

# GENERAL COMMENT 37: A SHORT GUIDE FOR CIVIL SOCIETY

---

## What is General Comment 37?



General Comment 37 sets out progressive principles and standards on a broad range of issues relating to the right of peaceful assembly and the ability to engage in protests, meetings, and other gatherings. The General Comment does not automatically change the legal frameworks governing peaceful assemblies at the national or local level. However, it can empower civil society to advance the full respect and facilitation of this right through advocacy, awareness-raising, and training efforts at the local, national, and regional levels.

## What does the General Comment say?

The General Comment is divided into several substantive sections addressing key issues relating to the right of peaceful assembly. Here are the highlights.

### SCOPE OF THE RIGHT OF PEACEFUL ASSEMBLY



- **The right of peaceful assembly protects non-violent gatherings that take place in public or private places, as well as online gatherings,** such as those on Twitter and Facebook. The right extends to civil disobedience and direct-action campaigns. And the right may be exercised by both citizens and non-citizens, including undocumented migrants, refugees, and stateless persons.
- **An assembly cannot be deemed violent just because it involves disruption of movement or daily activities.** Nor is an assembly violent because organizers have not met domestic legal requirements applying to assemblies; because isolated acts of violence occur; or because the authorities, members of the public, or participants in counter-assemblies use violence against assembly participants.

## Landmark guidance on the right of peaceful assembly

Protecting the right of peaceful assembly has never been more crucial. In recent years, protesters around the globe have gathered to push for change in the face of shrinking civic space, which has only been exacerbated by the COVID-19 pandemic.

On July 27, 2020, the UN Human Rights Committee – a body of independent experts entrusted with interpreting the rights protected by the International Covenant on Civil and Political Rights (ICCPR) – issued authoritative guidance on the right of peaceful assembly: General Comment No. 37 on Article 21 of the ICCPR. The General Comment is the Committee's first comprehensive guidance on the right of peaceful assembly.

The General Comment has been issued in English and will be made available in Arabic, Chinese, French, Russian, and Spanish language translations later this year. [Learn more here.](#)

## THE OBLIGATION OF STATES IN RESPECT OF THE RIGHT OF PEACEFUL ASSEMBLY



- **States have an obligation not to interfere with peaceful assemblies without compelling justification.** In particular, States may not impose sanctions on organizers and participants in peaceful assemblies without legitimate cause or limit the activities of journalists, human rights defenders (HRDs), and others involved in monitoring or reporting on assemblies.
- **States are also obliged to facilitate peaceful assemblies,** by blocking off streets or re-directing traffic; protecting participants from abuse, including interference or violence by members of the public; and ensuring assemblies and counter-assemblies can take place without undue disruption.
- **States cannot block or hinder Internet connectivity or access to content in relation to peaceful assemblies.**

## RESTRICTIONS ON THE RIGHT OF PEACEFUL ASSEMBLY



- **To limit the right of peaceful assembly, authorities must be able to show that restrictions are lawful, necessary, and proportionate** to achieve one of the permissible grounds set out in article 21: the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.
- **Authorities should first apply least-intrusive limitations on assemblies.** The prohibition of specific assemblies should be a last resort. Blanket restrictions on assemblies are presumptively disproportionate and impermissible.
- **Restrictions on assemblies must generally not be based on the message of the assembly.** They should not be used to stifle political opposition, challenges to authority, or calls for democratic changes of government. An assembly cannot be restricted just because it provokes a hostile reaction from the public.
- **Assemblies must be allowed to take place within sight and sound of their target audience or at other sites important to their purpose.**
- **National security grounds cannot support assembly restrictions when it is the suppression of human rights that caused the deterioration in national security.**
- **Assembly restrictions based on public safety are warranted only where it is established that an assembly creates a real and significant risk** to the life or security of persons or similar risk of serious damage to property.
- **“Public order” refers to the set of fundamental principles on which society is founded, and cannot justify overbroad restrictions** on peaceful assemblies.

## NOTIFICATION REGIMES

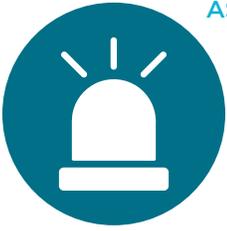


- **Having to apply for permission to organize an assembly is contrary to the idea that peaceful assembly is a basic right.** While notification systems are permitted to assist authorities in facilitating assemblies, such procedures should not be unduly burdensome. **Lack of notification should not render an assembly unlawful** or be used as a basis for dispersing the assembly or imposing criminal penalties on participants or organizers.



## DUTIES AND POWERS OF LAW ENFORCEMENT AGENCIES

- **Law enforcement authorities should aim to facilitate peaceful assemblies.**
- **Only law enforcement officials trained in the policing of assemblies should be deployed** for this purpose. The military should not police assemblies.
- **When policing assemblies, law enforcement officials should seek to de-escalate situations that might result in violence.** Where use of force proves absolutely necessary, such officials must first exhaust non-violent means and provide a warning. They may then only use the minimum force necessary to accomplish legitimate law enforcement purposes.
- **Assemblies may only be dispersed in exceptional cases**, where an assembly is no longer peaceful, or there is clear evidence of an imminent threat of serious violence that cannot be addressed through other means, such as targeted arrests. In dispersing assemblies, force should be avoided, and only the minimum force necessary should be used.
- **Less-lethal weapons affecting an area, such as tear gas and water cannon, should only be used as a last resort** after a warning has been given, and assembly participants have had the chance to disperse. Firearms should not be used to police assemblies and must never be used to disperse an assembly.
- **Where there are allegations that law enforcement officials have engaged in the unlawful use of force or other violations concerning assemblies, states must investigate such incidents effectively**, impartially, and in a timely manner.



