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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development****Report of the Special Rapporteur on the rights to freedom of  
peaceful assembly and of association\****Summary*

The Special Rapporteur on the rights to freedom of peaceful assembly and of association presents its first thematic report to the Human Rights Council, pursuant to Council resolution 15/21 and resolution 32/32.

Following an introduction (chap. I), the Special Rapporteur provides in chapter II an overview of his activities during the first year of his mandate.

In chapter III, the Special Rapporteur identifies eight global trends through his work in the different regions with regard to the exercise of the rights to freedom of peaceful assembly and of association as follows: 1) Use of legislation to suppress the legitimate exercise of freedom of peaceful assembly and association; 2) Criminalization, indiscriminate and excessive use of force to counter or repress peaceful protest; 3) Repression of social movements; 4) Stigmatization of and attacks against civil society actors; 5) Restrictions targeting particular groups; 6) Limitations of rights during electoral periods 7) Negative impact of rising populism and extremism and 8) Obstructions encountered in the digital space.

In chapter IV, the Special Rapporteur outlines his conclusions and recommendations to relevant stakeholders.

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\* The present document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B.

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## **I. Introduction**

1. This report is submitted to the 38<sup>th</sup> session of the Human Rights Council by the Special Rapporteur on the rights to freedom of peaceful assembly and of association pursuant to Human Rights Council resolution 15/21 and resolution 32/32.
2. This is the first thematic report of the Special Rapporteur Clément Voule, following his appointment at 37<sup>th</sup> session of Council.
3. The Special Rapporteur is grateful to the previous mandate holders for the work carried out in the past seven years of the mandate.
4. In section II, the Special Rapporteur provides an account of his activities since he took up his role as a mandate holder on 4 April 2018. In section III, based on communications acted upon by the mandate and the information received in the past seven years, the Special Rapporteur identified global trends through his work in the different regions with regard to the exercise of the rights to freedom of peaceful assembly and of association. The conclusion and recommendations are outlined in section IV.

## **II. Activities of the Special Rapporteur**

### **A. Country Visits**

5. Having only recently taken up his functions, the Special Rapporteur would like to remind all Governments that have received requests from the mandate of the willingness to undertake such country visits. The Special Rapporteur looks forward to receive a positive reply to the letters and reminders recently sent to several countries as well as to previously requested visits.

### **B. Participation in various events**

6. On April 2018, the Rapporteur participated in a consultation held in Washington D.C. and organized by the Civic Space Initiative to discuss possible future activities of the mandate as well as identifying potential key thematic priorities.
7. On May 2018, the Rapporteur attended the Ninth Global Assembly of the World Movement for Democracy on “Building Strategic Partnerships for Democratic Renewal” held in Dakar and participated in a workshop on “Shaping an Agenda for Protecting Freedom of Peaceful Assembly and of Association” to further consult on the future roadmap and vision of the mandate.
8. On June 2018, the Rapporteur participated in the 25th Annual Meeting of Special Procedures.
9. During the first months of his tenure, the Rapporteur has held numerous meetings with government officials of Permanent Missions and civil society actors in Geneva as well as meetings with different mandate holders and representatives of regional human rights mechanisms.

## **III. Trends in relation to the exercise of the rights of freedom of peaceful assembly and association based on communications sent and information received by the mandate**

10. Since the establishment of the mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the work on communications has been at the centre of the mandate’s action when allegations of violations of human rights that fall within the purview of the mandate have been brought to the attention of the expert.

11. For the past seven years the mandate issued six observation reports on communications transmitted to Governments (and non-State actors) and replies received from them<sup>1</sup>. In addition, a total of 110 communications were sent by the mandate holder in the period between 1 March 2017 and 28 February 2018<sup>2</sup>. This makes a total of 1156 communications sent, either individually or together with other mandate holders, addressing different aspects of the rights to freedom of assembly and association.

12. Based on communications sent by the mandate and the information received in the past seven years, the Special Rapporteur wishes to draw attention to global trends in the different regions with regard to the exercise of the rights to freedom of peaceful assembly and of association.

13. The identification of these trends in situations in which the exercise of the rights has not been possible, will allow the Special Rapporteur to have solid ground in which to found his future work and to establish the priorities for discharging his functions in the future.

14. Overall, to the Africa region the mandate has sent 295 communications; to the Asia-Pacific region: 478 communications, to the Eastern European region: 96 communications; to the Latin American and Caribbean region: 205 communications and to the Western European and Others region: 67 communications. To different non-State actors, the mandate has sent 15 communications.

15. The Rapporteur would like to underline that because of the importance in providing a broader and balanced perspective of the exercise of the rights of freedom of peaceful assembly and association, the current report should be read in conjunction with other reports previously presented by the mandate; in particular, the report on “Best practices that promote and protect the rights to freedom of peaceful assembly and of association” (A/HRC/20/27 paras. 12-100) and the “Achievements of civil society” (A/HRC/35/28, paras. 8-91).

16. In addition, the Rapporteur would like to recognize the work done by the High Commissioner for Human Rights through the report on “Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned” (A/HRC/32/20) which focuses on examples of practices that optimize civil society’s transformative potential and that also provides additional background reading to the present report.

17. Despite the great diversity between the different regions in the world, common trends in the restrictions of the rights of freedom of peaceful assembly and association have been observed in the past seven years based on a number of factors that have characteristics in common around the world.

18. Global challenges such as security threats, political instability; fragile political and governmental institutions, ethnic and religious divides, resurgence of fundamentalist ideologies, unstable economies, harsh climatic conditions, polarized elections, inequality and discrimination, restrictions in the access to justice, armed conflict, etc. can be pointed out as some of the factors that have contributed to the limitations of the rights of freedom of peaceful assembly and of association globally.

19. Through the communications sent and information received by the mandate, the Rapporteur has been able to identify eight trends which are categorized as follows: 1) Use of legislation to suppress the legitimate exercise of freedom of peaceful assembly and association; 2) Criminalization, indiscriminate and excessive use of force to counter or repress peaceful protest; 3) Repression of social movements; 4) Stigmatization of and attacks against civil society actors; 5) Restrictions targeting particular groups; 6) Limitations of rights during electoral periods 7) Negative impact of rising populism and extremism and 8) Obstructions encountered in the digital space .

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<sup>1</sup> A/HRC/20/27/Add.3; A/HRC/23/39/Add.2; A/HRC/26/29/Add.1; A/HRC/29/25/Add.3; A/HRC/32/36/Add.3; A/HRC/35/28/Add.3.

<sup>2</sup> This is the reporting period of communications sent by the mandate; however in this period during 3 months (December 2017 and January- March 2018), no action was taken by the mandate as it was vacant.

## A. Use of legislation to suppress the legitimate exercise of freedom of peaceful assembly and association

20. The mandate has observed on the one hand, limitations on civic space through the adoption of restrictive legislation regulating civic space and the right to peaceful assembly and association and on the other, the use of national security, anti-terrorism and public order laws to suppress freedom of peaceful assembly and association.

### Security and counter-terrorism legislation.

21. All over the world, national security concerns have given rise to the adoption of legislation. In some instances, such laws, amendments or revisions to laws have threatened the enjoyment of the freedom of peaceful assembly and association, by restricting its human rights. This has included the declaration of states of emergency, sometimes without adequate justification, the use of vague wording to define acts of terrorism and threats to public security and broad legal provisions that give room for abusive interpretations of limitations of the right to peaceful assembly and association.

22. The mandate has underlined the need for States to comply with international human rights law while countering terrorism and ensuring public security. Under the International Covenant on Civil and Political Rights, any limitation to the exercise of the rights of peaceful assembly and association must not only pursue a legitimate interest but also be “necessary in a democratic society”.

