

## **“States responses to Covid 19 threat should not halt freedoms of assembly and association” – UN expert on the rights to freedoms of peaceful assembly and of association, Mr. Clément Voule**

GENEVA (14 April 2020) - The Covid-19 pandemic has posed unprecedented challenges to human rights around the world. “I salute the efforts of governments, international organizations and civil society working together to protect the public from this health hazard. Where human rights are the compass, we will be better placed to overcome this pandemic and build resilience for the future” said Clément Voule, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, in a statement today.

“No country or government can solve the crisis alone; civil society organizations should be seen as strategic partners in the fight against the pandemic. I am thus concerned due to the information I have received from online consultations with civil society around the world, suggesting several worrying trends and limitations, including on civil society’s ability to support an effective response.”

Laws limiting public gatherings, as well as freedom of movement, have been passed in many States. Restrictions based on public health concerns are justified, where they are necessary and proportionate in light of the circumstances. Regrettably, civil society organizations have rarely been consulted in the process of designing or reviewing appropriate measures of response, and in several cases the processes through which such laws and regulations have been passed have been questionable. In addition, those laws and regulations have often been broad and vague, and little has been done to ensure the timely and widespread dissemination of clear information concerning these new laws, nor to ensure that the penalties imposed are proportionate, or that their implications have been fully considered. In many cases, it appears these measures are being enforced in a discriminatory manner, with opposition figures and groups, together with vulnerable communities, constituting prime targets.

Particularly worrying are cases in which governments have seized on the crisis to suspend constitutional guarantees, to pass sweeping emergency laws and to rule by decree, developments which various UN human rights experts, including the Special Rapporteur, have [already cautioned](#) against. In many cases, it appears the measures adopted are geared more at cementing control and cracking down on oppositional figures than at ensuring public health. A trend towards the militarization of crisis management is similarly worrying. Several States have also delayed planned elections, without exerting full efforts to exploring safe alternatives to in-person voting.

Civil society organizations are also facing numerous restrictions and limitations on their work. In some States, new associations are not being registered, where they are unable to demonstrate internal rules geared to the current crisis situation. While civil society workers have a key role to play in responding to the crisis and providing support to vulnerable populations, their ability to play that role has been limited by restrictive laws as well as by funding shortages, themselves brought on in part by limitations on access to cross-border funding. Members of civil society together with other workers, moreover, have been constrained by lack of access to necessary personal protective equipment. In this context, accounts of cases where labor representatives have faced retaliation for speaking out concerning dangerous situations at the workplace are particularly troubling.

The crisis has also been used to limit access to information broadly. Several States have adopted new measures penalizing the spreading of 'false news,' or have increased reliance on similar provisions of law already in place, while individuals reporting on the crisis have been cautioned, detained or expelled. Internet access is particularly crucial in times of crisis; existing and new limitations on access to the internet, or censorship of particular websites and forms of information, are hence particularly troubling in this period.

In the face of the current public health emergency, the Special Rapporteur on freedom of peaceful assembly and of association would like to remind States of the necessity of responding in a manner compliant with their human rights obligations. In particular, the Special Rapporteur would like to emphasize **ten key principles**:

**First: ensuring that new legal measures respect human rights.** It is vital that both the process and the substance of any new measures passed be in compliance with human rights obligations. Consultations with civil society should take place, if possible, before new measures are adopted. Where new laws or regulations are adopted, any limitations on rights imposed must be in accordance with the principles of legality, necessity and proportionality. It is inadmissible to declare blanket restrictions on human rights and fundamental freedoms. Exemptions should be foreseen for civil society actors, particularly those monitoring human rights, trade unions, social services providing humanitarian assistance, and journalists covering the management of the crisis. Information on any new measures adopted must be widely disseminated and translated into local and indigenous languages, and appropriate time must be given for the public to familiarize themselves with these laws before criminal penalties are imposed. In no cases may laws or regulations be applied in a discriminatory manner, and information explaining how new measures are being put into effect should be made publicly available and easily consultable by all. Independent oversight and review of measures taken during the crisis should be guaranteed, in order to ensure the rights-compliant, non-discriminatory application of the law throughout the crisis. In all cases, moreover, it is vital that any penalties applied are not disproportionate, that they do not themselves contribute to the further spread of infections, and that they take account of the

contingencies of the moment, including the reduced functioning of judicial systems and the financial hardship faced by many.

