Submission to the Special Rapporteur on the rights to freedom of peaceful assembly and of association for his report to be presented at the 77th session of the UN General Assembly

June 2022

ARTICLE 19 welcomes the opportunity to input to the forthcoming report of the Special Rapporteur on the impact of social movements in achieving progress towards more equal and sustainable societies, and how threats and attacks to freedoms of peaceful assembly and association affect them. In this submission, we respond to specific questions outlined by the Special Rapporteur in the call for submissions.

Definition of social movement and its success

A social movement has been defined as: **"**a loosely organized but sustained campaign in support of a social goal, typically either the implementation or the prevention of a change in society's structure or values. Although social movements differ in size, they are all essentially collective. That is, they result from the more or less spontaneous coming together of people whose relationships are not defined by rules and procedures but who merely share a common outlook on society."[1] This movement can focus on an injustice or an opportunity for change. However, the important element will always be the people involved as the movement cannot achieve its goal without them.

When defining social movements, ARTICLE 19 believes that the Special Rapporteur should take note of the difference between social movements and what some call 'State-mobilised movements.' In the latter, States "summon mobs" in order to display force and legitimise their rule over democratic institutions (the main example is the Capitol riots in the USA on 6 January 2021). Here, it is important to note that civil society might not be the only actor that organises individuals around a common goal. It should be recognised that some governments have also played a role in organising protests and movements in order to further their own interests, and

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[1] See definition of social movement in the [Encyclopedia Britanica](#),

sometimes their involvement is traced through so-called independent NGOs and civil society actors.[2]

As for the success of social movements, it was suggested that the immediate success or failure of the social movement is not the only thing that should be evaluated. Indeed, it was noted that a broader social and cultural approach is needed in order to evaluate a social movement's impact. In particular, a comparative approach to movement outcomes would be highly beneficial in order "to highlight the social and political conditions under which movements are more likely to have an impact."[3] The idea here is to the extent the study of the movement across borders, across different movements and across time to look at the overall picture. A "failed" movement might still be able to contribute to the overall strengthening and valuable ends of social movements as a whole.[4]

Examples of the positive contribution of social movements

According to ARTICLE 19's research, even in the face of repression, the resolve of protesters in several countries remains strong, evidenced by the increase of mass mobilisation in more than a quarter of countries across the globe. We would like to highlight the following examples of impacts:

<u>In five years</u>

- 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 #2 globally on the mobilisation for democracy within score in our Global Freedom of Expression report, more than two standard deviations above the regional average for Asia and the Pacific.[5]

- In **Myanmar**, arguably the largest social movement of the last five years has been the general public's response to the military coup in the country. It is a non-violent, leaderless movement led by Generation Z. Over the last year, it has become the biggest organic online movement that has shaped anti-coup movements by amplifying a vast array of civil society and minority voices creating this nationwide social mobilisation, especially through social media. Before the coup, many Gen Z did not pay much attention to the politics in Myanmar. However, the coup has dramatically transformed the role of Gen Z who has largely led the anti-coup movement through multiple initiatives such as the Spring Revolution, the Milk Tea Alliance (MTA), the General Strike Committee of Nationalities (GSCN), the General Strike Committee (GSC), Blood Money Campaign, Silent Strike, Strike of banging pots and pans, and the Sarong

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[2] *C.f.* for example EpiCentre, <u>Not So Grassroots: Social Movements Fueled by the State</u>, 10 June 2021.
[3] See e.g. AJWS, <u>Assessing success of social movements</u>,
[4] See e.g. M. Giugni, Jow social movements matter: past research, present problems, future developments. In: Marco Giugni, Doug McAdam, and Charles Tilly. How social movements matter. Minneapolis: University of Minnesota Press, 1999. p. xiii-xxxiii.
[5] See ARTICLE 19, <u>Global Expression Report, 2021</u>, Thailand.

Revolution. These social movements have brought the population together to organise protests and promote educational campaigns raising public awareness of war crimes and crimes against humanity conducted by the military — including the State's repressive military rule in ethnic areas even prior to the 2021 coup.

