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Summary record of the 3725th meeting

Held via videoconference on Friday, 17 July 2020, at 4 p.m. Central European Time

Chair: Mr. Fathalla

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The meeting was called to order at 4 p.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** invited the Committee to resume its second reading of draft general comment No. 37 on article 21 of the Covenant (Right of peaceful assembly).

Paragraph 80 (continued)

2. **Mr. Heyns** (Rapporteur for the general comment) recalling that, at the previous meeting, the Committee had discussed the removal of the reference to authorization from the title of the section and the reformulation of the third and final sentences of paragraph 80, said that some members had also suggested that the Committee should state its position on authorization at the beginning of the section. Based on the Committee's discussion thus far, he therefore proposed deleting "and authorization" from the section title and moving some language from paragraph 84 to the start of paragraph 80. The revised version of paragraph 80 would read:

Having to apply for permission from the authorities to engage in peaceful assembly undercuts the idea that peaceful assembly is a basic right. Notification systems, entailing that those intending to organize a peaceful assembly are required to inform the authorities accordingly in advance and provide certain salient details, are permissible to the extent necessary to assist the authorities in facilitating the smooth conduct of peaceful assemblies and protecting the rights of others. At the same time, this requirement must not be misused to stifle peaceful assemblies, and, like other interferences with the right, must be justifiable on the grounds listed in article 21. The enforcement of notification requirements must not become an end in itself. Notification procedures should not be unduly bureaucratic, their effects on the organizers must not be disproportionate to the potential public impact of the assembly concerned, and they should be transparent and free of charge.

3. **The Chair** said that, to his mind, it made sense to refer to both notification and authorization in the section title, since the section dealt with both types of regime.
4. **Mr. Heyns** said that, at the previous meeting, there had been general consensus that it would be better to mention only notification in the section title, in order to avoid placing notification and authorization on the same level. After all, the main thrust of the section was that notification could be required under article 21.
5. **Ms. Kran** said that she supported the deletion of "and authorization" from the title of the section and agreed with the amended wording of paragraph 80 proposed by the Rapporteur.
6. *Paragraph 80, as amended, was adopted.*

Paragraph 81

7. **Mr. Heyns** said that paragraph 81 dealt with the issue of failure to notify the authorities of an assembly. The vast majority of stakeholders were in favour of retaining the language that had been placed in square brackets in the text as provisionally adopted on first reading, on the basis that a failure on the part of the organizers to comply with notification requirements should not be held against the participants.
8. Angola had suggested that the paragraph diminished the relevance of notification and could lead to assemblies taking place in an uncontrolled manner; however, in his opinion, there was nothing to stop the authorities from intervening in the event of unlawful conduct, whether or not they had been notified of the assembly. Several stakeholders, including Denmark, had raised concerns about the misuse of notification systems, while Human Rights Centre "Memorial" and OVD-Info had underlined the need for such systems to be transparent. Michael Hamilton, Associate Professor of Public Protest Law, University of East Anglia, United Kingdom, had argued, along the same lines as the paragraph, that the legal basis for individual participation in an assembly remained valid even if the

organizers' failure to notify the authorities rendered the assembly technically unlawful. Amnesty International had proposed stating that a failure to notify the authorities rendered neither participation in the assembly nor the assembly itself unlawful; in his view, however, that proposal went too far.

9. In the light of the comments made by stakeholders, he proposed retaining the language that had been placed in square brackets and keeping the rest of the paragraph as provisionally adopted on first reading.

10. **Mr. Shany**, recalling that notification was a legal requirement in some countries, said that it could seem contradictory to say that an assembly should be considered lawful even if a legal requirement had not been met. He proposed inserting "the act of" before "participation" in the first sentence, in order to clarify exactly which act should be deemed lawful. He also proposed inserting the words "or requiring them to pay civil damages" at the end of the first sentence, as an additional example of an undue sanction.

11. **Mr. Furuya** said that he would be in favour of stating that a failure to notify the authorities rendered neither participation in the assembly nor the organization of the assembly unlawful. In addition, since the imposition of administrative sanctions in the context of assemblies was an issue that had arisen frequently in individual communications submitted to the Committee, he proposed referring to such sanctions in the paragraph itself, rather than the footnote.

