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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Protection of human rights in the context of peaceful protests
during crisis situations****Report of the Special Rapporteur on the rights to freedom of peaceful
assembly and of association, Clément Nyaletsossi Voule****Summary*

The present report is prepared by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolution 44/20 of 17 July 2020.

The Special Rapporteur has examined key global trends that seriously impede the protection of human rights in the context of peaceful protests in crisis situations. They include stigmatization, abuse of emergency measures, militarization and use of unlawful force to stifle peaceful protests, compounded by endemic impunity for serious violations. The Special Rapporteur reaffirms the importance peaceful protest has for democratic, just and peaceful society and as a means to ensure people's voices are heard and taken into account. Based on numerous global consultations and submissions by States, law enforcement and non-State actors, the Special Rapporteur offers practical recommendations to enhance facilitation and protection of human rights during peaceful protests in crisis.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



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I. Introduction

1. On 17 July 2020, the Human Rights Council adopted resolution 44/20 on the promotion and protection of human rights in the context of peaceful protests. Concerned with the expansion of human rights violations in the context of peaceful protest, exacerbated in the context of such crises as the coronavirus disease (COVID-19) pandemic, the Council requested the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, to prepare the present report.

2. Between June 2021 and April 2022, the Special Rapporteur conducted regional and global consultations with various stakeholders, including eight regional consultations with hundreds of civil society representatives from the Africa, Asia and the Pacific, Europe, Latin America and the Caribbean, and Middle East and North Africa regions; a global online consultation with national human rights institutions; a virtual consultation with law enforcement personnel, with the cooperation of the United Nations Office on Drugs and Crime (UNODC); and a global consultation with States' permanent missions in Geneva. In addition, the Special Rapporteur interacted with regional human rights systems and consulted experts, including academics, lawyers and members of civil society who were working on a variety of subjects addressed by the report. The report also draws from the panel discussion on peaceful protest held at the forty-eighth session of the Human Rights Council, in which the Special Rapporteur called on States to implement all relevant instruments to strengthen the promotion and protection of human rights during peaceful protests. The Special Rapporteur received 95 submissions that informed the report: 11 from States, 9 from national human rights institutions, and 75 from civil society.¹

3. Among the actors consulted were activists and experts in monitoring peaceful protests, participants in protests, human rights defenders, peace-building actors, humanitarian actors, women's rights and racial discrimination activists and others. Specific attention was paid to gender aspects of protests during crisis and to the impact of measures on different groups.

II. Legal and conceptual framework

4. Protests can take many forms. They can be spontaneous or organized, individual or collective. They can have many objectives: expressing dissent, dissatisfaction or opposition; raising concerns or awareness about particular issues, including human rights violations; demanding accountability; calling for better work conditions; or any combination of the above. Protests are especially important as a means of enabling the expression of popular perspectives during crises, when inequalities and marginalization worsen. Protests are also an important avenue to protect and achieve other rights.² Accordingly, restrictions on and lack of protection of peaceful protest contribute to violations of the other human rights protesters seek to promote, achieve and defend.

5. The conduct of peaceful protests is protected by numerous international and regional human rights instruments. In particular, article 21 of the International Covenant on Civil and Political Rights protects the right to freedom of peaceful assembly. Protests are also protected by the right to freedom of association, the right to freedom of expression and the right to participate in public affairs (articles 19, 22 and 25 of the Covenant). These rights are widely considered foundational to free and democratic societies. Everyone has the right to freedom of peaceful assembly regardless of their status. The protection continues whether the protest is in support of "contentious ideas or goals" or not.³ States have an obligation under international human rights law to respect, protect and fulfil individuals' right to freedom of peaceful assembly.

6. That right is subject only to limitations provided by human rights law. First, limitations must pass the test of legality, meaning that they are laid out clearly in the laws, in

¹ Submissions are on file with the Secretariat.

² Human Rights Committee, general comment No. 37 (2020) on the right of peaceful assembly.

³ General comment No. 37 (2020), para. 7.

advance and according to the appropriate procedures, and that they do not confer unfettered or sweeping discretion on those charged with their enforcement. In addition, as set out in article 21 of the Covenant, they must be aimed at legitimate purposes, including national security or public safety, public order, the protection of public health or morals, and the protection of the rights and freedoms of others. Any restrictions imposed must be the least intrusive among the measures that might serve the relevant protective function, and must not be disproportionate to the legitimate aim the measure achieves. All of the above must be considered in accordance with the principles of democracy, the rule of law, political pluralism and human rights.⁴

7. Peaceful protests often arise as a result of or in relation to crises, and States often impose illegitimate restrictions on assemblies in those contexts, resulting in violations of numerous rights. Situations that may be labelled “crises” in which protests arise and are at risk of suppression include situations of armed conflict, political instability, coups d’état and major political contestations, mass violence linked to terrorism or organized crime, health crises, environmental and natural disasters, climate change, economic crises, situations of food insecurity, situations of large-scale poverty and inequality and situations involving systematic discrimination against particular groups.

8. Irrespective of the existence of a “crisis”, States are obliged to protect human rights. Under article 4 of the Covenant, States are allowed to derogate only to a limited extent from some of their human rights obligations, such as the right to freedom of peaceful assembly, in exceptional circumstances, and where the life of the nation is threatened. Any restrictions must be of an exceptional and temporary nature, proportionate in the light of the emergency situation and maintained only for as long as the emergency exists, and must comply with the parameters set out by international human rights law.⁵ States must not rely on derogation from the right of peaceful assembly if they can attain their objectives by imposing lesser restrictions in line with the provisions of article 21.⁶ During states of emergency, other rights and principles relevant to peaceful protests, such as the right to life, the prohibition of torture and the principle of legality in criminal law, are non-derogable in all circumstances.⁷

9. During an armed conflict, measures derogating from the Covenant are allowed only if and to the extent that the situation constitutes a threat to the life of the nation.⁸ In addition, international humanitarian law, including the Geneva Conventions of 1949 and the Additional Protocols thereto, applies and provides protections to the civilian population in the context of peaceful protests during international or non-international armed conflicts, or military occupation.

III. Role of protests in building peaceful and inclusive societies

10. The Special Rapporteur has observed a widespread tendency on the part of States to view protests as a threat and magnifier of crises. In contrast, he emphasizes that protests are vital to the life of healthy societies, allowing underrepresented viewpoints and the voices of those otherwise excluded to be taken into account. Protests have been particularly important in facilitating participation of otherwise excluded groups such as youth, ethnic, racial and other minorities, women, children, LGBTQI+ persons and other marginalized communities and victims’ groups. Protests are also often essential to holding Governments, and rights violators in general, accountable. Where States adopt securitized, hostile approaches to protests, rather than welcoming them as an important part of democratic life, the result is often to deepen underlying crises.

⁴ Ibid., paras. 36–40.

⁵ Human Rights Committee, general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency; and Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (Siracusa Principles) (E/CN.4/1985/4, annex).

⁶ General comment No. 37 (2020) and general comment No. 29 (2001), para. 5; and CCPR/C/128/2, para. 2 (c).

⁷ Siracusa Principles; and general comment No. 29 (2001), para. 7.

⁸ General comment No. 29 (2001), para. 3.

11. Crises can be both the consequence and cause of human rights violations. They are often rooted in complex combinations of factors, including systemic exclusion and discrimination, unequal distribution of wealth and exploitative economic systems, environmental degradation and lack of access to basic services or protection. Identifying and effectively addressing the underlying drivers of crises requires multiple perspectives and inclusive dialogue.

