

Protests under threat



Time to defend protest for all

November 2022

ARTICLE¹⁹



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The logo for ARTICLE 19, featuring the text "ARTICLE 19" in a bold, sans-serif font, with the "19" in a larger, more prominent font. The logo is set against a white background that is part of a larger graphic element.

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ARTICLE 19 works for a world where all people everywhere can freely express themselves and actively engage in public life without fear of discrimination. We do this by working on two interlocking freedoms, which set the foundation for all our work. The Freedom to Speak concerns everyone's right to express and disseminate opinions, ideas, and information through any means, as well as to disagree from, and question power-holders. The Freedom to Know concerns the right to demand and receive information by power-holders for transparency, good governance, and sustainable development. When either of these freedoms comes under threat, by the failure of power-holders to adequately protect them, ARTICLE 19 speaks with one voice, through courts of law, through global and regional organisations, and through civil society wherever we are present.

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Cover image: Anti-government protesters at the Democracy Monument, Bangkok, 16 August 2020. (Photo: Goldenheartly/Shutterstock.com)

Foreword

Across time and history, in every country and in every society, protest movements have been central to the achievement of change and for the advancement of human rights. Many of the human rights and freedoms we enjoy today have been a result of people coming together and protesting injustice and demanding rights. Such is the strength of unity when people raise their voices together for change. Protest also allows those marginalised to participate in public life and make their voices heard.

From Africa to America and Asia to Europe, the first two decades of the 21st century have witnessed a frequent occurrence of such movements. Be it the Arab Spring or Black Lives Matter, #MeToo, or the farmers' movement in India, the protests against the military coups in Sudan and in Myanmar, the protests of women against repression in Afghanistan and Iran, or anti-war protests in Russia, people everywhere are bravely raising their voices to call for peace, democracy, and human rights and to demand justice, equality, and accountability. These are all legitimate demands that are protected by the Universal Declaration of Human Rights and that world leaders have committed to delivering via the UN Sustainable Development Goals.

Despite these commitments, instead of addressing people's grievances, authorities are abusing their power in order to suppress protest. More alarmingly, they are demonising people who march and are

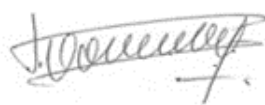
stigmatising and criminalising the very act of protest. This repression is growing more violent, and impunity has been widespread.

In the immediate aftermath of the global pandemic, many global leaders expressed their desire to build back better. If these promises are to be more than mere words, those who hold the power to govern must listen and respond to the needs of their people. Without this, the world cannot expect to achieve economic, social, or climate justice, or to build peace.

This report by ARTICLE 19, which examines violations of the right to protest across Brazil, Kenya, Poland, Thailand, Tunisia, and Mexico, is very timely. It is an important contribution that highlights the need to destigmatise the act of protest, sensitise journalists' reporting of protests, and amend laws to make protest safer for all.

As protest is a vital tool that people can use to defend and protect their rights, the full respect and realisation of the right to protest is non-negotiable.

Authorities everywhere should regard protest movements as partners in order to deliver their promises to build back a better world for all.



Clément Nyaletsossi Voule

UN Special Rapporteur on the
Rights to Freedom of Peaceful
Assembly and Association,
Geneva, October 2022



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Acronyms and abbreviations

APIB	Articulação dos Povos Indígenas
CIMI	Missionary Council for Indigenous Peoples
HRD	Human rights defender
ICCPR	International Covenant on Civil and Political Rights
LGBTQI+	Lesbian, gay, bisexual, transgender, questioning, and intersex
NGO	Non-governmental organisation

Executive summary

Throughout history, protests have inspired positive social change, toppled dictators, and led to significant developments in human rights protections. The right to protest is a formidable tool for achieving change, especially for groups who have had their rights systematically ignored or violated.

In the context of growing inequality and deepening discrimination against marginalised groups and against the backdrop of the Covid-19 pandemic, people across the world have been mobilising on the streets and online to air grievances and demand accountability and reform. In response, states, whether democratic or authoritarian, have grown more repressive.

In this report, ARTICLE 19 examines violations of the right to protest across **Brazil, Kenya, Poland, Thailand, Tunisia**, and **Mexico**,¹ during 2020–21. The research is based on interviews with victims of these violations, eyewitnesses, lawyers, journalists, police officers, and civil society representatives. It also analyses the spread of legislative efforts to suppress protests in the **US**.

ARTICLE 19 documents the key trends that authorities in these countries have used to repress peaceful protest, namely:

- stigmatisation of protest and protesters by both authorities and the media;
- discrimination against racial, ethnic, gender, and religious minorities;
- harassment, intimidation, detention, arrest, and prosecution of protesters;
- excessive responses to protest by security forces, including police brutality;
- misuse of legislation to quell protest; and
- the chilling effect of such restrictions.

These trends negatively affect all those who protest but especially groups who already face discrimination, for whom mobilising collectively is often one of the only mechanisms they have left to be heard. This includes women; indigenous people; racial, ethnic, or religious minorities; and those who are lesbian, gay, bisexual, transgender, questioning, and intersex (LGBTQI+).

ARTICLE 19 notes that each of these countries are failing to meet their commitments under international human rights law.

Summary of recommendations

ARTICLE 19 makes the following headline recommendations to ensure that protesters are kept safe and the right to peaceful protest is guaranteed for all. A full set of detailed recommendations is available within the report.

To governments:

- Protect and promote the right to protest for all people and condemn rights violations against protesters.
- Ensure laws and policies related to the right to peaceful assembly are not unjustifiably restrictive, are compatible with international human rights standards, and are applied equally and consistently to all; ensure any restrictions related to Covid-19 or other states of emergency are also necessary, proportionate, and consistent with international standards.²
- Recognise that failure to notify the authorities of an intention to assemble does not make a protest unlawful.
- Avoid stigmatising protest and protesters and act to prevent others from doing so, including when specific minoritised or marginalised groups are targeted.

To law enforcement agencies:

- Train law enforcement officers in human rights, crowd facilitation, de-escalation of violence, the right to protest, implicit bias, and acceptable use of force.
- Use force to police or disperse protests only when strictly necessary and in line with international standards; apply this to planned and spontaneous protests.
- Ensure those policing protests are in uniform and clearly identifiable; investigate allegations of excessive use of force by law enforcement officers and hold them to account where such force has been used.
- End unlawful surveillance, intimidation, and harassment of protesters and their families; detain protesters only on lawful grounds; promptly inform anyone detained of the reason for it and any charges against them; and ensure they have access to legal and medical help as needed.

To the judiciary:

- Immediately end criminal proceedings against anyone charged solely for exercising their right to peaceful protest.
 - Ensure that victims of police abuse have access to mechanisms of justice.
 - Ensure sanctions are proportionate and any restrictions are necessary in relation to protest; recognise that mere embarrassment, disruption, or discomfort caused by protest do not constitute harms.
-

To the media:

- Do not disseminate content that stigmatises and criminalises protesters and protests or that discriminates against specific groups, including marginalised groups; condemn such language if used by public officials.
- Ensure that media staff at all levels reflect the full diversity of the population.
- Advocate for a legal and regulatory framework that enables a free, pluralistic, and independent media.
- Adopt and promote high standards of media ethics and guidelines on coverage of protests based on international standards; train all media workers on these guidelines.
- Implement safety protocols for journalists covering protests.

Introduction

Throughout history, protests have played a powerful role in countering oppression, allowing people to demand equal rights and accountability and challenge entrenched power structures. Protests have inspired positive social change, toppled longstanding dictators, and led to significant developments in human rights protections. The right to protest is a formidable tool for achieving change, especially for groups who are poorly represented or have had their rights systematically ignored or violated.

Globally, growing inequality and deepening discrimination have seen a steady rise in protests over the last 20 years. The pandemic saw protests spike even more sharply. But instead of listening to and addressing the grievances of populations, authorities have been increasingly portraying protest as a threat, as unlawful, or as criminal, and are attempting to restrict it through a variety of laws, policies, and practices.

According to the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, repressive protest laws are ‘broad and vague’ and many restrictive measures ‘enforced in a discriminatory manner, with opposition figures and groups, together with vulnerable communities, constituting prime targets’, often aimed more at ‘[cementing control and cracking down on oppositional figures than at ensuring public health](#)’.³

This report presents a snapshot of violations of the right to protest around the world, based on fieldwork carried out in **Brazil, Kenya, Poland, Thailand, Tunisia, and Mexico**. It focuses predominantly on 2020–21. In each country, we looked at the state of the right to protest in general and at how restrictions have affected specific groups who historically face discrimination and marginalisation. We have also analysed the proliferation of legislative efforts to suppress protests in the **US**.⁴

Despite the different debates and social contexts across these countries, several common patterns and trends are identifiable.

Additional analyses by ARTICLE 19 using Varieties of Democracy’s ([V-Dem](#))⁵ data indicate that, across the globe, there was an increased effort to suppress freedom of peaceful assembly between 2019 and 2020 across Kenya, Poland, Thailand, and Tunisia. Levels of polarisation have increased, as has political parties’ use of hate speech and political violence.

The increase in political parties’ hate speech has seen a corresponding increase in the demand for democracy during the same period, indicating that across the globe, individuals are trying to push back against these restrictions. Likewise, higher levels of inequality across states correspond to a greater number of protests – both in democratic and autocratic contexts. Overall, both democratic and authoritarian regimes are aiming to repress dissent.

ARTICLE 19 has found that these trends negatively affect all those who protest, but they have a disproportionate impact on certain groups, for example women; indigenous people; racial, ethnic or religious minorities; and those who are LGBTQI+, by further curtailing their rights and freedoms. Historical and institutional discrimination, inequality, and marginalisation mean that these groups already face multiple barriers to exercising their rights. For people who have been systematically disadvantaged, or under-represented in political parties, interest groups, and legislatures, mobilising collectively is often one of the only mechanisms left to raise concerns and be heard. When authorities restrict the right to protest, they take away this vital channel for a deeper, more inclusive democracy and further oppress these groups.

We hope this report informs wider efforts to protect the vital right to protest. Over the course of 2023, we will release reports for each of the countries – **Brazil, Kenya, Poland, Thailand, Tunisia, US** and **Mexico**. Building on this research, we will map public attitudes towards protest and protesters. This will inform and drive a global four-year campaign to destigmatise protest, sensitise journalists' reporting of protesters, and achieve legislative reform – to make protest safer for all.

In addition to this report, we invite readers to explore the [guidance set out by the UN Human Rights Committee in July 2020](#) on the right to peaceful assembly. This guidance is a powerful tool for activists to understand their rights when it comes to gathering and protesting for change – essential as pushbacks against protest sweep the globe.



Pro-democracy protesters march in Bangkok, Thailand, 26 October 2020. (Photo: kan Sangtong/Shutterstock.com)



Can the right to protest ever be restricted?

The Covid-19 pandemic, and other events of 2020, forced a spotlight onto systemic issues of inequality, discrimination, and marginalisation. This led more people to mobilise en masse, on the streets and online, despite Covid-19-related restrictions – and in some cases because of them.

International human rights law does allow states to impose restrictions on the right to protest; however, this can only happen in very limited circumstances. According to the [International Covenant on Civil and Political Rights \(ICCPR\)](#), any restrictions must meet the three-part test, and must have a legitimate aim.

Three-part test

Some restrictions on the right to protest are lawful in times of emergency, but the nature and extent of these restrictions must be limited. Restrictions must comply with the three-part test – that is, they must be **legal**, **necessary**, and **proportionate**.



Legal: The restriction must have a formal basis in law and can be shown to have the genuine purpose and demonstrable effect of protecting a legitimate aim, which can include the protection of national security, public order, public health or morals, or the rights and freedoms of others.



Necessary: The restriction must serve a pressing social need, and the party invoking the restriction must show that it directly and immediately contributes to meeting this need.



Proportionate: The restriction should be the least restrictive means available for the purpose, compatible with democratic principles, specific to achieving a particular outcome, and no more intrusive than other ways of achieving the same result.

See Principle 4 of ARTICLE 19, *The Right to Protest*, 2016

While the right to protest can be restricted in certain carefully defined circumstances, ARTICLE 19 has found that many governments abused their emergency-related powers during the pandemic, exploiting the crisis to entrench their power and control the ways in which people can dissent.

These measures included disproportionate blanket bans on protest, some of which were selectively applied to limit or silence certain types of dissent while allowing other types of demonstrations. In many countries, lockdowns were used as an excuse to justify heavy-handed policing of protests, excessively punitive charging and sentencing for detained protesters, excessive restrictions on the press, and limitations on legislative oversight.

International human rights law requires that people engaging in a peaceful protest should not be threatened with arbitrary arrest or deprived of their liberty. If authorities do this, they break the law.

– ARTICLE 19



Standing Rock Solidarity Rally in Portland, Oregon, protesting the encroachment on secret native lands and environmental impact of the North Dakota Access Oil pipeline, 9 September 2016. (Photo: Diego. G. Diaz/Shutterstock.com)

Page 14: Activists from the Social Justice Centres Working Group demonstrate against rising costs of living ahead of the general election, Nairobi, Kenya, 7 July 2022. (Photo: REUTERS/Monica Mwangi)



State responses to protest: What does the data tell us?

ARTICLE 19's [Global Expression Report 2022](#) illustrates an overall decline in freedom of expression, with two-thirds of the world's states putting in place unwarranted restrictions curtailing this right and using pandemic lockdowns as an excuse to criminalise political dissent and violate press freedoms.⁶ With two in every three people living in countries classified by the report's evidence-based GxR metric⁷ as 'highly restricted' or 'in crisis', protests are a critical tool for populations to demand to be heard. The indicator for freedom of peaceful assembly showed a serious decline of 7% in 2020.⁸ The Special Rapporteur on the rights to freedom of peaceful assembly and association found in the same year that [3.4% of people globally lived in countries with a repressed civic space](#), which directly reduces people's ability to exercise their right to protest.

Our research has found that people who march for their rights to demand justice and accountability have continued to face a wide range of human rights violations at the hands of security services and law enforcement officers in 2021 and 2022, including surveillance, harassment, and intimidation; arbitrary arrest and detention; beatings, injuries, and sexual violence; and criminal prosecution. Governments have used policy, legislation, and security apparatus to repress dissent. In many countries, [attacks against journalists covering protests have increased](#).

Restrictions extend online, with many state and non-state actors using repressive digital tactics to further silence dissidents.⁹

ARTICLE 19's research has found that multiple governments are stigmatising protesters and portraying their causes negatively. Language that stereotypes protesters has also crept into state-leaning (or state-funded) media. Such rhetoric contributes to damaging narratives that, in turn, delegitimise and undermine the people who demand justice and influence public opinion on the demands that demonstrators make. This leaves protesters even more vulnerable to heavy-handed responses from police and judicial systems which lack independence from the executive. And it can even lead to threats, harassment, and violence at the hands of private citizens.

**Stigmatising
narratives are a
form of silencing.**

– ARTICLE 19

Quantitative analyses using data from V-Dem outline where each country ranks in the global context. Looking at the changes in rankings between 2020 and 2021, most of the countries are now ranked lowest globally in fewer metrics than before.¹⁰

- **Brazil:** ranked lowest in 6 metrics in 2020 and 7 in 2021 (mobilisation for autocracy added to the list).
- **Mexico:** ranked lowest in 5 metrics in 2020 and only 3 in 2021 (mass mobilisation and political polarisation no longer on the list).
- **Poland:** ranked lowest in 4 metrics in 2020 and only 3 in 2021 (media bias no longer on the list).

- **Thailand:** ranked lowest in 11 metrics in 2020 and only 7 in 2021 (social class equality in respect for civil liberties, government censorship efforts, mobilisation for autocracy, arrests for political content, and lower court independence no longer on the list, but political violence added).
- **Tunisia:** ranked lowest in 1 metric in 2020 and 2 in 2021 (political polarisation added).

[Table 1](#) outlines the global ranking of the focus countries on each indicator in 2020 (for indicator definitions, see [Annexe 1](#)).

Panadda Sirimatsakool ('Tong'), a 22-year-old Thai student and pro-democracy protester, who has been arrested and imprisoned for her involvement in protests in Bangkok. Her sign reads: 'Threat to National Security'. (Photo: Nontawat Numbenchapol)



Table 1: Focus country rankings on each V-Dem indicator of enabling environments and structures for protests

	Brazil	Kenya	Tunisia	Thailand	Poland	Mexico
Social class equality in respect for civil liberties	127	112	18	130	28	129
Social group equality in respect for civil liberties	110	74	38	136	6	125
Media bias	84	23	35	100	120	42
Government censorship effort	99	63	38	124	91	114
Print/broadcast media perspectives	65	83	17	128	72	85
Media self-censorship	100	52	44	133	77	75
Media corrupt	59	72	52	61	56	53
Power distributed by socio-economic position	100	91	20	110	26	66
Power distributed by social group	86	84	25	119	38	66
Political violence	3	71	104	52	74	45
Freedom of peaceful assembly	67	77	41	136	103	35
Engagement in state-administered mass organisations	3	44	84	45	69	77
Mass mobilisation	78	42	67	14	2	120
Mobilisation for democracy	117	29	42	2	10	96
Mobilisation for autocracy	43	88	19	27	64	112
Political polarisation	5	96	81	15	7	23
Arrests for political content	58	66	59	131	53	36
Polarisation of society	149	68	79	157	156	137
Political parties hate speech	143	112	54	100	145	51
High court independence	43	51	41	102	81	93
Lower court independence	21	43	8	128	56	71
Covid-19 restrictions: freedom of movement	145	113	107	78	64	155
Covid-19 restrictions: freedom of assembly	151	98	51	50	40	154
Covid-19 restrictions: freedom of media	80	134	114	30	97	81
Covid-19 restrictions: freedom of association	137	38	134	5	93	138
Covid-19 restrictions: legislative oversight and powers	72	85	29	22	36	91

We also examined how some of these environments and structures changed in the focus countries between 2019 and 2020. Over the course of the year, efforts to suppress freedom of peaceful assembly increased in three of the focus countries (Kenya, Poland, and Thailand). Tunisia, for example, went

from no significant negative changes in scores across the metrics from 2019 to 2020 to having five significant score changes over the longer period to 2021 – specifically, rising scores for political polarisation, rising scores for mobilisation for autocracy, falling scores for polarisation of society (indicating that it

is becoming more polarised), falling scores for political parties' hate speech (indicating more hate speech), and falling scores for the freedom of peaceful assembly.

Despite the increase in political parties' hate speech, the resolve of protesters in some countries remains strong, evidenced by the increase of mass mobilisation in more than a quarter of countries across the globe. In Thailand, specifically, there was a notable increase in large- and small-scale events in defence of democracy between 2019 and 2020 (and, at the same time, an increase in the mobilisation for autocracy during the same period). Additionally, Thailand ranked second globally on the mobilisation for democracy with a score more than 2 standard deviations above the regional average for Asia and the Pacific.



Protesters in Bangkok, Thailand, the day before a 14 October 2020 mass demonstration against the lèse-majesté law; a police crackdown followed, with multiple pro-democracy leaders and activists arrested. (Photo: kan Sangtong /Shutterstock.com)

Methodology

This report is based on information gathered between August and December 2021. ARTICLE 19 carried out research in Brazil, Kenya, Poland, Thailand, Tunisia, and Mexico, with 36–50 semi-structured interviews in each country,¹¹ including with victims of human rights violations, eyewitnesses, lawyers, journalists, police officers, representatives of civil society organisations, and other relevant stakeholders.

Researchers employed a participatory approach where respondents shared their accounts of participating in protests and incidents of violations they had experienced. In several cases, ARTICLE 19 researchers reviewed photographic and video evidence (including livestreams) of multiple events described during the interviews, including police responses to protests. In Kenya and Thailand, ARTICLE 19 researchers observed first-hand police responses to largely peaceful protests. Where possible, ARTICLE 19 interviewed multiple sources for each protest to confirm the reliability of the testimonies and corroborated the findings with documentary sources, including media and non-governmental organisation (NGO) reports.

Many individuals interviewed by ARTICLE 19 expressed fear of reprisals. To protect their identities, ARTICLE 19 has excluded their names and other identifying details.

This report also references information from an in-depth analysis carried out by ARTICLE 19 of the recent proliferation of legislative efforts to suppress protests in the US. a full report on these findings, *Protests under threat: When leaders let us down*, was published in October 2022.

Quantitative analyses were conducted by ARTICLE 19 using data from V-Dem. Annexe 1 describes each of the key indicators examined for this research.

For each of the indicators explored, we looked at:

1. the 2020 country score and regional average to understand where each country ranks globally and to provide a global context with regional comparisons for the countries in focus;
2. within-country score changes between 2019 and 2020, identifying in each country where the difference based on the standardised score was at least ± 0.5 over the year;
3. if, and how, the indicators were related to each other in a correlation matrix to understand the direction and strength of the relationships globally and by region and
4. if the year-over-year changes in the indicators were more structural in nature and if they were related to changes in rights and mobilisation (freedom of peaceful assembly, mass mobilisation, mobilisation for democracy, mobilisation for autocracy, political violence, engagement in state-administered mass organisations, arrests for political content) by running seven separate regression models using our global country-level data.

The impact of discrimination on people who demonstrate

The consequences of cracking down on protest are not felt equally by all people. Power imbalances along gender, race, religious affiliation, or class lines, for example, mean that the impact is far worse for individuals and groups who already face discrimination in society.

For people who have been systematically disadvantaged, or under-represented in political parties, interest groups, and legislatures, mobilising collectively is often one of the only mechanisms left to raise concerns and be heard. When authorities restrict the right to protest, they take away this vital channel for a deeper, more inclusive democracy and further oppress these groups.

This report provides a picture of the right to protest network in the countries of focus. For each selected country, ARTICLE 19 focuses particularly on groups which have faced or are at risk of facing situations of discrimination and marginalisation. These are indigenous communities in Brazil, women and people living in informal settlements in Kenya, LGBTQI+ groups and women's rights activists¹² in Poland, pro-democracy activists in Thailand, LGBTQI+ communities in Tunisia, and women, particularly indigenous women,

in Mexico. The report illustrates the main patterns of violations of the right to protest, predominantly in relation to the groups examined, but does not document a comprehensive account of the wide range of human rights violations that have occurred in the context of protests in each country.

Our research shows that the way governments respond to protest is not dissociated from broader societal inequalities, first reflecting and eventually increasing the levels of discrimination and exclusion that are driving people to mobilise and demand change. Politicians and the police often portray protests as a disruption and a threat. Together with the media, they characterise and stigmatise protesters as violent, criminals, thugs, or anti-nationalists depending on the discourse adopted by the authorities. In doing this, authorities and the media dehumanise people, undermine people's causes, and delegitimise them as actors, placing them at greater risk of violent responses by state actors and private individuals.

Indeed, for those who face the most severe forms of poverty and marginalisation and who have been systematically excluded from participating in politics and society, their voices may be entirely absent from protest.

Page 21: Tens of thousands of people gathered in central Bangkok, Thailand, on 25 October 2020, criticising the monarchy and calling on the Government to address social problems. (Photo: kan Sangtong/Shutterstock.com)



International legal standards on the right to protest

ARTICLE 19 believes that the right to expression and peaceful assembly are foundational to many other rights and, in particular, help to ensure that economic, social, and cultural rights are upheld.

The right to freedom of peaceful assembly is guaranteed by international human rights instruments and has been interpreted by human rights bodies.

[Article 21 of the ICCPR](#) states that:

“ 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.

