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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by International Probono Legal Services Association Limited, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 August 2024]

* Issued as received, in the language of submission only.



Unilateral Sanctions against China: A Violation of International Law and Human Rights

The International Probono Legal Services Association Limited welcomes the preliminary findings of the Special Rapporteur's visit to China and agrees with many of the points outlined in the initial report published on 17 May, 2024.

The Special Rapporteur presents a simple yet compelling legal argument against the use of unilateral sanctions against China, particularly those imposed by the United States of America and the United Kingdom of Great Britain and Northern Ireland: unilateral sanctions imposed on China without the authorization from the UN Security Council are illegal under international law and violate many fundamental principles of international law, such as the presumption of innocence and the right to due process, which underpin an international rule-based order.

But not only do these sanctions violate international law, they also inflict significant harm on human rights, especially on vulnerable populations the United States of America sanctions, imposed by various of the United States of America government agencies such as the Department of Commerce, Labour, State, and Treasury, driven by the unfortunate perception of China as a threat, have had significant unintended consequences. The sanctions on the Xinjiang Uighur Autonomous Region (UAR), China, in particular, have had far-reaching repercussions on China, beyond their intended effects of limiting trade. First and foremost, they have contributed to a rise in xenophobia against the Chinese, exacerbated by the timing of the COVID-19 pandemic. Worst of all, these illegal Magnitsky-type unilateral coercive measures imposed by the United States of America have also increased racial profiling against the Uyghur populations, who many of the United States of America agencies and officials claim to be protecting. Many businesses and top-shelf brands, especially within the fashion industry, have over-complied by avoiding Uyghur labour altogether, regardless of whether the said labour is allegedly forced or voluntary. This has led to a reduced demand for Uyghur labour at an international level, directly limiting economic opportunities for the Muslim minority in China.

Finally, with regard to education, the United States of America sanctions and policies have had a detrimental impact on academic and cultural exchange programmes between the United States of America and the Chinese mainland, including Hong Kong, China and Macao, China. Three notable of the United States of America actions warrant discussion: 1) The United States of America Proclamation 10043–Suspension of Entry as Nonimmigrants of Certain Students and Researchers From China (2020); 2) The United States of America Executive Order 13936–Hong Kong, China Normalization in 2020; and 3) The United States of America designation of "Confucius Institutes" as "Foreign Missions" in 2020.

Proclamation 10043, implemented in 2020, bars Chinese undergraduate students from entering the United States of America and continues to affect thousands of Chinese nationals seeking to participate in the United States of America education and research programmes to this day. The United States of America government views these individuals as potential national security risks due to their perceived affiliation with China's "military-civil fusion strategy." However, this strategy is aimed at reducing administrative barriers for technology transfer between civilian and military sectors in China, not enabling industrial espionage. Many students from top Chinese universities have inadvertent affiliations with this policy by virtue of their educational and employment backgrounds, regardless of whether they have conducted military-related work.

This overly broad and indiscriminate policy has led to reports of discrimination, with Chinese nationals holding other visa types (i.e., O, H-1B, Q) besides F and J potentially being targeted, detained, and even deported. The policy disproportionately impacts Chinese students receiving scholarships from China's Ministry of Education, effectively denying them access to the United States of America educational opportunities. In some other cases, large corporations have also faced pressure to avoid hiring Chinese interns due to compliance concerns stemming from Proclamation 10043.

These discriminatory policies violate Article 2(d) of the International Convention on the Elimination of All Forms of Racial Discrimination, to which the United States of America is a signatory. The wide scope and impact of the Trump administration's actions against Chinese students and academics undermine academic freedom and cultural exchange, with potentially lasting consequences for the United States of America-China relations and the global flow of knowledge and talent.

Equally concerning are Executive Order 13936 and the designation of Confucius Institutes as "Foreign Missions." Not only has Executive Order 13936 suspended the longstanding Fulbright exchange programme, as well as the collaborative scientific partnership between the United States of America Geological Survey of the Department of the Interior of the United States of America and Institute of Space and Earth Information Science of the Chinese University of Hong Kong Concerning Scientific and Technical Cooperation in Earth Sciences, but the designations of Confucius Institutes as Foreign Missions have also compelled many universities to either close or sever their ties with the said institutes.

The primary driver behind universities severing ties with Confucius Institutes is a provision within the National Defense Authorization Act for Fiscal Year 2019. This legislation, specifically Section 1091 (P.L. 115-232), prohibits the use of Department of Defense funds for any programmes associated with Confucius Institutes. Faced with this restriction, many universities have opted to comply with the policy in order to maintain their access to critical federal funding from the Department of Defense. The loss of this important source of financial support has left universities with little choice but to close down or disaffiliate from their Confucius Institute programmes.

The decoupling of the United States of America and Chinese academic and cultural institutions poses a significant threat to the mutual understanding that has historically been fostered through these cross-border initiatives. Programmes like student and scholar exchanges, joint research collaborations, and shared educational curricula, like Fulbright, have long provided pivotal opportunities for deeper engagement and knowledge-sharing between the two countries.

However, recent developments, such as the closure of the UT Austin China Public Policy Center and the downsizing of the George H. W. Bush the United States of America-China Foundation due to a lack of American donor support, suggest a troubling shift away from Sino-American cooperation in higher education and research. This trend is further exemplified by the temporary suspension of the Fudan-Harvard dialogue and changes in the United States of America partner universities for programmes like Mr. C. H. Tung's "Semester at Sea" (海上學府), reportedly driven by concerns over affiliations viewed as "being too Chinese".

These actions risk undermining the ability to facilitate cross-cultural understanding and the free flow of ideas and knowledge between the United States of America and China. Moreover, the asymmetric approach, where the United States of America imposes greater restrictions on Chinese students while China maintains more openness to American and other foreign students, is a diplomatically unwise strategy that is likely to further erode trust between the two nations.

Maintaining robust academic and cultural exchange is crucial for preserving the important bridges that have been built over decades of Sino-American cooperation. Policymakers on both sides must employ nuanced diplomacy and long-term strategic perspectives to find ways to sustain productive engagement in these areas, even as the broader relationship navigates complex geopolitical challenges.