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Students Are Not Pawns: Around the World, Just as It Should Be

Submission to the Special Rapporteur on the human rights of migrants in response to the Call for Inputs: Externalization of Migration and the Impact on the Human Rights of Migrants

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I. INTRODUCTION

My name is Gerardo Dasyel Mendoza Capetillo, a dual-degree student from Mexico pursuing master's degrees in public administration and international studies at Harvard Kennedy School and the Geneva Graduate Institute. My academic dream was turned into a "bureaucratic nightmare" on May 22, 2025, when the U.S. Department of Homeland Security (DHS) abruptly revoked Harvard University's Student and Exchange Visitor Program (SEVP) certification. This single action imperiled the legal status and academic futures of 6,793 international students, including my own.

This submission is a contribution to the Special Rapporteur's report on the externalization of migration. While the Harvard case does not represent a traditional externalization policy, such as offshore processing, it offers a critical case study on a related and alarming phenomenon: the use of domestic migration controls as a political tool, the circumvention of established legal and human rights norms, and the profound vulnerability of migrants caught in the middle. As a student of global migration governance directly impacted by these events, I offer this evidence-based analysis of the human rights implications of such actions.

II. CONTEXT AND BACKGROUND

The measure at the heart of this case is the summary revocation of Harvard University's SEVP certification by DHS on May 22, 2025. This certification is a legal prerequisite under U.S. law for any educational institution to issue the necessary documentation (Form I-20) that allows international students to apply for and maintain their F-1 visa status. The action was announced by DHS Secretary Kristi Noem, who alleged the university had failed to comply with demands for extensive records on international students. Further justifications included accusations that Harvard fostered an "unsafe campus environment" and promoted "anti-American, pro-terrorist" activities.

Harvard immediately challenged the revocation by filing a federal lawsuit, asserting the government's action was an "unlawful and unwarranted" act of "unconstitutional retaliation". On May 23, 2025, a federal judge granted a Temporary Restraining Order (TRO), pausing the revocation.

This situation directly implicates core international human rights principles, including the **right to education** (UDHR, Article 26; ICESCR, Article 13) and the **right to due process**. **Furthermore, the action contravenes the cooperative spirit and key objectives of the Global Compact for Safe, Orderly and Regular Migration (GCM). It undermines the call for evidence-based policymaking (Objective 1) and subverts the goal of enhancing the availability and predictability of pathways for regular migration (Objective 5).**

III. DETAILED ANALYSIS

The summary revocation of Harvard University's SEVP certification exemplifies a concerning trend where domestic migration controls are utilized in a manner that circumvents established legal norms and creates profound human rights risks for migrants. The justification for the action, its implementation, and its impact on students reveal significant inconsistencies with principles of administrative fairness, the right to education, and the protection of human dignity.

A. The Nature of the Measure: A Disregard for Established Procedure

The U.S. government's action to revoke Harvard's SEVP certification was challenged in court as a violation of U.S. law, specifically the Administrative Procedure Act (APA) and the U.S. Constitution. Harvard's legal complaint, filed on May 23, 2025, argues that the revocation was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law".

The core of this legal challenge rests on the assertion that DHS failed to follow its own established regulations for withdrawing an institution's certification. These regulations mandate a formal process that includes issuing a Notice of Intent to Withdraw (NOIW), providing the institution with 30 days to respond to the allegations, and offering a right to appeal. Instead, DHS issued a summary revocation "effective immediately," an action described in Harvard's legal filings as a "procedurally defunct initial strike".

In its official communications, DHS justified the action by citing Harvard's alleged failure to comply with requests for extensive student records. However, Harvard maintains it did provide responsive information as required by law and that the government's demands went far beyond the scope of regulations. In its lawsuit, the university contends that the government's action was not based on any valid regulatory reason but was instead an act of unconstitutional retaliation for Harvard's refusal to surrender its academic independence in the face of political pressure. This use of an administrative migration tool to allegedly punish or coerce an institution creates a dangerous precedent that undermines the rule of law and legal certainty for migrants and the institutions that host them.

B. Violation of the Right to Education and Academic Pursuit

The most direct human rights impact of the SEVP revocation is the immediate threat to the **right to education** for 6,793 international students. This right, protected under Article 26 of the UDHR and Article 13 of the ICESCR, is contingent upon students' ability to maintain lawful immigration status. The government's action severed the link between the students and their ability to legally continue their studies.

