



VOICES IN THE STREETS

MASS SOCIAL PROTESTS AND THE RIGHT TO PEACEFUL ASSEMBLY

A 12-COUNTRY SPECIAL REPORT BY FREEDOM HOUSE

JANUARY 2015

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Front cover photo credit: Photojournalist Paula Gonzalez (U.S.A.) March 24, 2011, Buenos Aires, Argentina. The photo was selected as a Finalist in the Freedom House Photo Contest 2014. Entitled, **Primera plana frente al Ritz (Headline Before the Ritz)** The Disappeared make the newspaper headline on the 2011 Day of Remembrance for Truth and Justice in Buenos Aires, which commemorates the 35th anniversary of the 1976 military coup in Argentina.

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Overview: Mass Social Protests and the Right to Peaceful Assembly

The year 2011 was widely viewed as one of mass social protest around the world. People took to the streets to voice their grievances and aspirations in the unexpected Arab uprisings, the anti-austerity backlash in Europe, and the occupation of public spaces and financial districts in the United States. In democracies and nondemocracies alike, citizens in 2011 and the years since have courageously assembled in peaceful protest on issues including climate change, land use, education, wages, elections, corruption, financial influence on politics, increased poverty, and dictatorship. Disturbingly, as mass public protest is increasingly used as a means of participation in political life, a number of authoritarian regimes have responded with violence, new legal restrictions, and blatant violations of the rule of law, all on the pretense of maintaining public order and stability.

Freedom House researched cases of mass social protests in 12 countries to glean best practices and determine the causes for failure in promoting and protecting the right of peaceful assembly. Our comparison spanned a range of democratic and nondemocratic societies as well as an array of issues at stake in each setting. This report not only evaluates the role of the executive and law enforcement agencies in enabling or restricting freedom of assembly, but also investigates how government ministries, legislators, courts, political parties, national human rights institutions, think tanks, media, labor unions, civil society organizations, and even businesses respond to the content of protests and affect the peaceful exercise of the right to assemble.

The study yielded the following general findings:

- Citizens increasingly turn to mass protests to address grievances in the face of unresponsive elites, and these protests often drive significant changes in the political agenda.
- Authorities in various countries use aggressive methods, such as excessive force and criminal sentences, to dissuade citizens from protest, and in undemocratic countries they try to block protests “upstream,” while the events are being organized.
- Communication between police and protesters, and dialogue with authorities and other democratic stakeholders on the issues raised by protesters, reduce tensions and improve the prospects for peaceful assembly.
- Struggles between protesters and authorities play out in the media, as officials use traditional media to generate public disdain for the protesters, while the protesters themselves turn to social media to get their messages out.

Chile
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Denmark
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United States

Citizens increasingly turn to mass protests to address grievances in the face of unresponsive elites, and these protests often drive significant changes in the political agenda.

Protest organizers and participants from the 12 countries examined repeatedly said in interviews that the status quo had not and would not change through institutional channels; in many cases, the institutions were dominated by strong political monopolies or other elites. Change required a visible and persistent show of numbers and voices. The mass protests, as a non-institutional form of democratic participation, served to channel important issues into the institutional process. In some settings, they paved the way for shifts in official policy. For example, the protests of the February 20 Movement in Morocco precipitated parliamentary debates and constitutional reform, though the reform itself remained a top-down process.

Marginalized voices and new ideas often came to the forefront. Mass demonstrations in Chile, Denmark, Kyrgyzstan, Peru, South Africa, and the United States brought about public support for educational reform, increased awareness of climate degradation, reforms addressing sustainable use of resources and land rights, improved labor conditions, and greater national attention on the structural inequities and influences surrounding the economic crisis. Changes in public opinion led to a change in elected leadership in some instances, such as Chile and New York City.

The experiences of individual protest movements offered valuable lessons for their counterparts in other locations, and these had a discernable impact on the ability of demonstrators to assemble peacefully in the face of aggressive responses from authorities. Protests also displayed an innovative character, with planning and alliance-building before and during the events, unique internal decision-making processes, and dynamic flexibility as the demonstrations unfolded. In Chile, protesters used music, dance, and comedy to liven up the streets and their message. The sense of festivity dampened any violent confrontation, and the movement grew from a student protest to reach broader constituencies with each successive march. In Turkey, protesters at times used silent, statuesque assemblies to counteract the police's aggressive efforts to block motion and suppress speech. And in the United States, well-networked activists in the Occupy Movement gained solidarity from parallel protest camps and marches that spread to over 70 cities. Organizers and protesters in many settings employed internal processes to mediate disagreements, isolate provocateurs, and identify and deal with surveillance by authorities. Various protest movements had their own security protocols; in the cases of encampments, activists set up their own sanitation and health committees to ensure safety and avoid government intervention on these grounds. As officials and traditional media failed to address their grievances, discredited them, or responded in other negative ways, protesters and their supporters used social media, pamphlets, and radio shows to get their message out.

Authorities in various countries use aggressive methods, such as excessive force and criminal sentences, to dissuade citizens from protest, and in undemocratic countries, they try to block protests “upstream,” while the events are being organized.

In a number of cases, government and law enforcement agencies as well as surrounding businesses and residents apparently felt threatened by mass protests. They regarded the

demonstrations as a rule of law problem rather than an integral component of democratic participation, and responded accordingly.

Disturbingly, police tactics included intimidation and physical abuse. Danish police, having studied the approaches and problems from other international gatherings in their preparations for hosting a global climate summit, used a controversial tactic known as “kettling,” isolating large numbers of protesters in an ostensible effort to control provocateurs. New York City police used “snatch and grab” arrest methods, appeared in large numbers wearing riot gear, and used sudden violence against some individuals, apparently to intimidate the rest of the protesters. Short detentions and court sentences of six months’ probation took demonstrators or organizers off the streets and chilled citizens’ desire to participate in such assemblies, then and in the future. In South Africa, official excesses included preemptively arresting the organizers, which left no one to represent the movement in negotiations, and making protesters civilly liable for any damage arising from their gatherings.

In nondemocracies, despite constitutional guarantees on freedom of assembly, public protests are simply rendered illegal. Modern authoritarians use treason charges, lengthy detentions, tax raids on opposition groups, and public threats and disparagement to deter demonstrations. Following the Arab uprisings, dozens of repressive governments adopted a wave of new laws and practices that obstruct assembly and speech, stop demonstrations upstream, and subject individuals to serious repercussions for organizing, participating in, or even reporting on protests.

The UN Human Rights Council seized on the issue after the brutal crackdowns in Syria and Bahrain. It organized a high-level discussion among states, created a special mandate, and adopted resolutions—all aimed at restating fundamental principles, examining some of the most challenging issues in more depth, and developing further guidance. One major deficit was in the area of policing. In response, the UN special rapporteur on extrajudicial,

“Any effort to prevent unlawful loss of life in [demonstrations] must have at least two components: closest to the action, the police must act in accordance with a domestic legal system that reflects the international values on the use of force; and further ‘upstream’, the demonstration must also be managed and facilitated in accordance with human rights standards as regards any restriction that may be placed on it.”

*Christof Heyns,
UN Special Rapporteur on extrajudicial, summary or arbitrary executions*

summary or arbitrary executions, Christof Heyns, evaluated the laws of 146 states on the use of force and issued a report to the council in June 2014. The report revealed that many domestic laws predate the human rights era, do not embody the “protect life” principle that is fundamental to the use of force, and are not in line with international standards. This lack of adequate legal boundaries partly explains the disproportionate responses by law enforcement agencies. Yet accountability and respect for human rights must also be built into the policies, training, and most importantly the oversight mechanisms for such agencies.

Policing tactics that follow strict guidelines on the use of force—particularly against acts of civil disobedience—and incorporate an appropriate level of communication, cooperation, and even

planning between police and protesters can facilitate peaceful assembly, as in the case studies from South Africa, Chile, and Kyrgyzstan. While police performance was by no means perfect in each case, the risk of violent confrontation was much lower than in the settings where police took a confrontational approach, as in Turkey, Peru, and China. Moreover, reforms made after a protest that ended in violence offered models for the rest of the world. Changes in Peru, for example, included employing a skilled and multilingual mediator to bridge communication gaps among protesters, law enforcement, and businesses.

By contrast, the handling of mass demonstrations in authoritarian states (China) and increasingly repressive contexts (Uganda, Malaysia) present a negative model for the international community. Restrictive domestic laws block protests “upstream.” Chinese law criminalizes unauthorized demonstrations and those gathering to “disturb public order.” Unauthorized assemblies are met with brutal force, arrests, detentions, and criminal penalties of up to five years in prison. In both China and Malaysia, no children, young adults, or foreigners are allowed to protest. Ugandan authorities detained organizers to stifle dissent and leadership in advance of protests. To clamp down on the spread of information and the ability of protesters to mobilize a larger constituency, China adopted new legal guidelines to penalize the spreading of “rumors” over the internet, effectively cordoning off local protests from the national audience.

“In 2011 we saw too many governments crack down in the name of restoring order when their citizens demanded universal human rights and a voice in how they were governed. These acts of repression triggered more confrontation, more chaos, and ultimately greater instability. The events of the year showed that the real choice is not between stability and security; it is between reform and unrest.”

*Michael Posner,
U.S. Assistant Secretary of State*

Postconflict societies with security challenges offer harsh lessons when planning falls apart. In Libya, a peace-seeking protest march that garnered positive support from government officials devolved into a bloody night of clashes between armed groups and protesters, after some protesters continued their march to the bases of militias and confronted them with demands. Protecting the right to peaceful assembly requires responsible strategies when dealing with violent nonstate actors. A disturbing and destabilizing element in Kyrgyzstan is the deployment of groups of women colloquially known as OBON—a play on the acronym for a special police unit often used in raids, riot control, and antiterrorist activities. The OBON women, sometimes bused in from distant locations, often use rude heckling and physical pressure to disrupt public events and demonstrations, government operations, and court hearings. It is sometimes difficult to determine who sponsored them, but they present a real threat to peaceful assembly.

When protesters or bystanders are harmed, as they were in quite a few of the cases examined in this report, democratic societies provide avenues for accountability and redress through the police themselves, the judiciary, human rights ombudsman offices, and local elected leaders. Yet too few of the abusers face serious repercussions. Seeking justice requires time and money, breaches of civic trust in the police are hard to rebuild, and physical injuries in some instances are beyond repair. A more immediate remedy is widespread public exposure of aggressive policing tactics, which reflect poorly on elected leaders and law enforcement officials. Mobile

and web-based communication tools broadcast instantaneous revelations of bad behavior, and the resulting public attention often bolsters support for protesters and puts pressure on the authorities to change course.

Communication between police and protesters, and dialogue with authorities and other democratic stakeholders on the issues raised by protesters, reduce tensions and improve the prospects for peaceful assembly.

Direct action through mass protests mobilized a reaction from a range of democratic stakeholders, who channeled the issues in question into public debate and into formal institutions and processes, including the courts, legislatures, elections, and referenda. For instance, as the Occupy Wall Street movement chanted slogans evoking the divide between “99 percent” of Americans and the wealthiest 1 percent, radio interviews with representatives of an independent think tank, the Pew Research Center, cited statistics on the growing concentration of wealth by the top 1 percent, a larger share of the population falling below the poverty line, and increased unemployment and home foreclosures suffered by the middle class. These issues then gained importance in national politics. In Turkey, a small group of protesters camped in Istanbul’s Gezi Park in a bid to halt its planned demolition, sparking nationwide protests that touched on broader issues like government corruption and new social restrictions. The initial protest succeeded in creating a larger discussion within civil society, the media, and a range of institutions, though in this case the political leadership proved unwilling to engage in peaceful dialogue and policy reviews.

Mediators both formal and informal frequently helped to calm tensions. In the various case studies, mediators emerged within the protest movements, police departments, the local political leadership, human rights bodies, and international entities with the aim of preventing an escalation of violence. Unfortunately, these mediators achieved mixed results. An elected city council member in New York, Jumaane Williams, took it upon himself to meet with and understand the concerns of the Occupy Wall Street protesters. He became a de facto mediator between protesters, law enforcement, and the mayor’s office when police tactics became abusive, though during a pivotal police action he was reportedly mistreated along with the protesters. Representatives from national human rights institutions in Malaysia, Uganda, Chile, and Kyrgyzstan responded swiftly to monitor and report on assemblies in their countries. Civil society organizations also served as observers, providers of legal and medical aid, and suppliers of accommodations and food. Labor unions and political parties offered solidarity by joining in on specific marches and using their platforms to discuss the issues at hand. Where these sorts of developments were permitted and took hold, the protests were less about winning a confrontation on the street against law enforcement and the government, and more about raising an issue for broader debate and reform.

Struggles between protesters and authorities play out in the media, as officials use traditional media to generate public disdain for the protesters, while the protesters themselves turn to social media to get their messages out.

In today’s connected world, mass protests resonate far and wide. News travels quickly from the streets to the public, whether reported by traditional media, an official news source, or citizens

directly. Consequently it is a powerful weapon for changing public opinion. In a number of the case studies, governments and some opinion leaders used the media to attack the reputation and motives of the protesters. Chinese officials claimed that the community-led Shifang protests, which centered on concerns about pollution from a new industrial plant, had “ulterior motives” and were being manipulated by unnamed “paper tigers” that were trying to undermine China. The Chilean government sought to criminalize that country’s student movement, calling the protesters violent anarchists and insisting that dialogue was the only legitimate means of airing grievances.

In Malaysia, despite widespread support for the Bersih movement for electoral and other reforms, traditional media outlets were very antagonistic. Around each Bersih rally, the mainstream media—which are heavily influenced and in many cases owned by the ruling political coalition and its affiliates—led smear campaigns against organizers and participants, accusing them of seeking to damage Malaysia’s economy, overthrow the government through illegal means, and bring about an Arab Spring–style revolution.

Protests movements were quite savvy in their efforts to overcome poor or hostile media coverage. First, protesters and organizers used independent media outlets and social media to get their message out and mobilize supporters. For example, when Moroccan state-run television and print media covered demonstrations, they downplayed the number of protesters and spent little time exploring their demands. In response, organizers used social media and online activism, with citizen journalists creating or reinforcing outlets such as *Lakome*, *Qandisha*, *Mamfakinch*, and *Yabiladi* to serve as forums for showcasing events and sharing in-depth stories.

Second, protesters focused their own cameras on the police to deter bad behavior or ill-treatment. In a number of cases, protesters captured abuse in photographs or on video and immediately released it to national and global audiences. Along with other factors, the images of police spraying chemicals into the faces of female protesters during Occupy Wall Street and Gezi Park demonstrations in New York and Turkey, respectively, brought more citizens to the street and increased the media coverage of both protest movements. They dramatically altered public perceptions of the police and the civilian leadership, which had a lasting impact. In New York City, a subsequent mayoral election was won by a candidate who echoed the protesters’ concerns about social inequality and police tactics, particularly toward black and Hispanic residents. And in Turkey, there is an ongoing struggle over the direction of the country and the government’s commitment to democratic principles.

The following case studies from 12 countries provide a deeper look at factors that affected the conduct and outcome of peaceful protest movements. Some cases show clearly negative behavior and results, while others provide positive lessons for both those with the duty to protect and promote freedom of assembly and those seeking to exercise this fundamental right.

Chile: Reclaiming the Street – Chile’s Student Movement

Beginning in March 2011, the city of Santiago was virtually paralyzed each Thursday, as Chilean university students and hundreds of thousands of supporters flooded the streets to call for a more affordable and equitable education system. Employing a horizontal leadership model that enabled spontaneous, creative, and often carnivalesque demonstrations, and using social media to achieve massive scale, these students mobilized protests of upwards of 500,000 people, temporarily shut down dozens of universities, and earned the support of 9 out of 10 Chileans. The movement they created, which has continued intermittently until the present day, served to reaffirm the constitutional right of Chileans to peaceably assemble in a country still emerging from the legacy of a military dictatorship. It also demonstrated that, despite Chile’s economic and political progress over the past two decades, the country has yet to realize its full democratic potential. Isolated incidents of police violence revealed the need for more effective police trainings and accountability mechanisms, while restrictions on specific protests exposed outdated legal limitations on assembly rights. Although the movement provoked society-wide discussion and demands for reform to the education sector, it did not produce legal reform or substantive policy discussion regarding the right to freedom of assembly, suggesting that there remains a need for greater acceptance of the right to freedom of assembly as a legitimate form of democratic participation on the part of government officials and citizens.

Chile: Freedom of Assembly in Law and Practice

The 1980 Political Constitution of the Republic of Chile generally complies with international norms on freedom of assembly, including Article 20 of the Universal Declaration of Human Rights, Article 21 of the International Covenant on Civil and Political Rights, and Article 15 of the American Convention on Human Rights.¹ Article 19 subsection 13 of the Constitution protects the right of all citizens to assemble peacefully and without prior permission. However, the second clause vaguely stipulates that any meetings or demonstrations organized in public spaces will be “regulated” by the police; this language contrasts sharply with that included in other constitutional articles, which state that the rights outlined will be “regulated by law.”

Supreme Decree 1086, issued by military dictator Augusto Pinochet in 1983 and still in effect, more directly regulates freedom of assembly rights. It states that organizers of public meetings or manifestations must formally “notify” the relevant superintendent or governor at least two business days before any planned demonstration. If the notification is received late, law enforcement officials have the right to impede or dissolve the manifestation. The relevant superintendent or governor may also decide to “not authorize” meetings or marches on heavily trafficked roads or in spaces that could disrupt public transit. The decree is inconsistent with the Chilean constitution and international standards: as Chile’s state-funded but autonomous National Human Rights Institute (INDH) has repeatedly pointed out, the state’s reliance on an executive decree to regulate the right to assembly—rather than a properly debated and ratified law—violates Article 15 of the American Convention on Human Rights.²

The Chilean Criminal Code includes additional regulations pertaining to citizens’ freedom of peaceful assembly. Under Article 269 of the Criminal Code, protests may be classified as “public

disorders,” vaguely defined as disruptions to public order, which are considered crimes and are punishable with fines and prison sentences of up to 541 days.³

The Chilean government generally allows protests in practice, although the authority delegated under Supreme Decree 1086 has at times been misused to restrict freedom of assembly rights. Some state officials, as well as many demonstration organizers, act on the assumption that the decree’s “prior notification” clause constitutes a requirement for approval. As a result, some proposed marches have been denied in clear violation of the standards outlined by the Inter-American Commission on Human Rights (IACHR).⁴ In other cases, protest organizers report having been granted approval contingent upon their commitment to protect protesters and citizens, which is actually a responsibility of the state. Protests are frequently subject to time and place limitations, which are in some cases intended to diminish the visibility and impact of the demonstrations, thereby indirectly restricting freedom of assembly rights.

Law enforcement officials do not systematically repress protest or use violence to harm protesters. In late 2011, largely as a result of the student protests, the national police forces, called “carabineros,” created a human rights department to administer training for police. Nonetheless, there have been instances of repression: the INDH has documented dozens of cases of carabineros using disproportionate force toward demonstrators⁵ and numerous cases of those detained for alleged acts of public disorder being held for lengthy periods of time, subjected to physical abuse or harassment, and denied the reading of their rights or access to an attorney.⁶ In general, state forces exhibit an acute inability to identify, isolate, and contain provocateurs, who typically instigate violence toward the end of demonstrations.

The legal framework does not provide sufficient protection for those citizens whose right to peaceably assemble is violated. The Chilean constitution and criminal code provide two legal protections for citizens: the writ of habeas corpus for those who are detained unlawfully to be released or given a speedy trial, and the recourse of protection, which is issued in defense of citizens whose rights have been violated, including the right to freedom of assembly. However, Chile does not have an ombudsman or other form of institutionalized defender of citizen rights. Moreover, cases of police abuse against civilians are tried in military courts that often fail to meet the standards of judicial impartiality and independence laid out in Article 8 of the American Convention on Human Rights.⁷

Case Study: The Chilean Student Movement

The 2011 Chilean student movement was driven by frustration with a university system that students believed was unfair and overly privatized, providing expensive degrees irrespective of quality. The education system was designed under the military dictatorship of Augusto Pinochet (1973–1990), whose decentralization and deregulation of education led to the proliferation of many new private universities in the 1990s and early 2000s. With more schools and an increasing number of Chileans entering the middle class, that period saw a dramatic rise in university enrollment.⁸ However, tuition fees rose with enrollment, becoming proportionally the most expensive in the world by 2011 when measured against average annual salary.⁹ Many families were forced to take out loans and incur massive debt to pay for their children’s education. Moreover, while Chile’s prestigious “traditional” universities continued to provide a

valuable education, many newer universities offered basic and expensive degrees of limited intellectual or professional value.¹⁰

The 2011 student movement brought these issues to the forefront of public debate in Chile. While the country had a long history of student protests—including the 2006 “Penguin Revolution,” a two-month series of protests organized by high school students to demand major changes to primary and secondary education—the 2011 movement was effective in expanding the support base for education reform. Beyond merely pointing out flaws in the education system, students condemned the economic and political model upon which the system was based, alleging that the government had treated education as a service rather than a right, and developing universally recognized slogans around a university system built on “lucro” (profit) and “abuso” (abuse) of citizens.

Much of the movement’s success was due to the Confederation of Chilean Students (CONFECH), whose leaders organized the protests and spoke on the movement’s behalf. CONFECH consists of 35 representatives, one from each of the member universities, of whom eight members are selected to sit on the directive board and serve as spokespeople for the federation. Beginning in April 2011 CONFECH representatives met every two weeks in rotating cities to discuss their goals and plan activities. In April 2011, CONFECH spokespeople presented a list of demands to address educational quality, cost, and fairness. The first national demonstration was organized by CONFECH on May 12, with 15,000 people participating; protests continued steadily over the following weeks. On June 30, approximately 200,000 people marched through Plaza Italia, a traditional gathering space in Santiago, with as many as 200,000 others organizing smaller demonstrations throughout Chile.

By August, the students had earned the support of 89 percent of Chileans,¹¹ largely as a result of their sophisticated and well-coordinated communication strategy. CONFECH leaders were ideologically diverse and utilized different approaches to appeal to various audiences. The students were also savvy in their communication methods. The movement’s exposure on national television was crucial for garnering high levels of public support and sympathy. Facebook was used mostly for disseminating information to massive numbers of prospective supporters, such as logistical details for protests. Twitter was used to post videos of protests or to criticize police responses or draw attention to abuses.

While the movement had visible leaders, a highly decentralized and participatory organizing model with few rules enabled the rank and file to express themselves openly and spontaneously. As a result, the demonstrations took diverse forms, often generating a festive and euphoric atmosphere. For example, on June 24, 2011, approximately 3,000 students reenacted the dance to Michael Jackson’s song “Thriller” in front of the Presidential Palace, and in September hundreds of students participated in a “kiss-a-thon” in Santiago’s main plaza. In many protests, students would perform choreographed dances or hold up creative and satirical posters. A broad cross-section of Chilean youth—including nearly equal numbers of men and women who spanned multiple socioeconomic sectors—participated in the demonstrations, which totaled as many as 250 by some counts.¹²

On July 5 President Sebastian Piñera presented a set of 21 reforms to improve the Chilean education system;¹³ however, the students responded with emphatic dissatisfaction.¹⁴ They called for massive protests on August 4, but their requests for authorization were denied under Supreme Decree 1086 without further justification. Unwilling to be deterred, students set out to march along Plaza Italia, but were met with strong opposition from carabineros, who used tear gas and pressurized water guns to disperse protesters. The IACHR criticized the Chilean authorities for using disproportionate force against hundreds of protesters, mentioning reported cases of beatings and physical abuse.¹⁵

Although the student protests were generally peaceful, August 4 was not the only day in which demonstrations resulted in violence. In many cases, provocateurs or anarchist groups took advantage of the chaotic atmosphere to commit acts of violence or attack law enforcement officials. In a number of cases, carabineros used disproportionate force in putting down protests, including in incidents on June 21 and July 14. In October 2011, the Chilean NGO Instituto Igualdad, with the support of CONFECH, presented before the IACHR, highlighting specific cases of violence against protesters and detainees. Their report mentioned the death of a 16 year old, Manuel Eliseo Gutierrez Reinoso, and provided testimonies from 120 victims of police abuses, ranging from beatings and physical attacks to threats, torture, and arbitrary detainment.¹⁶

On a policy level, the Piñera government sought to criminalize the movement, insisting that dialogue was the only legitimate means by which to pursue a resolution, and characterizing the students as violent anarchists. In September 2011 Interior Minister Rodrigo Hintzpeter proposed a “Public Order Control Law” that aimed to limit protests by increasing the severity of criminal punishments for acts of public disorder; holding protest organizers legally responsible for the actions of demonstrators; criminalizing wearing a face covering during a demonstration or march; and authorizing law enforcement officials to seize any videos or photographs of protests, including those belonging to the press. Critics argued that the so-called Hintzpeter Law failed to clearly define “public disorder,” prescribed disproportionate punishments, and infringed upon citizens’ rights to free expression and assembly. On August 6, 2013, Chile’s lower legislative house voted on a revised version of the measure, ultimately approving just two of its least controversial provisions.¹⁷

The Impact of the Student Movement

The Chilean student movement greatly increased public support for education reform and, as a result, elevated educational issues to the top of the policy priority list. While in May 2011 only 24 percent of Chileans listed education as the one of the four greatest problems facing Chile, by August 73 percent of Chileans believed it was one of the four most important problems. Students also achieved massive support for their specific demands: in December 2011, 77 percent of Chileans believed education should be free; 78 percent said there should be no for-profit universities; and 82 percent affirmed that the students were offering the correct solutions to improve the education system.¹⁸

In terms of policy, the reforms that the students achieved were more modest. President Piñera followed through on many of his proposals to decrease costs and improve educational quality, but compared to the scope of the demands,¹⁹ the reforms that were implemented seemed

inadequate to student leaders.²⁰ Protests continued through 2013 and may yield further results: in May President Michelle Bachelet sent to Congress an ambitious education reform package and three of the movement's prominent student leaders were elected to seats in Congress in 2013.

On a societal level, the student movement reasserted citizens' right to protest in a country where the maintenance of public order had historically been prioritized over the protection of citizen freedoms. It also opened the door for other emerging social movements, including those on behalf of gender equality and sexual diversity, to use the street as a space to challenge the status quo. The students' vocal critiques of Chilean society resonated across multiple generations and roused long-suppressed frustrations among diverse groups, from organized labor to environmental organizations. However, the student movement did not provoke progressive reform or substantive discussion on freedom of assembly rights, instead spurring reactionary policymakers to pursue further restrictions on freedom of assembly rights.

