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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests**

**Report of the Special Rapporteur on the rights to freedom of peaceful  
assembly and of association, Clément Nyaletsossi Voule\***

### *Summary*

The Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests is part of a technical and practical toolkit developed by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, in collaboration with the United Nations Office on Drugs and Crime and the Office of the United Nations High Commissioner for Human Rights, pursuant to Human Rights Council resolution 50/21. The aim of the Model Protocol and the toolkit, which are based on international human rights laws, standards and good practices, is to enhance the capacity and practices of law enforcement agencies to fulfil their duty to promote and protect human rights in the context of peaceful protests.

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\* Agreement was reached to publish the present document after the standard publication date owing to circumstances beyond the submitter's control.



## I. Introduction

1. The Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests is part of a technical and practical toolkit developed by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, in collaboration with the United Nations Office on Drugs and Crime (UNODC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR),<sup>1</sup> pursuant to Human Rights Council resolution 50/21.
2. The toolkit also includes three supplementary components. Component 1 comprises detailed checklists complementing the main parts of the present Model Protocol. Component 2 contains information on the use of digital technologies by law enforcement in the context of peaceful protests. Component 3 is an outline of a handbook on facilitating peaceful protests for law enforcement officials.<sup>2</sup> These three components of the toolkit will be made available on the web page of the Special Rapporteur.<sup>3</sup>
3. The tools are based on existing international human rights law, standards and norms and reflect recommendations and good practices collected during five regional consultations held with law enforcement practitioners and civil society representatives, a global expert consultation on digital technologies and a separate global consultation attended by representatives of States, law enforcement officials, civil society representatives, representatives of regional mechanisms and oversight mechanisms and other relevant experts. Written submissions were provided by States, national human rights institutions, members of civil society and experts.
4. Provisions in the present document are grounded, in particular, on the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, general comment No. 37 (2020) on the right of peaceful assembly of the Human Rights Committee, the Code of Conduct for Law Enforcement Officials,<sup>4</sup> the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials<sup>5</sup> and other guiding documents, such as the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, as well as on relevant regional human rights instruments and guidance.<sup>6</sup>

## II. Objective and scope

5. The Model Protocol contains practical recommendations aimed at assisting States and their law enforcement agencies and officials in strengthening the required institutional capacity, rules, protocols, strategies and procedures and fulfilling their international human rights obligations, specifically in relation to respecting, promoting and protecting human rights while facilitating a peaceful protest. It is primarily addressed to law enforcement officials, mainly those with decision-making and command powers, at the strategic, tactical and operational levels, who handle the facilitation of peaceful assemblies, in particular protests.

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<sup>1</sup> As mandated by Human Rights Council in resolution 50/21, the toolkit was developed in collaboration with UNODC and OHCHR. The Special Rapporteur is responsible for the text produced.

<sup>2</sup> The handbook will be finalized by the end of 2024.

<sup>3</sup> <https://www.ohchr.org/en/special-procedures/sr-freedom-of-assembly-and-association>.

<sup>4</sup> General Assembly resolution 34/169.

<sup>5</sup> A/CONF.144/28/Rev.1, chap. I, sect. B.2.

<sup>6</sup> See, for example, African Commission on Human and Peoples' Rights, *Guidelines on Freedom of Association and Assembly in Africa* (2017) and *Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa* (2017); Inter-American Commission on Human Rights, Office of the Special Rapporteur for Freedom of Expression, *Protest and Human Rights: Standards on the Rights Involved in Social Protest and the Obligations to Guide the Response of the State* (2019); and European Commission for Democracy through Law and Organization for Security and Cooperation in Europe (OSCE), Office for Democratic Institutions and Human Rights, *Guidelines on Freedom of Peaceful Assembly* (2019).

6. The toolkit can further assist States in realizing their human rights obligations, which require them to adopt legislative, judicial, administrative, educative and other appropriate measures and to provide effective remedies for human rights violations.<sup>7</sup> It can also serve as a useful tool for civil society and other stakeholders working towards ensuring the human rights-compliant facilitation of peaceful protests by law enforcement.

7. In the present document, “law enforcement officials” refers to all officers of the law, whether appointed or elected, who exercise police powers, as defined in the Code of Conduct for Law Enforcement Officials,<sup>8</sup> in particular those engaged in the facilitation of protests.

8. The Model Protocol should be read and implemented as a whole. Although the Model Protocol is focused on peaceful protest, as requested by the Human Rights Council in its resolution 50/21, its provisions and recommendations apply to all forms of peaceful assembly, irrespective of whether they take place outdoors, indoors or online, are organized or spontaneous or are held simultaneously. The provisions in the present document should in no circumstances be interpreted in such a way as to restrict the right to freedom of peaceful assembly or to infringe on human rights.

### III. Effective facilitation of peaceful protests

#### A. General principles and norms

9. The following principles derive from international human rights law and instruments and should be upheld by all branches of government (executive, legislative and judicial) and other public and governmental authorities at the national, regional and local levels.<sup>9</sup> Law enforcement officials should strive to uphold these principles, recognizing that their law enforcement role must always be performed within a human rights framework.

10. The right to freedom of peaceful assembly is fundamental for enabling the full enjoyment and realization of the civil, political, economic, social and cultural rights enshrined in the International Covenant on Civil and Political Rights and in the International Covenant on Economic, Social and Cultural Rights. This right is vital for upholding democracy, achieving a just and peaceful society and advancing fair development and climate justice.

11. Peaceful protest is an important form of the exercise of the rights to freedom of peaceful assembly, of expression, of association and of participation in the conduct of public affairs, and it is protected under these rights, which are enshrined in the International Covenant on Civil and Political Rights and in the Universal Declaration of Human Rights.<sup>10</sup>

12. Everyone has the right to freedom of peaceful assembly without discrimination based on race, colour, ethnicity, age, sex, language, property, religion or belief, political or other opinion, national or social origin, birth, minority, Indigenous or other status, disability, sexual orientation or gender identity or other status.<sup>11</sup>

13. States and their law enforcement agencies are obliged not to impose undue restrictions or interfere in peaceful assemblies.

14. States and their law enforcement agencies and officials have a positive obligation to facilitate peaceful assemblies, including protests, by ensuring that those taking part can safely conduct their activities without discrimination or abuse, including from non-State actors, such as other members of the public, counterdemonstrators, armed groups and private

<sup>7</sup> Human Rights Committee, general comment No. 31 (2004), paras. 6–8.

<sup>8</sup> Commentary to art. 1.

<sup>9</sup> Human Rights Committee, general comment No. 37 (2020) on the right of peaceful assembly, para. 4.

<sup>10</sup> See, for example, International Covenant on Civil and Political Rights, art. 19 on the right to freedom of expression, art. 21 on the right to freedom of peaceful assembly, art. 22 on the right to freedom of association, and art. 25 on the right to participate in public affairs; and Universal Declaration of Human Rights, art. 20 on the right to freedom of peaceful assembly.

