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Policing public assemblies

Written statement to the 31st session of the UN Human Rights Council (29 February – 24 March 2016)

Amnesty International welcomes the consultation undertaken in recent months by the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions in preparing their joint report to the 31st session of the Human Rights Council on the proper management of assemblies.¹ We look forward to the presentation of the report to the Human Rights Council. In this statement Amnesty International focuses on the role of law enforcement agencies in respecting and protecting the right of peaceful assembly as guaranteed in Article 21 of the International Covenant on Civil and Political Rights (ICCPR) and Article 20 of the Universal Declaration of Human Rights (UDHR).

Obligations of law enforcement agencies under international human rights law

Law enforcement agencies, as representatives of the state, have the obligation under international law to respect and protect human rights and, regarding the policing of assemblies, in particular the rights to freedom of expression and of peaceful assembly; to life, liberty and security of person; and the right to be free from torture or other cruel, inhuman or degrading treatment or punishment.

This includes the positive duty to enable people to exercise the right of peaceful assembly and not to place restrictions on this right going beyond those permitted under international law. Law enforcement agencies must therefore facilitate assemblies so as to ensure that participants can exercise this right, and should take effective steps to ensure public safety and the right of all to security of person.

¹ Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66.

In order to ensure that, they should engage in dialogue with organizers,² and try to foresee problems and to identify solutions that give due consideration to the rights of all involved. They should use methods of persuasion, negotiation and mediation with a view to peaceful settlement of any conflicts, and should protect participants from any violence or other actions by others attempting to harm them or interfere with their exercise of the right of peaceful assembly. They should only consider the use of force if non-violent means remain ineffective in achieving a legitimate law enforcement objective, or without any promise of doing so.³

Law enforcement officials should only resort to force to the extent necessary to achieve a legitimate law enforcement objective and in proportion to that objective.⁴ They should minimize harm and damage and protect third persons.⁵ They must not resort to arbitrary arrest and detention or torture or other ill-treatment of organizers, participants or any other person.⁶ They must not use firearms except in defence against an imminent threat to life or of serious injury.⁷

Failure to comply with obligations

Amnesty International is deeply concerned about frequent and serious violations of the rights mentioned above. In too many situations in countries in all geographic regions, state authorities have overly restricted the exercise of the right of peaceful assembly (for example, completely prohibiting larger gatherings,⁸ arbitrarily banning assemblies at election times,⁹ imposing excessive restrictions citing the need to ensure the smooth flow of traffic,¹⁰ or restricting them under anti-terrorism legislation¹¹). Too many law enforcement agencies have enforced such restrictions by using excessive force to disperse assemblies or by applying an unnecessarily heavy-handed approach, including arbitrary and excessive use of force and arbitrary arrests, and ill-treatment or sometimes even torture. They have used unnecessary force against peaceful protestors, and even when some use of force would have been justified, the force used has often been excessive.

² Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27 (2012), para. 38.

³ UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (hereafter: Basic Principles), Principle 4.

⁴ Basic Principle 5a.

⁵ Basic Principles 3 and 5b.

⁶ Article 7 ICCPR.

⁷ Basic Principles 14 and 9.

⁸ E.g. [Thailand: Stop penalizing peaceful assembly and investigate reports of excessive use of force](#), 23 June 2015 (ASA 39/1941/2015).

⁹ E.g. [Braving bullets: Excessive force in policing demonstrations in Burundi](#), 27 July 2015 (AFR 16/2100/2015); [Taking to the streets: Freedom of peaceful assembly in Cambodia](#), 4 June 2015 (ASA 23/1506/2015); ["We come in and disperse them": Violations of the right to freedom of assembly by the Ugandan police](#), 7 December 2015 (AFR 59/2983/2015).

¹⁰ See e.g. Article 12 of the Law on Demonstrations of the Republic of Korea.

¹¹ E.g. [Memorandum: Egypt's draft law on counter terrorism](#), 12 August 2015 (MDE 12/2269/2015), pp. 3, 4.

