



# International Covenant on Civil and Political Rights

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## Human Rights Committee 127th session

### Summary record of the first part (public)\* of the 3678th meeting

Held at the Palais Wilson, Geneva, on Monday, 4 November 2019, at 10 a.m.

*Chair:* Mr. Fathalla

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*Draft report of the Special Rapporteur for follow-up to concluding observations*

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\* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.3678/Add.1.

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*The public part of the meeting was called to order at 10.05 a.m.*

### **Follow-up to concluding observations on State party reports**

*Draft report of the Special Rapporteur for follow-up to concluding observations*  
([CCPR/C/127/R.1](#), [CCPR/C/127/R.1/Add.1](#), [CCPR/C/127/R.1/Add.2](#),  
[CCPR/C/127/R.1/Add.3](#) and [CCPR/C/127/R.1/Add.4](#))

1. **The Chair**, noting that document [CCPR/C/127/R.1](#) contained a summary of the Committee's assessment criteria for follow-up to concluding observations, invited the Special Rapporteur for follow-up to concluding observations to present her report.

2. **Ms. Kran** (Special Rapporteur for follow-up to concluding observations) said that the draft report contained four addenda on follow-up to the concluding observations of Ghana ([CCPR/C/127/R.1/Add.1](#)), Pakistan ([CCPR/C/127/R.1/Add.2](#)), Azerbaijan ([CCPR/C/127/R.1/Add.3](#)) and Morocco ([CCPR/C/127/R.1/Add.4](#)).

#### *Ghana*

3. **Ms. Kran**, drawing attention to the proposed evaluation of the follow-up to the Committee's concluding observations on the initial report of Ghana ([CCPR/C/GHA/CO/1](#)), said that the three sets of recommendations that had been selected by the Committee for priority follow-up had been those presented in paragraph 18, on non-discrimination and harmful practices; paragraph 28, on persons with disabilities and psychiatric treatment; and paragraph 30, on conditions of detention and violence against inmates.

4. With regard to paragraph 18, she proposed assigning a B grade for the State party's follow-up on the recommendation on awareness-raising set forth in subparagraph 18 (a), since the Gender and Development Initiative had been introduced; more information was required in order to determine its usefulness, however, and information was also required on activities carried out by the Regional Child Protection Committees.

5. A grade of C was warranted for the follow-up to the recommendations made in subparagraphs (b) and (c) concerning the eradication and investigation of harmful traditional practices, since insufficient information on the hotline had been provided, including on whether it could be used for reporting harmful traditional practices, and no information had been furnished on the law introduced in 2017 on that subject or on victims' access to remedies, protection, rehabilitation and reintegration assistance.

6. **The Chair** said he took it that the Committee wished to approve the Special Rapporteur's proposals concerning the grading of the State party's responses to the recommendations made in paragraph 18.

7. *It was so decided.*

8. **Ms. Kran** said that paragraph 28 contained multiple recommendations regarding persons with disabilities and psychiatric treatment. She recommended issuing a C grade for the State party's follow-up on the recommendations in subparagraph 28 (a), since no information had been provided by the State party on the implementation of the Mental Health Act or on whether coordinators for the Community Mental Health Units and members of the Mental Health Authority Board had been appointed.

9. The response to subparagraph (b) deserved a B grade, since 16 mental health patients had been released and transferred from the Nyankumasi Prayer Camp to a psychiatric hospital, monitoring visits had been conducted in some of the prayer camps in 2017 and the Mental Health Authority had developed mental health care guidelines for traditional and faith-based healers, although no information had been provided regarding their application.

10. A grade of C was warranted for the response to the recommendations made in subparagraph 28 (c), since no information had been furnished on any prosecutions in relation to the prayer camps in the past two years, on any measures taken to investigate or prosecute abuses or compensate victims or on the establishment of the outstanding seven regional visiting committees.

