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Summary record of the 3666th meeting*

Held at the Palais Wilson, Geneva, on Friday, 25 October 2019, at 10 a.m.

Chair: Mr. Fathalla

Contents

Organizational and other matters, including the adoption of the report of the Working Group on Communications (*continued*)

Draft general comment No. 37 on article 21 of the Covenant (Right of peaceful assembly) (continued)

* No summary records were issued for the 3663rd to 3665th meetings.

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The meeting was called to order at 10 a.m.

Organizational and other matters, including the adoption of the report of the Working Group on Communications *(continued)*

Draft general comment No. 37 on article 21 of the Covenant (Right of peaceful assembly) (continued) (CCPR/C/GC/R.37)

1. **The Chair** said that paragraphs 51 to 53 of the first draft of general comment No. 37 on article 21 of the Covenant had been revised by Mr. Heyns in order to reflect the proposals and comments made during the 3660th meeting.

Paragraph 51

2. **Mr. Heyns** (Rapporteur for the general comment) said that paragraph 51 now read:

For the protection of “public safety” to be invoked as a ground for restrictions on the right of peaceful assembly, it must be established that the assembly creates a significant and immediate risk of danger to the safety of persons (to their life or physical integrity) or a similar risk of serious damage to property. As is the case with the invocation of all the grounds listed in article 21, restrictions on this ground must comply with the requirements of legality, necessity and proportionality set out above.
3. *Paragraph 51 was provisionally adopted.*

Paragraph 52

4. **Mr. Heyns** said that paragraph 52 now read:

Where a peaceful assembly elicits or is expected to elicit a violent reaction from opponents against its participants, the State is obliged to protect the participants against such a threat (see para. ...). However, in the exceptional case where the State is manifestly unable to protect the participants from the threat, restrictions on the assembly may be imposed, based on the State’s obligation to protect public safety. Any such restrictions must be able to withstand strict scrutiny. An unspecified risk of violence, or the mere possibility that the authorities will not have the capacity to prevent or neutralize the violence emanating from those opposed to the assembly, is not enough; the State must be able to show, based on a concrete risk assessment, that it would not be able to contain the situation, even if significant law enforcement capability were to be deployed. In such cases, alternatives such as postponement or relocation of the assembly must be considered before resort to prohibition.
5. To address concerns expressed at the previous meeting, he had replaced the word “genuinely” with “manifestly”, and had used the term “law enforcement” rather than “police”. The last sentence now indicated that alternatives such as postponement or relocation of the assembly must be “considered”, because the circumstances would determine whether such alternatives should actually be carried out.
6. **Mr. Zimmermann** proposed replacing “protect the participants from the threat” in the second sentence with “protect the participants from such threat”.
7. *Paragraph 52, as amended, was provisionally adopted.*
8. **The Chair** invited the Committee to resume its consideration of the draft as contained in document [CCPR/C/GC/R.37](#), beginning with paragraph 53.

Paragraph 53 (continued)

9. **Mr. Heyns** said that the Committee had not completed its discussion of paragraph 53 at the previous meeting. However, he had revised the paragraph to reflect the comments and proposals made to date. It now read:

States parties have the obligation to protect all the rights in the Covenant. Restrictions imposed on an assembly on the ground that such restrictions are in the interest of “the protection of the rights and freedoms of others” may relate to the

protection of Covenant or other rights of people not participating in the assembly. It is on this ground, for example, that restrictions may be placed on an assembly aimed at incitement of discrimination or hostility. The protection of other rights, such as the right of movement, or the right to work, may also justify restrictions. At the same time, since it is in the nature of assemblies that they can cause a certain level of disruption to ordinary life (for example to the circulation of traffic or pedestrians, and to economic activity) such disruptions have to be accommodated, unless they impose a disproportionate burden, in which case the authorities must be able to show detailed justification for any restrictions.

10. He proposed that incitement to violence should be added to the reference to incitement to discrimination or hostility in the third sentence. The right to work mentioned in the fourth sentence was not based on the Covenant. However, the Committee had agreed at the previous meeting that restrictions might relate to rights protected under other treaties, as was also now reflected in the second sentence. In the final sentence, the word “authorities” was used rather than “State” to reflect the fact that in most cases such restrictions were imposed by local authorities.

