**The promotion and protection of human rights in the context of peaceful protests: implementation of Human Rights Council resolution 25/38**

**Questionnaire**

**A. RESPONDENT DETAILS**

*Please note: provision of the following information is optional*

Contact name:

Address and email address:

*Respondent is completing the questionnaire on behalf of:*

|  |  |
| --- | --- |
| State (Please indicate which State, and in which capacity) |  |
| An NHRI (Please indicate which NHRI) |  |
| An NGO (Please indicate which NGO) |  |
| Him /herself as a practitioner (Please provide name) |  |
| Other Stakeholder (Please specify) |  |

**B. INSTRUCTIONS**

The questionnaire is divided into three parts. **Part one** is a general section on legislation (and all related policies or procedures) and national human rights institutions. **Part two** contains specific questions / issues relevant to all matters that may arise before, during and after an assembly is held. **Part three** provides an opportunity for the respondent to raise any aspect relevant to assemblies with the Special Rapporteurs.

The Special Rapporteurs emphasize the importance of stakeholder input on these questions, and appreciate the time and effort taken by respondents in this regard. The Special Rapporteurs recognize that a respondent may not be in a position to answer all questions contained herein. In such an event, kindly indicate the fact and answer as many questions as possible. Please also send any reading material in your possession relevant to this topic to the Special Rapporteurs.

*In answering the following questions, please refer to domestic (both national and local), and where relevant, regional practices. Please also provide examples, where possible, of best practice as well as any obstacles encountered in the practical management of assemblies.*

**PART 1**

**Relevant Legislation and Institutions**

*When providing copies of relevant directives, orders and / or policies (and similar), kindly inform the Special Rapporteurs if these documents should be kept confidential. Some domestic laws of States are already accessible on* [*www.use-of-force.info*](http://www.use-of-force.info) *- kindly indicate whether the laws contained thereon are still relevant.*

1. Please provide copies of all legislation, regulations, directives, protocols and policy (both enacted laws as well as draft laws / bills), as well as any other applicable legal rules including judicial decisions that relate to the below listed areas. Please also indicate the country/area where the law finds application.

* The right to freedom of assembly (including protection of the right to freedom of assembly, authorization / notification requirements, and permitted prohibitions and limitations)
* Pre-assembly planning, risk assessments, communications, and stewarding
* The policing of assemblies (which may include but is not limited to the regulation and monitoring of operations, as well as the equipment issued and used)
* The training of law enforcement officials (related to assemblies)
* The laws regulating the use of force in instances of assemblies, stop and search procedures, arrests, counter-terrorism operations, in the maintenance of public order, or the interests of national security, and in protection of state/public/private property
* The gathering, retention and use of intelligence before, during and after assemblies
* Accountability of law enforcement officials as well as possible investigatory procedures that may be instituted (including internal and external procedures and independent bodies)
* The role of national human rights institutions and parade commissions in relation to assemblies (at all phases of an assembly - before, during and after).
  1. Please provide copies of all legislation, regulations, directives, protocols and policies that incidentally, but significantly, impact assembly / protest rights in your country (this could include counter-terrorism legislation, legislation relating to public spaces, sporting events etc.).

**PART 2**

**Before an Assembly**

***Notification / authorization of public assemblies***

1. Does the law in your country explicitly establish a presumption in favor of holding peaceful assemblies (meaning that freedom of peaceful assembly should, insofar as possible, be enjoyed without regulation)? Where is this provision contained in your laws (the Constitution etc.)?
2. Please describe the process that is required to notify / secure authorization to hold a public assembly in your country (including the relevant decision-makers, time frames, internal processes by which a decision is made, appeals processes, etc.), and how these processes function in practice.
3. Please describe the implications, if any, should organizers/conveners fail to notify authorities of an assembly. Examples of implications may be the automatic dissolving of the assembly or sanctions on assembly leaders and members (such as fines or imprisonment).

***Prohibitions and Limitations***

1. Please list and describe the grounds upon which the authorities may prohibit or restrict an assembly, and indicate if restrictions must comply with the principles of necessity, proportionality and that they be in support of a legitimate interest.
2. Please describe if, and how, private law remedies (such as injunctions) are used to limit assembly rights, and provide specific examples where possible.

***Law Enforcement***

1. Which law enforcement body has the (primary) authority to police assemblies? Is there a specialized law enforcement unit trained in crowd control or public order?
2. Please describe the training of law enforcement personnel, including topics addressed (including any specialized training on the use of firearms, and on the potential impact of different weapons - including ‘less-lethal’ weapons), and describe:
   1. Any obstacles faced in ensuring that law enforcement officials are screened and trained appropriately prior to policing assemblies;
   2. Any lessons learned in this regard.

***Pre-planning***

1. Please describe:
   1. Any operational planning processes which law enforcement officers are required to undertake prior to facilitating or policing an assembly, and specific measures or policies in place to ensure the readiness of police to respond appropriately to protests (this may include protest liaison police; communication strategies between protestors, police, and local authorities, etc.);
   2. Whether assembly organizers, in conjunction with law enforcement, are required to plan the required security and public safety measures that will be put in place prior to the assembly (including the use of protest stewards).