Also guaranteed by [Article 19 of the ICCPR](#) is the right to freedom of opinion and expression. It provides that:

- “ 1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
- (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.¹³
- ”

[According to ARTICLE 19](#), the right to protest is the individual and/or collective exercise of existing and universally recognised human rights, including the rights to freedom of expression and freedom of peaceful assembly and of association; the right to take part in the conduct of public affairs; the right to freedom of thought, conscience,

and religion; the right to participation in cultural life; the rights to life, privacy, liberty, and security of a person; and the right to non-discrimination. The right to protest is essential to securing all human rights, including economic, social, and cultural rights. Moreover, **protest is often one of the most effective tools available** for marginalised individuals and groups to successfully advocate for change.¹⁴

In its **General Comment No. 37**, the UN Human Rights Committee elaborated on

the importance of the right to peaceful assembly:

“ **Together with other related rights, [the right to freedom of peaceful assembly] constitutes the very foundation of a system of participatory governance based on democracy, human rights, the rule of law and pluralism. Peaceful assemblies can play a critical role in allowing participants to advance ideas and aspirational goals in the public domain and to establish the extent of support for or opposition to those ideas and goals. Where they are used to air grievances, peaceful assemblies may create opportunities for the inclusive, participatory and peaceful resolution of differences.**”¹⁵

Notification regimes

Many countries have notification regimes under their domestic legislation that place a legal obligation on protest organisers to notify the authorities of the intention to protest. The UN Human Rights Committee considers that the failure of participants to notify authorities or seek authorisation does not render their assembly unlawful. States should only seek notification of protests where it is necessary to enable planning for the facilitation of such protests, and spontaneous protests must be exempt from such rules. Requests for notification of details on the protests beyond the time and location violate the protections of human rights laws on freedom of expression and protest, which require any restriction to be necessary to achieve a legitimate aim. It is unclear what purpose such a notification would serve beyond enabling authorities to crack down on specific types of protest.

Stigmatising narratives and differential treatment by authorities

ARTICLE 19 has found that governments have propagated stigmatising narratives and discourses against specific groups of protesters and their causes. ARTICLE 19 believes that these public narratives are often designed to dismiss the cause of the protesters and may, in turn, serve as a justification for the authorities' often heavy-handed response and differential treatment of those protesting, which may amount to discrimination. These stigmatising narratives play a dangerous role in restricting the right to protest, especially for groups facing exclusion and marginalisation.

Stigmatisation is a societal and cultural notion consisting of negative attitudes and rejecting behaviours towards someone or something. [Stigma has been found to lie at the root of many human rights violations](#), resulting in continued discrimination against disadvantaged and excluded groups of the population.

Stigmatisation and discrimination against groups

ARTICLE 19 believes that stigmatising narratives are a form of silencing. Stigma against protest in general, and against groups who face oppression or discrimination in particular, leads to violations of the right to protest and the rights of protesters.

For example, in **Brazil**, President Bolsonaro's administration openly propagated stigmatising narratives against the country's **indigenous population**.¹⁶ Since coming to power, he has repeatedly spread stigmatising statements against Brazil's indigenous people – comparing them to [animals in zoos](#) and [prehistoric men](#). Indeed, due to his interest in [exploiting biodiversity and mining](#), he has knowingly propagated an anti-indigenous discourse. An indigenous State Attorney reported to ARTICLE 19:

“ Since the first day of government, President Bolsonaro has already expressly adopted a line contrary to the rights of traditional peoples, and already affirming some [stereotypes], that the indigenous people want to live like us and such, and disregarding a whole plurality of ways of life that we can identify when dealing with these populations.”¹⁷

In addition, [Bolsonaro justified his absence at COP26](#) by saying, ‘they took an *Indian* woman ... to attack Brazil’. Such narratives can be extremely dangerous as they offer justification for denying the concerned groups the space to air their grievances openly. When communities come together to speak out, such narratives also provide justification to use violent force to disperse the protests.

Respondents from Brazil's indigenous communities believe that the institutions, landowners, agribusiness, arms lobbyists, and others who seek to exploit the natural resources from their lands all contribute to a narrative of dehumanisation and stigmatisation against them, which entrenches their marginalisation from Brazilian life. A journalist and human rights activist pointed out: 'there are a series of layers of this discourse that, in the end, it is also a form of serious violation of human rights, because you are attacking identities, ethnicities, culture, tradition and ways of life, languages, and the right to exist as they see fit.'¹⁸

In **Poland** between 2019 and 2021, **authorities actively propagated a narrative and smear campaign** against **LGBTQI+** people in the context of elections. During the parliamentary elections in 2019 and presidential elections in 2020, the issue of LGBTQI+ rights became one of the main polarising topics.¹⁹ High-level officials publicly used stigmatising language against this community, including incumbent President Andrzej Duda, who stated on 13 June 2020: 'You are trying to convince us that they are people. And this is just an ideology.'²⁰ On the same day, future Minister of Education PiS MP Przemysław Czarnek said in a speech:

“ **Let's defend the family from this kind of corruption, depravity, and absolutely immoral behaviour. Let's protect us from the LGBT ideology and stop listening to these idiocies about some human rights or some equality. These people are not equal to normal people and let's finally end this discussion.**²¹

In the same year, legislative proposals included a ban on 'homosexual propaganda',²² modelled on legislation straight from Vladimir Putin's authoritarian Russia.²³ Such **proposals were promoted** under the slogan of 'defending Polish children'. Moreover, since 2019, more than 100 local governments in Poland have adopted non-binding declaratory resolutions against the so-called 'LGBT ideology' or in support of the 'traditional family model', discriminating against LGBTQI+ people from local communities. These resolutions were often officially named Pro-Family Charters.²⁴ At the end of 2021, 52 local communities had adopted these resolutions.

In response to the discriminatory and inflammatory remarks made against them during the 2019 and 2020 elections, members of the LGBTQI+ community hung **rainbow flags** on famous monuments in Warsaw and gathered in protests. However, in July 2020, certain individuals destroyed the tarpaulin of a vehicle belonging to the far-right Pro-Life Foundation, whose homophobic message amounts to linking homosexuality to paedophilia or zoophilia.²⁵ Prime Minister Mateusz Morawiecki subsequently publicly named the act of hanging rainbow flags on monuments in Warsaw '**Nazi barbarism**'.

Deputy Minister of Justice Sebastian Kaleta had previously made statements such as 'a scandalous thing has happened, which must be met with a firm reaction from our state. Groups of militants of leftist and LGBT circles have decided to profane these monuments, making it clear that they are carrying out a fight.' He added that this action was

evidence of the 'aggression of LGBT circles towards patriotic and Christian values'²⁶ and filed a notice to the prosecutor's office against the demonstrators for a crime of 'insulting religious feelings' under Article 196 of the Criminal Code. Following this, police **violently detained** three suspects on these charges. The 7 August 2020 protest studied in this report occurred in this context, characterised by heightened social tensions and strong reactions by public authorities.²⁷

Stigmatisation and the media

ARTICLE 19's quantitative analyses demonstrated that media bias, government censorship efforts, limits around which perspectives are covered in print/broadcast media, self-censorship of the media, and corruption in the media each have at least a moderate, statistically significant relationship with the freedom of peaceful assembly. As media restrictions increase, we are seeing state authorities limiting peaceful assemblies and an increased willingness to use lethal force to prevent them.

Indigenous peoples seek improvements to their villages during protests in Salvador, Bahia, Brazil, 26 April 2022. (Photo: Joa Souza/Shutterstock.com)



The role of the media

ARTICLE 19 carried out media monitoring across 2021 in the focus countries, reviewing mainstream media's coverage of the majority of protests that took place. This analysis has revealed a strong tendency for mainstream media to portray protests as a nuisance and to stigmatise specific groups of protesters as troublemakers. There seems to be an overall omission by major media of discussing and highlighting the protesters' causes and struggles; instead, the media portray them as chaotic disrupters with no specific agenda.

For example, in **Poland**, the **government-controlled public media** (television, radio)²⁸ were openly against the LGBTQI+ protests and the Women's Strike protests. In their narratives, protesters were portrayed as being manipulated, unaware of why they were protesting, aggressive, and vulgar. Some **public news channels** regularly referred to the Women's Strike participants as 'supporters of killing unborn children'. When describing the protests, **some news channels** used statements such as 'left-wing fascism is destroying Poland'. Such narratives are unbalanced, do not promote any genuine debate about why people are protesting, and can discredit protesters and undermine their causes in the eyes of the public.

In addition, protests are frequently covered from the perspective of the power holder – either government officials or the police.²⁹ For example, in **Brazil**, the **Folha de São Paulo** newspaper reported on **indigenous peoples'** protests as: 'Police disperse indigenous march with gas bombs, and Chamber suspends discussion of land demarcation.' Their report goes on to justify the use of force for

the 'preservation of public order and the safety of people who work in the premises of the building, as well as for patrimony protection'. It does not acknowledge either the safety or the inheritance rights of indigenous communities.

Several activists also reported the use of targeted intimidation and harassment on social media networks by the police. For example, in **Tunisia**, inflammatory and stigmatising discourses have been shown to be used by the police against **LGBTQI+** activists on online platforms – particularly on Facebook, such as the Facebook page 'Café Police', where activists' photos and personal information have been **disseminated**. The stigma has had an impact on the way LGBTQI+ activists and protesters exercise their rights. Many informed ARTICLE 19 that they are rarely able to organise protests themselves but instead join other protests as a way of obtaining protection from being targeted by the police. Many reported that when choosing to join protests, they do so individually rather than as a group as this may attract unwanted attention from the police.

As part of their duty to produce accurate and reliable information, the media should cover all matters of general interest. When they deliberately ignore the concerns raised by marginalised groups, the media side with the status quo and power holders by reflecting the same biases. For example, there was a lack of reporting on certain protests organised by the most marginalised groups, such as **indigenous peoples** in **Brazil**,³⁰ and in **Tunisia**, mainstream media reported on protests by adopting the government's narrative and accusing protesters of vandalism while discounting their socio-economic grievances.

Stigmatisation and the authorities/state

Stigmatising narratives coupled with the restriction of the right to protest of specific groups is often found in countries with weak democratic mechanisms. However, in more recent years, even longstanding democracies such as the US, the UK, and France have seen the proposition and enactment of laws that stigmatise and restrict protests, along with the use of violence against demonstrators.

The stigmatising narratives are even more vulnerable to being exploited by the government and individuals in these societies due to the high levels of polarisation and political parties' use of hate speech. Brazil, Thailand, Poland, and Mexico all sit among the lowest-ranked countries globally on both political

polarisation and polarisation of society in 2020.³¹ Brazil, Poland, and the US sit among the lowest-ranked countries globally in the frequency of hate speech used by politicians.

ARTICLE 19 found that throughout the different regions and countries, acts of abuse carried out by the police and the state in general have often been accompanied by the spread of inflammatory narratives. These narratives, propagated by state officials and agents, embolden security forces in their use of unnecessary or disproportionate force against people, especially those who are marginalised or face discrimination and are already vulnerable to police misconduct or brutality. Further, in some cases, these narratives severely impact public perceptions of protesters and their cases and encourage private individuals to harass, make threats, or commit acts of violence against protesters.



Civil society activists demonstrating against gender-based violence to mark International Women's Day in downtown Nairobi, March 8, 2022 (Photo: REUTERS/Monicah Mwangi)

ARTICLE 19 believes public officials must be cautious that their public statements do not end up as a justification for cracking down on people who come together to speak up for justice.

Indeed, governments and the media in various countries have used stigmatising language that conflates protesters who are demanding basic, social, economic, and environmental inclusion with criminals, thugs, or instigators. In some countries, protesters have been branded as enemies of the state, anti-nationalists, or foreigners.

By characterising protests and protesters negatively, authorities and mainstream media create an environment hostile to those exercising their right to protest and dismiss the validity and legitimacy of their demands.

For example, in **Tunisia**, respondents from **LGBTQI+** groups who have attended protests in the last two years on a range of social and economic issues, including corruption and police violence and protesting against a bill that would significantly limit criminal liability for the use of force by security forces, have reported facing insults and verbal abuse by the police. Most of the people interviewed reported receiving comments which often were related to their appearance, clothing, and whether they carried any symbols or the Pride flag. A number of them **reported being threatened with violence and rape**. The majority reported being stopped at the protests' access barriers and being verbally abused by police officers. In some

reports, the police also incited other groups passing by to join in the abuse.³² Almost every LGBTQI+ person interviewed reported being called a 'sodomite' or 'faggot' by police officers both during and outside of protests. Ahmed El Tounsi told ARTICLE 19, 'We've heard the terms "faggots", "sodomites", or "Lot's people".³³ The police officer provokes you so that you react.'³⁴ This abuse is part of a wider pattern that has been documented over the years.³⁵

In **Kenya**, police and some public officials commonly use negative labels or inflammatory remarks about specific groups of demonstrators. Many respondents reported being labelled as 'criminals' or 'thugs' by the police. One example where public officials negatively labelled protesters was during the 2019 medics strike in Kirinyaga County in which nurses, laboratory technicians, and doctors went on strike and protested against unsanitary hospital conditions and shortages of staff, equipment, and supplies. The protesters faced stigmatisation from the County Governor, who reportedly accused them of being 'uncaring' and of being 'politically motivated' by the Governor's rivals to join the strike. The doctors' and nurses' protests were **violently dispersed** even though they were unarmed and peaceful.

One respondent from Kirinyaga told
ARTICLE 19:

“ She [the Kirinyaga Governor, Waiguru] was trying to paint us as irresponsible and as murderers despite the fact that the strike was triggered by unsanitary conditions in the hospitals which was occasioned by her sacking of all hospital cleaners. Such accusations and ‘labelling’ were also meant to dehumanise the health workers and their protest in the eyes of the community. Based on these reasons, she continues to allege that they [cleaners] are ‘strangers’ and should not be paid their dues or be reinstated despite the fact that they followed the right legal channels and are still providing their services to the County Health Department.³⁶

Respondents reported that this threat of stigmatisation has led to the marginalisation of activists as well as the de-legitimisation of their work. In some cases, even the wider community had bought into the labelling and caricaturing, isolating the human rights activists further. These labels are deployed not only to legitimise violence but also to shape expectations and particular perceptions of police response prior to and during protests.³⁷

Mexico has seen an increase in protests led by **women** in the past couple of years as a response to the levels of violence they face,³⁸ the authorities’ failure to prevent this violence, the call for the decriminalisation of abortion, and protests led by indigenous women fighting for natural resources and the territories that belong to their communities.

Large-scale mobilisation by women has taken place primarily in Mexico City but also in Oaxaca and Chiapas. Here, indigenous women have mobilised in response to the proliferation of development projects and to demand the release of men from their communities who have been detained as a result of the protest.

Civil society activists demonstrating against gender-based violence to mark International Women's Day in downtown Nairobi, Kenya, 8 March 2022. (Photo: REUTERS/Monicah Mwangi)



Stigmatising and sexist language in response to indigenous women's protests, and feminism more broadly, has been apparent at all levels, from the President to state authorities to the police. The authorities have described the women protesters as 'those who are against change', 'those who oppose development', or 'the conservatives', generating an adverse narrative about groups who protest.³⁹ On 7 March 2022, during his [morning press conference](#), President Manuel Lopez Obrador criticised women and feminism, saying:

“ That is a conservative posture reactionary against ours, against the politics of transformation, a totally political stance. And you know from whom? Those that fly the flag for supposedly gender equality, equality before the law, equality before God, but they forget about economic and social inequality because it is not convenient for them, they are not thinking on combatting poverty that affects men and women, economic and social equality [that] has the same rank as gender equality.”⁴⁰

On the ground, women protesters in Mexico City, Chiapas, and Oaxaca are described as 'crazy' and 'out of control' and face a victim-blaming narrative. Aracely Osorio, the mother of Lesvy Berlin who was a victim of femicide on the premises of the National Autonomous University of Mexico in 2017, recalls having heard the comment, 'this only happens to women who live too young with their partners' as a justification for the femicide of her daughter at the hands of her emotionally volatile partner.⁴¹ The outrage generated by the case and the poor response of the university authorities and

the State Prosecutor led to large-scale mobilisations by women calling on the government to progress investigations of cases of disappeared women and victims of femicide. Nadia Arellano, a protester interviewed, recounted the response to the mobilisation:

“ Sometimes we would watch the news the next day of the protest and they made one doubt that we were in the same march and that one was there; 'Were we the ones that did that?'... All of a sudden you would hear declarations from [Mayor of Mexico City Claudia] Sheinbaum and we would say, 'Ah well, it sounds like they are interested, so then, are we the ones that don't understand well?'”⁴²

Indigenous women face additional stigmatisation when they mobilise. For example, Guadalupe Nunez Salazar, a member of the Frente de Mujeres en Rebeldía y del Frente Cívico Tonalteco en Defensa de la Energía Eléctrica in Chiapas, explained that when women report a case of violence against them and mobilise, they face stigmatising discourses, such as 'you don't need to bring the bunch of women to be attended to', 'here come the troublemakers', and 'the ones that believe they are invincible and nothing will happen to them'.⁴³ Other labels such as 'the plebs' or 'the wild ones' are used, along with tactics such as undermining their decision-making and agency through the perception of them as 'acarreadas' (people brought in by specific groups to take part rather than acting of their own free will).⁴⁴

Since the start of 2020, **Thailand** has witnessed the rise of a pro-democracy movement which has organised frequent protests across the country. This movement is composed of many separate groups which often do not have a fixed membership base. Most of the groups are united in their demand for change within the monarchy.⁴⁵ However, each group's demands differ in how they present their critiques of the monarchy. Since February 2021, with the escalation of confrontations between the police and pro-democracy protesters, Thai officials have increasingly used inflammatory language to describe the protesters, referencing violent elements within the protests and often making generalisations that the protests as a whole are violent. For example, in 2020, General Apirat Kongsompong, former Commander-in-Chief of the Royal Thai Army, made a statement about the 'nation-haters', referring to the rising voices against the monarchy.⁴⁶

Parit Chiwarak, a student at Thammasat University and one of the key leaders of the pro-democracy movement, faces dozens of criminal charges for speeches he has made at protests over the past two years. The indictment for a charge arising out of a speech he gave during 'MobFest'⁴⁷ in November 2020 reflects the authorities' attitude towards protesters. Parit was prosecuted for giving a speech that, according to the Public Prosecutor, 'distorted [information] to frame King Rama X. [The speech was] an act of sedition, agitation, and encouragement of people to be frantic and rebellious.' The indictment alleges that people who heard Parit's speech might begin to doubt the constitutional monarchy system and be incited to engage in 'assembly, protest, force or coercion to pressure the government and the



High-school students gather in front of the Ministry of Education in Thailand, giving speeches in defiance of Thai education and the authoritarian Government. (Photo: kan Sangtong/Shutterstock.com)

parliament, and force, or coerce the King to be under the people. This would cause unrest in the Kingdom and people would lose their faith or respect which is a crime against the King.’⁴⁸

The often large-scale protests have been mainly peaceful, with protesters carrying umbrellas, dove symbols, using the lights of their mobile phones, and often sitting down during protests. Some small pockets of violence have occurred. For example, in an incident in February 2021, protesters threw paint at police, and several small bangs were reportedly heard during a standoff between police and demonstrators after the main leaders had called for the demonstration to disperse. Police subsequently reported that at least one firecracker had exploded at the scene. Some clashes have occurred as a result of the heavy-handed, violent responses of the police. Despite the largely peaceful nature of the protests, the Bangkok Metropolitan Police – the main police unit in charge of dealing with the protesters in Bangkok – held a series of press conferences regarding the 2021 pro-democracy movement in which they made frequent claims of violence committed by protesters. The police claimed that the protesters had used guns and explosives in the past,⁴⁹ were prepared to **use those weapons again**, and had destroyed public property and injured police officers.⁵⁰ The police then claimed that as the protests were not peaceful, police intervention

was necessary to **maintain public order**. In early May 2021, the **police announced** that due to ‘violence’ and ‘concern about the pandemic’, the police’s policy might need to change to ‘block the protesters from the beginning when they started to gather at the appointed place [of each individual protest]’.

In the **US**, throughout the George Floyd protests, the media and politicians often labelled demonstrators, including those protesting peacefully, as ‘thugs’ and ‘rioters’. In his 1 June 2020 speech, President Trump used some form of the word ‘riot’ five times.⁵¹ He also described those protesting as an ‘angry mob’ and ‘looters, criminals, [and] rioters’ who were committing ‘acts of domestic terror’.⁵² On 29 May 2020, **President Trump referred to the protesters as ‘thugs’** – frequently seen as a racially loaded term in the US – in a tweet. This language was also used by members of the media. In an analysis of 2,800 articles published between 26 May and 2 June 2020 to see how the Black Lives Matter events were described, Oxford English Dictionary found that while the word ‘protest’ was used most frequently, the use of ‘riot’ was also widespread.⁵³

The US: Enacting laws stigmatising protesters

ARTICLE 19 has documented a concerning trend in the US following the Black Lives Matter protests in the summer of 2020. Findings indicate that 124 bills designed to punish protesters have been introduced since June 2020. Worryingly, 106 of these have been introduced since the beginning of 2021.⁵⁴ Of these 106 bills, 15 have been enacted into law.⁵⁵ Though most of the recent attempts to pass these laws have been defeated, there is no sign that these efforts have slowed. Rather, attempts by state governments to silence political dissent, often made in conjunction with the state government's attempts to suppress voting rights,⁵⁶ are occurring at a faster rate than before.⁵⁷

Efforts by US authorities to discourage peaceful protests are not a new problem. In March 2017, the UN Special Rapporteur on peaceful assembly and association wrote to the US Government [expressing concern](#) over 16 bills proposed between 2015 and 2017 that threatened to suppress peaceful assembly. The legislative attempts to pass those bills, however, remained largely unsuccessful at the time. Post-2017, government attempts to suppress protests have been far more widespread and far more successful, particularly following the [Standing Rock protests](#) and the Black Lives Matter protests.

ARTICLE 19's analysis has found the following trends in nearly all the proposed bills and enacted laws in the US:

- **Broad and vague definitions** of 'riot' and 'unlawful assembly' which allow for the imposition of criminal penalties on protesters. These broad definitions are also used to impose heightened penalties for behaviour that is lightly punished outside the context of a protest.

- Many of the laws grant civil, and in some cases criminal, **immunity** for private citizens who injure or kill demonstrators.
- Many of the laws **encourage aggressive state action** against protesters, including by creating a cause of action for government officials for property damage and by providing civil immunity for law enforcement officers who kill peaceful protesters or even nearby bystanders and journalists.
- Several of the laws impose **disproportionate penalties** for demonstrators who block public ways and access to public buildings.
- Under several of the laws, those convicted of or even just charged with protest-related 'crimes' would **lose access to public benefits** and public employment.
- Several of the laws impose **disproportionate criminal penalties** for people convicted of defacing monuments and memorials.
- Many US states have enacted laws which impose **penalties for protests that occur near pipelines** – laws which specifically target environmental protests and indigenous activists.
- A number of states, and the federal government, have proposed or enacted laws requiring protesters or protest **organisers to pay public costs** associated with the protest or pay restitution for property damage they themselves were not responsible for.
- In a majority of states, legislation has been introduced which **criminalises**, or increases the penalty for, **incitement to riot**. Several laws create liability that goes far beyond what is permissible. Furthermore, several states have proposed, and two have enacted, legislation that would expand the state's RICO (Racketeer Influenced and Corrupt Organizations) laws to encompass protest-related crimes.



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Perceptions of differential treatment by the state

Across all the countries of focus, respondents referenced examples of apparent differential responses by authorities, in particular law enforcement, to different protests. Respondents highlighted instances of the police and other authorities facilitating and allowing pro-government marches or protests and assemblies on issues that did not threaten or question the status quo of those in power. Demonstrations relating to issues to which the authorities were hostile received very different treatment at the hands of authorities and security apparatus.