12. Fulfilment of the right to freedom of peaceful assembly – as part of an ecosystem of public participation in decision-making – contributes to more transparent and responsive policies. The ability of different segments of society to voice their disagreement and grievances publicly, including in particular in crisis situations, represents an important means to facilitate dialogue and prevent further destructive conflict. It is also important that children be able to participate in protests, given their exclusion from political processes.

13. It is of concern that in crisis contexts, protests are often perceived or misrepresented as threats to national security, public order or the like, eliciting, in response, repressive laws, policies and force. Such repression often drives further grievances and social unrest.

14. It is important to recall the historic role protests have had in driving change in relation to advancing human rights and social justice; ending slavery, colonial rule, authoritarian regimes and apartheid; supporting transitional justice processes; advancing women’s rights; preventing destructive conflict and bridging differences; and advancing the global fight for climate justice. Protests have led to innumerable vital institutional and legal changes, including constitutional reforms, changes in government structure and other institutional arrangements, the reform of abusive laws and practices, increased social protection and greater inclusion of vulnerable groups.

IV. Restrictions on peaceful protest during crisis situations

15. States have too often responded to both genuine and invented crises through a range of unlawful measures that violate the right to freedom of peaceful assembly. States often attempt to justify restrictions on, or the use of unlawful force against, peaceful protesters by branding them as “rioters,” “bandits”, “provocateurs”, “terrorists” and with other such stigmatizing labels. Such practices are extremely dangerous, create a climate hostile to the exercise of the right to freedom of peaceful assembly and can lead to serious human rights violations.

A. Use of emergency laws and measures

16. States have a long history of misusing emergency measures in crises, imposing severe restrictions or blanket bans on the right to freedom of peaceful assembly. Not every crisis, however, reaches the threshold to justify the imposition of a state of emergency. States are obliged to provide careful justification for the proclamation of a state of emergency, and to provide clear evidence, including scientific evidence where appropriate (as in the case of health crises), that the situation meets the threshold of an emergency. In addition, all derogating measures must be strictly required by the exigencies of the situation.⁹ This requirement relates to the duration, geographical coverage and material scope of the state of emergency and any related derogations.¹⁰ Furthermore, States should provide evidence that the emergency is actual, grave and imminent.¹¹ A state of emergency may not be used to stifle dissent, as expressed through protest. To ensure compliance with the principle of legality and the rule of law, an official proclamation is required when a state of emergency is declared and, if extended, of any derogations of rights thereunder.¹²

17. States have often declared an emergency during crises in a manner and under circumstances that are inappropriate, and for overly lengthy periods, and have relied on those

⁹ Ibid., paras. 4–5.

¹⁰ Ibid.

¹¹ Siracusa Principles, paras. 40–41.

¹² General comment No. 29 (2001), para. 2.

declarations to impose unnecessary restrictions on the right to freedom of peaceful assembly, in violation of their international legal obligations. They have included bans on assemblies, sanctioning the use of unlawful force, including through military engagement, arbitrary and unlawful arrest, Internet and communications shutdowns and other abusive measures aimed at suppressing peaceful protests. States have also used declarations of “emergency” as a cover to justify attacks on critics of the Government, while fostering a sense on the part of military and law enforcement personnel that they may violate human rights with impunity in implementing emergency measures in response to peaceful protests.

18. In response to the global COVID-19 pandemic, an unprecedented number of States around the world have adopted sweeping emergency and other public health-related measures, imposing nationwide lockdowns and broad restrictions on movements and gatherings, including bans on peaceful assemblies.¹³ States are required to comply with the above regulations when declaring states of emergency in the context of pandemics. However, many States imposed states of emergency without formally declaring them. Some States have imposed emergencies or de facto emergency measures, such as strict lockdowns and prohibitions on gatherings, through presidential decrees and declarations, circumventing legislative review and judicial oversight.

19. While the Special Rapporteur understands the urgency of the COVID-19 pandemic situation and States need to protect the right to health and life of all within their jurisdictions, many measures adopted during the pandemic have been unjustified, disproportionate and overly punitive. The concentration of power in executive authorities, with minimal or no legislative or judicial oversight, the lack of clarity of the status and content of emergency measures, and the decision of some States to approach the pandemic not as a health issue but through a securitized lens, increasing the strength of security and at times military forces, has led to serious violations of the right to freedom of peaceful assembly. The Special Rapporteur has received numerous reports of excessive use of force, arbitrary detention and attacks on protesters during the COVID-19 pandemic. Many States appear to have utilized the measures imposed as a pretext to expand militarization and executive power and attack oppositional figures and movements. In several States, restrictions on assemblies have been vigorously applied relative to rallies held by opposition political parties and to anti-government protests, while pro-government demonstrations, ruling party political gatherings and election rallies have been allowed to proceed free from limitation. Some emergency measures have not included any sunset clause, raising concerns over prolonged erosion of rights and freedoms. In some States, bans on assemblies have remained in place even after restrictions were lifted.

20. Moreover, many States banned assemblies as part of COVID-19 emergency measures without performing an assessment as to whether other less invasive restrictions permitted under article 21 would have served the public health objective, such as evaluating whether assemblies subjected to certain restrictions required to limit the spread of the pandemic (distancing guidelines, mask wearing requirements, limitations on the number of participants and/or other measures) could suffice.¹⁴ Such assessments are important, as any restrictions imposed must be no more than necessary in a democratic society. For example, the European Court of Human Rights found that anti-COVID-19 measures imposing blanket bans on assemblies for a lengthy period, backed by severe penalties, were disproportionate to the aims pursued and violated the right to freedom of peaceful assembly.¹⁵

21. Emergency measures suspending freedom of assembly have also been imposed following protests seen as challenging the Government, for example, protests against rising gas prices in Peru in April 2022¹⁶ and anti-COVID-19 vaccine protests in Canada in February 2022. The Special Rapporteur reiterates that States must tolerate a certain level of disruption

¹³ International Centre for Not-for-Profit Law and others, COVID-19 Civic Freedom Tracker, available at <https://www.icnl.org/covid19tracker/>; and European Commission for Democracy through Law (Venice Commission) (CDL-AD(2020)018, 8/10/2020).

¹⁴ Submission of Public Ombudsman of Georgia.

¹⁵ European Court of Human Rights, *Communauté genevoise d'action syndicale (CGAS) v. Switzerland*, Case No. 21881/20, Judgment, 15 March 2022.

¹⁶ See https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/media_center/PReleases/2022/072.asp.

to everyday life caused by demonstrations, unless they are “serious and sustained”.¹⁷ Furthermore, imposing states of emergency in response to protests is counterproductive to solving underlying social and political disputes. States should seek to foster dialogue with all affected groups, and to address the root causes of the protests, as well as strengthening democratic functions to address any social disputes.

22. It is of concern that some States have prolonged and normalized emergency powers initially adopted in response to crisis, suffocating civic space. Judicial oversight is essential to limiting the potential for abuse of emergency measures, including of any derogations related to the right to peaceful assembly.

