

Towards General Comment 37  
on Article 21 ICCPR

The Right of Peaceful Assembly

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## Sverige

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# INTRODUCTION

This report seeks to inform the drafting of General Comment 37 on article 21 ICCPR, the right to freedom of peaceful assembly. It compiles key principles elaborated in the Committee's freedom of assembly jurisprudence and relevant declarative statements in the Committee's Concluding Observations on State reports. The report seeks to identify both the issues and themes that General Comment 37 might most usefully address, and further topics that might benefit from further clarification. The report thus seeks to provide the Human Rights Committee with a resource during the drafting of General Comment 37.

- There is a solid jurisprudential foundation (a total of approximately 80 individual communications considered by the Human Rights Committee in which freedom of assembly is raised – see Annex B), eliciting key principles around which a General Comment on article 21 could readily and straightforwardly be structured.<sup>1</sup> In addition, a wide range of issues relating to freedom of assembly have been addressed in the Committee's Concluding Observations. These further highlight the pressing challenges facing the enjoyment of right to freedom of assembly, and demonstrate the importance of General Comment 37.
- In 2007, the report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, identified seven '*implementation gaps*' in relation to the right to protest.<sup>2</sup> These implementation gaps remain valid today. Moreover, they correspond with aspects of article 21 that still require greater *normative* clarity. As the Special Representative explained, the protection of the right to freedom of assembly is of fundamental importance to human rights defenders and social movements (including advocates for women's rights, students, workers, anti-globalization and peace campaigners, and land rights and environmental activists).<sup>3</sup>
- The Committee has noted that 'General comment No. 34, although referring to article 19 of the Covenant, also provides guidance with regard to elements of article 21 of the Covenant'.<sup>4</sup> There are, however, important ambiguities surrounding the interpretation and parameters of article 21 and article 19. Indeed, article 21 contains some textual particularities that distinguish it from article 19:
  - 'The right ... shall be recognized' rather than 'Everyone shall have the right ...';
  - 'Imposed in conformity with the law' rather than 'provided by law';
  - Unlike article 19(3), article 21 does not specify that 'this article carries with it special duties and responsibilities'.<sup>5</sup>

Moreover, other than asserting that 'freedom of expression is integral to the enjoyment of the rights to freedom of assembly and association, and the exercise of the right to vote',<sup>6</sup> General

Comment 34 does not address the many autonomous aspects of the right to freedom of assembly – nor, indeed, does it address the important relationship between articles 19 and 21. Freedom of assembly should not be regarded merely as a sub-category of freedom of expression (indeed, sometimes the associational value of an assembly may be more important than its communicative role, thereby also engaging article 22 of the Covenant).<sup>7</sup> It is suggested that General Comment 37 could usefully provide important guidance on the relationship between articles 19 and 21 to individual complainants, and also bring consistency to the Committee’s approach in this regard.

- The right to freedom of assembly is critical in terms of ensuring a plural, diverse and active civil society, able to effectively participate in public life. To this end, it is vital to have an authoritative interpretation of article 21, capable of limiting the discretion of State officials and the potential for arbitrary interferences.

# THE PURPOSE OF A GENERAL COMMENT

In undertaking this analysis, the purpose of a General Comment has been conceived as being to:

- Provide an authoritative legal interpretation of article 21 ICCPR (rather than a policy-level instrument);<sup>8</sup>
- Consolidate and systematize the principles already established in the Committee's jurisprudence<sup>9</sup> and to clarify aspects of law and practice about which the Committee has repeatedly expressed concern;<sup>10</sup> thereby:
  - providing a point of reference for the Committee during individual communications and state reporting;<sup>11</sup>
  - clarifying for States their obligations under article 21 ICCPR, with a view to assisting them in meeting their obligations under article 2 ICCPR (see further below) and implementing both the Committee's Concluding Observations<sup>12</sup> and UPR recommendations. General Comment 37 could in this way help ensure greater coherence between the international mechanisms.
  - Address contemporary developments and challenges, as evidenced in the Committee's Concluding Observations – particularly those arising in a digital age.<sup>13</sup>

In places, the report also notes a number of external sources in order to consider where there are synergies with the Committee's stated views on freedom of assembly, and to highlight any potentially significant thematic gaps. These include the expansive jurisprudence of the European Court of Human Rights, and the issues and trends identified in the reports of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.

The timeliness of the Committee's work in drafting General Comment 37 is demonstrated by a number of contemporaneous regional initiatives, including:

- the African Commission on Human and Peoples' Rights, 'Guidelines on Freedom of Association and Assembly in Africa' (2017);<sup>14</sup>
- the Inter-American Commission on Human Rights, Office of the Special Rapporteur for Freedom of Expression, thematic report on Protest and Human Rights (expected 2018);
- the OSCE/ODIHR – Venice Commission 'Guidelines on Freedom of Peaceful Assembly' (3<sup>rd</sup> edition, forthcoming, 2019).<sup>15</sup>

The report is structured with a view to outlining the value and scope of the right to freedom of assembly, and identifying corresponding State obligations with reference to the Committee's article 21 jurisprudence.

## **Article 21. International Covenant on Civil and Political Rights**

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The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

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# 1. GENERAL REMARKS

## ***The autonomous value of freedom of assembly:***

The Human Rights Committee has often emphasized that the right to peaceful assembly is ‘a fundamental human right that is essential for public expression of one’s views and opinions and indispensable in a democratic society.’<sup>16</sup> This understanding of the importance of freedom of peaceful assembly has implications for the ways in which ‘public space’ is both conceived in national legal frameworks and construed by public authorities. It also underscores the need for strict scrutiny of interferences with the article 21. General Comment 37 could thus usefully seek to articulate the *particular* value of the right to freedom of peaceful assembly – recognizing not only its expressive/communicative value, but also its associational value (for example, in terms of constituting group identities and fostering networks of solidarity).

## ***Assemblies in the context of elections:***

In its Concluding Observations, the Committee has highlighted multiple violations of the right to freedom of peaceful assembly arising in the context of elections.<sup>17</sup> Moreover, in its jurisprudence, the Committee has found a violation of article 25(b) ICCPR in conjunction with article 21.<sup>18</sup> In *Sudalenko v Belarus*, the Committee recalled General Comment 25 (1996) on the right to participate in public affairs which provides (at paragraphs 8 and 12) that: ‘citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. States parties support such participation by ensuring freedom of expression, assembly and association. Those freedoms are essential conditions for the effective exercise of the right to vote and must be fully protected.’<sup>19</sup> General Comment 37 could similarly emphasize the inter-dependence of article 25 and article 21. In a similar vein, in *Derzhavtsev v Belarus* (2015), finding violations of both Articles 19 and 21 regarding a 2-person picket calling for an election boycott, the Committee further noted that: ‘the authorities have ... restricted the author’s right to hold and impart his political views regarding boycotting the presidential elections, as well as his right to engage in peaceful assembly, together with others, at a location of his choice.’<sup>20</sup>

## 2. THE SCOPE OF ARTICLE 21

The right to freedom of peaceful assembly should not be interpreted restrictively.<sup>21</sup> Its protective scope extends to a wide range of different types of assembly, including assemblies inside buildings.<sup>22</sup> A number of further propositions relating to the scope of article 21 can be derived from the Committee's jurisprudence and could usefully be consolidated – or developed further – in General Comment 37.

### **'Peaceful'**

The Committee has emphasized that '[f]reedom of assembly protects demonstrations promoting ideas that may be regarded as annoying and offensive by others',<sup>23</sup> and that the right to freedom of peaceful assembly also entails the possibility of organizing and participating in a gathering 'with the intent to support or disapprove one or another particular cause.'<sup>24</sup> Nonetheless, the Committee has not yet expressly articulated an understanding of 'peacefulness' – though in relation to freedom of expression and the right to vote under Article 25(b), it has recalled the corresponding obligation to prohibit the intimidation or coercion of voters.<sup>25</sup> Guidance in this regard might be drawn from the European Court of Human Rights which has long held that the concept of a 'peaceful' assembly does not cover gatherings where the organisers and participants have violent intentions or incite violence.<sup>26</sup> The peaceful intentions of organizers and participants in an assembly are to be presumed, unless there is compelling and demonstrable evidence that they themselves intend to use or incite imminent violence (whereupon the evidential burden falls on the State party).<sup>27</sup> Furthermore, isolated or sporadic acts of violence do not render an assembly as a whole non-peaceful.<sup>28</sup> Indeed, assemblies that are deliberately obstructive may still qualify as 'peaceful', even if such assemblies are not regarded as being at the central core of the right to peacefully assemble. The European Court of Human Rights has noted (emphasizing that such gatherings do still fall within the protective scope of the right, but may nonetheless legitimately be restricted in certain circumstances) that '... physical conduct purposely obstructing traffic and the ordinary course of life in order to seriously disrupt the activities carried out by others is not at the core of that freedom as protected by Article 11 of the Convention.'<sup>29</sup>

A difficult question arises in relation to whether 'peacefulness' should itself be construed to align with article 20(2) ICCPR and article 4 ICERD.<sup>30</sup> CERD General Recommendation No 35 makes clear, that the requirements of article 4 CERD apply to racist hate speech in whatever forms it manifests itself, 'orally or in print, or disseminated through electronic media, including the Internet and social networking sites, as well as non-verbal forms of expression such as the

display of racist symbols, images and behaviour at public gatherings, including sporting events.’<sup>31</sup> In its Concluding Observations on State Reports, the Committee has addressed the subject of assemblies involving hate speech and/or ‘extremist’ groups on a number of occasions.<sup>32</sup>

In the case of *The Jewish community of Oslo and others v Norway* (2005),<sup>33</sup> the CERD held that the acquittal of the leader of a commemorative event in Askim, near Oslo had violated the rights of the authors – as members of the Jewish community – under Article 4 ICERD. At the small rally, the leader made a speech in which he honoured Rudolf Hess, stating that ‘Every day immigrants rob, rape and kill Norwegians, every day our people and country are being plundered and destroyed by the Jews, who suck our country empty of wealth and replace it with immoral and un-Norwegian thoughts’. The CERD viewed these statements as containing ideas based on racial superiority or hatred, and other references to Hitler (his principles and ‘footsteps’) constituted incitement at least to racial discrimination, if not to violence.<sup>34</sup> Significantly (for present purposes) the authors contended that ‘the use of the Nazi salute made clear that the gathering was not peaceful, and, given the Bootboys’ record of violence, the commemoration march was frightening, and the incitement to violence evident.’<sup>35</sup>

The Human Rights Committee has, however, emphasized that Article 20(2) is narrowly crafted so as not to unduly infringe upon other Covenant rights (and article 19 in particular).<sup>36</sup> In addition, the CERD has recognized that, ‘measures to monitor and combat racist speech should not be used as a pretext to curtail expression of protest at injustice, social discontent or opposition.’<sup>37</sup> Moreover, under Article 4 ICERD, ‘the criminalization of forms of racist expression should be reserved for serious cases’.<sup>38</sup>

Since the consequence of classifying conduct as ‘non-peaceful’ is to render it outwith the protective scope of article 21, the Committee might usefully emphasize the importance of individualized assessment (rather than classifying an entire assembly as ‘non-peaceful’ or otherwise falling within the impugned categories set out in article 20(2) ICCPR and article 4 ICERD). As stated by the European Court of Human Rights: ‘... the freedom to take part in a peaceful assembly ... is of such importance that it cannot be restricted in any way ... so long as the person concerned does not himself commit any reprehensible act on such an occasion.’<sup>39</sup>

Against this backdrop, noting that the question of ‘peacefulness’ arises in relation to both the imposition of anticipatory prior restrictions *and* the restriction (or even dispersal) of ongoing assemblies, General Comment 37 might usefully provide guidance regarding the way in which conduct falling within the impugned categories in article 20(2) ICCPR and article 4 ICERD should be taken into consideration. Indeed, it may be that both the following possibilities need to be countenanced:

- (a) compelling evidence pointing to probable conduct (or actual conduct during an ongoing assembly) contravening the mandatory prohibitions in article 20(2) ICCPR and article 4 ICERD could be a relevant factor in assessing the peaceful intentions of an assembly organiser and/or participants. As with isolated or sporadic acts of violence, particularly strong evidence would be required to support a conclusion that an *entire* assembly (rather than merely the conduct of individual participants) was in contravention of the prohibitions in article 20(2) ICCPR and/or article 4 ICERD;
- (b) alternatively, any consideration of conduct falling within the impugned categories of article 20(2) ICCPR and article 4 ICERD could be considered relevant primarily in relation to establishing the necessity of imposing limitations on article 21 in the interests of the protection of the rights and freedoms of others (emphasizing that the strict requirements of article 21 must also be met).<sup>40</sup>

### **‘Assembly’**

As Manfred Nowak has noted: “The term “assembly” (“reunion”) is not defined but rather presumed in the Covenant. Therefore, it must be interpreted in conformity with the customary, generally accepted meaning in national legal systems, taking into account the object and purpose of this traditional right. It is beyond doubt that not every assembly of individuals requires special protection. Rather, only *intentional, temporary gatherings of several persons for a specific purpose* are afforded the protection of freedom of assembly.”<sup>41</sup> The reference to ‘temporary’, however, has sometimes provided governments with the pretext for premature intervention – and raises the question of whether protracted sit-ins or semi-permanent encampments fall within the protective scope of article 21.<sup>42</sup>

Furthermore, the conclusion reached by the Committee in *Kivenmaa v Finland* (perhaps the Committee’s most frequently cited View relating to freedom of assembly) is open to misinterpretation. The Committee concluded that: ‘the gathering of several individuals at the site of the welcoming ceremonies for a foreign head of State on an official visit, publicly announced in advance by the State party authorities, *cannot* be regarded as a demonstration’.<sup>43</sup> Arguably, however, the dissenting opinion is more persuasive, holding that:

*‘[the author] and a group of people of her organization summoned by her, went to the Presidential Palace explicitly for the purpose of distributing leaflets and raising a banner and thus to publicly denounce the presence, in Finland, of a foreign Head of State whose human rights record they criticized. If this does not constitute a demonstration, indeed a public gathering within the scope of article 21 of the Covenant, what else would constitute a “peaceful assembly” in that sense ...?’<sup>44</sup>*

## ***Participation in assemblies should be voluntary***

The essence of the *freedom* to assemble means that participation in assemblies must be voluntary and individuals must never face sanctions for refusing to participate in assemblies. While the Committee *has* addressed the question of ‘forcible mass mobilization’,<sup>45</sup> it has not examined the related issue of incentivized/paid participation and ‘astro-turfing’.

## ***The inter-relationship of assembly, expression and protest:***

In thirty-three of the eighty cases listed in Annex B, the Committee found concurrent violations of the right to freedom of expression (article 19) *and* the right to freedom of peaceful assembly (article 21) without explaining the distinction between these two rights (for example, as *lex specialis/lex generalis*).<sup>46</sup> [See further the table in Annex A]. In four cases where complaints under both articles 19 and 21 were deemed admissible, the Committee decided not to examine separately the author’s claim under article 21.<sup>47</sup> While the Committee has frequently emphasized the interdependence of expression and assembly,<sup>48</sup> and has sometimes explained why article 19 is additionally engaged,<sup>49</sup> there is scope for General Comment 37 to clarify both the inter-relationship between articles 19 and 21, and the distinctive value of the latter.<sup>50</sup> It is clear that article 21 should not be engaged simply on the basis of the domestic authorities’ classification of an event (or an attempt by the authorities to subject an individual’s activities to the laws governing assemblies).<sup>51</sup> However, the Committee might use General Comment 37 to clarify its approach to (a) cases in which *both* articles 19 and 21 might properly be engaged; (b) single-person-protests; (c) leafleting cases where the purpose of the leaflet is to provide information about a forthcoming assembly; (d) cases where the author raises only article 19 in their complaint, but where the case might more appropriately be considered under article 21; (e) cases where the restriction occurs prior to the beginning of an assembly, or after it has ended, and (f) ‘assemblies’ and other forms of protest that may or may not be protected by article 19.