12. **Mr. Santos Pais** said that it did not make sense to use "such as" in the first sentence, because the act of charging a person with an offence was not an example of a sanction. He proposed amending the end of that sentence to read: "or the imposition of undue sanctions, of either a criminal or an administrative nature". The last sentence might be difficult for States to interpret in practice, for it was unclear how authorities were supposed to meet their obligations if they were unaware that an assembly was going to take place.

13. **Mr. Zyberi** said that he was concerned that paragraph 81 could lead to a free-for-all where organizers did not bother notifying the authorities because there were no sanctions for failing to do so. A balance must be struck between protecting the right of peaceful assembly and ensuring that authorities were in a position to fulfil their obligations, bearing in mind that police resources were stretched in many countries.

14. **The Chair** said that, while it was important to allow for spontaneous assemblies, he shared the concerns raised by Mr. Zyberi. If a failure to notify the authorities had no consequences, the purpose of notification was unclear.

15. **Mr. Shany** said that it was critical to distinguish between the obligations of the organizers and those of the participants. The paragraph struck an appropriate balance, as it conveyed that there could be legal consequences for a failure on the part of the organizers to comply with notification requirements, but that, in such cases, the exercise of the right of peaceful assembly by participants could not be considered unlawful, since participants had no control over the way in which the assembly had been organized. He would prefer to keep the existing wording, including the language in square brackets, in order to avoid rendering the notification requirement meaningless or overdiluting the right of peaceful assembly.

16. **Mr. Ben Achour** said that domestic legislation that established a notification requirement was not contrary to the Covenant, since notification served to protect both the participants and the general public. In some countries, therefore, a failure to notify the authorities of an assembly might render participation in the assembly unlawful. For that reason, he would be in favour of removing the language in square brackets, which was somewhat utopian, and simply emphasizing that States must not impose disproportionate sanctions in such cases.

17. **Mr. Quezada Cabrera** said that he supported Mr. Santos Pais's proposal to reformulate the end of the first sentence. In his view, the paragraph should make it clear that a failure to notify the authorities could lead to the imposition of sanctions on the organizers only, not on the participants.

18. **Mr. Santos Pais** said that there was general consensus that requirements relating to assemblies were permissible and that organizers and participants should comply with such

requirements wherever possible. The aim of the language in square brackets was to establish that, although an assembly might be irregular because administrative regulations had not been followed, participation in such an assembly should not be considered illegal. He was happy with the existing wording, including the language in square brackets.

19. **Ms. Kran** said that the Committee should be careful not to imply that States parties were required to have a notification regime for peaceful assemblies, as some countries did not have such a regime. She associated herself with the comments made by Mr. Quezada Cabrera, Mr. Santos Pais and Mr. Shany. She supported the Rapporteur's revised version of the paragraph, which made clear that the participants in an assembly should not face penalties if the organizers had not notified the authorities in advance.

20. **The Chair** proposed inserting words such as "when required" in the first sentence.

21. **Mr. Zyberi** said that the participants in an assembly should be expected to know the aim of the assembly in which they were participating, who the organizers were and whether the authorities had been notified. He was concerned that the revised version of the paragraph, as presented by the Rapporteur, could be interpreted as absolving the organizers of any responsibility in that regard. States needed advance notice of an assembly in order to be able to facilitate it and to protect the participants. He proposed that the words "where circumstances do not allow" should be added to the first sentence after "a failure to notify the authorities of an assembly" in order to make clear that the paragraph described an exceptional situation.

22. **Mr. Heyns** said that, with regard to the first sentence, it was not realistic to expect the participants in an assembly to carry out the due diligence necessary to ascertain whether the authorities had been notified in advance. There seemed to be agreement in the Committee that, while the organizers of an assembly would be acting unlawfully if they failed to notify the authorities in advance, and an assembly held without advance notification would itself technically be unlawful, the act of participation in an assembly in respect of which the authorities had not been notified in advance would not be unlawful. He agreed with the Chair's proposal to add the words "when required", Mr. Shany's proposal to insert the words "act of" before "participation", and Mr. Santos Pais's proposal to refer to sanctions of either a criminal or an administrative nature.

23. With regard to the second sentence, it was important to make clear that, if the authorities were aware that an assembly would be held, they had an obligation to facilitate the assembly and to protect the participants, even if they had not been notified of the assembly.

24. **The Chair** said he took it that the Rapporteur would amend his revised version of the paragraphs, in the light of the comments and suggestions made by Committee members, for consideration at the next meeting.