The movement also motivated substantial changes to law enforcement procedures for dealing with social protests. Following the 2011 demonstrations, the carabineros created a human rights department to administer a training curriculum for police, including specific sessions for managing protests. The carabineros also modified a number of their protest dissolution methods, including replacing lead bullets with rubber ones and pressurized water guns with a dispersal system. In August 2011, a "Police and Human Rights" program was developed in conjunction with the INDH, which laid out a protocol for the INDH to observe police responses to protest and particularly the treatment of civilians. The competencies of the INDH established under the program include observation of protest sites, documentation of human rights violations during protests, and observation of apprehension and detention methods in detention centers or police vehicles. Under the program, the INDH communicates with carabineros prior, during, and after demonstrations to ensure coordination.

Lessons Learned

The 2011 student protests provided valuable lessons for Chile and the international community with regard to how states can work toward finding a balance between maintaining public order and protecting citizens' right to assemble. Dialogue and negotiation between protest organizers, government officials, and law enforcement to agree upon the time and place of protests was an effective tool for limiting chaos and potential violence. The existence of the INDH, as an independent human rights observatory, was very useful for monitoring police actions during protests and discouraging the use of repressive methods. In the absence of such a body, civil society may be able to fill this important monitoring role.

This case also showed the need to continue building police capacity in managing protests. Police trainings must be practical and focus on identified challenges, such as the isolation and detainment of provocateurs, in order to enable police to more effectively maintain peace and order without limiting the right to assembly of peaceful protesters.²¹

As applied to the student movement, Supreme Decree 1086 demonstrates that legal restrictions on freedom of assembly, such as time and place limitations or requirements for prior notification, must be explicitly and narrowly defined. Vague language incorporated into laws or regulations on freedom of assembly makes these instruments susceptible to government misuse. Therefore,

laws regulating assemblies should clearly lay out the responsibilities of the state and define precise circumstances or conditions whereby the right to assemble may be limited in the interest of public safety or security.

Protesters also have a significant role to play in discouraging violence and demonstrating how to properly exercise the right to assemble in a democratic society. By organizing major demonstrations on the same day each week and communicating openly with government and law enforcement officials, the students assisted in protecting peace and order. Their creative, humorous, and festive demonstrations served to legitimize the street as a democratic space. However, the students missed an opportunity to strengthen the defense of fundamental rights in Chile by not articulating the importance of freedom of assembly rights in their criticisms of police repression or prescriptions for a freer and fairer society.

Above all, while the right to assemble was generally protected in the case of Chile, the student movement revealed that protest is viewed by many government and law enforcement officials, as well as some protest participants, as a criminal or disruptive act, outside of—if not inimical to—democratic institutions and processes. Because protest is widely seen as inferior to pursuing change through dialogue or legislative reform, many members of the Chilean governing class seek to channel grievances exclusively through institutions with the goal of ending protest altogether, rather than fully accepting the right to freedom of assembly as a critical pillar of democratic participation.

China: The Case of Shifang

Protests over environmental concerns in the city of Shifang in July 2012 gained national attention in China and demonstrated the Chinese government's managed, yet adaptable, response when popular anger boils over into mass demonstrations.

China: Freedom of Assembly in Law and Practice

There are several regulations in China that guarantee the right to freedom of assembly. Article 35 of the Constitution says that "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration."²² Article 1 of the Law of 1989 on Assemblies, Processions, and Demonstrations also grants Chinese citizens the "exercise of their right to assembly, procession and demonstration."²³ This law contains 36 articles that lay out the rights and responsibilities of people who participate in these events. Article 19 of the Law of 1989 specifies that an assembly held in compliance with the law "shall not be disturbed, broken into or disrupted by anybody by violence, coercion or any other illegal means."²⁴ These laws are generally in compliance with international standards formulated in Article 20 of the UN Declaration of Human Rights securing the right to freedom of peaceful assembly and association.²⁵

In reality, however, applications to hold demonstrations are only very rarely approved, with the exception of very highly controlled demonstrations that are politically useful for the Communist Party (such as anti-Japanese protests in front of the Japanese Embassy and other Japanese venues in China).

When unauthorized demonstrations are held, Chinese police and security forces often use brutal force, detentions, and arrests to remove demonstrators and stop the protest. In the criminal law, the crime of unlawful assembly can be punished with up to five years in prison. The law is often used as an excuse to take action against critics of the government, including protesters. According to the Congressional-Executive Commission on China Annual Report 2013,²⁶ authorities "made ample use of vague crimes such as 'unlawful assembly' and 'gathering people to disturb public order' to suppress rights advocates and civil society activists." The report said that public security officers arrested prominent rights activist Xu Zhiyong on August 22, 2013, on suspicion of "gathering people to disturb public order."²⁷

Certain categories of people are prevented from taking part in demonstrations and protests. Article 15 prohibits citizens from participating in any protests outside of their place of residence, and the local public security organ has the authority to detain a person or send him/her back to his/her place of residence.²⁸ Article 34 states that foreigners may not participate in a protest held by Chinese citizens without permission from the government.²⁹ Such policies restrict cross-border cooperation and limit the scope of demonstrations.

Case Study: Shifang Protests

On June 29, 2012, in the city of Shifang, Sichuan Province, local citizens accidentally stumbled upon a large celebration that was being held to mark the approval of a US\$1.6 billion molybdenum-copper alloy factory, a project that the citizens had not been told about in advance.

Local officials argued that the plant—to be built by publically listed company Sichuan Hongda, one of China’s biggest producers of zinc ingots and chemicals—would boost the city’s ailing economy, provide new jobs, and help it recover from the severe damage caused by the Sichuan earthquake of 2008. However, villagers worried about the potential pollution and health problems the chemical plant might bring to the town of 430,000 people. “Shifang is already a heavily polluted city with a lot of chemical plants,” said one villager who took part in the protests. “Vegetables grown near these plants are not edible.”³⁰

The news, and fears about environmental pollution, quickly spread throughout the community, and the next day, residents petitioned the government asking that the project be canceled. On July 1, tens of thousands of people took to the streets in front of government offices, going head-to-head with police and SWAT teams in what turned into three days of sometimes violent protests.

On July 2, the government responded on its website with a curt open letter accusing people of having “ulterior motives” and of being manipulated by unnamed “paper tigers” that were trying to undermine China. A Western photographer with a major news agency said that when he arrived in Shifang that day, he saw hundreds of people gathered outside government offices shouting slogans and carrying banners.³¹ “After a hour or so the protesters ... started smashing windows and overturning cars. They were also beating the police. It was unique in that the police were being beaten quite savagely by the crowd. They had no control for a time until the paramilitary police arrived in large numbers.”³²

Police attempted to disperse the protesters with tear gas and stun grenades,³³ which increased public anger. A local villager stated that the government deployed police, some of whom were armed, from neighboring cities and towns to contain and dispel the protesters. This led to some police beating citizens violently.³⁴

A well-known Chinese writer and blogger who traveled to Shifang to observe the protest said that the protesters were not well organized. “There was no mechanism in place to separate the protesters and the onlookers,” he said. “So there were cases where onlookers were hurt, such as a man on a motorcycle who was beaten and kicked by special police who thought he was a participant.”³⁵

Officials announced the next morning that police had detained 27 people on July 2 and July 3. Students from Guanghan, a nearby city, also arrived in Shifang to join the protest, and some were detained by the police. In the afternoon of July 3, just four days after the launch of the project, the Shifang government conceded defeat and suspended the project.³⁶

At 9:00pm, citizens staged a large sit-in in front of the city government demanding the release of the Guanghan students and other detained demonstrators. Two hours later, the police freed 21 detainees, but formally arrested 3 on criminal charges and another 3 on administrative charges.

In October, Shifang Party Secretary Li Chengjin was transferred to another post in Deyang. This was neither a demotion nor a promotion. No officials were punished, as the government apparently judged the project as free from corruption and of benefit to the local economy.³⁷

Despite the surprising success of the movement in forcing the government to cancel the project, observers say that the protest was quite spontaneous and lacked formal organization. They add that there was no outside involvement in the protest.³⁸

Based on videos and photographs that were posted online, a wide spectrum of citizens took part in the protest, including a prominent role for women. Photos show women standing in the front lines, holding political banners, and being attacked by police.³⁹ One woman has an injured eye, and another is seen kneeling on the street in front of police lines.

Based on a string of other recent incidents, protesters knew they needed to spread the news further than their own area. It is here that the event took a unique turn in China. Internet-savvy middle school students, known as the post 90s generation, sprang into action to spread news of the protest.

“They [the students] have more online exposure, and they also know better than their parents and neighbors about pollution,” said the villager. The students played a key role in educating their parents about the environmental threat and also led the social media campaign,⁴⁰ launching several chat rooms on the Internet and calling on more students to take part. Photos and videos posted on the Internet showed crowds of people holding banners and facing off against rows of police. There were also photographs of police clubbing people and firing tear-gas canisters. Others showed pools of blood in the street and people with gruesome wounds, including a small infant who had bloody facial scratches. One photo that aroused national anger showed a young police officer sneering as he gave a foreign photographer his middle finger.⁴¹

The shocking photos, videos, and reports struck a chord among Chinese across the country at a time of increasing concern about environmental problems. Netizens around China immediately began to re-post news of the incident, along with their own supportive comments. Soon foreign journalists were turning up in the small town, and news of the protest in Shifang was reported around the world.

Nor did the students confine themselves to the Internet. They also distributed flyers and made protest signs and t-shirts. Hundreds of students protested at the city hall on the night of July 1. The next day, when schools threatened them with expulsion, they turned up with their parents to protest once again. After villagers learned of the detention of students, thousands lined up outside local government offices urging their release. One photo on a blog showed a large poster on the street that proclaimed: “We can sacrifice ourselves. We’re the post-90s generation.” By July 3, the Shifang protests had become the most searched term on the popular Sina Weibo, a microblogging service.

The movement also received an unexpected boost when well-known Chinese writers and bloggers joined the fray, including Han Han, Li Chengpeng, Xiao Shu, and the legal scholar Xiao Han. Their satirical writing on Shifang attracted a nationwide audience. According to Qian Gang, writing for the China Media Project, by 9:30pm on July 4, Han Han's essay, which was posted the day before, had already been distributed 298,173 times on Sina Weibo.⁴²

The domestic media were restricted early on by a ban from the Central Propaganda Department, although some did travel to the area. Foreign journalists managed to gain access to the village but were under pressure, and at least one foreign journalist was detained.

However, the postings, photos, and videos were not immediately deleted by government censors, as normally happens in the case of sensitive news. Instead, China's microblogs were unusually active. The situation differed sharply from the Wukan incident the previous year, which involved angry protests over illegal government land grabs. In that case, the name "Wukan" was made a sensitive keyword on the Internet and it was blocked.⁴³

Experts have speculated on why the central government sat back during the protests. One simple reason is that the 18th Party Congress was taking place four months later, and party officials wanted to avoid a major incident and to allow citizens to let off steam.

The writer/blogger listed three reasons for why so few postings were deleted from websites: (1) the local government did not thoroughly court internet regulators, who therefore were not prepared to comply; (2) there were internal differences about how to handle the event; for example, there was a fierce debate within the Sichuan police about the use of tear gas, and many police officers opposed its use; and (3) it was a very localized incident.⁴⁴

Experts also point out that China has a history of being more tolerant of environmental movements than other forms of protest. Recently the central government declined to take steps to support local governments in stopping protests in several such cases. Environmental protesters have been able to find allies within local governments and more support from the central government.⁴⁵

One Chinese journalist with inside knowledge has been quoted as saying that the handling of the Shifang Incident was a "deliberate calculation" by some people at the higher levels of the government to allow sensitive information to remain online for a certain period of time. He says the reason is unknown, but may have been because it was an environmental protest or due to internal politics.⁴⁶

Elizabeth Economy, Director of Asia Studies at the Council on Foreign Relations, gives two reasons why during many environmental protests it has been possible to post sensitive photographs and videos.

[F]irst, the local governments are under siege and find it difficult to coordinate an effective response of any sort, much less focus on keeping videos and pictures out of the public sphere. Second, [before Xi Jinping took power in November 2012,] Beijing was inclined to see these protests as a source of local governance failure and to encourage local officials to be more responsive to citizens.⁴⁷

She also says the fact that middle class and university students are involved in such protests “made the public relations element a more challenging one—as opposed to cracking down on farmers protesting pollution.”⁴⁸

The Impact of the Shifang Protests

The lack of internet censorship during the Shifang incident turned out to have serious implications for the Shifang authorities. According to the China Media Project, between July 1 and July 4, some 5.25 million posts on Sina Weibo contained the word “Shifang.” Among these, 400,000 included images and almost 10,000 included video. This compared to only 300 posts with the word “Shifang” during the same period the year before on Sina Weibo.⁴⁹

The original materials put online by local people on the streets provided people around China with a shocking depiction of what was taking place in Shifang. In turn, many of the millions of pictures and videos were used by the Hong Kong and international media, which heightened international attention.

However, by July 6, postings on the Shifang protests began to be deleted. Today it is difficult to find many original postings, except on overseas websites that salvaged the content.

China’s traditional media were for the most part silent about Shifang, with the leading state media failing to write any reports on the events. This may have been an attempt to keep the incident a local one. On July 3, among hundreds of mainland papers, only Shanghai’s *Oriental Morning Post* and the *Global Times* (a spin-off of the *People’s Daily*) mentioned the protests.⁵⁰ A small number of newspapers reported the termination of the molybdenum-copper project on July 4, but mainly as business news. There were no reports on the protests.⁵¹

There are indications that the Shifang government has not completely abandoned the molybdenum-copper project. As the writer/blogger said, “The local government wasn’t too happy about the outcome, and still wants to build this project. But they also fear new conflict, so they wouldn’t dare to do it too soon. My guess is that the local government is still contemplating this.”⁵²

The local government reportedly has recently begun to organize village heads and neighborhood committee heads to visit a similar project in Yunnan to persuade them that such a project is safe. Residents were given 5 yuan (US\$0.82) each to attend meetings about the project and asked to

sign indicating their support. However, resistance among the population remains as a result of the new environmental awareness and fear of damage to homes and livelihoods.⁵³

Further protests appear to be unlikely given significantly tighter controls since the incident. Xi Jinping has stepped up pressure on the media and the Internet, including a new law that threatens harsh punishment for anyone spreading alleged rumors on the Internet. One high school student was detained late last year for a posting that complained that police had not properly investigated a murder. In addition, the government has increased the number of arrests of rights lawyer, dissidents, and activists in recent years, which has resulted in a sharp decrease in Internet activity.

Authorities threaten parents to keep their children from participating in such activities, hinting that they could be expelled from school. Pressure on adults can also be applied through family members and employers—a tactic commonly used in China to control people.⁵⁴

“In terms of the governance mechanism, there is no way for residents to participate and to make a difference,” said the villager. “Their environmental awareness is awakening, but there is not that much they can do.”⁵⁵

Denmark: The Case of COP15

On December 3, 2009, only four days before the official opening of the United Nations Climate Change Conference (COP15) in Copenhagen, the Danish parliament ratified a legislative package which became known in the press as *Lømmelpakken*—“the rabble package”—since its main aim was to deal with the possibility of riots and large demonstrations around the conference. Critics condemned the rabble package as a reduction in freedom of assembly, though the laws defenders argued that these laws merely enhanced the police’s ability to secure law and order, including the protection of freedom of assembly.

Denmark: Freedom of Assembly of Assembly in Law and Practice

Freedom of assembly is protected in article 79 of the Danish constitution, and the government generally respects this right in practice. Article 79 states that “all people resident in Denmark have the right to hold meetings or to demonstrate.”⁵⁶ Furthermore, article 80 of the constitution states that⁵⁷ “In the event of riots, the armed forces may only take action, if they are attacked, after the crowd has been called upon three times to disperse in the name of the King and the law and such a warning has gone unheeded.”⁵⁸ These laws comply with international standards formulated in article 20 of the Universal Declaration of Human Rights,⁵⁹ as well as article 11 of the European Convention on Human Rights, both securing the freedom of assembly and association.⁶⁰

Although the right to freedom of assembly is generally respected, since the Danish government adopted a new Police Act in 2004, the question of preventive detentions has been widely discussed. While article 7 of the Police Act states that the police must protect the right to assembly,⁶¹ article 8 section 4 gives the police the right to use preventive detentions in order to prevent serious disturbances of law and order, danger to individuals, or threats to public safety. It states that the detentions must be kept short—not over six hours if the situation permits—and as nonviolent as possible.⁶² A law against concealing one’s face and identity during demonstrations and protests has been in place since 2000.⁶³

On December 3, 2009, four days before the COP15 the Danish parliament ratified a legislative package (L49) as an addition to the Police Act. L49 became known in the press as *Lømmelpakken*—“the rabble package”—since its main aim was to deal with riots and large demonstrations. One of the central features was the expansion of the limit on preventive detentions from 6 to 12 hours.⁶⁴

Case Study: COP15

From December 7 to 18, 2009, Denmark was the host of the United Nations Climate Change Conference (COP15). A week before the conference, international protests calling for a global agreement on climate were already occurring in, among other locations, London, with around 20,000 participants,⁶⁵ and Australia, with 50,000 participants.⁶⁶ In Copenhagen smaller protests began in the first week of the conference.

A very large demonstration was held on December 12. It was organized mainly by youth groups linked to political parties and Danish and international NGOs as well as the umbrella organization Climate Justice Action.⁶⁷ The demonstration was announced through the networks of the organizations and through social media and advertised in the traditional press. One of the key people behind the demonstration—Nikolaj Villumsen from the Party Enhedslisten and now a member of Parliament—explained that the organizers had expected around 30,000 people, and were surprised when over 100,000 showed up. This made it the largest climate march in history.⁶⁸

Villumsen and other attendees describe the atmosphere at the demonstration as festive. Several politicians spoke at the event, including the then opposition leader and now prime minister Helle Thorning-Schmidt.⁶⁹

The demonstration was to leave from the Parliament Square around 1:00 pm and move through Copenhagen to the Bella Center, south of the city center, where the COP15 was held.⁷⁰ When the demonstration reached the street of Amagerbrogade around 3:30 pm, however, the police intervened from two cross-streets and cut the long tail of the demonstration in half by blocking it with police cars. This left an isolated group of around 1,000 people between the two cross-streets.⁷¹ This tactic, used for controlling large crowds, is termed *kettling*.⁷² The police were dressed in riot gear and used police dogs to control the crowds. One of the protesters said that there was no information from the police of what was happening and why the protesters were blocked.⁷³ Villumsen, who was the demonstration leader and main contact person for the police, had been informed immediately prior to the operation that because a small group of 100 to 200 violent demonstrators throwing rocks had mingled with the larger group, the police had decided to attempt to block and dissolve the part of the demonstration containing the rioters. Villumsen succeeded in having the rest of the demonstration continue their march to the COP15 conference location, with the exception of the 1,000 people who were detained in the *kettling* action.

Marc Jørgensen, a lawyer from the legal aid group that helped organize the subsequent legal case, explained that the police tried to separate the ordinary bystanders from the demonstrators for only ten minutes, but gave up this strategy due to the large number of people. One detainee said that after around an hour of not knowing why the demonstration was interrupted, the police

began to handcuff the detained with strips and place them sitting down in long lines on the street. Some of the detained protesters sat on the freezing ground for four to five hours with no possibility of relieving themselves. One of the detained protesters said that during this time there was still no information provided by the police and that some people had panic attacks. Calls for help were mostly ignored by the police, he said.⁷⁴

Around 6:00 pm⁷⁵ buses arrived to transport the detainees to a prearranged location in Valby, west of the city center. The location had room for 356 detainees divided into 37 cages. Since the location did not have room for all of those detained, many were transported to various locations in Copenhagen before they were registered and released.⁷⁶

In the wake of the massive demonstration on December 12, there were a number of smaller demonstrations, the largest on December 13 and 16. December 13 saw a march toward the harbor area of Nordhavn, which was stopped by the police because of violent episodes before the protesters reached their destination. The protest on December 16 took place in front of the conference location. Protesters used the tactic of passive resistance to collectively push their way through the police lines. On both occasions protesters were preventively detained, bringing the number of detained during COP15 to a total of 1,913.⁷⁷

The then Danish ombudsman, Hans Gammeltoft-Hansen, visited the location in Valby. In his 2010 report on the case he recommended that, in the future, detainees should have access to toilet facilities, water, and pads to sit on the ground, as well as medical assistance. Furthermore, the police should conduct interrogations as soon as possible to minimize the time in detention. These recommendations have been backed by the Department of Justice.⁷⁸ In his report, the ombudsman calls the preventive detentions of December 12 “degrading,” referring to article 3 of the European Convention on Human Rights, on the prevention of torture.⁷⁹ According to the police, the detainees on the days following December 12 were provided pads to sit on.⁸⁰

During COP15, police officers from all parts of Denmark were reassigned to Copenhagen. The entire Danish police force was on duty either locally or in Copenhagen, making it the largest police action in Danish history.

Following the preventive detentions during the demonstrations, 250 people from Denmark, Sweden, the UK, and France sued the police at the District Court in Copenhagen. On December 16, 2010, the District Court found that the plaintiffs had been detained illegally and granted them between approximately \$900 and \$1600 in compensation. The verdict of the District Court was appealed by the police and taken to the High Court, which upheld the verdict on January 25, 2012. Furthermore, the High Court found that the conditions during the detentions for the majority of detainees had been degrading because the protesters were placed on the cold ground, and therefore the compensation was increased according to Article 3 of the European Convention

on Human Rights. The police lost another case on December 19, 2012, at the District Court, when 33 plaintiffs complained about preventive detentions at a demonstration on May 18, 2011.⁸¹

The Impact of COP15

The events during COP15 received substantial international media attention, and Denmark came under heavy criticism by human rights groups for the detentions.⁸² Nikolaj Villumsen stated that the overall goal of the protest on December 12 was a peaceful manifestation calling for increased climate action. Despite the preventive detentions and autonomous groups violently clashing with the police, he considers the demonstration an overall success for putting across a message backed by thousands of supporters.⁸³ The Danish Ministry of Climate, Energy and Building declined to comment on how much of an impact outside demonstrations had on the negotiations, saying this would be pure conjecture.⁸⁴

A poll at the time of COP15 showed that 58 percent of Danes supported the rabble package and only a third was against.⁸⁵ Lawyer Marc Jørgensen says that there was a fearful atmosphere leading up to COP15, which was reinforced by the media. For example, the media gave a lot of attention to a YouTube video posted by an anonymous group stating that they would burn down Copenhagen.⁸⁶ People were afraid of what had happened in Gothenburg, Genoa, and Rostock, where massive rioting had taken place and one demonstrator was shot and killed.⁸⁷ The spokesman for legal affairs from the Conservative Party stressed that the preventive detentions at COP15 included far too many people, but claimed that the police ensured that almost 100,000 people could march and protest peacefully.⁸⁸

In 2011 the current government committed to the political parties Enhedslisten and Liberal Alliance to discuss the issue of preventive detentions in the Police Act.⁸⁹ However, spokespeople for both parties say that no discussion has yet taken place with the minister of justice.⁹⁰

Lessons Learned

Danish police started preparing almost a year before COP15 for mass demonstrations, educating its personnel in dialogue and conflict management.⁹¹ Prior to the event the police had sent observers to other large international meetings such as Rostock, Gothenburg, and Genoa to evaluate how their colleagues handled mass demonstrations. The Danish police had developed a mobile action concept: an extra educational module offered for specialization after three years of basic police training, with an annual regional up-to-date training course. Leading up to COP15 the police invited the demonstration organizers to dialogue meetings to discuss logistics and other issues. Action plans for possible violent episodes were discussed and the demonstration organizers appointed civil guards in orange vests to help stabilize riots. If the guards did not

succeed, the next step was to be police officers in yellow vests taking action; police units in riot gear would step in to prevent violence from escalating as a last resort. The police stress that during all the COP15 demonstrations no one was seriously injured and the vast majority of the demonstrations were peaceful and carried out without any police interference.⁹² Although there were no deaths or major injuries, the issues of preventive detentions and detainee conditions was poorly handled.

The Danish Institute for Human Rights made concrete recommendations for a revision of the Police Act and an additional legislative package. Among other things, the institute advocates for a revision of the rules on preventive detentions in light of the cases of COP15, and says that preventive detentions up to 12 hours should only be used in extraordinary cases.

Kyrgyzstan: Commotion-Based Democracy

Public assemblies are numerous across Kyrgyzstan and are carried out by people expressing a variety of opinions and viewpoints and with diverse goals. In 2012, there were likely more than 1,000 assemblies across the country.⁹³ Monitoring of a representative portion of those assemblies found that 82 percent focused on public and political issues while around 18 percent focused on social and economic matters.⁹⁴ A key focus of public actions is controversy around the Kumtor gold mine, which has an outsized influence on Kyrgyzstan's economy (making up between 5 and 10 percent of the country's GDP⁹⁵) and allegedly damages the environment while contributing little to local development (see case study below). Political jockeying, strife, and partisan politics are also common reasons for organizing or participating in assemblies. Monitoring in 2012, which coincided with local elections, found that more than 35 percent of assemblies were organized by political parties.⁹⁶

Organizers' and participants' goals and motivations for participating in actions are sometimes unclear. Moreover, there are numerous cases in which the identity of organizers and participants is unknown and they refuse to identify themselves, which may be a sign that assemblies are used by political and business forces wishing to create the impression of public support for a cause or initiative while remaining anonymous. It is commonly believed that payment for participation in assemblies is widespread, but specific information on how often this occurs is unavailable. Assemblies are perceived by many as the only way to effectively raise and resolve social and political grievances. With political and economic turmoil the norm in Kyrgyzstan, perceptions are common that the government is inadequately addressing the needs of the population and is not creating the conditions for society to flourish. Many people complain about the dysfunction of Kyrgyzstan's parliamentary system, in particular that representatives do not listen to their constituents' concerns. The belief that local- and regional-level executive authorities are uninterested or unable to resolve grievances is also widespread, leading people to the conclusion that grievances can only be solved by directly addressing and attracting the attention of the authorities in Bishkek.

A unique phenomenon in protests across Kyrgyzstan is the participation of groups of women colloquially known as OBON—a play off of an acronym for a special police force detachment often used in raids and anti-terrorist activities. The OBON women, sometimes bused in from distant locations, often rudely heckle and crowd areas in an apparent effort to disrupt public events and demonstrations, government operations, and court hearings. Attempts by journalists and others to determine who the OBON women are, why they are participating in an assembly, and whether they are being paid, have been unsuccessful. At a 2012 roundtable on the OBON phenomenon, experts explained that the women are paid, sometimes based on agreements with the assembly organizers; poverty, unemployment, and outrage over impunity for abuses were cited as factors motivating the women's paid participation.⁹⁷

OBON and other provocateurs are not usually subject to enforcement actions by the authorities, even when they violate the law—for example, by blocking and interfering in a court hearing. The authorities also rarely intervene when traffic is blocked, which has become increasingly common among certain political forces. Blocking of roads to the Kumtor mine and the main north-south

road between Bishkek and Osh occurs often, resulting in the introduction of fines for blocking roads under the amendment to the Code of Administrative Responsibility noted above.

