



10 Principles

for the proper management
of assemblies



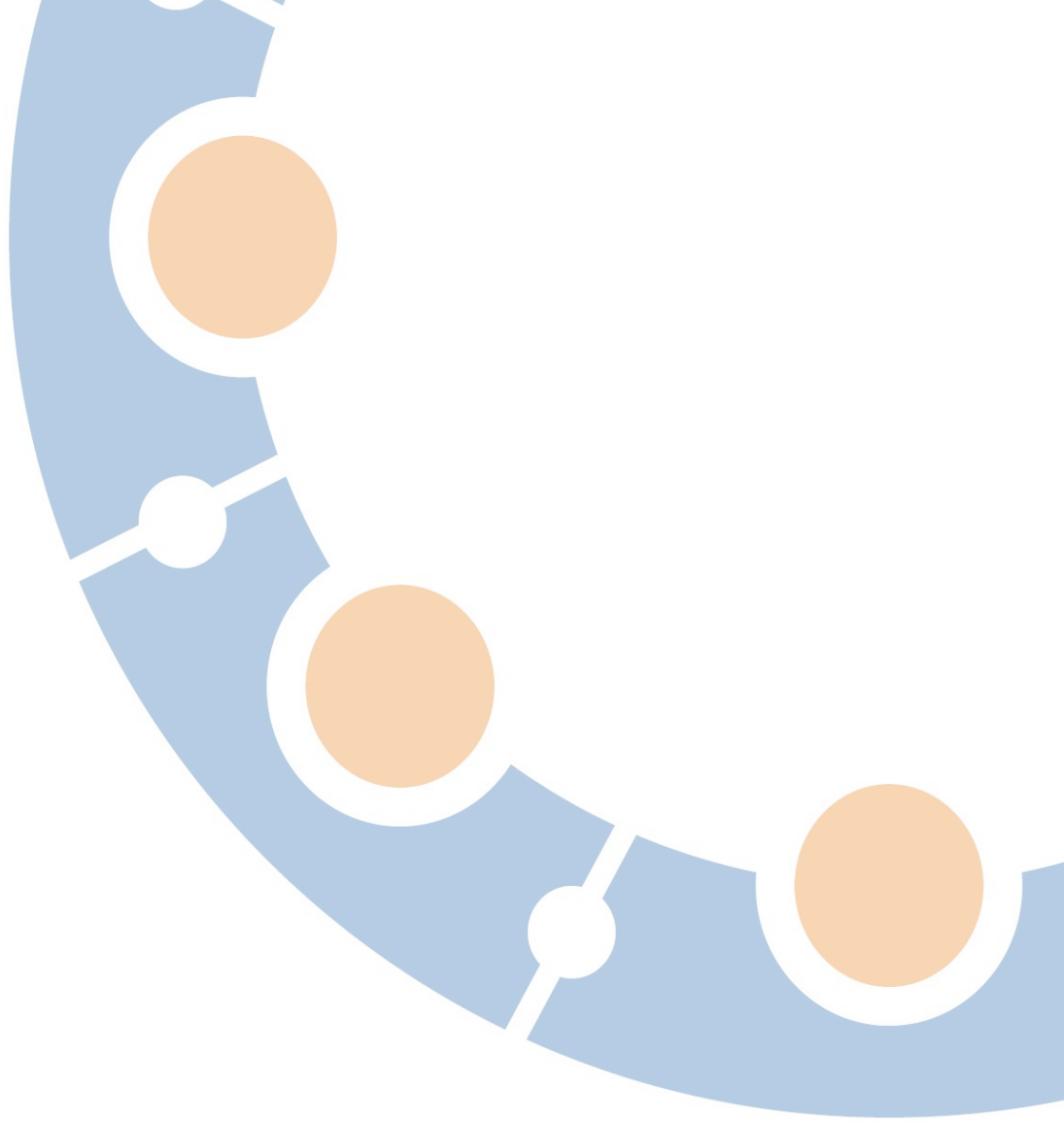
Civil society Guide

A handbook for using the practical recommendations on the management of assemblies report by United Nations Special Rapporteurs Maina Kiai and Christof Heyns (A/HRC/31/66)



freeassembly.net

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Maina Kiai



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Published in January 2017 by the Special Rapporteur on the rights to freedom of peaceful assembly and of association



United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association

About the Special Rapporteurs' mandates

The special procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The system of Special Procedures is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political, and social. As of June 30, 2016, there were 42 thematic and 14 country mandates.

The mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (currently Mr. Maina Kiai of Kenya) was established in October 2010 to examine, monitor, advise and publicly report on the rights to freedom of peaceful assembly and of association worldwide.

The mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions (currently Ms. Agnes Callamard of France; formerly Mr. Christof Heyns of South Africa, 2010-16) examines situations of extrajudicial, summary or arbitrary executions in all circumstances and for whatever reason throughout the world.



About Maina Kiai

Mr. Maina Kiai (Kenya) has spent the last twenty years campaigning for human rights and constitutional reform in Kenya – notably as founder and Executive Director of the unofficial Kenya Human Rights Commission, and then as Chairman of Kenya's National Human Rights Commission (2003-2008), where he won a national reputation for his courageous and effective advocacy against government corruption, in support of political reform, and against impunity following the violence that convulsed Kenya in 2008. He has served as Special Rapporteur on the rights to freedom of peaceful assembly and of association since 2011.



About Christof Heyns

Mr. Christof Heyns (South Africa) is a director of the Institute for International and Comparative Law in Africa and Professor of Human Rights Law at the University of Pretoria, where he has also directed the Centre for Human Rights, and has engaged in wide-reaching initiatives on human rights in Africa. He has advised a number of international, regional and national entities on human rights issues. He served as Special Rapporteur on extrajudicial, summary or arbitrary executions from 2010-16. He now serves as a member of the United Nations Human Rights Committee, following his election in June 2016.

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Official OHCHR site: <http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SRFreedomAssemblyAssociationIndex.aspx>



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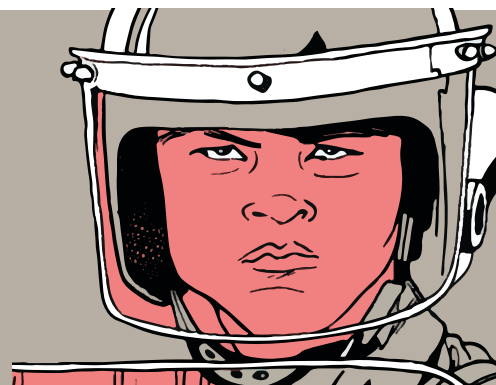
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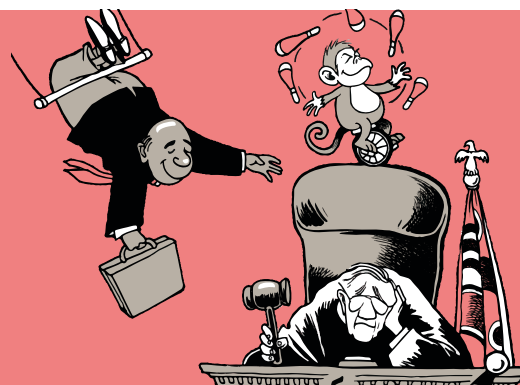
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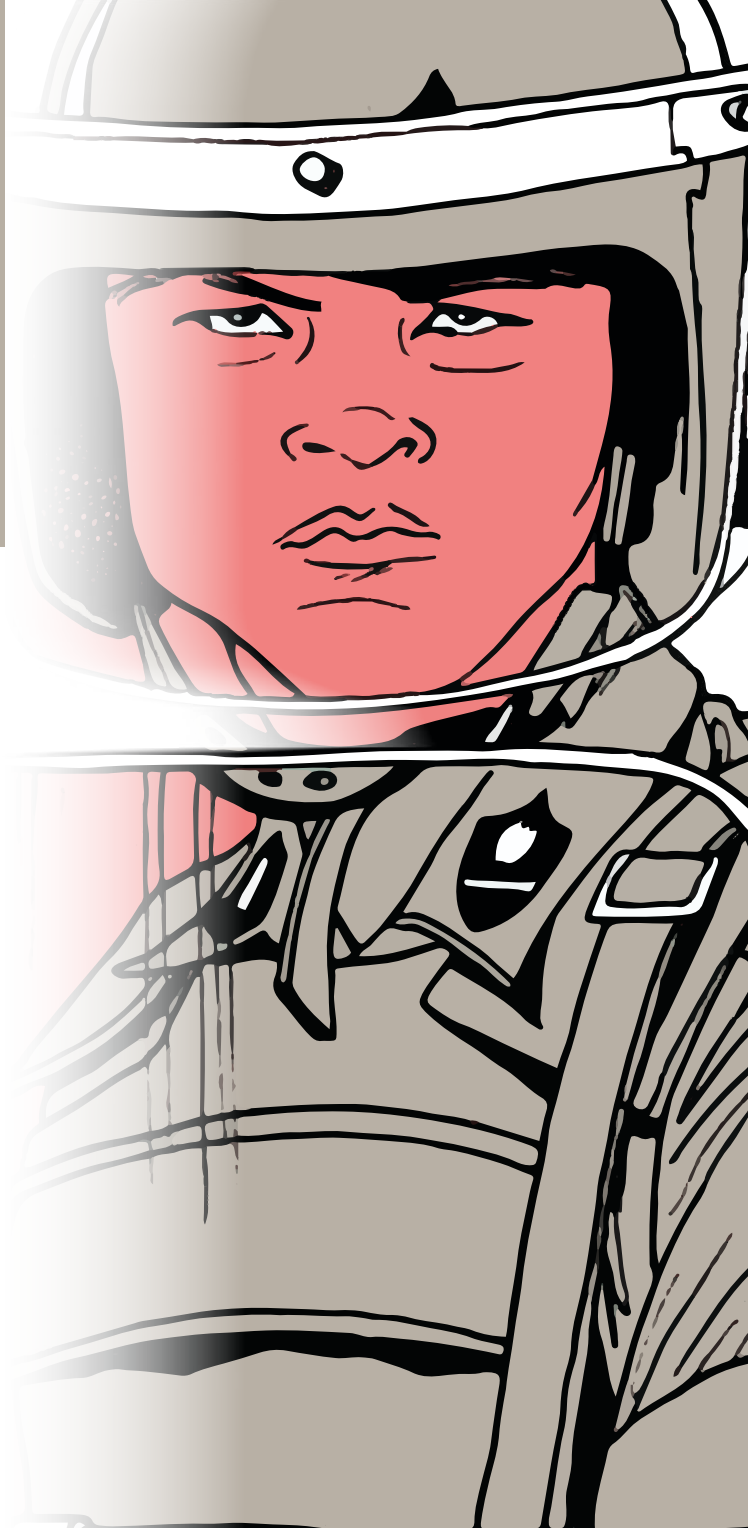
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Section One

Background



THE COMPILATION OF PRACTICAL RECOMMENDATIONS ON THE PROPER MANAGEMENT OF ASSEMBLIES

The report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66) - known as the compilation of practical recommendations on the proper management of assemblies - was presented to the UN Human Rights Council in March 2016. The report clarifies international human rights standards relating to the management of assemblies, and identifies specific steps which might be taken to ensure their protection and promotion. As such, it is a potentially invaluable tool for civil society actors working to enhance the promotion and protection of human rights in this context.