**Second: ensuring that the public health emergency is not used as a pretext for rights infringements.** It is imperative the crisis not be used as a pretext to suppress rights in general or the rights to freedom of peaceful assembly and of association in particular. The crisis is no justification for excessive force to be used when dispersing assemblies, as the Special Rapporteur on extrajudicial, summary or arbitrary executions has [emphasized](#), nor for disproportionate penalties to be imposed. States have an obligation to inform the Secretary General of the United Nations if and when a state of emergency has been declared and of any resulting derogation of rights, which must themselves be in compliance with the [Siracusa Principles](#). It is vital that any limitations imposed be removed and that full enjoyment of the rights to freedom of peaceful assembly and association be restored when the public health emergency caused by Covid-19 ends. In this regard, States should incorporate sunset clauses into any states of emergency or laws passed in relationship to the current crisis, guaranteeing their automatic expiry when the public health emergency has ended. It is particularly important in the context of a crisis moreover that judicial and parliamentary checks and balances be strengthened, in order to avoid excessive and broad power in the executive branch, and to ensure a check on the arbitrary exercise of executive authority.

**Third: democracy cannot be indefinitely postponed.** The Special Rapporteur recognizes that designing appropriate electoral approaches in the context of the current global pandemic is complex, and that there are no easy solutions. Limitations on assemblies in many countries impair individuals' ability to campaign and participate in rallies, to conduct voter outreach and to monitor election processes. Civil society's ability to engage with candidates, or with the broader public in the context of elections, is also constrained. In light of these challenging circumstances, it is all the more important, as highlighted below, that freedom of expression is respected and that the rights to freedom of peaceful assembly and of association online are fully ensured. States should provide transparency as to their decision-making processes in the context of elections, moreover, and should consult with civil society in determining appropriate approaches. While limitations on in-person voting may be necessary in some cases, States should take all measures possible to ensure the timely carrying out of elections, including through the utilization of alternative voting procedures such as mail-in ballots. In all cases, the integrity of electoral processes must be ensured.

**Fourth: ensuring inclusive participation.** Active citizenship is key in times of crisis. Civil society must be regarded as an essential partner of governments in responding to the present crisis, in terms of helping to frame inclusive policies, disseminating information, building shared and cooperative approaches, and providing social support to vulnerable communities. States must ensure the right to freedom of association is fully respected, including by registering associations without constraint and by ensuring that civil

society organizations are able to conduct advocacy freely, including on the international level. States should also support civil society organizations' participation in the design and implementation of effective public health strategies. States should provide financial support to civil society organizations delivering vital social support, including in particular organizations which support and advocate for persons with disabilities and vulnerable communities. States must ensure that the ability of such organizations to access the communities they serve is not inappropriately limited. In addition, the crisis must not be used to prevent civil society organizations, defense lawyers, and journalists from undertaking vital work monitoring the police, prisons, migrant detention centers and other components of State legal processes.

**Fifth: guaranteeing freedom of association and assembly online.** The rights to freedom of peaceful assembly and of association apply online just as they do offline. In this time when physical assemblies are restricted, it is all the more necessary that access to and use of the internet be ensured. In addition to refraining from restrictions such as internet shutdowns or online censorship, States should take measures to ensure access to the internet extends to the entirety of the global population, and that it is affordable. In the context of civil society organizations specifically, States should ensure that they may complete their registrations online, and should provide opportunities for them to participate, via online fora, in policy development. In all cases, ensuring the rights to peaceful assembly and association online requires that individuals' rights to privacy are fully respected and protected.

