



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Concluding observations on the seventh periodic report of Finland\*

1. The Human Rights Committee considered the seventh periodic report of Finland (CCPR/C/FIN/7) at its 3758th, 3759th and 3760th meetings (see CCPR/C/SR.3758, CCPR/C/SR.3759 and CCPR/C/SR.3760), held on 2, 3 and 4 March 2021. The meetings were held virtually for the first time, owing to the coronavirus disease (COVID-19) pandemic. At its 3774th meeting, held on 23 March 2021, the Committee adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the seventh periodic report of Finland and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/FIN/7) to the list of issues prior to reporting (CCPR/C/FIN/QPR/7), which were supplemented by the oral responses provided by the delegation, and for the important supplementary information provided to it in writing.

#### B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative and policy measures:

(a) Non-Discrimination Act (No. 1325/2014), adopted in 2014, and the setting up of the Non-Discrimination Ombudsman and the National Non-Discrimination and Equality Tribunal;

(b) Amendment (No. 1329/2014) to the Act on equality between women and men, adopted in 2014;

(c) Act on the oversight of intelligence gathering (No. 121/2019) and amendment to the rules of procedure of the parliament (No. 123/2019), on 1 February 2019, with the institutionalization of the Intelligence Ombudsman and the Intelligence Oversight Committee to oversee the legality of both civilian and military intelligence work;

(d) Act on the national prosecution authority (No. 32/2019), ensuring prosecutors full independence and autonomy;

(e) Second national action plan on fundamental and human rights for the period 2017–2019;

(f) Action plan for gender equality for the period 2016–2019;

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\* Adopted by the Committee at its 131st session (1–26 March 2021).



- (g) Action plan against trafficking in human beings for the period 2016–2017;
- (h) “Meaningful in Finland” action plan to prevent hate speech and racism and to promote social inclusion, in 2016;
- (i) Action plan for the Council of Europe Convention on preventing and combating violence against women and domestic violence for the period 2018–2021;
- (j) National Roma Policy for the period 2018–2022, in 2018;
- (k) Action plan on the implementation of the Convention on the Rights of Persons with Disabilities, in 2018;
- (l) Action plan for the period 2019–2025 for achieving equal opportunities for lesbian, gay, bisexual, transgender and intersex persons in Åland society, in 2019.

## C. Principal matters of concern and recommendations

### Implementation of the Covenant and its Optional Protocol

4. The Committee notes that Finnish higher courts have invoked the Covenant while reviewing domestic cases. It regrets, however, the lack of concrete examples of court cases in which the provisions of the Covenant have been directly applied, in particular by setting aside relevant domestic legal provisions in conflict with the Covenant. The Committee also expresses its concern that the Views adopted by the Committee in November 2018<sup>1</sup> regarding the right of self-determination of the Sami people have not been implemented. On the contrary, the decisions of the Supreme Administrative Court of 5 July 2019, reinstating 97 individuals to the electoral role that the Electoral Committee of the Sami Parliament had removed, appear to run counter to the Views of the Committee. Furthermore, the Sami Parliament elections of September 2019 were not cancelled or postponed by the Government of Finland, thus resulting in a significant change in the composition of the Sami Parliament, with the entry of ethnic Finns, who are not considered to be Sami by the Sami Parliament (art. 2).

**5. The State party should continue its efforts to inform and educate lawyers, prosecutors, judges, law enforcement officers and the public about the Covenant and its Optional Protocol. It should also promptly comply with all the Views adopted by the Committee with respect to the Sami indigenous people, through appropriate and effective mechanisms, so as to guarantee the right of victims to an effective remedy, in accordance with article 2 (3) of the Covenant.**

### Human rights impact assessment

6. The Committee takes note of the human rights impact assessments of legislative and other policy proposals undertaken by various actors, such as the Council of Regulatory Impact Analysis. The Committee also notes that the constitutionality of legislation and the compliance with human rights obligations is supervised by the Chancellor of Justice and the Constitutional Law Committee. It is concerned, however, by reports of the lack of a systematic approach to such assessment and their limited effectiveness in upholding the rights of children, women, asylum seekers, migrants and the Sami people, in particular regarding the collection and analysis of relevant data (art. 2).