The compilation was prepared by the Special Rapporteurs in response to Human Rights Council in resolution 25/38, which:

"Request[ed] the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions to prepare, from within existing resources, a compilation of practical recommendations for the proper management of assemblies based on best practices and lessons learned..." (OP 20)

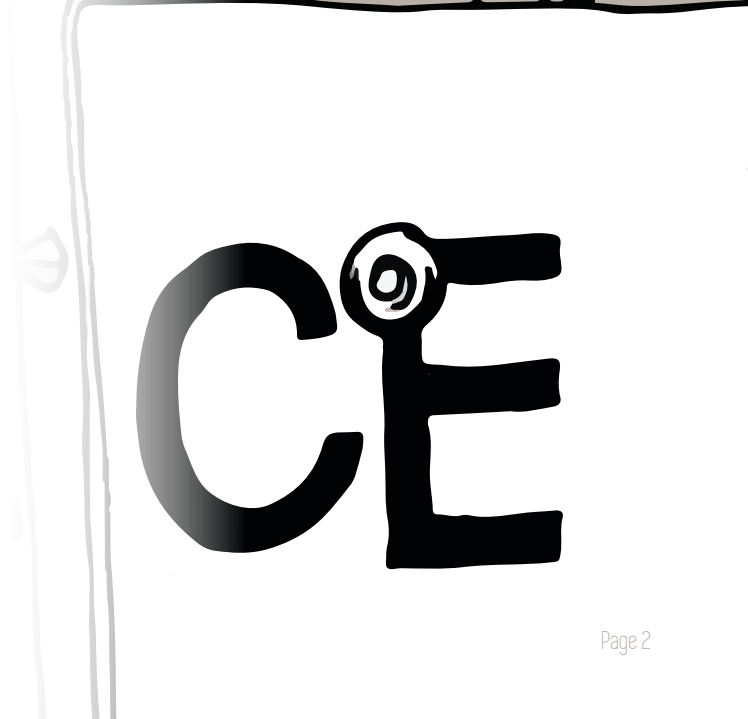
This resolution formed part of an ongoing effort by the Human Rights Council to grapple with the human rights issues involved in the management of assemblies, and to better understand relevant international standards. The compilation itself makes an important contribution to this process, by providing guidance on how applicable international human rights standards may be operationalized in domestic law and practice to ensure greater protection of the rights involved.

PURPOSE OF THIS GUIDE

This Guide aims to help civil society organizations (CSOs) use the compilation to advance the protection and promotion of human rights in the context of assemblies domestically. It provides suggestions, tools and inspiration to CSOs as they consider how they might push for the implementation of the practical recommendations in their own context.

The Guide is divided into three additional sections: Section 2 focuses on how CSOs might determine authorities' current and ongoing level of compliance with the practical recommendations, and links to another document developed by the mandate - the 10 Principles Checklist.

Section 3 discusses methods for gathering the evidence necessary for monitoring compliance and building advocacy arguments. It includes illustrative case studies, helpful further reading, as well as various tools and techniques which can be employed to gather relevant evidence and data. Lastly, Section 4 provides real-life examples of research and advocacy tactics which have been used to advance rights in the context



of protests.

UNDERSTANDING THE COMPILATION OF PRACTICAL RECOMMENDATIONS

The compilation of practical recommendations is oriented around 10 guiding principles applicable to the proper management of assemblies. Each guiding principle is followed by a summary of applicable international standards. This summary is itself followed by a list of practical recommendations. The recommendations have been formulated by the Special Rapporteurs to illustrate how the relevant international standards might be operationalized at the domestic level, and have been developed with reference to global experience and lessons learned.

When determining how to use the compilation, it is critical to keep in mind the enforceability of its various components. The report contains both international legal standards, and practical recommendations. While State authorities are required to respect legal standards (these are 'must' statements), the recommendations carry the weight of the Special Rapporteurs' suggestion, based on identified good practice (that is, they are 'should' statements).

The recommendations are for the most part directed at States. The primary utility of the report for civil society is therefore indirect; it provides a helpful summary of the accepted international legal standards applicable to the management of assemblies, and recommendations for specific steps which States might take to implement these standards. The report is therefore most useful to civil society as a tool to support their efforts for policy reform and their advocacy work with States and other stakeholders, such as business enterprises.

WHO ARE THE SPECIAL RAPORTEURS?

UN Special Rapporteurs are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The system of 'special procedures' of the Human Rights Council covers all human rights: civil, cultural, economic, political, and social. As of 30 June 2016 there are 42 thematic and 14 country mandates.

With the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), special procedures undertake country visits; act on individual cases and concerns of a broader, structural nature by sending communications to States and others in which they bring alleged violations or abuses to their attention; conduct thematic studies and convene expert consultations, contribute to the development of international human rights standards, engage in advocacy, raise public awareness, and provide advice for technical cooperation.

Find out more here: <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

Section Two

Monitoring compliance

A first step in encouraging State authorities to implement the practical recommendations and international standards is understanding which recommendations are already being implemented, and where the gaps lie. The process of assessing initial compliance can also be used to conduct ongoing monitoring of laws, policies and practice in relation to the management of assemblies. Compliance with the recommendations is multidimensional. It includes not only the alignment of laws and policies with international good practice, but also that these laws and policies are put into practice.

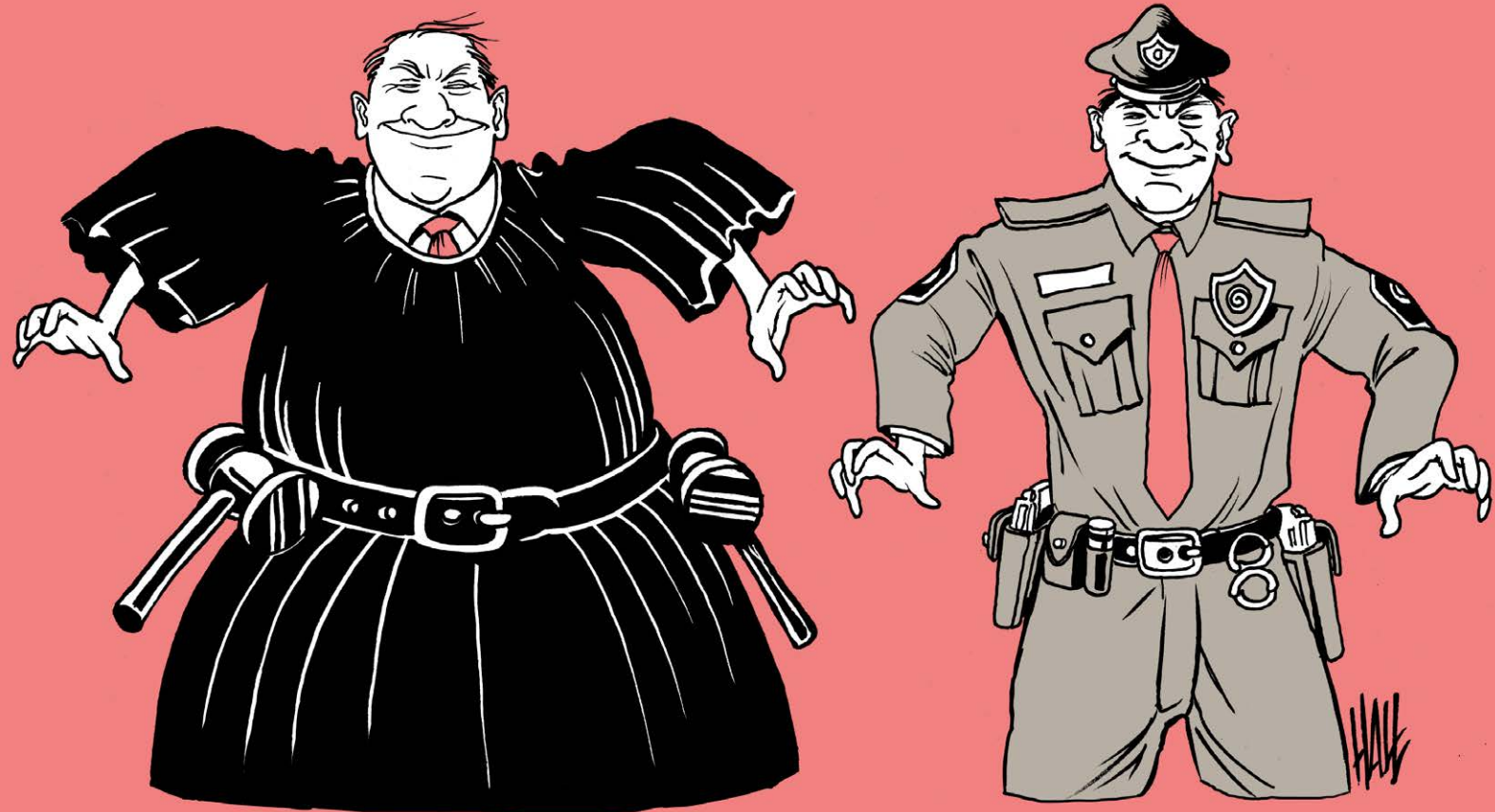
THE 10 PRINCIPLES IMPLEMENTATION CHECKLIST: RATE YOUR COUNTRY'S MANAGEMENT OF ASSEMBLIES

In order to help you determine the level of compliance in your country (or local district), the Special Rapporteur on the rights to freedom of peaceful assembly and of association has developed the [10 Principles Implementation Checklist](#). The checklist is designed as an easy-to-use tool to: (1) determine which practical recommendations contained in the Special Rapporteurs' recommendations are already in place at the domestic level, and (2) help assess how well domestic and local authorities manage assemblies.

