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Summary record of the 3288th meeting*
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Chair: Mr. Salvioli

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* No summary record was issued for the 3287th meeting.

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The meeting was called to order at 10.05 a.m.

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

Draft general comment No. 36 on article 6 of the Covenant (Right to life) (continued) (CCPR/C/GC/R.36/Rev.2)

1. **The Chair** invited the Committee members to resume their discussion of paragraph 14 of revised draft general comment No. 36 (CCPR/C/GC/R.36/Rev.2).

Paragraph 14

2. **Mr. Shany** (Rapporteur for the general comment) said that a revised version of the paragraph reflecting suggestions made by Committee members thus far would be circulated in due course. In the meantime, he and Sir Nigel were willing to consider further suggestions.

3. **Mr. Bouzid** said that the Committee's general comment No. 14, paragraph 6 of which stated that the production, testing, possession, deployment and use of nuclear weapons should be prohibited and recognized as crimes against humanity, should not be replaced with a general comment that took a softer approach to nuclear weapons. References could be made to international law, as had been suggested previously, and to the obligation to compensate the victims of nuclear weapons testing.

4. **Mr. Iwasawa** said that he welcomed the minimalist approach that had been taken in the paragraph. He nonetheless questioned the choice of the word "prevent" in the second sentence, which seemed to suggest that the focus of States parties' preventive efforts should be on some entity other than themselves. A distinction should be made between nuclear weapons and other weapons of mass destruction, such as chemical or biological weapons, as the Chemical Weapons Convention and the Biological Weapons Convention had been ratified nearly universally, thus ensuring that the Committee could take a firm stand against those weapons.

5. **Ms. Cleveland** said that it was important not to focus solely on nuclear weapons and thus overlook other, equally indiscriminate weapons of mass destruction, such as chemical, biological and radiological weapons. It might be useful to state explicitly the Committee's concern about the indiscriminate nature of such weapons.

6. She supported earlier proposals to remove the term "prima facie" from the first sentence of the paragraph. She was also in favour of adding references to States parties' obligations to destroy existing stockpiles of weapons of mass destruction and to provide compensation to victims of nuclear weapons testing.

7. **Mr. Ben Achour** said that the paragraph was clearly not referring to nuclear weapons alone. In that respect, he preferred it as it was. It would be too long if explicit references to other weapons of mass destruction were made.

8. As a rule, the Committee's general comments should avoid issuing directives. The Committee should instead set forth principles. In the present case, that would involve stating that weapons of mass destruction — even their mere existence — were contrary to article 6 of the Covenant and that they were a crime against humanity. The only way to ensure that weapons of mass destruction were not used was to prohibit them and recognize them as a crime against humanity.

9. **Mr. Fathalla** said that he did not object to referring to the possession of weapons of mass destruction as a violation of international law, in particular since the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention and the

Biological Weapons Convention had been widely ratified. There was not a convention on radiological weapons, however.

10. **Mr. Politi** said that the first sentence of the paragraph, which stated that the threat or use of weapons of mass destruction was prima facie incompatible with respect for the right to life, should be revised, as it could be understood to mean that the threat or use of weapons of mass destruction could be found compatible upon further analysis or in particular circumstances. The term "prima facie" should be omitted.

11. The Committee would not be taking any risks by referring to the use of chemical or biological weapons as war crimes or crimes against humanity. The question of whether the use of nuclear weapons was thus considered under international custom, however, was not entirely settled.

12. **Mr. Rodríguez Rescia** said that a reference to weapons of mass destruction other than nuclear weapons would not be superfluous. Radiological weapons, however, should not be mentioned, since, as had been pointed out, they were not the subject of an international treaty.

13. **Ms. Pazartzis** said that the first sentence of the paragraph, as currently worded, clearly covered weapons of mass destruction other than nuclear weapons. She saw no need for any further exemplification. She agreed that the words "prima facie", which weakened the paragraph, should be omitted. The notion of compensation, on the other hand, would be better addressed elsewhere. She was wary of asserting that the existence of weapons of mass destruction was a war crime or a crime against humanity.

