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**Promoción y protección de todos los derechos humanos,
civiles, políticos, económicos, sociales y culturales,
incluido el derecho al desarrollo**

Seguimiento de las visitas a Armenia, Sri Lanka, Túnez y Zimbabwe

Informe del Relator Especial sobre los derechos a la libertad de reunión pacífica y de asociación, Clément Nyaletsossi Voule* **

Resumen

El presente informe se publica como seguimiento de las últimas cuatro visitas a países realizadas por el Relator Especial sobre los derechos a la libertad de reunión pacífica y de asociación, a los siguientes Estados: Túnez, del 17 al 28 de septiembre de 2018; Armenia, del 7 al 16 de noviembre de 2018; Sri Lanka, del 18 al 26 de julio de 2019; y Zimbabwe, del 17 al 27 de septiembre de 2019.

En el informe, el Relator Especial examina las diversas medidas de seguimiento adoptadas en relación con las recomendaciones presentadas en los cuatro informes de visitas a países. A partir de la información recibida de diferentes fuentes en los años posteriores a las visitas a los países, así como de las comunicaciones recibidas en respuesta a cuestionarios especialmente adaptados, el Relator Especial presenta una evaluación de la aplicación de estas recomendaciones.

Aunque se hace hincapié en varias cuestiones clave, el Relator Especial se centra principalmente en los asuntos sobre los que se ha recibido información, se extraen conclusiones y se ofrecen recomendaciones prácticas.

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe completo, que figura en el anexo, se distribuye únicamente en el idioma en que se presentó y en francés.

** Este informe se presentó con retraso para poder incluir en él la información más reciente.



Annex

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, on his follow-up to country visits to Armenia, Sri Lanka, Tunisia and Zimbabwe

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I. Introduction

1. The present report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, concerns his four latest country visits, which were to the following States, in chronological order: Tunisia, from 17 to 28 September 2018; Armenia, from 7 to 16 November 2018; Sri Lanka, from 18 to 26 July 2019; and Zimbabwe, from 17 to 27 September 2019. In the report, the Special Rapporteur follows up on various recommendations included in the reports he issued following his visits to those States.

2. The present report has been prepared on the basis of information gathered by the Special Rapporteur during the years following his country visits, as well as information received in response to questionnaires distributed by the Special Rapporteur inquiring into follow-up measures relative to the recommendations included in his country visit reports. While several key issues are emphasized, as four country visits are addressed and space is limited, the present report focuses primarily on those recommendations concerning which information has subsequently been received. Therefore, the absence of discussion of certain recommendations in the report does not indicate that full compliance with those recommendations has been achieved. The Special Rapporteur underscores that all recommendations included in his country visit reports should be borne in mind and undertaken by the States in question.

3. The Special Rapporteur thanks Armenia, Sri Lanka, Tunisia and Zimbabwe for inviting him to undertake country visits, and for the efforts they have made to better respect, protect and fulfil the rights to freedom of peaceful assembly and of association. He encourages them to continue to engage constructively with the work of his mandate, other mandates, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the entire United Nations system. In addition, he encourages them to work towards compliance with the various recommendations he has made, in order to ensure greater enjoyment of the rights to freedom of peaceful assembly and of association.

II. Tunisie

4. Le Rapporteur spécial souhaite remercier la Tunisie pour sa collaboration aux activités associées au mandat et pour les efforts qu'elle a déployés afin d'assurer un plus grand respect, une meilleure protection et une plus grande réalisation des droits à la liberté de réunion pacifique et à la liberté d'association à ce jour. Les points ci-dessous mettent en évidence plusieurs domaines, identifiés par les parties concernées, dans lesquels des mesures supplémentaires peuvent être prises en faveur d'une plus grande jouissance de ces droits.

A. Rassemblements

5. Dans son rapport sur sa visite en Tunisie, le Rapporteur spécial a appelé la Tunisie à amender la loi n° 69-4 réglementant les réunions publiques, cortèges, défilés, manifestations et attroupements, afin qu'elle soit conforme à la Constitution et aux instruments internationaux¹. Cette loi n'a pas encore été modifiée. Comme le Rapporteur spécial l'a indiqué dans son rapport, la loi n° 69-4 contient de nombreux éléments restrictifs ; entre autres, elle établit un régime d'autorisation, impose des limitations onéreuses et injustifiables aux rassemblements, et accorde aux autorités un pouvoir d'interdiction des manifestations excessivement large, autorisation négative à laquelle s'ajoutent les pouvoirs octroyés dans le cadre de l'état d'urgence actuel en Tunisie. Le Rapporteur spécial souhaite rappeler que, pour se conformer à l'obligation de respecter, de protéger et de réaliser le droit à la liberté de réunion pacifique, la loi sur les rassemblements ne doit pas contenir d'interdiction générale des rassemblements, de procédures de notification lourdes ou de contraintes excessives sur le lieu, les horaires et les modalités des manifestations². Elle ne doit pas non plus criminaliser

¹ A/HRC/41/41/Add.3, par. 105.

² Ibid., par. 23.

les réunions et manifestations publiques spontanées, ni prévoir l'immunité des forces de l'ordre lors de la dispersion des manifestations ou des sanctions pénales excessives, mais doit en revanche prévoir la possibilité d'un contrôle judiciaire³.

6. Dans son rapport, le Rapporteur spécial a également appelé la Tunisie à former les agents chargés du maintien de l'ordre aux bonnes pratiques de gestion des manifestations, dans le respect des instruments internationaux en la matière, et encouragé le Gouvernement à se conformer aux recommandations du Rapport conjoint du Rapporteur spécial sur le droit de réunion pacifique et la liberté d'association et du Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires concernant la bonne gestion des rassemblements⁴ ainsi qu'aux 10 principes émanant de ce rapport⁵. Il a également appelé la Tunisie à veiller à ce que toutes les allégations de recours excessif à la force à l'encontre de manifestants par les forces de sécurité fassent rapidement l'objet d'une enquête approfondie et indépendante, que les auteurs présumés soient poursuivis et sanctionnés, et que les victimes soient indemnisées de manière appropriée⁶. Le Rapporteur spécial a reçu des informations faisant état d'un usage excessif de la force à de nombreuses occasions depuis sa visite pour disperser des rassemblements en Tunisie, la nécessité de prendre des mesures pour lutter contre la pandémie de maladie à coronavirus (COVID-19) étant souvent invoquée comme justification. Des questions connexes ont fait l'objet de communications précédemment. Le Rapporteur spécial tient à souligner que l'usage excessif de la force constitue une violation grave des droits humains. Lorsqu'un usage excessif de la force est constaté, une responsabilité doit être établie. Malheureusement, il semble que de telles violations continuent d'avoir lieu et qu'aucune responsabilité ne soit prévue dans de tels cas.