***(a) Both articles 19 and 21 properly engaged:*** Despite some scholarly attempts to distinguish speech from assembly by emphasizing ‘physical presence’ and thus distinguishing between speech and action or conduct, speech commonly involves presence.<sup>52</sup> A more plausible approach than attempting to draw such a distinction – one that minimizes the risk of arbitrariness and inconsistent application – is the one adopted by the European Court of Human Rights. The Strasbourg Court starts from the position that the interpretation of any individual Article must be in harmony with the overall logic of the Convention. Thus, where issues under both Article 10 and 11 rights are raised, the European Court considers the substantive issues primarily under the right deemed most relevant to the facts (the *lex specialis*), drawing on relevant

jurisprudence relating to the other right (the *lex generalis*) where this is helpful.<sup>53</sup> Following this approach, the court has, for example, found ‘a violation of Article 10 read in the light of Article 11.’<sup>54</sup> The court has also emphasized that ‘notwithstanding its autonomous role and particular sphere of application, Article 11 must also be considered in the light of Article 10, where the aim of the exercise of freedom of assembly is the expression of personal opinions.’<sup>55</sup>

**(b) *Single person protests*:** the Committee has observed ‘that the act of a single individual peacefully conveying a message ... in a public place should not be subject to the same restrictions as those applying to an assembly.’<sup>56</sup> Indeed, in seven cases, article 21 claims have been declared inadmissible on the basis that only a single individual was involved.<sup>57</sup> However, in three single-person-protest cases, article 21 claims were deemed admissible, only for the Committee then to decide not to examine them further (in light of the finding of a violation of article 19).<sup>58</sup> Moreover, in three further cases, the Committee found a violation of article 21 in relation to single-person pickets.<sup>59</sup>

**(c) *Leafleting cases – even those involving just one-person – where the leaflet contains information about an upcoming assembly*:** Restrictions on such activities – including restrictions on disseminating such information on social media<sup>60</sup> – can have a significant chilling effect on the enjoyment of the right to freedom of assembly. Since they implicate the right to plan and publicize an assembly (see further below) it is suggested that article 21 ought to be engaged together with article 19. Noteworthy here is the Separate opinion of Committee members Mr. Fabián Salvioli, Mr. Yuval Shany and Mr. Víctor Rodríguez Rescia (concurring) in precisely such a case – *Olechkevitch v. Belarus* (2013):

*‘... given the facts as established, the Committee should have considered the violation of article 19 in the light of article 21 of the Covenant’ and (para 8): ‘the leaflets had a purpose that the Committee cannot disregard in its analysis – to invite people to a public meeting. The basic objective of the restriction ... as applied to the author, was to prevent the meeting from being held. As a result, the author’s enjoyment of the right of peaceful assembly, as guaranteed under article 21 of the Covenant, was violated.’<sup>61</sup>*

**(d) *Cases involving restrictions on a gathering of two or more people even where the author raises only an article 19 OR article 21 complaint*:** While the Committee’s consideration of communications is often determined by the author’s alleged violations, this fails to shed light on the respective scope and domain of articles 19 and 21. As such, it is suggested that the author’s framing of their complaint should not be dispositive. Contrast, for example, two cases with identical facts, but different outcomes – *Alexsandrov v Belarus* (2014) in which only article 19 was claimed by the author and found by the Committee to be violated, and *Bazarov v Belarus* (2014), in which both articles 19 and 21 were claimed and found to be violated. Similarly, the only



difference between *Misnikov*<sup>62</sup> and *Sudalenko*<sup>63</sup> (both concerning one-person pickets) is that in the former, the author complained only on article 19 grounds, whereas in the latter, the author invoked both articles 19 and 21.<sup>64</sup> Conversely, in *Kirsanov v Belarus* (2014), the Committee found a violation of article 21 (as article 21 had been raised exclusively in the author's complaint). However, the individual concurring opinion of Mr. Fabián Salvioli and Mr. Víctor Rodríguez-Rescia argued that 'the Committee should have also found a violation ... of article 19' because (a) the basis of the State's prohibition was that there was 'no reason' to hold the event – itself, 'a serious violation of the right to freedom of expression', and (b) 'the purpose of the demonstration ... was to attract public attention to the State party's policy against opposition political parties and grassroots movements ...'. As such, the concurring opinion argued, 'the author's expression of his opinion was the most important consideration, and peaceful assembly was the means chosen to exercise that right'.<sup>65</sup> Given, in particular, the inconsistencies in the Committee's jurisprudence regarding the application of articles 21 and 19, it is especially inappropriate to leave the burden on the author to determine which right to claim. Again, the Separate opinion of Committee members Mr. Fabián Salvioli, Mr. Yuval Shany and Mr. Víctor Rodríguez Rescia (concurring) in *Olechkevitch v. Belarus* (2013) is instructive – drawing on the maxim, *iura novit curiae* (the court knows the law):

*'The Committee has incomprehensibly restricted its own competence to determine violations of the Covenant in the absence of a specific legal claim. The Committee must carefully assess the evidence submitted by the parties; if the facts before the Committee reveal a violation of the Covenant, the Committee can and should — in accordance with the principle of iura novit curiae — examine the legal framework of the case.'*<sup>66</sup>

**(e) Circumstances where the impugned interference occurs prior to (possibly en route to) an assembly which has not yet begun, or after an assembly has finished and officially dispersed.** As suggested with leaflets announcing an upcoming assembly (in (c) above) – and indeed, in line with the Committee's jurisprudence to date<sup>67</sup> – it is suggested that these cases can also properly engage article 21.

**(f) Other forms of 'protest' that may or may not be protected by article 19:** examples from the Committee's jurisprudence include hungerstrikes,<sup>68</sup> 'art-mobs',<sup>69</sup> and commemorative events.<sup>70</sup> Recent innovative examples of protest – particularly in contexts where the national authorities have restricted more traditional forms of gathering – may potentially also engage article 21, even if they primarily engage article 19. Examples include 'go-slow' protests;<sup>71</sup> the 'Standing-Man' protests in Turkey,<sup>72</sup> hand-clapping protests in Belarus,<sup>73</sup> walk-to-work protests in Uganda,<sup>74</sup> hologram protests in Spain,<sup>75</sup> repeat crossing of pedestrian zebra-crossings,<sup>76</sup> and toy protests in Siberia.<sup>77</sup> Similarly, in terms of the interconnection between article 21 and article

22, there is potentially scope to clarify the baseline protection of the right to strike.<sup>78</sup> In this regard, the Committee has emphasized that '[t]he State party should ensure in its legislation that only the most limited number of public servants is denied the right to strike'.<sup>79</sup>

Nonetheless, it is noteworthy that a decision was taken not to expressly include particular forms of expression in the text of General Comment 34, 'on the understanding that the list of forms of expression must always be an open one that does not *a priori* exclude the deleted or any other forms.'<sup>80</sup> In a similar vein, the European Court of Human Rights has recently stated that: 'To avert the risk of a restrictive interpretation, the Court has refrained from formulating the notion of an assembly, which it regards as an autonomous concept, or exhaustively listing the criteria which would define it ...'<sup>81</sup>

### ***Who can assemble?***

Article 21 does not follow the conventional formulation (found in both articles 19 and 22) that '[e]veryone shall have the right ...'. Instead, article 21 simply asserts that '[t]he right of peaceful assembly shall be recognized'. In this regard, General Comment 37 could emphasize that the right to freedom of peaceful assembly can be exercised not only by 'citizens',<sup>82</sup> but also by non-citizens (including migrant workers;<sup>83</sup> refugees and asylum-seekers).<sup>84</sup> It can also be exercised by children,<sup>85</sup> and other groups most at risk.<sup>86</sup>

### ***Public locations and private property***

In substantive terms, the article 21 right '[e]ntails the possibility of organizing and participating in a peaceful assembly [including a stationary assembly (such as a picket or a demonstration)]<sup>87</sup> in a public location'<sup>88</sup> 'collectively with others'.<sup>89</sup> This has been interpreted to confer protection upon assemblies inside buildings<sup>90</sup> and in places that the State has argued are not intended for assemblies.<sup>91</sup> The Committee has emphasized in its Concluding Observations that States should make sufficient venues/spaces available for assemblies.<sup>92</sup>

Notwithstanding the 'sight and sound principle' (see further below), neither articles 19 nor 21 confer an absolute freedom of forum.<sup>93</sup> However, in this regard, States often resort to 'alternative channels' reasoning – arguing that restrictions on assembly are proportionate because those seeking to assemble have other ways of making their views known.<sup>94</sup> With a view to securing the effectiveness of the right to freedom of assembly, and preventing the 'sight and sound' principle from being undermined (see further below), a General Comment might helpfully emphasize the non-commensurability of alternative media.<sup>95</sup>



The African Commission on Human and Peoples' Rights has argued that: 'Where public space is limited, or where public spaces are privatized (as for example in the case of a shopping center), the availability of suitable and effective spaces for public assemblies shall be looked into in determining whether or not the right to assembly might be understood to allow public assembly in such spaces.'<sup>96</sup> Where public spaces are privately owned, it is important to protect the right to freedom of assembly at locations that are open to the public and which, independently of possible private ownership, are generally accessible to everyone.

### ***Freedom to organize, plan and publicize an assembly:***

General Comment 37 could usefully expand on what entitlements are conferred by the article 21 right specifically in relation to those who may (or may not) have been involved in organizing an assembly or disseminating information about a forthcoming assembly. In particular:

***(a) Organizational roles should not be assumed.***<sup>97</sup> The tendency of State authorities to assume that certain individuals have had an organizational role (and to impose corresponding liability) is likely to be exacerbated through social media, where individuals who are not organizers might more easily share information about an upcoming assembly.<sup>98</sup>

***(b) Dissemination of information about forthcoming assemblies should not be restricted:*** As a number of individual communications have demonstrated, penalties have been imposed on assembly organizers (or others)<sup>99</sup> for announcing or publicizing an upcoming assembly prior to receiving official authorization.<sup>100</sup> General Comment 37 could help reinforce the Committee's stated view that the circulation of publicity for an upcoming assembly cannot legitimately be penalized in the absence of a 'specific indication of what dangers would have been created by the early distribution of the information.'<sup>101</sup> Again, this is especially important given that the way in which assemblies are planned and publicized has been transformed by online media and digital technologies.<sup>102</sup> General Comment 37 could follow the lead of General Comment 34 in this regard - as Michael O'Flaherty has noted, the adopted text of General Comment 34 marked 'an unusual willingness by the Committee to engage with the interaction of technological advancement and the enjoyment of ICCPR rights.'<sup>103</sup>

### 3. GENERAL OBLIGATIONS

Noting also General Comment No. 31 on the nature of the general legal obligation imposed on States parties to the Covenant, the Committee has repeatedly emphasized that State interventions 'should be guided by the objective to facilitate the right, rather than seeking unnecessary or disproportionate limitations to it.'<sup>104</sup>

#### ***Negative obligation of non-interference:***

Many forms of assembly ought to be able to take place without any form of regulation. 'Just as States parties to the Covenant must adopt legislative measures to give effect to rights, they also bear a negative obligation, deriving from article 2, paragraph 2, not to adopt legislative measures which violate the Covenant; if it does so, the State party commits per se a violation of the obligations laid down in article 2, paragraph 2.'<sup>105</sup> It is apt in this regard to recall one of the joint dissenting opinions in the Strasbourg broadcasting case of *Animal Defenders International v UK*:

'[t]here is a risk that by developing the notion of positive obligations to protect the rights under Articles 8 to 11, and especially in the context of Articles 9 to 11, one can lose sight of the fundamental negative obligation of the State to abstain from interfering.'<sup>106</sup>

#### ***Positive obligations to facilitate and protect assemblies:***

The Committee in its Concluding Observations has variously emphasized that States have an obligation to 'promote', 'guarantee', 'ensure', 'facilitate' and 'protect' assemblies.<sup>107</sup> This obligation is especially salient in relation to groups most at risk.<sup>108</sup>

#### ***General obligations regarding legal framework:***

General Comment 37 could seek to specify a number of general obligations relating to the domestic legal framework and its interpretation – given especially that the Committee has emphasized in its Concluding Observations that States should 'take appropriate measures to guarantee in law and in practice, and to create an environment conducive to, the exercise of the rights to freedom of expression, peaceful association and assembly'.<sup>109</sup> The Committee has frequently been critical of the domestic legal framework,<sup>110</sup> directing specific criticism at, for example, sweeping executive powers<sup>111</sup> and the inclusion in domestic law of grounds for restriction that extend beyond those listed in article 21.<sup>112</sup> UPR recommendations also frequently urge states

to review their legislation so as to render it compatible with the requirements of article 21.<sup>113</sup>

In its jurisprudence, the Committee has, at different times:

- ‘invited’ States parties ‘to review the relevant legislation ... with a view to aligning it with the requirements of article 19/article 21’,<sup>114</sup>
- held that a State party ‘should review its legislation ... and its application [or implementation]<sup>115</sup> to ensure its conformity with the requirements of article 19 ...’ in connection with its ‘obligation to take steps to prevent similar violations in the future’<sup>116</sup> or ‘with a view to ensuring that the rights under articles 19 and 21 of the Covenant may be fully enjoyed in the State party’,<sup>117</sup>
- sometimes qualified this injunction to a State party to review its legislation with the words ‘as it has been applied in the present case’<sup>118</sup> or with a specific concern in mind: ‘*including* in the context of spontaneous demonstrations’.<sup>119</sup>

Moreover, consideration of articles 19 and 21 in conjunction with articles 2(2)<sup>120</sup> and 2(3)(a)<sup>121</sup> has been a source of disagreement within the Committee. Broadly speaking, at least five different approaches have been suggested by Committee members:

**(a) *The Poliakov formula*:** consideration of an article 2 complaint would generally not be ‘distinct from the examination of a violation of the authors’ rights under articles 19 and 21 of the Covenant,’ but article 2 *could* be invoked separately if the failure of a State to observe its obligations was ‘the proximate cause of a distinct violation of the Covenant directly affecting the individual who claims to be a victim.’<sup>122</sup>

**(b) *Categorically rejecting article 2 complaints*:** some Committee members have objected to the *Poliakov* phrasing on the basis that it introduces a test predicated on ‘vague notions’ (‘proximate cause’, ‘distinct violation’), arguing that the Committee should instead rule categorically that article 2(2) can never be invoked in such circumstances ‘any more than it can be invoked in isolation.’<sup>123</sup> The joint concurring opinion in *Kuznetsov v Belarus* further argued that ‘the Committee can recognize that a law or practice has contributed to an individual violation of the Covenant without any need to bring article 2, paragraph 2 into the discussion’ and that adding a violation of article 2(2) ‘would not add anything to the protection of the individual’<sup>124</sup> and ‘would impede the Committee’s exercise of its responsibilities under the Optional Protocol’ by ‘leading to unproductive discussions that absorb limited time that would be better spent on more significant issues.’