14. **The Chair** said that it was important to bear in mind that general comment No. 36 was not on weapons of mass destruction, armed conflict, euthanasia or any other such issue. It was on the right to life. Therefore, the rapporteurs should not be expected to address every possible link between the Covenant and a given issue; rather, the focus of the general comment should be on the specific impact of a given issue on the right to life. General comment No. 14, paragraph 6, had left much to be desired in that regard. Declaring the possession of nuclear weapons a crime against humanity would be imprudent.

15. **Mr. Shany** (Rapporteur for the general comment) said that the term "prima facie" would be omitted. He and Sir Nigel would consider whether to broaden the focus of the first sentence to include biological, chemical and other kinds of weaponry. It was important, as had been suggested, to be careful about making pronouncements about areas of law that did not fall within the Committee's mandate. In any event, the concept of crimes against humanity was not the only relevant legal concept in connection with the use or threat of weapons of mass destruction. Others included war crimes, which was the most appropriate legal framework for addressing the use of biological and chemical weapons, and genocide. The issue of nuclear weapons testing may have been overlooked, but adding a reference to compensation for the victims of such testing — and analogous references to nearly every other paragraph in the general comment — would make for a ponderous text.

16. **Sir Nigel Rodley** (Rapporteur for the general comment) said that the Committee's role was to rigorously examine the impact of weapons of mass destruction on the right to life. A revision that, insofar as was possible, reflected the observations made by members would be presented for their consideration shortly.

17. **Mr. Fathalla** said that the elimination of nuclear weapons was one of the pillars of the Treaty on the Non-Proliferation of Nuclear Weapons. As an instrument, it was thus very much the equal of the Chemical Weapons Convention and the Biological Weapons Convention. If the rapporteurs decided not to refer explicitly to crimes against humanity or war crimes, they could stress the tie between the use of weapons of mass destruction and

violations of article 6 of the Covenant, which stated that no one should be arbitrarily deprived of his life.

18. **Mr. de Frouville** proposed that the paragraph should reflect the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*, which stated that countries had the obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament. He said that he would object to any revised formulation of the paragraph that would represent a retreat from general comment No. 14, paragraph 6.

19. **Mr. Ben Achour** said that he had been drawing on general comment No. 14, paragraph 6, when he had referred to the possession of nuclear weapons as a crime against humanity.

20. **Mr. Rodríguez Rescia** said that it was not the use of a kind of weapon, but the act of employing them in a certain way, that would qualify as a crime against humanity. Mass killings, massacres and genocide could be performed with nuclear weapons, but they could also result from the use of conventional weapons. While he agreed that nuclear weapons should be eliminated, the mere possession of such weapons did not constitute a crime.

21. **The Chair** said that under the regime established by the Treaty on the Non-Proliferation of Nuclear Weapons, the States that possessed nuclear weapons were legally allowed to keep them. The Committee therefore could not simply state that possession of nuclear weapons was a crime against humanity. The Committee should also bear in mind that the International Law Commission was currently considering a series of draft articles that could serve as the basis of an international convention on crimes against humanity.

22. **Mr. Shany** (Rapporteur for the general comment) said that while he agreed that there were circumstances in which the use of weapons of mass destruction, or any other weapons, could qualify as a crime against humanity, it was a very different thing to say that any use of such weapons constituted a crime against humanity. The advisory opinion issued by the International Court of Justice had cited specific examples in which the use of nuclear weapons would not be unlawful, for instance in the absence of civilian casualties. The fact that the Committee adopted general comments on the basis of consensus required that its members should retain some flexibility in their approach to drafting the document.

23. **The Chair** said that the Committee was a collegial body and its members must endeavour to produce a document reflecting their collective views.

