

CIVIL DISOBEDIENCE IN DIGITALLY NETWORKED SPACES:

Migrant Protest, Criminalisation, and International Human Rights Standards



European Center for
Not-for-Profit Law

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1. INTRODUCTION

The right of peaceful assembly is at the heart of democratic life, enabling individuals and groups to come together, articulate shared concerns, associate and participate collectively in public debate. Peaceful assemblies may take many forms, including protests: they may take place in public or private spaces, in physical spaces or even online or a combination thereof. They also include public, non-violent breaches of law undertaken to challenge perceived injustice, commonly defined as civil disobedience.

However, the practical exercise of the right of peaceful assembly is facing growing constraints. Governments increasingly rely on broad public-order powers, administrative controls, and discretionary enforcement practices to clamp down on protests, whereas new monitoring and surveillance technologies reshape how assemblies are anticipated, policed, and how participants are identified and sometimes retrospectively sanctioned.

These challenges affect protesters generally, but carry particular weight for migrants participating in public protests and those acting in solidarity with them. In recent years especially, migrant-related protest has become a recurring feature of civic space. Demonstrations against detention, deportation and border violence reflect sustained efforts by migrants and their allies to contest migration policies and demand protection and inclusion. Such protests are frequently peaceful yet disruptive and may involve conduct that falls outside formal regulatory frameworks, such as occupations, trespass, hunger strikes, obstruction of removals, sanctuary practices and other disruptive yet non-violent acts. As a result, they often sit uneasily within legal regimes that nominally protect assembly and permit restrictions. For migrants, participation in such acts is further shaped by overlapping systems of immigration control, where visibility and enforcement carry heightened personal risk. This is particularly significant where digital visibility can translate into legal or social risk for migrants.

While international and regional human rights bodies are paying greater attention to the protection of digitally mediated assemblies, the intersection between protest rights, civil disobedience, surveillance practices and migration control remains unevenly understood.

This paper situates migrant-related civil disobedience within contemporary debates on freedom of peaceful assembly by:

1. examining how legal protections are articulated and challenged in contexts marked by migration control, political sensitivity, and expanding surveillance; and
2. clarifying the applicable standards.

By foregrounding assemblies involving migrants and migrant-rights defenders, this paper contributes to ongoing efforts by civil society, legal practitioners, and international institutions to strengthen safeguards for the exercise of the right of peaceful assembly in both physical and digitally mediated spaces. In doing so, it calls for meaningful protection not only for conventional forms of protest but also for acts of principled disobedience that challenge the boundaries of law in democratic societies.

2. RESEARCH GAP AND METHODOLOGY

This paper is motivated by an identified gap in existing research: recent literature has examined protest repression, civil disobedience, digital surveillance and migrant activism, particularly in light of intensified enforcement and securitisation in recent years, but these bodies of work are rarely integrated. In particular, limited research examines how legal frameworks governing protest interact with enforcement practices and social forms of repression when protest is undertaken by migrants and migrant-rights defenders.

This paper adopts a qualitative socio-legal methodology, combining doctrinal legal analysis with comparative case study research:

- First, the paper **conducts a review and analysis of international, regional, and domestic legal sources governing the right of peaceful assembly and the interconnected rights to freedom of expression and association.** The analysis focuses on the structure of legality, legitimacy and proportionality tests and pays particular attention to how non-violent protest involving law-breaking is addressed within human-rights frameworks and various institutional case law.
- Second, the research **maps the legal and institutional mechanisms through which protest is regulated and restricted in practice.** This stage examines public-order law, administrative policing powers, immigration enforcement frameworks, and emerging forms of digital regulation and surveillance.
- Third, the paper applies this legal framework to a set of **nine comparative case studies from four selected countries.** The case analysis involves systematic review of judicial decisions, official documents, investigative journalism, academic literature, and reports by civil society organisations. Cases are analysed to assess how applicable legal standards were invoked, interpreted, or sidestepped in concrete protest contexts, without presuming compliance or non-compliance in advance. The analysis also examines the sociological consequences of these enforcement patterns for migrant and migrant-defending protesters, including how they alter collective agency, trust in institutions, internal movement dynamics, and willingness to engage in future protest.

3. SELECTION OF COUNTRIES AND CASE STUDIES

Country selection followed a purposive comparative logic: **France, Germany, Greece, and the United States** were selected because each has experienced sustained migration-related political contestation over the past decade, accompanied by recurrent migrant-led or migrant-centred protest. The inclusion of three EU Member States alongside the U.S. allows for comparison both *within* a shared regional human rights framework and *across* distinct constitutional and legal systems at the international level. All four jurisdictions formally recognise robust protections for the rights of peaceful assembly and freedom of expression and association, whether through constitutional law, regional legally binding instruments, or the United Nations International Covenant on Civil and Political Rights (ICCPR), while also possessing extensive public-order and immigration-control powers.

“France, Germany, Greece, and the United States were selected because each has experienced sustained migration-related political contestation over the past decade, accompanied by recurrent migrant-led or migrant-centred protest.”

Within each country, specific cases were selected based on **four criteria** established prior to analysis:

1. First, **migrants or migrant-rights defenders** had to be central participants in the protest.
2. Second, the protest had to involve **contentious collective action or civil disobedience**, including conduct that was at least technically unlawful, such as occupations, blockades, or unauthorised assemblies.
3. Third, cases were selected where protest activity either involved a **digitally networked or hybrid dimension**, as well as **two strictly offline cases** to ensure inclusiveness.
4. Fourth, **sufficient publicly available documentation** had to exist to permit careful legal and contextual analysis, including judicial decisions and legal filings, official government materials, reports by international or regional institutions, academic publications and books, and reliable investigative or news reporting.

This methodology has defined limits. **The paper does not aim to provide an exhaustive survey of migrant protest**, nor does it claim statistical generalisability. Cases are selected for their capacity to show how legal frameworks governing protest operate in practice, rather than for representativeness. Furthermore, the analysis does not assess the moral legitimacy of civil disobedience, nor does it endorse illegality *per se*: instead, it argues that the illegality of these acts – which is one of their key characteristics – should be assessed against the necessity and proportionality criteria required by human rights law before being sanctioned or criminalised. To this extent, this

paper also evaluates how states' responses to protests align with applicable legal standards and the procedural and substantive safeguards required by human-rights law.

4. DEFINITIONS

4.1. Actors: Migrants and Migrant Rights Defenders

This paper uses the International Organization for Migration's broad definition of "migrant" as any person who moves away from their place of usual residence, within a country or across an international border, regardless of legal status or cause of movement.¹

For analytical purposes, it focuses on international migrants, understood in line with the UN Department of Economic and Social Affairs as persons who change their country of usual residence, excluding short-term movements for tourism, visits, business, medical treatment, or religious pilgrimage. This includes people with regular residence status as well as those in an irregular situation.²

Refugees and asylum seekers are treated as a distinct legal category within this broader population. They benefit from specific protections under the 1951 Refugee Convention and its 1967 Protocol Relating to the Status of Refugees – in particular the principle of non-refoulement – but are counted statistically as international migrants. The paper follows demographic usage while fully recognising the separate refugee-protection regime.³

Alongside migrants, the paper examines migrant rights defenders or "solidarity activists". This term refers to individuals and organisations (often non-migrants) who support, accompany or advocate for migrants' rights and who participate in the forms of contentious collective action analysed in the case studies.

4.2. Types of Collective Action, Including Civil Disobedience

Collective action refers to coordinated efforts by individuals or groups pursuing a shared claim, involving interaction with other actors such as the state, the public or opponents.⁴ This paper focuses on **contentious collective action**, where such

¹ International Organization for Migration. (2021). *Fundamentals of Migration*. IOM, UN Migration.

² United Nations Statistics Division. (1998). [Recommendations on Statistics of International Migration](#), Revision 1. United Nations.

³ [Convention Relating to the Status of Refugees](#), adopted 28 July 1951, 189 U.N.T.S. 137 (entered into force 22 April 1954); [Protocol Relating to the Status of Refugees](#), adopted 31 January 1967, 606 U.N.T.S. 267 (entered into force 4 October 1967).

⁴ Tilly, C., & Tarrow, S. (2007). *Contentious politics*. Cambridge. Cambridge University Press.

claims openly confront elites or authorities and, if fulfilled, affect the interests of others, as well.

Forms of contentious collective action can include:

- demonstrations, marches, rallies and encampments;
- sit-ins, occupations, hunger strikes, blockades and boycotts;
- online disruption that can combine with physical gatherings: e.g., virtual sit-in, Distributed Denial of Service (DDoS) actions, web defacement, networked mobilisation.

Within this broader field, the paper has a **particular interest in civil disobedience**. As reflected in key regional human rights case law and guidelines, civil disobedience is understood as:

- public and non-violent;
- **contrary to law**, even if only to administrative or minor criminal provisions;
- **conscientious and political**, aimed at influencing laws or policies on matters of public interest;
- **communicative**, addressed to authorities and the wider public;
- carried out with **awareness of** – and **willingness to face** – **legal consequences**.⁵

⁵ See Chapter 6.



5. INTERNATIONAL AND REGIONAL LEGAL FRAMEWORKS FOR PROTEST RIGHTS

The analysis of criminalisation rests on a set of core international and regional standards protecting the right of peaceful assembly and the interconnected rights such as freedom of expression and association.

5.1. International Covenant on Civil and Political Rights (ICCPR) and UNHRC General Comment 37

The United Nations International Covenant on Civil and Political Rights (ICCPR),⁶ – legally binding for the 173 states having ratified it (including France, Germany, Greece, and the United States) and monitored by the UN Human Rights Committee (UN HRC) – guarantees the right of peaceful assembly (Article 21) as well as other connected rights such as freedom of opinion and expression (Article 19) and freedom of association (Article 22). It establishes peaceful assembly as a right held by “everyone,” including non-citizens and people with precarious status, and is reinforced by the adjacent guarantees of freedom of expression (Article 19) and freedom of association (Article 22).

The UN HRC General Comment No.37, an authoritative interpretative document on the right of peaceful assembly as enshrined in Article 21, ICCPR, clarifies that the term “assembly” covers intentional, temporary gatherings for a common expressive purpose in public or private space, static or moving, and **offline and online**.⁷ States have positive obligations to facilitate peaceful assemblies: blanket bans, excessive force, mass arrests, indiscriminate surveillance, and internet shutdowns are incompatible with Article 21. Unlawful conduct by some participants does not by itself render the whole assembly non-peaceful and enforcement should target individual offenders. General Comment No. 37 also elaborates on the proportionality standard: states must facilitate protest, protect participants from third-party violence and operate on a presumption of peacefulness. Disruption, inconvenience, or political discomfort cannot justify dispersal, excessive force, or arrests, and isolated misconduct cannot be attributed to the assembly as a whole.⁸

Protection is strictly limited to “peaceful” assemblies, a concept that is not exhaustively defined and cannot be reduced solely to the absence of violence, although non-violence remains a core requirement. General Comment No. 37 specifies that “violence” entails physical force likely to cause injury or death or

⁶ [International Covenant on Civil and Political Rights](#), adopted 16 December 1966, United Nations General Assembly Resolution 2200A (XXI).

⁷ United Nations Human Rights Committee. (2020). [General Comment No. 37 on Article 21](#). United Nations Office of the High Commissioner for Human Rights.

⁸ UN Human Rights Committee, *General Comment No. 37*, paras. 15, 17, 24, 27, 36-37.

“serious damage to property,” a threshold that distinguishes protected expressive conduct from unprotected acts of destruction or vandalism.⁹ Comparative jurisprudence, including that of the European Court of Human Rights, further indicates that assemblies whose methods or objectives amount to incitement to violence or a rejection of democratic principles may fall outside this protection, even in the absence of widespread physical harm.¹⁰

5.2. OSCE-ODIHR Guidelines on Freedom of Peaceful Assembly

The Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE-ODIHR), in joint collaboration with the European Commission for Democracy through Law (aka “Venice Commission” of the Council of Europe), published Guidelines on Freedom of Peaceful Assembly.¹¹ The Guidelines serve as a non-binding soft-law instrument that elaborate on how binding international and regional guarantees of freedom of peaceful assembly should be implemented in practice across the 57 OSCE participating states, including the U.S. and the European Union Member States examined in this paper (France, Germany, and Greece). The Guidelines emphasise:

- notification rather than authorisation regimes as the norm;
- a presumption in favour of peaceful assemblies;
- narrowly tailored time, place, and manner restrictions;
- dispersal only as a measure of last resort;
- protection of counter-demonstrations;
- the duty to plan for de-escalation and to avoid militarised policing;
- equal protection for spontaneous assemblies and for marginalised or unpopular groups.

Assemblies’ organisers are expected to cooperate with authorities but are not strictly liable for all unlawful acts by others.

