



**TRANSCRIPT**

**The Rights to Freedom of Peaceful Assembly and of Association**

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1. Hello. I am Gina Romero. Thanks for being here with me today. It is a privilege to address you in my capacity as the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association. This lecture focuses on the foundational legal principles of these two fundamental rights.

2. It will explore how the international community has codified these freedoms, the legal scope of the rights, and the strict framework governing their restrictions. Also, I will include the main findings of my more recent reports, related to the global trends that are restricting civic space and curtailing these rights.

3. So, let's start with the foundational legal framework. The exercise of the freedom of peaceful assembly and of association is deeply intertwined with human dignity and deeply rooted in our shared humanity and human nature. These rights do not originate from belonging to a particular society, culture, region or type of governance. When individuals and communities face problems, they come together, organize, mobilize, manage resources and act collectively to seek solutions to defend their interests, and to act in solidarity for the common good.

4. Throughout human history, people have joined movements and collective struggles to advance and protect rights, equality, civic and political freedoms and justice, and also to resist oppression. The freedoms of peaceful assembly and of association empower

individuals to exercise their autonomy, to preserve and express their identity, to engage and collaborate with others in voicing and pursuing their interests and to solve collective problems, also to meaningfully participate in society, to hold governments to account and to empower human agency – all of which are crucial for both the realization and the protection of human dignity.

5. Therefore, the rights to freedom of peaceful assembly and of association are pillars of a democratic society and essential prerequisites for the realization of other human rights – whether civil, political, economic, social, or cultural. In this sense, the freedoms of peaceful assembly and of association are enabling rights, and therefore, are at the core of the defence of rights, of democracy and of the civic space. They are at the centre of the human action, as I mentioned before, and these rights have been codified and have been legally enshrined primarily in the Universal Declaration of Human Rights (Article 20); and the International Covenant on Civil and Political Rights (Article 21 that covers the right of peaceful assembly; and Article 22 that covers the right to freedom of association, including the right to form and join trade unions).

6. This legal framework establishes two core duties for States. The first one is a negative obligation – a duty to respect these rights, that indicates that States must refrain from illegal, unnecessary and disproportionate interferences and restrictions of these rights, including dispersals of assemblies and reunions, dissolutions of associations, or sanctions for the mere exercise of the rights.

7. The second one is a positive obligation – that is a duty to protect and facilitate, these rights. Therefore, States must actively ensure an enabling environment, facilitate the exercise of the rights, and protect participants from abuses by different stake holders including non-State actors and State actors.

8. Although these two rights are interlinked and intertwined, they both have a different set of human rights standards. So, let us go one by one.

9. Let's start with the right to freedom of association. The freedom of association protects the right of individuals to come together in collective efforts to pursue common goals. It includes the freedoms of groups of individuals to identify a common objective, to set and implement activities to reach those objectives, to adopt internal rules or governing bodies, to seek, receive, manage funds, and to decide on the duration of the association, and everything else in between.

10. So, an association encompasses a wide variety of groups, whether formal or informal, including NGOs, social movements, foundations, trade unions, cooperatives, and political parties, etc. Associations are autonomous entities, non-governmental, non-profit, and non-violent. Trade unions are a particular form of association that allows individuals to defend their interests, rights, and occupational freedoms. Therefore, they combine a civil and political right and an economic, social and cultural right when they actually work as associations.

11. So, the right to freedom of association encompasses all activities necessary for the existence and effective operation of the association, without compulsory registration. This means that a group of people doesn't need to have a register offer by any formal institution to actually exercise their right of association.

12. As mentioned before, a critical component of the right of association is the freedom to seek, receive, and use resources. And I can highlight three main principles related to the freedom of access to resources:

13. First, it's the neutrality regarding the resources. So, this means that the access to resources needs to be respected regardless of where the resources come from. They could come from domestic actors, foreign, international, such as from individuals, associations, private companies, foreign governments, etc.

14. The second one is the neutrality regarding the form. So, the resources can include financial transfers – such as grants and donations – in-kind donations, including goods and services, material resources, human resources, including volunteer work among others.

15. Then, access to resources must be free from prior authorization or other undue impediments.

16. So, the restrictions on the rights to freedom of association and to the freedom to access to resources are subject to the strict test of legality, legitimate aim, necessity, and proportionality – as restrictions of peaceful assembly that we are going to talk about a little bit later.