Indeed, the authorities almost never interfere in assemblies or use force against demonstrators or participants, although the police commonly monitor planned and spontaneous assemblies to ensure security and safety consistent with their obligations under the law. However, given the broad leeway people have in exercising their right to freedom of assembly, the authorities are often criticized for neglecting to provide a visible presence or some sort of official action. The main motivation behind their inaction is often cited as their concern that their intervention would inflame the situation and increase the likelihood of violence.

President Atambayev has expressed support for the freedom of assembly and a readiness to “look deeper,” noting that “one should not be afraid of demonstrations” or “confuse solid stability with seeming stability.”⁹⁸ It seems that the local authorities generally heed this advice. Government representatives come to a majority of demonstrations to hear the protesters’ demands.⁹⁹ However, they do not come until “the situation is aggravated by an incident on the brink of an offence or crime,” which ultimately encourages brinksmanship by protest organizers and participants.¹⁰⁰

Kyrgyzstan: Freedom of Assembly in Law and Practice

Kyrgyzstan is a semi-presidential republic with a parliament that has significant authority. Having undergone two revolutions in its 22 years of independence, the basic legal and constitutional framework and implementation of laws has fluctuated considerably over time, resulting in wide swings between democratic reform and harsh repression. Respect and enjoyment of the freedom of assembly has similarly fluctuated throughout this period. The current constitutional and legal arrangement are key to understanding how freedom of assembly is secured and enjoyed in Kyrgyzstan.

A 2010 constitutional referendum, while administered well in a technical sense according to OSCE vote monitors,¹⁰¹ occurred just days after hundreds of people were killed in a mass outbreak of violence in several of Kyrgyzstan’s southern regions. This violence forced to the fore severe cultural, economic, and social cleavages within society that continue to dominate public discourse in Kyrgyzstan in many ways. As a result, fear of a return of large-scale violence and associated instability looms large in the minds of government and civil society.

Whereas the practice under the previous framework “posed a threat of confrontation between the authorities and civil society” and put the security of participants at risk because of “the lack of professionalism, and in often cases, abuse by public officials,”¹⁰² the regulatory framework since the major changes enacted in 2010 is widely acknowledged to at least be technically sound. However, it is not completely tested.

The freedom of peaceful assembly is guaranteed by Article 34 of the Constitution of the Kyrgyz Republic—adopted by referendum in 2010—according to which “everyone shall have the right to peaceful assembly” and “prohibition and limitation on the conduct of peaceful assemblies shall not be allowed.”¹⁰³ Civil society monitors have characterized assemblies as Kyrgyzstan’s “public commotion-based democracy.”¹⁰⁴ Implementation of the 2010 constitution’s norms

required the passage of a Law on Peaceful Assembly, which entered into force in 2012. This law was the result of an inclusive process in which government bodies, civil society organizations, and international human rights experts and organizations were highly mobilized and engaged. The law acknowledges that any restrictions on peaceful assembly must be clearly elaborated in the Constitution, international human rights treaties, or the law itself, and that this fundamental right must be enjoyed without discrimination. Government bodies may not “make decisions to prohibit assemblies” unless the assemblies call for unlawful acts or threaten the safety of participants; government bodies are generally prohibited from “creating obstacles which impede or significantly frustrate the preparation or holding of peaceful assemblies”; and they may not interfere in coverage of assemblies by the media.¹⁰⁵ The European Commission for Democracy Through Law (the Venice Commission), the Organization for Security and Co-operation in Europe (OSCE), and Kyrgyzstani and international human rights experts do not fault the law itself, finding that it generally complies with the relevant international standards.¹⁰⁶ In February 2013, an amendment to the Code of Administrative Responsibility entered force that was tailored to restrict gatherings that block roads, in direct response to a tactic being increasingly used by government critics at the time. Under the amendment, “illegal blocking of roads aimed at restricting the right and freedom of movement” of others is subject to a fine.

Case Study: Demonstrations at the Kumtor Mine

The Kumtor mine is unique in Kyrgyzstan for its ability to mobilize public assemblies. Demonstrations against the mine and its operator, the government, and alleged environmental pollution caused by the mine occur regularly across the country, especially in Bishkek and in the towns closest to the mine: Tamga and Barskoon. The mine, under development since the late 1970s, contributed 5.5 percent of Kyrgyzstan’s 2012 GDP according to official statistics.¹⁰⁷

Claims that the mine was damaging the environment were first widely publicized in 1998 after a truck carrying sodium cyanide crashed nearby, dumping the toxic chemical into a river and polluting the surrounding area, including the villages of Barskoon and Tamga. In part as a result of that accident, beliefs that the mine continues to pollute the environment are regularly voiced at public assemblies, in the media, and at government meetings, plaguing the government and the mine’s owner, Centerra Gold, which is partially owned by the government. While distrust of the mine is widespread and deep, nationalist politicians and political movements also deftly exploit public anger and distrust to mobilize political support.

In February 2009, Kyrgyzstan’s parliament voted to scrap the existing arrangement with Centerra Gold and seek a more favorable renegotiation of the contract. Since then, political forces, Centerra Gold, foreign powers, and various civil society actors have struggled to reach an arrangement agreeable to all. The dispute generally revolves around what compensation will be made to the government by the mine. Since then, civil society and parliamentary opponents of the current arrangement have periodically renewed claims that the mine is polluting the environment, not paying enough to the government, and not compensating the community from which it is believed to be benefiting so handsomely. Tactics used to force the government and Centerra Gold into making concessions include peaceful though often rowdy protests, cutting off the mine’s power, and blocking the road to the mine, among others.

At one such protest in Bishkek on April 24, 2013, hundreds of protesters demanded the nationalization of the Kumtor mine and freedom for three nationalist politicians from the Ata-Jurt opposition party who were detained and charged with trying to overthrow the government during a violent protest in October 2012 at which they called for nationalization of the mine. Without much success in forcing the issue via protests in Bishkek, leaders chose to move the protest to regions, including to the area just outside of the Kumtor mine.¹⁰⁸

In May and June 2013, protesters largely from towns near the mine and families of mine workers flooded the area around the mine, calling for its nationalization, for an end to corruption in the mine's hiring practices, for economic development in the region, for reform of a local mine-supported development fund, and for freedom for the detained Ata-Jurt parliamentarians. On May 30, the fourth day of the protest, protesters escalated the confrontation by cutting off power to the mine, some threatening to set themselves on fire.

As a result of this step, the speaker of the parliament dispatched two deputies to the demonstration. The authorities also warned through the media that violations of the law would be prosecuted. It was later confirmed that 92 people were detained during the demonstration, although many of them were quickly released, some with a warning. The following day, more than 1,000 protesters gathered in a nearby town, setting a bus on fire and clashing with the police. This led to crowd control measures such as use of flash bang grenades; a reported 15 police officers were injured during the brief clash, which petered out in the second half of the day on May 31.

That same day, protests with similar demands occurred in other towns across Kyrgyzstan, including in Jalalabad, a power base for the three Ata-Jurt parliamentarians. As protests near the Kumtor mine fizzled out, protesters in Jalalabad occupied the regional administration building, as had been done several times in the previous months. A member of the Ata-Jurt party said that “a new national authority has arrived.” Apparently afraid that the protests would spread with television coverage, the authorities temporarily shut off a regional TV station.¹⁰⁹

The Impact of Demonstrations at the Kumtor Mine

Starting the afternoon of May 31, the government declared an emergency situation in the region where the demonstrations were taking place which lasted through June 10. It also sent the economy minister, a deputy prime minister, and the prime minister himself to try to deescalate the situation. Demands that the president come to the demonstration were not met.

At a press conference on May 31, Prime Minister Satybaldiev said that discussions with Centerra Gold on a renegotiation of the Kumtor deal were ongoing. A deputy from the ruling coalition Ata-Meken party, Shirin Aitmatova, posted on Facebook that “open and transparent discussions on Kumtor would decrease the risk of such waves,” complaining that the “government had stretched out negotiations” and not released information about corruption at the mine.¹¹⁰

When Satybaldiev traveled to the communities abutting the mine on June 1 to discuss the government's efforts, he said that Kumtor was an important asset for Kyrgyzstan. He noted that such issues could not be resolved quickly, but promised to take renewed action to defend the

country's interests.¹¹¹ The government dismissed the governor of the Issyk Kul on June 1 in response to allegations that a development fund supported by proceeds from the mine and run by the regional government was ineffective and corrupt.

It remains to be seen how effective the protesters were in forcing their issues and achieving their demands. As has become routine, the authorities in Bishkek sent several other government officials to the area to assure protesters that the government was working towards resolving the Kumtor issues, suggesting that the protesters' attempts to threaten stability just enough to elicit a response from high-level officials was effective. Although the regional governor was sacked, the regional development fund has not been meaningfully reformed nor has more development support from the fund materialized.

The government and Centerra Gold finally settled on a long-term solution in February 2014: the mine will be jointly owned by the Kyrgyz government and Centerra gold with the Kyrgyz government retaining the right to increase its ownership in later years. The February 2014 deal nearly mirrors one proposed and rejected - in the midst of nationwide demonstrations - in October 2013. At the time, the government was seeking full control over the mine.¹¹²

Grievances around workers' rights, environmental issues, and the mine's ownership structure continue to drive sporadic protests, though they are far less frequent, organized, tense, or massive than they had been in October 2013. With a mine deal now finalized, the nationalist-oriented protest has lost much of its steam. Protesters' more radical demand, nationalization of the mine, is not being seriously discussed and it is unlikely that nationalization was ever more than a nationalist slogan. In this view, protesters, largely unsuccessful in achieving their stated goals of nationalization, improved working conditions, and support for the community appeared to have played a more limited role in making the actual decisions, with their actual demands, while germane, mostly beside the point. The protests, whipped up by provocateurs and other elements, served organizers' goals by worrying the government, threatening security and safety, and implicitly threatening a wider breakdown of order and severe economic harm should their demands be unmet.

In a country like Kyrgyzstan where there is a history of politically-motivated mass unrest, protests are organized and manipulated for political gain, and the authorities refuse in many cases to confront lawbreakers at demonstrations or even make their presence known, the possibility of violence is high and should be taken very seriously. In Kyrgyzstan's case, the reasons behind police reticence to intervene are clear, and the legal framework gives demonstrators wide latitude to conduct assemblies according to their desires. However, if the authorities were more active in preventing and responding to disorder and violations of the law, they would likely prevent the escalation of tense and politically charged situations.

Lessons Learned

The popularity of public assemblies in Kyrgyzstan is often connected to feelings of disenfranchisement among the public, the belief that the public's voice is not heard through political processes, and frustration over perceived or real corruption and human rights abuses. The government should certainly take note of these frustrations and concerns, and, while taking

steps to enable and protect lawful peaceful assemblies, should also consider more systemic change that will enable citizens to more effectively air grievances and engage with the parliament, government bodies, and officials. Steps aimed at ending corruption, human rights abuses, and impunity for crimes are also necessary, and will convince the public that the government is working in its interest.

The government's absence or invisible presence at public assemblies has contributed to perceptions that it is not taking the necessary steps to provide security for such events, especially considering Kyrgyzstan's history of violent uprisings, and that provocateurs, including those who violate the law, can do as they please without consequences. When the police do come, it is often too late, encouraging those assembling to test the limits of the law. This dynamic has led to injuries, the destruction of public infrastructure and private property, and real threats to public order and safety. In order to discourage this brinksmanship and to communicate to the public that government respects and will protect the public's right to peacefully assemble, the police should develop policies and procedures that communicate to the public that the government will protect the right to peaceful assembly and also protect the public from those who seek to break the law.

Additionally, overreaction by authorities to provocations by demonstrators at assemblies, including those that may threaten public order, has also contributed to escalation and resentment. The arrest of parliamentarians in October 2012 and charges against them of trying to overthrow the government after they climbed the fence of a government building, fed resentment among some of the parliamentarians' supporters and inflamed that particular situation. In cases when those assembling break the law, the authorities should seek charges based on the individuals' actions and avoid those charges that are politically motivated.

Libya: Save Benghazi Friday

Prior to 2011, most demonstrations and political dissent in Libya,¹¹³ particularly those that criticized the longstanding dictator Muammar Gaddafi, were deemed illegal and even punishable by death.¹¹⁴ However, mass protests that swept neighboring Tunisia and Egypt inspired Libyans to demand a government that promoted basic human rights and freedoms. Peaceful protests calling for dismantling the Gaddafi regime quickly spiraled into a violent eight-month conflict. Since Gaddafi's death by rebel soldiers on October 23, 2011, the democratic transition has been mired with security, political, and economic challenges.

On September 11, 2012, the American Consulate in Benghazi was attacked, resulting in the death of four Americans, including Ambassador Christopher Stevens.¹¹⁵ Galvanized by anger over the killing of the popular American ambassador, activists in Benghazi organized the Save Benghazi Friday demonstration. On September 21, 2012, thousands of Libyans marched to demand the disbandment of armed groups.¹¹⁶ Leaders of the international community welcomed this demonstration as evidence that a vocal population of Libyans, particularly in the city of Benghazi, were willing to speak out for peace and accountability.

Save Benghazi Friday was the first and largest of the demonstrations that have taken place in the cities of Benghazi and Tripoli. Unfortunately, some of these protests, specifically those calling for the disintegration of armed groups, ended violently when demonstrators confronted the headquarters of the groups. At least 100 people were killed in ensuing clashes in both cities, with little government effort to investigate the bloodshed and punish those responsible.¹¹⁷

Libya: Freedom of Assembly in Law and Practice

When Gaddafi came to power in 1969, he abolished the 1951 constitution, which protected freedom of the press, opinion, peaceful assembly, and association. The new laws his regime issued included the Law for the Protection of the 1969 Revolution, which criminalized any strike or demonstration against the state. Under Law 75/1973 dissent was illegal and punishable by imprisonment and death.¹¹⁸ Gaddafi's "Green Book," published in 1975, also regulated Libyans' rights and responsibilities. In practice, the regime crushed dissent inside Libya, publicly hanged students who marched against the regime, and hunted down and killed opponents abroad.¹¹⁹

The legal framework changed after the 2011 revolution. On August 3, 2011, in the final weeks of the uprising, the National Transitional Council (NTC)—the interim opposition authority—issued the provisional Constitutional Declaration, which serves as the basis of governance during the transitional period until a permanent constitution is drafted and ratified.¹²⁰ Article 7 describes the state's role as protector of human rights and basic freedoms, and commits the state to accede to regional and international declarations and covenants to protect these rights and freedoms.

Freedom of assembly, including peaceful demonstrations, is safeguarded by the state in accordance with the law in Article 14, and Article 15 guarantees the freedom to establish political parties, associations, and other civil society organizations.¹²¹ Both of these articles are a dramatic departure from Gaddafi-era laws. Libya is party to the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and People’s Rights, and other treaties.¹²²

The NTC and, subsequently, the General National Congress (GNC)—the 200-member elected legislative body—issued a series of laws to protect public order and freedoms. Due to the frequency with which protests had been taking place after the GNC assumed power in August 2012 it issued Law 65/2012 on the right to peaceful demonstrations. This law acknowledges peaceful assembly as a basic human right under the Libyan Constitutional Declaration as well as international law. According to the law, independent citizens, political parties, and civil society organizations can organize peaceful demonstrations by submitting a written notice and providing full details of the date, time, location, and exact route of the planned demonstration to local authorities at least 48 hours prior. Authorities, however, can prohibit a demonstration if it “disrupts public security,” a stipulation that can be interpreted loosely and arbitrarily.

Libya’s current domestic legal framework generally complies with international human rights principles; however, there are loopholes in the ambiguity and application of the law. Moreover, there is a discrepancy not just in the law’s text, but also in its enforcement and protection mechanisms, given the weakness of the institutions that currently govern the state.

Case Study: Save Benghazi Friday

Even after the newfound political legitimacy of the national legislative elections and peaceful transfer of power from the NTC to the GNC in August 2012, the security landscape in Libya was declining. Armed groups that were formed soon after the start of the February 2011 uprising remained autonomous units, and many Libyans felt they became a menacing presence – seizing territory and asserting their authority. Turf wars between armed groups, particularly in western Libya, resulted in regular street fights with heavy weapons.¹²³ In addition, kidnappings, illegal detentions, torture, and rising numbers of assassinations contributed to the deteriorating security environment.

The attack on the U.S. Consulate in Benghazi and the death of Ambassador Stevens catalyzed the largest demonstration since fall of the Gaddafi regime of the country, Save Benghazi Friday.¹²⁴ Following the attack, tribal elders in the East met on September 15, 2012, to address the myriad security challenges.¹²⁵ Following this meeting, a diverse group of 30 to 40 organizers—comprised of older and younger men and women of diverse ideological (Islamist and secularist) and political leanings, as well as varying professions, including lawyers, engineers, human rights activists, journalists, and civil society groups—gathered to organize a

city-wide mass demonstration. This was a leaderless coalition that met daily, exercised democratic decision-making, and divided itself into various committees to draft press statements, conduct media, government, and civil society outreach, and provide general logistical support. Their goal was to save Benghazi from violence and terrorism, and they publicized four main demands:

1. The GNC and government should issue a law to criminalize armed groups and regulate arms.
2. The GNC and government should withdraw any authority provided to armed groups.
3. The armed groups should be evicted from all government buildings and institutions.
4. The army and police force should be established, and provided with the full support needed.

The plan was to organize a massive demonstration and continue to protest weekly in large numbers until the above demands were met. Organizers reached out to a variety of stakeholders in Benghazi, including the Benghazi Local Council, GNC Benghazi representatives, and the *Awqaf*—the religious body that decides the Friday sermons—to advertise the mass demonstration and lead the sunset (*maghrib*) prayer to conclude the demonstration. They also notified the security general of the police station, which provided police cars and ambulances to facilitate the march.



Source: [Save Benghazi Friday Facebook page](#)

Organizers raised awareness and support for their cause offline and online. They designed a logo that features a popular Benghazi Lighthouse encircled in a rescue floatation device, as if saving the city from drowning into chaos. They also produced 500 caps and t-shirts, distributed leaflets and pamphlets in busy streets, and created three large banners that were hung on billboards at street intersections. Additionally, they launched a Facebook page that garnered as many as 3,000 likes,¹²⁶ and convinced one of the two main cell phone companies, Libyana, to send a text message encouraging Libyans in Benghazi to participate in the demonstration.¹²⁷ Moreover, organizers produced commercials that were aired on various Libyan television stations, such as *Libya Al Ahrar* and *Alassema TV*, and spoke on talk shows and radio stations to encourage citizens to participate in the demonstration. They also held a press conference and released press statements before and after the demonstrations.

Given the nature of the demands, some organizers met with two Islamist armed groups, Ansar al Shariah and Raf Allah al Sihati, to inform them of the demonstration and warn them of the growing resentment against their presence in the city. Interestingly, Raf Allah al Sihati members also warned protest organizers of the possibility of infiltration among their peaceful ranks.¹²⁸

The demonstration took place on Friday, September 21, 2012—World Peace Day—from 5:00pm to 8:00pm. It started in front of the Tibesti Hotel (downtown) and stretched about a mile to Al

Kish Square. Over 35,000 Benghazi citizens came into the streets, carrying handwritten and printed signs in Arabic and English that read:

Benghazi: the light of the revolution does not know of any red lines

Benghazi wants peace and prosperity

We Want a National Army

Benghazi says No to Terrorism

Saving small Libya for the sake of big Libya

Benghazi: from it started the revolution, and from it we will build a state

The peaceful demonstration represented large swaths of Libyan society, and proved to be a festive family affair. Many GNC Benghazi officials also participated, showing solidarity with their fellow citizens. Ansar al Shariah corralled a counterdemonstration at Al Kish Square, and despite the stoked passions from both sides, protesters formed a human shield and it remained calm. Once the closing statement was read and the sunset prayer was performed, most of the demonstrators dispersed and returned home.

Emboldened, however, some of the lingering demonstrators began marching to the headquarters of nearby armed groups, demanding them to evacuate the city. Protestors stormed the Shuhada'a Abu Salim and Ukba bin Nafi'a brigades, and then marched to Ansar al Shariah's base. At first, Ansar al Shariah fired gunshots in the air and then quickly evacuated. Demonstrators torched their base. Soon after, demonstrators drove to Raf Allah al Sihati's station in Huwari, about 15 miles away. When Ismail Sallabi, one of the leaders of Raf Allah al Sihati, came out to speak with the protestors, the bloodletting began. The ensuing gunfire reportedly left 11 dead and over 70 wounded.¹²⁹

That night witnessed the first bloody protest since the revolution. There are conflicting accounts on how the incident unfolded. According to the organizers, infiltrators capitalized upon the crowd's excitement and directed them to the bases of the armed groups, which was not part of the original plan. Meanwhile, some members of the armed groups suggested that protesters were armed and intended to seize their weapons and push them out of Benghazi.

The turn to violence had a number of repercussions that prevented the protesters from achieving their goals.¹³⁰ Before the protest, it was unclear to citizens which armed groups were subordinated to the state, as organizers demanded that all armed groups disband or fold into the state security apparatus. Not until the night of Save Benghazi Friday, did the words "legitimate" and "illegitimate" appear in the official state discourse. The Saturday after the protest, a press conference was hastily convened in Benghazi at Benina Airport by government officials including the President of the General National Congress, Prime Minister-elect, GNC Benghazi representatives, the Chief of Staff of the Libyan Ground Forces, and leaders of select Benghazi armed groups. The message was clear as government representatives stood alongside commanders, sanctioning them as legitimate and under the auspices of the state. Officials

cautioned against “chaos” and emphasized that citizens make a distinction between illegitimate groups and those that have declared their loyalty to the state.

In the short term, this shift in governmental discourse undermined the protesters’ demands to pass legislation that would criminalize autonomous armed groups. Organizers postponed the next Friday’s demonstration, which was initially planned as a follow on, to a later date and explained they would provide the government and GNC more time to address their demands. They also requested that the authorities begin an investigation of the events of the night of September 21.

An intensive smear campaign against protest organizers shadowed the events, and some were subjected to intimidation and assassination attempts. An attempt against one of the organizers, Naji Hamad, ended up killing his brother-in-law.¹³¹ Some of the organizers have since fled the country. Labels such as “drunks and druggies” were also leveled against protesters, while a campaign tarnishing the demonstration as the “Friday that Drowned Benghazi” (*Juma’at Ighraq Benghazi*) gained momentum, dovetailing with the narrative that the security situation deteriorated because of the protest.

After seeing how the demonstration was easily coopted, citizens felt less confident about participating in future protests. Additionally, many of the organizers chose not to lead future demonstrations, as they did not wish to bear the responsibility of unpredictable, possibly violent, incidents. Contending perspectives dominate, where some viewed the demonstration as a success, while others perceived it as a turning point worsening the security conditions in Benghazi.

The Impact of Save Benghazi Friday protest

The Save Benghazi Friday protest influenced domestic discourse on armed groups, from government statements to public opinion. While the government’s discourse changed, so did citizens’ ability to question and openly criticize these armed groups. Furthermore, this popular uproar challenged the heroic image of the infallible Libyan revolutionary that liberated the country. Some Libyans indicated that questioning the revolutionaries became the new red lines in a liberated Libya. Internationally, state officials lauded the peaceful demonstration as testament that Libyans mourned the deaths of American diplomats and ultimately wanted peace, law, and order to prevail in their nascent state.

The more pernicious impact, however, was that the bloody night sowed deeper mistrust and skepticism between Libyans – civilian vs. armed, activist vs. fighter, Islamist vs. secular. The resulting bloodshed highlighted civil strife between Libyans of the same city with varying backgrounds and loyalties.¹³²

A few months after the *Save Benghazi Friday* demonstration, the GNC issued decrees aimed at regulating armed groups. However, the government has been slow to implement them.¹³³

- Decree 27/2013 authorizes the government to use all necessary means, including military force, to clear Tripoli of illegitimate armed groups.
- Decree 53/2013 calls on the head of government to clear all areas in Libya of illegitimate armed groups using all means necessary. It also orders the head of government to produce a plan to reintegrate members of legitimate armed groups as individuals instead of units.
- Decree 87/2013 calls on the head of government to carry out the two previous decrees.

Save Benghazi Friday demonstrators demanded laws to regulate armed groups and can be credited for playing a role in to passing of these decrees. However, even with these decrees on the books, little has changed on the ground.

When Save Benghazi Friday took place, the GNC had been in power for only one month and the newly selected prime minister-elect was forming his cabinet. Successive interim authorities have been either unable or unwilling to rein in armed groups, or even to prosecute those responsible for carrying out serious crimes. Government officials from the NTC to the GNC began co-opting and appeasing armed groups - forging an agreement where payments are made in exchange for loyalty from these groups who were able to retain and command their units without government interference. Many groups have been brought under the auspices of the Ministry of Defense, renaming themselves as Libya Shields, while others were brought under the aegis of Ministry of Interior known as the Supreme Security Committee (SSC). Both the Libya Shields and Supreme Security Committees remain more powerful than the national army and police. Hence, government authorities contracted these groups to act as quasi-security forces. Some analysts refer to this arrangement as the Faustian bargain or original sin of Libya's post-conflict government authorities.¹³⁴

A year after the Save Benghazi Friday demonstration, a similar protest movement mobilized in Tripoli. On November 15, 2013, following Friday prayers, peaceful protesters demanded the evacuation of armed groups in Tripoli. Starting in al Quds Square, thousands of demonstrators marched toward the neighborhood of Garghour, where armed groups from Misrata resided, to try to convince them to lay down their arms and leave the city. In broad daylight, assault rifles and heavy weapons were fired at the protesters and the ensuing clashes left 43 dead and at least 460 wounded. State security forces were present but unable to protect protesters and prevent the bloodshed.

The Tripoli Local Council declared a week-long civil disobedience campaign, with an even larger demonstration the following Friday calling for all armed groups to evacuate the city. This scenario in many ways repeated what had transpired a year earlier. However, this time around, citizens had GNC decrees to refer to, calling for the disbandment and evacuation of armed groups. Moreover, despite the bloodshed, popular support for the protest increased. This is

emblematic of the relationship between armed groups and civilians, where in Tripoli most groups are regarded as occupiers representing surrounding cities such as Misrata and Zintan, whereas in Benghazi groups are from the city.

