



# International Covenant on Civil and Political Rights

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## Human Rights Committee 129th session

### Summary record of the first part (public)\* of the 3733rd meeting\*\*

Held via videoconference on Thursday, 23 July 2020, at 4 p.m. Central European Time

Chair: Mr. Fathalla

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*Draft general comment No. 37 on article 21 of the Covenant (Right of peaceful assembly) (continued)*

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\* The summary record of the second part (closed) of the meeting appears as document [CCPR/C/SR.3733/Add.1](#).

\*\* No summary record was issued for the 3732nd meeting.

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*The meeting was called to order at 4.05 p.m.*

**Organizational and other matters, including the adoption of the report of the Working Group on Communications** *(continued)*

*Draft general comment No. 37 on article 21 of the Covenant (Right of peaceful assembly) (continued) (CCPR/C/GC/R.37)*

1. **The Chair** invited the Rapporteur to present the final version of the text of general comment No. 37 on article 21 of the Covenant (Right of peaceful assembly), which had been distributed to members as a document without a symbol.
2. **Mr. Heyns** (Rapporteur for the general comment) said that the final text contained all the paragraphs adopted by the Committee. He had made a number of editorial amendments in order to clarify certain points and reduce the overall word count, which was currently just under the established limit of 10,700 words.
3. **Mr. Zyberi** said that the first section did not contain a reference to article 5 of the Covenant, which stipulated that nothing in the Covenant should be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized in its provisions. In that connection, he recalled that attempts by States to foment civil unrest in other States often had devastating consequences. It was noteworthy that the Committee had not chosen to include language such as that used in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, for example.
4. **Mr. Shany** said that the Committee had limited experience of applying article 5 of the Covenant and, to his knowledge, had never before applied that article in conjunction with the right of peaceful assembly. Moreover, States often made claims of foreign interference and advanced arguments based on article 5 of the Covenant in order to justify violations of the right of peaceful assembly. In his view, the Committee would need to accumulate a greater body of relevant practice before addressing such issues in a draft general comment, although they certainly warranted further discussion.
5. **Mr. Ben Achour** said that the Committee should not reopen the discussion on issues of substance, as all the paragraphs of the draft had already been adopted.
6. **Mr. Heyns** said that the protection of the essence of the right of peaceful assembly and the relationship between that right and other rights were both addressed in the draft.
7. **Ms. Pazartzis** said she wished it to be noted that, during the Committee's discussion of the draft general comment, she had suggested moving paragraphs 96 and 97 to the following section of the draft, on "other legal regimes". Paragraph 96 addressed the question of non-derogability, which was applicable to the Covenant as a whole, and paragraph 97 addressed issues of international humanitarian law.
8. **Mr. Heyns** said that, while he had understood the rationale behind Ms. Pazartzis's suggestion, it was his view that the paragraphs as drafted followed a logical sequence. Sections 6 and 7 both dealt with the problem of violence. Their constituent paragraphs addressed various scenarios of increasing severity, culminating, in section 7, in the worst-case scenario, namely widespread violence. In such a scenario, the question of derogations from the rights enshrined in the Covenant and issues of international humanitarian law would come into play. Section 8 dealt with the more technical question of the relationship between the right of peaceful assembly and the other rights enshrined in the Covenant. Ultimately, the question of whether to place paragraphs 96 and 97 in a dedicated section or in section 8, on the relationship between article 21 and other provisions of the Covenant and other legal regimes, was not of great consequence.
9. **Ms. Pazartzis** said that the title of section 8, namely "Relationship between article 21 and other provisions of the Covenant and other legal regimes", seemed inappropriate in view of the fact that it contained only one reference to other legal regimes, in paragraph 102. Moreover, that reference was very general in nature.
10. **Mr. Shany** said that the title of section 8 should not refer only to the rights enshrined in the Covenant. Reference was made in paragraph 101 to "the rights and freedoms of others". Recalling that the text of section 8 had originally included a reference

to economic, social and cultural rights, he proposed that the words “other legal regimes” in the title of the section should be replaced with “other norms of international law”.

11. **Mr. Heyns** said that, in view of the references to other legal regimes in paragraphs 98, 101 and 102, he would prefer to retain the current title of section 8. In addition, the Committee had used the same title for the last section of its general comment No. 36 on article 6 of the Covenant (Right to life).