5.3. Council of Europe Standards

In Europe, the Council of Europe’s European Convention on Human Rights (ECHR) is legally binding on all Council of Europe (CoE) 46 member states and protects freedom of freedom of expression (Article 10) – subject to restrictions that are lawful, pursue a legitimate aim, and are necessary in a democratic society – and freedom of peaceful assembly and association (Article 11) under the

⁹ UN Human Rights Committee, *General Comment No. 37*, para 15.

¹⁰ [Kudrevičius and Others v. Lithuania](#), App. no. 37553/05 (European Court of Human Rights (ECtHR), 2015), paras. 92, 145

¹¹ European Commission for Democracy through Law (Venice Commission) & OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). (2019). [Guidelines on Freedom of Peaceful Assembly](#) (3rd ed., edited version).

same three-part test.¹² The Convention applies to “everyone within [a state’s] jurisdiction”, regardless of nationality or migration status. The European Court of Human Rights (ECtHR) – the international court responsible for interpreting and enforcing the ECHR – has confirmed that undocumented migrants and asylum seekers fall within the scope of these protections.¹³ The Court has also repeatedly stressed that foreign nationals enjoy Convention rights when on the CoE Member States’ territory, regardless of their migration status.

5.4. Inter-American Standards

The Inter-American human rights system – based on the law and institutions of the Organization of American States (OAS) – protects freedom of peaceful assembly and interconnected rights. The American Convention on Human Rights (ACHR) explicitly recognises the “right of peaceful assembly, without arms” and allows restrictions only if prescribed by law and necessary in a democratic society to pursue one of the listed legitimate aims.¹⁴ The Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR) through their reports and case law acknowledge the intrinsic connection between the right of peaceful assembly, freedom of expression and freedom of association; emphasise that these rights play a central role in democratic participation particularly for groups that face structural barriers to access, visibility, or political representation; and indicate that the criminalisation of peaceful protests *per se* violates the ACHR.¹⁵

Although the U.S. has not ratified the ACHR and is therefore not subject to the IACtHR’s jurisdiction, it remains a member of the OAS and is bound by the American Declaration of the Rights and Duties of Man, which the IACHR treats as a source of binding human-rights obligations. The IACtHR jurisprudence is especially instructive in contexts where domestic constitutional doctrine offers limited tools to address structural vulnerability, indirect repression, or the delegation of expressive control to private actors.

¹² Council of Europe. [European Convention on Human Rights \(ECHR\)](#).

¹³ See [Cisse v. France](#), App. no. 51346/99 (2002). In this case, a church sit-in was examined under Article 11, without exclusion on the basis of status.

¹⁴ [American Convention on Human Rights](#) (also known as “Pact of San José”), Article 15.

¹⁵ Organization of American States, Inter-American Commission on Human Rights, Special Rapporteur on Freedom of Expression. (2019). [Protest and Human Rights: Standards on the Rights Involved in Social Protest and Demonstrations; Paillama v Chile](#) (judgment in Spanish) (Inter-American Court of Human Rights, 2024); a legal analysis of the judgment is available [here](#).

6. CIVIL DISOBEDIENCE IN INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS

While civil disobedience is not codified as a legal right, the international and regional human rights legal and policy framework show that peaceful, albeit technically unlawful, migrant-related protest remains squarely within the protective scope of assembly law rather than outside it.

The UN HRC case law and its General Comment No. 37 indicate that **non-violent law-breaking within an assembly still falls under the protection of Articles 19, 21, and 22 of the ICCPR**, provided the overall conduct is peaceful and restrictions meet the usual legality, legitimacy, and proportionality tests.¹⁶ The UN High Commissioner for Human Rights similarly notes that policing of protests

involving civil disobedience must remain proportionate, with particular caution around criminalisation of minor offences.¹⁷ The emphasis remains on the expressive function of the conduct: legal protection does not legitimate the unlawful act itself but limits – and in some cases does not justify – state sanctions that would be inherently disproportionate to the minor and peaceful nature of the breach.

Further, both the OSCE-ODIHR Guidelines on Freedom of Peaceful Assembly¹⁸ and the Guidelines on the Right to Peaceful Environmental Protest and Civil Disobedience developed by the UN Rapporteur on Environmental Defenders under the Aarhus Convention treat civil disobedience as a form of peaceful assembly.¹⁹ The latter, a set of non-binding instruments directed at Aarhus

“Peaceful, albeit technically unlawful, migrant-related protest remains squarely within the protective scope of assembly law.”

¹⁶ United Nations Human Rights Committee, [General Comment No. 37 on Article 21](#), paras. 15-17, noting that “even where assemblies involve some acts that may breach the law, peaceful assemblies are still protected under Article 21”; emphasising that States must ensure that restrictions are “prescribed by law, pursue a legitimate aim, and are necessary and proportionate in a democratic society”; and clarifying that authorities must respect the “presumption of peacefulness” of assemblies); [Kivenmaa v. Finland](#), Comm. No. 412/1990 (UN Human Rights Committee, 1994); [Sergey Kuznetsov v. Belarus](#), Comm. No. 1930/2010 (UN Human Rights Committee, 2014); [Popova v. Russian Federation](#), Comm. No. 2217/2012, UN Doc. CCPR/C/122/D/2217/2012 (2018).

¹⁷ Office of the United Nations High Commissioner for Human Rights. (2013). [Effective Measures and Best Practices to Ensure the Promotion and Protection of Human Rights in the Context of Peaceful Protests](#), UN Doc. A/HRC/22/28, para. 51: “Minor violations of the law committed in the course of peaceful protests should not be criminalised; where sanctions are imposed, they must be proportionate and should not have a chilling effect on the exercise of the rights to freedom of peaceful assembly and expression.”

¹⁸ See Chapter 5.2.

¹⁹ United Nations Economic Commission for Europe. (2025). [Guidelines on the Right to Peaceful Environmental Protest and Civil Disobedience](#), October 2025.

Convention State Parties (including France, Germany, and Greece, but not the U.S.) identify **four cumulative criteria to configure acts of civil disobedience**:

- deliberate law-breaking;
- a matter considered of public interest;
- a public conduct; and
- non-violence.

Both sets of Guidelines affirm that such protests fall within the scope of Article 21, ICCPR and that disruptive but non-violent protest does not amount to “violence” in itself. Sanctions must always pass the three-part test of legality, legitimate aim, and strict proportionality.

On a regional level, the ECtHR has established a consistent line of case law confirming that peaceful civil disobedience remains protected under Articles 10 and 11 of the ECHR, even when it involves breaches of minor domestic laws or permit requirements. In its jurisprudence, the ECtHR has developed several core principles regarding non-violent protest:

- **Broad Protection:** Peaceful protest activities, even those that are intentionally obstructive or disruptive to public life, are entitled to Convention protection.²⁰
- **Status of Authorisation:** Participation in an unauthorised demonstration does not automatically strip an individual of their Convention guarantees, provided the assembly remains peaceful.²¹
- **Proportionality of Sanctions:** Any penalties imposed by the state must be proportionate; legal consequences cannot be aggravated simply because of the message expressed or the "disobedient" nature of the act.²²

Collectively, these standards indicate that **non-violent, public, politically motivated law-breaking is normally treated as part of the protected space for the right of peaceful assembly and freedom of expression**. Restrictions must be prescribed by law, extending beyond formal legality to include the quality of the law itself, encompassing its clarity, foreseeability and capacity to constrain arbitrary enforcement. This approach is echoed in the Inter-American system, where the IACtHR has held that, in situations threatening the democratic order,

²⁰ [Plattform "Ärzte für das Leben" v. Austria](#), App. no. 10126/82 (ECtHR, 1988); [Ezelin v. France](#), App. no. 11800/85 (ECtHR, 1991); [Sergey Kuznetsov v. Russia](#), App. no. 10877/04 (ECtHR 2008); [Alekseyev v. Russia](#), App. nos. 4916/07, 25924/08 and 14599/09 (ECtHR, 2010); and [Schmidberger, Internationale Transporte und Planzüge v. Austria](#), App. no. 11200/03 (ECtHR, 2003).

²¹ While the European Court of Human Rights has accepted that prior authorisation regimes are not *per se* incompatible with Article 11 ECHR, a broader legal consensus, particularly in constitutional jurisprudence, holds that the essence of freedom of assembly lies in its exercise without prior permission. Notification procedures are generally justified only to enable authorities to take necessary measures to facilitate assemblies and protect public safety and order.

²² See Footnote No. 20.

public acts defying legal constraints may constitute not only protected expression but part of an obligation to defend democracy.²³ This stance is further consolidated in the recently updated ECtHR Guide on Article 11 (August 2025), which explicitly addresses the nuances of civil disobedience. The ECtHR Guide underscores that despite States having a margin of appreciation in managing public order, the "peaceful" nature of an assembly is the primary criterion for protection, regardless of its underlying legality under national law.²⁴

7. CIVIL DISOBEDIENCE CRITERIA APPLIED TO THE DIGITAL CONTEXT

7.1. Theoretical Framework

The modern concept of civil disobedience originates in mid-19th and 20th-century political theory. Henry David Thoreau, an American philosopher and author, provided the movement's foundational text in his 1849 essay.²⁵ Based on his own refusal to pay taxes that funded slavery and the Mexican-American War, Thoreau framed unlawful resistance as a personal moral duty against state injustice.

In the 20th century, these ideas were refined by several prominent thinkers who moved the concept from a personal moral act to a structured political tool, more relevant to this paper's analysis. The American philosopher Hugo A. Bedau distilled its defining features as a public, non-violent and conscientious breach of law aimed at legal or policy reform.²⁶ This definition was echoed by John Rawls, one of the most influential political philosophers of the 20th century, who viewed such acts as a public, nonviolent, conscientious yet political act aimed at bringing about change by appealing to the community's sense of justice.²⁷ Meanwhile, the German-American political theorist Hannah Arendt emphasised its collective character, viewing civil disobedience as a form of action taken by "organised minorities" who appeal to foundational principles of justice when the law no longer reflects the will of the people.²⁸

²³ Inter-American Court of Human Rights, [López Lone et al. v. Honduras](#), (Inter-American Court of Human Rights, 2015) para. 153; see also paras. 173-174

²⁴ European Court of Human Rights. (2025). [Guide on Article 11 of the European Convention on Human Rights: Freedom of assembly and association](#), paras. 28-29.

²⁵ Thoreau, H. D. (1849). *Civil Disobedience*.

²⁶ Bedau, H. A. (1961). "On Civil Disobedience." *Journal of Philosophy*, 58(21), 653-665.

²⁷ Rawls, J. (1971). *A Theory of Justice*. Harvard University Press.

²⁸ Arendt, H. (1972). "Civil Disobedience." In *Crises of the Republic* (pp. 49-102). Harcourt Brace Jovanovich.

Classical frameworks therefore agree on four core elements:

- **Illegality:** A deliberate breach of the law.
- **Nonviolence:** The use of peaceful means to demonstrate moral intent.
- **Public Communicative Intent:** An act performed openly to send a message to the community.
- **Fidelity to Law:** A respect for the legal system as a whole, traditionally expressed through a willingness to accept the legal consequences of the act, while simultaneously appealing to higher legal or constitutional principles where **the quality of the law (its clarity, foreseeability, fairness, or conformity with fundamental rights) is called into question.**

Together, these thinkers outline a civic form of protest characterised by elements of illegality, a moral purpose and restrained means.

7.2. Digital Translation

When transferred to digital spaces, the criteria described above remain analytically useful but require reinterpretation and adaptation. Illegality is often straightforward: e.g., DDoS actions, temporary disruptions of donation portals, targeted defacement of government or corporate sites clearly violate cybercrime statutes. However, **this technical breach does not automatically strip the act of protection.** Instead, it triggers a requirement for the state to prove that criminalisation is necessary in a democratic society and proportionate to the specific disruption caused. Further, many of **these tactics still satisfy non-violence insofar as they are typically temporary, reversible, and non-destructive:** they disrupt systems, delay operations or create inconvenience without permanently impairing infrastructure, destroying data or depriving others of essential services, mirroring offline sit-ins or blockades in their symbolic, coercive, but non-lethal character. Where such digital disruptions are limited in duration and scope and avoid critical or life-sustaining services, they remain below thresholds of serious harm, even as they impose meaningful pressure. This mirrors the critical interpretative safeguard found in UN HRC General Comment No. 37, which distinguishes protected expressive conduct from unprotected acts of destruction. By maintaining this threshold, the analysis remains grounded in assembly law: the act remains technically illegal under domestic statutes, but the lack of physical force against others that is likely to result in injury or death or of serious damage to property prevents the state from legally categorising the protest as non-peaceful.²⁹ Digital

“There are no principled grounds to exclude digital acts from the category of civil disobedience when they meet the underlying normative commitments of illegality, nonviolence, publicity, and fidelity to law.”

²⁹ Klang, M. (200). “Civil Disobedience Online.” Journal of Information, Communication and Ethics in Society, 2(2).

protest can also preserve a public communicative dimension, both through the content of a defacement, coordinated timing during moments of public scrutiny or the publication of manifestos that explain the motivation for the breach.