23. A review of the communications sent by the mandate shows that some countries in the Western European region have taken administrative and legislative measures to counter threats and acts of terrorism that led to the adoption of vaguely worded legislation; extended practices established under a state of emergency; increased discretionary executive powers; banned or restricted assemblies; increased practices of surveillance while reducing judicial oversight; and permitted the restriction or dissolution of associations<sup>3</sup>. The mandate has also raised concerns about draft legislation that would restrict human rights, including rights to freedom of peaceful assembly and expression on other countries of the Western Europe and other regional group.<sup>4</sup>

24. In a country in the Eastern Europe region, the mandate also raised concerns regarding vague wording in counter-terrorism legislation that could have broad implications for the exercise of the rights to freedom of opinion and expression and freedom of association.<sup>5</sup>

25. In the Middle East and North Africa region, the enactment of new counter-terrorist laws in some countries has raised concerns regarding the continued repression of activists and dissidents. In particular, with the adoption of new laws on terrorism, certain countries have increasingly targeted civil society activists and human rights defenders through legal proceedings and other administrative measures such as the imposition of travel bans as a means to harass, intimidate and impede their work in the defense of human rights. Similarly, through a number of draft amendments to anti-terrorism laws, the mandate has witnessed the introduction of legal provisions that undermine several rights, including the right to freedom of peaceful assembly and association in certain countries. In several countries, the mandate reiterated its concern regarding legislation against terrorism, which could be used abusively to restrain individuals’ liberties, in particular by introducing a broad definition of the term “terrorism”.<sup>6</sup>

<sup>3</sup> See France, JAL 28/12/2015. Case no. FRA 7/2015, JOL 28/12/2015. Case no. FRA 7/2015; Spain: JAL 17/02/2015. Case no: ESP 3/2015; JAL 17/02/2015. Case no: ESP 3/2015 and JAL 05/02/2015.

(See United Kingdom: JAL 22/12/2015. Case no. GBR 4/2015 and JOL 28/07/2016. Case no. GBR 2/2016).

<sup>4</sup> See United States of America, JOL Case no: USA 3/2017; Canada, JAL Case no: CAN 1/2015.

<sup>5</sup> See Latvia: JAL 15/04/2016. Case no. LVA 1/2016).

<sup>6</sup> Saudi Arabia, JUA 01/07/2016, Case no. SAU 4/2016, JUA 13/12/2016, Case no. SAU 8/2016, Egypt, JAL 21/07/2015 Case no. EGY 11/2015, Tunisia, JAL 24/07/2015, Case no TUN 1/2015, Bahrein, 14/08/2013, Case no. BHR 5/2013

26. In Africa, some States have used public order, anti-terror legislation or States of emergency to target journalists, bloggers, human rights defenders and opposition politicians and to enforce undue limitations on assembly and association rights.<sup>7</sup>

27. In some countries in Latin America, similar worrying trends have been registered. The mandate has raised concerns regarding the possible misuse of anti-terrorism legislation to curb freedoms of peaceful assembly and association, especially in relation to the imprecise definitions of terrorism and/or organized crime, political extremism and concepts such as “attacks against the stability of the democratic system with the purpose of subverting the functioning of its institutions”.<sup>8</sup> Another concern is the use of broad and ambiguous terms to qualify offences of public order and the granting of broad powers to State security forces to dissolve assemblies.<sup>9</sup>

## **B. Restrictive laws targeting civil society and the right to peaceful assembly and association**

28. The other major legislative trend affecting the right to peaceful assembly and association is the narrowing of an enabling environment for civil society through the adoption of restrictive laws regulating civic space. Repressive legislation is used to crack down on dissent, by creating a complex legal environment with burdensome requirements for the functioning civic organizations and groups. In the name of transparency, associations are required to comply with complicated, restrictive and invasive regulations in order to operate. Often these laws contain clauses which threaten associations with deregistration, losing their legal existence or even criminal prosecutions for non-compliance. This has the effect of destabilizing and intimidating associations by generating confusion and increasing the administrative burden of continuing their activities, while instilling fear of action among their ranks.

29. The communications sent in this regard show that increased restrictions and obstacles imposed on civic space have particularly targeted organizations active in the promotion and protection of human rights. This trend translates into the rise of a legal and administrative legislation to constrict the normal flow of human rights activities carried out by civil society organizations.

30. Furthermore, some restrictions require non-governmental organizations (NGOs) to align their activities with Government policies and impose heavy sanctions on NGOs for failing to comply with the provisions of this policy. Some legislation also excludes certain areas of work, by broadly labelling them as “political” or against national security.

31. In Africa, communications were sent to various countries concerning the use of such legislation to restrict the work of civil society, by imposing restrictions on the type of activities that can be carried out by NGOs, as well as access to funding and registration<sup>10</sup>. The mandate also sent communications to States considering draft legislation that gave rise to concerns regarding the undue limitation it would place on the right to assemble peacefully as well as the restrictions it would impose on civil society groups<sup>11</sup>. Some of this legislation went as far as proposing the criminalization of unregistered associations and introducing

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<sup>7</sup> See. Ethiopia: JUA 5/10/2011. Case no. ETH 4/2011; JAL 9/12/2011. Case no. ETH 6/2011; JAL 23/11/2012. Case no. ETH 6/2012, JUA Case no. ETH 6/2016; Uganda, JAL 17/12/2013. Case no. UGA 1/2013; Kenya, JAL 08/01/2015. Case no: CMR 2/2014; JAL 18/12/2014. Case no: KEN 7/2014.

<sup>8</sup> See Brasil, JAL Case no: BRA 8/2015; Brasil, JAL Case no: BRA 3/2014; Guatemala, JOL Case no: GTM 8/2018; Venezuela, JAL Case no: VEN 2/2012; Venezuela, JAL Case no: VEN 1/2015; Venezuela, JOL Case no: VEN 7/2016

<sup>9</sup> See Chile, JAL Case no: CHL 5/2012; Paraguay, JAL Case no: PRY 1/2013; Mexico, JOL Case no: MEX 5/2017

<sup>10</sup> See Burundi (AL 20/12/2012. Case no. BDI 4/2012); See Kenya (JAL 15/11/2013. Case no. KEN 8/2013); Nigeria, JAL 18/07/2014. Case no: NGA 4/2014, see Mauritania, JAL 07/08/2015. Case no. MRT 3/2015; Uganda, JAL 27/04/2015. Case no. UGA 1/2015; JOL 2/11/2017, Case no. UGA 2/2017, The Democratic Republic of the Congo, JOL 15/11/2017, Case no. COD 2/2017.

<sup>11</sup> See Burundi (AL 20/12/2012. Case no. BDI 4/2012); Uganda (JAL 17/12/2013. Case no. UGA 1/2013);

broad and discretionary grounds for revocation of registration<sup>12</sup>. In extreme instances, authorities have suspended or de-registered organizations, often on alleged grounds of non-compliance with existing legislation. Associations have been suspended or closed often using the justification that these organizations are not in compliance with recently adopted legislation imposing new requirements on NGOs, such as registration certificates or any other requirement broadly interpreted by governmental bodies<sup>13</sup>.

32. In some countries in Eastern Europe, communications show examples of such restrictions whereby burdensome registration requirements, cumbersome rules regarding funding, including inspections and excessive reporting requirements to the Government, all with a detrimental effect on freedom of peaceful assembly and association<sup>14</sup>. In some cases, strong advocacy efforts of civil society organizations (CSOs) prevented the adoption of detrimental legislation<sup>15</sup>.

33. Communications were also sent to countries in Latin America that adopted regressive legislation that defined the associations ambiguously and inserted additional requirements that exceed those prescribed under international human rights law. In some situations, the mandate registered undue state interference that endangered the independence of associations and that even resulted in the shutting down of some organizations. In some cases, the mandate raised serious concerns regarding illegitimate limitations of the right to peaceful assembly, through newly adopted laws<sup>16</sup>.

34. A particular concern is the restriction on access to funding resources, particularly foreign funding. Despite the fact that States have recognized on multiple occasions, that resources are necessary for the existence and sustainable operations of associations, there is a clear tendency to discriminate against and stigmatize organizations that receive foreign funding. Beyond suspension and dissolution measures foreseen for failing to comply with the established requirements, organizations are susceptible to criminal prosecution. The common argument used by Governments to justify restrictions on foreign funding is that it is necessary to do so to protect State sovereignty from outside interference. This argument deliberately stigmatizes associations, who use foreign funding, by equating their objectives to those of foreign agents. It deliberately fails to recognize the legitimate work carried out by associations and their contribution to the development of the country, merely because they are funded by foreign sources.