25. *It was so decided.*

Paragraph 82

26. **Mr. Heyns** said that paragraph 82 stated that, in general, notification should not be required where the impact of the assembly on others could reasonably be expected to be minimal. It was necessary to include such a statement in the draft in view of the Committee's broad understanding of the concept of a peaceful assembly, which included all non-violent gatherings for specific purposes, whether they took place outdoors, indoors or online.

27. Although some stakeholders had expressed concerns regarding the exclusion of certain assemblies from the notification requirement, such concerns stemmed from a narrower understanding of the concept of a peaceful assembly. The City of Amsterdam, for example, evidently understood the term to exclude relatively small gatherings for non-expressive purposes. Other stakeholders, including the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights and Amnesty International, had advocated an approach similar to the one that he had ultimately taken.

28. He proposed that, in the first sentence of the paragraph as provisionally adopted on first reading, the words "assemblies should be excluded from" should be deleted and the word "regimes" should be replaced with "should not be required". He further proposed that

the second sentence of the paragraph as provisionally adopted on first reading should be moved to the end of paragraph 83.

29. **The Chair**, speaking as a member of the Committee, said that the draft of the paragraph currently under consideration was extremely general in nature, as it did not set out the criteria for determining the threshold for an impact that could reasonably be expected to be “minimal”.

30. **Mr. Zyberi** said that the proposed wording of the paragraph seemed to undermine the obligations set out in the preceding ones. It was unclear who would be responsible for determining the expected impact of an assembly. He was uncomfortable with the paragraph, which struck him as a step too far in the direction of releasing the organizers of assemblies from all obligations in relation to notification.

31. **Mr. Santos Pais** said that he supported the revised version of the paragraph as proposed by the Rapporteur. The reference to the “nature, location or limited size or duration” of the assembly provided a set of criteria for determining whether its impact on others could reasonably be expected to be “minimal”. The question of notification would lose its relevance in the context of a relatively small gathering.

32. **Mr. Shany** said that, as in other paragraphs of the draft, the Committee was establishing a standard that States would be responsible for applying. Some States might decide, for example, that notification was required for assemblies with more than a certain number of participants. The Committee would then be able to evaluate any such notification regime in the light of its general comment.

33. With regard to the concerns expressed by the Chair and Mr. Zyberi, he recalled that the Committee had considered a number of individual communications in which the issue of the regulation of small-scale events had arisen in the context of the right of peaceful assembly. A footnote could be added to the paragraph under consideration in order to provide references to the Committee’s Views on the cases in question. He supported the revised version of the body of the text, as proposed by the Rapporteur.

34. **Mr. Heyns** said that he accepted Ms. Kran’s proposal, made via the online chat function, to add a reference to the noise that an assembly might create, which was another criterion for determining whether its impact on others could reasonably be expected to be minimal. He wished to reiterate that, according to the definition set out earlier in the draft, the Committee understood a peaceful assembly to be any non-violent gathering of two or more persons for a specific purpose. It would be unrealistic to expect the participants in all such assemblies to notify the authorities in advance. A more practical approach would be to mention some of the criteria that should be taken into account when determining whether the impact of a particular assembly on others could reasonably be expected to be minimal. If the Committee wished to make the text more explicit, the words “by the authorities” could be added after “not be required” in the first sentence of the revised version that he had presented. The Committee might wish to consider other ways in which it could offer guidance to States that were developing notification regimes. It would certainly be possible to include references to the Committee’s Views on relevant individual communications. However, it would be simply impossible, in a general comment, to establish specific criteria for determining whether notification was required in a particular case.

35. **The Chair** said he agreed that it should be for States to determine the specific criteria according to which an assembly could reasonably be expected to have a minimal impact on others. Nevertheless, he was reluctant to support the Rapporteur’s revised version, which lacked specificity. Even if the Committee’s Views on relevant individual communications were mentioned in a footnote, States parties might not follow the references to the documents in question.

36. **Mr. Heyns** said that a paragraph of the kind that he had proposed was necessary in order to cover small-scale gatherings that could reasonably be expected to have a minimal impact on others, for example visits to restaurants. Without such a paragraph, the organizers of such gatherings would be required to notify the authorities in advance, as they fell within the Committee’s definition of a peaceful assembly.

37. **The Chair** said it should be specified in the paragraph that States parties that had introduced a notification regime had an obligation to determine the specific criteria used to

assess whether a particular assembly could reasonably be expected to have a minimal impact on others.