Lessons Learned

It is important to note that any demonstration is vulnerable to infiltration. Spoilers may lead protesters away from the agreed-upon protest spaces, and direct them to the headquarters of undisciplined armed groups. Location of demonstrations also matters. Violence may not have erupted had protesters remained in neutral public spaces instead of marching to the headquarters of armed groups. Reflecting on the demonstration, one of the organizers commented that they should have engaged and dialogued with armed groups in a systematic way. Despite the freedom to protest and assemble, Libyans are taking risks when they exert pressure on governmental authorities and armed groups.

Citizens need to reexamine their role in developing a more comprehensive strategy that raises awareness, mediates opposing views, diffuses tension, and engages with government representatives. As one government official remarked, citizens should not underestimate their people power, because with numbers, even beyond the armed and the elected, they can be a formidable force.

Besieged with a security and political vacuum, Libyan protesters are ultimately calling for a viable nation-building process that includes wider security sector reforms with the disarmament, demobilization, and reintegration of armed groups. This will be hard to achieve, especially considering the legacy of Gaddafi's pervasive and oppressive security apparatus. Additionally, this new structure that government authorities have spun will take time to untangle. Despite the various threats, protests have become a constant fixture. In the beginning, these demonstrations supported the revolution and revolutionaries, now; most of the protests focus on security, stability, and the state. A relic of post-conflict reconstruction, these demands will take time to achieve.

Malaysia: The Bersih Movement

In Malaysia, the ruling coalition, Barisan National (BN), and the majority party, United Malays National Organization (UMNO), have been in power since the country's founding in 1957 in large part because of their ability to win power long before Election Day. They have engineered this through undemocratic practices, with the result that competition for votes is not between political parties on a level playing field but between the state and its opposition. Tactics include using state funding to campaign and influence voters (up to \$150 was paid to ethnic Malays [*Bumiputeras*] prior to the elections in the form of grocery vouchers and direct handouts¹³⁵); gerrymandering of districts; and appointing former party members to the Malaysian electoral commission, which has enormous influence in determining electoral rules.

The Bersih (*clean* in Malay) Movement was launched in 2006 by members of the political opposition and a coalition of civil society representatives to highlight irregularities and corruption within the electoral system. While none of Bersih's specific demands have been met in full, its impact has been widespread and significant.

Malaysia: Freedom of Assembly in Law and Practice

The Malaysian constitution generally conforms to international human rights standards. Under Article 10 of the Constitution, "all citizens have the right to assemble peacefully and without arms," but the parliament is granted authority to impose laws to limit this freedom in order to maintain public order or morality. In addition, the Peaceful Assembly Act (PAA) of 2012, which went into effect just five days before the third Bersih rally (Bersih 3.0), also contains a number of provisions that limit this right, including restrictions on where protests can be held and who can participate.

The PAA, which replaced Section 27 of the Police Act, states that its objective is to ensure "that all citizens have the right to organize assemblies or to participate in assemblies, peaceably and without arms."¹³⁶ The law lifted the requirement of police *approval*, only requiring *notification* within 10 days of the event as long as the protest conforms to other stipulations within the PAA. It also states that it is incumbent upon law enforcement to ensure that the assembly is conducted in an orderly fashion. Nonetheless, the right to assembly explicitly does not include the right to a "street protest," which the law broadly defines as an "open air assembly, which begins with a meeting at a specified place and consists of walking in a mass march or rally for the purpose of objecting to or advancing a particular cause or causes." In addition, the law prohibits protest within 50 meters of 21 specified "prohibited places," which are expansively defined to include hospitals, petrol stations, schools, and houses of worship; prohibits participation of any individual under the age of 15; prohibits anyone under the age of 21 from organizing such an

event; and prohibits non-Malaysians from participating in any protest. In addition, under the PAA, organizers are held personally responsible for any damage related to the protest.

The government of Malaysia has also used other legal instruments to discourage participation in public protest and silence dissenters. The broadly worded Sedition Act—which criminalizes language that would bring “hatred or contempt or ... excite disaffection against the government,” engender “feelings of ill-will and hostility between different races,” or question bumiputera privilege¹³⁷—has been used against political dissidents and peaceful protesters. In the lead up to Bersih 3.0, for example, student activist and Bersih organizer Adam Adli was arrested and charged under the Sedition Act because of his calls for street demonstrations to protest alleged electoral fraud.

Notable Criminal Penalties Under the PAA

- Anwar Ibrahim, Azmin Ali and Badrul Hisham Shaharin of the political opposition were charged under the PAA for taking part in the Bersih 3.0 rally, for breaching Magistrates’ Order, and for abetting rioting.
- Five members of the human rights organization SUARAM were investigated under the PAA for their participation in Bersih 3.0.
- Opposition assemblyman Nik Nazmi Nik Ahmad was charged under the PAA for failing to provide the police with sufficient notice for the Black 505 Rally to protest the election. Six other members of the opposition coalition were subsequently charged for similar peaceful gatherings in other parts of the country.

While the Malaysian constitution and the PAA explicitly describe freedom to assemble as a right, in practice respect for the right to assemble is variable. As was evidenced in Bersih 3.0, five days after the PAA was enacted, law enforcement is still unfamiliar with the law, which has led to inconsistent and arbitrary application of the legislation. For example, during environmental protests in 2012, some protesters were arrested for engaging in moving protests, whereas others were not. In some instances protesters have been arrested for bringing children to a rally, while in other instances they have not, such as in Bersih 3.0. There has also been inconsistency regarding registration and notification of public assemblies. During Bersih 3.0, for example, organizers notified the local law enforcement of their intention to organize a peaceful assembly at Dataran Merdeka (Freedom Plaza), seeking the cooperation of local police to facilitate the event. The notice was treated by local law enforcement as an application to hold a rally, which is not required under the new PAA, and organizers were notified that the application was rejected on the grounds of security.

There are a few examples in which law enforcement has effectively managed mass protests. The KL112 or Himpunan Kebangkitan Rakyat rally, which was held in the national soccer stadium in January 2013, went on without incident and was generally well facilitated by law enforcement. Another notable example was the 2012 Himpunan Hijau rally, which included a 300km march to

protest the construction of a rare earth refinery. During this rally law enforcement could have clamped down on the protest on the grounds that children were present or that protesters carried placards criticizing the government, or based on the moving nature of the rally, but the protest proceeded with little incident.

Case Study: The Bersih Movement

Bersih is a coalition of non-governmental organizations (NGOs), formed in 2005 to promote free, clean and fair elections. It has organized three mass street protests, including the largest public gathering in the nation's history. The coalition was formed to highlight irregularities within the electoral system including electoral fraud, gerrymandering, and corruption within the electoral commission. Since its establishment, Bersih has made a series of demands to the ruling coalition (see box).

The roots of Bersih can be traced to the *Reformasi* movement in the late 1990s, in which the opposition leader, Anwar Ibrahim, led mass rallies to highlight corruption within the ruling coalition. Bersih was originally formed as a joint action committee for electoral reform that included a number of individuals who were involved in Reformasi, including members of political parties and representatives from prominent NGOs. It has since transformed its structure, reforming as a coalition of 89 NGOs led by a 21-member steering committee and launching a Global Bersih movement that now includes networks in 14 countries around the world.

Bersih's first mass rally, which was named Bersih 1.0, was held in 2007 and attracted roughly 40,000 protesters. The rally received considerable attention from international media, which broadcast images of law enforcement firing tear gas directly into the crowds and using chemically laced water cannons against protesters¹³⁸. The 2007 rally featured members from all three parties of the opposition coalition as well as prominent civil society representatives and religious leaders.

Bersih 1.0 Demands

1. Use indelible ink to prevent fraud
2. Clean up registered voter rolls
3. Abolish postal votes
4. Allow the opposition parties access to the government-controlled print and broadcast media

Bersih 2.0 Demands

1. Clean the electoral roll
2. Reform the postal ballot system
3. Use indelible ink to prevent fraud
4. Provide a minimum 21-day campaign period
5. Allow free and fair access to media
6. Strengthen public institutions
7. Stop corruption
8. Stop dirty politics

Bersih 3.0 Demands

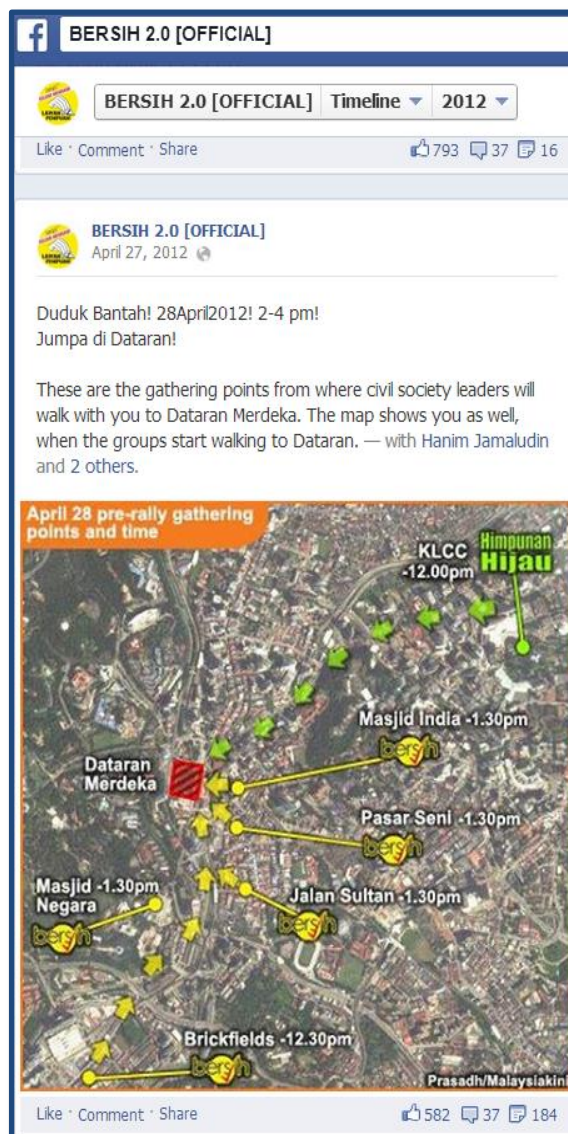
1. The Election Commission must resign.
2. The electoral process must be cleaned up before the next general election
3. International observers should be allowed to monitor the polls.

In addition to the demands of Bersih 1.0 and 2.0.

Three years later Bersih held another rally, referred to as Bersih 2.0 or a “Walk for Democracy,” after independent monitors had been denied the ability to observe 2011 state elections in Sarawak. Building on the tremendous success of Bersih 1.0, the Walk for Democracy was supported by the political opposition, attracting close to 20,000 protesters and international support, with simultaneous rallies held by Malaysian citizens in 30 cities across the globe. The government preemptively attempted to disrupt the rally by arresting more than 150 protesters, including all of the key organizers and a number of opposition party members. The government also maintained that the rally was an illegal gathering and refused to issue a permit to the organizers. Similar to Bersih 1.0, police used tear gas and water cannons to disperse the crowd. The rally received wide praise for being a rare example of multiracial unity in a society that is starkly divided along racial and religious lines. Again, the government was criticized in the international media for excessive use of force against peaceful protesters.

On April 28, 2012, Bersih held its third and largest rally, attracting between 100,000 and 200,000 protesters who made additional demands for electoral reform in the lead-up to the 2013 general elections. As noted above, the government rejected Bersih’s request to hold a rally in Dataran Merdeka in April 2012, and offered no alternative venue. In a meeting between Bersih organizers and law enforcement three days before the rally, the officer in charge recommended that the rally be held at Stadium Merdeka. Bersih organizers rejected the offer as it was extremely short notice and holding the rally inside a stadium would dramatically decrease exposure to the general public.

For the first time, Bersih rallies were organized not only in Kuala Lumpur, but in 10 other cities in Malaysia, as well as 85 cities around the world, for a global day of solidarity. Bersih 3.0 received support from the national human rights commission, the Malaysian Bar Council¹³⁹, the opposition coalition, and 62 nongovernmental organizations (NGOs). Unlike in Bersih 2.0, law



enforcement permitted organizers and opposition leaders to freely participate in the rally, but having experienced international censure after the 2011 rally and fearing echoes of the Arab Spring, the government focused its crackdown on the media.

Prior to the day of the rally, law enforcement officers were given a series of briefings, and three-tiered steel barricades were erected around Dataran Merdeka. On the day of the event the rally proceeded without incident until approximately 3:00 pm, when protesters allegedly crossed the barricades. At that point, law enforcement issued a warning that could only be heard by a small fraction of the protesters and almost immediately began to fire chemical-laced water and tear gas into the crowd. A report¹⁴⁰ by the Human Rights Commission of Malaysia (SUHAKAM) indicates that 909 tear gas canisters and 58 tear gas grenades were used. The SUHAKAM report notes that after the initial warning, law enforcement did not allow sufficient time nor did they facilitate the dispersal of the crowd, as is incumbent upon them under the PAA.

In addition to law enforcement's failure to facilitate an orderly dispersal, there are a number of reports and videos of law enforcement using disproportionate force, including police beating peaceful protesters, and at least one case of an individual who was injured by a direct shot from a tear gas cannon. There have been no verified reports of protesters resisting arrest. The SUHAKAM report also indicates that those who were arrested were not given the reason for their arrest and were prohibited from using their cell phone for any reason. It also says that a number of the officers inflicted force after removing their name tags and body numbers or while in plain clothes. In addition to violence against protesters, law enforcement officers intentionally targeted journalists, confiscating or destroying equipment¹⁴¹ including cameras, phones, and memory cards. In total, 512 participants were arrested and 1 participant was subsequently charged.

Despite widespread support for Bersih among Malaysians, traditional media outlets have been antagonistic toward the Bersih movements. Around each Bersih rally, the mainstream media—which are heavily influenced and in many cases owned by the ruling political coalition and its affiliates—have carried out smear campaigns against Bersih organizers and participants. In one such case, the *New Straits Times* published a front page article accusing three Bersih coalition members, including Bersih chairwoman Ambiga Sreenivasan, of intending to overthrow the government through illegal means, bring down Malaysia's economy, and bring about an Arab Spring-type movement in Malaysia. The three organizations denied the claims and filed a defamation lawsuit against this prominent newspaper. In November 2013, the newspaper apologized for the article, calling the allegation “false and without foundation.”¹⁴² The three organizations have since dropped the defamation charges.

In order to work around the mainstream media, Bersih has used social media, especially Twitter, Facebook, and YouTube, to mobilize its constituents, organize rallies, and publicize its demands.

As the country in the region with the second highest Internet penetration and third highest mobile phone penetration, Malaysians are increasingly accessible through social media, which has contributed to the success of Bersih. To announce rallies and call supporters to act, Bersih organizers held press conferences that are available on the Bersih YouTube channel.¹⁴³ Bersih has also utilized the wide reach of Facebook in Malaysia to communicate with its existing base as well as future supporters. Its substantial social media footprint also enabled Bersih to expand internationally. In the lead-up to Bersih 2.0, organizers launched Global Bersih to capitalize on widespread support from the Malaysian diaspora community and put further pressure on the government from the international community. The Kuala Lumpur-based organizers were able to collaborate with organizers in 38 international locations, who also staged simultaneous protests in solidarity.

In some cases, Bersih also benefited from efforts by members of the political opposition to mobilize their constituents. Although the evidence for this method of mobilization is less clear and there is a wide range of opinions on the impact of direct opposition-led mobilization, it appears that having the buy-in of the political opposition led a certain number of people to participate in the Bersih rallies.

The Impact of the Bersih Movement

Despite enormous public support, to date none of Bersih's demands have been met in full. The Government of Malaysia did use ink in the 2013 elections, but there was widespread concern that the ink was easily wiped off after voting, making it easy for an individual to vote multiple times.

In December 2013, Bersih announced that if all demands were not met, a Bersih 4.0 rally would be guaranteed. A number of individuals interviewed for this report criticized Bersih for making demands, such as "free and fair access to media" and "strengthen public institutions," that are unrealistic and difficult to measure. Bersih has also been criticized for aligning itself too closely with the opposition and for allowing the opposition to co-opt its messaging, mobilization, and public image.

Nonetheless, Bersih is considered an important success for its contribution to raising public awareness about Malaysia's problematic electoral system, encouraging political engagement, and empowering and seeding other social movements. The result is a transformed political landscape in Malaysia. Since Bersih 1.0, voter turnout has steadily increased, from 73.9 percent in 2004 to 84.84 percent in 2013. The Bersih movement appears to have largely benefited the opposition coalition, which in 2008 blocked the ruling coalition from achieving a two-thirds supermajority. In the 2013 general elections, the ruling coalition experienced its worst-ever electoral result, losing the popular vote for the first time in its history.¹⁴⁴ As it reads on the Bersih website, "Bersih has awakened Malaysians to people power."

A heightened political consciousness has resulted in a number of other social and political movements emerging as strong voices in the civil society space, including the Black 505 movement protesting the 2013 election results, the Jom 100 movement to get out the vote, and the Himpunan Hijau environmental movement. Another unintended but significant consequence of the Bersih movement has been ongoing inter-ethnic collaboration, which is generally not the norm in Malaysia. Bersih has received support from participants across ethnic lines, offering a rare opportunity for the three main racial groups—the Malay, Chinese, and Indian communities—to work toward a common goal.

Malaysia's goal of full accession into the global economic community and membership on the UN Security Council cannot be taken seriously if the country does not sign on to basic international human rights resolutions including the ICCPR, the ICESCR, the Rome Statute and others, and abiding by the standards therein, including freedom of assembly.

Lessons Learned

Bersih gained widespread support and had a significant impact in part because it utilized a multi-faceted mobilization strategy that was aligned with its message. The organization built a grassroots movement to promote people-centered governance by relying heavily on grassroots networks and social media engagement, rather than one that is top-down or politically driven. Nonetheless, despite garnering unprecedented public support, contributing to a shift in the political status quo, and attracting attention to issues of electoral fraud and corruption, none of Bersih's demands have been met in full. Critics of Bersih point to this as a result of poor strategic planning and leadership, which led to the development of immeasurable or vague demands. A number of experts interviewed for this research expressed the challenge of first, maintaining a clear and coherent movement objective and second, respecting the grassroots movement model. Bersih was highly effective in achieving the latter objective, but because of a lack of strategic clarity, has yet to be fully effective.

Morocco: February 20 Movement

Like its neighbors in the Middle East and North Africa region, Morocco saw the emergence of a protest movement in 2011. Demonstrations have been relatively common in Morocco in recent years—according to the Moroccan government there are over 20,000 annually—and while they are a healthy indicator of citizen activism, this number also reveals the scope of Moroccans’ challenges and grievances. These protests and sit-ins are generally tolerated with minimal state interference, particularly when they confront economic, employment, and educational woes. However, threats against protesters surface once they cross certain red lines with demands that are deemed offensive to the king and the monarchy, Islam as interpreted by the royal family, and territorial integrity as it relates to Morocco’s claim over the disputed Western Sahara.¹⁴⁵ State responses to popular demonstrations are therefore political and depend entirely upon protesters’ focus.

Inspired by the pro-democracy revolutions of Tunisia and Egypt, the February 20 movement in Morocco coalesced around calls for democratic reforms. However, Moroccans did not demand the overthrow of the regime, instead challenging the king’s absolute and pervasive power. The first protests erupted in cities and villages across the country on Sunday, February 20, 2011, and soon a nationwide political movement flourished, protesting weekly for most of the year. On March 9, 2011, in an attempt to quell further discontent, King Mohamed VI announced a series of reforms that would be implemented incrementally before the end of the year, including a newly written constitution that states that the king must select the prime minister from the party that wins the most votes, a nationwide constitutional referendum, and early parliamentary elections. These reforms reinforced the notion of a “Moroccan exception” in which, unlike neighboring countries, the monarchy tactically responded to protesters’ demands and prevented a structural shakeup. Despite these concessions, the birth and evolution of the February 20 movement was significant and unprecedented.¹⁴⁶

Morocco: Freedom of Assembly in Law and Practice

Morocco has signed international conventions such as the Universal Declaration for Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) that promote the fundamental human right to peaceful assembly, along with freedom of association and expression for individuals, groups, unregistered associations, and legal entities.

As a result of the February 20 protests, Morocco rewrote the Constitution and voted on it in a referendum on July 1, 2011. Both the 1962 constitution and the 2011 constitution guarantee freedoms of expression, association, and assembly within the limits of the laws that govern public order. According to the 1958 public freedoms law as amended in 2002, only legally registered associations, trade unions, or political parties may organize a public demonstration. Whether the gathering is an organized demonstration (*muthahara*) or a more informal assembly (*tajamhur*), organizers must provide a minimum of 3 days’ and a maximum of 15 days’ prior notice to their local administrative authority, which is under the auspices of the Ministry of Interior. Organizers must publish their full names, personal addresses, and national ID numbers in addition to specifying the purpose, date, time, and location of the demonstration. The local authority maintains the right to ban the demonstration on grounds of threatening public order, and a series of punishments are outlined for protesters who participate in a banned

demonstration: from 1–6 months in prison to a fine of 1,200–5,000 Moroccan dirhams (approx. US\$140–\$600). Demonstrations are generally tolerated throughout the country, although there have been cases of security forces using excessive force to break up crowds. Legally, the police must use a megaphone three times to announce their intent to disperse a demonstration. Each time an announcement is made, the police are supposed to read out the consequences. However, according to activists, this rarely happens.

On paper, domestic law mainly complies with international law. There is, however, a gap between text and practice, specifically when police forcibly disperse and disrupt demonstrations, at times resorting to violence and severely beating protesters. Few victims of this police violence bring their cases to court, as the judiciary is seen as an ally of the regime and the security forces.¹⁴⁷

Case Study: The February 20 movement

Morocco saw a citizen protest movement that merged online activism with street activism. As the demand for political change reverberated across North Africa in January 2011, Moroccan youth activists organized the February 20 protest movement over Facebook. The “February 20 Movement” Facebook page garnered over 3,000 likes before the demonstration took place. These activists also designed logos and uploaded them as their Facebook profile pictures to spread awareness; the main logo was a black background splashed with white text that reads “February 20 Movement” in Arabic, Amazigh, French, Spanish, and English.¹⁴⁸ A 23-year old activist filmed a two-minute video called “I am Moroccan” that featured 14 male and female activists all stating “I am Moroccan and I am participating on February 20 because...,” with each speaker listing their reason for demonstrating; the video was shared on YouTube.¹⁴⁹ The movement was born on the Internet, with no central organization or established leaders. After the first demonstration the Facebook page had 20,000 likes. Facebook was also a useful space for activists to communicate and coordinate protests.



Source: February 20 Facebook Page

On the ground, each city had local coordination committees (*tansiqeyah*) that set the dates and details of local demonstrations. Local committees also customized the demands according to the grievances of their community. Purposely leaderless, organizers and protesters represented an array of ideological, political, and religious persuasions—including leftists, secularists, extreme and moderate Islamists, and socialists—thereby forming an inclusive movement. The protests also mobilized youth, women, and lower socioeconomic classes. This diversity among demonstrators was important and unprecedented. Established associations and political parties such as the powerful Islamist movement Justice and Spirituality; the far-left small parties Democratic Path and Unified Socialist Party (PSU); and the Moroccan Association for Human Rights (AMDH), among others, endorsed the February 20 Movement’s goals.

The main rallying cry was to end corruption and despotism, underscoring the nexus of power and wealth between the king and his inner circle, the *Makhzen*. Demonstrators chanted slogans calling for change: “Down with Tyranny” and “The people demand change.” Demands included a democratic constitution, dissolution of Parliament, independence for the judiciary, freedom of the press, an end to torture, the release of political prisoners, recognition of Amazigh (Berber) as

a national language, freedom, dignity, and social justice. Economic and social welfare needs were also folded into the greater demands for change, reflecting the increase in fuel prices, unemployment, and decrepit educational systems.

On February 20, thousands of Moroccans—by some estimates, as many as 300,000—poured into the streets nationwide demanding democratic reforms in nonviolent protests. Two weeks later, on March 9, King Mohamed VI addressed the nation to announce political and constitutional reforms. Without once mentioning the protest movement, the king announced that he would appoint a committee to draft the constitutional revisions, as well as provide greater power to the prime minister. Despite the king’s concessions, the movement remained committed to meeting weekly in large numbers until all demands were achieved. In addition, organizers specified one day each month, usually around the 20th, to mobilize greater numbers.

The response of security forces was mixed. While in many instances protests took place without any police interference, in others the police resorted to violent measures, beating and arresting activists as well as ordinary citizens. The regime’s decisions on whether to allow or repress the demonstrators seemed to be random and political. According to the law, only legally registered associations can organize demonstrations, so at times authorities would intervene under the pretext of preventing “unauthorized demonstrations” from taking place. This was inconsistent, however, since they allowed pro-government supporters to march without reprisals. Security forces assaulted protesters with no warning, charging them with batons and striking them on their bodies.¹⁵⁰ Organizers and activists also commented on the emergence of *baltajiya*, plain-clothes thugs who attacked protesters with truncheons and chased them down the streets on their motorbikes.¹⁵¹ The *baltajiya* appeared to be poorer citizens or former prisoners that the local authorities paid in order to attack and threaten protesters. Intensive smear tactics labeling protesters as foreign agents, drug traffickers, and alcoholics were also used to defame and undermine their character.

The government increased crackdowns after the king’s address on March 9, 2011, both immediately after the speech and during the lead-up to the referendum in July. May 2011 was one of the most violent months of the movement, when police injured dozens and arrested many others in Rabat, Casablanca, Tangier, Agadir, and elsewhere. AMDH documented many cases of security forces using excessive force against protesters between February and the end of May. According to their 2011 and 2012 Annual Report, the severe oppression of security forces and the *baltajiya* resulted in at least ten deaths of protesters, the most notorious among them the cases of Karim Chaib in Sefrou and Kamal Amari in Safi.¹⁵² Security forces have denied these incidents, and there have been no independent investigations or prosecutions.

Protest organizers in various cities also established an innovative master committee (*lajnat addabat*), comprised of 3 to 15 members, to protect the February 20 movement and its protesters from infiltration by police forces and government spies. When discovered, they were targeted by police forces and the *baltajiya*.

Media coverage of the February 20 movement was spotty. During the first three months there was good international coverage, but interest declined as violent and bloody uprisings in Libya, Syria, and Bahrain dominated the airwaves. When Moroccan state-run TV and print media outlets covered the demonstrations they downplayed the number of protesters and spent little

time exploring their demands. In response, just as organizers used social media and online activism to organize the demonstrations, citizen journalists created and reinforced online media outlets such as *Lakome*, *Qandisha*, *Mamfakinch*, and *Yabiladi* as forums for showcasing events and sharing in-depth stories.¹⁵³

The Impact of the February 20 Movement

The February 20 movement impacted government policy. It sparked a national discussion advocating for institutional changes, even though, in the words of one government official, it “fell short in exercising enough pressure for deeper structural changes to both the political system ... and a system of crony-capitalism that has for decades crippled the national economy.”¹⁵⁴ Even when February 20 activists were invited to dialogue with the government-appointed constitutional committee during the drafting process, many refused to participate; they did not want to be co-opted and instead continued their cause on the streets. They believed the constitutional process was faulty from the start, since the committee was royally appointed, as opposed to democratically elected by the general Moroccan population—reflecting one of the many February 20 demands.