**(c) *Sidestepping article 2 complaints*:** On this approach, the Committee, might simply decide not to examine an author’s claims under articles 19 and 21 read in conjunction with article 2(2) and 2(3), in light of its finding of a violation of those rights.<sup>125</sup>

- (d) **Review as reparation:** this view holds that the Committee needs ‘to adopt a less ambiguous position in respect of non-pecuniary reparation, and especially in respect of measures of restitution, satisfaction and non-repetition’.<sup>126</sup> On this basis, the Committee should regard the adoption of an incompatible law as giving rise to a separate breach of article 2, read in conjunction with articles 19 and 21, particularly since this bears directly on the nature of the reparation provided.<sup>127</sup> In this regard, rather than ‘stating in general terms that the State “should review its legislation”’ it would be ‘more appropriate for the Committee to indicate clearly that the State should repeal legislation that is incompatible with the Covenant ... and ensure that the provisions that replace those instruments are fully consistent with the rights laid down in the Covenant.’ This argument was tersely stated in the Separate opinion of Committee members Mr. Fabián Salvioli, Mr. Yuval Shany and Mr. Víctor Rodríguez Rescia (concurring) in *Olechkevitch v Belarus* (2013):<sup>128</sup>

*‘4. The international responsibility of the State may be engaged by the action of the legislative branch or any other branch of government that has legislative power under the country’s legal system. The failure to fulfil the obligation laid down in article 2, paragraph 2, of the Covenant engages such responsibility by virtue of an act (adopting incompatible legislation) or omission (not bringing national legislation into line with the provisions of the Covenant following its ratification).*

*5. The State of Belarus ratified the Covenant on 12 November 1973, and, on 20 December 1997, adopted the Public Events Act, which sets out the penalties under the Code of Administrative Offences. Article 8 of the Act, which prohibits the production and dissemination of information on public events before permission to hold such events has been granted, undermines the right to impart information, as provided for in article 19 of the Covenant. In fact, article 8 of the Public Events Act facilitates the violation of article 19 by the State authorities by allowing them to impose broad restrictions on freedom of expression. It is therefore incompatible with the Covenant and violates the obligation to give effect to the rights recognized therein, as set forth in article 2, paragraph 2, read in conjunction with article 19.*

*... 7. The author could not have been clearer in his allegation, which the State had every opportunity to contest and refute in its reply and additional observations submitted to the Committee. We therefore consider that the Human Rights Committee should have indicated that the State party violated article 2, paragraph 2, of the Covenant, read in conjunction with article 19, in addition to, quite rightly, finding a separate violation of article 19.’*

- (e) **The ‘structural violation’ or ‘pilot judgment’ approach:** this has been proposed by Committee member Sarah Cleveland and is closely related to the preceding

'Reparation as review' approach, but with a cumulative trigger whereby 'persistent failure by a State party to conform its laws to give effect to rights under the Covenant constitutes a failure to comply with article 2(2) and should ... be understood to give rise to a "distinct violation" of the Covenant'.<sup>129</sup>

### ***Obligation to facilitate peaceful assemblies within 'sight and sound' of their target audience:***

Importantly, '[t]he organizers of an assembly generally have the right to choose a location within sight and sound [or 'sight and hearing'<sup>130</sup>/'sight and hearing distance'<sup>131</sup>] of their target audience'.<sup>132</sup> This is vital in terms of ensuring the effectiveness of the right to freedom of assembly,<sup>133</sup> and the 'sight and sound' principle has also been extended to single-person protests.<sup>134</sup> General Comment 37 could underscore the centrality of this key principle, emphasizing that States must not relegate assemblies to remote areas where they cannot capture public attention.<sup>135</sup>

### ***Obligation to facilitate spontaneous assemblies:***

The right also includes the right of spontaneous assembly: 'Any interference with the right to peaceful assembly must be justified by the State party in light of the second sentence of article 21. This is particularly true for spontaneous demonstrations, which cannot by their very nature be subject to a lengthy system of submitting a prior notice'.<sup>136</sup> This vital aspect of the right to freedom of assembly has also been emphasized by the Committee in its Concluding Observations on State reports.<sup>137</sup>

### ***Obligations in relation to counter-demonstrations:***

the Committee has stated that: 'States parties have a duty to protect the participants in ... a demonstration in the exercise of their rights against violence by others'.<sup>138</sup> This duty has been further emphasized in the Committee's Concluding Observations on State reports.<sup>139</sup> This principle is especially important since in circumstances where there may be a 'negative reaction' to an assembly, a State party's failure to protect the exercise of the rights of freedom of assembly would instead 'contribute to the suppressing of those rights'.<sup>140</sup> Moreover, '[a]n unspecified and general risk of a violent counter-demonstration or the mere possibility that the authorities would be unable to prevent or neutralize such violence is not sufficient to ban a demonstration'.<sup>141</sup> The Committee has noted in particular the State's obligation to protect assembly participants from sexual and gender-based violence.<sup>142</sup>

### ***Obligation to facilitate simultaneous assemblies:***

the mere existence of a simultaneous assembly does not of itself provide the pretext to ban another assembly.<sup>143</sup> Where there is a clash with a previously authorized event, the authorities must provide an alternative time and/or date.<sup>144</sup>

### ***Non-discriminatory regulation:***

The right to freedom of assembly must not be applied in a way that discriminates.<sup>145</sup> In one case, the Committee expressly stated that ‘laws restricting the rights enumerated in article 19, paragraph 2, must not only comply with the strict requirements of article 19, paragraph 3, of the Covenant but must also themselves be compatible with the provisions, aims and objectives of the Covenant, including the non-discrimination provisions of the Covenant.’<sup>146</sup> As such, ‘[t]he State Party ... should ensure that the relevant provisions of the domestic law are made compatible with articles 19 and 26 of the Covenant.’<sup>147</sup>

### ***Burdens and costs to be borne by State parties:***

Not infrequently, national authorities attempt to transfer the financial and logistical burdens of providing security, medical services, and cleaning-up onto assembly organizers. Indeed, a failure to conclude such agreements or ‘paid contracts’ has resulted in assemblies being prohibited.<sup>148</sup> In this regard, the Human Rights Committee has held that: ‘the burdensome requirements of securing three separate written commitments from three different administrative departments ... might have rendered illusory the author’s right to demonstrate.’<sup>149</sup> The Committee has also been critical of attempts to transfer the financial costs associated with holding assemblies to assembly organisers<sup>150</sup> – though the outer limits of State obligations in this regard have not yet been addressed.<sup>151</sup>

In relation specifically to one-person pickets, the Committee stated that: ‘requesting the organizer of a one-person picket to contract additional services in order to hold a picket imposes a disproportionate burden on the right of peaceful assembly and the right to freedom of expression.’<sup>152</sup> Even more definitively, a partly dissenting opinion of Víctor Manuel Rodríguez-Rescia in *Sudalenko v Belarus* (2015) and a joint (partly dissenting) opinion of Fabián Salviolio and Víctor Manuel Rodríguez-Rescia in *Poplavny v. Belarus* (2015), stated:

*‘requiring contracts to be concluded with the city service providers for the maintenance of security, medical assistance and cleaning at the event, is an obstacle that does not meet the standards of necessity and proportionality for regulating the exercise of the rights of freedom of expression and assembly and*



*thus also constitutes a violation of article 2(2) of the Covenant, read in conjunction with articles 19 and 21 of the Covenant.*<sup>153</sup>

**Article 14 (fair trial) issues arising in relation to assemblies (in particular, proper documentation of arrests and admissibility of testimonial and video evidence):**

Unlike Article 6 ECHR,<sup>154</sup> there appears to be little ambiguity about the applicability of Article 14 to decisions restricting the exercise of the right to freedom of peaceful assembly: ‘the guarantees of article 14, paragraph 1, not only apply to courts and tribunals determining criminal charges or rights and obligations in a suit at law, but must also be respected where domestic law entrusts a judicial body with a judicial task.’<sup>155</sup> In the Committee’s freedom of assembly jurisprudence, multiple cases raise issues concerning the domestic court’s appraisal of evidence – and the claimant’s ability to adduce evidence (whether witness testimony or video footage) in court. The Committee, however, has emphasized a high threshold before it will consider such complaints, on the basis that these are ‘matters falling in principle to the national courts, unless the evaluation of evidence was *manifestly arbitrary or constituted a denial of justice.*’<sup>156</sup> As such, several complaints – including the claimed failure to properly document arrests,<sup>157</sup> claims that the police failed to disclose video recordings made by the police during their intervention,<sup>158</sup> or that the court refused to summon key witnesses, request additional materials from the City Executive Committee, and make an in-situ examination of the designated location for assemblies<sup>159</sup> – have been declared inadmissible for lack of substantiation. In *Kozlov v Belarus* (2015), the article 14 complaint was inadmissible because ‘the authors have not demonstrated in specific terms how these omissions adversely affected the fairness of the proceedings.’<sup>160</sup> Such admissibility rulings are worrying given the easy reliance by State parties on police witness testimony and photographic evidence.<sup>161</sup> In this regard, in *E.V. v Belarus* (2014), a Joint (dissenting) opinion of Committee members Yuval Shany, Dheerujall B. Seetulsingh and Fabian Salvioli argued that it ‘should be for the State party to invoke valid reasons for preventing the summoning of defence witnesses, rather than for the author to provide information showing how exactly a particular witness might affirm his/her defence.’<sup>162</sup> A General Comment on article 21 might usefully adopt this latter position, also emphasizing that the evidence of police officers should not alone be regarded as dispositive, especially where additional sources of evidence are available.

More positively, in another case, *Evrezov, Nepomnyaschikh, Polyakov and Rybchenko v Belarus* (2014), the Committee found a violation of Article 14(1) in respect of two of the authors who claimed they had been unable to call any of the 16 witnesses in their defence. The Committee emphasized the indispensability of equality of arms to the fair trial principle which ‘demands

that each side be given the opportunity to contest all the arguments and evidence adduced by the other party.<sup>163</sup>



## 4. NOTIFICATION

### ***Notification as an interference with/restriction on the right to assemble:***

In contrast to the position historically adopted by the European Court of Human Rights,<sup>164</sup> the Human Rights Committee has regarded a requirement to provide prior notification as a *de facto* interference with the right to freedom of peaceful assembly, one therefore requiring justification: ‘... as the State party has imposed a procedure for organizing mass events, it has effectively established restrictions on the exercise of the rights to freedom of expression and assembly ...’<sup>165</sup> This starting point could helpfully be emphasized in General Comment 37.

### ***Notification not required for all assemblies:***

The Committee has stated that: ‘a requirement to pre-notify a demonstration would normally be for reasons of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.’ As such, notification should not automatically be required for all assemblies – for example, those with only two or three participants<sup>166</sup> or indoor meetings in a private space.<sup>167</sup> The Committee has thus been critical of overbroad notification/authorization requirements,<sup>168</sup> and indeed varying requirements in different regions, provinces, cities etc.<sup>169</sup>

In addition, ‘[e]ven if, in principle, States parties may introduce a system aimed at reconciling an individual’s freedom to impart information and to participate in a peaceful assembly with the general interest of maintaining order in a certain area, the system must not operate in a way that is incompatible with the object and purposes of articles 19 and 21 of the Covenant.’<sup>170</sup> Drawing on more recent jurisprudence of the European Court of Human Rights, the Committee has held that ‘while a system of prior notices may be important for the smooth conduct of public demonstrations, their enforcement cannot become an end in itself.’<sup>171</sup> ‘A permit system must allow for full enjoyment of the right in question, and be administered consistently, impartially and sufficiently promptly.’<sup>172</sup> Again, these principles are worth articulating as an authoritative interpretation of article 21.

### ***Notification rather than authorization:***

The Committee has often been critical of authorization requirements<sup>173</sup> (including their frequent refusal,<sup>174</sup> and the absence of effective remedies in such cases).<sup>175</sup> The Committee has also observed how notification requirements can sometimes operate as *de facto* authorization

requirements,<sup>176</sup> result in *de facto* restrictions,<sup>177</sup> or otherwise entail unnecessary bureaucratic burdens for those seeking to exercise the right to freedom of peaceful assembly.<sup>178</sup>

General Comment 37 could potentially go so far as to say that authorization requirements (as opposed to notification requirements) are not compatible with article 21.<sup>179</sup> In one case, the author sought to argue that a ‘legal regime ... under which prior permission is required before holding a demonstration, imposes unacceptable restrictions on the freedoms guaranteed under article 21’<sup>180</sup> The Committee did not expressly rule on the permissibility of authorization regimes, instead simply emphasizing that the State should seek to facilitate assemblies, and moreover, must explain and justify why ‘such restrictions’ were necessary and proportionate.<sup>181</sup> Nonetheless, in finding that the imposition of a fine for taking part in an unauthorized demonstration, even where prior authorization is required by law, the Committee signalled that any authorization requirement must itself be justified (and be necessary and proportionate). In this regard, the *Guidelines on Freedom of Association and Assembly*, published by the African Commission on Human and Peoples’ Rights in 2017, provide that:

*Participating in and organizing assemblies is a right and not a privilege, and thus its exercise does not require the authorization of the state. A system of prior notification may be put in place to allow states to facilitate the exercise of this right and to take the necessary measures to protect public safety and rights of other citizens.*<sup>182</sup>

### ***An emphasis on the voluntariness of negotiations with the authorities:***

The Committee’s article 21 jurisprudence highlights examples in which it is alleged that the authorities have apparently reneged on negotiated outcomes (often involving an agreement to end protest in exchange for some movement towards the substantive reforms sought).<sup>183</sup> Given the asymmetries of power involved, General Comment 37 article 21 might emphasize that not everything is negotiable, and indeed, that participation in negotiations on the part of assembly organisers must be entirely voluntary (perhaps recommending appropriate procedural safeguards to ensure that this occurs in practice).

### ***Notification/Authorization Timeframe:***

The Committee has expressed concern about the timeframe for prior authorization (ranging from ‘three months in advance’,<sup>184</sup> ‘at least one month in advance’,<sup>185</sup> ‘15 days prior to the demonstration’,<sup>186</sup> to an ‘excessively long advance notice of eight days’<sup>187</sup>) and prior notification (ranging from being ‘too early’,<sup>188</sup> ‘fifteen days’,<sup>189</sup> to ‘at last three days’).<sup>190</sup> In light of these negatively framed concerns, it might be beneficial for a General Comment to positively articulate

a baseline expectation in relation to notification timeframes (for example, the Committee has viewed positively a 6-hour advance notification requirement)<sup>191</sup> – perhaps noting that some situations may exceptionally justify longer periods, the necessity of which should be periodically reviewed.

***Flexibility in operation:***

A General Comment could emphasize that notification procedures should always be implemented with a view to facilitating the exercise of the right (so that, for example, where a notification contains incomplete information,<sup>192</sup> efforts should be made to obtain the necessary information before the organizers are regarded as not having satisfied the notification requirements or conditions are imposed on the assembly).<sup>193</sup> At a minimum, General Comment 37 could provide that criminal penalties should not be imposed for failing to provide prior notification.<sup>194</sup>

## 5. GROUNDS FOR RESTRICTION<sup>195</sup>

It is well-established in the Committee's jurisprudence that '[t]he right to freedom of peaceful assembly as set forth in article 21 of the Covenant is not absolute but may be subject to limitations in certain situations ...'.<sup>196</sup> Moreover, State parties must provide relevant reasons to justify the necessity of any limitation, explaining how, in practice, an assembly would impact upon the legitimate grounds relied upon.<sup>197</sup>

### ***Justification of restrictions as necessary and proportionate / overbreadth:***

The Committee has repeatedly highlighted excessive, and sometimes unlawful, restrictions on the right to freedom of peaceful assembly.<sup>198</sup> Restrictions 'must conform to *strict* tests of necessity and proportionality'<sup>199</sup> and 'it is for the State party to demonstrate that the restrictions ... were necessary and proportionate.'<sup>200</sup> Proportionality has been conceived drawing on the language of overbreadth: '[A]ny restriction on the freedom of expression must not be overbroad in nature, that is, it must be the least intrusive among the measures that might achieve the relevant protective function and proportionate to the interest whose protection is sought.'<sup>201</sup>

### ***Blanket-bans:***

In a number of Concluding Observations, the Human Rights Committee has been highly critical of blanket restrictions<sup>202</sup> (including restrictions on timing/duration).<sup>203</sup> Indeed the Committee has held that a 'wholesale ban on demonstrations is not, in the Committee's opinion, compatible with the right to freedom of assembly under article 21'.<sup>204</sup> While the Committee has been consistent in finding violations – for example, in relation to limiting assemblies to pre-determined locations – the wording used by the Committee in relation to pre-determined protest locations has not always been consistent and so scope for some minor clarification remains ('raises serious doubts as to the necessity' *versus* does 'not meet the standards of necessity and proportionality'; *versus* 'unduly limits' the rights to freedom of assembly and expression.)<sup>205</sup> It might thus be stated that blanket restrictions are presumptively disproportionate and that restrictions must instead be individually justified in the specific circumstances of each case.<sup>206</sup>

### ***Restrictions must be 'imposed in conformity with the law'***

(see also General obligations regarding the legal framework above): This represents another textual difference with article 19 (which uses the more familiar formulation, 'provided by law'). In the article 19 case of *Sviridov v Kazakhstan* (2017), the author argued that the restrictions

imposed were not ‘provided for by law’ since expression by a single individual does not constitute a demonstration. The Committee proceeded instead to consider necessity of the restriction, ‘regardless of whether the author’s conduct was prohibited by the domestic law’.<sup>207</sup>

In *Zalesskaya v Belarus* (2011),<sup>208</sup> in which violations of both article 19 and 21 were found, notwithstanding the author’s specific complaint regarding the quality of the domestic legal framework,<sup>209</sup> the Committee proceeded to consider the necessity of the restrictions without addressing the question of whether the domestic law satisfies the requirement that restrictions be ‘provided by law’ (while considering the author’s article 19 complaint).<sup>210</sup> Similarly, in *Kovalenko v Belarus* (2013)<sup>211</sup> the Committee noted that the Code on Administrative Offences establishes administrative liability for violation of the established procedure for *organizing* or *conducting* a mass event.<sup>212</sup> As such, it was arguably open to the Committee to classify the restriction of the author’s rights (as a *participant*) as not having been ‘provided by law’. Instead, however, the Committee argued that the restrictions had not been shown to be necessary [*e*] *ven if* the sanctions imposed on the author were permitted under national law.<sup>213</sup>

In *Nepomnyashchiy v Russian Federation* (2018)<sup>214</sup> the Committee recalled General Comment 34 (para 25) to underscore that ‘the concept of “prohibited by law” under article 19(3) requires that laws be sufficiently precise to enable an individual to regulate his or her conduct accordingly and they may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution.’ As such, the Committee held that the offence of ‘promoting propaganda of homosexuality’ was ‘highly ambiguous as to the actions being prohibited and therefore does not satisfy the requirement of lawfulness under article 19(3).’<sup>215</sup>