B. Use of ordinary laws and measures to restrict freedom of peaceful protest

23. States have also utilized restrictive laws to suppress protests in the context of crises. States have imposed blanket bans on peaceful assemblies,¹⁸ which they argue are justified in response to certain crises. Blanket restrictions are presumptively disproportionate.¹⁹

24. The Special Rapporteur has previously expressed his concern with legal measures, including measures concerning “critical infrastructure”, that effectively ban certain forms of protest.²⁰ The Special Rapporteur reiterates that interruptions, for example to traffic, and inconveniences to certain business activities must be tolerated if the right to freedom of peaceful assembly is not to be deprived of meaning. While road blocking may be subject to certain limited restrictions, it may not be subjected to a blanket ban.²¹

25. Many States have adopted measures to address, or putatively designed to address, security challenges connected to terrorism, violent extremism, organized crime and other national security or public safety concerns. While certain measures to combat such concerns are appropriate, many measures adopted in practice have been used to stifle peaceful protests. Frequently, such measures include overly broad and vague terms that allow for criminalization of the actions of peaceful protesters.²²

26. In many other cases, laws lacking a legitimate aim and/or overly broad general criminal law measures, such as sedition laws, are used to suppress protests expressing dissent. For instance, *lèse-majesté* and sedition laws have been widely used by Thai authorities to criminalize and disperse pro-democracy protests.²³

27. States often disperse assemblies on the ground that no notification of the assembly was provided. Notification must not be required for spontaneous assemblies, for which there is not enough time to provide notice and which is often the case during crises. Lack of notification alone never constitutes grounds to disperse an assembly or justify the use of force, the criminalization or arrest of protesters. States remain obligated to facilitate such assemblies and protect the participants.²⁴

28. Any limitations imposed must allow for judgment on a case-by-case basis, and the onus is on the authorities to justify any restrictions. Where this responsibility is not met, article 21 is violated. Whenever a limitation is reasonably imposed, the authorities should explore steps to ensure the right can be enjoyed through alternative means.

¹⁷ General comment No. 37 (2020), para. 85.

¹⁸ “United Nations rights experts raise alarm over Russia’s ‘choking’ media clampdown at home”, *UN News*, 11 March 2022.

¹⁹ [A/HRC/20/27](#), paras. 39 and 54; and general comment No. 37 (2020), para. 38.

²⁰ [A/76/222](#).

²¹ General comment No. 37 (2020), para. 44.

²² See communication BRA 6/2021. All communications mentioned in the present report are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

²³ Consultations with civil society actors, Asia and Pacific region (see para. 2); see also communication THA 6/2021.

²⁴ General comment No. 37 (2020), paras. 70–73.

29. The Special Rapporteur has received positive reports for certain measures taken by some States to facilitate forums and assemblies during the COVID-19 pandemic, countering challenges posed by the pandemic. For example, some States have created spaces to listen to children’s views during the pandemic through organized press conferences.²⁵ Moreover, the constitutional courts in some States have played an important role in ensuring that authorities continue to respect the right to freedom of assembly when applying relevant measures.²⁶

C. Increasingly militarized approaches

30. There has been a disturbing global tendency towards militarized policing of protests in the context of crisis situations.

31. As a general rule, the military should not be used to police assemblies, as deployment of the military for such a purpose often leads to serious human rights violations.²⁷ It is not the mandate of the military to police protests, nor it is trained in protection and de-escalation techniques, nor does it have the appropriate equipment for policing protests.²⁸ Whereas military techniques typically aim at using force and weaponry to achieve maximum impact, protest policing requires the use of the minimum force necessary. Broadly, deployment of the military casts a shadow of fear and intimidation, and creates a chilling effect that in and of itself violates the right to freedom of peaceful assembly.

32. In conflict and post-conflict situations, armed groups have often been incorporated into the security forces without being vetted on the basis of their previous conduct or held accountable for human rights violations. Where such forces are deployed to police protests, the potential for rights violations and impunity is magnified. In some cases, a combination of security forces has been deployed to manage protests, providing additional potential for violations to be committed, including violations due to the lack of clear command structure. The deployment of foreign military forces to police protests is of even greater concern, such as in Kazakhstan where troops from the Collective Security Treaty Organization were brought in to suppress large-scale protests.²⁹ Deployment of external forces increases the potential of violations and impunity. In all circumstances, the deployment of military or militarized forces to police protests tends to undermine efforts to build community trust and create the potential for the escalation of violence.³⁰

33. In exceptional circumstances, where it is absolutely necessary for the military to be deployed in the context of protests, they must be under civilian command and oversight, have clearly defined responsibilities and be held accountable by civilian justice systems. They must be trained in human rights-based law enforcement,³¹ including de-escalation techniques; must be equipped with and trained in the use of “less-lethal” weapons; and must comply with applicable law enforcement standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.³² At the same time, States must proactively put into place measures aimed at ensuring that it will not be necessary to deploy the military to police protests.

34. The Special Rapporteur is alarmed that military courts have been used to try protesters in several States.³³ For example, the Bolivarian Republic of Venezuela used military courts to try protesters on charges of crimes such as “rebellion”, “terrorism” and “treason”.³⁴

²⁵ Submission of Child Rights Connect.

²⁶ Submission of European Centre for Not-for-Profit Law.

²⁷ See communications MMR 1/2021, UGA 5/2018 and LBN 6/2019.

²⁸ See https://www.icrc.org/en/doc/assets/files/other/icrc_002_0943.pdf.

²⁹ See communication KAZ 1/2022.

³⁰ Virtual consultation with law enforcement personnel (see para. 2).

³¹ A/HRC/31/66, para. 66; and A/66/330, para. 96.

³² See UNODC and Office of the High Commissioner for Human Rights (OHCHR), *Resource Book on the Use of Force and Firearms in Law Enforcement*, Criminal Justice Handbook Series (Vienna and Geneva, 2017).

³³ International Commission of Jurists, “Lebanon: the military has no role in policing public protests, let alone in arresting, detaining and prosecuting ordinary civilians”, 10 February 2021.

³⁴ See communication VEN 4/2017.

Military courts should not try civilians. Such courts are structurally non-independent and lack the necessary due process guarantees.

35. There has also been a trend towards the militarization of law enforcement personnel deployed to police protests, leading to the development of quasi-military police units that rely on military-style tactics and are armed with military-style equipment and weaponry. This trend was visible during protests over police violence against people of color in the United States of America.³⁵

D. Use of unlawful force

36. The Special Rapporteur has observed the widespread use of unlawful or excessive force during crises to prevent people from joining protests, when arresting protesters, to disperse protests and as a form of retribution against those who have joined protests and their family members.

37. States must ensure that any use of force is in accordance with the principles of legality, necessity, proportionality, non-discrimination, precaution and accountability.³⁶ States are obliged to comply with these principles at all times. Excessive use of force is never justified. Using force with the aim of punishing people taking part in protests is unlawful and a grave violation of the rights to freedom of peaceful assembly and to bodily integrity.

