

# PRACTICAL RECOMMENDATIONS AND GUIDELINES FOR LAWYERS IN SUPPORT OF PEACEFUL ASSEMBLIES



THE SPECIAL RAPPORTEUR ON THE RIGHTS  
TO FREEDOM OF PEACEFUL ASSEMBLY AND OF ASSOCIATION,  
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UNITED NATIONS  
HUMAN RIGHTS  
SPECIAL PROCEDURES

SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS



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# SUMMARY

As a follow-up to [his report on Access to justice as an Integral element of the protection of rights to freedom of peaceful assembly and association](#), submitted to the Human Rights Council at its forty-seventh (A/HRC/47/24), the Special Rapporteur on the rights to freedom of peaceful assembly and of association presents to the Human Rights Council a list of non-exhaustive practical guidelines and recommendations for lawyers and legal practitioners in support of peaceful assemblies.



## CLÉMENT NYALETSOSSI VOULE

### **Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association**

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Clément Nyaletsossi Voule was appointed as United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and took up his functions in April 2018.

Mr. Voule is a jurist and human rights defender with over 30 years of experience promoting human rights in Africa and across the world. He was an Expert Member of the Working Group on Extractive Industries, Environment and Human Rights Violations of the African Commission on Human and Peoples' Rights from 2011 to 2020. He also is a research fellow at the Geneva Academy of International Humanitarian Law and Human Rights.

Prior to his appointment, he was Advocacy Director for Africa at the International Service for Human Rights (ISHR), where he also led ISHR's program to support human rights defenders working in States in transition. He served as Secretary-general of Amnesty International Togo (2000 – 2006). He is also a founding member of the West African Human Rights Defenders Network.

Over the years, he has advised a number of international, regional and national entities on human rights issues. Most notably, he has extensive experience engaging with the UN and the African Commission on Human and Peoples' Rights (ACHPR) to strengthen their work protecting human rights defenders and fundamental freedoms.

Mr. Voule has a Law degree from the University of Benin, Togo. He holds a Masters degree in Fundamental Rights from Nantes University in France, and a Masters Diploma in International Law in Armed Conflict from the Graduate Institute of International and Development Studies at the University of Geneva in Switzerland.

# INTRODUCTION

*“Access to justice, the rights to freedom of peaceful assembly and association, and the strengthening of civic space are inextricably linked. They all represent a combination of human rights and enabling rights. They enable individuals to express themselves collectively and participate in shaping their societies and are also instrumental in advancing human rights, the rule of law, democracy, peace and sustainable development,”*<sup>1</sup> states the UN Special Rapporteur in his report on Access to justice as an Integral element of the protection of rights to freedom of peaceful assembly and association (A/HRC/47/24).

Hindering access to justice in the context of peaceful assemblies has a chilling effect on anyone wishing to make use of their right to assemble and associate and leads to the shrinking of civic space. Inside States with a flawed jurisdiction, rather than to search for justice in response to the violation of their rights to assemble, people will refrain from engaging in peaceful protest knowing that legal practitioners are unable to achieve justice in threatening and flawed environments.

The Special Rapporteur observed these and other adverse effects of the effective enjoyment of the rights to peaceful assembly and association resulting from restricted access to justice. Moreover he has witnessed that specific challenges exist in the context of peaceful assembly and association, which negatively affect access to justice.

He has also noted the crucial role lawyers and legal practitioners play in helping to ensure the full respect for the rights to peaceful assembly and association, by supporting organizations’ and individuals’ ability to comply with any procedures required by law for the exercise of the rights to freedom of peaceful assembly and association, by working to ensure that individuals and groups are protected against violations and abuses in the context of peaceful assemblies, by countering impunity, by pursuing remedies for those whose human rights have been violated in this context of peaceful assemblies; and by promoting structural changes oriented towards the reform of systems which may lead to violations of the rights to freedom of assembly and association.

With this in mind, the Special Rapporteur has drafted guidelines in a bid to support lawyers in their crucial work of promoting and protecting the rights to peaceful assembly and association.