11. **Ms. Brands Kehris** said that, in order to guard against the possibility that States parties could refer to an unduly broad range of rights of others to justify restricting assemblies, she proposed replacing the phrase “other rights” in the fourth sentence with “other fundamental rights”.

12. **Ms. Sancin** suggested that the word “fundamental” could be added before “rights” in the second sentence.

13. **Mr. Zimmermann** said that it was unclear whether the term “fundamental rights” would include, for example, the right to property.

14. **Mr. Heyns** said that the right to property was not included in the Covenant. It was for States to decide whether it constituted a fundamental right.

15. Given that paragraph 1 of the general comment described peaceful assembly as a fundamental human right, it made sense to refer to “the protection of Covenant or other fundamental rights” in the second sentence. He would also not object to repeating “fundamental rights” in the fourth sentence and therefore proposed referring to “other fundamental rights” in both instances.

Paragraph 54

16. **Mr. Heyns** said that the purpose of paragraph 54 was to caution against unwarranted recourse to a vague notion of “public order” to prevent assemblies. As he had been informed that in some States “public disorder” was not a crime but an administrative offence, he proposed replacing “the crime of ‘public disorder’” in the third sentence with “the prohibition of ‘public disorder’ in domestic law”. The last phrase of the paragraph should be expanded to read: “which includes respect for human rights in general and the right of assembly in particular”.

17. **Mr. Ben Achour** said that it would also be useful to clarify the distinction between “public safety” and “public order”. He proposed that the last sentence should be moved to the beginning of the paragraph, since it provided a clear definition of “public order”. Although he noted that its wording reflected the language of paragraph 22 of the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, he proposed that an adjective such as “peaceful” or “normal” should be inserted before “functioning of society”.

18. **Mr. Heyns** said that he proposed making reference to “the proper functioning of society” in the last sentence. If that sentence were to be moved to the beginning of the paragraph, it might divert attention from the important warning in the first sentence against relying on public order as a ground for imposing restrictions. However, he would not object to moving the paragraph in question, if the other Committee members wished to do so.

19. **Mr. Shany** said that he supported the proposal to move the last sentence to the beginning of the paragraph. However, he proposed amending the beginning of the sentence

to read: “For the purposes of article 21 of the Covenant, ‘public order’ refers to ...”, in order to show that the definition was not a philosophical statement but rather an interpretative statement of what “public order” meant under the Covenant. The new second sentence would thus reflect the legal consequences of that interpretative statement.

20. **The Chair** said he took it that the Committee agreed to move the last sentence to the beginning of the paragraph, with the amendment proposed by Mr. Shany and the addition of the word “proper” before “functioning of society”.

21. *It was so decided.*

22. **Mr. Ben Achour** suggested that emphasis should also be placed in the new first sentence on the difference between “public safety” and “public order”.

23. **Mr. Bulkan** said that he had reservations about the reference to “legitimate assemblies” in the penultimate sentence, since it was unclear whether “legitimate” should be taken to mean “lawful”. If an assembly might pose threats to law and order, it might not be considered lawful in the first place. He proposed replacing “legitimate assemblies” with “peaceful assemblies”.

24. **Mr. Heyns** said that, according to article 21 of the Covenant, public order was a ground for restriction. In order to be faithful to the Covenant, he therefore proposed replacing the phrase “should not be used to prohibit legitimate assemblies” in the penultimate sentence with “should not be used to impose undue restrictions on peaceful assemblies”.

25. While paragraph 51 already contained a clear definition of public safety, he would discuss a possible amendment with Mr. Ben Achour to clarify the distinction between “public safety” and “public order”.

Paragraph 55

26. **Mr. Heyns** said that paragraph 55 dealt with the idea that an alleged threat to public health should not be exploited to prevent an assembly. While the protection of public health was a ground for restriction, it should rarely be used.

27. **Ms. Brands Kehris** said that she proposed replacing “presents a health risk” in the second sentence with “presents a substantial health risk”. She wondered about the possibility of adding wording to indicate that partial restrictions should be considered; for instance an assembly could be required to move to a different geographical area.

