

FACTSHEET

ON DIGITALLY-MEDIATED ASSEMBLIES AND UN STANDARDS



European Center for
Not-for-Profit Law



#right2freeassembly

01. What is a digitally-mediated assembly?

A digitally-mediated assembly is a gathering of more than one person for specific purposes that takes place either through the support or by means of digital communication technologies: e.g., via mobile phones, internet services or social media.

In a not-so-distant past, the traditional definition of “peaceful assembly” only included physical gatherings of individuals to protest, commemorate or take part in social/recreational activities. However, nowadays our increasingly digital world has opened up new ways to organize such gatherings and even new virtual spaces to hold them or drum up support for them.

In a nutshell, we can categorise digitally-mediated assemblies as:

- **Digitally-enabled:** taking place in physical spaces but facilitated by digital technologies (in particular by the Internet), because they are previously discussed, organised and/or promoted through them;
- **Digitally-based:** taking place in an entirely virtual space (usually the Internet);
- **Hybrid:** with elements of both. For example, they are organised via social media and take place both in physical spaces and online or they started in physical spaces but are continuing online or vice versa, etc.



Text by the European Center for Not-for-Profit Law Stichting (ECNL) as part of the ‘Monitoring the Right to Free Assembly’ regional project. The project is made possible by the International Center for Not-for-Profit Law (ICNL) through

the Civic Space Initiative, financed by the Government of Sweden. The Government of Sweden does not necessarily share the opinions here within expressed. The author bears the sole responsibility for the content.

02. Can you give some practical examples?

Here is a non-exhaustive list of digitally-mediated assemblies:

- **XR: Extinction Rebellion**: the global environmental movement uses a website and social media to organize street protests and at the same time promote worldwide protests of support;
- **iDemocracia Real YA! (Real Democracy Now!)**: the Spanish Anti-austerity movement in 2011 began with demonstrations organized firstly through social networks and digital forums. It has now become a digital platform, which functions as a form of loose association where social issues can be posted, debated and used as basis for further street protests;
- **Komitet Obrony Demokracji – KOD (Committee for the Defence of Democracy)**: a Polish grassroots civic movement initiated in 2015 in response to a constitutional crisis but that soon morphed into a nation-wide movement. It organises regular protest actions whether solely online or on the street, on various political issues;
- **No Somos Delito (“We Are Not Crime”)**: the world’s first hologram campaign organised in Spain in 2015, where thousands of virtual images of demonstrators were screened marching in front of the Parliament to protest against the Citizen Safety Law, which banned physical demonstrations outside government buildings as institutions.
- **#thisflag in Zimbabwe**: hashtag-led spontaneous online gathering in response, support and solidarity to a video posted by a citizen in 2016 on Facebook and other social media, in which he used the colours of the Zimbabwean flag to denounce the devastating economic crisis and government repression in the country.
- **SaveTheInternet.in in India**: the online protest/campaign started in 2015 to demand internet neutrality. It used “hacktivism” techniques, such as flooding the website of the Indian Telecom Regulatory Authority with template-based emails and messages of protest and petitions.
- **The Citizens’ Assembly in Ireland**: established in 2016, composed of 100 citizens (able to vote in a referendum and randomly selected to be broadly representative of Irish society) in order to discuss key topics like climate change, abortion, gender equality, constitutional reforms etc. and produce reports with recommendations to which the government must respond. Following the outbreak of the Covid-19, on 17th October 2020 it resumed its sessions and deliberations entirely online.

03. So, are protests taking place in the online space also protected by the international human rights standards? And even my virtual meetings via Zoom, Teams, etc.?

Yes. The UN Human Rights Committee General Comment (“GC”) No. 37 on Article 21 ([Right to Peaceful Assembly of the International Covenant on Civic and Political Rights \(“ICCPR”\)](#))

clarifies that the Covenant protects peaceful assemblies wherever they take place, either in physical spaces or **online, or even a combination of both.** (GC, para 6).

The GC acknowledges that emerging communications offers the opportunity to **assemble either wholly or partly online and often play an integral role in organizing, participating in and monitoring physical gatherings** (GC, para 10).

Not necessarily. Different types of protected assemblies may entail different forms of regulation or even none at all. The fact that people can communicate online should not be used as a ground for restrictions on in-person assemblies. Importantly, **online interactions should not be subject to legal regimes designed for the regulation of in-person assemblies.**

Let’s take the example of the obligation of prior notification: the GC clarifies that when the impact of an assembly on others’ rights can reasonably be expected to be minimal because of its nature, location, limited size or duration, it should be excluded from the obligation of prior notification (GC, para 72).

In other words, the protection of the right to peaceful assembly also extends to remote participation in, and organization of, assemblies, **including online only** (Para 13). Therefore, **associated activities that happen online or otherwise rely on digital services are also protected** under Article 21, ICCPR (GC, para 34).

04. Does this mean that a state can impose on organisers the same obligations as for physical assemblies (e.g., prior notification)?

Assemblies taking place partly or wholly online are not expected to generate the same impact on security, public order, etc. as assemblies taking place in physical spaces. This is even more evident when online gatherings happen spontaneously without prior planning. Indeed, the GC excludes the need for notification in case of spontaneous assemblies even in physical spaces when there is not enough time to provide notice (GC, para 72).

05. But what are a state's obligations to protect digitally-mediated assemblies, including online gatherings?

States must **respect, ensure and facilitate** the exercise of peaceful assemblies as well protect their participants without discrimination (GC, para 8). When authorities impose restrictions, these must be clearly established by law and must also be both necessary in a democratic society as well as proportionate to the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others (Article 21, ICCPR and GC, para 36).

These obligations extend to digitally-mediated assemblies, as well. In particular:

- States must not, block or hinder Internet connectivity or access to content in relation to peaceful assemblies (GC, para 34);
- States should ensure that the activities of Internet service providers and intermediaries do not unduly restrict assemblies or the right to privacy of their participants (GC, para 34);

- The collection, retention and sharing of personal information and data of those engaged in peaceful assemblies, including via monitoring of social media to glean information about participation in peaceful assemblies, must always be subject to independent and transparent scrutiny and oversight as it may violate their right to privacy (Article 17, ICCPR and GC, para 62).

Overall, states should create a legal framework that is conducive to individuals exercising their right to participate in online assemblies, **from access to the internet to data protection and from the facilitation of electronic means of participation to appropriate oversight of surveillance measures.**