### ***Content-neutral regulation:***

The Committee has frequently expressed concern about content-based restrictions.<sup>216</sup> Indeed, the Committee has emphasized that ‘a state has no legitimate interest in banning public gatherings merely to limit their influence’,<sup>217</sup> and that ‘a rejection of the author’s right to organize a public assembly addressing the chosen subject ... is one of the most serious interferences with the freedom of peaceful assembly.’<sup>218</sup>

### ***Impermissible grounds for restricting assemblies:***

the grounds relied upon to justify restrictions must be limited to the justifications listed in article 21 of the Covenant:<sup>219</sup> ‘no restriction to this right is permissible unless if it is (a) imposed in conformity with the law; and (b) is necessary in a democratic society, in the interests of national security or public safety, public order, protection of public health or morals or protection of

the rights and freedoms of others.’<sup>220</sup> In this regard, for example, the Committee has expressed particular concerns about legal provisions permitting restrictions on the basis of disruption to traffic,<sup>221</sup> or giving wide latitude to the authorities to impose restrictions on ‘public order’ grounds.<sup>222</sup>

The Committee’s jurisprudence reveals a wide range of additional reasons that State authorities have attempted to rely upon to justify restrictions on assemblies, including:

- To preserve the dignity and integrity of Parliament (arguing that non-intervention would give the impression of state approval),<sup>223</sup>
- Questioning of court decisions and thereby attempting to influence court rulings in specific civil and criminal cases;<sup>224</sup>
- Elections (see ‘Assemblies in the context of elections’ above);
- That a meeting on a similar subject had already been organized by the city administration so no further assembly was necessary;<sup>225</sup>
- That the Supreme Court had already resolved the subject matter of the event, and so the envisaged assembly addressed an ‘invented problem’ and would conflict with the right of citizens to receive reliable information;<sup>226</sup>
- Prohibiting a protest against political persecution because the terms ‘political persecution’ were not defined in the criminal law;<sup>227</sup>
- Insubordination (violation of Article 19);<sup>228</sup>
- Subversion;<sup>229</sup>
- Ensuring the security and safety of the embassy of a foreign State;<sup>230</sup>
- Putative concerns about the health and safety of detainees, including young children, and other persons<sup>231</sup> and the ‘aim to protect the morals, health, rights and legitimate interests of minors’;<sup>232</sup>
- Disturbing the work of nearby businesses.<sup>233</sup>
- Restrictions ‘imposed for the sake of the safety of right holders themselves.’<sup>234</sup>

### ***Offences imposing group liability contrary to the presumption of innocence.***

In particular, the Committee has touched upon, but not yet fully addressed, the question of whether individual *participants* can be held liable for taking part in an ‘unlawful assembly’<sup>235</sup> or ‘unauthorized’ gathering<sup>236</sup> where the *organizers* may have failed to comply with the requisite

notification or authorization procedure.

***The chilling effect of criminal and administrative liability,<sup>237</sup> of vaguely worded provisions imposing liability<sup>238</sup> and various offences relating to ‘terrorism’ and national security:<sup>239</sup>***

In this regard, the Committee has repeatedly emphasized ‘the need for careful scrutiny’ where ‘broad and unspecific terms’ are used in the formulation of offences under National Security legislation.<sup>240</sup> State parties should specify the precise nature of the threat allegedly posed by the exercise of the freedom of expression/assembly.<sup>241</sup>

The Committee has also highlighted concerns in relation to derogations and protracted emergencies,<sup>242</sup> the abuse of emergency orders,<sup>243</sup> and the absence of effective remedies during states of emergency.<sup>244</sup> Also noteworthy in this context is the emphasis placed by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin on ‘protecting and promoting civic space and civil society’:

*The Special Rapporteur affirms the value of civic space, public participation and critical engagement by civil society as an essential part of a human rights informed approach to counter-terrorism. The values of rights to association, assembly and expression are all key elements of the human rights treaty architecture, and have both intrinsic value but also promote the functionality of societies in which the dignity and equality of every human person is advanced.<sup>245</sup>*

***Proportionality of sentences:***

Recent examples of manifestly excessive sentences (for example, the 18-month custodial sentence initially imposed on three anti-fracking protesters in the UK)<sup>246</sup> suggest that it will be important for General Comment 37 to squarely address proportionality in sentencing. The Committee in its Concluding Observations has raised specific concerns about the ‘revocation of citizenship’,<sup>247</sup> deportation,<sup>248</sup> suspension and/or expulsion of students,<sup>249</sup> and importantly also, bail conditions and similar future bindings (not to take part in future assemblies).<sup>250</sup>

The Committee’s jurisprudence also contains a number of examples of disproportionate sentences. In *Coleman v Australia*, for example, where the author delivered a public address without a permit – ‘for this, he was fined and, when he failed to pay the fine, he was held in custody for five days. The Committee considers that the State party’s reaction in response to the author’s conduct was disproportionate ...’<sup>251</sup> In a similar vein, in *Kim v Uzbekistan* (2018) the arrest of the author – a pensioner – and imposing a fine of several monthly wages ‘for simply

protesting and expressing her views' was not proportionate to the interest it sought to protect.<sup>252</sup>

The Committee has also noted that the sanction of 'administrative arrest' (ie detention) is criminal in nature (prescribing 'conduct of a certain kind and making the resultant requirement subject to a sanction that is punitive') for the purposes of engaging article 14 of the Covenant.<sup>253</sup> Moreover, in *Melnikov v Belarus* (2017), the administrative arrest of the author was held to constitute an arbitrary deprivation of liberty in violation of article 9(1) of the Covenant: '[A]rrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant, including freedom of opinion and expression and freedom of assembly, is arbitrary.'<sup>254</sup>



## 6. POLICING AND COERCIVE MEASURES

The Committee has frequently raised concerns in relation to the policing of assemblies,<sup>255</sup> and indeed, occasionally also the role of local and municipal authorities.<sup>256</sup>

### ***Imputability to the State of the actions of State agencies and agents:***

In *Coleman v Australia* (2003), the State party unsuccessfully challenged the admissibility *ratione personae* because the complaint was directed at a police Sergeant, the City Council, and the federal State, ‘these not being State parties to the Covenant’. The Committee rejected this emphatically, stating that ‘the acts and omissions of constituent political units and their officers are imputable to the State.’<sup>257</sup>

### ***Obligation to protect life:***

In particular, States parties have an obligation to protect the life of demonstrators:<sup>258</sup> ‘States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces.’<sup>259</sup> General Comment 37 will be able to draw – and build – upon the discussion of ‘less-lethal weapons’ in the Committee’s General Comment 36:

14. While preferable to more lethal weapons, States parties should ensure that “less lethal” weapons are subject to strict independent testing and evaluate and monitor the impact on the right to life of weapons such as electro-muscular disruption devices (Tasers), rubber or foam bullets, and other attenuating energy projectiles, which are designed for use or are actually used by law enforcement officials, including soldiers charged with law enforcement missions. The use of such weapons must be restricted to law enforcement officials who have undergone appropriate training, and must be strictly regulated in accordance with applicable international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Furthermore, such “less-lethal” weapons can only be employed, subject to strict requirements of necessity and proportionality, in situations in which other less harmful measures have proven to be, or clearly are ineffective to address the threat. States parties should not resort to “less-lethal” weapons in situations of crowd control which can be addressed through less harmful means, especially situations involving the exercise of the right to peaceful assembly.<sup>260</sup>

‘27. An important element of the protection afforded to the right to life by the Covenant is the obligation on the States parties, where they know or should

have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute such incidents including allegations of excessive use of force with lethal consequences. ...'<sup>261</sup>

***Obligation to protect the rights of assembly participants (whether or not the assembly is peaceful):***

'Even if participants in an assembly are not peaceful and as a result forfeit their right to peaceful assembly, they retain all the other rights, subject to the normal limitations. No assembly should thus be considered unprotected.'<sup>262</sup> The Committee has also noted, for example, that States have an obligation to ensure injured demonstrators have access to medical assistance.<sup>263</sup>

***General Comment 37 might usefully address the following issues concerning the policing of assemblies (as have been variously highlighted in the Committee's Concluding Observations and jurisprudence):***

- (a) Unfettered discretion;<sup>264</sup>
- (b) Preventive measures,<sup>265</sup> including 'prophylactic' tactics<sup>266</sup> and mass arrests;<sup>267</sup>
- (c) Surveillance and intelligence gathering;<sup>268</sup>
- (d) 'Kettling' and containment of protesters;<sup>269</sup>
- (e) Arbitrary arrest and detention of protesters;<sup>270</sup>
- (f) Use of force by state agents;<sup>271</sup>
- (g) Ill-treatment, torture and/or disappearance of detained protesters;<sup>272</sup>
- (h) Police training;<sup>273</sup>
- (i) Visibility of police officers' identification;<sup>274</sup>
- (j) Public order weaponry;<sup>275</sup>
- (k) The role and legal status of private and/or municipal security guards;<sup>276</sup>
- (l) Involvement of the military;<sup>277</sup>
- (m) Unidentified State agents / 'agents provocateur';<sup>278</sup>
- (n) Accountability mechanisms – in particular, the obligation to investigate,<sup>279</sup> the role of domestic Commissions of Inquiry,<sup>280</sup> and reporting obligations to the Committee;<sup>281</sup>
- (o) Protection for journalists,<sup>282</sup> assembly monitors and human rights defenders<sup>283</sup> and offences relating to the recording/photography of law enforcement personnel.<sup>284</sup>

## 7. EFFECTIVE AND TIMELY REMEDIES AND RELATED PROCEDURAL SAFEGUARDS:

The Committee in its Concluding Observations has raised concerns about restrictions being announced only at the last minute (thereby precluding the possibility of an appeal hearing prior to the notified time of the assembly),<sup>285</sup> as well as the absence of, or ineffective, appeal mechanisms.<sup>286</sup> It has specifically suggested that legislation should ensure ‘that appeals against a ban to hold a peaceful assembly are not unnecessarily protracted and are dealt with before the planned date.’<sup>287</sup> In this regard, additional requirements of reasoned and transparent decision-making and detailed record keeping are also vitally important.<sup>288</sup>

Article 2(3) ICCPR obliges States parties to ensure that all persons have accessible, effective and enforceable remedies, and that where investigations reveal violations of Covenant rights, ‘States parties must ensure that those responsible are brought to justice.’<sup>289</sup> In this regard, ‘the burden of proof cannot rest alone on the author of the communication, especially considering that the author and the State party do not always have equal access to evidence and that frequently the State party alone has access to relevant information’.<sup>290</sup>

# ANNEX A: Table of individual communications (Disaggregated on the basis of Article 19 and/or 21 CLAIMED and/or VIOLATED)

	ONLY ARTICLE 21 CLAIMED	ARTICLES 21 & 19 CLAIMED	ONLY ARTICLE 19 CLAIMED
VIOLATION OF ARTICLE 21 ONLY	<ul style="list-style-type: none"> <li>• No 1866/2009, <i>Chebotareva v Russia</i>, Views adopted 26 March 2012 (refusal to permit event marking anniversary of Anna Politkovskaya’s murder on basis of other simultaneous events);</li> <li>• No 1873/2009, <i>Alekseev v Russian Federation</i>, Views adopted 25 October 2013;</li> <li>• No. 1851/2008, <i>Sekerko v Belarus</i>, Views adopted 28 October 2013;</li> <li>• No. 1864/2009, <i>Kirsanov v Belarus</i>, Views adopted 20 March 2014 [but note the individual concurring opinion of Mr. Fabián Salvioli and Mr. Víctor Rodríguez-Rescia arguing that ‘the Committee should have also found a violation ... of article 19];</li> <li>• No. 2030/2011, <i>Poliakov v Belarus</i>, Views adopted 17 July 2014</li> </ul>	<ul style="list-style-type: none"> <li>• No 1992/2010, <i>Sudalenko v Belarus</i>, Views adopted 27 March 2015 (though inadmissible article 19 claim concerned different facts – namely, the refusal by State-owned newspapers to publish the author’s articles – from his article 21 complaint, also in conjunction with article 25, regarding refusal to permit public meeting)</li> </ul>	

## VIOLATION OF ARTICLES 21 & 19

- NOTE concurring opinion in No. 1864/2009, *Kirsanov v Belarus*, Views adopted 20 March 2014 ^
- No 1604/2007, *Zaleskaya v Belarus*, views adopted 28 March 2011 [3 people distributing leaflets on a sidewalk: author argued ‘cannot be considered as an organized mass event’ (para 3.2) but claimed violation of right of peaceful assembly (para 3.5). The Committee finds a violation of article 21 (para 10.6), but doesn’t consider whether – and if so, why – article 21 is engaged on the particular facts];
- No. 1772/2008, *Belyazeka v Belarus*, Views adopted 23 March 2012 [30+ commemorative event]
- No. 1790/2008, *Govsha, Syritsa and Mezyak v Belarus*, Views adopted 27 July 2012 (though article 19 is secondary to article 21 in authors’ complaint – see para 3.4(a), and Committee concludes, at para 9.4, article 19 to be applicable because restrictions ‘were closely linked to the subject matter of the meeting’;
- No. 1808/2008, *Kovalenko v Belarus*, Views adopted 17 July 2013;
- No 1948/2010, *Turchenyak et al v Belarus*, Views adopted 24 July 2013 [2-hour pickets of 10 people on 3
- No 1903/2009, *Youbko v Belarus*, Views adopted 17 March 2014 (50 participants);

## VIOLATION OF ARTICLES 21 & 19

- No. 1976/2010, *Kuznetsov et al. v. Belarus*, Views adopted 24 July 2014;
- No. 2029/2011, *Praded v Belarus*, Views adopted 10 October 2014;
- No. 1934/2010, *Bazarov v Belarus*, Views adopted 24 July 2014 (three people carrying a flag, walking on the pavement towards Independence Square to commemorate foundation of Peoples' Republic – contrast with Aleksandrov)
- No. 1999/2010, *Evrezov, Nepomnyaschikh, Polyakov and Rybchenko v Belarus*, Views adopted 10 October 2014 (16 persons heading towards Square where they intended to hold a demonstration)
- No. 2137/2012, *Toregozhina v Kazakhstan*, views adopted 21 October 2014 ['art-mob' event took place without interference, author subsequently convicted of unauthorized organization of a public event]
- No 1949/2010, *Kozlov et al v Belarus*, Views adopted 25 March 2015 (authorization refused for 5-person picket in pedestrian zone);
- No 1902/2009, *Bakur v Belarus*, Views adopted 15 July 2015 [indoor meeting of political party, open to public]

VIOLATION OF ARTICLES 21 & 19

- No 1929/2010, *Lozenko v Belarus*, Views adopted 24 October 2014 (meeting of political party inside a building to meet with writer/activist and discuss his new book – similar to Bakur below – though not a ‘public event’);
- No 1984/2010, *Pugach v Belarus*, Views adopted 15 July 2015 [50-person, 3-hour picket];
- No 2234/2013, *M.T. v Uzbekistan*, Views adopted 23 July 2015 (single person picket, attacked by women whom author believes were paid by the police);
- No 2076/2011, *Derzhavtsev v Belarus*, Views adopted 29 October 2015 [2-person picket re. election boycott]
- No. 2133/2012, *Statkevich and Matskevich v Belarus*, Views adopted 29 October 2015 (10-person protest)
- No. 2016/2010, *Sudalenko v Belarus*, Views adopted 5 November 2015 (single-person picket);
- No. 2019/2010, *Poplavny v Belarus*, Views adopted 5 November 2015;
- No 2092/2011, *Androsenko v Belarus*, Views adopted 30 March 2016 (demonstration outside Iranian embassy in Minsk);

## VIOLATION OF ARTICLES 21 & 19

- No 2101/2011, *Evezrezov v Belarus*, Views adopted 14 July 2016 (application for picket with up to 20 participants);
- No 2089/2011, *Korol v Belarus*, Views adopted 14 July 2016 (participation in peaceful demonstration, holding a poster, accused under provision prohibiting organization/holding of unauthorized events);
- Nos 2108/2011-2109/2011, *Basarevsky and Rybchenko v Belarus*, Views adopted 14 July 2016 (application rejected for picket of up to 20 participants);
- No 2139/2012, *Poplavny and Sudalenko v Belarus*, Views adopted 3 November 2016 (request to hold picket of up to 50 participants in central square re. right not to participate in upcoming presidential election)
- No 2147/2012, *Melnikov v Belarus*, Views adopted 14 July 2017 (gathering, during which author was distributing leaflets to passers-by concerning a future public gathering)
- No 2142/2012, *Shumilina et al v Belarus*, Views adopted 28 July 2017 (application rejected for a series of demonstrations);
- No. 2190/2012, *Sudalenko and Poplavny v Belarus*, Views adopted 4 April 2018;



VIOLATION OF ARTICLES 21 & 19

- No 2168/2012, *Koreshkov v Belarus*, Views adopted 9 November 2017 (participation in gathering for which no prior permission had been obtained);
- No. 2212/2012, *Sannikov v Belarus*, Views adopted 6 April 2018;
- No. 2175/2012, *Kim v Uzbekistan*, Views adopted 4 April 2018
- No. 2441/2014, *Zhagiparov v Kazakhstan*, Views adopted 25 October 2018.

