

Questionnaire for Member States from the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association

Purpose:

To inform the development of specific technical and practical tools to assist law enforcement bodies in promoting and protecting human rights while facilitating peaceful protests, as per UN Human Rights Council resolution 50/21. The tools, which will be reflective of global and regional experiences and positive practices, will be presented by the Special Rapporteur to the Human Rights Council at its 55th Session.

Background:

The Human Rights Council, during its 50th session in June 2022, adopted [Resolution 50/21](#) mandating the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association to develop “*specific technical and practical tools to assist law enforcement in promoting and protecting human rights in the context of peaceful protests*”. The Resolution, while raising deep concerns over numerous human rights violations committed by State and non-State actors in the context of peaceful protests, recognised the important role of law enforcement in promoting and protecting human rights in the context of protests.

To strengthen the capacity of and assist law enforcement bodies to enable and facilitate the promotion and protection of human rights in the context of protests, the resolution requested the Special Rapporteur to develop the said practical tools in collaboration with the United Nations Office on Drugs and Crime (UNODC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The resolution further requested the Special Rapporteur to **engage in global and regional consultations** when developing these tools and “*to seek the views of States, other relevant entities of the United Nations Secretariat, other relevant United Nations agencies, funds and programmes, intergovernmental organizations, national human rights institutions, non-governmental organizations and other relevant stakeholders, including practitioners, such as law enforcement practitioners*”. The Special Rapporteur will present these technical and practical tools at the **55th session** of the Human Rights Council.

This request for the development of practical tools to assist the law enforcement in facilitating peaceful protests corresponds to the recommendations made by the Special Rapporteur in his report presented to the Human Rights Council at its 50th session in June 2022, on the *Protection of human rights in the context of peaceful protests during crisis situations* (A/HRC/50/42), pursuant to resolution 44/20.

In his report, the Special Rapporteur raised the following human rights concerns in the context of protests, that were echoed by the subsequent Human Rights Council resolution 50/21: extrajudicial, summary, or arbitrary executions; arbitrary arrests and

detention; enforced disappearances; torture and other cruel, inhuman or degrading treatment or punishment; violence, including sexual and gender-based violence, in the context of protests; targeting of journalists and other media workers, monitors, lawyers, other observers, such as human rights defenders, and medical personnel while engaging in their legitimate activities during protests; excessive use of force by law enforcement and militarisation of policing of protests such as during crisis situations; as well as arbitrary and unlawful surveillance, both in physical spaces and online, of individuals engaged in peaceful protest. The resolution further highlights that women, children, youth, LGBTI persons, indigenous peoples, migrants, persons of African descent, persons belonging to minorities, persons with disabilities and other persons belonging to groups who are discriminated against and marginalized, are particularly vulnerable to unlawful police use of force while taking part in protests.

The need to provide practical tools to law enforcement in order to enable officers to better perform their important duties related to facilitating peaceful protests, in accordance with international human rights law and standards, has also been requested and supported by law enforcement practitioners from across all regions. This request was expressed during previous consultations conducted by the Special Rapporteur with law enforcement practitioners from around the world in the framework of the preparation of his report on protecting human rights in the context of peaceful protests in crisis situations, as per HRC resolution 44/20.

The Special Rapporteur will further consult closely with law enforcement practitioners in different regions when developing the said “specific technical and practical tools”, as requested by resolution 50/21. The Special Rapporteur, in collaboration with OHCHR and UNODC, is planning to hold five regional consultations with law enforcement practitioners and experts as well as with civil society representatives, which will inform these practical tools.

Key questions and types of input sought

The questionnaires below solicit information with a view to gathering examples of protocols, guidelines, and other tools available to law enforcement relevant for facilitation of the right to peaceful assembly, as well as positive examples of strategies, measures, and practices undertaken by law enforcement around the world in promoting and protecting human rights in the context of peaceful protests (*such as the rights to freedom of peaceful assembly, of association, freedom of expression, the right to life, freedom from torture and ill-treatment, protection from sexual and other gender-based violence, arbitrary detention, and other serious violations committed against protesters and activists in the context of protests*).