The checklist contains 100 indicators - categorized under 10 overarching principles - relating to the implementation of the recommendations made by the Special Rapporteurs. These indicators take the entire spectrum of 'managing an assembly' into account and include the activities and measures before, during and after an assembly or protest takes place.

Users of the checklist can score their country's performance on a scale of 1 to 100 by keeping track of the number of indicators that have been implemented. We invite you to Tweet us an image of your score sheet at [@MainakIai_UNSR](#) - or e-mail it to info@freeassembly.net.

[The Checklist is available here in English, French and Spanish.](#)



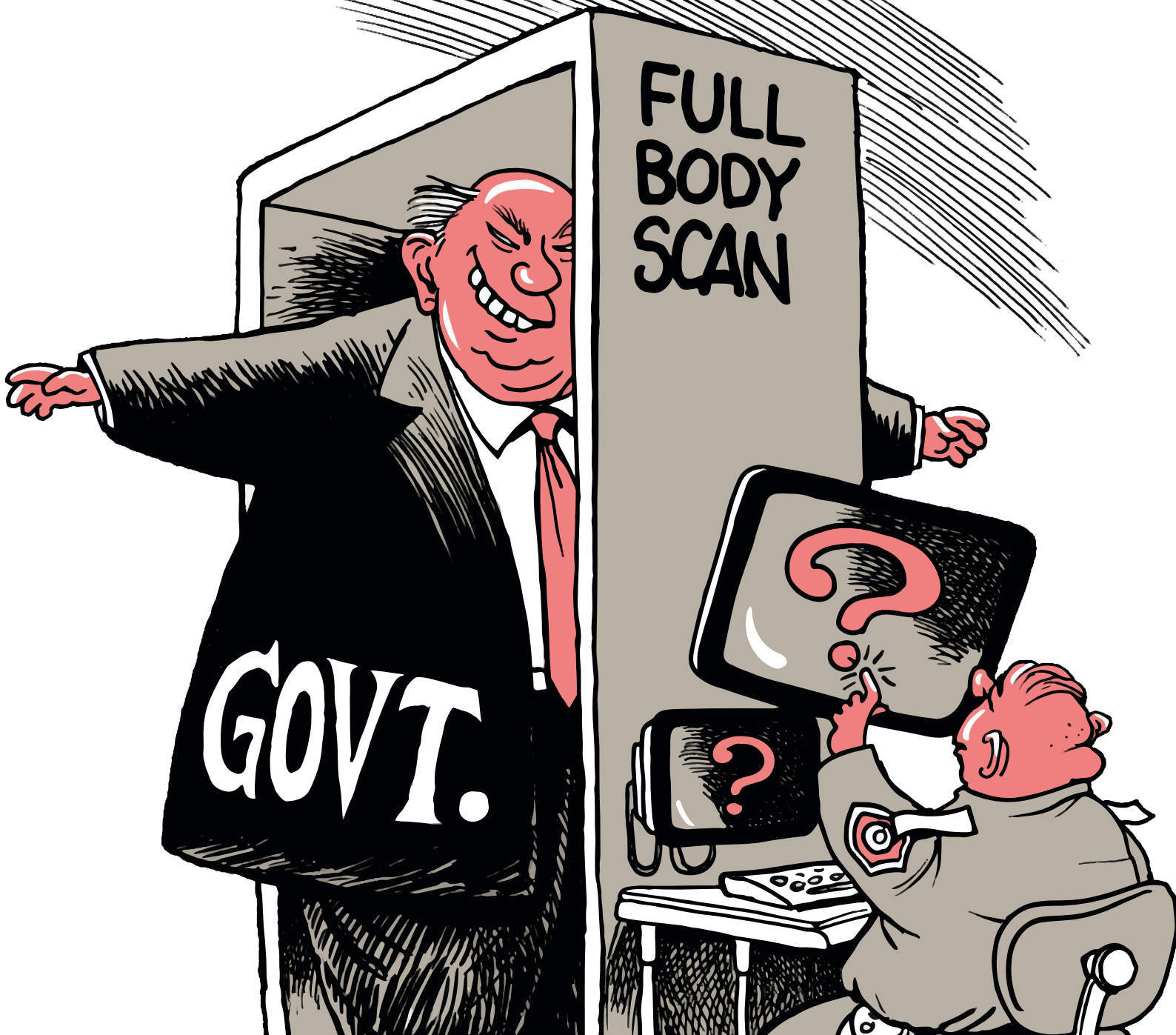
Section Three

Gathering evidence

In order to understand whether and how authorities are acting in line with their obligations and the practical recommendations - and how their compliance changes over time - it is necessary to gather relevant information. CSOs routinely face two challenges in this regard. The first is gaining access to information held by the State. Even basic information on the management of assemblies, such as Standard Operating Procedures (SOPs) and criteria for decision making, can be difficult to access. The second is assessing compliance in practice. Often, the failure to meet international standards and the recommendations is found not in problematic laws or policies, but in how they are (or are not) applied in practice. Gathering evidence of this gap can be especially vexing.

This section sets out a range of tools and techniques which may assist in gathering and analyzing evidence of State policies and practice in relation to the management of assemblies. It contains techniques for gathering information specifically regarding the laws, policies and processes which regulate and inform the conduct of relevant authorities. This information is crucial in order to assess current and ongoing compliance, and to build a case for change. It also includes techniques aimed at securing information regarding real-life events and behavior. Laws and policies relating to the management of assemblies only tell part of the story; how they are (or are not) implemented is critical. While advances in technology have made it easier for monitors and assembly participants to record and document events, this has also opened up a range of risks to privacy and security. These are discussed at the end of this section. The following list should not be considered exhaustive; rather, it is intended to offer cross-disciplinary ideas and inspiration.





EVIDENCE OF LAW, POLICIES AND PROCESSES

A. GATHERING AND ANALYZING DOCUMENTARY EVIDENCE

1. Publicly available information

As noted in the report, access to information relating to the management of assemblies by the public remains a challenge in many countries. In particular, input and process information – such as internal agency policies (including SOPs and training records) and internal complaint resolution – are rarely available. Nonetheless, publicly available information remains an important source of information.

Two types of information are more frequently made accessible. The first is structural information. This includes laws relating to the management of assemblies, and details regarding relevant institutions, such as police oversight mechanisms. Many States make their laws available to the public online. Where this is not the case, it may be helpful to consult The Constitute Project, which contains comparative information on the world's constitutions (<https://www.constituteproject.org/>), and <http://www.use-of-force.info/>, a website run by the former Special Rapporteur on extrajudicial, summary or arbitrary executions which includes the domestic laws relating to the use of force of dozens of States.

The second is output information. This is often published in the form of aggregated statistics. Output information includes crime management statistics, which in some jurisdictions is published by police authorities, and statistics on assembly notifications and restrictions, which is sometimes published by the body with authority to receive notifications.

2. Using Freedom of Information Laws

Recommendation 82(b) of the report calls for States to put in place, and properly implement, a freedom of information (FOI) regime. This is because FOI laws facilitate public access to critically important information, in particular, information on inputs and processes relating to policing, such as SOPs, budgeting and procurement, and training.

Right2Info (right2info.org) is an invaluable resource if you would like to find out more about your country's freedom of information processes, or if you would like to gather regional and international evidence to build a case for a new or improved FOI process in your country. It includes a database of domestic, regional and international judicial cases on access to information, a database of the domestic laws of over 100 States, examples of model FOI laws, as well as commentary and links to resources.

3. Case-related documents

In addition to documents relating to laws and policies, and aggregated data, it is often helpful to access official documents relating to specific violations or events. This may include court records and documents relating to complaints to police oversight bodies, arrest and surveillance records, medical records, and correspondence relating to notices and proposed limitations. This sort of information plays an especially important role in establishing that practice has diverged from policy. For example, many jurisdictions have adopted the detailed guidance contained in international standards and the practical recommendations on how notification processes ought to function. This includes guidance on the time periods for notice, forms and processes for lodging notice, and the content and form of responses. Analyzing the correspondence between an assembly organizer and the relevant authorities can illuminate whether such guidance is, in fact, being adhered to.

The extent to which case-related information is made publicly available depends on the jurisdiction. Similarly, access to such information through FOI requests may be restricted due to privacy concerns. Often, the easiest way to obtain such documents is through a non-official source, such as from the victim or individual concerned. Where this is not possible, there may be provision to secure them through the litigation process, such as through document discovery.

B. ANALYZING BUDGETS

Fulfillment of many of the international legal standards and practical recommendations set out in the report require specific budgetary support. For example, procurement of appropriate less lethal equipment, training of law enforcement officers, establishment and proper functioning of internal and external oversight mechanisms, all require appropriate State funding.

Analysis of budgets can provide important information on a sectoral level (for example, how the resourcing of public order policing compares to health or infrastructure development), or on a more micro level (for example, whether provision is made for testing of less lethal weapons before procurement). Budgets can also be subjected to a socio-economic analysis, in which the impact of budgeting decision of particular classes of people is assessed (for example, whether police expenditure disproportionately benefits urban areas over rural areas).

