



# General Assembly

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## Human Rights Council

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Agenda item 3

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

**Andorra,\* Australia,\* Austria,\* Belgium,\* Bulgaria,\* Costa Rica,\* Croatia,\* Cyprus,\* Czechia, Denmark,\* Ecuador,\* Estonia,\* Finland, Germany, Greece,\* Iceland,\* Ireland,\* Latvia,\* Liechtenstein,\* Lithuania, Luxembourg, Malta,\* Marshall Islands, Montenegro, Netherlands, Norway,\* Paraguay, Peru,\* Poland, Portugal,\* Romania,\* Slovakia,\* Slovenia,\* Sweden,\* Switzerland,\* Tunisia,\* Uruguay\* and State of Palestine\*:** draft resolution

### 50/... The promotion and protection of human rights in the context of peaceful protests

*The Human Rights Council,*

*Reaffirming* the purposes and principles of the Charter of the United Nations,

*Reaffirming also* the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action, and recalling relevant international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and other relevant regional human rights instruments,

*Recalling* the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,

*Reaffirming* that, consistent with the Universal Declaration of Human Rights, States Members of the United Nations have pledged to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms for all without distinction such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Recalling* its decision 17/120 of 17 June 2011 and its resolutions 19/35 of 23 March 2012, 22/10 of 21 March 2013, 25/38 of 28 March 2014, 31/37 of 24 March 2016, 38/11 of 6 July 2018 and 44/20 of 17 July 2020 on the promotion and protection of human rights in the context of peaceful protests, and other relevant resolutions of the Human Rights Council,

*Recognizing* that, pursuant to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, the rights to freedom of peaceful assembly, of expression and of association are human rights guaranteed to all, while their

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\* State not a member of the Human Rights Council.



exercise may be subject to certain restrictions, in accordance with States' obligations under applicable international human rights instruments,

*Recognizing also* that any such restrictions must be based in law, and be necessary and proportionate to further a legitimate aim, in accordance with the State's obligations under applicable international human rights instruments, and that, if imposed, administrative or judicial review that is prompt, competent, independent and impartial should be available,

*Reaffirming* that emergency measures taken by Governments must be necessary, proportionate to the evaluated risk and applied in a non-discriminatory way, have a specific focus and duration, and be in accordance with the State's obligations under applicable international human rights law,

*Recalling* that States have the primary responsibility for the promotion and protection of human rights and fundamental freedoms, including in the context of assemblies such as peaceful protests, and to ensure that national legislation, policies and practices, as the national framework for the exercise of the rights to freedom of peaceful assembly, of expression and of association, are in compliance with their international human rights obligations and commitments,

*Mindful* of the work undertaken by the treaty bodies to address the promotion and protection of human rights in the context of assemblies, including peaceful protests, and noting in this regard Human Rights Committee general comments No. 34 (2011) on freedoms of opinion and expression, No. 36 (2019) on the right to life and No. 37 (2020) on the right of peaceful assembly,

*Noting* that the proper management of assemblies involves and can have an impact on respect for human rights before, during and after an assembly, and aims to contribute to its peaceful conduct and to prevent injuries to and loss of life of those participating in and monitoring such protests, and bystanders and officials exercising law enforcement duties,

*Acknowledging* that peaceful protests may occur in all societies, including protests that are spontaneous, simultaneous, unauthorized or restricted,

*Acknowledging also* that participation in peaceful protests can be an important form of exercising the rights to freedom of peaceful assembly, of expression, of association and of participation in the conduct of public affairs,

*Recognizing* that peaceful protests can make a positive contribution to the development, strengthening and effectiveness of democratic systems and to democratic processes, including elections and referendums, as well as to the rule of law,

*Recognizing also* that peaceful protests have historically played a constructive social and political role in the development of more just, equal and accountable societies, and that such protests can continue to make a positive contribution to human development and to the full enjoyment of civil, political, economic, social and cultural rights,

*Recognizing further* that peaceful protests should be seen as public forums where individuals, communities and groups facing marginalization and discrimination can safely mobilize to voice their views and opinions and to claim their rights,

