



International Service for Human Rights
(ISHR)

RIGHT TO FREEDOM OF ASSEMBLY
HUMAN RIGHTS DEFENDERS BRIEFING PAPERS SERIES

TABLE OF CONTENTS

Preface	4
Introduction	5
I. Freedom of assembly in international law	6
1. Scope of the right to freedom of assembly.....	8
2. State obligations to ensure freedom of assembly.....	11
3. Limitations on the right to freedom of assembly.....	12
(i) <i>Legal basis</i>	13
(ii) <i>Necessity in a democratic society</i>	13
(iii) <i>Permissible purposes for interference</i>	14
4. Derogation from Article 21.....	17
II. Standards and Challenges to the right to freedom of assembly	18
1. Legislative requirements for authorisation or prior notice.....	19
2. Security legislation.....	21
3. Use of excessive force to disperse assemblies.....	23
4. Arrest and detention.....	24
5. Attacks against and intimidation of defenders.....	26
6. Demonstrations during election periods.....	26
7. Travel restrictions.....	27
Conclusion	28
ANNEX 1: Summary of concluding observations of the treaty bodies ...	29
ANNEX 2: Resources on freedom of assembly	34

PREFACE

This briefing paper examines the scope of the right to freedom of assembly, with particular emphasis on human rights defenders and their work. This paper draws together the various international standards for the protection of this right, in addition to examining the different standards and challenges to this right for human rights defenders.

The primary audience of this paper are *human rights defenders* working at the international, regional and national levels. This paper seeks to present relevant information in a simple and accessible manner to defenders, and act as a practical tool to support them in their work. It can be used as a resource or background reading for specific trainings for defenders on this topic, in addition to assisting in national advocacy or awareness raising efforts on the right to freedom of assembly, at the regional and national levels.

This paper may also be of use to *national human rights institutions* (NHRIs) when dealing specifically with defenders' issues. In addition, it can be used as resource material for NHRIs when providing advice to States in formulating or reviewing legislation relating to the right to freedom of assembly at the national level.

This briefing paper also collates and references the work of the UN treaty bodies and the UN Special Rapporteur on human rights defenders on the right to freedom of assembly in relation to defenders. *Academics, students and a wider audience* may therefore also find this paper of use as a guide to the international standards for the protection of the right to freedom of assembly for defenders.

INTRODUCTION

The right to freedom of assembly generally refers to the right of any person to peacefully assemble with others, without arbitrary interference from the State. The right to freedom of assembly is therefore a civil and political right intrinsic to the effective functioning of a democracy as it gives meaning and substance to the political participation of citizens of a country by forming the basis of the right to protest.¹

As a critical means for ‘forming, expressing and implementing political opinions’, freedom of assembly holds special significance for the work of human rights defenders as it provides the channel through which they can express dissent and protest against human rights violations.² Given that the defence of human rights has been internationally recognised as a legitimate concern of all people and that warrants the participation of all sections of society, freedom of assembly enables defenders to publicly and collectively carry out their activities. Therefore, together with the right to freedom of opinion, expression and information, and the right to freedom of association, the right to freedom of assembly is central to the work of human rights defenders.

This paper presents an analysis of the right to freedom of assembly, with specific emphasis on the importance of this right for the work of human rights defenders. **Section I** examines international human rights legal standards, the concluding observations and recommendations of the human rights treaty bodies, and the work of relevant UN special procedures. In particular, this paper examines the relevant work of the Human Rights Committee (HRC), the UN Special Rapporteur on human rights defenders (the Special Rapporteur on human rights defenders)³ and the *UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms* (the Declaration on human rights defenders).⁴

This paper also draws attention to the special focus of the work of the Special Rapporteur on human rights defenders on the issue of violations of the right to freedom of assembly.⁵ In addition to noting the importance of this right for the work

¹ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 57/209 (2003), A/58/380, §24; Report on the Situation of Human Rights Defenders in the Americas, Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.124, Doc. 5 rev.1, 7 March 2006, §50-52.

² M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 481, §1.

³ Formerly known as the Special Representative of the Secretary General on Human Rights Defenders prior to the review, rationalisation and improvement of mandates of the Human Rights Council by *Resolution 7/8* in March 2008. The Special Rapporteur on human rights defenders is one of the special procedures created by the late Commission on Human Rights. It was established in 2000 and is mandated to monitor the situation of human rights defenders throughout the world and to assist States in the implementation of the Declaration on human rights defenders.

⁴ UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, adopted by General Assembly resolution 53/144 of 9 December 1998. Available at: <http://www.ohchr.org/english/law/freedom.htm>.

⁵ Out of the 1194 communications sent to governments regarding violations of the Declaration on human rights defenders, the Special Rapporteur noted in her 2006 report to the General

of human rights defenders, the Special Rapporteur on human rights defenders has also found that the lack of a specific thematic mandate of the UN Human Rights Council covering freedom of assembly has intensified the need for collecting information regarding the implementation of the right in accordance with the Declaration on human rights defenders. The Special Rapporteur on human rights defenders has therefore devoted two full reports (in 2006 and 2007) to freedom of assembly of human rights defenders, in addition to drawing attention to this issue in all previous reports to the former UN Commission on Human Rights.

Section II examines particular challenges faced by human rights defenders when exercising the right to freedom of assembly. These include arbitrary arrest and detention, excessive use of force in dispersing demonstrations and the use of legislation to restrict the exercise of the right. This section aims to provide a practical understanding of the international standards of protection for human rights defenders in the exercise of the right to freedom of assembly.

Annex 1 at the end of this paper summarises and provides references to concluding observations and recommendations of the treaty bodies with respect to their interpretation of the right to freedom of assembly. It is intended to provide a quick and easy reference of international standards for the protection of this right for human rights defenders, in addition to providing examples of cases before the treaty bodies from different countries.

Annex 2 provides some resources for further information on freedom of assembly.

I. FREEDOM OF ASSEMBLY IN INTERNATIONAL LAW

The right to freedom of assembly is recognised in various international instruments: the *Universal Declaration of Human Rights* (Article 20), the *International Covenant on Civil and Political Rights* (ICCPR; Article 21)⁶, the *International Convention on the Elimination of all forms of Racial Discrimination* (ICERD; Article 5(d)(ix)), the *Convention on the Rights of the Child* (CRC; Article 15) and the Declaration on human rights defenders (Article 5). Several regional instruments also protect the right to freedom of assembly: the *European Convention on Human Rights* (ECHR; Article 11), the *African Charter for Human and People's Rights* (ACHPR; Article 11) and the *American Convention on Human Rights* (ACHR; Article 15). This paper deals primarily with the right to freedom of peaceful assembly as enshrined in the ICCPR and the Declaration on human rights defenders.

Article 21 of the ICCPR states:

Assembly that approximately 200 communications were specifically regarding the violation of freedom of assembly

⁶ International Covenant on Civil and Political Rights (ICCPR), adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49. Available at: <http://www.ohchr.org/english/law/ccpr.htm>.

The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

In addition, when a State becomes party to the ICCPR, it is under an obligation to protect the right to freedom of assembly by:

- Adopting legislative and other measures (policy or administrative, for example) to give effect to the protection of this right (Article 2(2))
- Providing effective remedy when the right is violated (Article 2(3))

The Declaration on human rights defenders, adopted by consensus by the UN General Assembly in 1998, consolidates existing international legal standards relevant to the protection of human rights defenders. While the Declaration on human rights defenders is not legally binding, its weight lies in the fact that it brings together the existing rights relevant to the protection of human rights defenders and their work under *legally binding* international human rights instruments. Additionally, the Declaration on human rights defenders was adopted by consensus, which reflects a firm international commitment to uphold the rights of human rights defenders.

Article 5 of the Declaration on human rights defenders states:

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

(a) To meet or assemble peacefully;

The parameters within which States must protect the right to freedom of peaceful assembly are addressed in detail in the following sections.

RIGHT TO FREEDOM OF ASSEMBLY IN INTERNATIONAL AND REGIONAL INSTRUMENTS

International instruments:

- Article 21, International Covenant on Civil and Political Rights
- Article 5(d)(ix), International Convention on the Elimination of All Forms of Racial Discrimination
- Article 15, Convention on the Rights of the Child

Regional instruments:

- Article 8, African Charter on the Rights and Welfare of the Child
- Article 11, African Charter on Human and Peoples' Rights
- Article 15, American Convention on Human Rights
- Article 11, European Convention on Human Rights
- Article 28, Arab Charter on Human Rights

Declarations:

- Article 20, Universal Declaration of Human Rights
- Article 2(5), Declaration on the Rights of Persons Belonging to National or Ethnic,

Religious or Linguistic Minorities

- Article 21, American Declaration of the Rights and Duties of Man
- Article 5, Declaration on human rights defenders

1. Scope of the right to freedom of assembly

The right to freedom of assembly can generally be understood as the right of organisers to prepare and conduct an assembly, as well as their right and the right of others to participate in it.⁷ Under the ICCPR, the right to assemble peacefully is protected for citizens as well as foreign nationals or stateless persons within the territory of a given State.⁸

While the term ‘assembly’ is generally understood in its collective sense (i.e. it requires more than one person to form an assembly), in terms of its application as a right, it is to be considered an *individual* right, namely, that every individual person is entitled to the protection and fulfillment of this right.⁹ Additionally Article 5 of the Declaration on human rights defenders expressly states that the right applies to individuals *in association with others*, which implies that this right is also protected for associations of individuals, such as non-governmental organisations (NGOs).