38. During the COVID-19 pandemic, representatives of law enforcement in many States have reportedly used unlawful force to enforce restrictions on freedom of movement and curfews. Excessive force has also been used against those taking part in peaceful protests regarding COVID-19 measures. Enforcement of such health regulations does not justify the use of force likely to cause more than negligible injury.³⁷

39. Women, children, LGBTQI+ individuals, indigenous peoples, migrants, persons of African descent and other groups subjected to discrimination are particularly vulnerable to unlawful police force while taking part in protests.³⁸ Addressing such violence requires institutional changes to eliminate structural systems of discrimination, including enhancing diversity within law enforcement and the administration of justice, legislative measures that enhance equality and targeted training.³⁹

40. State practice reveals misunderstanding as to the protections owed to protests. States often declare protests violent despite an absence of evidence of widespread violence. Violent conduct by some individuals is not sufficient to declare an assembly non-peaceful in general, nor may the violent acts of particular individuals be attributed to other participants in the assembly.⁴⁰ Where isolated instances of violence take place in the context of a protest, law enforcement personnel must make all efforts to locate and remove the violent individuals, to allow other protesters to exercise their rights to assemble peacefully and express themselves.⁴¹ In situations where acts of violence are more widespread, law enforcement must continue to follow the principles of knowledge, communication, facilitation and differentiation.⁴² When there are legitimate grounds to disperse a protest, law enforcement must exhaust all non-violent means before resorting to force to disperse an assembly, and must give clear warnings and an opportunity to disperse before force is deployed.⁴³ Only the

³⁵ See communication USA 31/2020.

³⁶ Basic Principles on the Use of Force and Firearms; and UNODC and OHCHR, *Resource Book*.

³⁷ See <https://www.ohchr.org/sites/default/files/Documents/Issues/Executions/HumanRightsDispatch1.pdf>.

³⁸ See Inter-American Commission on Human Rights reports on Chile (https://www.oas.org/es/cidh/informes/pdfs/2022_Chile.pdf); Colombia (http://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2021/137.asp); and United States (http://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2021/137.asp). (2018).

³⁹ Virtual consultation with law enforcement personnel (see para. 2).

⁴⁰ General comment No. 37 (2020).

⁴¹ See UNODC and OHCHR, *Resource Book*.

⁴² *Ibid.*

⁴³ General comment No. 37 (2020), paras. 85–86.

minimum force necessary to achieve a legitimate law enforcement purpose may be used, and once the need for any use of force has passed, such as when a violent individual is safely apprehended, no further resort to force is permissible.⁴⁴ Law enforcement authorities must assess the presence of vulnerable groups, including pregnant women, children, the elderly and people with disabilities, and limit force accordingly.⁴⁵ The authorities must also take into consideration any risk of escalating violence or harm or increasing health risks.

E. Misuse of less-lethal weapons

41. The Special Rapporteur has received numerous reports of security forces' intentionally misusing less-lethal weapons as tools of punishment and repression of protests, including tear gas, water cannons, rubber bullets and batons. The use of less-lethal weapons is also bound by the above-mentioned principles on the use of force, including necessity and proportionality, and must also be used as a measure of last resort while ensuring minimum harm.⁴⁶ The use of less-lethal weapons is likely to cause a certain degree of injury and hence can be considered proportionate only if their use is to counter the threat of a similar or graver harm. Unnecessary or excessive use of such weapons may amount to torture or ill-treatment, or violate the right to life.⁴⁷

42. Particular restraint must be exercised when using less-lethal weapons with wide-area effects, such as tear gas and water cannons, owing to their inherently indiscriminate nature. To avoid disproportionate harm, tear gas should be used only in response to widespread violence, when it is not possible to contain the violence by dealing with violent individuals alone. When violence has not reached that threshold, other more targeted measures must be taken. It is unacceptable that some State authorities have deliberately and indiscriminately used excessive quantities of tear gas in residential areas and hospitals in the context of protests.⁴⁸

43. Less-lethal weapons must not be abused to maximize harm, such as by targeting protesters with tear gas canisters, which has been increasingly observed at times of crisis situations. Such a practice has led to life threatening injuries, including loss of eyes and eyesight, and death.⁴⁹

44. Water cannons are also inherently indiscriminate and have caused serious injury and even death.⁵⁰

45. Rubber bullets have also been frequently misused, aiming to harm protesters. Rubber bullets should never be fired randomly at a crowd, or aimed at protesters' torsos or heads. Batons have also been regularly misused to punish protesters, as well as deployed where such a level of force was not strictly necessary.

46. It is important that States not deploy overly harmful weapons in response to assemblies. Stun grenades, for instance, should never be used in the context of assemblies.

F. Use of firearms

47. Firearms should not be used for the policing of assemblies.⁵¹ Firearms may be used only in self-defence or to defend others against the imminent threat of death or serious injury, and only if all other less lethal means have been exhausted.⁵²

⁴⁴ General Assembly resolution 34/169, annex, art. 3; and general comment No. 37 (2020), para. 79.

⁴⁵ See UNODC and OHCHR, *Resource Book*.

⁴⁶ General comment No. 37 (2020), para. 87.

⁴⁷ See https://www.ohchr.org/sites/default/files/Documents/HRBodies/CCPR/LLW_Guidance.pdf.

⁴⁸ See communication CHN 2/2020.

⁴⁹ See communications SDN 6/2021 and PER 8/2020.

⁵⁰ See [A/HRC/32/36/Add.2](#).

⁵¹ [A/HRC/26/36](#), para. 75.

⁵² Basic Principles on the Use of Force and Firearms.

48. States have frequently used firearms unlawfully against protesters, justified due to a “crisis”. Hundreds of peaceful protesters calling for democracy and constitutional order have been injured and killed owing to the use of deliberate, indiscriminate and/or disproportionate force, including firearms, following the military coups that took place in Myanmar⁵³ and in the Sudan⁵⁴ in 2021. Security forces have also used lethal force in response to large-scale protests triggered by social and economic crises, including in Kazakhstan, the Islamic Republic of Iran, Lebanon and the Bolivarian Republic of Venezuela.⁵⁵

49. It is of great concern that some States have issued “shoot to kill” orders in response to mass protests, including in Kazakhstan, where protesters were labelled “terrorists”,⁵⁶ and in the Philippines, where the President suggested security forces might shoot to kill anyone violating COVID-19 quarantine measures.⁵⁷

50. Shoot to kill orders must never be issued, as they constitute authorization for extrajudicial executions. States must not grant law enforcement agents unrestricted power to “use all necessary measures” for dispersing assemblies.⁵⁸

G. Sexual and gender-based violence

51. Women, girls and LGBTIQ+ persons have often been the target of sexual and gender-based violence, including rape, in the context of protests, especially during crisis situations. Women are often at the forefront of mobilizing communities and conducting peaceful protests, often for supporting victims. Sexual and gender-based violence has reportedly been used by State agents as a weapon to discourage women and communities from taking part in protests and as a tactic of control and domination.⁵⁹ Such acts, in addition to representing a serious violation of women, girls and LGBTIQ+ persons’ rights, constitute forms of cruel, inhuman and degrading treatment and may constitute torture.

52. The Special Rapporteur is encouraged by States that have undertaken institutional and legislative reforms to prevent sexual and gender-based violence, and to provide remedy through specialized mechanisms and by adopting protocols on the gender-sensitive policing of protests. The involvement of more women in law enforcement and in the facilitation of protests, including in decision-making and at command levels, are important steps adopted by some States to combat sexual and gender-based violence.

H. Unjustified arrests and other forms of punishment

53. Emergency declarations and other restrictive laws adopted in the context of “crises” are often linked to criminalization and violations of individuals’ right to liberty through unjustified arrests and detentions. National security, anti-terrorism, public order, criminal defamation and “incitement” laws have been widely misused to criminalize protests and to arbitrarily arrest and detain protesters. In India, authorities have increasingly used broad and vague colonial-era sedition and anti-terrorism laws to convict peaceful protesters, including in the context of large-scale farmers’ protests.⁶⁰ Members of civil society from all regions have reported arbitrary arrests of protest leaders and participants, including through mass arrests and preventive detentions, prior, during and after protests.⁶¹ Enforced disappearances, torture and ill-treatment and sexual abuse in detention as well as denial of access to due process and fair trial rights of protesters are widespread in the context of crises.

