

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 Zimbabwe from 17 to 27 September 2019 to assess the enjoyment of the rights to freedom of peaceful assembly and of association in the country, pursuant to Human Rights Council resolutions 15/21 and 41/12.

He delivered his report ([A/HRC/44/50/Add.2 \(22 May 2020\)](#)) 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. Have state authorities adopted a clear presumption in favor of holding peaceful assemblies and demonstrations, including by adopting a prior notification regime? Provide any relevant examples, including details as to any assemblies not allowed. (Recs 124(a)(i-ii))
2. Have provisions aimed at facilitating spontaneous peaceful assemblies and demonstrations, including, in particular, an exemption from notification rules, been incorporated into the law? (Rec 124(a) (iii))
3. Can restrictions imposed on peaceful assemblies and demonstrations be appealed in a timely manner before an impartial and independent court? Provide any relevant examples. (Rec 124(a)(iv))
4. Is the principle of individual liability, rather than vicarious liability, of assembly participants upheld in law and practice? Provide any relevant examples. (Rec 124(a)(vi))
5. Have the sanctions included in the law been revised downwards, such that no peaceful assemblies and demonstrations are dissuaded by such potential sanctions in practice? Provide any relevant context or examples. (Rec 124(a)(v))
6. In regards to the management of assemblies, have:
 - (a) law enforcement protocols, including protocols on the use of force, been developed and revised in compliance with international human rights law and standards? (Recs 124(a)(vii), 124(d))
 - (b) law enforcement officers been trained on the proper management of assemblies and use of force, including the employment of non-violent means of crowd control? (Rec 124(e))

7. To what extent have state authorities ensured that journalists, media workers, human rights defenders and others have been allowed to monitor assemblies? Have all violations of their ability to do so been duly investigated? Provide any relevant examples. (Rec 124(g))
8. Have all allegations of excessive use of force against protesters by the security forces been promptly, thoroughly and independently investigated, with perpetrators prosecuted and sanctioned and adequate remedies provided to victims? Provide any relevant examples. (Rec 124(f))

II. Freedom of Association

1. Has a notification regime been adopted, whereby an organization is considered a legal entity as soon as it has notified the authorities of its existence? (Rec 125(a)(i))
2. Has the registration procedure for national and international organizations been simplified and accelerated? (Rec 125(a)(ii))
3. To what extent have the administrative authorities responsible for implementing the right to freedom of association, on the national and local levels, been trained on international human rights standards? (Rec 125(b))
4. Has the practice of using memorandums of understanding, that render the operation of associations burdensome and limit their autonomy and independence, been abolished? (Rec 125(a)(iii))
5. Have the authorities, in law and practice:
 - (a) Avoided interference in the activities of organizations through the use of inspectors? (Rec 125(a)(iv))
 - (b) Alleviated reporting requirements? (Rec 125(a)(v))
 - (c) Avoided interfering with the functioning of organizations? (Rec 125(d))
 - (d) Ensured that organizations are able to hold private meetings without the need to inform the police or any other authority about the holding of such meetings and without the presence of any government authority? (Rec 125(d))
 - (e) Facilitated the ability of organizations to access funding and resources without interference? (Rec 125(a)(vi))
 - (f) Ensured a meaningful proportion of public funds is allocated, in an accessible, transparent and inclusive way, to a wide range of civil society organizations representing the diverse views held within the society? (Rec 125(e))
 - (g) Avoided the use of excessive sanctions, particularly incarceration, for omissions in law? (Rec 125(a)(vii))

Provide any relevant details.

III. Freedom of Association and Assembly at Work

1. What efforts have been made to respect and promote the rights to form and join trade unions? Provide any relevant details. (Rec 125(h))
2. Have the recommendations of the ILO Committee of Experts on the Application of Conventions and Recommendations, the Conference Committee on the Application of Standards and the Motlanthe Commission been fully implemented? Provide any relevant details. (Rec 125(h))

IV. General Recommendations

1. Has anyone been criminalized for exercising the rights to freedom of peaceful assembly and of association, or subjected to threats, harassment, persecution, intimidation and reprisals? Provide any relevant details. (Rec 123(f))
2. Is there any discrimination in the application of the laws governing the rights to freedom of peaceful assembly and of association, in particular regarding the groups most at risk and those expressing dissenting voices? Has the security of civil society actors, including human rights defenders, been ensured? Provide any relevant details. (Recs 123(d), 125(g))
3. Has a conducive, safe environment been establishing in which everyone may exercise their rights to freedom of peaceful assembly and of association? In particular, have measures been taken to combat hate speech and incitement to hatred, including online? Have discriminatory or threatening statements been used in public discourse, including by public figures? If so, have those statements been condemned by others? Provide any relevant details. (Recs 123(d), 124(h), 125(f))
4. What measures are taken to ensure civil society actors with diverse views are systematically consulted before the adoption or amendment of any legislation, regulation or policy? In particular, what measures of consultation have been taken in regards to the implementation of the Maintenance of Peace and Order Act? (Recs 123(k), 124(b), 125(c))
5. Have victims of violations of the rights to freedom of peaceful assembly and of association always received an effective judicial remedy and redress? Provide any relevant examples. (Rec 123(i))
6. Has the Government refrained from introducing restrictions on access to and the use of the Internet, including shutdowns? Provide any relevant details. (Rec 124(i))

V. Specific recommendations

1. Has all legislation inconsistent with the Constitution and negatively effecting the exercise fundamental freedoms been appropriately amended or repealed? Provide any relevant details. (Rec 123(b))
2. Has an independent oversight body been established, in line with Section 210 of the Constitution, that ensures the accountability of law enforcement officials who violate the rights to freedom of peaceful assembly and of association? (Recs 123(c, 1))
3. To what extent have the work, independence and operation of all independent constitutional institutions been respected? Provide any relevant details. (Rec 123(j))
4. To what extent have the observations and recommendations of Zimbabwe's Human Rights Commission in relation to the rights to freedom of peaceful assembly and of association been complied with? Provide any relevant details. (Rec 123(j))

5. Has the Government established an independent national committee, with adequate institutional, political and financial resources, aimed at promoting implementation of recommendations made by the relevant government institutions, the Zimbabwe Human Rights Commission and other independent constitutional institutions, representatives of civil society, United Nations entities and the donor community? (Rec 123(n))
6. Have the recommendations issued by the Motlanthe Commission been implemented? Provide any relevant details. (Rec 124(c))
7. Have all criminal charges pertaining to exercise of the rights to freedom of peaceful assembly and of association been dropped, and all those detained under such charges released? In particular, have such measures been taken relative to those arrested in connection with the August 2018 and January 2019 protests? Provide any relevant details. (Rec 123(g))
8. Have all communications sent by the mandate holder been responded to? Provide any relevant details. (Rec 123(m))