Because legislative protection is key in enabling access to justice, the recommendations also sketch the conditions required for

the effective realization of access to justice within the context of peaceful assembly, hereafter referred to as “key principles”. The principles focus on prerequisites that are needed to overcome the specific challenges of accessing justice within the context of peaceful assemblies.

These guidelines draw on the collective experience of legal practitioners from various jurisdictions around the world, many of whom have been forced to operate in restrictive, rights-violating and sometimes threatening environments. They were collected in large part through in-depth interviews and informal professional exchanges with abovementioned legal practitioners. The recommendations which are by no means a one-size fits all model – bearing in mind that every national situation is different – were made possible thanks to the contributions and continuous guidance of numerous partners of the mandate. The Special Rapporteur is grateful to those partners and lawyers around the world for their generous contributions.

**“Access to justice is recognized as a basic principle of the rule of law and in its absence, people are unable to have their voices heard, exercise their rights, challenge discrimination or hold decision makers accountable.**



—— Special Rapporteur Clément N. Voule - A/HRC/47/24 para. 16

# Key Principles

The key principles sketch the conditions required for the effective realization of access to justice within the context of peaceful assembly and association.



**Legal frameworks around freedom of peaceful assemblies should be designed so that access to legal professionals is not necessary in order to fully enjoy the rights; where procedures are more complicated, states should ensure that legal guidance is available to all those seeking to exercise their rights through such procedures.**

The Special Rapporteur has previously emphasized the importance of the adoption of procedures which are not unduly complicated or bureaucratic, which may prevent and deter individuals from fully exercising their rights to freedom of association and peaceful assembly, and which provide additional opportunities for the rights to be subjected to discretionary, political interference in practice.



**Lawyers' and legal practitioners' ability to observe, record, document, and/or report on assemblies and measures adopted in response to assemblies must be protected.**

Independent observation of assemblies, including by monitors, lawyers, journalists, human rights defenders and others, provides a key mechanism essential to ensuring full enjoyment of the right to freedom of peaceful assembly in practice. In this context, states must ensure that such parties, including in particular in the present context lawyers, are able to observe, record, document and report on assemblies and measures taken in response, both by refraining from limiting such persons' ability to monitor assemblies, and by protecting such persons from attacks by third parties.

*“Legal assistance is essential in accessing justice in the context of the rights to freedom of peaceful assembly and of association. However, the enjoyment of those rights should not require individuals and groups to seek the services of an accredited legal practitioner. Such a requirement could impair the essence of the right, discourage participation in assemblies or associations and have a chilling effect”*

— Special Rapporteur Clément N. Voule - A/HRC/47/24 para. 42



## **Legal assistance must be provided to all individuals detained and/or criminally charged in the context of assemblies.**

The State has an obligation to ensure, without discrimination, that all individuals detained, criminally charged or otherwise subjected to the criminal and disciplinary mechanisms of the state are provided with legal assistance, including in the form of free, publicly funded legal assistance where needed. Whatever its source, the state must ensure legal assistance is of a high quality, prompt, and confidential. Where individuals' rights have been violated, legal assistance should be oriented not only towards criminal defense and release from detention, but also towards remedies for those rights violations.



## **Legal systems must be designed and function in a manner that ensures optimal access to justice.**

Access to justice is not only a matter of the provision of legal aid, but also of fair, independent, prompt and effective legal systems. Judges, prosecutors and lawyers must be free to carry out their professional duties independently and without improper interference from political actors. Equality of arms must be ensured, legal processes must be prompt, and rights-compliant legal ruling must be respected by all branches of government.

*“The Human Rights Committee has extended the non-derogability to certain guarantees of due process. The requirement of competence, independence and impartiality of a tribunal is a requirement that cannot be subject to any exception.”*

— Special Rapporteur Clément N. Voule - A/HRC/47/24 para. 44





## **Accountability must be ensured relative to all acts involving the excessive use of force.**

The right to freedom of peaceful assembly can be violated in numerous ways. Among the most severe violations is the use of excessive force, generally by the police or security services, in response to protests. Whenever force is deployed, there must be a prompt investigation by an independent investigative mechanism. Where excessive force is used, accountability must be ensured, and comprehensive remedies must be provided.