<sup>11</sup> Human Rights Committee, general comment No. 37 (2020), paras. 6 and 25.

security providers, while respecting participants' rights and agency and making it possible for participants to achieve their objectives.<sup>12</sup>

15. Specific, supportive and protective efforts should be made to facilitate the right to freedom of peaceful assembly of individuals or groups that may be in situations of vulnerability, that have been subjected to discrimination or marginalization or that may face particular challenges in participating in assemblies, such as women, children, Indigenous Peoples, migrants, lesbian, gay, bisexual, transgender, queer and intersex persons, persons of African descent, persons belonging to minority groups and persons with disabilities.

16. Children, defined as persons under 18 years of age, enjoy the right to freedom of peaceful assembly on an equal footing with adults.<sup>13</sup> Measures tailored to the specific needs and rights of children should be planned and implemented to facilitate the right of children to take part in and organize peaceful protests.<sup>14</sup>

17. Media workers, monitors and other observers, lawyers, human rights defenders and medical personnel contribute to the full enjoyment of the right to freedom of peaceful assembly. They should be protected and their work facilitated, even if the protest is dispersed or declared "unlawful".<sup>15</sup> The right to freedom of peaceful assembly covers the right to monitor.<sup>16</sup>

18. Notification requirements in national law must never be enforced to restrict the right to freedom of peaceful assembly. Non-compliance with any notification requirement does not displace the obligation of the authorities to facilitate a protest and to protect its participants, including from violence or interference by non-State actors. National laws should not require prior authorization for assemblies and must also enable the holding of spontaneous assemblies.<sup>17</sup>

19. Protest should be presumed to be peaceful, unless there is compelling evidence to the contrary, and should continue to be regarded as peaceful, unless participants engage in widespread and serious violence.<sup>18</sup>

20. Any restriction to the right to freedom of peaceful assembly should only be imposed on a case-by-case basis, meet the strict requirements of legality, legitimacy, necessity, proportionality and non-discrimination and be imposed for the shortest possible period of time.

21. Restrictions on exercising the right to freedom of peaceful assembly can be imposed only exceptionally in the interests of national security, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.<sup>19</sup>

22. Restrictions imposed in relation to the prohibition of any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence<sup>20</sup> must comply with the six-part threshold set out in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.<sup>21</sup>

23. States should only consider the prohibition of a specific assembly as a measure of last resort and only after the authorities have exhausted other less intrusive measures.<sup>22</sup>

24. Any restriction should be subject to prompt, competent, independent and impartial administrative or judicial review, and those affected should have access to timely and

<sup>12</sup> Ibid., para. 24.

<sup>13</sup> Convention on the Rights of the Child, art. 15.

<sup>14</sup> See for more United Nations Children's Fund, *Free and Safe to Protest: Policing Assemblies Involving Children* (2023).

<sup>15</sup> A/HRC/50/42, para. 78 (k).

<sup>16</sup> Human Rights Committee, general comment No. 37 (2020), para. 30.

<sup>17</sup> A/HRC/20/27, paras. 14, 28 and 72.

<sup>18</sup> Human Rights Committee, general comment No. 37 (2020), paras. 15 and 17.

<sup>19</sup> Ibid., para. 41.

<sup>20</sup> International Covenant on Civil and Political Rights, art. 20.

<sup>21</sup> A/HRC/22/17/Add.4, appendix.

<sup>22</sup> Human Rights Committee, general comment No. 37 (2020), para. 37.

effective remedies.<sup>23</sup> Blanket bans should not be imposed, because they fail to pass the tests of necessity and proportionality.

25. When facilitating assemblies, law enforcement officials should strictly comply with the international standards on the use of force, in particular the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and aim to avoid the use of force entirely. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials should minimize damage and injury and respect and preserve human life.<sup>24</sup>

26. Under no circumstances should law enforcement officials violate the absolute prohibition of torture and other ill-treatment in the context of peaceful protests, even when a protest is considered to be no longer peaceful. The unlawful use of force during assemblies may constitute a violation of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.<sup>25</sup>

27. Additional efforts should be made towards fulfilling the duty to facilitate peaceful protests in times of crisis, periods of transition and during peace processes, recognizing the essential role that peaceful protests have in achieving inclusive and human rights-compliant crisis management, conflict resolution and the building of sustainable peace and democracy.<sup>26</sup>

28. The imposition of a state of emergency must not be used as a pretext by States to infringe on the right to freedom of peaceful assembly and must be done in strict compliance with international human rights law.<sup>27</sup>

29. States and law enforcement officials must ensure that any response to protests prevents violations of and fully protects those rights from which no derogation is permitted, including during the imposition of a state of public emergency.<sup>28</sup>

30. In situations of armed conflict, including military occupation, international human rights law and international humanitarian law are complementary and mutually reinforcing, and States must comply with their applicable obligations under international human rights law and standards during peaceful protests, including in relation to the use of force and firearms.<sup>29</sup>

31. Pursuant to the United Nations Guiding Principles on Business and Human Rights, States and private companies should ensure accountability and due diligence regarding the design, production, transfer, procurement and use of any weapons, equipment and technology used by law enforcement officials in the context of peaceful protests.

32. Digital technologies should not be used to categorize, profile or remotely identify individuals, including by biometric means, during protests, given that they are discriminatory and inconsistent with the obligation of law enforcement officials to facilitate peaceful protests.<sup>30</sup>

<sup>23</sup> *Ibid.*, para. 29.

<sup>24</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, paras. 2, 3 and 5.

<sup>25</sup> [A/72/178](#), para. 34.

<sup>26</sup> In line with [A/HRC/50/42](#) and [A/78/246](#).

<sup>27</sup> In line with Human Rights Committee, general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency; Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights; and Special Rapporteur on the rights to freedom of peaceful assembly and of association, Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, Special Rapporteur on Human Rights Defenders and focal point for reprisals in Africa and Chairman of the African Commission on Human and Peoples' Rights and OSCE Office for Democratic Institutions and Human Rights, "Joint declaration on protecting the right to freedom of peaceful assembly in times of emergencies" (2022), available at <https://www.ohchr.org/sites/default/files/documents/issues/fassociation/2022-09-15/JointDeclarationProtectingRightFreedomInTimesEmergencies15Sept2022.pdf>.

<sup>28</sup> International Covenant on Civil and Political Rights, art. 4 (2).

<sup>29</sup> In line with Human Rights Council resolution 50/21 and Human Rights Committee, general comment No. 36 (2018) on the right to life.

<sup>30</sup> [A/HRC/44/24](#), para. 53 (f).

33. In the light of the pace of technological change, untested or unproven new technologies or technologies that have evolved should not be deployed during protests. Such technologies should be subject to full, independent human rights review and technical testing, in line with international human rights standards, that must also evaluate the likely impact on individuals and groups in situations of vulnerability.

## **B. Prerequisites for the effective facilitation of peaceful protests**

34. States should foster a climate of respect and promotion of the right to freedom of peaceful assembly, including through an enabling legal framework. All laws, regulations, guidance and policies, including those related to national security, public order, emergencies, countering terrorism and violent extremism, technology or financial crimes, should be in line with international human rights law and must be publicly accessible. Their interpretation and application must not result in undue restrictions on freedom of peaceful assembly.