*Reaffirming* that everyone has the right to life, liberty and security of person,

*Reaffirming also* that participation in public and peaceful protests should be entirely voluntary and uncoerced,

*Recalling* that the rights to freedom of peaceful assembly, of expression, and of association and to take part in the conduct of public affairs include organizing, disseminating information about, participating in, observing, monitoring and recording assemblies,

*Stressing* therefore that everyone, including persons espousing minority or dissenting views or beliefs, must be able to express their grievances or aspirations in a peaceful manner, including through public protests, without fear of reprisal or of being intimidated, harassed, injured, sexually assaulted, beaten, arbitrarily arrested or detained, tortured, killed or subjected to enforced disappearance, or subjected to abusive criminal or civil proceedings,

*Deeply concerned* about extrajudicial, summary or arbitrary executions, arbitrary arrests and detention, enforced disappearances, torture and other cruel, inhuman or degrading treatment or punishment of, and violence, in particular sexual and gender-based violence, against persons exercising their rights to freedom of peaceful assembly, of expression and of association in all regions of the world,

*Expressing deep concern* at the restrictions placed on and the targeting of journalists and other media workers, monitors, lawyers, other observers, such as human rights defenders, and medical personnel while they are engaging in their legitimate activities during protests,

*Acknowledging* that women, children, indigenous peoples, migrants, persons of African descent, persons belonging to minorities, persons with disabilities and other persons belonging to groups who are discriminated against and marginalized are particularly vulnerable to unlawful police use of force while taking part in protests,

*Reaffirming* that the full, meaningful and active participation of women and girls, on equal terms with men and boys, in public life is essential to the achievement of equality, sustainable development, peace and democracy, and that effective policies, public campaigns and educational programmes are necessary to combat discriminatory social norms, attitudes and harmful stereotypes about gender roles and capabilities that discourage involvement in public life and the exercise of the rights to freedom of peaceful assembly, of opinion and expression and of association, such as in peaceful protests,

*Deeply concerned* about misinformation, disinformation, misuse of new technologies and undue restrictions preventing or impairing an individual's ability to have access to or disseminate information, including partial or full Internet shutdowns, inter alia, at key political moments, with an impact on the ability to organize and conduct assemblies,

*Noting* that the possibility of having access to and using communications technology securely and privately, in accordance with international human rights law, is important for the organization and conduct of assemblies,

*Noting also* that, although an assembly has generally been understood as a physical gathering of people, the protections guaranteed by international human rights law, including for the rights to freedom of peaceful assembly, of expression and of association, also apply to analogous interactions taking place online,

*Noting further* that online and digital spaces are particularly important where individuals face restrictions operating in physical spaces,

*Acknowledging* that new technologies can be enablers for the exercise of the rights to freedom of peaceful assembly, of expression, of association and of participation in the conduct of public affairs by facilitating mobilization for and the organization of assemblies, and acknowledging also that they create space for the holding of assemblies online and may facilitate and enhance the involvement and participation of those often marginalized, as well as support the proper management of assemblies and increase transparency and accountability,

*Expressing its concern* at the criminalization and prosecution, including through unfair trials or trials in military courts, in all parts of the world, of individuals and groups solely for having organized or taken part in peaceful protests, for having observed, monitored or recorded protests or for offering medical support to or defending the rights of protesters, and at the designation of such individuals as threats to national security, whether in legislation or policy,

*Expressing its concern also* at the arbitrary and unlawful surveillance, both in physical spaces and online, of individuals engaged in peaceful protests, including through the use of closed-circuit television and aerial surveillance vehicles, as well as through the use of new and emerging digital tracking tools, such as biometric technologies, including facial and emotional recognition and international mobile subscriber identity-catchers ("stingrays"),

*Emphasizing* that technical solutions to secure and to protect the confidentiality of digital communications, including measures for encryption, pseudonymization and anonymity online, are important to ensure the enjoyment of human rights, in particular the

rights to privacy, to freedom of expression, and to freedom of peaceful assembly and association,

*Stressing* that peaceful protests should not be viewed as a threat, and therefore calling upon all States to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their root causes,