## **Individuals must have the ability to advance claims oriented towards systemic reform where law or policy violates human rights obligations.**

Ensuring full access to justice requires ensuring that mechanisms are available through which individuals can appeal for the reform of laws and practices that violate human rights. Such mechanisms can take numerous forms, including free and fair democratic processes, public interest litigation and the ability to bring appeals before national human rights commissions.

*'Ensuring accountability and access to an effective remedy involves protecting the imprescriptible right of victims, their families and society to know the truth about what happened.'*

— Special Rapporteur Clément N. Voule - A/HRC/47/24 para. 46



# Practical Recommendations

The following recommendations encompass several areas of best practice. Conditions, including legal standards and levels of compliance, vary dramatically across contexts; in light of this reality, the Special Rapporteur wishes to emphasize that lawyers and legal practitioners will have to consider their local circumstances carefully, such that not all recommendations may be feasible across all contexts.

The Special Rapporteur also wishes to emphasize that the following recommendations in no sense constitute obligations; rather, primary responsibility for ensuring full respect, protection and fulfillment of the right to freedom of peaceful assembly rests on states

## A. Before the Event – Coordination and Preparation



### 1. Lawyers and legal practitioners may coordinate through organized networks prior to the occurrence of an assembly

Legal assistance during and after protests often requires a large number of practitioners who fulfill a varied set of roles. While periods of sustained demonstration often motivate lawyers and legal practitioners to take actions in support of the right to freedom of peaceful assembly, without coordination such efforts are unlikely to be maximally effective. Centralized coordination is useful to define roles, promote maximum complementarity and information sharing, and ensure that the needs of those wishing to exercise their right to freedom of peaceful assembly are best addressed.

Effective coordination is facilitated where there is an organization or a coordinating body with experience playing such a role, that is able to develop and utilize connections and to bring strategic foresight to the task. This role may be played by legal offices, civil society organizations with strong relationships with assembly organizers, or bar associations. The establishment of coordination mechanisms can help to ensure that lawyers and legal organizations remain productively engaged.

Among other functions, lead legal organizations and coordinating bodies can help plan legal observation activities, produce and provide forms of identification for legal observers, maintain a database of lawyers willing to assist in the context of protests, determine appropriate numbers of lawyers to make themselves available for support work relative to any particular protest, collect and distribute any necessary equipment, provide trainings, and collect reports and help produce consolidated final reports, as and where desirable. Lawyers' supportive role relative to assemblies will be facilitated to the extent they take steps to inform themselves

of upcoming assemblies, including by developing connections with different individuals and associations involved in assembly organization.

● Building strong connections with leading assembly organizing individuals and associations is valuable not only in that it can help lawyers be best informed as to upcoming assemblies, but also in that it can help maximize lawyers' ability to communicate effectively with individuals whose rights are violated in the context of assemblies. In addition, such connections can provide the basis for broader coordination efforts between lawyers and other members of civil society, for instance relative to efforts oriented towards law or policy reform, as well as a means through which lawyers may obtain feedback on their activities, in order to maximize their value and effectiveness over time.

● Among the tasks lawyers, and legal coordinating bodies in particular, may productively undertake in advance of assemblies are:

- (a)** Developing relationships with assembly organizers and leaders of social movements;
- (b)** Liaising with relevant authorities;
- (c)** Liaising with local and national bar associations;
- (d)** Liaising with international human rights mechanisms such as the Special Procedures mandate holders;
- (e)** Recruiting volunteers (lawyers, paralegals, law students, etc.);
- (f)** Building a database of pro-bono lawyers or lawyers involved in protecting protesters;
- (g)** Establishing a means, such as a hotline, through which individuals who are arrested or subjected to other human rights violations while protesting can get in touch with legal representation.



## Real-life examples on how to coordinate through organized networks.



In **Mexico**, civil society organizations have created a network of lawyers divided by geographical zones, which works to represent and protect assembly participants. In addition, civil society organizations work to develop connections between law students, young lawyers and social movements, in order to increase trust and maximize the potential for legal support.



In **the United States**, coordinating bodies of lawyers have been created in several cities, including the Community Justice Project in Miami and the Arch City Defenders in St. Louis. These groups liaise with assembly organizers, facilitate regular meetings for legal actors, and ensure feedback between assembly organizers and participants and lawyers and legal practitioners. The National Lawyers Guild plays a prominent role in supporting such efforts.