⁵³ See communication MMR 1/2021; and submission of Asia Justice Coalition.

⁵⁴ See communication SDN 6/2021.

⁵⁵ See communications KAZ/1/2022, IRN 17/2019, LBN 2/2020, VEN 2/2017 and VEN 4/2017.

⁵⁶ Human Rights Watch, “Kazakhstan: cancel ‘Shoot without warning’ order”, 7 January 2022.

⁵⁷ Amnesty International, “Philippines: President Duterte gives ‘shoot to kill’ order amid pandemic response” 2 April 2020.

⁵⁸ General comment No. 37 (2020), para. 79.

⁵⁹ See https://www.oas.org/en/iachr/media_center/PReleases/2020/290.asp.

⁶⁰ See communication IND 2/2021.

⁶¹ See communication BLR 1/2021.

54. The arrest and detention of individuals on the basis of exercising their rights to freedom of expression, peaceful assembly and association, within the bounds recognized by human rights law, constitute arbitrary deprivations of liberty.⁶² Mass arrests related to peaceful assemblies amount to indiscriminate and arbitrary arrests, violations of the right to liberty of the person⁶³ and collective punishment. The imposition of administrative detention also presents severe risks of arbitrary deprivation of liberty, and must not be used against peaceful protesters.⁶⁴

55. During the COVID-19 pandemic, while certain measures limiting public gatherings have been reasonable, authorities have often conducted arbitrary arrests and detentions, including of individuals taking part in assemblies. Moreover, quarantine measures have been misused as a form of punishment against protesters. In Sri Lanka police allegedly arrested activists and forcibly transferred them to government quarantine centres, without a court order and contrary to the health guidelines in place.⁶⁵ Protesters arrested during the pandemic have often been put into crowded police vehicles and detention centres, exposing them to a high risk of infection, contrary to the public health objectives which the dispersal of the protests in theory aimed to achieve. When lawful arrests are necessary in the context of protests during a pandemic, non-custodial measures should be sought to avoid spreading the pandemic due to the poor conditions and hygiene in detention centres. Disproportionate punishments, including criminalization, for breaking quarantine rules, including participation in protests, must not be imposed.

I. Use of technology

56. Online spaces are particularly important when individuals face restrictions operating in physical spaces.⁶⁶ Through social media, people have found innovative ways to initiate and sustain protest movements, reach out to wider audiences and achieve solidarity. The right to freedom of peaceful assembly online should be respected and protected at all times. States cannot derogate from the obligation to respect the right to freedom of opinion, even during states of emergency.⁶⁷

57. States have imposed partial and/or full Internet shutdowns⁶⁸ and blocked social media applications during crisis situations, attempting to prevent social mobilization or the amplification of dissent. Internet shutdowns have significantly limited individuals' ability to report and access information on human rights violations and to provide help to those harmed as a result of the use of force, and have impeded access to vital services. Blanket internet shutdowns violate the rights to freedom of peaceful assembly, association and expression. The Special Rapporteur reiterates that access to Internet and mobile telephone services should be maintained at all times, including during times of civil unrest,⁶⁹ and that victims of shutdowns should enjoy effective remedies and redress.

58. States have employed various new technologies during protests in the context of crises, including surveillance technologies such as CCTV cameras, body cameras and aerial surveillance vehicles, and face recognition technology. Surveillance technologies have frequently been deployed without transparency and accountability, and have been used to crack down on peaceful protests. The use of surveillance technology has expanded dramatically during the COVID-19 pandemic, in a manner that has serious implications for State monitoring and suppressing of protests and dissent. While camera surveillance may be helpful to identify those instigating or committing violence, it must be used in a transparent manner, according to strict legal safeguards and in accordance with privacy laws complying

⁶² CCPR/C/MKD/CO/3, para. 19.

⁶³ A/HRC/31/66, para. 45; and CCPR/C/CAN/CO/6, para. 15.

⁶⁴ Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 15.

⁶⁵ Consultations with civil society actors, Asia and Pacific region (see para. 2).

⁶⁶ A/HRC/35/28, para. 58.

⁶⁷ General comment No. 29 (2001), para. 11.

⁶⁸ See communication SDN 6/2021.

⁶⁹ A/HRC/41/41, para. 74.

with human rights standards.⁷⁰ Authorities have also engaged in online surveillance with particular intensity in times of crisis, often resulting in arrests and charges under overly broad and vague laws penalizing “fake news”, “attacking the image of the State”, incitement and other purported crimes.

59. People using social media to mobilize and assemble have often been attacked by both State and non-State actors,⁷¹ including through smear campaigns, stigmatization, abuse, threats and hate speech. These measures appear designed to delegitimize their activities, undermine their advocacy campaigns, intimidate them, and potentially expose them to violent reprisals. Such online attacks exert a wide chilling effect and have an even more severe impact on groups that are disproportionately vulnerable and targeted, including women, LGBTIQ+ persons, and ethnic and racial groups subjected to discrimination. Moreover, they must take measures to protect individuals’ right to freedom of peaceful assembly, including measures that protect individuals against incitement to hatred, violence and discrimination, in accordance with articles 19 and 20 of the Covenant and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination.⁷²

60. Of further concern is the targeted restriction of content relating to protests, which often increases during “crises”, as States pressure social media companies to block accounts and content related to critical protests.⁷³ The Special Rapporteur on freedom of expression has called on companies to revise their business models to ensure redress mechanisms and transparency of content moderation.⁷⁴

J. Attacks on observers and medics

61. The presence of journalists, monitors, lawyers and other observers contributes to the full enjoyment of the right to freedom of peaceful assembly. Monitoring is important for transparency, providing a disincentive to the commission of rights violations and ensuring accountability. Medics are crucial in ensuring that any physical harm suffered can be promptly addressed and limited to the extent possible.

62. Unfortunately, journalists, monitors, lawyers and other observers, and medics have all frequently been targeted while engaging in their legitimate activities during protests. The United Nations Educational, Scientific and Cultural Organization has documented 125 instances of attacks on or arrests of journalists covering protests, mostly attributed to State agents, including the killing of 10 journalists, in 65 countries. In the context of social and political polarization during crises, journalists face attacks both from States, including through the criminalization of journalists for “misreporting”, incitement or sedition, and from non-State actors who resent certain media messages.⁷⁵ Access by journalists, monitors, lawyers and other observers has been especially restricted in the context of the COVID-19 pandemic. Persons involved in monitoring or reporting on protests must not be prohibited from, or unduly limited in, exercising those functions, including with respect to monitoring the actions of law enforcement officials. They must also not be subjected to reprisals or other harassment.⁷⁶ Protection must be extended whether or not the individuals in question are accredited journalists or freelancers, including community media workers and citizen journalists and others who may be using new media as a means of reaching their audiences.⁷⁷

63. National human rights institutions and ombuds institutions play an important role in monitoring peaceful protests, reporting on violations and restrictions and ensuring that the Government improves laws, policies and protocols according to international human rights

⁷⁰ See UNODC and OHCHR, *Resource Book*.

⁷¹ Consultations with civil society actors in all regions.

⁷² See also [A/HRC/22/17/Add.4](#), appendix.