VIOLATION OF ARTICLE 19 ONLY

- |  |   |   |
|--|---|---|
|  | <ul style="list-style-type: none"> <li>• No. 1157/2003, <i>Coleman v Australia</i>, Views adopted 17 July 2006 (para 6.4: single person public address in pedestrian mall - article 21 complaint inadmissible for insufficient information;</li> <li>• Nos. 1867/2009, 1936/2010, 1975/2010, 1977/2010, 1978/2010, 1979/2010, 1980/2010, 1981/2010 and 2010/2010, <i>Levinov v Belarus</i>, Views adopted 19 July 2012 multiple single person pickets (para 9.7 – article 21 complaint inadmissible since ‘the author intended to conduct the nine pickets on his own. Accordingly ... the author has failed to sufficiently substantiate this particular claim’);</li> <li>• No. 1830/2008, <i>Pivonos v Belarus</i>, Views adopted 29 October 2012, gathering of 3 people: article 21 complaint admissible (para 8.4), but not examined separately in light of Committee’s finding of a violation of article 19 (para 9.4);</li> <li>• Nos. 1919-1920/2009, <i>Protsko and Tolchin v Belarus</i>, Views adopted 1 November 2013, in each case, one-person distributing leaflets about a forthcoming assembly: article 21 complaint admissible, but not examined separately in light of article 19 violation;</li> </ul> | <ul style="list-style-type: none"> <li>• No 921/2000, <i>Dergachev v Belarus</i>, views adopted 2 April 2001 (author carried poster during picket - Article 21 not raised, even though the Committee noted of its own volition [para 6.5] that the Law on Elections, prohibiting nomination of candidates who have been convicted within one year prior to an election, ‘raises issues under article 25 of the Covenant’);</li> <li>• No 1022/2001, <i>Velichkin v Belarus</i>, Views adopted 20 October 2005 [distributing text of UDHR during unauthorized meeting after initial attempt to organize assembly of 10 participants was refused. Individual opinion by Ms. Ruth Wedgwood, ‘there was a further violation of article 21 ...’]; Also Cf. No 1604/2007, <i>Zalesskaya v Belarus</i>, Views adopted 28 March 2011;</li> <li>• No 1009/2001, <i>Shchetko v Belarus</i>, Views adopted 11 July 2006 (distribution of leaflets by father and son – no specific articles raised by Authors but considered under Article 19); No 1553/2007, <i>Korneenko v Belarus</i>, Views adopted 20 March 2009 (seizure and destruction of electoral leaflets); No. 1838/2008, <i>Tulzhenkova v Belarus</i>, Views adopted 26 October 2011 (one person distributing leaflets about an upcoming assembly);</li> </ul> |
|--|---|---|

VIOLATION OF ARTICLE 19 ONLY

- No 1839/2008, *Komarovsky v Belarus*, Views adopted 25 October 2013, gathering of approx. 20 people: article 21 complaint admissible (para 8.4), but not examined separately in light of Committee’s finding of a violation of article 19 (para 9.5);
- No 2156/2012, *Nepomnyaschkih v Belarus*, Views adopted 10 October 2014 (author alone distributing leaflets and ‘orally inviting citizens in a public square ... to participate in a peaceful street rally’ to take place the next day). Complaint focused on article 19, but author also asked the Committee to recommend that the State party review its legislation to bring it ‘into line with the State party’s international obligations, in particular articles 19 and 21 of the Covenant’;
- No 2082/2011, *Levinov v Belarus*, Views adopted 14 July 2016, single person (‘Father Frost’) picket - article 21 claim inadmissible for lack of substantiation, para 7.7;
- No 2235/2013, *Levinov v Belarus*, Views adopted 19 July 2018 (one-person picket, article 21 complaint inadmissible)
- No 1784/2008, *Schumilin v Belarus*, Views adopted 23 July 2012 (one person distributing leaflets about an upcoming meeting);
- No 1932/2010, *Fedotova v Russian Federation*, Views adopted 31 October 2012 (one-person protest near secondary school – like *Nepomnyashchiy* below);
- No. 1785/2008, *Olechkevitch v. Belarus*, Views adopted 18 March 2013 (author distributing leaflets inviting city residents to a – not yet authorized – meeting with former Presidential candidate. Note, Separate opinion of Committee members Mr. Fabián Salvioli, Mr. Yuval Shany and Mr. Víctor Rodríguez Rescia (concurring));
- No 1933/2010, *Aleksandrov v Belarus*, Views adopted 24 July 2014 (three people carrying a flag, walking on the pavement towards Independence Square to commemorate foundation of Peoples’ Republic – contrast with *Bazarov*); No 1952/2010, *Symonik v Belarus*, Views adopted 24 October 2014 (one person distributing leaflets calling for a demonstration);
- No 1987/2010, *Stambrovsky v Belarus*, Views adopted 24 October 2014 (request for authorization of one-person picket);

VIOLATION OF ARTICLE 19 ONLY

- No 2236/2013, *Levinov v Belarus*, Views adopted 19 July 2018 (one-person picket, article 21 complaint inadmissible)
- No 2239/2013, *Levinov v Belarus*, Views adopted 19 July 2018 (one-person picket, article 21 complaint inadmissible)
- No 1982/2010, *Mikhalchenko v Belarus*, Views adopted 22 July 2015 (one person distributing leaflets entitled 'Leftist march');
- No 2093/2011, *Misnikov v Belarus*, Views adopted 14 July 2016, (single-person picket);
- No 2158/2012, *Sviridov v Kazakhstan*, Views adopted 13 July 2017 (single-person picket; administrative arrest for holding a peaceful assembly without prior authorization);
- No 2318/2013, *Nepomnyashchiy v Russian Federation*, Views adopted 17 July 2018 (like Fedotova above)

No VIOLATION

- No 2046/2011 *Mohamed v Libya* Views adopted 17 October 2014 [planned participation in peaceful sit-in; arbitrary arrest, detention and torture - violations of Arts 7 & 9 - 'the Committee will not consider the author's claims under articles 19 and 21 of the Covenant separately']
- No 2407/2014, *Guliyev v Azerbaijan*, Views adopted 23 July 2018 (article 19 and 21 complaints inadmissible for lack of detail)
- No. 953/2000, *Zündel v Canada*, Decision adopted 27 July 2003, CCPR/C/78/D/953/2000 (outside scope of Article 19);
- No. 1014/2001, *Omar Sharif Baban v Australia*, Views adopted 6 August 2003, CCPR/C/78/D/1014/2001, para. 6.7: '... the Committee, even assuming for the sake of argument that a hunger strike may be subsumed under the right to freedom of expression protected' by Article 19 ICCPR ...';
- No. 1172/2003 *Abbassi v Algeria*, Views adopted 28 March 2007 [insufficient information to decide whether Art 19 violated – but violations of Arts 9 and 14. Note: Art 21 raised by author – para 1 – but not in complaint, para 3.1 et seq.]
- No. 1173/2003 *Benhadj v Algeria* Views adopted 20 July 2007 [insufficient information to decide whether article 19 violated – but violations of Articles 9, 10 and 14];
- No. 2169/2012, *S.K. v Belarus*, Decision adopted 31 October 2012 (author climbed, and placed historical flag on top of, city Christmas tree; convicted and fined for acts dangerous to the general public – article 19 complaint inadmissible for lack of substantiation].

NEITHER ARTICLE 19 NOR 21 RAISED IN COMPLAINT  
(BUT FACTS RELATE TO ASSEMBLY)

- No 1828/2008, *Olmedo v Paraguay*, Views adopted 22 March 2012 (violation of article 6, and of article 2(3) in conjunction with article 6);
- No 1829/2008, *Gamarra v Paraguay*, Views adopted 22 March 2012 (violation of article 7, and of article 2(3) in conjunction with article 7).
- No. 1989/2010, *E.V. v Belarus*, Views adopted 30 October 2014, CCPR/C/112/D/1989/2010 – passer-by caught within police chain around demonstrators ('kettling') and charged with participating in an unsanctioned mass event, but complaints under articles 10 and 14 declared inadmissible for lack of substantiation.

# ANNEX B: LIST OF INDIVIDUAL COMMUNICATIONS

## **CERD Individual Communications**

### **2005**

1. 30/2003, *The Jewish community of Oslo and others v Norway*, decision of 15 August 2005, CERD/C/67D/30/2003

## **CCPR Individual Communications**

### **1994**

1. 412/1990, *Kivenmaa v Finland*, Views adopted 31 March 1994, CCPR/C/50/D/412/1990
2. 518/1992, *Sohn v Republic of Korea*, admissibility decision, 18 March 1994, CCPR/C/50/D/518/1992

### **2002**

3. 921/2000, *Dergachev v Belarus*, Views adopted 2 April 2002, CCPR/C/74/D/921/2000

### **2003**

4. 953/2000, *Zündel v Canada*, Decision adopted 27 July 2003, CCPR/C/78/D/953/2000
5. 1014/2001, *Baban v Australia*, Views adopted 6 August 2003, CCPR/C/78/D/1014/2001

### **2005**

6. 1022/2001, *Velichkin v Belarus*, Views adopted 20 October 2005, CCPR/C/85/D/1022/2001

### **2006**

7. 1009/2001, *Shchetko v Belarus*, Views adopted 11 July 2006, CCPR/C/87/D/1009/2001
8. 1157/2003, *Coleman v Australia*, Views adopted 17 July 2006, CCPR/C/87D/1157/2003

### **2007**

9. 1172/2003, *Abbassi v Algeria*, Views adopted 28 March 2007, CCPR/C/89/D/1172/2003
10. 1173/2003, *Benhadj v Algeria*, Views adopted 20 July 2007, CCPR/C/90/D/1173/2003

### **2009**

11. 1553/2007, *Korneenko v Belarus*, Views adopted 20 March 2009, CCPR/C/

C/95/D/1553/2007

## 2011

12. 1604/2007, *Zalesskaya v Belarus*, Views adopted 28 March 2011, CCPR/C/101/D/1604/2007
13. 1838/2008, *Tulzhenkova v Belarus*, Views adopted 26 October 2011, CCPR/C/103/D/1838/2008

## 2012

14. 1782/2008, *Aboufaied v Libya*, Views adopted 21 March 2012, CCPR/C/104/D/1782/2008
15. 1828/2008, *Olmedo v Paraguay*, Views adopted 22 March 2012, CCPR/C/104/1828/2008
16. 1829/2008, *Gamarra v Paraguay*, Views adopted 22 March 2012, CCPR/C/104/D/1829/2008
17. 1772/2008, *Belyazeka v Belarus*, Views adopted 23 March 2012, CCPR/C/104/D/1772/2008
18. 1866/2009, *Chebotareva v Russia*, Views adopted 26 March 2012, CCPR/C/104/D/1866/2009
19. 1827/2009, 1936/2010, 1975/2010, 1977/2010, 1978/2010, 1979/2010, 1980/2010, 1981/2010 and 2010/2010, *Levinov v Belarus*, Views adopted 19 July 2012, CCPR/C/105/D/1867/2009, 1936, 1975, 1977-1981, 2010/2010
20. 1784/2008, *Schumilin v Belarus*, Views adopted 23 July 2012, CCPR/C/105/D/1784/2008
21. 1790/2008, *Govsha, Syritsa and Mezyak v Belarus*, Views adopted 27 July 2012, CCPR/C/105/D/1790/2008
22. 1836/2008, *Katsora v Belarus*, Views adopted 24 October 2012, CCPR/C/106/D1836/2008
23. 1830/2008, *Pivonos v Belarus*, Views adopted 29 October 2012, CCPR/C/106/D/1830/2008
24. 1932/2010, *Fedotova v Russian Federation*, Views adopted 31 October 2012, CCPR/C/106/D/1932/2010
25. 2169/2012, *S.K. v Belarus*, Decision adopted 31 October 2012, CCPR/C/106/D/2169/2012

## 2013

26. No. 1785/2008, *Olechkevitch v. Belarus*, Views adopted 18 March 2013, CCPR/C/107/D/1785/2008
27. 1808/2008, *Kovalenko v Belarus*, Views adopted 17 July 2013, CCPR/C/108/D/1808/2008



28. 1948/2010, *Turchenyak et al v Belarus*, Views adopted 24 July 2013, CCPR/C/108/D/1948/2010
29. 1839/2008, *Komarovsky v Belarus*, Views adopted 25 October 2013, CCPR/C/109/D/1839/2008
30. 1873/2009, *Alekseev v Russian Federation*, Views adopted 25 October 2013, CCPR/C/109/D/1873/2009
31. 1851/2008, *Sekerko v Belarus*, Views adopted 28 October 2013, CCPR/C/109/D/1851/2008
32. 1919-1920/2009, *Protsko and Tolchin v Belarus*, Views adopted 1 November 2013, CCPR/C/109/D/1919-1920/2009

## **2014**

33. 1903/2009, *Youbko v Belarus*, Views adopted 17 March 2014, CCPR/C/110/D/1903/2009
34. 1864/2009, *Kirsanov v Belarus*, Views adopted 20 March 2014, CCPR/C/110/D/1864/2009
35. 2030/2011, *Poliakov v Belarus*, Views adopted 17 July 2014, CCPR/C/111/D/2030/2011
36. 1976/2010, *Kuznetsov et al v Belarus*, Views adopted 24 July 2014, CCPR/C/111/D/1976/2010
37. 1933/2010, *Aleksandrov v Belarus*, Views adopted 24 July 2014, CCPR/C/111/D/1933/2010
38. 1934/2010, *Bazarov v Belarus*, Views adopted 24 July 2014, CCPR/C/111/D/1934/2010
39. 2029/2011, *Praded v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011
40. 1999/2010, *Evrezov, Nepomnyaschikh, Polyakov and Rybchenko v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/1999/2010
41. 2156/2012, *Nepomnyaschikh v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2156/2012
42. 2046/2011, *Mohamed v Libya*, Decision adopted 17 October 2014, CCPR/C/112/D/2046/2011
43. 2137/2012, *Toregozhina v Kazakhstan*, Decision adopted 21 October 2014, CCPR/C/112/D/2137/2012
44. 1773/2008, *Kozulina v Belarus*, Decision adopted 21 October 2014, CCPR/C/112/D/1773/2008

45. 1952/2010, *Symonik v Belarus*, Views adopted 24 October 2014, CCPR/C/112/D/1952/2010
46. 1987/2010, *Stambrovsky v Belarus*, Views adopted 24 October 2014, CCPR/C/112/D/1987/2010
47. 1929/2010, *Lozenko v Belarus*, Views adopted 24 October 2014, CCPR/C/112/D/1929/2010
48. 1989/2010, *E.V. v Belarus*, Views adopted 30 October 2014, CCPR/C/112/D/1989/2010

## **2015**

49. 1949/2010, *Kozlov et al v Belarus*, Views adopted 25 March 2015, CCPR/C/113/D/1949/2010
50. 1992/2010, *Sudalenko v Belarus*, Views adopted 27 March 2015, CCPR/C/113/D/1992/2010
51. 1984/2010, *Pugach v Belarus*, Views adopted 15 July 2015, CCPR/C/114/D/1984/2010
52. 1902/2009, *Bakur v Belarus*, Views adopted 15 July 2015, CCPR/C/114/D/1902/2009
53. 1969/2010, *Surgan v Belarus*, Views adopted 15 July 2015, CCPR/C/114/D/1969/2010
54. 1982/2010, *Mikhalchenko v Belarus*, Views adopted 22 July 2015, CCPR/C/114/D/1982/2010
55. 2234/2013, *M.T. v Uzbekistan*, Views adopted 23 July 2015, CCPR/C/114/D/2234/2013
56. 2076/2011, *Derzhavtsev v Belarus*, Views adopted 29 October 2015, CCPR/C/115/D/2076/2011
57. 2133/2012, *Statkevich and Matskevich v Belarus*, Views adopted 29 October 2015, CCPR/C/115/D/2133/2012
58. 2016/2010, *Sudalenko v Belarus*, Views adopted 5 November 2015, CCPR/C/115/D/2016/2010
59. 2019/2010, *Poplavny v Belarus*, Views adopted 5 November 2015, CCPR/C/115D/2019/2010