As provided by the [ICCPR](#) and highlighted by the [UN Human Rights Committee](#), states should guarantee that everyone can exercise their right to protest equally without discrimination based on grounds such as race, sex, ethnicity, religion or belief, disability, age, sexual orientation, gender identity, language, political or other opinion, national or social origin, nationality, property, birth, or any other status. [ARTICLE 19's Right to Protest Principles](#) further specify that 'The right to protest must be guaranteed to all individuals, groups, unregistered associations, and legal entities, including members of minorities, nationals (citizens), non-nationals (non-citizens), stateless people, refugees, foreigners, asylum seekers, migrants, tourists, and people without full legal capacity.'⁵⁸

In **Poland**, many respondents cited examples of the very different treatment accorded to those who march in favour of the government or who share the government's agenda or ideology compared with anti-government protests. Respondents believed that authorities privileged the right to protest of government supporters. Many referenced the example of the [far-right-organised](#) annual Independence Day march in Warsaw – permitted despite its xenophobic and racist character.

The march took place spontaneously on 11 November 2020 despite a [court-mandated ban](#) on assemblies during the pandemic, and was allowed to proceed despite not meeting the notification requirements. The police only intervened against people who behaved aggressively, for example those who attacked police officers. Violent clashes between the protesters and the police erupted near the National Stadium, which hosted a temporary hospital for Covid patients. The police had to use force to contain the clashes, including [using pepper spray](#). Journalists covering the march sustained injuries and were mistakenly beaten by the police as they clashed with protesters.⁵⁹ The organisers of the 2020 march were not fined or charged despite it taking place under Covid-19-related restrictions.

In contrast, the police used kettling⁶⁰ techniques against peaceful Women's Strike demonstrators and issued fines and pressed charges against them. For instance, during a rally on 14 December 2020 – a month after the Independence Day march – police demanded that 212 protesters identify themselves, fined six protesters, detained three people, and filed 106 notes to the sanitary authorities to issue fines for supposed breaches of pandemic-related restrictions. There were instances of people not accepting the penalties and, as a result, being informed that their case would be referred to court.⁶¹

On 11 November 2021, the annual Independence Day march,⁶² organised by nationalists with state support, gathered 150,000 in Warsaw amid legal controversies. A court had ruled that an anti-fascist group had the right to organise a protest on the usual route of the march as it had first filed for authorisation. However, to allow the Independence Day march to take place, authorities elevated it to the category of a state event, privileged over any other form of assembly,⁶³ and therefore allowing it to go ahead on the route instead of the anti-fascist march. Under the government's patronage, the far-right organisers of the rally used their platform to attack the EU, incite hostility against immigrants, and denounce independent media.⁶⁴

In **Kenya**, according to respondents, protests that feature demands for police or state accountability⁶⁵ are more likely to be disrupted or not authorised than others seen as addressing non-threatening issues like the environment, peace, or reproductive health. Respondents from the social justice centres made a distinction between 'threatening' protests and others they termed 'soft' protests that are unlikely to be disrupted. They cited specific groups who may receive preferential treatment during demonstrations, such as government and pro-government protests, church processions, pro-peace rallies, and protests led by middle-class professional organisations such as the Law Society of Kenya, the Kenya National Union of Teachers, and the Kenya Medical Practitioners and Dentists Union.

In one of the focus group discussions,⁶⁶ the participants noted this stance on certain 'soft issues':

“ The police have no problem with us, especially if it involves well-known human rights organisations. We had the Ecological Justice March this year and the 16 Days of Activism Against GBV [gender-based violence] marches last year. In fact, the police provided escort and directed traffic.

A Kenyan activist tries to guard herself from being beaten by police officers during a protest in Nairobi, Kenya, 7 July 2021. (Photo: Daniel Irungu/EPA-EFE/Shutterstock)



This view was supported by another respondent, who stated:

“ The police do not interfere with ‘soft protests’. For example, when you are doing My Dress, My Choice, which focuses on protesting the stripping of women, the police don’t interfere. But when you touch on issues of police brutality or corruption, the police are keen to disrupt. When you go to give a notification, they ask what the protest is about. That [should not be] their concern.⁶⁷”

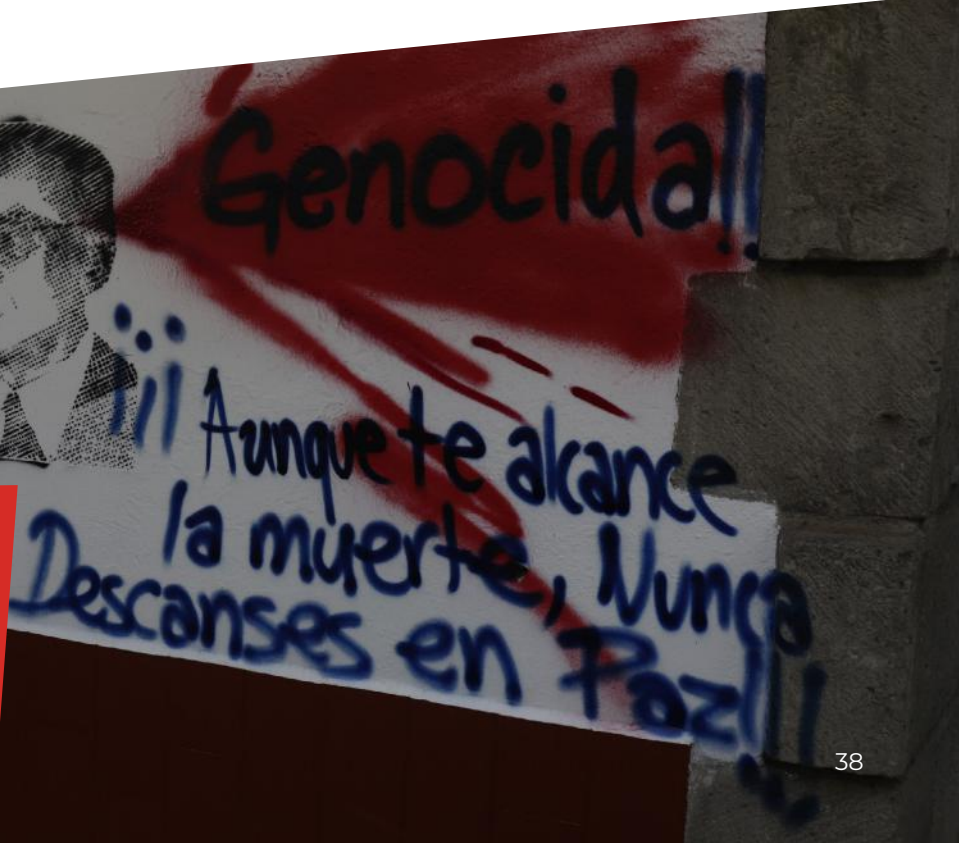
Further, respondents from low-income backgrounds, particularly those from informal settlements, highlighted a tense relationship with the police and disproportionate police response during their protests:

“ When we from informal settlements go to the police station to conduct notification [of a protest], the police become hostile once they realise you are not as influential as others who are rich and powerful. When you say you are from an informal settlement, they immediately treat you casually and are hostile.⁶⁸”

A journalist with the Standard Media Group, based in Kirinyaga, spoke of protests she had covered, including a doctors’ and nurses’ strike against unsanitary hospital conditions in 2019 and a tea farmers’ strike over poor pay, reduction of their bonus payment, and poor administration of the tea factories. During these protests, she reported a pattern of violent responses by the police:

“ In Kenya your demonstration is okay if it is politically correct. However, if you are against those in power or the corrupt elite, you are attacked and beaten. The police mostly react by showing their power. They hurl tear-gas cannisters and use live bullets against innocent protesters. Many times, they kill protesters, like in the recent case of Kianjokoma twins police murder protests in Embu County where they killed two protesters. The police have the power and equipment, while the protesters have nothing except their strength and numbers. They are treated like criminals with beatings.⁶⁹”

‘Even in death, may you never rest in peace!’ Graffiti outside the home of former president Luis Echeverría Álvarez in Mexico city, protesting his responsibility for the massacre of students by paramilitary group Los Halcones in 1971. (Photo: Prometeo Lucero/ARTICLE 19 MX-CA)



A nurse who participated in the Kirinyaga medics' protests told ARTICLE 19:

“ The police are used by politicians to stop people from expressing their views without considering if they are right or wrong. It's as if the police in Kenya have no minds of their own. They are controlled by the mighty and powerful. So, they beat people and throw tear gas at them to please their seniors. When they chased us around town in 2019 [during the medics' protests], they did not care to know about the situation in the hospitals.

In **Thailand**, ARTICLE 19's research reveals that those who make direct critiques of the monarchy – such as Free Youth, Thalufah, and ReDem (Restart Democracy), are more likely to face harsher repression by the authorities. Based on interviews carried out with key activists, movement leaders, and protesters and observation of approximately 30 protests in Bangkok and Nakorn Pathom in 2020 and 2021, ARTICLE 19 identified a number of patterns around the state's response to protests which critique the monarchy as part of their demands.

First, protests held at or near locations related to the monarchy are more likely to draw a harsher response from the state.⁷⁰ Second, those who critique the monarchy are often criminally charged under Section 112 of the Criminal Code – the provision that criminalises lèse-majesté.⁷¹ Numerous activists, including the key leaders of the pro-democracy movement, have been repeatedly charged and detained under this provision. Many of those who have been charged have also been denied bail by the Criminal Court. Many remain in pre-trial detention. Third, there is a disparity in the violence experienced by the protesters most critical of the monarchy compared with that experienced by other protesters.



A student protester holds up Karl Marx's image in front of a portrait of the King, Chiang Mai University, Thailand. (Photo: S. Vitthaya-Serivaddhana)

Thalufah and the crackdown by the authorities: An example of differential treatment

ARTICLE 19 has observed that members of Thalufah, a youth-led pro-democracy group formed in 2021, have faced harsher treatment than members of groups not under the pro-democracy umbrella. For example, a Thalufah-led protest at which protesters camped near Government House was treated differently from a protest only three months earlier at which a different group of protesters camped in the same location. In that instance, fishing communities were demonstrating in opposition to the proposed Chana Industrial Complex that was planned to be built in their community in Songkhla province, southern Thailand. This group was allowed to camp near Government House for four days. Although the authorities installed a cargo container in the area to prevent the protesters from getting too close to Government House, several state authorities, including the Deputy Minister of Agriculture and the Deputy Commander of the Metropolitan Police, went to meet and negotiate with the protesters. The protesters agreed to end the demonstration after the authorities promised to suspend the project.⁷²

In a similar vein, a week before Thalufah camped at Government House in March 2021, a group of protesters advocating against the forced eviction of Karen communities from Kaeng Krachan National Park also camped near Government House for nine days. The Deputy Minister of Agriculture met with the protesters, and the government agreed to set up committees to take care of the issue.

In contrast, from February to March 2021, the Thalufah group organised a 17-day, 247-km march from Nakorn Ratchasima province in northern Thailand to Bangkok. The campaign made four demands: constitutional amendments, monarchy reform, revocation of the lèse-majesté law, and the release of political detainees. Thalufah set up a demonstration camp next to Government House from 13 to 28 March 2021. The police raided the camp at dawn on 28 March and arrested 68 demonstrators after providing them with only three minutes' notice to leave the location.⁷³

Although these protests were smaller in size than those led by pro-democracy movements, the government's differential treatment towards Thalufah and the groups advocating for other causes shows that those criticising the monarchy face a harsher response from authorities. Importantly, the authorities showed a willingness to negotiate with the fishing communities and those protesting eviction, whereas Thalufah was not given the same opportunity.

In **Tunisia**, access to public space was prohibited under Covid-19 restrictions. However, the El Nahdha party, a member of the governing coalition until 25 July 2021, was granted permission for a march involving tens of thousands of people to support their party and protest against the President of the Republic.⁷⁴ In contrast, ARTICLE 19 found that the LGBTQI+ community collaborated with human rights and women's rights organisations to organise protests as they were unable to obtain permission for their protest. A respondent told ARTICLE 19:

“ In 2016, we requested permission to organise a protest from the Ministry of Interior whilst respecting all the conditions outlined. We wanted to protest Article 230.⁷⁵ Our request was not authorised, and the police officers were laughing amongst themselves and later told us ‘We will arrest you, this is an illegal request.’⁷⁶

In addition, respondents from the LGBTQI+ community told ARTICLE 19 that their identity puts them at higher risk when protesting. One activist mentioned that they prefer to mask their LGBTQI+ identity when they protest out of fear of the potential consequences if the police were to discover that they identified as part of the community. The respondent added:

“ My biggest fear is not to get arrested but it's that they find out I am part of this community. If I am arrested, I can call a lawyer, and the case will be over. However, if they [the police] discover that you are LGBTQ by searching your phone, you are now in more danger.⁷⁷

Indeed, members of the LGBTQI+ community in Tunisia face a lot of pressure and risk of being ‘outed’,⁷⁸ as they fear being rejected by their family or wider society.⁷⁹

In **Mexico**, respondents told ARTICLE 19 that authorities displayed a pattern of behaviour of seeking to undermine **women** who mobilise. The pattern is sustained by preconceived notions that dismiss women, especially if they are young or indigenous or if they raise their voices and step outside their ‘traditional’ gender roles. The most common ways in which differential treatment is visible is through a lack of attention to and dialogue on women's grievances, the undervaluing of women's capacity, judicial bureaucracy and indifference, and the delegitimisation of women's demands or the facts of the issues about which they are protesting.

An example of institutional discrimination in spaces where women seek justice was shared by Elizabeth, a member of the communicator collective *Suena Dignidad*, which has supported the Mazatecas de Eloxochitlán Women's Caravan during its public actions. She noted how discrimination towards these women is visible from the moment they leave their communities and need to find a place in Mexico City.⁸⁰ Language, she said, is a barrier to communication with the authorities, who use this to discredit the women as lacking knowledge of judicial processes. Argelia Betanzos, lawyer and daughter of one of the political prisoners from Eloxochitlán,⁸¹ commented that place of origin and language are also used to discriminate against indigenous professionals, and to question their knowledge of the law and their ability to carry out judicial procedures.⁸²

Ericka Morales of Tequi Jurídico also commented in regard to the undervaluing of indigenous women that:

“ When referring to the indigenous peoples that are not subject to public law, from that moment on there is a question of discrimination, of looking at the communities as incapable persons or individuals who do not have the capacity to think or to be able to decide their development, to be able to decide how they should live or how they want to live, when these people have already decided for many years how and what they want to live on and how they want to develop ... [They have] been through many demands and many struggles of these communities, as we know well starting from this violation of not having a person who can translate [for] a person who does not speak Castilian, who does not speak Spanish, not being able [to] count on a public defender who can assume the case and argue and defend as proposed by the judicial procedure. I believe that this question of inequality is still valid.⁸³

“As people with disabilities, we fear demonstrations because of the way we see people being treated and we know there is nowhere to report because you cannot report to the state and therefore, we have nowhere to take our complaints.”

– A respondent from the Hawkers Association



Women in El Paso chant ‘Ni una más’ (‘Not one more’) as they march in solidarity with women across Mexico against femicide and gender-based violence. (Photo: Mark Lambie/El Paso Times/Imagn/USA TodayNetwork/Sipa USA)

Page 43: Indigenous women protest against former President Bolsonaro’s environmental policies that have resulted in the destruction of their homes, and of the Amazon rainforest. 13 August 2019, Brazil. (Photo: Tuane)



Harassment, intimidation, arrests, and detention

In many countries, security forces frequently threaten, intimidate, arbitrarily arrest, and detain people who march together to air their grievances.⁸⁴ In the countries studied, ARTICLE 19 found that security forces appear to have adopted many of these strategies to spread fear and discourage individuals from protesting. In all the countries studied, researchers documented scores of arrests of protesters, the majority of whom were not engaging in any violent or criminal behaviour and were arrested simply for exercising their right to peaceful protest. Many respondents reported that it was impossible to predict which protesters would be arrested. It was also noted, for example in Kenya and Thailand, that violence around the protests examined in this study often only started once the police disrupted the protests using force and made arrests.

Under international human rights law, those engaging in a peaceful protest should not be subjected to the threat of deprivation of liberty. Each person has the right not to be subjected to arbitrary arrest or detention and not to be deprived of their liberty except on grounds, and in accordance with procedures, established by law. The UN Human Rights Committee has provided that 'arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21),

freedom of association (art. 22), freedom of religion (art. 18), and the right to privacy (art. 17).'⁸⁵ The police can arrest protesters when there is a reasonable basis to do so. However, they must ensure the physical integrity of the protesters, that there is a sound legal ground for arrest, and that they are notified of their rights, have access to a lawyer, and have their other due process rights respected during arrest and detention.⁸⁶

In **Poland**, ARTICLE 19 found that the police used a heavy-handed approach and arrested many protesters, bystanders, and passers-by during the major protests examined. During the 7 August 2020 protests (which erupted following the [arrest of an LGBTQI+ activist](#)) and those after the Constitutional Tribunal's ruling in 2020 (which restricted an already highly restrictive abortion law⁸⁷), scores of protesters and some passers-by were detained. A [report](#) published by the Polish Commissioner for Human Rights in his capacity as the National Prevention Mechanism under the Optional Protocol to the Convention Against Torture (Krajowy Mechanizm Prewencji Tortur) found that 48 people were detained on 7 August 2020, including individuals who had not actively participated in the protest and people who stated that they had been in the street grocery shopping. Thirty-eight of those detained later challenged the detention in court. Helsinki Foundation for Human Rights considered that available footage of events showed detainees were selected at

random, without proper legal justification and, according to the detainees, were not informed of their rights.⁸⁸ People were detained where the protests took place, on Krakowskie Przedmieście Street in central Warsaw, but also in nearby streets and in front of the police station in Wilcza Street. One protester told ARTICLE 19:

“ A couple of policemen approached me and took me to the police car. The whole situation was quite absurd, because I was standing on the side of the road at the time, I wasn't shouting any slogans, I wasn't demonstrating any more, and the protest was basically over. People were dispersing, they were going to protest further, but to another place.⁸⁹

Interviews with other protesters revealed a similar pattern of arbitrary arrests. Most of the arrested people interviewed by ARTICLE 19, and the lawyers who had represented those arrested and detained, did not know what behaviour they were engaging in that could be considered criminal or suspicious at the time of their arrest.

Similar patterns were identified during other protests, with another 150 people detained during the first 100 days (from 22 October 2020 to 28 January 2021) of protest after the Constitutional Tribunal's ruling on abortion law.⁹⁰ According to police statistics, during protests on 18 November the police demanded that 497 people identify themselves, issued 320 motions to court, sent 277 notes to the Sanitary Inspectorate, and detained 20 people.⁹¹ During protests on 27 January 2021, the day of publication and entry into force of the Constitutional Tribunal's judgment restricting abortion law, the police demanded identification from several hundred demonstrators, issued 13 fines, found 240 misdemeanours and

10 crimes, and sent almost 250 motions for punishment to the courts.⁹² During the Women's Strike protest on Women's Day on 8 March 2021, 335 people were demanded to identify themselves, and the police issued 188 motions for punishment to the court and 28 fines. Five people who refused to identify themselves were detained and one person was detained for allegedly 'insulting' the police officer.⁹³

In addition, evidence gathered by ARTICLE 19 points to the targeting of LGBTQI+ individuals. According to respondents who participated in the 7 August 2020 protest, the police selected people who had LGBTQI+ emblems (badges, flags) or whose appearance (coloured hair, androgynous gender expression) made them stand out from the crowd. After reviewing [recorded footage](#), it appears that some of the detained people had rainbow emblems or bags. A lawyer present at the protest noted: 'There have been mass arrests based on roundups in the streets solely based on whether or not someone has a rainbow flag with them. People were typecast.'⁹⁴ Targeting protesters based on their appearance and perceived gender identity is unlawful discrimination.

Protest participants recounted several incidents of police using violence during arrests. There were multiple reports of unfair treatment, including protesters being thrown to the ground, handcuffed, made to kneel, or thrown into police cars. The Commissioner for Human Rights included similar findings in his report on the 7 August 2020 detentions: disproportionate and sometimes violent measures were used against some protesters, such as throwing people on the ground to be handcuffed and handcuffing people's hands behind their

backs during transport.⁹⁵ Moreover, some officers addressed detainees in an offensive and discriminatory manner, making homophobic and transphobic comments, as confirmed by eyewitnesses.⁹⁶

One of the examples of police brutality on 7 August 2020 was the attack against a non-binary person⁹⁷ who recounted that they smashed their head and lost consciousness when officers intervened. Krem told ARTICLE 19: 'A policeman grabbed me by the neck with a hook, pinched me and I lost consciousness for two seconds. Then, they put me on the ground and two of them crushed me.'⁹⁸

A witness described a similar scene to ARTICLE 19:

“ The worst moment was when one person was pinned to the ground with the policeman's knee. It didn't look like the person was standing against the police. She was loud and shouted something towards the police officers, but she did not use force against them. Several plainclothes policemen, undercover officers, rushed at her. They threw her on the ground, pinned her with a knee to the pavement.⁹⁹

An analysis of available photos confirms that coercive measures were used during Krem's arrest.¹⁰⁰

In **Tunisia**, the majority of the lawyers interviewed reported that police behaviour is intended to spread fear among those who want to protest. Human rights defenders (HRDs) and activists reported that the police often use methods of harassment and intimidation on social media, sending Facebook messages or making direct calls to those organising or attending protests. The majority of LGBTQI+ respondents told ARTICLE 19 that the police had posted their photos and personal information on social media platforms. Many reported this method of harassment and intimidation as vicious. One activist describes: 'You are sitting at home and people are insulting you freely due to these posts [by members of the police].'¹⁰¹

In addition, many reported being followed home after protests. For example, trans activist Ahmed El Tounsi, who had attended a protest organised by civil society group Damj in October 2021 that ran for two days, told ARTICLE 19: 'The first day, they [the police] took photos of us, and the second day we were followed. The third day a police officer came to my home to ask me questions.'¹⁰²

Polish activist Krem's arrest during a 7 August 2020 protest in Warsaw. (Photo: Rafal Milach)



The intimidation, harassment, arrests, and detention of Tunisian LGBTQI+ activists occur within a broader pattern of abuses carried out by police officers. Indeed, since early January 2021, protests had begun spreading across the country in which protesters both demanded better living conditions and demonstrated against police brutality. A statement by 16 local and international human rights organisations, which had monitored the protests, documented over 2,000 arrests across the country within two weeks, most of them arbitrary and 30% of those arrested under 18 years old.¹⁰³ According to their [report](#), those detained faced inhuman treatment, torture, physical and verbal abuse, and online harassment and surveillance. In addition, respondents reported that in some cases those arrested did not end up in prison; some remained incommunicado for a few hours, after which they were released.

Many activists reported being arbitrarily arrested or witnessing other protesters getting arrested without being charged and facing difficult conditions, including being refused access to a lawyer and verbally abused. One activist spoke of her detention during a protest in 2020: 'I was detained. The conditions were difficult. I was interrogated for three hours, including personal questions such as "Are you Muslim? Are you for or against homosexuality".'¹⁰⁴ Another activist told ARTICLE 19: 'It happened during the 25 July [2021] protest – a group of friends disappeared for hours, and we discovered they were not even taken to police stations. They were sent to detention centre Bouchoucha and others without any respect to due process and their right to a fair trial.'¹⁰⁵

In **Kenya**, arrests and detentions of protesters by the police are a longstanding practice.¹⁰⁶ ARTICLE 19 has found that the police are often [quick to arrest](#) people who are peacefully exercising their right to protest, and this has only increased since the onset of the pandemic. Protesters are arrested under Covid-19 regulations or laws that criminalise assembly.