7. Le Rapporteur spécial est particulièrement préoccupé par les informations selon lesquelles des journalistes ont été attaqués alors qu'ils couvraient des assemblées, ainsi que par le fait qu'il n'y a pas eu de reddition de comptes pour ces attaques.

8. Le Rapporteur spécial est également préoccupé par l'approche très restrictive du droit à la liberté de réunion pacifique adoptée par la Tunisie depuis la propagation de la pandémie de COVID-19. Si certaines mesures de restriction des rassemblements sont justifiées en réponse à ladite pandémie, il est important que celles-ci soient soigneusement mises en balance avec la nécessité de respecter, de protéger et de réaliser ce droit. L'approche de la Tunisie n'a montré aucune tentative d'équilibre, avec une interdiction générale des rassemblements publics imposée en janvier 2022. Dans ce contexte, le Rapporteur spécial souhaite rappeler la Déclaration conjointe sur le droit à la liberté de réunion pacifique et la gouvernance démocratique⁷ ainsi que sa déclaration sur les droits à la liberté de réunion pacifique et à la liberté d'association dans le contexte de la pandémie de COVID-19⁸.

B. Associations

9. Dans son rapport, le Rapporteur spécial a appelé la Tunisie à faire en sorte que toute réforme légale considère le décret-loi n° 2011-88 comme le seuil minimal en matière de réglementation de la liberté d'association⁹. Un projet de loi qui modifierait ce décret-loi a depuis été examiné ; cependant, plutôt que d'étendre la protection au droit à la liberté d'association, celui-ci propose plusieurs restrictions incompatibles avec le contenu du droit. Ainsi, il prévoit notamment de créer un cadre d'autorisation, d'imposer des limitations injustifiées à la capacité des associations à recevoir des fonds et d'accorder aux autorités un

³ Ibid.

⁴ A/HRC/31/66.

⁵ A/HRC/41/41/Add.3, par. 102.

⁶ Ibid., par. 104.

⁷ Rapporteur spécial sur les droits à la liberté de réunion pacifique et à la liberté d'association *et al.*, « Déclaration conjointe sur le droit à la liberté de réunion pacifique et la gouvernance démocratique », 9 décembre 2020.

⁸ Voir HCDH, « COVID-19 and freedom of assembly and association », disponible à l'adresse suivante : <https://www.ohchr.org/en/special-procedures/sr-freedom-of-assembly-and-association/covid-19-and-freedom-assembly-and-association>.

⁹ A/HRC/41/41/Add.3, par. 107.

pouvoir excessivement large pour dissoudre les associations. Le Rapporteur spécial a analysé ce projet de décret et exposé ses préoccupations dans une communication envoyée conjointement avec d'autres titulaires de mandat au Gouvernement¹⁰. Compte tenu de ce qui précède, le Rapporteur spécial demande instamment le retrait ou la modification dudit projet de décret.

10. Le Rapporteur spécial a également appelé la Tunisie à prendre des mesures législatives pour que les associations soient retirées du champ d'application de la loi n° 2018-52 relative au registre national des entreprises¹¹. N'ayant reçu aucune information suggérant que cette mesure aurait été prise, il réitère cet appel.

C. Liberté de réunion pacifique et d'association au travail

11. Dans son rapport, le Rapporteur spécial a appelé la Tunisie à encourager, au moyen de mesures appropriées, la diversité des centrales syndicales pour assurer une meilleure protection des droits des travailleurs tunisiens¹². En l'absence d'informations spécifiques concernant cette recommandation, le Rapporteur spécial réitère cet appel, et appelle plus généralement le Gouvernement à assurer le plein respect des droits à la liberté de réunion pacifique et à la liberté d'association au travail.

D. Protection et inclusion des groupes à risque

12. Dans son rapport, le Rapporteur spécial a appelé la Tunisie à prendre des mesures pour empêcher toute discrimination dans l'enregistrement et le fonctionnement des organisations non gouvernementales, en particulier celles qui œuvrent en faveur des minorités religieuses et sexuelles¹³, et à prendre des mesures législatives et administratives visant à protéger les défenseurs et défenseuses des droits de l'homme, en particulier ceux et celles qui travaillent sur des questions sensibles telles que les droits des minorités religieuses, l'orientation sexuelle et l'identité de genre, la gestion des ressources naturelles et la corruption¹⁴. Le Rapporteur spécial est préoccupé par les informations reçues suggérant que les organisations de défense des personnes lesbiennes, gays, bisexuelles, transgenres et intersexes rencontrent des difficultés d'enregistrement aux niveaux informel et bureaucratique, et que des campagnes de répression sont menées contre ces organisations. Dans ce contexte, il souhaite réitérer l'inquiétude exprimée dans son rapport concernant le traitement réservé à l'organisation Shams¹⁵. Le Rapporteur spécial fait également partie des titulaires de mandat au titre des procédures spéciales qui ont adressé deux communications à la Tunisie à ce sujet¹⁶. Le Rapporteur spécial a également reçu des informations suggérant que des militants et des défenseurs des droits des personnes lesbiennes, gays, bisexuelles, transgenres et intersexes avaient fait l'objet de harcèlement, de discours de haine, de menaces de mort et d'attaques en raison de leur travail, et que des membres du personnel de l'association Damj, qui œuvre pour la protection des droits des minorités, avaient été harcelés, attaqués et poursuivis en raison de leur travail en faveur des droits humains et de leur participation à des manifestations pacifiques. Ayant publié, avec d'autres titulaires de mandat, de nombreuses communications sur ce sujet, le Rapporteur spécial souligne les préoccupations soulevées dans ces communications, notamment le manque de protection de ces groupes par la police, et insiste sur le fait que de telles attaques ne devraient pas avoir

¹⁰ Voir la communication TUN 4/2022. Toutes les communications mentionnées dans le présent document sont disponibles à l'adresse suivante :

<https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

¹¹ A/HRC/41/41/Add.3, par. 108.

¹² Ibid., par. 115.

¹³ Ibid., par. 116.

¹⁴ Ibid., par. 117.

¹⁵ Ibid., par. 61.

¹⁶ TUN 4/2018 et TUN 2/2019. Bien qu'un jugement positif ait finalement été rendu par la Cour de cassation de Tunisie, le Rapporteur spécial reste préoccupé par l'approche de la liberté d'association adoptée par les autorités bureaucratiques et le ministère public tout au long de l'affaire.

lieu et que, le cas échéant, leurs auteurs doivent être tenus pour responsables¹⁷. Le Rapporteur spécial réitère que la Tunisie doit se conformer à son obligation de protéger tous les défenseurs des droits humains.

13. En outre, le Rapporteur spécial tient à souligner les points que lui-même et d'autres titulaires de mandat ont soulevés dans une communication adressée au Gouvernement concernant l'enregistrement de l'Association Bahaï de Tunisie¹⁸.