11. Since no information had been forthcoming on any measures taken to implement the recommendations made in subparagraph 28 (d) on the prohibition of non-consensual psychiatric treatment, on the content of the draft policy for hospitals or on the timeline for its adoption, the response to those recommendations equally deserved a C grade, as did the response to the recommendation made in subparagraph 28 (e), since no information had been received.

12. **The Chair** said he took it that the Committee wished to approve the Special Rapporteur's proposals concerning the grading of the State party's responses to the recommendations set out in paragraph 28.

13. *It was so decided.*

14. **Ms. Kran** said that she recommended issuing a C grade for the State party's follow-up on the recommendations made in paragraph 30 concerning efforts to improve conditions of detention and address violence among inmates, since information had not been furnished on the content of a recent bill and proposed policy on non-custodial sentences or on the timelines for their adoption. Information was also still lacking on steps taken to address prison overcrowding and to improve prison conditions. A grade of B was recommended for the State party's follow-up on the recommendation to establish national mechanisms for the prevention of torture and for receiving and processing detainees' complaints, since, although the Committee welcomed the work being done to convert the Commission on Human Rights and Administrative Justice into a national preventive mechanism, further information was required in that connection and regarding any steps taken to establish a mechanism for the receipt and processing of complaints. The Committee welcomed the fact that prisoners were now being separated by age, sex and custodial status, but was concerned by reports that juveniles suspected of falsifying their age were being placed in prisons for adults.

15. The recommended action in respect of the State party was to discontinue the follow-up procedure and to request that the missing information should be included in the State party's next periodic report.

16. **Mr. Shany** said that, in his view, the evaluations were on the whole well considered. However, he believed that, instead of the C grade proposed for the follow-up on measures taken to improve conditions of detention and address the problem of violence among inmates, a B grade would be more appropriate, since the bill and policy on non-custodial penalties constituted a significant step forward in reducing prison overcrowding.

17. **Ms. Sancin** said that, in view of the additional information that had recently been provided on the separation of prisoners by age, sex and custodial status, she felt that a B grade was warranted, notwithstanding the Committee's concern regarding reports that juveniles suspected of falsifying their age were being placed in prisons for adults.

18. **Ms. Tigroudja** said that she agreed with Mr. Shany that the follow-up on measures aimed at improving conditions of detention and addressing intra-inmate violence deserved a B rather than a C grade.

19. **The Chair** said he took it that the Committee wished to change its assessment of the follow-up on measures to improve conditions of detention and address the problem of violence among inmates to a grade of B.

20. *It was so decided.*

21. **The Chair** said he took it that the Committee approved of the Special Rapporteur's proposal to give a B grade for the State party's follow-up to the recommendation on the establishment of a national mechanism for the prevention of torture and a mechanism for receiving and processing detainees' complaints.

22. *It was so decided.*

23. **The Chair** said he took it that the Committee also wished to approve the Special Rapporteur's proposal that the follow-up procedure should be discontinued and to request that the State party should include the missing information in its forthcoming periodic report.

24. *It was so decided.*

*Pakistan*

25. **Ms. Kran**, drawing attention to the proposed evaluation of the follow-up to the Committee's concluding observations on the initial report of Pakistan ([CCPR/C/PAK/CO/1](#)), said that the three sets of recommendations that had been selected by the Committee for priority follow-up had been those presented in paragraph 18, regarding the death penalty; paragraph 20, on enforced disappearance and extrajudicial killings; and paragraph 34, on freedom of religion, conscience and belief.

26. With regard to the recommendations made in subparagraph 18 (a), she recommended issuing a C grade, since no information had been provided on actual steps taken to narrow the scope of the death penalty to serious crimes involving intentional killing, on the number of pardons granted by the President or on whether pardons and the commutation of sentences could be issued irrespective of the type of crime involved. In addition, some 59 prisoners had been executed on the basis of sentences handed down by military courts.