The right to freedom of assembly is a fundamental freedom critical for maintaining and strengthening democratic participation. This primarily means that it should be exercised without arbitrary interference from the State. Additionally, the right to assembly can only be exercised effectively with the ‘protection’ of the State. For example, State protection could take various forms such as by giving police protection to demonstrators, re-routing traffic to allow the use of public space for the assembly or demonstration, and other such activities.¹⁰ However, the broad language of the limitation clause (see part 3) applicable to the right to assembly makes it susceptible to abuse by States or even to the possibility of prohibiting assemblies that are perceived to pose any kind of threat to the power of the State.

Therefore, in order to fully exercise the right to freedom of assembly, a balance between the negative and positive obligations of the State must be maintained (see part 2). This means that a State should refrain from interference with freedom of assembly (a negative obligation), as well as take positive steps towards ensuring protection of freedom of assembly (a positive obligation).

Definition of ‘assembly’

The ICCPR does not provide a definition of what constitutes an assembly, and interpretation of this term is therefore left to the case-law of the HRC and to the customary interpretation of this term under national legal systems. The term ‘assembly’ can broadly be interpreted to refer to ‘intentional temporary gatherings of

⁷ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 483, §4.

⁸ General Comment No.15 (1986), Human Rights Committee.

⁹ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 482, §4.

¹⁰ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 488, §13; Report on the Situation of Human Rights Defenders in the Americas, Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.124, Doc. 5 rev.1, 7 March 2006, §54.

several persons for a specific purpose'.¹¹ Domestic legal systems have differed in their interpretation of the nature and purpose of the assembly. For example, different legal systems have had varying views on whether this right applies solely to assemblies for political purposes (such as political rallies or assemblies organised by political parties)¹² or if it also extends to assemblies for explicitly non-political purposes (such as weddings or festival processions). Due to the broad language employed in Article 21, the definition of an assembly is clarified through the views and decisions of the HRC, and can be said to include peaceful protests and demonstrations in public areas, public and private meetings, processions and marches, with a variety of different purposes.

However, in the case of human rights defenders, an assembly is commonly understood to cover 'meetings in private residences and conferences in public places, demonstrations, vigils, marches, picket lines and other kinds of assemblies, indoors or outdoors, with the aim of promoting and protecting human rights'.¹³

KEY POINTS

For human rights defenders, the right to freedom of assembly relates to **any peaceful private or public gathering with the aim of protecting and promoting human rights**. They can be organised by NGOs, trade unionists, individual defenders, journalists or anyone seeking to promote or protect any issue relating to different human rights.¹⁴

Nature of the assembly

It is important to note that Article 21 of the ICCPR only protects the right of *peaceful* assembly. The corresponding article of the *American Convention on Human Rights* (ACHR, Art.15) qualifies the nature of the assembly by stating that it must be 'without arms'.¹⁵ It can be inferred, therefore, that the peaceful nature of the

¹¹ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 484, §5.

¹² Here the phrase 'political purpose' is used specifically to refer to political activities in the narrow sense of activities concerned with political parties. While the work of human rights defenders may be considered political in a broader sense, they do not fall under this definition.

¹³ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2007), A/61/312, p.8, §31.

¹⁴ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2007), A/61/312, p.8, §31.

¹⁵ American Convention on Human Rights (Adopted at the Inter-American Specialised Conference on Human Rights, San José, Costa Rica, 22 November 1969). Available at: <http://www.cidh.org/Basicos/English/Basic3.American%20Convention.htm>

Article 15. Right of Assembly states:

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.

Article 11 of the African Charter on Human and People's Rights (ACHPR), on the other hand, drops the word 'peaceful' altogether.

Article 11

assembly refers primarily to the manner in which an assembly is held, and does not aim to regulate the content of the opinions expressed at the assembly.¹⁶ In order to fall within the scope of Article 21, assemblies must be held without violence. Assemblies that are not peaceful, or that lose their peaceful character through the use of force, are not covered by Article 21, and such assemblies may thus be legitimately dispersed.

While States are obliged to act if an assembly loses its peaceful character, they should interpret ‘peaceful’ as broadly as possible. For example, State forces should be vigilant that an assembly does not lose its peaceful character due to provocation by police or security forces, or counter-demonstrators (third parties attempting to disrupt the demonstration).¹⁷ The Inter-American Commission on Human Rights (IACHR) has interpreted the corresponding provision of the ACHR as implying that, while the authorities must act to disperse demonstrations that have turned violent, the aim behind the actions of police or security forces should be to encourage the exercise of freedom of peaceful assembly and the protection of persons participating to the fullest extent possible.¹⁸ Therefore, any activities to disperse a crowd of demonstrators should be based upon the need to protect demonstrators and bystanders from any violence. Additionally, the Special Rapporteur on human rights defenders has emphasised that it is the responsibility of the State to protect, rather than prohibit, a peaceful assembly that is threatened by violence.¹⁹

Article 12 of the Declaration on human rights defenders also emphasises that ‘everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms’. This means that the very definition of a human rights defender can only be applied to individuals or organisations engaging in peaceful activities with the aim of defending human rights. If an individual engages in violent activity even if it is in the name of protecting or promoting human rights, then he or she cannot be considered a human rights defender and will not be protected by the Declaration on human rights defenders.

Key points

In order to warrant protection as a fundamental right, an assembly must be conducted in a **peaceful manner**.

Purpose of the assembly

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law, in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Available at: http://www.achpr.org/english/info/charter_en.html

¹⁶ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 486, §9.

¹⁷ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 487, §11.

¹⁸ Report on the Situation of Human Rights Defenders in the Americas, Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.124, Doc. 5 rev.1, 7 March 2006, §63.

¹⁹ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2007), A/61/312, p.12, §56.

Other provisions of the ICCPR protect different types of assemblies. For example, religious processions are protected under Art.18(1) of the ICCPR [Freedom of thought, conscience, religion and belief].²⁰ It follows that Article 21 is intended to protect the ‘discussion or proclamation of information and ideas’ in accordance with freedom of expression as contained in Article 19(2) of the ICCPR, and assemblies that are not addressed or protected by any other article of the Covenant.²¹ It is also generally understood that Article 21 pertains to those assemblies that are directed to public, rather than private interests, and serve a particular purpose within democratic societies.

Article 5 of the Declaration on human rights defenders also protects the right to freedom of assembly in the particular context of the work of human rights defenders. It states that individuals or individuals in association with others, have the right to assemble peacefully for the purpose of promoting and protecting human rights and fundamental freedoms.

It is also important to separate the form of the assembly (i.e. whether it is peaceful, legal, etc.) from the content of the assembly (i.e. the substantive purpose and message of the assembly). This is particularly relevant in cases where provocative messages are being voiced at the assembly. This is due to the fact that the right to assembly can be viewed as a particular mode of freedom of expression, and this right is thus subject to the limitations set down in Articles 19(3)²² and 21.

2. State obligations to ensure freedom of assembly

Both the ICCPR and the Declaration on human rights defenders state that it is the primary obligation of all States under the UN Charter to promote universal respect for and observance of human rights. Both these instruments, in addition to the various international and regional instruments described earlier, reinforce the duty and primary responsibility of States to protect and promote the right to freedom of assembly. The Special Rapporteur on human rights defenders also noted in a report to the General Assembly in 2007, that the right to protest in general ‘entails the obligation on the part of States to take deliberate, concrete and targeted steps to build, maintain and strengthen pluralism, tolerance and an open attitude to the expression of dissent in society’.²³ Additionally, the Special Rapporteur on human rights defenders also recommended that national judiciaries have an important role to play in the

²⁰ Other examples include private meetings for social purposes, which are covered by Art.17 [Right to privacy]. Assemblies by associations are protected by Art.22 [Freedom of association], and political campaign events are protected under Art.25 [Political rights].

²¹ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 485, §6. Article 19(2) refers to freedom of expression.

²² Article 19(3) of the ICCPR reads as follows:

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

²³ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2007), A/62/225, p.2.

