**Human Rights Committee**

**125th session,** 4- 29 March 2019

**Half-day general discussion**, 20 March 2019

2. *How should the term ‘peaceful assembly’ be understood? When is one dealing with an ‘assembly’? Does it require the expression of an idea through a gathering, and if so, what is the hallmark of such an expression of an idea (e.g. does it necessarily entail an appeal to the public opinion)? Does it cover strikes? Or do all gatherings (e.g., also sporting, religious, cultural events, or) qualify as ‘assemblies’? Does it matter whether the organizers pursue a commercial interest? In order to qualify as an assembly, are there requirements about where should the gathering should take place – in public, private or on-line? Can one person form an assembly? When is an assembly not ‘peaceful’, and fall outside the scope of the protection of the particular right? What level of violence (or mere disruption?) is required not to consider it peaceful? To what extent can the violent conduct of certain individuals participating in the assembly be attributed to the group as a whole and render an assembly as a whole not peaceful?*

**National laws and / or law enforcement practices should clearly define peaceful assemblies as a form of expression opinion without a specific commercial interest and benefit. It is unacceptable to conduct the same regulation and use the same administrative procedures for cultural, entertainment, sports, religious events and peaceful assemblies.**

**Peaceful assembly as a form of expression of opinion is most often addressed to the target audience, the person or body that makes the decision, or who is able to influence the situation. However, appeal to public opinion involves the main mechanisms of influence of this right - pressure through public opinion.**

**Single pickets as an established form of peaceful assembly is often a very effective, symbolic in its meaning of confrontation between one individual and the state system and must fall under the protection of Article 21 of the Covenant. Obviously, the simplest regulation should be applied to single pickets and small assemblies, and the main work of the authorities should be aimed at protecting a peaceful assembly from physical damage.**

3. *Is freedom of assembly an individual or a collective right, or both? Who is the bearer of the right? The participants – individually or collectively? The organizers? Does the right cover planning/publication/advertisement of the event, and if so when does this start - before notification or other similar requirements have been met? Does the right cover protection of participants on their way to and from an assembly?*

**The realization of the freedom of assembly cannot be interpreted too narrowly and naturally covers the actions from the moment the idea emerged and until its final realization. The authorities are obliged not to hinder the possibility of getting to the assembly place, for example, by regulating the operation of public transport. This should also include the inadmissibility of preventive detention of organizers and activists. The atmosphere of fear and repression does not contribute to the realization of the right by other people and often forces people to refuse to exercise freedom of assembly.**

*4. Article 2 (1) of the ICCPR requires States to ‘respect and ensure’ the rights in the ICCPR. Article 21 provides that the right of peaceful assembly ‘shall be recognised’. Does this in general terms mean that there is a duty on the State to ‘facilitate’ peaceful assembly, and what does such a duty to ‘facilitate’ entail? Does it mean that, while people exercise this right, the focus of law enforcement officials should be primarily on protecting the rights of all concerned rather than upholding law and order? (Are States thus required to show a certain level of tolerance to conduct when engaged in as part of peaceful assembly, and not meet it with the same force of the law as it would otherwise do?) How should the obligation to allow assemblies to take place within ‘sight and sound’ of its target audience be interpreted?*

**The practice of allocating designated places for peaceful assemblies is of serious concern. With seeming convenience, this practice has the worst effect on the very nature of the right to freedom of assembly. Any public place should be available for assemblies. The main task of the authorities is not to interfere with self-organization and the realization of freedom of assembly.**

5. *More specifically, what are the (negative and positive) obligations placed by the right of peaceful assembly on the State? How should the right be respected by the State (e.g. through the adoption of laws providing for and regulating its exercise in accordance with international law)? How should it be protected? To what extent does the State have an obligation to protect those engaged in peaceful assembly from interference by other members of the public? And should counter-demonstrations be protected to the same extent? How should the obligation on States to take precautionary measures to prevent violations of rights be understood in this context (for example in the context of preventing and reducing violence)? Is there an obligation on the part of the authorities to attempt to engage with assembly organisers and participants prior to the holding of the assembly? Are organisers required to engage with the authorities? Is there a special role for NHRIs in this regard? And other stakeholders (such as local governments)?*

**Establishing and applying reasonable deadlines and procedures for peaceful assembly is an important aspect of the realization of the law. The authorities must make every effort to develop dialogue and discussion with all parties to the meetings. However, both the organizers and the participants must act accordingly and be included in the joint work. If possible, the authorities should always be notified of the upcoming meeting. The establishment of reasonable deadlines and administrative procedures, as well as the absence of repression for the realization of freedom of assembly will positively affect the development of mutual dialogue.**

7. *What is the position as far as organiser accountability is concerned? Can the organisers be required to cover police costs, provide assurances in advance as far as reparations for damages are concerned, cleaning up services, medical services, etc.? Do particular obligations arise for organisers where participants in an assembly (including counter-demonstrations) intentionally advocate hatred, seek to intimidate others or call for or use force? How should concealment of their faces by participants be dealt with?*

**It is absolutely unacceptable to demand any payment for the work of the authorities for the protection, medical support and cleaning during peaceful assemblies. The demand for payment introduces a discriminatory approach to the realization of the right. The exercise of freedom of assembly is subject of strictest protection against any discrimination; everyone should be able to freely exercise this right. Reimbursement of expenses is possible only in a judicial order and only for individual actions of a person.**

**It is obvious that hiding of faces persons in order to avoid liability is not allowed. The authorities should conduct a motivated dialogue with the participants, as well as carry out work before and after the meetings to form a culture of exercising this right. It is possible to hide faces if this is part of the artistic intent, however, this must be obviously explained or motivated.**