Budget analysis can be a useful tool in assessing current priorities and practices, and can act as a foundation for performing budget-based advocacy. See the case study on page 8 for an example.

C. COLLECTING INFORMATION ON RELEVANT STAKEHOLDERS AND RELATIONSHIPS

The proper management of assemblies often involves many stakeholders, including law enforcement agencies, municipalities, other government agencies, NHRIs, protest movements and organizers, other community representatives (such as business or community bodies), and civil society groups. Appropriate planning and implementation requires good communication between stakeholders. It is therefore helpful to understand not only who stakeholders are, but also their interests and levels of power, and the relationships between them (see "Tools: Actor Mapping," page 8). This can reveal where communications have broken down or are hostile, where recommended communication structures (such as police liaison points) are missing or not functioning properly, and the points at which various actors might helpfully intervene.

D. TRACING TRADE AND AID

Another technique which may prove helpful in gathering evidence relating to the management of assemblies is tracing the trade of law enforcement and crowd control weapons and equipment. This technique is particularly helpful for those working on closed societies or where information from within the State in question is unavailable, as information may be gleaned from the selling State. This includes export data, such as licenses granted, deliveries, and orders. This is a complex area of research, requiring specialist expertise. The Campaign Against Arms Trade provides information on how to conduct an investigation and links to relevant data sources (<https://www.caat.org.uk/resources/arms-trade-info>). The SIPRI Arms Transfers Database is also invaluable (<http://www.sipri.org/databases/armstransfers/armstransfers>). Further helpful information is published by Omega Research Foundation (omegaresearchfoundation.org).

In addition to monitoring the trade in equipment, it may be possible to identify involvement of third-party

Case Study

USING A 'TRANSPARENCY AUDIT' TO ASSESS ACCESS TO INFORMATION ON PROTEST

Open Society Justice Initiative, Getulio Vargas Foundation, Rio de Janeiro (FGV), and the Transparency Audit Network conducted a transparency audit¹ in five countries to evaluate the information that authorities provide through website-based disclosure or in response to access to information requests. The audit sought to elicit information on the three critical stages of policing of public gatherings: the preparedness of police forces, policing in practice, and the oversight and accountability of police forces. The audit sought to assess the completeness of the responses received to requests for information. Categories of information requested included all Standard Operating Procedures, training manuals, equipment used to police and monitor public gatherings, and details of funds budgeted and spent on crowd control, number and causes of injuries during gatherings, groups denied authorization to assemble and reasons given, and number and outcomes of complaints regarding police misconduct.

The potential value of such an audit is evident in the analysis of findings regarding policies (including SOPs), record management systems, training and equipment: "Most police forces queried provided most of the requested information. However, the failures to provide information are striking. None of the Indian police forces provided SOPs, training manuals or information about the equipment that police are authorized to use to quell protests. Mexico's police authorities expressly refused to provide the training manuals for policing of gatherings. Only three of the five police forces queried in Brazil and three of the five queried in the UK provided information about equipment available for handling and monitoring protests." (p. 21)

Details of the methodology, and analysis of the project findings, can be found in the report *Police Transparency:*

Evaluating Access to Information in Relation to the Policing of Public Gatherings in Brazil, India, Mexico, South Africa and the United Kingdom (2015) (available at: <http://www.transparencyaudit.net/sites/default/files/articles/transparency-policing-public-protests-osji-fgv.pdf>)

ANALYZING THE POLICE BUDGETS OF UGANDA AND KENYA

In 2005 and 2006, the Commonwealth Human Rights Initiative (CHRI) released reports analyzing the budgets of the police forces of Kenya and Uganda, and their implications for crime management and citizen safety.

The reports assessed the trends in budget allocation at global, sector and programme levels, and made interesting and important observations regarding, for example, the allocation of resources between policing units, prioritization of geographic coverage above strengthening capacities, and stagnation of budget allocation for law enforcement.

"Funding to the UPF is way below the levels necessary for it to carry out effective policing," the report notes at p. 34. "Furthermore, its growth has progressively lagged behind that of reported crime. This is particularly the case with the Force's development budget [which includes equipment, vehicles, and some trainings] whose size as a share of the Force's overall budget has reduced by more than half over the review period."

See: CHRI, *A Review Of The Kenya Police Force Budget And Its Effect On Crime Management* (2005) available at humanrightsinitiative.org/old/publications/police/kenya_budgetary_report.pdf

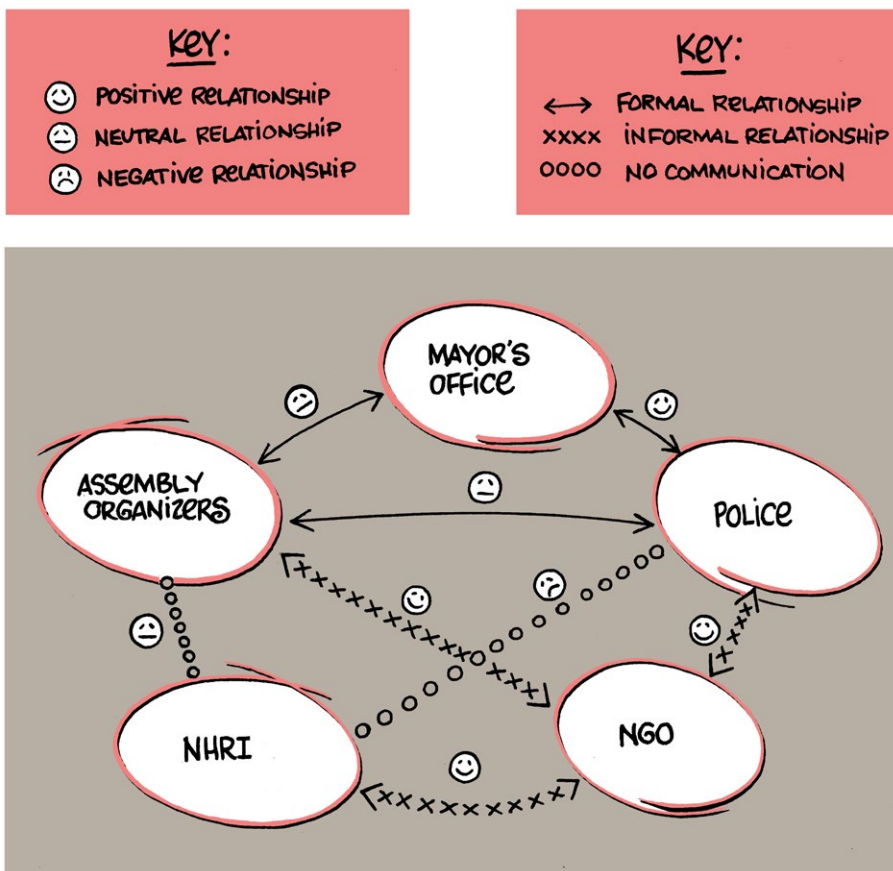
CHRI, *A Review Of The Uganda Police Force Budget And Its Effect On Crime Management* (2005) available at www.humanrightsinitiative.org/publications/police/uganda_report.pdf

TOOLS: ACTOR MAPPING IN ACTION

Actor mapping (also known as stakeholder mapping) is a common tool for identifying key actors, and understanding and visualizing power relationships and channels of influence. It can also help CSOs to identify more easily and creatively where the opportunities for influence lie and subsequently guide their advocacy strategies.

Facts: The local council has decided to close a local park, and sell the land to private business interests. A group of local citizens has mobilized around the issue, and under the informal leadership of three women, has decided to protest the decision. They have submitted a notice to the mayor's office, as required under law, of their assembly which will take place next Saturday. Your NGO has created the following stakeholder map, to determine who is in touch with whom, and how it might assist to ensure the assembly runs peacefully.

Learn more about actor mapping in Chapter 8 of OHCHR's *Manual On Human Rights Monitoring* (2011).



States in the provision of other services, such as training support. It is common for developed States to include law enforcement training as a component of foreign aid packages to developing States. These developed States may be a fruitful advocacy target, or may be a source of information (see, e.g., Bahrain case study on page 9).

EVIDENCE RELATING TO IMPLEMENTATION IN THE CONTEXT OF A SPECIFIC ASSEMBLY

A. DOCUMENTING INFORMATION USING VIDEO AND STILL PHOTOGRAPHY

Video and photographic records can provide compelling evidence, including:

- Documentation of police tactics and conduct during an assembly, such as whether and how barriers and containment was used, and whether warnings were issued
- Information which identifies specific law enforcement units (such as uniforms) or individual officers (such as ID numbers)
- Records of stop-and-searches, arrests, and other detentions

- Records of use of force
- Information which may assist in identifying less lethal weapons and other equipment

