

# Simple Q&A

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on the UN Human Rights Committee's General Comment No. 37 on the right to peaceful assembly



Prepared by the  
Centre for Civil and Political Rights  
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## **Simple Q&A on the UN Human Rights Committee's General Comment No. 37 on the right to peaceful assembly**

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## ICCPR Article 21 reads:

“The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

### 24 simple questions to understand the GC37:

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20.	Do we need “permission” from the authority to organize peaceful assembly?
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23.	Can the authorities use weapons to disperse assemblies?
24.	Can the authorities use plain-clothed officers and private security service to police assemblies?

01

## What is General Comment? Do State parties need to follow it?

The General Comment of the Human Rights Committee is a guidance provided by the Committee to all State parties of the ICCPR in order to help them fulfil their obligation under the ICCPR and its Optional Protocols.<sup>1</sup> It provides Committee's interpretation of specific provisions of the ICCPR, their scope and meaning, and elaborates related obligations of the State parties<sup>2</sup>.

## Who has the right of peaceful assembly?

02

Everyone, including non-citizens, foreign nationals, migrants (documented and undocumented), asylum seekers, refugees and stateless persons.<sup>3</sup>

03

## What kind of assemblies are protected by the ICCPR article 21?

ICCPR Article 21 protects **peaceful** assemblies i.e. **non-violent gathering of more than one persons for specific purposes**<sup>4</sup>, including:

- **Online assemblies**<sup>5</sup>;
- **Spontaneous assemblies**, whether coordinated or not<sup>6</sup>;
- **Counterdemonstrations**<sup>7</sup>; and
- **Stationary and mobile assemblies**.

1 Rules of procedure of the Human Rights Committee (CCPR/C/3/Rev.11), rule 76, para. 1

2 Working methods of the Human Rights Committee (<https://www.ohchr.org/EN/HRBodies/CCPR/Pages/WorkingMethods.aspx>), IX

3 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 5

4 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 4

5 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 13

6 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 14

7 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 14

## What kind of assemblies are regarded as “peaceful” under the ICCPR article 21?

04

**Non-violent** assemblies are regarded as peaceful, whereby following incidents are NOT regarded as “violence” or make the assembly concerned “violent” as a whole:

- **Mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities**<sup>8</sup>;
- **Isolate acts of violence** by some participants;<sup>9</sup> and
- **Violence not originating from the assembly participants, e.g., by the authorities (or agents provocateurs acting on their behalf), by members of the public, or by participants in counterdemonstrations** against participants in a peaceful assembly.<sup>10</sup>

**Carrying of weapons**, including objects that can be regarded as such, by assembly participants **may be considered violent** in certain cases, especially when there is evidence of **violent intent** and the **risk of violence** presented by the presence of such objects.<sup>11</sup>

05

## Can peaceful assemblies disrupt traffic or block streets?

**Yes**, unless it imposes a disproportionate burden. If any restriction is put in place in this regard, the authority must provide detailed justification.<sup>12</sup>

Peaceful assemblies are a legitimate use of public and other spaces and may entail by their very nature a certain level of disruption to ordinary life, which must be accommodated by the authority, private entities and broader society.<sup>13</sup> It is **States’ positive duties** to **block off streets, redirect traffic** or **provide security** in order to **facilitate exercise of the right of peaceful assembly**.<sup>14</sup>

## What kind of assemblies are NOT protected by the ICCPR Article 21?

06

Assemblies that are **not peaceful**. For example, such assemblies:

- In which participants are using **physical force against others** that is likely to result in **injuries or death, or serious damage to property**;<sup>15</sup>
- In which participants are **inciting others to use violence**, and such actions are **likely to cause violence**;<sup>16</sup>
- In which, participants have **violent intentions and plan to act on them**;<sup>17</sup>
- **Violence by participants is imminent**;<sup>18</sup> and
- Which are used for **propaganda for war** or for **advocacy of national, racial or religious hatred** that constitutes **incitement to discrimination, hostility or violence**.<sup>19</sup>

