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Summary record of the 3712th meeting

Held via videoconference on Thursday, 2 July 2020, at 4 p.m. Central European Time

Chair: Mr. Fathalla

Contents

Follow-up to concluding observations on State party reports

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)*

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The meeting was called to order at 4.30 p.m.

Follow-up to concluding observations on State party reports

Draft report of the Special Rapporteur for follow-up to concluding observations
([CCPR/C/128/R.1](#), [CCPR/C/128/R.1/Add.1](#), [CCPR/C/128/R.1/Add.2](#),
[CCPR/C/128/R.1/Add.3](#) and [CCPR/C/128/R.1/Add.4](#))

1. **The Chair**, recalling that the Committee's 128th session had been suspended on account of the coronavirus disease (COVID-19) pandemic, invited the Special Rapporteur for follow-up to concluding observations to present the draft report that the Committee had been due to consider at that session.

2. **Ms. Kran** (Special Rapporteur for follow-up to concluding observations) said that her draft report contained four addenda on follow-up to the concluding observations of Colombia ([CCPR/C/128/R.1/Add.1](#)), Slovenia ([CCPR/C/128/R.1/Add.2](#)), Poland ([CCPR/C/128/R.1/Add.3](#)) and Costa Rica ([CCPR/C/128/R.1/Add.4](#)), respectively. At the outset, she wished to note that it was difficult to evaluate information on follow-up to concluding observations when States parties failed to indicate in their follow-up reports whether the measures described had been taken before or after the adoption of the relevant concluding observations. She hoped that, in future, States parties would specify the dates of any reforms carried out.

Colombia

3. **Ms. Kran**, drawing attention to the proposed evaluation of the information on follow-up to the Committee's concluding observations on the seventh periodic report of Colombia ([CCPR/C/COL/CO/7](#)), said that the three sets of recommendations that had been selected by the Committee for priority follow-up had been those presented in paragraph 9, on internal armed conflict; paragraph 29, on conditions of detention; and paragraph 39, on alleged acts of intimidation, threats or attacks targeting human rights defenders, journalists, trade unionists, judicial officials, lawyers or social or human rights activists.

4. She proposed that the Committee should award a B grade for the State party's follow-up to paragraph 9 and request further information on a number of subjects, including steps taken to facilitate the adoption of the Ombudsman's recommendations. The Committee should seek a response to the allegation that the rate of impunity for human rights violations remained close to 90 per cent and should express regret at the lack of disaggregated information provided on measures taken to protect vulnerable persons and communities.

5. She proposed that the State party's follow-up to paragraph 29 warranted a B grade. She recommended that the Committee should welcome the various improvements that had been reported, such as the decrease in prison overcrowding, and request further information on issues such as prison occupancy rates and the number of cases of torture and ill-treatment in places of detention that had been investigated and prosecuted.

6. She also recommended awarding a B grade for the State party's response to paragraph 39. She proposed that the Committee should note the establishment of several institutions that were intended to protect human rights defenders and request information on their impact. She also proposed that the Committee should ask the State party to respond to the claim that there had been an increase in attacks on human rights defenders since the signing of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace. Overall, she recommended that the follow-up procedure should be discontinued and that the State party should be asked to include the requested information in its next periodic report.

7. **The Chair** said he took it that the Committee agreed with the Special Rapporteur's proposal to assign a grade of B to the State party's follow-up on the recommendations made in paragraphs 9, 29 and 39.

8. *It was so decided.*

9. **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 requested information in its next periodic report.

10. *It was so decided.*

Poland

11. **Ms. Kran**, drawing attention to the proposed evaluation of the information on follow-up to the Committee's concluding observations on the seventh periodic report of Poland ([CCPR/C/POL/CO/7](#)), said that the three sets of recommendations that had been selected by the Committee for priority follow-up had been those presented in paragraph 8, on the constitutional and legal framework within which the Covenant was implemented; paragraph 24, on voluntary termination of pregnancy; and paragraph 32, on the rights of aliens.

12. With respect to the State party's follow-up to paragraphs 8 and 24, she proposed that the Committee should assign a C grade in both cases and reiterate the recommendations made in those paragraphs, on the grounds that the State party had failed to provide any new information. Similarly, when it came to the State party's response to paragraph 32, she recommended that the Committee should assign a C grade and reiterate the recommendations made in that paragraph, since the State party had not provided any new information in connection with subparagraphs (b) or (c). She proposed requesting additional information in relation to subparagraph (a), including statistics on the number of asylum seekers and migrants in detention.

