



LEGAL Committee

Topic 1: The right of peaceful assembly and expression in public order frameworks

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1. Definition of key terms

- **Right to Peaceful Assembly:** Recognized in Article 21 of the *Universal Declaration of Human Rights*, the right to peacefully assemble allows individuals to participate in protests, demonstrations, meetings, and gatherings without resorting to violence. It is an essential tool for exercising freedom of expression and active participation in political life.

- **Freedom of Expression:** Established in Article 19 of the *Universal Declaration of Human Rights*, this right enables every individual to express their ideas, opinions, and beliefs without fear of censorship or persecution. Freedom of expression is crucial for democratic pluralism, public debate, and political accountability.

- **Public Order:** The term "public order" refers to the need to ensure safety, peace, and stability in a society. When the right to peaceful assembly and expression threatens public order (e.g., when a protest risks escalating into violence or significantly disrupting daily life), states may justify restrictions on individual rights in the name of maintaining public order.

- **Balancing Rights:** This principle emphasizes the need to strike a balance between protecting individual rights and meeting the collective needs of society. Balancing freedom of expression with maintaining public order is central to discussions about protests, demonstrations, and managing dissent.

- **Legitimate Restrictions:** Restrictions on the rights to peaceful assembly and expression are permissible only under specific conditions, such as protecting national security, public health, or preventing incitement to violence. These restrictions must be proportionate, aimed at a legitimate purpose, and adhere to the principle of necessity.

- **Principle of Proportionality:** This legal principle requires that restrictions on fundamental rights be appropriate, necessary, and not excessive in relation to the risks they aim to prevent.

Authorities must adopt measures that do not exceed what is necessary to ensure security and public order.

- **Protests and Demonstrations:** These are key expressions of the rights to freedom of expression and peaceful assembly. While fundamental, large-scale or violent demonstrations can challenge public order.

- **OHCHR:** The Office of the United Nations High Commissioner for Human Rights (OHCHR) is a central UN body promoting and protecting human rights globally. It monitors and reports on human rights violations, supports governments in implementing international human rights standards, and advocates for human dignity. The OHCHR provides technical assistance, engages in capacity-building, and collaborates with governments, civil society, and international organizations. The High Commissioner for Human Rights, appointed by the UN Secretary-General, leads efforts to ensure that human rights are universally respected and upheld.

- **Rabat Plan of Action:** Developed by the OHCHR in 2012, the Rabat Plan of Action provides guidelines for restricting freedom of expression in cases of incitement to violence. It balances the right to free expression with the need to prevent hate speech and incitement, which can threaten public order and security. The plan emphasizes legal and practical principles, such as considering context, intent, and the likelihood of harm, while ensuring restrictions are proportionate and necessary. It is particularly relevant for addressing hate speech while safeguarding democratic freedoms.

2. Introduction

The fundamental human right to peaceful assembly allows individuals to express themselves collectively and participate in shaping their societies. This right is essential in its own right, protecting the ability of people to exercise individual autonomy in solidarity with others. Together with related rights, it forms the foundation of participatory governance systems based on democracy, human rights, the rule of law, and pluralism.

Peaceful assemblies play a critical role in advancing ideas and aspirational goals in the public sphere, gauging the extent of support for or opposition to those goals. They can provide opportunities for inclusive, participatory, and peaceful resolution of differences, particularly when used to address grievances. Moreover, peaceful assemblies serve as a powerful tool for recognizing and realizing a wide range of other rights, including economic, social, and cultural rights, especially for marginalized individuals and groups.

Failure to respect the right to peaceful assembly often signifies repression. Article 21 of the *International Covenant on Civil and Political Rights* states: "The right of peaceful assembly shall be recognized." This right is similarly articulated in other international and regional instruments and has been elaborated upon by monitoring bodies through views, concluding observations, resolutions, interpretive guidelines, and judicial decisions.

Effective implementation of the right to participate in public affairs begins with adherence to fundamental principles and elements rooted in international human rights law. These principles also guide the exercise of related rights, such as voting, standing for election, and participation in governance at both national and supranational levels, including within international organizations.