The provided inputs will be used to assist the Special Rapporteur on the rights to freedom of peaceful assembly and of association in preparing the practical tools for law enforcement as requested by the Human Rights Council in its resolution 50/21.

When responding to this questionnaire, States are also encouraged to involve and consult with national law enforcement bodies.

Responses received may be made publicly available on the OHCHR website unless indicated otherwise in the submission. Please clearly state in your response if you would like your submission to remain confidential.

Please send submissions to hrc-sr-freeassembly@un.org as soon as possible, or by 7 April 2023 at the latest, preferably in Spanish, French or English.

Existing domestic legal framework and guidance related to the promotion and protection by law enforcement of human rights while facilitating peaceful protests:

- 1) Please provide information on any existing domestic guidance, regulations, standard operating procedures, and laws, related to facilitating and policing of assemblies, including protests.
 - *How can existing tools, guidance and protocols relevant to the facilitation of peaceful assemblies be enhanced to better assist law enforcement in facilitating assemblies, including protests, in full compliance with international human rights laws and standards?*
- 2) Are there any domestic laws, regulations or other policies imposing restrictions on assemblies?
 - *If so, in what circumstances are these imposed, and who makes the decisions for the imposition of these restrictions? What guidance, protocols or other measures have been put in place to ensure law enforcement commanders and officers act according to international human rights standards when implementing these restrictions in relation to peaceful protests?*
 - *What provisions, guidance or procedures are in place to assist law enforcement when reviewing assembly notification requests, and to ensure that any existing authorization or notification requirements are not discriminatory and do not unduly restrict the exercise of the right to peaceful assembly, including spontaneous protests?*

Promoting and protecting human rights while facilitating peaceful protests by law enforcement:

- 3) What are the main challenges and barriers faced by law enforcement authorities in your country when facilitating and policing protests? What measures have been undertaken and found to be effective in order to overcome these challenges and effectively facilitate protests in accordance with international human rights law and standards?
 - *Kindly provide examples of any strategic and/or operational practices undertaken by law enforcement authorities **prior, during and after** protests, which your State found successful in ensuring respect for human rights when facilitating protests (including spontaneous and/or mass protests).*

4) What are the different law enforcement bodies in your country which are engaged in the policing of protests? Is there a specialised body/entity responsible for policing protests? If not, who and how are decisions made to deploy a particular law enforcement entity to police a particular protest?

- *Are armed forces involved in the policing of protests, how and under what circumstances? What guidance or provisions are put in place to ensure these forces act according to the international human rights standards relevant to protecting human rights in the context of protests?*
- *How is ensured that the different law enforcement forces deployed to facilitate protests are adequately trained and equipped to ensure they act in full compliance with human rights in the context of protests?*
- *How oversight, monitoring and accountability are ensured when different law enforcement entities are deployed to facilitate a protest (are there any guidance or protocols outlining these procedures)?*

5) What is the guidance to law enforcement related to facilitating and policing protests in **crisis situations** (such as during public health or security-related crises and/or during states of emergency)? Which other strategies, tools and operational practices undertaken by law enforcement authorities **prior, during and after** protests have been successful to ensure respect for human rights in the context of protests during crisis situations; and what have been the lessons learned?

6) Are there in place any guidance or protocols for law enforcement to positively interact (**prior, during and after** protests) with assembly organizers, communities or other civil society with the view of ensuring the effective facilitation of peaceful protests?

Preventing and minimizing the use of force, and de-escalation of tension and violence in the context of protests

7) What law enforcement guidance tools, and specific strategies and practices did you find to be effective for successfully de-escalating tension in the context of protests?