The most contested criterion to equate online protests to civil disobedience is the acceptance of legal consequences. Digital actors frequently remain anonymous, diverging from civil disobedience's traditional pledge to stand openly and bear the legal consequences. Yet, **anonymity does not automatically negate fidelity to the law**. Accepting arrest, for example, is one form of demonstrating respect for constitutional or rule of law principles, but not the only one. Hacktivists, even when anonymous, can show fidelity through reason-giving rather than body-giving, by publicly acknowledging the laws they break and emphasising the limited and symbolic nature of their intervention.³⁰ A strong example is when hacktivists issue public statements explaining their actions and moral rationale, effectively accepting accountability through transparency of motive. These public statements signal that the actors do not reject the legal order. Actors then remain answerable in the court of public opinion, if not a court of law.³¹

Overall, these adaptations show that the classical criteria can be meaningfully applied to the online context and **there are no principled grounds to exclude digital acts from the category of civil disobedience when they meet the underlying normative commitments of illegality, nonviolence, publicity, and fidelity to law**. Crucially, this doctrinal extension does not contest illegality, instead serving to assert that digital civil disobedience remains a subset of peaceful assembly. This ensures that the state's response is governed by assembly and expression laws rather than being relegated to a legal vacuum.

7.3. Challenges to Online Civil Disobedience

A central practical challenge for digital civil disobedience is the **ephemerality of online attention**: disruptions that trend one day can disappear the next as the digital sphere rapidly cycles through content. This matters because the traditional aim of civil disobedience has always been to generate sustained public attention in order to pressure institutions toward change, often achieved offline through arrest, trial, and appeal, which prolong visibility as a case moves through the legal system.³² Online, that pathway is rarely available, especially for transnational or anonymous actors, which means that sustained impact must be achieved through other mechanisms. This is precisely why tactics such as virtual sit-ins and, in some cases, DDoS-based blockades have emerged as strong

³⁰ Züger, T. (2021). "Coding Resistance: Digital Strategies of Civil Disobedience." In W. E. Scheuerman (ed.), *The Cambridge Companion to Civil Disobedience*. Cambridge University Press.

³¹ Loh, W. (2022). "Anonymity, Fidelity to Law, and Digital Civil Disobedience." *Philosophy & Technology*, 35(1).

³² Interviews with Giulio Coppi, Senior Humanitarian Officer at Access Now, personal communication, September and November 2025.

candidates for digital civil disobedience: although their immediate technical disruption is brief, **the tactic is meaningful only when paired with narrative and discursive strategies that extend its visibility beyond the moment of interruption.** Manifestos explaining the underlying rights-claim, coordinated hashtags that amplify the message or linkage to offline mobilisation embed the disruption in a broader campaign narrative. A single blockade, whether achieved through the collective symbolic “presence” of a virtual sit-in or the more technically forceful congestion of a DDoS, may only briefly block a portal, but its significance flows from the story it tells and the public dialogue it triggers, functionally mirroring how offline civil disobedients use legal proceedings to extend attention. By coupling technical disruption with narrative strategy, digital activists create a feedback loop between action and discourse, creating a sustained, rights-claiming intervention capable of exerting pressure over time.

Another challenge is the **role of online platforms in mediating visibility.** Unlike a protest in a public square, digital civil disobedience unfolds within infrastructures that are neither neutral nor fully public. Social media platforms, hosting providers, messaging services and payment intermediaries operate according to private governance regimes shaped by their own commercial incentives and varying degrees of state pressure. Because these companies are not bound by constitutional free expression guarantees (in the U.S.) nor subject to robust positive obligations to protect speech (in most European states), their content moderation systems act as decisive arbiters of visibility. This dynamic is evident throughout jurisdictions: the EU’s Digital Services Act (DSA) encourages platforms to swiftly remove content deemed illegal or harmful;³³ France’s 2020 “Avia Law” (largely struck down by the Constitutional Council but politically influential) pushed for rapid takedowns of contentious material; Germany’s Network Enforcement Act (NetzDG) imposes strict removal timelines and penalties;³⁴ and U.S. platforms rely on broad discretionary Terms of Service. These frameworks intersect with state interests, particularly on issues like migration, border control, or national security, meaning that digital civil disobedience is always mediated by private actors who choose whether to be responsive to regulatory pressure and political climate, most often acting as a support to them. As a result, **online protest is shaped by a triangular relationship between activists, platforms and governments,** where the communicative dimension of civil disobedience can be amplified or suppressed or even made invisible depending on how these actors interact.

Last but not least, the political context is crucial: since third-party platforms often calibrate their moderation practices in line with prevailing governmental priorities, it becomes essential to examine the interests and political climate shaping States’ expectations. The domains of migration, cross-border solidarity

³³ European Union. [Regulation \(EU\) 2022/2065](#) of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act).

³⁴ [Netzwerkdurchsetzungsgesetz](#) (Network Enforcement Act), Germany, 2017

and protest are increasingly being framed through public-order and security lenses. Though this trend is frequently associated with right-wing political movements, anti-human-rights positions and restrictive approaches are not confined to one ideological orientation and also emerge within ostensibly progressive or centrist governance contexts when security rationales dominate.

Governments have expanded enforcement and surveillance capacities while limiting the space for migrant-related advocacy. In Europe, initiatives such as the EU's proposed 2023 Facilitators Package widens criminal liability for assistance to irregular migrants;³⁵ border control and asylum responsibilities are externalised to third states, thereby diminishing accountability and human-rights safeguards. Other examples include Greece's ongoing prosecutions of humanitarian rescuers; France's successive asylum and immigration bills expanding police powers; and Germany's Law for the Improvement of Return.³⁶

In the U.S., these dynamics are accelerated by the current administration. The present-day crackdown is deeply institutionalised: the 2025 Executive Order 14159 expands expedited removals, broadens enforcement powers, restricts public benefit access, and criminalises undocumented status.³⁷ Also, federal raids in major cities, from Los Angeles to Chicago to Charlotte, are detaining both undocumented immigrants and lawful residents, while immigrant communities report rising fear of arrest, deportation, or loss of status.³⁸ Together, these developments actively condition the communicative and legal space in which digital civil disobedience is received, constrained and repressed.

³⁵ European Union. [Proposal for a \(EU\) Directive](#) laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union.

³⁶ Council of Europe Commissioner for Human Rights. (2025). [Externalisation of migration and asylum: Human rights implications](#). CommHR(2025)40. Council of Europe.

³⁷ Executive Order 14159 of January 20, 2025, [Protecting the American People Against Invasion](#).

³⁸ United States Senate Permanent Subcommittee on Investigations. (9 December 2025). [Unchecked authority: Examining the Trump Administration's Extrajudicial Immigration Detentions of U.S. Citizens](#).

8. MIGRANT AND SOLIDARITY PROTESTS IN DIGITALLY NETWORKED SPACES: COMPARATIVE CASE STUDIES³⁹

8.1. Domestic Legal Frameworks

Alongside international and regional norms, this paper looks at national constitutional and legislative frameworks in **France, Greece, Germany and the United States**, focusing on how they structure both protection and criminalisation of migrant protest and solidarity.⁴⁰

- **France:** The rights to freedom of opinion, expression, and association derive from the 1789 Declaration of the Rights of Man and of the Citizen and the 1901 Associations Law, as recognised by the Constitutional Council. Assemblies are regulated by the Internal Security Code (advance declaration, prefectural bans, police powers). Criminal provisions on unlawful assembly, rebellion and violence against police – as well as “aid to irregular stay” in the immigration code – provide the basis for prosecutions. Emergency and “separatism” legislation, together with administrative measures (e.g. content takedown powers), give prefects and ministries considerable discretion, which can be used selectively toward migrant communities and support networks.
- **Greece:** The Constitution protects freedom of expression, assembly, and association. Case law recognises that non-citizens may exercise these freedoms, although some constitutional guarantees are framed in citizen terms only. The Assembly Law introduces detailed rules on public assemblies, including mandatory notification, powers to impose conditions or bans and civil and criminal liability for organisers. Migration legislation also criminalises irregular stay and expands police powers around “public order.”
- **Germany:** The Basic Law strongly protects expression (Article 5) and peaceful assembly (Article 8). Freedom of association (Article 9) is formally limited to “Germans”, but everyone, including migrants, has the right to form and join trade unions. Federal and Länder assembly laws set procedures for public gatherings. At the same time, the Criminal Code provisions on breach of the peace and resistance as well as on “criminal” and “terrorist” organisations can support extensive surveillance and investigation of activist networks, including those operating partly

³⁹ For a comprehensive list of sources used for all the case studies (including contentious collective action and civil disobedience), see Annex A.

⁴⁰ For a comprehensive list of sources used for domestic legal frameworks, see Annex B.

online. Migration law links certain criminal convictions to deportation, making protest-related charges particularly heavy for non-citizens.

- **United States:** The U.S. Constitution's First Amendment protects freedom of speech, assembly and association for "persons," regardless of citizenship. Protest activity is primarily analysed through "public forum doctrine" and "content-neutral" time, place and manner regulation: in traditional public forums such as streets, sidewalks, and parks, peaceful protest receives the highest level of constitutional protection, which means that restrictions must be narrowly tailored to significant governmental interests, permit regimes must rely on objective criteria with prompt judicial review and authorities may not discriminate based on viewpoint or speaker identity. However, the U.S. Supreme Court does not grant First Amendment protection to conducts that combine "speech" and "non-speech" elements whenever the government 1) has a "a sufficiently important" interest in regulating the non-expressive element of the conduct; 2) the restrictions are "content-neutral" (i.e., their main purpose is not directed at silencing speech) and 3) the restrictions on speech are no greater than necessary to achieve the other legitimate government interest. In other words, where activities such as trespass, road blockades, or building occupations involve a message, the courts should determine whether the government is regulating primarily the conduct itself rather than trying to suppress the message.⁴¹

These protections coexist with broad federal immigration-enforcement powers and a patchwork of state-level statutes. In several states, "critical infrastructure" protest laws increase penalties for blockades and encampments near pipelines and similar sites, and computer-misuse statutes have been invoked against some digital direct actions. Under the federal Immigration and Nationality Act, even relatively minor criminal offences may trigger removal proceedings and the US Supreme Court (SCOTUS) case law limits labour remedies for undocumented workers who face retaliation, weakening practical protection for migrant organisers.⁴² At the same time, protest-related expression on digital platforms receives no constitutional protection against private moderation: under the state-action doctrine (affirmed by SCOTUS in cases such as *Manhattan Community Access Corp. v. Halleck*) the First Amendment does not extend to social media companies⁴³ and Section 230 of the Communications Decency Act grants them broad immunity and discretion to remove or deprioritise content, including speech by migrants or advocates.

⁴¹ United States Supreme Court. *United States v. O'Brien*, 391 U.S. 367 (1968); *Clark v. Community for Creative Non-Violence*, 468 U.S. 288 (1984) (upholding neutral restrictions on expressive conduct, e.g., sleeping in parks); *Boos v. Barry*, 485 U.S. 312 (1988) (illustrating time, place, and manner restrictions as a means to regulate conduct without targeting the content of expression).

⁴² [Hoffman Plastic Compounds, Inc. v. National Labor Relations Board](#), 535 U.S. 137 (Supreme Court of the United States, 2002).

⁴³ [Manhattan Community Access Corp. v. Halleck](#) (Supreme Court of the United States, 2019).

Across all four jurisdictions, formal guarantees sit alongside legal frameworks that grant authorities **wide enforcement discretion**, especially in relation to non-citizens. Immigration control powers, public-order offences, and digital-security laws create multiple entry points for criminalisation.



8.2. Contentious Collective Action, Including Civil Disobedience

8.2.1 France

Networked Space of Calais Protestors and No Borders Digital Repression

Overview: On 11 January 2025, around 600 people and roughly 70 to 73 organisations marched in Calais to denounce record deaths in Channel crossings and demand safe routes to the UK, better search and rescue, and an end to daily police harassment. The protest took place in a space defined by the activism of the *No Borders*, a transnational network of autonomous groups rejecting national frontiers, and its local French-UK-Calais branch.

Actors

- **Migrants:** Mostly young men and unaccompanied minors from conflict and crisis regions, in legal limbo as Dublin cases, referring to the EU's Dublin Regulation⁴⁴, which requires people to seek asylum in the first European country they entered, as well as rejected asylum seekers, or those trying to reach the UK to claim asylum.
- **Solidarity activists:** CSOs (*Gisti, La Cimade, Utopia 56*), unions, left-wing parties, faith groups, and anti-border collectives like *Calais Migrant Solidarity* that link humanitarian support to political resistance.

Protest Actions

- Central Calais to Parc Richelieu march as both mourning and reclaiming of public space, with migrants and families of the dead speaking about border policies.
- Long-term infrastructure of dissent through No Borders Network: monitoring police operations, warning residents before evictions, accompanying people during identity checks, and connecting local struggles to UK allies.
- Cop-watching and tactical media documenting the tent seizures and violence by the French National Police (*Compagnies Républicaines de Sécurité*, aka CRS), with footage circulated online and used as evidence, including in an investigation by France's human rights watchdog that condemned humiliating treatment of migrants.⁴⁵

Government Reaction and Criminalisation

- “Zero point of fixation” strategy of repeated evictions and confiscation of tents, blankets, and sometimes phones to prevent any stable encampment, carried out through frequent CRS deployments involving shielded advances, physical pushing, baton use to force people away from sleeping areas, and early-morning clearances documented by journalists and human-rights groups.

