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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania,* Australia, Austria, Belgium,* Benin,* Brazil, Bulgaria, Canada,* Costa Rica,* Croatia,* Cyprus,* Czechia, Denmark, Ecuador,* Estonia,* Finland,* France,* Germany, Greece,* Honduras,* Iceland,* Ireland,* Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Marshall Islands, Montenegro,* Netherlands, New Zealand,* North Macedonia,* Norway,* Panama,* Paraguay,* Peru, Poland, Portugal,* Republic of Korea, Romania,* Sierra Leone,* Slovakia, Slovenia,* Spain, Sweden,* Switzerland,* Tunisia,* Ukraine, United Kingdom of Great Britain and Northern Ireland* and Uruguay and State of Palestine,*: draft resolution

44/... The promotion and protection of human rights in the context of peaceful protests

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action, and recalling relevant international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and other relevant regional human rights instruments,

Recalling the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,

Reaffirming that, consistent with the Universal Declaration of Human Rights, States Members of the United Nations have pledged to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms for all without distinction such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling its decision 17/120 of 17 June 2011 and its resolutions 19/35 of 23 March 2012, 22/10 of 21 March 2013, 25/38 of 28 March 2014, 31/37 of 24 March 2016 and 38/11 of 6 July 2018 on the promotion and protection of human rights in the context of peaceful protests, and other relevant resolutions of the Human Rights Council,

* State not a member of the Human Rights Council.



Recalling also its resolution 43/1 of 19 June 2020 on the promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers,

Recognizing that, pursuant to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, the rights to freedom of peaceful assembly, of expression and of association are human rights guaranteed to all, while their exercise may be subject to certain restrictions, in accordance with States' obligations under applicable international human rights instruments,

Recognizing also that any such restrictions must be based in law, and be necessary and proportionate to further a legitimate aim, in accordance with the State's obligations under applicable international human rights instruments, and that, if imposed, administrative or judicial review that is prompt, competent, independent and impartial should be available,

Reaffirming that emergency measures taken by Governments in response to the coronavirus disease (COVID-19) pandemic must be necessary, proportionate to the evaluated risk and applied in a non-discriminatory way, have a specific focus and duration, and be in accordance with the State's obligations under applicable international human rights law,

Recalling that States have the primary responsibility for the promotion and protection of human rights and fundamental freedoms, including in the context of assemblies such as peaceful protests, and to ensure that national legislation, policies and practices, as the national framework for the exercise of the rights to freedom of peaceful assembly, of expression and of association, are in compliance **with their international human rights obligations and commitments**,

Noting that the proper management of assemblies involves and can have an impact on respect for human rights before, during and after an assembly, and aims to contribute to its peaceful conduct and to prevent injuries to and loss of life of **those participating in and** monitoring such protests, **as well as** bystanders and officials exercising law enforcement duties,

Acknowledging that peaceful protests may occur in all societies, including protests that are spontaneous, simultaneous, unauthorized or restricted,

Acknowledging also that participation in peaceful protests can be an important form of exercising the rights to freedom of peaceful assembly, of expression, of association and of participation in the conduct of public affairs,

Recognizing that peaceful protests, can make a positive contribution to the development, strengthening and effectiveness of democratic systems and to democratic processes, including elections and referendums,

Recognizing also that peaceful protests have historically played a constructive social and political role in the development of more just and accountable societies, and that such protests can continue to make a positive contribution to human development and to the full enjoyment of civil, political, economic, social and cultural rights,

Reaffirming that everyone has the right to life, liberty and security of person,

Reaffirming also that participation in public and peaceful protests should be entirely voluntary and uncoerced,

Recalling that the rights to freedom of peaceful assembly, of expression and of association include organizing, participating in, observing, monitoring and recording assemblies,

Stressing therefore that everyone, including persons espousing minority or dissenting views or beliefs, must be able to express their grievances or aspirations in a peaceful manner, including through public protests, without fear of reprisal or of being intimidated, harassed, injured, sexually assaulted, beaten, arbitrarily arrested or detained, tortured, killed or subjected to enforced disappearance, or subjected to abusive criminal or civil proceedings,

