

Note for inputs from the mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association

About us

The Center for Civil Liberties was established in 2007 in **Kyiv (Ukraine)** with the aim of promoting human rights, democracy and solidarity in Ukraine and the OSCE region to restore human dignity.

The organization is known in Ukraine and abroad due to its active work in the following areas: - protection of fundamental rights and freedoms through the consolidation of the efforts of the human rights community to change the legislation and practice, development of public control; - documentation of violations in the course of the international armed conflict and protection of human rights in the occupied territories of Crimea and Donbas; implementation of programs of international solidarity for the joint work of human rights organizations at the level of the OSCE region; support and development of civil society through the construction of a holistic ecosystem and new channels of communication.

The organization considers it an important strategic task to go beyond the boundaries of narrow corporate expertise and assert a proactive position based on the support of numerous volunteers and civic initiatives for effective communication with the society and joint pressure on the political class for the swift transformation of Ukraine on the principles of an open society.

Details: <http://ccl.org.ua/>

The OZON Public Monitoring Initiative is a voluntary association of active citizens who are aware of the importance of quality public control over the actions of the authorities, as well as of the key processes that take place at the interface between society or the individual and the state. The work of the initiative is coordinated by the human rights organization Center for Civil Liberties.

Public observers are an independent party, they always remain ABOVE the process. The purpose of the activity is to improve the work of the authorities in the field of human rights through an organized system of independent control over them. In their work, the monitors of the initiative promote the concept of the government as a hired manager, where the performance of government bodies is evaluated directly by the people themselves.

A feature of the group's activities is the widespread involvement in the public scrutiny by "ordinary" citizens, regardless of their prior specialization and experience.

Brief Note: Enjoyment of the rights to freedom of peaceful assembly and of association by women and girls in Ukraine (2018-2020)

1. There is no special law on peaceful assemblies in Ukraine. The Article 39 of Ukrainian Constitution guarantees all citizens the right to assemble peacefully without requiring any permission. There is also a law about ensuring equal opportunities for men and women. However, local governments – civilian authorities – are so far hardly an effective actor in promoting and facilitating peaceful assemblies. The large number of functions that should be vested with the civilian administration authorities in Ukraine according to the OSCE/ODIHR Guidelines, are in fact assigned to the police forces.

2.

a) The Article 15 of Ukrainian Constitution guarantees the freedom of political activities, and on its basic citizens have right to organize themselves in organizations and political parties. There neither specific governmental measures on empowering women and girls in realizing this right, nor specific restrictive practices on this.

Women who join feminist or LGBTQI+ associations often face threats and physical attacks from hostile groups: mostly conservative and right-wing activists. Police forces are often not efficient in preventing and investigating this crimes.

b) Women and girls can realize their freedom of assembly by organizing and attending peaceful protests, running informational and educational campaigns (i.e. against domestic violence), doing online-activism. A significant drivers behind their mobilization is feminist ideas and movements, operation of funds and NGOs, thematic also the commitment to react to the violation of the law and human rights by the police and authorities.

Specific obstacles include threats of bullying, physical violence from opponents (most often conservative and right-wing groups), as well as police brutality. In two of the three cases of meetings on March 8, 2020, attacks on participants and organizers of actions took place after their completion.

Women and girls are actively participating in activism concerning a wide range of numerous issues: feminism, LGBTQI+ rights, ecoactivism, labour rights, combating police brutality, advocating Ukrainian political prisoners etc. From the latest achievements – a campaign about the Istanbul convention could be mentioned. Due to the educational and promotional efforts of mostly women (independent activists or ones affiliated with feminist/human rights NGOs) the petition went up to more than 26000 signatures and got submitted for the consideration by the President Zelensky.

Talking about laws that could be discriminatory, the Article 161 of the Criminal code criminalizes violations of equality of citizens grounded on their race, religion, or nationality. But gender identity and sexual orientation are not included, which makes women and girls (and especially LGBTQI+ women) less protected.

c) According to experts, the available official statistics on hate crimes and incidents of sexual orientation and gender identity do not reflect the real state of affairs in this area. Hate crimes against gender identity are not listed in the relevant article of the Criminal Code.

Instead, they should begin to fall under the wording "... and other motives." In practice, this will mean that the police simply will not register such an attack as a hate crime. Therefore, the conception of hate crimes committed on grounds of gender identity and sexual orientation should be included in the Article 161 of the Criminal code (Project of the Law № 3316 on that was registered on 09.04.2020).

Furthermore, police forces and authorities are often gender blind. They should be more conscious and educated about issues regarding gender identity and sexual orientation instead; so that they could be more sensitive when protecting women`s and girls` rights.

Also, police should stop using force disproportionately and violating the Law of Ukraine "On the National Police of Ukraine" to the extent of personnel identification, use of physical force, and special equipment. It is still a challenge for the peaceful assemblies in Ukraine in general, and particularly for women as well.