28. **Mr. Ben Achour** proposed replacing “may in rare instances permit” [*peut dans des rares cas justifier*] in the first sentence with “may exceptionally permit” [*peut exceptionnellement justifier*].

29. **Mr. Heyns** said that he agreed with both proposed amendments. The possibility of partial restrictions was applicable to the general comment as a whole and would be highlighted elsewhere.

Paragraph 56

30. **Mr. Heyns** said that paragraph 56 dealt with the restriction of public assemblies on grounds of national security. It encouraged States parties to exercise caution when applying restrictions on those grounds. The Committee might wish to consider addressing the restriction of assemblies as a counter-terrorism measure not only in paragraph 56 but also elsewhere in the text.

31. **Ms. Kran** said that she proposed inserting the words “real and substantial” or “real and imminent” before “threat of force” in the first sentence in order to emphasize that the threat of force should not be merely hypothetical. She further proposed replacing “overbroad” with “overbroad or vague” in the final sentence, since both overbroad legislation and vague legislation could be used to curtail the right of peaceful assembly.

32. **Mr. Shany** said that it would make sense to mention counter-terrorism in the first sentence, since States parties were likely to regard counter-terrorism as part of their national security agenda. He proposed inserting “generally” before “serve as a ground” in

the first sentence so as not to exclude other scenarios in which restrictions might be legitimate, for example in order to prevent demonstrators from gathering around facilities that had strategic military value.

33. **Mr. Ben Achour**, pointing out that security and national security were two different things, proposed replacing “security-related crimes” [*infractions liées à la sécurité*] with “national security-related crimes” [*infractions liées à la sécurité nationale*] in the final sentence.

34. **Ms. Brands Kehris**, agreeing with Ms. Kran, said that it was important to emphasize that the threat to national security should not be merely hypothetical.

35. **Mr. Shany** said that he too supported Ms. Kran’s first proposal. However, he would avoid using the word “imminent”, because the imminence of a threat was hard to establish.

36. **Mr. Heyns** said that, in the light of Ms. Kran’s proposal, “threat of force” could be replaced with “real threat of force” in the first sentence. He proposed that language on counter-terrorism should be inserted elsewhere in the draft general comment, since it was an issue that related not only to national security but also to other grounds for restrictions, including public safety. He proposed removing the word “only” from the first sentence, so as not to exclude other scenarios in which restrictions might be legitimate, and he accepted the proposal made by Mr. Ben Achour.

37. **Ms. Sancin**, referring to the second sentence, asked why it was necessary to specify that the threshold for the imposition of restrictions on the ground of national security would rarely be met by peaceful assemblies, given that the threshold for the imposition of restrictions on other grounds was equally high.

38. **Mr. Shany** said that national security encompassed not only the need of States to protect themselves but also their need to have the capacity to do so. Even if the word “only” were to be removed from the first sentence, the sentence would still fail to capture the full range of legitimate national security concerns that a State might have. He proposed putting the first sentence in square brackets and discussing it again during the second reading of the draft.

39. **Mr. Heyns**, supported by **Ms. Brands Kehris**, said that the threshold that must be reached for the imposition of restrictions on the ground of national security was particularly high. He was therefore in favour of retaining the second sentence.

40. **Ms. Sancin** said that the second sentence was superfluous because the rest of the paragraph made it clear that restrictions on the ground of national security could be imposed only in exceptional circumstances.

41. **The Chair** said he took it that the Committee wished to place the first two sentences in square brackets and reconsider them during the second reading of the draft general comment.

42. *It was so decided.*

Paragraph 57

43. **Mr. Heyns** said that paragraph 57 dealt with the imposition of restrictions on peaceful assemblies for the protection of morals. It aimed to discourage States parties from invoking such a nebulous concept as the basis for restrictions. He had struggled to find an appropriate example of a situation in which the protection of morals might legitimately be invoked and had eventually settled on the example of demonstrations involving sexually explicit material.

