had spoken for their inputs. Responding to the question of China, she said the report was based on numerous sources and it would be helpful to visit China to ascertain the situation on the ground. The lack of funds did not hamper academic freedom. Academic freedom was all about knowledge production and critical thinking. The world would not be able to move forwards if it was blocked. At the international level, the Human Rights Council could mention academic freedom in its resolution on the right to education next year.

At national levels, States and other stakeholder were urged to act on Ms. Shaheed's recommendations for instituting academic freedom. The recommendations contained nine principles, including the freedom indispensable for scientific research and creative activity and the autonomy of institutions. When philanthropists or donors were involved, there should be no-influence clauses introduced between academic research institutions and private funders. There needed to be rules and regulations for public accountability.

It was important to promote a narrative where academic freedom was valued as essential to all. There needed to be efforts to counter the propagation of misleading and false information. There needed to be a review of how the commercial sector was influencing things. Ms. Shaheed urged States to review the appendices of her reports, which contained practical guidance. There needed to be spaces for further discussions because there were differences in practicality and socio-cultural norms. However, the changes needed to happen in each community.

Ms. Shaheed said she had already been concerned about anti-Semitism incidents which had started before the protests, but added that criticising the actions of a State, Israel, could not be conflated with anti-Semitism. A violation of someone's right never justified a violation of someone else's right. A theme throughout the dialogue was that new management techniques had led to self-censorship. It was vital to listen to the youth. Everyone had a responsibility to tackle issues such as digitisation and artificial intelligence, starting with the companies promoting this. Ms. Shaheed said she was one individual; everyone was dependent on the States present here, the civil society organizations and the academics to take it forward.

## Interactive Dialogue with the Special Rapporteur on the Independence of Judges and Lawyers

### Reports

The Council has before it the reports of the Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, on **safeguarding the independence of judicial systems in the face of contemporary challenges to democracy (A/HRC/56/62)** and on her **visit to Montenegro (A/HRC/56/62/Add.1)** and **visit to Mongolia (A/HRC/56/62/Add.2)**.

### Presentation of Reports

MARGARET SATTERTHWAITE, *Special Rapporteur on the independence of judges and lawyers*, starting with her two official country visits, said she visited Montenegro from 19 to 26 September last year. Montenegro had made considerable progress in reforming its institutional and legislative framework, particularly since the beginning of the accession process to the European Union. The constitutional amendments of 2013 and new legislation regulating the judicial and prosecutorial career had contributed to the de-politicisation of the judiciary and the prosecution service. There had also been significant advances in the fight against corruption and organized crime.

However, the justice system of Montenegro continued to face legislative gaps, institutional shortcomings and practical problems that undermined the independence and impartiality of the judiciary and the prosecution service and limited or prevented access to justice. Ms. Satterthwaite encouraged Montenegro to continue its reform of the justice system, in line with existing norms and standards relating to the independence of the judiciary, the autonomy of the prosecution service, and the rule of law. Politicians and State officials should refrain from statements concerning the judiciary and the prosecution service that could amount to interference. Ms. Satterthwaite called on Montenegrin authorities to ensure that legal aid providers were subject to applicable professional codes of conduct, and to establish appropriate oversight mechanisms for legal aid providers.

Ms. Satterthwaite said she visited Mongolia from 6 to 15 November 2023. She recognised the efforts of Mongolia, and its many achievements, in reforming its judiciary since the country's transition to democracy and the adoption of its Constitution in 1992. Constitutional amendments in 2019 and the enactment of the new law on courts in 2021 brought several key changes to strengthen the independence of the judiciary. During the visit, Ms. Satterthwaite welcomed efforts in progress to review the Criminal Codes and a new bill on the establishment of courts that was under consideration, including provisions to address the importance of timely and unhindered access to counsel.

Chronic underfunding was the most frequently reported problem. Ms. Satterthwaite called on Mongolia to earmark a percentage of its budget to the judiciary. The lack of public trust in the judiciary was concerning, and



she welcomed steps that Mongolia had taken to address this, such as providing a simple summary of court decisions. Mongolia should consider the creation of an independent body, similar to the Judicial General Council, for the prosecution service, empowered to oversee appointment, discipline and dismissal. Ms. Satterthwaite called on Mongolian authorities to ensure the ability of defence advocates to play their crucial role by ensuring they had prompt, unhindered and effective access to case files and their clients.

Ms. Satterthwaite said the thematic report addressed the vital role played by independent justice systems and personnel, judges, prosecutors, lawyers and community justice workers, in safeguarding democracy. Democratic participation in political life was an essential human right. Political participation was also a tool for protecting and advancing other fundamental human rights.

This year, 2024, had been described as the biggest election year in history, a landmark for democracy in which nearly half the world's population would vote. However, research showed that key indicators of meaningful democracy, including adherence to the rule of law and the existence of checks on government power, were in decline around the globe. Increasingly, governments that came to power through legitimate elections later wielded their power to undermine democratic systems and rights. In many States, such attacks on democracy had justice systems and actors as their target.

Two key findings from the report included: the many reasons why independent justice systems were important to maintaining meaningful democracy, and the extensive challenges that those systems were faced with when they attempted to play that role. Justice systems upheld the rule of law, which required governments to act in accordance with the power vested in them by the people. Independent justice systems ensured that all people were equal before the law, including governments and political leaders. Justice systems also played a critical role in ensuring free and fair elections, adjudicating disputes on the fairness and lawfulness of electoral proceedings.