In **Lebanon**, an ad-hoc committee of pro-bono lawyers, known as the Lawyers Committee for the Defense of Protesters, has been created, with the aim of defending and supporting the right to protest. In addition, a hotline was created, which protesters can call if they are arrested during protests.



In **South Africa**, civil society has been working to bring lawyers into the legal defense cause, including by recruiting private lawyers to provide pro bono representation to persons criminally detained for protesting, by involving law students in support of the right to freedom of peaceful assembly through protester representation, and by forming the Right to Protest Group.



In **France**, freedom of assembly lawyers have developed close connections with trade unions, allowing for effective communication and support where necessary in support of the right to freedom of peaceful assembly.

In addition to the recommendations laid out above, the Special Rapporteur encourages the establishment of international platforms for lawyers working to support human rights, including the right to freedom of peaceful assembly in particular, for the purposes of expanding awareness-raising, collaboration and support.



### Real-life examples of international coordination platforms



In **Turkey**, the International Bar Association's Human Rights Initiative has been working to establish a platform that lawyers all over the world may access, as a means of supporting awareness raising, collaboration and activism





## 2. Lawyers and legal practitioners may provide trainings on standards pertaining to the right to freedom of peaceful assembly and optimal modes of representing protesters

Among the tasks lawyers and legal professionals may productively engage in, both in the lead-up to assemblies and at other times, is the conduct of trainings oriented towards building capacity and knowledge. Trainings may be targeted towards assembly organizers and participants, to familiarize them with local and international legal standards relative to freedom of assembly and the policing of protests, issues they may encounter and how best to conduct themselves, from a legal point of view. In addition, lawyers, lead organizations and coordinating bodies with particular expertise dealing with legal issues pertaining to assemblies may conduct trainings for other lawyers, to help familiarize them with the issues they are likely to encounter, and the strategies that have proven most effective in the local context in response.

***“Policing functions should not be delegated to third parties. Assemblies should always be policed by regular law enforcement personnel.”***

—— Special Rapporteur Clément N. Voule - A/HRC/47/24 para. 54

It is the state’s responsibility to ensure police and other personnel are aware of and operate in compliance with human rights obligations. Where possible and practicable, lawyers may make themselves available to facilitate this process, however, including for instance by conducting trainings for police and other state personnel.



### **Real-life examples of trainings about FoAA rights and the representation of protesters**



In **Israel**, Adalah – The Legal Center for Arab Minority Rights in Israel has conducted large, online trainings for lawyers and legal practitioners on the representation of Palestinian protesters held in police stations, demonstrating the ability to continue to conduct such activities even in the context of the Covid-19 pandemic. Among other materials, Adalah provided lawyers a sample interview form, to assist in the collection of information from detainees at police stations.



**The International Bar Association's Human Rights Initiative** conducts trainings for lawyers from central Asian countries, discussing and disseminating information pertaining to international human rights standards pertaining to freedom of assembly and related issues.



In **France**, trade union representatives and jurists have published guidelines and manuals on the rights of protestors.



In **Kenya**, civil society organizations have produced pocket-sized, accessible copies of the constitution, to better disseminate knowledge of rights.



In **Hong Kong**, Human Rights in China has organized public education events aimed at disseminating information concerning human rights principles and obligations to a diverse range of stakeholders.





### 3. Lawyers and legal practitioners may assist assembly organizers with any legal procedures or challenges necessary in the run up to an assembly

While international human rights standards indicate that obstacles should not be placed in the way of the exercise of the right to freedom of peaceful assembly, in practice many countries impose unreasonable restrictions on assemblies, or attempt to ban them altogether. In such contexts, lawyers may make themselves available in order to represent assemblies and assembly organizers by challenging such restrictions before judicial authorities in prompt proceedings in advance of the assemblies in question.



### 4. Lawyers and legal practitioners intending to engage in the observation of an assembly may prepare in advance, on the basis of the nature of the assembly and expected responses

Whenever lawyers and legal practitioners observe an assembly, it is wise to take appropriate steps in advance in preparation. Appropriate preparation will vary from context to context, and should be calibrated in relation to factors such as the size of the assembly, likely responses from the authorities or non-state actors, and the legal system pertaining to assemblies in the country in question.