Paragraph 15

24. **Mr. Shany** (Rapporteur for the general comment) said that paragraph 15 addressed the use of weapons that had previously been qualified as “non-lethal weapons”, such as Tasers, rubber-coated metal bullets and attenuating energy projectiles. Such weapons were increasingly referred to as “less-lethal” instead of “non-lethal”, in recognition of the fact that their use could result in death. Paragraph 15 overlapped somewhat with the content of paragraph 19, which more generally addressed police conduct and training. It would perhaps be advisable to include, in paragraph 15, references to the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, both of which were already mentioned in paragraph 19.

25. **Mr. Seetulsingh** said that the Committee should call upon States parties only to “monitor”, rather than to both “study and monitor”, the impact of less-lethal weapons on the right to life, as many States lacked the resources necessary to study such impact. Paragraph 15 referred to the use of less-lethal weapons in “exceptional circumstances”, but for the sake of clarity it should also mention the requirements of necessity and proportionality.

26. **Mr. Rodríguez Rescia** said that the concept of "less-lethal" was unclear. The paragraph was apparently intended to address the use of weapons designed to be non-lethal. The reference to "law enforcement agents and soldiers charged with law enforcement missions" was problematic. While a number of States empowered the military to work with the police to quell civil disturbances, the Committee should refrain from recognizing such practices in a general comment.

27. **Mr. de Frouville** said that while he agreed that the Committee should not call for all States to undertake studies on the impact of less-lethal weapons on the right to life, States had the obligation to assess the impact of such weapons when they were being designed and developed. A new sentence should be added with reference to the positions taken by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the rights to freedom of peaceful assembly and of association. Less-lethal weapons should be subject to independent scientific testing and approval. In addition to emphasizing the need for law enforcement agents to receive training, the general comment might also note that persons making use of such weapons must be held fully accountable.

28. **Mr. Iwasawa** said that he agreed that States should monitor the impact of less-lethal weapons on the right to life, but that the text should not call on them to "study" the impact. He opposed the use of such weapons and proposed merging the second, third and fourth sentences and introducing restrictions on their use. He agreed that the concept of proportionality should be introduced into the paragraph.

29. **Mr. Fathalla** said that he agreed that the word "study" should be deleted from the first sentence of the paragraph. The ideas in the second sentence could be recast more logically. The text should state that the use of less-lethal weapons must be restricted to security and law enforcement agents, and then, in a subsequent sentence, it should specify the need for such weapons to be appropriately regulated.

30. **Mr. Politi** said that he agreed that the reference to studying the impact of less-lethal weapons should be deleted. In some countries military courts had law enforcement responsibilities. He was not an expert, but he had heard that rubber-coated metal bullets could be lethal. Perhaps the wording should refer to "less harmful measures" instead of "less-lethal weapons".

31. **Mr. Muhumuza** said that instead of calling for "necessary" training, the text should call for "appropriate" training, which would apply to both police and military forces assigned to law enforcement.

32. **Mr. Shany** (Rapporteur for the general comment) said that the majority of the Committee's comments on paragraph 15 could be incorporated into a revised text. The reference to "less-lethal" weapons reflected the language currently adopted by human rights non-governmental organizations (NGOs), which considered the term "non-lethal" euphemistic. As noted, rubber-coated metal bullets were known often to be lethal, notwithstanding the fact that they were designed to minimalize casualties. The reference in the text to soldiers carrying out law enforcement missions was nothing exceptional; peacekeeping forces, for instance, were regularly called upon to perform such functions. Thus, the reference to the military should not be perceived as the validation of a State's use of military forces to quell civil unrest. The next version of the text would refer more clearly to the language used by the Special Rapporteurs, as proposed by Mr. de Frouville.

33. **Sir Nigel Rodley** (Rapporteur for the general comment) said that in many situations, the military took part in law enforcement operations, and that the commentary to article 1 of the Code of Conduct for Law Enforcement Officials recognized such situations in its definition of law enforcement officials. The same definition was also taken up by the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. It might be

possible to resolve many of the issues raised by Committee members by merging paragraphs 15 and 19.