35. Communications raising concerns about funding restrictions and stigmatization of associations receiving foreign funding have been sent to countries across all regions. Of particular concern are those labelling associations as foreign agents<sup>17</sup>.

36. In some countries in Asia, NGO laws regulating the use of foreign donations have imposed serious limitations on the right to freedom of association by adding administrative

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<sup>12</sup> See: South Sudan JAL 04/12/2013. Case no. SSD 1/2013; JAL 23/10/2014. Case no: SSD 1/2014; JAL 29/07/2015. Case no. SSD 1/2015.

<sup>13</sup> Burundi, JUA Case no: BDI 1/2017; Sudan, JAL 17/01/2013. Case no. SDN 1/2013; Swaziland, JAL 26/04/2012. Case no. SWZ 2/2012; Zambia, JAL 03/07/2014. Case no: ZMB 2/2014; Zimbabwe, JAL 22/03/2012. Case no. ZWE 4/2012, JAL 17/10/2012. Case no. ZWE 8/2012

<sup>14</sup> See Russia: JUA 30/11/2011. Case no. RUS 12/2011; JAL 11/07/2012. Case no. RUS 5/2012; JAL 18/12/2013. Case no. RUS 13/2013; Belarus: JAL 21/11/2011. Case no. BLR 10/2011; Azerbaijan: JAL 28/03/2013. Case no AZE 3/3013; Tajikistan: JAL 03/12/2014. Case no: TJK 6/2014; JAL 03/05/2016. Case no. TJK 2/2016; Kazakhstan: JAL 30/09/2013. Case no. KGZ 2/2013, JAL 23/09/2014. Case no: KGZ 5/2014; JAL 06/05/2014. Case no: KGZ 1/2014. JAL 30/07/2015. Case no. KGZ 2/2015.

<sup>15</sup> Kyrgyzstan: JAL 30/09/2013. Case no. KGZ 2/2013, JAL 23/09/2014. Case no: KGZ 5/2014; JAL 06/05/2014. Case no: KGZ 1/2014. JAL 30/07/2015. Case no. KGZ 2/2015

<sup>16</sup> See Bolivia, JAL Case no. BOL 3/2014; Ecuador, JAL. Case no. ECU 1/2013; ECU 2/2013; ECU 4/2013, ECU 2/2014, ECU 4/2015, ECU 2/2016, ECU 8/2016; Guatemala, JAL Case no. GTM 1/2014, JOL GTM 8/2018; Mexico, JOL Case no. MEX 5/2017; Peru, JAL PER 2/2015.

<sup>17</sup> JUA 30/11/2011. Case no. RUS 12/2011; JAL 11/07/2012. Case no. RUS 5/2012; JAL 18/12/2013. Case no. RUS 13/2013

burdens to the activities of NGOs<sup>18</sup>. In addition, the mandate pointed to draft laws especially targeting foreign organizations<sup>19</sup>.

37. Concomitantly, in recent years, there has been a trend in some countries towards restricting protests through the adoption of restrictive legislation. Several laws, discussed or adopted, include provisions that significantly limit the ability of ordinary individuals to express political dissent and criticism through peaceful protests and related activities, and might have a disproportionately chilling effect on minorities, activists, political opposition and other vulnerable groups that rely on such peaceful means to convey their opinions and views<sup>20</sup>.

38. Communications were also sent regarding legislative amendments or reforms that were adopted to increase fines and criminalize breaches of the regulations regarding the organization of and participation in peaceful assemblies; that imposed harsh restrictions on public gatherings; contained provisions relating to blanket bans, geographical restrictions, mandatory notifications and authorizations based on the message of assemblies or on traffic flow considerations<sup>21</sup>. These amendments were considered intrusive restrictions that exceed the criteria of necessity and proportionality.

### **C. Criminalization, indiscriminate and excessive use of force to counter or repress peaceful protest**

39. The mandate has strongly advocated to ensure that no one is criminalized for exercising the rights to freedom of peaceful assembly and of association, nor is subject to threats or use of violence, harassment, persecution, intimidation or reprisals for exercising these rights. The right to peaceful protest is a fundamental pillar of democratic governance and open societies, through which individuals and groups are able to express their opinions about issues of public interest. By exercising this right, in an enabling environment, individuals and groups are able to shape public debate and improve overall governance. The right to peaceful assembly is an essential tool through which individuals and groups can make known their views to those governing them, in order to shape public policies and decisions affecting society as a whole. It provides those governing, with a barometer that can assist them to calibrate and adjust their policies and decisions. However, in some contexts, the exercise of this right is viewed as a threat to governance and public order.

40. The mandate, together with the mandate on extrajudicial, summary or arbitrary executions, elaborated a joint report on the proper management of assemblies (A/HRC/31/66). The report notes that, despite the increasingly prominent role that assemblies play, there remained a lack of clear understanding of the applicable international human rights law and standards. In this regard, it provides a compilation of practical recommendations, organized around ten overarching principles for the proper management of assemblies, and a summary of the applicable international legal standards, followed by practical recommendations on how those principles should be implemented, with the aim of ensuring better protection of the various rights of those engaged in assemblies and associations.

41. Without exception, indiscriminate and excessive use of force by law enforcement authorities to counter or repress peaceful protest has been recorded in countries across all regions.

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<sup>18</sup> BGD 3/2014, BGD 7/2012

<sup>19</sup> CHN 2/2015

<sup>20</sup> Azerbaijan: JAL 10/12/2012. Case no. AZE 5/2012; Russia: JOL 28/07/2016. Case no. RUS 7/2016

<sup>21</sup> Poland: OL 23/07/2012. Case no. POL 1/2012; Spain: JAL 05/02/2015. Case no: ESP 1/2015; JAL 17/02/2015. Case no: ESP 3/2015 and JAL 05/02/2015. Case no: ESP 1/2015; Montenegro: JOL 02/03/2015. Case no. MNE 1/2015;



42. In Eastern Europe, communications have been sent regarding the use by security forces of excessive force to repress assemblies<sup>22</sup>. Peaceful assemblies have also been prohibited in several countries and a growing practice by authorities of requiring notification, as a condition to proceed with the organization of protests<sup>23</sup> has been observed. Protestors have been detained and criminalized for taking part in peaceful assemblies in several countries of the region<sup>24</sup>.

43. Similarly, a number of cases have been registered in the Western European and others region<sup>25</sup>. Of particular concern is the repression of peaceful protestors in the context of occupation and self-determination<sup>26</sup>.

44. The communications sent by the mandate indicate that assemblies have also been restricted in some countries in the African region<sup>27</sup> where security forces have often used violence as a first resort to disperse assemblies, which were mostly peaceful<sup>28</sup>. Authorities have equated peaceful protest movements with threats to security and public order and have granted sweeping powers to security forces to dissolve protests. Consequently, many protestors have been arbitrarily arrested and detained<sup>29</sup> as well as criminalized for taking part in peaceful protests. Additionally, numerous cases of torture and ill-treatment of protestors have been reported<sup>30</sup>. In some cases, the excessive use of force by security forces during protests resulted in killings and injured persons<sup>31</sup>.

45. The mandate has expressed concern regarding the indiscriminate and excessive use of force against peaceful protesters in various countries in the Asia-Pacific region. These protests covered issues such as freedom of religion, forced evictions, environmental rights, indigenous peoples and ethnic minorities<sup>32</sup>. Within the Asian region, the violent repression of peaceful protests in some Middle East countries is also a clear trend. The mandate expressed concern at what appears to be a growing criminalization of civil society activists in certain of these countries for their role in peaceful protests.

46. A growing criminalization of protests has been registered in certain countries of Latin America where the exercise of the rights can be associated with charges of terrorism or

<sup>22</sup> Armenia, JAL 03/07/2015. Case no. ARM 1/2015; Azerbaijan, JUA 22/03/2012. Case no. AZE 2/2012; Georgia, JUA 20/06/2011. Case no. GEO 1/2011; Kazakhstan, JUA 13/1/2012. Case no. KAZ 5/2011; the Russian Federation, JUA 22/12/2011. Case no. RUS 13/2011; Ukraine, JUA 20/02/2014. Case no. UKR 1/2014.