‘interpretation and application of national laws that are conducive to the realisation of the right to freedom of assembly.’²⁴

States parties have both negative and positive obligations to uphold the right to freedom of assembly. States should not only refrain from arbitrary interference with this right (a ‘negative’ obligation), but they also have a number of positive duties to fulfill, for example: preventing interference from third parties, making available public roads and rerouting traffic, ensuring that police protection for demonstrators is available, and not arbitrarily denying access to public buildings for the purpose of an assembly.²⁵

The protection of demonstrators from third party interference is of particular importance. This is especially in cases where certain groups of defenders are particularly vulnerable to attacks, either due to the context in which they carry out their work in general (for example, conflict situations, politically unstable climates, election periods, etc.), or because of the issues they work on (for example, women human rights defenders, defenders working on issues relating to sexual orientation, etc.).

KEY POINTS

States have both **positive and negative obligations** in order to fully guarantee the right to freedom of assembly.

This means that States should not interfere with the right to assembly (a ‘negative’ obligation), but also that they should take positive steps to ensure the full and free exercise of this right. Positive obligations include protecting the right of demonstrators to assemble from interference by counter-demonstrators.

3. Limitations on the right to freedom of assembly

As mentioned in the previous section, only peaceful assemblies are guaranteed protection under Article 21 of the ICCPR, and assemblies that are not peaceful or that lose their peaceful character can be dispersed. In addition, the right to freedom of assembly can be limited for the reasons listed in Article 21, namely ‘national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others’. Any restrictions placed on this right must also be in conformity with the law and necessary in a democratic society.

In addition to the above, States parties to the ICCPR must prohibit by law ‘propaganda for war and incitement to hatred’, which therefore also provide legitimate grounds to prohibit an assembly.²⁶

²⁴ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with

General Assembly resolution 60/161 (2007), A/62/225, §98.

²⁵ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 488, §13; Report on the Situation of Human Rights Defenders in the Americas, Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.124, Doc. 5 rev.1, 7 March 2006, §54.

²⁶ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 489, §15.

(i) Legal basis

Article 21 of the ICCPR states that no restrictions may be placed on freedom of assembly other than ‘those imposed in *conformity* with the law’. The restriction on freedom of association states that any permissible restriction on this right must be *prescribed by law*, meaning that administrative regulations limiting this right are not permissible. The restriction on freedom of assembly, on the other hand, has a much broader application because of the way in which it is worded (*‘in conformity with the law’*). The language of this clause implies that, while restrictions on the right to freedom of assembly may not necessarily have to be provided for in the law, they must be in ‘conformity with the law’, thus giving States a much wider scope for restricting this right. This can also be taken to imply that a State can restrict this right through general statutory authorisation and not only by law.²⁷ In practice, this means that the right could be restricted by an executive order or decree, and not solely laws passed in parliament. Therefore, for example, police may derive the authority to disperse demonstrations or assemblies that they perceive to threaten or disrupt public order and/or safety, on the basis of a general authorisation by the State. In some cases, such administrative decrees can be used to curtail the exercise of this right. For example, the Special Rapporteur on human rights defenders has received individual communications alleging abuse of the right to freedom of assembly stemming from a 2001 presidential decree in Belarus entitled ‘On certain measures to improve procedures for holding meetings, rallies, street processions, demonstrations and other mass actions and pickets’. Allegedly, under the decree, ‘the body organising an event could be held entirely responsible should public order be deemed to have been violated and could be fined or deregistered as a result’.²⁸

(ii) Necessity in a democratic society

The second clause of limitation to Article 21 of the ICCPR states that any restrictions on freedom of assembly must be ‘necessary in a democratic society’ in order to achieve its purpose. This provision has been interpreted to contain two conditions – it implies that any State interference with the right to assembly must be *proportional*, and that no limitation can be imposed on freedom of assembly that is not in conformity with *minimum democratic principles*.²⁹

Proportional means that the nature and force of the interference of the State with the right to assembly must be strictly *necessary* to achieve one of the listed purposes. This means that any other alternative that restricts the right to a lesser degree must be exhausted prior to the State using any means that limits the exercise of this right.³⁰

While democratic practices may vary from country to country, the second aspect of this limitation means that interference must meet certain minimal democratic principles, such as pluralism, equality and tolerance. For example, in the case of *Baczowski and Others v. Poland* before the European Court of Human Rights and

²⁷ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 490, §19.

²⁸ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §67.

²⁹ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 489, §22.

³⁰ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 489, §21.

subsequently the subject of several communications by the Special Rapporteur on human rights defenders, the members of NGOs working on issues of sexual orientation were denied permission to hold an Equality March. Although permission was denied, the defenders went ahead with the protest as planned. The European Court ruled in its judgement that the refusal to authorise the demonstration was particularly significant because of the vulnerability of the protestors due to the issue they were defending. The Court further highlighted the importance of ‘pluralism, tolerance and broadmindedness’ in a democratic society, and the role of the State as the ‘ultimate guarantor’ of these principles, and its obligation to take adequate measures to ensure the protection of persons exercising their right to freedom of assembly.³¹

Additionally, justifying restrictions on the basis of whether they are necessary in a democratic society implies that a State must also afford participants in an assembly protection from third parties. For example, in another case before the European Court of Human Rights, *Ollinger v. Austria*,³² a member of a political party who wished to hold a public meeting at a cemetery to commemorate Jews killed in World War II, was denied permission to do so because it would coincide with another gathering of in memory of German soldiers also killed in the war. The Court considered the prohibition on the meeting to be disproportionate to the aim pursued, and stated that:

[It] was not convinced by the Government’s argument that allowing both meetings while taking preventive measures was not a viable alternative which would have preserved the applicant’s freedom of assembly while at the same time offering a sufficient degree of protection as regards the rights of visitors to the cemetery. The Court found that by imposing an unconditional prohibition on the applicant’s assembly, the authorities had given too little weight to the applicant’s interest in holding the assembly and expressing his protest, and had therefore failed to strike a fair balance between competing interests.

Additionally, the Court emphasised the balance between the positive and negative duties of the State, and considered that the State should not only abstain from interfering with the right of persons to assembly, but that it should take positive measures to protect lawful demonstration against counter-demonstrators.

(iii) Permissible purposes for interference

State interference with the right to assembly can only be justified if there is a threat to: national security, public safety, public order (*ordre public*), public health and morals, or for the protection of the rights and freedoms of others.

Most often, assemblies are dispersed, prohibited or denied authorisation to take place on the basis of claims that the assembly in question in some way poses a threat to

³¹ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly Resolution 60/161, A/62/225 (2007), §§46-47.

³² Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly Resolution 60/161, A/62/225 (2007), §§39-41.

national security or public order. The unclear formulation of what constitutes a threat to national security and public order makes these two criteria particularly susceptible to manipulation by authorities who wish to shut down or prevent an assembly. It is therefore necessary for human rights defenders to have a clear understanding of these grounds.

In the case of *national security*, unless demonstrators present a serious political threat (namely threatening the political structure of the nation) or a military threat to the country in question, the right to peaceful assembly cannot be restricted on the basis of threatening national security. The dispersal of an assembly, prohibition of such assemblies by criminal law, and the criminal prosecution of any participants in such a demonstration can only be viewed as justifiable restrictions if they pose such a threat.³³ Counter-terrorism legislation, for example, is often used to restrict or prevent assemblies that allegedly threaten national security (see Section II(2)).³⁴ However, domestic legal definitions of what constitutes terrorism are often so broad that it encompasses legitimate activities that do not pose a threat to national security.

KEY POINTS

- In general, human rights violations become more severe in situations of **military governance** or when governments use the military in order to respond to security concerns. Freedom of assembly is particularly affected in such situations, as defenders are branded as 'subversive', 'threats to national security', or 'propagators of public disorder' for exercising their right to protest.
- Provisions of the national legislation of many countries run counter to rights enshrined in the Declaration on human rights defenders by criminalising legitimate activities of defenders. National security laws, for example, are often used by States to attack defenders and their work when they deal with criticism of the human rights situation. The Special Rapporteur on human rights defenders has identified this as 'one of the **major factors threatening the safety of defenders** and hampering their contribution to the promotion and protection of human rights nationally and internationally.'³⁵

The notion of *public order* is not clearly defined. The maintenance of public order has particular relevance for restricting the right to peaceful assembly under Article 21 of the ICCPR. This is not only because one of the essential elements of protest is the expression of dissent or discontent with the status quo, but also because an expression of criticism against the State (charged with maintaining public order) can often be manipulated into appearing as a serious risk to public order itself.

Disruption of public order is commonly used as an excuse by authorities who wish to prevent or disperse assemblies and even preventively detain or place travel restrictions on human rights defenders prior to an assembly. Defenders are also often accused by the authorities of undertaking 'anti-State' activities or of 'creating public disorder' as

³³ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 492, §23.