E. Autres questions

14. Dans son rapport, le Rapporteur spécial a appelé la Tunisie à veiller à ce que la nouvelle loi réglementant l'état d'urgence soit conforme aux dispositions pertinentes de la Constitution et des instruments internationaux, en matière de restriction des droits et des libertés sous l'état d'urgence ou les situations d'exception¹⁹. En juillet 2021, le Président Kaïs Saïed a suspendu le Parlement et destitué le Premier Ministre. En février 2022, le Président a prolongé l'état d'urgence jusqu'à la fin de l'année. Le Rapporteur spécial et d'autres titulaires de mandat ont précédemment exprimé leur préoccupation quant à l'état d'urgence en cours²⁰. Plusieurs rapports ont suggéré que ce dernier, en particulier dans un contexte d'instabilité politique et de concentration des pouvoirs, facilitait les violations des droits humains, notamment sous la forme de détentions secrètes.

15. Dans son rapport, le Rapporteur spécial a appelé la Tunisie à mettre en place de toute urgence les institutions prévues par la Constitution de 2014, en particulier la Cour constitutionnelle, afin de permettre aux citoyens de formuler leurs recours d'inconstitutionnalité des lois existantes et de celles qui seraient adoptées durant cette période critique de la transition démocratique²¹. Le Rapporteur spécial comprend qu'un nouveau projet constitutionnel sera bientôt rendu public. Dans ce contexte, il espère que la nouvelle constitution maintiendra au minimum toutes les protections des droits incluses dans la Constitution de 2014. Il est toutefois préoccupé par le fait que la nouvelle constitution ne semble pas avoir été rédigée dans le cadre d'un processus inclusif et participatif.

16. Dans son rapport, le Rapporteur spécial a également appelé la Tunisie à assurer la mise en place effective de la décentralisation du pouvoir consacrée au chapitre VII de la Constitution, et a noté que cette réforme constituait l'occasion d'ouvrir des bureaux de la Direction générale des associations et des partis dans les régions, afin d'en faciliter l'accès aux associations qui n'étaient pas basées à Tunis²². Cependant, les bureaux de la Direction générale des associations et des partis n'ont pas encore été ouverts dans tout le pays. Le Rapporteur spécial réitère donc cet appel.

III. Armenia

17. The Special Rapporteur wishes to thank Armenia for its collaboration with the work of the mandate, and the efforts it has made to ensure greater respect, protection and fulfilment of the rights to freedom of peaceful assembly and of association to date. The points indicated below highlight several areas, identified by concerned parties, in which further steps could be taken in support of the fuller enjoyment of human rights.

A. Assembly

18. In the report on his country visit to Armenia, the Special Rapporteur noted that special means were part of the police gear used in case officials needed to use coercive measures against those engaged in assemblies when a certain level of violence was perceived. They

¹⁷ Voir les communications TUN 3/2021, TUN 4/2021 et TUN 9/2021.

¹⁸ Voir la communication TUN 2/2020.

¹⁹ A/HRC/41/41/Add.3, par. 100.

²⁰ Voir la communication TUN 4/2019.

²¹ A/HRC/41/41/Add.3, par. 99.

²² Ibid., par. 111.

included rubber truncheons, cartridges with rubber bullets, diversionary flash and acoustic means, means to dismantle barriers and to forcibly stop people and vehicles, electroshock weapons, triggered spark dischargers, service dogs, water cannons and armoured vehicles.²³ Moreover, he noted that in some instances, the police limited the exercise of the right to freedom of peaceful assembly by putting an end to peaceful demonstrations without reasonable cause by forcibly taking participants to police stations or by dispersing them or their leaders using disproportionate force.²⁴ In relation to protests in July 2016 in particular, the Special Rapporteur observed that flash grenades and acoustic flash grenades had been used against protesters, reporters and individuals who were not participants but passers-by and residents of nearby buildings, which had led to numerous injuries.²⁵ As a result of this information, together with information suggesting that existing legislation did not sufficiently regulate the procedures for using special means,²⁶ the Special Rapporteur called for the Government to consider revising the provisions of the law on freedom of assemblies and other related regulations that unduly violated the right to freedom of peaceful assembly and, in particular, consider revisions conducive to a better application of the provisions related to the use of special means.²⁷

19. The Special Rapporteur understands that revised legislation on freedom of assembly, as well as revised law enforcement protocols and approaches to special means, are envisioned by: the national strategy for human rights protection; the 2020–2022 action plan adopted thereunder on 26 December 2019; and Order No. 81-A of the head of the police. The Special Rapporteur thanks the Government of Armenia for its submission noting that a commission has been set up to address issues with the current law, including by ensuring compliance with international legal standards. The Special Rapporteur commends Armenia for its commitment to reforming its law in order to ensure full compliance with the right to freedom of peaceful assembly, and he calls upon the authorities to follow through on this commitment. He hopes the revised legislation will fully address the issues raised above, and that it will soon be passed and fully implemented.

20. The Special Rapporteur has received information, from the Government and others, indicating that reference to international human rights standards was incorporated into police training programmes. The Special Rapporteur understands that under existing plans, it is envisioned that approximately a quarter of the police force will have received training on human rights laws and standards by the end of 2022. Information received from the Government of Armenia suggests that that target has already been reached, though other sources have questioned whether the training programme has met its quantitative goals. In any event, the Special Rapporteur commends Armenia for its commitment to incorporating human rights standards into police training, and he calls upon the authorities to continue working to ensure that such training is rapidly rolled out in practice.

B. Association

21. In his report, the Special Rapporteur expressed his concern with proposed amendments to the law on NGOs, noting that, if accepted, they could introduce retrogressive changes to the reporting requirements of NGOs by adding unreasonable and disproportionate requirements for associations.²⁸ On 25 March 2020, the new law on making amendments to the law on NGOs was adopted, and the law came into effect on 24 April 2020.²⁹ The law obliges associations to publicly report on their activities every year. The measure was reportedly adopted in part due to the recommendations of the Financial Action Task Force of Armenia. While concern with various forms of financing, including the financing of terrorism, is legitimate, as the Special Rapporteur stressed in his report, the measures in question appear disproportionate, and would likely place a heavy burden on associations,

²³ A/HRC/41/41/Add.4, para. 48.

²⁴ Ibid., para. 49.

²⁵ Ibid., para. 51.

²⁶ Ibid., para. 52.

²⁷ Ibid., para. 136 (a).

²⁸ Ibid., para. 101.

²⁹ See <https://www.arlis.am/documentview.aspx?docid=141094>.

especially smaller and less well-resourced associations, thereby interfering with the right to freedom of association. The Special Rapporteur therefore urges Armenia to reconsider the measure.