<sup>23</sup> Russia, JAL 20/12/2013. Case no. RUS 14/2013; 2012 Serbia, JUA 31/08/2015, Case no. KAZ 2/2015; Uzbekistan, JAL 22/12/2016. Case no. UZB 3/2016.

<sup>24</sup> Armenia, JAL 03/07/2015. Case no. ARM 1/2015; Azerbaijan, JUA 01/02/2013. Case no. AZE 2/2013; Uzbekistan, JAL 31/01/2012. Case no. UZB 1/2012; Georgia; Kazakhstan: JUA 31/08/2015. Case no. KAZ 2/2015; JUA 09/05/2016. Case no. KAZ 2/2016; The Former Yugoslav Republic of Macedonia: JUA 20/05/2015. Case no. MKD 2/2015; Belarus, JAL 3/04/2017. Case no. BLR 1/2017.

<sup>25</sup> Spain, JAL 9/3/2012. Case no. ESP 2/2012; Turkey, JUA 14/06/2013. Case no: TUR 3/2013.

<sup>26</sup> Spain, JAL 9/3/2012. Case no. ESP 2/2012.

<sup>27</sup> Cameroon, JAL 08/05/2012. Case no. CMR 1/2012; Kenya, JAL 28/03/2013. Case no. KEN 1/2013

<sup>28</sup> Angola, JAL 05/12/2013. Case no. AGO 5/2013; Djibouti, JUA 29/12/2015. Case no. DJI 2/2015; Guinea Bissau, JUA 23/06/2017, Case no. GNB 1/2017, Kenya, JAL 18/03/2014. Case no: KEN 3/2014; JUA 12/10/2017, Case no. KEN 13/2017; Madagascar, JAL 14/12/2012. Case no. MDG 2.2012; Mauritania, JUA 9/06/2017, Case no. MRT 1/2017; Senegal, JAL 10/2/2012. Case no. SEN 1/2012.

<sup>29</sup> Angola, JAL 26/04/2013. Case no. AGO 2/2013; JUA 10/06/2013. Case no. AGO 3/2013; Cameroon, JUA 10/07/2012. Case no. CMR 2/2012, JUA Case no. CMR 2/2016 Kenya, JUA 17/02/2015. Case no: KEN 1/2015; Sudan, JUA 15/2/2012. Case no. SDN 1/2012; JAL 28/08/2017, JAL SDN 5/2017; Swaziland, JAL 20/09/2012. Case no. SWZ 3/2012; JUA 07/05/2015. Case no. SWZ 2/2015 Zimbabwe; JUA 27/2/2012. Case no. ZWE 2/2012; JAL 08/10/2013. Case no. ZWE 3/2013.

<sup>30</sup> Angola, JAL 29/08/2011. Case no. AGO 2/2011; Cameroon, JUA 10/07/2012. Case no. CMR 2/2012; JUA 10/11/2017, Case CMR 4/2017; Sudan, JAL 06/07/2012. Case no. SDN 4/2012.

<sup>31</sup> Ethiopia, JUA 22/05/2014. Case no: ETH 5/2014; Malawi, JUA 5/8/2011. Case no. MWI 3/2011. State Reply: 09/08/2011; Sudan, JUA 03/08/2012. Case no. SDN 5/2012; JUA 17/10/2013. Case no. SDN 7/2013; JUA Case no. SDN 5/2016 Togo, JUA Case no. TGO 1/2016.

<sup>32</sup> CHN 11/2016, CHN7/2013, CHN 10/2012, NPL 1/2017.

treason with very limited access to justice and with a brutal repression of peaceful manifestations<sup>33</sup>.

#### **D. Repression of social movements**

47. Across the globe individuals are taking to the streets to protest against corruption, the high cost of living, inequality, marginalization and the lack of access to resources, opportunities and democratic space to voice their views. Many of these protests involve youth and begin as spontaneous reactions to decisions that are seen as compounding long-standing and unresolved grievances of the population. In several instances, the mandate has issued communications regarding the repression of such movements, which have been perceived by certain Governments as threatening public order and stability.

48. The mandate has also closely witnessed that individuals' engagement in the natural resources exploitation sector is notoriously difficult given the secrecy of decision-making processes and outcomes, the lack of mechanisms through which interested parties may express their concerns, the often highly technical nature of discussions held and the financial stakes. The opaque environment presents conditions for corruption to thrive and prompting decision makers to disregard the voices of those less visible. In this regard the mandate has registered a considerable number of communications around the globe in which there is a clash of interests between civil society groups, private businesses and the State when the exploitation of natural resources is at stake.

49. The rights of peaceful assembly and of association play a key role in opening up spaces and opportunities for genuine and effective engagement by civil society actors in decision-making processes across the spectrum of natural resource exploitation activities. These rights help foster increased transparency and accountability in the exploitation of resources and are basic prerequisites for the ultimate goal of securing substantive rights. Peaceful assembly and association rights can facilitate constructive dialogue, which is necessary given the shared interests and sometimes competing priorities that are intrinsic to exploiting natural resources. (A/HRC/29/25, para. 10).

#### **E. Stigmatization of and attacks against civil society actors**

50. The mandate has received numerous reports concerning violations of the rights of human rights defenders, activists, community leaders and other actors from civil society who are forced to carry out their legitimate activities in an increasingly hostile environment, which includes restrictive acts of legislation regarding registration and the receipt and use of foreign funding by NGOs and associations (see section 1), as well as the increasingly prominent trend of threats, harassment, intimidation and even acts of violence committed by both State and non-State actors.

51. In particular, an increased criminalization of activities of human rights defenders, manifested in arbitrary detentions and in some cases, ill-treatment and torture in custody and a worrisome number of alleged reprisals against people who sought to cooperate or cooperated with the United Nations system and with other regional human rights mechanisms has been observed. The mandate considers threats against human rights defenders, including members of associations, a grave source of concern not only for the individuals affected, but more generally for the message they send to other civil society actors and individuals who wish to engage in human rights work and express dissenting views (A/HRC/29/25/Add.3).

52. In the Middle East and North Africa, the mandate observed the targeting of human rights defenders and political activists for peacefully carrying out their human rights activities as well as for legitimately exercising their rights to freedom of expression, freedom of association and freedom of peaceful assembly on and off line. Communications sent address the use of travel bans, asset-freezing and allegations of torture and ill-treatment by officials,

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<sup>33</sup> Cuba, Case no: JAL CUB 2/2012, CUB 6/2012; Brazil, Case no: JAL BRA 1/2013, BRA 3/2013, BRA 3/2014; Guatemala, Case no: JAL GTM 6/2012; Nicaragua, Case no: JAL NIC 6/2015; Panama, Case no: JAL PAN 7/2012; Venezuela, Case no: JUL VEN 2/2012, JUA VEN 4/2014.

often used to obtain confessions during interrogation (A/HRC/35/28/Add.3). In a few cases, the mandate reiterated its utmost concern at the serious escalation of the crackdown on independent civil society, including human rights defenders, lawyers, trade unions, journalists, political opponents and protesters and the pattern of increasing violence against and restrictions on civil society and human rights organizations, including massive waves of arrests and in one situation, mass imposition of death sentences for charges of unlawful gathering<sup>34</sup>.

53. Several worrying practices have been observed regarding the politically-motivated repression of activists in several countries in Eastern Europe and Central Asia, including their surveillance, interrogation, arrest and sentencing on the basis of trumped-up charges, as well as the freezing of their assets and the imposition of travel bans against them. Numerous human rights defenders have been accused under anti-terrorism legislation for activities considered to threaten the State's security. In a few countries, a real strategy of persecution of activists has been observed, instilling a climate of fear and leading to their self-censorship. In this context, numerous communications were sent, highlighting a pattern of discriminatory campaigns to silence dissent<sup>35</sup>.

54. In Western European countries, a few communications have been sent to Governments to raise issues related to non-refoulement of individuals potentially at risk to be subjected to torture or ill-treatment upon forced return to their country of origin<sup>36</sup>. In other countries from the Western European and others Groups, cases targeting human rights defenders include cases of unlawful surveillance of organizations<sup>37</sup>.

