

Factsheet: Recommendations on managing assemblies

Joint report of Special Rapporteurs Maina Kiai and Christof Heyns to the Human Rights Council, March 2016 (A/HRC/31/66)



Do the recommendations focus only the right to freedom of peaceful assembly?

No

The proper management of assemblies requires the protection and enjoyment of a broad range of rights by all the parties involved (A/HRC/31/66, para 8). Those who take part in assemblies have a number of protected rights, including the rights to: freedom of peaceful assembly, expression, association and belief; participation in the conduct of public affairs; bodily integrity, including the rights to security and to life; dignity; privacy; and an effective remedy for all human rights violations (Id.). Moreover, the full and free exercise of assembly rights is possible only where an enabling and safe environment for the public, including for civil society and human rights defenders, exists and where access to spaces for public participation is not excessively or unreasonably restricted (Id., para 7).

Do assembly participants forfeit all of their rights if they are not peaceful?

No

Assembly participants may forfeit their right to freedom of peaceful assembly if they are not peaceful, but they retain all the other rights - such as the right to life and the right to be free from cruel, inhuman or degrading treatment - subject to the normal limitations (A/HRC/31/66, para. 9). No assembly should thus be considered unprotected. Moreover, the right to freedom of peaceful assembly is held by each individual participating in an assembly. Acts of sporadic violence or offences by some should not be attributed to others whose intentions and behaviour remain peaceful in nature (Id., para 20).

Do these rights apply to everyone participating in an assembly?

Yes

International law requires that States respect and ensure the rights of all individuals participating in assemblies, without discrimination on the basis of any prohibited ground, including race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status (A/HRC/31/66, paras 14-15, 18). Freedom to organize and participate in public assemblies must be guaranteed to individuals, groups, unregistered associations, legal entities and corporate bodies. Particular effort should be made to ensure equal and effective protection of the rights of those who have historically experienced discrimination, such as women, persons with disabilities and members of ethnic and religious minorities (Id., para 16 and A/HRC/26/29). This duty may require that authorities take additional measures to protect and facilitate the exercise of the right to freedom of assembly by such groups (Id.)

Does the term 'assembly' include my gathering?

Yes

Most likely. The focus of the report is on assemblies that express a common position, grievance, aspiration or identity and that diverge from mainstream positions or challenge established political, social, cultural or economic interests (A/HRC/31/66, para 11). But "assembly" is a broad term, generally understood as any intentional and temporary gathering in a private or public space for a specific purpose, and can take the form of demonstrations, meetings, strikes, processions, rallies or sit-ins with the purpose of voicing grievances and aspirations or facilitating celebrations (Id., para 10 and A/HRC/20/27, para. 24). Even sporting events, concerts and other such gatherings can potentially be included. Although an assembly is generally understood as a physical gathering, human rights protections, may apply to analogous interactions taking place online (A/HRC/31/66, para 10).

Do States have a positive obligation to facilitate assemblies?

Yes

Ensuring the fulfilment of human rights requires States to create, facilitate or provide the necessary conditions for the enjoyment of those rights (A/HRC/31/66, para 14). In the context of assemblies, this means that States should: plan properly for assemblies; ensure transparent decision-making and access to information about assemblies; provide basic services (including traffic management, medical assistance and clean-up services); ensure effective communication with demonstrators before, during and after assemblies; protect the safety of those involved in assemblies; ensure proper training of law enforcement; and more (Id., paras 37-48).

Should states require demonstrators to obtain prior permission for assemblies?

No

Freedom of peaceful assembly is a right and not a privilege and as such its exercise should not be subject to prior authorization by the authorities (A/HRC/31/66, para 21). State authorities may at most put in place a system of prior notification, where the objective is to allow State authorities an opportunity to facilitate the exercise of the right, to take measures to protect public safety and/or public order and to protect the rights and freedoms of others. Any notification procedure should not function as a de facto request for authorization or as a basis for content-based regulation (Id.).

What is this report about?

This report provides practical guidance on how States can manage assemblies while also abiding by international human rights standards. The recommendations are organized around 10 overarching principles, and in each section are preceded by a summary of applicable international standards.

Why a report on the practical management of assemblies?

The ability to assemble and act collectively is vital to democratic, economic, social and personal development, to the expression of ideas and to fostering engaged citizenry. Yet despite the increasingly prominent role that assemblies play in today's world, there remains a lack of clear understanding of the applicable international human rights law and standards. When can a State require advance notification of an assembly, for example? Can authorities place limits on the time, place or manner that protests are conducted? What are the State's duties in terms of facilitating assemblies? In March 2014, the Human Rights Council passed Resolution 25/38, requesting Special Rapporteurs Maina Kiai and Christof Heyns to help answer those questions and more. This report is the result of their work.