International law and the Constitution of Kenya (2010) guarantee the right to peaceful assembly. In addition, [UN human rights specialists](#) have emphasised that no one needs to request permission to exercise a fundamental right such as the right to freedom of peaceful assembly, meaning that failure to notify authorities of an intended protest cannot be grounds for arrest. However, the [Kenyan Public Order Act \(1950\)](#) is inconsistent with the country's Constitution (and international law) and continues to be used to prosecute protesters. The Act states that the police may prevent a protest from taking place if notification has not been submitted. Although the Act does not specify that police have to receive the submission, or that they have the authority to grant permission, it does state that police can prevent a protest from taking place if 'there is clear, present or imminent danger of a breach of the peace or public order.'¹⁰⁷ The ambiguity of these provisions leaves room for (mis)interpretation.



As well as being arrested under the Public Order Act, protesters have also been arrested and charged with unlawful assembly under the [Penal Code](#). Unlawful assembly is defined as when three or more people assemble with the intention to commit an offence or to carry out some 'common purpose' behaviour in such a manner that bystanders 'reasonably' fear they will commit a breach of the peace.¹⁰⁸ As with the Public Order Act, the vagueness of these provisions leaves them open to misapplication in a way that restricts peaceful protests. Like the provisions in the Public Order Act, the restrictions on the right to peaceful assembly in the Penal Code are incompatible with Kenya's Constitution and with international law.

However, ARTICLE 19's research found that, frequently, those arrested are not charged; even in cases where protesters are charged, cases are often not prosecuted and collapse due to lack of adequate evidence or arguable charges or due to the police failing to attend court. The police appear to use this method to intimidate protesters to discourage their participation in any future protests.

For example, on Friday 2 July 2021, police officers in Kajiado County arrested 12 health workers protesting to demand better pay and six months of outstanding salary payments from the Kajiado County Government. They were released on a police bond the following day.¹⁰⁹ On 14 July 2021, police arrested three students from the University of Nairobi for participating in a protest against a proposal to increase tuition fees. They were taken to the central police station in Nairobi before being released later the same day without charge.¹¹⁰

On 4 March 2021, Robert, from the human rights organisation Muslims for Human Rights (MUHURI), and six others were arrested at Taveta Airstrip while protesting the state of Taveta Sub-County Hospital. They were subsequently charged with unlawful assembly under the Penal Code. They were released on a cash bond of KES 20,000 (USD 200) each.¹¹¹ The prosecution alleged that the group of about 100 people were gathered illegally as the notification they produced had been declined by the local Officer Commanding Police Division. As mentioned, the Public Order Act does not specify that the police have to receive notification (and the UN specifies that failure to notify cannot be the basis of arrest), but the Kenyan police have often chosen to interpret it in this way. Further, many respondents in ARTICLE 19's research reported that police actively try to avoid receiving notifications, possibly for fear of being blamed by their commanders. After a trial, Robert and the six others were all acquitted of the charge on 26 November 2021.¹¹²

Demonstration against police brutality in Kenya, August 2020. (Photo: MUHURI)



Police violence against peaceful protesters is commonplace, with respondents reporting multiple incidents of violent dispersal of peaceful protests using batons or wooden sticks, tear gas and water cannons, and the firing of live ammunition. Injuries were reported as a result of beatings by the police.

Francis Sakwa, an HRD from Mathare who has been involved in and organised many protests (the latest being the Kariobangi Sewage-forced evictions in January 2021 and the Saba Saba¹¹³ March in July 2021), told ARTICLE 19 that he had been arrested 30 times and charged with trumped-up criminal charges, ranging from incitement to violence, creating disturbance, participating in illegal protest, and cruelty to animals. Sakwa, who has won four of the five cases, with the fifth still pending at the time of writing, believes that the police come prepared for violence

and nothing else. He told ARTICLE 19: 'The police come prepared for violence; the manner in which they jump out of lorries, the way they come dressed and armed, and the number of officers is all meant to declare danger and intimidate.'¹¹⁴

Respondents also told ARTICLE 19 that police intimidate and threaten them before protests. For example, before the Saba Saba protests of 7 July 2021, the police called the organisers, community justice centre activists Nicholas and Mwangi, and warned them not to proceed with the protest or they would be profiled and their details posted on the [Nairobi Crime Free Facebook page](#) (operated by alleged police death squads). The police also visited and threatened the Bidii Youth Group, and there was a police vehicle outside the Kayole Community Justice Centre.

Police arrest protesters in Mombasa, Kenya, during 'Covid-19 millionaires' protest, August 2020. (Photo: MUHURI)



Sexual and gender-based violence against women protesters in Kenya

ARTICLE 19 received numerous reports of female protesters being sexually harassed and subjected to gender-based violence during protests and in police custody once arrested. Female respondents recounted instances where they believed they were targeted by the police during protests because of their gender identity.

Female protesters reported instances of law enforcement officers sexually assaulting female protesters by touching various body parts and using sexist comments and language.¹¹⁵

For example, in Nairobi, four female respondents told the researchers that they had been sexually harassed by the police during protests and in police custody; in Mombasa, three women activists spoke about how their colleagues had experienced sexist treatment during protests.

For instance, a Sisters for Justice (a women-only community social justice centre based in Kisauni) protest was reportedly invaded by police who sexually harassed the organisers. The police touched their breasts and buttocks and used sexist language against one of them. They also kept referring to her as ‘the iron lady’. The term was used to ridicule her and mock her role in organising protests against societal gender expectations.¹¹⁶ Another female HRD lamented: ‘female protesters are touched inappropriately on the breasts, buttocks, and genitals. They [the police] try to strip you and undress you.’¹¹⁷

An activist in Nairobi told ARTICLE 19: ‘I have also been sexually harassed when they [the police] touched my breasts. During the Unga Revolution protests,¹¹⁸ a policeman pulled my breasts and plucked my hair. Now there are some hairstyles I don’t

have because of the permanent damage. They do this deliberately. They told me: “Nyinyi wanawake hamfai kuwa hapa muki demonstrate; mukae nyumbani [You women should not be on the streets to participate in demonstrations; stay at home]”.’¹¹⁹

Twenty-nine-year-old Lydia, a grassroots women’s HRD, has been involved in planning four protests in the last three years. Lydia stated that during these protests, she had experienced gender-based violence at the hands of police who were engaged in violent dispersal of protests. She said:

“ During the #FreeBobiWine public protest outside the Uganda embassy in January 2021,¹²⁰ the police officer pulled me by my brassieres’ strap. I felt so invaded! He continued unbothered until a female officer told him to stop. She came held my hand and walked me to the vehicle... A police officer touched my breasts, and when they pushed me in their truck, my menstrual cup opened and fell because of the force used, and I soiled myself. Lawyers are the ones who assisted me to get menstrual supplies. The police holding cells are dirty and not gender friendly.

In Kisumu, police were reported to have warned families to ‘tame’ their women to focus on their gender roles.

Such attacks on female protesters are meant to intimidate them into staying away from protests. Police characterisation of women protesters as ‘unruly’ or ‘unwomanly’, or the refrain that they should ‘remain at home’ and not participate in protests, are designed to stigmatise them for transcending the roles prescribed for them by the patriarchy. These words can have tremendous power in isolating or alienating women from their communities if they speak out.

In addition to women in Kenya being attacked for their gender identity as women, trans women have faced escalated attacks during protests in Poland and Tunisia.

In **Brazil**, our research has shown that many intimidation attempts have occurred against indigenous activists, both in the context of protests and otherwise. Respondents from indigenous communities reported that the intimidation and harassment attempts carried out by agents and federal public bodies had a significant negative impact on them.

For example, following her participation in a web series ‘Ma racá – Emergência Indígena’, which promoted an emergency pact that would have guaranteed access to rights and services for the indigenous population during the Covid-19 pandemic and addressed the lack of care and assistance for indigenous peoples during the same period, renowned leader Sônia Guajajara¹²¹ was **summoned by the Federal Police** in April 2021 to respond to the allegation of having

criticised the government in the web series and propagated fake news. The request came from Fundação Nacional do Índio (FUNAI, National Indian Foundation).¹²²

According to an indigenous lawyer from a grassroots NGO:

“ It is a scenario of criminalising and delegitimising the indigenous movement and focusing on Sônia because she is the best-known figure... Even because she was vice-presidential candidate, and there is a greater visibility [of the indigenous demonstrations] in the media, it becomes the easy target of this increasing political persecution, we see that this scenario is taking shape.



This campaign against Guajajara had started many months before and at the highest level. Vice President General Heleno, who is also head of the Institutional Security Office, wrote a tweet in September 2020 attacking Guajajara and Articulação dos Povos Indígenas (APIB) – the organisation that launched the web series – saying that ‘both committed crimes against their homeland from the moment they tarnish Brazil’s image abroad’.

Protest in Brasília against PL 191, a bill that would allow mining in indigenous territories if approved, 13 April 2022. (Photo: REUTERS/Amanda Perobelli)



Figure 1: General Heleno's tweets about APIB and Sônia Guajajara

On 18 September 2020, Vice President General Heleno tweeted on his personal Twitter account: 'Articulação dos Povos Indígenas do Brasil (APIB) is behind the website defundbolsonaro.org, whose objectives are to publish fake news against Brazil, imputing environmental crimes to the President of Brazil and supporting international boycott campaigns against Brazilian products. The organisation is managed by Brazilians affiliated to left-wing parties. The "Emergency APIB" is chaired by the indigenous Sônia Guajajara, a Socialism and Freedom Party (PSOL) activist and linked to the actor Leonardo de Caprio, a staunch critic of our country. The APIB website is associated with several others, who also work 24 hours a day to tarnish our image abroad, a crime against our homeland.'

Around the same time that Guajajara received the summons, another indigenous leader, Almir Suruí, was also summoned by the Federal Police over a similar accusation of spreading fake news.

The inquiry against Guajajara was shelved by a federal court in May 2021 following an opinion issued by the State Prosecutor's Office in favour of closing the investigation. However, as Guajajara is a high-profile indigenous leader, the fact that the government would try to bring a case against her has made indigenous activists concerned about what might be happening to less well-known indigenous leaders.

Further significant incidents of the harassment and intimidation of indigenous protesters occurred between 7 and 30 June 2021, when indigenous peoples travelled to the capital Brasília for the 'Levante pela Terra' ('Rise for the Earth') protests around a court decision on the regularisation of indigenous territories and related issues. A protest camp of activists grew to about 1,500 indigenous peoples. According to witnesses from NGOs supporting the protesters, in the early days of the protest camp, the military police repeatedly came and told the activists that they had to leave. Subsequently, the Federal District gave written permission for the indigenous peoples to camp there. Nevertheless, according to a member of the Missionary Council for Indigenous Peoples (CIMI), which was supporting the activists: '[The military police] were always there watching, and there was always this threat that at any moment the police would attack.'

The military police, who have responsibility for maintaining public order in Brazil, are armed with lethal weapons. In addition, constant surveillance infringed on the activists' rights to peaceful assembly, freedom of expression, and privacy, and it had a threatening and silencing effect.

The protesters were also subject to harassment and intimidation by members of the public. These individuals were certainly emboldened, if not actively incited, by the stigmatising rhetoric against indigenous people by President Bolsonaro. According to the CIMI member: 'Cars passed by the camp. We call these people inciters, and they are mainly pro-government. They cursed the indigenous people. ... It was tense. ... During the Levante period, there was this permanent tension.'

An indigenous activist said that after that, 'Bolsonarists started passing through the camp and insulting the people.'¹²³ According to an indigenous lawyer (interviewed during ARTICLE 19's research), who followed all the occupations in Brasilia from June to September, pro-Bolsonaro supporters 'were always surrounding the camping, filming, and trying to create confrontation. They shouted, honked. It happened every day.' The newspaper *Congresso em Foco* also **reported** the infiltration of the occupations by pro-Bolsonaro people carrying nationalistic posters.

The protesters had congregated in Brasilia to mobilise around a ruling of the Supreme Court (Recurso Extraordinário) which would affect the general indigenous demarcation of land. When the protesters left the camp to assemble to protest, sing, and dance in front of national institutions around this ruling (for example, outside Congress on 22 June, near Congress during the 28 June judgment of the Supreme Court appeal, and during the hearing of the Extraordinary Appeal on 30 June in front of the Supreme Court), they were met with banks of riot police armed with shields, stun guns, rubber bullets, and tear gas.

Throughout this period, numerous politicians, and the President himself, tried to delegitimise the protesters through various false statements and inflammatory rhetoric, which amounts to substantial harassment and intimidation of the protesters. For example, on 8 June, a group of indigenous people occupied the ramp at the entrance of the National Congress demanding a meeting with the President of the Congress Arthur Lira.

Lira would not meet them, and they left the ramp. However, Lira later declared: 'Last week, some representatives of the Indians arrived here and invaded the National Congress, climbed to the roof of the domes and stayed using some kind of drug, smoking and dancing up here.'

On 24 August 2021, Bolsonaro himself declared to the national press that the indigenous people on Levante were:

“ [A] manipulated mass; they are being manipulated. This is also true for the Landless movement, most of them are manipulated. They are people who live begging leftists... they are not protesting for their own will... An NGO finances this sort of organisation [protest], maybe some other institution. But their objective is to create chaos.”¹²⁴

Another example of repeated harassment relates to the Munduruku people. The rhetoric of President Bolsonaro has encouraged the illegal exploration (e.g. mining, logging, etc.) of indigenous lands, and there is a close association between illegal miners and members of the government. In August 2020, illegal miners were transported on an official plane to meet former Minister of the Environment Ricardo Salles in Brasilia. Arguably emboldened by these actions, the illegal miners – and indigenous persons incited and/or paid by them – repeatedly attacked the Munduruku indigenous group in 2021. This included the theft of fuel from the coach and the engine of the boat on which the Munduruku activists were travelling to join assemblies to denounce illegal mining, and the deflation of the tyres of the coach on which Munduruku activists were to travel to protests in Brasilia in June 2021.

In May 2021, groups supporting illegal mining, including one miner who was on that government flight, attacked the village where Munduruku Wakoborūn Women's Association leader Maria Leusa Kaba Mundurukz lived, fired shots, and set fire to her house.

While some state agencies have made efforts to extend protection to the Munduruku, these efforts have failed to tackle the actions of the illegal miners. Many activists believe that this is at least partly a result of the encouragement such groups have received from President Bolsonaro.

In **Mexico**, ARTICLE 19's research has corroborated reports of police harassment, arbitrary detention, and sexual harassment of protesting students from a rural teacher-training school, Normal Rural Mactumatzá, in Chiapas. On 18 May 2021, 93 students from the school [held a protest](#) in the proximity of toll booths on the San Cristobal de las Casa–Tuxtla Gutiérrez highway. The protest was to demand that entry exams be held in person, given the limited access to the internet in the students' communities. The authorities responded swiftly to the protests by kettling and dispersing the protesters using excessive force, tear gas, and rubber bullets. All of the students, 74 of whom were women, were detained by the police and taken on buses. According to student testimonies, those detained were taken to the State Prosecution Service, but the institution refused to release their names. This led to further protests by their families demanding information and their release. The detention of the students raised grave concerns about their risk of disappearance, especially against the backdrop of the high-profile disappearance of 43 students of Ayotzinapa Rural Teachers' College in 2014.

The case of the detained students in Mactumatzá exposed the risks that women protesters, in particular, face as reports emerged of sexual harassment and violence during their detention by police.¹²⁵ It was reported that between their detention and their transport to El Amante detention centre, the students received messages that the same things would happen to them as had happened to the 43 Ayotzinapa students; indeed, they were forced to undress, and some were touched by police. On their release, family members and classmates confirmed that they had bruises and burns. Male students who were interviewed for this research told us that, 'they [the female students] came out with fear and did not want to speak about what had happened'.¹²⁶ Following these events, the UN Office of the High Commissioner for Human Rights in Mexico called on the authorities of the State of Chiapas to investigate the possible commission of sexual violence.¹²⁷

In addition to the violations during their detention, the students faced further harassment through the charges brought against them, including vandalism, attempts to disrupt the peace, violent theft, and carrying weapons. In interviews with ARTICLE 19, detained students Álvaro and Jesús commented that the authorities had refused to drop the charges against those detained until the toll booth company withdrew its complaint and a six-month work period was completed by the implicated students to pay the cost of the alleged damages caused.¹²⁸ These demands were dropped during the hearing due to the lack of evidence produced by the company.

In **Thailand**, ARTICLE 19 found that authorities arbitrarily or unlawfully arrested pro-democracy protesters. Movement leaders and key activists were arrested and charged multiple times.¹²⁹ By January 2022, the organisation Thai Lawyers for Human Rights reported that there had been 1,767 arrests (with some people arrested more than once). Not all these cases were prosecuted, as the police released some after arrest without pressing charges. The arrests also **included passers-by and journalists** who were reporting on the situation.

Another trend identified in Thailand is the 'pre-emptive' arrest of movement leaders, organisers, and suppliers of equipment for the protests. ARTICLE 19 was informed about numerous arrests faced by members of WeVolunteer (WEVO), a group which provides logistical support as well as security

guards for pro-democracy groups. For example, on 24 November 2020, one day before a protest led by the Rassadorn group in Bangkok, Piyarat Chongthep, the leader of WEVO, was summoned by the police for allegedly committing sedition (Section 116 of the Criminal Code) and violating the Computer Crimes Act. The police requested he be detained, but the **court dismissed the request** the day after the protest.

ARTICLE 19 believes that individuals detained solely because of their exercise of the rights to freedom of expression and assembly, including protest leaders recently denied bail, should be immediately and unconditionally released. No one should be detained merely for exercising a human right, such as the rights to peaceful assembly or freedom of expression.

Mexico City officers police a demonstration in Ayotzinapa protesting the disappearance of 43 students seven years earlier, 26 September 2021. (Photo: Ilse Huesca/ ARTICLE 19 MX-CA)

Page 56: A giant rainbow flag is unfurled in the main market square during Krakow Pride, Poland, 29 August 2020. (Photo: Longfin Media/ Shutterstock.com)





Instances of excessive use of force

In 2021, UN human rights experts expressed their alarm at ‘rampant police brutality against protesters worldwide’, stating that in recent months and years they had repeatedly expressed concern over ‘a steady increase in the use of excessive force, police brutality and other forms of cruel, inhuman, or degrading treatment, as well as arbitrary detention, against predominantly peaceful protesters’ throughout the world.¹³⁰

International human rights standards state unequivocally that the use of force by the police and other security forces must be a last resort and must be guided by the principles of legality, necessity, proportionality, and precaution. According to the UN Human Rights Committee, ‘Firearms may be used only against an imminent threat either to protect life or to prevent life-threatening injuries.’¹³¹ Moreover, firearms, or any other lethal force, must only be used in situations when no other option exists – that is, the use must be absolutely necessary.¹³² As such, ‘Firearms should never be used simply to disperse an assembly.’¹³³ The use of lethal weapons or potentially lethal weapons against protesters when there is no immediate threat to life or physical integrity to people is strictly prohibited.

According to the UN Human Rights Council, dispersing an assembly should be resorted to only when strictly unavoidable. Authorities should first seek to isolate and separate violent participants from the rest of

the protesters.¹³⁴ Crowd dispersal should only be considered in situations when ‘violence is serious and widespread and represents an imminent threat to bodily safety or property’ and ‘where law enforcement officials have taken all possible reasonable measures to facilitate the assembly and protect participants from harm.’¹³⁵

In a joint statement, the UN Special Rapporteurs on the freedoms of association and expression declared that there is ‘no such thing in law as a violent protest. There are violent *protesters*, who should be dealt with individually and appropriately by law enforcement.’¹³⁶ The Special Rapporteurs, as well as the UN Human Rights Committee, emphasise that the right to peaceful assembly is an individual right, not a collective right, and must be treated as such.¹³⁷ Any isolated act of violence by some participants must not be attributed to other participants in the assembly: ‘One person’s decision to resort to violence does not strip other protesters of their right to freedom of peaceful assembly.’¹³⁸ In addition, as long as organisers make reasonable efforts to encourage peaceful conduct during an assembly, they may not be held responsible for the violent actions of others.¹³⁹

ARTICLE 19 also believes that an assessment of whether a protest is peaceful should take into account the fact that isolated or sporadic violence or other unlawful acts committed by some do not deprive individuals of the right to protection,

as long as they remain peaceful in their own intentions or behaviour. Furthermore, states should acknowledge that whenever a protest has ended in violence, it has been due to the state's failure to effectively facilitate protest, prevent violence, and engage in conflict resolution with those who were likely or intending to engage in violence.

In all the cases studied by ARTICLE 19, the protests were predominantly peaceful. This assessment is based on scores of corroborated testimonies of protesters and eyewitnesses, including lawyers, journalists, members of parliament, in-person observation by researchers of some protesters, and a review of media reports of protests and reports of NGOs which had observed some of the protests covered in this research. Stray incidents of violence may have occurred in a small number of protests.

ARTICLE 19's findings show that the authorities' responses were disproportionate or excessive. Where a small minority tries to turn a peaceful assembly into a violent one, law enforcement officials should use only necessary and proportionate force, protect the peaceful protesters, and not use the violent acts of the few as a pretext to restrict or impede the exercise of the fundamental rights of others.

In **Tunisia**, country-wide protests erupted on 15 January 2021, with citizens demanding political, economic, and social change.¹⁴⁰ ARTICLE 19's research found that authorities met these protests with a pattern of attacks and disproportionate use of force. ARTICLE 19 spoke to protesters, including people from the LGBTQI+ community, lawyers, journalists, and members of civil

society organisations, who all described a similar pattern of disproportionate and sometimes excessive use of force by security forces during protests that were deemed to challenge the status quo. The police used tear gas and water cannons to disperse protesters and also hit protesters with sticks. Scores were injured, and a 21-year-old student, Hayket Rachdi, was killed.¹⁴¹

In many locations across the country, individuals burned tyres, blocked roads, and threw stones at the police. Even in the context of such acts of sporadic violence, security forces must only use force when necessary and proportionate to the situation. Yet the police arrested hundreds of protesters, and ARTICLE 19 has reviewed [footage posted online](#) which appears to show security forces using tear gas against mostly peaceful protesters and [dragging protesters](#) along, as well as videos livestreaming what appear to be [injured protesters](#).

According to the majority of respondents, when the police are looking to disperse a protest they often use violence against protesters, particularly women and people who are LGBTQI+. ARTICLE 19 received reports of women being hit by the police on their genitals.

Outside of the context of protests, organisations working on LGBTQI+ issues in Tunisia have noted a rate of persecution of people who are LGBTQI+ almost [five times](#) that of previous years.



In **Thailand**, the use of force against protesters has escalated dramatically since October 2020.¹⁴² Thai authorities have attempted to justify the crackdown on pro-democracy protests by claiming that such efforts are necessary to control the Covid-19 pandemic and that the protests pose a threat to national security and the monarchy. In October 2020, the day after protesters allegedly disrupted the Royal Convoy of the Queen, Thai authorities used water cannons and tear gas to disperse youth protesters in Bangkok. This was the first time this force had been used in Thailand since the 2014 military coup. Since then, weapons, including tear gas, water cannons, long-range acoustic devices, rubber bullets, and blockades, have been used to prevent protesters from entering areas with significant attachment to the monarchy.¹⁴³ After this first use, police began using tear gas as a common tool to disperse protests.¹⁴⁴ In addition, starting in February 2021, when daily confrontations between the police and protesters escalated, Thai authorities have used rubber bullets at almost every major protest.¹⁴⁵

On some occasions, water cannons and tear gas were used even before protesters started to gather in big groups or before they started marching. On 8 November 2020, the Deputy Speaker of the Thai Royal Police claimed that the use of water cannons was a necessary 'tactical move' to notify protesters who marched towards the Grand Palace that this was a boundary that they should not cross. He also argued that the use of force was justified because the protest organisers had not notified the authorities as required by the Public Assembly Act 2015.¹⁴⁶ Such a position violates international law and standards on use of force and on the right to protest, which require that force may be used only in specific circumstances relating to clear and immediate threats to people and property and must be proportionate to the situation, and that the exercise of the right to protest does not require notification.