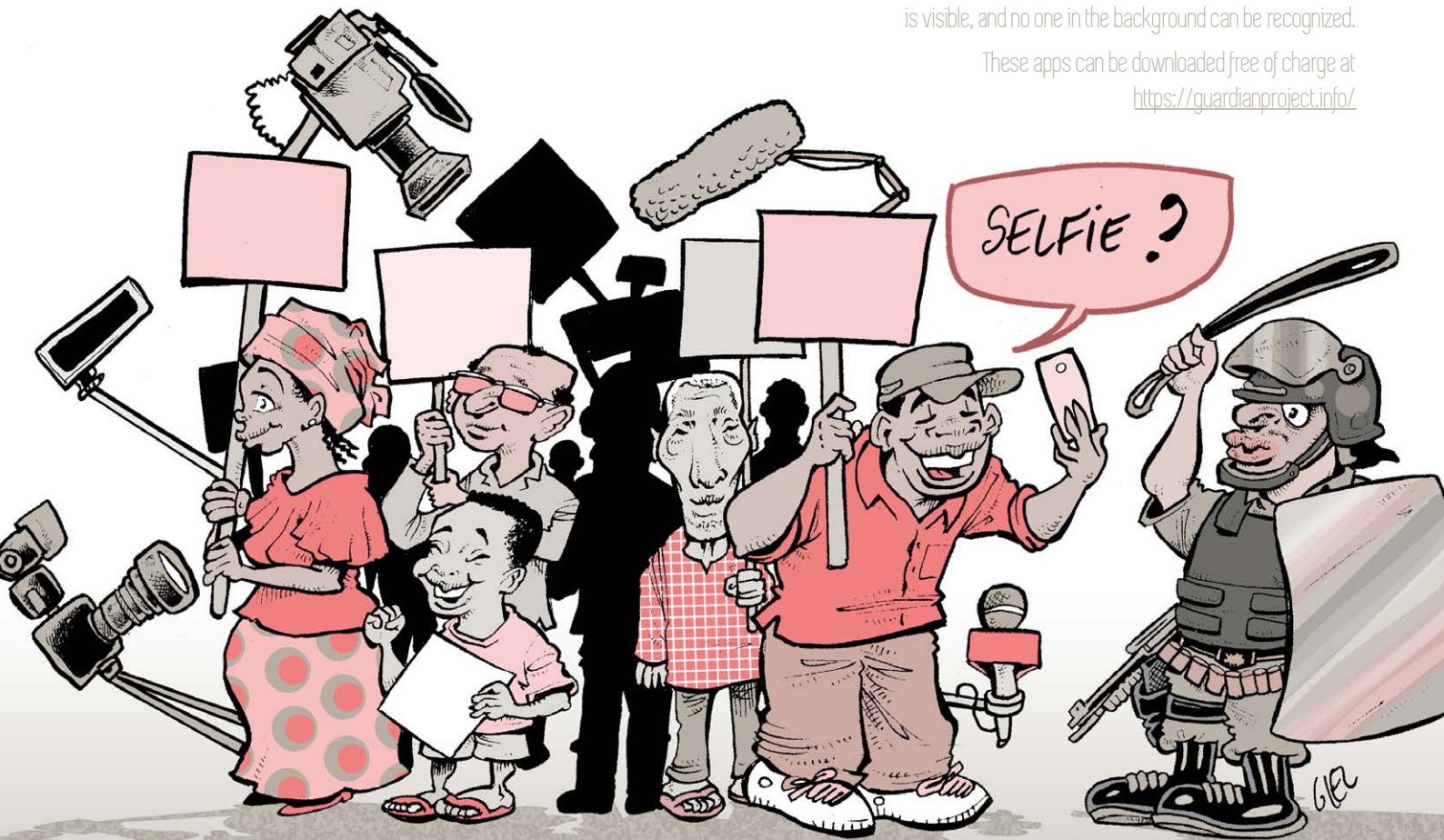
There are a number of ways in which the probative value of such evidence can be enhanced, such as ensuring any automatic date, time and GPS location capturing features are turned on to enable verification of the footage, and protecting footage to ensure the chain-of-custody remains intact. The NGO Witness has developed a comprehensive tool kit for filming in demonstrations. It includes resources on filming in teams, filming using a mobile phone, equipment and production techniques, and enhancing the evidentiary value of footage. The tool kit may be found at <https://library.witness.org/product-tag/protests/>.

Recording events and law enforcement conduct at a protest may expose you and others to security risks, and raises a number of ethical concerns. These are addressed below.

TOOLS: APPLICATIONS TO ENHANCE PRIVACY AND SECURITY

The Guardian Project and Witness have developed two apps to assist those using their mobile phones to document events such as protests. 'CameraV' enables users to capture and share verifiable photos and video proof on a smartphone or tablet, while keeping it secure and private through encryption. 'Obscuracam' enhances privacy by allowing a user to pixelate or blackout an individual's face in a photo or video, or to 'invert pixelate', so that only the face selected by the user is visible, and no one in the background can be recognized.

These apps can be downloaded free of charge at <https://guardianproject.info/>



Case Study

STOP THE SHIPMENT CAMPAIGN

The Stop the Shipment Campaign was launched by the NGO Bahrain Watch in 2013, as part of an effort to stop tear gas exports to Bahrain due to human rights concerns. The campaign focused on a request by a South Korean company to export what was believed to be 1.6 million rounds of tear gas to the Gulf state. The campaign was successful in convincing South Korea's Defence Acquisition Program Administration (DAPA) to deny two requests to export tear gas to Bahrain due to the "unstable politics in the country [Bahrain], people's death due to tear gas and complaints from human rights groups".

See: <https://bahrainwatch.org/blog/2014/01/07/south-korea-halts-massive-tear-gas-shipment-to-bahrain/>

B. COLLECTING WITNESS TESTIMONY

While technology has become ever more important in the monitoring of assemblies, gathering statements from victims and witnesses of possible violations remains critical. Such testimonies may provide information in circumstances where no footage exists, or may corroborate or provide context for other forms of evidence. Gathering witness and victim testimony is especially important if legal proceedings are anticipated, as this form of evidence remains central to judicial processes.

Securing testimony in the context of an assembly entails particular challenges. It is difficult to engage an individual for any length of time, or to ensure privacy. For this reason, initial statements should be taken on site (and if possible recorded by video or audio), and an individual's contact details recorded to facilitate comprehensive follow-up.

Collecting witness testimony can become especially important in the phase following an assembly. Effective follow-up with witnesses and victims can shed light on any persecution of assembly organizers and victims, detentions, arrests and prosecutions, and the outcomes of any internal and external complaints processes. Where any witness or victim is involved, it is essential that their security and safety is protected (see page 9).

C. IDENTIFYING EQUIPMENT AND WEAPONS

Photographs, video, and physical evidence (such as casings) of policing equipment and weapons deployed during an assembly can be instrumental in determining whether appropriate equipment is being procured, and whether it is being used appropriately and safely.

A number of resources exist to assist you to identify specific weapons and equipment, most notably:

- Amnesty International and CODRESIA, Monitoring and Investigating Equipment used in Human Rights Abuses (2005), available at http://www.amnesty.nl/sites/default/files/public/booklet_eng_equipment_0.pdf

• Omega Research Foundation's Visual Glossary of military, security and police (MSP) equipment, which enables monitors to recognise the different types of equipment used by law enforcement officers. Available at <https://omegaresearchfoundation.org/resources/visual-glossary-introduction>

• [Mispo.org](https://www.mispo.org/): searchable online database with thousands of images of MSP equipment.

Evidence of injuries caused by weapons and equipment in the context of an assembly may also be relevant in establishing misuse. The Physicians for Human Rights and INCLIO report *Lethal in Disguise: The Health Consequences of Crowd-Control Weapons* (2016) available at https://s3.amazonaws.com/PHR_Reports/lethal-in-disguise.pdf, may be helpful in this regard.

THINGS TO KEEP IN MIND

A. CONSIDERATIONS WHEN COLLECTING EVIDENCE IN ANTICIPATION OF LEGAL PROCEEDINGS

Evidence collected in the context of an assembly can be used in any number of ways. However, if you think that the evidence might be used in legal proceedings, certain considerations apply. Relevant legal proceedings might include:

- A criminal case against a protester - do you think the evidence you have collected might be relevant to the prosecution of a protester?

• A civil case against a protester - do you think a private entity, such as an individual or a company, might try to sue a protester?

• A criminal case against a law enforcement officer - do you think that the evidence you have collected implicates a law enforcement officer in a crime?

• An administrative or civil case against a law enforcement officer - do you think the evidence you have collected could be relevant to a charge of misconduct against an officer?

It is critical to ensure the probative value of the material that might be used in legal proceedings. Witness, in its All About Evidence guide, emphasizes the need for evidence to be reliable and relevant. Where evidence is collected in the context of an assembly, reliability will be enhanced by ensuring the information is verifiable and authentic (meaning, neither the footage nor the metadata have been manipulated). It is also important that the chain of custody for any evidence - be it video, documents, or physical evidence - is proven.

For a piece of evidence to be admitted in a courtroom, it must also be relevant to proving the element of an offence. For this reason, it is helpful for those collecting evidence to have an understanding of offences which may be relevant in the context of an assembly (for example, assault under domestic law, or torture under international law), their elements, and relevant standards of proof.

B. MANAGING SECURITY AND SAFETY RISKS

In all circumstances and at all times, monitors have an obligation not to jeopardize the life, physical and psychological safety, freedom and well-being of victims, witnesses and all those who enter into contact with them in the framework of their monitoring work.

