

Submission to the United Nations Human Rights Committee on the Revised Draft General Comment No. 37

Article 21: the right of peaceful assembly

February 2020

Table of Contents

[About The Carter Center 2](#_Toc31981526)

[Introduction 2](#_Toc31981527)

[Paragraph 22: 3](#_Toc31981528)

[Paragraph 25 3](#_Toc31981529)

[Paragraph 33 3](#_Toc31981530)

[Paragraph 34 3](#_Toc31981531)

[Paragraph 36 3](#_Toc31981532)

[Paragraph 38 3](#_Toc31981533)

[Paragraph 42 4](#_Toc31981534)

[Paragraph 60 4](#_Toc31981535)

[Paragraph 85 4](#_Toc31981536)

[Paragraph 112 4](#_Toc31981537)

[Paragraph 114 4](#_Toc31981538)

\*\*\*\*\*

# About The Carter Center

The Carter Center is a not-for-profit, nongovernmental organization that has helped to improve life for people in more than 80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University to advance peace and health worldwide.

The Carter Center’s Democracy Program works globally to promote democratic elections and governance consistent with human rights. The Center has monitored more than 100 elections in 39 countries since 1989, forging many of the techniques now common to the field. Recognizing that democratic transitions involve much more than elections, the Center also conducts long-term monitoring of political transitions and works to strengthen civil society organizations to support democratic governance. The Democratic Election Standards (DES) initiative aims to build consensus on standards for democratic elections, based on state obligations under public international law. The Carter Center recently collaboration with the United Nations Office of the High Commissioner for Human Rights on the Human Rights and Election Standards Plan of Action completed in December 2019.

# Introduction

The Carter Center welcomes the opportunity to provide the following submission on the right peaceful assembly. These comments supplement [the Carter Center submission](https://www.ohchr.org/Documents/HRBodies/CCPR/GC37/TheCarterCenter.docx) in advance of the half-day discussion held in Geneva on March 20, 2019 during the 125th session of the Human Rights Committee (the Committee).

The Center would like to reaffirm at the outset its strong support for this initiative. The General Comment provides an important opportunity for the Committee to clarify the principles underlying the right to peaceful assembly, and its relationship to other rights protected by the International Covenant on Civil and Political Rights (ICCPR), and to help ensure the fulfilment of this right.

The Carter Center’s reflections and suggestions on the draft general comment are based on our extensive experience monitoring elections around the world, and draw on our rights-based approach to election assessment. In the following sections of this submission, we respectfully suggest further revisions of the draft that would provide greater clarity regarding the right peaceful assembly during electoral processes.[[1]](#footnote-1)

Paragraph 22: We suggest that you delete this paragraph (per option 2) as the content is adequately addressed in the paragraph 57.

Paragraph 25: In the context of electoral processes, there may be competing demands from different political parties for the same public space that is within “sight and sound” of a target audience. We suggest that a sentence be added to this paragraph reinforcing the need for objective and politically neutral criteria in making such decisions.

Paragraph 33: Given the time-bound nature of elections, and the need for quick decisions on remedial actions, we suggest that the following sentence be added at the end of the existing paragraph: ***“For example, in the context of an electoral campaign period, which is necessarily time-bound, remedies may need to be expedited to ensure rights are not inadvertently violated.”***

Paragraph 34: We strongly support the focus on third party observation of assemblies that is reflected in this paragraph. In the first sentence, we would suggest the following addition: “The role of journalists, human rights defenders, ***human rights and election monitors*** and other involved in monitoring…”

Paragraph 36: We strongly support the view that assemblies with a political message should enjoy a heightened level of accommodation and protection. We respectfully suggest adding one further sentence that recognizes the unique nature of an election: ***“This is relevant during an election process, given the potentially high stakes of electoral politics and the potential for violations of freedom of assembly to also undermine other Covenant rights (e.g. freedom of expression, the opportunity to run for election, and the right to life), as well as political stability.”***

Paragraph 38: Given the role of digital technologies in facilitating all assemblies (not just demonstrations) we suggest the addition of the following phrase to the second paragraph: “…refrain from unduly blocking Internet connectivity in relation to demonstrations ***or other assemblies***.”

Paragraph 42: Given the role of digital technologies highlighted in other paragraphs, we suggest the following edit to the final sentence of this paragraph: “Blanket restrictions on participation in peaceful assemblies***, online or offline,*** are presumptively disproportionate.”

Paragraph 60: To improve the flow of the document, we suggest moving paragraph 60 on the use of flags, uniforms and other symbols up in the draft to follow the current paragraph 57 (on assemblies and Art. 20).

Paragraph 85: Reflecting on otherwise “peaceful assemblies” in which women and girls faced sexual and gender based violence,[[2]](#footnote-2) the Center wonders if the Committee would consider elaborating on any increased responsibilities of the state with regard to ensuring that there are adequate safe haven and reporting mechanisms in place for women, girls, LGBTQ and minority assembly participants who may experience different or heightened physical threat even during a peaceful assembly.

Paragraph 112: We suggest adding a second clause to the second sentence that would read: “the right to political participation (art. 25) is closely linked to peaceful assembly, ***and political participation through election processes creates unique obligations on the state.”***

Paragraph 114: We support the retention of paragraph 114 in the General Comment.

1. Suggested text edits from The Carter Center are indicated by the use of ***bold italics***. [↑](#footnote-ref-1)
2. See for example, the high incidence of sexual harassment, assault and rape in Tahrir Square during otherwise “peaceful protests” <https://www.theguardian.com/world/2013/jul/05/egypt-women-rape-sexual-assault-tahrir-square> [↑](#footnote-ref-2)