- In **Malaysia**, Sekretariat Solidariti Rakyat or People's Solidarity Secretariat (SSR) is a youth-based coalition comprised of around 40 youth-based organisations and individuals that united to fight for fundamental liberties eroded under the Perikatan Nasional government led by former Prime Minister Muhyiddin Yassin.[6] Under its joint objective to hold the government accountable for its failings, the coalition created the #Lawan movement. The 31 July 2021 #Lawan protest was a peaceful gathering held at the Merdeka Square (Dataran Merdeka) attended by an estimated 1,000 protesters.[7] The protesters demanded the resignation of Prime Minister Muhyiddin Yassin, a full Parliament sitting, and a moratorium on the repayment of all loans. The Prime Minister resigned on 16 August 2021.[8]

- In **Kenya**, the role of the Kenyans on Twitter, commonly known as KOT has shaped up to be a movement that is significant in pushing for State and other actors on public interest issues. While most people are hesitant to engage in physical protests, which are often characterised by violence, KOT has become a movement through which public interest issues are canvassed, voices are mobilised and calls for action pushed. Some examples include the #StopGivingKenyaLoans that was in response to IMF Loans to Kenya in April 2021 amidst concerns over the increase in public debt on the one hand and corruption on the other hand. Although the protest did not stop the grant of the loans to Kenya, the IMF did immediately publish the documents relating to the loan, which is necessary for transparency. We have also seen stricter follow-up on action points by the IMF, for instance, the progress in the development of access to information regulations under Kenya's Access to Information Act, 2016 was a result of pressure from the IMF.

In 15 years

- In Cambodia, since 2013, as access to social media boomed in the country, a grassroots social movement for democracy and political change surged with social justice campaigns on Facebook. People used their newfound platform for free speech, to demand justice regarding economic land concessions grabbing land from villagers, deforestation, and labour rights. The then political opposition party CNRP took advantage of this opportunity to boost their public image and gain seats in the National Assembly.

- In Malaysia, in 2007, BERSIH – a free and fair election coalition – was successful in its demands for free and fair elections. BERSIH organised its first rally on 10 November 2007,

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[6] See e.g. FMT reporters, Come out and protest against govt's failure, people urged, Free Malaysia Today, 21 July 2021.
[7] See e.g. Alyaa Alhadjri, Vivian Yap & Yasmin Ramlan, Hundreds of #Lawan protesters in KL demand PM's resignation, Malaysiakini, 31 July 2021.
[8] See e.g. Malaysia's Muhyiddin resigns after troubled 17 months in power', Al Jazeera, 16 August 2021.

about four months before the March 2008 general election, calling for electoral reforms and free and fair elections.[9] Its rally was path-breaking. For the first time in post-independence Malaysia, a social movement was able to mobilise between 10,000 and 40,000 Malaysians from across ethnicity and class divides. Further, HINDRAF held its rally on 25 November 2007 and the rally saw a turnout of nearly 20,000-50,000 people.[10] During the rally, HINDRAF filed a class-action lawsuit against the government of the United Kingdom for US$4 trillion as compensation for transporting Indians from India and leaving them unprotected at the mercy of Malays in Malaysia. The BERSIH and HINDRAF rallies took everyone by surprise given the extent of the organisation and the ability of both movements to mobilise huge support. Subsequently, the ruling party lost control of five states at the March 2008 general election – the party's biggest defeat as it failed to obtain a two-thirds majority in parliament.

- Another example from **Malaysia** is a campaign against the Internal Security Act (ISA) in August 2009.[11] The biggest anti-ISA rally was organised to call the government to repeal the repressive law and release all the detainees or charge them. The rally was organised by the Anti-ISA Movement. The ISA was abolished in 2012 entirely.