17. In the meantime, it is important to indicate that the simple foreign origin of funding alone does not justify differentiated or restrictive treatment. Laws that broadly compel registration or impose burdensome requirements such as “foreign agent” laws, for example, are based merely on the identification of the source of the funding, and especially those attaching stigmatizing labels or broadly prohibiting “political activity”, are generally incompatible with international human rights law. This is because they violate the principles of non-discrimination – necessity, and proportionality – and also lead to arbitrary interference.

18. Measures related to Countering Terrorism Financing (CTF) and Anti-Money Laundering (AML) must be risk-based, proportionate, and narrowly tailored to empirically identify high-risk activities and avoid an imposition of a blanket designation on the entire non-profit sector. Overbroad definitions and arbitrary application risk criminalizing legitimate work, risk criminalizing the access to resources, and violating international human rights Law.

19. Besides, and based on the general principles, the following can be identified as undue restrictions of the right to freedom of association:

- So, regarding the registration process: preventing the registration of associations by any mean, including the creation of systems that require constant re-registration processes, or adopting complicated and onerous administrative or legal procedures.

- Regarding the access to funding: making difficult or prohibiting access to specific sources of foreign funding, freezing and seizing accounts and other resources.
- Regarding the monitoring, oversight and reporting: unduly monitoring and survey the associations activities without judicial and due process; and imposing other burdensome reporting requirements.
- Regarding the freedom of action: prohibiting their actions, in general or in part, causing stigmatization by spreading negative rhetoric against them, their activities, their members and their results. This is particularly prominent in context of elections, in which associations generally are prohibited to do “political actions”. But then, civil society organizations and associations in general play very important roles in elections that need to be allowed freely.
- Regarding its members, staffs, advisors, boards, or any other type of personnel and governing bodies: depriving them to their general freedoms, freezing their accounts, opening legal procedures due to the association actions, depriving them of their nationality, detain them, etc. are restrictions of their right.

20. It is important to mention that involuntary dissolution of an association is the most severe restriction and must be an exceptional measure of last resort, reserved only for grave violations of national law in compliance with international human rights law, and subject to an impartial and independent judicial decision.

21. Now, let’s go to the right to freedom of peaceful assembly. The right to peaceful assembly protects non-violent gatherings for expressive or collective purposes, including assert of affirm group solidarity or identity, or other goals including entertainment, cultural, religious, or commercial objectives. This is an individual right that is exercised collectively, as is the freedom of association.

22. Freedom of peaceful assembly is universal. So, the right belongs to everyone, regardless of nationality or legal status. So, it does not matter if it is a documented or

undocumented migrant or a refugee. It also belongs to any type of age, so including children or elderly, and entails the principle of non-discrimination.

23. Also, freedom of peaceful assembly is form neutral. So, it covers assemblies in all forms, including demonstrations, protests, marches, rallies, sit-ins, vigils, flash mobs, civil disobedience actions, direct action campaigns, encampments and even assemblies or protests of a single person.

24. There is also a location neutrality. So, it protects assemblies wherever they take place: outdoors, indoors, online, hybrid, in public spaces (like streets or squares), or in a private property.

25. They need to be content-neutral. So, States must leave it to the participants to determine freely the purpose of any expressive content of an assembly, and the facilitation of assemblies need to be neutral in its content. This means that assemblies need to be protected even if they pursue controversial ideas or goals or cause disruptions, including disruptions of vehicular or pedestrian movement or to economic activity. Peaceful counter demonstrations are also protected under the right to freedom of peaceful assembly.

26. Announced pre-planned and spontaneous assemblies are equally protected. So, a requirement for prior authorization or permission is incompatible with the notion of a right. This is why the main recommendation is to have notification systems, not authorization systems. But the enforcement of notification requirements must not become an end itself, they should be transparent, easy and free of charge. And in all cases, a failure to notify of an upcoming assembly should not render an assembly unlawful. So, the right should be guaranteed as well as the protection of its participants.

27. It is very important to mention that here is a core principle that indicates that there is a presumption in favour of considering assemblies to be peaceful. An assembly is peaceful unless it is characterized by widespread and serious violence. So, violence entails the use by participants of physical force that is likely to result in injury or death, or serious damage of property. To identify if an assembly is no longer peaceful, authorities need to

collect credible evidence that, before or during the event (at the meeting or mobilization), participants are inciting others to use violence and therefore causing violence, and that widespread violence is imminent. Pushing, shoving, or disruption of traffic or daily activities, doing a graffiti and other similar actions, do not amount to violence.