³⁴ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly *Resolution 60/161, A/61/312* (2006), §32.

³⁵ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §75 and §83.

a justification for preventing them from carrying out their work. In an example of restrictive legislation in Belarus, the organisation responsible for an event or assembly could be fined or deregistered if the event was seen to disrupt public order.³⁶ The Special Rapporteur on human rights defenders has also noted that administrative measures are often imposed to restrict or prohibit freedom of assembly, *without* taking into account ‘genuine concerns relating to security, public safety or order’.³⁷

EXAMPLE

In 2007, the Special Rapporteur on human rights defenders received information that an Iranian court had convicted a woman human rights defender on charges of “Propaganda against the System” and “Disturbing Public Order” for having participated in a peaceful demonstration calling for better recognition of women’s rights. The defender was sentenced to two years and 10 months imprisonment and 10 lashes.³⁸

A requirement for prior notice to the authorities of the time, place and purpose of a demonstration itself is in principle intended to avoid the disruption of public order during the demonstration. It is therefore only in *exceptional* cases that the *preventive* prohibition of an assembly can be viewed as justified in the interest of public order. Preventive prohibition must be viewed as an exceptional practice as otherwise it could pave the way for unrestricted prohibition of any assembly that threatens the decisions, actions or policies of the State or any of its agencies, or debates controversial issues. Such unrestricted use of preventive prohibition would be incompatible with the tenets of a democratic society, of which public debate is a critical feature.

Demonstrations or assemblies that endanger the *public safety* of participants or passers-by and property can not be considered to fall within the definition of a ‘peaceful’ assembly, and therefore can be restricted on these grounds.³⁹ When police cannot effectively protect demonstrators or other persons who may be affected by the demonstration from physical harm, then the right can be restricted as it poses a risk to public safety. However, the State has to make every reasonable effort to protect the safety of the public before it reaches the conclusion that it can no longer guarantee its protection. However, the European Court, for example, has held the view that participants in a demonstration must be able to hold demonstrations without fearing that they will be physically attacked by counter-demonstrators as this would be likely to deter other organisations or groups from freely expressing their ideas on sensitive issues, and therefore not be conducive to freedom of assembly.⁴⁰ Additionally, the

³⁶ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §67.

³⁷ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §56.

³⁸ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 2003/64 (2008), A/HRC/7/28/Add.1, §1176.

³⁹ M. Nowak, *CCPR Commentary* (N.P. Engel, 2005), 492, §24.

⁴⁰ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2007), A/62/225, §§37-38.

Court was of the view that the positive obligation of States in such cases extended beyond mere non-interference with the right.

Finally, the preamble of the Declaration on human rights defenders also states that the ‘absence of international peace and security’ does not excuse non-compliance with the provisions contained in the Declaration. Also, in Article 17 the Declaration on human rights defenders states that the rights contained within it should only be subject to those limitations that are commensurate with a State’s international obligations and ‘are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society’. The Declaration on human rights defenders captures the spirit and moral force behind the justifiable limitations to the exercise of freedom of assembly, given its importance for the work of human rights defenders. Also, the ICCPR in conjunction with the concluding observations of the HRC, provide more specific indication of the conditions that must be met in order to invoke permissible limitations on the exercise of this right.

KEY POINTS

Any restrictions placed on the right to peaceful assembly must:

- Have a legal basis
- Be compatible with democratic principles
- Serve one of the purposes of protecting national security or public safety, public order, protection of public health or morals, and protection of the rights and freedoms of others

Human rights defenders should pay particular attention to ensuring that any restrictions placed on their right to assembly do not stem from an arbitrary or vague interpretation of one of the legitimate purposes listed above.

4. Derogation from Article 21

Under certain circumstances, States may be allowed to ‘derogate’ or be temporarily exempt from upholding some of their international human rights obligations. Article 4 of the ICCPR allows for such derogation from certain rights contained in the Covenant during periods of emergency. Certain other rights are deemed non-derogable, and thus States are not permitted to suspend these rights even during periods of emergency.

Article 21 on freedom of assembly is one of the derogable rights contained in the ICCPR. Thus, according to Article 4, States can derogate from this right during a period of emergency. However, in its General Comment 29, the HRC has noted specifically that given the limitations already applicable to the right to freedom of assembly in Article 21, no derogation from the provisions of this right can be justified by the exigencies of an emergency situation.⁴¹

⁴¹ ICCPR General Comment 29 (Seventy-second session, 2001): Derogations from provisions of the Covenant during a state of emergency, A/56/40 vol. I (2001), 202, §5.

EXAMPLE

When reviewing the periodic report of Israel in 2003, the HRC expressed concern about what it described as the 'sweeping nature' of emergency measures that derogated from the State's obligations under the ICCPR. The HRC stated that the derogations went beyond the permissible limitations on the right to freedom of assembly, and called for the Ministry of Justice to review the legislation governing the State of emergency in the country, in addition to recommending that 'the State party...review the modalities governing the renewal of the state of emergency and specify the provisions of the Covenant it seeks to derogate from, to the extent strictly required by the exigencies of the situation'.⁴²

II. STANDARDS AND CHALLENGES TO THE RIGHT TO FREEDOM OF ASSEMBLY

Many issues affect the right to freedom of assembly of human rights defenders. This section will examine some of these challenges and obstacles, drawing from the concluding observations of the UN treaty bodies and the reports of the Special Rapporteur on human rights defenders.

Formal **legislative limitations** that are sometimes placed on the right to freedom of assembly include requirements for authorisation or prior notice of a demonstration, security legislation, administrative or executive decrees that place limitations on the right to assembly as guaranteed by a national constitution, or which declare certain kinds of assemblies illegal or punishable by law.

The right to assembly can also be limited by placing direct **restrictions on human rights defenders**, for example through arbitrary or preventive arrest and detention, travel restrictions, arbitrary denial of authorisation to hold an assembly or attacks against and intimidation of defenders and/or their families.

Particular groups of defenders or defenders working on particular thematic areas (such as sexual orientation, reproductive rights, or women's rights) often face certain challenges relating to the exercise of freedom of assembly or may be particularly vulnerable to attacks, intimidation or other violations of their right to freedom of assembly. For example, women human rights defenders participating in protests or assemblies can be more vulnerable to attacks by non-State actors and the authorities because they may defy traditional stereotypes of the position of women in a particular society.⁴³ They are more prone to sexual violence or harassment if they are arrested for protesting, and if they bring their children to a protest (as women are usually the primary care givers to young children), then this places the children also at risk.⁴⁴ This subject has been dealt with in great detail by the Special Representative in her report

⁴² Human Rights Committee, Concluding Observations on Israel, CCPR/CO/78/ISR, 21 August 2003, §12.

⁴³ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2007), A/62/225, §59.

⁴⁴ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2007), A/62/225, §64-65.

to the General Assembly on the protection of vulnerable groups of defenders and defenders working on particular thematic areas.⁴⁵

KEY POINTS

- The right to freedom of assembly can be **violated by law, or in practice**.
- Some defenders are more **vulnerable** to violations of this right, such as women human rights defenders, and defenders working on specific thematic issues such as sexual orientation and gender identity.

Particular challenges falling under these different categories of violations are examined below.

1. Legislative requirements for authorisation or prior notice

In many countries, human rights defenders and/or their organisations are required to notify authorities prior to a demonstration. This requirement is compatible with the permissible limitations of the right.⁴⁶ However, legislative requirements for prior notice or authorisation must be closely examined to ensure that in practice they are compatible with the full exercise of the right to freedom of assembly.

Prior notice may be part of a simple notification system (see below), or the State may impose a licensing system, where approval must also be granted before the demonstration can legally occur. The Special Representative on human rights defenders has strongly encouraged States to adopt regimes of notification rather than authorisation. These two regimes, one calling for mere notification and the other requiring authorisation or approval from authorities to exercise the right to freedom of assembly, must be clearly distinguished as they have different implications for human rights defenders and their freedom of assembly.

In cases where the requirement for **prior notice** is merely a formal requirement of informing authorities that a demonstration is about to occur, the requirement poses no threat to the right, *unless* it prescribes an extended period of notice prior to the occurrence of a demonstration. For example, the HRC has found that an advance notice period of 15 days prior to holding an assembly constitutes an unreasonably long period and was therefore not a justified limitation.⁴⁷ The HRC called for the revision of the law and further stated that the procedures for appealing the decision should be made clear to all concerned so as to promote and allow the full exercise of the right.⁴⁸ The corresponding provision of the ACHR protecting freedom of assembly has also been interpreted by the IACHR as allowing States to regulate the

⁴⁵ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2007), A/62/225.

⁴⁶ *Kivenmaa v. Finland* (412/90), §9.2, Human Rights Committee.