⁴⁴ [Regulation \(EU\) No 604/2013](#) (the “Dublin III Regulation”). Named after the 1990 Dublin Convention signed in Ireland’s capital, this law determines which EU Member State is responsible for an asylum claim.

⁴⁵ Public Defender of Rights (Défenseur des droits), [Report on exiles and fundamental rights: the situation in Calais](#), October 2015.

- Calais mayor’s municipal order banning the 11 January march on public order grounds, overturned the same day by the Lille administrative tribunal as a serious and unlawful interference with assembly, protest and expression.

Discourse Analysis

- Authorities, including the Calais mayor and local officials, portray No Borders as “radicals” or “agitators” who manipulate migrants and spread false hope, which denies migrant agency and frames protest as imported.
- Officials distinguish between “legitimate” humanitarian CSOs and “radical” anti-border groups, so that cop-watching and online documentation are cast as harassment of police.

Occupation of Gaîté Lyrique Theatre and Digital Mobilisation

Overview: On 10 December 2024, several hundred young homeless migrants, many originally from West Africa and previously sleeping in Paris parks, occupied La Gaîté Lyrique, a municipal cultural centre in central Paris. The occupation began after the theatre invited a group of minors to a show and they decided to occupy the place demanding housing and regularisation. Estimates range from around 250 unaccompanied minors at the start to roughly 400-450 people by March 2025. The venue was closed to the public for more than three months and the occupation was forcibly ended by police on 18 March 2025.

Actors

- **Migrants:** Primarily unaccompanied or those who recently lost minor status due to age from Guinea, Ivory Coast, Mali, Senegal and other West African countries, in legal limbo regarding child protection and residence status.
- **Solidarity Activists:** *Collectif des jeunes du parc de Belleville* and allied and neighbourhood activists who had previously supported park occupations and mobilised media and legal support.

Protest Actions

- Long-term occupation of a municipal cultural building, turning it into a *de facto* shelter and political space with assemblies and press work.
- Digital mobilisation via social networks, videos from inside the theatre, and online calls for support and donations, framing the action as both a housing struggle and a denunciation of state neglect of migrant minors.

Government Reaction and Criminalisation

- On 18 March 2025, Paris police and CRS units entered the theatre, using batons and shields to force back protestors and deploying tear gas in and around the building to clear occupants.
- Around 46 people were arrested during or immediately after the forced removal for “rebellion,” “refusal to comply,” or during identity checks, with reports of clashes between officers and activists attempting to block the raid. Several detainees were detained and checked for immigration status.
- Authorities justified the forcible operation by citing health, fire-safety, and public-order risks due to “untenable overcrowding” in the building.

Discourse Analysis

- Media and officials repeatedly questioned whether the occupants were “really” minors, using age disputes to cast doubt on their claims to protection.
- Several national outlets echoed official claims that the occupation represented a “security risk” and an act of “squatting,” emphasising property damage, sanitary conditions, or alleged “instrumentalisation” of minors.
- Local voices framed the occupation as a source of disorder within a “radical leftist” enclave, while radio commentators accused the Theatre of “Stockholm syndrome” by drawing parallels between the organisers and their perceived aggressors.



8.2.2 Germany

Ellwangen Police Raid Protests

Overview: On 30 April 2018, residents of the Ellwangen state reception centre used spontaneous collective resistance to block the attempted deportation of a Togolese asylum seeker, Yussif O., under the EU “Dublin” Regulation (which determines which EU country should examine asylum seeking applications). The rules required his transfer to Italy as his country of first entry, sparking a standoff that ended on 3 May when 500 to 600 police officers carried out a large-scale raid on the centre, which led to injuries and a national controversy, and ultimately to strategic litigation by resident Alassa Mfouapon.

Actors

- **Migrants:** Asylum seekers in the Ellwangen LEA, mostly from West and Central Africa, in the reception phase and subject to strict residence rules under EU law (“Dublin Regulation”), which mandates applying to the first country of entry.
- **Solidarity activists:** Local groups and the later *Freundeskreis Alassa*, along with lawyers and civil society organisations that supported legal challenges and public advocacy, with migrants themselves leading the initial resistance.

Protest Actions

- Around 150 residents surrounded police cars on 30 April and demanded that officers release Yussif O., leading police to abandon the deportation attempt with no significant material damage recorded.
- Press conference and demonstrations after the 3 May raid under slogans such as “We are refugees, not criminals,” turning the incident into a broader protest against deportations and police tactics.

Government Reaction and Criminalisation

- Pre-dawn raid with several hundred officers, special units, and dogs, with doors broken down and room-to-room searches carried out without individual warrants and with multiple injuries reported.
- Investigations against at least 27 residents for breach of the peace and resistance against enforcement officers, with some convictions, and expulsions or renewed deportation attempts against key figures.
- Political use of Ellwangen in debates that led to the adoption of the 2019 “Orderly Return Act,” which expanded police search powers in deportation procedures.
- Courts later found elements of the raid unlawful and recognised in principle that refugee rooms can fall under the definition of “home” under Article 13 of the German Federal Basic Law, which protects the privacy and physical integrity of living spaces and requires judicial oversight for searches and strict limits on surveillance. However, the courts still allowed significant scope for warrantless entries during deportation operations, as they argued that some shared spaces within asylum reception centres (e.g., shared dormitories) are excluded from this protection.

Discourse Analysis

- Interior Ministry officials and conservative politicians portrayed the resistance as a “slap in the face for law-abiding citizens” and as evidence of “lawless zones,” casting refugees as a dangerous collective.
- Language about an “anti-deportation industry” presented lawyers and supporters as actors who undermine the rule of law, delegitimising legal defence as a form of sabotage.

Lufthansa Online Blockade, Deportation Class Campaign

Overview: On 20 June 2001, coinciding with Lufthansa's shareholder meeting in Cologne, the anti-racist networks *Kein Mensch ist illegal* and *Libertad!* called for an online "virtual sit-in" using DDoS technology and targeting Lufthansa's website. The coordinated, multi-pronged action took place in the context of the Deportation Class campaign, which denounced Lufthansa's role in deportations following deaths during forced removals, including the suffocation of Sudanese asylum seeker Aamir Ageeb on a Lufthansa flight in 1999.

Actors

- **Solidarity Activists:** *Kein Mensch ist illegal* local groups and *Libertad!*, along with over 13,000 individual sympathisers who voluntarily responded to a call to action published by activist Andreas-Thomas Vogel on *libertad.de* and used the protest tool he released.

Protest Actions

- Participants simultaneously accessed *lufthansa.com* using a small program (FloodNet tool), that repeatedly sent requests to the site. The aim was to overload the server in a time-limited blockade modelled on a physical sit-in, creating a visible digital crowd disrupting ticket sales and drawing attention to the corporation's behaviour.
- Lufthansa reported around 1.2 million hits from about 13,000 computers during the two-hour window, and the site was briefly unavailable while core operations and internal communications remained unaffected.
- The action was publicly announced, time-delimited and framed by organisers as a non-violent, openly political demonstration in digital space.

Government Reaction and Criminalisation

- State security police searched *Libertad!*'s offices and seized computers during a multi-year investigation, treating the online blockade as a potential security offence.
- In 2005, a Frankfurt district court convicted Vogel of "coercion" under § 240 StGB, ruling that the action used "extreme violence by electronic impulses" against Lufthansa and other internet users, and imposed a fine equivalent to 90 daily rates.
- In May 2006, the Frankfurt Higher Regional Court overturned the conviction and held that the online demonstration did not constitute violence but was aimed at influencing public opinion, recognising it as a form of protected protest activity in principle.

Discourse Analysis

- Supporters presented the blockade as nonviolent civil disobedience that disrupted access to call attention to deportations, while prosecutors and Lufthansa initially framed it as criminal coercion and compared it to a denial-of-service attack.
- The final appellate ruling is widely cited as an early precedent that distinguishes online demonstrations from "force" when they are transparently organised, time limited and communicative, even if they are intentionally disruptive.

8.2.3 Greece

Athens Hunger Strike and Server Overload

Overview: In early 2011, around 300 undocumented migrant workers in Athens and Thessaloniki carried out a 44-day hunger strike to demand regularisation and equal social rights. The strike combined physical occupations of the Athens Law School and Thessaloniki Workers' Centre, with a coordinated online campaign and experiments online civil disobedience, including mass digital actions aimed at amplifying visibility and disrupting official narratives.

Actors

- **Migrants:** Mainly North African and Middle Eastern workers with long-term presence in Greece but precarious, irregular jobs and no secure residence status.
- **Solidarity activists:** Greek left collectives, anti-racist initiatives, student groups, and digital activists who used autonomous infrastructures such as Espiv and Indymedia.

Protest Actions

- Occupation of the Athens Law School (National and Kapodistrian University of Athens) by roughly 250 migrants to utilise its "Academic Asylum" status, and a parallel occupation of the Thessaloniki Workers' Centre by 50 migrants.
- Creation of hungerstrike300.espivblogs.net as a central hub for communiqués, legal updates, and multilingual online assembly communication, connecting strikers to international supporters.
- Coordinated virtual sit-in actions overloading Greek state websites, mirroring physical blockades and aimed to publicly pressure the government.

Government Reaction and Criminalisation

- Government and university authorities issued an ultimatum to end the Athens Law School occupation by invoking university rules, threatening police intervention. This standoff led to the migrants' relocation to a private mansion (*Megaron Ypatia*).
- This standoff eventually led to the eventual repeal in the same year of the "Academic Asylum" law, which had previously prohibited police from entering university grounds, originally established in 1982 to safeguard academic freedom by prohibiting police entry onto university campuses except in narrowly defined circumstances.
- Repeated threat of forced entry by riot police functioned as coercive backdrop to negotiations.
- Limited and conditional regularisation offer after six weeks, giving temporary permits under strict conditions.
- Arrest of two women supporters on assault charges after a hospital doctor alleged they prevented staff from feeding the voluntary hunger striker.

Discourse Analysis

- Officials and many media outlets emphasised "illegal" status, portrayed the hunger strike as "blackmail" of the state, calling the activists radicals.

Moria Camp Protests after Fire and Refusal of Transfer

Overview: In early September 2020, fires on 8-9 September destroyed most of the Moria refugee camp on Lesbos, leaving more than 12,000 people homeless on surrounding roads. In the days that followed, displaced residents organised road protests and refused to enter a new temporary camp built at Mavrovouni (often called “Kara Tepe” or “Moria 2.0”), demanding evacuation from the island instead. Police used tear gas and roadblocks to contain the protests and channel people toward the new facility.

Actors

- **Migrants:** Asylum seekers and refugees from Africa, Asia and Middle East, including many families and unaccompanied minors. Most were confined in Moria under the EU-Turkey Statement and the EU hotspot approach, which requires those arriving to Greece to remain there pending their asylum application.⁴⁶
- **Solidarity activists:** Greek and international CSOs, lawyers and volunteers documenting conditions, supporting legal challenges and calling for broader EU relocation rather than transfer to another camp on Lesbos.

Protest Actions

- Road blockades and marches along the main road from Moria toward Mytilene, with banners and chants such as “Freedom” and “No more Moria”, rejecting a move to another closed camp and demanding transfer to the mainland or other EU states.
- Refusal to enter the new camp, which functioned as a collective act of non-cooperation and civil disobedience against the confinement regime and the continuation of camp-like containment on the island.

Government Reaction and Criminalisation

- Greek riot police blocked roads leading from the burned Moria camp toward Mytilene and used tear gas to disperse groups of asylum seekers who attempted to march in protest after the fire and during efforts to transfer people to a new temporary camp.
- Police maintained a heavy security perimeter around the affected areas, restricting movement and preventing large groups of asylum seekers from leaving the immediate surroundings of the camp.
- Arrests during this period were primarily linked to arson allegations. Six asylum seekers were arrested and later convicted for the fires, although human-rights groups highlighted serious procedural flaws and alternative evidence suggesting accidental electrical causes.

Discourse Analysis

- Greek government officials framed the situation as being driven by “troublemakers” or deliberate acts of defiance, using this narrative to justify strict policing and opposition to transferring asylum seekers to the mainland.

⁴⁶ The EU-Turkey Statement (political press release, 18 March 2016) mandates the return of irregular migrants crossing from Turkey to Greece. This is implemented via the EU “Hotspot” approach, outlined in the [European Agenda on Migration](#) and codified in Greek law via Article 60(4) of Law 4375/2016. This framework imposes a geographical restriction that prevents migrants, regardless of nationality, from leaving the islands until their eligibility for return to Turkey is finalised.