By the end of 2011, the movement quieted down for several reasons, chief among them being the regime’s ability to recalibrate and institute reforms in order to placate the protesters. The Moroccan government was shrewd in unveiling its reforms while preserving its international image as an exceptional and reformist regime. In addition, the regime also increased the minimum wage, which helped dissuade Moroccans from taking to the streets. Security forces used tactics from beatings, bribes, and bullying to physically and morally crack down on protesters and curb the movement. Also, the regional escalation of violence in 2011 may have weakened the movement’s popular support, as Moroccan citizens preferred peace over unpredictable outcomes seen in other countries. After the July 2011 constitutional referendum and November 2011 parliamentary elections, both domestic policy changes and increasing protest fatigue contributed to the protests tapering off. Moreover, the popular Justice and Spirituality movement withdrew their participation in the February 20 movement after the parliamentary elections, and, with new faces elected—specifically from the Islamist Justice and Development party—new promises and hope were born that leaders would combat corruption and perhaps increase freedom and justice for Moroccans.

Three years after the start of the February 20 movement, the question remains of whether it has continued or ended. The demonstrations were referred to as a movement (*haraka*) from the outset, underscoring a structure that is not bound by a particular timeframe or demand, and is by nature evolving. The Facebook page boasts more than 75,000 likes and remains active with comments and posts, along with notices of local coordination meetings that continue to



Source: February 20 Facebook Page

take place. One of the newly published Arabic and Amazigh logos reads “February 20th – will remain” with an infinity symbol, emphasizing the movement’s longevity.

Lessons Learned

While the protests did lead the king to institute reforms, the February 20 movement failed to achieve its goal of systemic democratic change. This shortcoming is partly due to the movement’s own weaknesses; according to Khadija Ryadi, a prominent Moroccan human rights activist who won the 2013 UN Human Rights Award, the movement could have been better organized, with a sharper strategy specifying targeted demands, dividing roles and responsibilities, and appointing a spokesperson.¹⁵⁵ With more clearly defined short- and long-term goals and better strategies for translating street protests to policy reforms, it is possible the February 20 movement could have accomplished more. Nonetheless, the movement instilled a new confidence in the ability of street demonstrations, especially those attracting large numbers, to raise awareness and call for positive change. It also opened new channels for acceptable political expression, and revived the will of citizens to promote political reforms and human rights. The movement exhibited an important demographic diversity as well, with participation from all strata of society, and gained traction in poorer neighborhoods in particular. Online activism and citizen journalism were critical in mobilizing protestors and reporting on the movement’s activities both domestically and internationally.

Even though the movement has retreated and is regrouping, most activists credit it as a success, especially since the wall of fear has been shattered. The spirit is alive and evolving, and through online and offline activism, the February 20 movement has vowed to carry on, pursuing accountability and human rights for all Moroccans.

Peru: “El Baguazo”

Before dawn on June 5, 2009, Peruvian special forces stormed the Curva de Diablo (Devil’s Curve) in Bagua, Amazonas region. They were acting upon an order from the government to remove more than 5,000 Awajún and Wampís indigenous demonstrators who were blocking the highway in opposition to a recent package of decrees that threatened their land rights. The ensuing clash between police and protesters, both at the Curva de Diablo and a nearby hydroelectric plant, left a total of 33 people dead and more than 200 injured. The incident in Bagua—grimly referred to by Peruvians as the “Baguazo”—became a low point in Peru’s already dark history of treatment of its indigenous populations. It also forced policymakers to rethink approaches to mitigating social conflicts in a country where natural resource abundance, topographical barriers, and a history of ethnic intolerance and misunderstanding combine to make conflict all too common.

Peru: Freedom of Assembly in Law and Practice

The 1993 Political Constitution of Peru generally complies with international norms on freedom of assembly, including Article 20 of the Universal Declaration of Human Rights, Article 21 of the International Covenant on Civil and Political Rights, and Article 15 of the American Convention on Human Rights.¹⁵⁶ Article 2 subsection 12 of the Constitution protects citizens’ right to “peaceful assembly without arms”; however, it further stipulates that “meetings held in squares and public thoroughfares require advance notification by the relevant authority, which may only prohibit such meetings for proven reasons of safety or public health.”¹⁵⁷

The Peruvian state generally allows protests in practice, and the aforementioned requirement for advanced notification rarely results in protests being prohibited, even on roadways and in public spaces. However, since the “Baguazo” and other major protests in 2009, Peruvian lawmakers have increasingly argued for curtailing assembly rights on the grounds that demonstrations can impinge upon the rights of others. Specifically, many have argued that demonstrations in public spaces and roadways encroach upon the right of all citizens to move freely—enshrined in Article 2 subsection 11 of the Constitution—by inconveniencing bystanders, commuters, or emergency medical personnel. In other cases, government leaders have sought to criminalize protests, at times conflating demonstrations with acts of terrorism or implying that those who protest eschew their constitutional obligation to respect and defend the Peruvian state.¹⁵⁸ In 2010, partially as a result of the “Baguazo,” a two-thirds majority in Congress applied these justifications in approving a number of reforms to the Penal Code that vastly increase prison sentences and fines for blocking roadways or disrupting public services.¹⁵⁹

While most protests are managed relatively peacefully, there have been numerous cases of police abuse and disproportionate use of force by law enforcement against demonstrators. During protests under the second administration of Alan Garcia (2006–2011), 165 civilians and 30 police officers were killed. Over the first 15 months of the administration of current president Ollanta Humala (July 2011 to September 2012), 18 civilians were killed during protests. Although Peruvian police receive basic human rights training, they are often better prepared to handle insurrection than manage civilian protest, largely as a result of the country’s history of domestic terrorism in the 1980s and 1990s.¹⁶⁰

The Peruvian Constitution provides two legal protections for citizens: the writ of habeas corpus for those who are detained unlawfully to be released or given a speedy trial, and the recourse of protection, which is issued in defense of citizens whose rights have been violated. Articles 161 and 162 of the 1993 Constitution established the autonomous Office of the Ombudsman (Defensoría del Pueblo) to present and defend cases on behalf of citizens whose fundamental rights have been violated by a representative of a public institution or entity. While any citizen may submit a petition requesting that the Ombudsman investigate a case of alleged abuse, the office often intervenes on behalf of marginalized or vulnerable populations.

In 2010, then-President Alan Garcia issued a set of regressive decrees that limited law enforcement accountability for human rights violations. Decrees 1094, 1095, and 1096—which were passed through executive powers delegated to the president—increased military jurisdiction over abuses perpetrated by police or the armed forces by broadening the definition of crimes that fall under their purview. The decrees also expanded the grounds of justification for use of force by state officials in dissolving demonstrations. According to the Peruvian civil society organization Instituto de Defensa Legal (IDL), these measures not only fail to meet the standards of judicial impartiality and independence laid out in Article 8 of the American Convention on Human Rights, but also serve to criminalize protests by justifying the use of force against broadly defined “hostile groups.”¹⁶¹

Case Study: “El Baguazo”

The protests in Bagua in June 2009 and the violence that ensued were the result of a developing conflict between Amazonian indigenous communities and the Peruvian government over whether to allow natural resource extraction within indigenous-owned lands. While there had been varying degrees of tension between Peru’s indigenous peoples and the government throughout the latter half of the twentieth century, the second presidency of Alan Garcia deepened indigenous distrust of the government and increased misunderstanding between the two sides. In October 2007, Garcia published two articles in the Peruvian press—“The Dog in the Manger Syndrome” and “Recipe to Eliminate the Dog in the Manger”¹⁶²—in which he presented indigenous land ownership in the Amazon as the primary impediment to implementing his plan for economic growth. He suggested that the indigenous peoples did not utilize their lands, yet would not allow the Peruvian population to benefit from the resources they contained, alleging, “it is preferable for them that Peru continue importing and becoming poorer.”¹⁶³

Garcia further exacerbated tensions by issuing a set of decrees in June 2008 that effectively challenged indigenous ownership of their ancestral lands. That month Congress had granted President Garcia a period of 180 days to take executive actions aimed at boosting trade and economic growth under the 2006 Trade Promotion Agreement with the United States. Garcia used these powers to issue the decrees in order to open up indigenous and privately owned lands for commercial activity and natural resource extraction.

Indigenous groups alleged that the decrees aimed to dispossess them of their native lands and violated Article 89 of the Peruvian Constitution, which states that rural and native communities possess an “imprescriptible” right to their lands.¹⁶⁴ They also accused the Peruvian state of breaching its international commitments under the United Nations Declaration on the Rights of Indigenous Peoples¹⁶⁵ and Convention 169 of the International Labor Organization (ILO), which establishes the right of indigenous peoples to be consulted about decisions that affect them.¹⁶⁶

In August 2008, Amazonian indigenous communities likely to be most affected by resource extraction, principally in the regions of Amazonas and Loreto, began grassroots organizing in opposition to the decrees. With the support and leadership of the Interethnic Association for the Development of the Peruvian Amazon (AIDESEP) and its seven regional counterparts, demonstrations were organized throughout much of the country beginning on August 8, garnering participation from more than 140 indigenous communities. Concurrently, AIDESEP, led by its president and prominent indigenous rights activist Alberto Pizango, presented a series of demands¹⁶⁷ and pursued dialogue with government officials in Lima. On August 20, the Peruvian Congress voted to repeal two of the decrees and the government agreed to hold talks with AIDESEP about further steps to restore indigenous land rights.

Dialogue in Lima soon broke down. With frustrations mounting, Awajún and Wampís indigenous communities in Amazonas region began convening regular meetings to discuss strategies to more effectively pressure the government to restore their land rights. Overcoming immense geographical barriers and traveling long distances—primarily on foot due to the lack of transportation infrastructure or roads in the region—members representing dozens of communities participated in the meetings, which were held in rotating locations. The effort was supported and partially coordinated by AIDESEP’s regional affiliate for the northern Amazon. While these groups had built a coalition of indigenous supporters, due to their relative isolation and the centralization of political power and decision making in Lima, it was difficult for them to garner attention or recognition of their demands from the government.

On April 23, 2009, Awajún groups organized a takeover of the state oil company’s hydroelectric facility at Estación 6 near Imacita in Amazonas, prompting a shutdown of Petroperu’s operations there that ultimately lasted for more than five weeks. Still not receiving a discernible response from the government, later that month they mobilized approximately 5,000 people to take over the principal entryway into the region of Amazonas at the Curva de Diablo. Led by Santiago Manuin, the primary protest organizer and a widely respected Awajún leader, they remained at the highway point for 11 days, in many cases more than a hundred miles away from their homes. According to many first-hand accounts,¹⁶⁸ protesters had decided to concede on June 5 when, in the early morning hours, special police forces called DINOES stormed the Curva de Diablo in order to remove the protesters. While the details of what ensued remain in question, some police officials opened fire on unarmed demonstrators and fighting erupted, resulting in the deaths of 10 civilians and 12 police officials, as well as more than 200 injuries.

Indigenous leaders at Estación 6 heard of the incident at Curva de Diablo, which was reported by a local radio station, and initiated a violent response. While the events there are also disputed, indigenous leaders exacted revenge on the more than 30 police officials who were present at Estación 6, brutally killing 11 of them. As a result, 83 protesters were detained by police, of which more than 40 were charged for their alleged involvement in the police killings. Many of those detained were reportedly tortured and physically abused, and in many cases were held for lengthy periods of time without proper charges or access to an attorney. Only one police officer was accused for his involvement in the violence at the Curva de Diablo in an ongoing case brought by the Peruvian organization IDL.

The Impact of the Bagua Demonstrations

Despite their peaceful intentions, the demonstrations in Bagua and the violence that ensued served to increase animosity and discord between the government and indigenous groups. Following Bagua, the government set up four commissions, consisting primarily of government officials and members of civil society, the first of which was tasked with investigating the incident in Bagua and issuing a report on the findings.¹⁶⁹ The report ultimately served to illustrate the vast discrepancy between the government's and the protesters' accounts of the events. It did not acknowledge police wrongdoing or the protesters who were killed, focusing instead on the massacre at Estación 6. In contrast, a dissenting report, produced in defiance of the official report, suggested that the police had carried out the operation with the intention of harming protesters. A handful of other reports were subsequently issued, offering versions that fell somewhere in between these two accounts.

While the costs were high, the demonstrations in Bagua did increase the visibility of indigenous rights within the broader public, at least temporarily. On June 11, 2009, students, labor leaders, and a number of civil society groups mobilized more than 10,000 people in Lima in defense of those killed and injured in Bagua and in condemnation of the government's use of force. Although the protests were suppressed by Peruvian police, the high turnout and the students' commitment to defending indigenous rights were symbolically important in a country with a history of general disregard for—and in some cases intolerance toward—indigenous groups and their concerns.

The “Baguazo” also prompted significant policy changes with regard to the treatment of indigenous populations and the government's management of social conflict. In the face of sustained opposition, one of Garcia's 2008 decrees was repealed 13 days after the “Baguazo.” In 2011 the Peruvian Congress ratified a law that established the legal right of indigenous populations to be consulted about development plans or policies that affect them, in accordance with Peru's obligations under ILO Convention 169. In 2010 the government created a Ministry of Culture, including a Viceministry of Intercultural Affairs, tasked with overseeing the implementation of the Prior Consultation Law and ensuring representation of indigenous interests in formulating economic development plans. In October 2012 the president of the Council of Ministers created the National Office on Sustainability and Dialogue, which seeks to foster dialogue between private sector interests, the government, and local communities regarding issues of economic development and extractive industries, with the goal of mitigating conflicts before they arise. Lastly, in 2011 Eduardo Nayap became the first-ever Awajún congressman, winning election in part based on his campaign promise to seek truth and justice for the victims of Bagua.

However, the “Baguazo” did not prompt discussion about finding a proper balance between protecting the right to freedom of assembly and limiting the disruption of roadways and public services caused by many protests in Peru. In fact, the incident spawned a concerted and regressive effort on the part of policymakers to criminalize social protest altogether. Through reforms to the criminal code to severely increase punishments for blocking roadways, as well as the promulgation of Decree 1095 and its vague definition of “hostile groups,” the government aimed to portray the protest as a criminal act that has no place in a democratic context. Indeed, it could be argued that the government's increased institutional focus on social conflict is partially a function of its discomfort with protest, with the goal of these bodies being to channel sources

of conflict through institutions to attempt to limit the likelihood of an escalation worthy of mass protest.

Lessons Learned

There is much to be learned from the “Baguazo.” First and foremost the case revealed a fundamental lack of responsiveness on the part of Peruvian government institutions to the grievances of marginalized populations, as indigenous demands were left virtually ignored for almost a year—during which time they were allowed to fester until they reached a breaking point. Geographical isolation can pose significant challenges, limiting groups’ access to political institutions through which to channel their grievances and increasing the likelihood of demonstrations resulting in violence. While the National Office on Dialogue and Sustainability provides a strong sign that the Humala administration is committed to addressing this problem, its ultimate success will depend on its ability to bridge those geographical and cultural divides, both through an ongoing physical presence and a sincere understanding of the unique challenges that Amazonian indigenous communities face within Peru’s largely resource-driven economic development model.

The “Baguazo” also showed the need for better law enforcement training and greater government accountability in law enforcement. Setting aside the divergent accounts of the events on June 5, 2009, it is apparent that the DINOES operation to remove the protesters was unsuccessful, from its conceptualization and planning to its implementation. Making matters worse, the government’s choice to use DINOES specially trained forces does not speak highly of the content or effectiveness of their training. Moreover, in certain cases it may be more prudent to use local police for dispersing protesters, particularly when negotiating complex cultural divides, as the local police in Bagua had built trust and mutual understanding with the protesters and local community members. Finally, the government’s unwillingness to acknowledge any wrongdoing and the Ministry of the Interior’s claim that its office had no knowledge of the operation illustrate a shocking lack of accountability, which has served to create a climate of impunity surrounding the incident and denied victims of their right to justice and truth.

The indigenous movement that enabled an 11-day takeover of Curva de Diablo was remarkable for its ability to organize nearly 5,000 people who overcame immense physical and psychological barriers to defend their rights. However, the brutal killings by protesters at Estación 6 demonstrate that violence is possible even when demonstrations are organized peacefully. Control over the protests slipped out of the leaders’ hands and pent-up frustrations won out over the protesters’ nonviolent intentions.

Lost in the ongoing disagreement over assigning blame for the “Baguazo” has been the right to freedom of assembly. Although protest is a major part of Peru’s democratic history, many legislators, judges, journalists, and average citizens consider it to have no place in a healthy democracy. The frequency of protests in Peru, and the inconveniences that they cause, are grounds for legitimate frustration and concern; however, they also confirm the need for steps to incorporate the right to freedom of assembly into the country’s democratic framework in order to diminish the likelihood of repeating such incidents. The state’s regressive approach of criminalizing protest in the wake of Bagua is not only a misguided and likely ineffective method, but also constitutes an infringement upon a fundamental right of all democratic citizens.

South Africa: The COSATU March

Although there have been some high-profile exceptions, freedom of assembly is generally well respected in practice in South Africa. Rights enshrined in the Constitution and laws are, as a rule, adhered to by the authorities. Citizens believe that public protest action is an integral component of their entitlements in a democracy, and peaceful protest receives widespread support as an effective form of action. “South Africa is a country of marches” said one African National Congress Representative.¹⁷⁰ The organization of nationwide marches and strikes by COSATU, South Africa’s largest trade union federation, in 2012 demonstrated South Africa’s approach to freedom of assembly.

South Africa: Freedom of Assembly in Law and Practice

Article 17 of South Africa’s constitution grants everyone the right “peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.”¹⁷¹ This right can only be limited under Article 36 of the Constitution, which provides that such limitation must be “reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.”¹⁷²

The right to freedom of assembly is regulated through the Regulation of Gatherings Act 1993, which was signed into law in early 1994, prior to South Africa’s first democratic elections in the post-apartheid era.¹⁷³ The intention of the Gatherings Act was to reverse draconian assembly laws introduced by the National Party government under apartheid, which criminalized the public assembly of more than two people.

Section 1 of the Gatherings Act requires that the organizers provide seven days’ notice to the local authority along with information including the name of the organizers, the purpose of the gathering, the numbers and names of marshals, the time of the gathering, and its location. If the gathering is large enough, the authorities may then decide to call the conveners to a meeting to discuss how it will be organized and policed. Section 5(1) provides that the police may prohibit the demonstration where there is reliable information that it may result in “serious disruption of vehicular or pedestrian traffic, injury to participants in the gathering or other persons, or extensive damage to property, and that the Police and the traffic officers in question will not be able to contain this threat.” Section 11 provides for the liability of organizers when “riot damage” results from a gathering. Organizers are held to be liable unless they can show that the destructive acts were “not reasonably foreseeable” and that they had taken “all reasonable steps” within their power to avoid the actions causing damage.

Gatherings by workers and trade unions in South Africa are further regulated by the Labour Relations Act of 1995. Section 77 of the act provides for the right of every employee to take part in “protest action to promote or defend socioeconomic interests of workers”¹⁷⁴ without the threat of being dismissed from their jobs. Subsection 77(1) does however prohibit workers who are engaged in “essential” or “maintenance” services from engaging in these activities.

The South African courts have considered the constitutionality of the provision on liability for damage in the Gatherings Act. In *South African Transport and Allied Workers Union v*

Garvas,¹⁷⁵ trade unions sought to avoid the imposition of liability for damage caused by rioters during a protest in Cape Town in 2006. They argued that the requirement for organizers to prove that they could not reasonably foresee the damage and had taken all reasonable steps to prevent it were too onerous and created a chilling effect on the exercise of free assembly. The High Court, Supreme Court of Appeal, and the Constitutional Court all disagreed, holding that the provisions of the Gatherings Act are constitutional, justifiable, and rational in terms of Article 36 of the Constitution.

That decision has divided public opinion in South Africa. Supporters claim that it provides a strong protection for innocent bystanders against the actions of unruly mobs. Others have spoken out strongly against the ruling, stating that section 11 “limits the rights of ordinary citizens in a sweeping manner” and “might well be open to abuse by a government hell bent on repressing dissent.”¹⁷⁶ Some representatives of the Congress of South African Trade Unions (COSATU) have said that this court ruling will have a chilling effect on protest organizers in the future.¹⁷⁷ COSATU however may take legal action to secure a court order compelling the South African Police Service (SAPS) to incur some of the cost for the damage that was caused during the 2006 march. They believe that organizing demonstrations should be a joint enterprise between organizers and the police, with both sides bearing responsibility for maintaining the peace and shouldering blame when things go wrong.

When considering the validity of the Gatherings Act, the courts did not refer to obligations under international law, although South Africa has binding freedom of assembly commitments under the International Covenant on Civil and Political Rights (Article 21) and the African Union Charter on Human and Peoples’ Rights (Article 11). The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has said that in South Africa, “unclear legal provisions should be clarified, and that in the absence of clarity, such provisions should be interpreted in favor of those wishing to exercise their right to freedom of peaceful assembly.”¹⁷⁸ In this light, it could be contended that South Africa would benefit from a review of the Gatherings Act.

The trade union movement, civil society, and political parties all enjoy the freedom to organize demonstrations, marches, pickets, and delivery of petitions. One minister has commented that it is very difficult to say “no” to the organizers of a march.¹⁷⁹ If the authorities refuse permission to assemble, organizers can appeal that decision to the South African Human Rights Commission,¹⁸⁰ or in Cape Town, the city’s ombudsman.¹⁸¹

In practice, organizers are asked to complete forms—drawn up by the local authority according to the provisions of the Gatherings Act—and submit them normally at least one week before the planned date of the assembly. These forms ask for the name of the organization behind the assembly; the name of the person responsible; the purpose of the assembly; the date, time, and duration of the assembly; the projected number of participants and marshals; the particulars of the chief marshal; the route or venue of the assembly; reasons for late applications; the names of people intended to receive petitions; and other logistical information including water points, toilets, etc. While the information requested in these forms complies with section 3 of the Gatherings Act, it may not be in line with current thinking at the international level. The UN Special Rapporteur has recently stated that authorities should not overstep the mark by asking for

information such as the identification details of stewards and the reasons for holding an assembly.¹⁸²

Nevertheless, organizers of assemblies generally do not seem to consider the requirements to be burdensome. They also report generally good relations with local authorities in the planning of assemblies, and understand the need to protect the safety of the public and property when large numbers of people gather. For their part, local authorities recognize the freedom to assemble as a key component of a vibrant democracy. In the case of large assemblies in major urban centers, a “negotiation” will take place between the organizer, the police, and the local authority to agree on where, when, and how the assembly will take place and how it will be policed.¹⁸³ The outcome of these negotiations is then formalized in writing, in which either the reasons for the assembly not being allowed to take place are noted or the conditions imposed upon the organizers are set forth. These conditions are established by the local authority to ensure that the conduct of the march complies with local bylaws. It is debatable whether the imposition of conditions erodes the enjoyment of freedom of assembly beyond limits established in the Gatherings Act and the Constitution; some individuals have expressed concern that local authorities can impose overly onerous conditions.

Another potentially worrisome encroachment on freedom of assembly was illustrated in 2010, when a nongovernmental organization sought to hold a demonstration in the vicinity of government buildings (the Union Buildings) in Pretoria.¹⁸⁴ Initially, the presidency issued a letter containing what appeared to be a blanket ban on marches to the Union Buildings. Section 7 of the Gatherings Act does prohibit assembly in the immediate surroundings of the Union Buildings, in particular near the president’s office, but it gives no power to the presidency to suspend all marches to the Union Buildings, as its letter had purported to do. Following an application to the High Court, the presidency retracted its statement and issued another claiming no objection to the planned march. Commentators have said that even this second letter oversteps the government’s powers under the act, which only allows it to decide on applications for assemblies within the prohibited area as defined by the act.¹⁸⁵ The presidency has no power to determine who can assemble on the lawns in front of the Union Buildings.

Most protests in South Africa are conducted peacefully and are policed in an equally peaceful manner. The SAPS has a specially trained Public Order Policing Unit (POPS) to deal with large crowds and protests, and those skills are being transferred to local police to act as first responders to maintain order when an unplanned protest or assembly occurs.¹⁸⁶ The quality of public order policing in South Africa has been severely criticized in the last two years, however, because of a series of highly publicized deaths of protestors at the hands of police. In 2011, unarmed service delivery protestor Andries Tatane was beaten and shot at close range with rubber bullets by police. His attack and almost immediate death on the street was captured on video and beamed across the nation, provoking enormous public anger against the police.¹⁸⁷ But the Tatane case was merely a prelude to what many South Africans call a return to the worst days of apartheid repression. On August 16, 2012, during a protest against conditions at a mine in Marikana, 34 striking miners were gunned down by police using live ammunition; the incident was once again caught on camera.¹⁸⁸ In the days before the massacre, the strike by miners had turned violent and many of the strikers were armed with traditional weapons and some with guns. The protest was therefore not subject to constitutional and legislative protections.

Nevertheless, the use of live ammunition and disproportionate response by the police has led to scathing criticism and a further decline in public confidence in the SAPS. The massacre is currently being investigated at a judicial commission of enquiry.¹⁸⁹

Case study: COSATU March against labor brokers and e-tolls in Cape Town

On March 7, 2012, COSATU organized a nationwide strike consisting of 32 marches to call for a complete ban on labor brokering in South Africa—a practice that the labor federation claims undermines the legal rights of workers. The strike was called under the protection of Section 77 of the Labour Relations Act. At the time, COSATU was also vocally opposing the implementation of an e-tolling system on roads in the Gauteng province, and that issue was added to the grievances aired during the March 7 protest. Both of these issues are the subject of ongoing COSATU campaigns; neither had been completely resolved at the time of writing.

Most of the participants in the march in Cape Town were members of COSATU-affiliated unions. COSATU had called for civil society to join the protest march, but few responded to this call. The ruling African National Congress (ANC) did not participate in the protest because, although they form a political alliance with COSATU (and the South African Communist Party), they disagree with COSATU on the issues of labor brokers and e-tolls.¹⁹⁰ The main opposition political party, the Democratic Alliance, claimed it had been invited to join the protest, but this was later publicly refuted by COSATU.¹⁹¹ Women and men participated equally and there were no formal barriers to women's participation, although most of the organizers were men.