⁴⁷ Human Rights Committee, Concluding Observations on the Republic of Moldova, CCPR/CO/75/MDA, 26 July 2002, §15. See also *Kenya*, CCPR/CO/83/KEN, 29 April 2005, § 23.

⁴⁸ Human Rights Committee, Concluding Observations on the Republic of Moldova, CCPR/CO/75/MDA, 26 July 2002.

use of public space by establishing requirements of prior notice, but that such restrictions should not ‘invalidate the exercise of the right’.⁴⁹ The IACHR has therefore also ruled that disproportionately long periods of prior notice (such as 10 days) are not compatible with the State’s positive obligations with regards to freedom of assembly.⁵⁰

While the requirement of prior notice or authorisation may not violate the right to freedom of peaceful assembly *per se*, there are a number of ways in which a regime of **authorisation** may restrict it *in practice*. Authorisation implies that there is a designated public authority which has the power to authorise or approve the holding of a demonstration. This means that rather than merely notifying the authorities of the occurrence of a demonstration, the organizer must obtain approval for the demonstration or it will be considered ‘unauthorised’ and therefore unlawful. Three key observations could be made regarding the implications of a regime of authorisation.

First, the requirement for prior authorisation could lead to undue restrictions on the right if there is an arbitrary denial of authorisation. The IACHR, for example, has also noted that requirements for prior notice or authorisation to exercise the right to freedom of assembly should not be interpreted as leaving persons at the mercy of a discretionary authority.⁵¹ The Special Rapporteur on human rights defenders has also noted that according to reports, the decision to grant authorisation to defenders has often been ‘arbitrary, rather than based on laws and regulations’ and that decisions to grant authorisation have sometimes been politically motivated and based on individual relationships with the organisations or defenders requesting authorisation.⁵² Alternatively, when decisions not to grant authorisation were taken, insufficient or invalid reasons have often been provided by governments, such as concerns that the assembly would disturb public order, that the organisation itself was not registered, or that there could be violent counter demonstrations. Regarding the latter reason, the Special Rapporteur on human rights defenders has emphasised that if a peaceful assembly is threatened by violence from a counter-demonstration, it is the duty of the State to protect the participants in the assembly, and that this cannot be submitted as an excuse to prevent the assembly from taking place.⁵³ States must take all possible steps to ensure the peaceful conduct of the assembly. The Special Rapporteur on human rights defenders has also urged that authorisation should be granted on the

⁴⁹ Report on the Situation of Human Rights Defenders in the Americas, Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.124, Doc. 5 rev.1, 7 March 2006, §56.

⁵⁰ Report on the Situation of Human Rights Defenders in the Americas, Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.124, Doc. 5 rev.1, 7 March 2006, §56.

⁵¹ Report on the Situation of Human Rights Defenders in the Americas, Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.124, Doc. 5 rev.1, 7 March 2006, §58.

⁵² Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §55.

⁵³ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §54.

basis of national legislation on a non-discriminatory basis, in conformity with the ICCPR.⁵⁴

Second, when authorisation is denied, either fairly or arbitrarily, some form of effective remedy, review or appeal of the decision should be guaranteed by the State.⁵⁵ Otherwise, any person wishing to participate in a demonstration would have no avenue to make the case for the legitimacy of a particular assembly.

Third, if a demonstration is denied authorisation and is considered unlawful/illegal by the authorities, this places the participants at increased risk of violence by police or other authorities seeking to disperse the demonstration.⁵⁶ The use of excessive force to disperse even illegal or unauthorised assemblies is not in compliance with the right to freedom of assembly, and will be discussed in part 3 of this chapter.

Finally, it must be emphasised that the purpose of any regulation prescribing prior notice or authorisation cannot be to prevent the demonstration but to ensure that the demonstration can take place peacefully. The only legitimate purpose of such a restriction is to facilitate the exercise of the right to freedom of assembly without causing a public disturbance.⁵⁷ However, in cases where the preventive prohibition of a demonstration is considered to be in the interest of public order, the authorities should consider whether any disruption can be avoided *if* precautionary administrative measures are taken prior to the demonstration. This is ostensibly the purpose of a regime of prior authorisation or notification in the first place - that is, to aid authorities in allowing the demonstration to take place peacefully.

KEY POINTS

- The Special Rapporteur on human rights defenders has recommended that States favour regimes of **notification** rather than *authorisation*, especially in the case of defenders exercising their right to assembly.
- In cases where authorisation is required for holding an assembly, States should ensure that national legislation is in accordance with the principle of **non-discrimination** as enshrined in the ICCPR.⁵⁸

2. Security legislation

⁵⁴ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with

General Assembly resolution 60/161 (2006), A/61/312, §96.

⁵⁵ See HRC Concluding Observations on Algeria, CCPR/C/DZA/CO/3, 12 December 2007, §25.

⁵⁶ HRC Concluding Observations on Kenya, CCPR/CO/83/KEN, 29 April 2005, §23.

⁵⁷ Report on the Situation of Human Rights Defenders in the Americas, Inter-American Commission on Human Rights (IACHR), OEA/Ser.LV/II.124, Doc. 5 rev.1, 7 March 2006, §57.

⁵⁸ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §96.

Security legislation, that is, laws, decisions and other measures adopted by a State in order to protect national security, frequently gives unlimited or at least substantial special powers to the State. However, the scope of such legislation often goes beyond the stated aim of maintaining security and is used to silence any criticism of the State, including criticism expressed by human rights defenders regarding human rights violations in the country. The Special Rapporteur on human rights defenders has noted the impact of security legislation on the work of human rights defenders,⁵⁹ and has also stated that the worst affected persons are ‘pro-democracy activists and those organising or taking part in peaceful public action asserting their right to independence or self-determination’.⁶⁰

A relevant example of security legislation are counter-terrorism laws, whose broad and vague wording of what constitutes an act of terrorism can give vast discretionary powers to the State. In 2006, the HRC expressed its concern about the United States of America, and called for any formulation of counter-terrorism legislation to be in full conformity with the ICCPR.⁶¹ The HRC noted in particular that the definition of terrorism seemed to extend to the expression of political dissent. Even if dissent could be deemed ‘unlawful’ under a domestic executive order, the HRC concluded that it could not validly be considered as an act of terrorism.

With particular significance for the right to peaceful assembly, the HRC made the following observation in the case of Iceland in 2005:

The Committee expresses concern that Act 99/2002 amending the General Penal Code sets out a vague and broad definition of terrorism (art. 100 (a)), which might encompass and consequently jeopardize legitimate activity in a democratic society, in particular participation in public demonstrations (articles 2 and 21 of the Covenant).⁶²

The Special Rapporteur on human rights defenders has noted in particular the importance of human rights defenders and their work in contexts where security legislation is in place because of a deteriorating human rights situation, and emphasised the need for them to be free to continue their human rights work.⁶³ The Special Rapporteur on human rights defenders has raised concerns about the debilitating effects of security legislation on the work of human rights defenders, and emphasised the importance of human rights activity in such situations.

KEY POINTS

The HRC has repeatedly observed that the broad formulation of security legislation frequently restricts legitimate activities stemming from the exercise of fundamental rights, such as the

⁵⁹ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 57/209 (2003), A/58/380.

⁶⁰ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 57/209 (2003), A/58/380.

⁶¹ HRC Concluding Observations on United States of America, CCPR/C/USA/CO/3/ Rev.1, 2006, §11.

⁶² HRC Concluding Observations on Iceland, CCPR/CO/83/ISL, 25 April 2005, § 10.

⁶³ Report of the SRSG (2003), A/58/380, §47-58.

right to peaceful assembly.⁶⁴ The Special Rapporteur on human rights defenders has also taken this view, and has observed that ‘imprecise definitions’ in legislation allow for different interpretations which tend to ‘be based far more on government policy than on objective legal correctness’ and that this permits the **criminalisation of certain types of human rights activity** in addition to placing **defenders themselves in an illegal situation** domestically. This puts defenders at a heightened risk of prosecution.⁶⁵

3. Use of excessive force to disperse assemblies

Human rights defenders are increasingly targeted by police, State officials, and/or other security or military personnel during peaceful demonstrations, and in particular when dispersing demonstrators.⁶⁶ Defenders have been killed or gravely injured during demonstrations or meetings due to excessive or disproportional use of force, including by use of ‘tear gas, rubber-coated metal bullets, rubber bullets, stun grenades and other violent means to disperse peaceful gatherings’.⁶⁷

Even if a demonstration has taken place without necessary authorisation, the excessive use of force –that can potentially lead to injury or death of demonstrators - to disperse the assembly, constitutes a grave human rights violation. The HRC, the Committee on the Elimination of Racial Discrimination (CERD) and the Committee against Torture (CAT) have all dealt with cases of the use of excessive force to break up demonstrations.⁶⁸ In all cases where an assembly has been dispersed by force or if allegations about the use of excessive force have been made, the State is under an obligation to investigate and prosecute those responsible as swiftly as possible.