- In **Kenya**, during the last 15 years, the social movement has resulted in legal reforms starting from the significant role of the civil society in the development and promulgation of Kenya's Constitution of 2010. The movement has then consistently pushed for the implementation of the constitutional principles through legislative reforms such as the Public Benefits Organizations Act (2013); the Media Council of Kenya Act (2013) which established an independent media regulation mechanism; the Access to Information Act (2016) which created a legal framework for access to information; and the Data Protection Act (2019). Similarly, civil society organisations have been proactive in bringing public interest litigation cases as an enforcement mechanism when constitutional principles are violated.

<u>In 25 years</u>

- In **Malaysia**, the Reformasi movement has been particularly impactful. In 1998, the arrest of Anwar Ibrahim, Malaysia's then-Deputy Prime Minister, on charges of corruption and sodomy set the tone for the country's ongoing transformation.[12] Anwar began the "Reformasi" movement in response to a similar movement in Indonesia, which had succeeded in toppling the Suharto regime. Reformasi introduced a new type of politics to Malaysia. Malaysians came to the streets in an uncommon show of support for Anwar's cause, speaking a language of change on a scale never seen before in the country's history. Civil society, political parties, and the media came together to build a new coalitional capital and worked together to achieve long-term change. Demonstrations, which were mostly concentrated in the Klang Valley area in the years that followed, were a regular occurrence.

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[9] See e.g. Tear gas fired at Malaysia rally, Al Jazeera, 10 November 2007.

[10] See e.g.K Kabilan, Fearless Indians fight for rights, Malaysiakini, 26 November 2016.

[11] See e.g. SUHAKAM targets police use of force, Malaysiakini, 4 August 2009; or Bersih Steering Committee, Why Bersih is marching for the fifth time on Nov 19, Malaysiakini, 14 September 2016.

[12] See e.g. Anwar's journey: 20 years of trials and triumphs, Malaysiakini, 20 September 2018.

The more the State interfered with the show of change, the more people were convinced that taking to the streets would be a sure way to effect change. The Reformasi movement made a huge dent in the confidence of the Mahathir administration. The movement changed an otherwise politically apathetic population and put the Barisan Nasional (BN) led government under heavy scrutiny.

In more recent history, during the COVID-19 pandemic, ARTICLE 19 found that social movements have been pushing back on limitations on civic space, the right to protest and freedom of assembly across the globe. Various efforts of protesters and civil society have been advocating for the pandemic measures to be proportionate to the threat of the pandemic and not to unduly restrict human rights. Given the lockdown restrictions, leveraging digital tools became commonplace during the pandemic. We believe that the social mobilisation through digital technologies during the pandemic shows that access to affordable internet and digital technologies must be prioritised, especially in the Global South.

State measures need to create enabling environment for social movements

ARTICLE 19 believes that in order to promote the ability of social movements to achieve rights-based transformations, the States should in particular:

- Protect, promote and ensure the full respect of the right to protest of all persons, including children. Ensure every person exercises in equal conditions the right to protest and their right to freedom of opinion and expression;

- 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;

- Ensure police and other security services policing protests or performing other law enforcement duties in the context of protests are trained on human rights and 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 is exceptional and must be strictly necessary and proportionate to a real and imminent threat. These orders should clearly state that the use of unnecessary or excessive force is a violation of the code of conduct and as such, it may be subject to investigation and sanctions;

- Safeguard the right to protest, including online, and desist from curtailing dissenting opinions on online platforms;

- 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;

- Initiate a review of all laws and policies related to the exercise of the right to peaceful assembly and association. Any areas of the legal framework that unjustifiably restrict the right to protest should be amended to be compatible with international human rights standards;

- Enable everyone including minorities like LGBTQI people, indigenous people, migrants and refugees to take part in social movements without any repercussions;

- Include awareness-raising programs in school and education institute curriculums, teaching students to be civic-minded and resilient.

In response to a phenomenon of "state organised movements", ARTICLE 19 notes that instead of such actions, States should instead facilitate the activities of social movements by adopting policies that enable movements to seek resources without undue restrictions. In other words, government actions should not interfere with a movement's access to money, means of communication, supplies and other resources. Measures that restrict civil society's access to foreign funding should be ceased as this severely impacts its means of communication and overall functioning.