One important step lawyers and others may take in advance of the observation of an assembly is a risks assessment. Risks assessments should include assessment of the likelihood of one or another form of violent reaction, the location or route at or along which the assembly will take place and the locations legal observers should ideally position themselves, and assessment of any particular areas where problems are expected or which might form sites of particular risk.

In order to promote optimal preparation, the Special Rapporteur recommends that lawyers and legal coordination bodies engaging in the observation of assemblies undertake the following steps prior to an assembly:

- (a) Organize pre-assembly briefings, where possible, to provide an overview of the legal observation strategy, share the risks assessment, go through the roles and responsibilities of different parties, ensure that all the legal practitioners and lawyers involved in the legal observation have the necessary equipment, and identify a post-event meeting point.
- (b) Take part in a legal observation training, which includes





information about relevant legal rules, the context in which the assembly will take place, a review of policing practices and practical information.

**(c)** Introduce themselves, or a representative of their group, together with their aims and objectives, to the organizers of the assembly as well as to the authorities in charge of policing the assembly, in order to develop positive relationships.

In addition, the Special Rapporteur wishes to emphasize that legal observers should contemplate and work to prepare themselves for a variety of situations, such as changes in the weather, increases in the amount of time to be spent observing, or a lack of access to resources and facilities, as well as the potential that they may become separated from other members of the legal observation team or get caught up in a potentially dangerous situation. In this context, the Special Rapporteur recalls the ‘Key Items for Monitors to Carry with Them’ listed in the [Handbook on Monitoring Freedom of Peaceful Assembly](#) published by the OSCE<sup>2</sup> and suggests that legal observers carry the following items with them:

**(a)** A form of identification and legal observer accreditation, which, ideally, includes a photograph of the legal observer.

**(b)** Contact phone numbers of significant persons, including other members of the legal observation team and supportive lawyers not engaged directly in observing the protest. In addition to being written down, it is optimal for these numbers to be memorized.

**(c)** A mobile phone.

**(d)** A legal observation information sheet, a notepad, pens, an audio recorder and a watch.

**(e)** A means of taking photos and recording videos.

**(f)** Comfortable clothes and footwear relative to local conditions, bearing in mind the potential for changes in the weather.

**(g)** Water in a plastic bottle.

**(h)** A first aid kit.

**(i)** Any necessary personal medications.

<sup>2</sup> A sample code of conduct is provided by OSCE ODIHR, Handbook on Monitoring Freedom of Peaceful Assembly 45 (2011).



It is generally advisable that legal observers not have with them anything that might be regarded as a weapon, including for example a penknife, glass bottle, or steel-toe boots. In addition, it is generally a good idea to remove jewelry, particularly dangling earrings or necklaces while observing assemblies



### Real-life examples of coordinated preparation prior to a protest



In **France**, lawyers informally coordinate before protests, and circulate flyers, guidelines, alerts and recommendations for protesters. Legal teams, containing representatives of civil society as well as the ombudsperson, are often created prior to assemblies, to better represent and protect protestors' rights.



### 5. Lawyers and legal practitioners observing assemblies may consider the adoption of a code of conduct



It is not necessary to adopt a code of conduct in order to engage in legal observation. Agreement and adoption on such a code may, however, help to ensure that all legal observers are on the same page, and that there is clarity on goals, positionality, and appropriate actions in the context of subsequent observation, and can also help clarify the function of the legal observers to external parties. Such a code of conduct may, for example, indicate legal observers' rights-protecting function, as well as the principles of impartiality and non-interference.<sup>3</sup>

<sup>3</sup> A sample code of conduct is provided by OSCE ODIHR, Handbook on Monitoring Freedom of Peaceful Assembly 35 (2011)

## B. During the Event – Observation and Protection of Protesters



### **1. Lawyers and legal practitioners may consider ways to deploy themselves so as to maximize safety and efficacy**

In most situations, legal observers will be safer and more effective if deployed in teams of at least two. While observing, legal observers should pay attention not only to the assembly but also to their teammates, to better protect their safety and wellbeing. Where practicable, less experienced legal observers may be paired with more experienced observers, to promote knowledge transfer and capacity development. Where larger legal observation teams are deployed, it will be helpful to have multiple field coordinators, responsible for different teams.