A current trend is for authorities to justify the violent dispersal of an assembly if the assembly itself has turned violent. However, the Special Rapporteur on human rights defenders has noted that in many cases the authorities themselves have attempted to provoke violence during an assembly in order to validate their own violent means of quelling the assembly in question. Alternatively, the use of excessive or disproportionate force by the authorities can also provoke a violent reaction from those participating in the assembly. Additionally, counter-demonstrators or other non-State third parties may also sometimes be responsible for instigating violence during a peaceful demonstration or protest, which is often left unaddressed by the authorities. Persons participating in the assembly may also resort to violence, but in such cases the assembly no longer constitutes a ‘peaceful assembly’ and no longer falls under the protection of Article 21 of the ICCPR.

⁶⁴ Another example can be found in the case of the Russian Federation before the Committee, where the latter observed that the definition of ‘extremist activities’ under a federal law aimed at combating xenophobia and racism, was ‘too vague to protect individuals and associations against arbitrariness in its application’, and recommended that the definition be revised to be more precise and limit its application to specific cases. See: HRC Concluding Observations on the Russian Federation, 2003, HRC/79/RUS, §20(r).

⁶⁵ Report of the SRSG (2003), A/58/380, §§11-12.

⁶⁶ CHR 2005 (E/CN.4/2005/101).

⁶⁷ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §41.

⁶⁸ CERD Concluding Observations on Ecuador, A/58/18 (2003) 22, § 58; CAT Concluding Observations on Indonesia, A/57/44 (2002) 22, § 42; Venezuela, A/57/44 (2002) 32, § 80; Belgium, A/58/44 (2003) 49, §§ 129, 131. See Appendix 1 for further information.

Violent suppression of an assembly by the State can only be justified under the most stringent conditions. The IACHR has observed that the condition for the use of force should be the safety of the public. This implies that the authorities must ensure that the quickest and safest means of dispersal are used, with security or police forces making the best possible effort to minimise injury or loss of life to participants in the assembly.⁶⁹ The IACHR has emphasised that the use of force must be a ‘last resort’, and has underscored the fact that States do not have unlimited powers to disperse an assembly, but must use only necessary and proportionate means to achieve that purpose.⁷⁰

When dealing with cases where excessive force has been used to disperse demonstrations, the treaty bodies have recommended that swift, impartial and independent inquiries should be made into any allegations of the use of force⁷¹ and that human rights training and sensitisation of police officers⁷² should be undertaken by States to ensure the protection of this right.

KEY POINTS

- The lack of authorisation or legality of an **assembly** does *not* provide a justification for the use of force to disperse the demonstration, except in very limited circumstance and where absolutely necessary.
- If excessive force has been used when dispersing an assembly, authorities are obliged to hold an **independent investigation** into the proceedings and prosecute those responsible as soon as possible.

4. Arrest and detention

Human rights defenders exercising their right to freedom of assembly are often arrested and/or detained, prior to, during or after assemblies. Arrests and detentions are often carried out on an arbitrary basis (see below). Moreover, defenders face an increased risk of violence while in custody, and it has been reported that a significant

⁶⁹ Report on the Situation of Human Rights Defenders in the Americas, Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.124, Doc. 5 rev.1, 7 March 2006, §63.

⁷⁰ Report on the Situation of Human Rights Defenders in the Americas, Inter-American Commission on Human Rights (IACHR), OEA/Ser.L/V/II.124, Doc. 5 rev.1, 7 March 2006, §64, 65.

Also: According to the Basic Principles on the use of force and firearms by law enforcement officials, Principles 13 and 14 which provide guidance on how to police unlawful assemblies clearly state that:

13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

⁷¹ HRC, Concluding Observations on Togo, CCPR/CO/76/TGO, 28 November 2002. §11.

⁷² HRC, Concluding Observations on Sweden, CCPR/CO/74/SWE, 24 April 2002, §10; also see CERD, Concluding Observations on Ecuador, A/58/18 (2003) 22, § 58.

number of defenders have been ill-treated, tortured, raped and/or faced other forms of violence during their detention.⁷³ It has also been reported that a number of defenders who are arrested do not face trial and are released afterwards, sometimes on the condition that they do not return to the location of the demonstration,⁷⁴ or that they refrain from participating in future gatherings. Preventive detention of human rights defenders in order to stop them from exercising their right to freedom of assembly, either through direct intervention to prohibit their participation in protests or demonstrations, or to prevent them from traveling to attend conferences or human rights related events, also constitutes an issue of concern (see below).

The issue of arbitrary arrests and detentions is one of particular concern for defenders as they occur frequently on a mass scale, before, during and after protests and are a common practice in many countries.⁷⁵ The Working Group on Arbitrary Detention has defined arbitrary detention as any deprivation of liberty that fulfills at least one of the following conditions: it cannot be justified on any legal basis; it results from the exercise of rights and freedoms proclaimed in the *Universal Declaration of Human Rights* and the ICCPR (for those States that are party to the Covenant); or it results from the complete or partial non-observance of relevant standards pertaining to the right to fair trial.

The HRC has stated that the arrest of persons participating in a peaceful assembly can be deemed arbitrary *even if* the arrest has been carried out in accordance with the law, if the arrest results from the legitimate exercise (i.e. non-violent) of a fundamental right contained in the ICCPR. In other words, a person legitimately exercising his or her freedom of peaceful assembly, even if he or she participates in an unauthorised (and therefore unlawful) demonstration, cannot be arrested on those grounds alone. The HRC observed in the case of Canada:

The Committee is concerned about information that the police, in particular in Montreal, have resorted to large-scale arrests of demonstrators. It notes the State party's response that none of the arrests in Montreal have been arbitrary since they were conducted on a legal basis. The Committee, however, recalls that arbitrary detention can also occur when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by the Covenant, in particular under articles 19 and 21. The State party should ensure that the right of persons to peacefully participate in social protests is respected, and ensure that only those committing criminal offences during demonstrations are arrested.⁷⁶

KEY POINTS

⁷³ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §39.

⁷⁴ Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §39.

⁷⁵ Report of the SRSG (2004), CHR 2004 (E/CN.4/2004/94), §44.

⁷⁶ HRC Concluding Observations on Canada, CCPR/C/CAN/CO/5, 2 November 2005, § 20.

- An arrest can be deemed arbitrary, even if it has been conducted on a legal basis, if it results from the legitimate exercise of a fundamental right such as the right to peaceful assembly.
- The arrest of human rights defenders can often place them at risk of other violations, particularly violence from authorities at the place of detention.

5. Attacks against and intimidation of defenders

Defenders who organise public demonstrations or gatherings are at particular risk of violent attacks or intimidation. While the latter may not constitute a direct violation of the right to assembly *per se*, they may be directed against defenders due to their participation in demonstrations or assemblies and may intensify around the time when demonstrations take place. For example, the Special Rapporteur on human rights defenders has noted that both defenders and their families have received phone calls and messages threatening death or injury around the time of an assembly to pressure them not to continue with their work. Additionally some defenders have lost or been suspended from their jobs because of their participation in demonstrations or assemblies.

While such threats and attacks may not violate the right to freedom of assembly directly, they are clearly not conducive to the free and full exercise of the right by human rights defenders, who may have no choice but to refrain from exercising their right to assembly in order to protect themselves or their families from reprisals. The Declaration on human rights defenders asserts the right of defenders to be free from reprisals for their work, and calls upon States to take all necessary steps to protect defenders from any violence, threats, retaliation, discrimination, pressure or ‘any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.’⁷⁷ Therefore, while such attacks against defenders may not violate Article 21 of the ICCPR or Article 5 of the Declaration on human rights defenders, they violate other provisions contained in these and other human rights instruments.

KEY POINTS

Intimidation, harassment and attacks against defenders or members of their families can indirectly result in the violation of the right to freedom of assembly as the ultimate aim of the harassment is to discourage defenders from organising or participating in an assembly.

6. Demonstrations during election periods

In a number of countries, election periods (including pre- and post-election periods) can be a dangerous time for human rights defenders, placing them at an increased risk of violence because of their work.⁷⁸ Arbitrary detentions and arrest, often on a mass-

⁷⁷ Article 12, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms.

⁷⁸ Report of the SRSR HRD (2006), Nigeria, E/CN.4/2006/95/Add.2, §99.

scale,⁷⁹ and the use of excessive force to disperse demonstrations are common occurrences during election periods. For example, the HRC noted in the case of the Gambia, that assemblies in which members of the political opposition desired to participate were denied authorisation.⁸⁰ The HRC has observed that the political dimension of the right to freedom of assembly must be respected by States, namely, safety must be ensured for those who wish to engage in peaceful demonstrations for or against a particular political party.⁸¹ Expressing opposition to a political party is a critical element of political participation in democratic countries, and must be allowed to occur without any violence or undue restrictions.