35. States should establish human rights-based, democratic, professional, ethical, inclusive and representative law enforcement agencies that are independent of political pressure and are accountable and responsive to the diverse needs of individuals and communities. Diversity within law enforcement agencies should be encouraged, including by increasing the representation of women, throughout the ranks and in decision-making positions.<sup>31</sup>

36. Victim-centred accountability measures and prompt, impartial and effective remedies should be available for all who have suffered human rights violations by law enforcement officials or other actors in the context of peaceful protests and should meet the differentiated needs of victims.<sup>32</sup>

37. To ensure effective accountability, States must bring those responsible, including superior officials, to account for acts or omissions resulting in human rights violations in the context of protests. Immunities for law enforcement officials, such as those related to the use of force in the context of peaceful protests, should be proscribed. Appropriate and gender-sensitive legal, institutional and policy measures should be adopted, including within the security sector, to prevent the recurrence of human rights violations, including sexual and gender-based violence. The work of oversight bodies should be promoted, adequately resourced and supported.

38. Authorities should strictly refrain from deploying in the context of peaceful protests the army or any military-type units, tactics or equipment or other units outside the official law enforcement chain of command. Any unit involved should fall under the command of law enforcement authorities or agencies and follow the laws and regulations applying to law enforcement.<sup>33</sup>

## **C. Key principles for the use of digital technologies in the facilitation of protests**

39. Any use of digital technologies to facilitate a protest should be solely aimed at enabling the right to freedom of peaceful assembly. Protests should not be seen as opportunities for surveillance or the pursuit of broader law enforcement objectives through the use of digital technologies.

40. Legal frameworks related to digital technologies conforming to international human rights law and standards, including data protection laws and robust regulation and oversight mechanisms, must be established and supported by practical guidance. The acquisition and use of any digital technologies in the context of protests must meet the requirements of legality, necessity and proportionality. This must be demonstrated effectively and supported by appropriate evidence.

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<sup>31</sup> A/HRC/50/42, para. 52.

<sup>32</sup> A/HRC/53/38, paras. 67 and 82 (h).

<sup>33</sup> Human Rights Committee, general comment No. 37 (2020), para. 80.

41. Internet shutdowns, surveillance on the basis of group affiliation and the targeted use of spyware in the context of protests are actions that are incompatible with international human rights law and must not be used.<sup>34</sup>

#### **IV. Broader human rights-based policing principles relevant to the facilitation of peaceful protests**

42. For the effective facilitation of peaceful protests, law enforcement officials must be guided at all times throughout a protest cycle by the primary duties to facilitate the right to freedom of peaceful assembly and promote and protect human rights and freedoms and by the principles of non-discrimination, precaution and accountability. Law enforcement decisions, strategies and actions should be based on the concepts of knowledge, facilitation, communication and differentiation and must be aimed at de-escalating and preventing tension and recourse to the use of force.

43. A culture of respect and accountability for human rights and non-discrimination should be fostered, incorporating a policy of zero tolerance of any abuse by law enforcement officials in the context of protests, including sexual and gender-based violence, discrimination and torture and other ill-treatment.

##### **A. Community-oriented policing and transparent communication**

44. Communication with the public is key to explaining the role and objectives of law enforcement in relation to upcoming protest events. Law enforcement agencies should proactively develop meaningful and long-term community-oriented policing strategies and seek to establish and build trust with communities and civil society. Such communication should start well in advance of any specific protest.

45. All law enforcement interactions and communications should be carried out with honesty and transparency, and a “no surprises” approach should be applied, whereby law enforcement officials are clear and open with organizers, participants and community members about their policing intentions and plans. Law enforcement officials should focus on seeking to reassure the public, recognizing that, in different contexts, a visible law enforcement presence may or may not provide such reassurance and that alternative ways of providing such reassurances may be more effective. Communication strategies should include opportunities to provide feedback that can inform decision-making and enable law enforcement officials to gain a better understanding of community dynamics, grievances, protection needs and cultural and other sensitivities, which need to be considered in the context of protests.

46. Law enforcement agencies and officials should:

(a) Conduct regular community impact assessments, which should be considered at the planning stage and during the facilitation of protests;

(b) Attempt to engage with communities and civil society, whose members show a reciprocal willingness to engage with law enforcement officials, through public consultation meetings and other types of community forums. Engagement must always be entirely voluntary and should be aimed at meaningful dialogue and offering opportunities to hear concerns and influence law enforcement decision-making;

(c) Consider prioritizing advance communication and information exchange with key stakeholders to establish channels for dialogue with the aims of promoting preparedness, de-escalating tensions and resolving disputes. The relevant stakeholders may vary depending on the context, scale and type of protest, but they may potentially include representatives of national human rights institutions, ombudspersons’ offices, national preventive mechanisms and other independent oversight bodies, such as those focusing on the protection of children

<sup>34</sup> [A/HRC/44/24](#), paras. 18 and 53 (b).

and young people, or on privacy, civil society organizations, academia and business and residential communities, human rights defenders and medical personnel;

(d) Put in place a comprehensive media strategy ensuring that officials and public messages use neutral language and avoid stigmatizing or hostile rhetoric regarding a protest, its organizers or participants or other actors involved;

(e) Make law enforcement operations transparent by making disaggregated data on law enforcement actions in the context of protests accessible to the public;

(f) Proactively address and respond to public inquiries, media requests and reports from monitors and other relevant stakeholders concerning past and ongoing protests.

## B. Training

47. Initial and ongoing human rights-oriented and gender-inclusive training of law enforcement officials is essential for the effective facilitation of protests. Practical and skills training courses should be available to all law enforcement officials involved in facilitating protests, in particular commanding officers. Refresher courses should be required at least once a year and/or before deployment to a protest, especially when a mass protest is anticipated. Mandatory testing, in accordance with appropriate proficiency standards, should be implemented for officials involved in protests. Officials who do not pass the test must not be involved in the facilitation of a protest.

48. Law enforcement officials should:

(a) Ensure that officers receive adequate and continuous training in facilitating, respecting and protecting human rights in the context of peaceful protests, according to international human rights standards, reflecting real-world experiences and incorporating good practices and lessons learned from past experiences;

(b) Establish a training curriculum that is competency-based and emphasizes learning practical skills and prioritizing facilitation, communication, negotiation, de-escalation and human rights-compliant crowd facilitation techniques.<sup>35</sup> Training courses should include tailored sessions on the prevention of sexual and gender-based violence and on the specific needs of individuals and groups in situations of vulnerability;

(c) Ensure that commanders receive training on human rights-compliant decision-making;

(d) Include training on the human rights implications of any digital technologies used in the context of protests. Officials need to understand how digital technologies work, as well as the capabilities and limitations of the respective technologies and any human rights implications, including in relation to the right to freedom of peaceful assembly;

(e) Include practical training<sup>36</sup> on the use of force and the authorized instruments of force in the context of protests, in line with international human rights standards;

(f) Ensure that officials have proficiency in using instruments of force and other equipment, in line with established human rights standards, and that authorization to use instruments of force or equipment is only given to those officers with such proficiency. Refresher training courses and requalification in such cases should be annual, and officers who fail to pass must have their authorization to use such instruments of force or equipment withdrawn;

(g) Record the types and dates of training courses and refresher courses undertaken by each officer and/or unit so that commanders can select and deploy appropriate officers to specific protests.