- *What is the guidance provided to and what measures have been taken by law enforcement officials prior, during and after protests in order to de-escalate actual or potential tension and/or violence, including through any communication strategies?*
- *Are there specific roles within law enforcement responsible for the de-escalation of tension/violence in the context of protests, including with regards to spontaneous and mass protests, and what actions do they take to de-escalate tensions? (Please provide examples)*

8) What is the procedure, decision-making and guidance provided to law enforcement on the use of force during protests?

- *Who gives the authorisation for the use of force and are there any specific procedures, or protocols to follow? What are these?*
- *Is there oversight, ratification, or review process of decisions to escalate or deescalate responses to protests? If so, by whom, and through which process?*

- *What is the process to assess if the use of force in the context of a protest complies with the principles of legality, necessity and proportionality?*
 - *What are the reporting and monitoring obligations and procedures for any use of force in the context of a protest and how the outcomes of these reviews have been used to improve the protection of human rights by law enforcement in the context of protests?*
- 9) How are law enforcement officers equipped and instructed on the use of weapons in the context of protest in your country, including guidance and protocols, if any?
- *What less lethal weapons are allowed, if any, to be used by law enforcement during the facilitation of protests?*
 - *Is the use of firearms allowed in the context of protests and if so under what circumstances and how is their use regulated to ensure they are strictly used when absolutely necessary and according to the international standards on the use of force and firearms?*
 - *What other equipment is used during protests and in which situations?*
- 10) What measures have law enforcement entities in your State used/found to be effective to prevent and minimize the harm to protesters, medical personnel, journalists and other actors involved in monitoring and/or reporting on protests, as well as bystanders, in cases when force might be justified as lawful in the context of protest?
- *What guidance, protocols and procedures, if any, are in place to assist law enforcement to assess differentiated protection needs, including those of vulnerable individuals, in the context of protest; and to ensure all involved actors receive adequate protection from law enforcement?*
 - *What other guidance and measures have been found to be effective to assist law enforcement authorities to protect protesters and all actors in the context of protests from attacks and abuses from non-state actors, and including during counter-protests?*
- 11) What guidance is provided to law enforcement and what specific measures are taken to prevent and protect protesters and activists from sexual abuse or violence in the context of protests?
- 12) What guidance is provided to law enforcement and what measures are taken to prevent unlawful arrests and detention in the context of protests?
- *What guidance and/or other tools are in place to ensure the human rights of those lawfully detained in the context of protests are respected according to international standards, including being protected from torture and ill-treatment, or sexual abuse; and ensuring that the specific needs of those detained are considered such as related to health condition, age, and gender-specific needs (i.e. hygiene needs).*

Protection of specific groups or other relevant actors in the context of protests

- 13) Please provide information on any existing guidance, protocols or strategies and measures implemented by law enforcement entities in order to facilitate the right to

freedom of peaceful assembly and protect the rights of groups considered particularly at risk in the context of protests, including, but not limited:

- a) children and youth;
- b) women and girls;
- c) LGBTI persons;
- d) persons with disabilities;
- e) indigenous peoples;
- f) racial or ethnic minority groups;
- g) migrants;
- h) refugees and asylum seekers.

Accountability and operational review:

14) What strategy or protocols are in place to ensure accountability for law enforcement officials in regard to human rights violations committed in the context of protests?

- *How is it ensured that any law enforcement oversight bodies are effective in gathering evidence and responding to complaints of human rights violations by law enforcement in the context of protests?*

- *What protocols are in place to ensure effective reviews pre, during and after protests to improve assembly facilitation, while incorporating lessons learned?*

- *How are assembly organizers, civil society actors and affected communities effectively involved in these reviews, and how is it ensured the results of these reviews are public and transparent?*

Training and ensuring the well-being of law enforcement:

15) What training is provided to law enforcement commanders and practitioners on the facilitation of assemblies, including protests?

- *Who provides it, and Is it specialised training or included in the general training for law enforcement? How often is there refresher training? Does it include training on any new equipment? How often is training material revised?*

16) How is it ensured/what is needed to ensure the safety, health and wellness of law enforcement officers in the context of protests?

Please annex any key documents referenced.