⁷³ See <https://smex.org/sheikh-jarrah-facebook-and-twitter-systematically-silencing-protests-deleting-evidence/>.

⁷⁴ See [A/HRC/47/25](#).

⁷⁵ Council of Europe, “Journalists covering public assemblies need to be protected”, 30 April 2021; see also <https://unesdoc.unesco.org/ark:/48223/pf0000374206>.

⁷⁶ General Assembly resolution 66/164.

⁷⁷ https://en.unesco.org/sites/default/files/un-plan-on-safety-journalists_en.pdf.

obligations and standards to prevent violations from recurring. Those institutions can also act as a valuable intermediary, helping to ensure fluid, responsive communication between protesters and the authorities. Their role is especially important during crisis situations. The staff of the institutions have themselves been attacked and subjected to reprisals, however, including the removal of commissioners and resource cuts, on the basis of critical reporting.⁷⁸

64. In a number of volatile crisis situations, State forces have indiscriminately or directly targeted medical staff operating at protests; attacked health-care facilities, including by firing tear gas directly into hospitals; deliberately obstructed health-care workers' access to protest sites; misused health-care facilities, services, uniforms and insignia; detained wounded protesters from hospitals; occupied hospitals; and arrested, criminalized and imprisoned medical staff. All of these acts violate medical neutrality and international law.⁷⁹ States have a non-derogable obligation to ensure access to health care and ensure effective protection for health-care workers at all times, and must refrain from interfering directly or indirectly with the enjoyment of the right to health.⁸⁰ The right to health is important for and dependent on the exercise of the right to freedom of peaceful assembly.⁸¹

V. Respecting peaceful protest during armed conflict

65. Peaceful protests have been held in situations of international and non-international armed conflicts, and in contexts of military occupation. The Special Rapporteur received reports of the use of unnecessary or excessive force, including lethal force, against peaceful protesters in such contexts. These actions may constitute war crimes or crimes against humanity.

66. In times of armed conflict, both international human rights law and international humanitarian law apply as complementary.⁸² The Human Rights Committee, in its general comment No. 37 (2020), reaffirmed that in a situation of armed conflict, the use of force during peaceful assemblies remained regulated by the rules governing law enforcement under international human rights law.⁸³ Similarly, in situations of military occupation, all forces should comply with the legal rules on the use of force and firearms for law enforcement officials when policing assemblies, under human rights law and domestic law.⁸⁴

67. The Independent International Commission of Inquiry investigating violations during the protests in the Gaza Strip, Occupied Palestinian Territory, in 2018, concluded that, as the demonstrations were civilian in nature, had clearly stated political aims and, despite some acts of significant violence, did not constitute combat or a military campaign, the legal framework applicable to policing them was that of law enforcement, on the basis of international human rights law. The conclusion applied regardless of affiliation with or membership of peaceful protesters in an armed group.⁸⁵ Peaceful protesters, including children, across the Occupied Palestinian Territory continue to suffer human rights violations owing to the unlawful use of force applied by Israeli forces.⁸⁶

68. The Organisation for Security and Co-operation in Europe (OSCE) investigative mission to Ukraine found possible violations by the Russian Federation in respect of the use of force when dispersing protesters in the newly occupied towns since 24 February 2022, using live ammunition against peaceful protesters resisting the occupation. It reaffirmed that the occupying forces may and must maintain law and order in the occupied territory while

⁷⁸ Consultations with national human rights institutions (see para. 2).

⁷⁹ ICRC, "Respecting and protecting health-care in armed conflicts and in situations not covered by international humanitarian law" (Geneva, 2021).

⁸⁰ Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), para. 33.

⁸¹ *Ibid.*, para. 3.

⁸² Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 11.

⁸³ See also Human Rights Committee, general comment No. 36 on the right to life; and ICRC, *Handbook on International Rules Governing Military Operations* (Geneva, 2013).

⁸⁴ ICRC, *Handbook on International Rules Governing Military Operations*.

⁸⁵ [A/HRC/40/74](#), para. 32.

⁸⁶ See, for example, communication ISR 12/2020.

respecting international human rights law applicable to law enforcement. That obligation is triggered when a State exercises effective control over an area; during an invasion phase, the rules of occupation apply from the very moment the enemy assumes control over a person or an object in an invaded territory.⁸⁷

69. In all decisions on the use of force, the safety and protection of assembly participants and the broader public should be taken into consideration.⁸⁸ Unless undertaken lawfully in self-defence, intentionally killing a civilian not directly participating in hostilities is a war crime.

70. Peaceful protests have been severely repressed in areas where armed non-State actors have assumed control. Armed groups, as parties to an armed conflict, are bound by international humanitarian law. There is also a growing recognition that armed groups are bound by the obligation to respect and protect human rights, including in the context of peaceful protest, when they exercise either government-like functions or de facto control over territory and populations.⁸⁹ Gross human rights violations and serious violations of international humanitarian law in relation to protests could entail criminal responsibility for members and leaders of non-State armed groups. However, States carry legal obligation for violations committed by armed groups acting in support of or as an agent of the State.⁹⁰

VI. Ending impunity and ensuring accountability

71. States have a responsibility to ensure prompt, impartial and thorough investigations and provide remedies to the victims of human rights violations⁹¹ and abuses in the context of protests and to hold those responsible to account, be they State agents or non-State actors. During states of emergency, States remain responsible for providing effective remedies and fair trials,⁹² including reparations for harm suffered; fulfilling their right to truth regarding the violations; and take necessary steps to prevent a recurrence of violations,⁹³ including sexual and gender-based violence during protests. Where appropriate, criminal and/or civil sanctions must be applied, prioritizing liability of officers with command control.⁹⁴ Where States do not comply with these obligations, a state of impunity arises, encouraging recurrence of violations against people taking part in peaceful protests.

72. However, impunity for human rights violations committed in the context of protests remains widespread, particularly for protests arising during crises. In several contexts, no accountability has yet been achieved for widespread and serious human rights violations, including violations that may constitute crimes against humanity.

73. Some States have initiated investigations into violations committed against persons taking part in peaceful protests, but they have often been inconclusive and partial, with many perpetrators never brought to justice.⁹⁵ For example, in Iraq, various bodies and committees were set up to investigate alleged violations committed against persons associated with the large-scale Tishreen (October) demonstrations. Little progress has been made, however, towards accountability, particularly for perpetrators on the command level.⁹⁶ A number of investigations have been opened by the International Criminal Court into war crimes and

⁸⁷ <https://www.osce.org/files/f/documents/f/a/515868.pdf>.

⁸⁸ General comment No. 37 (2020), para. 97.

⁸⁹ <https://www.ohchr.org/en/press-releases/2021/02/joint-statement-independent-united-nations-human-rights-experts-human-rights>.

⁹⁰ OHCHR, *International Legal Protection of Human Rights in Armed Conflict* (United Nations publication, 2011).

⁹¹ Human Rights Committee, general comment No. 31 (2004).

⁹² General comment No. 29 (2001), paras. 14 and 16.

⁹³ General Assembly resolution 60/147.

⁹⁴ [A/HRC/31/66](#), para. 90.

⁹⁵ See <https://www.ohchr.org/en/press-releases/2020/06/sudan-khartoum-massacre-victims-and-their-relatives-still-waiting-justice>.