38. **Mr. Heyns** said that he would reflect on the most appropriate way in which to convey the idea that States were responsible for establishing specific criteria.

39. **Ms. Tigroudja** said that she supported the Rapporteur's revised version of the paragraph, which should be retained in order to ensure that small-scale gatherings were excluded from any notification requirement. The Committee might wish to shift the focus of the paragraph more towards the question of how to assess the impact that an assembly could reasonably be expected to have on others. She agreed with Mr. Shany's proposal to include references to relevant cases that the Committee had considered. The Committee had recently considered an individual communication in which a State party had deemed that two persons who had met for a private discussion should face administrative penalties for not having notified the authorities of their assembly.

40. **The Chair** said he took it that the Rapporteur would amend his revised version of the paragraph, in the light of the comments and suggestions made by Committee members, for consideration at the next meeting.

41. *It was so decided.*

Paragraph 83

42. **Mr. Heyns** said that paragraph 83 dealt with the period of advance notification required for pre-planned assemblies. The International Center for Not-for-Profit Law, one of the two stakeholders that had commented on the paragraph, had suggested alternative wording for the second sentence and had proposed an additional sentence.

43. He recalled his earlier proposal to move the second sentence of paragraph 82 to the end of paragraph 83. In addition, he proposed that the word "since" in that sentence should be replaced with "where". He further proposed that the first two sentences of paragraph 83 as provisionally adopted on first reading should be amended to read:

The minimum period of advance notification required for pre-planned assemblies might vary according to the particular context but it should not be excessively long. If restrictions need to be imposed, they should be communicated early enough to allow time for access to the courts or other mechanisms to challenge them.

44. **Mr. Ben Achour** said that he supported the revised version of the paragraph. He proposed that the words "and domestic law" should be added after "particular context" in the first sentence, as the minimum period of advance notification required would be set out in the domestic law of each State party.

45. **Mr. Shany** said that, while he supported Mr. Ben Achour's proposal, he would prefer to insert the words "under domestic law" after "required" in the first sentence. No such requirements would have any basis unless they were set out in law. On a separate point, there seemed to be a connection between the paragraph and paragraph 81, as the minimum period of advance notification would have to be calculated so as to allow the authorities to facilitate assemblies.

46. **Mr. Heyns** said that he agreed with the proposal to insert the words "under domestic law" after "required" in the first sentence. In the same sentence, he proposed that the words "and the level of facilitation required" should be inserted after "the particular context".

47. *Paragraph 83, as amended, was adopted.*

Paragraph 84

48. **Mr. Heyns** said that paragraph 84 was intended to specify that if authorization regimes did persist, they must in fact function as systems of notification. He recalled that the part of paragraph 84 as provisionally adopted on first reading that emphasized that the Committee did not favour authorization regimes ("authorization regimes ... undercut the idea that peaceful assembly is a basic right") had been moved to paragraph 80.

49. In their submissions, several non-governmental organizations (NGOs) had called for the text to state that authorization regimes should be prohibited outright or replaced with notification regimes, or that they were incompatible with international law. He felt that such

an approach would be excessive. It would be acceptable for an authorization regime to exist in name only, as long as it functioned in practice as a notification regime. He proposed that the revised paragraph should read:

Where authorization regimes persist, they must in practice function as a system of notification, with authorization being granted as a matter of course, in the absence of compelling reasons to do otherwise. Notification regimes, for their part, must not in practice function as authorization regimes.

50. **The Chair** noted that a proposal had been made, via the online chat function, to add a reference to domestic law.

51. **Mr. Heyns** said that the application of domestic law was implicit, but that he had no objection to adding the reference.