## **2016**

60. 2092/2011, *Androsenko v Belarus*, Views adopted 30 March 2016, CCPR/C/116/D/2092/2011
61. 2082/2011, *Levinov v Belarus*, Views adopted 14 July 2016, CCPR/C/117/D/2082/2011
62. 2089/2011, *Korol v Belarus*, Views adopted 14 July 2016, CCPR/C/117/D/2089/2011

63. 2093/2011, *Misnikov v Belarus*, Views adopted 14 July 2016, CCPR/C/117/D/2093/2011
64. 2101/2011, *Evezrezov v Belarus*, Views adopted 14 July 2016, CCPR/C/117/D/2101/2011
65. 2108/2011-2109/2011, *Basarevsky and Rybchenko v Belarus*, Views adopted 14 July 2016, CCPR/C/117/D/2108/2011-CCPR/C/117/D/2109/2011
66. 2139/2012, *Poplavny and Sudalenko v Belarus*, Views adopted 3 November 2016, CCPR/C/118/D/2139/2012

## **2017**

67. 2158/2012, *Sviridov v Kazakhstan*, Views adopted 13 July 2017, CCPR/C/120/D/2158/2012
68. 2147/2012, *Melnikov v Belarus*, Views adopted 14 July 2017, CCPR/C/120/D/2147/2012
69. 2142/2012, *Shumilina et al v Belarus*, Views adopted 28 July 2017, CCPR/C/120/D/2142/2012
70. 2168/2012, *Koreshkov v Belarus*, Views adopted 9 November 2017, CCPR/C/121/D/2168/2012

## **2018**

71. 2190/2012, *Sudalenko and Poplavny v Belarus*, Views adopted 4 April 2018, CCPR/C/122/D/2190/2012
72. 2212/2012, *Sannikov v Belarus*, Views adopted 6 April 2018, CCPR/C/122/D/2212/2012
73. 2217/2012, *Popova v Russian Federation*, Views adopted 6 April 2018, CCPR/C/122/D/2217/2012
74. 2235/2013, *Levinov v Belarus*, Views adopted 19 July 2018, CCPR/C/123/D/2235/2013
75. 2236/2013, *Levinov v Belarus*, Views adopted 19 July 2018, CCPR/C/123/D/2236/2013
76. 2239/2013, *Levinov v Belarus*, Views adopted 19 July 2018, CCPR/C/123/D/2239/2013
77. 2318/2013, *Nepomnyashchiy v Russian Federation*, Views adopted 17 July 2018, CCPR/C/123/D/2318/2013
78. 2175/2012, *Kim v Uzbekistan*, Views adopted 4 April 2018, CCPR/C/122/D/2175/2012
79. 2407/2014, *Guliyev v Azerbaijan*, Views adopted 23 July 2018, CCPR/C/123/D/2407/2014
80. 2441/2014, *Zhagiparov v Kazakhstan*, Views adopted 25 October 2018, CCPR/C/124/D/2441/2014

# NOTES

1 The skew in the Committee's freedom of assembly jurisprudence to Belarus in some ways resembles the skew in its early freedom of expression jurisprudence to Uruguay. See Dominic McGoldrick, *The Human Rights Committee: Its Role in the Development of the International Covenant on Civil and Political Rights* (Clarendon Press, Oxford: 1994) at 465, para 11.14.

2 Namely: (a) bans on demonstrations; (b) unjustified restrictions on demonstrations; (c) unnecessary requirements to obtain authorizations that affect the enjoyment of freedom of assembly; (d) lack of remedies to appeal decisions denying the authorization to hold demonstrations; (e) arrest of protestors amounting to arbitrary detention; (f) legislation not complying with international human rights law both because it obstructs and punishes the exercise of freedom of assembly and the right to protest and because it establishes procedures infringing on the actual ability to enjoy the right to peaceful assembly; (g) legislation on counter-terrorism with definitions of "terrorism" so broad that they might jeopardize legitimate activities in a democratic society, in particular participation in public demonstrations. See, [A/62/225](#), Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, (13 August 2007) at para 20.

3 Successive reports of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association since 2012 have also urged the drafting of a General Comment on both Articles 21 and Article 22 of the Covenant: See, for example, [A/HRC/32/36](#), Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 31 May 2016, para 93 (recommending a focus on the challenges posed by fundamentalism and groups at risk of being targeted by fundamentalists); [A/HRC/26/29](#), Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 14 April 2014, para 76 (recommending a focus on the challenges faced by individuals belonging to groups most at risk); and [A/HRC/20/27](#), Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 21 May 2012, para 86 (encouraging the Human Rights Committee to consider adopting general comments on articles 21 and 22 of the International Covenant on Civil and Political Rights).

4 Communication No. 1790/2008, *Govsha, Syritsa and Mezyak v. Belarus*, Views adopted 27 July 2012, para. 9.4.

5 Note, for example, the (ultimately unsuccessful) argument of the State party in Communication No. 1838/2008, *Tulzhenkova v Belarus*, Views adopted 26 October 2011, CCPR/C/103/D/1838/2008 (violation of article 19), at para 6.2: '... article 19, paragraph 3, of the Covenant, imposes on the rights holder special duties and responsibilities, and thus the right to freedom of expression may be subjected to certain restrictions ...'

6 CCPR/C/GC/34, General Comment 34 (2011), para 4.

7 Communication No 1478/2006, *Kungurov v Uzbekistan*, Views adopted 20 July 2011, CCPR/C/102/D/1478/2006 paras 3.17 (author's submission that 'some communication efforts are much more effective, and much more correspond to the rightful wishes of the communicators, when they are done as a group rather than individually') and 8.8 and 8.9 (finding, *inter alia*, a violation of article 22(1) read together with article 19(2), emphasizing that 'the freedom of expression rights of individuals are implicated in their efforts to communicate through associations', citing also Communication No. 1249/2004, *Sister Immaculate Joseph and 80 Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka v Sri Lanka*, Views adopted 21 October 2005, para 7.2.

8 Michael O'Flaherty, 'Freedom of Expression: Article 19 of the International Covenant on Civil and Political Rights and the Human Rights Committee's General Comment No.34' 12:4 *Human Rights Law Review* 627-654 (2012) at 646. Anja Seibert-Fohr notes that General Comments focus on the substantive meaning of the Covenant 'by (a) elaborating on the content of the obligations assumed by the States parties and (b) recommending means of implementation'. See, Seibert-Fohr, Anja, 'The UN Human Rights Committee – Legacy and Promise' (2017) <https://www.ssrn.com/abstract=3087213> at 9. See also Kerstin Mechlem, 'Treaty Bodies and the Interpretation of Human Rights', 42 *Vanderbilt Journal of Transnational Law* 905 (2009). Dominic McGoldrick, *The Human Rights Committee: Its Role in the Development of the International Covenant on Civil and Political Rights* (Clarendon Press, Oxford: 1994) at 471, para 11.25: 'The opportunity to formulate general comments is an extremely valuable and important one. The comments should represent the HRC's accumulated experience of years of consideration of a particular article. On that basis they have the potential to be profoundly influential. Although the predominant purpose of the General Comments to date appears to have been to provide clear guidelines for the States parties on information required by the HRC, they also perform a key function of giving some substantive content to the articles concerned. It is critical then that the comments are purposeful, positive, and progressive.' See also, Philip Alston, 'The Historical Origins of the Concept of "General Comments" in Human Rights Law', in L. Boisson De Charzournes and V. Gowlland-Debbas (eds), *The International Legal System in Quest of Equity and Universality* (Liedien: Martinus Nijhoff, 2001), 763-76.

9 Klein and Kretzmer, emphasizing that a General Comment should not be a comprehensive commentary on all problems relating to a particular right. See, Klein E and Kretzmer D, 'The UN Human Rights Committee: the general comments – the evolution of an autonomous monitoring instrument' 58 *Ger Yearb Int Law* 189–229 (2015) at 219 (cited in Seibert-Fohr, *ibid* at 9). To date, the Committee has adopted almost 80 views on individual communications concerning freedom of assembly;

10 See, Helen Keller and Leena Grover, 'General Comments of the Human Rights Committee and their legitimacy', in Grover (ed.), *UN Human Rights Treat Bodies: Law and Legitimacy* (CUP: 2012) 116 at 166 emphasizing that where Concluding Observations are drawn upon in a General Comment, interpretative reasoning should be added (since Concluding Observations are recommendatory (cited by Seibert-Fohr, *supra*, at 9)).

11 Seibert-Fohr, *supra* note 9 at 9.

12 Anja Siebert-Fohr notes that General Comments were 'originally conceived to guide States in their reporting by identifying relevant questions to be answered in periodic reports and to stimulate State activities in the promotion of human rights.' Like UPR recommendations, many Concluding Observations contain generally framed recommendations.

13 As called for in the resolution tabled by Switzerland and Costa Rica at the 38<sup>th</sup> Session of the Human Rights Council, any thematic report subsequently published by the UN High Commissioner for Human Rights may go some way to providing further clarification on how new technologies, including information and communication technologies, impact on the promotion and protection of human rights in the context of assemblies. See, A/HRC/38/L, Costa Rica, Switzerland: Draft resolution / TABLING VERSION (as of 27.06.18), 'The promotion and protection of human rights in the context of peaceful protests', para.21.

14 Available at: <http://www.achpr.org/instruments/freedom-association-assembly/>

15 Available at: <http://www.achpr.org/instruments/freedom-association-assembly/>

16 For example, Communication No. 1948/2010, *Turchenyak et al. v Belarus*, Views adopted 24 July 2013, para. 7.4 (re. Article 21); Communication No. 2029/2011, *Praded v. Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011, para. 7.4; Communication No 2089/2011, *Korol v Belarus*, Views adopted 14 July 2016, para 7.5; Communication Nos 2108/2011-2109/2011, *Basarevsky and Rybchenko v Belarus*, Views adopted 14 July 2016, CCPR/C/117/D/2108/2011-CCPR/C/117/D/2109/2011, para 9.5; Communication No 2139/2012, *Poplavny and Sudalenko v Belarus*, Views adopted 3 November 2016, CCPR/C/118/D/2139/2012, para 8.5; Communication No. 2175/2012, *Kim v Uzbekistan*, Views adopted 4 April 2018, CCPR/C/122/D/2175/2012, para 13.4; Communication No. 2217/2012, *Popova v The Russian Federation*, Views adopted 6 April 2018, para 7.3.

17 For example, [Azerbaijan](#), CCPR/C/AZE/CO/4, 16 November 2016, para 38 ('concerned about allegations of frequent use of excessive force and/or detention and about the imposition of administrative and criminal penalties against persons participating in planned or spontaneous peaceful protests, including protests of the Nida Youth Movement, the protest organized by the Popular Front Party on 17 September 2016 and other demonstrations ahead of the referendum of 26 September 2016.');

[Djibouti](#) CCPR/C/DJI/CO/1, 19 November 2013, paras 15 and 18 (Violations by security forces before and after Presidential elections in 2011 and legislature elections in 2013 & restriction of opposition leaders on basis of 'participation in illegal demonstration or in an insurrectionary movement');

[Ethiopia](#), CCPR/C/ETH/CO/1, 19 August 2011, para 18 ('... concerned over allegations of the resort to excessive and sometimes lethal force by the security forces, notably during the post-elections violence in 2005');

[Iran](#), CCPR/C/IRN/Q/3, 'List of issues ... third periodic report of the Islamic Republic of Iran', 17 May 2011, para 27 ('Please clarify why in the two and a half years prior to the 2009 presidential elections, some 200 students were detained and at least 160 students were suspended or were expelled from universities. Please report on the number of students that have been arrested and detained during and after the 2009 presidential elections.');

[Moldova](#) CCPR/C/MDA/CO/2, 4 November 2009, para 8 (grave violations committed against protesters following post-election demonstrations in April 2009);

[Russian Federation](#), CCPR/C/RUS/CO/6, 24 November 2009, para 25 (excessive use of force in particular in the context of the 2007 Duma elections and 2008 Presidential elections).

18 Communication No 1992/2010, *Sudalenko v Belarus*, Views adopted 27 March 2015, CCPR/C/113/D/1992/2010, paras 8.6-8.7.

19 Similarly, the Committee found a violation of articles 19 and 25 in *Korneenko v Belarus* (2009) in relation to the seizure and destruction of electoral leaflets. See, Communication No 1553/2007, *Korneenko v Belarus*, Views adopted 20 March 2009, CCPR/C/95/D/1553/2007, para 8.4. The Committee similarly noted its General Comment 25 (A/51/40, General Comment No.25 on article 25, para 25, CCPR/C/21/Rev.1/Add.7.): 'In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. It requires the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant, including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.'

20 Similarly, Communication No 2030/2011, *Poliakov v Belarus*, Views adopted 17 July 2014, CCPR/C/111/D/2030/2011 concerned the organization of a demonstration to call on citizens to boycott upcoming parliamentary elections.

21 [Algeria](#), CCPR/C/DZA/Q/4, 11 December 2017 'List of Issues in relation to the fourth periodic report of Algeria', para 24 ('Please describe the measures taken to ensure the compatibility of Act No. 91-19 of 2 December 1991 on public meetings and demonstrations with the Covenant, in particular with respect to (a) the restrictive definition of a public meeting, (b) the vague grounds for restricting the freedom to assemble and hold demonstrations under article 9, and (c) article 19 stipulating that any unauthorized demonstration is considered an unlawful assembly, as is also stated in articles 97, 98 and 100 of the Criminal Code'); [Belgium](#) CCPR/C/79/Add.99, 19 November 1998, para 23 ('The Committee expresses its concern about the distinction made in Belgian legislation between freedom of assembly and the right to demonstrate, which is excessively restricted. It recommends that such differentiation be abolished').

22 [Algeria](#), CCPR/C/DZA/CO/4, 17 August 2018, para 45 ('reports of frequent cases of (a) public and private gatherings being violently dispersed ... and (c) 'prosecution or harassment of persons who manage private facilities that are used for private



meetings or reserved exclusively for members of legally formed associations, such as hotels', *emphasis added*); [Armenia](#), 'List of Issues ... in connection with ... the second report of Armenia', CCPR/C/ARM/Q/2, 22 November 2011, para 24 ('alleged restrictions imposed since 2008 on NGOs to organize events in venues such as hotel conference rooms, following the obligation imposed on hotel employees to get approval from the State for each NGO request for hall rental').

23 Communication No 1873/2009, *Alekseev v Russian Federation*, Views adopted 25 October 2013, CCPR/C/109/D/1873/2009, para 9.6.

24 Communication No. 2029/2011, *Praded v. Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011, para.7.4; Communication No 1929/2010, *Lozenko v Belarus*, Views adopted 24 October 2014, CCPR/C/112/D/1929/2010, para 7.4; Communication No 1984/2010, *Pugach v Belarus*, Views adopted 15 July 2015, para 7.4;

25 'The materials before the Committee do not reveal that the authors' acts in any way affected the possibility of voters freely to decide whether or not to participate in the general election in question' Communication No 1009/2001, *Shchetko v Belarus*, Views adopted 11 July 2006, CCPR/C/87/D/1009/2001, paras. 7.4-7.5 (leafleting by father and son to call for boycott of Parliamentary elections of 15 October 2000).

26 See, for example, *Lashmankin and Others v. Russia* (2017), Application Nos 57818/09 and 14 others, 7 February 2017, para 402. Earlier statements by the Court to similar effect can be found in *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, Application Nos. 29221/9529221/95 and 29225/9529225/95, 2 October 2001, para. 77; *Fáber v. Hungary*, Application No 40721/08, 24 July 2012, para 37; *Cisse v. France* Application No [51346/99](#), 9 April 2002, para 37: 'In practice, the only type of events that do not qualify as "peaceful assemblies" were those in which the organisers and participants intended to use violence.'

27 See, for example, *Saghatlyan v. Armenia*, Application No 23086/08, 20 September 2018, paras. 230-233; *Karpyuk and others v. Ukraine*, Applications Nos 30582/04 and 32152/04, 6 October 2015, paras. 198-207, 224 and 234. See also, *A/HRC/23/39*, Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai (Funding of associations and holding of peaceful assemblies), 24 April 2013, para. 50; *A/HRC/20/27*, Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai (Best practices that promote and protect the rights to freedom of peaceful assembly and of association), 21 May 2012, para. 25.

28 ECtHR, *Ziliberberg v. Moldova*, Application No. 61821/00, 4 May 2004. See also, African Commission on Human and Peoples' Rights, *Guidelines on Freedom of Association and Assembly* (2017), p.24, para 70(b).