28. If there are acts of violence in an assembly, it is important also to clearly identify who is originating this violence. Violence against participants by the authorities, or by agents provocateurs acting on their behalf, by members of the public, or by participants in counterdemonstrations, does not render the assembly itself non-peaceful.

29. Also, the mere fact that participants are carrying objects that are or could be considered as weapons and/or protective equipment doesn't deem their conduct violent. In the same way, the wearing of, for example, face coverings, disguises or other steps that participants can take to participate anonymously, doesn't render participants as violent. The anonymity of participants needs to be guaranteed if they want to participate without disclosing their identity.

30. In all cases, a case-to-case basis analysis needs to be done and promotes individual accountability. Isolated acts of violence by some participants should not be attributed to the entire assembly or to its organizers. Therefore, law enforcement agencies need to ensure that a principle of differentiation of every single actor is always applied, as in a same moment of an assembly, some participants may be subjected to restrictions of the exercise of their right, while the assembly is still lawful. And even if an assembly is declared unlawful and needs to be dispersed, participants keep their other rights, including their right to life, and the prohibition of torture and other ill-treatments.

31. The right to freedom of assembly is not absolute, but any restriction on peaceful assembly must meet three cumulative, strict conditions, that are part of a tripartite test that needs to be considered all the time by the authorities.

32. One, legality. So, the restriction must be prescribed by law. The law must be clear, precise, and foreseeable, and ensuring that it does not grant vague discretion to authorities and needs to always be aligned with international human rights law standards.

33. The second is the legitimate aim. So, the restriction must pursue one of the exhaustive lists of the specific aims in Article 21. So, these aims are different. So, one is *national security*. So, national security may serve as a ground for restrictions if there is a credible threat of a State's capacity to protect the existence of the nation, its territorial integrity or political independence. Another aim could be *public order* that refers to the sum of rules that ensure the proper functioning of society. But the standards are very clear: States should not rely on a vague definition of "public order" to justify overbroad restrictions on the right of peaceful assembly. As it was mentioned before, assemblies can be disruptive and require a significant degree of toleration. The other one is *morals*. But morals used as an aim to restrict an assembly should not be used to protect understandings of morality exclusively related to a single social, philosophical or religious tradition. Restrictions based on this ground of morals may not, for instance, be imposed because of opposition to expressions of sexual orientation or gender identity. The other one is *public safety, public health, or the protection of the rights and freedoms of others*, that also can be considered always in case-by-case analysis.

34. But it is very important to mention that the use of these aims need always to be aligned with the protection and the facilitation of the right. So, all laws, regulations, guidance and policies – including those related to national security, public order, emergencies, countering terrorism and violent extremism, money laundering, technology or financial crimes, and others – should be in line with international human rights law and must be publicly accessible. Their interpretation and application must not result in undue restrictions of the freedom of peaceful assembly.

35. Be mindful that the prohibition of public disorder or aims related to State sovereignty or foreign influence are not listed as legitimate grounds to restrict the rights.

36. The third condition is like a dual condition. It includes necessity and proportionality. So, necessity implies that the restriction must be demonstrated to be “necessary in a democratic society” and represent the least intrusive means to achieve a legitimate aim. And proportionality indicates that the detriment to the exercise of the right must be strictly balanced against the benefit of the protected interest.

37. So, taking into account these conditions, decisions such as blanket or general bans should not be imposed because they fail to pass the tests of necessity and proportionality. Also, any use of force must comply with these three fundamental principles (legality, necessity, proportionality) but also with the principles of precaution and non-discrimination. And those using force must be accountable for each use of force. In all cases, domestic legal regimes on the use of force by law enforcement officials must be brought into line with the requirements enshrined in international law, guided by standards such as 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, among others.

38. Now, let’s talk about global trends that threaten the right to freedom of peaceful assembly and of association. The integrity of these rights is under threat. The following are some of the main trends that have been identified and reported in my more recent reports, and also have been reported by my predecessors.

39. So, there is general setting of decline of democracy worldwide which is heavily marked by the growing of authoritarianism and increase of armed conflicts, wars, and genocide. The spread of hostile narratives against civil society, activists and human rights defenders also affect deeply the exercise of the rights. These actors are being called corrupt, foreign agents, enemies of the nation, terrorists, anti-development, and others. And these narratives are sparking and justifying criminalization, harassment, persecution, detention, violence against activists, including killings. And these narratives are also fuelling raids, sanctions and dissolutions of civil society organizations.