*Recalling* that isolated acts of violence committed by others in the course of a protest do not deprive peaceful individuals of their rights to freedom of peaceful assembly, of expression and of association,

*Bearing in mind* that the peaceful conduct of assemblies can be facilitated on the basis of communication and collaboration among organizers, protesters, local authorities and officials exercising law enforcement duties,

*Recognizing* that national human rights institutions and representatives of civil society, including non-governmental organizations, can play a useful role in facilitating continued dialogue among organizers, individuals taking part in peaceful protests and the relevant authorities,

*Stressing* the need to ensure full accountability for human rights violations or abuses in the context of protests, including by investigating such violations and abuses and providing victims with access to an effective remedy and redress,

*Recalling* the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and noting the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016),

*Noting* the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement issued by the Office of the United Nations High Commissioner for Human Rights as a supplement to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and calling upon all States to consider applying it to their law enforcement operations in relation to assemblies,

*Encouraging* all States to make appropriate use of the *Resource Book on the Use of Force and Firearms in Law Enforcement* published by the Office of the High Commissioner and the United Nations Office on Drugs and Crime, and the updated training package of the Office of the High Commissioner on human rights law and law enforcement,

*Recalling* the importance of adequate training, equipment, oversight and accountability for officials and private personnel exercising law enforcement duties assigned to the management of assemblies, and of refraining, to the extent feasible, from assigning military personnel or employing military equipment and techniques to perform such duties, while reaffirming that the State's international obligations and commitments in relation to the use of force in the context of law enforcement also apply to the military when it is performing law enforcement duties, and that private personnel should respect internationally recognized standards,

*Reaffirming* that, in situations of armed conflict, including military occupation, the use of force during peaceful protests remains regulated by the rules governing law enforcement under international human rights law and must comply with relevant international standards relating to the use of force and firearms by law enforcement officials,

*Recognizing* the critical role that law enforcement plays in respecting and protecting human dignity and maintaining and upholding the human rights of all persons, including in the facilitation of assemblies,

1. *Takes note with appreciation* of the summary report of the Office of the United Nations High Commissioner for Human Rights of the panel discussion on the promotion and protection of human rights in the context of peaceful protests, with a particular focus on achievements and contemporary challenges;<sup>1</sup>

2. *Also takes note with appreciation* of the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on the protection of human

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<sup>1</sup> A/HRC/50/47.

rights in the context of peaceful protests during crisis situations, submitted to the Human Rights Council in accordance with its resolution 44/20,<sup>2</sup> and encourages States and all other relevant stakeholders to consider the recommendations made in the report;

3. *Expresses deep concern* regarding the instances in which peaceful protests have been met with repression, including the unlawful and excessive use of force by law enforcement officials, the misuse of less-lethal weapons, the militarization of law enforcement, arbitrary arrests and detention, unfair trials, torture or other cruel, inhuman or degrading treatment, violence, in particular sexual and gender-based violence, and enforced disappearance, as well as undue restrictions, such as Internet shutdowns, and assaults on protesters, bystanders, human rights defenders, lawyers, journalists and other media workers and medical personnel;

4. *Recalls* that States have the responsibility, including in the context of peaceful protests, to promote and protect human rights and to prevent human rights violations and abuses, including extrajudicial, summary or arbitrary executions, arbitrary arrest and detention, enforced disappearances and torture and other cruel, inhuman or degrading treatment or punishment, and calls upon States to avoid the abuse of criminal and civil proceedings, or threats of such acts, at all times;

5. *Calls upon* States to promote a safe and enabling environment for individuals and groups to exercise their rights to freedom of peaceful assembly, of expression and of association, both online and offline, including by ensuring that domestic legislation and procedures relating to the rights to freedom of peaceful assembly, of expression and of association are in conformity with their international human rights obligations and commitments to clearly and explicitly establish a presumption in favour of the exercise of these rights, and that they are effectively implemented;

6. *Also calls upon* States to bring all legislation relating to national security, public order and public health into line with their obligations under international law, in particular international human rights law, including by providing clear and narrow definitions in order to prevent undue criminalization of, or restrictions or bans on peaceful protests;