All the protesters in Bangkok interviewed for this research had experienced the use of water cannons and tear gas during the protests. They reported that the police did not notify protesters properly before using these weapons. At times, the announcement was made to small groups of speakers, and only to those standing very close to the police. Therefore, the rest of the people marching would have had no way to hear.¹⁴⁷ Warnings about the imminent use of tear gas were usually delivered only a few minutes before it was used.

ARTICLE 19 has reviewed a number of livestreams of the events on 7 August 2021 at the Din Daeng intersection, where it appears that the police shot rubber bullets to deter protesters from moving closer to the police blockade. Meanwhile, some of the protesters held long sticks and others threw Molotov cocktails at the police line.

The commanding officer authorised the police to ‘use rubber bullets to shoot at the lower point of the body if a protester tries to break in. If [the protester] retreats, [the police] can stop shooting.’¹⁴⁸ After these orders, police officers repeatedly fired rubber bullets at protesters in an indiscriminate fashion. Footage from the protests shows riot police firing rubber bullets from a highway overpass at a distance too great to ensure the targeting of violent individuals in a manner consistent with international standards. In other livestreams, police officers appear to shoot rubber bullets at individuals passing on motorbikes, including at point-blank range. Journalists have also reported being hit with rubber bullets at protests.

Police have also reportedly fired tear gas canisters directly at protesters. On 13 August 2021, a protester, Thanat Thanakitamnuy, was hit in the face by an object believed to be a tear gas canister fired by police at the Din Daeng intersection and reportedly lost sight in his right eye.

The Deputy Speaker of the Royal Police Bureau later claimed in a press conference that the use of rubber bullets was to ‘restrain when a threat is approaching. First, this provides self-protection; and second, it helps contain the unrest not to expand to other areas.’¹⁴⁹

It is important to emphasise that Thai authorities do not use these weapons to stop individuals from acting violently. Rather, the police use them to disperse the protesters in general or to prevent protesters from accessing certain areas, particularly places related to the monarchy. The police used rubber bullets against the protesters for the first time in February 2021. They insisted this was in response to some pockets of violence – which did occur. However, at least six journalists were shot by rubber bullets while covering the protests in 2021, though they had clearly identified themselves as members of the press. One of these was shot in the back while he was running away from approaching police, despite wearing an armband and helmet clearly stating ‘Press’.

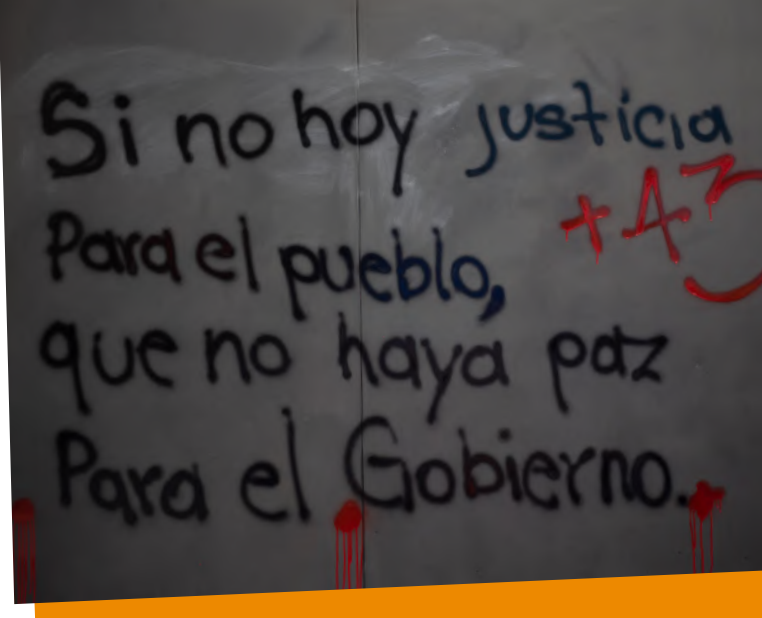
Kenya has a longstanding practice of police brutality against protesters.¹⁵⁰ Over the years, and particularly around election periods, the Kenyan police have perpetrated a wide range of violations against protesters, including excessive use of force. At the time of the protests around the 2017 elections in Kenya, the Principal Secretary in the Ministry of Interior was widely reported in the media saying that the government was spending USD10,000 a week on purchases of tear gas.¹⁵¹

During this research, multiple incidents were reported of violent dispersal of peaceful protests and the use of unnecessary or disproportionate force. Out of the 152 interviewees and focus group participants in this research, 25 had been beaten or roughly handled by police during protests, 36 had been in a protest that was violently dispersed by the police at least once, and 20 had been in multiple protests that were violently dispersed by police.

The main methods reported to have been used by the police in these incidents were beatings using batons or wooden sticks, tear gas and water cannons, and the firing of live ammunition, resulting in deaths and injuries.¹⁵² Most of the injuries reported during this research came from beatings by the police.

Halima Bakari, a 24-year-old rights activist, participated in two Saba Saba protests in 2020 and 2021. During the 2021 protests, which police insisted were against Covid-19 regulations, the police moved in to forcefully disperse the protesters. Bakari told ARTICLE 19 that she was caught in the melee and stampeded over, dislocating her knee:

“ We were chanting and singing, but before we finished, tear gas canisters were lobbed at us and there was pandemonium. I only remember a woman was pushed, and I also fell on the ground. There was tear gas smoke everywhere. The lady that I fell over managed to pick herself up and scamper to safety, leaving me alone on the ground. My knee had a dislocation, and I can remember I tried getting up in vain. That is when I realised that something was wrong with my legs. The place was smoky. I gathered myself and tried standing up, but I could not. I saw a police car approach me, and luckily, I heard them saying that I was hurt and that they were not interested in me. The place remained quiet. From nowhere, two compatriots arrived and performed first aid on my dislocated knees and walked me to a nearby hospital. The police vehicles came back, and we asked them why they were using tear gas on people, to which they responded, ‘it’s an order from above!’ We informed them we had followed the law, they didn’t listen, but
” arrested seven of us.¹⁵³



‘If there is no justice for the people today, let there be no peace for the government’: slogan painted on Avenida Reforma during the Ayotzinapa demo, 26 September 2021. (Photo: Ilse Huesca/ARTICLE 19 MX-CA)

Similarly, a journalist describes the pattern he observed in his reporting of protests:

“ It’s always violent. As a journalist, I have seen it first-hand. I have also suffered the effects of tear gas as I covered protests. Violent approaches to protesters involving beatings, threats, tear gas canisters, intimidations on demonstrators. All the protests I have covered started as peaceful protests. The demonstrators are never armed with any weapons. The police pounce on them with violence. Once I asked a police officer privately why they always swoop on demonstrators with violence and tear gas even though they are not armed or before the police know why they are protesting. He told me ‘lazima kwanza raia wajue kazi yetu ama watafikiria sisi ni nyanya zao [the citizens have to understand our work first, lest they think we are their grandmothers]’. It is
” colonial mentality.¹⁵⁴

ARTICLE 19 was shown a spent cartridge reportedly recovered from a protest in Kayole, Nairobi, on 19 August 2021. The markings, with the initials 'KOFK' (Kenya Ordnance Factory Corporation), indicated it was a government issue – KOFK is the sole supplier of 7.62mm calibre ammunition used by the police.

In an interview with ARTICLE 19, a Regional Police Commander confirmed the police used violence and argued that it was justified due to protesters' behaviour. He added: 'We are disciplined service. Order from above is critical. The law and rights are not absolute! Aggrieved parties would need to prove how many ammunitions were used and, if proven, sue the Attorney General, Inspector General and Deputy Inspector General of Police.'¹⁵⁵

In **Brazil**, 2021 saw the unprecedented mass mobilisation of indigenous groups in Brasilia on two occasions: 'Levante pela Terra' (Rise for the Earth) from 7 to 30 June and 'Levante pela Vida' (Rise for Life) from 22 to 28 August. The demonstrations took place in opposition to an appeal presented to the Supreme Court (Recurso Extraordinário no. 1.1017.365) that affects the general demarcation of indigenous land, and a bill, 'Marco Temporal' (Law Project no. 490 (PL 490/07), under consideration in the Chamber of Deputies which directly affects the process of regularisation of indigenous territories in the country and would prevent indigenous populations from having their lands recognised.

On the morning of 22 June, the riot police attacked protesters with tear gas, gas bombs, and rubber bullets, injuring many protesters despite the protest being largely peaceful.¹⁵⁶ According to congresswoman

Joenia Wapichana, 'more than 14 indigenous people were injured, two ... in serious condition ... some elderly people and women.' Local NGOs reported the injury of a 26-year-old man who was hit by rubber bullets in the torso and stun guns in the back.¹⁵⁷ Protesters responded to the police violence with bows and arrows.

ARTICLE 19 found that the military police responded disproportionately to the protesters. Under the justification of ensuring the 'preservation of public order and the safety of people who work in the surroundings, as well as for the protection of [public] property', the military police prevented the protesters from entering the Congress building.¹⁵⁸

One of the two protesters who were seriously injured told ARTICLE 19 that he only had a bottle of water in his hand and was dancing and singing. He said:

“ When the shootings started, gas bombs were thrown, I was hit. At first, I tried to protect myself, not to run, I just walked away, when I turned around, I was hit in the arm first, and then the bombs hurt me a lot. They threw some tear gas there. The explosion was so intense that the echoes were still in my ear. It is still bleeding from time to time, after that. When he [the military police officer] threw me on the floor and put my head on the curb, I was a little disoriented. I still managed to stand up, I could not ... According to the people who were with me, even passing out in the firefighter emergency, [the military police continued to] fire and dropped bombs. I passed out; I was at risk of death by suffocation.

ARTICLE 19 obtained the police report that states that this activist was also hit: 'in the back by two rubber bullets, one in the right arm and the other in the back region ... he was rescued by people who were present there. He also fainted.'¹⁵⁹ The injuries in the back confirm that the protester was running away when the rubber bullet hit him.

Women protesters in **Mexico City** described that the threat of use of force by the police is palpable, from the number of police deployed and the type of equipment they wear to the actual use of violent tactics that violate individuals' right to protest. Interviewees confirmed what had been reported by the Amnesty International report, *México: La era de las mujeres: Estigma y violencia contra mujeres que protesta* in regard to the use of kettling tactics and the arbitrary use of force.¹⁶⁰ To these, they added other abuses, including pushing and shoving and the use of tear gas, which is prohibited in Mexico City.

"All the protests I have covered started as peaceful protests. The demonstrators are never armed with any weapons. The police pounce on them with violence."

– Journalist, FM station in Kirinyaga County

The women expressed the view that kettling was the most violent tactic the police used. Diana, a protester from Atenco, recalled how this tactic was used:

“ Today there is a lot of talk about encapsulation. But already from Atenco [for detentions they do ‘belts’ surrounding various women. For example, if ten women are together, seven police or soldiers surround these women and don't let them leave. On the other hand, they grab the men and start hitting them. With the women those ‘belts’ created a form of intimidation. And the nerves would start and we would start to run. We thought that when they [the police] would see us getting nervous and we would start to scream was when they would use it as a pretext to start hitting us. Therefore, we would say ‘ok, let's not do anything, remain calm.’ If not, that is when they would get us one by one.”¹⁶¹

Another concerning example is the case of the forced eviction of the population of the Chilón municipality in Chiapas, who were mobilising against the building of a National Guard facility within their territory, as well as the detention of two community members – illustrating the persisting politics in the region that prioritises prosecutions, imprisonment, and repression instead of dialogue. On 15 October 2020, in the locality of Temó, there were protests against the militarisation of the region, as the building of the National Guard facility was perceived to represent. César Hernández, one of the community members detained, said, ‘we did not want that ... because we have seen that the military bring killings, prostitution and kidnapping.’¹⁶²

Although it was a peaceful protest, according to Hernández, about 300 state, municipal, and sectorial police and National Guards were deployed to repress the protesters. According to documentation from the Centro de Derechos Humanos Fray Bartolomé de las Casas, there is evidence of excessive force and cruel, inhuman, and degrading treatment, and arbitrary detentions by the authorities.¹⁶³ A video made by this same organisation shows excessive use of force by the police.

An added concern in Mexico is not only the behaviour of police but, specifically in the states of Oaxaca and Chiapas, the impunity of ‘clash groups’ (grupos de choque), which were reported by interviewees as being responsible for acts of intimidation and harassment against activists and HRDs who participate in social mobilisations. It should be the responsibility of the state authorities to investigate cases of human rights violations by these groups; however, it was reported that this responsibility had been overlooked at all levels of government, creating a vulnerable environment for those that protest.

Ericka Morelas of Tequio Jurídico in Oaxaca explains:

“ In the case of Oaxaca, a figure that is being used by the state authorities are ‘clash groups’. In other words, so that these crimes [threats, kidnapping, detentions] can be configured as between private individuals, and the state ends in a way without responsibility and can frame the situation as conflict between private individuals ... These groups in a way do the bidding, let’s say, in favour of the government because they will have either financial or land remuneration, or public appointment. I believe it is one of the ways that they are using now and is organised crime. Here they are known as assassins [‘gatilleros’], in other places as sicarios, with these other figures that are being use in the last years in the state.¹⁶⁴

In the cases from Mexico reviewed for this research, there were no reports of direct aggression by clash groups towards women-led protests. However, it is relevant to highlight their presence here because of the potential risk they pose to the human rights of protesters in the eyes of our interviewees.



To remember is to resist: mural by the collective RSES Crew on the wall of the Universidad Autónoma de la Ciudad de México, 8 March 2019. (Photo: Prometeo Lucero/ARTICLE 19 MX-CA)

Page 65: Rally in support of Tunisian President Kais Saied, Tunis, 8 May 2022. (Photo: Hasan Mrad/Shutterstock.com)



Prosecution of protesters

In **Thailand**, legal prosecutions against protest leaders have generally been strategically initiated to stop them from engaging in further demonstrations. The Metropolitan Police Bureau has announced that from July 2020 to October 2021, it initiated 728 cases related to protests in the Bangkok area, including 341 cases in which it finished the investigation and submitted the case to the Attorney General to proceed with the prosecution. Of these, **387 cases** are still under investigation. In total, throughout the country from 18 July 2020 to 30 November 2021, Thai Lawyers for Human Rights has documented legal charges against 1,684 individuals in 957 cases. Among those charged are 267 activists **under the age of 18**. Many of those charged have been charged multiple times, and the 1,684 individuals collectively face at least 3,217 charges.

The protest leaders face numerous charges arising from their involvement in the pro-democracy movement. Arnon Nampa faces 24 charges in total, of which at least 14 counts are of lèse-majesté and at least one count each of sedition, assembly with intent to commit an act of violence and obstruct a public way, offence against regulations on assembly under the Emergency Decree, obstructing traffic, use of an amplifier without permission, placing objects on the road, and participating in acts that increase the risk of infection.¹⁶⁵ Parit Chiwarak has been charged with 43 offences. He faces at least 23 counts of lèse-majesté, at least **two charges** under the Public Assembly Act, and at least one count each of sedition, assault, and holding an event that could spread a disease.¹⁶⁶

In addition, the way these legal charges have been brought against the key leaders is evidence of judicial harassment intended to stop the protest leaders from engaging in further protests. One of the tactics used by Thai authorities is to add additional charges, sometimes from old cases, in an effort to lengthen the detention of those arrested. These additional charges are often brought immediately before the protesters are supposed to be released. In this way, Thai authorities ensure that the protesters have to spend longer in prison.

For example, in October 2020, on the day that Parit Chiwarak, Panupong Jadnok, and Panussaya Sithijirawattanakul were to be released from prison, police from another station requested that the three be **detained on additional charges** committed in their area. In addition, Arnon Nampa was arrested in Bangkok during a protest on 15 October 2020 on charges brought by Chiang Mai police for a speech he had given a month earlier. He was transported by helicopter from Bangkok to Chiang Mai. After Arnon was released on bail from Chiang Mai prison on 27 October 2020, police from Chana Songkram police station in Bangkok went to Chiang Mai to arrest him for a speech he delivered at a protest on 19 September 2020. Arnon was then transported back to Bangkok on a van. The extra efforts by both the Chiang Mai and the Chana Songkram police to travel to distant provinces to arrest Arnon and to have special transportation arranged indicated that these cases were not treated as ordinary violations of the law. The court in Bangkok **rejected his bail**

request, claiming that he might 'cause more unrest in the country.' Arnon was eventually granted bail and released.

More recently, on 10 August 2021, when Arnon turned himself in on charges he faced after a protest on 3 August, police from a different police station arrived and **filed additional charges** against him for a speech he had given on 24 June 2021.¹⁶⁷ He remained in detention without trial until February 2022. In addition, on 27 October 2021, police from Nakorn Ratchasima province in north-eastern Thailand visited Benja Apan at the Central Female Correction Center in Bangkok where she was detained on lèse-majesté charges. The Nakorn Ratchasima police notified her of an **additional charge** she faced for allegedly violating the state of emergency regulation.

In **Kenya**, this research found that arrested protesters are frequently not charged; even in cases where protesters are charged, cases are often not prosecuted, collapsing due to lack of adequate evidence and witnesses or due to the police failing to attend court. Seventeen respondents told the researchers they had been arrested during protests. Of these, 12 had had their cases dropped for lack of evidence or police not attending court. The police appear to use this method to intimidate protesters to discourage their participation in any future protests.

The coast-based human rights organisation MUHURI has been a repeated target for police action and prosecution in relation to its organisation of protests. In 2021 alone, two officials, Robert and Ibrahim, were arrested

three times during protests organised by MUHURI which were disrupted by police. On 18 February 2021, the two were arrested during protests against the introduction of the mobile phone-based payment system M-PESA by the Kenya Ferry Services (a parastatal entity) at the Likoni Channel in Mombasa. Although there are other companies that offer mobile money services, this development would limit access to the ferry to those who use the M-PESA system. Robert and Ibrahim were charged with causing public disturbance and given cash bail of KES 20,000 (USD 200) (the yearly minimum wage is USD 119 per month).¹⁶⁸ Robert was arrested again on 4 March 2021, along with six other people while protesting about the conditions at the local hospital. They were charged with unlawful assembly under the Penal Code, on the basis that the gathering of about 100 people was illegal as their notification had been declined by the local police commander. They were acquitted in November 2021.¹⁶⁹

On 25 August 2021, Robert and Ibrahim were arrested again when police used tear gas to disperse a protest against corruption involving funds for Covid-19 containment supplies.

On 21 February 2022, the magistrates' court in Mombasa sentenced six activists to 12 months' probation under the **public health rules of 2020** for engaging in what was considered an illegal gathering while protesting the misappropriation of public funds meant to be used for the Covid-19 pandemic.¹⁷⁰

Activists and lawyers report that in cases which find their way into courts, proceedings against protesters are lengthy, costly, and an inconvenience. Cases are often dragged out, sometimes for years, for reasons including the failure of the police to attend and overwhelmed court calendars. Many cases are ultimately dismissed. Multiple court appearances drain activists of resources, are emotionally draining, and can have damaging impacts on their work and their standing in their communities. Cases often also attract excessive bail terms – with minor offences attracting large sums of money, which protesters from poor backgrounds cannot afford to pay. Keeping protesters tied up with court cases is seen by many as intentionally punitive.

Nicholas, a key figure in the social justice movement who has had multiple cases such as these filed in court, noted:

“ The court process had taken up so much of my time. These cases take about four years. I have not been convicted in any of the cases. However, the whole process has drained me. That is the whole purpose: to tire you out and keep you in and out of court.¹⁷¹

In **Poland**, the main tool used by the police against the protesters has been misdemeanour charges. The police have issued fines based on Article 54 of the Petty Offences Code.¹⁷² For simply taking part in an assembly, a person can be fined up to PLN 500 (USD 110, where the monthly minimum wage is around USD 700). If the fine is refused, the police refer the matter to court.¹⁷³ The police have also

charged protesters with a myriad of other misdemeanours, such as sticking posters, stickers, or pictures in unauthorised places such as private or public property,¹⁷⁴ littering in public space, occupying a traffic lane, and polluting the environment with sound. According to various lawyers, courts generally acquit the accused.

However, in some cases, lawyers told ARTICLE 19 that the police had brought criminal charges against protesters and, in particular, against organisers. The most frequent charges were infringement of a public official's physical integrity, punishable by up to three years' imprisonment (Article 222.1 of the Penal Code); insulting a public official, punishable by up to one year's imprisonment (Article 226.1 of the Penal Code); participation in an unlawful assembly with the purpose of violent attack on a person or property, punishable by a maximum term of imprisonment of five years (Article 254.1 of the Penal Code), and incitement to commit a crime (Article 255.3 of the Penal Code), which carries a penalty of up to one year in prison. For example, Marta Lempart, one of the All-Poland Women's Strike leaders, was charged with incitement to commit the crime of destruction of churches and disturbance of a religious cult, committed, allegedly, in a radio interview.¹⁷⁵ Many believed that the charging of protest organisers was done specifically to instil fear and to convince the public that 'criminals and instigators were behind the protests'.

Applying criminal sanctions to those engaged in peaceful protests has a chilling effect on the enjoyment of their rights as well as deterring them and others from participating in future protests. The UN Special Rapporteur on the freedom of peaceful assembly considers that using charges as a means of intimidation without pursuing them, imposing disproportionate penalties, and invoking criminal defamation and sedition laws have a chilling effect on freedom of expression. Similarly, the Inter-American Commission on Human Rights Special Rapporteur for Freedom of Expression has noted that ‘the per se criminalisation of public demonstrations is, in principle, inadmissible, provided they take place in accordance with the right to free expression and the right of assembly.’¹⁷⁶ This ‘chilling effect’ can arise in a context where the state’s response to protesters – and in this case, judicial harassment – can have the effect of discouraging people from exercising their right to freedom of expression.



Black Lives Matter demonstration, Orlando, Florida, USA, 19 June 2020. (Photo: Tverdokhlib/Shutterstock.com)

“The court process had taken up so much of my time. These cases take about four years. I have not been convicted in any of the cases. However, the whole process has drained me. That is the whole purpose: to tire you out and keep you in and out of court.”

– Nicholas, interview

Page 70: Protest over gender-based violence and vigil for Sarah Everard outside New Scotland Yard, London, 14 March 2021. Everard had been kidnapped and murdered by a serving officer in the Metropolitan Police. (Photo: I T S/Shutterstock.com)

WE WILL
NOT BE
SILENCED!

The misuse of public order legislation

ARTICLE 19's research has shown that in the countries of focus, the authorities have attempted to restrict the right to protest by using public order legislation. For many states, the ambiguity of the term 'public order' has allowed them to routinely exploit it to justify extensive limitations on rights, including the right to protest.

Authorities have imposed restrictions on protests using the argument of the protection of public order. However, the Siracusa Principles on the Limitation and Derogation of Provisions in the ICCPR clarifies that the expression of 'ordre public' may be defined 'as the sum of rules which ensure the functioning of society or the set of fundamental principles on which society is founded. Respect for human rights is part of public order (*ordre public*).'¹⁷⁷ In the [Right to Protest Principles](#), ARTICLE 19 offers two observations in relation to 'public order' limitations on protests, where the right of peaceful assembly will invariably be engaged.

