**Submission to the UN Human Rights for draft General Comment No. 37 on**

**Article 21 (right of public assembly) of the ICCPR**

Submitted 21 February 2020

1. Background
2. The Advocates for Human Rights thanks the United Nations Human Rights Committee for the opportunity to provide written comments on draft General Comment No.37 on Article 21, the right of peaceful assembly, of the International Covenant on Civil and Political Rights (ICCPR). The Advocates for Human Rights is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates for Human Rights conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation of asylum seekers, and technical assistance to human rights defenders.
3. We commend the Committee on its work in drafting of a new General Comment that reflects the development of both law and practice in relation to the exercise of the right to peaceful assembly.
4. With this submission, we share with the Committee firsthand information received directly from individuals who have experienced violations of the right to peaceful assembly. Based on these experiences, this submission identifies the issue of reprisals for participation in peaceful assembly as an area where emphasis or clarification may strengthen the Revised Draft’s articulation of the right of public assembly in Article 21 of the ICCPR.
5. Comments on Reprisals Against Participants in Peaceful Assemblies
6. Reprisals for Participation in Peaceful Assemblies
7. The Advocates for Human Rights has received information from asylum clients from several countries about their experiences of the State carrying out reprisals when they exercised their right of peaceful assembly. For example, clients forced to flee the Democratic Republic of Congo and seek asylum in the United States reported being targeted for arrest because of their active involvement in peaceful anti-government protests. One client reported that, after participating in a protest, he was abducted in a taxi and taken to a police facility, where he was detained and tortured for about seven days. Another client reported being arrested and held in detention without a hearing, where he was beaten and tortured. He was told he was detained because he had shamed and criticized the government.
8. Asylum clients from Burundi have also shared with us their experiences of being accused of participating in peaceful anti-government protests. As a result, they were targeted by police and Imbonerakure members. They reported that their homes were searched and their businesses looted in retaliation. They also reported that they and their family members were arrested, interrogated about, and beaten for their demonstration-related activities.
9. In addition, asylum clients from Togo reported reprisals against them for participating in peaceful protests against the government. The Advocates for Human Rights has also received direct reports from Togolese human rights defenders about reprisals. For example, Ligue Togolaise des Droits de L'Homme (LTDH) has documented numerous cases, including one victim who was arrested by soldiers in Koumonde and accused without proof of having participated in a demonstration. The soldiers beat the victim to the point of losing consciousness, then held him in police custody for 3 days, where he was subjected to further physical abuse. Three days after being transferred to prison, the victim was judged and condemned to 18 months of prison, still without any proof of actually having participated in the demonstration.
10. LTDH has also reported to The Advocates a problem related to the situation when numerous demonstrators are arrested for participating in a peaceful protest. The cases may be handled differently depending on the judge assigned to each case. For example, some individuals in the group may be released immediately while others in the same group may be denied their right to an attorney and held in prolonged detention.
11. Reprisals for Diaspora Participation in Peaceful Assemblies Outside of Country
12. The Advocates for Human Rights recently conducted a fact-finding project on reprisals against individuals in diaspora for exercising their right to public assembly and freedom of opinion and expression outside of their country. We interviewed 23 individuals from the Ogaden region of Ethiopia who currently reside in Minneapolis, USA and London, UK.  All were active in the Ogadeni diaspora in publicly demonstrating their opposition to human rights abuses against members of the Ogadeni community in Ethiopia.
13. All 23 interviewees reported that Ethiopian authorities targeted and harassed their family members in the Ogaden as a direct result of their participation in peaceful public assemblies protesting the human rights abuses in the Ogaden, as well as their public expressions of opinion opposing the Ogadeni regional and Ethiopian national governments. In some cases, this took the form of repeated questioning of the family members, including showing the family members pictures of the interviewee participating in a protest in the US/UK. Others reported family members being arrested, detained, beaten, raped, and tortured in reprisal for the interviewee’s activities in exercising their right to public assembly.  In one case, the interviewee reported that a family member in the Ogaden was disappeared in reprisal; the family assumes that an extrajudicial execution was carried out by the authorities.
14. Several interviewees also reported reprisals in the form of confiscation of family property, including land, houses and cars.  In one case, the family’s shop was raided and destroyed. Many interviewees reported that money sent to family members was confiscated by authorities, leading them to begin using assumed names when using money transfer services to avoid government interference. In one case, the interviewee reported that authorities regularly interrupted the water supply to the family in Ogaden in reprisal.
15. Many of the interviewees reported that Ethiopian officials routinely called and texted them on their US/UK mobile device to threaten to harm them and to their families back home in the Ogaden if they continued to protest against or otherwise criticize the Ogadeni regional or national Ethiopian government. Two individuals reported being physically assaulted after participating in peaceful demonstrations outside the Ethiopian Embassy in London.
16. Many interviewees also report being harassed on social media, including Facebook, where they received negative postings and threats, particularly after posting criticisms of the Ethiopian Government. Many of the interviewees were also told to produce a video apology for their activities in order to protect their family members and be able to return home to Ethiopia one day.
17. Recommendations
18. The Advocates for Human Rights agrees with the Committee’s statement in paragraph 26 of the draft General Comment regarding the State’s negative duty of *no unwarranted interference* with participants in peaceful assemblies. We also support the Committee’s statement in paragraph 37 regarding the scope of Article 21’s protections extending beyond the time and place of the peaceful public assembly.
19. We would, however, respectfully suggest that the Committee more clearly state the State’s obligations regarding no unwarranted interference with participants in peaceful assemblies after the event. In the experiences shared in this submission, we note that State interference was clearly intended to punish the exercise of the right of peaceful assembly and to discourage participation in future peaceful public assemblies.
20. The Committee touches upon this issue in paragraph 34 in the context of human rights monitoring of public assemblies. We do support the important function of journalists and human rights defenders in monitoring public assemblies and the need to be clear that monitoring must be allowed.
21. We would, however, encourage the Committee to add a paragraph to the General Comment that sets out more forcefully the obligation that States party to the ICCPR to not penalize or carry out reprisals against individuals for exercising their right to peaceful assembly – before, during, and after the assembly takes place. We respectfully suggest that the Committee could begin this new paragraph with the sentence from paragraph 34: “No one should be harassed or penalized as a result of their attendance at demonstrations.”