52. *Paragraph 84, as amended, was adopted.*

Paragraph 85

53. **Mr. Heyns** said that paragraph 85 served as the introduction to the section of the draft general comment that dealt with the duties and powers of law enforcement agencies in relation to peaceful assemblies. Their basic approach should be to protect participants and the public by facilitating assemblies and de-escalating tensions that might arise. Among the stakeholder submissions, the Russian Federation had noted that the draft failed to mention the crucial task of law enforcement agencies in maintaining public order. The Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe had said that “respect and ensure” could be replaced or expanded with “facilitate”. Michael Hamilton, Associate Professor of Public Protest Law at the University of East Anglia, United Kingdom, had pointed to the need to distinguish between participants and third parties, such as monitors and observers, but the text of the general comment already drew such a distinction elsewhere. Anita Danka, an independent human rights law specialist, had suggested the insertion of “the rights and freedoms of” before “other members of the public”; however, it would be necessary to be cautious with such an approach, as it might imply that participants had more rights than others. Amnesty International had emphasized the need to specify that the approach of law enforcement officials should be to facilitate the assembly. The International Network of Civil Liberties Organizations had suggested inserting “promote” between “respect” and “ensure”, but he was not proposing that a change, since the language of the Covenant was “respect and ensure”. The International Institute for Non-violent Action had proposed inserting “and proportionate” after the word “reasonable”, and the Equal Rights Trust had called for an explicit reference to the duty of law enforcement agencies to prevent and protect participants against discriminatory violence.

54. On the basis of the stakeholders’ submissions, he had prepared a revised version, which read:

Law enforcement officials involved in policing assemblies must respect and ensure the exercise of the fundamental rights of organizers and participants, while also protecting other members of the public, including journalists, monitors and observers, and medical personnel, as well as public and private property, from harm. The basic approach of the authorities should be to seek to facilitate peaceful assemblies.

55. **Mr. Shany** said that the reference to “other members of the public” might be better placed after “medical personnel” and that “organizers and” should perhaps be deleted from the first sentence.

56. **Mr. Heyns** said that it was acceptable to move “other members of the public”, but that the text should retain the reference to organizers, so as to remain consistent with usage in other paragraphs of the draft general comment. He noted that Mr. Zyberi and Mr. Santos Pais had expressed agreement with that point, via the online chat function.

57. **The Chair** asked whether the last sentence was necessary, as it merely repeated a point made elsewhere in the text.

58. **Mr. Heyns** said that repetition could sometimes be warranted, as people might consult just one section of the general comment at a time. He noted that Mr. Zyberi and Mr.

Santos Pais, using the online chat function, had expressed support for retaining that sentence.

59. *Paragraph 85, as amended, was adopted.*

Paragraph 86

60. **Mr. Heyns** said that the paragraph addressed law enforcement tasks not involving the use of force, including the establishment of good communication, preparedness and dispute resolution. In their submissions, the Centre for Political Studies of the University of San Martin in Buenos Aires had pointed to the need to create and train special units to establish communication and reduce tension during assemblies, while Child Rights Connect had proposed that the organizers of children's assemblies should be specifically mentioned in the text. He proposed replacing the words "ensuring predictability" in the draft text provisionally adopted on first reading with "promoting preparedness".

61. **Mr. Zyberi** said that the reference to "law enforcement agencies" at the beginning of the paragraph might be too broad. It should perhaps be specified that the paragraph was intended specifically to cover those agencies that worked in the context of peaceful assemblies.

62. **Mr. Heyns** said that implicitly, the text was already in line with Mr. Zyberi's point. To align the wording with the rest of the draft general comment, the word "agencies" should be replaced with "officials". He also agreed with a proposal made by Mr. Shany to reverse the order of the words "organizers" and "participants" in the second sentence.

63. *Paragraph 86, as amended, was adopted.*

Paragraph 87

64. **Mr. Heyns** said that the purpose of the paragraph was to ensure that the involvement of law enforcement officials in peaceful assemblies was planned in advance and that they had adequate instruction and equipment to carry out their tasks. In its submission, Switzerland had mentioned that the draft was excessively detailed, and as a result he had deleted the second sentence. The International Center for Not-for-Profit Law had indicated that the text should make clear that the assembly should take place as planned by the organizers and participants; in the light of that suggestion, he proposed revising the first sentence of the paragraph as provisionally adopted on first reading to read: "Where the presence of law enforcement officials is required, the policing of an assembly should be planned and conducted with the objective of enabling the assembly to take place as intended, and with a view to minimizing the potential for injury to any person and damage to property."

65. Responding to a question from the Chair, he confirmed that "equipping" in the final sentence was intended to refer to the relevant officials. He proposed replacing the word "equipping" with "equipment".

66. *Paragraph 87, as amended, was adopted.*

Paragraph 88

67. **Mr. Heyns** said that the intention was for the paragraph to cover situations where law enforcement officials were unaware of an assembly before it happened. Among stakeholder submissions, the International Center for Not-for-Profit Law had proposed a new penultimate sentence stating that law enforcement officials should receive adequate regular training regarding the relevant policies, protocols and plans, with written guidelines. On the basis of the submissions received, he had drawn up a revised version, which read:

Generic contingency plans and training protocols should also be elaborated by relevant law enforcement agencies, in particular for the policing of assemblies of which the authorities are not notified in advance and which may affect public order. Clear command structures must exist to underpin accountability, as well as protocols for recording and documenting events, ensuring the identification of officers and reporting of any use of force.