55. Similarly, a worrying number of communications underline a widespread pattern of attacks against human rights defenders in some countries in Africa. Trends tend to indicate common strategies adopted by the authorities to intimidate and silence human rights defenders, protestors and journalists. Among measures taken against them figure threats, including death threats, physical attacks, smear and defamation campaigns, arbitrary arrests and detentions, as well as criminalization under fabricated charges, often related to alleged breaches of public order, and under the auspices of unfair trials. Particularly worrying is the number of killings and enforced disappearances registered under the covered period, as well as the level of impunity for these crimes, often perpetrated by officials. Against this background, numerous communications were sent to various countries in the region<sup>38</sup>.

<sup>34</sup> EGY 12/2011, EGY 13/2011, EGY 2/2012, EGY 16/2013, EGY 19/2013, EGY 14/2014, EGY 09/2014, EGY 4/2015, EGY 16/2015 EGY 17/2015 EGY 1/2016 EGY 2/2016, EGY 4/2016, EGY 5/2016, EGY 6/2016, EGY 7/2016, EGY 8/2016, EGY 10/2016, EGY 1/2017, EGY 3/2017, EGY 4/2017, EGY 7/2017, EGY 14/2017, EGY 16/2017.

<sup>35</sup> Azerbaijan, JAL 24/08/2011. Case no. AZE 2/2011; JAL 27/09/2011. Case no. AZE 3/2011; JUA 27/06/2012. Case no. AZE 4/2012; JUA 26/07/2013. Case no. AZE 4/2013; JAL 26/11/2013. Case no. AZE 5/2013; JUA 15/08/2014. Case no. AZE 5/2014; JUA 12/08/2014. Case no. AZE 4/2014; JAL 09/05/2014. Case no. AZE 3/2014; JAL 06/05/2014. Case no. AZE 2/2014; JAL 29/05/2015. Case no. AZE 2/2015; JUA 19/08/2015. Case no. AZE 3/2015; JAL 31/08/2015. Case no. AZE 4/2015; JAL 8/11/2017. Case no. AZE 4/2017; JUA 29/11/2017. Case no. AZE 5/2017; Belarus, JAL 30/05/2011. Case no. BLR 6/2011; JAL 01/06/2011. Case no. BLR 7/2011; JUA 15/08/2011. Case no. BLR 9/2011; JAL 21/05/2012. Case no. BLR 2/2012; JAL 11/09/2012. Case no. BLR 3/2012; JUA 18/10/2012. Case no. BLR 4/2012; JAL 19/02/2013. Case no. BLR 1/2013; JAL 28/03/2013. Case no. BLR 2/2013; JAL 12/09/2017, case no. BLR 2/2017; Kazakhstan: JUA 26/06/2012. Case no. KAZ 2/2012; JUA 05/12/2012. Case no. KAZ 7/2012; JUA 02/04/2015. Case no. KAZ 1/2015. State reply: 22/05/2015; JUA 09/03/2016. Case no. KAZ 1/2016; AL 04/11/2016. Case no. KAZ 3/2016; JAL 20/12/2016. Case no. KAZ 4/2016; JAL 1/06/2017. Case no. KAZ 2/2017; Uzbekistan, JAL 05/07/2013. Case no. UZB 1/2013; JUA 03/06/2014, Case no. UZB 2/2014; JAL 10/12/2015, Case no. UZB 3/2015; JUA 22/12/2015. Case no. UZB 4/2015.

<sup>36</sup> France, JUA 10/2/2012. Case no. FRA 1/2012; The Netherlands, JUA 04/07/2012. Case no. NLD 3/2012; United Kingdom, JUA 21/05/2014. Case no. GBR 2/2014; Italy, JUA 28/08/2015. Case no. ITA 4/2015.

<sup>37</sup> See Canada, JAL 29/06/2015 Case no. CAN 2/2015.

<sup>38</sup> Angola, JUA 28/09/2015. Case no. AGO 2/2015; JUA 23/10/2015. Case no. AGO 3/2015; Burundi, JAL 23/08/2012. Case no. BDI 3/2012; JUA 28/05/2014. Case no. BDI 1/2014; JUA 2/2017, Case no. BDI 2/2017; Cameroon, JAL 04/01/2013. Case no. CMR 6/2012; JAL 27/04/2015. Case no. CMR

56. In the Latin America and Caribbean region, a considerable and recurrent number of communications sent to countries highlight a pattern of attacks against human rights defenders and other civil society actors who increasingly face violations of the rights of peaceful assembly and association. Human rights defenders and other civil society actors have been targeted because their activities are perceived as a threat to national security of the country or because they contravene public order. Many of these actors are environmental human rights defenders, including indigenous peoples and peasants, who oppose to extractive or exploitation projects of natural resources.

57. In Asia, environmental human rights defenders have increasingly been at risk. They were the target of threats and violations, including killings, for their peaceful and legitimate work in the defence of human rights, particularly in the context of natural resource exploitation projects<sup>39</sup>. Concerns were raised in particular regarding those who campaign peacefully against large scale mining projects that infringe on the rights of communities.<sup>40</sup> Communications regarding environmental human rights defenders have also been sent<sup>41</sup>.

## F. Restrictions targeting particular groups

58. The enjoyment of the rights of peaceful assembly and association is particularly important for groups who find themselves at particular risk because they belong to minority or are marginalized groups. The exercise of these rights is essential to reaffirm their identity and to ensure that their interests are taken into account. To promote stability and social cohesion, it is important to enforce the rights of these groups to peacefully assemble and associate, in a safe and conducive environment. To that end the mandate has closely studied and devoted particular attention to the exercise of the rights of freedom of peaceful assembly and association by particular groups, including individuals and groups most at risk. The mandate acknowledges those most at risk share the experience of discrimination, unequal

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1/2015; JUA 1/03/2017, Case no. CMR 1/2017, JUA Case no. CMR 3/2017; JAL, 26/10/2017, Case no. CMR 5/2017; Chad, JUA 4/07/2017, Case no. TCD 1/2017; Congo, JUA 08/03/2017, Case no. COG 1/2017; Côte d'Ivoire, JUA 11/03/2014. Case no. CIV 1/2014; Democratic Republic of the Congo, JUA 20/09/2012. Case no. COD 4/2012; Djibouti, JUA 18/8/2011. Case no. DJI 2/2011; JAL 14/02/2014. Case no. DJI 1/2014, JUA 02/10/2015. Case no. DJI 1/2015, JUA 02/02/2016. Case no. DJI 1/2016; JUA 11/04/2017, case no DJI 1/2017; Ethiopia, JUA 5/10/2011. Case no. ETH 4/2011; JUA 31/07/2012. Case no. ETH 4/2012, JUA 26/02/2015. Case no: ETH 2/2015, JUA 23/07/2014. Case no: ETH 7/2014, JUA 30/04/2014. Case no: ETH 3/2014; Guinea, JUA 29/10/2015. Case no. GIN 3/2015; Kenya, JUA 15/08/2012. Case no. KEN 1/2012; JUA 31/07/2013. Case no. KEN 3/2013; JAL 04/09/2013. Case no. KEN 4/2013; JUA 26/09/2013. Case no. KEN 5/2013; JAL 16/12/2014. Case no: KEN 6/2014, JUA 09/02/2015. Case no: MWI 2/2015, JAL 20/04/2015. Case no. KEN 2/2015; JAL 25/08/2017, JAL KEN 11/2017; Malawi, JUA 10/10/2011. Case no. MWI 4/2011; Nigeria, JUA 26/05/2014. Case no: NER 1/2014; Nigeria, JUA 17/04/2013. Case no. NGA 2/2013; Senegal, JUA 28/7/2011. Case no. SEN 2/2011; Malawi, JUA 22/03/2017, Case no, MWI 1/2017; Mauritania, JUA 27/07/2012. Case no. MRT 2/2012; JUA Case no. MRT 1/2016, JUA Case no. MRT 2/2016; Mozambique, JAL 17/03/2016. Case no. MOZ 1/2016; Rwanda, JUA 08/12/2014. Case no: RWA 2/2014; JAL 06/11/2015. Case no. RWA 2/2015; . JUA Case no. RWA 1/2016 Sierra Leone, JUA 23/9/2011. Case no. SLE 1/2011; JAL 17/12/2015. Case no. SLE 2/2015; Somalia, JAL 30/07/2013. Case no. SOM 2/2013; JAL 06/12/2013. Case no. SOM 6/2013, JUA 13/04/2016. Case no. SOM 1/2016; JUA 03/05/2016. Case no. SOM 2/2016, JUA 16/06/2017. Case no. SOM 1/2017; South Africa, JAL 31/05/2016. Case no. ZAF 1/2016 Sudan, JUA 08/06/2012. Case no. SDN 3/2012; JUA 12/10/2012. Case no. SDN 7/2012; JUA 16/04/2013. Case no. SDN 4/2013; JUA 26/05/2014. Case no: SDN 3/2014; JAL 07/05/2014. Case no: SDN 1/2014; JAL 11/03/2015. Case no. SDN 1/2015; JUA 27/04/2015. Case no. SDN 2/2015; JUA Case no. SDN 2/2016; JUA Case no. SDN 6/2016; JUA Case no. SDN 9/2016, JUA Case no. SDN 1/2017; Uganda, JUA Case no. UGA 2/2016, JAL Case no. UGA 5/2016; Zambia, JAL 21/10/2013. Case no. ZMB 2/2013; JAL 10/07/2014. Case no: SDN 4/2014; Zimbabwe, JUA 1/6/2011. Case no. ZWE 3/2011; JUA 26/10/2011. Case no. ZWE 5/2011; JUA 22/12/2011. Case no. ZWE 7/2011; JAL 29/03/2012. Case no. ZWE 5/2012; JAL 21/02/2013. Case no. ZWE 1/2013; JAL 07/02/2014. Case no. ZWE 1/2014, JUA 23/03/2015. Case no. ZWE 1/2015.