3. Background information

The Right to Peaceful Assembly

The **Universal Declaration of Human Rights (UDHR)**, established in 1948, was the first international agreement to mention the right to peaceful assembly. This was articulated in the following articles:

- **Article 19:** “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.”
- **Article 20:** “Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.”

Other documents have since recognized similar rights, such as:

- **Article 15** of the *American Convention on Human Rights (ACHR)*
- **Article 11** of the *European Convention on Human Rights (ECHR)*

Despite these foundational documents, restrictions on the right to assembly are often imposed to address concerns such as national security, public order, morality, and public safety. For instance, the ECHR allows such restrictions only if they are “prescribed by law” and “necessary in a democratic society.” Below are the main factors used to justify restrictions:

1. **Public Safety:** Assemblies and protests may be regulated if they pose a threat of property damage or violence.
2. **National Security:** Authorities can restrict assemblies if they are deemed threats to the nation.
3. **Public Order:** Riots or violent protests can be prohibited, provided the restrictions adhere to the principle of proportionality.

If these criteria are not met, authorities have the right to intervene. Measures may include requiring organizers to provide advance notice of the location, time, and purpose of protests to prevent spontaneous riots.

1. **Freedom of Association:** Similar to Article 20 of the UDHR, individuals have the right to form or join associations to organize peaceful assemblies.
2. **Public and Private Spaces:** These rights generally apply to public spaces, but laws may vary when private property is involved.
3. **Non-Violence:** Peaceful assemblies must remain non-violent, avoiding both physical and verbal violence.
4. **Freedom of Expression:** Assemblies serve as a means to exercise free speech on topics such as political opinions, laws, and social issues.

Article 19 of the *International Covenant on Civil and Political Rights (ICCPR)* extends the right to freedom of expression to the digital world, ensuring the right to express oneself on social media.

Online peaceful assemblies, such as coordinated hashtags (e.g., #BLM) and online petitions, also fall under this right.

However, states have responsibilities to ensure these rights are respected by avoiding censorship, safeguarding access to information, and protecting individuals from being silenced. Like offline freedoms, online rights are not absolute; limitations apply in cases involving hate speech, incitement to violence, or similar issues.

4. Timeline

1789: Declaration of the Rights of Man and of the Citizen (France)

Adopted on August 26, 1789, during the French Revolution, this foundational document influenced constitutional law and human rights globally. Article 11 affirms freedom of expression as a fundamental right.

1848: European Revolutions

Protests across Europe emphasized freedom of assembly as essential for political and social change, leading to the independence of ethnic groups.

1860s: Emergence of Labor Movements

Peaceful assemblies became pivotal during labor strikes advocating for workers' rights, highlighting public order concerns.

1948: Universal Declaration of Human Rights (UDHR)

Reinforced the rights of assembly and expression:

- **Freedom of Expression (Article 19):** Recognizes free speech and access to information as universal rights.
- **Freedom of Assembly and Association (Article 20):** Ensures the right to peaceful assembly and freedom from forced association.

1955–1968: Civil Rights Movement (USA)

Landmark peaceful protests, such as the Montgomery Bus Boycott and the March on Washington, underscored the balance between assembly rights and public order enforcement.

1966: International Covenant on Civil and Political Rights (ICCPR)

Article 21 guarantees the right to peaceful assembly, with allowances for restrictions in cases of national security, public safety, or public order.

1989: Protests at Tiananmen Square (China)

The violent suppression of peaceful assemblies highlighted global debates on the balance between public order and human rights.

1999: Seattle WTO Protests

Mass demonstrations against globalization showcased challenges in maintaining public order during large-scale assemblies.

2011: Arab Spring

Protests across the Middle East and North Africa demonstrated the role of peaceful assembly in demanding political reform and highlighted varied state responses.

2013: Gezi Park Protests (Turkey)

Government actions against peaceful environmental protests drew international criticism for human rights violations.

2020: Global Black Lives Matter Protests

Demonstrations following George Floyd's death focused on systemic issues, prompting debates about policing peaceful protests.

2021: UN General Comment No. 37 on Article 21 of ICCPR

Clarified the scope of peaceful assembly rights, emphasizing state responsibilities to facilitate assemblies and avoid undue restrictions.

2022: Protests in Iran

State crackdowns on peaceful assemblies following Mahsa Amini's death reignited international discussions on balancing public order and human rights.