8.2.4 United States

Palestine Campus Protests and Online Movements

Overview: In spring 2024, Gaza Solidarity Encampments emerged across U.S. universities, with Columbia's encampment and its Hamilton Hall occupation shaping the national pattern. Though most participants were U.S. students, international and immigrant students faced distinct vulnerability. Encampments spread rapidly through inter-campus coordination and real-time digital amplification, producing a nationally synchronised protest cycle within weeks.

Actors

- **Migrants and non-citizen students:** International and immigrant students on F-1 or J-1 visas whose lawful presence depends on continuous university enrolment and maintenance of good standing, including compliance with university disciplinary codes, timely SEVIS reporting, and avoidance of arrest or disciplinary suspension, rendering them especially vulnerable to sanctions, criminal charges, or doxxing arising from protest participation.
- **Solidarity activists:** Campus-based organisers including *Students for Justice in Palestine*, *Jewish Voice for Peace* (both national, with university chapters), Black and Brown student coalitions, graduate-worker unions, faculty allies, legal observers and unaffiliated students advocating divestment from companies tied to Israeli military operations.

Protest Actions

- Encampments on central greens and building occupations, presented as non-violent direct action that combined tents, teach-ins, and mutual aid with explicit political demands.
- Networked witnessing through live streams, videos and constant posting from on-site, documenting police raids and counter-protester violence and creating a widely shared digital archive.
- Documentation amplified by movement-affiliated social media accounts, independent journalists, and civil liberties organisations, and circulated via X, Instagram, TikTok, and Telegram channels, including live footage of police raids showing baton charges, physical restraint of protesters, and the forceful dismantling of tents.
- Use of encrypted messaging apps such as Signal and Telegram for coordination, arrest alerts, legal support (know-your-rights materials, hotline numbers), and rapid response instructions during police actions.

Government Reaction and Criminalisation

- Universities across the U.S. requested police to clear encampments and building occupations, resulting in arrests for trespass and related offences, as well as police operations involving riot-equipped officers, baton use, physical force during arrests, and mass detention procedures, at Columbia, UCLA, UT-Austin, CUNY, and others.
- At Cornell University, F-1 graduate student Momodou Taal was suspended after a Gaza-related protest under a new campus "safety" policy which threatened his lawful status. He was eventually transitioned to remote coursework but remained barred from campus, culminating in a 2025 order to surrender to ICE custody due to ongoing protest-related scrutiny.
- At Columbia, ICE targeted high-visibility Palestinian and international activists: graduate student Mahmoud Khalil, a lawful permanent resident and encampment negotiator, was arrested, detained in Louisiana, and later ordered deportable on national security grounds despite no criminal charges. Court

filings and subsequent reporting indicated that his protest leadership, media visibility, and online presence were central to the government's case.

- Nationally, the Trump administration announced plans to revoke visas of foreign students involved in pro-Palestinian protests. AP and ABC reported that private groups were using facial recognition and open-source monitoring to identify international students for possible immigration action.
- Some Gaza-related protest documentation circulating online was also subject to platform moderation, with researchers documenting removals and downranking of posts.

Discourse Analysis

- Officials and media used the term "outside agitator" to characterise protest participants as non-students or foreign-led entities, a categorisation used to justify law enforcement intervention and the clearing of campus sites.
- Administrations cast encampments as threats to "student safety" or "campus inclusion," shifting the narrative from expressive rights to institutional risk management.
- Prominent donors and *alumni* organisations publicly argued that non-citizen students involved in the encampments should be deported, some expressing that the encampments created a hostile environment for Jewish and Israeli students.

Migrant Justice Vermont Social Media Tracking and Targeting

Overview: From roughly 2014 to 2018, the Vermont-based, farmworker led-organisation *Migrant Justice* was subjected to coordinated surveillance and enforcement by ICE, DHS, and the Vermont Department of Motor Vehicles (DMV). The pattern of monitoring, infiltration, and targeted arrests emerged after *Migrant Justice's* successes in winning a Driver's Privilege Card law and the *Milk with Dignity* program and was later challenged in court.⁴⁷

Actors

- **Migrants:** Undocumented Mexican and Central American dairy workers in rural Vermont, living and working near the northern border and highly exposed to joint federal-state policing.
- **Solidarity activists and legal allies:** *ACLU of Vermont*, *Center for Constitutional Rights*, *National Immigration Law Center*, and local supporters who backed organising and litigation. The legal team included individual plaintiffs like Jose Enrique Balcazar Sanchez and Zully Palacios Rodriguez, who were specifically targeted for their leadership roles.

Protest Actions

- Public campaigns, marches, and delegations that led to the Driver's Privilege Card law and to the Milk with Dignity program with Ben and Jerry's, which raised the visibility of farmworker leaders.
- Ongoing organising around labour rights and against police ICE collaboration, with leaders such as Enrique Balcazar and Zully Palacios regularly speaking in public and online about abuse and deportation risks.

⁴⁷ *Migrant Justice v. Wolf*, No. 5:18-cv-192 (United States District Court for the District of Vermont, 2020): <https://www.acluvt.org/cases/migrant-justice-v-wolf/>

Government Reaction and Criminalisation

- Systematic social media monitoring by ICE to track *Migrant Justice* events and members' movements, including use of Facebook RSVP lists and public posts to locate and arrest activists.
- Surveillance facilitated by tools like ShadowDragon's SocialNet, which allows ICE to create detailed profiles of targets' lifestyles and personal relationships, and Babel Street's Locate X to track mobile device locations.
- Use of at least one confidential informant to infiltrate *Migrant Justice* meetings and report on internal structures and plans, and compilation of detailed dossiers on key members.
- Vermont DMV staff sharing Driver's Privilege Card applicant data with ICE, using facial recognition and racist targeting of "South of the Border" names, and scheduling appointments to facilitate arrests. Staff engaged in proactive harassment by sending discriminatory and racist emails to ICE officials to flag specific individuals for enforcement.
- Targeted arrests of protest leaders labelled as "high profile" people in ICE communications.
- Settlements in 2020 in which the DMV agreed to change data sharing practices and ICE and DHS agreed to pay \$100,000 in monetary damages, grant deferred action and work authorisation to named plaintiffs, and issue guidance not to target people solely for exercising First Amendment rights.

Discourse Analysis

- Officials publicly presented the surveillance and arrests as routine enforcement or fraud prevention, but internal DMV and ICE documents revealed discriminatory motives and specific interest in *Migrant Justice* as an organisation.
- Mocking comments and references to activists' prominence during arrests signalled that their political visibility triggered enforcement.

Border Haunt Virtual Sit-in against BlueServo

Overview: On June 23, 2011, media artist Ian Alan Paul launched "Border Haunt: A Border Database Collision." This 24-hour tactical media intervention targeted BlueServo, a Texas-based platform that incentivised "virtual deputies" to monitor live feeds and report "suspicious activity" along the U.S.-Mexico border. The project subverted this surveillance infrastructure by transforming it into a site of "virtual theatre" and memorialisation, since it utilised a specific interface for participants to view and engage in a visible, symbolic act centred on the performance of reporting, not the technical destruction of the site.

Actors

- **Solidarity activists:** Ian Alan Paul and 667 distributed participants from 8 countries acting as virtual sit-in protesters, utilising techniques rooted in electronic civil disobedience and hacktivism.

Protest Actions

- Participants used a scripted browser interface to automatically flood BlueServo's reporting system. Instead of reporting "suspicious" movement, the scripts submitted thousands of entries containing the names, stories, and narratives of migrants who died in the borderlands. This "database collision" sought to haunt the surveillance network with the presence of those it failed or excluded, forcing the platform to process the human costs of the border regime rather than just surveillance data.

- The action did not damage hardware or permanently alter BlueServo's systems. It relied on mass use of the existing reporting function, in a way analogous to a coordinated, symbolic occupation of a physical reporting office.

Government Reaction and Criminalisation

- There is no public record of U.S. law enforcement bringing criminal charges or civil suits specifically in response to Border Haunt, nor of formal investigations reaching court.

Discourse Analysis

- Academic analysis frames Border Haunt as a "performative protest" and "virtual theatre." Scholars describe it as an aesthetically driven disruption that utilised "swarming" tactics to challenge the panoptic gaze of border enforcement through digital occupation.

8.3. Protest Trends and Tactics

Across **France, Greece, Germany, and the U.S.**, the tactical choices migrants and migrant-rights defenders adopt reveal the narrowed civic space available to them. The prominence of encampments, hunger strikes, occupations and collective refusals of transfer reflects the limited institutional pathways through which migrants can otherwise make claims. In **France**, migrants in Calais turned to marches and encampments. In **Greece**, occupiers took over the Law School building. In **Germany**, residents of Ellwangen collectively resisted deportation; and in the U.S., detained migrants organised hunger strikes and sanctuary-based actions.

These tactics are strategic and rationally framed efforts to force visibility and political recognition, signalling that conventional routes of dialogue were inaccessible or ineffective. Hunger strikers in **Greece**, for example, deliberately rejected portrayals of desperation and articulated their action as a calculated intervention aimed at achieving broad structural change, a framing characteristic of new migrant activism across Europe.⁴⁸ Migrant-rights defenders in all four countries reinforce these tactics by supplying logistics, legal support, outreach, and alliances that migrants, due to their status, cannot independently mobilise.

Migrants and defenders increasingly rely on online documentation, real-time alerts, transnational coordination and the dissemination of basic rights information when physical presence is risky, surveilled, or legally constrained:

- ➔ In **France, Greece and Germany**, online platforms became essential for coordinating against evictions, raids and transfers.
- ➔ In the **U.S.**, digital tools allowed detained migrants to publicise abuses and enabled undocumented communities to mobilise where street protest

⁴⁸ Karyotis, G., Skleparis, D., & Patrikios, S. (2022). "New Migrant Activism: Frame Alignment and Future Protest Participation." *The British Journal of Politics and International Relations*, 24(2), 381-400.

carried high personal cost. Alongside these uses, activists in the U.S. also developed explicitly disruptive digital tactics: the 2011 *Border Haunt* virtual sit-in repurposed the reporting function of the BlueServo border-surveillance platform, flooding it with entries memorialising migrants who had died at the border. This action, rooted in earlier electronic civil disobedience traditions,⁴⁹ performed a symbolic digital occupation of the border-monitoring apparatus, revealing how online disruption can substitute for impossible physical presence. These choices show how online space operates as a substitute arena for coordination and visibility when physical civic space is limited.

Civil disobedience further highlights the constrained avenues through which migrants can assert their claims.

In all four jurisdictions, migrants employed unlawful occupations, collective blockades and virtual disruptions of state-aligned platforms such as BlueServo when standard forms of protest (petitions, demonstrations, consultations) proved insufficient or inaccessible. These actions are strategically chosen not only because they escalate pressure but because their illegality compels institutional attention and can generate the sustained public visibility that ordinary claim-making cannot. Overall, tactical selection is adaptive and revealing: each choice reflects the shrinking set of institutional and formal avenues available to press claims, mobilise collectively, and remain visible in public life.

“The tactical choices migrants and migrant-rights defenders adopt reveal the narrowed civic space available to them.”

8.4. Digital Protests Across Divergent Platform Governance Frameworks

Digital protest takes place primarily on private infrastructure rather than publicly owned forums and this difference creates a structurally different regulatory environment for protest visibility and control across jurisdictions. Unlike the town square, digital platforms are largely privately governed spaces where tech companies’ terms of service and algorithms function as gatekeeping mechanisms that shape which forms of protest become visible, amplified, or suppressed, despite growing international recognition that online expression and assembly are extensions of offline rights, including in General Comment No. 37⁵⁰

⁴⁹ Earlier examples of electronic civil disobedience include the Electronic Disturbance Theater’s 1998-1999 virtual sit-ins in support of the Zapatistas, which used the FloodNet tool to direct coordinated traffic toward Mexican government and financial websites, as well as digitally coordinated actions linked to the 1999 WTO protests in Seattle. See Dominguez, R. (1998). *Electronic Civil Disobedience*; Jordan, T., & Taylor, P. (2004). *Hactivism and Cyberwars*. Routledge; Sauter, M. (2014). *The Coming Swarm*. Bloomsbury.

⁵⁰UN Human Rights Committee, *General Comment No. 37*, paras. 6, 10, 13, 34, 37, affirming that “Article 21 ... protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces” and that activities associated with peaceful assembly conducted online are protected, and explaining that interferences such as blocking or

In **Europe**, the European Union (EU) aims to re-inject public-law values into private platform governance. The EU DSA mandates transparency, notice-and-appeal mechanisms, systemic risk assessment, and external dispute resolution for very large platforms.⁵¹ At the same time, the Council of Europe standards and the case law of the ECtHR have consistently affirmed that Article 10 ECHR applies fully to online expression, recognising the Internet as a vital forum for democratic debate and requiring that restrictions on digital speech meet strict standards of legality, necessity, and proportionality.⁵² Yet, this model operates alongside strong national takedown regimes and political pressure for rapid removal of content deemed unlawful or controversial (most notably, **Germany's** NetzDG). This dual logic creates contradictory incentives: on the one hand, greater procedural protection for users, but also strong compliance pressures that encourage over-removal. Migration-related content, documentation of pushbacks, police violence, or camp conditions are especially vulnerable to misclassification because it is often graphic, politically contentious, or frequently targeted by coordinated reporting campaigns.