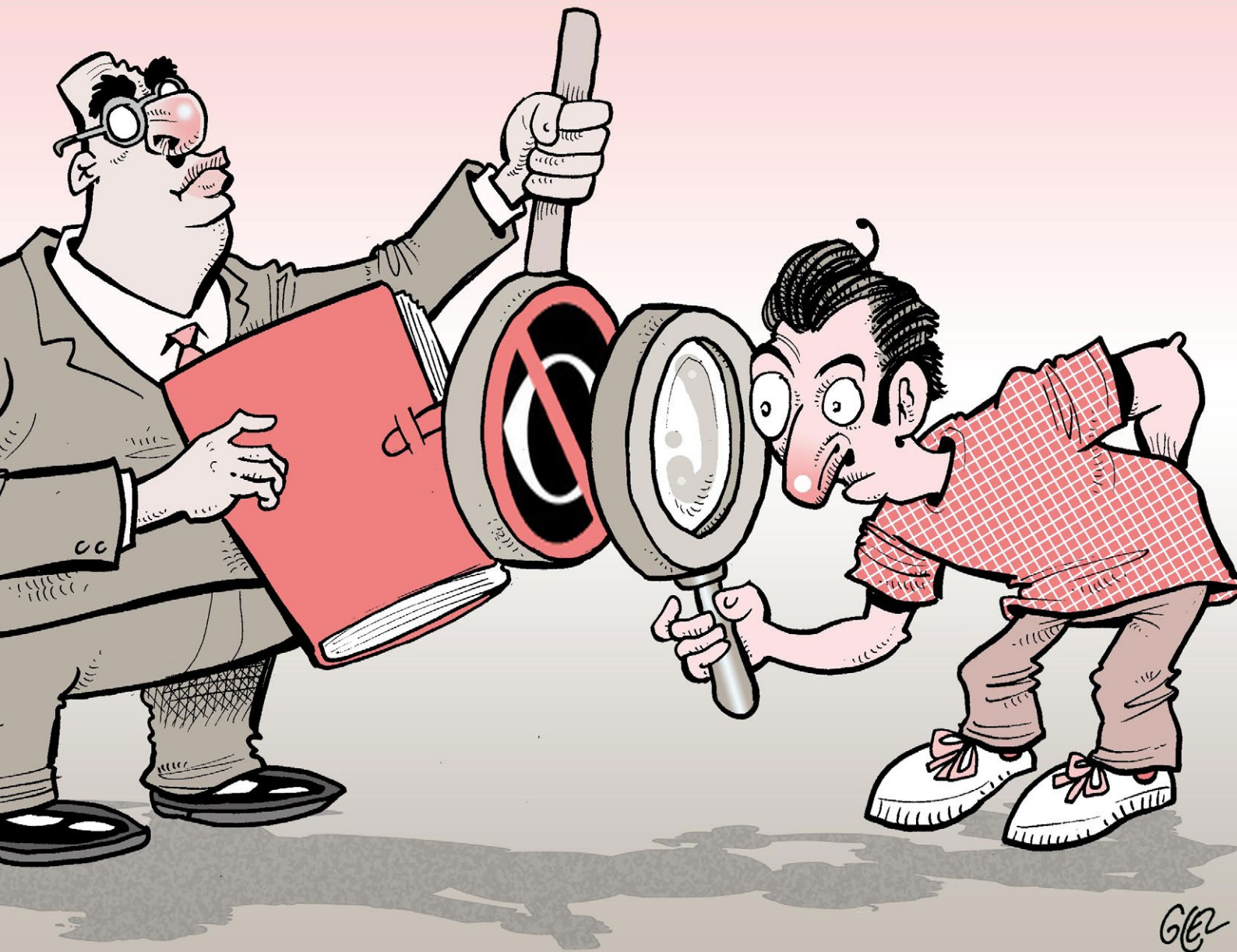
Whenever you are collecting evidence, your safety and the safety of those you engage with, are paramount. You have an obligation not to jeopardize the life, physical and psychological safety, freedom and well-being of victims, witnesses and all those who enter into contact with, including people you interview and record.

This is known as the 'do no harm' principle. It necessitates that you to make every effort to avoid causing harm when undertaking monitoring, and will require you to take steps to protect the security of the data you collect, as well as yours and others physical security. This is an especially important consideration when collecting evidence during an assembly, or in contexts where protest organizers, participants, or civil society generally are regarded with suspicion.

Your decision to monitor an assembly - or even to just to begin work on assembly-related issues - should be preceded by a comprehensive risk assessment. Any risk assessment should include consideration of monitors' and others' vulnerabilities, the physical environment, interests and motivations of various stakeholders, relations and interactions between stakeholders, and digital and information security risks. It should also put in place appropriate steps to mitigate these risks, for example, monitoring or recording in teams, regular 'check-in' and in-case-of-emergency arrangements, and appropriate digital security (such as encryption software).

See the following page for tools to help you assess and mitigate risk in the context of defending human rights.





Tools:

RESOURCES TO HELP YOU ASSESS AND MITIGATE RISK

- Protection International, New Protection Manual For Human Rights Defenders (2009), available at <http://protectioninternational.org/publication/new-protection-manual-for-human-rights-defenders-3rd-edition/>
- Frontline Defenders, Protection Handbook for Human Rights Defenders (2007), available at <https://www.frontlinedefenders.org/en/resource-publication/protection-handbook-human-rights-defenders>
- Frontline Defenders, Workbook on Security: Practical Steps for Human Rights Defenders at Risk (2016), available at <https://www.frontlinedefenders.org/en/resource-publication/workbook-security-practical-steps-human-rights-defenders-risk>
- Security in-a-Box: Tools and Tactics for Digital Security, at <https://securityinabox.org/en>

Section Four

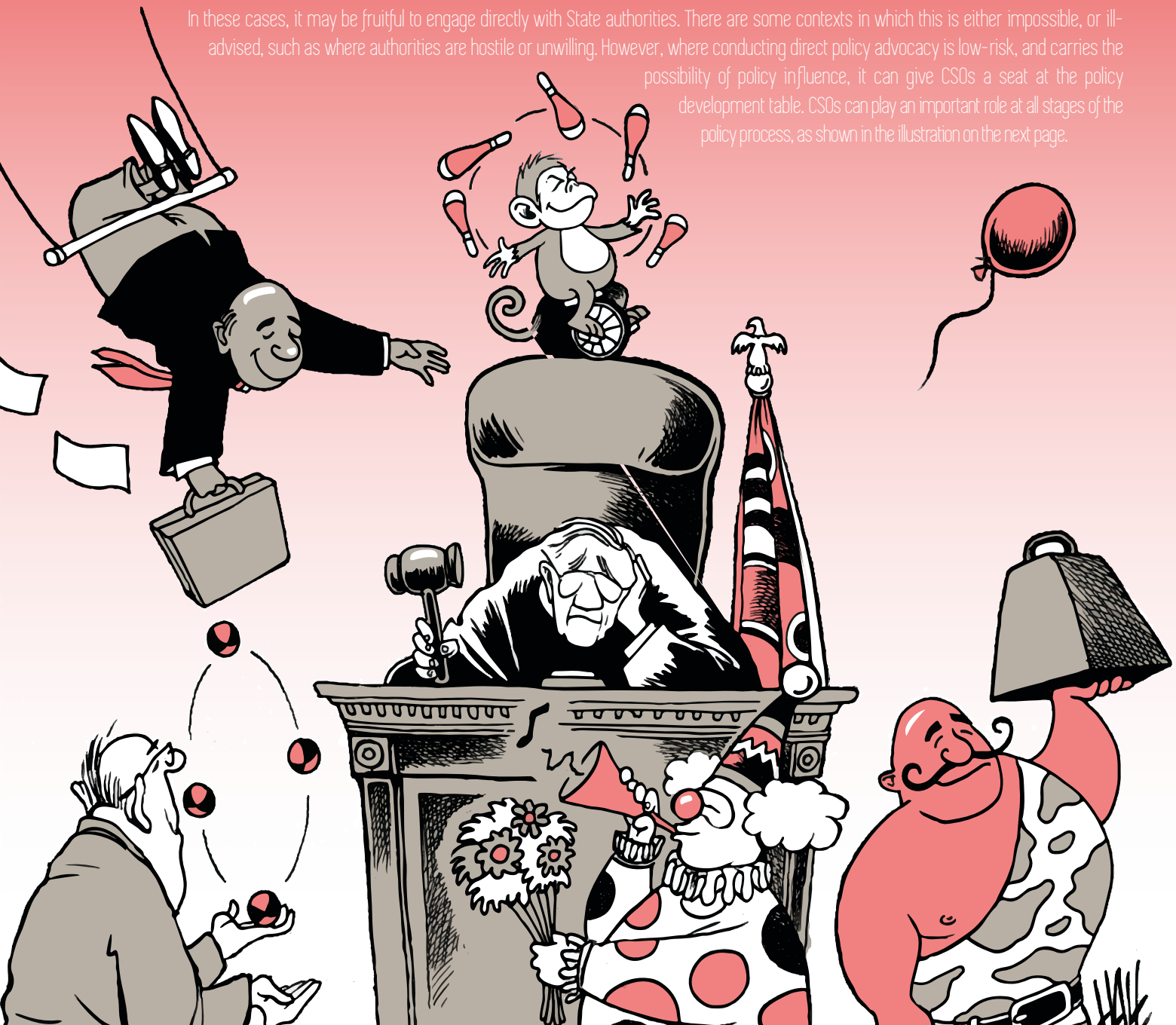
Tactics for Change

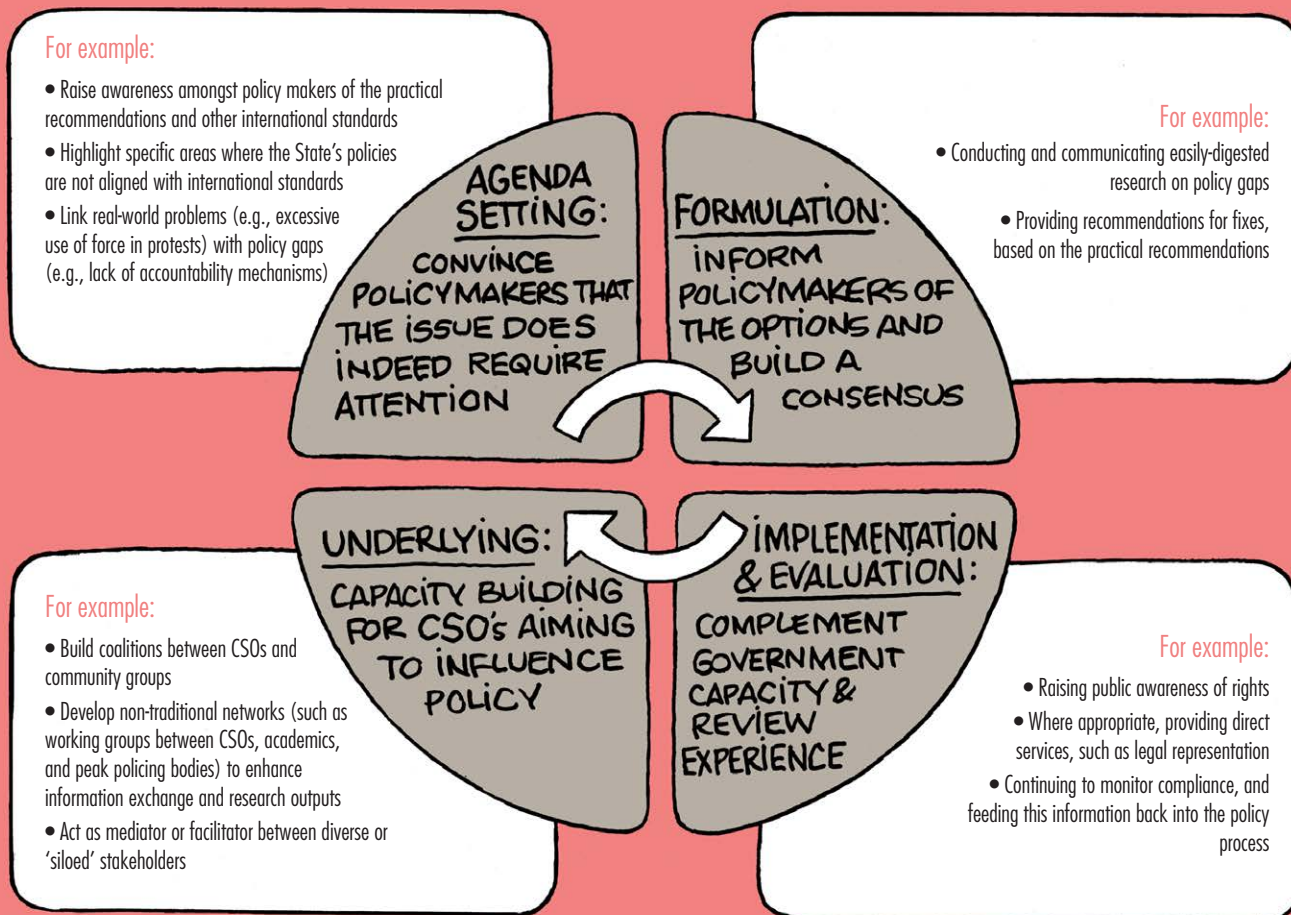
Having collected evidence and information, how can you use this to influence change in policy and practice? How can evidence be translated into implementation of the practical recommendations in your country? The answer will, of course, depend largely on context. However, this section sets out several tactics which you may wish to consider.