13. Overall, she recommended that the follow-up procedure should be discontinued and that the State party should be asked to include the requested information in its next periodic report.

14. **The Chair** said he took it that the Committee agreed with the Special Rapporteur's proposal to assign a grade of C to the State party's follow-up on the recommendations made in paragraphs 8, 24 and 32.

15. *It was so decided.*

16. **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 requested information in its next periodic report.

17. *It was so decided.*

18. **Mr. Shany** said that, in his view, information provided by non-governmental organizations (NGOs) should not be included in the report of the Special Rapporteur for follow-up to concluding observations unless it offered a perspective distinct from that of the State party or had influenced the Committee's evaluation in some other way. The addendum under consideration included information provided by an NGO, but that information served to support the State party's position.

19. **Ms. Kran** said that NGO submissions usually provided an alternative viewpoint that helped the Committee to assign the appropriate grades. In the case of Poland, the information contained in the NGO submission had confirmed the information provided by the Government. The Committee might wish to discuss the matter further in the context of its methods of work.

Costa Rica

20. **Ms. Kran**, drawing attention to the proposed evaluation of the information on follow-up to the Committee's concluding observations on the sixth periodic report of Costa Rica ([CCPR/C/CRI/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 10, on non-discrimination; paragraph 18, on abortion; and paragraph 42, on rights of members of indigenous peoples.

21. With regard to paragraph 10, she recommended assigning a B grade, as the State party had carried out relevant awareness-raising campaigns and had ratified the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance. In addition, she recommended that the Committee should request information on two relevant files that were currently before the legislature; the measures taken by the State party to expedite the adoption of a law on the prevention and punishment of all forms of discrimination; and the National Integration Plan.

22. She recommended assigning a C grade to the State party's follow-up on the recommendations presented in paragraph 18, as no information had been provided on legislative initiatives to expand the grounds for the voluntary termination of pregnancy. Moreover, the Committee had not received any information relating to subparagraphs (c) to (e). With reference to the information provided in the State party's follow-up reply, she recommended that the Committee should request additional information on the technical standard that was being developed to regulate the scope of article 121 of the Criminal Code. In addition, the Committee should request information on measures taken to ensure that cases of violence against women in health facilities were thoroughly investigated, that perpetrators were brought to justice and that remedies were provided to victims.

23. With regard to paragraph 42, she recommended two separate grades. She proposed that the Committee should assign a B grade for follow-up on the recommendations presented in subparagraphs (a) and (b) and request information on whether the mechanism established for consultation with indigenous peoples was binding on all State institutions and on private enterprises. She also recommended that the Committee should request information on the withdrawal of the bill on the autonomous development of indigenous peoples and on the authorization granted to the Ministry of Justice and Peace to carry out consultations. She recommended a C grade for follow-up on the recommendations presented in paragraph 42 (c) and (d), as, although the State party had provided information on the National Plan for the Recovery of Indigenous Territories, it was unclear when the Plan would be implemented and what measures had been taken to guarantee the right of indigenous peoples to their traditional lands. The Committee should reiterate its recommendation regarding the recovery of inalienable lands and request information on attacks carried out against indigenous persons during the land recovery process. Overall, she recommended that the follow-up procedure should be discontinued and that the State party should be asked to include the requested information in its next periodic report.

24. **The Chair** said he took it that the Committee agreed with the Special Rapporteur's proposal to assign a grade of B to the State party's follow-up on the recommendations made in paragraph 10 and paragraph 42 (a) and (b) and a grade of C in respect of paragraph 18 and paragraph 42 (c) and (d).

25. *It was so decided.*

26. **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 requested information in its next periodic report.

27. *It was so decided.*

Slovenia

28. **Ms. Kran**, drawing attention to the proposed evaluation of the information on follow-up to the Committee's concluding observations on the third periodic report of Slovenia (CCPR/C/SVN/CO/3), said that the three sets of recommendations that had been selected by the Committee for priority follow-up had been those presented in paragraph 8, on racism and xenophobia, including hate speech; paragraph 16, on asylum seekers, migrants and refugees; and paragraph 20, on persons in vulnerable situations in the migration flow. Ms. Sancin, a national of the State party, had not been involved in the preparation of the evaluation under consideration.