27. She proposed assigning a B grade for the State party's follow-up on the recommendations in subparagraph 18 (b), since the State party had provided information on the prohibition of the death sentence for persons under the age of 18 and had promulgated the Juvenile Justice System Act in 2018, which provided for an age determination process. Information had not been provided on the number of persons still on death row for crimes that they had committed while under the age of 18, on the number of stays granted to such persons, on the application of the Justice Act or on the implementation of the age determination process.

28. A grade of C was recommended for follow-up on the recommendations set out in subparagraphs (c), (d) and (e), since no information had been provided on measures taken to prevent the execution or the imposition of the death penalty on persons with intellectual or psychosocial disabilities, on the alignment of the State's execution protocol with international standards or on the availability of legal and consular services to Pakistani migrant workers sentenced to death overseas.

29. **Mr. Zyberi** said that, with regard to subparagraphs (c), (d) and (e), a grade of D would perhaps be more appropriate, since the fact that no information whatsoever had been received amounted to a lack of cooperation on the part of the State party. Regarding subparagraphs (a) and (b), he would be in favour of a B grade.

30. **Mr. Heyns** said that the Committee should perhaps be more nuanced in its response to the situation in the State party in order to recognize the changes that had been made. The number of executions in Pakistan had decreased significantly since 2016. The information received from Justice Project Pakistan should be taken into consideration, even if the State party had not provided information on each of the items. Regarding subparagraph 18 (a), the mandate of the military courts had expired in March 2019, which represented some progress. Regarding subparagraph 18 (c), although the State had provided no information, Justice Project Pakistan had reported that it was conducting a study, in conjunction with the Ministry of Law and Justice, on the revision of the prison rules regarding the treatment of mentally ill prisoners. He therefore wondered whether the Committee should not recognize that some level of progress had been made. In view of the fact that the recommendation made in subparagraph 18 (d) concerning the country's execution protocol was rather vague in nature and that the Ministry of Law and Justice had formed a working group to review the State party's prison rules, the proposed grade was perhaps not appropriate. For all three subparagraphs, he would therefore be in favour of revising the C grade upward.

31. With regard to subparagraph 18 (b), concerning the application of the death penalty to persons under the age of 18, the summary of the State party's reply in the follow-up report ([CCPR/C/127/R.1/Add.2](#)) stated that the Juvenile Justice System Act had been promulgated. In the section that immediately followed, there was an assertion by Justice Project Pakistan that the Act did not accord the benefit of the doubt to minors in the event of conflicting or inconclusive evidence. Those paragraphs were inconsistent, and it was therefore not clear, taking into consideration the comments on the age determination process in the Committee's evaluation of the follow-up to those recommendations, whether the burden of proof concerning a defendant's age had been shifted to the prosecution. He would appreciate clarification from the Special Rapporteur.

32. **Ms. Kran** said that she could perhaps add new language to reflect those inconsistencies more clearly in the text. She was unable to say whether the information from the State party or from the non-governmental organization (NGO) was the most accurate. With regard to the comments by Mr. Heyns in relation to subparagraphs 18 (a), (c) and (d), she felt that his points were well taken, but they concerned process-oriented advances, and she was not certain that steps such as setting up a working group constituted real progress, given the broad thrust of the Committee's concluding observations; she would be grateful to hear the views of other Committee members in that regard. While she believed the C grade was appropriate, she would be willing to consider raising it to a B grade for one or two of the sets of recommendations in order to encourage further change by the State party if the Committee so wished.

33. **Mr. Zyberi** said that, given the seriousness and urgency of the issues raised by the Committee in its concluding observations, he would be inclined to support the grades proposed by the Special Rapporteur.

34. **The Chair** said that the discussion might proceed more quickly if the Committee knew whether the information from the NGO had been received before or after the State party had provided its information and, if the former, whether the Government had had time to review that information.

35. **Ms. Kran** said that the information from the NGO was more recent than the information received from the State party.

36. **The Chair** said that, since the information from the NGO was the most recent information available, it was important to take it into consideration.