**Sixth: protecting workplace rights to freedom of association and assembly.** The right to freedom of association extends to the right to form labor unions and other forms of association within the workplace, and the right to freedom of peaceful assembly [extends to the right to strike](#). The crisis underscores the need for workplace protections and measures that ensure the right to health of all employees. In no cases may employees be fired for organizing, nor for speaking up as to the need for enhanced protection and safety at their workplaces.

**Seventh: freedom of expression must be ensured.** The right of civil society actors, including journalists and human rights defenders, to freely seek, receive and impart ideas and information, whether concerning the crisis and its management or other subjects, must be ensured. Laws criminalizing 'false news' as such, which have a long history of abuse, including through being deployed to target human rights defenders, must be avoided in particular.

**Eighth: civil society's participation in multilateral institutions must be secured.** The UN and other multilateral institutions should take steps to ensure civil society organizations can continue to participate in all policy decisions, including those related to the Covid-19 response, especially in the case of public-private partnerships. It should also continue to make available broadcasts and archival footage of open sessions of UN human rights bodies

and other meetings, and where feasible, should facilitate civil society's participation via video link. UN Agencies and bodies should undertake proactive outreach to civil society organizations in the absence of in-person meetings, with due consideration to adapting online meetings and consultations to the security needs of human rights defenders and the challenges in exercising freedom of association online. UN Country Teams are particularly important at this moment, and their engagement with civil society around Covid-19 responses and human rights should be strengthened, both to ensure the effectiveness of UN/government partnerships and interventions, and to monitor potential restrictions on civil society in the context of Covid-19.

**Ninth: international solidarity is needed more than ever.** Financial limitations are sharply constraining civil society's ability to contribute to the response to the Covid-19 crisis. Even prior to the crisis, civil society's access to funding was limited by laws restricting cross-border support. States should repeal laws that unduly constrict civil society's ability to access funding, including international funding in particular. Where possible, moreover, states should provide both financial and other forms of support to civil society organizations, and should recognize the key role many civil society organizations play in ensuring public health broadly.

**Tenth: future implications of Covid-19 and responding to popular calls for reform.** Finally, the Special Rapporteur would like to observe that the year prior to the current crisis was marked by an unprecedented wave of protests around the world. While the demands and concerns of the protesters differed from context to context, protesters consistently called for more democratic governance, greater respect for human rights, increased equality, an end to austerity, and meaningful steps to combat climate change and widespread corruption. The current crisis is unlikely to alleviate these demands; if anything, the economic downturn caused by the crisis, combined with financial measures that enhance inequality, will only serve to exacerbate underlying causes. It is vital in this context that States' responses to the crisis take citizens' demands fully into account, and that States take measures to adopt more democratic governance structures, to enhance rights protection and fulfillment, to reduce inequality, and to ensure that the transition to greener and more sustainable energy sources receives increased support and attention.

ENDS

**Mr. Clément Nyaletsossi Voule**, from Togo, was appointed as *UN Special Rapporteur on the right to peaceful assembly and association* in March 2018. He is a lawyer and currently works in Geneva in the field of human rights. He is an associate researcher at the Geneva Academy of Human Rights and Humanitarian Law. Prior to his appointment, he led the work of the International Service for Human Rights (ISHR). Mr. Voule also worked as Secretary General of the Togolese Coalition of Human Rights Defenders, as campaigning officer for the Coalition for the Togolese International Criminal

*Court and as Secretary General of the Amnesty International section in Togo. Since 2011, Mr. Voule has been an expert member of the Working Group on Extractive Industries, Environment and Human Rights Violations of the African Commission on Human and Peoples' Rights.*

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For media inquiries related to other UN independent experts please contact Xabier Celaya (+ 41 22 917 9445 / [xcelaya@ohchr.org](mailto:xcelaya@ohchr.org))*

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