

# TEN YEARS PROTECTING CIVIC SPACE WORLDWIDE

## Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association

### THE MANDATE OF THE SPECIAL RAPPOREUR was established on 30 September 2010

by the Human Rights Council during its fifteenth session by resolution 15/21.

The special rapporteur is tasked with the promotion and protection of the rights to freedom of peaceful assembly and of association worldwide. To fulfil its functions, the special rapporteur has drawn on a variety of tools, which include:

The adoption of the resolution shows the broad support these freedoms enjoy, and it demonstrates that a large number of States from different regions of the world recognized **the need to increase efforts to protect and enhance space for civic engagement.**



Providing technical assistance to governments



Conducting country visits

Engaging in public outreach



Conducting studies and producing thematic reports



Responding to individual complaints

Council resolution 15/21 reaffirmed a core set of principles protecting these fundamental freedoms, including that:

set of principles protecting

- a Rights to freedom of peaceful assembly and of association are **essential components** of democracy, and of human rights more generally.
- b Rights to freedom of peaceful assembly and of association **belong to everyone**, without discrimination, including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants.
- c No one may **be compelled** to belong to an association.
- d These rights deserve **special protection** in the context of elections.
- e Rights to freedom of peaceful assembly and of association are subject only to **the limitations permitted** by international law.



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### REAFFIRMING CORE PRINCIPLES AND PROMOTING BEST PRACTICES

**The mandate** was the first **international mechanism** to recognize that the right to association protects the ability of civil society to **access domestic, foreign and international resources**, and it developed guidance to ensure that States facilitate, rather than restrict it.

The Special Rapporteur pioneered an analysis of the linkages between the **2030 Agenda for Sustainable Development and the enjoyment of the rights to freedom of peaceful assembly and of association.**

**The rapporteurs** have also articulated the responsibilities of **business enterprises** to ensure respect for the rights to freedom of peaceful assembly and of association in their activities and business relationships in several thematic reports

More recently, a thematic report on the enjoyment of **the rights to freedom of peaceful assembly and of association in the digital era** introduced principles applicable to those rights online, which had previously been confined to discussions on freedom of expression and information.

Certain thematic reports provided a **blueprint for legal and institutional reform**. For instance, in a joint project with the mandate of the Special Rapporteur on

extrajudicial, summary or arbitrary executions, the Special Rapporteur **compiled key principles and practical recommendations** for the proper management of assemblies.

**The thematic reports** have been widely used by international organizations and influenced the work of the **African Commission on Human and Peoples' Rights and the Inter-American Commission on Human Rights**

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### REAFFIRMING CORE PRINCIPLES AND PROMOTING BEST PRACTICES

When the mandate was established in 2010, the normative content of the rights to freedom of peaceful assembly and of association **was not clear to many**. While recognized in most constitutions around the world, these freedoms were not fully understood, often overlooked by the international human rights discourse, and severely restricted by domestic laws and practices.



The special rapporteurs have filled that gap, *leading efforts to articulate, reinforce* and, where appropriate *expand* the applicable international norms for the enjoyment of those two freedoms.



Since 2010, the special rapporteurs have issued **16 thematic reports** covering a wide variety of issues relevant to the **rights to freedom of peaceful assembly and of association**.

In these reports, the special rapporteurs have set out progressive **standards and recommendations**



Assemblies should not be subject, **to prior authorization**.

If the organizers failed to notify the authorities, the assembly should **not be dissolved** automatically.

The organizers should not be subject to **criminal sanctions**, or administrative sanctions resulting in fines or imprisonment.

Organizers should not bear any **responsibility** for the unlawful acts of others.

Assemblies and Associations **are protected** online and offline.

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### MAPPING GLOBAL CHALLENGES AND TRENDS ON RESTRICTIONS

A key area of work has included the study of

## GLOBAL TRENDS

affecting the exercise of the rights to freedom of peaceful assembly and of association.



When **the mandate** of the Special Rapporteur was established, the **problem of closing space** for civil society

## WAS NOT WIDELY UNDERSTOOD

among the international community.



This was especially true for most **international and regional organizations, Governments and donors.**

## PROGRESS IN THIS AREA IS EVIDENT.

The Special Rapporteurs joined efforts with **civil society actors** to draw attention to the pressures that civil society faces develop

a deeper understanding of the nature of the threats and challenges and their root causes, and identify opportunities and tools to address them.



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### MAPPING GLOBAL CHALLENGES AND TRENDS ON RESTRICTIONS

The special rapporteurs have paid special attention to issues the rights of the most marginalized and at-risk groups of society.

Migrants and refugees

Persons with disabilities

Non nationals

Environmental human rights defenders and indigenous peoples

People living in poverty

Workers, including global supply chain, informal, migrant and domestic workers

LGBTI



These reports have shone a spotlight on the ways in which **the denial** of the rights to freedom of peaceful assembly and of association leads to the **marginalization of those groups** and how marginalization exacerbates major global problems, such as poverty, inequality and conflict.

The special rapporteurs have also sought to **identify global threats** to freedom of peaceful assembly and of association in special context and circumstances, such as:

**VOTE**

During elections

The reports explored the specific dynamics of **VIOLATIONS AND ABUSES** in those contexts and provided tailored recommendations aimed at positive reform.