68. *Paragraph 88, as amended, was adopted.*

Paragraph 89

69. **Mr. Heyns** said that the second sentence of paragraph 89, which concerned the use of force by law enforcement officials, had been amended to include direct references to two important international standards relating to the use of force. In its general comment No. 36 (2018) on the right to life, the Committee had made similar references, without the use of footnotes. In their submissions, Switzerland had suggested that the general comment should use the same language as the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, and the consortium of Latin American NGOs had recommended deleting the qualifier “as far as possible” in the first sentence. The International Center for Not-for-Profit Law had called for the paragraph to clearly specify that accountability should be maintained through a review by a competent and independent authority. On the basis of the submissions, he proposed revising the paragraph to read:

Law enforcement officials, in carrying out their duties, are obliged to exhaust non-violent means, unless they would be patently inadequate, before resorting, when absolutely necessary, to the use of force. Domestic legal regimes on the use of force by law enforcement officials must be brought in line with the requirements posed by international law, including the standards found in the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* and the *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*. In any event, all use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination applicable to articles 6 and 7 of the Covenant, and those using force must be accountable for each use of force.

70. **Mr. Shany** said that the first sentence should refer not only to non-violent means, but also to de-escalation measures, in line with wording used in previous paragraphs. The fact that the text cited the international standards directly in the second sentence rendered the text somewhat heavy. It might be preferable to refer to them in a footnote.

71. **Mr. Heyns** said that he agreed with the addition of “de-escalation measures” in the first sentence and noted that a number of Committee members had indicated, via the online chat function, that it was important to maintain the reference to the international standards within the text itself. On the other hand, footnote 107, which mentioned one of those standards, could be deleted, as it had become redundant. He agreed with the proposal made by Mr. Zyberi, via the online chat function, to replace “patently” with “manifestly”.

72. **The Chair** said he took it that the Rapporteur would prepare a revised version of the paragraph for consideration at the next meeting.

73. *It was so decided.*

Paragraphs 90 and 91

74. **Mr. Heyns** said that a proposal had been made to merge the two paragraphs, which set out the basis on which to codify the legitimate use of force by law enforcement officials. Among the stakeholder submissions received on paragraph 90, Israel had suggested that the text should differentiate between the requirement for legal authority to arrest or disperse an assembly without the use of force, and the requirement for legal authority to use force in policing assemblies, both of which required authorization in domestic law. The United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association had proposed inserting a sentence that read, “Whenever violence is observed in an assembly, the law enforcement officials have the obligation to isolate and remove violent elements from an otherwise peaceful assembly, in a manner which is respectful of their rights to life and physical integrity”, which was worthy of consideration. Among the submissions on paragraph 91, the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights had highlighted the irreversibility of the consequences of the use of force, and Amnesty International had drawn attention to the fact that the paragraph did not mention the elements of the three-part test for restrictions on the right to freedom of peaceful assembly with sufficient clarity.

75. On the basis of the stakeholder submissions, he proposed merging the two paragraphs to read:

Where it is lawful and required to arrest certain participants or, in exceptional circumstances, to disperse an assembly, such actions must comply with international law and have a basis in the domestic law provisions on the permissible use of force. Only the minimum force necessary may be used where this is required for a legitimate law enforcement purpose. Once the need for any use of force has passed, such as when a violent individual is safely apprehended during an assembly, no further resort to force is permissible. Law enforcement officials may not use greater force than is proportionate under the circumstances for the dispersal of an assembly, prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders.

76. **Mr. Santos Pais** said that, in the first sentence, it would be advisable to refer to compliance with international law after the mention of “domestic law provisions”.

77. **Mr. Shany** said that, while he fully supported the substance of the paragraph, the phrase “greater force than is proportionate under the circumstances” in the last sentence was unclear and should be reworded.

78. **Mr. Heyns** said that he agreed with Mr. Santos Pais’s proposal regarding the first sentence and would prepare a revised version of the paragraph for consideration at a subsequent meeting.

The meeting rose at 6 p.m.