The report identified four different categories of threat to justice systems: capture, curbing, instrumentalisation, and attacks. Capture of courts and bar associations involved reforms that decreased their independence and increased political control, with the impact that these systems could no longer act as an effective check on government power. Curbing took place through legal changes that systematically reduced the power of these institutions to act. Instrumentalisation entailed abusing justice systems to influence or control individual justice personnel through politically motivated prosecutions and disciplinary proceedings, or by manipulating conditions of service.

Finally, individual justice operators could be subjected to attacks and interference such as public disparagement by government officials, harassment and threats, and even arbitrary detention, torture, enforced disappearance, physical violence and assassination. Such targeting of individual judges, prosecutors, lawyers and community justice workers could serve as a punishment, retribution, or warning for their work to challenge the legality of government action, represent political opponents, or uphold fundamental human rights.

## Statements by Countries Concerned

**Mongolia, speaking as a country concerned, said it had extended an open invitation to the Council's Special Procedures and was committed to working openly and constructively with the mandate holders. The Constitution of Mongolia recognised the right of equality before the law and the right to a fair trial, and guaranteed that judicial power was vested exclusively in courts. In recent years, Mongolia had undertaken several reformative strides to ensure and strengthen the independence of the judiciary. Amendments to the Constitution of Mongolia in 2019 and the subsequent revision of the law on the courts in 2021 strengthened the legal frameworks to ensure the independence of the judiciary and the impartiality of judges and aimed at making the courts open and accessible to citizens.**

Despite these efforts and achievements, the State recognised that there were challenges that persisted and needed to be overcome. The number of cases brought to courts was increasing every year. There was a need to strengthen judicial training and research activities. Also, the digitalisation of courts would enable the electronic handling of disputes and reduce the burden on the courts. Mongolia appreciated the constructive recommendations that the Special Rapporteur provided in her report in this regard. It would further welcome the Special Rapporteur's insight on best practices in the digital transformation in justice sector.

In closing, Mongolia reiterated its commitment to protecting and promoting human rights, strengthening democratic values, and ensuring independent and effective justice system in line with its obligations under international instruments.

**Montenegro, speaking as a country concerned, thanked the Special Rapporteur for her visit and insightful report. Montenegro had cooperated with the visit, which contributed to guaranteeing the right to access to justice and strengthening the independence and integrity of the judicial system.**

Montenegro was committed to promoting human rights and upholding the rule of law. The Special Rapporteur's report had provided a concise overview of Montenegro's judiciary, presenting progress on ensuring the independence of the judiciary, access to justice, and the separation of powers, and highlighting challenges in these areas.

Montenegro had made significant progress in the fight against organised crime. It was also working to make progress towards accession to the European Union. Since the Special Rapporteur's visit, the State party had implemented amendments to laws related to the judiciary, access to justice, and the fight against corruption. The Government had also adopted a national action plan and strategy on the fight against corruption.

Montenegro remained committed to the continual strengthening of the rule of law and the independence of the judiciary. It would continue to cooperate with the Special Rapporteur and other relevant mechanisms to pursue this aim.

## Discussion

In the discussion on the independence of judges and lawyers, some speakers, among other things, thanked the Special Rapporteur for her commitment to uphold the independence of lawyers and judges, expressing support for her mandate. They emphasised their support for the work of the Special Rapporteur in documenting attacks and violations against judges, lawyers and prosecutors, and making valuable recommendations to Member States. Speakers concurred with her report about the pivotal role of democracy in protecting human rights.

The independence of judges and lawyers was a cornerstone of the rule of law and a prerequisite for a functioning democracy. It ensured that the judiciary could operate without undue influence, pressure, threats or other interference, which was essential for the fair administration of justice and protection of human rights. An independent judiciary and legal profession were indispensable to the full and equal realisation of human rights, and to the functioning of democracy and the rule of law.

In her report, the Special Rapporteur had outlined that the separation of powers was one of the ground rules of democracy, one speaker said. Its absence posed a potential risk of abuse of power. Some speakers stressed the importance of transparent, accountable and democratic law-making processes; effective judicial protection, including access to justice by independent and impartial courts; and the separation of powers. The rule of law was fundamental in advancing democracy. Free, honest and fair elections were essential for a democratic State.

Many speakers said they recognised the immense role of an independent national judiciary in contributing to a fair society and equality before the law, for all. Respect for judicial decisions, particularly at the national level, promoted legal certainty and supported the stable functioning of a State and the welfare of its people. Strengthening and supporting the independence and integrity of the judicial system, including operation without undue influence or threats, was critical in the face of democratic backsliding.

While there had been leaps forward, the pushback against the universality and indivisibility of human rights, the closing of civic space, and the backsliding on democracy needed to be addressed, some speakers said. New opportunities and risks also arose, notably linked to technological developments and global environmental challenges. Judicial and legal personnel should be able to carry out their duties without fear for their physical safety or freedom. Safeguarding the human rights and safety of judges and lawyers was critical.

A number of speakers condemned politically motivated prosecutions of judges and lawyers. Any act of violence or threats of violence, or any form of intimidation, coercion or inappropriate interference against judges, prosecutors or lawyers should be duly investigated. Some speakers expressed their concern about the increasing use of legislation to facilitate political influence over judicial appointments. All States needed to fully implement laws that guaranteed the independence of justice and respect for the rule of law.

Many speakers asked questions to the Special Rapporteur during the discussion. These included if she had identified common patterns in physical, legal and digital threats or harassment which were specifically targeting women serving as judges and lawyers? Could the Special Rapporteur share other good practices with an intercultural approach that contributed to bringing justice systems closer to citizens?

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