5. Major countries involved

USA

The United States' right to freedom of speech is enshrined in the First Amendment, which guarantees the rights to peaceful assembly and expression. The U.S. played a significant role in drafting major human rights declarations, including the UDHR, and has had a considerable influence on these frameworks. However, concerns have arisen regarding law enforcement responses to protests, particularly during the Black Lives Matter (BLM) movement, where excessive force was alleged. The U.S. is also home to the headquarters of most globally dominant social media platforms, which have been accused of censoring critical information.

China

China prioritizes public order and national security, resulting in strict limitations on protests, riots, and similar gatherings. The government views protests as threats to stability, and law enforcement actively prevents the formation of associations or dissent against the government, often using advanced surveillance technology. These practices are widely criticized for failing the proportionality test.

Russian Federation

In Russia, peaceful assemblies require prior government approval, often restricting citizens' freedom of expression. Participation in unauthorized protests can lead to fines and arrests. Opposition to the government, especially during events like the Ukrainian conflict, has resulted in mass arrests and heightened suppression of dissent.

France

France, like most European Union countries, adheres to the ECHR, ensuring the right to peaceful assembly with minimal restrictions. However, controversies have arisen over law enforcement responses to protests, such as the *Yellow Vest* demonstrations, during which authorities were accused of excessive use of force, including rubber bullets and tear gas.

Iran

Iran's regime frequently views protests as threats to national stability, leading to severe crackdowns. Protests following Mahsa Amini's death highlighted significant concerns about the

universal right to assembly. Iran has also been accused of implementing internet blackouts to suppress information dissemination and online activism.

6. UN involvement

The United Nations, through the Office of the High Commissioner for Human Rights (OHCHR), plays a pivotal role in promoting and protecting the rights to peaceful assembly and freedom of expression, particularly within public order frameworks. OHCHR's responsibilities include monitoring and reporting on measures used to manage protests, such as the use of force and other state responses that may violate human rights. It also advocates for accountability and upholds international standards to prevent such violations.

OHCHR emphasizes early warning mechanisms to avert potential human rights violations and addresses underlying economic, social, and cultural factors that often lead to protests. The organization engages in dialogue with governments, civil society, protesters, and law enforcement agencies, providing technical assistance to promote accountability and tackle the root causes of dissent. These efforts include encouraging participatory decision-making and fostering dialogue to resolve grievances.

In certain countries, OHCHR directly protects protesters by maintaining a presence at demonstrations and monitoring incidents of arrest, detention, or ill-treatment of individuals involved. Beyond assembly rights, the UN champions broader freedoms, including freedom of opinion and expression, media freedom, journalist protections, and conscientious objection to military service.

The UN also supports the implementation of the *Rabat Plan of Action*, which seeks to combat incitement to discrimination, hostility, or violence while safeguarding freedom of speech. Through these initiatives, the UN strives to balance public order with the protection of fundamental human rights, ensuring that spaces for free expression and assembly remain open and safe.

7. Useful links

- <https://www.ohchr.org/en/topic/freedom-expression-and-opinion>
- <https://www.ohchr.org/en/peaceful-assembly>
- <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

8. Bibliography

- <https://bangkok.ohchr.org/article/right-peaceful-assembly#:~:text=The%20Right%20of%20Peaceful%20Assembly%20is%20a%20fundamental%20human%20right,participate%20in%20shaping%20their%20societies.>
- <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- https://www.echr.coe.int/documents/d/echr/convention_ENG
- <https://www.britannica.com/topic/Black-Lives-Matter>
- <https://aeod.library.harvard.edu/galleries/yellow-vests-movement>

- [https://fra.europa.eu/en/eu-charter/article/11-freedom-expression-and-information#:~:text=Censorship%20is%20prohibited,-\(4\)%20The%20freedom%20of%20expression%20and%20the%20right%20to%20seek,protection%20of%20health%20and%20morals.](https://fra.europa.eu/en/eu-charter/article/11-freedom-expression-and-information#:~:text=Censorship%20is%20prohibited,-(4)%20The%20freedom%20of%20expression%20and%20the%20right%20to%20seek,protection%20of%20health%20and%20morals.)