<sup>35</sup> See OHCHR *Human Rights and Law Enforcement, A Manual on Human Rights Training for Law Enforcement Officials* (forthcoming).

<sup>36</sup> *Ibid.*



## C. Accountability

49. Accountability is a core principle for the effective exercise of the right to freedom of peaceful assembly, which should underpin all stages of any law enforcement operation. To ensure effective accountability in the context of protests, law enforcement agencies should develop preventive measures and institutional and regulatory frameworks for integrity and oversight, ensure the impartial and timely investigation and the application of appropriate sanctions in cases of human rights violations and guarantee support for victims.

50. Accountability, including command accountability, applies at all stages of a protest. Superior officials should be held accountable for their decisions or if they did not take all measures in their power to prevent, suppress or report the unlawful use of force or firearms and if they knew or should have known that law enforcement officials under their command had engaged in such abuses.

51. Law enforcement officials should:

(a) Ensure the clear and individual identification of all officers and units involved in a protest at all times, including through their wearing name badges or identification numbers and displaying rank insignia, which should be visible and non-removable. In all cases, commanders should know which officer is active in which area and the tasks and instruments of force for which they are responsible;

(b) Develop a robust, transparent and auditable record-keeping system for all decisions, actions and orders made by commanders at all levels and the rationale behind them;

(c) Develop clear guidelines on self-reporting for officials, including on the use of force and instruments of force, in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, and on describing what occurred, when, where and why. A culture of accountability and transparency should be fostered, without fear of repercussions. Measures must be taken to ensure the protection of whistle-blowers;

(d) Establish transparent lines of command with clear tasks, responsibilities and decision-making processes informed by ongoing risk assessment. Law enforcement agencies need to make sure that all orders and instructions passed through the line of command are lawful. Mechanisms and procedures should be put in place to allow officials to report and object to carrying out manifestly unlawful orders;<sup>37</sup>

(e) Retain effective command and control for all forces and units involved in facilitating protests. This also includes maintaining the overall responsibility and control for the application of equipment, including any digital technologies, in operations that involve multiple partners;

(f) Actively cooperate with the relevant authorities and oversight bodies in charge of investigations to ensure effective prosecutions and sanctions of law enforcement officials, including commanders, who have perpetrated human rights violations. Those facing allegations of human rights violations should be removed from facilitating protests until the completion of an effective investigation and the establishment of responsibility;

(g) Ensure the public availability of protocols, procedures and guidance related to protests and the use of force, including detailed lists of law enforcement units, weapons and equipment used for the facilitation of protests;

(h) Consider establishing an independent multi-stakeholder reference group to advise law enforcement agencies on human rights protection and/or to act as a critical sounding board, especially in cases of mass protests or protests that extend over a long period of time.

<sup>37</sup> Ibid.

52. To facilitate accountability for the use and application of digital technologies, law enforcement officials should ensure that the oversight mechanisms incorporate appropriate human rights safeguards.

53. Law enforcement officials should:

(a) Ensure that a transparent and auditable record is made of all pertinent decision-making concerning digital technologies;

(b) Ensure that retained data pertaining to the use of force and human rights violations is used solely for the purposes of investigating and prosecuting crime and is only available for those purposes, and establish a presumption of non-retention for other digital data gathered with respect to a protest;

(c) Develop procedures to enable protest participants to challenge the collection, analysis, storage and sharing of their data by State and non-State actors and to call for the deletion of data, as necessary. These procedures should include special considerations for children.

#### **D. Well-being of law enforcement officials**

54. The safety, health and well-being of law enforcement officials is important for ensuring the human rights-compliant facilitation of peaceful protests. This requires establishing an organizational environment that is respectful of officers' dignity and physical and moral integrity and that allows for them to continue to exercise their duties in a professional manner and with respect for human rights. An overworked, stressed or exhausted law enforcement official, while operating in a stressful environment, which may be the case in some protests, risks making errors of judgment resulting in human rights violations. Commanders must balance operational effectiveness with the health and safety of officers, ensuring that officers' ability to carry out their duties is not compromised.

55. Law enforcement officials should:

(a) Develop guidelines that ensure the resilience of officers and commanders. Such guidelines should include the following recommendations:

(i) Secure the availability of a standby team, if officers are tired and need to rotate during a protest;

(ii) Specify appropriate conditions for officers, including designated rest areas away from protest sites with the availability of gender-appropriate facilities;

(iii) Detail appropriate protective equipment for safeguarding officers' physical safety and health, along with weather protection equipment, hydration packs, first aid kits and other essentials for health maintenance;

(iv) In case of high-intensity protests or extreme weather conditions or during a pandemic, introduce more frequent rotations to manage officers' stress and fatigue;

(v) Guarantee that officers receive adequate time off between shifts and after deployment for rest and recuperation. Additional time off may be considered if the officers show signs of cumulative stress;

(vi) Specify fair compensation for overtime or hazard pay due to extended hours or dangerous conditions;

(b) Ensure the immediate and appropriate provision of medical treatment for injured officers, followed by long-term medical support, whenever required. Law enforcement agencies should also extend support to families of officers who were killed, injured or experienced trauma in the context of protests;

(c) Provide officers who work in units that are routinely exposed to highly stressful situations with psychosocial support and relevant medical assessments, including a system where they can self-refer to such services;

(d) Provide opportunities for officers to seek medical and psychosocial assistance in a confidential manner, including by police counsellors or external clinical psychologists specializing in post-traumatic stress management.

## **V. Before a protest: planning and preparation**

56. Timely and thorough planning and preparation aimed at de-escalation and prevention of human rights violations are key to ensuring that law enforcement officials fulfil their duty to facilitate peaceful protests and to prevent such violations while protecting and promoting human rights.

### **A. Engaging with protest organizers and participants**

57. Some level of cooperation and efforts to establish trust with protest organizers and participants can assist in the facilitation of peaceful protests. In the context of such discussions, law enforcement officials and protest organizers and participants may, for example, seek to agree on the parameters of how law enforcement officials can facilitate a protest so that organizers and participants can best achieve their set objectives. Where channels of communication are established with organizers, transparency, accountability and building community partnership should underpin the strategies. Law enforcement officials should openly recognize that engagement on the part of organizers must be entirely voluntary. While it may be a good practice for organizers and participants to engage in such contact, they cannot be required to do so.<sup>38</sup>

58. Law enforcement officials should:

(a) Reach out to organizers, including when the organizers are children, to discuss, among other things, protest objectives and facilitation strategies. Law enforcement officials should maintain a summary record of such communication or of the attempts to engage in such communication;

(b) Desist from repeat attempts to contact organizers who have made it clear that they do not wish to engage with law enforcement officials. Lack of engagement should not be used to penalize protest organizers or participants;

(c) Consider consulting with and involving other stakeholders in the design of strategies to facilitate a protest, recognizing that some stakeholders may be better placed to engage constructively with organizers than law enforcement officials. Such stakeholders might include relevant civil society representatives, lawyers, mediators, human rights defenders or oversight bodies;

(d) Designate a point of contact at the tactical command level directly involved in the facilitation of a protest to be available for ongoing communication with protest organizers;

(e) Communicate, whenever relevant, the agreements made during engagement with organizers through public channels, emphasizing that organizers should not be held responsible for the actions of protest participants.