When possible, legal observers may arrange to arrive in advance of the start time of the assembly, in order to familiarize themselves with their environment. One or more legal observers, as appropriate in light of the size of the legal observation team as a whole and available personnel, may also be kept on duty outside the context of the assembly, in order to be able to respond to various legal needs that may arise.

Functionally, legal observers may position themselves according to an understanding of the nature of the event, optimal observation points, safety concerns, and assessment of likely responses to the assembly.





**2. Where practicable, lawyers and legal practitioners may consider ways of clearly and transparently identifying themselves, where the situation allows**

In situations in which the authorities respect the legal observation of assemblies, legal observers may carry identification documents with them, clearly indicating that they are in fact legal observers, and ideally containing a photograph. The utility of such documents will be enhanced where the organizations coordinating the legal observers have been able to liaise with the authorities prior to the event, should the state be open to such engagement. Legal observers in such a context may also consider wearing bright clothing, to be more readily identifiable. In some contexts, the clear presence of legal observers alone can help deter violations.

*“He [The Special Rapporteur] recalls that the work of lawyers as monitors should be aimed at having a positive impact on the understanding and respect demonstrated for the right to freedom of peaceful assembly by State authorities.”*

—— A/HRC/47/24 para. 67



**Real-life examples of the deployment of legal observers during protests**



In the **United Kingdom**, Black Protest Legal Support UK, established in 2020, has mobilized an extensive body of legal practitioners willing to represent protestors pro bono and to act as legal observers. By deploying legal observers to almost every Black Lives Matter protest in the UK, Black Protest Legal Support UK has been able to deter police from violating the rights of assembly organizers and participants, providing such individuals greater ability to exercise their right to freedom of peaceful assembly.



In the **United States**, legal observers coordinated by the National Lawyers Guild wear green hats so that they will be easily identifiable while observing protests, in order to make clear and distinguish their presence to all other persons present

In other context, where state abuses of the right to freedom of peaceful assembly are more extreme, legal observers may have to operate discreetly. In this context, the Special Rapporteur wishes to reiterate that the ability of legal observers to operate freely is protected by the right to freedom of peaceful assembly, and that states are violating the right where they refuse to allow legal observers or take measures against them.



### 3. Lawyers and legal practitioners may work to maintain clear lines of communication while observing assemblies

Communication is often crucial in the context of assembly observation. Cellular phones provide the clearest, most readily accessible means of immediate communication in most contexts, and may be used to remain in regular touch with legal observation teams, to communicate in the case of pressing emergencies, and to upload relevant materials to secure servers. Legal observers may also consider keeping in touch via walkie-talkies, or through lines of sight. Where there are communication challenges, the deployment of multiple individuals together may become even more valuable, so as to enable individuals to move back and forth, where practicable, as and when necessary in order to communicate. Preparing and preserving clear records will also be especially important where other modes of communication are limited.



#### Real-life examples of maintaining communication with legal observers



In **the United States**, the National Lawyers Guild, which often coordinates assembly observation, develops communication plans to be employed while assemblies are in progress.