44. **Mr. Bulkan** said that he was uncertain whether the second sentence clearly conveyed the fact that morality must be narrowly interpreted as a ground for restricting the exercise of the right of peaceful assembly. In his view, that ground was sometimes applied too expansively. With regard to the last sentence, he proposed omitting altogether the example of a situation in which the protection of morals might be invoked, in order to prevent it from being misused by States parties. The example given might be wrongfully invoked as grounds for restricting a peaceful assembly on reproductive rights, for instance.

45. **Mr. Shany** said that Mr. Bulkan's concern regarding the second sentence could be addressed by combining the second and third sentences. It would be a good idea to clarify what kinds of tradition were covered by the phrase "a single tradition" in the third sentence. With regard to the final sentence, while he supported the proposal to omit the example concerning sexually explicit material, he would prefer to retain the last part of the sentence, because it was important to emphasize that restrictions based on opposition to expressions of sexual orientation were not acceptable.

46. **Mr. Ben Achour** said that he proposed replacing "rarely" [*rarement*] with "exceptionally" [*exceptionnellement*] in the first sentence. He was in favour of keeping the second sentence, even though it was likely to cause controversy because there was no universally accepted interpretation of morality. The idea expressed in the third sentence was particularly important because, in some parts of the world, restrictions on peaceful assemblies were often based on principles deriving from a single tradition.

47. **Ms. Kran** said that it was all-encompassing understandings of morality that were a source of concern, rather than narrow understandings of morality. She proposed amending the final sentence to read: "Such limitations may not be based on justifications which in purpose or effect discriminate against individuals or groups on the basis of protected grounds, including on the basis of their sex, gender, sexual orientation, gender identity, disability or health status, as for example in the case of opposition to expressions of sexual orientation."

48. **Ms. Sancin** agreed that the phrase "narrow understandings of morality" conveyed the opposite of what the Committee was trying to express.

49. **Mr. Santos Pais** said that the phrase "narrow understandings of morality" implied that the Committee was judging the morality of a particular society. Instead, he proposed calling for an open approach to morality. He supported Ms. Kran's proposal to amend the final sentence.

50. **Mr. Heyns** said that he accepted the proposals to replace "rarely" with "exceptionally" in the first sentence and to omit the reference to sexually explicit material from the last sentence. He proposed adding the words "social, philosophical or religious" before "tradition" in the third sentence, in line with the language used in paragraph 8 of the Committee's general comment No. 22. He proposed merging the second and third sentences to read: "If this ground is used at all, restrictions for the purpose of protecting morals must be based on principles not deriving exclusively from a single social, philosophical or religious tradition." Given that the grounds on which discrimination was prohibited under the Covenant had been mentioned earlier in the draft, it seemed unnecessary to list them again in the last sentence, as proposed by Ms. Kran. Instead, he proposed amending footnote 60 to include further examples of cases in which the Committee had found restrictions on rights enshrined in the Covenant to be discriminatory.

51. **Ms. Brands Kehris**, supported by **Mr. Ben Achour**, said that she would prefer to keep the reference to "narrow understandings of morality" in the second sentence, in order to emphasize that restrictions should not be based on a single, limited interpretation of morality. The reference to a single tradition did not adequately convey that idea, because traditions could be pluralist and incorporate more than one viewpoint.

52. **Mr. Shany** proposed replacing "narrow" with "idiosyncratic" in the second sentence.

53. **The Chair** said he took it that the Committee wished to place the phrase "narrow understandings of morality" in square brackets and reconsider it during the second reading of the draft general comment.

54. *It was so decided.*

Paragraph 58

55. **Mr. Heyns** said that paragraph 58 introduced the idea that restrictions affecting the time at which assemblies were held, the place in which they were held and the manner in

which they were conducted could be justified in certain circumstances. He proposed adding “on a case-by-case basis” at the end of the paragraph.

56. **Ms. Kran** said that she supported Mr. Heyns’ proposal.

57. **Mr. Shany** said that “proportionate” or “proportional” should be added before “limitations”, in order to avoid suggesting that States were free to add whatever restrictions they wished regarding time, place and manner. In addition, the word “address” or “regulate” would perhaps be more appropriate than “affect”.