C. Freedom of peaceful assembly and of association at work

22. In his report, the Special Rapporteur observed that labour unions operated in a very precarious labour environment,³⁰ and called upon Armenia to increase efforts to promote the rights to form and join strong trade unions that could assist workers in claiming rights and better working conditions and ensure the full implementation of the recommendations laid out in the reports of the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization (ILO).³¹

23. In its response to the Special Rapporteur's questionnaire, the Government of Armenia pointed to the provisions of the Constitution that protected the right to freedom of association and the right to form and join trade unions, as well as the country's ratification of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The Special Rapporteur is glad that these important rights are protected on the constitutional level in Armenia, and that Armenia has ratified these two important ILO instruments. He also notes that Armenia appears to have made plans to reform its law on trade unions. He hopes that this initiative will be used to bring the existing law into greater compliance with international legal obligations and standards. In its submission, the Government of Armenia noted that the recommendations of the ILO Committee of Experts on the Application of Conventions and Recommendations would be discussed within the framework of the drafts to be developed in 2022 on making amendments and supplements to the Labour Code of Armenia and the national laws on trade unions and on employees' associations.³² The Special Rapporteur commends the Government for its commitment, and hopes the necessary amendments to law will in fact be made. In particular, he would like to emphasize that any limitations imposed on unions must comply with the principle of legality, signifying that their meaning and scope should be clear and delimited, and that such limitations might only apply where necessary and proportionate to legitimate aims in a democratic society.

24. In a closely related context, the Special Rapporteur wishes to underscore that the right to freedom of peaceful assembly includes the right to strike. He has received information indicating that the Labour Code limits this right, however, by imposing a high vote minimum, of two thirds, in order for a union to declare a strike. In this context, the Special Rapporteur calls attention to the decisions of the ILO Committee on Freedom of Association on such issues.³³ In addition, the country's Labour Code allows for the discharge of obligations that have been agreed through the collective-bargaining process following reorganization or privatization, limiting enjoyment of the rights to freedom of peaceful assembly and of association at work. The Special Rapporteur also emphasizes that provisions allowing employers to recover compensation from strike participants do not comply with the obligation to respect the right to freedom of peaceful assembly.

D. Protection and inclusion of at-risk groups

25. In his report, the Special Rapporteur observed that he had received information concerning attacks, smear campaigns and cases of harassment directed at NGOs working on sensitive issues, such as sexual orientation and gender identity, violence against women, religious and national minorities and combating corruption, fraud and money-laundering.³⁴

³⁰ A/HRC/41/41/Add.4, para. 116.

³¹ Ibid., para. 137 (g).

³² Reply of the Government of Armenia to the call for inputs from the mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (2022).

³³ ILO, *Freedom of Association: Compilation of Decisions of the Committee on Freedom of Association*, 6th ed. (Geneva, 2018), paras. 805–811.

³⁴ A/HRC/41/41/Add.4, para. 111.

In this context, he called upon the Government to ensure the safe exercise of the right to peaceful assembly by groups that were most at risk, such as national and religious minorities, lesbian, gay, bisexual and transgender groups, children and women and to ensure that the security and safety of civil society actors, including human rights defenders, when reasonably required, was provided without unduly restricting their right of freedom of association.³⁵

26. The Special Rapporteur has received information that human rights defenders, including defenders of women's rights and lesbian, gay, bisexual, transgender and intersex rights, continue to face threats and harassment. Reports include the suggestion that charges have been brought against human rights defenders under article 226 (2) of the Criminal Code of Armenia, which *inter alia* penalizes "humiliation of national dignity". The vagueness of that language poses serious issues both on the basis of human rights and general rule of law-based obligations, issues that are all the more serious to the extent that the penalization has been relied upon to charge human rights defenders. The Special Rapporteur is also concerned with the addition to the Criminal Code of the penalization of "grave insults", a broad and vague phrase that has reportedly already been used to launch hundreds of criminal prosecutions and charge dozens of defendants.

27. In his report, the Special Rapporteur called upon Armenia to ensure that there was no discrimination in the application of the laws governing the rights to freedom of peaceful assembly and of association and to ensure the safe exercise of the right to peaceful assembly by groups that were most at risk.³⁶ The Special Rapporteur has received reports concerning several potential issues, however, including relative to the need to consistently employ a presumption in favour of the right to peaceful assembly; to ensure arrests are not conducted unless strictly necessary; to ensure that no arrests are conducted by masked, plainclothes officers; to ensure that adequate information is provided to the detained; and to ensure accountability relative to abuses. Incidents raising concern in such regards include reports that a peaceful bicycle march against exploitation at Amulsar mine was not allowed in August 2020; that individual protestors were detained in 2020, on the grounds that they had violated the Law on freedom of assembly, despite the fact that that law defines an assembly as involving two or more persons; that masked, plainclothes officers conducted detentions of protestors in the fall of 2020, despite the Law on police, indicating that policemen must wear the official uniform and have their badges clearly displayed; and that several peaceful protestors were detained without cause during a protest by the Nikol Aghbalyan Student Union and the Youth Union of Armenia in July 2021. In addition, reports suggest that where official investigations into police behaviour have reportedly taken place, little to no information has been provided to the public concerning the results of those investigations, leaving open questions as to the progress and effectiveness of accountability procedures.

28. In his report, the Special Rapporteur also called upon the State to continue enlarging the civic space for a wide range of civil society actors by combating hate speech and incitement to hatred towards minority groups and condemning the use of discriminatory statements in public discourse, including by public figures.³⁷ While amendments to the Criminal Code penalizing the incitement of violence were adopted in April 2020, those measures do not appear to have been effectively enforced. The Special Rapporteur has received information that many politicians and public figures have used anti-lesbian, gay, bisexual, transgender and intersex rhetoric, and have presented lesbian, gay, bisexual, transgender and intersex persons as a threat to national security. While Pink Armenia has reportedly filed four cases with the police concerning incitement of violence against lesbian, gay, bisexual, transgender and intersex organizations and individuals, three of those cases appear to have been rejected, with one remaining unanswered.³⁸

29. In his report, the Special Rapporteur further called upon Armenia to take concrete measures to increase participation and representation of women at the decision-making level in public and political life, with a view to reducing gender stereotypes relating to the role and

³⁵ *Ibid.*, paras. 136 (h) and 137 (f).

³⁶ *Ibid.*, paras. 135 (d) and 136 (h).

³⁷ *Ibid.*, para. 137 (e).

³⁸ Pink Armenia, *Annual Report: The Human Rights Situation of LGBT People in Armenia During 2020* (November 2021).

responsibilities of women and men in the family and in society.³⁹ The Special Rapporteur has received information suggesting that changes to the laws of Armenia have taken place in recent years, increasing the minimum percentage of candidates in party lists of the minority gender. The Special Rapporteur commends this positive development, although he notes that further work is needed before equal representation is achieved.