Deeply concerned about extrajudicial, summary or arbitrary executions, arbitrary arrests and detention, enforced disappearances, and torture and other cruel, inhuman or degrading treatment or punishment of persons exercising their rights to freedom of peaceful assembly, of expression and of association in all regions of the world,

Deeply concerned also about misinformation, disinformation, **misuse of new technologies** and undue restrictions preventing or impairing an individual's ability to have access to or disseminate information, inter alia, at key political moments, with an impact on the ability to organize and conduct assemblies,

Noting that the possibility of using communications technology securely and privately, in accordance with international human rights law, is important for the organization and conduct of assemblies,

Noting also that, although an assembly has generally been understood as a physical gathering of people, human rights protections, including for the rights to freedom of peaceful assembly, of expression and of association, also apply to analogous interactions taking place online,

Acknowledging that new technologies can be enablers for the exercise of the rights to freedom of peaceful assembly, of expression, of association and of participation in the conduct of public affairs by facilitating mobilization for and the organization of assemblies, and acknowledging also that they create space for the holding of assemblies online and may facilitate and enhance the involvement and participation of those often marginalized, as well as support the proper management of assemblies and increase transparency and accountability,

Expressing its concern at the criminalization, in all parts of the world, of individuals and groups solely for having organized or taken part in peaceful protests or for having observed, monitored or recorded protests, and at the designation of such individuals as threats to national security, whether in legislation or policy,

Expressing its concern also at the unlawful or arbitrary surveillance, both in physical spaces and online, of individuals engaged in peaceful protests, including through the use of new and emerging digital tracking tools such as facial recognition, international mobile subscriber identity-catchers ("stingrays") and closed-circuit television,

Emphasizing that technical solutions to secure and to protect the confidentiality of digital communications, including measures for encryption, pseudonymization and anonymity online, can be important to ensure the enjoyment of human rights, in particular the rights to privacy, to freedom of expression, and to freedom of peaceful assembly and association,

Stressing that peaceful protests should not be viewed as a threat, and therefore encouraging all States to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their causes,

Recalling that isolated acts of violence committed by others in the course of a protest do not deprive peaceful individuals of their rights to freedom of peaceful assembly, of expression and of association,

Bearing in mind that **the peaceful conduct of** assemblies can be facilitated on the basis of communication and collaboration among organizers, protesters, local authorities and officials exercising law enforcement duties,

Recognizing that national human rights institutions and representatives of civil society, including non-governmental organizations, can play a useful role in facilitating continued dialogue between individuals taking part in peaceful protests and the relevant authorities,

Stressing the need to ensure full accountability for human rights violations or abuses in the context of protests, including by investigating such violations and abuses and prosecuting the perpetrators,

Recalling the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and **noting** the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016),

Noting the *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* issued by the Office of the United Nations High Commissioner for Human Rights as a supplement to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and calling upon all States to consider applying it to their law enforcement operations in relation to assemblies,

Encouraging all States to make appropriate use of the *Resource Book on the Use of Force and Firearms in Law Enforcement* published by the Office of the High Commissioner and the United Nations Office on Drugs and Crime, and the updated training package of the Office of the High Commissioner on human rights law and law enforcement,

Recalling the importance of adequate training, equipment, oversight and accountability for officials and private personnel exercising law enforcement duties assigned to the management of assemblies, and of refraining, to the extent feasible, from assigning military personnel to perform such duties, while reaffirming that **the State's** international obligations and commitments in relation to the use of force in the context of law enforcement also apply to the military when it is performing law enforcement duties, and that private personnel should respect internationally recognized standards,

Recognizing the critical role that law enforcement plays in respecting and protecting human dignity and maintaining and upholding the human rights of all persons, including in the facilitation of assemblies,

Taking note with appreciation of the guidance provided by the Special Rapporteur on the rights to freedom of peaceful assembly and of association in the context of the COVID-19 pandemic,¹

Underlining that considerations such as the health risks posed by the COVID-19 pandemic should not be used to restrict human rights and fundamental freedoms, such as the rights to freedom of peaceful assembly, of expression and of association, in an unnecessary or disproportionate manner, and that any restriction of human rights guaranteed by international instruments must fulfil the strict requirements laid down in those instruments,

1. **Takes note with appreciation** the thematic report of the United Nations High Commissioner for Human Rights on the impact of new technologies on the promotion and protection of human rights in the context of assemblies,² submitted in accordance with Human Rights Council resolution 38/11;