<sup>39</sup> PHL 2/2014, PHL 7/2012.

<sup>40</sup> PHL7/2012.

<sup>41</sup> IND 7/2015, IND 19/2011, IND 7/2015, THA 2/2016, VNM 7/2016.

treatment and harassment and described those groups based on their level of marginalization in the exercise of the rights to freedom of peaceful assembly and of association. Some of the groups that were considered to be most at risk were persons with disabilities; youth, including children; women; lesbian, gay, bisexual, transgender and intersex (LGBTI) people; members of minority groups; indigenous peoples; internally displaced persons; and non-nationals, including refugees, asylum seekers and migrant workers (A/HRC/26/29, para. 10).

59. On numerous occasions, the mandate has expressed concern about the use of police violence, harassment and judicial intimidation against assemblies held by women in different parts of the world. For instance, in some countries of the Asia-Pacific, Latin America and Africa regions, allegations of acts of violence, harassment and arrest of against female land-rights activists were registered; a case of alleged detention of a massive group of women human rights defenders for peacefully protesting against the building of a dam was also recorded; another case in which opposition groups lead by women were targeted by security forces when peacefully demonstrating for the rights of detainees was also taken up, as was the case of the beating and arrest of women from a local organization after staging a peaceful demonstration outside a parliament. (A/HRC/26/29, para.42)

60. LGBTI defenders and activists are particularly vulnerable to physical attacks and are at risk of arrest, detention and harassment from the authorities as well as from non-state actors. Numerous communications in different countries in Africa, Eastern Europe and Central Asia, Asia-Pacific, Latin America and to one country of the Caribbean region, were sent by the mandate regarding the violation of association and assembly rights of individuals based on their sexual orientation or because they advocate for the rights of LGBTI people. Among these violations figure denial of registration of LGBTI organizations, the disruption or ban of peaceful events organized by LGBTI associations, arbitrary arrests and detention of LGBTI people, arbitrary differences in the policing of peaceful assemblies, and illegal surveillance of associations advocating for LGTBI rights, among others<sup>42</sup>.

61. Several communications have addressed alleged restrictions to religious freedom and right to assemble, worship and practice of those belonging to minority faiths in Eastern European countries.<sup>43</sup>

62. A significant number of communications were related to the use of force against individuals for the exercise of their rights to freedom of peaceful assembly and to freedom of expression in countries from the Asia-Pacific region. Most of these communications pertain to demonstrations held by ethnic or other minorities<sup>44</sup>.

63. The mandate has also raised concerns over legislation that explicitly excludes individuals or groups from forming associations on the basis of prohibited grounds

<sup>42</sup> TUN 1/2016; Bosnia and Herzegovina, JAL 07/02/2014. Case no. BIH 1/2014; Georgia, JAL 13/06/2013. Case no. GEO 1/2013, Kosovo, JAL 10/01/2013. Case no. KSV 1/2013; the Former Yugoslav Republic of Macedonia, JUA 17/05/2013. Case no. MKD 1/2013; JUA 05/07/2013. Case no: MKD 2/2013; the Republic of Moldova, JAL 04/07/2012. Case no. MDA 3/2012; JAL 17/05/2013. Case no. MDA 2/2013; the Russian Federation, JUA 30/11/2011. Case no. RUS 12/2011; JAL 12/07/2013. Case no. RUS 4/2013; Serbia, JAL 03/04/2013. Case no. SRB 1/2013; Ukraine, JUA 21/12/2012. Case no. UKR 3/2012; Botswana, JAL 08/07/2013. Case no. BWA 2/2013; Cameroon, JUA 13/08/2013. Case no. CMR 3/2013; Nigeria, JAL 20/12/2011. Case no. NGA 5/2011; JAL 13/06/2013. Case no. NGA 4/2013; JAL 13/01/2014. Case no. NGA 1/2014; Uganda, JAL 25/06/2012. Case no. UGA 5/2012; JAL 04/02/2014. Case no. UGA 1/2014; JAL 29/08/2016. Case no. UGA 6/2016; Zambia, JAL 11/01/2016. Case no. ZMB 4/2015; Zimbabwe; JUA 17/08/2012. Case no ZWE 6/2012; JAL 16/11/2012. Case no. ZWE 9/2012; Haiti; JAL 26/10/2016. Case no HTI 2/2016; Haiti; JAL 2/08/2013. Case no HTI 1/2013; Colombia; JUA 14/10/2012. Case no COL 10/2012; Costa Rica; JAL 2/04/2012. Case no CRI 2/2012; Ecuador; JUA 2/12/2014. Case no ECU 3/2014; Honduras; JUA 3/08/2017. Case no HND 6/2017; Honduras; JAL 11/11/2015. Case no HND 3/2015; Venezuela; JUA 27/06/2014 Case no VEN 5/2014.

<sup>43</sup> Armenia, JUA 22/08/2011. Case no. ARM 1/2011; Hungary, JAL 18/7/2011. Case no. HUN 2/2011; Kazakhstan, JUA 31/01/2014. Case no. KAZ 1/2014; Kyrgyzstan, JAL 21/09/2015. Case no. KGZ 3/2015; Moldova, JUA 10/02/2015. Case no: MDA 1/2015 and Russia, JAL 11/11/2015. Case no. RUS 6/2015; JAL 23/03/2017. Case no. RUS 2/2017.

<sup>44</sup> MAR 1/2012, MAR 5/2014, MAR 6/2015, MAR 5/2016, MMR 5/2016, MMR 13/2013, MMR 9/2013, MMR 8/2013.

constitutes a violation of the rights of those groups. For example, in some countries migrant workers are explicitly prohibited from forming trade unions or are not allowed to join them.

64. For instances, other practices not directly related to the right to freedom of peaceful assembly may also be used as leverage to keep certain groups from freely exercising such right. Those practices can affect youth and include the expulsion of students from universities for participating in peaceful protests, the arrest and detention of, and excessive use of force against, peaceful students calling for freedom to study in their native language, the threat of revocation of residency, refugee or asylum status for participating in peaceful demonstrations, the existence of institutional obstacles that prevent demonstrators from receiving competent legal assistance if charged with an assembly-related crime (including the harassment and intimidation of lawyers who provide such assistance), and the threat of termination of employment (and legal residency status linked to employment in some circumstances) for participating in peaceful protests, for foreigners and migrants. (A/HRC26/29, para.47)

65. In many resource-rich countries in different regions, the mandate has registered a considerable number of confrontations between non-indigenous peasants and indigenous groups, or between indigenous groups and extractive businesses and the State that have led to criminal prosecution after manifestations or the use of excessive force when responding to protests from groups opposing evictions or other projects. The prosecution of demonstrators has also been a worrying trend that the mandate has registered.