58. **Ms. Sancin** said that it would perhaps be best to delete the words “and there is more scope for limitations that affect these elements”, since that phrase could give the impression that States were being invited to consider whether they should restrict time, place or manner of assemblies. The remainder of the sentence, following “generally content neutral” could read along the following lines: “and must be conducted on a case-by-case basis; however, when proportionate limitations to these elements are introduced, the onus remains on the authorities to justify any restriction”.

59. **Mr. Shany** said that his reading of the text brought to mind the Committee’s discussions on the use in general comment No. 36 of the term “less-lethal weapons”, namely, that States should sometimes be encouraged to avoid the most extreme option and make use of a less extreme one instead. In other words, in the current context they should be encouraged not to ban assemblies but rather to regulate certain aspects of them. He would like to hear the view of the Rapporteur.

60. **Mr. Heyns** said that, in the case of the earlier paragraphs, any deviation from the definitions used in the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights might cause confusion. However, with regard to the proposals for paragraph 58, it could be helpful to spell out the idea behind the phrase “there is more scope for limitations”. In other words, while restrictions relating to content were out of the question, there were fewer limitations on restrictions relating to the time, manner and place of assemblies. He would work out some new wording. On the assumption that the phrase “there is more scope for limitations that affect these elements” was kept, the word “limitations” could be qualified, but in that case the broader term “appropriate” would be better than “proportionate”, in order to more closely reflect the Siracusa Principles. If the word “affect” were to be changed, it should be to “regulate only”.

61. **Mr. Zyberi** said that the second half of the sentence, starting from “and there is more scope for limitations” should be replaced with the words: “while there might be some scope for restrictions that relate to these elements, the onus remains on the authorities to justify any such restriction on a case-by-case basis”.

62. **Mr. Heyns** said that he would prepare a revised version of paragraph 58 for the following meeting. Mr. Shany had indicated that he would accept the qualifier “appropriate” instead of “proportionate”. “Affect” would be replaced with “regulate only” and “on a case-by-case basis” would be added at the end of the sentence.

The meeting was suspended at 11.35 a.m. and resumed at 11.45 a.m.

Paragraph 59

63. **Mr. Heyns** said that the issue at hand was the restriction of assemblies based on time: namely the duration of assemblies (first half of the paragraph) and the frequency of assemblies (second half of the paragraph). The word “normally” should be deleted from the start of the second sentence and the first two sentences joined together to read: “As far as the regulation of the duration of peaceful assemblies is concerned, peaceful assemblies are generally temporary and should be left to end by themselves.” The existing third sentence, starting “There are no fixed rules” should remain unchanged, except for the addition of the word “effectively” before “manifest their views”. The existing fourth sentence should remain unchanged. The last sentence addressed the issue of frequency.

64. **Mr. Bulkan** said that he wondered how realistic it was to state: “Normally, assemblies should be left to end by themselves.” In his view, that message was covered by

the third sentence, according to which participants must have sufficient opportunity to manifest their views. Also, it was not clear to him what was meant in the third sentence by “There are no fixed rules about restrictions on their duration”. What did the “fixed rules” refer to?

65. **Mr. Shany** said that he supported the wording of the paragraph, including in relation to the idea that the assemblies should be left to end by themselves, especially since permits would normally have been issued. He agreed with the insertion of “effectively” before “manifest their views”. He proposed that the words “to the target audience” should be added after the phrase “message that is being conveyed”. In the last sentence, the words “or duration” should be inserted after “because of their frequency”.

66. **Ms. Pazartzis** said that she had no particular issues with the paragraph as a whole. However, she did not see the need for the sentence that read: “Normally, assemblies should be left to end by themselves.” Nor did she see what was meant by the sentence stating: “The duration of a demonstration may play a central role in the message that is being conveyed.” She would appreciate clarification from the Rapporteur.

67. **Mr. Zimmermann** said that, in the last sentence, the need to make sure that the rights of others should not be disproportionately impacted was referred to only in relation to the frequency of assemblies, and not in relation to their duration. Simply adding “or duration”, as had been proposed by Mr. Shany, would require some editorial reworking, because of the reference in the same sentence to the “cumulative impact of sustained gatherings”.

