

Call for inputs from the mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association for his report to be presented at the 50th session of the Human Rights Council

The Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément N. Voule, conducted an official visit to Sri Lanka from 18 to 26 July 2019 to assess the enjoyment of the rights to freedom of peaceful assembly and of association in the country.

He delivered his report ([A/HRC/44/50/Add.1 \(5 May 2020\)](#)) to the 44th session of the Human Rights Council, which took place from 15 June to 3 July 2020.

In follow-up to that report, the Special Rapporteur wishes to solicit response to the following questions:

I. Freedom of Assembly

1. Has clear and accessible guidance based on the laws and regulations regarding the right to freedom of peaceful assembly been developed and disseminated to organizers and law enforcement authorities? (Rec 95(b))
2. Has the law regarding notification procedures been amended in order to allow for the occurrence of spontaneous or urgent assemblies without risk of criminality? (Rec 95(c))
3. Does law and practice provide organizers adequate time and opportunity to challenge any court orders aimed at preventing or imposing limitations on an assembly? Provide any relevant examples. (Rec 95(g))
4. Has the government refrained from using national security legislation, including the **Prevention of Terrorism Act**, to criminalize protesters legitimately exercising their right to freedom of peaceful assembly? Provide any relevant examples. (Rec 95(d))
5. Does law and practice consistently ensure that organizers of protests are not held personally accountable for illegal acts committed by others in the context of the protests that they have organized? Provide any relevant legislation and/or examples. (Rec 95(g))
6. Is the use of force to disperse assemblies always applied in accordance with international human rights law? Have law enforcement officers received the necessary training? Provide any details of relevant standards and trainings, and/or violations subsequent to the Special Rapporteur's visit. (Rec 95(f))
7. Are all incidents in which the actions of security forces result in human rights violations, in particular death and injury, promptly, independently and transparently investigated, and perpetrators prosecuted? Provide any relevant details. (Rec 95(i))

8. Are there any other manners in which the law does not ensure full respect, protection and fulfilment of the right to freedom of peaceful assembly, not addressed above? Provide details as appropriate. (Rec 95(a))

II. Freedom of Association

1. Does existing legislation dealing with the right to freedom of association comply with international human rights laws and standards in relation to:

Reporting requirements;

The right to privacy;

The suspension or dissolution of associations?

Provide details of steps taken to bring the law into compliance in these areas, and/or of ways in which the law violates the relevant standards. (Rec 96(a))

2. Where the Ministry of Defence denies the registration of an association on the basis of national security:

(a) Are the reasons for refusal provided in writing at the earliest possible opportunity?

(b) Is an avenue of appeal provided?

Provide any relevant details or examples. (Rec 96(d))

3. Are all administrative authorities dealing with the right to associate, including at the national, divisional and district levels, duly trained on international human rights norms and standards? Provide details of any trainings available. (Rec 96(c))
4. Are there any other manners in which the law does not ensure full respect, protection and fulfilment to the right to freedom of association, not addressed above? Provide details as appropriate. (Rec 96(a))

III. Freedom of Association and Assembly at Work

1. Have the rights to form and join trade unions, both inside and outside of free trade zones, been ensured? Provide any relevant details and examples. (Rec 96(e))
2. Have the rights to strike and collectively bargain, both inside and outside of free trade zones, been insured, including through the removal of the 40 percent threshold? Provide any relevant details and examples. (Rec 96(e))
3. Has the membership and representative status of trade unions been accurately measured and recorded? (Rec 96(f))
4. Have measures been taken to improve labor standards? Provide any relevant details. (Rec 96(f))
5. Have the recommendations contained in the reports of the ILO Committee of Experts on the Application of Conventions and Recommendations been fully implemented? Provide any relevant details and examples. (Rec 96(g))

IV. General Recommendations

1. Has the non-discriminatory application of legislation across communities, including ethnic, religious, LGBTQIA+ and other groups, been ensured? Provide any relevant details and examples. (Rec 94(d))
2. Has a vibrant civic space, where all civil society actors, including national and religious minorities, LGBTQIA+ groups, children and women, are able to carry out their work in a safe and enabling environment, free from threats or acts of violence, intimidation, surveillance, or any other form of harassment, including judicial harassment and reprisals, been ensured? Provide any relevant details and examples. (Recs 94(h-j))
3. Has a moratorium on the use of the **Prevention of Terrorism Act** for new arrests been put in place, and has the act been replaced by legislation that is fully compliant with international human rights norms and standards? (Rec 94(e))
4. What steps have been taken to address the perceived climate of impunity? In particular, what steps have been taken to:
 - (a) improve access to justice;
 - (b) promote and mainstream human rights;
 - (c) bring the perpetrators of human rights violations to justice?

Provide details of any steps taken and/or ongoing failures to take appropriate measures, not addressed elsewhere. (Rec 94(l))

5. Has the State refrained from shutting down the Internet, in whole or in part? (Rec 95(e))
6. Have civil society and the National Human Rights Commission been meaningfully consulted on all legislation pertaining to the rights to freedom of peaceful assembly and association, including at the drafting, review and implementation stages? (Rec 96(b))
7. Has the Government worked with civil society, the media, Internet service providers, and social media companies in order to find effective and evidence-based solutions to counter violent content and disinformation online, in a manner consistent with international human rights law? Provide details of any steps taken and/or ongoing instances of violent content and disinformation online. (Rec 95(e))

V. Specific recommendations

1. Have the Rathupaswala, Welikada prison and Roshan Chanaka cases been promptly, independently and transparently investigated, and the perpetrators prosecuted? (Rec 95(i))
2. Has Sri Lanka ratified and implemented the Second Optional Protocol to the International Covenant on Civil and Political Rights? (Rec 94(a))
3. Has a review of the Constitution been undertaken, with a view to:
 - (a) Extending the fundamental rights contained therein to all those under the Government's jurisdiction, including migrants, refugees, asylum seekers and other

non-citizens, as per the requirements of the International Covenant on Civil and Political Rights? (Rec 94(b))

- (b) Repealing Article 16 of the Constitution, which forbids judicial review of existing legislation that violates the rights to freedom of peaceful assembly and of association and other fundamental rights? (Art 94(c))
4. Have the democratic gains made by the country in the last five years, including the Nineteenth Amendment to the Constitution, been preserved and built upon? Provide relevant details. (Rec 94(i))
 5. Has sufficient support been provided to the Constitutional Council, the Office on Missing Persons, the Office for Reparations and the Human Rights Commission of Sri Lanka to enable them to discharge their mandates? Has their independence been ensured? (Rec 94(h))
 6. Has comprehensive security sector reform and demilitarization, in line with the country's transitional justice commitments under Human Rights Council Resolution 30/1, been undertaken? Provide relevant details. (Rec 94(f))
 7. Have the security forces ended all forms of surveillance, harassment of and reprisals against human rights defenders and others? Provide relevant details. (Rec 94(f))
 8. Has the State maintained engagement with United Nations peacebuilding mechanisms, including the Peacebuilding Commission, through regular updates on progress made in implementing the country's Peacebuilding Priority Plan? Provide relevant details. (Rec 94(g))