The immediate consequences were severe. Within hours of the announcement and before the court's intervention, incoming international students began receiving visa denials at U.S. consulates, with consular officers explicitly citing the SEVP revocation. Current students, many nearing graduation, were faced with the impossible choice of attempting to transfer to another institution mid-stream or departing the United States, thereby abandoning their academic programs, research, and communities. The disruption jeopardizes years of academic investment and derails carefully planned educational and career trajectories, particularly for those in specialized dual-degree or Ph.D. programs for which no direct equivalent may exist.

C. The Human Impact: Vulnerability and the Infringement of Dignity

Beyond the direct impact on educational access, the government's action inflicted significant psychological and emotional harm, underscoring the acute vulnerability of migrant students. Student testimonies and survey data collected in the aftermath paint a clear picture of the human cost.

Surveys conducted by the Harvard International Office revealed a profound impact on students' well-being and sense of security. A staggering **74% of international students reported a diminished sense of belonging**, while many expressed heightened anxiety about ethnic and national origin profiling, with students from Pakistan and other South Asian countries noting particular concern. Data also showed that **40% of affected students expressed concrete fears of deportation**, a clear indicator of the extreme precarity they were suddenly forced to confront.

T his sense of being targeted was a common theme. Students articulated feeling “dehumanized” and used as “pawns” or “collateral damage” in a high-stakes political dispute between the U.S. government and their university. This instrumentalization of human beings is an affront to their dignity. As one student from Pakistan stated, the situation felt "ridiculous and dehumanizing". The treatment of individuals as mere instruments in a broader political conflict, rather than as rights-holders, is inconsistent with the fundamental principles that underpin international human rights law. The action transformed their pursuit of education into an experience of fear and uncertainty, fundamentally altering their relationship with the host country and its institutions.

D. Inconsistency with the Global Compact for Migration (GCM)

The DHS action and its justification are inconsistent with several guiding principles and objectives of the GCM, which the U.S. has declined to adopt but which represents a global consensus on migration governance.

- Contravention of Evidence-Based Policy (Objective 1): The GCM’s first objective is to "Collect and utilize accurate and disaggregated data as a basis for evidence-based policies"[cite: 232, 348, 614, 1822]. DHS’s action, justified by broad allegations of an "unsafe campus" and non-compliance, appears contrary to this principle. Harvard’s lawsuit contends the government's action was pretextual and not based on substantiated evidence of regulatory violations, suggesting a politically driven decision rather than an evidence-based one.
- Undermining Pathways for Regular Migration (Objective 5): The GCM aims to "enhance availability and flexibility of pathways for regular migration". The summary revocation of the primary legal mechanism that enables 6,793 students to study in the U.S. is a direct contradiction of this goal. It introduces extreme unpredictability into an established regular migration channel, punishing students who followed all legal requirements.
- Failure to Uphold Non-Discrimination (Objective 17): The GCM calls on states to "eliminate all forms of discrimination". The fear of ethnic and national-origin profiling reported by 74% of international students at Harvard suggests that the government's rhetoric and targeted nature of the action have created a discriminatory environment, contrary to the spirit of this objective.

- Risk of “Brain Waste” and Hindering Skills Recognition (Objective 18): By threatening students' ability to complete their degrees, the policy undermines the GCM’s goal to "facilitate mutual recognition of skills, qualifications and competences". Forcing thousands of students, many in advanced STEM and policy programs, to abandon their studies would result in a significant "brain waste" of their accumulated knowledge and future potential.

IV. RECOMMENDATIONS

The Harvard SEVP case underscores the urgent need for enhanced safeguards to protect the human rights of migrant students. To prevent the use of migration controls as a tool for political pressure and to ensure the rights of students are upheld, the following recommendations are respectfully submitted for consideration:

For Member States (particularly the United States):

1. **Reform Legal Frameworks Governing Student Visas:** States should amend national laws, such as the U.S. Immigration and Nationality Act (INA), to ensure that decisions regarding the certification of educational institutions (e.g., SEVP) are based on clear, transparent, and non-discretionary criteria. This would prevent the arbitrary application of rules.
2. **Guarantee Due Process:** Legislation should codify robust due process protections for educational institutions, including the right to adequate notice, an opportunity to be heard, and access to judicial review *before* a certification is revoked. This prevents summary revocations that create immediate and irreparable harm for students.
3. **Protect Student Privacy and Freedom of Expression:** States should enact clear data privacy protections that limit governmental access to sensitive student records, particularly those concerning involvement in legitimate protest activities, unless a court-approved warrant is presented. This is essential to prevent a chilling effect on academic freedom and free speech.