Measures of other actors to enable social movements

Apart from States, we believe that non-state actors, in particular, the donor community can facilitate the creation of an enabling environment for social movements.

In particular, we suggest that the Special Rapporteur includes recommendations to non-state donors to:

- Provide funding to civil society organisations across the globe, in particular in countries with a poor record of compliance with their international human rights obligations. While doing so, they should respect the autonomy of civil society organisations, ensuring that they lead in identifying key areas of work and setting priorities. Preferably, the funding should be provided in terms of long-term support, and where possible, increase the timeframe of project funding to ensure financial stability, security, and sustainability of such operations;

- Undertake regular consultation with civil society leaders and activists to ascertain their needs and how best they can be supported. They should also ensure that women-centred, youth, and grassroots organisations, and those working in ethnic minority and conflict-affected areas, are consulted;

- Undertake regular assessments of the situation in the country where the funding is provided, to understand the local political, social, and economic contexts in which civil society organisations operate, in particular, those working in ethnic minority and conflict-affected areas or working on sensitive issues such as human rights;

- Ensure funding for organisations working on a diverse range of issues, including humanitarian assistance, health and service delivery, human rights, interfaith tolerance, and non-violent action;

- In countries where civil society is facing severe restrictions, donors should also provide flexible funding, explore ways to manage exchange rate volatility, such as fixing costs in hard currency and allowing contingency funds for cost changes and informal fees for cash withdrawal, explore new ways to conduct money and cash transfers, especially where established methods place civil society groups at increased security and other risks and establish mechanisms for quicker distribution of emergency funding.

- Increase financial assistance to cross-border groups, in particular, those providing cross-border aid and assistance;

- When providing funding, this should include also funding for physical security measures and for digital security, including by funding or providing digital security training and supporting the purchase of equipment and software such as virtual private networks, encrypted laptops, and secure methods of communication as well as for mental health and psycho-social support.

Since social movements do not necessarily involve structured non-governmental organisations, donors can also find innovative ways how to support broader movements. For instance, the following suggestions have been identified for ways that funders can support social movements:[13]

- Fund trainings that will empower people to make the most of a social movement upheaval. An example of this is trainings for students during the Civil Rights era of the 1960s; students studied strategic non-violence that eventually contributed to launch counter sit-ins of 1960;

- In the midst of trigger events, give small stipends to sustain "anchor volunteers." Anchor volunteers are described as the people who "either bring unique, hard-to-replace skills, or "anchor" a larger group of participants by managing group work and growing the skills of others. The idea here is to help these anchors support themselves financially as they often will face burnout and a lot of pressure to keep going instead of returning to their "normal lives". A movement cannot achieve its full potential if these anchors do not receive

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[13] See Transparency International, How civil society can build on social movements to beat corruption, September 2017.

assistance. This would be an action to be carried out during the trigger event, once that dies down the support is needed elsewhere;

- Help established organisations absorb new people during movement moments: Established organisations have the capacity to keep people involved in the longer term after the initial trigger event dies down. The idea is to absorb the volunteers during the trigger event and create long-term engagement practices;

- Fund longer-term infrastructure to support the basic needs of movement organisers. One of the examples put forward is "during the Indian independence movement, rural "ashrams" (small monastic communities) were used to house and train volunteers, giving them temporary food, housing, and community work. Over the course of 40 years, hundreds of thousands of Indians mobilized through multiple movement cycles, during which time many top leaders lived at the ashrams. The ashrams gave leaders time to develop and prepare for future campaign cycles, bolstering the independence movement's scale and longevity";

- Fund those courageous enough to escalate. The idea is for funders to fund high-stakes actions that grab the public and the media attention that are often key to shifting public opinion. These actions are often the ones that generate new momentum within movements (such as those setting up an occupation, risking arrest and similar actions).