8 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 15  
9 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 17  
10 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 18  
11 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 20  
12 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 47  
13 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), paras. 31 and 47  
14 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 24  
15 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 15  
16 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 19  
17 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 19  
18 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 19  
19 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 50

## What kind of restrictions are allowed on the freedom of peaceful assembly?

Article 21 allows restrictions, if they are imposed in **conformity with the law** and **necessary in a democratic society** in the interests of:

- i **national security;**
- ii **public safety;**
- iii **public order** (ordre public); and
- iv protection of:
  - a **public health;**
  - b **public morals; or**
  - c **the rights and freedoms of others.**

Restrictions must:

- **Be precise;**
- **NOT confer unfettered or sweeping discretion** on those charged with its enforcement;
- **Be interpreted narrowly** and guided by the objective of **facilitating the right;**
- **Not be discriminatory** or be aimed at **discouraging participation** or **causing chilling effect;**
- **Be necessary, proportionate** and the **least-intrusive** measures; and
- **Be content neutral** i.e. must NOT be related to the message conveyed by the assembly.<sup>20</sup>

The fact that an assembly provokes or may provoke a hostile reaction from members of the public against participants does not justify restriction, instead the assembly must be allowed to go ahead and its participants must be protected; However, in exceptional cases where the State is manifestly unable to protect the participants from a severe threat to their safety, based on a concrete risk assessment, restrictions on participation in the assembly may be imposed.<sup>21</sup>

20 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), paras. 36, 39, 48

21 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), paras. 36, 39, 48, 52

## Can restrictions be put on the location of the peaceful assembly?

08

ICCPR article 21 protects **peaceful assemblies, wherever they take place**, outdoors and indoors, public and private spaces, or combination of these<sup>22</sup>; and peaceful assemblies **may be conducted in all spaces to which the public has access or should have access**, including within the perimeters of places such as courts, parliaments, sites of historical significance or other official buildings.<sup>23</sup>

Given the typically expressive nature of assemblies, participants must as far as possible be enabled to conduct assemblies **within sight and sound of their target audience**<sup>24</sup>, and thus, peaceful assemblies should not be relegated to remote areas where they cannot effectively capture the attention of those who are being addressed, or the general public.<sup>25</sup>

As a general rule, **no blanket ban** on all assemblies is allowed:

- In the capital city;
- In all public places except one specific location within a city;
- outside the city centre; or
- on all the streets in a city.<sup>26</sup>
- **Restrictions on assemblies in private spaces** may be allowed, taking into account of:
  - whether the space is routinely publicly accessible;
  - nature and extent of the potential interference caused by the gathering with the interests of others with rights in the property;
  - whether those holding rights in the property approve of such use;
  - whether the ownership of the space is contested through the gathering and whether participants have other reasonable means to achieve the purpose of the assembly in accordance with the sight and sound principle; whereby

the interests of others with rights in the property must be given due weight and access to private property may not be denied on a discriminatory basis.<sup>27</sup>

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## Can restrictions be put on the content of peaceful assembly?

**No.** States must leave it to the participants to determine freely the purpose or any expressive content of an assembly.<sup>28</sup> Any **restrictions imposed on the right of peaceful assembly** need be **content neutral**, and thus not be related to the message conveyed by the assembly.<sup>29</sup>

When dealing with any expressive elements of assemblies, the rules applicable to freedom of expression should be followed<sup>30</sup>, whereby peaceful assemblies may not be used for propaganda for war, or for advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence<sup>31</sup>.

22 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 6  
23 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 55, 56  
24 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 22  
25 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 55  
26 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 55  
27 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 57  
28 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 22  
29 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 48  
30 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 49  
31 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 50

## Can restrictions be put on the manner of peaceful assembly, i.e., equipment and tools used including face coverings and other disguise?