First, the Right to Protest Principles specify that 'exercising the right to protest, including spontaneous, simultaneous, and counter protests, should be considered an essential characteristic of public order and not a de facto threat to it, even where the protest causes inconvenience or disruption.'¹⁷⁸ Second, the Right to Protest Principles draw upon the limited guidance of the Siracusa Principles to specify: 'public

order may be invoked only where protests present a genuine and sufficiently serious threat to the very functioning of society or the fundamental principles on which society is founded, such as the respect of human rights and the rule of law.'¹⁷⁹

In a similar fashion, the UN Special Rapporteur on the rights of peaceful assembly and association has highlighted that 'an assembly should be presumed lawful and deemed as not constituting a threat to public order.'¹⁸⁰ Further, the UN Human Rights Committee has criticised states for over-reliance on the term 'public order' where legal frameworks do not provide sufficient guidance on its interpretation for limiting rights, in particular where violations of public order, or incitement thereof, are the basis for criminal liability.¹⁸¹

An emerging pattern in this research is the exploitation of public order regimes in the countries studied. In particular, notification requirements provided in the public order acts are often exploited to restrict protests, including spontaneous ones. In some cases, failure to meet the notification requirements has led to the criminalisation of organisers. In addition, failing to comply with the conditions imposed by the authorities has criminalised both participants and organisers.

In **Kenya**, the Public Order Act, which regulates the organisation of protests, contains several provisions that do not meet international freedom of expression standards for multiple reasons. One of these is that the Act established a mandatory notification process, which may deter individuals from exercising their right to protest.¹⁸² The Act does not require authorities to acknowledge a notification, nor does it specify that police have to receive the submission or that they have the authority to grant or deny permission. This leaves those who notify the authorities of their assembly uncertain about whether proceeding with their protest will result in criminal sanctions. The Act states that the police may prevent a protest from taking place if notification has not been submitted or if 'there is clear, present or imminent danger of a breach of the peace or public order.'¹⁸³ In addition, the Act criminalises the failure to give notice, which is in violation of international standards.

The UN Human Rights Committee considers that the failure of participants to notify authorities or seek authorisation does not render their assembly unlawful. States should only seek notification of protests where it is necessary to enable planning for the facilitation of such protests, and spontaneous protests must be exempt from such rules. Further, the African Commission Guidelines on Freedom of Association and Assembly in Africa stress that protest is a right, and no prior authorisation should be needed.¹⁸⁴

The Public Order Act is frequently used to suppress protests or as the basis to arrest and charge participants of protests. ARTICLE 19's research in Kenya has shown that in many instances the police actively

avoid receiving notifications submitted to them. Protest organisers across six counties in Kenya reported that when they visited police stations to notify the police of their intention to hold protests and share the procession plan, the police often avoided the receipt of notifications or refused without any reason provided. Ninety-two respondents indicated that they had experienced frustrations with the police, declining to receive their notification, in most cases without any justifiable reason. A police regional commander confirmed to ARTICLE 19 that the police have the discretion to reject a notification without offering an explanation. This, he said, may be due to information in their domain that cannot be shared with the public.¹⁸⁵

According to Eli, an HRD based at a social justice centre, their efforts to notify the police had been met with resistance. He noted: 'In many instances, we've always followed the law by visiting the police station to notify them. However, the police usually decline to receive these notifications, choosing to play hide and seek to avoid service. This is out of apparent fear of blame by their seniors.'¹⁸⁶

Some respondents believed that the police interpreted the requirement to notify as implying the authority to grant or deny permission to carry out a public protest. However, the procedure requires the organisers of such protests only to notify the police, which is not the same thing as requesting permission. The practice of the Kenyan police is a clear indication that there is a tendency to elevate statutory provisions from the Public Order Act as higher than the Constitution.

Vincent Tanui, a 32-year-old man who works for Grassroot Women Development Agenda, an organisation which has used protest extensively as an advocacy tool in Kenya, notes:

“ Based on my experience it is not an easy task to get ‘authorisation’ for protest. Most police officers have a negative notion on what entails picketing or peaceful procession despite clear legal provisions. They also think that they are giving permission for protest and it’s their duty to decide to grant permission or not. This is illegal despite them invoking law and order. Many times, the police are quick to use excessive force to disperse peaceful protesters. People are beaten up, clothes are torn, and they call protesters names such as wakora [Kiswahili for thugs] and wajinga [Kiswahili for fools]. Anyone who has ever been arrested by Kenyan police knows how demeaning this process can be. You are treated worse than a criminal. It hurts knowing that the rights for which you are agitating for will be enjoyed even by the officers who are beating you up, and their children. They don’t care to listen. Sometimes they will say they are implementing ‘orders from above’. But it is the price you have to pay.¹⁸⁷

Some respondents believe that the police are discriminatory in how they handle notifications. Mwangi, a respondent from the social justice centre, noted that:

“ The police treat poor or lower class people differently. When we from informal settlements go to the police station to conduct notification, the police become hostile once they realise you are not as influential as others.¹⁸⁸

In **Thailand**, the Public Assembly Act (2015) requires the protest organiser to notify the local police at least 24 hours beforehand, informing them of the objectives of the assembly, the date, the time, and the place at which the demonstration will take place (Article 10). Any assembly that the organiser fails to notify the authorities about in advance is considered illegal (Article 14). This provision has been used to harass protesters.

Some pro-democracy activists are charged under the Public Assembly Act for not notifying the authorities before their demonstration, including even when the assembly involves fewer than five people or does not engage in any confrontation with the authorities. For example, Parit Chiwarak and a friend were found guilty and fined 2,000 baht each (approximately USD67), twice, for violating the Public Assembly Act by organising symbolic acts in front of Government House¹⁸⁹ and in front of the Royal Thai Armed Forces Headquarters.¹⁹⁰

Article 4 of the Act defines the ‘assembly organiser’ to include anyone who invites or makes appointments to get other people to join the assembly. The Metropolitan Police Bureau and the courts have interpreted this to include anyone who makes an online announcement about a protest to invite people to join. Thus, anyone who posts about the protest is potentially committing a crime.¹⁹¹ Prasit Krutharoj, a university student activist in Chiang Mai, was found guilty by Chiang Mai District Court and fined 9,000 baht (approximately USD300) for posting an invitation to join the pro-democracy assembly on Facebook’s ‘Liberal Assembly of Chiang Mai University for Democracy’ page, of which he is the administrator. Prasit insisted that the protest was not

organised by him: he was simply sharing details of an activity that some of his friends had organised.¹⁹² Had he been the protest organiser, he would have posted the announcement earlier, not just a few hours before the event, explained Prasit.¹⁹³

In cases where the protest organisers do notify the authorities beforehand, activists have sometimes still been charged with not complying with the conditions set forth in the Public Assembly Act. Six activists interviewed for this research who had experiences of submitting notification of a demonstration to the police reported that when they notify the police about the planned protest, the police ask them to follow certain conditions. These include fixing the time limits, the place, and the use of a sound system.¹⁹⁴ For example, during MobFest in November 2020, all the key organisations involved had to submit notice to the authorities. A few hours before the scheduled demonstration, the Royal Thai Police issued a statement detailing the conditions each of the groups had to follow. The conditions included the area in which the protesters had to stay, a prohibition on moving to key government premises, a prohibition on using public speakers after midnight, a prohibition on impeding traffic if there was an ambulance in the area, and a prohibition on the use of protest signs that defame people or 'create disturbance' in society.¹⁹⁵ According to Chonthicha, sometimes the police set conditions beyond the scope of law, and if the protesters are not well versed on relevant laws, they may fail to assert their rights with the police.¹⁹⁶

Moreover, many of the activists interviewed for this research have found that protesters are prosecuted regardless of whether

they notify the police as required by law or not.¹⁹⁷ As such, many activists no longer notify the authorities when organising protests. All the activists interviewed also shared the view that the notification process is too cumbersome. Notification is particularly difficult in rural areas, where police stations may be quite far away from where the protesters are located. Online notification is not necessarily possible because some police stations require a hard copy of the notification.¹⁹⁸

In **Tunisia**, Law No. 69-4 of 24 January 1969 regulates public assemblies, processions, parades, protests, and gatherings. It is extremely restrictive and does not align with international law. Despite the constitutional right of peaceful assembly, this law gives public officials broad discretion to suppress protests and gives police the power to disperse an assembly if they choose to do so.¹⁹⁹

This law provides that authorities may prevent protests that are expected to disturb the peace or public order. However, there is no definition of what public order is nor a determination of what constitutes 'disturbing the peace'. Such vague provisions grant authorities broad discretion to restrict the right to protest. Furthermore, the law provides for a request of notification for any public meeting at least three days before but no more than 15 days before the gathering. This request needs to be submitted by at least two Tunisian citizens,²⁰⁰ and they must declare the time, place, and purpose of the meeting. The law further provides restrictions on the time and place: for example, assemblies cannot take place on public roads. It also requires the type of

symbols and flags that may be used to be specified.²⁰¹ In addition, Law No. 69-4 Article 13 prohibits spontaneous protests. Thus, multiple provisions of the law contravene or place undue restrictions on the right to peaceful assembly.

Bill No. 2018/91²⁰² provides for the prohibition of any strike or protest which is deemed to threaten or disrupt public order and for any individual suspected of carrying out activities that threaten security to be placed under house arrest. This Bill also allows the President to enact a state of emergency for a period of six months, renewable for another three. However, it does not provide for any time limitations, and thus the state of emergency can be renewed indefinitely. It leaves the decision to establish and renew the state of emergency exclusively in the hands of the executive power, without requiring parliament or constitutional court approval. Many civil society organisations have recommended a significant modification to this Bill, as it threatens fundamental rights.²⁰³

Attempts to suppress protest in the UK

Such misuse of public order legislation is not confined to the countries of focus. While the scope of this report does not extend to analysing the situation in the UK, ARTICLE 19 has previously expressed deep concern about the Public Order Bill currently going through the UK parliament, and wishes to draw attention to it here.

If passed, the Bill would create a set of barriers and excessive measures to prevent protests, effectively criminalising direct action, increasing sentences, and giving police and the Home Secretary unprecedented and disproportionate powers to prevent protests they consider 'disruptive'. These provisions thus clearly fail the three-part legitimacy test of legality, necessity, and proportionality.

Previously, the Police, Crime, Sentencing and Courts Bill, now enacted as law, had met with widespread resistance, including from members of parliament of all parties, for its inclusion of similarly excessive provisions. The Bill was passed only once these provisions were dropped. The attempt to push through the same measures in new legislation despite cross-party consensus that they are unacceptable makes a mockery of the democratic process.

In order for the UK to remain a thriving democracy, it must protect the right to protest. ARTICLE 19 [called on the former Prime Minister Liz Truss to do so](#).



The chilling effect of restrictions

Across many countries, protesters, HRDs, and activists told ARTICLE 19 that the restrictions and repression on the right to protest have led them to temporarily or, in some cases, permanently stop participating in and organising protests. As a result of the continuous and sometimes increasing crackdown on protesters, protest organisers, activists, and HRDs have begun to fear the consequences of protesting more than they fear the injustices they were protesting about. The harassment and intimidation, disproportionate or excessive use of force, arrests and detentions, and judicial harassment faced by many protesters may amount to a chilling effect on the enjoyment of people's right to protest and to freedom of expression, and this might deter them and others from engaging in future protests.

In **Poland**, protesters reported to ARTICLE 19 that the violations they suffered at the hands of the police during the Women's Strikes and LGBTQI+ protests have had a long-lasting effect. The majority of interviewees described their frustrations when protesting and reported burnout. Many believe that the actions of the police were deliberate, with the aim of creating a chilling effect and discouraging future protests. The police use identification and issue fines under various articles to try to make the protesters feel that they are doing something illegal and could be punished for it. A number of respondents reported that the police behaviour during the events of 7 August 2020 led to an escalation of the situation rather than de-escalation.

One participant stated:

“ The aim was certainly to intimidate our community, our allies, that's one thing. Two, I think it was also meant to show those who are already against us, to make them believe that we are evil and aggressive and are destroying Poland and radio cars. This is simply theatre, a game, playing with people's lives and psyches.²⁰⁴ ”

Another stated:

“ It was purely about stopping our movement. To stop people in their homes, to stop parents from letting their teenage children out on the streets. For anyone to be deported for dozens of hours without access to loved ones will be traumatic. This is about the chilling effect. It's about making people afraid.²⁰⁵ ”

Respondents across multiple countries reported burnout and protest fatigue. For example, in Poland, demonstrators were unsure whether going out to protest would last two or three hours or whether they would be kettled or detained on some pretext. Activist Mola Melaniuk highlights the psychological impact of the police brutality she experienced:

“ Apart from that, I have to go to therapy because it's very hard, I don't cope very well on a daily basis. There are situations when I have a panic attack at the sight of a policeman, because I can't deal with it somehow, but I don't feel safe anywhere. I have a terrible anxiety disorder; it's been exacerbated by this situation.²⁰⁶ ”

Advocate Karolina Gierdal adds: 'There are people who don't want to continue protesting, they are scared, and this is somehow traumatic for them, they decide to stop doing it at least for some time.'

Many have also reported on the psychological and financial burden imposed by the cases initiated against them by the police. Protesters repeated that they had temporarily suspended their attendance at human rights events due to fear of the police or fear of burdensome procedures. They also described a decline in trust in public services:

“ I wasn't able to walk past a police officer on the street, I crossed to the other side quietly for a few weeks, I wasn't able to go back for my bike which I had left tied up on Nowy Swiat Street, it wasn't until three weeks later that I went back for it. I feel that since then I have lost faith in the police being able to do anything to benefit a citizen in this country. I knew that [attending] assemblies at times when the police are in the service of political power is a dangerous practice.²⁰⁷

In **Kenya**, fear of profiling, being arrested and charged, and sometimes facing jail have dissuaded many people from using protests as a tool to demand their rights. The majority of respondents reported being less enthusiastic about engaging in protests, while others avoid protests completely, noting that the violent nature of the police response to protests makes people fearful of wanting to engage in lawful protests. The respondents noted that being victims of violent dispersal of protests can leave lifelong social, economic, physical, and psychological scars. In 2018, ARTICLE 19 Eastern Africa conducted a survey into people's perceptions of the right to protest

in Kenya. Seven out of ten respondents said that when they hear about a protest, they are afraid protesters will use violence, and 43% of respondents feared that this violence could result in injury or death. In addition, nearly ten respondents feared that the police would use violence.²⁰⁸

This has also impacted minority groups. For instance, Persons with Disabilities reported that they avoid staging or participating in protests due to limitations that predispose them to danger when the police violently disperse protests. They noted that the nature of protests in Kenya requires individuals to be able to outrun the police to safety when protests are violently dispersed. A respondent from the Hawkers Association told ARTICLE 19: 'As people with disabilities, we fear demonstrations because of the way we see people being treated and we know there is nowhere to report because you cannot report to the state and therefore, we have nowhere to take our complaints.'²⁰⁹

Importantly, the right to protest is guaranteed to everyone without discrimination based on any of the grounds listed under Article 26 of the ICCPR.

ARTICLE 19 spoke to many protesters in Kenya who reported that the police practice of disrupted protests with arrests and the risk of being charged made them reconsider protesting. Their primary concern was the impact of missing out on economic opportunities while they were

under the custody of the police or awaiting arraignment and the processing of their case in court. The negative impacts of this also affected their relationships with families and friends. Frontline protesters, such as human rights activist Njoroge and other social justice activists, reported abandoning physical protest approaches to focus purely on public interest litigation²¹⁰ and petitions to mitigate the risks and costs of protests and state repression, which meant they are unlikely to achieve the intended results.

One of the respondents, Francis Sakwa, described to ARTICLE 19 how having numerous cases in several courts due to his participation in various protests had become too costly for him and led him to resign from his job:

“ This has been too costly for me in terms of court appearances. In a way, these have also impacted my person, in the sense that when you are charged with a criminal offence when you were only participating in a protest, both your image and careers are ruined since being criminally charged means you’re a criminal.

Sakwa resigned from his IT specialist job as he had begun to be profiled as an activist in his company: ‘I had to ask for leave days to appear in court sometimes up to seven times a month. This did not augur well with my boss.’²¹¹

Jacob,²¹² a senior lawyer at a national human rights NGO who has represented people arrested during protests, corroborated what most of the respondents noted: that court processes were complex, tedious, costly, inconvenient, and often slow. Some

of the concerns raised by victims include delayed determination of cases and too many court appearances (mentions), which drain people of their meagre resources and wear them down emotionally. Arrested people are also confined in one place, denied liberty to travel, and are at risk of not acquiring certification for good conduct once fingerprints are obtained by law enforcement agencies. This last is a critical document which may cause someone to lose access to an opportunity for employment or business.

In **Thailand**, protesters in the pro-democracy movements have faced harsh restrictions from the authorities.

Activists who face pending legal charges must spend a great deal of time and resources interacting with the criminal justice system. Some of the cases are filed in provinces far from the activist’s residence. Thus, they sometimes have to travel great distances for legal proceedings. In addition, these activists are prevented from taking certain jobs because some work positions require that the applicant has never been charged or convicted. They are also prevented from travelling abroad.²¹³

These legal prosecutions have had a chilling effect on the activists. Several of the activists interviewed for this report mentioned that they had reduced their activism work for

a while as a result of their legal trouble. Prasit, for example, admitted that he was discouraged from activism after he was detained for about a week. As a gay man, he found time in prison difficult. He did not take the lead in political activities for a while following his detention. He said:

“ Honestly, it was quite traumatic. Over a month, although I was still joining the protests, I had to take a break from being a speaker on stage. I felt like I was not the same person. I knew that if I went up on stage, I would not be able to organise my thoughts and deliver them in the way that I used to do. However, I have tried to pull myself together.²¹⁴

Prasit was also worried about his mother. A concern for their parents' well-being seems to be shared among many of the activists.

Panadda Sirimassakul, an activist with Thalufah, suffers from severe depression after her 19-day detention. Due to Covid-19 quarantine measures, she was in isolation for the whole period. She could only meet with lawyers, no other visitors. Panadda told of her experience during detention:

“ I am quite a positive thinking person. I am always full of positive energy. But there [in prison], it was quite depressed. I lost all the happiness. It made me depress; I saw myself committing suicide. I saw myself tying towel around my neck, stepping up [onto] a rubbish bin, and kicking the bin away. My brain was dysfunction. I did not want to have that kind of idea and I was so scared. But it was beyond my control. I could not take it any more and I wanted to meet a psychologist.²¹⁵

It took Panadda months of healing support after imprisonment before she could resume a normal life. Nevertheless, she eventually resumed her political activities because she ‘[didn’t] want anyone to experience what I experienced’.



Figure 2: Alice Pataxó, tweet (22 November 2021)

On 20 November 2021, Alice Pataxó, a prominent young indigenous Brazilian activist, tweeted about feeling tired and worried. She added that ‘the hatred and the violence is more evident than ever’. Several respondents reported that a consequence of abusive and stigmatising official practices is the feeling of exhaustion, intimidation, and fear. Still, these emotions do not prevent indigenous people from protesting, but rather the opposite: mobilising protests and campaigns is the last resort in the struggle for land, survival, and recognition.



Thai protesters gathered in downtown Bangkok, Thailand, calling for Article 112 (the lèse-majesté provision) to be abolished and protest leaders to be released from jail, 12 December 2021. (Photo: Pitthara Kaewkor /Shutterstock.com)

When protest is the last resort: The case of Brazil's indigenous people

The right to protest can function as a safety valve in any democratic society. Indeed, protests can serve as an early warning system, indicating what the population's grievances are. However, in some instances, protesting is a last resort for some groups as it represents their last attempt to bring visibility to their cause. Often, dissatisfied communities and individuals can express their grievances through a number of political and social forums. However, marginalised groups lack access to those mechanisms. When dialogue is non-existent with specific groups in a society that have faced and continue to face historical marginalisation, more often than not, protesting is the last tool at their disposal.

In Brazil, ARTICLE 19 found that indigenous people's struggle for their rights is a form of protest in itself. Respondents from indigenous communities in Brazil informed us that their existence alone is a form of protest. Most respondents stated that indigenous acts of resistance occur predominantly on a small scale, in areas distant from the urban centres, invisible to the mainstream media and without dialogue with the government. They can be creative, for example the act of land self-demarcation, or confrontational, such as setting fire to land invaders' machines. These confrontational acts could be interpreted merely as a form of social conflict – not a protest. Yet interviewees were unanimous in saying that this is how indigenous people traditionally resist to protect their lands and lives. The June 2021 protests of 'Levante pela Terra' were the very last resort to achieve visibility.

Indeed, one of the most important struggles of the indigenous people in Brazil is their struggle for the right to land. Since far-right politician Bolsonaro came into power, the exploitation of this land has become a government priority, and pro-mining lobbies as well as illegal logging exploitation have been widely incentivised by official narratives.

Illegal miners and land grabbers emboldened by Bolsonaro have continuously targeted indigenous people in their lands with impunity.²¹⁶ This escalating overt hostility is the reason for a new wave of indigenous protests, especially since 2019. Most of our interviewees reported on how the channels of dialogue and negotiation with the federal government have been closed entirely.

For the Munduruku, one of the many indigenous groups of Brazil, attending the protests of 'Levante pela Terra' was a necessity. On 9 June, as a group of 72 leaders were planning to head to Brasilia, they were blocked by a group of miners, including pro-mining indigenous people who punctured the tyres of their bus.²¹⁷ According to WhatsApp messages accessed by ARTICLE 19, miners exchanged messages planning to set fire to bridges in the city to prevent the leaders from travelling.²¹⁸ The Munduruku indigenous land is considered one of the regions with the most potential for mining exploration. It is believed that there are **422 illegal mining** points. Following this incident, the Federal Police and the National Security Force were **mandated to provide protection** to indigenous people wishing to travel by land to attend the protest in Brasilia.

Another incident reported to ARTICLE 19 demonstrates how the government's narratives have emboldened third-party actors to target indigenous groups. On 25 March 2021, a group of pro-mining indigenous Munduruku peoples destroyed the headquarters of indigenous peoples' associations against illegal mining in Jacareacanga. The headquarters of the Munduruku Wakoborũn Women's Association had its **façade destroyed**, and documents and goods for trade were burned. Following this attack, the house

of Maria Leusa Kaba Munduruky, the coordinator of the Munduruku Wakoborũn Women's Association, was **set on fire** in an attempt to intimidate. However, as Maria Leusa pointed out in an **interview** with Agência Pública: 'We don't have fear, we can't back down. It's just avoiding these conflicts, because we still have a lot to do.'

March for Our Lives rally, protesting inaction on gun violence, Washington, DC, USA, 24 March 2018. (Photo: Bob Korn/Shutterstock.com)

Page 83: Demonstrations by unemployed workers in Grant Park, Chicago in 1932 attracted 20,000 people. (Photo: Everett Collection/Shutterstock.com)





Conclusion

Protesting is a human right. However, as established in this report, governments in the focus countries have by and large chosen to respond to the exercise of this right by cracking down on protesters and pursuing a negative narrative against those who are demanding rights and accountability. The evidence detailed in this report demonstrates that in these countries, governments, including democratic ones, have adopted draconian responses to protests and resorted to disproportionate, unwarranted tactics, displaying a flagrant disregard for the right to protest.

Across the focus countries, a number of trends have emerged which ARTICLE 19 believes are part of a widespread global response to protests. These are

authorities and law enforcement agents using unlawful force, including rubber bullets, tear gas, and beatings; arbitrary arrests and detentions; harassment and intimidation of protesters and activists; and legal harassment. All these violations indicate a rapidly shrinking civic space.

In some countries, such as Kenya, these violations are an endemic longstanding problem which have been heightened by the global pandemic. However, in other countries, like Thailand, we are seeing concerning emerging trends of state overreach and abuse of power.

Populations across the globe, in particular marginalised groups or those at risk of marginalisation, who are protesting socio-economic grievances are increasingly facing harsh responses with nowhere left to turn to air their grievances. This demonstrates that these measures are intended to bully into silence those seeking to give voice to concerns.