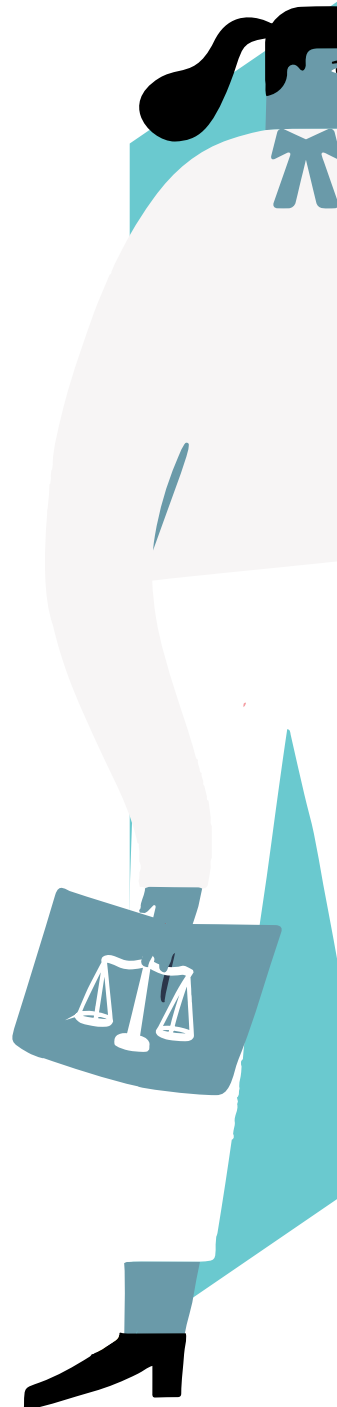


**4. Lawyers and legal practitioners will optimally be equipped with the necessary materials and equipment, take detailed notes, and take measures to ensure the preservation and security of records**

Legal observers may carry with them a variety of recording and documentation devices, including a legal observation information sheet or sheets, a clipboard, a notepad, pens, an audio recording device, a phone and a watch.

Among factors legal observers may want to prepare records on are the relationship between the assembly that takes place and any conditions imposed by the authorities (whether in compliance with human rights standards or not); key statements made by speakers; the size, location and nature of official, police or security force presence, and whether or not they are appropriately individually identified; the nature of interactions between the authorities and the assembly; and any responses to the assembly, whether by counter-protesters or the authorities. In the latter context, legal observers may want to pay particular attention to any instructions issued by the authorities, the response of assembly organizers and members thereto, any arrests, the basis for those arrests, to the extent it can be determined, and any deployment of force, whether by the security forces, protesters, unidentified individuals (including agents provocateurs) or counter-protesters.

As stressed in the Special Rapporteur's report, lawyers and others are often subjected to extensive surveillance, whether through the direct seizure of documents or records or monitoring via surveillance technology. Despite extensive evidence of surveillance, many lawyers have yet to adopt basic technological safeguards. At times, it is not practically advisable to utilize such technologies, including where governments, in violation of human rights obligations, have criminalized their use. In such circumstances the Special Rapporteur recognizes that lawyers and others should pursue the course most practicable in their circumstances. Where such prohibitions and risks do not pertain, however, the Special Rapporteur encourages lawyers and legal practitioners to increase their use of digital security technologies, including for example by relying upon information securing applications, robust encryption and multi-factor authentication, in order to better protect their communications in general, and the data they collect while observing protests in particular.





**5. Lawyers and legal practitioners may pursue a relationship with law enforcement personnel, where the situation allows**

Where reasonable and practicable, members of legal observation teams may introduce themselves to law enforcement authorities, in order to facilitate communication during and after the assembly

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**6. Lawyers and legal practitioners may make themselves available to pursue legal avenues to support assemblies in progress, where possible**

In addition to post-assembly support, where feasible lawyers' groups may consider filing lawsuits aimed at impacting on developing situations, including for instance by filing injunctions against particular forms of state action and response to protest, or supporting protesters in their communications with local or state officials, in support of individuals' and groups' right to freedom of peaceful assembly.



**Real-life examples of in the field legal action**



In **the United States**, civil society groups representing protestors and supporting the rights to freedom of peaceful assembly and of expression have often provided support through prompt legal action, where the authorities attempt to bar assemblies or impose unreasonable restrictions without good cause. This has included, for example, litigation aimed at preventing the disproportionate use of force, including in the form of tear gas?

## C. After the Event – Defense of Protesters



### 1. Lawyers and legal practitioners may confer following the conclusion of an observation

Following any legal observation, it is good practice for observers to leave together, in their teams, and meet up at the agreed post-assembly meeting spot. Where they cannot do so, they should inform their colleagues of such, to ensure their location and wellbeing is accounted for. At their post-assembly meeting, legal observers may debrief, reporting on what they have observed, and assessing the most pressing issues for follow-up.