- Assemblies have been dispersed by force despite being totally or largely peaceful.¹²
- Tear gas has been used in a disproportionate manner:¹³ over wide areas, affecting participants, including peaceful participants, and bystanders alike; where there is no violence or violence by only a few individuals that could be addressed in a different way; or by tear gas canisters fired directly against persons.¹⁴
- Rubber bullets have been fired randomly at a crowd without distinguishing who may be engaged in violence or not, and without seeking to avoid more serious injury by careful targeting.¹⁵
- High pressure water cannons have been used even against people who are not engaged in violence at all, sometimes causing serious injury.¹⁶
- Batons have often been used against peaceful demonstrators,¹⁷ as a means of dispersal or apparently for no other purpose than punishment.¹⁸
- People have been killed or seriously injured by the use of firearms as a public order tool instead of being limited to situations of defence against an imminent threat of death or serious injury.¹⁹

¹² E.g. [Behind the rhetoric: Human rights abuses in Bahrain continue unabated](#), 15 April 2015 (MDE 11/1396/2015); [Guinea: Strengthen freedom of assembly and expression to prevent election violence](#), 4 June 2015; [Guinea: Excessive and lethal force by security forces must not be repeated during election period](#), 3 September 2015; [Guinea: Respect freedom of peaceful assembly during the election period](#), 11 September 2015; [Turkey: Pride march ban is a new low](#), 29 June 2015 (EUR 44/1978/2015).

¹³ E.g. [Azerbaijan: Detained political activists and peaceful protesters must be released](#), 25 January 2016 (EUR 55/3307/2016); [Braving bullets: Excessive force in policing demonstrations in Burundi](#), 27 July 2015 (AFR 16/2100/2015); [Brazil: Police repression mars peaceful protest in Sao Paulo](#), 22 January 2016; [Democratic Republic of Congo: Further information -- detained youth on trial after peaceful protest](#), 27 January 2016 (AFR 62/3290/2016). (For the use of tear gas against football fans in a confined space, inducing people to stampede, see [Egypt: Shocking deaths at football match lay bare security forces' failures](#), 13 February 2015 (MDE 12/0009/2015).)

¹⁴ E.g. ["We come in and disperse them": Violations of the right to freedom of assembly by the Ugandan police](#), 7 December 2015 (AFR 59/2983/2015).

¹⁵ E.g. ["We come in and disperse them": Violations of the right to freedom of assembly by the Ugandan police](#), 7 December 2015 (AFR 59/2983/2015); [Spain: The right to protest under threat](#), 24 April 2014 (EUR 41/001/2014), section 6.2 (pp. 34-9)

¹⁶ E.g. Republic of Korea, reports on demonstration in central Seoul, 14 November 2015: News Tapa, <https://www.youtube.com/watch?v=mnLGU1rCJC4>, starting at 2m 05s; JTBC news, http://news.jtbc.joins.com/article/article.aspx?news_id=NB11094714; MBC (Munhwa Broadcasting Corporation), http://imnews.imbc.com/replay/2015/nw1800/article/3813552_17808.html; 'Biggest protests in seven years shake central Seoul', *The Hankyoreh*, 16 November 2015, http://english.hani.co.kr/arti/english_edition/e_national/717619.html. [Azerbaijan: Detained political activists and peaceful protesters must be released](#), 25 January 2016 (EUR 55/3307/2016).

¹⁷ E.g. [Ecuador: Dozens injured at nationwide protests](#), 20 August 2015 (AMR 28/2312/2015); [Guinea: The culture of excessive use of force threatens civil and political rights ahead of the presidential elections](#), 23 June 2015 (AFR 29/1950/2015).

¹⁸ E.g. [Gezi Park protests: Brutal denial of the right to peaceful assembly in Turkey](#), 2 October 2013 (EUR44/022/2013).

¹⁹ E.g. [Braving bullets: Excessive force in policing demonstrations in Burundi](#), 27 July 2015 (AFR 16/2100/2015); [Taking to the streets: Freedom of peaceful assembly in Cambodia](#), 4 June 2015 (ASA 23/1506/2015); [Nepal: Police must halt the use of excessive force against protestors with immediate effect](#), 27 January 2016 (ASA 31/3343/2016); [South Africa: Unlawful force and the pattern of concealment -- Barriers to accountability for the killings at Marikana](#), 31 July 2014 (AFR 53/004/2014).

- Peaceful demonstrators have been subjected to harassment,²⁰ arbitrary arrest and detention,²¹ and ill-treatment²² or sometimes even torture.²³
- In some instances, military forces are deployed in policing assemblies without sufficient training or appropriate equipment for such a task which is quite different from their normal duties.²⁴
- Such use of force has frequently resulted in serious injuries and deaths.