68. **Mr. Ben Achour** said that he supported the paragraph as it stood. He had no problem with the sentence “Normally, assemblies should be left to end by themselves”, since the inclusion of the word “normally” showed that it was not a hard and fast rule.

69. **Mr. Quezada Cabrera** said that he supported the paragraph as it stood. However, in the first sentence, the phrase “*suelen ser temporales*” in Spanish should be changed to something along the lines of “*suelen ser de corta duración*” or “*suelen durar un tiempo limitado*”, to better reflect the idea of peaceful assemblies being “generally temporary”. He had reservations about the reference to the decision of the European Court of Human Rights in footnote 62, since the idea that participants must have sufficient opportunity to express their views was not explicitly referred to in that decision.

70. **Ms. Kran** said that, for greater consistency with paragraph 92, she would be in favour of replacing the words “should not disproportionately impact the rights of others”, at the end of paragraph 59, with the phrase “should not cause serious and sustained disruption that disproportionately impacts the rights of others”.

71. **Mr. Heyns** said that he would reflect further on the inclusion of the reference to the European Court of Human Rights judgment in footnote 62. With regard to the meaning of the sentence that read “The duration of a demonstration may play a central role in the message that is being conveyed”, it should be understood that just as the wearing of face masks sometimes had an expressive element, so might the duration of a demonstration contribute to the message expressed. The fact that demonstrators met every Friday, for example, might give additional weight to their message, and States parties should take that into account. The sentence therefore took further the idea that participants must have sufficient opportunity to effectively manifest their views. He agreed with the insertion of the words “to the target audience” at the end of the sentence, as proposed by Mr. Shany.

72. **Mr. Muhumuza** said that, to better reflect the example of a demonstration being held every Friday, the words “and frequency” should be added, so that the sentence read “The duration and frequency of a demonstration may play a central role in the message that is being conveyed to the target audience.”

73. **Ms. Sancin** said that the word “demonstration” should be replaced by “assembly”.

74. **Mr. Heyns** said that in the last sentence of the paragraph he did not think it was necessary to insert the idea of duration as well as frequency, but he did not have a strong objection to it. He would prefer not to replace the words “should not disproportionately impact the rights of others” with the phrase “should not cause serious and sustained

disruption that disproportionately impacts the rights of others”, as proposed by Ms. Kran, since he wished to avoid distorting the text by linking the grounds for restrictions with the grounds for dispersal. He was also not in favour of Mr. Muhumuza’s proposal, which was not necessary in view of the structure of the paragraph.

Paragraph 60

75. **Mr. Heyns** said that paragraph 60 dealt with restrictions on the time of day at which assemblies could or could not be held. He proposed adding the words “in residential areas” after the words “assemblies held at night”.

76. **Mr. Zimmerman** said that the Committee should also address the legitimacy of restrictions applying to the date on which assemblies were held, for example in the case of a right-wing group deciding to hold an assembly to commemorate the birth of Adolf Hitler.

77. **Mr. Santos Pais** said that the addition of “in residential areas” should be broadened by changing the wording to “particularly in residential areas”.

78. **Mr. Muhumuza** said that it should be borne in mind that some assemblies always took place at night, such as those celebrating Halloween and assemblies in the world’s northern regions that received very little sunlight at certain times of the year. Greater clarification of what was meant by “at night” was therefore required.

79. **Mr. Shany** said that the inclusion of the word “might” before “have an impact” already qualified the assertion that assemblies held at night could have an undue impact on the lives of those who lived nearby. He supported the sentence, which was clear enough as it was.

80. **Mr. Heyns** said that the purpose of paragraph 60 was to provide general guidelines to warn States about imposing excessive restrictions on peaceful assemblies, while acknowledging that, for example, assemblies held at night could unduly affect those living nearby. He agreed that the proposed addition of “in residential areas” could be preceded by “particularly” so as to broaden the meaning. He would consider the inclusion of any new language that Mr. Zimmermann might propose.

Paragraph 61

81. **Mr. Heyns** proposed inserting “adversely” after “may” in the second sentence, so that it would read “may adversely affect”.