### **B. Planning and information-gathering**

59. Law enforcement agencies should continuously gather information, in strict compliance with international human rights standards, to inform the development of a strategic plan, which should include legitimate and clearly defined law enforcement objectives, type of the operation, planned tactics and tactical deployment of personnel. Law enforcement officials should also conduct a thorough evidence-based risk assessment to

<sup>38</sup> Human Rights Committee, general comment No. 37 (2020), para. 75.

anticipate potential risks related to a protest and to develop concrete measures for the prevention and mitigation of those risks.<sup>39</sup>

60. Law enforcement officials should:

(a) Put robust measures and safeguards in place to prevent human rights violations during information-gathering, including the violation of privacy rights, and to prevent gathered information from being used or misused in violation of participants' rights. Any techniques used by law enforcement officials for gathering information relevant to a protest should be guided by appropriate human rights principles;

(b) Refrain from profiling individuals on the basis of their previous organization or participation in protests and refrain from introducing any kind of "restriction lists" by issuing bans on the organization of or participation in a protest without a legal basis, unless there is evidence of a risk of imminent violence;

(c) Refrain from introducing undercover operations in the context of protests, given that such techniques create a deeply chilling effect and often result in human rights violations. Any undercover operations, when justified, must be authorized and kept under continual review by a judicial authority and such authority should be provided with all relevant information to enable robust scrutiny of the legality, necessity and proportionality of any such operation;<sup>40</sup>

(d) Consider at the planning phase the needs, risks and safety concerns of individuals and groups in situations of vulnerability, such as by ensuring access to protest sites for persons with disabilities, mitigating the risks for persons belonging to minority groups, including lesbian, gay, bisexual, transgender, queer and intersex persons, engaging more female officers in the facilitation of protests mainly attended by female participants;

(e) Hold pre-protest briefings, especially with the commanding officers that are to be involved in facilitating the protest, to ensure a proper understanding of their role in the broader plan for the effective facilitation of the protest. Officers should be reminded of law enforcement objectives, the outcomes of risk assessments, the reason for a protest and its objectives, internal authorization procedures, communication channels and any last-minute changes;

(f) Develop strategies for inter-agency communication with other regulatory authorities to exchange information concerning a protest and to ensure their prompt collaboration, whenever necessary;

(g) Adopt processes and procedures to ensure the facilitation of simultaneous protests and counterprotests, guaranteeing equal protection of rights without discrimination, favour or bias towards any of the groups;

(h) Develop protection strategies aimed at securing protest participants and bystanders from other actors, including counterprotesters, external threats and other violent elements, provocateurs and non-State actors.

61. While the use of digital technologies can play an important role in the planning and engagement that enable law enforcement officials to facilitate peaceful protests and ensure the safety of participants, it is imperative that law enforcement agencies ensure that any use of digital technologies is compliant with international human rights standards. This requires an assessment of all human rights implications, including less visible impacts, such as the creation of any chilling effects that affect the free participation and exercise of fundamental freedoms in online and offline spaces, as well as any actions that are discriminatory or bear an adverse psychological impact on individuals.

62. Law enforcement officials should:

(a) Ensure that the overall approach guiding any use of digital technologies in the context of protests is premised on a limiting principle to circumscribe the use of such technologies, rather than an authorizing principle intended to expand their use. The request

<sup>39</sup> In line with Human Rights Committee, general comment No. 37 (2020), para. 52.

<sup>40</sup> [A/HRC/31/66](#), para. 78 (f).

for the use of digital technologies should be evidence-based and fully justified, and the authorization process should evaluate legality, necessity and proportionality. There should be no blanket authorization of the use of digital technologies in information-gathering or the facilitation of a peaceful protest;

(b) Develop and implement a human rights-based approach to govern the authorization and use of digital technologies for information-gathering in the context of protests. Decisions should be made on a case-by-case basis and aligned with the specific law enforcement objective and circumstances;<sup>41</sup>

(c) Ensure that the threshold for using digital technologies for gathering information on the evolving situation is high and that less intrusive techniques, such as constructive dialogue with organizers, are utilized wherever possible;

(d) Ensure that the use of digital technologies to assess the evolving situation for the purposes of facilitating protests does not lead to intelligence-gathering with regard to peaceful protesters for unrelated law enforcement objectives.

### C. Equipment

63. All officers should be properly equipped for the role that they are being assigned to in the context of the protest. Command decisions about the type of equipment to be used should be guided by a risk assessment, recognizing that the pre-emptive deployment of excessively protected and equipped officers can have a chilling effect on participants and, on occasion, raise the level of tension. In circumstances where officers face a real risk of physical attack, the provision of adequate protective equipment, such as helmets and shields, is likely to decrease the requirement for the use of force. Law enforcement agencies and relevant authorities should conduct an evidence-based needs assessment before the procurement of any equipment and tools, ensuring that such a process and the relevant decisions are transparent and that all the equipment is serviceable.<sup>42</sup>

64. Law enforcement officials should:

(a) Ensure that the procurement of any equipment, including digital technologies, is contingent on the successful completion of a rigorous human rights due diligence process. This should include an examination of the potential utility of the equipment and the potential human rights implications linked to its use in the context of protests, including for individuals in situations of vulnerability and for children;

(b) Implement strategies to guide decisions about utilizing equipment that is strictly appropriate to the situation and proportionate to the context and actual threat;

(c) Ensure that all equipment is logged out to individuals and uniquely marked and identifiable to assist in tracking, returning and reporting on its use;

(d) Ensure that equipment, including digital technologies, meets human rights due diligence standards and is authorized for use only by appropriately trained officers.

### D. Individuals and groups in situations of vulnerability

65. To protect and facilitate the right to freedom of peaceful assembly of individuals and groups in situations of vulnerability, which may include, women, children, Indigenous Peoples, migrants, persons of African descent, persons belonging to minority groups, lesbian, gay, bisexual, transgender, queer and intersex persons, persons with disabilities and others, law enforcement officials should:

<sup>41</sup> A/HRC/44/24, para. 53 (j) (ii).

<sup>42</sup> In line with the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, paras. 4.2.1 and 4.4.1.