Impunity for such violations often prevails, for those who have resorted to unlawful use of force, and for those who have failed in their command responsibility through inadequate planning and preparation, inappropriate or unlawful orders, insufficient supervision and control, or who knew or should have known that those under their command were resorting to unlawful acts and did not take all measures in their power to prevent such acts.²⁵

Recommendations

Amnesty International urges the Human Rights Council to:

- Express concern about excessive restrictions on the exercise of the right to freedom of peaceful assembly.
- Strongly affirm the obligation of law enforcement officials to respect, protect and facilitate the full enjoyment of this right by all.
- Establish communication, dialogue and peaceful settlement of conflicts as the approach governing the policing of all assemblies.
- And to call on states to:
- Repeal or amend any legislation that imposes restrictions on the right to freedom of peaceful assembly beyond those permitted under international law, or permits criminalization of anyone for exercising the right, or that requires organizers to obtain prior authorization for assemblies, and ensure that if the law imposes a prior notification requirement, it permits spontaneous assemblies that have not complied with notification requirements.
- Ensure that law and practice comply with the recommendations on the right of peaceful assembly of the Special Rapporteur on the rights to freedom of peaceful assembly and of

²⁰ E.g. [Timor-Leste: Harassed for organizing peaceful rally](#), 27 January 2016 (ASA 57/3334/2016).

²¹ E.g. [Bahrain starts the new year by tightening the grip on freedom of expression](#), 18 January 2016 (MDE 11/3215/2016); [Burundi: Just tell me what to confess to](#), 23 August 2015 (AFR 16/2298/2015).

²² E.g. [Chad: Security forces beat and mistreat detained peaceful protesters](#), 10 February 2016 (AFR 20/3423/2016); [Montenegro: Police must cooperate with criminal investigations into use of excessive force and ill-treatment of protesters](#), 1 December 2015 (EUR 66/2984/2015).

²³ E.g. [Azerbaijan: Detained political activists and peaceful protesters must be released](#), 25 January 2016 (EUR 55/3307/2016); [Burundi on a knife's edge: The UN Human Rights Council should take urgent action to resolve the human rights crisis](#), 14 December 2015 (AFR 16/3070/2015); [Ethiopia: 'Because I am Oromo': Sweeping repression in the Oromia region of Ethiopia](#), 28 October 2014 (AFR 25/006/2014).

²⁴ [Ecuador: Dozens injured at nationwide protests](#), 20 August 2015 (AMR 28/2312/2015); [Venezuela: Submission to the UN Human Rights Committee](#), June 2015 (AMR 53/1769/2015).

²⁵ See Basic Principle 24.

association and the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions.²⁶

- Facilitate the holding of assemblies, including spontaneous assemblies.
- Ensure that authorities prepare and plan for assemblies with a view to ensuring the best possible conditions for the exercise of the right of peaceful assembly, and with a view to preventing and avoiding situations where they might need to resort to the use of force.
- Ensure that in policing assemblies the overall approach is based on willingness to engage in dialogue and methods of negotiation and peaceful settlement of conflicts, and that law enforcement authorities consider the use of force only if non-violent means remain ineffective or without any promise of achieving a legitimate law enforcement objective, and only to the extent that is necessary and proportionate to achieving that objective.
- Ensure that authorities do not disperse assemblies simply because the organizers have failed to comply with notification requirements, and do not use force to disperse assemblies merely because they are considered unlawful under national law.
- Ensure that the law and regulations governing the use of force by law enforcement officials prohibit the use of firearms in the dispersal of assemblies or in any other situation except in defence against an imminent threat to life or of serious injury, and prohibit the use of less lethal weapons that carry a risk of causing harm disproportionate to the law enforcement objective.
- Take effective steps to prevent arbitrary arrest and detention, torture or other ill-treatment, or harassment of organizers or participants in assemblies.
- As a general rule, not to deploy military forces for policing assemblies; in exceptional instances where that is not possible, take effective measures to ensure that those forces at all times comply with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and carry out their tasks in full respect for human rights, in particular the rights to freedom of peaceful assembly, and freedom of expression, and the rights to life, liberty and security of person.
- Fully implement in law, regulations and practice the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and in that endeavour to give consideration to the Guidelines for Implementation of the UN Basic Principles developed by Amnesty International for that purpose.²⁷
- Ensure full accountability of all officials for actions and omissions that result in violations of human rights in connection with the policing of assemblies, including commanding or superior officers responsible for the planning and preparation of the policing of public assemblies, for orders and instructions given and for supervision and control of those deployed on the ground.

²⁶ In particular, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27 (2012), and Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/17/28 (2011).

²⁷ *Use of Force: Guidelines for the Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. Amnesty International, The Netherlands, Police and Human Rights Programme, September 2015, https://www.amnesty.nl/sites/default/files/public/ainl_guidelines_use_of_force.pdf.