## **G. Limitations of rights during electoral periods**

66. Elections are a unique moment in the democratic life of any State, determining the direction of policies and priorities. No other event better exemplifies the right to public participation. And no other time requires more robust exercise and protection of the freedoms of assembly and association. The context of elections may also heavily impact on the rights to freedom of peaceful assembly and of association. This is particularly the case when assemblies are systematically prohibited or when individuals active in associations promoting transparent and fair electoral processes and defending democratic principles are subject to harassment and intimidation for their civic activism.

67. The mandate has devoted significant attention to this issue as it has presented a full report that documents countless threats to the freedoms of assembly and expression in the context of elections. (A/HRC/20/27)

68. The most critical finding of the report is that elections do not take place in a vacuum and cannot be judged solely by what happens during the vote. The mandate has paid special attention to events that occur before and after elections, and survey the long-term rights landscape, particularly the rights to freedom of peaceful assembly and association. During elections, people should be given more space – not less – to exercise their assembly and association rights. The mandate has highlighted that electoral periods are an important time to build democratic, responsive and accountable institutions and that very strict and clear safeguards should be put in place by States to prevent undue interference in public freedoms.

69. While elections were peaceful in some countries, they crystallized pre-existing social and political unrest in other countries, leading to increased tensions. This is particularly true in countries where the likelihood of power being handed over is unlikely to take place, due to a democratic deficit.

70. In Asia concerns were raised about the escalating trend of suppression of criticism against the Government, whether by political parties or non-governmental organizations, which seemed to be precipitated by forthcoming elections in an attempt to silence and intimidate critical voices. In the Middle East, communications addressed significant restrictions on the rights of association and expression, in the form of internet shutdowns, shutdowns of media outlets and arrests of journalists and human rights defenders.

71. In the Africa region, the significant number of communications sent indicate an alarmingly increased restriction of civic space in the context of elections<sup>45</sup>. Governments have used excessive force to crack down on protests sparking across the continent, justifying the use of force by social unrest, but triggering further reaction from the populace. The harsh repression of protests led to numerous extra-judicial casualties, arbitrary arrests and detention, as well as disappearances. Numerous political opponents or human rights defenders advocating for political changes have faced judicial, physical and verbal harassment during election periods, preventing them from engaging in elections-related activities. In certain countries, peaceful protests were the subject of blanket restrictions, were severely repressed, amid political tensions triggered by the electoral period and in other countries, numerous violations of assembly and association rights were reported.

72. In addition, a number of communications addressed the arbitrary arrests and detention of human rights defenders as well as restrictions of assemblies and excessive use of force leading to hundreds of summary executions by security forces in the context of elections.

73. In the Latin American region, several countries experienced severe crackdown of peaceful manifestations in the context of an electoral period. The mandate also raised concerns in relation to situation referring to acts of harassment and threats against actors monitoring elections<sup>46</sup>.

## H. Negative impact of rising populism and extremism

74. The mandate has presented a report on how fundamentalism can spur intolerance that leads to violations of the rights of freedom of peaceful assembly and association and highlights the responsibilities of States and non-State actors to prevent and remedy the violations (A/HRC/32/36). The mandate developed four overarching categories of fundamentalism such as (a) market fundamentalism; (b) political fundamentalism; (c) religious fundamentalism and (d) cultural and nationalist fundamentalisms.

75. In the case of market fundamentalism, the Mandate has taken up cases in which economic and financial stability of a country are used as reasons to suppress peaceful protests. While economic activity is important, it is not one of the grounds enumerated in the International Covenant on Civil and Political Rights for permissible restriction of peaceful assembly and association rights. States tread a dangerous path when they prioritize the freedom of the market over the freedom of human beings. The economic rights of investors should never trump fundamental human rights in the Covenant. (A/HRC/32/36, para. 35)

<sup>45</sup> Malawi: JAL 10/2/2012. Case no. SEN 1/2012; JUA 5/8/2011. Case no. MWI 3/2011; . Zimbabwe, JAL 5/3/2012. Case no. ZWE 3/2012; JAL 22/03/2012. Case no. ZWE 4/2012; JAL 29/03/2012. Case no. ZWE 5/2012; JAL 17/10/2012. Case no. ZWE 8/2012; JAL 16/11/2012. Case no. ZWE 9/2012; JAL 21/02/2013. Case no. ZWE 1/2013; Swaziland: JAL 26/04/2012. Case no. SWZ 2/2012; JAL 20/09/2012. Case no. SWZ 3/2012; Kenya, JAL 28/03/2013. Case no. KEN 1/2013; JAL 15/11/2013. Case no. KEN 8/2013; Burundi: JUA 28/05/2014. Case no: BDI 1/2014; The Democratic Republic of the Congo: JUA 16/06/2015. Case no. COD 3/2015; JUA 30/11/2015. Case no. COD 4/2015; JAL 10/12/2015. Case no. COD 5/2015; JUA 16/02/2016. Case no. COD 1/2016; JUA 12/05/2016. Case no. COD 3/2016; JAL 19/05/2016. Case no. COD 2/2016; JAL 21/06/2016. Case no. COD 4/2016; JAL 25/07/2016. Case no. COD 5/2016; JUA 22/09/2016. Case no. COD 7/2016; Ethiopia: JUA 26/02/2015. Case no: ETH 2/2015; JUA 23/07/2014. Case no: ETH 7/2014; JUA 22/05/2014. Case no: ETH 5/2014; JUA 21/10/2015. Case no. ETH 4/2015; JUA 28/12/2015. Case no. ETH 5/2015; JUA 02/09/2016. Case no. ETH 2/2016; JUA 14/12/2016. Case no. ETH 5/2016; Congo: JAL 09/12/2015. Case no. COG 2/2015; JUA 21/06/2016. Case no. COG 1/2016; JUA COG 2/2016; Gabon: JAL 18/05/2016. Case no. GMB 1/2016; Gambia: JAL 18/05/2016. Case no. GMB 1/2016; JAL 19/01/2017. Case no. GMB 1/2017; JAL 19/01/2017. Case no GMB 1/2017. Uganda: JUA 21/04/2016. Case no. UGA 2/2016; JAL 29/06/2016. Case no. UGA 5/2016; JAL 30/05/2016. Case no. UGA 3/2016; Chad: JAL case no. TCD 1/2016; JUA case no. TCD 2/2016; JAL case no. TCD 3/2016; Kenya: JUA Case no. KEN 3/2016; JAL Case no. KEN 4/2016; JUA Case no. KEN 5/2016; JUA Case no. KEN 6/2016; JUA Case no. KEN 3/2017; JUA Case no. KEN 6/2017.

<sup>46</sup> See Ecuador, Case no: JAL ECU 1/2017; Venezuela, Case no: JAL VEN 15/2015; Venezuela Case no: JAL VEN 5/2013.

76. In the most extreme cases of political fundamentalism opposition political parties are not permitted to exist and challenges to the ruling party are not tolerated. State structures employ violence and punishments that often amount to gross human rights violations in order to create a climate of fear that pre-empts any challenge to the current system of government and to the ideology underpinning it. The institutions and officials involved are not held accountable. The ruling party is considered the superior leading force of the society and the State, organizing and guiding common efforts, effectively eliminating the ability of those with competing ideologies to engage seriously in public life. The rights to freedom of peaceful assembly and of association are guaranteed by the Constitution, but in practice these rights cannot be used to peacefully criticize the ruling party or its policies. (A/HRC/32/36, para. 46-51)

77. In some countries all political power is concentrated in the hands of a single person or family and is sometimes passed on hereditarily. In extreme cases the right to freedom to form associations is virtually non-existent and political parties are banned. In other contexts, participants in peaceful assemblies, opposition figures and critics are regularly targeted for harassment by the State and those who advocate for democratic reforms are regularly imprisoned or threatened with imprisonment.