In the **U.S.**, the state-action doctrine dictates that constitutional rights constrain only governmental conduct and not the actions of private actors. As a result, the Constitution's First Amendment does not bind social media platforms and the U.S. regulatory regime (most notably, the already mentioned Section 230 of the Communications Decency Act) largely defers governance of online political expression to private companies.⁵³ Therefore, takedowns, de-ranking, shadow banning, and account removals are governed by corporate policy, meaning that platforms retain broad discretion to shape the visibility and reach of protest speech even where the underlying expression would be lawful offline. This structure turns platforms into *de facto* regulators of protest communication, private actors whose moderation decisions determine whether digital mobilisation gains traction or disappears from public view. Attempts by U.S. authorities to monitor or influence online protest dynamics, whether through open-source intelligence surveillance or informal signalling toward platforms, often operate in this grey zone between public enforcement and private moderation. Because these interventions occur through intermediaries, they frequently fall outside the procedural safeguards that normally accompany restrictions on speech or assembly, creating incentives for precautionary moderation and self-censorship. With no rights-based remedy for wrongful

hindering Internet connectivity in relation to peaceful assemblies are impermissible unless strictly justified.

⁵¹ Bundesgerichtshof (German Federal Court of Justice). (2021). Press Release No. 149/2021 (29 July 2021) (ruling that dominant platforms may develop and enforce Community Standards only if they "take users' fundamental rights into account," require "clear rules" and "objective reasons for removal," and include due process such as informing users of reasons for content removal and giving them an opportunity to respond).

⁵² [Cengiz and Others v. Turkey](#), App. nos. 48226/10 and 14027/11 (ECtHR, 2015).

⁵³ *Manhattan Community Access Corp. v. Halleck*, 139 S. Ct. 1921 (Supreme Court of the United States, 2019); *Civil Rights Cases*, 109 U.S. 3 (Supreme Court of the United States, 1883).

removal and no equivalent to an administrative court to compel reinstatement, online protest in the U.S. exists within a privatised governance structure whose transparency and accountability vary widely across companies.

On the other hand, it is worth highlighting that the Inter-American legal framework and jurisprudence offer a contrasting analytical approach that helps illuminate a doctrinal gap in U.S. constitutional law. The Inter-American standards recognise that states may violate rights by allowing, encouraging, or tacitly endorsing private interference with freedom of expression or assembly, particularly where the state benefits from, relies upon, or strategically defers to such private suppression.⁵⁴ This includes situations in which authorities indirectly achieve regulatory or enforcement objectives through private platforms, surveillance firms, or institutional intermediaries, mechanisms that would otherwise trigger constitutional scrutiny if exercised directly.⁵⁵ Although the U.S. is not bound by these standards, this doctrine is analytically valuable precisely because it has already identified and theorised the techniques now visible in U.S. practice: platform moderation following governmental signalling, private surveillance infrastructures operating in coordination with universities or law enforcement and data-sharing arrangements, such as those exposed in the case of *Migrant Justice* mentioned above,⁵⁶ which convert private governance into an extension of state control. The IACHR further reinforces this approach by explicitly recognising that peaceful protest may occur in physical spaces, digital spaces, or hybrid environments, underscoring that the delegation of expressive control to private actors does not dissolve state responsibility in networked protest contexts.⁵⁷

⁵⁴ Article 13(3), ACHR: “The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.” Article 15, ACHR: “The right of peaceful assembly, without arms, is recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedom of others.” See also IACtHR, *Mapiripán Massacre v. Colombia*, Judgment of 15 September 2005, para 15.

⁵⁵ IACtHR, *Ríos et al. v. Venezuela*, Judgment of 28 January, 2009, paras. 139–143. Also, unrelated to assemblies but relevant for asserting state responsibility via institutional intermediaries or third parties: IACtHR, *Ximenes-Lopes v. Brazil*, Judgment of 4 July, 2006, paras 85-87.

⁵⁶ See Footnote 47.

⁵⁷ Inter-American Commission on Human Rights, Special Rapporteur for Freedom of Expression. (2023). [Joint Declaration on Freedom of Peaceful Assembly and of Association and Misuse of Digital Technologies](#). See also. [Joint Declaration on Protecting the Rights to Freedom of Peaceful Assembly and of Association from Criminalization](#) (2025) by IACHR Special Rapporteur on Freedom of Expression, IACHR Commissioner Rapporteur for Human Rights Defenders, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on Human Rights Defenders and focal point for reprisals in Africa of the African Commission on Human and Peoples Rights (ACHPR).

Neither the U.S. nor the EU offers a clear legal category for digital assemblies, understood as gatherings of more than one person that take place through, by means of, or with the support of digital communication technologies, including assemblies conducted wholly online.⁵⁸ Virtual sit-ins, coordinated traffic floods, mass-tagging campaigns and other forms of digital civil disobedience are typically analysed under cybercrime statutes or Terms of Service, not assembly laws. This creates a **risk that private infrastructure providers (hosts, app stores, payment processors) may disrupt protest capacity without the procedural safeguards that typically govern restrictions of offline assemblies.**

“This creates a risk that private infrastructure providers (hosts, app stores, payment processors) may disrupt protest capacity without the procedural safeguards that typically govern restrictions of offline assemblies.”

Across the case studies outlined above, **protest visibility is mediated by privately governed infrastructures that determine whether documentation, mobilisation calls, or protest narratives circulate widely or remain marginal.**

Almost all the activists documented pushbacks (No Borders Activists, the Collectif des jeunes du parc de Belleville, the Athens solidarity activists behind hungerstrike300.espivblogs.net, Gaza Solidarity student networks, Migrant Justice Vermont, Kein Mensch ist illegal local groups and Ian Paul’s Border Haunt Network). They relied on social media circulation to bring evidence of enforcement practices into public debate, yet this material often sits at the edge of platform moderation thresholds because it is graphic, politically contentious, or subject to coordinated reporting campaigns. Documentation like this, which is precisely the material most central to migrant protest, faces heightened risks of removal or algorithmic downranking even when it forms part of legitimate political advocacy. This was the case, e.g., during the digital mobilisation surrounding Gaza solidarity protests on university campuses, where researchers documented the removal, restriction, and downranking of posts expressing support for Palestinian rights or documenting violence in Gaza.⁵⁹

The case studies also illustrate how **the absence of a clear legal category for digital assemblies allows both states and private actors to shape protest communication indirectly.** Private intermediaries become key points of control over protest capacity. This dynamic is particularly visible in the Migrant Justice case, where digital monitoring and data-sharing practices turned online organising spaces into sources of intelligence for governmental immigration enforcement. More broadly, the reliance on privately governed platforms means that the regulation of migrant protest increasingly occurs through decisions

⁵⁸ ECNL. (2022). [Guide on Digitally-Mediated Assemblies and How to Monitor Them](#) (defining “digitally-mediated assemblies” as “a gathering of more than one person for specific purposes that takes place either through the support of, or by means of, digital communication technologies,” including assemblies held wholly online or in hybrid form).

⁵⁹ Human Rights Watch. (2023). [Meta’s Broken Promises: Systemic Censorship of Palestine Content on Instagram and Facebook](#).

made by companies, content moderation, account suspensions, infrastructure access, often shaped by governmental pressure.

8.5. State Repression and Backlash

The case studies outlined above reveal a **consistent pattern of selective compliance**: while **France, Germany, Greece, and the U.S.** formally align with strong national, EU, and international protest standards, authorities narrow or reinterpret these protections in practice, especially when protest occurs in the context of migration control:

- In Calais (**France**), proportionality obligations under French constitutional doctrine and the ECHR were repeatedly affirmed by administrative courts, most notably when judges annulled the protest ban as a manifestly unlawful infringement of the fundamental freedoms of assembly, protest, and expression. However, police continued daily evictions and confiscations that contravened these rulings, enforced through repeated physical evictions involving riot police, the use of shields and batons to push protesters back, forced removals of occupants, and containment tactics that prevented re-entry or regrouping, as documented during operations in Calais and the Gaîté Lyrique eviction in Paris.
- In Ellwangen, **Germany's** constitutional jurisprudence recognising that protest may involve disruption did not prevent the state from treating collective resistance inside a reception centre as falling outside the protection granted by Article 8, ECHR (right to privacy), going as far as sentencing a refugee to six months of prison without probation.
- In **Greece**, constitutional and international obligations toward workers and asylum seekers did little to restrain securitised responses and subsequent backlash following both the Athens hunger strike and the Moria demonstrations.
- And in the **U.S.**, despite robust First Amendment speech protections and a formally recognised right to peaceable assembly, campus administrators invoked safety and institutional autonomy to justify the dispersal of Palestine encampments, often accompanied by aggressive policing and enforcement measures that disproportionately affected international students whose immigration status amplified the risks of protest participation.

Before turning to the specific angles of repression and backlash that emerge across the case studies, it is important to note how the courts have approached police intervention in university-based protest, since it concerns both the

Athens Hunger Strike and US Palestine Campus Protests case studies. First of all, where the location of an assembly is closely linked to its expressive purpose, the ECtHR jurisprudence is more inclined to treat even disruptive conduct as falling within the protective scope of Article 11 ECHR.⁶⁰ This is particularly relevant to the Athens Law School hunger strike, where the choice of a university setting, historically associated with academic freedom and democratic resistance, was inseparable from the protesters' legal and political claims. ECtHR case law also clarifies that Convention protection does not preclude lawful removal: even where an occupation is covered by Article 11, dispersal may be permissible if carried out without excessive force and proportionate to legitimate aims such as restoring university activity or public order.⁶¹ This *caveat* is critical in contexts where police intervention has involved baton charges, the use of riot police to physically clear occupied buildings, and aggressive crowd-control manoeuvres that go beyond facilitating dispersal .

Although the U.S. does not fall under ECtHR jurisdiction, this proportionality-based framework offers a useful comparative lens for examining police responses to Palestine-related campus protests described in the case studies. There, protests were deliberately situated on university grounds to contest the role of universities as political actors, making the selection of campus space central to the communicative intent of the protest. Still, the prolonged nature of certain encampments and their subsequent impact on academic operations, as well as the invocation of campus safety and trespass rules place these protests within the category of assemblies that courts have historically evaluated through a fact-sensitive balancing of expressive value against institutional and property interests.

Selective compliance highlights an underlying dynamic: the **systematic bypassing of protest protections through alternative legal pathways** that allow authorities to suppress protest without formally restricting the right to assemble:

- In **France**, both Calais and Gaîté Lyrique show how police lean on administrative police powers rather than protest law: identity checks, eviction orders grounded in fire-safety and sanitary regulations, as well as broad public order justifications are used to clear spaces and move

“The case studies reveal a consistent pattern of selective compliance: authorities narrow or reinterpret protections in practice, especially when protest occurs in the context of migration control.”

⁶⁰ ECtHR, *Mustafa Hajili and Others v. Azerbaijan* (2022), para 65; *Lashmankin and Others v. Russia*, (2017), para 45.

⁶¹ [Tuskia and Others v. Georgia](#), App. no. 14237/07 (ECtHR, 2018), para 72; [Appleby and Others v. United Kingdom](#), App. no. 44306/98 (ECtHR, 2003), para 47.

people. Enforcement is carried out through early-morning raids, physical dragging of occupants from buildings, shielded riot lines advancing to compress crowds and the use of batons to enforce evacuation orders.

- In **Germany**, prosecutors and police rely heavily on breach of the peace (*Landfriedensbruch*) and resistance offences, as well as coercion (§240 StGB), to reframe civil disobedience as ordinary crime: in Ellwangen, collective resistance to a deportation was treated as a violent disturbance of public order, while in the Lufthansa Deportation Class virtual sit-in was initially prosecuted as coercion before the Frankfurt Higher Regional Court ruled that the online blockade was not “violence or coercion” but a legitimate form of demonstration.
- In **Greece**, authorities have consistently displaced protest under arson – and security – narratives: in the Moria cases, Afghan asylum seekers were prosecuted for “arson with intent to endanger life” and related property damage under the Greek Penal Code, despite documented police responses involving tear gas deployment against protesters, beatings during crowd dispersal, and the use of riot police units to suppress demonstrations following the camp’s destruction. The Athens hunger strike’s virtual sit-in was folded rhetorically into cyber-threat discourse, even though participants framed it as non-violent digital protest and no cybercrime charges followed.
- In the **U.S.**, bypassing occurs most often through immigration law, administrative rules, civil liability, and university disciplinary codes, all of which operate largely outside First Amendment doctrine. The structure of U.S. protest law also facilitates this dynamic: once protest conduct is categorised as unprotected because it violates generally applicable laws such as trespass, disorderly conduct, or obstruction, courts typically treat enforcement as routine criminal regulation rather than as a restriction on assembly requiring heightened scrutiny.⁶² Because these categorisations largely end constitutional review, authorities may impose penalties with comparatively limited judicial oversight. Scholars have therefore argued that the Assembly Clause has effectively “disappeared” from constitutional law, leaving protest rights to develop primarily through free-speech doctrine.⁶³ In practice, this doctrinal structure allows disruptive protest to be reframed as ordinary misconduct and addressed through enforcement regimes unrelated to protest law. The Migrant Justice litigation illustrates this dynamic: ICE and the Vermont DMV shared driver’s licence data and compiled dossiers using social media and public appearances, and arrested farmworker leaders through immigration enforcement. Similarly, Palestine campus encampments

⁶² Interview with Nick Robinson, Senior Legal Advisor, International Center for Not-for-Profit Law (ICNL), personal communication, November 2025.