Although COSATU is building a database of its members' mobile phone numbers and despite having an active Twitter account with over 20,000 followers, their methods of organizing and spreading awareness for this march were largely traditional. Senior COSATU leaders held press conferences in the days before the march to build awareness, reassure workers that they were protected by the Labour Relations Act, and put across their demands.¹⁹² These forums were used to build support for the cause and put across COSATU's advocacy message to a wide audience. To inform participants of the date, time, and location of the event, COSATU distributed pamphlets to its members and used community radio and TV stations in Cape Town. The march was also advertised on Facebook but not on Twitter or by bulk SMS. The authorities did not interfere with the organizers' communication of the event's purpose and logistical details in any way.

COSATU estimates that between 8,000 and 10,000 people participated in the demonstration. The march was well organized and occurred peacefully and according to the plan agreed with the police and the City of Cape Town. Adequate numbers of police were present at the meeting point before 9:00am, when COSATU members began to assemble. COSATU had appointed 500 marshals and had their leaders on a truck ahead of the crowd to monitor the march and give instructions as it proceeded on the pre-determined route to the center of Cape Town. COSATU first handed over a petition on e-tolls to a parastatal and then handed a second petition with their demands on labor brokers to the Minister of Labour at Parliament buildings.¹⁹³ Residents of Cape Town were notified of potential disruption through a detailed notice on the city's website.¹⁹⁴ The march received coverage in the national media.¹⁹⁵

The Impact of the COSATU March

The impact of this march cannot be assessed in isolation; it can only be viewed as part of COSATU's countrywide efforts and ongoing national campaigns against labor brokers and e-tolling. On the issue of labor brokers, the mass action partially achieved its objectives. Before the march, the ANC government had proposed allowing labor brokers to place temporary employees for a maximum of six months. At the time of writing, the ANC government had revised that to three months. This is a significant concession, and while COSATU continues to call for a complete ban, that outcome appears unlikely.¹⁹⁶ In November 2013, legislation was passed through the National Assembly, bringing the prospect of government regulation on labor brokers one step closer.¹⁹⁷

On the issue of e-tolls, the ANC did initially appear to take heed of opposition and even called COSATU to a special meeting to discuss e-tolls in the weeks immediately following the march.¹⁹⁸ However, that meeting and subsequent efforts by COSATU have not forced a change in government policy. Following numerous protests and court challenges, at the time of writing the government was proceeding to implement e-tolling by the end of 2013.¹⁹⁹

The COSATU march in Cape Town on March 7 provides a useful example of a well-organized and peaceful mass action that was ultimately partially successful at resulting in policy change. It demonstrates that South Africa's regulation of the freedom of assembly can work well in practice, even when authorities are faced with large numbers of people congregating in an urban area and close to important business and government centers. The organizers of this march did not consider the procedures imposed by the City of Cape Town to be too onerous, the relationship with the authorities and the police was cordial, and the cooperation on the day was reinforced by mutual interests in ensuring that civil liberties were enjoyed by both marchers and bystanders.

COSATU believes that successful mass actions such as this one are important in and of themselves, even if there is no resulting action from the government. One COSATU organizer has commented that public demonstrations are "part of the dance. [They are] part of people feeling empowered and feeling that they can challenge the system with their numbers and their power."²⁰⁰ The organizers believe that because South Africa experiences a high frequency of disorganized and often violent service delivery protests,²⁰¹ it is important to show that large assemblies can be peaceful and orderly while still generating media interest and influencing policy change.

Lessons Learned

Perhaps the most important lesson to be drawn from this case is that when there is a realistic threat of financial penalties for damage caused by participants, organizers become more careful and circumspect. It could be argued that this situation in itself constitutes a violation of the freedom of assembly, although it has not been cited by organizers.

This march should also be a reminder to organizations in South Africa – where protests can often turn violent and destructive – that proper planning, adequate advance notice and competent organization and marshalling on the day of the march can ensure that protests are peaceful and that the police are enabled to carry out their mandate effectively.

A final lesson learned from this study is that the South African Police Service should become more open to having an honest discussion on the impediments to effective public order policing in South Africa. Although an initial interview with police in Cape Town was conducted by this researcher, an application for more thorough interviews was rejected after a six month waiting period. The reason given by the SAPS for the refusal, was the 'sensitivity of the topic of the research'. This is a stark indication that leadership of the SAPS is wary of any research or discussion that could do further harm to an already shaky reputation. It is likely that a solution to the current impasse between the police and many protest groups will not be resolved until the SAPS agrees to enter into a genuine and purposeful dialogue with protest organizers, community groups, the government and the media.

Turkey: The Case of Gezi Park Protests

The 2013 protests in Istanbul's Gezi Park attracted world-wide attention for the Turkish government's heavy handed and dismissive response against demonstrators. The protest also demonstrated what can happen when a government sees an opportunity for political gain by antagonizing protestors.

Turkey: Freedom of Assembly in Law and Practice

Freedom of assembly in Turkey is guaranteed under Article 34 of the Turkish constitution of 1982, which states that "Everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission." In legislation and in practice, however, freedom of assembly is not consistently respected.

Assemblies are regulated under Law No. 2911 "On Meetings and Demonstrations." Articles 17 and 19 of the law state that meetings or demonstrations can be postponed or banned if they pose a threat to "national security," "public order," "public health," or "public morals." While these provisions do not in and of themselves violate Article 11 of the European Convention on Human Rights (ECHR)—which is legally binding upon Turkey—they have not been consistently defined in Turkish law.²⁰² Article 10 of Law 2911 requires the organizing committee of a demonstration or meeting to submit a notification to the authorities 48 hours in advance. Failure to give notification does not render a rally illegal.²⁰³ The UN Special Rapporteur on freedom of assembly and association has also stated that notification procedures should not be viewed as an authorization procedure that empowers the government to allow or prohibit an assembly. Multiple activists in Turkey, however, have said that the notification procedure acts as a *de facto* permission procedure, and that local authorities that received notification have used it to prevent or inhibit demonstrations. Therefore many activists do not use the notification procedures required under 2911.²⁰⁴

The ambiguities of Article 2911 allow for different interpretations of the principles by the government at the expense of the liberties of citizens. According to Kurdish human rights groups in Diyarbakir, demonstrations in the southeast part of the country have long been subject to much more severe restrictions than demonstrations in the west. "Many meetings are simply banned, rejected by the governor and so not allowed to take place."²⁰⁵ Government interference in demonstrations appears to be based on the topic of the protest. As one human rights activist (from a civil society organization that is sometimes in agreement with the government and sometimes in opposition) said, "If you demonstrate on the headscarf issue, it's OK. But on the Kurdish issue, no way."²⁰⁶ The speaker referred to two of Turkey's most controversial issues: freedom of women to wear headscarves in public institutions like universities, and equal rights for the Kurdish minority. The current government has strongly supported the right of women to wear headscarves but has largely continued state policy of limiting Kurdish rights.

The problem of ambiguous and ill-defined laws that restrict fundamental freedoms is not confined to freedom of assembly. The broad restrictions that are in place have led several activists to say that in Turkey, although there may at times be the *ability* to speak or to protest, there is no *guarantee* for any right.²⁰⁷

Nevertheless, Turkey has a vibrant and widespread tradition of protest. According to official Ministry of Interior figures, there were 25,425 meetings or protests in 2012. Of those, organizers provided notification for only 2,230. Police intervened in 802 protests, according to the ministry.²⁰⁸ Taksim Square, which was the initial site of the 2013 Gezi Park protests discussed below, holds special importance in Turkey's culture of protest. Taksim Square and Istiklal Boulevard are the center of Istanbul's European side and the site of frequent protests by leftist, nationalist, secularist, and other groups. Thus, the European Court of Human Rights (ECtHR) ruled in 2007 that authorities violated Article 11 of the ECHR guaranteeing freedom of assembly by denying protesters the ability to protest in Taksim on Labor Day, stating that other locations were not equivalent substitutes.²⁰⁹

The ECtHR has repeatedly addressed police misconduct in Turkey, and specifically the use of tear gas against protesters. In April 2012, the court held that the police had violated Article 3 of the ECHR by spraying tear gas directly in the face of a protester in 2004.²¹⁰ In July 2013, the court ruled that Turkey had violated the Article 3 prohibition against torture when police fired a tear gas canister directly at a protester in a 2006 protest.²¹¹

Case Study: Gezi Park

Gezi Park is a public park on the northern edge of Istanbul's Taksim Square that is roughly 9 acres in size. Taksim Square lies at the end of Istiklal Boulevard, the city's largest pedestrian shopping thoroughfare and a frequent site for marches and protests. Beginning in 2012, the government of Turkey redeveloped Taksim in order to create an underground tunnel next to Gezi Park to route automobile traffic beneath the square as part of the "Taksim Pedestrianization Project" (Taksim Yayalaştırma Projesi). A project personally supported by the prime minister to demolish and develop Gezi Park into a complex with a shopping mall, hotels, and apartments was scheduled to begin in May 2013. As with the Taksim Pedestrianization Project, construction began despite lawsuits pending against the development.²¹²

On the night of May 27, 2013, as bulldozers began to dig up Gezi Park, a group of approximately 20 protesters blocked the construction equipment. The protesters were united under the "Taksim Solidarity Platform" (Taksim Dayanışması) and represented diverse groups, with their headquarters in the Turkish Chamber of Architects and Engineers. After stopping the bulldozers, protesters remained in the park overnight. On May 28 they were joined by Member of Parliament Sırrı Süreyya Önder. Because Önder represents the BDP, a Kurdish party, police were hesitant to arrest him for fear of causing a political crisis at a time of peace negotiations between the government and the Kurdish PKK.²¹³ During the day of May 28, more protesters joined the sit-in at Gezi and remained overnight.

On May 29 developers attempted to begin construction again. When protesters tried to stop the bulldozers, police used tear gas and pepper spray. In images captured by a Reuters photographer in the park and rapidly broadcast across social media, a police officer sprayed pepper spray in the face of a woman wearing a red dress. "The woman in a red dress" became an iconic symbol for the protests.²¹⁴

That day, Prime Minister Recep Tayyip Erdoğan dismissed the protests, saying, “We have made our decision, and we will do as we said we would.” Protesters remained peacefully in the park, increasingly joined by prominent Turkish celebrities. On May 30, parliamentary member Önder once again blocked the bulldozers. By the end of the day 10,000 protesters had gathered in the park.

By this time, the causes of the protest had widened beyond the original objective of protecting Gezi Park against development. Other factors contributing to the Gezi movement included the violent prevention of a May 1, 2013 protest by unions and leftist activists in Taksim; a new law restricting alcohol sales passed earlier in the spring; and statements by the ruling AK Party leadership relating to women’s roles as mothers. The strongest unifying factor was frustration with the AK Party and in particular with Prime Minister Erdoğan, whose dismissive attitude toward the protests contributed to their growing support. For some protesters connected with leftist or militantly secular groups, Gezi also presented an opportunity to directly confront what they saw as an increasingly repressive, conservative, and Islamist government.

At 5:00 am on May 31, police stormed the park using heavy amounts of tear gas. Protesters were forced out of Gezi Park. After widespread calls from the Taksim Solidarity Platform, other activists began to assemble. By 7:00pm tens of thousands of protesters had gathered across Istanbul and were attempting to march to Taksim. The opposition CH Party canceled a scheduled rally in a neighborhood on the Asian side of Istanbul in favor of joining the protests in Taksim. Police intervened against protesters with tear gas, pepper spray, and water cannons but protesters continued to surge into Taksim. Protests were also held in at least 10 other cities across the country. By the afternoon of June 1, police had withdrawn from Taksim Square. Protesters had occupied Gezi Park as well as all of Taksim Square. There were also major protests in the capital Ankara, in Izmir, in Eskişehir, and in Hatay.

As protests continued across the country, on June 2 a protester was killed by a police vehicle that drove into a crowd in Istanbul. Late that night protesters attacked a building belonging to the AK Party. On June 3, a second protester was killed in Hatay. Despite initial denials by the police, an investigation confirmed he was struck by a tear gas canister fired from a police vehicle.²¹⁵

On June 3, Prime Minister Recep Tayyip Erdoğan left the country for a previously scheduled trip to North Africa. In his absence, the protest mood relaxed somewhat, as Deputy Prime Minister Bülent Arınç made a conciliatory statement on June 4 and met with protesters on June 5. Nevertheless, protesters continued to occupy Taksim and nightly protests took place across the country. In the early morning of June 7, Prime Minister Erdoğan returned to Turkey and was met at the airport by a crowd of supporters chanting, “Show us the way! We will crush Taksim!” The prime minister blamed the “interest rate lobby” for the protests. Many people interpreted this comment as anti-Semitic, especially when paired with other government statements blaming Israel or “the Jews” for the protests.²¹⁶

On June 9 Erdoğan returned to Ankara for the first of what were called the “Respect the National Will” rallies around the country, held to demonstrate the depth of the government’s support. One prominent human rights activist said that in this period of time, “I feared that we were slipping into a fascist state.”²¹⁷ Over the next several days, sporadic conflicts between police and

protesters in locations around the country continued as protesters remained in Taksim Square. Using copious amounts of tear gas and water cannons, police gradually cleared Taksim Square and the Atatürk Cultural Center (on which protest groups had hung banners), although thousands of protesters remained in Gezi Park itself.

Late at night on June 13, Prime Minister Erdoğan called protest organizers to a surprise meeting to discuss a resolution to the protests. According to protesters, he stormed out of the meeting after having a verbal altercation with one of the organizers when she said that the protests needed to be understood as being not only about the park, but as a sociological event.²¹⁸ During the two weeks prior to the meeting, the government had floated various resolutions to the crisis, including a citywide referendum on the fate of Gezi. After the June 13 meeting, the government said that a court decision would first be required, but that a referendum could be taken as well. Participants in the meeting returned to Gezi to explain the government's position, but the protesters—who by now represented dozens of different factions, movements, and political parties—could not reach a consensus on what action to take. Some protesters began dismantling barricades built against police.

In the late afternoon of June 15, Prime Minister Erdoğan said that the park must be emptied or “the security forces know how to empty it.” That evening police began to make announcements that they would move into the park. As night fell they moved in with tear gas and water cannons. Protesters fled into the neighboring Divan Hotel and into the side streets of Istanbul, where clashes continued throughout the night. Eyewitness statements attest that police fired tear gas canisters into the lobby of the Divan Hotel where protesters were sheltering. However, the police had retaken the park and the occupation was ended.

According to an official Ministry of Interior report, approximately 3.5 million people took part in the protests in 80 of Turkey's 81 provinces. In total, 5,341 people were detained and 160 were arrested.²¹⁹ Six protesters were killed in the protests (including Berkin Elvan, who died after 269 days in a coma in March 2014), and some 8,000 were injured, according to medical organizations. There were 164 cases of exceeding authority opened against police officers, including 32 chiefs of police.²²⁰ According to the Ministry of Interior, 697 police officers suffered injuries.²²¹

One of the primary catalysts of the protests were the images of police brutality, such as that of the “woman in a red dress,” broadcast in the first days of the protest. In an interview, Ministry of Interior officials strenuously denied that police officials targeted protesters with tear gas canisters, stating variously that the head wounds of protesters could not have been caused by canisters because the wounds did not have an orderly shape, that medical organizations had provided no evidence of protesters being struck by canisters, that it was impossible for protesters to be struck by canisters because canisters moved slowly and made a hissing noise in flight, and that police were so well trained that they would not fire canisters at protesters.²²² The ministry emphasized that they used different types of tear gas canisters and nonlethal projectiles for different situations and at different distances from protesters. They claimed that well-documented cases of the police firing tear gas into enclosed spaces (like the Divan Hotel) had not occurred and were the result of actions by provocateurs who picked up tear gas canisters and threw them. These denials contradict a large amount of oral and visual evidence collected by

international human rights organizations following the events,²²³ multiple first-hand accounts from protesters and journalists, and the history of such practices by Turkish police as documented in ECtHR rulings (see above). The United States, the European Union, and international human rights organizations criticized police behavior and the government's polarizing actions during the protests.²²⁴

Impact of Gezi Park

The protests grew far beyond what the original protest organizers originally intended or imagined.²²⁵ The development of Gezi Park was halted while a court reviewed the legality of the development. At least 11 members of the Taksim Solidarity Platform, including some who met with the prime minister, were placed under criminal investigation. Platform members also believed there was a “secret” file of charges against them for trying to change the constitutional order through violence.²²⁶ Turkey's national security state has a long history of similar investigations.

As described above, the protest organizers attempted dialogue with the government over the protests. Meetings with Deputy Prime Minister Arınç and Prime Minister Erdoğan did not produce a resolution to the protests. Even as they were taking place, the prime minister and other high-ranking officials were engaging in rhetoric that undermined the attempts of other officials to reduce social tension (such as calling the protesters “looters” on June 2) and created an environment of implicit endorsement of police actions (such as saying that police were “writing a legend” on June 24). Numerous government officials and pro-government media outlets interpreted the events as the beginning of an attempted coup against the government.²²⁷ A Ministry of Justice official said that although mistakes were made in the initial intervention against protesters, after the reported attacks against government buildings in early June, “either we give up all the buildings, give up the Prime Minister like in Egypt, or we act like a state where rule of law prevails.”²²⁸

Human rights organizations have presented detailed recommendations to the Turkish government to address the twin problems of failure to respect peaceful assembly and police violence. Among other recommendations, human rights organizations urged that Law 2911 and its application be reviewed to ensure compliance with international human rights standards; that the current anti-terrorism laws be revised or abolished; and that police should establish an independent and impartial police complaints mechanism. The government has not taken up these recommendations.²²⁹ One human rights lawyer critical of the government said, however, “The problem is not a legal issue. It is fundamentally a political problem.”²³⁰ He placed the blame on the cultural clash between protesters and the police, and on the police taking illegal actions under Turkish law. He argues that changes to the law would not have an impact until the culture of intolerance for dissent changes, starting with the leadership of the government.

Lessons Learned

The Gezi Park protests demonstrate the difficulty of promoting good practices for upholding freedom of assembly in an environment in which particular actors see political benefit in escalating confrontation. Most observers of Turkish politics agree that Prime Minister Erdoğan

purposefully rejected attempts at de-escalation of the conflict with protesters because the narrative of destabilization by “outside forces” played on established Turkish political tropes and bolstered his political support. Despite Turkey’s clear legal obligations as spelled out in the ECtHR’s rulings on freedom of assembly in Turkey, and despite apparent efforts by other members of the ruling party to de-escalate the protests, the government pursued confrontation with protesters.

This pattern has continued into 2014, as the government has repeatedly dispersed with disproportionate force peaceful protests on issues of corruption, freedom online, and police brutality. Turkey’s ideological divisions, the conservative inclinations of a large part of its population, and the government’s dominance of broadcast television and mainstream print media have made the presentation of protesters as “marginal elements” effective. Despite a slowing economy and wide-ranging allegations of corruption, the ruling party has maintained a plurality of political support. The government’s choice of not pursuing effective mediation or dialogue with protest groups has appeared to be a successful one. In response to a massive corruption scandal in 2013-2014, the government is now using its parliamentary majority to dismantle the institutional separation of powers in order to consolidate control in the executive branch of government. Although in the long term the civic mobilization sparked by the Gezi protests may prove to have a positive impact on Turkish society, in the short term the government has used it as a means to further erode the basis of democracy.

Uganda: Walk to Work

On April 11, 2011, opposition leader Dr. Kizza Besigye and his A4C organization called for people to “walk to work” every Tuesday and Thursday as a way of bringing attention to the plight of the ordinary Ugandans who were severely impacted by soaring food and fuel prices. The Walk to Work protests in Uganda offer a case study into the power and limits of demonstrations organized by political opposition groups, rather than a grassroots popular movement.

Uganda: Freedom of Assembly in Law and Practice

Uganda’s constitution provides for the protection of freedom of assembly, stating: “Every person shall have the right to ... freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition.”²³¹ However, subsequent legislation and state practices have hindered the enjoyment of this right. In particular, regulation 13 of the NGO Registration Regulations (2009) requires all organizations to “not make any direct contact with the people in their area of operation in Uganda unless it has given seven days notice in writing of its intention to do so to the local councils and Resident District Commissioners of the area.” Authorities also misuse the ambiguous Section 56(2)(c) of the Penal Code, which provides that “a society is an unlawful society if declared by a statutory order of the Minister to be a society dangerous to peace and order in Uganda.” This was invoked to ban Activists for Change (A4C), the non-partisan pressure group behind the Walk to Work protests.²³²

On September 12, 2013, President Yoweri Museveni signed into law the Public Order Management Act (POMA), which codifies the regulation of public assembly. While many in civil society and the international community commended the government for making significant improvements over the original draft, the final Act retains several provisions that constitute an unjustifiable restriction on the right to peacefully assemble. Most notoriously, POMA reinstates the right of law enforcement agencies to use broad force to disperse assemblies. Such limitless power had been ruled unconstitutional in *Muwanga Kivumbi vs. Attorney General, Constitutional Petition No. 9/2005*, declaring null and void Section 32 of the Police Act. As Justice C.K. Byamugisha stated in her ruling at that time, “I therefore find the powers given to the Inspector General of Police to prohibit the convening of an assembly or procession place an unjustified limitation on the enjoyment of a fundamental right.”

POMA Article 13 prohibits public meetings and demonstrations around democratic institutions, including Parliament and the Constitutional Court.²³³ The outright prohibition of demonstrations at locations of public interest, which tend to draw the largest crowds, contravenes the three-part test (the interference must: be provided for by a law that is accessible and precise; pursue a legitimate aim’ and be necessary in order to secure a pressing social need²³⁴) required by Article 19(3) and Article 21 of the International Covenant on Civil and Political Rights (ICCPR), to

which Uganda is a signatory. Moreover, POMA places undue burden on demonstration organizers by criminalizing them for any unlawful conduct of third parties during protests. This topic was highlighted in a public communiqué issued by three United Nations special rapporteurs urging Uganda to repeal this bill.²³⁵ Lastly, the notification requirements for peaceful assemblies (Article 4) are unreasonably bureaucratic and give the authorities broad power to refuse notifications.

Prior to the passage of POMA, authorities employed myriad tactics to clamp down on unwanted demonstrations, typically those led by the opposition or human rights groups. The police continued to restrict assembly in the spirit of the Police Act Section 32 even after it was declared unconstitutional.²³⁶ For example Meddard Seggona, from the opposition Democratic Party, attempted to hold a political event at a private hotel in Kampala. The police reportedly offered the hotel owner the equivalent of the booking fee to cancel the event at the last minute. When the owner refused, he was taken to the police station.²³⁷

Case Study: Walk to Work protests

A4C's leadership comprised of the principal opposition politicians, leading many citizens to believe the references to rising fuel prices were simply an attempt to legitimize a challenge to the 2011 elections by other means.²³⁸ The A4C leadership was a small, close-knit group that held sole responsibility for the direction and messaging of the demonstrations. It was extremely calculated in its approach. For example, it was determined early on that Matthias Mpuuga, the coordinator, would not participate in the demonstrations.²³⁹ Keeping Mpuuga out of danger ensured consistent leadership and coordination of the demonstrations. A4C established a network of legal providers, called "Lawyers on the Run," who provided aid to anyone detained. This safety net helped ease fear and inspired participation in the demonstration, especially among the youth.²⁴⁰ Unfortunately a significant number of unemployed, opportunistic youths took advantage of the protest atmosphere, looting and destroying public property.²⁴¹ This ostracized the private sector, whose business was already declining as a result of these protesters in the city center, especially the Kampala City Traders (KACITA)—which has significant clout with both the public and government—ultimately damaging Walk to Work's overall impact.²⁴²

The state's response to the demonstrations was extremely heavy-handed: the Ugandan People's Defense Forces (UPDF) and plainclothes militias were deployed along with the police. Tear gas and water cannons were regularly used, as, the police said, they are "internationally accepted methods."²⁴³ Teargasing was targeted—including directly into the eyes of Besigye, almost blinding him—and disproportionate, including hurling of canisters into schools, marketplaces, and so forth²⁴⁴ in order to stoke fear and quickly quash the demonstrations. Police routinely detained the A4C leadership preemptively or placed them under house arrest to prevent them from staging their demonstration.

In the second week of the demonstrations, as a result of a brutal crackdown, the leadership changed tactics. They told people not to walk, but to hoot their horns or use other means to make massive noise at 5:00 pm each day to signal their exhaustion with the regime.²⁴⁵ Demonstrations

resumed. Shortly after, Besigye was shot by police and flown to Nairobi for treatment, thus increasing domestic and international attention. Attempts to synchronize nationwide rallies were unsuccessful. However, demonstrations did take place in Gulu, where one of the leading opposition members—Norbert Mao—resides, and sporadically in other towns.

A4C utilized its website and social media to some effect to broadcast demonstration plans. However, it was the traditional media (primarily radio and TV) that carried their messages to the widest audience. Government-owned stations limited debate on Walk to Work, but independent stations, such as KFM and the *Monitor*, aired significant coverage. Besigye's violent arrest on April 29, 2011, was broadcast uncut in Luganda on NTV Uganda (part of the Nation Group) at 7:00 pm, although the 9:00 pm English language broadcast showed only a sanitized version; as one activist put it, "clearly, calls were being made in between."²⁴⁶ The state could not control all media and was clearly frustrated by what it considered "one-sided coverage"²⁴⁷ of the demonstrations. In an open letter published in the *New Vision*, President Museveni decried Al-Jazeera, the BBC, NTV, and other media houses that "cheer on these irresponsible people," saying they were "enemies of Uganda's recovery and will be treated as such."²⁴⁸

The Uganda Law Society (ULS) organized a three-day strike as Walk to Work entered its second month to raise awareness of the escalating human rights abuses perpetrated by the security forces. The strike helped depoliticize the issue, as it represented the legal community and not politicians speaking out.²⁴⁹ The inspector general of police, who largely refused to engage on this issue, sat down with Bruce Kyerere, president of ULS at the time, in the midst of the strike to strategize how best to handle the demonstrations and ensure fair justice. In addition, women came out in droves in response to the violence and sexual assault suffered by Ingrid Turinawe, the women's league leader of the Forum for Democratic Change, when a police officer pulled her breast in an attempt to remove her from her vehicle.²⁵⁰ The images of women's organizations protesting, especially in front of signs advertising the high fuel prices, further heightened domestic attention.

