

THE PATH TOWARDS GENERAL COMMENT No. 37 on Article 21, ICCPR (Right of Peaceful Assembly) A ROLE MODEL FOR THE FUTURE



European Center for
Not-for-Profit Law

“It is a very inclusive process. It’s the first time that I see such a process for myself from the beginning to the end”.

Christof Heyns, HR Committee, Rapporteur of General Comment No. 37 on Art. 21,
in [Just Security](#)

On July 29, 2020 the UN Human Rights Committee published [General Comment no. 37 on Article 21](#) (Right of Peaceful Assembly). The Comment is an authoritative interpretative standard-setting document that will help individuals, organisations and movements to exercise and defend their right to freedom of peaceful assembly. The Comment gives **important guidance to state bodies on how to regulate, facilitate and protect this freedom**, creates **safeguards for emerging and contemporary practices such as assemblies held online and in private spaces**, and unequivocally **condemns negative trends of use of force, shutting internet and attacks on media or LGBT groups**. It is the first comment on this freedom, extremely timely and hence a landmark document by the Committee that energises and empowers the enjoyment of this right.

“The General Comment makes a principled and sound contribution by showing that human rights law has answers for anyone who is interested in hearing how the genuinely difficult dilemmas can be resolved.”

Martin Scheinin, professor of law, former HR Committee member and former UN Special Rapporteur, in [Just Security](#)

The process of the General Comment’s development is as important as its content. These are its key steps:

Evidence-based advocacy for the Committee to decide to write the Comment

In late 2017, ECNL carefully designed an advocacy strategy and from 2018, in partnership with Dr. Michael Hamilton of Law School and East Anglia University started analysing the existing work of the Committee on freedom of assembly, mapping out gaps in knowledge and understanding of the right to produce evidence on why a General Comment was crucial. We developed a matrix that outlined the Committee’s case law and reviews and

Hélène Tigroudja @HeleneTigroudja · Jul 24

Replying to @HeleneTigroudja

Fuelled by inputs of academics, Special Rapporteurs, clinics, civil society, intern./regional organisations, States, crucial topics such as online assemblies, non-discrimination, notification, surveillance, use of force, #gender-based violence, militarization, are addressed.



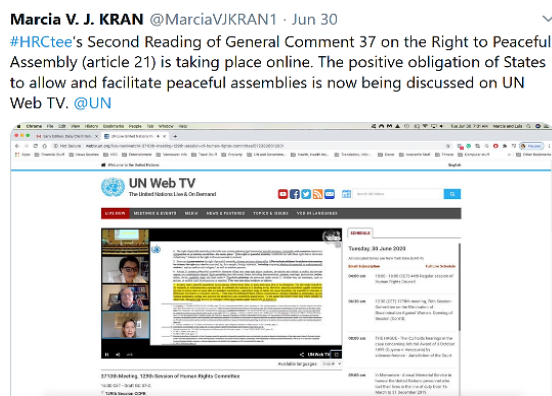
prepared a report with arguments that identified clear needs and gaps regarding the protection of the right. With the support of OHCHR, we convened a meeting in Geneva with Committee members, our Civic Space Initiative (CSI) partners and the UN Special Rapporteur on Freedom of Assembly and Association (SR on FOAA) to present the report and discussed the need for the Committee to draft a General Comment on this right. We submitted additional analysis to the Committee during their session in October 2018 engaging with partners in final advocacy. The Committee considered several other topics for the General Comment, and different CSOs made submissions for such topics (e.g., on the right to privacy or participation in public affairs). At the end of the October 2018 session, however, the Committee decided to selected the issue of right to freedom of peaceful assembly and started working on the Comment.

“the briefing was excellent and well timed – provided exactly the sort of materials that are needed.”

HR Committee member at the meeting of ECNL and OHCHR on the briefing on General Comment on Art. 21

Diverse stakeholder collaboration

The advocacy process was a genuine example of diverse and inclusive stakeholder collaboration – there were partnerships between CSOs and academia, among CSOs, and between CSOs and UN institutions. Immediately after the decision to draft a General Comment on the right to peaceful assembly, ECNL set up a loose coalition over 20 CSOs, also involving the SR on FOAA, to coordinate and discuss submissions before each of the Committee consultations. This process supported the Committee to rely on wide and diverse opinions in drafting the Comment but also allowed groups to benefit from specific expertise and experience that each of them brought to the deliberations.



Transparent and broadly consultative process

The Committee organized a fully inclusive and participatory drafting process, holding consultations on the draft document before each session and inviting comments in writing as well. Its final deliberations were held online in real time.

Including experiences and expertise of local CSOs

Committee members made specific effort to meet and hear from as many local civil society actors as possible in order to understand the real issues they were facing and hear their opinion on the draft text that was prepared. ECNL, International Center for Not-for-Profit Law (ICNL) and its CSI partner supported this process by hosting regional consultations in

Europe, Asia, MENA, Africa and Latin America. The conclusions of the meeting were shared by ECNL at the private retreat of the Human Rights Committee members in Glion.

In-depth meetings to inform debate around emerging topics

The Committee held meetings with regional bodies – such as the ODIHR Panel on Assembly and Association and Special procedures (UN SR FOAA). Furthermore, ECNL, UAE and Cambridge University developed a report that mapped out practices and standards for assemblies taking place online and organised an Expert Workshop in Cambridge with Committee members, CSOs and academic experts to discuss the topic of online assemblies in details. Furthermore, the Rapporteur, Christof Heyns, wrote an opening article for a [series on Just Security](#) that resulted in constructive contributions by experts on various topics of the draft Comment.

“People came to Cambridge, and we then addressed the question whether peaceful assemblies should also cover online assemblies as well, not just the preparation for an actual assembly, but if nobody ever meets in person. (...) And I can say for myself, initially, I was skeptical about it. But as we went further, I became more and more convinced that many of the interactions that previously were held in person, now take place online. And one would be missing a very large part if one does not recognize that peaceful assemblies can take place online as well.”

Christof Heyns, HR Committee, Rapporteur of General Comment No. 37 on Art. 21, in [Just Security](#)

Web resources

The work of the Committee was supported by a number of online resources: e.g., the University of Pretoria hosts website <http://www.rightofassembly.info> with laws on assembly and <http://www.policinglaw.info> with laws on the use of force worldwide. The [Assembly Repository](#) of ECNL and ICNL provides UN and regional materials on freedom of assembly.

ECNL is honoured to have been able to support this process from its inception. We are grateful to the Rapporteur and the Committee for the opportunities for such an inclusive process, the opportunities for collaboration and for the enriching debate. We will continue to engage with our partners to support the implementation and integration of the standards of the General Comment into national laws and practices to ensure the full and free enjoyment of this right.

“You played a very important part even before the start and right through the process. (and up some steep hills!)”

Christof Heyns, HR Committee, Rapporteur of General Comment No. 37 on Art. 21 (in an email to ECNL)

CHRONOLOGY OF KEY INPUTS AND REVISIONS into General Comment no. 37 on Article 21, ICCPR (Right of peaceful assembly)