⁶³ U.S. Const. amend. I: “Congress shall make no law abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

were dismantled using trespass, disorderly conduct, and student-conduct rules, with these ostensibly neutral enforcement pathways exposing international students to visa consequences rather than being addressed through protest-specific legal frameworks.

Across all four countries, these routes operate as legal detours: they preserve the appearance that protest rights remain intact while achieving outcomes functionally equivalent to the direct criminalisation of civil disobedience. This discretionary space reflects not only enforcement choices but structural features of the law itself, whether in broadly framed public-order offences, expansive administrative powers, or doctrinal thresholds that narrow protection once protest becomes disruptive. Together, these features enable selective criminalisation without formally disavowing the right to assemble.

Another emerging pattern is that **repression is harsher against migrants and people with precarious status** and their protests are quickly dismissed as mere breaking of public order or migration rules, revealing racialised and discriminatory migration control:

- At Gâté Lyrique (**France**), the presence of unaccompanied minors and “age-out” youth reframed a housing-rights occupation into a matter of urban order and risk management.
- In Moria (**Greece**), collective refusals and road blockades were overshadowed by a rapid pivot to arson prosecutions, shifting attention from EU structural failures to alleged migrant criminality. The Athens hunger strike was recast as national vulnerability, fuelling a ferocious backlash against the strikers and their supporters, including the normalisation of aggressive policing tactics such as physical removals, baton use, and riot-style deployments against undocumented protesters.
- During the Palestine campus protests in the **U.S.**, international students risked university sanctions as well as cascading immigration consequences tied to their non-immigrant status. For students on F-1 or J-1 visas, lawful presence depends on continuous enrolment and good standing; suspensions, arrests, or disciplinary actions can trigger mandatory SEVIS reporting, termination of status, and potential exposure to removal proceedings under the Immigration and Nationality Act. In several instances, interim suspensions imposed before formal hearings placed students’ status in immediate jeopardy.

The Inter-American human-rights doctrine is particularly instructive at this juncture: the IACHR and the IACtHR have repeatedly emphasised that when expression or assembly is exercised by historically marginalised or structurally

vulnerable groups, like migrants, the state has heightened duties of protection towards such groups.⁶⁴

A fourth trend is the **centrality of digital surveillance and monitoring as both a pre-emptive measure and an extension of criminalisation:**

- In the U.S. Migrant Justice case, farmworker leaders were tracked through Facebook events, DMV facial-recognition alerts, and internal data-sharing agreements, turning their online presence into actionable intelligence long before any enforcement action, illustrating how surveillance serves not only to punish protest after it occurs, but to identify and pre-empt emerging dissent. In the Palestine campus protests, livestreams and social-media videos were scraped and cross-referenced with university rosters and visa categories to single out international students for discipline and immigration consequences, often preceding or coinciding with police raids on encampments involving baton charges, forceful dismantling of tents, physical restraint of protesters, and mass arrests carried out by riot-equipped officers, with no First Amendment constraints on state monitoring of private-sector surveillance and data. Digital traces of civil disobedience feed directly into enforcement pathways, while private and public actors collaborate in ways that blend “hard” repression (arrests, raids, deportation exposure) with “soft” repression (profiling and surveillance).⁶⁵ The result is a surveillance that both reacts to protest and shapes the terrain of what kind of dissent is possible.

The Inter-American standards here are again especially instructive in analysing indirect methods of silencing that fall short of formal bans yet effectively suppress dissent. The Inter-American Commission and Court have repeatedly identified practices such as surveillance, harassment, stigmatising rhetoric, legal uncertainty, and selective enforcement as forms of repression that can violate freedom of expression and assembly by producing chilling effects, even where no explicit prohibition or criminal sanction is imposed.⁶⁶ This framework closely mirrors the dynamics documented in the U.S. case studies and shows how the Inter-American doctrine operates as standard-setting framework, its relevance lying in its clear articulation of state responsibility.

⁶⁴ [Vélez Loor v. Panama](#), Judgment of 23 November 2010 (Inter-American Court of Human Rights, Series C No. 218); [Nadege Dorzema et al. v. Dominican Republic](#), Judgment of 24 October 2012 (Inter-American Court of Human Rights, Series C No. 251).

⁶⁵ Neumayer, C., & Svensson, J. (2016). “Activism and Radical Politics in the Digital Age: Towards a Typology.” *Convergence*, 22(2), 131-146.

⁶⁶ [Escher et al. v. Brazil](#), Judgment of July 6, 2009 (Inter-Am. Ct. H.R., Series C No. 200); [Ríos et al. v. Venezuela](#), Judgment of January 28, 2009 (Inter-Am. Ct. H.R., Series C No. 194); [López Lone et al. v. Honduras](#), Judgment of October 5, 2015 (Inter-Am. Ct. H.R., Series C No. 302); and Inter-American Commission on Human Rights, [Criminalization of the Work of Human Rights Defenders](#) (2015).

Finally, state responses **increasingly target the entire ecosystem of dissent, not solely individual participants:**

- In the U.S., litigation like *McKesson v. Doe*⁶⁷ and investigations into bail funds seek to attach liability to organisers and support structures. In Migrant Justice, enforcement aimed at dismantling leadership and deterring collective action rather than addressing any alleged offence. In the Palestine campus protests, student organisations and coalitions, rather than individual participants, became targets of derecognition, donor pressure, and political scrutiny.
- In Athens (Greece), solidarity networks supporting hunger strikers were framed as manipulative “intermediaries,” mirroring the German discourse of an anti-deportation industry that recasts legal aid and community support as obstacles to state authority.
- In Germany, police raids on *Libertad!* following the Lufthansa virtual sit-in targeted organisational infrastructure rather than the temporary digital blockade.

This represents a shift where CSOs, cultural institutions, student groups, and digital networks are repositioned as law enforcement targets whenever they enable or amplify civil-disobedient action in migration-linked contexts.

“State responses increasingly target the entire ecosystem of dissent, not solely individual participants.”

8.6. Discursive Delegitimisation

Public and media discourse around migrant protest routinely frames civil disobedience as a threat to order, safety, or legitimacy, which helps normalise repression and sideline rights-based claims, including the portrayal of baton use, riot police deployment, tear gas, and forceful evictions as necessary crowd-management tools. In many contexts, **protest becomes framed as a problem to be managed**, thereby giving authorities and public opinion licence to support forceful or pre-emptive interventions.

A first recurring narrative casts protests, even non-violent or rights-oriented ones, as dangerous or disorderly:

- For example, at Gaîté-Lyrique in Paris (France), authorities justified the operation on grounds of public order. Police and local government described the building as a threat and media coverage highlighted security, property damage and sanitary concerns as key concerns instead of evaluating the migrants’ demands.

⁶⁷ *McKesson v. Doe*, 592 U.S. (Supreme Court of the United States, 2020).

- In Ellwangen (**Germany**), officials including then-Interior Minister Horst Seehofer condemned the collective refusal to cooperate as a slap in the face to the law-abiding population, evidence of a lawless zone, positioning the protest as a threat to social peace.
- In **Greece**, during the 2011 hunger-strike, state and media coverage framed the sit-in as an illegal occupation, stressing violation of institutional rules.

A second discursive strategy is to evoke moral panic by linking migrant protest to threats to social trust or national cohesion, often drawing on xenophobic narratives that cast migrants as inherently suspect outsiders:

- In Ellwangen (**Germany**), some political voices framed asylum-seeker resistance as evidence of an “anti-deportation industry” undermining the rule of law, casting both protesters and solidarity networks as part of a destabilising force.
- In Calais (**France**), authorities portrayed No Borders as radicals, manipulating migrants, distinct from “legitimate” humanitarian CSOs, recasting protest as externally imported. Local officials in Paris likewise tied the Gâté occupation to a radical leftist milieu, while solidarity groups insisted it exposed the state’s failure to provide basic housing for children.
- In Athens (**Greece**), segments of the media emphasised migrants’ “illegal” status and depicted the hunger strike as “blackmail.” Government actors characterised unrest in camps such as Moria as the work of “troublemakers” or deliberate acts of defiance, framing asylum seekers as a security risk and legitimising intensified policing.

And in the **U.S.** universities and pro-Palestine mobilisations, officials repeatedly invoked “outside agitators” to justify intensified policing and heighten suspicion toward international students.

Finally, **the blending of digital visibility with criminalisation narratives transforms basic acts of solidarity and documentation into pretexts for surveillance.** Although this paper focuses mostly on civil disobedience, these patterns reveal that activists face repression even when they are not breaking laws or planning protests. Live streams and social media posts of routine civic engagement are frequently cited by authorities as evidence of “instability” or “agitation,” turning the act of being seen into a risk factor. The result is a stigmatisation of digital presence that allows the state to justify monitoring and data-sharing even when no crime has occurred, effectively treating public visibility as a reason for administrative repression.

This discursive environment becomes part of the infrastructure of repression itself: as ideas about who is deserving of protection or rights are reshaped, it becomes easier for states to justify evictions, raids, criminal charges, and surveillance.

9. UNDERSTANDING MIGRANT AND SOLIDARITY PROTESTS: A SOCIOLOGICAL ANALYSIS

Migrant protest unfolds within a social field already structured by exclusion, precarity and racialised governance. Migrants, whether asylum seekers or undocumented workers, occupy liminal civic positions: physically present, yet politically marginalised; legally governed yet socially excluded. Their legal status is often insecure and their rights are conditional. This means that before they ever protest, migrants are already positioned at the outer limits of civic membership, their belonging framed as tentative and revocable. Protest thus emerges as a reaction to the deeper socio-legal condition of being governed without being fully recognised. Even migrants with "regular" or "legal" status, such as international students or those on work visas, remain in precarious positions because their right to stay is conditional on the state's ongoing approval. Indeed, because their residency is often tied to a specific school or employer, any involvement in protest can lead to administrative retaliation or a loss of status, proving that legal presence does not always equate to secure civic protection.

Within this landscape, repression does more than sanction specific actions: it produces social consequences that reshape migrants' place in the civic order. Surveillance, policing, and criminalisation reinforce the fabrication of an "internal enemy."⁶⁸ Migrants become doubly othered: first as racialised outsiders to the national community, and second as dissidents whose acts of protest mark them as threats to public stability. This dual othering is a mode of governance. It functions to justify intensive control of physical space and, increasingly, digital space, which is also cast as not theirs, a domain where their visibility is read as instability. Media discourse reinforces this stratification: **the framing of protests as disruptive or criminal validates public perceptions that repression is necessary or inevitable.** Migrants thus encounter a civic environment in which their right to appear, speak, or organise is constantly treated as suspect.

These dynamics contribute to the erosion of agency, especially in periods of shifting political regimes. Migrants face a circular logic: repression justifies their portrayal as deviant, which then justifies more repression. The more they are monitored, the more their digital and physical actions become legible as risks. This produces a chilling effect that fractures trust within migrant movements and narrows the repertoire of safe political actions. Yet paradoxically, this erosion of agency is precisely what pushes many migrants toward protest. When formal avenues of redress fail, protests become a way to reclaim civic presence, to compensate for identity fragmentation, to reassert dignity in the face of

⁶⁸ Rigouste, M. (2011). *L'ennemi intérieur: La généalogie coloniale et militaire de l'ordre sécuritaire dans la France contemporaine*. La Découverte (in French).

institutional abandonment, and to fill governance gaps left by exclusionary immigration systems.

Civil disobedience in migrant contexts further complicates classical liberal theories. In traditional works, civil disobedience presumes a stable membership in a political community and a commitment to accepting legal consequences. Migrants, however, operate outside these assumptions. Their relationship to the law is fraught, transient, and often coercive, shaped by deportability instead of citizenship. From this vantage point, migrants may be less bound by the idea of fidelity to the law, not out of disregard, but because the law's protections are inconsistently extended to them. **Migrants engaging in civil disobedience effectively act as global citizens in practice: they appeal not to the bounded authority of the host state, but to transnational norms of justice.**⁶⁹ To protest one's exclusion from the territory of a sovereign state is to protest the laws that make such exclusions possible. Migrant civil disobedience thus becomes a form of border politics, contesting the very structure of global political membership. This positions migrants as actors who reveal its limitations and invite its expansion.