(a) Develop and implement specific supportive strategies aimed at promoting and protecting the rights of individuals and groups in situations of vulnerability in the context of protests. It is recommended that such strategies include:

- (i) Guidance on the use of equipment considering the disproportionate impact on these individuals and groups, as relevant;
- (ii) Protocol on the prevention and provision of immediate response to harassment or attacks on these groups, including sexual and gender-based violence;
- (iii) Systems for the continuous monitoring of potential threats or acts of retaliation against these groups, including information-sharing and education of the community about the prohibition of retaliation against protest participants, highlighting the specific risks faced by these groups;
- (iv) Development of a missing child plan;

(b) Foster communication with relevant stakeholders, including civil society organizations and community leaders, to understand the specific protection needs of such individuals and groups. Law enforcement officers should try to involve, as appropriate, representatives from the identified groups in the planning stages of a protest to ensure that their perspectives are considered, including through voluntary engagement with children when a protest is organized by children and/or when children are expected to take part;

(c) Ensure that information about a protest and communication during a protest is available in multiple languages, including disability-inclusive language and child-friendly language, as appropriate;

(d) Ensure that deployed officers are trained to mitigate and respond to the specific protection needs of these groups and that dedicated rapid response teams are available to provide assistance, whenever required;

(e) Consider establishing specific complaint mechanisms within independent investigation units or oversight bodies, including the development of separate mechanisms for children and for victims of sexual and gender-based violence.

## **E. Media workers, monitors and others involved in monitoring, reporting and legal and medical assistance**

66. Law enforcement agencies have a duty to facilitate the work of independent monitors and other observers,<sup>43</sup> journalists, media workers, human rights defenders and others involved in monitoring or reporting on protests, as well as of lawyers<sup>44</sup> and medical personnel. These groups may not be prohibited from, or unduly limited in, exercising their functions, including if a protest is dispersed or declared “unlawful”.<sup>45</sup>

67. Law enforcement officials should:

(a) Where they are willing to engage with law enforcement officials, establish communication channels with the identified groups to notify them of anticipated protests and to exchange any relevant information before, during and after a protest, including for the purposes of reporting any undue restrictions or violations that occurred in the context of a protest;<sup>46</sup>

(b) Encourage the identified groups, whenever possible, to wear highly visible identification to facilitate their work and to ensure that they can get access to specifically designated areas or to cross through police lines;

<sup>43</sup> [A/62/225](#), para. 91.

<sup>44</sup> See more on the role of lawyers in [A/HRC/47/24/Add.3](#).

<sup>45</sup> Human Rights Committee, general comment No. 37 (2020), para. 30.

<sup>46</sup> More information can be found in OSCE Office for Democratic Institutions and Human Rights, *Handbook on Monitoring Freedom of Peaceful Assembly*, 2nd ed. (2020).

(c) Refrain from conducting accreditation processes or requiring formal accreditation or other forms of authorization for media workers, monitors and other observers, lawyers and medical personnel to gain access to a protest site;

(d) Ensure that media workers, monitors and other observers are able to photograph or record actions and activities at a protest, including law-enforcement operations, and that such recordings are not confiscated, seized and/or destroyed without due process and may be used as evidence in relevant disciplinary, administrative or criminal proceedings;<sup>47</sup>

(e) Ensure that any restrictions that may be imposed on protests do not impede the ability of the identified groups to carry out their activities, including during curfews, dispersals or arrests.

## VI. During a protest: facilitation, restraint and de-escalation

68. Law enforcement officials must make every effort to facilitate peaceful protests in ways that respect the objectives and preferences of protest organizers and leaders by acting at all times in accordance with their obligation to respect and protect human dignity and maintain and uphold the human rights of all involved in a protest.<sup>48</sup> Law enforcement officials must remain neutral and impartial throughout any protest, prevent harm and protect the right to life, liberty and security of person of those involved, while also fulfilling their duty to maintain public safety and social peace.<sup>49</sup> The deployed officers should adhere to the cross-cutting principles of participation, accountability, non-discrimination, differentiation and attention to vulnerability and equality.

69. During a protest, law enforcement officials must protect and facilitate participants' right to freedom of expression, so that participants are able to freely voice their opinions, slogans and chants and display written placards, signs, banners and symbols, such as flags, or other media of expression, as long as they do not incite discrimination, hostility or violence.<sup>50</sup> The limitation of freedom of expression must remain an exception. To determine whether a statement may amount to a criminal offence and justify restrictions under article 20 of the Covenant, each of the following six parts of the higher threshold test, established under the Rabat Plan of Action, should be fulfilled, by assessing: (a) social and political context; (b) status of the speaker; (c) intent to incite the audience against a target group; (d) content and form of the speech; (e) extent of its dissemination; and (f) likelihood of harm, including imminence and direct impact.<sup>51</sup>

### A. Evidence-based risk assessment

70. Ongoing human rights-compliant collection of information can help law enforcement officials to act in a timely manner to prevent violence or escalation and to distinguish between peaceful protesters and individuals who are involved in violence. As the event progresses and new information comes to light, the policing plan must be kept under review to ensure that tactical approaches can be adjusted, where necessary.

71. Law enforcement officials should:

(a) Employ the least intrusive methods while gathering information, conducting assessments and collecting evidence during a protest, which should be done in full compliance with protections against arbitrary or unlawful infringement of participants' rights;

(b) Ensure that any decision to utilize surveillance strategies and/or to record participants is exceptional and limited to distinct law enforcement purposes, such as directly

<sup>47</sup> Human Rights Committee, general comment No. 37 (2020), para. 30.

<sup>48</sup> Code of Conduct for Law Enforcement Officials, art. 2.

<sup>49</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

<sup>50</sup> Human Rights Committee, general comment No. 37 (2020), paras. 32, 46, 49 and 51.

<sup>51</sup> See [A/HRC/22/17/Add.4](#), appendix.

aiding the prevention, investigation and prosecution of a specific criminal offence occurring within the context of the protests. Facial recognition technologies and other biometric systems must not be utilized to identify individuals who are peacefully participating in a protest;<sup>52</sup>

(c) Apply strict law enforcement protocols to govern the collection, retention and use of data collected during a protest, in accordance with a commitment to safeguard the rights and privacy of individuals;<sup>53</sup>

(d) Refrain from interpreting with suspicion any tactics utilized by an individual or group of individuals during a protest with the ostensible intention of preserving their anonymity. Individuals have a legitimate expectation of a degree of anonymity in online and offline spaces.<sup>54</sup>

## **B. Differentiated and negotiated law enforcement techniques**

72. Law enforcement officials must prevent and minimize any tension or violence from occurring in the context of protests through the use of timely, pre-emptive and appropriate de-escalation tactics based on the principles of communication, negotiation, community engagement, restraint and minimal use of force.