### 2. Lawyers and legal practitioners may contribute to reporting following assemblies

Reporting responsibilities will optimally be undertaken in the period immediately following assemblies, in order to ensure recollections are as fresh and accurate as possible, and to have maximum impact. It is good practice for reports compiled by individual observers, whether legal observers or other monitors, to be sent to team leaders and coordinators, who can produce a final report and assign personnel to follow-up activities. Lawyers and legal practitioners may contribute to the final report by providing details on local and international standards, as well as on the manner in which local law and practice violate international human rights obligations. Social media provides a valuable medium for the communication of information concerning assemblies.

Lawyers, legal practitioners and other assembly monitors may also consider establishing associations, oriented towards systematic observation of assemblies and reporting on the measures adopted, in order to better track state practice and exert pressure for systemic reform. They may also consider developing relationships with universities, which may be able to offer another locus from which the right to freedom of assembly may be tracked and violations reported.







### Real-life examples of data collection and reporting mechanisms in the context of assemblies



In **France**, a federation of observatories of police practice, the Observatoire des Pratiques Policières, has been established, in order to help better coordinate the collection, exchange and dissemination of information concerning police action in the context of protests.



In **Russia**, organizations such as OVD-Russia and the Memorial Human Rights Center have created a web service that allows for the collection of information concerning violations of the right to freedom of peaceful assembly. Among other things, the aim is to facilitate complaints to international courts and rights bodies.



In **Spain**, the University of Barcelona has developed an alert mechanism that monitors assemblies and reports on the excessive use of force, illegal arrests and other rights violations and irregularities that occur in the context of protests in Catalonia.



### 3. Lawyers and legal practitioners may provide representation oriented to ensuring the release of the wrongfully detained and the defense of the criminally accused following assemblies

A key function for lawyers and legal practitioners in the aftermath of protests is representation of the detained together with those whose rights have otherwise been violated. To facilitate representation, lawyers and legal practitioners may be deployed to follow up on any incidents recorded, to provide representation and to conduct jail visits to meet any individuals known to be detained, whether that knowledge is obtained through legal observation, contact with assembly organizers, participants or family members of the detained, though visits to detention centers, where such visits are practicable and effective, or otherwise.

It is good practice for lead legal organizations and coordinating bodies to do everything they can to facilitate representation of detainees. Examples of manners in which they may do so include establishing a hotline which those detained or otherwise criminally charged or their representatives may call; distributing cards with contact information to assembly participants in advance, where helpful and feasible; or creating a mobile app, through which protestors can contact lawyers. Lawyers may also consider establishing bail funds in advance, where bail is an available means of removing detainees from pretrial detention. Lawyers may also consider coordinating their efforts on behalf of assembly participants when representing them, in order to maximize resources and share best practices.



#### 4. Lawyers and legal practitioners may provide representation oriented towards ensuring remedies for those whose rights have been violated in the context of protests

In addition to representing the detained, both in proceedings aimed at their release and at their defense from criminal charges, lawyers and legal practitioners may represent those whose rights have been violated in the context of assemblies, with the aim of ensuring they are provided with appropriate remedies. In addition to providing justice and a form of restitution to those whose rights have been violated, such representation will hopefully provide extra pressure on the state and state actors not to violate rights in future.

***“It is the Government’s obligation to adopt all appropriate legislative, judicial, administrative, budgetary and educative measures towards the realization without discrimination of the right to legal assistance and advice for any individual subject to its jurisdiction, and to ensure its availability through legal aid for those who need it.”***

—— A/HRC/47/24 para. 39



#### 5. Lawyers and legal practitioners may take actions oriented towards systemic, rights-based reforms

Lawyers and legal practitioners may challenge actions taken by states in the context of their response to assemblies through legal challenges aimed at the alteration of rightsviolating law and policy. Such challenges may take place on the national level, by legislative or judicial avenues as appropriate and available, as well as on the international level, for instance through appeals to regional or United Nations human rights mechanisms. These challenges may be directly attached to claims on behalf of individuals whose rights have been violated in the context of an assembly, or they may come through separate, dedicated initiatives.



#### Real-life examples of actions towards systemic reforms



In **the United States, South Korea** and elsewhere, lawyers and civil society organizations work to educate members of the public on state law and policy, and to support progressive amendments to legislation relating to assemblies.