37. **Mr. Heyns** said that he shared the reservations expressed by Ms. Kran and Mr. Zyberi relating to process-oriented measures such as the establishment of a working group because it remained to be seen how the State party would implement the measures in question. In relation to subparagraph 18 (a), the fact that the mandate of the military courts had expired in March 2019 represented a concrete change to which the Committee should give some recognition.

38. **Ms. Kran** said that she considered the proposal to give a B grade for follow-up to subparagraph 18 (a) to be a logical course of action. Taking into account the information from the NGO on the way in which the Juvenile Justice System Act was being applied, the follow-up on subparagraph 18 (b) warranted a C grade. She proposed that the C grade in connection with the other subparagraphs should remain unchanged.

39. **The Chair** said he took it that the Committee members agreed with the Special Rapporteur's proposal to assign a B grade to subparagraph 18 (a) and a C grade to subparagraphs 18 (b), (c), (d) and (e).

40. *It was so decided.*

41. **Ms. Kran** said that she recommended giving a C grade to the State party's follow-up to the recommendations set out in paragraph 20 concerning action to be taken to combat the problems of enforced disappearance and extrajudicial killings.

42. **The Chair** said he took it that the Committee agreed with Ms. Kran's proposal of a C grade.

43. *It was so decided.*

44. **Ms. Kran** said that she proposed two separate grades for the follow-up to the recommendations on freedom of religion, conscience and belief set out in paragraph 34: a grade of C for the follow-up to subparagraphs 34 (a), (b), (c), (d) and (f), and a grade of B in respect of subparagraph 34 (e). In the case of the recommendations in subparagraph (a), steps had been taken to identify flaws in the blasphemy laws, but information had not been provided on the related consultation process or on any steps taken to repeal or amend those laws since the issuance of the concluding observations. In the case of subparagraphs (b) and (d), no information had been provided on any steps taken since the concluding observations had been issued, and no relevant information at all had been provided in relation to the recommendations in subparagraphs (c) or (f). Concrete action had been taken in respect of

subparagraph (e), with the introduction of new curricula, but the Committee still required information on the removal of biased religious material from textbooks and on whether the new curricula were actually being used in the madrasas.

45. **Mr. Zyberi** said that he proposed assigning a D grade for the follow-up to the recommendations made in subparagraph (c), given that the Committee had not received any information from the State party.

46. **Mr. Koita** said that, with respect to action pursuant to subparagraph (b), he believed a B grade would be far more appropriate in view of the case law cited by the State party, which provided protection for persons accused of blasphemy, and the fact that there had been a steep reduction or even a complete discontinuation of executions for that offence. While that did not amount to a full and comprehensive legislative solution, the State party's efforts to move in the right direction should be acknowledged and encouraged. The information from the NGO was not exhaustive enough to support the idea that the State party's information was inaccurate.

47. **Ms. Kran** said that her proposal in respect of subparagraph (c) was to assign a C grade, rather than the D grade suggested by Mr. Zyberi, because, the State party had indeed provided some information that was loosely related to the issue addressed in that subparagraph, although that information was not germane enough to be satisfactory. With regard to subparagraph (b), while she agreed with Mr. Koita that it was helpful to assign grades that had the effect of motivating States parties to make further progress towards taking the actions recommended by the Committee, she was of the opinion that, when what had been done to date was viewed within the context of what needed to be done, it still warranted a C grade.

48. **The Chair** said he took it that the Committee members agreed with the Special Rapporteur's proposal to assign a grade of C to the State party's follow-up to the recommendations made in subparagraphs 34 (a), (b), (c), (d) and (f) and a grade of B in respect of subparagraph 34 (e).

49. *It was so decided.*

50. **The Chair** said he took it that the Committee also wished to approve the Special Rapporteur's proposal that the follow-up procedure should be discontinued and to request that the State party should include the missing information in its forthcoming periodic report.