82. **Mr. Ben Achour** said that the reference to article 12 of the Covenant might be confusing, since paragraph 53 suggested that the right of peaceful assembly and the right to liberty of movement could conflict with each other. Accordingly, he proposed reformulating the text so that it read “or should have access, such as public squares and streets”.

83. **Mr. Heyns** said that, since he did not want to give the impression that one right was more important than the other, he was happy to remove the reference to article 12.

Paragraph 62

84. **Mr. Heyns** said that the paragraph was intended to emphasize the “within sight and sound” principle. He proposed that, in order to clarify the intended meaning, the words “and participants are entitled as a rule to choose where to assemble” should be inserted after the word “assemblies” in the second sentence. The words “may not be relegated to remote areas” had been included because the Committee was aware of instances of demonstrations only being permitted out of town. He proposed reformulating the end of the final sentence so that it read: “or prohibitions such as ‘on assemblies in the streets’, may not be imposed”.

85. **Mr. Ben Achour** said that he supported the whole of the paragraph, except for the words “across the entire capital”. If the intended meaning was that assemblies could not be organized in certain parts of the capital, such as the centre, it should be reworded to reflect that meaning.

86. **Mr. Heyns** explained that “across the entire capital” was merely an illustrative example.

87. **Mr. Shany** said that he proposed inserting, in the penultimate sentence, the word “effectively” in between the words “cannot” and “capture”, so that it would read “cannot effectively capture”, in order to strengthen the requirement for participants to be entitled to choose the location of assemblies.

88. **Mr. Muhumuza** said that, since not all built-up places qualified as cities, he proposed making a distinction between cities and towns or municipal centres.

89. **Mr. Heyns** said that he did not exclude the possibility of incorporating additional specific examples. He proposed removing the words “more general” from the final sentence, since the word “general” was already included at the start of the sentence.

90. **Mr. Bulkan** said he understood that a distinction was being made between general prohibitions across an entire area and prohibitions specific to certain locations. Nevertheless, even though the fourth sentence drew on the concluding observations in various specific cases, he wondered why it referred solely to a capital: the principle was that there should be no general prohibitions.

91. **Mr. Zyberi** said that the sentence in question seemed to be addressing both general and specific prohibitions; would it not be better to have two separate sentences? He also wondered what was covered by the words “except a single specified place” and whether, for example, they related to very symbolic places or, perhaps, to protected locations, such as a power plant or a military base.

92. **Mr. Shany** said that he wished to defend the idea that general comments should not only contain normative propositions, but should also allude to the Committee’s practice. In order for the general comments to include practical examples, rather than merely imaginary ones, it was useful to refer to concluding observations that dealt with cases in which, for example, demonstrations in the capital had been banned; such references did not, of course, exclude the possibility of even more limited restrictions still being regarded as excessive.

93. **Ms. Sancin** said that, in order to clarify that the cases cited were only examples, she proposed reformulating the text so that it read “General prohibitions on assemblies, such as prohibitions on holding assemblies across an entire city, such as the capital”. It might also be possible to use another example to make clear that prohibitions on assemblies in a particular city were also too general to be justified.

94. **The Chair** said that, in his view, Ms. Sancin’s proposal resolved all the concerns raised by other members.

95. **Mr. Heyns** said that the most important change to the wording of the last sentence would be the inclusion of the words “for example” between “may” and “not”. His proposal was that the sentence, as amended, should read: “Prohibitions on all assemblies in the entire capital; any public location except a single specified place, either in a city, or outside the city centre; or prohibitions on assemblies in ‘the streets’, may for example not be imposed.” The phrase “except a single specified place, either in a city, or outside the city centre” alluded to specific instances from the Committee’s case law, in which the public in a given State had been told that assemblies were restricted, in the first example, to a particular square and, in the second, to a specified location outside the city.

96. **The Chair** said that, in his view, Ms. Sancin’s proposal had been clearer. However, if he heard no objections, he would take it that the Committee wished to accept the version of the last sentence as reformulated by the Rapporteur.

97. *It was so decided.*

Paragraph 63

98. **Mr. Heyns** said that, although many advocated a universal standard preventing the establishment of any form of no-go zone, States often considered it important to, for example, restrict the area around a court, in order to protect that court’s independence.