KEY POINTS

Gatherings before, during or after sensitive election periods may be particularly prone to violations, and defenders can face a number of violations including physical attacks, unfair trials and arbitrary detention. Both the HRC and the Special Rapporteur on human rights defenders have reiterated the importance of peaceful political opposition as an integral part of a thriving democracy.

7. Travel restrictions

Travel restrictions on defenders to prevent them from participating in conferences or other kinds of assemblies relating to the protection and promotion of human rights also constitute direct or indirect violations of the rights to freedom of assembly and freedom of movement. Such restrictions may include the confiscation of travel documents or passports, refusal to issue relevant travel documents, and any other actions that prevent defenders from leaving or returning to the country at airports or at country borders. The Special Rapporteur on human rights defenders has noted that such travel restrictions not only violate the rights to freedom of assembly of human rights defenders under the Declaration (Article 5), but also runs counter to the spirit of the Declaration on human rights defenders, and also contravenes several other provisions of the Declaration on human rights defenders which affirm the right of defenders to carry out their work (Art.12), to discuss human rights issues (Art.6), and to develop new ideas relating to human rights (Art.7).

KEY POINTS

The right of defenders to peaceful assembly, and in particular to travel to participate in gatherings at the national, regional and international levels, should be read in the context of the preamble of the Declaration on human rights defenders, which states that defenders have the right to “promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels”.⁸²

⁷⁹ Report of the SRSR HRD (2006), Ukraine, CCPR/C/UKR/CO/6 (HRC, 2006), §15.

⁸⁰ HRC, Concluding Observations on The Gambia, CCPR/CO/75/GMB, 12 August 2004, §22.

⁸¹ HRC, Concluding Observations on Uganda, CCPR/CO/80/UGA, 4 May 2004, §22.

⁸² Report of the Special Representative of the Secretary-General on Human Rights Defenders, in accordance with General Assembly resolution 60/161 (2006), A/61/312, §§57-60.

CONCLUSION

The contribution of protests, marches, demonstrations and mass public mobilisations in calling for an end to violations stemming from colonialism, racism, inequality and other injustices are testament to the historical significance of freedom of assembly, and its importance for the recognition and protection of human rights around the world. As emphasised at the beginning of this paper, freedom of assembly, along with freedom of expression, helps create the space for public debate and criticism that is such an essential feature of well-functioning democracies. In the context of human rights defenders, freedom of assembly, is critical for ensuring an enabling environment in which they can carry out their work safely and effectively.

In her most recent report in 2008, the current Special Rapporteur on human rights defenders has reiterated the importance of the right to freedom of assembly for human rights defenders and the commitment of the mandate to continue to analyse the obstacles encountered by defenders in exercising this right.⁸³ The Special Rapporteur on human rights defenders emphasised that her mandate continued to receive cases regarding violations of defenders when protesting, such as arbitrary arrests, repression of protests with use of excessive force, and denial of permission for demonstrations. It remains clear therefore that freedom of assembly of human rights defenders continues to be violated around the world and that is important for defenders to have a clear picture of the international standards for the protection of this right when carrying out their work at local, national or regional levels.

This paper has provided an overview of the international standards for the protection of freedom of assembly, while simultaneously examining the range of obstacles that human rights defenders face when exercising this right. Requirements for authorisation of assemblies, use of security legislation to restrict freedom of assembly, use of excessive force to disperse assemblies and the vulnerability of defenders when demonstrating around election periods are some of the challenges to this right that have been examined in this paper. The range and number of cases where freedom of assembly has been violated around the world, as seen in this paper, are testament to the importance of the need to constantly reinforce the international standards for the protection of this right, in order to allow defenders to continue to carry out their work effectively and safely.

The authoritative interpretation of freedom of assembly by the HRC of this right as enumerated under the ICCPR, in addition to the recommendations of the Special Rapporteur on human rights defenders provide a strong foundation for defenders to challenge restrictions and obstacles to freedom of assembly in the environments in which they work.

⁸³ Report of the Special Rapporteur on the situation of human rights defenders, in accordance with General Assembly resolution 62/152, (2008), A/63/288, §§ 44-45.

ANNEX 1: SUMMARY OF CONCLUDING OBSERVATIONS OF THE TREATY BODIES

CHALLENGES TO FREEDOM OF ASSEMBLY			
1. Authorisation			
In many cases, there may be a requirement by authorities for prior notice, registration or authorisation before persons can hold a protest, demonstration or otherwise exercise the right to freedom of assembly in a similar manner. While the requirement for prior authorisation is not incompatible with the exercise of this right per se, there have been several cases where such a requirement <i>has</i> resulted in a violation of the right to freedom of assembly. Regimes of authorisation may also present a variety of other issues for defenders.			
COUNTRY	ISSUES IDENTIFIED BY THE COMMITTEES	RECOMMENDATIONS MADE BY THE COMMITTEES	SOURCES
Algeria	Human rights organisations and defenders subject to harassment and intimidation, unable to pursue activities freely, especially right to peaceful demonstration	State should guarantee the right to appeal against any refusal of registration	HRC, Concluding Observations on Algeria, CCPR/C/DZA /CO/3, 12 December 2007, §25.
Libyan Arab Jamahiriya	Laws and regulations governing the registration of groups with a view to authorising appeals and their current application prevent the exercise of the right to freedom of association and peaceful assembly	State should take all necessary measures to guarantee the exercise in practice of the right to peaceful association and assembly	HRC, Concluding Observations on Libyan Arab Jamahiriya, CCPR/C/LBY/CO/4, 15 November 2007, §25.
Paraguay	Unreasonable restrictions on time, place and numbers of demonstrators and requiring prior police authorisation	State should amend its legislation to ensure free exercise of the right to peaceful demonstration	HRC, Concluding Observations on Paraguay. CCPR/C/PRY/CO/2. 24 April 2006, §20
Syrian Arab Republic	Laws and regulations and their application prevent the exercise of the right to peaceful assembly	State should provide statistical information on the number of and grounds for denials of applications, the number of cases where denials have been appealed, the number of rejected appeals and on what grounds	HRC, Concluding Observations on Syrian Arab Republic, CCPR/CO/84/SYR, 9 August 2005, §15.
Kenya	Public demonstrations denied authorisation for reasons not justified in Article 21; no remedy available for denial of authorisation; and unauthorised meetings broken up with violence	State should guarantee the right of peaceful assembly and impose only those restrictions that are necessary in a democratic society	HRC, Concluding Observations on Kenya, CCPR/CO/83/KEN, 29 April 2005, § 23.

Morocco	Abuse of practice of issuing receipt for advance notice of meetings	Obstacles to the exercise of the right of assembly should be eliminated	HRC, Concluding Observations on Morocco, CCPR/CO/82/MAR, 1 December 2004, §24.
Benin	Demonstrations banned for reasons not justified in Article 21	Timely remedies for appealing any ban should be available	HRC, Concluding Observations on Benin, CCPR/CO/82/BEN, 1 December 2004, §23.
Gambia	Discriminatory denial of authorisation for meetings, targeting political opposition	State should ensure full respect for the provisions of Article 21 on a non-discriminatory basis	HRC, Concluding Observations on The Gambia, CCPR/CO/75/GMB, 12 August 2004, §22.
Republic of Moldova	Requirement of 15 days advance notice to authorities may unduly circumscribe legitimate forms of assembly	State should revise law on time period, as well as the procedures applied to requests and appeals against initial decisions	HRC, Concluding Observations on the Republic of Moldova, CCPR/CO/75/MDA, 26 July 2002, §15.
Syrian Arab Republic	Restrictions on public meetings and demonstrations exceed those authorised under Article 21	Conditions for authorisation and procedure for appeals of denial should be clarified	HRC, Concluding Observations on Syrian Arab Republic, CCPR/CO/71/SYR, 24 April 2001, §25.

2. Security legislation

The frequently vague and broad sweep of counter-terrorism legislation may be used to curtail legitimate activities and rights of human rights defenders, usually in the interest of 'national security'.

COUNTRY	ISSUES IDENTIFIED BY THE COMMITTEES	RECOMMENDATIONS MADE BY THE COMMITTEES	SOURCES
United States of America	Broad definition of 'terrorism' that is imprecise or includes a broad range of activities, used to curtail freedom of assembly	State should ensure that its counter-terrorism measures are in full conformity with ICCPR	HRC, Concluding Observations on the United States of America. CCPR/C/USA/CO/3, 15 September 2006, §11.
Iceland	Vague and broad definition of terrorism which might encompass and jeopardise legitimate activities, in particular participation in public demonstrations	State should formulate and adopt a more precise definition of terrorist offences	HRC, Concluding Observations on Iceland, CCPR/CO/83/ISL, 25 April 2005, § 10.