**In the workplace**

Similarly, these efforts have been aimed at understanding **root causes and ideologies** that lead to and sustain those trends, including the surge in fundamentalism in many contexts across the world

WE LOVE 



**In natural resource extraction**



**In the age of digitalization**



**Religious, Political or Economics Fundamentalisms**

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### ELEVATING THE IMPORTANCE OF ASSEMBLY AND OF ASSOCIATION AT THE UNITED NATIONS

#### The special rapporteurs

have collaborated with **United Nations institutions**, bodies and mechanisms **TO STRENGTHEN THEIR WORK** in promoting and protecting the rights to freedom of peaceful assembly and of association.

This area of work produced **significant results.**

Throughout the decade, a great number of **panel discussions, sessions, resolutions, reports, policies and programmes** have focused on assembly and association rights.

These efforts helped secured the adoption of groundbreaking Human Rights Council **resolution 24/21**, its first on civil society space (September 2013).

This resolution urged States to create and maintain, in law and in practice, a **safe and enabling environment for civil society.**

The work of the special rapporteurs also provided impetus to the Human Rights Committee's current efforts to develop a general comment **on article 21 of the International Covenant on Civil and Political Rights.**

The special rapporteurs consistently advocated for the development of a general comment on article 21 as an important means of assisting the work of the mandate and contributing to the protection of the right of everyone to peaceful assembly.

**Over five Human Rights Council resolutions** on the promotion and protection of human rights in the context of peaceful protests have resulted from **collaboration among member States, the special rapporteurs and civil society.**

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### SUPPORTING DOMESTIC IMPLEMENTATION AND REFORM.

The rapporteurs routinely sought to effect **change at the domestic level.**

As of May 2020, the rapporteurs have conducted 13 country visits. list includes countries as diverse as:



The country visit to **Tunisia in September 2018** helped push back against concerning legislation on terrorism finance that would have restricted civil society.



The country visit to **Georgia** led to changes to the Law on Political Unions of Citizens.



The country visit to **the United Kingdom**, led to accountability to police surveillance of peaceful protests.



**Armenia Chile Georgia Oman The Republic of Korea Sri Lanka Tunisia E.E.U.U Zimbabwe**

The special rapporteurs have also intervened before national and regional courts to promote protection of the rights to freedom of peaceful assembly and of association. Thus far, the rapporteurs have submitted **10 amicus briefs in cases before courts around the world.**

For instance, in one such case the mandate holder filed an amicus brief before **the High Court of South Africa** arguing that the notification provisions of the country's Regulation of Gatherings Act constituted "illegitimate" restrictions on the right to freedom of peaceful assembly. Relevant provisions of the Act were later struck down as unconstitutional, and the Court found that the notification requirement created a chilling effect on freedom of expression and on the right to freedom of peaceful assembly.



Likewise, the mandate holder filed an amicus brief before **the Supreme Court of Mexico**, arguing that **three provisions of Mexico City's Mobility Law imposed impermissible restrictions on the right to freedom of peaceful assembly.**

The Court not only upheld the constitutionality of the challenged provisions but made special reference to the Special Rapporteur's brief in elaborating its standards on how the laws should be interpreted so as not to cause harm to human rights.



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### MOVEMENT BUILDING

Many civil society organizations have emphasized that one of **the most significant results** of the mandate of the Special Rapporteur was **THE BUILDING OF A GLOBAL MOVEMENT** to promote **an enabling environment** for the enjoyment of the rights to freedom of peaceful assembly and association.



The creation of the mandate helped **foster informal and formal coalitions** around the protection of these fundamental freedoms and **provided tools** for many individuals and communities worldwide to share a vision of the changes needed and strategies **to ensure these rights** can be fully enjoyed by everyone.

The mandate of the Special Rapporteur contributed **TO MOBILIZING SOLIDARITY** among civil society activists, empowering advocacy efforts, amplifying voices and facilitating learning exchanges.



This movement was made possible in part due to the rapporteurs's direct and routine engagement with **civil society organizations and grass-roots communities around the world.**



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### MOVEMENT BUILDING



Over the past 10 years, the rapporteurs have prioritized outreach to civil society through **formal and informal consultations and meetings**.

These meetings gave the rapporteurs to increase **understanding of the reality**, concerns and lived experiences of the people on the ground and to ensure that their perspectives were and are reflected in their work.

Several respondents **highlighted efforts** of the rapporteurs to give a

*Voice*



**to civil society**, including within the Human Rights Council and the General Assembly, as a major achievement.

These efforts also enhanced the capacity of civil society organizations, including those that have traditionally been underrepresented and have had fewer opportunities to **engage with multilateral institutions**, to identify common trends across regions, share lessons, explore solidarity strategies and build new alliances.

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### DECADE OF COMPOUNDING CHALLENGES

Over the past 10 years, the world witnessed the erosion of democracy and systematic attacks to the rights to freedom of peaceful assembly and of association, including:

Adoption of laws related to national security, counter terrorism and public order.

The criminalization of peaceful protest.