**7. The State party should strengthen the mechanisms for human rights assessment of legislative and policy proposals prior to their adoption to ensure their compatibility with the Covenant, in particular with respect to any legislative and policy proposals concerning the rights of persons belonging to vulnerable groups. The State party should also improve its system of collecting reliable disaggregated data with a view to conducting impact assessments of legislation and policies on Covenant rights.**

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<sup>1</sup> *Sanila-Aikio v. Finland* (CCPR/C/124/D/2668/2015) and *Käkkäläjärvi et al. v. Finland* (CCPR/C/124/D/2950/2017).

### Reservations

8. The Committee notes that the State party is maintaining its reservations, inter alia, to articles 10 (2) (b) and (3), 14 (7) and 20 (1) of the Covenant. It regrets that there has been no change in the State party's position in that regard since the last review (art. 2).

9. **Recalling its previous recommendations (CCPR/C/FIN/CO/6, para. 4), the Committee reiterates that the State party should consider withdrawing its reservations to the above articles of the Covenant.**

### Counter-terrorism measures

10. The Committee is concerned about the vague definition of terrorist offences contained in the Criminal Code and the possible abuse of such a provision. While noting the recent adoption by the State party of a relevant resolution and its intention to continue its efforts to repatriate children in armed conflict zones, the Committee is concerned about the number of children born to Finnish nationals still living under harsh conditions in such zones, in particular at the al-Hol refugee camp in the Syrian Arab Republic (arts. 2, 9, 12 and 14).

11. **The State party should:**

(a) **Ensure that its counter-terrorism legislation, especially its definitions and the powers and limits on their exercise, is in compliance with the Covenant and the principles of legality, certainty, predictability and proportionality, and that persons suspected of or charged with terrorist acts or related crimes are provided, in law and practice, with all legal safeguards, in accordance with the Covenant;**

(b) **Intensify its efforts to repatriate all Finnish nationals who are currently in armed conflict zones, and their children, through a clear and fair procedure with respect for the principle of the best interests of the child, and provide them with adequate access to rehabilitation services and care upon repatriation.**

### Non-discrimination and gender equality

12. The Committee notes the legislative and policy measures taken by the State party to prevent and combat discrimination and promote gender equality. It is concerned, however, that the Non-Discrimination Ombudsman can bring cases of discrimination before the National Non-Discrimination and Equality Tribunal only with the consent of all aggrieved parties and that victims cannot seek compensation before the Tribunal, but only through lengthy judicial proceedings in a court of law. The Committee also notes with concern the delegation's acknowledgement that the Non-Discrimination Act is not yet widely known among the public, and victims of discrimination thus tend to seek remedies through varying and sometimes confusing channels. It is also concerned about the low level of political representation of women with disabilities or ethnic minority backgrounds, and about the paucity of disaggregated statistics in that respect (arts. 2 and 26).

13. **The State party should:**

(a) **Take all necessary steps to review and amend the Non-Discrimination Act (No. 1325/2014) and other relevant anti-discrimination laws to improve the effectiveness of the legal and institutional framework to combat discrimination;**

(b) **Review the mandate of the Non-Discrimination Ombudsman, with a view to removing obstacles to effectively bringing all cases of discrimination before the National Non-Discrimination and Equality Tribunal;**

(c) **Consider enabling the National Non-Discrimination and Equality Tribunal to provide compensation directly to victims so that victims have timely access to effective remedies;**

(d) **Raise awareness among the public about anti-discrimination legislation and legal remedies available for victims of discrimination, including about the mandates of the Non-Discrimination Ombudsman, the Ombudsman for Equality and the National Non-Discrimination and Equality Tribunal;**

(e) **Enhance its efforts to increase women's participation in public and private sectors and their representation at the highest level, especially for women with disabilities or ethnic minority backgrounds, and improve its data collection in that regard.**