The meeting was suspended at 11.20 a.m. and resumed at 11.30 a.m.

34. **The Chair** invited the Committee to consider section II of the draft general comment, on the prohibition against arbitrary deprivation of life.

35. **Mr. Shany** (Rapporteur for the general comment) said that section II of the draft general comment, which dealt with the prohibition against arbitrary deprivation of life, as referred to in article 6 (1) of the Covenant, generally followed the structure and language of general comment No. 35, which dealt with the notion of arbitrariness in the context of deprivation of liberty. It affirmed that the right to life was supreme, but also specified that that right was not absolute and that in certain circumstances, such as for purposes of self-defence or the defence of the lives of others, the right to life could effectively be lost. Section II also dealt with the interplay between arbitrariness and protection under the law, suggesting that measures violating the law were typically arbitrary in nature; provided a definition of arbitrariness; gave precautionary examples, for instance relating to training and planning to prevent conduct likely to deprive people of the right to life; and outlined exceptions to the right to life and the need for the State to clearly set out such exceptions. Lastly, section II addressed the relationship between arbitrariness and violations of the rights set out in the Covenant, citing the example of enforced disappearance, and raised specific issues related to the right of persons with disabilities to special protection against arbitrary deprivation of the right to life.

36. **Sir Nigel Rodley** (Rapporteur for the general comment) said that the notions of necessity and proportionality were referred to both explicitly and implicitly throughout the draft general comment. In line with the principle of proportionality, potential lethal force should be used only where there was an imminent threat to life and limb, with the use of intentional lethal force being acceptable only where there was an imminent threat to life, as stipulated in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The two notions provided an overall framework within which the arbitrary deprivation of life must be viewed. In European Court of Human Rights case law, the term "proportionality" was, confusingly, used to cover the concept of "necessity". The other United Nations treaty bodies took the same approach as the Committee to interpreting the scope and nature of the right to life.

Paragraph 16

37. **Mr. Ben Achour** said that the reference in the first sentence to "the human family" was an example of speciesism. Humans shared a common heritage with all living, sentient beings. The right to life protected humans not because they were members of the "human family", but because they were living, sentient beings. In that respect, humans were no different from animals. It was important, at least once in the history of the Human Rights Committee, to raise the issue of animal rights.

38. **Mr. Fathalla** said that the phrase "some deprivations of life may be justified" contained in the third sentence of paragraph 16 was unacceptable and should be deleted.

39. **Mr. Seetulsingh** said that, given that section II of the draft general comment was entitled "The Prohibition against Arbitrary Deprivation of Life", the inclusion of the phrase "some deprivations of life may be justified" seemed contradictory. That phrase could be moved further down in paragraph 16, and a positive statement on the right to life, followed by a series of exceptions, could be inserted at the beginning of the paragraph. Another option would be to merge and redraft the second and third sentences of paragraph 16 to read "By requiring that deprivations of life must not be arbitrary in nature, article 6 (1) implicitly recognizes that some deprivations of life may be inevitable in certain

circumstances, for example the use of lethal force against a person who poses an immediate threat to the lives of others when no other, less harmful, means of protection are or could have been available".

40. **Mr. de Frouville** said that he supported Mr. Ben Achour's statement relating to speciesism. The Committee might wish to avoid questionable philosophical references, such as that included at the beginning of paragraph 16, which arose from natural law and were overly human-centric to the detriment of other living beings. The meaning of the phrase "in nature" contained in the second sentence of the English-language version of the draft general comment was unclear and it should be deleted.

41. The use of the term "implicitly" in the third sentence was perhaps redundant. The third sentence seemed to be referring to self-defence but appeared to be superfluous, given that the concept was dealt with more satisfactorily and comprehensively in paragraph 18, which provided for a framework for the use of self-defence and for a number of corresponding guarantees, in particular with regard to intervention by State officials faced with an immediate threat. The phrase "some deprivations of life may be justified in some cases" could be deleted and replaced with text to the effect that the States parties might, in accordance with a certain number of conditions set by article 6, or, while respecting the conditions set by article 6, or without violating article 6, endanger life.

