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## Title: Universities as human rights actors: screening partners

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Can the university as an institution be a human rights defender? Should it be?

Universities, through their highest representatives, sometimes publicly denounce human rights violations. In Belgium, this typically takes the form of a public letter signed by some or all of the chancellors of the five Flemish or ten Belgian universities. They do this more easily when the human rights violations can be linked to the academic world. For example, in May 2023, the five Flemish chancellors issued a statement denouncing the detention in Iran of Ahmadreza Djalali, a visiting professor at Brussels University, and supporting HR defenders in Iran. And in May of this year, the ten Belgian chancellors called on the Belgian government and on the European Commission to suspend the Association Agreement with Israel. Occasionally, the chancellors issue statements on human rights violations that are not related to academia. This happened for example in 2018, after Mawda Shawri, a two-year old Kurdish girl, was killed in a police chase. All the Belgian chancellors asked the government to give her family legal residence status. They also expressed their concern about what they called “the current climate surrounding migrants and the decreasing respect for the most vulnerable persons in society”.

Still, one could say that these are not the universities talking and taking position, these are the chancellors in their role of public intellectuals and opinion makers.

What we are seeing in the context of campus protests about the genocide in Gaza is something different. Protestors call on the universities as such to take on responsibility for their -indirect- impact on the human rights violations going on in Gaza. In the US, protests focus mostly on universities' investments. In Europe, the emphasis has been also on collaborations with Israeli partners – whether academic, government or business. The idea is that the university is morally complicit when it invests in, or collaborates with organisations that are involved in serious human rights violations.

Underlying is the premise that universities can and should be held accountable for their human rights impact on the outside world. This premise is emerging quite strongly recently, although it is also being strongly contested.

From the perspective of human rights law, this is relatively new, but at the same time it is entirely in line with existing HR law and mechanisms, in particular in the field of business & human rights. If human rights due diligence can be expected of corporations, it would seem that a fortiori, it can be expected of universities, who perform a public function.

The Gaza crisis has of course not been the first time that universities have been called upon to take up responsibility for human rights. At Ghent University, this issue came on the agenda in 2015. This was in an advisory body on internationalisation. The agenda item was the desirability of concluding a new cooperation agreement with an Israeli institution, in a context in which a large number of Ghent University academics were calling for an academic boycott of Israel. The members of the advisory body were opposed to a boycott, but this was not because they thought the human rights record of the partner institution was irrelevant. Instead they argued that they did not want to single out any particular country, because university policy should be consistent and even-handed. They mandated me to propose a model for the systematic human rights screening of all international partners of Ghent University. I worked on this with a colleague, Laurens Lavrysen.

The human rights policy at Ghent University entered into effect in the beginning of 2017. It has two key components.

The first is the insertion of a human rights clause in collaboration agreements, that allows either partner to terminate the agreement in case the other partner is involved in serious human rights violations.

The second is the human rights assessment of intended collaborations. Ghent University will not engage in any collaborative project if the project is likely to have a negative impact on human rights. In addition – and most importantly – Ghent University will not engage in collaboration with any partner that has a track record of serious human rights violations.

The policy is implemented by the Committee on Human Rights Policy and Dual-Use Research.

The policy document that was adopted by the University Board explains the motive for the adoption of a human rights policy with reference to the university's mission statement, as well as to its social responsibility. As Ghent University self-identifies as a 'socially committed' university, it is argued that it should attempt to optimize its positive impact on society and to reflect upon and to minimize the negative impact that its activities may have.

An additional argument relates to its status as a public actor. By delivering higher education with a considerable public good component, Ghent University is embedded in the wider public sector and is expected to engage in promoting public service values. As such, a human rights policy would constitute part of Ghent University's broader social responsibility policy, which already encompassed sustainability, fair trade, equality and diversity, and aspects of development cooperation.

In this context, the document finally states that it could be argued that, under the UN Guiding Principles on Business and Human Rights, Ghent University, as a public actor, is not only under a duty to respect human rights but also, within its powers, under a duty to protect human rights against violations by private actors, in particular in the context of international cooperation.

In 2019, a similar model was developed in VLIR, the umbrella organisation of the five Flemish universities. To the best of my knowledge, these were the only universities that had such policies in place until very recently.

The Gaza crisis and the related campus protests led many universities to think about these issues. Some decided to cut ties with Israeli partners as an ad hoc measure. Others decided that

they would not consider any requests to do so. And yet others felt that they should respond to the claim for taking up human rights responsibility, yet that it could not be an ad hoc measure. So they started developing screening mechanisms. I found that in the past two years, screening policies have been adopted by three Belgian French speaking universities, ten universities in the Netherlands, two in Ireland, and one in Switzerland. In addition, proposals for similar policies are on the table in at least two more Irish universities, three Spanish universities and two Italian ones. This is not an exhaustive overview, but in my view it clearly shows an emerging trend of universities taking up human rights responsibility in their partnerships.