#### **Hate speech and hate crimes**

14. The Committee takes note of the measures taken by the State party to combat hate speech and hate crimes, including the adoption of the national action plan for the prevention of violent radicalization and extremism and the introduction of so-called "Internet cops" to police departments. It is concerned, however, about the persistence of intolerance, prejudice, hate speech and hate crimes against vulnerable and minority groups, including women, African descendants, Muslims, lesbian, gay, bisexual and transgender persons, and Roma and Jewish communities, in particular in the media and on social networks. In that regard, the Committee regrets the lack of specific information about the impact and effectiveness of policy and awareness-raising measures on reducing incidents of hate speech and hate crimes and the insufficient data collection (arts. 2, 19, 20 and 26).

15. **The State party should redouble its efforts to combat discrimination, hate speech and incitement to discrimination or violence on the grounds of, inter alia, race, ethnicity, religion, or sexual orientation and gender identity, in accordance with articles 19 and 20 of the Covenant and the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. It should inter alia:**

(a) **Improve relevant data collection and take effective measures to prevent both online and offline hate speech, firmly and publicly condemn such speech and intensify efforts aimed at addressing online hate speech;**

(b) **Strengthen its awareness-raising efforts aimed at promoting respect for human rights and tolerance for diversity, revisiting and eradicating stereotypical prejudices based on race, ethnicity, religion, or sexual orientation and gender identity;**

(c) **Encourage the reporting of hate crimes, and ensure that hate crimes are thoroughly investigated, perpetrators prosecuted and punished, and victims provided with effective remedies;**

(d) **Provide adequate training to central and local authorities, law enforcement officials, judges and prosecutors on addressing hate speech and hate crimes, and to media workers on promoting acceptance of diversity.**

#### **Ethnic profiling**

16. While noting the prohibition of ethnic profiling stipulated in the Aliens Act and the provision of training for law enforcement officials in that respect, the Committee remains concerned about reported incidents of ethnic profiling by the police (arts. 2, 12, 17 and 26).

17. **The State party should take necessary measures to ensure the prohibition of ethnic profiling, in law and in practice, by law enforcement officials, and prevent disparate treatment based on physical appearance, colour, or ethnic or national origin. It should continue its efforts to provide all law enforcement officials with adequate training in order to effectively prevent ethnic profiling and to conduct regular assessments of the impact of such training.**

#### **Violence against women**

18. The Committee acknowledges the State party's efforts to combat violence against women, including the establishment of awareness campaigns, the opening of a telephone hotline and the proposed appointment of an independent rapporteur on the issue. It remains concerned, however, by the persistence of violence against women, in particular the rise in cases of domestic violence in the context of the COVID-19 pandemic. It also notes with concern the low level of reporting and of prosecution and conviction of perpetrators of violence against women, the insufficient number of shelters and rape crisis centres, especially in remote rural areas, and the charging of court fees for unsuccessful applications for restraining orders. The Committee regrets that chapter 20 of the Criminal Code on sexual

offences has not been amended to ensure that lack of consent becomes the core element of the definition of rape, and that forced marriage has not been explicitly criminalized (arts. 2, 3, 6, 7 and 26).

**19. The State party should:**

(a) **Encourage the reporting of cases of violence against women, and ensure the safety of women who come forward, including through enhancing the accessibility and effectiveness of restraining orders, and should also consider eliminating the fees for unsuccessful applications of restraining orders;**

(b) **Ensure that cases of violence against women are thoroughly investigated, and that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions;**

(c) **Provide victims, in particular those living in remote rural areas, with access to effective remedies and means of protection and assistance, including to accommodation or shelters in all parts of the country and to other support services;**

(d) **Speed up the legislative reforms to effectively prevent and combat all forms of violence against women, including by amending the definition of rape to include lack of consent as a core feature, explicitly criminalizing forced marriage and reviewing the legislation on restraining orders;**

(e) **Continue its efforts to provide law enforcement officials, prosecutors, judges and lawyers with appropriate training to effectively deal with cases of violence against women.**

**Sexual orientation, gender identity and intersex status**

20. The Committee is concerned about social stigmatization, discrimination and violence against persons based on their sexual orientation or gender identity. While noting the ongoing process to amend the Trans Act, the Committee is concerned about the lengthy procedure for legal gender recognition and the requirements to be sterilized and diagnosed with “transsexualism”, which is defined as a mental disorder. It is further concerned that consenting transgender children may be unable to access the procedure for legal gender recognition. The Committee is also concerned that irreversible and invasive medical interventions continue to be performed on intersex children. It notes with concern that such actions are often based on a stereotyped vision of gender roles and carried out before children are of an age to allow them to give their full, free and informed consent (arts. 3, 7, 9, 17, 24 and 26).