42. **Mr. Rodríguez Rescia** said that "the human family" was a sociological construct, which only served to confuse the issue at hand. Article 6 (1) of the Covenant stated that "Every human being has the inherent right to life". The first sentence of paragraph 16 should be redrafted to read "Despite the fact that it is inherent to all human beings by reason of their status as such, the right to life is not absolute".

43. **Ms. Cleveland** said that the first sentence should begin with a clear reference to the Covenant; thus, the first three words "Although it inheres" could be replaced with the words "Although the right to life under article 6 inheres". The phrase "in nature" should be deleted from the second sentence. Article 6 made it explicitly clear that there were circumstances in which persons could be deprived of life. The example included in the last sentence was useful and should be maintained in the text.

44. **Mr. Iwasawa** said that he supported Mr. de Frouville's proposal that the third sentence was superfluous; it should therefore be deleted.

45. **Mr. Shany** (Rapporteur for the general comment) said that the phrases "the human family" and "in nature" in the first and second sentences, respectively, could be deleted and that Ms. Cleveland's proposed amendment to the first sentence could perhaps be incorporated. The rapporteurs would give due consideration to the Committee members' objections to the use of the "implicitly". The word "justified" could be replaced with a term such as "inevitable" or "unavoidable", or the phrase "may be justified in some cases" could be redrafted to read "may not be arbitrary in certain circumstances." As to the final sentence, the phrase "does not prima facie constitute an arbitrary deprivation of life" could be deleted. The example of self-defence contained in that sentence could perhaps be replaced with a reference to paragraph 18.

46. **Sir Nigel Rodley** (Rapporteur for the general comment) said that the second sentence could be amended to reflect the fact that article 6 (1) of the Covenant implicitly recognized that some deprivations of life were not arbitrary.

47. **The Chair** suggested that the rapporteurs should prepare a revised version of paragraph 16, taking into account the Committee members' comments.

48. *It was so decided*.

Paragraph 17

49. **Mr. Shany** (Rapporteur for the general comment) said that paragraph 17 dealt with the two overlapping obligations contained in article 6 (1) of the Covenant relating to protection by law of the right to life and the prohibition of arbitrary deprivation of life. Deprivation of life lacking a legal basis was inconsistent with the duty to protect by law the right to life and was, consequently, arbitrary in nature. Two examples were given of violations of domestic or international law where unlawfulness resulted in arbitrary deprivation of life.

50. **Mr. Rodríguez Rescia** said that not all domestic codes of criminal procedure were in accordance with the Covenant. Consequently, the phrase in the last sentence, "trials conducted in violation of domestic law of criminal procedure" should be replaced with the phrase "in serious violation of the due process set out in article 14 of the Covenant".

51. **Mr. Seetulsingh** said that the phrase "and the rules of evidence" should be inserted into the last sentence after the phrase "criminal procedure", given that, in countries with common law systems, the two notions were separate.

52. **Mr. de Frouville** said that the third sentence of paragraph 16 could be replaced with the first sentence of paragraph 20, and the resulting paragraph 16 merged with paragraph 17. Paragraphs 23 and 24 should be moved from section III to section II. The second sentence of paragraph 17 failed to address the issues of lawfulness and arbitrariness separately and should be redrafted to reflect the approach taken in that regard in the second and third sentences of paragraph 11 of the Committee's general comment No. 35 on article 9 (Liberty and security of person). The example of an act of extrajudicial killing in violation of the laws of armed conflicts given in the third sentence was problematic, as it was unclear whether a definition of such an act existed. That example should be deleted and replaced with a reference to a death sentence issued on the basis of a retroactive law, which would be both arbitrary and unlawful.