**During an Assembly**

***Operational Procedures***

1. Please explain the general command structure(s) that are put in place when policing assemblies, and whether it is general practice that there is a designated point of contact within the law enforcement agency that assembly organizers and members can contact before, during and after the assembly.
2. Please provide examples of strategies that have been implemented to ensure proper communication amongst assembly leaders, assembly members, law enforcement officials and local authorities, and any obstacles faced in ensuring such communication.

***Spontaneous, Simultaneous and Counter-Protests***

1. Please:
   1. Describe all legislation and / or regulations that (i) refer to spontaneous, simultaneous or counter assemblies / protests, and (ii) indicate if spontaneous, simultaneous or counter demonstrations are facilitated and protected by law enforcement;
   2. Indicate obstacles faced by law enforcement officials, if any, in the implementation of laws that allow for spontaneous assemblies, or simultaneous / counter demonstrations;
   3. Indicate any lessons learned during the management of spontaneous, simultaneous or counter demonstrations.

***Use of force***

1. Please indicate when law enforcement may, under national laws or policy, use force to disperse assemblies. Are specific requirements passed related to necessity and proportionality? Is the practice on the ground in conformity with law or policy relating to the use of force? Please also indicate the level of force and weapons permissible (including whether a distinction is made between a rifle/pistol/revolver and automatic and semi-automatic firearms) in all circumstances, for e.g. unlawful, non-violent assemblies etc.
2. Please describe whether the law requires the implementation of (i) an ammunition registration and control system, and (ii) a communications records system to monitor operational orders, those responsible for them and those carrying them out. Please also indicate whether these systems are maintained in practice.

***Firearms***

1. Please describe the grounds, provided in law, when law enforcement may use firearms in the context of policing assemblies (including whether the law or policy prohibit indiscriminate firing into an assembly), and whether this is observed in practice, as well as all steps law enforcement officials are required to take prior to discharging firearms, including identification and clear warning(s) etc.

***Kettling***

1. Please describe any legislative or institutional measures and / or reforms that prohibit/regulate the use of the kettling method.

***Regulation and monitoring of law enforcement operations***

1. Please describe measures, in law and otherwise, that allow for the regulation and monitoring of law enforcement operations (including by civil society, the media and the use of social media). What, if any, restrictions, are placed on these? Please provide examples.

***Equipment and logistics of law enforcement operations***

1. Please indicate if law enforcement officials are provided with:
   1. Self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation;
   2. A range of instruments of force in order to opt for the least intrusive, most proportional one to achieve a lawful policing objective and can scale up if needed.

***Pre-emptive measures, including arrests***

1. Please describe any existing protocols, and how such protocols are applied in practice, that guide law enforcement officials on:
   1. The appropriate circumstances under which a person may be arrested during an assembly, and the use of force that is permissible and lawful in doing so;
   2. Other pre-emptive measures, such as verbal warnings, and stop and search powers.

***Intelligence activities***

1. Please describe if, and how, intelligence on protestors is acquired (such as through arrests, kettling, and stop and search, undercover law enforcement operations, and surveillance, including of information communication technologies), and how such information is stored and used. Please refer to any laws, regulations, policies or protocols governing the same.

***De-escalation strategies***

1. Please describe the methods such as negotiation or mediated dialogue that may be used by law enforcement officials in an attempt to de-escalate conflict during the course of an assembly. Please provide an example of such a practice.

**After an Assembly**

1. To what extent (if any) are organizers / conveners held legally responsible for any damage that may occur during an assembly, or expenses associated with the conduct of an assembly (such as provision of sanitation, medical services, and clean up costs)?
2. Describe the practice for the arrest and detention of protestors, including any best practices, or specific challenges, related to the same. In the event that criminal charges are brought against protestors, please explain under which law the crime is defined.
3. Please describe:
   1. The process through which victims of human rights violations and abuses, which occurred in the context of assemblies / protests may pursue remediation;
   2. Any examples of best practices in facilitating victims’ access to remedy;
   3. Any obstacles that victims have encountered in accessing remedies.

***Reporting/recording procedures***

1. Please describe:
   1. Reporting / recording procedures which apply to law enforcement officials’ use of force or firearms during assemblies, including whether officials are required to maintain a written record of force used (including weapons deployed), and whether officials are required to report incidents of use of force and / or firearms to their superiors or an oversight body;
   2. The extent to which these reporting/recording procedures are followed in practice;
   3. The legislation and / or regulations providing for disciplinary sanctions to be taken against officials for the failure to properly follow reporting / recording procedures.

***Responsibility***

1. Please explain the process for investigating allegations of abuses by law enforcement and other state officials during the course of assemblies, including any laws which make the arbitrary or abusive use of force and firearms by law enforcement officials, when policing assemblies, a punishable criminal offence, and how such laws have been implemented.
2. Please describe the legal responsibility of superior officers for the use of force / firearms of law enforcement officials under his / her command.

***External/independent oversight mechanisms***

1. Please describe any mechanisms which provide oversight where it is alleged that a person has been injured or deprived of life by a law enforcement official in the context of an assembly.

**PART 3**

**General Questions**

1. Please provide in relation to the phases before, during and after, an assembly, noteworthy:
   1. Examples of best practice(s);
   2. Any obstacles that have been encountered;
   3. Lessons learned.
2. What are the most pressing issues you would like the Special Rapporteurs to address in this compilation of recommendations, and is there anything else you would like the Special Rapporteurs to know about laws, policies or practices relating to the management of assemblies in your country?