Numerous opposition figures and regular citizens were arrested during Walk to Work and commonly charged with unlawful assembly, inciting violence, or unlawful society. Not a single person was convicted for their participation. One pro-bono lawyer said he handled over 30 cases, all which were dismissed due to lack of evidence.²⁵¹ The state employed other legal tactics, such as preemptive arrests, to destabilize the movement. Another effective strategy was to delay trials while assigning burdensome in-person reporting requirements to those charged. This is particularly salient in the case of Ingrid Turinawe. As of October 2013, the state had 22 cases against her, some of which were transferred to up-country courts even though the alleged crime was not committed there, forcing her to spend significant time traveling around the country to answer spurious charges.²⁵² Turinawe has survived two assassination attempts and continued surveillance. She says the support system provided by her fellow activists and her drive to stand up for the "women of Uganda that have suffered" enables her to continue her activism.²⁵³

Impact of Walk to Work

President Museveni's electoral victory of 2011, followed swiftly by the Walk to Work protests, expedited the country's descent into authoritarianism.²⁵⁴ The subsequent passage of POMA and other tabled legal measures to clamp down on expression, assembly, and association are likely an effort to prevent a repeat of Walk to Work in the 2016 election campaign period. The state also continues to monitor and harass opposition leaders. In summer 2013, the Kampala police banned all demonstrations by For God and My Country (4GC), the opposition pressure group that formed after A4C was banned on April 4, 2012.²⁵⁵ Several activists interviewed indicated their attempts to inform the police of planned demonstrations were summarily denied for a number of irrational reasons. The picture is bleak; as one activist put it after being asked for any best practices or lessons learned from the Ugandan case study, "Best practices? I'm not terribly sure we have any."²⁵⁶

Nevertheless, the successes and failures of A4C and Walk to Work can offer strategies for regional and international activists. The trusted and flexible organizing committee allowed the demonstrations to morph under the dynamic security situation. A4C's strong links with independent media resulted in significant coverage of their cause and campaign throughout the country, setting the stage for citizen outcry and pressure when the state responded to the peaceful demonstrators with brutality. Yet Walk to Work was unable to mobilize the masses as it was viewed as a political movement. As one organizer put it, "We asked the business community to close on Tuesdays and Thursdays when we walked, and they refused. That was a big blow.... If business had fraternized with us I think we'd have had greater success."²⁵⁷ The absence of civil society and the churches was also detrimental; with their participation, as a prominent human rights activist said, "it could have really become a mass movement."²⁵⁸ These groups tended to shy away as Walk to Work was largely perceived as a political movement led by the opposition.

The international community decried the treatment of demonstrators, especially after pictures of Besigye's brutal arrest hit the international press. When the government attempted to hold the Kenya Airways flight taking Besigye to Nairobi for treatment, the U.S. and UK ambassadors intervened and eventually he was permitted to go.²⁵⁹ The state's brutality was also highlighted in Uganda's 2011 Universal Periodic Review (UPR) for the UN Human Rights Council; Uganda accepted Austria's recommendation to "uphold the rights to freedom of expression and assembly" (A-111.77), but rejected Latvia's recommendation to accept the country visit request of the UN Special Rapporteur on the rights to freedom of peaceful assembly and association (R-112.31).²⁶⁰

In December 2013, the United States blacklisted 12 senior police officials over their violent crackdown on the Walk to Work protestors.²⁶¹ The impact of this is yet to be seen. The police officers interviewed did show signs that they were sensitive to their public record on human rights, as they were quick to point to the reduction in police violence noted in the last two Uganda Human Rights Commission (UHRC) annual reports as well as the Human Rights Network for Journalists' statement regarding a decline in violence against journalists.²⁶²

However, the Ugandan police force is ultimately responsive to the state, not its citizens, and lacks a clear understanding of its duty to protect the right for all to stage a demonstration that will garner sufficient public attention: as the Kampala police commander put it: you give us a place, a time, “you hold your placards” (and stand still) – then it’s the responsibility of the Police to protect them²⁶³.

Lessons Learned

A4C formed a tight-knit nucleus with flexible strategy that enabled them to quickly change tactics, and thus continue the protest, as a result of the state’s response. Furthermore, keeping one member (Mpuuga) out of the action enabled consistent leadership and coordination of the demonstrations. Lastly, when in a country as linguistically diverse as Uganda, it is important to secure media coverage in the people’s language, and not just that of the elite. NTV’s coverage of Besigye’s arrest in Luganda led to a tidal wave of citizen support for the protesters.

The key lesson learned from Walk to Work is the need to diversify the leadership beyond political parties if a protest is to become a broad-based movement. In the Ugandan case, both churches and civil society enjoy greater clout with citizens, and their participation would have facilitated greater support from the Ugandan public. The private sector has an important role to play, too. Demonstrations typically occur in the city center and thus disrupt commerce. Business owners tend to have close ties to the city government and can complain to city officials and thus expedite the process of shutting down the demonstration.

Finally, the international community should support the expansion of UHRC, Human Rights Centre Uganda, and other human rights bodies to conduct human rights trainings for the police forces,²⁶⁴ while simultaneously safeguarding these organizations’ right to peacefully assemble and speak out when they are met with brutal force.

United States of America: Occupy Wall Street

The Occupy Wall Street movement, which emerged in New York City in the fall of 2011 before spreading to other parts of the country, gained national attention due to the protests' focus on economic inequality, the innovative strategies used by participants, and the way in which police responded. The case offers a lesson on how grassroots movements can mobilize and disseminate their message through traditional and nontraditional media, and how police can bring greater attention to protest messages through heavy-handed responses. In particular, the movement's use of an encampment over a period of time—in combination with the advent of privately owned public spaces—posed quandaries for protesters, city managers, residents, and the legal system.

The United States: Freedom of Assembly in Law and Practice

Freedom of assembly is protected by the First Amendment of the U.S. constitution. The U.S. Supreme Court upholds this protection against abuses by federal, state, and local authorities and recognizes freedom of assembly as fundamental to democracy. Engaging in peaceful protest is constitutionally protected in traditional public forums, such as streets, sidewalks, or parks, although the government can impose time, place, and manner restrictions by requiring permits. Legal avenues are available for groups or individuals to appeal permit denials or other executive policies that restrict assembly, and the courts uphold the right to assembly in practice. Nevertheless, mass social protest movements in the United States have encountered abusive policing and public disparagement. Some of the police responses to the Occupy Wall Street protests in New York City in 2011 appeared to violate domestic and international law.²⁶⁵

Policing strategies for protests in the United States are quite developed, having evolved over decades. Constitutional, statutory, and case law have dictated the parameters of the strategies. The U.S. Supreme Court's standards on the use of force provide frameworks to determine excessive use of force. One such framework is based on the constitution's Fourth Amendment, which protects individuals from unreasonable search and seizure. It holds that the use of force (and at what level) should be judged under an "objective reasonableness" standard if the individual was "seized" by the police. The second framework evaluates whether the use of force is excessive under the "shocks the conscience" test, when a person has not been seized; a finding that a police officer subjectively intended to harm the individual would typically meet this test. *Suppressing Protest*, a report produced by the Global Justice Clinic at New York University School of Law and the Walter Leitner International Human Rights Clinic at Fordham Law School, digests scholarly research on U.S. policing strategies and organizes them into four major approaches emanating from different eras of protest in the country: escalated force, seen in the response to the 1960s civil rights movement; negotiated management, used in the 1980s and 90s; command and control, after the 1999 World Trade Organization meeting in Seattle; and strategic incapacitation, since the September 11, 2001, terrorist attacks. The four approaches differ in terms of the degree of force used, the amount of communication and coordination between protesters and police, and police responses to the individuals involved. They range respectively from the position of low tolerance for mass assembly, to managing protests through communication and negotiation, to detailed advance planning with strict rules on types of protest activity and little negotiation, to employing tactics in advance to limit the size and impact of

protests, such as surveillance, no-protest zones, use of barricades and kettling, and targeted arrests.

In New York City, as in many jurisdictions throughout the United States, legal mechanisms for police accountability include a police internal affairs department (the Internal Affairs Bureau), an external civilian complaint body (the Civilian Complaint Review Board, or CCRB), and a state obligation to investigate, prosecute, and remedy violations. The City Council also reviews police practices and has the power to pass and amend local laws, including the administrative code of the city relating to police practices. In 2013, for example, the council passed an amendment to prohibit “bias-based profiling.” During the Occupy protests, a designated representative of the New York City Police Department (NYPD) served as a spokesperson to engage in dialogue with the demonstrators.

Case Study: Occupy Wall Street

Occupy Wall Street was a nonpartisan mass action intended to affect the American political system from the outside. It was driven by a number of issues, the most central of which was socioeconomic injustice. The demonstrators’ other grievances included environmental and housing problems. Protesters began to camp in Zuccotti Park in Lower Manhattan, near Wall Street, on September 17, 2011. The NYPD cleared the encampment on November 15, 2011. Protesters clashed with police in an attempt to reoccupy the park in December, but the authorities prevented their reentry.

Occupy Wall Street was unique in that many of its activities took place on properties—including Zuccotti Park and some subsequent gathering places—that are designated as privately owned public spaces (POPS), rather than on public land.²⁶⁶ Such spaces are “provided and maintained by a developer for public use, in exchange for additional floor area” in surrounding buildings. They must follow a number of design principles and can be further regulated by the owner.²⁶⁷

The number of Occupy Wall Street protesters ranged from hundreds to thousands, depending on the day and activity, such as a march. The encampment itself lasted two full months. The protest garnered the attention and engagement of the City Council and individual representatives, the mayor, national and local media, and national political parties. Mayor Michael Bloomberg and his staff regularly commented on both the content of the protests and the city’s response, acknowledging that people wanted to express themselves and stating that as long as they obeyed the laws, they would be allowed to do so. Officials also warned that if protesters broke the laws, the city would fulfill its obligation to enforce them. Similarly, police commissioner Raymond Kelly stated early on that the NYPD’s job was to accommodate demonstrations, and that the owners of Zuccotti Park did not have the right to eject citizens from the space. In a foreshadowing of his eventual move to clear the encampment, however, the mayor cited worries about sanitation and the related ordinances and laws protecting the public.

The City Council also took up issues raised by the movement and a review of how the city managed the protests. At least one council member, Jumaane Williams, visited the encampment to meet with protesters and discuss their concerns. He became a de facto mediator between protesters, law enforcement, and the mayor’s office when police tactics became abusive.

Civil society organizations, neighborhood groups, labor unions, universities and law schools, and civil liberty advocates joined in solidarity with specific marches and the encampment protest, and as observers and advocates for the exercise of peaceful assembly. Both the New York Civil Liberties Union (NYCLU) and the National Lawyers Guild (NLG) served as legal observers and provided advice on legal rights as well as legal representation to citizens who were arrested or assaulted. Labor unions joined particular activities, partly to highlight their campaign to raise wages for fast-food workers, but they were not a formal partner in the movement. An October 5 march with union participation drew more than 15,000 people. Both news media (formal and unlicensed, mainstream and independent) and legal observers were present to report on and to observe the demonstration.

Protesters credit the origin of the Occupy movement to an earlier initiative by Adbusters Media Foundation, a Canadian not-for-profit, anticonsumerist, environmentalist organization. In mid-2011, Adbusters proposed a peaceful occupation of Wall Street to protest “corporate influence on democracy, a growing disparity in wealth, and the absence of legal repercussions behind the global financial crisis.” Once Occupy Wall Street had begun, a General Assembly (GA) of any and all participants who wished to contribute provided the deliberative process for decision making and organizing, and served as a horizontal leadership model. Women actively participated in the initiation, planning, and decision-making processes. The GA also had a “step up, step back” policy, which encouraged people of diverse backgrounds to share their opinions.²⁶⁸ While the movement did not purposely marginalize any groups, there was an apparently low turnout by racial and ethnic minorities at Zuccotti Park. It was suspected that potential minority demonstrators were unable to participate for economic reasons, and their absence resulted in a more demographically homogeneous movement.²⁶⁹

Occupy participants organized various committees to address everything from sanitation to media issues.²⁷⁰ A “de-escalation crew” was tasked with the reduction and prevention of tension and conflict within Zuccotti Park. Its members were not only efficient mediators among protesters, but were also involved in efforts to prevent demonstrators from provoking NYPD officers.²⁷¹ When facing the imminent possibility of police aggression, protesters also brandished their mobile telephones and cameras while chanting, “The whole world is watching.”²⁷²

While Occupy Wall Street was covered by both mainstream and independent media outlets, it is important to note that the movement’s participants created their own media. Bloggers, freelance journalists, and radio personalities frequented Zuccotti Park to both cover and participate in the demonstrations.²⁷³ In addition, participants accessed social media for information sharing from within Zuccotti Park, in some cases using wireless internet service from surrounding buildings.²⁷⁴ The internet activist and hacker group Anonymous created a video encouraging its supporters to take part in the protests.

There were some counterdemonstrations in response to Occupy Wall Street, mostly involving small-business owners whose businesses were hurt by the weeks of protests. However, these counterdemonstrations were either not held near Zuccotti Park or did not require police intervention. They did not impede the Occupy demonstrations.²⁷⁵

Several aspects of the movement, both in New York and in all of the other cities to which it spread, presented dilemmas for local leaders, police, residents, and workers in the area. These included the creation of an overnight encampment, its location on a POPS, its duration, and the need to manage transportation and free movement within and around the protest site and the routes of related marches. A vibrant legal debate ensued on whether attempting to enforce regulations prohibiting overnight camping meant effectively regulating the content of speech, since the protest was explicitly intended to spread its message by “occupying” financial districts. Officials in New York and other cities across the United States ultimately decided to remove occupiers and tear down the encampments on the grounds that they represented health and fire hazards.

The official response to these challenges in New York highlighted troubling police practices. The NYPD clashed regularly with protesters during the occupation of Zuccotti Park. While the demonstrators were interested in publicizing their message and grievances, police were dedicated to maintaining public safety and health standards and enforcing the rule of law.

The policing of the protest combined a range of tactics. Protesters described the constructive and welcoming approach taken by the designated police spokesperson, who interacted with the protesters and the GA. However, through a variety of other actions, the NYPD appeared to have violated local and international guidelines on the policing of peaceful protests.²⁷⁶ At least one senior officer was caught on camera using pepper spray on a group of demonstrators who were held behind orange netting, evidently without a valid reason, and the video was widely viewed on the internet. In addition, the NYPD’s regular video surveillance of Occupy Wall Street included highly visible recording of protesters—even when they “were not engaged in unlawful conduct”²⁷⁷—as well as unaffiliated bystanders, journalists, and legal observers.²⁷⁸ Intimidation, detention, arrest, and the use of force by the NYPD reportedly differed slightly depending on the target. Legal monitors documented abuses, and affected individuals have filed cases in New York courts. Some analyses suggested that the police could not be expected to discipline their own officers without such legal action. A review of CCRB and NYPD disciplinary practices over the last decade by the NYCLU concluded that “the city’s civilian oversight system has failed” and has been “subverted and co-opted by the police department.”²⁷⁹

Legal observers at Occupy Wall Street were often obstructed in their efforts to monitor and document arrests by police officers.²⁸⁰ The NYCLU provided legal observers to take photographs during arrests and reported that they were occasionally prevented from doing so.²⁸¹ The NLG also deployed monitors to collect the names of arrested protesters to ensure their access to a lawyer.²⁸² These NLG legal observers reported “access restrictions” that prevented them from taking this information.²⁸³

Protesters were repeatedly met with aggression by police. Officers employed a “snatch and grab” arrest method in which protesters were pulled from groups, seemingly at random.²⁸⁴ In areas where the NYPD imposed a “stay on the sidewalk” rule to keep the streets clear, multiple participants reported seeing officers pull one protester from the sidewalk and into the street, where he or she would fall to the ground. When others moved into the street to help the first protester up, police would arrest them all for “interfering with an arrest” or “disobedient conduct” for failing to stay out of the street.²⁸⁵ Numerous incidents of indiscriminate police

brutality were also reported, including the use of batons, pepper spray, and physical abuse.²⁸⁶ Some protesters were interrogated by police “outside of the context of protests” and described these interrogations as “discomforting and intimidating.”²⁸⁷

Media coverage of Occupy Wall Street was restricted by the actions of NYPD officers. This interference was well documented and effectively prevented journalists from “witnessing or recording events,” regardless of their accreditation.²⁸⁸ Some journalists reported facing excessive force by police.²⁸⁹ In addition, one reporter alleged that the NYPD shut down or blocked mobile phone service on the night of November 15, 2011, during the clearing of the encampment at Zuccotti Park.²⁹⁰ Overall, police treatment of the press at Occupy Wall Street damaged the NYPD’s relationship with the media as the public became aware of these events.²⁹¹

Impact of Occupy Wall Street

While it is unclear whether Occupy Wall Street affected federal government policy or practices, the occupation of Zuccotti Park undoubtedly raised awareness and encouraged meaningful dialogue on the subject of wealth distribution and financial accountability in the United States. Locally, the protest did have an impact. A member of the New York City Council sought to conduct a hearing on the clearing of Zuccotti Park in order to hold the NYPD personnel involved accountable for any misconduct.²⁹² Occupy Wall Street also prompted the introduction of a bill in the council on the use of parks by the public.²⁹³

Occupy Wall Street was one action in what became a broader Occupy movement. It prompted similar sizeable occupations of public spaces in Boston, the District of Columbia, Oakland, and Los Angeles; smaller groups identifying with Occupy formed in all 50 states.²⁹⁴ These Occupy camps expressed solidarity with one another through reactive marches and demonstrations, especially after encampments were raided.²⁹⁵ The nationwide movement brought the issue of income inequality and the response to the recent economic crisis, such as the bailouts of banks and corporations, onto the national political agenda and into daily conversations.

Moreover, foreign activists from Egypt, Greece, and Spain visited Zuccotti Park to show solidarity and share organization strategies during the early days of the occupation.²⁹⁶ This international presence encouraged a free exchange of ideas and grievances that inspired future movements abroad.

Politically, the mass demonstrations had an indirect impact on both local elections in New York City and national elections. According to an early organizer of Occupy Wall Street, the mass action raised awareness of economic inequality and the more aggressive tactics of the NYPD.²⁹⁷ The people of New York City subsequently elected as mayor Bill de Blasio, who had been a strong critic of the NYPD during Occupy Wall Street and publicly sympathized with the movement.²⁹⁸ According to another Occupy organizer, the movement also played a role in the 2012 presidential contest between incumbent Barack Obama and former Massachusetts governor Mitt Romney, as the movement’s issues were discussed frequently and the Republican candidate was painted as a member of the wealthiest “1 percent,”²⁹⁹ a societal dividing line at the center of the Occupy movement’s message and slogans.

Occupy's rhetoric and name were used in multiple similar occupations around the world. During Turkey's Gezi Park protests in 2013, #OccupyGezi was used as a Twitter hashtag for information sharing, and the words "Occupy Gezi" were commonly seen spray-painted on the walls of buildings surrounding the park in Istanbul. In Brazil, protests in late 2013 were called "Occupy Brazil," and participants used familiar phrases like "We are the 99 percent." In effect, Occupy Wall Street developed a vocabulary and protest method for future movements that echoed its criticism of policies deemed to have harmed and marginalized the middle and lower classes.

Lessons Learned

Although Occupy Wall Street did not result in any new federal laws, organizers overwhelmingly agree that the occupation of Zuccotti Park was a success in that it put socioeconomic grievances and wealth imbalance on the public agenda.³⁰⁰ These issues have been embedded in the public consciousness, particularly the idea of 1 percent of the population holding the vast majority of wealth in the United States and the responsibility of the other 99 percent to seek change.³⁰¹ Occupy Wall Street also unintentionally "brought national attention to the problem of police abuse against protesters in the United States" and created an opportunity for practical reform.³⁰²

Occupy Wall Street was a very well-planned and well-organized protest. Participants took pride in the inclusive and internally democratic decision-making process embodied by the GA and its working committees. The support from civil society organizations, which provided legal monitoring, joined some activities, and offered medical and other assistance, demonstrated the importance of strategic alliances in enabling and protecting the right to assembly. The instantaneous broadcast of images captured by mobile phones, as well as news and opinion generated around and by the protesters, was a testament to protesters' adept media strategies, which also served to link the New York movement with parallel demonstrations across the United States and around the world.

Voices In the Street Research Methodology

INTRODUCTION

Freedom House's study on freedom of assembly is an examination of the laws, practices, and impact surrounding mass protest in twelve countries, with a focus on a particular demonstration in each case study. The research was conducted in response to the disturbing global trend of governments cracking down, sometimes violently, on mass protests following the Arab uprisings and some 80+ mass protests worldwide in 2011. While most view the year as the year of civic activism, many governments begin to restrict the right to peacefully assembly and punish civic activism. Freedom House designed the study to elicit the defining factors that societies find most challenging and to identify smart practices by democratic stakeholders surrounding mass protests that promote the fundamental right peacefully.

The results are intended to provide guidance in the further defining of international norms as well as informing a range of democratic stakeholders within countries on their roles and influence vis-à-vis civic participation in the form of mass demonstration. For this reason, the research methodology required researchers to interview the full spectrum of actors that contribute to a democratic system, whether inside or outside the formal sectors, and to observe their contribution or lack thereof to *peacefully* channeling the message of social discontent into public policy and public debate, thereby strengthening democratic governance.

It is our aim that the survey results inform new models to assist governments and other stakeholders in designing policies and practices for managing and mediating this form of social engagement and at times social tension. The impact sections of the reports capture just how important civic activism is to a democracy.

RESEARCH AND EVALUATION PROCESS

Country selection

The survey team selected a diverse set of case study countries that represented a range of protest causes, responses, results, lessons, and geographic locations. Priority was given to countries that have experience a major mass protest in the last ten years, where a field research component would be viable and productive, and where Freedom House had significant strengths and experience upon which to build a reliable group of sources. Demonstrations that presented particular challenges to state capacity were of particular interest.

Report authors

The majority of report authors were selected from Freedom House regional and programmatic staff members that work regularly in the countries surveyed and on the issues explored. Where Freedom House did not have a full-time staff member capable of conducting field research on a

selected case country, experts from the organization’s extensive network of country and regional analysts were hired on a consultant basis. Full information on the study’s report authors is below.

Field research

Field research was a vital component of the *Freedom of Assembly 2014* study. Report authors were asked to conduct initial desk research on the legal frameworks surrounding freedom of assembly in assigned countries, and then to conduct in-country research missions that included extensive interviews with local activists, civil society organizations, officials and government representatives, law enforcement officers, and other relevant parties. Each author was provided with in-depth list of research questions, a copy of which is included below. After submitting research itineraries and source networks, report authors conducted trips to the case countries between June 2012 to December 2013. Report authors then compiled their research and drafted reports that were submitted to the report administration team for editing and review.

Freedom of Assembly Case Study Methodology

Overarching research questions: How do countries protect and promote assembly? What are the emerging threats to freedom of assembly and innovations in enabling freedom of assembly?

The following questions should be used a general guideline for researching and writing a country report.

1. Freedom of assembly in law and practice in case study country

This section should provide a brief overview of assembly laws and practice in the case study country. The overview need not be exhaustive but should provide critical contextual and historical information for the country report.

- A. Does the state’s legal framework recognize and protect every person’s right to freedom of assembly?
 - To what extent does the domestic legal framework on assembly comply with international law and best practices?
 - What are the legal mechanisms for accountability (e.g., formal review and censure processes, ombudsman offices, FOIA laws, legal suits for reparations, etc.) to ensure that these laws are followed?
 - Does the penal code, security laws, or any other laws restrict assembly?

- B. Does the state recognize every person’s right to freedom of assembly in practice?
 - Are there any major gaps in implementation between the legal framework and the state’s response to mass demonstrations in practice?
 - Are there particular “red lines” that people do not cross in order to avoid a crackdown?
 - Does the state allow peaceful protests, particularly those of a political nature, or are there bans or restrictions on this kind of activity?
 - Does the state refrain from using excessive force against peaceful protesters? Are participants of peaceful demonstrations put under surveillance, intimidated, arrested, or assaulted by state or nonstate actors? Does the state collude with private actors to restrict protest (e.g., shutting off of telecommunications, sharing information on demonstrators, etc.)?

- Are peaceful protestors detained or intimidated by police in order to prevent them from engaging in such actions?
- Does the state protect protests from violent counterdemonstrations or provocateurs?
- What training, if any, do state security and police forces have regarding the protection of human rights and the right to freedom of assembly in the context of mass demonstrations?
- Are state actors held to account in practice for violation of laws related to assembly? Please note the method through which accountability is enforced and what, if any, political and other concerns are a hindrance to accountability. In discussing legal cases, please note roughly how often charges actually lead to convictions.
- How are observers or other non-participants treated?

2. Mass demonstrations

This section should familiarize the reader with the basic details of the mass demonstrations the country report covers. Please pay particular attention to elements that make the case unique, and note where those elements can be instructive in other cases. Please pay particular attention to innovation on the part of all major actors, both positive and negative.

- A. Please provide a short overview of the mass demonstration case, including the following variables.
- What was the cause or grievance driving mass action? Was there a particular goal or desired outcome? Did that goal change over time?
 - What was the time frame? Was there a clear beginning and end point? Is it ongoing?
 - Who are the major formal and informal actors involved in the protest or reacting to it? How do they intersect and what are their interests? (Examples include but are not limited to the executive, legislative and judicial branches, law enforcement bodies, political parties, media actors (including formal and unlicensed), civil society organizations, research institutions, human rights groups (independent and government-affiliated), religious institutions and communities, labor unions, corporations, and other non-state actors).
 - What role did women play in the mass demonstration? What were the limitations on or protections for their participation? Were any groups marginalized from participating in demonstrations?
 - Were any major actors noticeably absent from the protests? Why and what was the impact of their absence?
- B. How did the protest organizers build awareness of and support for their cause?
- What was the medium for information sharing and dissemination? Please note distinctions between logistical/practical information (e.g., details on time and location of protests) and advocacy information designed to build support for the

demonstration's cause. Please focus in particular on unique or innovative methods.

- Were there barriers to media coverage, including through social media?
- Were there barriers to communication (shutting down of SMS, internet, or phone service)?

C. What was the impact of local, national, and international laws and norms?

- Did the international community and/or foreign policy concerns or alliances have a role in the mass demonstration in any way?
- Did particular international laws or obligations affect the behavior of the protesters or the state in any way? (For example, did protesters use international law as a tool to push the state to allow protests or to hold the state to account? Did state actors tone down their response to avoid prosecution or foreign policy consequences? Were international best practices used in any way?)

3. Dialogue and domestic and international impact

This section should explore the impact that the case had on a domestic and international level including what role, if any, the case had in the democratic process. Analysis of lessons learned should be included here, including recommendations for local and international actors.

- Did the demonstration impact government policy or practice in any way? Did the movement shape or encourage meaningful dialogue, or create the opportunity for consultations or interactions?
- Did domestic support for the cause change after the demonstration?
- Did the demonstration organizers consider the case to be a success? Why?
- How can this case be instructive to domestic democratic stakeholders and to the international community, including lessons learned that can be applied elsewhere? Are there lessons for how domestic democratic actors or the international community should promote and protect freedom of assembly?