Digital repression intensifies these dynamics. **Surveillance in networked spaces produces pre-emptive criminalisation:** monitoring precedes wrongdoing, visibility precedes sanction. Migrant activists depend on digital networks for organising, visibility, and solidarity, but the state, often in partnership with private platforms or security vendors, uses those same networks to track, profile and contain them. The result is an asymmetry of power that undermines migrants' capacity to appear as political subjects. Digital action becomes both a tool of empowerment and a site of vulnerability, reinforcing the sense that neither the street nor the online sphere is theirs to claim without risk.

Throughout these processes, migrants inhabit a permanent marginal status: they exist legally and socially in-between, without full rights at home or clear refuge elsewhere. This liminality shapes how protest itself is understood: migrant protest is simultaneously a response to exclusion and a site where exclusion is deepened. In sum, the sociological picture is one of overlapping coercive structures: migrants' protest is framed as a security problem, their digital activities are monitored, and even public spaces are guarded. These mechanisms of policing-as-governance and delegation of dissent signal that migrant claims are perceived as threatening the established order, rather than part of normal civic debate.

Solidarity activists, too, become implicated in these dynamics. Although they often hold more secure legal status and occupy clearer positions within civil society, their involvement in migrant struggles places them within the same circuits of surveillance and constraint. By providing translation, legal accompaniment, housing support, documentation, or digital security, defenders

⁶⁹ Mégret, F. (2018). "Migrant Protests as a Form of Civil Disobedience." In *Migration, Protest Movements and the Politics of Resistance*. Routledge.

help migrants exercise forms of agency that the state often seeks to contain. This proximity to migrant politicisation repositions defenders as participants in a contested social field. They become targets of monitoring and administrative pressure because of the relational threat their actions pose to established governance arrangements. In this way, repression operates on migrants and the networks that sustain them, narrowing the broader ecosystem of actors capable of supporting migrant claims and reinforcing a civic environment in which solidaristic engagement itself becomes dangerous.

10. RESILIENCE DESPITE REPRESSION

Altogether, selective legal protections, broad enforcement discretion, pre-emptive surveillance, and stigmatising discourse results in **a civic space that is structurally unequal as well as conditional**, reflecting deeper patterns of structural discrimination and racialised migration governance. Migrants experience a version of public space – physical and digital – where the cost of participation is significantly higher than for citizens. Tactical selection is therefore shaped not only by strategic choice but also by structural constraint: actions like occupations, hunger strikes, or digital blockades emerge because accessible, low-risk channels are foreclosed. As a result, **civic space becomes stratified: formally open but materially limited for those whose legal status is precarious**. Solidarity activists operating alongside migrants are drawn into this dynamic. By association, they too become targets, which narrows their space for action and exposes them to forms of indirect or derivative criminalisation.

The second outcome is a **dual erosion and reassertion of agency**. Migrants navigate multiple exclusions – legal, territorial, social – and protest both reflects and intensifies this tension. Criminalisation by identity-based othering and portrayals of dissent as instability cast migrants and their allies as actors whose civic presence is suspect. Digital infrastructures amplify this: online visibility becomes actionable intelligence, undermining trust networks and confining organisational capacity.

Yet, these pressures also generate a countervailing outcome: **migrants and defenders develop transnational repertoires of resilience that exceed the confines of national civic space**. Protest also becomes a mode of reconstructing identity across borders and platforms. When formal avenues collapse, migrants turn to hybrid strategies and cross-border solidarity networks that allow political agency to circulate even when local repression intensifies. Defenders likewise adapt, reworking their roles as intermediaries, digital protectors, and transnational connectors who help sustain movements despite territorial constraints. **Repression reshapes agency**: migrant and solidarity activists reconstitute political presence through transnational and digital linkages, demonstrating that the narrowing of territorial civic space can produce new forms of collective capacity.

Migrant civil disobedience also generates an important conceptual outcome that exposes the limits of classical civil disobedience models built on stable membership, mutual recognition and the expectation of remaining within the political community. Migrant protest, in both physical and digital forms, illustrates a different logic of dissent, shaped by transnational identities, and is based on human rights claims that transcend state-centred frameworks. These dynamics transform civil disobedience into a site where the boundaries of the political community are contested. Solidarity actors, implicated in this boundary contestation, likewise confront a shifting terrain where their own civic standing is recalibrated in response to their proximity to migrant struggles.

A further outcome is the **emergence of new legal, technological, and policy shifts** that intensify and entrench the patterns identified above. Across Europe, for example, reforms are expanding the powers of the European Union Agency of Law Enforcement Cooperation (Europol)⁷⁰; the proposed EU Migration Pact facilitate the invasive extraction of personal electronic data to assess security risks⁷¹ and the proposed EU ‘Facilitators Package’ introduces an offence of publicly instigating irregular entry, transit, and stay (including via online communications).⁷² Together, these measures extend criminal liability into the digital sphere. Emerging cybercrime frameworks and cross-border data-sharing mechanisms similarly blur the line between dissent and offence, expanding pre-emptive scrutiny and reinforcing the chilling effect in networked spaces.

In the U.S., technological change outpaces constitutional doctrine: despite incremental limits suggested by the Supreme Court case law,⁷³ information held by private companies remains largely available to law enforcement, sustaining the structural loophole. Strong police lobbying, public-safety narratives, and legislative inertia further slow the development of protective law. Collectively, these trends consolidate a civic environment where repression becomes increasingly codified and technologically embedded, widening the scope for pre-

⁷⁰ Regulation (EU) 2025/2611 strengthening of Europol’s support and enhancing police cooperation, for preventing and combating migrant smuggling and trafficking in human beings.

⁷¹ [Asylum Procedures Regulation](#) (EU) 2024/1348, which permits the invasive extraction and mining of data from personal electronic devices (mobile phones/laptops) to assess the security risk of migrants. This works in tandem with the 2021-2025 [EU Action Plan against migrant smuggling](#), which specifically prioritises the disruption of “digital smuggling” and the monitoring of services offered online by criminal networks.

⁷² European Commission. (2023). [Proposal for a Directive Laying Down Minimum Rules to Prevent and Counter the Facilitation of Unauthorized Entry, Transit and Stay in the Union](#), COM(2023) 755 final, art. 3(2).

⁷³ *Carpenter v. United States*, 585 U.S. 296 (Supreme Court of the United States, 2018). It held that the government generally requires a warrant to access historical cell-site location information. However, the Court characterised the decision as narrow, declining to overturn the broader third-party doctrine, which leaves data voluntarily shared with service providers largely unprotected by the Fourth Amendment.

emptive and association-based criminalisation and making the risks faced by migrants and solidarity activists more pervasive and less open to challenge.

11. CONCLUSIONS AND RECOMMENDATIONS

While the right of peaceful assembly remains a cornerstone of democratic life and takes place both in physical, digital or hybrid spaces, its protection is increasingly strained by expansive public-order powers, administrative controls and technologically enhanced surveillance. Regulatory frameworks are designed to manage rather than facilitate peaceful protests, especially when these are associated with disruptive albeit non-violent acts of civil disobedience.

This paper demonstrates that migrant and solidarity-driven protests take shape in civic environments that are formally rights-protective, yet practically fragile. The digital layer of protest remains the structurally weakest link. For migrant movements whose physical mobility and legal standing are already constrained, this digital layer operates as a second border: a space where visibility is necessary for mobilisation yet highly risky due to surveillance, data-sharing, and selective criminalisation.

In this constrained civic environment, civil society fills a critical vacuum. As documented in the case studies, when formal accountability mechanisms weaken, misinformation, stigma, and security framing proliferate and well-resourced anti-rights actors exploit this terrain to shape public narratives and pressure platforms. As a result, migrant-led protests, which are already doubly stigmatised, become highly vulnerable to hostile state and non-state interventions.

The following **recommendations** are directed **toward three sets of actors**:

1. **State authorities** (including legislatures, courts, regulators, law-enforcement bodies, and universities);
2. **Digital platform providers** (social media companies, hosting services, messaging platforms and other private digital infrastructure); and
3. **Civil society actors** (activists, CSOs, and defenders).

Protecting the right of peaceful assembly, especially for marginalised groups such as migrants and migrant solidarity activists, requires action across legal, technological, and social domains, including spaces governed by private digital infrastructure.

State Authorities:

Counter and avoid criminalisation of peaceful (albeit disruptive) dissent

Legislators, regulators, law enforcement agencies, courts and prosecutors should:

- Counter narratives implying that civil disobedience – and the disruptions that may follow from it – should be treated as violent or criminal behaviour. Likewise, they should refrain from equating movements that engage in non-violent civil disobedience with criminal organisations.
- Review and restrict the use of other legal pathways (including counter-terrorism and organised crime laws, immigration laws, administrative regulations, university disciplinary codes, and cybercrime statutes) whenever these are used to bypass assembly-law safeguards and suppress protests.
- Require *ex ante* human-rights impact assessments for proposed protest-related legislation with specific attention to effects on peaceful assembly and migrant participation.
- Prohibit the use of enforcement measures targeting organisers, CSOs, student associations, bail funds, housing providers, or solidarity networks as indirect entry points for protest suppression, absent individualised evidence of wrongdoing.

Embed Rights-Based Safeguards at Digital Enforcement Points

Legislators, regulators, and courts should:

- Formally acknowledge in their legislation, regulatory guidance, and digital governance frameworks that digitally mediated protest may fall within the scope of protected peaceful assembly rights, consistently with ICCPR Article 21 and General Comment No. 37's offline-online equivalence;
- Require timely notice, reasoned justification and easily accessible appeal mechanisms when they restrict protest-related content;
- Impose strict necessity, proportionality, and purpose-limitation requirements on state access to platform-generated data, especially where such data is used for immigration or intelligence enforcement.
- The U.S. should also encourage doctrinal development of the Assembly Clause as an independent constitutional guarantee, enabling courts to subject sanctions for trespass, disorderly conduct, or access violations to proportionality review when collective expression is implicated.

Operationalise Proportionality Tests

States should:

- Require law enforcement agencies, prosecutors and courts to explicitly assess and document the following before escalating enforcement against protest activity:
 - Has the conduct remained non-violent, even if technically unlawful, disruptive, or non-compliant with permit or access requirements?
 - Is enforcement triggered by expressive content, political viewpoint, or participant identity, rather than by concrete, demonstrable harm?
 - Have less intrusive measures (dialogue, negotiated toleration, time limitations, relocation, or administrative remedies) been meaningfully considered? If so, which ones and why were they excluded?
 - Are the proposed measure necessary and proportionate to a legitimate aim, or do they primarily work to deter, stigmatise, or suppress dissent?

States should also require law enforcement authorities to:

- Put in place training for the police on the facilitation and supervision of peaceful assemblies based on international human rights obligations and learning from other States' good practices;
- Assess foreseeable collateral immigration consequences (including detention, loss of lawful status, visa revocation, or deportation exposure) prior to acting against protest participants;
- Treat deportation risk as functionally equivalent to a criminal sanction for the purposes of proportionality-and-necessity analysis, triggering heightened justification;
- Establish clear institutional firewalls between protest policing and immigration enforcement for conduct that is primarily expressive, or assembly related.

Reinforce Oversight of Surveillance and Platform-State Interaction

Legislators and regulators should:

- Establish independent oversight of data-sharing arrangements and surveillance tools involving police, immigration authorities, universities, and private technology vendors.
- Require a form of disclosure, subject to judicial or parliamentary oversight, of formal and informal governmental pressure on platforms.

Digital Platform Providers:

Because digital protest often occurs on privately governed infrastructure, platform providers also carry responsibilities to respect freedom of expression and assembly. Therefore, **platforms should:**

- Align moderation practices with international human rights standards, including the UN Guiding Principles on Human Rights and Business.
- Provide timely notice, explanation, and meaningful appeal mechanisms when protest-related content or accounts are restricted.
- Publish more granular transparency reports on government requests for user data, content removal, or account restrictions affecting protest activity.

Civil Society:

Civil society organisations should:

- Document and publish evidence of surveillance, selective prosecution, and immigration-related retaliation against protest participants, including through monitoring reports, strategic litigation dossiers, and submissions to oversight bodies.
- Pursue strategic litigation and coalition advocacy aimed at strengthening assembly protections for migrants and non-citizens.
- Develop rapid-response communication strategies and partnerships with journalists and researchers to counter criminalising migrant protest narratives.
- Support migrants' practical capacity to exercise protest rights, including by providing know-your-rights resources, legal observation, digital security guidance, and safe reporting channels for abuses.

ANNEX A: CASE STUDY SOURCES

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ANNEX B: DOMESTIC LEGAL FRAMEWORK SOURCES

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United States

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CIVIL DISOBEDIENCE IN DIGITALLY NETWORKED SPACES:

**Migrant Protest, Criminalisation, and
International Human Rights Standards**



European Center for
Not-for-Profit Law