The indiscriminate and excessive use of force to counter or repress peaceful protest.

Undue barriers to funding.

Stigmatization of and attacks against civil society actors.

Censorship and surveillance of the digital space.

The outbreak of the Covid19 pandemic and the measures by States to address it threatens to further erode

## DEMOCRACY AND RESTRICT CIVIC SPACE.

To guarantee that measures to the pandemic do not infringe upon the rights to freedom of peaceful assembly and of association, the Special Rapporteur recommended ensuring that:

New legal measures respect human rights.

Civil society is viewed as an essential partner in responding to the crisis.

Civil society's participation in multilateral institutions is secured.

Public health emergencies is not a pretext for rights infringements

Popular calls for reform are addressed.

International solidarity continues.

Freedom of association and of assembly online is respected.

Workers can enjoy rights to freedom of association and of assembly.

Civil society actors are free to express their opinions and share information.

Democracy is not post poned.

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### STRATEGIC ISSUE AREAS

The Special Rapporteur Clement Voule has identified issue areas that need to be prioritized by governments to promote an enabling civic space and defend democracy in the coming years. For example:



**Support Community groups and social movements:** They are at the forefront of today's major struggle for economic, social, environmental, cultural and political progress. They face challenges, especially in accessing financial resources and international networks to ensure their sustainability.

**Enable the mobilization of young people:** Efforts should focus on addressing the challenges faced by young people in exercising the rights to freedom of peaceful assembly and of association and in seeking to harness their energy and vision for the years ahead.


**Digital technologies should serve people not threaten their rights:** For many in civil society, the Internet is no a safe place, as they have become the growing targets of surveillance and online violence. These challenges points to the urgent need to move beyond commitments to action and accountability.

**Justice and accountability should be a priority:** A future agenda should seek to collaborate more closely with members of the legal profession and the justice sector towards ensuring that victims of the rights to freedom of peaceful assembly and of association can effectively access justice.



**Let Women and girls lead the change:** Efforts should prioritize accelerating and deepening efforts to eradicate the discrimination that women face in enjoying their rights to peaceful assembly and association and on building more inclusive movements.

**Labour movements should be protected now more than ever:** Ensuring workers gain access to fair wages, safe working conditions and a collective voice, while addressing some of the root causes of democratic erosion and rising inequality should be a priority, specially during and after the Covid19 pandemic.



**Civil society is key to address climate change and other global crises:** Civil society has historically played a key role in recovery efforts after natural disasters and amid humanitarian, health and climate crises. Efforts are needed to protect and empower these actors to continue to meet these contemporary challenges.

**Addressing Root Causes:** Efforts to protect civic space need to be based on a thorough and nuanced understanding of the root causes of the phenomenon of closing civic space and more broadly address its drivers, including corruption, inequality and the continued erosion of and backsliding on democracy.

**The intensity and seriousness of the challenges facing the rights to freedom of peaceful assembly and of association will require a renewed agenda that delineates how to create an enabling environment for these fundamental freedoms and effectively respond to the growing number of restrictions and threats to violations.**



*The vision is of a world in which everyone, without exception, can freely join together and demand to improve their lives.*

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### STRATEGIC ISSUE AREAS

Respect to the rights to freedom of peaceful assembly and of association, the Special Rapporteur recommends that States should:

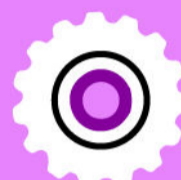
**Recognize, in law and in practice,** that the both rights are **essential for democracy and sustainable development.**



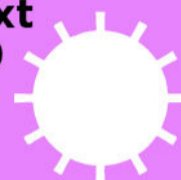
**Ensure** that any restrictions to the both rights are **prescribed by law**, as necessary in a democratic society.



**Design** mechanism, to ensure recommendations made by the mandate holders, **can be effectively implemented.**



**Refrain** from restricting both rights, **in the context of COVID-19 emergency measures**, and ensure accountability in case of any violation.



The Special Rapporteur offers the following recommendations to the United Nations system, bodies and mechanisms:

#### The Human Rights Council

To continue **to discuss issues** related to both rights, adopt resolutions that are aimed at enhancing the promotion and protection of those freedoms, and monitor State compliance with human rights international norms and principles, in the context of emergency measures related to **the COVID-19 pandemic.**

#### The General Assembly

To **pay attention** to the impact of closing civic space on the achievement of the Sustainable Development Goals and issue guidance on how to ensure that **civil society can contribute to the implementation of the 2030 Agenda.**

#### The Human Rights Committee

Is encouraged to **ensure** that the views of civil society and the experiences of individuals on the ground are taken into account while developing general comment No. 37 on the right to freedom of peaceful assembly, as provided for in article 21 of the International Covenant on Civil and Political Rights.

#### The Special Rapporteur encouraged:

##### International organizations and their member States

to defend the both rights and speak out in cases of violations, threats, intimidation or reprisals against individuals for exercising these freedoms.

##### The donor community

to exert greater leverage and influence with governments and partners to promote enabling environments for civil society participation.

##### Civil society

to work in collaboration with the Special Rapporteur to develop a renewed agenda to defend civic space in the next decade.