40. Also, the adoption of restricting rules and regulations against collective actions, including “foreign agent” laws – as mentioned before – transparency and accountability, and changes of penal codes. So, all these ill-adopted restrictions restrict associations and the work of civil society; and also restrict the use of protest as a tool to express discontent; and also, in many cases, are affecting deeply the access of funding.

41. The stigmatization and the adoption of restrictive laws are justifying undue restrictions and criminal sanctions, especially imprisonment. This, among other factors, are creating an increase of the securitization of the public discourse and political agendas, that affects deeply the possibility for citizen participation and the access to funding for associations. And disseminations of anti-rights agendas are also impacting profoundly the exercise of the rights by different types of actors. This securitization trend increases this fake trade off against security and freedoms, which is a perfect storm for restricting civic space.

42. In a securitization context, digital surveillance increases. So, the use of digital surveillance technologies – including facial recognition technologies, spywares, malwares, and others – against peaceful protesters and against associations are affecting the rights. Then, the norms that oversee the use of technology must strictly comply with international human rights law, as they could create a deep chilling effect on participation and the exercise of rights. The State must avoid technologies that profile or remotely identify individuals.

43. Also, another threat that affects deeply the exercise of these rights and freedoms, is the lack of accountability and access to justice. Full, impartial, and prompt investigations into all allegations of human rights violations, including those involving command responsibility in the context of protests, are mandatory to counter the pervasive cycle of impunity that fuels further repression. Besides, there is a lack of reparations and guarantees of non-recurrence for grave human rights violations in the context of protests, and in general in the violation of freedom of assembly and of association rights.

44. It is important to mention that the extraordinary concentration of electoral processes in the super electoral cycle of 2023 and 2025 intensified global trends of shrinking civic space. So, governments in different contexts have increasingly resorted to arbitrary restrictions, criminalization, harassment, and violence against individuals and groups engaged in civic and political participation during electoral periods, including political parties, civil society organizations, and protests.

45. It is important to mention that protecting the right to assembly and association during elections is essential to safeguard democratic legitimacy, strengthen governance, and ensure that political transitions reflect the true will of the people. Without the full exercise of the freedom of assembly and of association – before, during, and after elections – elections cannot be considered completely fair and free.

46. The intense and abrupt changes of the financial landscape and ecosystem of aid that we are living is threatening the existence of civil society and affecting deeply the exercise of the right of freedom of assembly and of association.

47. There is a lot more to say, but we are already reaching the end of our time together, sadly. I encourage you all to study the reports that my predecessors and I have published, as well as at least the following tools: the General comment No. 37 by the Human Rights Committee on freedom of peaceful assembly, and the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the context of peaceful protests and its annexes, including the document guaranteeing the standards for the use of technology in the context of peaceful protests. These documents emphasize a shift from a security-first approach and a controlling mindset to a human rights-compliant, facilitative approach.

48. Then, it is important to mention, especially in the Model Protocol, that there are certain principles that need to be taken into account when law enforcement tries to facilitate assemblies. So, one is the principle of de-escalation. So, law enforcement must prioritize restraint, negotiation, and de-escalation tactics at all times to prevent violence, rather than relying on force as the first resort in peaceful assemblies.

49. Any use of force must comply with the Basic Principles on the Use of Force and Firearms and be strictly necessary and proportionate. So, lethal force (firearms) is never to be used merely to disperse a crowd. No militarization – the military should not be used to police assemblies because this escalates tensions and risks serious violations of human rights; and the adoption of emergency measures is also not allowed solely for a widespread peaceful assembly.

50. Monitoring and access are very important. So, law enforcement must facilitate and protect the work of journalists, human rights defenders, monitors, and medical personnel – which are part of assemblies – even if an assembly is declared unlawful or dispersed.

51. So, to end, the rights to freedom of peaceful assembly and of association are not permissions granted by the State, but inherent human freedoms. International human rights law is unequivocal: the rule is *freedom*; restriction is the narrow, tightly constrained exception. Our collective work, as scholars, lawyers, human rights defenders, is vital to maintaining the legal clarity and substantive value of these rights against emerging threats. We must continue to push the free exercise of the rights for all.

52. Thank you.