3. Use of excessive force

The use of excessive force to disperse a demonstration, even one that has not received authorisation, is not compatible with the exercise of the right to freedom of assembly. Any attempted dispersal of a demonstration should be initiated in order to avoid a serious situation of public disorder that may endanger the protestors. No peaceful demonstration should be dispersed, particularly with the use of force or violence.

COUNTRY	ISSUES IDENTIFIED BY THE COMMITTEES	RECOMMENDATIONS MADE BY THE COMMITTEES	SOURCES
Togo	Law enforcement personnel make excessive use of force in demonstrations and gatherings in which students, political opposition and human rights organisations participate	Impartial inquiries should be carried out after any allegation of the use of excessive force to break up a demonstration	HRC, Concluding Observations on Togo, CCPR/CO/76/TGO, 28 November 2002, §11.
Sweden	Several cases of excessive use of force by the police led to serious injury and death	Independent investigations into injuries and death; prosecution of law-enforcement officers; human rights training of officers; no equipment that can endanger human life should be used by police to control demonstrations	HRC, Concluding Observations on Sweden, CCPR/CO/74/SWE, 24 April 2002, §10.
Ecuador	Instances of excessive use of force by the police and armed forces against indigenous people, particularly in the context of political demonstrations and civil unrest	State should undertake human rights education of police, armed forces and prison staff to address use of excessive force	Report of CERD to the General Assembly, A/58/18 (2003), § 58.
Indonesia	Use of force during demonstrations and during investigations	State party should undertake prompt, impartial and effective investigations into allegations of ill-treatment by authorities; prosecution and punishment of perpetrators; protection of human rights defenders from harassment, threats and other attacks; human rights education for law enforcement officials, judges, and medical personnel	Report of CAT to the General Assembly, A/57/44 (2001-2002), §§ 42(b), 45.
Belgium	Excessive use of force during public demonstrations	Ensure compliance of guidelines on use of force during public demonstrations and expulsions of foreigners with ICCPR; State must conduct immediate inquiries into any allegations	Report of CAT to the General Assembly, A/58/44 (2003), §§ 129(c), 131.

4. Arbitrary arrest and detention

Arrest often follows the dispersal of an assembly, or even precedes an assembly if the ultimate aim is to prevent it from taking place.

COUNTRY	ISSUES IDENTIFIED BY THE COMMITTEES	RECOMMENDATIONS MADE BY THE COMMITTEES	SOURCES
Democratic Republic of Congo	Human rights defenders subject to intimidation, harassment, prohibition of demonstrations and arbitrary arrest and detention by security forces	States should protect the activities of human right defenders and should ensure that restrictions on their activities should be compatible with Article 21 and 22 of the ICCPR	HRC, Concluding Observations on Democratic Republic of Congo. CCPR/C/COD/CO/3, 26 April 2006, §23.
Canada	Large-scale arrests of demonstrators	Arrest may be arbitrary even if conducted on a legal basis if it results from exercise of a fundamental right; States should ensure respect for right to peaceful assembly; and ensure only those committing criminal offences during demonstrations are arrested	HRC Concluding Observations on Canada, CCPR/C/CAN/CO/5, 2 November 2005, § 20.

5. Right to protest during election periods

Threats to freedom of assembly often intensify before, during or right after election periods. Given the importance of the right to assembly for democratic participation, it is particularly important for States to put safeguards in place to protect peaceful assemblies in this context.

COUNTRY	ISSUES IDENTIFIED BY THE COMMITTEES	RECOMMENDATIONS MADE BY THE COMMITTEES	SOURCES
Ukraine	Mass arrests and detention of students participating in a peaceful protest during election period	States should ensure clear standards for exercising freedom of peaceful assembly and expression	HRC, Concluding Observations on Ukraine, CCPR/C/UKR/CO/6. 28 November 2006, §15.
Uganda	Peaceful demonstrations organised by opposition political parties forcibly dispersed by the police	State should ensure full enjoyment of the right to freedom of association, in particular in its political dimension	HRC, Concluding Observations on Uganda, CCPR/CO/80/UGA, 4 May 2004, §22.

6. Attacks and intimidation

Intimidation, harassment and attacks against human rights defenders or members of their families and friends not only puts their physical integrity at risk but also creates an atmosphere of fear and uncertainty that is not conducive to their psychological well-being or their ability to work. Attacks and harassments of defenders prior to their participation in demonstrations can threaten their freedom of assembly by deterring their participation, as can attacks in retaliation for participating in demonstrations.

COUNTRY	ISSUES IDENTIFIED BY THE COMMITTEES	RECOMMENDATIONS MADE BY THE COMMITTEES	SOURCES
Nicaragua	Systematic persecution and death threats against human rights defenders, in particular defenders of women's rights and reproductive rights; de facto restrictions on right to freedom of assembly	States should stop instances of persecution and threats, ensure perpetrators are punished and guarantee right to freedom of expression, association and assembly	HRC, Concluding Observations on Nicaragua, CCPR/C/NIC/CO/3,12 December 2008, §19.
Tunisia	Human rights organisations and defenders unable to freely carry out activities or exercise right to peaceful assembly because of harassment, intimidation and arrests	State should take steps to end intimidation and harassment and protect the peaceful activities of human rights organisations and defenders; reports of such acts should be investigated without delay; any restrictions imposed on the right to peaceful assembly and demonstration are compatible with Articles 19, 21 and 22 of the ICCPR.	HRC, Concluding Observations on Tunisia, CCPR/C/TUN/CO/5, 23 April 2008, §20.

ANNEX 2: RESOURCES ON FREEDOM OF ASSEMBLY

❖ UN Special Rapporteur on Human Rights Defenders

- All reports of the Special Rapporteur on human rights defenders can be found at: <http://www2.ohchr.org/english/issues/defenders/annual.htm>
- 2007 [A/62/225](#) The right to protest in the context of freedom of assembly
- 2006 [A/61/312](#) Analysis of methodology of work and the right of freedom of assembly
- 2003 [A/58/380](#) Analysis of impact of security legislation and of emergency situations on defenders

❖ UN Treaty Bodies

- All information relating to the Human Rights Committee, including reports, concluding observations and general comments, can be found at: <http://www2.ohchr.org/english/bodies/hrc/index.htm>
- Information relating to all other treaty bodies can be found at: <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

❖ Universal Human Rights Index

- This search engine allows users to search through the reports, observations and recommendations of the treaty bodies, special procedures and other relevant human rights bodies, and is available at: <http://www.universalhumanrightsindex.org>

❖ Regional human rights resources

- Report on the situation of human rights defenders in the Americas (Inter-American Commission on Human Rights), available at: <http://www.cidh.org/countryrep/Defenders/defenderstoc.htm>
- Special Rapporteur on human rights defenders in Africa: http://www.achpr.org/english/_info/index_hrd_en.html
- Council of Europe webpage on human rights defenders and related materials: http://www.coe.int/t/commissioner/activities/themes/hrd_en.asp

PROJECT COORDINATOR

Inmaculada Barcia, Manager, Regional & National Human Rights Defenders Programme

AUTHORS

Kaavya Asoka, Human Rights Officer

Andrea Rocca, Human Rights Officer

EDITORIAL TEAM

Inmaculada Barcia, Manager, Regional & National Human Rights Defenders Programme

Eléonore Dziurzynski, Communications Officer

Isabelle Scherer, Director

ABOUT THIS PUBLICATION

The *Human Rights Defenders Briefing Papers* are a series of six briefing papers providing simple and practical information on rights relevant to the work of human rights defenders. Other papers cover right to freedom of association, freedom of expression, access to funding, access to international bodies and access to information.

COPYRIGHT, DISTRIBUTION AND USE

Copyright © 2009 International Service for Human Rights. Material from this publication may be reproduced for training, teaching or other non-commercial purposes as long as ISHR is fully acknowledged. You can also distribute this publication and link to it from your website as long as ISHR is fully acknowledged as the source. No part of this publication may be reproduced for any commercial purpose without the prior express permission of the copyright holders. ISHR accepts no responsibility for any inaccuracies arising from or connected to unapproved or unofficial translations of its publications or parts thereof.

DISCLAIMER

While every effort has been made to ensure the accuracy and reliability of the information contained in this publication, ISHR does not guarantee, and accepts no legal liability whatsoever arising from any possible mistakes in the information reported on, or any use of this publication. We are however happy to correct any errors you may come across so please notify k.asoka@ishr.ch.