**21. The State party should take legislative and other measures to:**

(a) **Intensify its efforts to eradicate all forms of discrimination and violence against and social stigmatization of persons based on their sexual orientation or gender identity, and provide access to effective remedies for victims of such acts;**

(b) **Establish a simple and accessible administrative procedure for change of civil status with respect to gender identity that is in accordance with the Covenant;**

(c) **Effectively prevent the performance of irreversible medical interventions, especially surgical operations, on intersex children who are not yet capable of giving their full, free and informed consent, unless such procedures constitute an absolute medical necessity, and ensure access to effective remedies for victims of such interventions.**

**Use of excessive force**

22. The Committee is concerned about reports of increased use of force by law enforcement officials, including the use of projectile electroshock devices (tasers) and other, less-lethal weapons (arts. 6 and 7).

**23. The State party should ensure that law enforcement officials adhere to the rules and conditions governing the use of tasers, that such use is adequately monitored and that policies on the use of tasers are fully in line with the Basic Principles on the Use of**

**Force and Firearms by Law Enforcement Officials and with the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.****Liberty and security of a person**

24. While noting the information provided by the State party that, in practice, arrested persons are often released within two days of their arrest, the Committee regrets the lack of reliable statistical data in that respect and reiterates its concern regarding reports of the failure by the authorities to strictly apply the 48-hour time frame within which a person arrested on a criminal charge should be brought before a judge. It is also concerned about reports that the authorities sometimes fail to notify family members of the arrested person about his or her deprivation of liberty within the 48-hour time frame (art. 9).

**25. The State party should bring its legislation and practice into line with article 9 of the Covenant, in particular by ensuring that persons arrested or detained on a criminal charge are brought promptly before a judge, within 48 hours, and that their family members or persons of their choice are notified of the deprivation of liberty within the same time frame.**

26. The Committee notes the amendment made to the Remand Imprisonment Act in January 2019, the introduction of new alternatives to remand imprisonment and the subsequent decrease in the number of remand prisoners held in police detention facilities. It remains concerned, however, that a remand prisoner can still be placed in a police detention facility on the exceptional grounds of security or investigation purposes (art. 9).

**27. The State party should take the necessary measures to stop placing remand prisoners in police detention facilities, including on exceptional grounds, and speed up the planned construction of new remand detention facilities. It should also increase the use of alternatives to remand detention.**

28. While noting the low number of detainees below the age of 18 in the State party and its plan to establish separate sections for detainees below the age of 18 in several prisons, the Committee reiterates its previous concern that detainees below the age of 18 are not as yet segregated from adult prisoners and thus remain vulnerable to violence and sexual abuse (art. 10).

**29. Notwithstanding its reservation to article 10, paragraphs 2 (b) and 3, of the Covenant, the State party should ensure, as a general rule, that detainees below the age of 18 are segregated from adult prisoners.**

**Persons with psychosocial or intellectual disabilities**

30. The Committee is concerned that persons with psychosocial or intellectual disabilities, including older persons with dementia living in social welfare institutions, may be subject to involuntary confinement or treatment without sufficient legal basis or procedural safeguards to guarantee their rights and interests. While noting the ongoing legislative process aimed at strengthening the right of self-determination, namely of persons with disabilities, the Committee regrets the insufficient progress achieved in ensuring access to effective legal remedies to challenge involuntary psychiatric hospitalization and treatment (arts. 7, 9 and 17).