Accordingly, the purpose of the paragraph was to state that, if such zones were imposed, there should be a justification for doing so.

99. **The Chair**, speaking in his capacity as an expert, requested clarification on why an assembly in front of a parliament might not be permitted.

100. **Mr. Heyns** said the intention was to state that, in general, the right to demonstrate outside the parliament, or outside a court or hospital, should be viewed as part of the political process, but that there could, in some cases, be justifications for limiting that right.

101. **Mr. Ben Achour** said that, since it was very common for States to prohibit demonstrations near official buildings such as government offices or the president's residence, he believed that the scope of the wording used in that part of the sentence should be broader. However, he had reservations about the inclusion of hospitals in the list because, given patients' vulnerability and the potential for excesses on the part of demonstrators, demonstrations near hospitals must be very strictly regulated or even prevented. Accordingly, he proposed the following wording: "Identifying no-go zones for protesters, such as official buildings, government offices, a court or parliament, should generally be avoided" [*Il convient d'éviter d'interdire certains zones aux manifestants, comme les bâtiments officiels, les sièges du gouvernement, les tribunaux ou le parlement*].

102. **Mr. Zimmermann** said that he wondered whether the wording "no-protest zones" might be more appropriate than "no-go zones". He shared Mr. Ben Achour's doubts about the reference to hospitals.

103. **Ms. Pazartzis** expressed the view that it would be preferable to focus on examples for which there were specific references to the Committee's practice.

104. **Mr. Heyns** said that he proposed replacing "no-go zones" with "specific areas where no assemblies may take place". He did not object to removing hospitals from the list, as doing so would not detract from the broader principle; in line with Mr. Ben Achour's suggestion, he proposed replacing "hospital" with "all official buildings".

105. **Mr. Santos Pais** said that the term "official buildings" was too broad because it could apply to a large proportion of a city.

106. **Mr. Zyberi** said that, while he understood the Rapporteur's efforts to include examples, they inevitably led to disagreements about whether to include some of those examples and not others, since different countries had different histories and practices. He proposed replacing all of the examples with a generic term, such as "public spaces", "government buildings" or "government agencies".

107. **Mr. Shany** said that, in his view, the parameters of the term "official buildings" were sufficiently broad but not overly so.

108. **Mr. Heyns** said that he considered it useful to include some examples.

109. **Ms. Sancin** proposed that the text should be reformulated to read: "Identifying no-go zones for protesters in public spaces, such as the perimeters of a court or parliament, should generally be avoided."

110. **Mr. Heyns** said that, in his view, it made sense to include the words "because these are public spaces" at the end of the sentence in order to provide a reason for what preceded. In his view, the first sentence should read "Identifying specific areas where no assemblies may take place, such as the perimeters of a court, parliament or official buildings, should generally be avoided because these are public spaces." The second sentence should remain unchanged.

111. **The Chair** said he took it that the Committee wished to accept the reformulated text.

112. *It was so decided.*

Paragraph 64

113. **Mr. Heyns** said that paragraph 64 addressed the relationship between private property and the right of peaceful assembly.

114. **Mr. Shany** said that the following additional sentence could be inserted at the end of the paragraph: “Assemblies on private property with the consent of the owners enjoy all the protections of article 21.”

115. **Mr. Zimmermann** said that he proposed replacing the term “private property” with “property owned by private individuals” because, in some legal systems, property could be owned by State-owned enterprises. For example, the German State was the majority shareholder in the private company that owned Frankfurt Airport.

116. **Mr. Zyberi** said that he disagreed with Mr. Zimmermann because, since private property could be owned by companies as well as individuals, the addition of qualifiers might ultimately exclude some situations.

117. **Mr. Heyns** said that the proposal to replace the term “private property” with “property owned by private individuals” could be addressed at a future meeting. It would also be necessary to look at the question of the responsibility of businesses for respecting human rights.

118. **The Chair** said he took it that the Committee agreed that the additional sentence proposed by Mr. Shany should be inserted and that the other proposed amendments should be discussed at a future meeting on the draft general comment.

119. *It was so decided.*

The meeting rose at 1 p.m.