29. With regard to paragraph 8, she recommended assigning a grade of A in respect of subparagraph (a), as the State party had established the Advocate of the Principle of Equality in accordance with the Protection against Discrimination Act. In respect of subparagraphs (b) to (d), she recommended that the Committee should assign a grade of C and reiterate its recommendations, as no information had been provided on the adoption of a strategy on the prevention and elimination of discrimination; on the steps taken to provide legal remedies to victims of discrimination; or on relevant measures taken since the adoption of the Media Act.

30. She recommended assigning a C grade to the State party's follow-up on the recommendations presented in paragraph 16, as no new information had been provided under any of the subparagraphs.

31. She proposed that the Committee should award a C grade for follow-up on the recommendations set out in paragraph 20, as no information had been provided on several important matters relating to the protection of persons in vulnerable situations in the migration flow. Overall, she recommended that the follow-up procedure should be discontinued and that the State party should be asked to include the requested information in its next periodic report.

32. **The Chair** said he took it that the Committee agreed with the Special Rapporteur's proposal to assign a grade of A to the State party's follow-up on the recommendation made in paragraph 8 (a) and a grade of C in respect of paragraph 8 (b) to (d), paragraph 16 and paragraph 20.

33. *It was so decided.*

34. **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 requested information in its next periodic report.

35. *It was so decided.*

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

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)

37. **The Chair** invited the Committee to resume its second reading of draft general comment No. 37 on article 21 of the Covenant (Right of peaceful assembly).

38. **Mr. Heyns** (Rapporteur for the general comment) said that, while members of the Committee were welcome to submit their comments and suggestions in writing, either by email or via the chat function on the online platform, it would be useful if they could limit the length of their contributions, to the extent possible. He would prefer not to reopen the discussion on paragraphs that had already been adopted unless new elements had come to light. He thanked the members of the Committee for their continued perseverance with the second reading in the face of various technical difficulties.

Paragraph 11 (continued)

39. **Mr. Heyns** said that, in the light of comments and suggestions made by members, he had made a number of changes to the revised version of the paragraph that he had presented at the previous meeting. The fourth sentence had been reformulated to read: "While surveillance technologies can be used to detect threats of violence and thus to protect the public, they can also infringe on the right to be free from arbitrary interference with privacy and other rights of participants and bystanders and have a chilling effect." In the penultimate sentence, the words "forms of" had been inserted before "control" and the words "public spaces" had been replaced with "publicly accessible spaces".

40. In order to maintain the internal coherence of the paragraph, he would prefer not to split it into two paragraphs, as had been suggested by Mr. Ben Achour.

41. *Paragraph 11, as amended, was adopted with minor drafting changes.*

Paragraph 12 (continued)

42. **Mr. Heyns** said that, in the light of the comments and suggestions made by members, he had made one change to the revised version of the paragraph that he had presented at the previous meeting, namely the insertion of the words "or not" after the word "whether" in the first sentence.

43. *Paragraph 12, as amended, was adopted*

Paragraphs 13 and 14 (continued)

44. **Mr. Heyns** said that, in the light of the comments and suggestions made by members, he had made a number of changes to the revised version of paragraphs 13 and 14 that he had presented at the previous meeting. He recalled that he was proposing to merge the two paragraphs into one.

45. In response to Mr. Quezada Cabrera's comments on the importance of the concept of self-expression, he proposed that the words "expressing oneself" should be added after "such as" in the first sentence. In response to the concerns raised by Mr. Ben Achour and Mr. Bulkan regarding the words "such as an entertainment or commercial objective", he proposed adding the word "cultural" after "entertainment" so that the whole phrase would read "such as an entertainment, cultural or commercial objective". Mr. Furuya had made the important point that State authorities should not be able to use the fact that a public assembly had an entertainment, cultural or commercial objective as a pretext for claiming that the assembly was not covered under article 21.

46. **Mr. Ben Achour** said that it was regrettable that paragraph 13 did not explicitly include political and social objectives among the various reasons for which a peaceful assembly might be held.

47. **Mr. Shany** said that the list of other reasons for peaceful assembly was intended to complement the general concept of peaceful assembly for social or political reasons, which was implied from the context of the general recommendation. The Committee might consider adding religious practice to the list. Peaceful assembly for religious reasons should be protected against undue restrictions.

48. **Mr. Muhumuza** said that it would be regrettable to leave out the word "religious". Its omission from the text had been a mistake and its inclusion would address sensitivities that would not otherwise not be covered.