**31. The State party should ensure, in law and in practice, that:**

(a) **Involuntary psychiatric confinement is only used where strictly necessary and proportionate, for the purpose of protecting the individual in question from serious harm or from injuring others, and only as a last resort and for the shortest possible period of time;**

(b) **Involuntary confinement or medical treatment involving persons with disabilities who have been deprived of their legal capacity is compatible with the need to make every effort to obtain free, prior and informed consent of the persons concerned and is carried out pursuant to appropriate legal and procedural safeguards;**

(c) **The procedures used for such hospitalization or treatment include initial and periodic judicial reviews and guarantees of an effective legal remedy, and that any abuse is thoroughly investigated and prosecuted.**

### **Treatment of aliens, including asylum seekers and stateless persons**

32. The Committee welcomes the State party's efforts to improve the situation of children entering the country and of access to identity documents for beneficiaries of international protection, and the legislative proposal aimed at providing access to legal counsel during asylum interviews. It remains concerned, however, about the restrictions imposed on the right to introduce new information in repeat asylum applications and about obstacles to family reunification, including the income requirement. While noting the introduction of alternatives to detention, such as "directed residence", the Committee is concerned about the restrictive reporting obligations of such alternative measures and about insufficient data collection on the use of detention and alternatives to detention. While noting that the detention of unaccompanied child asylum seekers under the age of 15 years is prohibited by law, and that unaccompanied children aged between 15 and 17 years cannot be detained during the asylum procedure, the Committee remains concerned that detention of children is still allowed when the child has already received a negative decision that has become enforceable and other, less-restrictive precautionary measures are not adequate. While commending the automatic granting of citizenship to children born in Finland who would otherwise be stateless, the Committee remains concerned about the number of stateless persons in the State party (arts. 2, 6, 7 and 13).

#### **33. The State party should:**

- (a) **Step up its efforts to reinforce the rights of children entering the country, in particular unaccompanied children, taking into account the need to respect their best interests;**
- (b) **Continue its efforts to provide access to quality legal aid service for asylum seekers throughout the asylum process;**
- (c) **Ensure that restrictions on the right to introduce new information in repeat asylum applications do not lead to a violation of the principle of non-refoulement;**
- (d) **Review its family reunification procedures, including with a view to removing obstacles such as the income requirement;**
- (e) **Increase the use of alternatives to detention, resort to detention of asylum seekers and refugees only as a last resort, and consider introducing a general ban on the detention of children for immigration purposes, while also improving data collection regarding the use of detention and alternatives to detention;**
- (f) **Strengthen the protection of stateless persons, including by establishing a dedicated and effective statelessness determination procedure with specific procedural considerations and safeguards.**

### **Right to privacy**

34. The Committee is concerned that the definitions of situations granting civilian and military surveillance, e.g., under the Police Act (No. 581/2019), may provide for overly broad powers of surveillance. While noting the existence of five intelligence oversight mechanisms in the State party, covering both civilian and military intelligence, including the newly established Intelligence Ombudsman and the Intelligence Oversight Committee, it is concerned that such a complex structure may undermine their effectiveness in safeguarding the right to privacy (art. 17).

#### **35. The State party should ensure that:**

- (a) **All types of surveillance activities and interference with privacy, both civilian and military, including online surveillance, interception of communications, access to communications data and retrieval of data, are governed by appropriate legislation that conforms with the Covenant, in particular article 17, including with the principles of legality, proportionality and necessity;**
- (b) **Surveillance and interception are conducted subject to judicial authorization and to effective and independent oversight mechanisms, and that the persons affected have proper access to effective remedies in cases of abuse.**

### **Conscientious objection to military service**

36. The Committee is concerned that the Act repealing the Act on the exemption of Jehovah's Witnesses from military service in certain cases (No. 330/2019) has removed the exemption from military and civilian service accorded to Jehovah's Witnesses, in contrast to the Committee's previous recommendations to extend such exemption to other groups of conscientious objectors (CCPR/C/FIN/CO/6, para. 14). It also notes with concern that the regular duration of alternative non-military service amounts to the longest period of military service and that, while such alternative service is under the direction of the Ministry of Employment and the Economy, military personnel still take part in relevant working groups and committees determining the nature and duration of alternative service. It is also concerned about the insufficient dissemination of information about the right to conscientious objection and alternatives to military service (art. 18).

