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The Permanent Mission of the Islamic Republic of Pakistan accredited to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and with reference to its note verbale no. GH/GC37/1 dated 14 November 2019, has the honour to forward the enclosed comments of the Government of Pakistan on the draft General Comment No. 37 on Article 21 (the right of peaceful assembly) of the International Covenant on Civil and Political Rights.

The Permanent Mission of the Islamic Republic of Pakistan avails itself of the opportunity to renew to the esteemed Office the assurances of its highest consideration.



Office of the High Commissioner for Human Rights,
Geneva

Attention:

Human Rights Committee (CCPR),
Human Rights Treaties Division (HRTD).

Draft Revised General Comment No. 37 on Article 21 (the right of peaceful assembly) of the International Covenant on Civil and Political Rights

Comments by the Islamic Republic of Pakistan

The Islamic Republic of Pakistan appreciates the good work done by the UN Human Rights Committee with regards to the draft General Comment no. 37 on Article 21 (the right to peaceful assembly) of the International Covenant on Civil and Political Rights (ICCPR).

As a progressive and participatory democracy, Pakistan attaches great importance to the protection and promotion of the basic human right to peaceful assembly, and thus, broadly agrees with contents of the revised draft. Nonetheless, we take the opportunity to share the following specific observations on the circulated text:

I. Under the "General Remarks" section, the draft Comment highlights the enabling and vital role which the right to peaceful assembly plays in "advancing ideas" and in "airing grievances" in public domain. It also terms failure to recognize the right to peaceful assembly as "a marker of repression". However, the draft falls short of clearly endorsing the intrinsic relationship between the right of peaceful assembly and the inalienable right to self-determination, which has been guaranteed in the UN Charter, the Universal Declaration on Human Rights, and the two core international human rights covenants (common Article 1).

Advancing ideas and aspirational goals while airing grievances are, in fact, both constitutive and operational elements of the right to self-determination, by virtue of which people are entitled to "freely determine their political status and freely pursue their economic, social and cultural development". Therefore, the right to peaceful assembly is one of the vehicles through which people exercise their fundamental right to self-determination. The Committee, in its General Comment no. 12 on Article 1, has already recognized this inter-play between the right to self-determination and other provisions of the Covenant. Pakistan, thus, suggests the following language for inclusion at end of para-1:

"Therefore, protection and promotion of the right to peaceful assembly is one of the vehicles through which people can exercise their inalienable right to self-determination. These mutually reinforcing rights should be respected and ensured under all circumstances and conditions".

II. Pakistan supports the Committee's stance about the use of firearms for policing assemblies (in the section on "Duties and Powers of Law enforcement Agencies"). However, we strongly believe that the draft Comment should further

elaborate the international human rights standards on the use of kinetic impact projectiles, as set under the 1979 UN Code of Conduct for Law Enforcement Officials, the 1990 UN Basic Principles on the Use Of Force and Firearms by Law Enforcement Officials, and the UN Human Rights Guidelines on Use of Less-Lethal Weapons. This is on account of the unwarranted, unnecessary and disproportionate risk which certain projectiles, especially the highly inaccurate ones like metal pellets, poses to life, and physical and mental health of its victims and by-standers when employed for policing assemblies. This risk is compounded by crowd's volatility, inaccuracies in hitting the target due to dispersal of multiple projectiles over a wide area, targeting the body above waist-line, and excessive use due to perception of their harmlessness. Thus, use of kinetic impact projectiles as a tool of crowd control violates principle 5 (a), and 11 (b) &(c) of the 1990 UN Basic Principles. The international human rights community has also been expressing serious concerns over the use of projectiles, some of which were originally used for wildlife hunting, and called for their strict prohibition. The Committee, in its General Comment no. 36, has itself termed such use of less-lethal weapons as an arbitrary deprivation of right to life.

Thus, Pakistan proposes that following language, which is based on the UN Human Rights Guidelines on the Use of Less-Lethal Weapons, may be added to para-98 of the draft (in bold and underlined):

“Firearms are not an appropriate tool for the policing of assemblies. Firearms must never be used simply to disperse an assembly. In order to comply with international law, any use of firearms by law enforcement officials must be limited to targeted individuals in circumstances in which it is strictly necessary to confront an imminent threat of death or serious injury or, in truly exceptional circumstances, a grave and proximate threat to life. Given the threat such weapons pose to life, and physical and mental health, this minimum threshold should also be applied to the firing of rubber-coated or plastic bullets, and metal pellets. Therefore, they should not be used under any circumstance against peaceful protestors, since they arbitrarily deprive people of their basic right to life and create serious and unwarranted hurdles in exercising their right to peaceful assembly. It is never acceptable to fire indiscriminately into a crowd. Kinetic impact projectiles should not be fired in automatic mode. Multiple projectiles fired at the same time are inaccurate and, in general, their use cannot comply with the principles of necessity and proportionality. Metal pellets, such as those fired from shotguns, should never be used. Kinetic impact projectiles, especially the highly inaccurate ones like metal pellets, should not be targeted against the head, face, or neck, because they result in skull fracture, brain injury, damage to the eyes, including permanent blindness and even death.”