7. *Further calls upon* States to cease hostile rhetoric that stigmatizes protesters, and to facilitate a dialogue with them in an inclusive manner when seeking solutions for resolving a crisis and addressing its root causes;

8. *Reaffirms* that emergency measures taken by Governments must be necessary, proportionate to the evaluated risk and applied in a non-discriminatory way, have a specific focus and duration, and be in accordance with the State's obligations under applicable international human rights law;

9. *Encourages* all States to give due consideration to the compilation of practical recommendations for the proper management of assemblies based on best practices and lessons learned,<sup>3</sup> which provides a useful tool for States on how to fulfil their obligations and commitments, including on how to operationalize them in their domestic laws, procedures and practices, and to promote and protect human rights in the context of assemblies, including peaceful protests;

10. *Calls upon* States to facilitate peaceful protests by providing protesters, to the extent possible, with access to public space within sight and sound of their intended target audience, and by protecting them, without discrimination, where necessary, against any form of threat or harassment, and underlines the role of local authorities in this regard;

11. *Underlines* the important role that communication between organizers, protesters, local authorities and officials exercising law enforcement duties can play in the proper management of assemblies, such as peaceful protests, and calls upon States to establish such appropriate channels;

12. *Urges* States to pay particular attention to the safety and protection of women and girls, as well as of women human rights defenders, in the context of peaceful protests, to

<sup>2</sup> A/HRC/50/42.

<sup>3</sup> A/HRC/31/66.

develop systems to prevent and respond to acts of intimidation, harassment and violence, in particular sexual and gender-based violence, including sexual assault, and to adopt protocols on gender-responsive policing of protests;

13. *Reaffirms* that States must take all appropriate measures for the safety and protection of children, including while they exercise their rights to freedom of peaceful assembly, of expression and of association, including in the context of peaceful protests, and stresses the need for additional guidance for law enforcement with regard to the participation of children in peaceful protests;

14. *Calls upon* all States to pay particular attention to the safety and protection of those observing, monitoring and recording protests, including human rights defenders, lawyers, journalists and other media workers, taking into account their specific role, exposure and vulnerability, even if the protest has been declared unlawful or is dispersed;

15. *Also calls upon* States to take measures before, during and after protests to protect all individuals, paying special attention to those belonging to groups that are particularly vulnerable to unlawful police use of force while recognizing the need for specific technical and practical tools to assist law enforcement officials in promoting and protecting human rights in the context of peaceful protests;

16. *Stresses* that, in times when physical assemblies are restricted, inter alia in times of crisis or emergency, it is all the more necessary that access to and use of the Internet be ensured by refraining from undue restrictions, such as Internet shutdowns or online censorship, by taking measures to ensure that access to the Internet extends to the entirety of the global population and that it is affordable, and by fully respecting and protecting each individual's rights to privacy and to freedom of opinion and expression, and access to information;

17. *Calls upon* all States to refrain from and cease measures that violate human rights, including practices such as the disruption of communications through full or partial Internet shutdowns, or measures that unlawfully or arbitrarily block or take down media websites or social networks, and other widespread restrictions on Internet access, the dissemination of information online or from gathering in online spaces;

18. *Urges* all States to avoid using force during peaceful protests, to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force, and also to ensure that assistance and medical aid are rendered to any injured or affected person at the earliest possible moment;

19. *Calls upon* States, as a matter of priority, to ensure that their domestic legislation and procedures are consistent with their international obligations and commitments in relation to the use of force in the context of law enforcement and are effectively implemented by officials exercising law enforcement duties, in particular, applicable principles of law enforcement, such as necessity and proportionality, bearing in mind that lethal force may only be used as a last resort to protect against an imminent threat to life and that it may not be used merely to disperse a gathering;

20. *Affirms* that nothing can ever justify the indiscriminate use of lethal force against a crowd, which is unlawful under international human rights law;

21. *Calls upon* States to investigate any deaths or significant injuries, including those that lead to disability, incurred during protests, including those resulting from the discharge of firearms or the use of less-lethal weapons by officials exercising law enforcement duties or by private personnel acting on behalf of the State;