'Resistance is not futile';
Women's March, Chicago 2017
(Photo: Deanna Oliva Kelly/
Shutterstock.com)

Recommendations

To all governments

On the right to protest:

- Protect, promote, and ensure the right to protest for all people, including children, is fully respected. Ensure every person enjoys equally the right to protest and express themselves. Publicly acknowledge the right to peaceful assembly for all people.
- Officially and publicly condemn excessive use of force, arbitrary detention, legal harassment, and other human rights violations against peaceful protesters, making clear that they are prohibited and will not be tolerated under any circumstances.

On legal frameworks:

- Initiate a review of all laws and policies related to the exercise of the right to peaceful assembly. Any areas of the legal framework that unjustifiably restrict the right to protest should be amended to be compatible with international human rights standards.
- Abolish any mandatory notification regime, and ensure that the failure to notify the authorities of the intention to assemble is not used as a justification for considering participation in a protest unlawful.
- End the practice of arbitrary and selective application and enforcement of restrictive rules towards people with dissenting political opinions. Laws and policies must not be used to discriminate against any persons or groups engaging in protests.

On states of public emergency:

- Ensure that any derogation of the right to peaceful assembly in relation to the Covid-19 pandemic or other states of emergency complies with international human rights standards, is necessary, and is proportionate to the situation.²¹⁹

On stigmatising and discriminatory statements:

- Refrain from issuing statements or speeches that stigmatise and criminalise protesters and protests.
 - Refrain from issuing statements or speeches that are stigmatising and/or discriminatory towards specific groups engaging in protest, including those that are marginalised, and take steps to prevent others from doing so, or hold to account those that do.
 - Publicly speak out against stigmatising or discriminatory language used by any public official to target groups who participate in protests on the basis of their race, nationality, sex, gender, sexual orientation or gender identity, religion and belief, language, indigenous and ethnic origin, political opinion, disability, and age.
 - Ensure the creation of a safe and enabling environment for all people to exercise their right to protest.
-

To law enforcement agencies

- Ensure that the police are regularly trained in human rights approaches, crowd facilitation, de-escalation of violence, and their obligation to facilitate the right to protest, as well as implicit-bias training in relation to the policing of assemblies in line with international standards set by the UN, including regarding the use of force and less-lethal weapons.
- Immediately end unwarranted practices of forcefully dispersing non-violent protesters. Any operations to disperse protesters must take place only when strictly necessary and should follow all relevant international standards, including the [UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement](#).
- Ensure police and other security services policing protests or performing other law enforcement duties at protests do not use excessive force and comply fully with the [UN Code of Conduct for Law Enforcement Officials](#) and

the [UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#). All such bodies should issue clear orders to their forces that any use of force must be strictly necessary and proportionate to the situation faced and that use of unnecessary or excessive force will be punished.

- Ensure the protection and facilitation of spontaneous protests, as well as planned protests.
- Ensure that any allegations of excessive use of force by law enforcement agents in the course of protests are promptly, thoroughly, and impartially investigated, that the results of these investigations are made public without delay, and that suspected perpetrators are brought to justice in fair trials.
- Ensure that law enforcement officers are clearly identifiable by their uniforms at all times when policing protests.
- Cease all undue and unlawful surveillance, intimidation, and harassment of protesters and their family members.

On arbitrary arrests and detentions:

- Immediately cease the arrest and detention of individuals solely on the basis of their exercise of the right to protest.
- Ensure that no one is deprived of their liberty except in accordance with legally established procedures and with international law, including that all persons taken into custody are given prompt access to a lawyer and all necessary medical treatment.
- Immediately release individuals who have been arbitrarily detained solely for exercising their right to freedom of assembly or expression.
- Immediately end the harassment and intimidation of protest leaders, organisers, activists, and protest participants.
- Ensure that persons that are arrested on lawful grounds are informed, at the time of arrest, of the reasons for their arrest and promptly inform them of any charges against them.

To the judiciary

- Immediately end criminal proceedings against protesters who have been charged solely for exercising their right to peaceful protest.
- Ensure that victims of police abuse have access to mechanisms of justice and redress.
- In relation to prosecutions for minor offences allegedly committed in the context of protest, judicial authorities should consider the expressive nature of the conduct as a mitigating circumstance when applying sanctions. In determining the proportionality and necessity of restrictions, law enforcement and judicial authorities should employ a public interest assessment, taking into account:
 - i. the importance of upholding the exercise of fundamental rights and maintaining the ability of individuals to enjoy their right to protest;
 - ii. the non-violent manner of the expressive conduct;
 - iii. the level of disruption of the expressive conduct;
 - iv. the type of targeted entity; and
 - v. the actual harm caused, with the deciding factor being not whether damage occurred but whether it was unduly substantial. The test of substantial damage should not be one of mere embarrassment, disruption, or discomfort and should be considered in context and with regard to the type of targeted entity.

To the media

- Refrain from disseminating content that stigmatises and criminalises protesters and protests, including the speeches of others doing so.
- Refrain from issuing content that is stigmatising and/or discriminatory towards specific groups, including those that are marginalised, including the statements or speeches of others that include such content.
- Use editorials and relevant platforms to speak out against stigmatising or discriminatory language used by any public official against any particular group.
- Ensure that staff in media houses, at all levels of seniority, reflect the diversity of the population, including groups who face oppression.
- Advocate for the adoption of a legal and regulatory framework that enables a free, pluralistic, and independent media to produce accurate and reliable information.
- Adopt and promote high standards of media ethics.
- Adopt specific guidelines on the coverage of protests, based on internationally recognised high standards of media ethics, equality and non-discrimination; promote said guidelines among media workers, media businesses, and the general public; and train all media workers on said guidelines.
- Implement safety protocols for journalists covering protests.

Annexe 1

V-Dem variable descriptions for the indicators of enabling environments and structures for protests²²⁰

V-Dem variable	Description	Question	Responses
v2clacjust	Social class equality in respect for civil liberties	Do poor people enjoy the same level of civil liberties as rich people do?	0=Poor people enjoy much fewer civil liberties than the rich; 4=Poor people enjoy the same level of civil liberties as rich
v2clsocgrp	Social group equality in respect for civil liberties	Do all social groups, as distinguished by language, ethnicity, religion, race, region, or caste, enjoy the same level of civil liberties, or are some groups generally in a more favourable position?	0=Members of some social groups enjoy much fewer civil liberties than gen pop; 4=Members of all salient social groups enjoy the same level of civil liberties
v2mebias	Media bias	Is there media bias against opposition parties or candidates?	0=Print and broadcast media only cover official party, or have no political coverage, or there are no opposition candidates to cover; 4=The print and broadcast media cover all newsworthy parties and candidates more or less impartially and in proportion to their newsworthiness
v2mecenefm	Government censorship effort	Does the government directly or indirectly attempt to censor the print or broadcast media?	0=Attempts to censor are direct and routine; 4=The government rarely attempts to censor major media in any way, and when such exceptional attempts are discovered, the responsible officials are usually punished
v2merange	Print/broadcast media perspectives	Do the major print and broadcast media represent a wide range of political perspectives?	0=The major media represent only the government's perspective; 3=All perspectives that are important in this society are represented in at least one of the major media
v2meslfcen	Media self-censorship	Is there self-censorship among journalists when reporting on issues that the government considers politically sensitive?	0=Self-censorship is complete and thorough; 3=There is little or no self-censorship among journalists

v2mecorrpt	Media corrupt	Do journalists, publishers, or broadcasters accept payments in exchange for altering news coverage?	0=The media are so closely directed by the government that any such payments would be either unnecessary to ensure pro-government coverage or ineffective in producing anti-government coverage; 4=Journalists, publishers, and broadcasters rarely alter news coverage in exchange for payments, and if it becomes known, someone is punished for it
v2pepwrses	Power distributed by socio-economic position	Is political power distributed according to socio-economic position?	0=Wealthy people enjoy a virtual monopoly on political power; 4=Wealthy people have no more political power than those whose economic status is average or poor, and political power is more or less equally distributed across economic groups
v2pepwrsoc	Power distributed by social group	Is political power distributed according to social groups?	0=Political power is monopolised by one social group comprising a minority of the population; 4=All social groups have roughly equal political power or there are no strong ethnic, caste, linguistic, racial, religious, or regional differences to speak of, and social group characteristics are not relevant to politics
v2caviol	Political violence	How often have non-state actors used political violence against persons this year?	0=Non-state actors did not use political violence; 4=Non-state actors often used political violence
v2caassemb	Freedom of peaceful assembly	To what extent do state authorities respect and protect the right of peaceful assembly?	0=State authorities do not allow peaceful assemblies and are willing to use lethal force to prevent them; 4=State authorities almost always allow and actively protect peaceful assemblies except in rare cases of lawful, necessary, and proportionate limitations
v2castate	Engagement in state-administered mass organisations	What share of the population is regularly active in state-administered mass associations, such as women, worker, or youth leagues?	0=Virtually no one is in state-administered mass associations; 4=A very large share of the population (about 26% or more)

v2cagenmob	Mass mobilisation	In this year, how frequent and large have events of mass mobilisation been?	0=There have been virtually no mass mobilisation events; 4=There have been many large-scale and small-scale events
v2cademmob	Mobilisation for democracy	In this year, how frequent and large have events of mass mobilisation for pro-democratic aims been?	0=There have been virtually no mass mobilisation events; 4=There have been many large-scale and small-scale events
v2caautmob	Mobilisation for autocracy	In this year, how frequent and large have events of mass mobilisation for pro-autocratic aims been?	0=There have been virtually no mass mobilisation events; 4=There have been many large-scale and small-scale events
v2cacamps	Political polarisation	Is society polarised into antagonistic, political camps?	0=Not at all. Supporters of opposing political camps generally interact in a friendly manner; 4=Yes, to a large extent. Supporters of opposing political camps generally interact in a hostile manner.
v2smaarrest	Arrests for political content	If a citizen posts political content online that would run counter to the government and its policies, what is the likelihood that citizen is arrested?	0=Extremely likely; 3=Extremely unlikely
v2smpolsoc	Polarisation of society	How would you characterise the differences of opinions on major political issues in this society?	0=Serious polarisation. There are serious differences in opinions in society on almost all key political issues, which result in major clashes of views; 4=No polarisation. There are differences of opinions but there is a general agreement on the direction for key political issues.
v2smpolhate	Political parties hate speech	How often do political parties use hate speech as part of their rhetoric?	0=Extremely often; 4=Never, or almost never

v2juhcind	High court independence	When the high court in the judicial system is ruling in cases that are salient to the government, how often would you say that it makes decisions that merely reflect government wishes regardless of its sincere view of the legal record?	0=Always; 4=Never
v2juncind	Lower court independence	When judges not on the high court are ruling in cases that are salient to the government, how often would you say their decisions merely reflect government wishes regardless of their sincere view of the legal record?	0=Always; 4=Never
v2cvgovres_0	Covid-19 restrictions: freedom of movement	Has the government referred to Covid-19 to justify restrictions of any of the following?	Restricted freedom of movement
v2cvgovres_1	Covid-19 restrictions: freedom of assembly	Has the government referred to Covid-19 to justify restrictions of any of the following?	Restricted freedom of assembly
v2cvgovres_2	Covid-19 restrictions: freedom of media	Has the government referred to Covid-19 to justify restrictions of any of the following?	Restricted freedom of media
v2cvgovres_3	Covid-19 restrictions: freedom of association	Has the government referred to Covid-19 to justify restrictions of any of the following?	Restricted freedom of association
v2cvgovres_4	Covid-19 restrictions: legislative oversight and powers	Has the government referred to Covid-19 to justify restrictions of any of the following?	Restricted legislative oversight and powers

Endnotes

- ¹ ARTICLE 19 recognises that there are many other countries where large-scale repression of protests is occurring, such as Kazakhstan, Sudan, Cuba, and others. The selected countries are part of a first iteration of a long-term campaign ARTICLE 19 launched in May 2022. The choice of countries was based on ARTICLE 19 in-country presence and long-established links with civil society groups and activists.
- ² See ARTICLE 19, [Viral Lies: Misinformation and the Coronavirus](#).
- ³ Office of the United Nations High Commissioner for Human Rights (OHCHR), ‘[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](#)’, statement, 9 April 2020.
- ⁴ While ARTICLE 19 is cognisant of the fact that restrictions on the right to protest also include restrictions on the use of digital technologies, this report focuses on protests carried out in the streets and public spaces.
- ⁵ Michael Coppedge, John Gerring, Carl Henrik Knutsen, Staffan I. Lindberg, Jan Teorell, Nazifa Alizada, David Altman, Michael Bernhard, Agnes Cornell, M. Steven Fish, Lisa Gastaldi, Haakon Gjerløw, Adam Glynn, Allen Hicken, Garry Hindle, Nina Ilchenko, Joshua Krusell, Anna Lührmann, Seraphine F. Maerz, Kyle L. Marquardt, Kelly McMann, Valeriya Mechkova, Juraj Medzihorsky, Pamela Paxton, Daniel Pemstein, Josefine Pernes, Johannes von Römer, Brigitte Seim, Rachel Sigman, Svend-Erik Skaaning, Jeffrey Staton, Aksel Sundström, Eitan Tzelgov, Yi-ting Wang, Tore Wig, Steven Wilson and Daniel Ziblatt. 2021. ‘V-Dem [Country–Year/Country–Date] Dataset v11’, Varieties of Democracy (V-Dem) Project, www.v-dem.net/dsarchive.html
- ⁶ Far more people lived in states with declining than advancing freedom of expression in 2020. Seven countries – with a combined population of 72 million people – saw a significant decline in their overall expression environment between 2019 and 2020. See ARTICLE 19, [The Global Expression Report 2021](#).
- ⁷ ARTICLE 19’s GxR metric tracks freedom of expression across 161 countries via 25 indicators to create a score between 0 and 100 for every country. That score places it in an expression category: 80–100 = Open; 60–79 = Less Restricted; 40–59 = Restricted; 20–39 = Highly Restricted; 0–19 = In Crisis. In each year’s *Global Expression Report* we track how scores have changed over the preceding year, five years, and ten years. We measure the freedom of everyone to express, communicate, and participate. How free is each person to post online, take to the streets, investigate, and access the information we need to hold power holders to account? Can we exercise those rights without fear of harassment, legal repercussions, or violence?
- ⁸ ARTICLE 19, *Global Expression Report 2021*, p.22.
- ⁹ For example, internet shutdowns have been used in many countries as a way to control the flow of information during major political events, including protests. See, for example, ARTICLE 19, ‘[Sudan: Military must stop crackdown on protesters and restore Internet](#)’, 4 November 2021.
- ¹⁰ These totals exclude the Covid-19 metrics because they were not available for 2021 at the time of writing.
- ¹¹ With the exception of Kenya, where the research team interviewed 148 respondents across six counties: Nairobi, Mombasa, Kisumu, Kilifi, Kirinyaga, and Nakuru.
- ¹² These are referenced as two groups of protesters here, relating to the two sets of protests examined in the Poland section of this research; this is not to disregard the overlap between the two groups.
- ¹³ UN General Assembly, [International Covenant on Civil and Political Rights \(ICCPR\)](#), 16 December 1966, article 19.
- ¹⁴ UN Human Rights Committee, General Comment No. 37, [UN Doc. CCPR/C/GC/37](#), 23 July 2020, para 1.
- ¹⁵ UN Doc. CCPR/C/GC/37, para 1.

- 16 Gomes, L., 'Relembre ataques do governo Bolsonaro aos povos indígenas', Sul21, 19 April 2019.
- 17 Interview, indigenous state attorney, 25 August 2021.
- 18 Interview, indigenous journalist, 13 August 2021.
- 19 See Organization for Security and Co-operation in Europe (OSCE), *Poland Presidential Election 2020: ODIHR Special Election Assessment Mission Final Report*, OSCE/ODIHR, 23 September 2020.
- 20 Rzeczpospolita, 'Andrzej Duda o LGBT: Próbuja wmówić, że to ludzie. To ideologia', 13 June 2020.
- 21 Sitnicka, D., 'Słowa Czarnka o LGBT "ci ludzie nie są równi ludziom normalnym" wyrwane z kontekstu? Akurat', OKO.press, 5 October 2020.
- 22 Obywatelski projekt ustawy o zmianie ustawy z dnia 6 czerwca 1997 r. Kodeks karny [Citizen's bill to amend the Penal Code of 6 June 1997]. Druk dr 3751, <https://orka.sejm.gov.pl/Druki9ka.nsf/0/EC8F58B32AAF4E15C125875F003656D8/%24File/I607.pdf/>; Obywatelski projekt ustawy o zmianie ustawy z dnia 24 lipca 2015 r. Prawo o zgromadzeniach oraz niektórych innych ustaw [Citizens' bill to amend the Act of 24 July 2015. Law on Assemblies and some other laws], druk nr 1607.
- 23 Polsdofer, S. 'Pride and Prejudiced: Russia's Anti-Gay Propaganda Law Violates the European Convention on Human Rights', *American University International Law Review*, 29, (2013), p.1069.
- 24 See [the map of Atlas Nienawiści \(Atlas of Hate\)](#).
- 25 Pankowska, M., 'Margot i Łania ze "Stop Bzdurom" staną przed sądem. Chodzi o zniszczonego homofobusa', OKO.press, 15 June 2021, <https://oko.press/margot-i-lania-ze-stop-bzdurom-stana-przed-sadem-chodzi-o-zniszczonego-homofobusa/>
- 26 Rzeczpospolita, 'Sebastian Kaleta: Grupa bojówkarzy środowisk LGBT sprofanowała pomniki w Warszawie', 29 July 2021,
- 27 See also ILGA Europe, *Poland Anti LGBT Hate Timeline*.
- 28 A report by Poland's Society of Journalists and the Batory Foundation found that public media in Poland do not fulfil their role as a source of independent and balanced news, but rather function as a propaganda tool for the government. OSCE/ODIHR election monitoring missions in 2019 and 2020 also found clear political bias towards the governing majority and the president of Poland in public media reporting: "The polarised media environment, and particularly the biased coverage by the public broadcaster, remained a serious concern." See also OSCE, *Poland Presidential Election*.
- 29 See, for example, *The Star*, Kenya: '24 arrested over weekend's chaotic Garissa town protests', 5 May 2021.
- 30 For example, in Brazil, Indigenous protests and concerns were under-reported, and when the protests made it to the newspapers, they were described in terminology considered pejorative. For example, the newspaper *Estadão* had the headline: 'Demonstration of Indians in front of Chamber of Deputies is suppressed with gas bombs by the police'.
- 31 Based on the 161 countries included in the annual GxR report. See ARTICLE 19, *Global Expression Report 2021*, p.109.
- 32 For example, Damj, *Press Release*, 9 August 2020.
- 33 This refers to a verse in the Bible and the Quran, a conservative interpretation of which is used to justify faith-based oppression of LGBTQI+ people.
- 34 Interview, Ahmed El Tounsi.
- 35 See, for example, Jeune Afrique, 'Tunisie: des militants LGBT empêchés de manifester pour des raisons de securites', 27 January 2018; Independent, 'Tunisia: LGBT activist's assault by as a pattern by police', December 2021,
- 36 Interview, Susan Mwai, nurse officer, victim, and key informant, Kandongu Township, Kirinyaga County, 8 September 2021.
- 37 van Stapele, N. and Diphoorn, T., 'Ready to Shoot! vs Ready to Loot! The Violent Potentialities of Demonstrations in Kenya', in *Policing Protests in Kenya, Centre for Human Rights and Policy Studies*, 2019.
- 38 Data from the Secretariado Ejecutivo de Sistema Nacional de Seguridad Pública (SESNSP) indicate that the number of 'alleged feminicides' at national level increased from 412 cases in 2015 to 969 in 2021. See SESNSP, *Información sobre violencia contra las mujeres. Indecencia delictiva y llamadas de emergencia 9-1-1*, accessed 31 January 2022.

- 39 Cerva Cerna, D. (2020). La protesta feminista en México. La misoginia en el discurso institucional y en las redes sociodigitales. *Revista Mexicana de Ciencias Políticas y Sociales*, Universidad Nacional Autónoma de México Nueva Época, Año XV, núm. 240 septiembre–diciembre de 2020, pp.177–205.
- 41 ECDMX09, 19 January 2022.
- 42 ECDMX04, 14 December 2021.
- 43 ECHIS03, 7 December 2021.
- 44 Diana Gutiérrez, ECHIS06, 13 December 2021.
- 45 The movement comprises different groups and loose networks with no formal organisational structure. Among the key groups that have organised large protests in Bangkok are the Rassadorn (The Peoples), formed in August 2020 as a network of several different pro-democracy groups; the Free Youth, which in February 2021 formed a coalition with other groups under the name ReDem (Restarting Democracy); the United Front of Thammasat and Demonstration; and Thalufah (Piercing the Sky), which formed in 2021. The members and leaders of these groups sometimes overlap, and there is no fixed membership base.
- 46 At the time of this statement, General Apirat was the Commander-in-Chief. Thai PBS, '[Gen Apirat: Army chief with strong political views](#)', 3 September 2020.
- 47 A protest activity on Silom Street, Bangkok, designed as a festival of activities related to social issues.
- 48 ศาลอาญา คดีหมายเลขดำที่ 286/2564 ลงวันที่ 9 ก.พ. 2564, cited in TLHR, คดี112 - พ.ร.ก.ฉุกเฉินฯ [MobFest 14 พฤศจิกายน](#).
- 49 See, for example, the [press conference](#) on 14 February 2021 about the Free Youth protest on 13 February 2021, [YouTube, at 1:45 minutes]; the [press conference](#) about the Talufah protest on 13 August 2014; the [press conference](#) on 13 September 2021 about the clash with Talugaz group on 12 September 2021, [YouTube from 3:10 minutes]; see also [Manager Online](#), ตำรวจจัดกำลัง 14 กองร้อยคุมม็อบ ReDem, 28 February 2021.
- 50 See, for example, the [press conference](#) on 10 August 2021 (about the Thammasat United Front protest on 10 August 2021). The police claimed the protesters, who burned an effigy of a minister and threw paint at a sign of the King Power Group, had destroyed private property and attacked police officers.
- 51 Steinmetz, K., '[“A War of Words”: Why Describing the George Floyd Protests as “Riots” is So Loaded](#)', *Time*, 8 June 2020.
- 52 Steinmetz, 'A War of Words'.
- 53 Steinmetz, 'A War of Words'.
- 54 Steinmetz, 'A War of Words'.
- 55 Steinmetz, 'A War of Words'.
- 56 Brennan Center For Justice, '[Voting Laws Roundup: May 2021](#)', 28 May 2021; Boschma, J., '[Fourteen states have enacted 22 new laws making it harder to vote](#)', *CNN*, 28 May 2021.
- 57 ICNL, [US Protest Law Tracker](#), last updated 22 July 2021.
- 58 See ARTICLE 19, *The Right to Protest: Principles*, p.11.
- 59 The victims were Renata Kim and Adam Tuchliński from Newsweek, Jakub Kamiński of East News Agency, and Dominik Łowicki from Gazeta Wyborcza. A photojournalist, 74-year-old Tomasz Guthry from Tygodnik Solidarność, was shot with a rubber bullet in the face by the police and had to undergo surgery. For more, see Sulowski, K., '[Policjant pałuje leżącą kobietę. Bili też dziennikarzy, poszkodowana została Renata Kim \[NAGRANIA\]](#)', 11 November 2020.
- 60 Kettling (also known as containment or corraling) is a police tactic for controlling large crowds during demonstrations or protests. It involves the formation of large chains or rings by police officers who then move to contain a crowd within a limited area.
- 61 pilsatnews.pl, '[60 wniosków o ukaranie do sądu. Policja o niedzielnym proteście w Warszawie](#)', 14 December 2020.
- 62 Although the Independence Day march is an event organised by extreme right-wing circles, politicians of the ruling party have always spoken favourably about it. In 2018, it was attended by an official delegation of the government and the President of Poland. In 2021, it was officially given the status of a state event.
- 63 Nowakowski, M. and Karpieszuk, W., '[State-Sanctioned Independence Day March in Warsaw: War Rhetoric, Xenophobia, and Anti-EU Sentiment](#)', 12 November 2021.
- 64 Nowakowski and Karpieszuk, 'State-Sanctioned Independence Day'.