30. The Special Rapporteur also called upon Armenia to ensure that civil society actors, particularly human rights defenders, were systematically consulted before the adoption of any legislative initiative.⁴⁰ The Government of Armenia has observed that multiple consultations and discussions were held with NGOs on the drafts of the law on ensuring equality before the law and of the law on national minorities. The Special Rapporteur commends the Government for undertaking those consultations. At the same time, the Special Rapporteur has received information from the Confederation of Trade Unions of Armenia indicating that insufficient consultations were held relative to laws adopted in response to COVID-19 and other measures. The Special Rapporteur therefore urges the Government to expand its efforts to ensure that civil society actors are systematically consulted relative to legislative initiatives.

E. Other issues

31. In his report, the Special Rapporteur called upon Armenia to expedite ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.⁴¹ The Special Rapporteur commends Armenia for having ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights on 18 March 2021. He hopes Armenia will soon ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as well.

32. The Special Rapporteur also called upon Armenia to ensure that the National Council on Sustainable Development was functional and that the participation of civil society actors, particularly representatives of the groups most at risk, was consistently considered during its discussions and the monitoring of the implementation of the 2030 Agenda for Sustainable Development.⁴² In this context, the Special Rapporteur is pleased to have learned that steps have been taken toward this end, and looks forward to further positive steps being taken by the National Council on Sustainable Development in future.

33. The Special Rapporteur further called upon Armenia to ensure the prompt, impartial and effective investigation of all pending cases of violations to the right to peaceful assembly, the prosecution of perpetrators and redress for victims and their families; and to ensure that all allegations of excessive use of force against protesters by the security forces were promptly, thoroughly and independently investigated, and that the alleged perpetrators were prosecuted and sanctioned and adequate remedy was provided to the victims.⁴³ The Special Rapporteur is heartened that some steps appear to have been taken towards accountability, in the form of criminal investigations of individuals accused of committing serious violations.

34. The Special Rapporteur is concerned, however, that investigations of police ill-treatment, including allegations of torture, remain rare in relation to the quantity of reports of such behaviour, as well as by the fact that where investigations do take place, the majority of cases are discontinued or suspended, with very few defendants held to account. In addition, the Special Rapporteur is concerned that authority to investigate complaints against the police and other security services has been allocated to the National Security Service, a body that operates under the control of the Prime Minister, and hence is of questionable independence. Amendments to national legislation are reportedly being considered, which would allocate the authority to conduct such investigations to the country's Investigative Committee. The

³⁹ A/HRC/41/41/Add.4, para. 135 (f).

⁴⁰ *Ibid.*, para. 135 (g).

⁴¹ *Ibid.*, para. 135 (a).

⁴² *Ibid.*, para. 135 (h).

⁴³ *Ibid.*, para. 136 (e)–(f).

Special Rapporteur hopes the independence of the committee will be guaranteed, in order to ensure an impartial and effective regime of accountability in practice.

IV. Sri Lanka

35. The Special Rapporteur wishes to thank Sri Lanka for its collaboration with the work of the mandate, and the efforts it has made to ensure greater respect, protection and fulfilment of the rights to freedom of peaceful assembly and of association to date. The points indicated below highlight several areas, identified by concerned parties, in which further steps could be taken in support of the fuller enjoyment of human rights.

A. Assembly

36. Respect for the right to freedom of peaceful assembly requires that States adopt a notification rather than an authorization framework, in which there is a presumption in favour of assemblies. Information that the Special Rapporteur has received from Sri Lanka suggests that the authorities have utilized discretionary authority to forbid some assemblies from taking place, however, in particular those in support of marginalized communities' rights. As the Special Rapporteur highlighted in the report on his visit, protests seemed to be stifled through the use of an executive decision, rather than through engaging with the concerned communities about their dissatisfaction and reasons for protesting.⁴⁴

37. Moreover, Sri Lankan police frequently appear to respond to protests that are disfavoured for political reasons by arresting the participants, in violation of the right to freedom of peaceful assembly. Police have arrested peaceful protesters calling for accountability in relation to Tamil war victims; for environmental protection; for more equitable socio-economic policies; for better working conditions; and for education rights.

38. The Special Rapporteur notes that any limitations on assemblies must comply with the principles of legitimate purpose, necessity and proportionality, and must not be applied in a blanket fashion. Moreover, the ability of assemblies to take place in "sight and sound" of their intended targets must be facilitated. In this regard, measures that create a special, segregated protest site, which assemblies must use even if they do not wish to do so, do not comply with the right to freedom of peaceful assembly.

39. In his report, the Special Rapporteur called upon Sri Lanka to consider developing clear and accessible guidance based on the laws and regulations regarding the right to freedom of peaceful assembly in order to facilitate the organization of assemblies according to law, both by organizers and law enforcement authorities.⁴⁵ It does not appear that such guidance has been developed.

40. The Special Rapporteur also called upon Sri Lanka to refrain from using national security legislation, including the Prevention of Terrorism Act, to criminalize protesters legitimately exercising their right to freedom of peaceful assembly.⁴⁶ Numerous reports have been received, however, indicating that Sri Lanka is using the Prevention of Terrorism Act to target and arrest peaceful protesters and human rights defenders. The Special Rapporteur is also concerned that the new Prevention of Terrorism Regulations, disseminated in 2021, would further violate the country's human rights obligations. He notes that the Supreme Court, in a positive move, has halted the implementation of these regulations. The Special Rapporteur wishes to underscore the statements he has made together with other mandate holders, including the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, on this issue.⁴⁷

⁴⁴ A/HRC/44/50/Add.1, para. 53.

⁴⁵ Ibid., para. 95 (b).

⁴⁶ Ibid., para. 95 (d).

⁴⁷ See communication LKA 7/2021.

41. The Special Rapporteur further called upon Sri Lanka to ensure that any use of force to disperse assemblies was in accordance with international human rights law, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Code of Conduct for Law Enforcement Officials, including through the provision of relevant training.⁴⁸ Sri Lankan forces have reportedly used excessive force to disperse assemblies on numerous occasions, however, including on the occasion of a Black Lives Matter solidarity protest conducted in June 2020, and on the occasion of protests in connection with the International Day of the Victims of Enforced Disappearances on 30 August 2020.⁴⁹

42. The Special Rapporteur is seriously concerned with the steps taken as of the end of March 2022 in response to large-scale protests, including the declaration of a state of emergency and the publication of emergency regulations.⁵⁰ He has received reports of the use of tear gas, water cannons and live ammunition in response to protests, leading to serious injuries and deaths. The Special Rapporteur and other mandate holders have previously expressed their concern with the approach adopted.⁵¹ He has also received reports that an order was issued for armed forces to open fire in response to the looting of public property – a serious violation of international standards on the use of force and the right to life. In addition, he has received reports of arbitrary arrests of protesters taking place. In the context of these reports, the Special Rapporteur reiterates his previous statements, including his calls on the authorities to ensure compliance with international standards on the use of force; to ensure that arbitrary detentions do not take place; and to ensure that communities' serious grievances, including grievances impacting rights enjoyment, are addressed.