⁹⁶ See communication IRQ 5/2021.

crimes against humanity committed in the context of protests in Burundi,⁹⁷ Israel and the State of Palestine,⁹⁸ and Libya.⁹⁹ The Special Rapporteur urges all parties to cooperate with these processes to deter serious violations during protests.

74. The Special Rapporteur has set out guidelines for lawyers, aimed at supporting their work of providing access to justice in the context of assemblies.¹⁰⁰

75. It is crucial to ensure that judicial mechanisms continue to function, even when a crisis, such as COVID-19, poses challenges, to ensure effective remedy for human rights violations in relation to emergency measures affecting peaceful protests.

VII. Conclusion

76. **Deepening crises worldwide create the potential for an increase in protests, including spontaneous protests. Responses to peaceful protests must be grounded in respect for international human rights standards, irrespective of the challenges a crisis involves. Peaceful protests should be seen as public forums where individuals, communities and marginalized groups can safely mobilize to voice their views and opinions. Peaceful protests provide an avenue for everyone to participate in public debate and seek inclusive and meaningful responses to crisis situations. Where the right to peaceful assembly is fully enjoyed, democratic, stable and peaceful societies that respect and protect human rights can thrive.**

VIII. Recommendations

77. **The Special Rapporteur offers the following recommendations, recognizing the importance of all actors working together to protect individuals engaging in peaceful protests during crises and prevent violations of their human rights.**

A. Recommendations to States

78. **In regard to respecting and enabling peaceful protest during crisis situations, States should:**

(a) **Halt hostile rhetoric that stigmatizes peaceful protests, such as portraying them as destabilizing and as a threat. States must create an enabling environment, including by facilitating a dialogue with protesters and inclusive processes to ensure meaningful participation of all groups in society when seeking solutions for resolving a crisis;**

(b) **Respond to crises in a human rights-based manner, ensuring that peaceful protests are not subjected to undue restrictions, and embed protection and facilitation of the right to freedom of peaceful assembly in crisis response, following consultations with civil society;**

(c) **Refrain from imposing blanket bans on peaceful protests, and unconditionally release and compensate anyone detained or criminally sanctioned under blanket bans;**

(d) **In the context of public health crises, where restrictions on physical assemblies are justified in accordance with international human rights law standards, facilitate alternative forms of participating in assemblies, including by ensuring that the right to freedom of peaceful assembly is fully enjoyed online;**

⁹⁷ International Criminal Court, *Situation in the Republic of Burundi*, No. ICC-01/17-X-9-US-Exp, Decision, 25 October 2017.

⁹⁸ *Ibid.*, *Situation in the State of Palestine*, No. ICC-01/18, Decision, 5 February 2021.

⁹⁹ *Ibid.*, *Situation in the Libyan Arab Jamahiriya*, No. ICC-01/11-01/11-3, Warrant of arrest, 27 June 2011.

¹⁰⁰ [A/HRC/47/24/Add.3](#).

(e) Ensure that quarantine measures are never used to punish or prevent people joining peaceful protests;

(f) Amend all measures that require, in law or practice, prior permission to conduct protests, ensure that lack of notification does not lead to criminalization or dispersal of protests and respect spontaneous protests, removing any legislation criminalizing such protests;

(g) Amend laws criminalizing certain forms of protests, such as those related to road blocking or critical infrastructure, to ensure that they do not unduly restrict peaceful protests or penalize or criminalize protestors, and ensure that any restrictions, including on civil disobedience, comply with the legality, legitimate purpose, necessity and proportionality requirements;

(h) Bring all legislation related to national security, public order and public health into line with international standards, including by providing clear and narrow definitions to prevent undue criminalization or bans on peaceful protests;

(i) Ensure that everyone, including women, LGBTQI+ persons, children, racial, ethnic and indigenous groups, migrants and refugees, and other marginalized groups, enjoys their right to peaceful assembly equally and safely;

(j) Provide protection for peaceful protesters, including those expressing critical views, from attacks and threats from non-State actors, including armed groups;

(k) Take into account the specific role and vulnerability of journalists, media workers, monitors and lawyers observing, monitoring, recording and reporting on protests, as well as of medics working to provide health services, and take steps to ensure their safety, even if the protest is dispersed; and ensure that all attacks and violence against those groups are promptly and effectively investigated, that the perpetrators are brought to justice and that remedies are provided to victims;

(l) Cease Internet shutdowns and repeal any laws and policies that allow network disruptions and shutdowns, including in the context of protests during crises, and ensure that any individual site-blocking measures comply with international human rights standards and are subject to judicial review;

(m) Refrain from the use of biometric identification and recognition technologies, such as facial recognition, for arbitrary surveillance of protesters, both offline and online;

(n) Strengthen the capacity of national human rights institutions to monitor and document human rights violations, including in the context of protests, during crises, by providing them with adequate resources, refraining from interfering with their work and providing special exemptions from movement restrictions imposed during pandemics.

79. In regard to states of emergency, States should:

(a) Ensure emergency measures do not impose illegitimate, unnecessary or disproportionate restrictions on the ability of people to organize, take part in, monitor, report or provide assistance to peaceful protests. Any emergency measures must be justified, transparent and adopted in line with international human rights standards, including the Siracusa Principles. Any measures of derogation from the right to freedom of peaceful assembly must be strictly required by the necessity of the situation. States must not declare a state of emergency in relation to protests, unless they meet the strict threshold of emergency under article 4 of the Covenant;

(b) Conduct a case-by-case assessment of each assembly and seek ways to facilitate it, and assess, based on evidence, whether lesser restrictions could achieve the pursued objective. If restrictions on the right to freedom of assembly are deemed necessary, ensure that they are temporary, subject to regular review by the highest judicial authority and promptly ended when no longer necessary;

(c) Immediately restore the unhindered exercise of all rights and freedoms related to peaceful assembly following the end of an emergency situation, conduct a

review of the consequences of the derogation measures, adopt preventive measures and compensate those who have suffered injustice due to protest restrictions, including due to COVID-19-related emergency measures.

80. In regard to armed conflict and occupation, States should respect the freedom to peaceful assembly, including in the context of armed conflict and military occupation. Any use of force in such contexts must strictly be in compliance with international human rights standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

81. In regard to facilitating peaceful protests, States should:

(a) Outlaw the unnecessary, excessive or unwarranted use of force, and ensure that legislation and other measures adopted to address crises narrowly circumscribe law enforcement authorities' ability to disperse assemblies;

(b) Issue protocols on the facilitation of peaceful protest for law enforcement, compatible with international standards regarding the use of force, laying out measures to protect peaceful protesters, bystanders, monitors, lawyers and medics, including from counter-protesters and other targeted forms of violence, during a variety of crisis situations, and providing for graduated use of force, setting clear limitations on the use of lethal and less-lethal weapons. Such protocols must take into account a gender perspective and address the vulnerability of different groups;

(c) Provide extensive training of law enforcement personnel on limiting the use of lethal and less-lethal weapons, on community-based policing methods and on de-escalation and negotiations strategies, and ensure that all protocols are strictly followed; and provide representatives of law enforcement who are policing protests with necessary self-protection equipment, including for protection during pandemics;

(d) Ensure a clear chain of command in the facilitation of protests and that the appropriate civilian authority authorizes any order for the use of force, and consider deploying experts in public order management, trained in human rights-based handling of protests;