2. *Expresses deep concern* regarding the instances in which peaceful protests have been met with repression, including the unlawful use of force by law enforcement officials, **the misuse of less-lethal weapons**, arbitrary arrests and detention, torture and enforced disappearance, as well as **undue restrictions such as** Internet shutdowns, and assaults on protesters, bystanders, human rights defenders, journalists and other media workers;

3. *Recalls* that States have the responsibility, including in the context of peaceful protests, to promote and protect human rights and to prevent human rights violations and abuses, including extrajudicial, summary or arbitrary executions, arbitrary arrest and detention, enforced disappearances and torture and other cruel, inhuman or degrading treatment or punishment, and calls upon States to avoid the abuse of criminal and civil proceedings, or threats of such acts at all times;

4. *Calls upon* States to promote a safe and enabling environment for individuals and groups to exercise their rights to freedom of peaceful assembly, of expression and of association, both online and offline, including by ensuring that domestic legislation and procedures relating to the rights to freedom of peaceful assembly, of expression and of

¹ Clément Voule, "States responses to Covid 19 threat should not halt freedoms of assembly and association", Office of the United Nations High Commissioner for Human Rights, 14 April 2020.

² A/HRC/44/24.

association are in conformity with their international human rights obligations and commitments, to clearly and explicitly establish a presumption in favour of the exercise of these rights, and that they are effectively implemented;

5. *Also calls upon* States to ensure that all human rights are respected, protected and fulfilled also during emergencies, such as the COVID-19 pandemic, and that their responses are in full compliance with their human rights obligations and commitments;

6. *Encourages* all States to give due consideration to the compilation of practical recommendations for the proper management of assemblies based on best practices and lessons learned,³ which provides a useful tool for States on how to fulfil their obligations and commitments, including on how to operationalize them in their domestic laws, procedures and practices, and to promote and protect human rights in the context of assemblies, including peaceful protests;

7. *Calls upon* States to facilitate peaceful protests by providing protestors, to the extent possible, with access to public space within sight and sound of their intended target audience, and by protecting them, without discrimination, where necessary, against any form of threat or harassment, and underlines the role of local authorities in this regard;

8. *Underlines* the important role that communication between organizers, protestors, local authorities and officials exercising law enforcement duties can play in the proper management of assemblies, such as peaceful protests, and calls upon States to establish such appropriate channels;

9. *Urges* States to pay particular attention to the safety and protection of women and girls, as well as of women human rights defenders, from acts of intimidation and harassment, as well as gender-based violence, including sexual assault, in the context of peaceful protests;

10. *Reaffirms* that States must take all appropriate measures for the safety and protection of children, including while they exercise their rights to freedom of peaceful assembly, of expression and of association, including in the context of peaceful protests;

11. *Calls upon* all States to pay particular attention to the safety of human rights defenders, journalists and other media workers observing, monitoring and recording peaceful protests, taking into account their specific role, exposure and vulnerability;

12. *Stresses* that, in times when physical assemblies are restricted, **inter alia in times of crises or emergencies**, it is all the more necessary that access to and use of the Internet be ensured, by refraining from undue restrictions such as Internet shutdowns or online censorship, by taking measures to ensure that access to the Internet extends to the entirety of the global population and that it is affordable and by fully respecting and protecting each individual's right to privacy;

13. *Calls upon* all States to refrain from and cease measures, when in violation of international human rights law, that are aimed at shutting down the Internet and telecommunications, or at otherwise blocking Internet users from gaining access to or disseminating information online, or from gathering in online spaces;

14. *Urges* all States to avoid using force during peaceful protests, to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force, and also to ensure that assistance and medical aid are rendered to any injured or affected person at the earliest possible moment;

15. *Calls upon* States, as a matter of priority, to ensure that their domestic legislation and procedures are consistent with their international obligations and commitments in relation to the use of force in the context of law enforcement and are effectively implemented by officials exercising law enforcement duties, in particular, applicable principles of law enforcement, such as necessity and proportionality, bearing in mind that lethal force may only be used as a last resort to protect against an imminent threat to life and that it may not be used merely to disperse a gathering;

³ A/HRC/31/66.