43. The Special Rapporteur is also concerned with the manner in which COVID-19 regulations have been used in Sri Lanka. While all governments have an obligation to protect public health, and certain restrictions on the conduct of assemblies are reasonable in this context, it is important that the authorities ensure that the protection of public health is balanced with the need to respect, protect and fulfil the right to freedom of peaceful assembly. Politicized intent is apparent where protests that are critical of the Government or of dominant viewpoints are broken up on the grounds of COVID-19 restrictions, while events understood to be aligned with the interests of the authorities are allowed to go ahead. Moreover, in no circumstances can COVID-19 measures justify detention in facilities the location and existence of which are not disclosed to the public and to detainees.

44. The Special Rapporteur called upon Sri Lanka to ensure that all incidents in which the actions of security forces had resulted in human rights violations, in particular death and injury, were promptly, independently and transparently investigated and prosecuted, including the Rathupaswala, Welikada prison and Roshan Chanaka cases.⁵² While the Special Rapporteur notes a court case took place relative to the Rathupaswala case, he has not received information suggesting that the other two above-mentioned cases have been investigated, nor that full accountability has been achieved.

B. Association

45. In his report, the Special Rapporteur called upon Sri Lanka to guarantee a vibrant civic space, where all civil society actors were able to carry out their work in a safe and enabling environment, free from threats or acts of violence, intimidation, surveillance, or any other form of harassment, including judicial harassment and reprisals.⁵³ In contrast to this recommendation, however, the Special Rapporteur has received reports that Sri Lanka continues to engage in extremely restrictive practices relative to associations representing minority groups and viewpoints. The situation is made more worrying by reports that the

⁴⁸ A/HRC/44/50/Add.1, para. 95 (f).

⁴⁹ See communication LKA 6/2020.

⁵⁰ OHCHR, "Sri Lanka: concern at measures in response to protests amid economic crisis", 5 April 2022.

⁵¹ OHCHR, "Sri Lanka: UN experts condemn crackdown on protests", 8 April 2022.

⁵² A/HRC/44/50/Add.1, para. 95 (i).

⁵³ Ibid., para. 94 (j).

Government is drafting a new law that would impose further restrictions on civil society's ability to access funding.

C. Freedom of peaceful assembly and of association at work

46. As noted above, the police have responded to worker protests in support of better working conditions by arresting peaceful assembly participants. In addition, while the authorities have a legitimate interest and obligation to ensure the provision of essential public services, a blanket ban on protests, and on calls for better working conditions and a more equitable distribution of profits in the public sector violates the right to freedom of peaceful assembly.

D. Protection and inclusion of at-risk groups

47. In his report, the Special Rapporteur called upon Sri Lanka to ensure non-discriminatory application of legislation across communities, including ethnic, religious, LGBTQI+ and other groups, undertaking review of such legislation in order to prevent its discriminatory use, and providing guidelines to law enforcement on the application of legislation that might be prone to misuse, and to guarantee a vibrant civic space, where all civil society actors are able to carry out their work in a safe and enabling environment, free from threats or acts of violence, intimidation, surveillance or any other form of harassment, including judicial harassment and reprisals.⁵⁴ The Special Rapporteur has received reports that lesbian, gay, bisexual, transgender and intersex rights defenders have been harassed, including in the media, due to their work.

48. The Special Rapporteur also called upon Sri Lanka to immediately end all forms of surveillance and harassment of and reprisals against human rights defenders, other actors, and victims of human rights violations.⁵⁵ Despite this recommendation, reports have been received that Sri Lanka has continued surveilling, harassing and, at times, arresting human rights defenders, journalists, activists and critics, an issue addressed, *inter alia*, in previous communications.⁵⁶ In light of what appears to be a pattern of surveillance, harassment and reprisals, the Special Rapporteur reiterates his call to Sri Lanka to immediately end all attacks on human rights defenders and victims of human rights violations with the utmost urgency.

49. The Special Rapporteur has received information suggesting that the rights to freedom of peaceful assembly and of association of certain religious groups have been infringed upon. In particular, the State appears to be curtailing the ability of members of certain religious communities to gather, by dispersing such gatherings on the grounds that the meeting places in question are unregistered. The Special Rapporteur underscores that the rights to freedom of peaceful assembly and of association of all groups must be respected, without discrimination.

E. Other issues

50. In his report, the Special Rapporteur called upon Sri Lanka to implement comprehensive security sector reform and demilitarization, in line with the country's transitional justice commitments; to maintain engagement with the United Nations peacebuilding architecture, in particular the Peacebuilding Commission, through regular updates on progress made in implementing the country's Peacebuilding Priority Plan and the sharing of and benefiting from good practices and experiences related to transitional justice and reconciliation processes; and to provide support to important institutions such as the Constitutional Council, the Office on Missing Persons, the Office for Reparations and the Human Rights Commission of Sri Lanka, ensuring that they were able to continue to work

⁵⁴ *Ibid.*, para. 94 (d) and (j).

⁵⁵ *Ibid.*, para. 94 (f).

⁵⁶ See communications LKA 5/2020; and LKA 4/2021.

independently and with sufficient resources to discharge their mandates.⁵⁷ As the Special Rapporteur and other mandate holders have observed, however, information suggests transitional justice efforts have stalled or regressed, while several of the institutions that the Special Rapporteur previously identified as being in need of support have been undermined.⁵⁸ In this context, the Special Rapporteur reiterates his calls for engagement with the United Nations peacebuilding architecture to be maintained, and for support to be provided to independent, rights-oriented institutions.

V. Zimbabwe

51. The Special Rapporteur wishes to thank Zimbabwe for its collaboration with the work of the mandate, and the efforts it has made to ensure greater respect, protection and fulfilment of the rights to freedom of peaceful assembly and of association to date. The points indicated below highlight several areas, identified by concerned parties, in which further steps could be taken in support of the fuller enjoyment of human rights.

A. Assembly

52. In his report, the Special Rapporteur called upon Zimbabwe to adopt a clear presumption in favour of holding peaceful assemblies and demonstrations and to endorse a prior notification regime for all peaceful assemblies and demonstrations with a view to protect and facilitate peaceful assemblies and demonstrations.⁵⁹ In November 2019, Zimbabwe adopted a new law governing assemblies: the Maintenance of Peace and Order Act. The framework under the Act violates the right to freedom of peaceful assembly in several ways, however, as detailed in the Special Rapporteur's report.