For Academic Institutions and Civil Society:

4. **Develop Emergency Preparedness Plans:** Universities should institutionalize contingency plans that include access to legal aid, mental health counseling, and flexible academic options (e.g., remote learning) to support students during immigration-related crises.
5. **Strengthen Advocacy Coalitions:** Academic institutions should form stronger coalitions with non-governmental organizations, such as Scholars at Risk, and student advocacy groups to collectively lobby for rights-based immigration policies and robust protections for academic freedom.

For the United Nations System:

6. **Enhance Monitoring and Reporting:** The Office of the High Commissioner for Human Rights (OHCHR) should systematically monitor and report on violations of migrant students' right to education, particularly where such violations stem from the politicization of migration policies.
7. **Promote Best Practices:** Multilateral platforms like the Global Forum on Migration and Development (GFMD) should prioritize international student mobility, developing and promoting best-practice guidelines for student visa programs that are predictable, transparent, and aligned with human rights norms **and the objectives of the GCM**.

V. CONCLUSION

The 2025 Harvard SEVP revocation case, while unfolding within a domestic legal framework, offers a stark and universally relevant lesson on the fragility of migrants' rights in the face of political pressure. It demonstrates with chilling clarity how administrative migration controls can be instrumentalized, leaving thousands of students—who are scholars, researchers, and vital community members—in a state of profound uncertainty and fear, their right to education and human dignity hanging in the balance.

The international community must affirm that students are not political pawns. Upholding the principles of due process, legal certainty, and the right to education is not only a legal obligation but a prerequisite for fostering the global cooperation and intellectual exchange on which our collective future depends. As Harvard President Alan Garber stated, universities should be welcoming places for students "from around the world, just as it should be". It is imperative that states, institutions, and the UN system work collaboratively to ensure this vision is protected by the unwavering application of human rights for all.

VI. REFERENCES:

Primary Legal and Official Documents

- **Harvard University's Lawsuit:** Harvard University. (2025). *Complaint for Declaratory and Injunctive Relief, Case No. 25-cv-11472*. This is the central piece of primary evidence detailing Harvard's legal arguments.
- **The Court's Temporary Restraining Order:** U.S. District Court. (2025). *Order Granting Temporary Restraining Order, Case No. 25-cv-11472*. This document validates the seriousness of the legal challenge and the risk of irreparable harm.
- **DHS Revocation Notice:** DHS. (2025). *Notice of Revocation of SEVP Certification, Harvard University*. This document outlines the government's official action and stated justifications.
- **DHS Records Request:** Letter from Kristi Noem, U.S. Dep't of Homeland Sec., to Maureen Martin, Harvard Univ., *Student and Exchange Visitor Program Records Request* (Apr. 16, 2025).

Key International Legal Instruments

- **Universal Declaration of Human Rights (UDHR):** UN General Assembly. (1948). *Universal Declaration of Human Rights*. Essential for grounding the argument in the fundamental right to education (Article 26).
- **International Covenant on Economic, Social and Cultural Rights (ICESCR):** UN General Assembly. (1966). *International Covenant on Economic, Social and Cultural Rights*. Reinforces the right to education (Article 13).
- **Global Compact for Safe, Orderly and Regular Migration (GCM):** UN General Assembly. (2018). *Global Compact for Safe, Orderly and Regular Migration*. Useful for citing objectives on safe migration pathways (Objective 5) and non-discrimination (Objective 17) that are contravened by the political nature of the action.

Reports and Data on Human Impact

- **Harvard International Office Survey:** Harvard International Office. (2025). *Survey of Harvard's International Students, Spring 2025*. This is your crucial source for qualitative data on the human impact, including the 74% of students reporting reduced belonging and fears of profiling.
- **Harvard International Office Enrollment Data:** Harvard International Office. (2024). *Annual Report on International Enrollment*. Provides the quantitative data on the number of affected students (6,793, or 27.2% of enrollment).
- **NAFSA Economic Impact Data:** NAFSA. (2024). *Economic Impact of International Students in the U.S.*. Useful for contextualizing the broader importance of international students.