ENGAGE IN POLICY ADVOCACY

Many CSOs engage routinely in indirect policy advocacy, including using the media, and community engagement and mobilization, to advocate for policy reform. Some practical recommendations may very well be advanced in this way. However, others may be too specific or bureaucratic. For example, a campaign for the establishment by police of post-event debriefing mechanisms for assemblies (practical recommendation 49(e)) is unlikely to capture the imagination of the media or public at large!

In these cases, it may be fruitful to engage directly with State authorities. There are some contexts in which this is either impossible, or ill-advised, such as where authorities are hostile or unwilling. However, where conducting direct policy advocacy is low-risk, and carries the possibility of policy influence, it can give CSOs a seat at the policy development table. CSOs can play an important role at all stages of the policy process, as shown in the illustration on the next page.





Adapted from Julius Court, Enrique Mendizabal, David Osborne and John Young, Policy Engagement: How Civil Society Can be More Effective, ODI (2006), p. 32.

Specific tactics for direct engagement may include:

- making recommendations (submissions) to parliament or government agencies;
- providing evidence and research on which supportive policy makers can hinge' policy reforms (for more on building an evidence base, see below);
- influencing specific policy makers by developing or strengthening informal relationships; and
- attending/contributing to meetings and public hearings on assembly-related issues.

At the heart of successful direct policy advocacy are relationships and familiarity with the policy processes and institutions - that is, who has actual influence over the outcome, and where are the openings and barriers to change? Relationships with relevant individuals and institutions must be fostered over time, so that your organization builds credibility. When considering how direct policy advocacy might be used to enhance domestic adoption of the practical recommendations, it is especially important to identify opportunities for impact. For example, if local authorities (such as mayor's offices) are responsible for receiving notices of planned assemblies, would it make sense to offer them technical assistance in aligning their practices with international standards? If the prospects of securing legislative reform at the central government level are limited by the prevailing political climate, is there a possibility of working directly with police agencies to revise their SOPs? Or with police colleges to enhance the human rights component of their training?

For more on policy advocacy, see the case study "Learning from the Development Field: ODI's Rapid Research" case study on page 14.

BUILD THE EVIDENCE BASE

One of the most important roles CSOs can play in improving respect for human rights in the context of assemblies is by marshaling evidence as a basis for change. Part II outlines a range of possible evidence collection methods. One possible use for such evidence is to use it in methodologically rigorous research. This can come in any number of forms - including comparative studies, and pilot projects.

For example, the 'transparency audit' conducted by Open Society Justice Initiative, FGV, and the Transparency Audit Network, and described on page 7, used a tested methodology to gather and analyse information which: a) revealed publicly available information on protest; b) completeness of FOI requests for information; c) where gaps and failures occurred (for example, particular categories of information which were not provided, and reasons for failure to provide complete information); and recommendations for improving FOI responsiveness and fulfilling international obligations in relation to access to information. This sort of rigorous research can support the moral claim of human rights standards in convincing policy-makers that problems exist in current systems, that these warrant attention, and in buttressing the specific measures which you prescribe.

Multidisciplinary research collaborations have proven very fruitful in producing useful research on protests. For example, a collaboration between Physicians for Human Rights and INCLIO produced the first systematic research on the health impacts of less lethal weapons, using public health methodologies (see *Lethal in Disguise: The Health Consequences of Crowd-Control Weapons* [2016]). Similarly, ongoing cooperation between Amnesty International and the Omega Research Foundation (which specializes in evidence-based research on the manufacture, trade, and use of MSP equipment) has produced a range of technically rigorous

publications (see, for example: *The Human Rights Impact of Law Enforcement Equipment* (2015); *Europe's Trade in Execution and Torture Technology* (2015); and *more China's Trade in Tools of Torture and Repression* (2014), all available at <https://omegaresearchfoundation.org/publications>).

LITIGATE

Direct policy advocacy may not always be possible, or advisable. In circumstances where authorities are hostile to CSOs, where prospects for meaningful engagement are negligible, or where close engagement with authorities may threaten a CSO's safety or credibility, a wiser strategy will be to work 'outside the tent'.

Litigation - that is, bringing civil or administrative claims against those responsible for violations in the context of assemblies - is a common, and potentially effective, tactic for holding authorities to account, and for fulfilling the right to an effective remedy. It can also be an effective tool for achieving policy change beyond a specific case, by increasing scrutiny of poor policies and implementation gaps. The litigation process itself can also bring to light critical information (through, for example, discovery) which would otherwise remain buried. Litigation at the domestic level can also be supported by litigation at the regional level. The European Court of Human Rights in particular has developed a rich jurisprudence relating to human rights in the context of assemblies.

ENGAGE IN INTERNATIONAL ACTION

Another tactic is to make use of the regional and international human rights infrastructure to bring attention to restrictive policies in a particular country, and bring pressure to bear on the relevant authorities. This tactic is particularly useful when working on closed societies, where opportunities to achieve change from within are stifled. International action is often most effective when it mobilizes a coalition or network of like-minded organizations. Working together in a network amplifies the advocacy message, and can increase credibility. It can also overcome some of the barriers which many domestic CSOs face in accessing international mechanisms. These barriers include lack of accreditation, unfamiliarity with procedures and 'how things work', and the absence of pre-existing relationships which those they are seeking to influence. Organizations which have a regular presence at the relevant forum, and have cultivated access and relationships to decision-makers, can be especially helpful partners.

International mechanisms which may provide advocacy avenues for CSOs include the UN Human Rights Council, various treaty bodies (such as the Human Rights Committee), the Universal Periodic Review process, and UN Special Procedures, including the UN Special Rapporteurs on extrajudicial, summary or arbitrary executions, and the right to freedom of peaceful assembly and of association. For more information on the ways CSOs can engage with these mechanisms, see the table on page 17.

Opportunities also exist to engage with regional and sub-regional mechanisms. Examples include the African Commission on Human and Peoples' Rights (ACHPR), which includes the Forum on the Participation of NGOs, and the Inter-American Commission on Human Rights (IACHR). Ways to engage include:

- submitting individual complaints / petitions;
- contributing to the review of States' progress in implementing their obligations;
- engaging the Special Procedures set up by these mechanisms; and
- participating in thematic consultations and public hearings.

More information on the IACHR is available at <http://www.oas.org/en/iachr/>. Information on the ACHPR can be accessed at <http://www.achpr.org/>.

PROVIDE CAPACITY BUILDING AND TECHNICAL ASSISTANCE

CSOs play a critical role in raising awareness and understanding of laws and rights relating to assemblies, and in ensuring that the laws and policies adopted on paper translate into action on the ground. They play an especially important role in ensuring that key stakeholders are aware of developments in international standards relating to assembly and protest. This includes conducting human rights training for community groups and protest movements, law enforcement agencies, other relevant authorities and judicial officers. It can also involve contributing technical expertise, such as providing input to the development of law enforcement training materials, and on the development of protocols. For an example, see the case study on page 15.

LEARNING FROM THE DEVELOPMENT FIELD: ODI'S RAPID RESEARCH

The Overseas Development Institute (ODI) has produced a suite of materials designed to assist CSOs to have a greater impact on policy processes. While the materials are directed at an international development audience, they may also be applicable to CSOs working on human rights issues, such as the management of protests. The materials contain a range of practical tools to help CSOs assess the policy context, communicate more effectively with policy makers, and influence the policy process.

Details of the project are available at <https://www.odi.org/programmes/rapid>. See in particular:

- Daniel Start and Ingie Hovland, *Tools for Policy Impact: A Handbook for Researchers*, ODI (2004)
- Julius Court, Enrique Mendizabal, David Osborne and John Young, *Policy Engagement: How Civil Society Can be More Effective*, ODI (2006)

RESEARCH INTO NON-ADVERSARIAL PEER REVIEWS OF POLICING

Otto Adang, Academic Dean at the Police Academy of the Netherlands (and member of the panel advising the Special Rapporteurs on the practical recommendations), has produced research exploring experiences policing major events over 10 years with a utilization-focused, non-blaming, non-adversarial methodology. The results indicate that this methodology contributes to organisational learning in three ways: hosts receive informed and constructive feedback, reviewers gain a lot of additional experience and insights, and the exchanges taking place in the course of or following the reviews (e.g. in seminars) contribute to the identification of good practices and development of professional norms.