53. **Ms. Cleveland** said that it was important to untangle the issue of unlawfulness from that of arbitrariness in paragraph 17. Despite the use of the term "generally" in the third sentence, it was unclear whether technical violations of domestic criminal procedure would render a death sentence arbitrary. The proposal to link the example in question to article 14 of the Covenant might resolve that issue. There was no need to include a comprehensive list of examples in paragraph 17. The example of extrajudicial killing in violation of the laws of armed conflicts given in the third sentence could be deleted and replaced with one of the two following sentences: "as would be an act of killing in violation of international humanitarian law", which would be in line with the language used in the rest of the draft text, or "as would be an act of killing in violation of international law", which would be broader in scope.

54. **Mr. Politi** said that he supported the proposal to include a link to article 14 of the Covenant. The phrase "of criminal procedure" was restrictive, as it ruled out, for example, violations of constitutional guarantees relating to the establishment by law of tribunals. The following wording could be adopted in that regard: "a death sentence issued following a trial conducted in violation of domestic law and/or of standards set out by article 14 of the Covenant". The phrase "in violation of the laws of armed conflicts" could either be deleted or replaced with the wording "in violation of international law".

55. **Mr. Shany** (Rapporteur for the general comment) said that he would be reluctant to merge paragraphs 16 and 17 because the former dealt with the issue of arbitrariness while the latter dealt with the interplay between the two concepts of legality and arbitrariness. He would also be reluctant to bring forward the first sentence of paragraph 20 because that paragraph dealt with permissible grounds for deprivation of life.

56. Owing to the differences between articles 6 and 9 of the Covenant, it was not possible to draw on the analysis contained in general comment No. 35. As general comment No. 36 dealt with protection by law as one element of the duty to protect life, it seemed more appropriate to deal first with the relatively confined concept of arbitrariness and subsequently with the far broader concept of legality.

57. The proposal to include a reference to rules of evidence would be considered. No reference had been made to article 14 because the idea had been to present an example of one act that violated the domestic legal framework and another that violated the international legal framework. The suggestion to insert the words "and/or" might resolve the problem.

58. With regard to the insertion of the word "generally" in the last sentence, the question as to whether *de minimis* violations of judicial rules of procedure would invariably result in arbitrariness had been discussed in connection with general comment No. 35. It had been decided that they would not.

59. Reference had been made to the law of armed conflict in order to avoid being tied to the scope of international humanitarian law. The law of armed conflict encompassed killings that went beyond the scope of what was permissible under *jus ad bellum*. It might be preferable to omit the example in the amended draft.

60. **Sir Nigel Rodley** (Rapporteur for the general comment) said that if a State's domestic law stipulated, for example, that the testimony of a person under 18 years of age was worth only half the testimony of a person over 18, and the testimony was nonetheless invoked as a ground for conviction and a death sentence, it could be concluded that such non-compliance with domestic law breached article 6 (2) and the following paragraphs of the Covenant. Thus, if the Committee required all domestic legislation to be consistent with the Covenant, it might deprive itself of the opportunity of concluding that a State's failure to comply with domestic law, however inappropriate that law might be, had led to an arbitrary conviction and sentence within the meaning of article 6.

Paragraph 18

61. **Mr. Shany** (Rapporteur for the general comment) said that paragraph 18 made the important point that even if an act was legal under domestic law, it might nonetheless be considered arbitrary under the Covenant because of the broader scope of the concept. Elements of the notion of arbitrariness were listed, for instance in the context of self-defence. The last sentence addressed the issue of the use of lethal force to deal with non-lethal threats such as property offences or flight from custody. Some States permitted the use of lethal force in such circumstances. The Committee had no case law on the issue but it referred in the footnotes to a report by the Special Rapporteur on extrajudicial, summary or arbitrary executions and a decision by the African Commission on Human and Peoples' Rights.

62. **Mr. de Frouville** said that he questioned the inclusion of "lack of predictability" in the definition of arbitrariness. In his view, it formed part of the concept of legality.