3. The women`s and girls` peaceful assemblies with feminist or LGBT+ agenda are particularly at risk of violence. Our organization, inter alia, monitors the women`s marches on the International Women`s Day and records the cases of violence against the participants or violation of their rights in our reports. Other assemblies organized by feminist or LGBT+ communities are also sometimes subjected to threats of violence or come under actual attacks and are forced to be terminated prematurely. In our opinion, to make this situation better, the state must fulfill its positive obligation to protect the right to peaceful assembly in a more efficient and consistent manner. This includes both the effective policing measures, aimed at safeguarding the rights of the participants, and conducting fair investigations of the cases when violations or attacks did take place. Some attackers on participants in the 2017-2020 feminist marches have been identified, but so far no one has been suspected of committing crimes.

4. While advancing gender equality is not specifically our aim, we do pay attention to the relevant issues while monitoring peaceful assemblies. For example, we take into account the share of female police officers (additionally, there is a norm in Ukrainian legislation stating that normally, frisking should be conducted by an officer of the same sex). Moreover, we believe that attacks on the woman`s and girls` assemblies are often gender-motivated, so we support the initiatives to include gender-based or sexuality-based motives as ones allowing to determine a crime as a hate crime. Ultimately, the investigations and punishment of hate crimes, if done fairly and consistently, are expected to result in a decrease in the number of such crimes.

Additionally, with the support of international donors, the training programs aimed at promoting understanding of gender equality are organized for the police officers.

5 a) b) Our organization coordinates a civic initiative for monitoring peaceful assemblies. Monitoring the assemblies of women and girls belongs to our priorities due to the risks stemming from their inefficient protection by the Ukrainian police. If public order

maintenance measures are improper or the investigations of hate crimes – in the context of these assemblies – are ineffective, we undertake advocacy activities and contact the police to call for an internal investigation. Our organization also pays particular attention to the issue of correct qualification of such crimes as they often are qualified by the Ukrainian police as “hooliganism” (disorderly conduct or breach of the peace).

6.

a) The National Police reform after the 2014 Revolution of Dignity has been the most important step to improving the situation with women’s and girls’ assemblies facilitation. Although the measures taken did not truly result in a complete reform of the police, they helped to take the issue of freedom of peaceful assembly protection to a whole new level. As a positive development, we can mention the introduction of the “dialogue police” groups. The guiding principle of “dialogue policing” – as understood within the “Scandinavian approach” – is facilitation, i.e. the role of the police is to safeguard the rights of peaceful assembly participants rather than restrict them. In our opinion, this helps the police to establish a dialogue with the participants and understand their demands better. Actions of women in large cities (Lviv, Kyiv, Kharkiv) for the last 2 years are accompanied by mandatory involvement of the “dialogue police”.

Also, the UN Human Rights Monitoring Mission in Ukraine also has an important impact on promoting the freedom of peaceful assembly among girls and women.

b) Hundreds of women and men with various demands and posters on gender equality took part in the Women's March 2020. The participants of the March for Women want to make the state hear about their problems, ratify the Istanbul Convention and reduce the number of violent crimes, ensuring proper police response and protection of victims. All activists are women of all ages, social classes, sexual orientations, gender identities, skin colors, ethnicities and nationalities. They live in different social contexts and realities, but face sexism, discrimination and violence every day, which are called "traditional values". For the first time, an environmental column was present at the Women's March. The march also included a convoy of women on bicycles, noting that the city's budget is spent mainly on improving conditions for motorists, while most women walk or use public transport. Over the last three years, the number of participants in this march has increased: in 2018, 100 participants took part; in 2019, 600 participants took part; in 2020, 6,000 participants took part (according to OZON calculations).

c) One of the challenges faced by the feminist organizations in Ukraine is the risk of violence from hostile groups and individuals during the events held in a public space (assemblies, demonstrations, open lectures and exhibitions etc.). This can be remedied, first of all, by strengthening the state institutions of the law enforcement system. Moreover, the improvement of this system should also result in the improvement of the general situation with women’s rights, especially with regards to domestic violence.

Our organization, the Centre for Civil Liberties, is women-led; the majority of the staff and the volunteers are also women and girls. There are plenty of other women-led groups or organizations, including regional activist groups (such as Kharkiv-based “Women Association Sphere” or the Centre “Women’s Perspectives” in Lviv) as well as the branches of international organizations or all-Ukrainian organizations such as Amnesty International. The latest case of female-led political activism campaign is “The Spring on Granite”. Some of the former female Anti-Terrorist Operation participants also address the problem of women’s status at the front. There is also a plethora of female artist, journalists, researchers, grassroots activists, and bloggers advancing the feminist agenda in their respective spheres.