53. Closely related to the above, the Special Rapporteur also called upon Zimbabwe to recognize and provide for the facilitation of spontaneous peaceful assemblies and demonstrations in law, which should be exempt from notification.⁶⁰ However, the country's new law fails to recognize spontaneous peaceful assemblies. In May 2021, workers attempting to attend a Zimbabwe Congress of Trade Unions event in Chitungwiza were dispersed by the police, in violation of the recommendation and the State's obligation to respect the right to freedom of peaceful assembly.

54. The Special Rapporteur also called upon Zimbabwe to revise sanctions so as not to dissuade the holding of future peaceful assemblies and demonstrations and to uphold the principle of individual liability, rather than vicarious liability, of assembly participants.⁶¹ The Maintenance of Peace and Order Act still imposes vicarious liability, however, as well as imposing penalties on assembly organizers where no harm has occurred, with the apparent intent of dissuading the holding of peaceful assemblies in practice.

55. The Special Rapporteur has received reports suggesting that the law of Zimbabwe on assemblies is selectively applied. Onerous and unjustified conditions have reportedly been applied to assemblies disfavoured by the authorities, while participants in such assemblies have been arrested and charged with public disorder. Members of the Citizens Coalition for Change, for example, were arrested and reportedly assaulted while protesting in Harare in January 2022.

56. The Special Rapporteur also called upon Zimbabwe to ensure that the definition of the use of force by law enforcement officials complied with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and to develop and revise law enforcement protocols with a view to ensuring their compatibility with international human rights norms and standards on the proper management of assemblies.⁶² Unfortunately, reports

⁵⁷ *Ibid.*, para. 94 (f)–(h).

⁵⁸ See, e.g., communication LKA 7/2020.

⁵⁹ *A/HRC/44/50/Add.2*, para. 124 (a) (i)–(ii).

⁶⁰ *Ibid.*, para. 124 (a) (iii).

⁶¹ *Ibid.*, para. 124 (a) (v)–(vi).

⁶² *Ibid.*, para. 124 (a) (vii) and (d).

suggest that the recommended reforms have not taken place. In practice, it appears police forces frequently use excessive force against peaceful protesters.

57. The Special Rapporteur further called upon Zimbabwe to ensure that all allegations of excessive use of force against protesters by the security forces were promptly, thoroughly and independently investigated, that the alleged perpetrators were prosecuted and sanctioned and that adequate remedy was provided to the victims.⁶³ The Special Rapporteur has not received any information suggesting that the State has complied with the recommendation.

58. The Special Rapporteur also called upon Zimbabwe to ensure that those monitoring assemblies, including journalists, media workers and human rights defenders, were allowed to do so and were protected at all times during assemblies and that violations were duly investigated.⁶⁴ The Special Rapporteur has received reports that journalists have been arrested while pursuing their work, however, including while covering the Zimbabwe Electoral Commission Stakeholders Meeting in September 2021.

59. The Special Rapporteur is also concerned that COVID-19 rules have been applied in a discriminatory manner in Zimbabwe, including by being used to prohibit gatherings of oppositional political parties, but not to prohibit events connected with the ruling party.

60. The Special Rapporteur also wishes to reiterate the grave concern expressed by himself and other mandate holders with regard to reports concerning the arbitrary detention, enforced disappearance, torture and ill-treatment of members of the MDC Alliance Youth Assembly in 2020, when they were planning to attend an assembly, an issue addressed in a previous communication.⁶⁵ As observed in the communication, those allegations were not isolated, but rather part of a broader pattern. The Special Rapporteur stresses that any such actions must cease, accountability must be ensured and full remedies must be provided to individuals whose rights were violated.

61. The Special Rapporteur also underscores his concern regarding the arrest of human rights defenders following their calls for demonstrations against corruption and human rights violations.⁶⁶

B. Association

62. In his report, the Special Rapporteur called upon Zimbabwe to adopt a regime of declaration or notification whereby an organization was considered a legal entity as soon as it had notified its existence to the regulating authorities and to ensure that the registration procedure for national and international organizations was simpler and more expeditious. Zimbabwe has not adopted a notification regime, however, nor have the registration procedures been simplified.

63. The Special Rapporteur also called upon Zimbabwe to ensure that all administrative authorities at the national and local levels that were responsible for implementing the right to association received training on international human rights standards in order to create a favourable and enabling environment for civil society and to abolish the practice of using memorandums of understanding that rendered the operation of associations burdensome and limited their autonomy and independence.⁶⁷ No training on international human rights standards appears to have taken place, nor has the practice of using memorandums been abolished.

64. The Special Rapporteur is concerned with reports of State agents seeking to infiltrate associations' meetings, and with interference in the form of spot checks and raids. The Zimbabwe Congress of Trade Unions, for instance, has reportedly experienced many cases in which unidentified individuals and police officers have sat in on their meetings and/or harassed, interfered with or attacked workers attending. The Special Rapporteur is also

⁶³ *Ibid.*, para. 124 (f).

⁶⁴ *Ibid.*, para. 124 (g).

⁶⁵ See communication ZWE 1/2020.

⁶⁶ See communication ZWE 3/2020.

⁶⁷ [A/HRC/44/50/Add.2](#), para. 124 (a) (iii) and (b).

concerned that associations in Zimbabwe appear to operate under an ongoing threat of deregistration, with 450 associations reportedly included on a list of associations that had received indications that they might be deregistered by the authorities by March 2021, reportedly because they had been dormant. The Special Rapporteur is further concerned to have heard that the Harare metropolitan provincial developments coordinator called for associations to register with his office and submit their workplans and details relating to their work to his office by 9 July 2021, although that directive was subsequently nullified by the High Court.

65. The Special Rapporteur is seriously concerned that the authorities are considering restrictive amendments to the Private Voluntary Organisations Act. When hearings on the bill took place in February 2022, persons raising concerns were reportedly heckled, harassed and attacked. The content of the bill, as gazetted on 5 November 2021, does not comply with the obligation to respect the right to freedom of association. The bill does not provide for a notification regime; adds onerous registration and re-registration requirements; allows for the discretionary imposition of enhanced reporting requirements; creates a governance structure that could be readily politicized; allows for illegitimate interference with associations' internal functioning; imposes illegitimate limits on access to foreign funding; appears to unduly limit judicial appeal; and would back various of these elements with disproportionate and, in many cases, illegitimate criminal penalties. In this context, the Special Rapporteur re-emphasizes the points made in the joint communication sent by himself, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, on this issue.⁶⁸

66. The Special Rapporteur also underscores the points he has previously made in a communication concerning actions taken against representatives of the Chitungwiza Residents Trust.⁶⁹

C. Freedom of peaceful assembly and of association at work

67. In his report, the Special Rapporteur called upon Zimbabwe to increase efforts to promote the rights to form and join strong trade unions that could assist workers in claiming rights and better working conditions and to revise the sanctions so as not to dissuade the holding of future peaceful assemblies and demonstrations.⁷⁰ The country's labour law still imposes a strict authorization framework, however, requiring workers who want to strike to notify the authorities in advance, with trade union decertification and criminal penalties imposed on those who do not comply. In both 2021 and 2022, members of the Amalgamated Rural Teachers Union of Zimbabwe were arrested during the course of strikes.