This research buttresses one of the recommendations contained in the report, calling for law enforcement agencies to "conduct ongoing non-adversarial peer review of policing operations" (para. 88(e)). It provides an evidence base supporting adoption of the recommendation, and coming from a policing expert, may be more convincing to policy makers who view human rights claims with suspicion.

The study is available here: <http://www.maklu-online.eu/en/tijdschrift/ejps/online-first/online-first/nonadversarial-peer-reviews-policing-operations-fost/>

COOPERATION FOR ACTION ON BAHRAIN

In 2013, a network of CSOs concerned about violations of human rights in the context of assemblies in Bahrain began a coordinated campaign to lobby States for action at the Human Rights Council. The network included a number of INGOs with a permanent presence in Geneva partnering with Bahraini and regional groups, including the Bahrain Center for Human Rights, Gulf Centre for Human Rights and the Bahrain Institute for Rights and Democracy (several of which do not have consultative status).

The campaign played a major role in the decision of 47 States, including the United States, to co-sponsor a joint statement of the issue at the 24th session of the Council, in which they noted "We are also particularly concerned by the ongoing violation of the rights to freedom of peaceful assembly and association and the repression of demonstrations." The statement can be accessed in full at <https://geneva.usmission.gov/2013/09/09/joint-statement-expresses-concern-about-human-rights-situation-in-bahrain/>

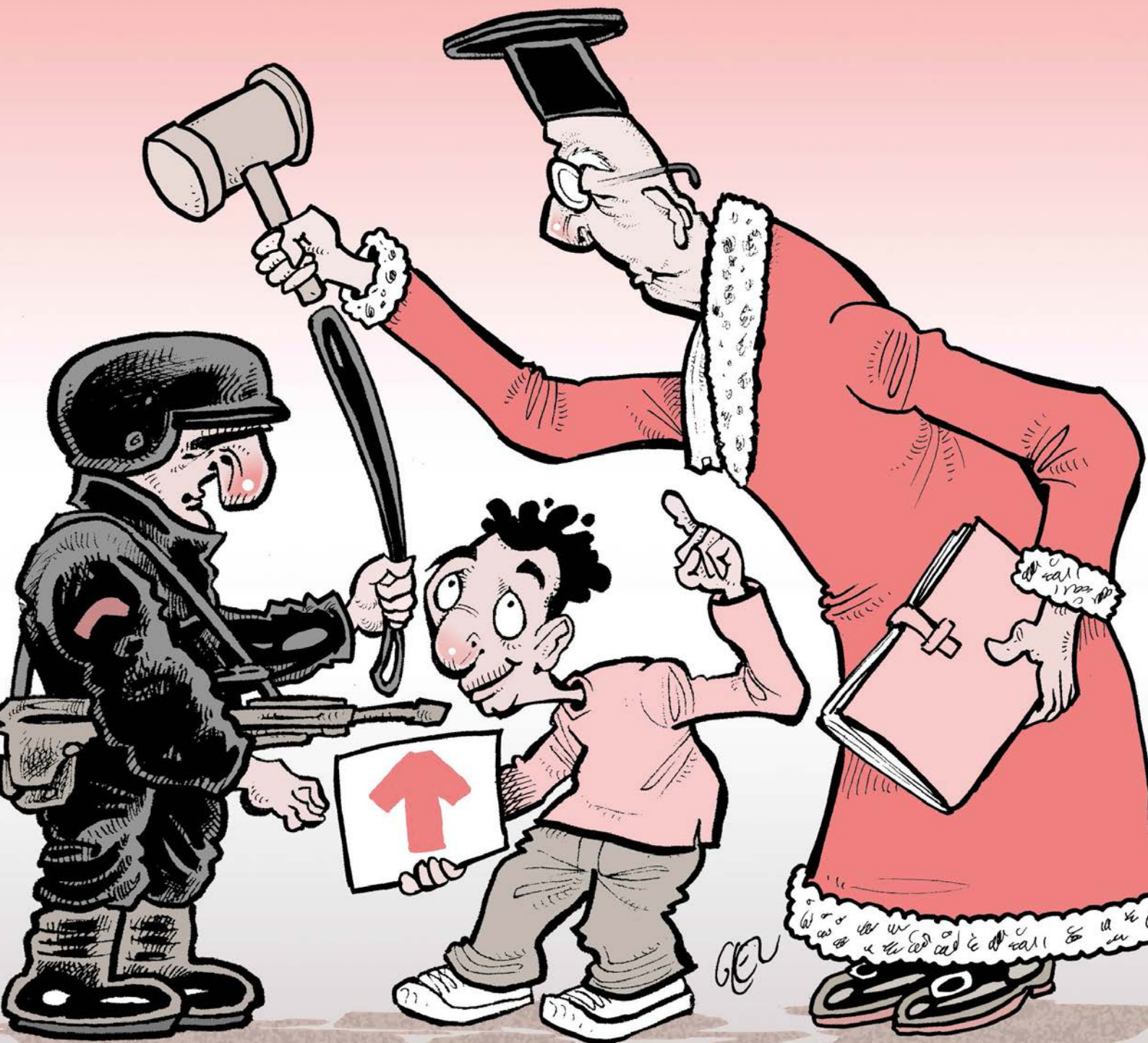
CHILEAN NHRI PROVIDES TECHNICAL ASSISTANCE TO IMPROVE USE OF FORCE PROTOCOLS

In 2013, Chile's national human rights institution, the Instituto Nacional de Derechos Humanos (INDH) made a recommendation to law enforcement (Carabineros) that it bring its protocols in relation to the policing of assemblies into line with international standards. The Carabineros undertook the process of elaborating a series of 30 protocols, with recommendations and technical inputs from the INDH. In 2014, the protocols were made public. The INDH and Carabineros continue to cooperate in the review of these protocols and in raising public awareness of the protocols, in particular among vulnerable groups.



“WHEN USED IN THE RIGHT CONTEXT, LITIGATION CAN ENSURE CONCRETE REMEDIES: ACCOUNTABILITY, COMPENSATION AND SOME CLOSURE. LITIGATION CAN ALSO SHINE A LIGHT ON REPRESSION BY FORCING THE GOVERNMENT TO ADDRESS ISSUES HEAD-ON IN A PUBLIC SETTING, WHETHER THROUGH WRITTEN PROCEDURES OR OPEN HEARINGS. INDEPENDENT COURTS AND STRONG RULINGS CAN PROVIDE BACKING FOR ACTIVISTS, HALT ABUSES AND COMMAND SOCIETAL CHANGE.”

Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association



Tools:

HOW TO ENGAGE IN INTERNATIONAL ACTION

Mechanism	How can I engage?	Notes	More information
Human Rights Council	<ul style="list-style-type: none"> • Submit written statements • Make oral interventions • Participate in debates, interactive dialogues, panel discussions and informal meetings • Organize “parallel events” on issues relevant to the work of the Council • Lobby country missions 	<p>Only NGOs in consultative status with the United Nations Economic and Social Council (ECOSOC) can be accredited to participate in the Human Rights Council’s sessions as Observers.</p>	<p>OHCHR, United Nations Human Rights Council: A Practical Guide for NGO Participants (2013), available at http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/Complaints.aspx</p>
UN treaty bodies	<ul style="list-style-type: none"> • Prepare written submissions and shadow reports on specific countries • Contribute to general and thematic discussions • Submit individual complaints 	<p>Treaty bodies are tasked with monitoring and encouraging States to uphold obligations under the nine main international human rights treaties. Potentially relevant treaty bodies include the Human Rights Committee and the Committee against Torture (CAT).</p> <p>Each treaty body functions slightly differently. Importantly, not all treaty bodies accept individual complaints. It is important that you familiarize yourself with the procedures of the treaty body you wish to engage.</p>	<p>International Service for Human Rights, A Simple Guide To The UN Treaty Bodies (2015), available at http://www.ishr.ch/sites/default/files/documents/ishr_simpleguide_eng_final_final_dec15.pdf</p>
Universal Periodic Review (UPR)	<ul style="list-style-type: none"> • Prepare written submissions and shadow reports on specific countries 	<p>Under the UPR, the human rights situation of all UN Member States is reviewed by a Working Group every 4.5 years. The review results in an “outcome report”, which contains recommendations for the State in question to implement.</p> <p>Reports submitted by CSOs can ensure that the Working Group receives a balanced picture of the human rights situation, and can inform their recommendations.</p> <p>It is common for CSOs to enhance the impact of their report by preparing and submitting them as a coalition of organizations. The UPR does not receive communications on specific cases.</p>	<ul style="list-style-type: none"> • See general information on how to engage at UPRInfo: http://www.upr-info.org/en/how-to/role-ngos • OHCHR, Universal Periodic Review: A Practical Guide for Civil Society (2014) available at http://www.upr-info.org/sites/default/files/general-document/pdf/practicalguidecivilsociety_en.pdf
UN Special Procedures	<ul style="list-style-type: none"> • Submit individual complaints • Participate in consultations (through questionnaires, in person meetings, or submission of relevant documents) on thematic reports • Contribute to country missions by attending consultations 	<p>Special Procedures may be able to assist you by:</p> <ul style="list-style-type: none"> • urging governments to respond to specific allegations; • requesting governments to allow them to conduct independent investigations into the situation on the ground, which will be presented in a report; • bringing international pressure and publicity to a situation by, for example, releasing statements. 	<ul style="list-style-type: none"> • CIVICUS, Reporting Human Rights Violations to UN Special Procedures: An Introductory Guide (2011) • See instructions for how to submit a complaint at OHCHR: http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx • http://spsubmission.ohchr.org/ • For specific information on submitting a complaint to the UN Special Rapporteur on the right to freedom of peaceful assembly and of association, see: http://www.ohchr.org/EN/Issues/Assembly-Association/Pages/Complaints.aspx



United Nations Special Rapporteur

On the rights to freedom of peaceful assembly and of association

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