73. Law enforcement officials should:

(a) Maintain clear communication channels with all officers deployed during a protest ensuring that they have direct access to commanders' directives in order to avoid confusion, miscommunication and misconduct due to failure to provide clear and consistent communication to all protest areas;

(b) Engage regularly with human rights legal advisers in the command centre and consider making command decisions informed by their advice;

(c) Deploy operational commanders with the capacity to make tactical decisions on the ground to ensure alternatives to the use of force, according to the circumstances, including by maintaining direct communication and negotiating with relevant stakeholders and protest organizers and participants. Law enforcement officials may consider involving trained dialogue officers for negotiations, such as advanced police negotiation teams or liaison teams, dialogue police units or others. It is also recommended to engage, whenever relevant, trusted civil society partners to help to resolve misunderstandings and to de-escalate potential tensions.

74. Law enforcement officials must differentiate between participants in a protest on the basis of their individual conduct in order to continue facilitating the rights of those who remain peaceful and to prevent the violence from spreading.<sup>55</sup> This requires dynamic decision-making and targeted and differentiated response.

75. Law enforcement officials should:

(a) Consider the deployment of appropriate techniques to de-escalate tension and violence, such as the facilitation of a safe movement of the crowd, the establishment of buffer zones between opposing groups, the positioning of barriers or strategic positioning of officers to prevent escalation or damage and tactical withdrawal;

(b) Identify individuals or groups who are instigating violence or engaging in violent or criminal behaviour without disrupting the peaceful majority or the protest;

(c) Ensure that containment tactics, such as "kettling", are used only when it is necessary and proportionate to do so to address actual violence or an imminent threat, while avoiding the disproportionate restriction of protestors' rights.<sup>56</sup> In such cases, law

<sup>52</sup> A/HRC/44/24, para. 53 (f).

<sup>53</sup> Ibid., para. 53 (j) (iii).

<sup>54</sup> A/HRC/31/66, para. 77.

<sup>55</sup> Human Rights Committee, general comment No. 37 (2020), paras. 17–20.

<sup>56</sup> Ibid., para. 84.



enforcement officials must ensure that every effort is made to identify those in need of access to food or medicine, monitors and other observers, medical personnel, individuals or groups in situations of vulnerability, including children, and those who are not violent, to help them to move outside the containment area.

### C. Lawful dispersal of a protest

76. Dispersal of a protest should be done on an exceptional basis and as a measure of last resort, under the condition that a protest as a whole and in its entirety is no longer peaceful or there is an imminent wide-ranging threat of violence and serious injury.<sup>57</sup> In exceptional cases, when a peaceful protest needs to be dispersed, for instance, when there has been a “serious and sustained” disruption, law enforcement officials need to have the tools in place to assess the situation, including in consultation with the protest organizers, in order to disperse the crowd without the use of force.<sup>58</sup> Any dispersal, however, should be authorized only when law enforcement officials have exhausted every effort to resolve the disruption or risk of violence by reasonable and less intrusive measures.

77. Law enforcement officials should:

(a) Inform participants of the decision to disperse a protest in a clear, audible and understandable manner by providing specific reasons for dispersal, instructions on how to disperse safely and reasonable timing for voluntary dispersal. Officers need to ensure that instructions are adapted to the needs of, and accessible for, individuals and groups in situations of vulnerability, including children;

(b) Allow monitors, media representatives and other groups involved in monitoring or reporting on the protest not to disperse so that they can freely monitor and report on the actions of law enforcement officials;<sup>59</sup>

(c) Facilitate the work of medical personnel during dispersal by ensuring their access to the protest site to provide prompt and unobstructed assistance to those requiring assistance;

(d) Take measures to facilitate the safe and peaceful dispersal of the protest, with particular attention given to the individuals and groups in situations of vulnerability, including children, and providing them with additional assistance, when required;

(e) Consider other de-escalation and negotiation techniques, if participants fail to disperse voluntarily, such as involving civil society and community leaders in negotiations on dispersal.

### D. Differentiated and proportionate police response

78. At all times, law enforcement officials must follow the principle of precaution, which requires that all feasible steps are taken and all possible alternatives are considered, including all non-violent means, to prevent and avoid the use of force in the context of protests.<sup>60</sup> Any decision to use force must comply with the principles of legality, necessity, proportionality, precaution, non-discrimination and accountability and be in line with the relevant provisions of international human rights standards, including the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. All the law enforcement actions regarding the use of force must be pre-considered.

<sup>57</sup> Ibid., para. 85.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid., para. 30.

<sup>60</sup> Ibid., para. 78.

79. Law enforcement officials should:

(a) Apply all possible non-violent means before using force, such as the gradual increase of the level of law enforcement presence proportionate to the context and actual threat through the deployment of additional units and adequate equipment;

(b) Take extra precautions to protect from harm individuals and groups in situations of vulnerability when using any force in the context of protests. This can include, for instance, giving additional considerations when using less-lethal weapons in the proximity of children, pregnant women, older persons, persons with disabilities, persons with intellectual or psychosocial disabilities and persons under the influence of drugs or alcohol;<sup>61</sup>

(c) Consider that, if mounted or canine units are used, they operate under the use of force framework. Although mounted and canine units are often considered to be less-lethal mediums, there is a potential to cause serious bodily injury, harm or even death, if they are not used correctly. Such units must be deployed in a culturally sensitive manner, given that even the mere presence of dogs and horses can lead to an unnecessary escalation of tension;

(d) Ensure that only law enforcement officials who have been properly trained on the use of force and the use of relevant equipment are deployed for that purpose;

(e) In the case of use of force, ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;

(f) Make all reasonable efforts to limit the use of and risks of less-lethal weapons with wide-area effects, such as tear gas and water cannons, which could cause a stampede or harm bystanders. Tear gas may only be used in response to widespread violence in a protest when it is not possible to contain the violence by more targeted measures against the violent individuals;<sup>62</sup>

(g) Ensure that kinetic impact projectiles, including rubber bullets, if authorized in very exceptional circumstances to protect against an imminent threat of injury or harm from a violent individual, are never fired indiscriminately into a crowd, nor especially targeted at the head or torso<sup>63</sup> of an individual. The risk of bystanders must also be taken into account;<sup>64</sup>

(h) Ensure that firearms or other lethal weapons are never used in the dispersal of protests, even when such protests may have become violent or partially violent. Firearms may only be used to protect against imminent threat to life of oneself or others, in accordance with principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

## **E. “Stop and search” practices, arrest and detention in the context of protests**

80. “Stop and search” practices,<sup>65</sup> arrest and detention in the context of peaceful protests must be done in compliance with all relevant international human rights standards and must not be used as a method or tactic to intimidate or impede protest participants or organizers. Law enforcement officials should never detain protesters on the basis of their intention to organize, participate or legitimately engage in a protest. In case of lawful stops and searches and the detention and arrest of protest participants and organizers, clear and transparent protocols must be followed, with special attention given to ensuring non-discrimination and the prevention of torture and other ill-treatment.

81. Law enforcement officials should:

(a) Ensure that law enforcement officials have justification for employing “stop and search” practices relevant to a protest, for instance, on the basis of intelligence that

<sup>61</sup> United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, para. 2.7.

<sup>62</sup> *Ibid.*, para. 6.3.4.

<sup>63</sup> *Ibid.*, para. 7.5.3.

<sup>64</sup> *Ibid.*, para. 6.3.4.