51. *It was so decided.*

#### *Azerbaijan*

52. **Ms. Kran**, drawing attention to the proposed evaluation of the follow-up to the Committee's concluding observations on the fourth periodic report of Azerbaijan (CCPR/C/AZE/CO/4), said that the three sets of recommendations that had been selected by the Committee for priority follow-up had been those presented in paragraph 19, on torture and ill-treatment; paragraph 29, on the independence and safety of lawyers; and paragraph 37, on freedom of expression. She recommended that a C grade should be given for the State party's follow-up to the recommendations made in paragraph 19.

53. **Mr. Santos Pais** said that he would favour a B grade for both subparagraphs, or at least a request for further information. In relation to the issues raised in subparagraph 19 (a), the State party had indicated that complaints were registered with the Department of Supervision of Investigation of the General Prosecutor's Office, which was apparently an independent body, so it was unclear to him how it could be asserted that torture allegations were not investigated by an independent and impartial body. In addition, the fact that 46 State employees were facing either disciplinary or criminal sanctions attested to a clear tendency to hold perpetrators of torture or abuses to account. In respect of subparagraph 19 (b), it had been reported that 198 visits to temporary detention centres had uncovered no cases of torture. He also considered it significant that the State party had been conducting joint training activities with the International Committee of the Red Cross.

54. **Mr. Shany** said that, while he agreed with Mr. Santos Pais that the information did suggest partial implementation in terms of both investigations and training, the information provided on follow-up did not cover any action taken in either 2017 or 2018. If there was any

additional information about the order of the President dated 10 February 2017 which demonstrated that it was specifically intended to prevent torture, then he would support Mr. Santos Pais's proposal to issue a B grade in respect of subparagraph (a); if there was not, then he would support the Special Rapporteur's proposal.

55. **Ms. Kran** said that the State party had indeed simply repeated information that it had provided earlier, and the visits to which Mr. Santos Pais had referred had taken place before the concluding observations had been issued. Accordingly, she proposed that the grade for follow-up with respect to paragraph 19 should remain a C. The presidential order to which Mr. Shany had focused on the strict application of the law on detention and the use of alternative punishments.

56. **The Chair** said he took it that the Committee agreed to assign a C grade to the follow-up on the recommendations set out in paragraph 19.

57. *It was so decided.*

58. **Ms. Kran** said that she proposed giving a grade of C for the State party's response to the recommendations made in paragraph 29.

59. **Mr. Santos Pais** said that he wondered whether there had been any change in Azerbaijani law on the subject of lawyers, or whether the country's legislation was the same as it had been at the time of the dialogue with the State party's delegation.

60. **Ms. Kran** said that the State party's reply referred to the long-established principles of the Azerbaijan Bar Association and the law regulating the right to have access to the services of a lawyer, neither of which was new.

61. **The Chair** said he took it that the Committee was in favour of assigning a C grade for the follow-up to paragraph 29.

62. *It was so decided.*

63. **Ms. Kran** said that she proposed that a C grade should be assigned to the State party's response to the recommendations made in paragraph 37 because no relevant information had been provided.

64. **The Chair** said he took it that the Committee agreed with the Special Rapporteur's proposal.

65. *It was so decided.*

66. **The Chair** said he took it that the Committee also wished to approve the Special Rapporteur's proposal that the follow-up procedure should be discontinued and that the State party should be asked to include the missing information in its forthcoming periodic report.

67. *It was so decided.*

#### *Morocco*

68. **Ms. Kran**, referring to the proposed evaluation of the follow-up to the Committee's concluding observations on the sixth periodic report of Morocco ([CCPR/C/MAR/CO/6](#)), said that the three sets of recommendations that had been selected by the Committee for priority follow-up had been those presented in paragraph 18, on counter-terrorism; paragraph 24, on the prohibition of torture and ill-treatment; and paragraph 42, on freedom of association and the activities of human rights defenders. She recommended assigning a C grade for the State party's follow-up to paragraph 18. No submissions had been received from NGOs.