68. In addition, Zimbabwe has not yet complied with the recommendations of the ILO Committee on Freedom of Association, which has challenged the effects of section 45 of the country's Labour Act, a provision that allows registered trade unions to challenge the registration of other unions. In its decision, the ILO Committee on Freedom of Association also called upon Zimbabwe to ensure that the conditions for the granting of registration were not tantamount to obtaining previous authorization from the public authorities for the establishment of a workers' or employers' organization.⁷¹ In his report, the Special Rapporteur called upon Zimbabwe to ensure the full implementation of the recommendations laid out in the reports of the ILO Committee of Experts on the Application of Conventions

⁶⁸ See communication ZWE 3/2021.

⁶⁹ See communication ZWE 1/2021.

⁷⁰ A/HRC/44/50/Add.2, paras. 124 (a) (v) and 125 (h).

⁷¹ ILO Committee on Freedom of Association, "Report in which the committee requests to be kept informed of development – Report No 377, March 2016", Case No. 3128 (Zimbabwe), para. 476 (a) (i). Available at https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3278022.

and Recommendations and the Conference Committee on the Application of Standards.⁷² The Special Rapporteur reiterates his call on Zimbabwe to comply with these recommendations.

69. Furthermore, the authorities continue to interfere in the free functioning of associations in the labour sector by vetting collective-bargaining agreements on the basis of unclear standards. In addition, the authorities have the power under law to remove union officials without court approval. These powers enable inappropriate interference with the right to freedom of association.

70. Rather than ensuring the right to strike, amendments to the law under consideration in Zimbabwe would enhance the penalties potentially imposed on workers undertaking strike actions.⁷³ In contrast, Zimbabwe should take steps to ensure all workers enjoy the right to strike to its full extent.

D. Protection and inclusion of at-risk groups

71. In his report, the Special Rapporteur called upon Zimbabwe to continue enlarging the civic space for a wide range of civil society actors by combating hate speech and incitement to hatred, and condemn the use of discriminatory or threatening statements in public discourse, including those by public figures.⁷⁴ However, reports suggest that hate speech, including on the part of government officials, remains common.

72. The Special Rapporteur also called upon Zimbabwe to ensure that there was no discrimination in the application of the laws governing the rights to freedom of peaceful assembly and of association, in particular regarding the groups most at risk and those expressing dissenting voices.⁷⁵ However, information from several sources suggests that those expressing dissenting views – including journalists, members of civil society, supporters of opposition political parties, and human rights defenders – are subjected to prosecution, surveillance and harassment.

73. The Special Rapporteur also wishes to underscore his concern about the apparent arbitrary arrest, detention and levying of charges against human rights defenders, journalists, student union leaders and politicians as a result of their attempts to gather information concerning human rights violations, and to denounce and organize opposition to those violations.⁷⁶

E. Other issues

74. In his report, the Special Rapporteur also called for compliance with section 210 of the Constitution, which required the establishment of an independent complaints mechanism in respect of security forces.⁷⁷ While the Special Rapporteur is encouraged to learn that a bill implementing section 210 was gazetted in 2020, he is concerned with the inordinate delay in the process of its enactment.

75. The Special Rapporteur also called for the implementation of the observations and recommendations made by the Zimbabwe Human Rights Commission in relation to respect for human rights and particularly the rights to freedom of peaceful assembly and of association.⁷⁸ As it appears that compliance with the recommendation is still lacking, he reiterates this call.

⁷² A/HRC/44/50/Add.2, paras. 125 (h).

⁷³ See Health Service Amendment Bill 2021, art. 5; and Labour Amendment Bill 2021, arts. 33 and 35.

⁷⁴ A/HRC/44/50/Add.2, para. 125 (f).

⁷⁵ *Ibid.*, para. 123 (d).

⁷⁶ See, e.g., communication ZWE 2/2021.

⁷⁷ A/HRC/44/50/Add.2, para. 123 (c).

⁷⁸ *Ibid.*, para. 123 (j).

76. The Special Rapporteur further called for the implementation of the recommendations of the Motlanthe Commission.⁷⁹ As those recommendations have not been fully implemented, he reiterates this call.

77. The Special Rapporteur also called for the withdrawal of all criminal charges and the release of all those arrested because of their exercising the rights to freedom of peaceful assembly and of association, in particular those arrested in connection with the August 2018 and January 2019 protests.⁸⁰ While some individuals were reportedly released, the State reportedly maintained the right to proceed should they desire to do so, limiting the ability of the individuals in question to exercise their rights to freedom of peaceful assembly and of association in future. As the charges in question appear not to have been dropped in some cases, the Special Rapporteur reiterates his recommendation to that effect.

78. Going forward, the Special Rapporteur has called upon Zimbabwe to ensure that no one is criminalized for exercising the rights to freedom of peaceful assembly and of association, nor subjected to threats, harassment, persecution, intimidation and reprisals.⁸¹ There continues to be a lack of compliance with this recommendation. Numerous members of the Amalgamated Rural Teachers Union of Zimbabwe, for instance, have been charged with intent to promote public violence, bigotry and breaches of the peace due to their participation in peaceful protests.⁸² The Special Rapporteur therefore reiterates his call that no one be criminalized, or otherwise penalized, for exercising their rights. In addition, he would like to underscore the call of the ILO Committee of Experts on the Applications of Conventions and Recommendations for Zimbabwe to remove those provisions of law that allow forced labour to be imposed as a punishment.⁸³

VI. Conclusion

79. The Special Rapporteur thanks all the States addressed for their work to support the role of the mandate and to fully respect, protect and fulfil the rights to freedom of peaceful assembly and of association. He also thanks States together with all other concerned parties who responded to questionnaires or otherwise provided information in relation to this follow-up report on the country visit recommendations. The Special Rapporteur calls upon Armenia, Sri Lanka, Tunisia and Zimbabwe to take measures consistent with the recommendations produced as a result of his country visits.

⁷⁹ Ibid., para. 124 (c).

⁸⁰ Ibid., para. 123 (g).

⁸¹ Ibid., para. 123 (f).

⁸² Related issues are discussed in communication ZWE 2/2022.

⁸³ See ILO Committee of Experts on the Applications of Conventions and Recommendations, individual case concerning Zimbabwe under the Abolition of Forced Labour Convention, 1957 (No. 105), 2021. Available at https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4111640.