(e) Strictly avoid involving the military in policing protests and prohibit the prosecution of protesters in military courts, and where, in exceptional circumstances, armed forces are deployed to police protests, ensure that they are trained in human rights and human rights-based law enforcement, especially in protest facilitation and de-escalation techniques, and that they are placed under civilian command and oversight, have clearly defined responsibilities and are accountable under civil law;

(f) Ensure proper vetting of individuals joining law enforcement agencies and ensure adequate training of integrated armed groups. Exclude from the policing of protests any officials alleged to have committed human rights abuses;

(g) Prohibit and cease unlawful arrests in relation to protests. When lawful arrests are necessary, ensure that they are carried out in line with international human rights law; in the context of protests during a pandemic, pursue non-custodial measures to avoid spreading the disease; and ensure that detained protesters have the right to legal assistance from the moment of deprivation of liberty at all times, whether the detention is undertaken under criminal law or is a form of administrative detention. Ensure that protective mechanisms are in place, including proper sanitary facilities, for women in detention;

(h) Implement proactive community-oriented policing to prevent the unlawful use of force and escalation of violence in the facilitation of public protests, through building a strong positive connection and relationship of trust with communities;

(i) Ensure that authorities regularly review the equipment and weapons provided to law enforcement personnel involved in facilitating protests and the standard operating procedures for their use, and that training and equipment are in full compliance with the international standards on law enforcement and the use of force.

82. **In regard to accountability, States should:**

(a) **Ensure independent, thorough and impartial investigation of human rights violations in the context of protests, including sexual and gender-based violence; and proactively investigate all instances of unlawful use of force and firearms, hold perpetrators accountable and provide remedies to victims;**

(b) **Collect disaggregated information on violations against youth, children, women and girls, LGBTQI+ persons and other groups subjected to discrimination, to address their specific protection needs during protests;**

(c) **Establish and strengthen independent police oversight and investigatory bodies, including by providing sufficient resources, and ensure that they are able to effectively investigate allegations of unlawful use of force against protesters;**

(d) **Set up victim-centred independent commissions of inquiry to investigate cases of serious violations of human rights in the context of peaceful protests, including cases of sexual and gender-based violence, to support accountability and provide reparations to victims;**

(e) **To ensure prompt access to justice in times of pandemic, such as COVID-19, resource courts with robust necessary equipment for online hearings, ensuring that proceedings meet the international standards guaranteeing fairness, impartiality and equality of arms. Judges must be well-trained in using such equipment, confidential access of the accused or defendant to their lawyer must be guaranteed before and during the hearing, and judges must individually assess and reason on whether substituting videoconferencing for physical presence is compatible with the character of a particular hearing, especially in criminal cases;**

(f) **Ensure the admissibility of material and information generated by protest monitors and journalists in accountability processes;**

(g) **Ensure that the rights of detained protesters' to habeas corpus, due process, equality before the law and a fair trial are respected, and ensure that the principle of individuality of liability is always fully respected;**

(h) **Ensure unobstructed access to legal aid for individuals alleging violations of their human rights during protests.**

B. Recommendations to the international community

83. **The international community should:**

(a) **Support arms embargos relative to States involved in serious repression of the rights of peaceful protesters.**

(b) **Support international investigations and prosecutions in cases of serious human rights violations, including through regional courts, international tribunals and universal jurisdiction, in line with the principle of complementarity.**

(c) **Ensure that refugee victims of repression related to protests have effective access to remedies, including reparations, for all harm suffered, including sexual and gender-based violence.**

C. Recommendations to national human rights institutions

84. **National human rights institutions should:**

(a) **Support authorities in reviewing and improving laws, policies and protocols, in line with international human rights obligations and standards, to prevent violations from recurring;**

(b) **Act as a bridge between the State and peaceful protesters, to facilitate better communication channels and de-escalate tension;**

(c) Support authorities in ensuring compliance with international and regional human rights frameworks, and bring cases of violations of human rights to the attention of international human rights bodies where national remedies are unable or unwilling to take action;

(d) Establish protection desks to support at-risk peaceful protesters.

D. Recommendations to non-State actors

85. The business sector should:

(a) Comply with the Guiding Principles on Business and Human Rights, and conduct enhanced due diligence to identify, prevent and address human rights abuses in the context of peaceful protests that may be linked to the company's activities, products, services or business relations;

(b) Identify, prevent and mitigate against business relationships that might contribute to adverse human rights impacts in relation to peaceful protests, and terminate business relationships with companies that do not respect peoples' right to peaceful assembly; and refrain from stigmatizing peaceful protests, including workers' strikes;

(c) Ensure private security personnel and company subcontractors are held fully accountable for any violations against protesters;

(d) Immediately halt trading of digital surveillance equipment, and of lethal and less-lethal weapons and related equipment, to States involved in repression of peaceful protests and other serious human rights violations.

86. Media companies should incorporate a human right perspective when reporting and covering peaceful protests, and refrain from using language that stigmatizes or may promote hatred against peaceful protesters. Social media platforms should:

(a) Monitor hate speech and assess how it affects the right to freedom of assembly on their platforms, in consultation with affected groups;

(b) Promptly moderate and remove content inciting violence or discrimination linked to protests, address smear campaigns and vilification of peaceful protesters on social media platforms, and designate human rights defenders and protesters as protected groups in countries that are characterized by State-coordinated or State-condoned persecution of protesters;

(c) Provide transparency in content moderation policy and decision-making, to ensure that enforcement of policies is fair, unbiased, proportional and respectful of users' rights, in line with the Santa Clara Principles on Transparency and Accountability in Content Moderation, and that moderation does not have a harmful impact on peaceful protests online or offline;

(d) Refrain from arbitrarily removing posts or blocking pages linked to peaceful protests;

(e) Establish inclusive appeal systems for moderation of content, including moderation related to hate speech.

87. Armed groups should respect the freedom of protest of the population under their de facto control and authority, and comply with international human rights law and international humanitarian law.

E. Recommendations to the bodies, specialized agencies and organizations of the United Nations system

88. The following recommendations are made with regard to entities of the United Nations system:

(a) UNODC, in collaboration with the Special Rapporteur, should work to improve policing of protests during crises, by developing specific technical tools, based on international standards and promising practices, and provide relevant technical assistance to member States, upon request;

(b) Relevant entities of the United Nations system should strengthen assistance to Member States, prioritizing States affected by crisis where peaceful protests have been under threat, with the aim of improving police oversight, accountability and integrity to ensure prompt independent investigations, especially of cases involving the use of lethal force and serious harm inflicted during protests;

(c) Relevant entities of the United Nations system should develop a comprehensive action-oriented strategy on protest, based on robust interagency cooperation, including with the World Health Organization (WHO), in the context of health crisis. The strategy should pay particular attention to the prevention of serious human rights violations against protesters and the deepening of crises in regard to protests;

(d) The United Nations peace and security pillar, in cooperation with relevant entities within and outside the United Nations system, should develop specific guidance for peacekeepers, mediators and peacebuilders to ensure that peaceful protests are facilitated and an enabling environment is fostered, including in transitional, armed conflict, military occupation and post-conflict environments;

(e) The United Nations human rights system, through the Human Rights Council, including the universal periodic review process, should monitor compliance with the recommendations contained in the present report, including progress on accountability for violations against protesters;

(f) When providing guidance in response to a pandemic, WHO should collaborate with the human rights bodies of the United Nations, including the Special Rapporteur, to ensure that such guidance does not result in unnecessary and disproportionate restrictions and violations of the rights to freedom of assembly.