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Participants can use equipment such as **posters**, megaphones, **musical instruments** or other technical means to convey their message, and temporarily erect structures, including sound systems, to reach their audience.<sup>32</sup>

The use of **flags, uniforms, signs** and **banners** is a **legitimate form of expression** that **should not be restricted**, even if such symbols are reminders of a painful past. Appropriate **restrictions can be imposed in exceptional cases**, if used **symbols are directly and predominantly associated with incitement** to discrimination, hostility or violence.<sup>33</sup>

Wearing of **face coverings** or other **disguises** by assembly participants can be only restricted, only if there are compelling reasons, such as:

- their conduct presents reasonable grounds for arrest; or
- face covering forms part of a symbol that is directly and predominantly associated with incitement to discrimination, hostility or violence.<sup>34</sup>

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## Can restrictions be put on the timing, length and frequency of peaceful assembly?

In general:

- participants must have **sufficient time to manifest their views** or to pursue their other purposes effectively;
- peaceful assemblies **should generally be left to end by themselves**; and
- assemblies **should not be limited solely because of their frequency**.<sup>35</sup>

However, the **cumulative impact of sustained gatherings** may become a factor for restriction, for example, if assemblies are held regularly at night in residential areas.<sup>36</sup>

32 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 58  
33 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 51  
34 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 60  
35 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 54  
36 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 54



## Can restrictions be put on the size of peaceful assembly?

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Limiting the **number of participants** in peaceful assemblies can only be acceptable with a legitimate ground such as for the protection of:

- **Public safety** (e.g. considering the maximum crowd capacity for a stadium or a bridge); or
- **Public health** (e.g. considering requirement of social distancing).<sup>37</sup>

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## What are “public morals” for which the right to peaceful assembly may be restricted?

Restrictions on peaceful assemblies for the protection of public morals should only exceptionally be imposed, and if used at all:

- **this ground should not be used to protect understandings of morality deriving exclusively from a single social, philosophical or religious tradition; and**
- **any such restrictions must be understood in the light of the universality of human rights, pluralism and the principle of non-discrimination.**<sup>38</sup>

For example, restrictions based on this ground **may not be imposed because of opposition** to expressions of **sexual orientation** or **gender identity**.<sup>39</sup>

## Can States limit monitoring or reporting of assemblies?

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**Monitoring and reporting** on assemblies as well as on the actions of law enforcement officials, especially by journalists and human rights defenders, **must not be prohibited or unduly limited:** and:

- **those monitoring or reporting must not face reprisals or harassment;**
- **their equipment must not be confiscated or damaged; and**
- **the right to monitor must be protected, even if the assembly concerned is declared unlawful or dispersed.**<sup>40</sup>

37 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 59

38 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 46

39 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 46

40 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 30

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## What kind of restrictions are NOT allowed on the freedom of peaceful assembly?

- Any restriction imposed for the **grounds other than those listed in the ICCPR article 21**;
- Any restriction, including prohibition, blockage, dispersion or disruption **without compelling justification**;<sup>41</sup>
- Sanctioning of participants or organisers **without legitimate cause**;<sup>42</sup>
- Restriction or prohibition **merely based on the assumption** that the assembly concerned may provoke adverse or even violent reactions from some members of the public;<sup>43</sup>
- Any **discriminatory** restrictions;<sup>44</sup>
- Restrictions **aiming at discouraging participation** in assemblies or **causing a chilling effect** including those **stifling expression of political opposition**;<sup>45</sup>
- Restrictions **based on unspecified risk of violence**, or mere possibility, **without a concrete risk assessment or evidence**, that the authorities will not have the capacity to prevent or neutralize the violence emanating from those opposed to the assembly<sup>46</sup>

## What are “positive duties” of States to facilitate peaceful assembly?

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As their positive duties to facilitate peaceful assembly, States must:

- **promote enabling environment** for the exercise of the right of peaceful assembly without discrimination;
- put in place a **legal and institutional framework for the effective exercise of the right**; and
- where needed, **protect participants** against abuse by non-State actors, such as interference or violence by other members of the public, counterdemonstrators and private security providers.<sup>47</sup>

It is also a positive duty of States to **block off streets, redirect traffic or provide security** in order to facilitate exercise of the right of peaceful assembly.<sup>48</sup>

41 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 23  
 42 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 23  
 43 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 27  
 44 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 36  
 45 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), paras. 36, 49  
 46 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 52  
 47 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 24  
 48 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 24

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## Is domestic law necessary to protect the right of peaceful assembly?