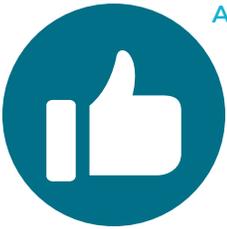
#### ASSEMBLY DURING STATES OF EMERGENCY AND ARMED CONFLICT

- **States must not derogate from article 21 if they can meet their objectives by imposing restrictions consistent with article 21.** States derogating from article 21 must demonstrate that the prevailing situation constitutes a threat to the life of the nation. They must also show that measures derogating from State obligations are strictly required by the exigencies of the situation.

## How can civil society use the General Comment?

The General Comment sets out progressive and definitive guidance on the right of peaceful assembly. Activists can use the General Comment to engage in advocacy, awareness-raising, and training to advance the respect and facilitation of the right of peaceful assembly.

Drawing on past initiatives designed and successfully implemented by ICNL partners, here are some ways the Comment can be used to advance assembly rights:



#### ASSESSING COMPLIANCE WITH THE GENERAL COMMENT

- **Analysis of legal frameworks and official practices.** Activists can prepare analyses assessing the compliance of local laws and practices regarding peaceful assemblies with the standards described in the General Comment.
- **In-depth examination of recent assemblies.** Civil society can take a recent prominent gathering or protest movement and examine the extent to which official management of the assembly followed the guidance set out in the General Comment, from notification to policing.
- **Comparative studies of regional practices.** To shed light on areas of potential improvement regarding assembly rights within a region, activists from neighboring countries can work together to prepare a comparative report on compliance within these countries with General Comment standards.
- **Monitoring of government practices.** Local organizations can train activists to monitor government management of peaceful assemblies in comparison to the guidance in the General Comment, especially regarding policing.



### CONDUCTING ADVOCACY WITH KEY ACTORS

- **Advocacy with officials.** Civil society representatives can use standards in the General Comment as a tool to urge legislators and ministries to revise applicable legal and regulatory frameworks.
- **Litigation before national and regional courts.** The General Comment can serve as a source of authority in litigation, to demonstrate the insufficiency of local laws and practices respecting the right of peaceful assembly.
- **Submissions to UN Special Rapporteurs and the UN Human Rights Committee.** Activists can rely on the standards described in the General Comment to document violations of peaceful assembly rights in submissions to UN Special Rapporteurs and the UN Human Rights Committee.
- **Development of protest protocols.** Activists can work with local authorities to develop protocols for the management and facilitation of peaceful assemblies that reflect the principles set out in the General Comment.
- **Revision of notification and authorization procedures.** Civil society can engage authorities administering notification and authorization systems to bring these systems in line with the Comment's standards.
- **Guidance and training for law enforcement officials.** Civil society organizations can work with local law enforcement authorities to develop guidance for the policing of peaceful assemblies that reflects the standards set out in the General Comment and to conduct trainings on this guidance.
- **Outreach to Internet Service Providers (ISPs) and platforms.** Activists and experts can work with ISPs and representatives of online platforms to incorporate the guidance in the General Comment regarding interference with connectivity or access to content into corporate operating procedures.



### SUPPORTING TRAINING, EDUCATION, AND AWARENESS-RAISING

- **Public awareness-raising regarding problematic laws and practices.** Civil society representatives can work with media outlets and through social media to disseminate information to the public on ways in which local laws and practices fall short of standards described in the General Comment.
- **Training for civil society.** Organizations can provide trainings to local civil society representatives so that they better understand their peaceful assembly rights under international law, as described in the General Comment, and can engage in effective advocacy with key actors.



## Contact

For further information concerning the General Comment, or ways of using the Comment to advance the respect and facilitation of the right of peaceful assembly, please contact Nikhil Dutta, ICNL Global Programs Legal Advisor, [ndutta@icnl.org](mailto:ndutta@icnl.org).

## More from ICNL

[www.icnl.org](http://www.icnl.org) 

[facebook.com/ICNLAlliance](https://facebook.com/ICNLAlliance) 

[twitter.com/ICNLAlliance](https://twitter.com/ICNLAlliance) 

- **Training for journalists on applicable standards.** To assist journalists in reporting on peaceful assemblies, civil society can conduct trainings which cover the standards set out in the General Comment and the extent to which local frameworks and practices comply with these standards.
- **Incorporation into legal education curricula.** Civil society organizations can assist universities in ensuring that the principles and standards set out in the General Comment are taught to local law students.
- **Developing strategies with local lawyers' associations.** Activists and experts can work with local lawyers' associations to identify obstacles to exercising peaceful assembly rights in line with the standards enunciated in the General Comment, and to develop strategies for addressing these obstacles and providing legal support to assembly participants and organizers.
- **Specific outreach to marginalized communities.** Activists can work with marginalized communities to better understand the specific challenges facing the exercise of peaceful assembly rights within these communities, and to raise awareness regarding the content of these rights under the Comment.