49. **Ms. Pazartzis** said that the Committee should be cautious about adding such concepts. She had considered that it would be sufficient to mention just cultural and commercial objectives. However, she was willing to go along with the Rapporteur's decision.

50. **Mr. Heyns** said that paragraphs 1 and 2 of the draft made it clear that peaceful assemblies had political and social objectives. It was also stated later in the draft that political speech enjoyed particular protection. In paragraph 13, he understood the references to expressing oneself, conveying a position and exchanging ideas as relating to political and social expression. He reiterated that the intention in the third sentence was to make sure that, where an assembly served other goals as well, such as entertainment, cultural or commercial objectives, States should not abuse that fact to claim that it was not a peaceful assembly. While he had no strong views about the inclusion of the word "religious", he recognized that it was important to some members of the Committee. It could be added after "cultural".

51. **Mr. Zyberi** said that he was concerned about the removal of the sentence clarifying that assemblies could be held on publicly or privately owned property. Without that sentence, the text did not provide a sufficiently strong endorsement of the right of peaceful assembly.

52. **Mr. Heyns** said that the question of public and private spaces was addressed in paragraph 6 and that although he had considered including a similar reference in paragraph 13, it would be difficult to do so without making the text repetitive.

53. *Paragraph 13, as amended, was adopted.*

Paragraph 15

54. **Mr. Heyns** said that paragraph 15 raised the issues of single-person protests and online demonstrations. In the stakeholders' submissions, the city of Amsterdam had referred to a particular form of one-person protests, while the Special Rapporteur on the rights to freedom of peaceful assembly and association and the International Center for Not-for-Profit Law had expressed concern at the use of the words "comparable protections" instead of "the same protections" in respect of persons engaged in single-person protests. However, in previous discussions the Committee had considered that the associative

element inherent in the concept of peaceful assembly implied that more than one person was involved; it would perhaps therefore be unadvisable to affirm that single protesters were covered by article 21. Even if only the first person to arrive at an organized protest was arrested, that person would be considered as an organizer and would thus be covered. The Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights supported the affirmation that single protesters enjoyed comparable protections under article 19 of the Covenant.

55. The Bonavero Institute of the University of Oxford; Martin Scheinin, Professor of International Law and Human Rights, European University Institute; and Amnesty International had drawn attention to the need to address online conduct, a point that was covered elsewhere in the draft. The European Center for Not-for-Profit Law had raised the important point that different types of assemblies might be subject to different forms of regulations and restrictions. That idea would be taken up in the section on restrictions. The Association for Progressive Communications also considered that express reference should be made to online assemblies in paragraph 15.

56. In the light of the submissions received from stakeholders, he proposed amending the second sentence of the paragraph as provisionally adopted on first reading to read: “Moreover, although the exercise of the right of peaceful assembly is normally understood to pertain to the physical gathering of persons, article 21 protection also extends to organizing or participating in assemblies remotely, for example online.” The end of the sentence had been slightly rephrased to use the word “remotely” instead of referring to “digital” gatherings, out of concern that future technology might allow remote actions that were not necessarily digital. The last sentence of the revised draft as provisionally adopted on first reading had referred to the fact that the use of online communication should not be used as a ground for restrictions on in-person assemblies, which was a valid point, but one that would be better placed in the section on restrictions.

57. **Mr. Ben Achour** said that he supported the text as presented by the Rapporteur. In particular, he agreed with the distinction drawn between single-person protests and public gatherings in the first sentence and the mention of the respective scopes of articles 19 and 21.

58. **Mr. Shany** said that he agreed with the Rapporteur’s proposal to move the last sentence of the revised draft as provisionally adopted on first reading to the section on restrictions, it being understood that some comments made in the stakeholders’ submissions should be taken on board in that section of the draft. It might be advisable to insert “physical or online” before the word “assemblies”.

59. **Mr. Furuya** said that, while he did not support the notion of single-person assemblies, the Committee had already dealt with a number of individual communications concerning individuals who had been arrested in possession of invitations or leaflets related to assemblies. The Committee had found violations of article 21 in such situations, even though it was impossible to know the scale of the future gathering. The text should recognize that the right of peaceful assembly included the right to prepare for, invite people to and host an assembly. In the preparatory stage of such an event, even a single individual should be protected by article 21.

The meeting rose at 6 p.m.