**37. The State party should:**

(a) **Ensure that alternatives to military service are not punitive or discriminatory in terms of their nature or duration and remain of a civilian nature, outside military command;**

(b) **Halt all prosecutions of individuals who refuse to perform military service on grounds of conscience and release those who are currently serving related prison sentences;**

(c) **Intensify its efforts to raise awareness among the public about the right to conscientious objection and the availability of alternatives to military service.**

### **Freedom of religion**

38. The Committee is concerned that, in the light of the applicable regulations on the slaughtering of animals in the State party, religious minorities may have limited access to food products that meet their respective religious dietary restrictions (arts. 2, 18 and 26).

**39. The State party should ensure that religious minorities have adequate access to goods and services, in particular food products that meet their respective religious dietary restrictions, without discrimination.**

40. The Committee is concerned about the fact that the State party maintains a vague and broadly worded criminal provision on the breach of the sanctity of religion (chap. 17 of the Criminal Code), which carries a penalty of up to six months' imprisonment (arts. 18 and 19).

**41. The State party should take necessary steps to decriminalize the breach of the sanctity of religion and protect freedom of thought, conscience and religion, as well as freedom of expression, in accordance with articles 18 and 19 of the Covenant.**

### **Rights of the Sami indigenous people**

42. The Committee acknowledges the steps taken by the State party to promote the rights of the Sami people, including the ongoing establishment of a truth and reconciliation commission. The Committee, however, remains concerned that, despite the Committee's Views adopted in that respect in November 2018, the Sami Parliament Act – in particular section 3, on the definition of a Sami, and section 9, on the obligation of the authorities to negotiate with the Sami Parliament in all far-reaching and important measures that may affect the status of the Sami as an indigenous people – has not yet been amended in a way that guarantees the Sami people's right of self-determination. On the contrary, the decisions of the Supreme Administrative Court of 5 July 2019, and the Government's decision not to cancel or postpone the Sami Parliament elections of September 2019 appear to run counter to the Views adopted by the Committee regarding the Sami (see paras. 4 and 5 above). The Committee is further concerned about reports that vague criteria used to assess the impact of measures, including development projects, on Sami culture and traditional livelihoods have resulted in the authorities' failure to engage in meaningful consultations to obtain their free, prior and informed consent. The Committee also notes the State party's delay in ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (arts. 1, 25 and 27).

43. **The State party should:**

(a) **Speed up the process of revising the Sami Parliament Act, in particular its sections 3, on the definition of Sami, and 9, on the principle of free, prior and informed consent, with a view to respecting the Sami people's right of self-determination, in accordance with article 25, read alone and in conjunction with article 27, as interpreted in the light of article 1 of the Covenant, and of implementing the Committee's Views adopted in November 2018;<sup>2</sup>**

(b) **Review existing legislation, policies and practices regulating activities that may have an impact on the rights and interests of the Sami people, including development projects and extractive industries operations, with a view to ensuring, in practice, meaningful consultation with the Sami people to obtain their free, prior and informed consent;**

(c) **Consider ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization;**

(d) **Step up its efforts to provide government and local officials, police officers, prosecutors and judges with appropriate training on the need to respect the rights of the Sami as an indigenous people.**

#### **D. Dissemination and follow-up**

44. **The State party should widely disseminate the Covenant, its seventh periodic report and the present concluding observations with a view to raising the awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into the official languages of the State party.**

45. **In accordance with rule 75, paragraph 1, of the Committee's rules of procedure, the State party is requested to provide, by 26 March 2023, information on the implementation of the recommendations made by the Committee in paragraphs 15 (hate speech and hate crimes), 19 (violence against women) and 43 (rights of the Sami indigenous people) above.**

46. **In line with the Committee's predictable review cycle, the State party will receive in 2027 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies to the list of issues, which will constitute its eighth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in 2029 in Geneva.**

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<sup>2</sup> Ibid.