12. *Draft general comment No. 37 on article 21 of the Covenant (Right of peaceful assembly), as a whole, was adopted, subject to the proposed editorial amendments.*

13. **Mr. Shany** said that he wished to thank Mr. Heyns for his exceptional work as Rapporteur for the general comment. The Rapporteur had drafted the general comment with great diligence and professionalism and had taken a highly innovative and inclusive approach, involving workshops and seminars in various cities. The Committee could take pride in the fact that, in less than ideal conditions, it had succeeded in producing a document of enormous contemporary relevance. He also wished to thank the Chair for his leadership, which had allowed the Committee to make rapid progress, and the other members of the Committee for their insightful contributions to the discussion.

14. **The Chair** said that he wished to thank States parties and civil society for their contributions to the Committee’s discussion.

15. **Mr. Heyns** said that it had been a great privilege to be entrusted with the task of addressing one of the most important issues of the time. General comments had a huge influence on how human rights norms were seen both internationally and domestically, and he was proud to be part of that tradition. He thanked members and the secretariat for their help and cooperation, and the language and technical staff who had made it possible to work via videoconference.

16. **Mr. Quezada Cabrera** said that he wished to commend the Rapporteur on his extensive work on the general comment, the adoption of which constituted a major achievement and was extremely timely for the entire world and for his region – Latin America and the Caribbean – in particular.

17. **Mr. Ben Achour** said that he too was grateful to the Rapporteur for the monumental work he had done, above all during the current session, in the conditions imposed by the coronavirus disease (COVID-19) pandemic. He was delighted with the result and pleased that the Committee had risen to meet such a challenge. Regarding the methods of work, he said that the availability of the drafts of the general comment in only one language had been frustrating, as it had obliged him to work in English. The translation of the general comment into the five other official languages would require close monitoring, as the text was particularly sensitive owing to the subject covered; moreover, it was replete with linguistic pitfalls. He therefore proposed that the Bureau should consider establishing a team or a rapporteur to review the translation of the general comment.

18. **The Chair**, noting that members had previously suggested that the Committee might review the forthcoming translations of the general comment, said that he hoped such a review could be arranged; he suggested that the Committee might examine the related modalities as part of its discussion on methods of work.

19. **Ms. Abdo Rocholl** said that she wished to convey her congratulations to the Committee members and the secretariat on their achievement and specifically to the Rapporteur for the considerable work that he had done between sessions to ensure the successful adoption of the general comment, including by making arrangements for Spanish translations, thereby allowing Spanish-speaking Governments and civil society organizations to make contributions.

20. **The Chair** said he hoped that the translation of the general comment would be done swiftly, as having the text in all languages would be particularly useful for the Committee’s constructive dialogues with States parties during the consideration of periodic reports.

21. **Ms. Tigroudja** said that the adoption of the general comment had been an exceptional intellectual adventure, especially given the conditions imposed by the COVID-19 pandemic, during which the Rapporteur and all the members had demonstrated their strong commitment to the Committee’s work. She was particularly pleased with the

leadership that the Committee had shown by including specific paragraphs on discrimination, notification regimes and the use of force.

22. **Ms. Kran** said that she would like to thank the Rapporteur for his tremendous work, as well as the numerous stakeholders who had provided input for the draft general comment, thus ensuring that it adequately responded to the challenges of the day. She had particularly appreciated the inclusive methodology used in preparing the draft, which had, inter alia, allowed for a better understanding of the concerns about peaceful assembly and situations throughout Latin America. Rights holders were increasingly holding peaceful assemblies to advocate for respect of their rights. The final version of the general comment presented balanced, realistic guidance for States that she hoped would be followed in practice across the globe.

23. **Mr. Zyberi** said that he wished to thank the Rapporteur, the members, the Bureau and the secretariat for their contributions towards the adoption of the general comment. The general comment was also a credit to the long-standing work of the Committee and it represented a modest contribution to the development of human rights law. The relevance of the Committee's work had been evident from the strong engagement of States and civil society alike in the drafting process. He also wished to commend the leadership shown by Mr. Heyns and the Chair and the support shown by Committee members in spite of the difficulties encountered owing to the COVID-19 pandemic and the need to work online.

24. **Mr. Zimmermann** said that he felt extremely privileged to be able to attend the adoption of the general comment and commended the Rapporteur for his knowledge of the subject matter and his skilful management of the drafting and adoption procedure. He hoped that the States parties would read and make good use of the general comment.

25. **Mr. Santos Pais** said that he greatly admired the immense work that the Rapporteur had done to ensure that the Committee could adopt the general comment even in the present difficult conditions.

*The public part of the meeting rose at 5.15 p.m.*