- 65 See, for example, the case of the ‘Mombasa 6’, where five HRDs were charged and sentenced under the Covid-19 rules for protesting the misappropriation of funds. For more, see ARTICLE 19, ‘[Kenya: Court judgment threatens free expression of protesters](#)’.
- 66 Kayole focus group discussion, 15 September 2021.
- 67 Interview, Nairobi respondent, 9 September 2021.
- 68 Interview, Gacheke Gachihi, 10 September 2021.
- 69 Interview, journalist in Kiriniyaga, (date unrecorded).
- 70 These locations include the Grand Palace, the Crown Property Bureau, Siam Commercial Bank (a public bank where the King is the key shareholder), the German Embassy (until recently, the King spent most of his time in Germany), and General Prayuth’s residence (located inside the compound of a Royal Guard unit).
- 71 See, for example, ARTICLE 19, ‘Breaking the Silence: Thailand’s renewed use of lèse-majesté charges’, 4 March 2021; ‘Thailand: Sedition, lèse-majesté charges against protesters proliferate’, 25 November 2021.
- 72 Thai Post, [ม็อบจะหน้าทำเนียบฯ ยอมถอย! ‘ธรรม’ นัส’เคลียร์เองสิ่งชะลอโครงการ](#), 14 December 2020. Nevertheless, when the Chana community staged another protest in December 2021, they were dispersed by police force the night they started camping in front of Government House. Thirty-seven protesters were arrested and charged with violations of the Emergency Decree. See footage of the arrest in the [video](#) taken by Somboon Khamhang, one of the movement’s leaders (at 13.00 minutes).
- 73 Interview, Panadda Sirimassakul, 4 October 2021.
- 74 See, for example, ArabNews, ‘[Tunisie: Ennahdha maintient une manifestation pourtant interdite](#)’, 13 January 2022.
- 75 This refers to Article 230 of the Penal Code, which criminalises ‘homosexual acts between males or females ... punishable with three years’ imprisonment.’
- 76 Interview, anonymous, EA19.20, (date nrecorded).
- 77 Interview, anonymous, EA19.19, (date unrecorded).
- 78 ‘Outing’ is the act of disclosing an LGBTQI+ person’s sexual orientation, gender identity, or sex characteristics without that person’s consent.
- 79 For more, see OHCHR, ‘[Preliminary Observations on the VISIT to Tunisia by the independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#)’, 18 June 2021.
- 80 EOAX02, 8 December 2021.
- 81 Eloxochitlán de Flores Magón, is a municipality within the State of Oaxaca where, on 19 November 2021, a caravan of women left the town of Eloxochitlán for Mexico City. The purpose was to call on the authorities to review the case of a group of villagers who remained imprisoned and displaced.
- 82 EOAX05, 4 January 2022.
- 83 Interview, 14 December 2021.
- 84 See, for example, OHCHR, ‘[High Commissioner: the Human Rights Council has given a disturbing diagnosis of human rights violations occurring in the context of peaceful protests](#)’, 28 September 2021.
- 85 UN Doc. CCPR/C/GC/37, para 17.
- 86 See Article 9 of the ICCPR. See also UN General Assembly, [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment : resolution / adopted by the General Assembly](#), 9 December 1988, A/RES/43/173.
- 87 Constitutional Tribunal judgment of 22 October 2020, K 1/20, which came into force in January 2021.
- 88 Interwencje Policji w czasie wydarzeń z 7 sierpnia. Wystąpienie HFPC do Komendanta Stołecznego Policji, Helsińska Fundacja Praw Człowieka.
- 89 Interview, anonymous protester, (date unrecorded).
- 90 Helsińska Fundacja Praw Człowieka, ‘[Wpływ pandemii koronawirusa na system sprawiedliwości w sprawach karnych 3. Wolność zgromadzeń w dobie pandemii](#)’, 2021.
- 91 Bukłaha, Z., ‘[Rzecznik Policji o Strajku Kobiet: Użyliśmy siły i gazu i będziemy ich używać](#)’, Gazeta Wyborcza, 19 November 2021.
- 92 Rzeczpospolita, ‘[Czy policja będzie przegrywać sprawy o zatrzymanie w czasie protestów Strajku Kobiet](#)’, 2 February 2020.
- 93 Polsat News, ‘[Strajk Kobiet w policyjnych statystykach. “Jedyne, co ulega zmianie, to liczby”](#)’, 9 March 2021.

- 94 Interview, Eliza Rutytnowska, lawyer, (date unrecorded).
- 95 Rzecznik Praw Obywatelskich, '[Nie tylko poniżające traktowanie... Końcowy raport KMPT o zatrzymaniach 7 sierpnia w Warszawie. Są konkretne zalecenia dla MSWiA i policji](#)', 9 September 2020.
- 96 Nowak, M., '[Prosiła, żeby przeszukiwała kobieta, zabrali ją policjanci. Cały czas słyszeliśmy jej krzyk](#)', OKO.press, 19 August 2020.
- 97 Gazeta.pl, '[To zdjęcie stało się symbolem piątkowych protestów. "Otoczył ją kordon policji"](#)', 8 August 2020.
- 98 Interview, Krem, protest participant, 7 August 2020.
- 99 Interview, Natalia, protest participant, 7 August 2020.
- 100 See Rafał Milach's photo in the Archive of Public Protest, reprinted in Koniecznyńska, A. '[Protesty po zatrzymaniu Margot](#)', *Vogue Polska*, 8 August 2020. The person in the photo identifies as queer and is officially named Julia Miskiewicz but prefers to be called Krem. See Nowak, M., '[Do Polski wróciła na chwilę, na pierogi. Zamiast tego było duszenie, noc na dołku, zeznania bez prawnika](#)', 1 October 2020.
- 101 Interview, activist, E11923, (date unrecorded).
- 102 Interview, Ahmed El Tounsi, (date unrecorded).
- 103 The [Child Protection Code](#) ('Code de la protection d'enfant') defines a child as a person under 18 years old (Art.3).
- 104 Anonymous interview, (date unrecorded).
- 105 Interview, EA1923, (date unrecorded).
- 106 See, for example, Human Rights Watch, '[Kenya: Events of 2018](#)', 2018; Mavenjina, M., '[Protest In Kenya: repressive and brutal policing has become normalised](#)', 2017.
- 107 Kenya Law, [Public Order Act](#).
- 108 [Kenya Penal Code](#), Article 78.
- 109 ARTICLE 19, '[Kenya: Police must protect protesters during the SabaSaba March](#)', 6 July 2020.
- 110 ARTICLE 19, '[Kenya: Government must uphold the right to protest](#)', 16 July 2021.
- 111 Interview, Francis Auma, 16 September 2021.
- 112 Interview, Francis Auma, 16 September 2021.
- 113 Saba Saba ('Seven, Seven' in KiSwahili because it is held on 7 July) is a day commemorated every year in Kenya and traces its origin to 7 July 1990, when protesters gathered at Kamukunji to oppose the then oppressive regime, a move that was critical for multi-party democracy in Kenya. The authorities declared the 7 July 1990 pro-democracy rally illegal and were believed to be responsible for the severe beating of two of the promoters three days before the protests. Despite the authorities declaring it illegal, the rally took place. During the rally, police used tear gas; the then President later ordered the arrest of the reform proponents.
- 114 Interviews, Francis Sakwa, 6 September and 6 December 2021.
- 115 Interviews and focus group discussion, (month unrecorded) 2021. See also The New Humanitarian, '[Kenyan Women Lead the Fight Against Police Violence](#)', 3 September 2020.
- 116 Interview, month unrecorded, 2021.
- 117 Interview, Ruth Mumbi, 11 September 2021.
- 118 Meaning 'flour' in Kiswahili; the Unga protests were about the price of basic commodities and the possibility of value added tax on basic items.
- 119 Interview, Florence Kanyua, Nairobi, 10 October 2012.
- 120 Bobi Wine is a Ugandan opposition politician who was placed under house arrest in January 2021 around the Ugandan Presidential elections (in which he was a candidate). The protests were demonstrating against Wine's arrest, police excesses, and the 'securitisation' of the elections. See '[Four Kenyan activists arrested in protests over Uganda elections – PHOTOS](#)', *Nairobi News*, 13 January 2021.
- 121 A Socialism and Freedom Party (PSOL) vice-presidential candidate in the 2018 elections, Guajajara is now one of the most important and recognised leaders in the fight for demarcation of indigenous lands in Brazil.
- 122 Fundação Nacional do Índio (FUNAI, National Indian Foundation) is one of Brazil's most essential and historically consolidated indigenous institutions. It develops indigenous social policy to maintain and protect indigenous social systems across Brazil. The militarisation led by Bolsonaro's government represents a sharp swerve of ideological, political, and social policies on institutional acts concerning indigenous people.

123	Metropoles.com, ' Indígenas dizem que foram hostilizados por bolsonaristas em acampamento na Funarte ', 7 September 2021.	138	OHCHR, 'UN rights experts urge lawmakers'.
124	Xavier, G., ' Bolsonaro chama indígenas de massa de manobra e diz que vivem de "esmola da esquerda" ', CartaCapital, 24 August 2021.	139	UN Doc. A/HRC/31/66, para 26.
125	The researcher sought to interview women students who had been detained. Regular communication with one of the students was maintained; however, it was not possible to ascertain the interview on time. Following interviews with male students, it was noted that as part of their psychological recovery the students might not wish to speak about what they had experienced.	140	France 24, ' Tunisie: manifestations contre la repression et le couvre-feu prolonge ', 23 January 2021. Also see: <i>The Guardian</i> , ' "Things are getting worse": Tunisia protests rage on as latest victim named ', 27 January 2021.
126	ECHIS01, 2 December 2021.	141	See, for example, Human Rights Watch, ' Tunisia: Police Use Violent Tactics to Quash protests ', 5 February 2021.
127	Naciones Unidas, Oficina del Alto Comisionado de los Derechos Humanos, ' La ONU-DH llama a investigar las alegaciones de abusos por parte del funcionariado público en el contexto de las protestas en Chiapas ', 23 May 2021.	142	General Chan-o-cha led the coup which put him into power in May 2014. He continues to rule since the 2019 general election.
128	ECHIS01, 2 December 2021.	143	In more than 20 protests that ARTICLE 19 attended in Bangkok from November 2020 to November 2021, the researcher observed that the authorities had used blockades made from barbed wire, cargo containers, and even oil barrels to stop protesters from getting too close to government buildings. Cargo containers were also used at a protest organised by ReDem in front of the Swiss Embassy in the central business area of Bangkok. See Springnews, ' เช็กเส้นทางม็อบ! หลังเจ้าหน้าที่นำตู้คอนเทนเนอร์ ปิดกั้นการสัญจร ', 4 September 2021.
129	See, for example, ARTICLE 19, ' Thailand: Government must do more to protect protesters from violence ', 1 September 2021.	144	See the detailed report on the use of tear gas by the Thai police against protesters on 16 October 2020, 8 November 2020, 17 November 2020, and 28 February 2021 in Amnesty International, ' Thailand: "My face burned as if on fire": Unlawful use of force by Thailand's police during public assemblies ', 2 July 2021.
130	OHCHR, ' UN experts call for end to police brutality ', 13 August 2021.	145	In some instances, they were fired even after the protests were finished while some protesters remain on the streets.
131	OHCHR, 'UN experts call for end', para 59.	146	BBC News Thai, ' ชุมนุม 8 พ.ย.: กลุ่มราษฎรตั้งตู้ไปรษณีย์จำลองใกล้พระบรมมหาราชวัง ส่ง "ราษฎรสาส์น" ถึงรัชกาลที่ 10 ', 8 November 2020.
132	UN Human Rights Council, Joint 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, 4 February 2016, UN Doc. A/HRC/31/66 , para 59.	147	Reviewing several livestreams of the confrontation, it is obvious that the police sound system used to announce the use of less-lethal weapons was audible only to those in the frontline.
133	UN Doc. A/HRC/31/66, para 60.		
134	UN Doc. A/HRC/31/66, para 61.		
135	UN Doc. A/HRC/31/66.		
136	OHCHR, ' UN rights experts urge lawmakers to stop "alarming" trend to curb freedom of assembly in the US ', 30 March 2017.		
137	OHCHR, 'UN rights experts urge lawmakers'. See also: General Comment No. 37, para 4.		

- 148 ถ้าเขาเข้ามาในแนว อนุญาตให้ใช้กระสุนยางได้ นะครับ ถ้าเขาถอยก็หยุดยิง ใช้ลูกฟอรมตอบโต้ ใช้กระสุนยางได้ เล็งเป้าแล้วยิง ให้ยิงต่าๆที่ลำตัวเข้าไว้, recorded by the researcher from a livestream of the protest on 7 August 2021. See also www.youtube.com/watch?v=jmrF6Ute5Ys; www.youtube.com/watch?v=ujakQGj5u_8; www.youtube.com/watch?v=JexTzHfw-VU; and a detailed report at BBC News Thai, ‘ชุมนุม 7 ส.ค. : “เยาวชนปลดแอก” ยุติการชุมนุม หลัง ตร. ยิงแก๊สน้ำตา-กระสุนยางไล่ 2 ชม’, 7 August 2021.
- 149 พ.ต.อ.กฤษณะ พัฒนเจริญ รองโฆษกสำนักงานตำรวจแห่งชาติ’s interview in Thai PBS live streaming, 7 August 2021, [YouTube].
- 150 See, for example, OHCHR, ‘Increasing violence plagues Kenya protests’, 24 May 2016; OHCHR, ‘Kenya must lift protest ban and end pattern of police brutality ahead of poll UN experts warn’, 16 October 2017.
- 151 OperaNews, ‘Millions of shillings the govt used to pay riot police officers during the 2017 post-election demos’, 2021.
- 152 See, for example, ARTICLE 19, ‘Kenya: ARTICLE 19 condemns killing of three people at the hands of the police’, 12 August 2021. For example, in 2020, in Lessos-Nandi County, a police officer killed a man with disability for not being masked. In the ensuing spontaneous demonstrations, [two people were killed](#) by police.
- 153 Interview, (month unrecorded) 2021.
- 154 Interview, journalist from an FM station in Kirinyaga County, 8 September 2021.
- 155 Interview with county police commander, December 2021.
- 156 See, for example, *The Guardian*, ‘Brazil police use teargas and rubber bullets against indigenous protesters’, 23 June 2021.
- 157 Instituto Socioambiental (ISA), ‘Repressão à manifestação indígena em Brasília deixa três feridos’, 22 June 2021.
- 158 Gov.br, ‘Nota à imprensa sobre manifestação em frente à Sede da Funai’, 16 June 2020.
- 159 Copy of police report on record with ARTICLE 19.
- 160 Amnistía Internacional, México: La era de las mujeres: Estigma y violencia contra mujeres que protestan, pp. 5–7, 3 March 2021 (AMR 41/3724/2021).
- 161 ECHIS06, 13 December 2021.
- 162 ECHIS10, 17 January 2022.
- 163 El Centro de Derechos Humanos Fray Bartolomé de Las Casas (Frayba), ‘Guardia Nacional y Secretaría de Seguridad Pública vulneran derechos del Pueblo Maya Tseltal de Chilón’, 15 October 2020.
- 164 EOAX04, 14 December 2021.
- 165 Frontline Defender, ‘Human Rights lawyer Arnon Nampa arrested and charged’.
- 166 BBC News, ‘Thai protests: Student leader Parit Chiwarak arrested on sedition charges’, 14 August 2020.
- 167 Thai Lawyers for Human Rights, ‘ดร.เข้าแจ้งข้อหา ‘อาชญากรรม’ คดีชุมนุม 24 ม.ย. แม้ถูกคุมตัว กล่าวหาพร้อมอ่าน ‘ประกาศคณะราษฎร’’, 10 August 2021.
- 168 Interview, Khalef Khalifa, 18 September 2021; see also *The Star*, ‘Two Muhuri officials arrested for protesting against M-Pesa usage in Ferry’, 18 February 2021.
- 169 Interview, Francis Auma, 16 September 2021.
- 170 See ARTICLE 19, ‘Kenya: Court judgment’, www.article19.org/resources/kenya-court-judgment-threatens-free-protests/
- 171 Interview, Nicholas, 9 September 2021.
- 172 An act relating to misdemeanours, i.e. socially harmful acts (even to a negligible degree), prohibited under penalty of arrest, restriction of liberty, a fine of up to PLN 5,000 (USD 1,111) or a reprimand.
- 173 Since April 2020, a clear argument has emerged in the Polish courts’ case law, which concluded that the ban on assemblies was unconstitutional and could not form the basis for punishing protesters. The police have consistently lost cases referred to the courts. Despite this, the services have continued to issue fines and submit motions to the courts for punishment. See cases: V W 1847/20, II W 539/20, V W 1083/20, IV W 455/20.
- 174 ‘Aktywistka powiesiła kartkę na drzwiach biura PiS. Sąd uznał, że jest winna, ale nie wymierzył kary’, 13 March 2021).
- 175 Kromer, O., ‘Lempart, Suchanow i Czerederecka z aktem oskarżenia za protesty Strajku Kobiet’, *Gazeta Wyborcza*, 9 July 2021.
- 176 Report of the Office of the Special Rapporteur for Freedom of Expression, OEA/Ser. L/V/II. 117, Doc. 5

rev. 1, para 35.

- 177 UN Commission on Human Rights, *The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, 28 September 1984, para 22, UN Doc. E/CN.4/1985/4.
- 178 ARTICLE 19, *The Right to Protest: Principles*, Principle 4.2(b)(ii).
- 179 ARTICLE 19, *The Right to Protest: Principles*, Principle 4.2(b)(ii).
- 180 UN Human Rights Council, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association* (2013), [UN Doc. A/HRC/23/39](#), para 50.
- 181 See, for example, UN Human Rights Committee, *Concluding Observations on Algeria*, CCPR/C/DZA/CO/4, 17 August 2018 at para 45, where 'public order' is characterised as a 'vague criteria'; *Concluding Observations on Burundi*, CCPR/C/BDI/CO/2, 21 November 2014, at para 10; *Concluding Observations on China (Hong Kong)*, CCPR/C/CHN-HKG/CO/3, 29 April 2013, at para 10, and in relation to 'inciting collective disobedience of public order' at para 16.
- 182 For more see ARTICLE 19, [Right to Protest in Kenya](#).
- 183 Kenya Law, [Public Order Act](#).
- 184 African Commission on Human and Peoples' Rights, [Guidelines on Freedom of Association and Assembly in Africa](#).
- 185 Interview, Regional Police Commander, 16 December 2021.
- 186 Interview, Bonnie Akach, 10 September 2021.
- 187 Interview, Vincent Tanui, September and December 2021.
- 188 Interview, Gacheke Gachihi, 10 September 2021.
- 189 On 2 February 2020, the two students and fewer than ten others went to Government House to demand that the Prime Minister step down. They tied some cursing objects at the gate of Government House as part of the symbolic act. See Post Today, 'ศาลสั่งปรับ ๓ พัน "เพนกวิน-บอล" ฝ่าฝืน พ.ร.บ.ชุมนุมสาธารณะ', 21 August 2020
- 190 On 20 February 2020, the two students and

another friend sang a protest song in front of the Royal Thai Armed Forces Headquarters and performed a symbolic act of 'teaching' history to the army's Commander-in-Chief. See In Voice TV, 'ศาลปรับ 'เพนกวิน พริษฐ์'-'บอล ธนวัฒน์' นักกิจกรรมทางการเมือง เป็นเงิน ๓,๐๐๐ บาท คดีเปิดเพลง 'ประเทศกูมี' หน้า กองทัพบก ค้าน ผบ.ทบ.ที่เคยแนะนำให้เปิดเพลง 'หนักแผ่นดิน', 28 October 2019.

- 191 [Press conference](#) organised by the Metropolitan Police Bureau on the Metropolitan Police Bureau's Facebook page, 19 February 2021.
- 192 Khaosod, 'ศาลสั่งปรับ นักศึกษาช. โพสต์ชวน ชุมนุมไม่ ถอยไม่ทน โดนหนักเกือบหมื่น', 5 November 2020.
- 193 Interview, Prasit Krutharoj, 23 September 2021.
- 194 Interview, Chonthicha Jangrew, 4 September 2021; interview, Kwankhao Tangprasert, 21 September 2021; interview, Chumaporn Taengkliang, 20 September 2021; interview, Sriprai Nonsee, 14 September 2021; interview, Wittaya Klangnil, 21 September 2021; interview, Chatrapee Artsomboon, 3 October 2021.
- 195 Prachatai, 'มือเปื้อน-ผู้หญิงปลดแอก-นักเรียนเลว ชุมนุม อนุสาวรีย์ประชาธิปไตย ชูแก้รัฐธรรมนูญ', 14 November 2020.
- 196 Interview, Chonthicha Jangrew, 4 September 2021.
- 197 Interview, Withaya Khlangnin, 21 September 2021.
- 198 Interview, Chonthicha Jangrew, 4 September 2021.
- 199 Tunisia has been under a continuous state of emergency since 25 November 2015, which provides for further limitations and restrictions on the right to protest as it authorises officials to ban public protests without a court order.
- 200 Law No. 69-4, Article 10.
- 201 Law No. 69-4, Article 10.
- 202 DCAF Tunisia, '[Projet de loi organique no. 2018/91 relatif à l'organisation de l'état d'urgence, disponible sur le site suivant](#)'.
- 203 DCAF Tunisia, '[Tunisie: Un projet de loi sur les pouvoirs en état d'urgence menace les droits humains](#)', 20 February 2019; [Amnesty International, 'Tunisie. Un projet de loi répressif relatif à l'état d'urgence menace les droits humains', 15 March 2019.](#)
- 204 Interview, Krem, protest participant, (date unrecorded).

- 205 Interview, Natalia, protest participant, (date unrecorded).
- 206 Interview, Mola Melaniuk, (date unrecorded).
- 207 Interview, detained protest participant, (date unrecorded).
- 208 ARTICLE 19, *Right to Protest in Kenya*.
- 209 Interview, Nairobi people with learning disabilities respondent from the Hawkers Association, 8 September 2021.
- 210 The use of the law to advance human rights and equality or raise issues of broad public concern. It helps advance the cause of minority or disadvantaged groups or individuals.
- 211 Interviews, Francis Sakwa, a veteran HRD from Mathare, 6 September and 6 December 2021.
- 212 Interview, Lawyer Zedekiah Adika, 15 September 2021.
- 213 Prasit Krutharoj planned to visit his father, who is living in Hong Kong, but could not because of the legal charges.
- 214 Interview, Prasit Krutharoj, 23 September 2021.
- 215 Interview, Panadda Sirimassakul, 4 October 2021.
- 216 See, for example, The Intercept, '[Jair Bolsonaro praised the genocide of indigenous people. Now he's emboldening attackers of Brazil's Amazonian communities](#)', 16 February 2019.
- 217 Neto, C. P., '[Garimpeiros barram operação da PF no Pará e indígenas são abandonados](#)'. *Amazônia Real*, 28 May 2021. Also see: www.youtube.com/watch?v=9RZrmajOq4M.
- 218 Neto, 'Garimpeiros'.
- 219 See ARTICLE 19, [Viral Lies: Misinformation and the Coronavirus](#).



ARTICLE 19

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