16. *Affirms* that nothing can ever justify the indiscriminate use of lethal force against a crowd, which is unlawful under international human rights law;

17. *Calls upon* States to investigate any death or significant injury, including those that lead to disability, incurred during protests, including those resulting from the discharge of firearms or the use of less-lethal weapons by officials exercising law enforcement duties or by private personnel acting on behalf of the State;

18. *Also calls upon* States to ensure adequate training of officials exercising law enforcement duties and, where applicable, to promote adequate training for private personnel acting on behalf of the State, including in international human rights law and, where appropriate, international humanitarian law, and in this regard urges States to include in such training the application of de-escalation strategies;

19. *Encourages* States to make appropriate protective equipment and less-lethal weapons available to their officials exercising law enforcement duties in order to decrease their need to use weapons of any kind, while pursuing efforts to regulate and establish protocols for the training and use of less-lethal weapons, bearing in mind that even less-lethal weapons can result in a risk to life or serious injury;

20. *Underlines* the importance of thorough and independent testing of less-lethal weapons prior to procurement and deployment to establish their lethality and the extent of likely injury, and of monitoring appropriate training and use of such weapons;

21. *Stresses* the importance of international cooperation in support of national efforts for the promotion and protection of human rights and fundamental freedoms in the context of assemblies, including peaceful protests, in order to raise the capacities of law enforcement agencies to deal with such assemblies in a manner that conforms to international human rights law and standards;

22. *Underlines* the necessity to address the management of assemblies, including peaceful protests, so as to contribute to their peaceful conduct, and to prevent injuries, including those that lead to disability, and loss of life of protestors, those observing, monitoring and recording such assemblies, bystanders, and officials exercising law enforcement duties, as well as any human rights violation or abuse, to ensure accountability for such violations and abuses and to provide victims with access to a remedy and redress;

23. *Recognizes* the importance of documenting human rights violations and abuses committed in the context of peaceful protests, and the role that can be played by national human rights institutions, civil society, including non-governmental organizations, journalists and other media workers, Internet users and human rights defenders, in this regard;

24. *Calls upon* States to refrain from the use of digital technology to silence, unlawfully or arbitrarily surveil, or harass individuals or groups solely for having organized, taken part in, or observed, monitored or recorded peaceful protests, or from ordering blanket Internet shutdowns and from blocking websites and platforms around protests or key political moments;

24 bis. *Calls upon* States to refrain from any undue restrictions to technical solutions to secure and to protect the confidentiality of digital communications, including measures for encryption, pseudonymization and anonymity online, given that these can be important to ensure the enjoyment of human rights, in particular the rights to privacy, in the context of assemblies;

25. *Urges* States to ensure accountability for human rights violations and abuses through judicial or other national mechanisms, based on law and in conformity with their international human rights obligations and commitments, and to provide all victims with access to a remedy and redress, including in the context of peaceful protests;

25. bis. *Decides* to convene, at its forty-eighth session, a panel discussion on the promotion and protection of human rights in the context of peaceful protests, with a particular focus on achievements and contemporary challenges;

25. ter *Requests* the Office of the United Nations High Commissioner for Human Rights to liaise with States, the Special Rapporteur on the rights to freedom of peaceful

assembly and of association, other relevant special procedures, relevant United Nations bodies and agencies, non-governmental organizations and other relevant stakeholders, with a view to ensuring their participation in the panel discussion, to make the panel fully accessible and to prepare a report on the outcome of the panel discussion in the form of a summary to be presented to the Human Rights Council at its fiftieth session;

26. *Requests* the Special Rapporteur on the rights to freedom of peaceful assembly and of association to prepare a **dedicated report** on the protection of human rights in the context of peaceful protests during crisis situations, and in preparing the said **report**, to seek the views of States, the Office of the United Nations High Commissioner for Human Rights, relevant United Nations agencies, [in particular the United Nations Office on Drugs and Crime,] the United Nations human rights treaty bodies, regional human rights mechanisms, other relevant special procedure mandate holders, national human rights institutions, non-governmental organizations and other relevant stakeholders, such as law enforcement practitioners, through global and regional consultations, and to present **this report and its recommendations** to the Human Rights Council at its fiftieth session;

27. *Decides* to continue its consideration of the present topic.