63. **Mr. Iwasawa**, referring to the second sentence, noted that the use of lethal force in self-defence was treated as an issue of arbitrariness. However, he said, the requirements to be met for the action to be justified were basically legal requirements. It was a very important issue that gave rise to debate in domestic criminal law contexts. As the Committee's case law was inadequate, the footnotes cited a judgment by the European Court of Human Rights and a report of the Special Rapporteur on extrajudicial, summary or arbitrary executions.

64. **Mr. Ben Achour** proposed replacing the words “less extreme threats” in the last sentence with the words “threats that are not extremely serious”.

65. **Mr. Shany** (Rapporteur for the general comment) said that he would prefer to maintain the reference to “lack of predictability”, which was also applicable to the issue of self-defence. The rapporteurs would attempt to clarify the applicability of the concept of arbitrariness in the second sentence, the aim being to ensure that certain safeguards were imposed under domestic law. The proposal made by Mr. Ben Achour was acceptable. With regard to the issue of inadequate case law, he considered that the points made were not unduly controversial.

66. **Sir Nigel Rodley** (Rapporteur for the general comment) said that the Committee was not really breaking new ground. It should have included in the footnotes a reference to paragraphs 9, 11, 14 and 16 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The Principles had been repeatedly invoked in the Committee’s concluding observations.

67. **Ms. Cleveland** said that she commended the list of circumstances in which lethal force could be applied in self-defence. She suggested inserting the words “for law enforcement purposes” after the words “self-defence” in the second sentence. She assumed that the sentence was not referring to the use of force by private persons or in a situation of armed conflict.

68. **Sir Nigel Rodley** (Rapporteur for the general comment) said that he would be reluctant to imply that private persons were held to different standards. Nonetheless, one might be more tolerant of the reaction of a private individual who was confronted with what he or she perceived to be a grave threat than to that of a law enforcement official. Further discussion of that dimension might therefore prove necessary.

Paragraph 19

69. **Mr. Shany** (Rapporteur for the general comment) said that paragraph 19 dealt with the obligation to ensure that law enforcement bodies provided appropriate training for their staff and ensured that the equipment provided guaranteed full respect for the right to life. The reference in the second sentence of paragraph 11 to the need for State authorities to adequately plan their actions and to introduce appropriate safeguards would probably be incorporated in the paragraph.

70. **Mr. Ben Achour** said that the long-term measures mentioned in the opening phrase or paragraph 19 focused on the training and equipment of law enforcement officers. In his view, States parties should also be required to take normative and legislative long-term measures to prevent arbitrary deprivations of life by their law enforcement bodies.

71. **Mr. de Frouville** suggested that paragraph 19 and the second sentence of paragraph 11 should be moved to section III concerning the duty to protect life. He said that concurred with the proposal to include a reference to States parties’ obligation to adopt an appropriate legislative framework. He proposed deleting the words “reasonable long-term” before the word “measures” in the first sentence and replacing the phrase “mandatory reporting of lethal incidents” with the phrase “mandatory reporting and investigation of lethal incidents”. The Special Rapporteur on the right to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions had highlighted the need to equip the police not just with non-lethal means but also with defensive and protective equipment.

72. **Mr. Politi** expressed flexibility regarding the location of paragraph 19. He suggested replacing, in the first sentence, the words “reasonable long-term measures” with the words “all necessary long-term measures”. He further suggested ending that sentence with the

word “organs”; the next sentence would begin: “These measures should include, together with the appropriate legislative framework, police training, mandatory reporting and investigation of lethal incidents”.

73. **Mr. Shany** (Rapporteur for the general comment) said that the words “such as” in the first sentence implied that all aspects of every issue could not be covered. He welcomed most of the issues raised. However, section II was a more appropriate location for the paragraph because section III focused on situations in which States parties were required to take positive protective measures. Section II dealt with precautionary measures aimed at preventing arbitrary deprivation of life.

The meeting rose at 12.55 p.m.