22. *Also calls upon* States to ensure adequate training of officials exercising law enforcement duties and, where applicable, to promote adequate training for private personnel acting on behalf of the State, including in international human rights law and, where appropriate, international humanitarian law, and in this regard urges States to include in such training the application of de-escalation and negotiation strategies;

23. *Encourages* States to make appropriate protective equipment and less-lethal weapons available to their officials exercising law enforcement duties in order to decrease their need to use weapons of any kind, while pursuing efforts to regulate and establish

protocols for the training and use of less-lethal weapons, bearing in mind that even less-lethal weapons can result in a risk to life or serious injury;

24. *Underlines* the importance of thorough and independent testing of less-lethal weapons prior to procurement and deployment to establish their lethality and the extent of likely injury, of monitoring appropriate training and use of such weapons, and of promoting accountability at all stages;

25. *Stresses* the importance of international cooperation in support of national efforts for the promotion and protection of human rights and fundamental freedoms in the context of assemblies, including peaceful protests, in order to raise the capacities of law enforcement agencies to deal with such assemblies in a manner that conforms to international human rights law and standards;

26. *Underlines* the necessity to address the management of assemblies, including peaceful protests, so as to contribute to their peaceful conduct, and to prevent injuries, including those that lead to disability, and loss of life of protesters, those observing, monitoring and recording such assemblies, bystanders, medical personnel and officials exercising law enforcement duties, as well as any human rights violation or abuse, to ensure accountability for such violations and abuses and to provide victims with access to a remedy and redress;

27. *Recognizes* the importance of documenting human rights violations and abuses committed in the context of peaceful protests, and of the role that can be played by national human rights institutions, civil society, including non-governmental organizations, journalists and other media workers, Internet users, human rights defenders and lawyers in this regard;

28. *Calls upon* States to refrain from the use of digital technology to silence, arbitrarily or unlawfully surveil, or harass individuals or groups solely for having organized, taken part in, or observed, monitored or recorded peaceful protests, or from ordering blanket Internet shutdowns and from blocking websites and platforms including around protests or key political moments;

29. *Urges* States not to use biometric identification technologies, including facial recognition, to identify those peacefully participating in an assembly;

30. *Calls upon* States to refrain from the export, sale, transfer, use or servicing of surveillance goods and technologies and less-lethal weapons when they assess, in accordance with applicable national procedures and international norms and standards, that there are reasonable grounds to suspect that such goods, technologies or weapons might be used to violate or abuse human rights, including in the context of assemblies;

31. *Expresses grave concern* at the use of private surveillance technologies to commit widespread violations and abuses against those exercising their right to peaceful assembly, including through hacking, and urges a global moratorium on the sale, transfer and use of such targeted surveillance technologies;

32. *Calls upon* States to refrain from applying any undue restrictions to technical solutions to secure and to protect the confidentiality of digital communications, including measures for encryption, pseudonymization and anonymity online, given that these are important to ensure the enjoyment of human rights, in particular the rights to privacy, in the context of assemblies;

33. *Urges* States to ensure accountability for human rights violations and abuses through judicial or other national mechanisms, based on law and in conformity with their international human rights obligations and commitments, and to provide all victims with access to a remedy and redress, including in the context of peaceful protests;

34. *Requests* the Special Rapporteur on the rights to freedom of peaceful assembly and of association, in collaboration with the United Nations Office on Drugs and Crime and the Office of the United Nations High Commissioner for Human Rights, to engage in consultations and develop specific technical and practical tools based on international standards and best practices to assist law enforcement officials in promoting and protecting human rights in the context of peaceful protests, and when preparing the said practical tools

to seek the views of States, other relevant entities of the United Nations Secretariat, other relevant United Nations agencies, funds and programmes, intergovernmental organizations, national human rights institutions, non-governmental organizations and other relevant stakeholders, including practitioners, such as law enforcement practitioners, through global and regional consultations, and to present those technical and practical tools to the Human Rights Council at its fifty-sixth session;

35. *Decides* to continue its consideration of the present topic.
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