78. Religious fundamentalisms have the effect of restricting free thought and often the cause of undue restrictions to freedom of association. In some countries those who practice non recognized faiths are effectively denied the rights to freedom of peaceful assembly and of association in a religious context. The Special Rapporteur notes that anti-religious fundamentalism can be as harmful to assembly and association rights as religious fundamentalism. (A/HRC/32/36, para. 57-66)

79. The mandate has stressed the dangers that cultural and nationalist fundamentalisms pose to the enjoyment of the rights to freedom of peaceful assembly and of association. Anti-immigration sentiments, often based on cultural and nationalist ideologies, have strengthened the popularity of many right-wing political parties, especially in countries of Western Europe and other groups. The mandate is extremely concerned that the acceptance and adoption by political actors of attitudes of cultural or national superiority has triggered a process of gradually legitimizing racism and xenophobia which can have important consequences on the enjoyment of human rights. Of particular concern has been the criminalization of activities by associations or individuals helping undocumented migrants. (A/HRC/32/36, para. 69-70)

## **I. Obstructions encountered in the digital space.**

80. As the exercise of the rights to associate and peacefully assemble occurs increasingly over the Internet, the mandate has warned against regulations and practices that seek to curb the enjoyment of these rights online. While the rights of all individuals to assemble peacefully and associate freely must also be guaranteed online (A/HRC/RES/24/5 para. 2), communications shed light on the threats that human rights of those associating and assembling online have been facing.

81. The mandate had noted the increased use of the Internet, in particular social media, and other information and communication technology, as basic tools which enable individuals to organize peaceful assemblies. However, some States have clamped down on these tools to deter or prevent individuals from exercising their right. In this connection, the Special Rapporteur refers to a recent report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, in which he recommends, inter alia, that “all States [should] ensure that Internet access is maintained at all times, including during times of political unrest” (A/HRC/17/27, para. 79) and “any determination on what [website] content should be blocked must be undertaken by a competent judicial authority or a body which is independent of any political, commercial, or other unwarranted influences” (para. 70).

82. The mandate has stressed again the utmost importance of new communication technologies, including the Internet and mobile phones, in organizing peaceful assemblies. Such technologies allow organizers to mobilize a large group of people in a prompt and



effective manner, and at little cost. This importance was highlighted by both panelists and delegations during the Human Rights Council panel discussion on the promotion and protection of human rights in the context of peaceful protests. It should be noted that individuals who post on social media organizers' calls for assemblies should not be considered as organizers, as has regrettably been the case in Malaysia, for instance. (A/HRC/23/39, para. 72)

83. The mandate has indicated that with youth being the most active social media users overall, restrictions placed on access to social media sites will disproportionately affect their ability to organize and mobilize for their common interests. The perception that youth in general lacks maturity and are therefore incapable of participating fully in public affairs often forms the backdrop against which some Governments feel the need to filter and dictate media content made available in their countries. (A/HRC/26/29, para. 63)

84. The cases taken up by the mandate, particularly in Asia, concern prohibitions of the use of private websites, including social networking websites (for example, Facebook and Twitter) from disseminating any information about politics, economics and cultural affairs that is regarded as "general or public"; the imposition of severe and disproportionate penalties on persons charged with writing or publishing fake or defaming information online; the use of overly broad provisions that lack sufficiently clear definitions and permit authorities to criminalize online expression and to gain access to Internet data without any judicial control; and the imposition of undue restrictions to the right to freedom of expression and opinion on the internet, among others<sup>47</sup>.

85. The mandate's communications have increasingly also identified violations of bloggers' human rights as an emerging trend in a number of countries, mainly in Africa and Asia<sup>48</sup>.

#### IV. Conclusion and recommendations

86. **The trends illustrated in this report confirm worrying patterns of the closing of the civic space around the globe that have resulted in serious limitations to the exercise of the rights to freedom of peaceful assembly and association. While acknowledging the efforts of some States to mitigate these trends, the Rapporteur is concerned about the growing number of restrictions documented across all regions, particularly in the name of protecting State security and national stability.**

87. **Since the creation of the mandate, an extensive work has been carried out to contribute to the development of the normative framework for the exercise of the rights of freedom of peaceful assembly and association, including the issuing of recommendations and guidelines intended to facilitate the promotion and protection these rights by taking into consideration the concerns that States have raised in relation to the need to preserve democratic values while protecting their own security interests.**

88. **The identified trends illustrate subtle and complex variations as contexts differ and in this regard, the Rapporteur is encouraged by the interest shown by States and other stakeholders that have provided substantive responses to the allegations transmitted through the mandate. The Special Rapporteur views the mandate as an ongoing opportunity of dialogue that would allow to better balance the exercise of rights and the legitimate interests of States.**

89. **Over the next three years, the Rapporteur will tackle the challenges identified through these trends by engaging and deepening the channels of communications with State and non-state actors and civil society actors, including human rights defenders, to strengthen and share good practices and raise concerns when negative practices prevail.**

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<sup>47</sup> VNM 7/2013, BGD 9/2013, BGD 10/2013, BGD 11/2013, BGD 14/2013, PAK 13/2015, PAK 8/2016, LAO 1/2014.

<sup>48</sup> VNM 1/2017, SAU 5/2016, SAU 17/2017, SAU 2/2014, SAU 14/2014, SAU 1/2015, SAU 8/2013, SAU13/2014, SAU 09/2012.

90. The Rapporteur will provide continuity to the work carried out by his predecessors and the mandate will continue working closely with States and civil society actors as well as with National Human Rights Institutions, International Organizations, non-State actors, including private business and all relevant stakeholders to uphold the highest standards of protection of the right to peaceful assembly and association.

91. The Special Rapporteur will also work hand in hand with the Special Procedure mandates who share issues of common interest and will devote significant efforts in strengthening cooperation with other regional human rights mechanisms.

92. In future thematic reporting, the Special Rapporteur will seek to develop the interrelationship between the exercise of the rights of freedom of peaceful assembly and association and the enjoyment of all human rights including the role the exercise of these rights have in the implementation of the Agenda 2030 for Sustainable Development.

93. Throughout its reports the Special Rapporteur will intend to provide a pragmatic approach to his work by providing practical recommendations and developing tools to support the effective action of all stakeholders.

94. The Special Rapporteur views the mandate as a catalyst of dialogue at different levels conducive to positive change for societies and will continue working in opening new spaces where the mandate identifies its advocacy efforts are relevant.

95. Based on the trends highlighted above, the Special Rapporteur wishes to make the following recommendations.

96. To the States:

(a) To urge cooperating with the mandate by providing detailed and substantive responses to the communications brought to their attention. Communications are an important tool for States and the mandate to interact around concrete situations affecting the enjoyment of the rights to freedom of peaceful assembly and association. They also represent an opportunity for States to demonstrate their willingness to address the concerns and share good practices, but also a barometer through which to measure a State's commitment to the protection of these rights;

(b) To seek actively the support of the mandate when technical cooperation and capacity building is needed; especially in relation to the enactment of new legislation that could affect the exercise of the rights of freedom of peaceful assembly and association;

(c) To take inspiration from the good practices documented in numerous reports of his predecessors. These good examples show, among others that it is possible to develop legislation and policies that adequately protect freedom of peaceful assembly and association while addressing security concerns. In particular, the Special Rapporteur recalls report A/HRC/20/27 on the best practices which promote and protect the FOAA. The Special Rapporteur would particularly like to draw the attention to report A/HRC/31/66 on the proper management of Assemblies. The report outlines 10 principles that guide the proper management of assemblies;

(d) After commending efforts to fight populism and extremism, to encourage States to support the implementation of policies and initiatives that promote tolerance and cultural integration. After commending civil society for standing up to the rhetoric of hate and intolerance and authoritarianism, to call on States to end the persecution and repression of civil society and social movements and recognize the important and legitimate role they play in shaping governance and rule of law, inclusiveness and development across all regions;

(e) To ensure that victims of violations and abuses have these right to an effective remedy and obtain redress.

97. Finally, the Special Rapporteur encourages other actors such as National Human Rights Institutions, International Organizations including United Nations institutions, bodies and mechanisms, civil society actors and other non-state actors including private

**businesses to continue advocating for the exercise of the rights of freedom peaceful assembly and association.**

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