Endnotes

¹ Chile ratified the International Covenant on Civil and Political Rights in 1972 and the American Convention on Human Rights in 1990.

² El Instituto Nacional de Derechos Humanos (INDH). 2011. *Annual Report 2011*. Page 73.

³ Crimes against public order are further outlined under Articles 6 and 7 of Law 12,927, ratified on August 6, 1958.

⁴ According to the IACHR's 2006 Report on the Situation of Human Rights Defenders, states "may regulate the use of public space" through instituting, for example, a prior notification requirement; however, such measures should not be established in order to prohibit manifestations, but rather with the goal of "informing authorities so they take necessary measures" in preparation. Regarding the number of proposed manifestations that have been denied, official statistics have not been provided to the public by the Chilean Interior Ministry, despite repeated requests for this information from the INDH.

⁵ For documented cases supporting this claim see INDH, 2012 Annual Report, pp. 16–24.

⁶ INDH. 2012. *Annual Report*. Page 27–55.

⁷ Chile finally ended military jurisdiction for civilian cases in 2010, as recommended by the Inter-American Court on Human Rights in its decision in the case of Palamara Iribarne v. Chile in 2005, which stated that military jurisdiction in Chile must be limited only to those crimes committed by military personnel in active service. However, these reforms did not address military jurisdiction over cases of police abuse against civilians.

⁸ La Tercera. June 2011. "[Malestar universitario.](#)"

⁹ As of 2012, tuition fees cost, on average, \$3,400 per year, while the average annual salary was \$8,500. Francisco Goldman. April 2012. [Camila Vallejo, the World's Most Glamorous Revolutionary.](#)

¹⁰ Many newer universities offer only the most basic instruction, limited facilities, few research or pre-professional opportunities for students, and a very poor quality of teaching. These schools are largely populated by poorer students. As a result, Chile's vast socioeconomic inequalities are reproduced and even exacerbated at the university level.

¹¹ [Barometro de la Política](#). August 2011.

¹² This approximate number was provided by Cecilia Perez, superintendent of Santiago from July 21, 2011, until November 5, 2012. According to student leader Giorgio Jackson, there were 44 major demonstrations and dozens of smaller demonstrations over the course of the year.

¹³ The proposed package was called by the government [the Gran Acuerdo por la Educación \(GANE\)](#)

¹⁴ Cooperativa.cl. July 2011. [Camila Vallejo: El discurso de Pinera fue una gran decepción y un retroceso.](#)

¹⁵ Organización de los Estados Americanos. August 2011. [Comunicado de Prensa.](#)

¹⁶ Anuario de Derechos Humanos. October 2011. [Derechos Humanos y Manifestaciones Públicas en Chile: Presentación ante la Honorable Comisión Interamericana de Derechos Humanos.](#)

¹⁷ The first provision enables the interior minister or the relevant superintendent or governor to bring legal suits in cases where there is a risk to authorities due to an act of public disorder. The second provision added public security and members of the carabineros to those classified as "public order" forces against which the crime of disorderly conduct is committed.

¹⁸ *Ibid.*, 11.

¹⁹ By October 2011 students were demanding "free, public, and quality education for all Chileans."

²⁰ Conversations with student leaders including Giorgio Jackson and Camilo Ballesteros.

²¹ A number of innovative policing methods have been used in Chile with varying degrees of success. For example, according to Congressman Felipe Harboe, in certain instances during the 2006 "Penguin Revolution," unarmed female carabineros were employed to dissolve protests, often resulting in very few violent incidents.

²² [Constitution of the People's Republic of China.](#)

²³ Refworld. October 1989. "[China: Law of 1989 on Assemblies, Processions and Demonstrations.](#)"

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- ²⁴ Ibid.
- ²⁵ Universal Declaration of Human Rights. December 1948. "[Article 20.](#)"
- ²⁶ Congressional-Executive Commission on China. October 2013. [Annual Report.](#)
- ²⁷ Ibid.
- ²⁸ Ibid., 23.
- ²⁹ Ibid., 27.
- ³⁰ Author interview with the villager, who requested anonymity.
- ³¹ Author interview with photographer.
- ³² Ibid.
- ³³ It is believed that this is the first time in China that stun grenades have been used in dealing with demonstrations.
- ³⁴ Author interview with villager.
- ³⁵ Author interview with writer, who requested anonymity.
- ³⁶ Branigan, Tania. The Gaurdian. July 2012. "[Anti-pollution protesters halt construction of copper plant in China.](#)"
- ³⁷ Author interview with the writer.
- ³⁸ Author interviews with villager and writer.
- ³⁹ Tao, Anthony. Beijing Cream. July 2012. "[Information Emerges About Yesterday's Shifang Protest, Plus Video.](#)"
- ⁴⁰ Author interview with villager.
- ⁴¹ Ibid.
- ⁴² Gang, Qian. China Media Project. July 2011. "[China's malformed media sphere.](#)"
- ⁴³ Ibid.
- ⁴⁴ Author interview with writer.
- ⁴⁵ Author interview with Rachel Stern, assistant professor of Law and Political Science, UC Berkeley.
- ⁴⁶ Author interview with Xiao Qiang, editor-in-chief, *China Digital Times*, UC Berkeley.
- ⁴⁷ Author interview with Elizabeth Economy, director of Asia Studies, Council on Foreign Relations.
- ⁴⁸ Ibid.
- ⁴⁹ Ibid., 42.
- ⁵⁰ Ibid.
- ⁵¹ Ibid.
- ⁵² Author interview with writer.
- ⁵³ Author interview with villager.
- ⁵⁴ Author interview with villager.
- ⁵⁵ Ibid.
- ⁵⁶ Folketinget. "[My Constitutional Act with Explanations.](#)"
- ⁵⁷ [Constitution of Denmark.](#)
- ⁵⁸ Ibid., 56.
- ⁵⁹ Ibid., 25.
- ⁶⁰ Council of Europe. November 1950. [Convention for the Protection of Human Rights and Fundamental Freedoms.](#)
- ⁶¹ Retsinformation. October 2004. "[Act on police activities.](#)"
- ⁶² [Danish Law on Police Activities](#) and Jykkands-Posten. January 27, 2012. "[Freedom of Assembly.](#)"
- ⁶³ April 4, 2000 a new addition Article 134b to the Penal Code was ratified; against concealing your face and identity at public demonstrations and protests. Retsinformation. May 2000. [Act to amend the Criminal Code.](#)
- ⁶⁴ Folketinget. October 2009. "[Bill to amend the criminal code and the law on police activities.](#)" and [Law Amending the Criminal Code and the Law on Police Activities](#) (November 2009).

⁶⁵ Lefort, Rebecca. The Telegraph. December 2009. "[Thousands march in 'wave' against climate change ahead of Copenhagen conference.](#)"

⁶⁶ Reuters. December 2009. "[Australians walk to pressure Copenhagen.](#)"

⁶⁷ Some of the organizers included the parties Enhedslisten, the youth groups from Socialdemokratiet and Socialistisk Folkeparti, the NGOs Mellemløst Samvirke, IBIS, and Greenpeace (Interview with Nikolaj Villumsen, one of the key organizers and leader of the demonstration December 12, 2009, and contact person to the police. Current member of Parliament for the party Enhedslisten).

⁶⁸ UpTakeVideo. December 2009. "[Largest climate change march in history.](#)"

⁶⁹ Interview with Marc Jørgensen, lawyer at *Foldschack & Forchhammer*, which handled half of the legal cases of the detainees. Marc Jørgensen was also active in the free legal aid organization *RUSK*, which helped many of the detainees.

⁷⁰ Interview with Nikolaj Villumsen and BBC News. 13 December 2009. "[Climate Activists Condemn Copenhagen Police Tactics.](#)"

⁷¹ According to the [ombudsman's report](#) the time was 3:25 pm and 905 people were detained between the cross-streets Christmas Møllers Plads and Markmandsgade.

⁷² In March 2012 *kettling* was ruled lawful by the European Court of Human Rights following a legal challenge in the case of Austin vs. UK. BBC News. March 2012. "[European court says 'kettling' tactics in 2001 lawful.](#)"

⁷³ Interview with Mads Knudsen, detained at the demonstration December 12, 2009.

⁷⁴ Interview with Marc Jørgensen.

⁷⁵ Politiken. December, 2009. "[Documentation: How to process disturbances minute by minute.](#)"

⁷⁶ Interview with Mads Knudsen.

⁷⁷ Parliamentary Ombudsman. December 2010. [Final Report](#).

⁷⁸ The ombudsman's report is an OPCAT-investigation of the police's treatment of people in preventive detention during COP15. In Denmark the ombudsman, in collaboration with the Danish Institute for Human Rights and the Danish Institute against Torture, is the inspector for the Optional Protocol to the Convention against Torture (<http://www2.ohchr.org/english/bodies/cat/opcat/>).

⁷⁹ Article 3: Prohibition of torture – No one shall be subjected to torture or to inhuman or degrading treatment or punishment. [European Convention on Human Rights](#).

⁸⁰ Interview with Johnny Poulsen, police superintendent, *Rigspolitiet*, and Erik Bundgaard, police superintendent, Danish Police Academy.

⁸¹ Domsresuméer. December 2012. "[Judgment in case of administrative detention of Dr. Louise Bridge.](#)"

⁸² The International Center for Not for-Profit Law. [Letter from the Editor](#).

⁸³ Interview with Nikolaj Villumsen.

⁸⁴ Email from Line Skou Hauschildt, head of section, Ministry for Climate, Energy and Building.

⁸⁵ Politiken. December 2009. "[Lommepakken is popular.](#)"

⁸⁶ Interview with Marc Jørgensen.

⁸⁷ Berlingske. February 2003. "[Policeman charged with murder of G8 protestors.](#)"

⁸⁸ Information. November 2011. "[Red block will make clear lines of police after COP15 trial.](#)"

⁸⁹ http://www.justitsministeriet.dk/sites/default/files/media/Pressemeddelelser/pdf/2011/Faktaark_-_rets-og_udlaendingeaftale.pdf

⁹⁰ Phone interview with Niels Rohleder, political advisor for the party Enhedslisten and Niels Th. Dahl, chief press officer for the party Liberal Alliance.

⁹¹ Since COP15 "Dialogue" and "Conflict Management" have been mandatory educational modules at the Police Academy (Interview with Johnny Poulsen and Erik Bundgaard).

⁹² Interview with Johnny Poulsen and Erik Bundgaard.

⁹³ According to the Ministry of Internal Affairs (<http://www.for.kg/news-180871-ru.html>), there were 646 public actions and protests between the beginning of the year and July 18, 2012. It is likely that the numbers for 2013 will be similar, according to monitoring (<http://www.24kg.org/community/163779-v-kyrgyzstane-za-nepolnyj-god-zaregistrirvano.html>).

⁹⁴ Organization for Security and Co-Operation in Europe. April 2013. *The Right to the Freedom of Peaceful Assembly in the Kyrgyz Republic*, p. 19.

⁹⁵ Estimates about the Kumtor mine's contribution to Kyrgyzstan's GDP vary widely from an estimate of 5.5% for 2012 made by the mine's owner (<http://www.kumtor.kg/en/media-relations/contribution-to-the-kyrgyz-economy>) to reports that it accounted for 10% in the media and civil society (<http://bankwatch.org/news-media/blog/constant-dripping-wears-stone-kyrgyz-parliament-votes-reassess-kumtor-gold-mine-cont>).

⁹⁶ Organization for Security and Co-Operation in Europe. April 2013. *The Right to the Freedom of Peaceful Assembly in the Kyrgyz Republic*. Page 21.

⁹⁷ Organization for Security and Co-Operation in Europe. April 2013. *The Right to the Freedom of Peaceful Assembly in the Kyrgyz Republic*. Page 25.

⁹⁸ Organization for Security and Co-Operation in Europe. April 2013. *The Right to the Freedom of Peaceful Assembly in the Kyrgyz Republic*. Page 34.

⁹⁹ Organization for Security and Co-Operation in Europe. April 2013. *The Right to the Freedom of Peaceful Assembly in the Kyrgyz Republic*. Page 37.

¹⁰⁰ Organization for Security and Co-Operation in Europe. April 2013. *The Right to the Freedom of Peaceful Assembly in the Kyrgyz Republic*. Page 44.

¹⁰¹ OSCE/ODIHR Limited Referendum Observation Mission Report, Constitutional Referendum, <http://www.osce.org/odihr/elections/70938>.

¹⁰² Organization for Security and Co-Operation in Europe. April 2013. *The Right to the Freedom of Peaceful Assembly in the Kyrgyz Republic*. Page 7.

¹⁰³ Kyrgyzstan constitution, http://www.gov.kg/?page_id=263.

¹⁰⁴ Organization for Security and Co-Operation in Europe. April 2013. *The Right to the Freedom of Peaceful Assembly in the Kyrgyz Republic*. Page 10.

¹⁰⁵ The Law on Peaceful Assembly as translated in U. Kh. Azimov and D. Sh. Sayakova, *The Right to Freedom of Peaceful Assembly in the Kyrgyz Republic*, Bishkek, 2012, pp. 48–56 (hereafter *The Right to Freedom of Peaceful Assembly in the Kyrgyz Republic*).

¹⁰⁶ The “Joint Opinion on the Draft Law on Peaceful Assemblies of the Kyrgyz Republic,” by the Venice Commission and OSCE/ODIHR, found that it was “solidly based on the ECHR [European Convention on Human Rights]” and the Venice Commission Guidelines on Peaceful Assembly. They nonetheless identified some problems: the absence of an explicit requirement of proportionality, the absence of a prohibition of content-based restrictions except in certain extraordinary circumstances, and inadequate procedures to adjudicate conflicts about the conduct of assemblies. [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2010\)050-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2010)050-e).

¹⁰⁷ Kumtor Gold. “[Contribution to the Economy.](#)”

¹⁰⁸ Kloop. April, 2013. “[Rally for the nationalization of “Kumtor” promise to continue in the regions.](#)”

¹⁰⁹ Kloop. May, 2013. “[Chronicle: The rally in the Issyk-Kul region ended in Jalalabad continues.](#)”

¹¹⁰ <http://kloop.kg/blog/2013/05/30/hronika-na-kumtore-vozobnovilos-e-lektrosnabzhenie/>

¹¹¹ <http://www.cacianalyst.org/publications/analytical-articles/item/12757-kyrgyzstans-kumtor-mine-becomes-political-football.html>

¹¹² Trilling, David. February 2014. Eurasianet.org. [Kyrgyzstan's Parliament Accepts Controversial Gold Mine Deal](#).

¹¹³ A handful of demonstrations took place and were tolerated by the regime, especially if they celebrated Gaddafi. In 2006, due to the publication of cartoons negatively portraying the Prophet Muhammad in a Danish newspaper, Libyans protested in front of the Italian Consulate in Benghazi. Also in Benghazi, smaller frequent protests of

families of victims of a massacre at Abu Salim prison were loosely tolerated; however, some organizers faced harassment, intimidation, and arrest.

¹¹⁴ Human Rights Watch. January 2011. *World Report 2011: Libya*.

¹¹⁵ The details of the attack are still being investigated, and the debate is ongoing whether the attack was a spontaneous protest motivated by the anti-Prophet Muhammad YouTube video or whether it was a planned terrorist attack.

¹¹⁶ Suliman Ali Zway and Kareem Fahim. New York Times. September 2012. "[Angry Libyans Target Militias, Forcing Flight](#)"

¹¹⁷ Human Rights Watch. January 2014. "[Libya: End Impunity, Reform Repressive Laws.](#)"

¹¹⁸ Human Rights Watch. January 2006. Libya.; and Mohamed Eljahmi, "[Libya and the U.S.: Qadhafi Unrepentant.](#)" *The Middle East Quarterly* vol. 13, no. 1 (2006): 11–20.

¹¹⁹ Heba Morayef. Human Rights Watch. December 2009. [Truth and Justice Can't Wait.](#)

¹²⁰ At the time of writing, elections for the constitutional committee of 60 to draft a new and permanent constitution were scheduled to take place on February 20, 2014. See: Human Rights Watch. January 2011. [World Report 2011: Libya.](#)

¹²¹ Human Rights Watch. January 2014. [Priorities for Legislative Reform.](#)

¹²² *Emory University School of Law.* "[Libya \(Socialist People's Libyan Arab Jamahiriya\).](#)"

¹²³ *Ibid.*, 118.

¹²⁴ In an interview with Save Benghazi protest organizers on November 26, 2013, they mentioned the name of the demonstration was inspired by a movement in Jordan – Friday to Save the Nation. The name of the Libyan demonstration was suggested, voted, and agreed upon with the majority of organizers in favor.

¹²⁵ Andrea Khalil and Malak Bouod. *Jadaliyya.* September 2012. "[Rescue Benghazi Friday: Peaceful Crowds Fill the Streets of Benghazi.](#)"

¹²⁶ Facebook. September 2012. [Save Benghazi Friday.](#)

¹²⁷ In an interview with Save Benghazi protest organizers on November 26, 2013, they retrieved the Libyana text message that was sent on Thursday, September 20, 2012 on their phone, and it translates as follows: "My sister and my brother, civil society organizations will participate in the peaceful demonstration to Save Benghazi. It will start at 5pm in front of Tibesti Hotel, and the demonstration is against violence and illegitimate armed groups. Wishing justice and welfare to all." Reflecting on the words of the text message, protest organizers exclaimed it was tampered with because the wording was changed from "all armed groups" to "illegitimate groups." Hence, this indicating internal distinctions in how armed groups were categorized.

¹²⁸ This warning was confirmed both with interviews conducted with Ismail Sallabi of Raf Allah AlSihati and protest organizers.

¹²⁹ Steven Sotloff. *Time.* September 2012. "[The Revolt of Benghazi's Moderates: Will the Rest of Libya Follow?](#)"

¹³⁰ Christopher Stephen. *Foreign Policy.* September 2012. "[Save Benghazi.](#)"

¹³¹ *Libya Herald.* December 2012. "[Save Benghazi Organiser Narrowly Escapes Assassination Attempt, Brother-in-Law Killed.](#)"

¹³² Fred Wehrey. Carnegie Endowment for International Peace. February 2014. "[The Battle for Benghazi.](#)"

¹³³ Human Rights Watch. December 2013. "[Libya: 6 Months On, Scant Action on Protester Killings.](#)"

¹³⁴ Fred Wehrey. The Atlantic Council. May 2014. *The Battle for Benghazi.* Also: Pack, Jason and Karim Mezran. The Atlantic Council. May 2014. [Libya's Faustian Bargains: Breaking the Appeasement Cycle.](#)

¹³⁵ Welsch, Bridget. *Malaysiakini.* April 2013. "Buying Supoport - Najib's 'Commercialisation' of GE13."

¹³⁶ [The Peaceful Assembly Act 2012. April 2012. "Laws of Malaysia: Act 736."](#)

¹³⁷ Sedition Act 1948. July 1948. *Laws of Malaysia, Act 15.*

¹³⁸ CNN International. November 2007. "[Teargas Used on Rare Malaysia Demo.](#)"

¹³⁹ Free Malaysia Today News. April 2012. "[SUHAKAM, Bar Council Show Support for Bersih 3.0.](#)"

¹⁴⁰ Human Rights Commission of Malaysia. April 2012. "[Suhakam's Findings from the Public Inquiry into the Incidents During and After the Public Assembly of 28 April 2012.](#)"

¹⁴¹ FauzInfoVids. April 2012. "['Police violence' at Malaysia Reform Rally Bersih 3.0.](#)"

¹⁴² Lim, Ida. *The Malay Mail Online.* November 2013. "[NSTP Tenders Apology to Bersih Libel Suit.](#)"

¹⁴³ Youtube. [Bersih428.](#)

¹⁴⁴ However, gerrymandering (the BN had altered districts so that rural areas were overrepresented) and control of the electoral commission through appointment of former party members enabled the ruling coalition to win 60

percent of the seats in Parliament with only 46 percent of the popular vote, while the opposition won 53 percent of the vote.

¹⁴⁵ Human Rights Watch. January 2011. [World Report 2012: Morocco and Western Sahara](#).

¹⁴⁶ Zahir Rahman. Foreign Policy. December 2011. "[Morocco's Bottom-Up Movement for Reform](#)."

¹⁴⁷ This was repeated in interviews with human rights and youth activists in Rabat and Fes. Also, members of the Moroccan Association for Human Rights and the Justice and Spirituality movement group shared similar examples. Some activists call the security and police forces "forces of oppression" given the extent of repression.

¹⁴⁸ Facebook. February 2011. [Mouvement du 20 Février – Maroc](#).

¹⁴⁹ Zahir Rahman. Journal of New Media Studies in MENA vol. 1 (2012). [Online Youth Political Activism in Morocco: Facebook and the Birth of the February 20th Movement](#).

¹⁵⁰ Human Rights Watch. July 2011. "[Morocco: Police Violence a Test for Revised Constitution](#)."

¹⁵¹ Sarah Lazare. Truthout. July 2011. "[Moroccan Activist Speaks on the February 20th Movement's Fight for a Better Future](#)."

¹⁵² See Moroccan Association for Human Rights (AMDH) 2011 and 2012 Annual Reports on the Situation of Human Rights in Morocco in Arabic, Report 2011 and 2012. Specifically, the 2012 Annual Report, page 16 refers to the excessive force and deaths of Feb. 20 protesters at the hands of the security forces.

¹⁵³ Jessica Lambert. Muftah. August 2013. "[New Activism in Morocco: #DanielGate and Feb20](#)."

¹⁵⁴ Mohamed Daadaoui. *Jadaliyya*. February 2012. "[A Year After: The February 20 Protest Movement in Morocco](#)."

¹⁵⁵ Interview with Khadija Riyadhi in Rabat, Morocco on Friday, December 6th, 2013.

¹⁵⁶ Peru ratified the International Covenant on Civil and Political Rights in 1977 and the American Convention on Human Rights in 1978.

¹⁵⁷ Congress of the Republic. September 2009. "[Political Constitution of Peru](#)."

¹⁵⁸ RPP.com. April 2010. "[Punishment for blocking roads can reach up to 10 years in prison](#)."

¹⁵⁹ TVSURPERU.com. "[Congress passes a new law that punishes with jail roadblocks during protests](#)."

¹⁶⁰ Over nearly two decades the state waged a protracted battle against the Shining Path, a domestic guerrilla group.

¹⁶¹ Coordinadora Nacional de Derechos Humanos. September 2010. "[IDL: Decrees seek impunity in human rights](#)."

¹⁶² Peru News. "[Receta para acabar con el perro del hortelano](#)."

¹⁶³ El Comercio. October 28, 2007. "[The 'perro del hortelano' syndrome](#)."

¹⁶⁴ The prior constitution of 1979 was considered to be more protective of indigenous rights, asserting that native communities' land rights were "inalienable" and specifying that, in the case in which lands were appropriated by the state in the public interest and with the approval of Congress, the relevant communities would be compensated.

¹⁶⁵ The UN Declaration, ratified by Peru in 2007, stipulates that "states shall provide effective mechanisms for the prevention of, and redress for...any action which has the aim or effect of dispossessing [indigenous peoples] of their lands, territories, or resources." United Nations. [United Nation Declaration on the Rights of Indigenous Peoples](#).

¹⁶⁶ [ILO Convention 169](#) was ratified by Peru in 1994.

¹⁶⁷ Among the demands were the repeal of Decree 1073, which was seen as the most egregious in violating indigenous land rights; restoration of the language contained in the 1979 Constitution that established native peoples' land rights as "inalienable"; and the government's compliance with its obligations under ILO Convention 169.

¹⁶⁸ In preparing this report Freedom House met with a number of prominent leaders of the protests as well as dozens of participants and observers.

¹⁶⁹ The other three commissions were tasked with reviewing the package of decrees and proposing recommendations to improve them; addressing concerns about and considering improvements to the 2008 Forestry Law; and formulating an economic development plan for the Amazonian and Andean regions of Peru.

¹⁷⁰ Author interview with African National Congress Representative, Cape Town, 9 October 2013.

¹⁷¹ [Constitution of the Republic of South Africa](#), 1996 (Act No. 108 of 1996) as amended.

¹⁷² *Ibid.*

¹⁷³ South Africa Government Online. [The Regulations of Gatherings Act, 1993](#) (Act No. 205 of 1993),

¹⁷⁴ South Africa Government Online. The Labour Relations Act, 1995 (Act No. 66 of 1995).

¹⁷⁵ Constitutional Court of South Africa. 2012. [South African Transport and Allied Workers Union v Garvas](#).

¹⁷⁶ Pierre De Vos. Constitutionally Speak. October 2011. [A problematic limitation on the right to freedom of assembly](#). For another dissenting view on the judgment, see "[FXI Disappointed by the Constitutional Court Judgment](#)"

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- ¹⁷⁷ Author interviews with COSATU leaders in Cape Town, 9 and 10 October 2013.
- ¹⁷⁸ A/HRC/23/39, at paragraph 50.
- ¹⁷⁹ Author interview with a Western Cape provincial minister, Cape Town, 10 October 2013.
- ¹⁸⁰ South African Human Rights Commission. September 2014. "[Media Statement: SAHRC find against the municipality in QwaQwa evictions.](#)"
- ¹⁸¹ City of Cape Town. [City ombudsman.](#)
- ¹⁸² A/HRC/23/39, at paragraph 54.
- ¹⁸³ These forums are not required when the assembly is smaller and not likely to cause any disruption to the public.
- ¹⁸⁴ Press release from the NGO Equal Education is available AT: Equal Education. March 2010. "[EE urgent court application to march.](#)"
- ¹⁸⁵ de Vos, Pierre. Constitutionally Speaking. March 2010. "[On Freedom of Assembly.](#)"
- ¹⁸⁶ Author interview with SAPS representative in Cape Town, 10 October 2013.
- ¹⁸⁷ Seven police officers were charged in connection with his death but set free in 2013 when the state's case collapsed.
- ¹⁸⁸ Footage of the shooting and a report on subsequent events can be found at: Journeyman Pictures. Youtube. January 2013. "[Leaked video reveals the truth about the Massacre at Marikana.](#)"
- ¹⁸⁹ The Marikana Commission of Inquiry. "[About the Commission.](#)"
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- ¹⁹² Serrao, Angelique. Business Report. March 2012. "[Cosatu urges all to join march.](#)"
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- ¹⁹⁴ City of Cape Town. March 2012. "[Residents warned of traffic congestion as a result of COSATU march.](#)"
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- ¹⁹⁷ Moneyweb. November 2013. "[Labour brokers bill approved in Assembly.](#)"
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- ²⁰⁹ European Court of Human Rights. November 2012. "[DİSK and KESK vs. Turkey.](#)"
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