29 For example, *Kudrevičius v Lithuania*, Application no. 37553/05, judgment of 15 October 2015 [GC], para 97.

30 Noting, in particular, the reservations of the United States to these provisions: In relation to article 20(2) ICCPR: 'That article 20 does not authorize or require legislation or other action by the United States that would restrict the right of free speech and association protected by the Constitution and laws of the United States.', and in relation to article 4 ICERD: '... the Constitution and laws of the United States contain extensive protections of individual freedom of speech, expression and association. Accordingly, the United States does not accept any obligation under this Convention ... to restrict those rights, through the adoption of legislation or any other measures, to the extent that they are protected by the Constitution and laws of the United States.').

31 CERD/C/GC/35, General Recommendation No. 35, para 7, *emphasis added*.

32 See, for example: [Japan](#) CCPR/C/JPN/CO/6, 20 August 2014, para 12 ('concern at the high number of extremist demonstrations authorized ... The State should prohibit all propaganda advocating racial superiority or hatred that incites discrimination, hostility or violence, and should prohibit demonstrations that are intended to disseminate such propaganda.');

[Czech Republic](#), CCPR/C/CZE/CO/3 22 August 2013, para 8 ('concerned that, despite the State party's efforts to combat extremism and the existing legal framework against incitement to racial hatred, an anti-Roma climate remains prevalent among the Czech population. The Committee is also concerned about the use of discriminatory remarks against the Roma by politicians and in the media and at the extremist demonstrations, marches and attacks directed against members of the Roma community.');

[Belgium](#) CCPR/C/BEL/CO/5, 16 November 2010, para 22 (resurgence of anti-Semitism, racism and Islamophobia; need to take effective action against spread in media, particularly the internet; regrets bill to prohibit Neo-Nazi demonstrations not adopted by Chamber of Representatives – State Party should consider resubmitting bill to prohibit Neo-Nazi demonstrations). The Committee has also criticized states for failing to take action against racist and xenophobic expression more generally (i.e. not specifically related to assemblies). In this regard, see for example, [United Kingdom](#), CCPR/C/GBR/CO/7, August 2015, para 14; [Germany](#) CCPR/C/DEU/CO/6, 12 November 2012, para 18; [Norway](#), CCPR/C/NOR/CO/6, 18 November 2011, para 14; [Bulgaria](#), CCPR/C/BGR/CO/3, 19 August 2011, paras 9 and 26; [Hungary](#) CCPR/C/HUN/CO/5, 16 November 2010, para 18; [Austria](#), CCPR/C/AUT/CO/4, 30 October 2007, para 20.

33 Communication No. 30/2003, *The Jewish community of Oslo and others v Norway*, decision of 15 August 2005, CERD/C/67D/30/2003

34 *Ibid.*, para 10.4.

35 *Ibid.*, para 3.9.

36 Eg. Communication No. 2124/2011, *Rabbae, A.B.S. and N.A v the Netherlands*, Views adopted 14 July 2016, CCPR/C/117/D/2124/2011, para 10.4.

37 ICERD, '[General Recommendation No 35: Combating racist hate speech](#)' (26 September 2013) UN Doc CERD/C/GC/35, para 20.

38 *Ibid.*, para 12.

39 *Ezelin v France*, Application No. 11800/85, judgment of 26 April 1991, para 53.

40 See similarly, [General Comment 34](#), para 26.

41 Manfred Nowak, UN Covenant on Civil and Political Rights: CCPR Commentary, at 484, para 5. By way of contrast:

'An "assembly" is an intentional and temporary gathering in a private or public space for a specific purpose.' [A/HRC/20/27](#), Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 21 May 2012, para 24.

'For the purposes of the Guidelines, an 'assembly' means the intentional gathering of a number of individuals in a publicly accessible place for a common expressive purpose. This includes planned and organised assemblies, unplanned and spontaneous assemblies, static and moving assemblies.' Draft OSCE/ODIHR – Venice Commission Guidelines on Freedom of Peaceful Assembly (3<sup>rd</sup> edition, forthcoming, 2019).

42 See, for example, [Tunisia](#), 1987 (Report of the Human Rights Committee, A/42/40), p.38, para 141: 'public meetings normally had to end at midnight'.

43 Communication No. 412/1990, *Kivenmaa v Finland*, Views adopted 31 March 1994, para 9.2 (emphasis added).

44 Communication No. 412/1990, *Kivenmaa v Finland*, Views adopted 31 March 1994, Individual opinion by Mr. Kurt Herndl (dissenting), at para 2.5.

45 See, [Turkmenistan](#), CCPR/C/TKM/CO/2, 20 April 2017, paras 44-45 ('44. The Committee is concerned ... about reports of forcible mass mobilization of the population for participation in various mass events organized by the authorities (arts. 19 and 21). 45. ... It should also ensure that participation in mass events is voluntary and refrain from any reprisals for non-participation.');

46 As proposed by the government of Finland in Communication No. 412/1990, *Kivenmaa v Finland*, Views adopted 31 March 1994, para 7.4, and by the author in Communication No 1790/2008, *Govsha, Syritya and Mezyak v Belarus*, Views adopted 27 July 2012, CCPR/C/105/D/1790/2008, para 3.4(a): 'Despite the autonomous role and sphere of the application of article 21, it should be considered in the light of article 19 of the Covenant'. This approach is standard practice in the jurisprudence of the European Court of Human Rights). Concurrent violations of articles 19 and 21 found, for example, in Communication No. 1772/2008, *Belyazeka v Belarus*, Views adopted 23 March 2012, CCPR, C/104/D/1772/2008, paras. 11.6 and 11.8; Communication No. 1948/2010, *Turchenyak et al. v Belarus*, Views adopted 24 July 2013, paras 7.5 and 7.8; Communication No. 1934/2010, *Bazarov v Belarus*, Views adopted 24 July 2014, CCPR/C/111/D/1934/2010, para 7.5; Communication No. 2029/2011, *Praded v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011, paras 3.1 and 3.2, 6.4 and 7.9; Communication No. 2089/2011, *Korol v Belarus*, Views adopted 14 July 2016, CCPR/C/117/D/2089/2011, paras 7.2-8; Communication No 2147/2012, *Melnikov v Belarus*, Views adopted 14 July 2017, paras 8.4-8.5; Communication No 2142/2012, *Shumilina et al v Belarus*, Views adopted 28 July 2017, paras 6.3-6.6; Communication No. 2175/2012, *Kim v Uzbekistan*, Views adopted 4 April 2018, CCPR/C/122/D/2175/2012, paras. 13.7-13.10.

47 Three of these cases involved single-person protests (see further below): Communication No. 1836/2008, *Katsora v Belarus*, Views adopted 24 October 2012, at paras 6.4 (admissible) and 7.6 (not examined further); Communication No. 1830/2008, *Pivonos v Belarus*, Views adopted 29 October 2012, at paras 8.4 (admissible) and 9.4 (not examined further); Communication Nos. 1919-1920/2009, *Protsko and Tolchin v Belarus*, Views adopted 1 November 2013, paras 6.6 (admissible) and 7.9 (not examined further). The fourth case – Communication No. 1839/2008, *Komarovsky v Belarus*, Views adopted 25 October 2013, at paras 8.4 (admissible) and 9.5 (not examined further) – involved a gathering of approximately 20 people.

48 Stating, for example, that freedom of opinion and freedom of expression are regarded as 'integral to the enjoyment of the right of freedom of assembly': Communication No. 2029/2011, *Praded v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011, para. 7.3, citing General Comment No. 34 (2011), para. 4.

49 For example, 'because the restrictions on the authors' right to freedom of assembly were closely linked to the subject matter of the meeting', Communication No. 1790/2008, *Govsha, Syritya and Mezyak v Belarus*, Views adopted 27 July 2012, para 9.4;

50 A former Committee member (Mr. Kurt Herndl) described the relationship between these two rights as 'intimate and somewhat complex'. See, Communication No. 412/1990, *Kivenmaa v Finland*, Views adopted 31 March 1994, Individual opinion by Mr. Kurt Herndl (dissenting) at para 3.3. However, Mr. Herndl then proceeds to argue (at para. 3.4) that 'The right of peaceful assembly would seem to be just one facet of the more general right to freedom of expression' citing John P. Humphrey's assertion that 'There would hardly be freedom of assembly in any real sense without freedom to expression; assembly is indeed a form of expression.'

51 See, for example, *Tatár and Fáber v Hungary*, Application Nos. 26005/08 26160/08, 12 June 2012, para 29.

52 See, for example, Communication No 1933/2010, *Aleksandrov v Belarus*, Views adopted 24 July 2014, CCPR/C/111/D/1933/2010, para 2.4 (The facts as presented by the author: 'The author ... silently expressed his opinion about the foundation of the Belarusian State by his physical appearance and actions ...'). See also, David Kretzmer, 'Demonstrations and

the Law' 19(1) Isr. L. Rev. (1984) 47- 153, at 51- agreeing with Lawrence Tribe, American Constitutional Law (1978) 599-601 that 'the distinction between speech and conduct is devoid of content'.

53 For example, Kudrevičius and Others v Lithuania, Application No 375553/05, 15 October 2015 (GC), para 85.

54 See, for example, Fáber v Hungary, Application no 40721/08, 24 July 2012 at para 59; Taranenko v Russia, Application No 19554/05, 15 May 2014, paras 69 and 97.

55 Kudrevičius and Others v Lithuania, Appl No 37553/05, 15 October 2015 (GC), para 86.

56 Communication No. 2158/2012, Sviridov v Kazakhstan, Views adopted 13 July 2017, para 10.4; *cf.* Communication No. 2019/2010, Anatoly Poplavny v. Belarus, Views adopted 5 November 2015, para 8.6: 'requesting the organizer of a one-person picket to contract additional services in order to hold a picket imposes a disproportionate burden on *the right of peaceful assembly* and the right to freedom of expression' [*emphasis added*].

57 Communication No 1157/2003, Coleman v Australia, Views adopted 17 July 2006, CCPR/C/87D/1157/2003: interestingly, the State party's argument appears to suggest that while mere passers-by could not convert a speaker into an assembly/gathering, the presence of an audience of listeners could do so: para 4.2: '... the State party argues that there was no assembly in the present case; the Magistrates Court finding, and as confirmed on appeal, that nobody stood and listened to what the author was saying, so as to constitute a gathering. The fact that other people were passing through the mall is not sufficient to constitute an assembly.' Communications Nos. 1867/2009, 1936/2010, 1975/2010, 1977/2010, 1978/2010, 1979/2010, 1980/2010, 1981/2010 and 2010/2010, Levinov v Belarus, Views adopted 19 July 2012, CCPR/C/105D/1867/2009, 1936, 1975, 1977-1981, 2010/2010; Communication No. 1969/2010, Surgan v Belarus, Views adopted 15 July 2015 (article 21 complaint inadmissible *ratione materiae*, para 8.4); Communication No 2082/2011, Levinov v Belarus, Views adopted 14 July 2016, para 7.7; Communication No 2235/2013, Levinov v Belarus, Views adopted 19 July 2018; Communication No 2236/2013, Levinov v Belarus, Views adopted 19 July 2018; and Communication No 2239/2013, Levinov v Belarus, Views adopted 19 July 2018.

58 Communication No 1836/2008, Katsora v Belarus, Views adopted 24 October 2012, paras 6.4 and 7.6); Communication No. 1830/2008, Pivonos v Belarus, Views adopted 29 October 2012, paras 8.4 and 9.4; Communication Nos. 1919-1920/2009, Protsko and Tolchin v Belarus, Views adopted 1 November 2013.

59 Violations of both article 21 and article 19 were found in the single-person-picket cases of Communication No. 2019/2010, Anatoly Poplavny v. Belarus, Views adopted 5 November 2015, para 8.6; Communication No 2016//2010, Sudalenko v Belarus, Views adopted 5 November 2015, para 8.6; and Communication 2234/2013, M.T. v Uzbekistan, Views adopted 23 July 2015.

60 For example, Communication No 2158/2012, Sviridov v Kazakhstan, Views adopted 13 July 2017, CCPR/C/12D/2158/2012, para 2.1 (author published a declaration on several websites informing different authorities of his intention to protest);

61 See, Communication No. 1785/2008, Olechkevitch v. Belarus, Views adopted 18 March 2013, CCPR/C/107/D/1785/2008, para 2 (violation of article 19). See also, for example, Communication No. 1838/2008, Tulzhenkova v Belarus, Views adopted 26 October 2011, CCPR/C/103/D/1838/2008 (violation of article 19); 1836/2008, Katsora v Belarus, Views adopted 24 October 2012, CCPR/C/106/D1836/2008 (violation of article 19; article 21 complaint deemed admissible, para 6.4, but not examined separately, para 7.6); Communication Nos. 1919-1920/2009, Protsko and Tolchin v Belarus, Views adopted 1 November 2013, CCPR/C/109/D/1919-1920/2009 (violation of article 19; article 21 complaint deemed admissible, para 6.6, but not examined separately, para 7.9); Communication No. 2156/2012, Nepomnyaschkih v Belarus, Views adopted 10 October 2014, CCPR/C/112/D/2156/2012, para 9.4 (violation of article 19, but author also asked the Committee to recommend that the State party review its legislation to bring it 'into line with the State party's international obligations, in particular articles 19 and 21 ...'); Communication No 1952/2010, Symonik v Belarus, Views adopted 24 October 2014, CCPR/C/112/D/1952/2010 (convicted of 'illegal distribution of printed materials'; violation of article 19); 1982/2010, Mikhalchenko v Belarus, Views adopted 22 July 2015, CCPR/C/114/D/1982/2010 (only article 19 claimed, but leaflet entitled 'Leftist march');

62 Communication No 2093/2011, Misnikov v Belarus, Views adopted 14 July 2016, CCPR/C/117/D/2093/2011.

63 Communication No. 2016/2010, Sudalenko v. Belarus, Views adopted 5 November 2015 CCPR/C/115/D/2016/2010.

64 Though it is perhaps surprising that the Committee in Sudalenko considered the Article 21 complaint admissible, *cf.* Levinov, 2012.

65 In the words of the individual concurring opinion (at para 6): '[p]utting an end to such inconsistencies would improve the Committee's practice, better implement the law, properly fulfil the object and purpose of the Covenant and give better guidance to States in providing due reparation ...'

66 See the Separate opinion of Committee members Mr. Fabián Salvioli, Mr. Yuval Shany and Mr. Víctor Rodríguez Rescia (concurring) in Communication No. 1785/2008, Olechkevitch v. Belarus, Views adopted 18 March 2013, CCPR/C/107/D/1785/2008 (violation of article 19) at para 3. See also, Communication No. 1815/2008, Adonis v The Philippines, Views adopted 26 October 2011, CCPR/C/103/D/1815/2008/Rev.1, partly dissenting opinion of Mr. Fabián Salvioli, para 3 (citing also his partly dissenting opinion in Communication No. 1406/2005, Anura Weerawansa v Sri Lanka),

67 For example, Communication No 1999/2010, Evrezov, Nepomnyaschikh, Polyakov and Rybchenko v Belarus, Views



adopted 10 October 2014, CCPR/C/112/D/1999/2010, paras 2.1 and 8.5-8.6 ('The Committee notes the authors' allegations that they were detained on the way to the place where the demonstration was to take place ...The prevention of the authors to hold a demonstration, their subsequent apprehension and sentencing ... merely for walking in a group of individuals holding photographs and posters clearly constitutes a violation of their rights guaranteed under articles 19 and 21 ...').

68 The question of whether hungerstrikes were protected under article 19 was not decided in Communication No. 1014/2001, *Baban v Australia*, Views adopted 6 August 2003, CCPR/C/78/D/1014/2001, para. 6.7: '... the Committee, *even assuming for the sake of argument* that a hunger strike may be subsumed under the right to freedom of expression protected by article 19 ICCPR (*emphasis added*). In Communication No 1773/2008, *Kozulina v Belarus*, Decision adopted 21 October 2014, CCPR/C/112/D/1773/2008, the Committee found a violation of article 10 ICCPR regarding the failure of the prison authorities to provide human treatment to the author's father, inter alia during his 53-day hungerstrike.

69 Communication No. 2137/2012, *Toregozhina v Kazakhstan*, views adopted 21 October 2014, CCPR/C/112/D/2137/2012 ['art-mob' event – not explained further, but violation of both articles 19 and 21]. The Committee has also found that politically motivated defacement of road signs – as part of a campaign urging bilingual (Breton and French) road signage – does not fall within the protective scope of article 19 – see, Communication No 247/1988, *S.G. v France*, Decision adopted on 1 November 1991, CCPR/C/43/D/347/1988 (1991), at para 5.2.