How were the recommendations compiled?

The recommendations were developed after in-person consultations with over 100 experts and more than 50 UN Member States. Written input was also solicited via questionnaires. The questionnaires and information on the consultations can be found at the project hub page: <http://freeassembly.net/peacefulprotests/>

Where can I find the report?

The report (A/HRC/31/66) is available at the following link: <http://freeassembly.net/reports/managing-assemblies/>

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A/HRC/31/66, para 21

10 principles for the proper management of assemblies - adapted from the report

- 1 States shall respect and ensure all rights of persons participating in assemblies (paras 14-17)
- 2 Every person has the inalienable right to take part in peaceful assemblies (paras 18-28)
- 3 Any restrictions imposed on peaceful assemblies shall comply with international human rights standards (paras 29-36)
- 4 States shall facilitate the exercise of the right of peaceful assembly (paras 37-49)
- 5 Force shall not be used unless it is strictly unavoidable, and if applied it must be done in accordance with international human rights law (paras 50-67)
- 6 Every person shall enjoy the right to observe, monitor and record assemblies (paras 68-72)
- 7 The collection of personal information must not interfere impermissibly with privacy or other rights (paras 73-78)
- 8 Every person has the right to access information related to assemblies (paras 79-82)
- 9 Business enterprises have a responsibility to respect human rights in the context of assemblies (paras 83-88)
- 10 The State and its organs shall be held accountable for their actions in relation to assemblies (paras 89-96)

Can firearms be used to disperse a violent assembly?

No

Firearms should never be used simply to disperse an assembly, and indiscriminate firing into a crowd is always unlawful ([A/HRC/31/66](#), para 60; [A/HRC/26/36](#), para 75). Intentional lethal use of force is only lawful where it is strictly unavoidable to protect another life from an imminent threat (*id.*). The use of force in general should be exceptional, and assemblies should ordinarily be managed with no resort to force (*id.*, para 57). Any use of force must comply with the principles of necessity and proportionality. “Necessity” means the kind and degree of force used are the minimum necessary in the circumstances. The proportionality requirement, meanwhile, requires that the harm that might result from the use of force must be proportionate and justifiable in relation to the expected benefit (*id.*, paras 57-58).

Is there a right to observe, monitor and record assemblies?

Yes

All persons enjoy the right to observe, and by extension monitor, assemblies ([A/HRC/31/66](#), para 68). This right is derived from the right to seek and receive information, which is protected under article 19 (2) of the [International Covenant on Civil and Political Rights](#) (ICCPR). Monitoring includes observing assemblies and the active collection, verification and immediate use of information to address human rights problems. National human rights institutions, ombudsmen, intergovernmental entities and civil society organizations all commonly act as monitors. Journalists, including citizen journalists, play an important role. States have an obligation to protect the rights of assembly monitors. This includes respecting and facilitating the right to observe and monitor all aspects of an assembly, subject to the narrow permissible restrictions outlined in [article 19 \(3\) of the ICCPR](#) ([A/HRC/31/66](#), para 70).

Does the right to privacy apply in the context of assemblies?

Yes

The collection and processing of personal information during assemblies, such as through recording devices and undercover policing, must comply with protections against arbitrary or unlawful interference with privacy ([A/HRC/31/66](#), para 73). Policies regulating the collection and processing of information relating to assemblies must incorporate legality, necessity and proportionality tests. Where they interfere with the exercise of rights, data collection and processing may represent a violation of the rights to freedom of peaceful assembly and expression (*id.*, para 74).

Is there a right to access government information related to assemblies?

Yes

The ability to access information held by public bodies or by private bodies performing public functions is essential to enabling individuals to exercise their rights in the context of assemblies and to ensuring accountability ([A/HRC/31/66](#), para 79). The public should have easy, prompt, effective and practical access to such information. Maximum disclosure should be the rule, with a presumption that information is accessible, subject only to narrow exceptions (*id.*, paras 80-81).

Do businesses have a duty to respect rights in the context of assemblies?

Yes

The trend towards the privatization of public places means that assemblies commonly occur on property owned by business enterprises ([A/HRC/31/66](#), paras 83-84). While private landowners generally have the right to determine who may access their property, the rights related to assembly may require positive measures of protection even in the sphere of relations between individuals. Business enterprises also play an increasingly prominent role in the policing of assemblies (*id.*).