69. **Mr. Koita**, supported by **Mr. Santos Pais** and **Mr. Ben Achour**, said that the Special Rapporteur's assessment seemed somewhat harsh, since it did not take into account the situation in Morocco or the efforts that the State party had made with regard to counter-terrorism, which were significant. A grade offering encouragement to the State party, such as a B grade, seemed more appropriate in the context.

70. **Ms. Kran** said that it was difficult to ascertain what actions had been taken prior to the interactive dialogue and what measures had been taken since then. However, the Committee had known that the draft revised Criminal Code had contained a provision on the

use of police custody registers before issuing its concluding observations at the 118th session in November 2016. She would therefore prefer to retain the C grade for the response to the recommendations set forth in paragraph 18.

71. It was unclear whether the information that had been provided concerning the new chapter in the Criminal Code dealing with acts linked to terrorist training camps, propaganda, incitement and the promotion of terrorist entities or organizations was new or simply reflected measures that had been undertaken earlier. Tangible evidence would be required to justify an upgrade, and no such evidence was available.

72. **Mr. Santos Pais** said that he would like to know whether the information concerning the bill to amend the Criminal Code and the Code of Criminal Procedure had been provided in the replies to the list of issues. If it had been provided afterward, it could be regarded as grounds for a B grade.

73. **Ms. Sancin** said that information provided by NGOs indicated that the bill had been drafted in 2015 and submitted to the House of Representatives in 2016, prior to the State party's dialogue with the Committee and the publication of the concluding observations in November 2016. She would therefore prefer to retain the C grade.

74. **Mr. Koita** said that, in his view, the date on which the bill had been drafted was not important. The bill reflected an endeavour to modernize the country's criminal legislation and its prison system, and the Committee should encourage the State party to expedite its enactment.

75. **Mr. Santos Pais** said that bills on criminal legislation normally took several years to enact.

76. **Ms. Kran** said that, while she agreed that it was important to offer encouragement to the State party, it was also essential to adopt an even-handed approach in relation to all States parties in the assessment of their follow-up. She proposed stating that the Committee welcomed the developments that had been reiterated in the State party's replies, but retaining the C grade.

77. **The Chair** said he took it that the Committee agreed to retain the grade of C proposed by the Special Rapporteur.

78. *It was so decided.*

79. **Ms. Kran** said that she proposed an A grade for the State party's follow-up to the recommendations made in subparagraph 24 (e), since a law had been enacted in 2018 that designated the National Council of Human Rights as the national preventive mechanism, and the Council had organized awareness-raising sessions on law enforcement. However, she proposed a C grade for follow-up to the recommendations in subparagraphs 24 (a), (b), (c) and (d). There was no indication as to whether the measures taken by the Royal Gendarmerie had been implemented before or after the concluding observations. No information had been provided on measures to investigate alleged acts of torture or to prosecute the perpetrators, and no timeline had been set for the adoption of the draft Criminal Code. The Committee was unable to evaluate the bill on forensic medicine, since no information had been provided on its content. No new information had been provided on the matters dealt with in subparagraphs (c) and (d) either.

80. **The Chair** said he took it that the Committee agreed to assign a C grade in relation to subparagraphs 24 (a) through (d) and an A grade for the follow-up to the recommendations set forth in subparagraph (e).

81. *It was so decided.*

82. **Ms. Kran** said that she considered that a grade of C would be appropriate for the State party's follow-up on the recommendations made in paragraph 42, since no information had been provided on the dissolution of associations and the declaratory regime for associations and, although a code of associative life was being developed, the Committee had received no information regarding its content and was therefore unable to assess its conformity with the Covenant. No new information had been provided on human rights defenders either.

83. **The Chair** said he took it that the Committee agreed to assign a C grade with regard to the recommendations made in paragraph 42.

84. *It was so decided.*

85. *The draft report of the Special Rapporteur on follow-up to the concluding observations as a whole, as amended, was adopted.*

*The public part of the meeting rose at 11.45 a.m.*