<sup>65</sup> Human Rights Committee, general comment No. 37 (2020), para. 83.

participants plan to engage in violence or a crime, taking into account the actual circumstances and risks. Each use of the procedure must be justified and recorded;

(b) Consider engaging with relevant oversight bodies to agree on protocols that may allow for arrested protest participants to be accompanied during detention;

(c) Put in place appropriate measures that consider the rights, needs and protections of individuals and groups in situations of vulnerability during detention;

(d) In the exceptional cases when protest participants are detained, law enforcement agencies need to ensure that:

(i) All aspects of the arrest and detention are conducted in a lawful manner and that detention facilities comply with international human rights standards, considering the requirements to separate men and women, to ensure that counterprotestors are not brought to the same location as protestors and, where it may be necessary to detain children (as a last resort), they are not held alongside adults);<sup>66</sup>

(ii) The right to access to a lawyer and the right to have someone informed of an individual's detention is guaranteed;

(iii) Detained persons are released or brought before a judicial authority within a legal time frame;

(iv) Access to medical treatment and exams is provided;

(v) Access to mechanisms to report any abuse or misconduct is established;

(e) Record disaggregated information on the arrests and detention to identify and address any patterns of discrimination and ensure that the rights of those arrested are protected throughout the legal process. Regularly updated records of detained protest participants should be accessible to families, oversight bodies and other relevant stakeholders;

(f) Guarantee that any investigations and interviews<sup>67</sup> of protest participants and organizers are conducted with full respect for human rights, by ensuring protection from torture and other cruel, inhuman or degrading treatment or punishment and providing access to independent complaints mechanisms and effective remedies.

## **VII. After a protest: reporting and investigation**

### **A. Return and evaluation of equipment**

82. When returning equipment, law enforcement agencies should verify inventory against pre-event records to ensure that the same amount of equipment, including weapons, is returned after a protest and that any use is duly recorded and reported. Any mismatch in the number of returned items must be promptly investigated, according to established disciplinary and other independent oversight procedures.

83. Law enforcement officials should:

(a) Verify that all equipment is returned and document any use or damage, including the use of less-lethal weapons and digital technologies;

(b) Ensure that, in circumstances where it is evident that the equipment has been used, for instance, where ammunition depleted or the officer returns fewer items than were issued, this triggers the expectation of some notification about the circumstances in which the equipment was used, including the specific time and justification.

<sup>66</sup> See United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

<sup>67</sup> In line with Principles on Effective Interviewing for Investigations and Information-Gathering.

## B. Debriefing and reporting

84. Law enforcement agencies should conduct debriefings following a protest to review and evaluate the law enforcement operation, any operational or logistical errors and the possible human rights impacts of applied tactics. It is recommended that all officers who took part in the facilitation of the protest be involved, regardless of their rank. In case of human rights violations, it is recommended that law enforcement agencies compile a publicly accessible lessons learned report aimed at the improvement of institutional processes, capacities and facilitation tactics for future protests. Law enforcement agencies should ensure that the recommendations from debriefings and lessons learned reports inform the next protest operation and the planning phase.

85. Law enforcement officials should:

(a) Hold various types of debriefings after a protest, including “hot” (or immediate), formal, thematic and multi-agency debriefings. Feedback from debriefings should be shared with protest organizers, community members and other relevant stakeholders, including oversight bodies;

(b) In case of human rights violations, prepare a lessons learned report with feedback from all levels of command structure and external stakeholders;

(c) Share the results of debriefings and lessons learned reports with all commanders, training units, relevant agencies and the public. If required, law enforcement agencies may then consider changing any relevant policy, guideline or training aspect.

86. Where any allegations or suspicion exist of misuse of authority or force or other misconduct leading to human rights violations in the context of protests, such as torture and other ill-treatment, including sexual and gender-based violence, law enforcement agencies should ensure that self-reporting is completed by officers who were deployed at the time of the incident and were in the vicinity of the incident. Law enforcement officials should understand that accurate reporting is not punitive, but a means to ensure integrity and professionalism and to improve trust in and the legitimacy of the police service.

87. Law enforcement officials should:

(a) Promote individual and credible self-reporting that is based on clear guidelines and procedures, including a standardized form. As a good practice, officers should not collaborate when filing the reports;

(b) Regularly analyse self-reported data to detect patterns in use of force and non-compliance with standards and instances of unlawful use of force. The procedures should be in place to investigate and ensure accountability for all instances of unlawful use of force. Law enforcement agencies should also implement reforms and address training needs where patterns of non-compliance are evident.

## C. Investigations following a protest

88. An impartial, thorough and prompt investigation<sup>68</sup> should be conducted in case of any allegation or reasonable suspicion of unlawful use of force or other abuse or act that may amount to torture or other ill-treatment, including sexual or gender-based violence, in the context of protests.<sup>69</sup> Any incident of injury or death resulting from the use of force or firearms should automatically be reported and investigated through an effective and independent oversight system. Intentional and negligent action or inaction should be investigated across the chain of command. Investigations and adjudications related to protests should be carried out by civilian institutions and not military or other special courts.

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<sup>68</sup> See Minnesota Protocol on the Investigation of Potentially Unlawful Death.

<sup>69</sup> Human Rights Committee, general comment No. 37 (2020), para. 90.

89. Law enforcement officials should:

(a) Establish a robust procedure for the independent gathering, storage and preservation of evidence, including digital evidence. For protests where the use of force and human rights violations are reported, any relevant evidence or information should be retained and made available to internal and external oversight bodies, civil society organizations, victims and their representatives to facilitate the attribution of responsibility and measures of accountability;

(b) Handle all the internal investigation reports with the utmost sensitivity to protect the privacy and rights of all involved, especially children and victims of sexual and gender-based violence, and hand them over to independent oversight mechanisms and investigative bodies and for prosecutions;

(c) Involve, consult and update victims and their representatives throughout the investigation processes, including on investigative strategies, and refrain from invoking national security grounds for concealing evidence from victims and their representatives;

(d) Follow the obligation of compliance and transparency in communication with relevant independent oversight bodies, including in relation to their requests;

(e) Make public any reports and findings of investigations on the use of force, deaths, injuries and other incidents that occurred in the context of protests.

#### **D. Penalties and fines in the context of protests**

90. Law enforcement agencies and other relevant bodies, including the prosecution service and the judiciary, must ensure that charges brought against those lawfully detained in the context of protests are consistent with legal standards and proportionate to the nature and severity of the alleged offence. Charges carrying disproportionately harsh penalties would violate the right to freedom of peaceful assembly and other relevant rights and have a chilling effect on public participation in future protests.<sup>70</sup>

91. Law enforcement officials should:

(a) Refrain from criminalizing protest organizers for not fully complying with the requirement of notification or with other conditions imposed on a protest during the notification process, as well as for actions conducted by other participants;

(b) Refrain from sanctioning children or their families or guardians for the participation of children in a peaceful protest.

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<sup>70</sup> Human Rights Committee, general comment No. 37 (2020), para. 71.