**Yes.** Among others, domestic law **must recognise the right** of peaceful assembly, and:

- clearly set out the **duties and responsibilities of all public officials** involved,
- be aligned with the relevant **international standards**, and
- be **publicly accessible**.<sup>49</sup>

## Can the authority gather personal information and data of participants in peaceful assemblies?

18

**Any information gathering must not result in suppressing rights**, especially the **right to privacy**, or creating a **chilling effect** including intimidation or harassment of participants or would-be participants in peaceful assemblies, whereby the way in which data are collected, shared, retained and accessed, must strictly conform to applicable international standards.<sup>50</sup>

For example, facial recognition and other technologies that can identify individual participants in a crowd might infringe the right to privacy of the assembly participants.<sup>51</sup>

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## Do organisers or participants of peaceful assemblies need to pay the costs of public services related to their assemblies, such as policing or security?

**No.** In general, **requirements for participants or organizers** to arrange for or to contribute to the **costs of policing or security, medical assistance or cleaning** or other **public services** associated with peaceful assemblies are **not compatible with the ICCPR** article 21.<sup>52</sup>

49 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 28

50 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), paras. 61

51 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), paras. 62

52 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 64

## Do we need “permission” from the authority to organize peaceful assembly?

20

**No.** Having to apply for permission from the authorities undercuts the idea that peaceful assembly is a basic right.<sup>53</sup>

21

## Do we always have to notify relevant authority in advance to organize peaceful assembly?

**Organisers** of peaceful assembly **can be required** to notify the authority in advance, **as long as it is necessary for the authority to facilitate smooth conduct of peaceful assemblies** and to **protect rights of others**, and such notification requirement:

- **Must not be misused to stifle** peaceful assemblies;
- **Must be for the grounds permitted by ICCPR** article 21;
- should be **transparent, not unduly bureaucratic**; and
- should be **free of charge**.<sup>54</sup>

However, **failure to notify** the authorities **must not** be used as a basis to:

- **disperse** assemblies;
- **arrest** the participants or organizers; or
- **impose undue sanctions**, such as charging the participants or organizers with **criminal offences**.<sup>55</sup>

Notification **must not be required for spontaneous assemblies** for which there is not enough time to provide notice.<sup>56</sup>

## When can the authorities disperse peaceful assemblies?

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**Only in exceptional cases**, e.g.:

- If the assembly concerned is **no longer peaceful**;
- If there is **clear evidence of an imminent threat of serious violence** that cannot be reasonably addressed by more proportionate measures; or
- If the **disruption** caused by the peaceful assembly is **serious and sustained** such as extended blocking of traffic.<sup>57</sup>

53 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 70

54 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 70

55 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 71

56 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 72

57 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 85

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## Can the authorities use weapons to disperse assemblies?

While **any use of force should be avoided** to disperse assemblies, **if it is not possible** to do so, **only the minimum necessary force** may be used. **Less-lethal weapons** with **wide-area effects**, such as **tear gas** and **water cannons**, may be used as a measure of **last resort**, when:

- All reasonable **efforts are made to limit risks** of causing **stampede** or **harming bystanders**; and
- A **verbal warning** and adequate **opportunity** are **given to assembly participants to disperse**.<sup>58</sup>

**Firearms**, including **rubber-coated metal bullets**, **must never be used** to simply disperse assemblies.<sup>59</sup>

## Can the authorities use plain-clothed officers and private security service to police assemblies?

24

Any deployment of plain-clothed officers in assemblies **must be strictly necessary** in the circumstances and such officers **must never incite violence**, and **before conducting a search**, making an **arrest** or resorting to **any use of force**, **must identify themselves** to the persons concerned.<sup>60</sup>

The State can delegate tasks to **private security service providers only in exceptional circumstances** and the **State remains responsible** for the conduct of those service providers.<sup>61</sup>

58 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 87

59 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 88

60 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 92

61 General Comment of the HR Committee, No.37 (CCPR/C/GC/37), para. 93



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