70 See, for example, [Sri Lanka](#), CCPR/C/LKA/CO/5, 21 November 2014, para 22 ('restrictions of religious and/or civil ceremonies commemorating the loss of loved ones during the armed conflict'); [Bosnia and Herzegovina](#), CCPR/C/BIH/CO/2, 13 November 2012, para 19 (commemoration of mass atrocities, 9 May 2012 in Prijedor).

71 For example, [Barraco v France](#), Application No. 31684/05, judgment of 5 March 2009.

72 For example, Richard Seymour, '[Turkey's 'standing man' shows how passive resistance can shake a state](#)', The Guardian, 18 June 2013

73 For example, Jason Motlagh, '[In Belarus, Clapping Can Be Subversive](#)', The Atlantic, 21 July 2011.

74 For example, '[Uganda: Police tear gas 'walk-to-work' protesters](#)', BBC News, 14 April 2011.

75 For example, '[Spain's hologram protest: Thousands join virtual march in Madrid against new gag law](#)', The Independent, 12 April 2015.

76 For example, '[Road safety campaigner causes tailbacks with pedestrian crossing protest](#)', The Telegraph, 5 May 2010.

77 See, Kevin O'Flynn, '[Toys cannot hold protest because they are not citizens of Russia, officials rule](#)', The Guardian, 15 February 2012.

78 See, for example, Communication No. 518/1992, *Sohn v. Republic of Korea*, para 10.3: 'The Committee considers that the author, by joining others in issuing a statement supporting the strike and criticizing the Government, was exercising his right to impart information and ideas within the meaning of article 19, paragraph 2, of the Covenant.' See also: [Madagascar](#), CCPR/C/MDG/CO/4, 22 August 2017, paras 51-52 (concerned by reports of breaches of freedom of ... assembly ... in the form of: (a) the denial of permits for protests by trade unions and non-governmental organizations ... 52. The State party should take all necessary steps to ensure that all individuals and political parties fully enjoy the right to peaceful assembly and freedom of association in practice and to ensure that all restrictions on the exercise of these rights comply with the strict conditions laid down in the Covenant.'): [Guinea](#), CCPR/C/GIN/CO/3, 7 December 2018, para 45 ('... Enfin, le Comité exprime ses préoccupations quant aux informations faisant état : a) de conditions légales restrictives pour créer un syndicat et organiser des mouvements de grève ; b) d'arrestations de syndicalistes au cours de mouvements de grève (art. 9, 19, 21 et 22). 46. L'État partie devrait : ... b) réviser son cadre légal afin de protéger efficacement le droit à la liberté d'association, y compris le droit syndical et le droit de grève, et s'abstenir en pratique de tout acte d'intimidation à l'encontre des mouvements et membres de syndicats.'): [Kazakhstan](#) CCPR/C/KAZ/CO/2, 9 August 2016, paras 53-54 ('The Committee ... is further concerned that the restrictive legal framework regulating strikes and the mandatory affiliation of trade unions to regional or sectorial federations under the 2014 Act on Trade Unions may adversely affect the right to freedom of association under the Covenant ... 54. The State party should bring its regulations and practice governing the registration and functioning of political parties and non-governmental organizations, as well as the legal frameworks regulating strikes and trade unions, into full compliance with the provisions of articles 19, 22 and 25 of the Covenant. It should, inter alia: (a) Refrain from criminalizing public associations, including political parties, for their legitimate activities under criminal law provisions that are broadly defined and not compliant with the principle of legal certainty; (b) Clarify the broad grounds for the suspension or dissolution of political parties; (c) Ensure that the new legislation on the allocation of funds to public associations will not be used as a means of undue control and interference in the activities of such associations nor for restricting their fundraising options.'): [Germany](#), CCPR/C/79/Add.73, 8 November 1996, para 18 (concerned about 'an absolute ban on strikes by public servants who are not exercising authority in the name of the State and are not engaged in essential services, which may violate article 22 of the Covenant'); See also, [A/62/225](#), Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani, (13 August 2007), paras 15-17.

79 [Estonia](#), CCPR/C/EST/CO/3, 4 August 2010, para 15 (concern 'that public servants who do not exercise public authority do not fully enjoy the right to strike: The State party should ensure in its legislation that only the most limited number of public servants is denied the right to strike.').

80 See, Michael O’Flaherty, ‘Freedom of Expression: Article 19 of the International Covenant on Civil and Political Rights and the Human Rights Committee’s General Comment No 34’, 12(4) Human Rights Law Review (2012), 627-654 at 648: ‘... following debate, and in the interest of consensus, it did delete text to the effect that forms of expression may, “depending on the particular circumstances, include such forms as the choice of clothing or the wearing or carrying of a religious or other symbol, and a hunger strike”. This deletion was accepted by many committee members on the understanding that the list of forms of expression must always be an open one that does not a priori exclude the deleted or any other forms.’

81 See, [Navalny v Russia](#), Application Nos. [29580/12](#) and four others, [GC] judgment of 15 November 2018, para 98.

82 [Kuwait](#), CCPR/C/KWT/CO/3, 11 August 2016, para 42 (‘The Committee is concerned about article 12 of Law No. 65 (1979) on public gatherings, as it bars non-Kuwaitis from participating in public gatherings’). Similarly, [Kuwait](#), ‘List of issues in relation to the third periodic report of Kuwait’, CCPR/C/KWT/Q/3, 4 December 2015, para 21); [Monaco](#), ‘List of Issues ... in connection with the ... second periodic report of Monaco’, CCPR/C/MCO/Q/2, 7 August 2008, para 16 (‘Does the State party envisage extending the scope of article 29 of the Constitution concerning the right of peaceful assembly to all persons under Monegasque jurisdiction?’).

83 [Dominican Republic](#), CCPR/C/DOM/CO/6, 27 November 2017, para 31 (‘regrets the lack of information on the steps taken to safeguard the right of migrant workers to freedom of assembly and association, which includes the right to engage in trade union activities without the exercise of these rights triggering the loss of their employment or their deportation.’);

84 [Nepal](#), CCPR/C/NPL/CO/2, 15 April 2014, para 14 (‘The State party should ... ensure, in law and in practice, that all refugees and asylum-seekers are not subjected to arbitrary restrictions of their rights under the Covenant, including freedom of expression, assembly and association’).

85 Convention on the Rights of the Child see [CRC/C/15/Add.252](#) para 39 and [CRC/C/15/Add.180](#) para 34.

86 A/HRC/26/29, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 14 April 2014.

87 Communication No 2089/2011, Korol v Belarus, Views adopted 14 July 2016, para 7.5; Communication Nos 2108/2011-2109/2011, Basarevsky and Rybchenko v Belarus, Views adopted 14 July 2016, CCPR/C/117/D/2108/2011-CCPR/C/117/D/2109/2011, para 9.5; Communication No 2139/2012, Poplavny and Sudalenko v Belarus, Views adopted 3 November 2016, CCPR/C/118/D/2139/2012, para 8.5.

88 Communication No. 2217/2012, Popova v The Russian Federation, Views adopted 6 April 2018, para 7.3.

89 Communication No 2168/2012, Koreshkov v Belarus, Views adopted 9 November 2017, CCPR/C/121/D/2168/2012, para 8.5.

90 Communication No. 1157/2003, Coleman v Australia CCPR/C/87/D/1157/2003, see especially paras 4.5 and 7.3 (individual speaker delivered public address without a permit in a Pedestrian Mall. His custodial sentence for failing to pay the resulting fine was held to be a disproportionate restriction on his freedom of speech under Article 19 (also noting at para 7.3 that ‘there was no suggestion that the author’s address was either threatening, unduly disruptive or otherwise likely to jeopardise public order in the mall’); Communication No. 1902/2009, Bakur v Belarus, Views adopted 15 July 2015 CCPR/C/114/D/1902/2009: meeting organized by Belarusian Popular Front (BPF) party, open to the public, held inside a building (the office of BPF): violation of both articles 19 and 21; Similarly, Communication No 1929/2010, Lozenko v Belarus, Views adopted 24 October 2014 (meeting of political party inside a building to meet with writer/activist and discuss his new book(though in contrast to Bakur it is not clear in Lozenko whether the event was open to the public or just party members)); LOI Armenia, 2011: ‘alleged restrictions imposed since 2008 on NGOs to organize events in venues such as hotel conference rooms, following the obligation imposed on hotel employees to get approval from the State for each NGO request for hall rental.’

91 Such as parking lots or motorways – see, Communication No. 1772/2008, Belyazeka v Belarus, Views adopted 23 March 2012, CCPR/C/104/D/1772/2008, para 6.2 (though facts contradicted by author, see para 7.2).

92 [Turkmenistan](#), CCPR/C/TKM/CO/2, 20 April 2017, paras 44-45 (‘44. The Committee is concerned of reports that assemblies are rare owing to a fear of reprisals for expressing any dissenting views and that insufficient venues are designated for holding authorized assemblies. ...’);

93 For example, Communication No. 953/2000, Zündel v Canada, Decision adopted 27 July 2003, CCPR/C/78/D/953/2000, para 8.5: ‘Although the right to freedom of expression ... extends to the choice of medium, it does not amount to an unfettered right of any individual or group to hold press conferences within the Parliamentary precincts, or to have such press conferences broadcast by others. ... [T]he author’s claim ... falls outside the scope of the right to freedom of expression, as protected under article 19, paragraph 2, of the Covenant.’

94 For example, in relation to Article 19: Communication No. 1014/2001, Baban v Australia, Views adopted 6 August 2003, CCPR/C/78/D/1014/2001, para 4.18: ‘no evidence has been provided for how the author’s transfer to Port Hedland violated his right to hold opinions and to freedom of expression. At all times, he was able to exercise these rights, and did so, for example by signing a memorandum of protest to the Prime Minister ...’; Communication No 1157/2003, Coleman v Australia, Views adopted 17 July 2006, CCPR/C/87D/1157/2003, para 2.3: the bylaw ‘preserving users of the small area of the pedestrian mall from being harangued by public addresses’ ... ‘covered a very limited area, leaving plenty of opportunity for making

such addresses in other suitable places.' In Communication No. 953/2000, *Zündel v Canada*, Decision adopted 27 July 2003, CCPR/C/78/D/953/2000, it was the first time in Canadian history that a speaker had been banned from Parliament. The State party argued that while the author was excluded from entering the parliamentary precincts, he was not prevented from expressing his views outside these precincts. The Ontario Court similarly held that the restriction of the author's right to freedom of expression 'only concerned the use of the precincts of the House of Commons without generally prohibiting him to express his views.'

95 For a recent scholarly critique, see Enrique Armijo, 'The "Ample Alternative Channels" Flaw in First Amendment Doctrine', 73 Wash & Lee L. Rev 1657-1740 (2016).

96 ACHPR, Guidelines on Freedom of Association and Assembly in Africa (2017), p.23, note.49.

97 In Communication No. 1772/2008, *Belyazeka v Belarus*, Views adopted 23 March 2012, CCPR, C/104/D/1772/2008, the author argued that he was merely a participant and was not an organizer of the assembly (paras 2.7 and 5.3) and so should not have faced administrative liability under the Belarusian law. The Committee does not further address this question. Similarly, in Communication No. 2175/2012, *Kim v Uzbekistan*, Views adopted 4 April 2018, CCPR/C/122/D/2175/2012, para 13.5, the Committee noted the author's claim that it had not been established that she organised the first protest (and that therefore, punishing her for not obtaining prior authorisation was unlawful) but does not further address this question. In Communication No. 1808/2008, *Kovalenko v Belarus*, Views adopted 17 July 2013, CCPR/C/108/D1808/2008: the author argued, at para 5.3, that it had not been established that he either organized or led the commemoration – and that he was merely a participant. See also, Communication No 1022/2001, *Velichkin v Belarus*, Views adopted 20 October 2005, CCPR/C/85/D/1022/2001, para 5.2: 'The author explains that he was not the organizer ...'; Communication No 1604/2007, *Zalesskaya v Belarus*, Views adopted 28 March 2011, CCPR/C/101/D/1604/2007, para 4.4: 'The court considered the author as the organizer of the unauthorized street march'.

98 [A/HRC/38/34](#), 'Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association', 26 July 2018, para 82: 'individuals who post calls for assemblies on social media should not be considered as organizers, as was regrettably the case in Malaysia, for instance (see A/HRC/23/39, para. 72).' See also, Communication No. 2441-2014, *Zhagiparov v Kazakhstan*, Views adopted on 25 October 2018, para 5.2: 'The author rejects the State party's assertion that he organized the rally on 9 February 2013, and submits that the rally was organized by Ms. Seydakhmetova who submitted the application to the Zhezkazgan city administration. The city administration's notification was also addressed to Ms. Seyzakhmetova, which confirms that she was the organizer of the rally. The author, acting as a journalist, published articles where he expressed the importance of workers' rights and later participated in the rally, but he was not the rally's organizer...'

99 See, for example, *Zhagiparov v Kazakhstan*, Views adopted 25 October 2018, in which a journalist published several articles on a website inviting its readers to attend a rally to protest against conditions of their work. Since the website invited its readers to commit an administrative violation (participation in the unsanctioned rally), the Zhezkazgan City Court suspended the website for three months. See similarly, [Russian Federation](#), 'List of issues in relation to the seventh periodic report of the Russian Federation', CCPR/C/RUS/Q/7\*, 19 August 2014, para 23(d) (Fed Law 398-FZ – blocking of websites calling for participation in public events held in violation of established order).

100 For example, Communication No 1784/2008, *Schumilin v Belarus*, Views adopted 23 July 2012, CCPR/C/105/D/1784/2008, paras 2.1 and 4.4 (leaflets containing information about the venue of a forthcoming meeting of a politician with citizens, calling on citizens to attend the event which had not been authorized); Communication No 1790/2008, *Govsha, Syritsa and Mezyak v Belarus*, Views adopted 27 July 2012, CCPR/C/105/D/1790/2008, para 2.4(c) and 2.5(c) (announcement about the venue, timing, subject matter and organizers of the meeting published in Intex-press newspaper before authorization had been obtained); Communication No 1836/2008, *Katsora v Belarus*, Views adopted 24 October 2012, CCPR/C/106/D1836/2008, paras 2.1 and 7.5 (leaflets informing the population about a meeting without indicating either exact place or time); Communication No. 2156/2012, *Nepomnyaschkih v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2156/2012, paras 2.1, 2.4 and 9.4 (author alone distributing leaflets about an upcoming assembly and 'orally inviting citizens in a public square ... to participate in a peaceful street rally' to take place the next day); Communication No 2147/2012, *Melnikov v Belarus*, Views adopted 14 July 2017, paras 2.2, 2.5, 8.2 (imparting information concerning an upcoming, as yet unauthorized, assembly).

101 Communication No. 1838/2008, *Tulzhenkova v Belarus*, Views adopted 26 October 2011, CCPR/C/103/D/1838/2008, para. 9.3.

102 [A/HRC/38/34](#), Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clement Voule, to the Human Rights Council, 13 June 2018, para 84: 'The cases taken up by the mandate, particularly in Asia, concern prohibitions of the use of private websites, including social networking websites (for example, Facebook and Twitter) from disseminating any information about politics, economics and cultural affairs that is regarded as "general or public"; the imposition of severe and disproportionate penalties on persons charged with writing or publishing fake or defaming information online; the use of overly broad provisions that lack sufficiently clear definitions and permit authorities to criminalize online expression and to gain access to Internet data without any judicial control; and the imposition of undue restrictions to the right to freedom of expression and opinion on the internet, among others.'

103 Michael O'Flaherty, 'Freedom of Expression: Article 19 of the International Covenant on Civil and Political Rights and the Human Rights Committee's General Comment No.34' 12:4 Human Rights Law Review 627-654 (2012) at 652: "One of the first

categories of recommendation that had to be considered by the Committee concerned the extent to which the draft general comment was thought to have disregarded the ways in which the internet has revolutionised communication. Numerous proposals were made to strengthen the text in this regard. Ultimately, the Committee opted for a framework paragraph:

'States parties should take account of the extent to which developments in information and communication technologies, such as internet and mobile-based electronic information dissemination systems, have substantially changed communication practices around the world. There is now a global network for exchanging ideas and opinions that does not necessarily rely on the traditional mass media intermediaries. State parties should take all necessary steps to foster the independence of these new media and to ensure access of individuals thereto'.

Noteworthy too is the recognition afforded by the European Court of Human Rights to the particular and distinctive value of online activity: 'User-generated expressive activity on the Internet provides an unprecedented platform for the exercise of freedom of expression ... In particular ... [political content ignored by the traditional media is often shared via YouTube](#), ... From that perspective, the Court accepts that YouTube is a unique platform on account of its characteristics, its accessibility and above all its potential impact, and that no alternatives were available to the applicants.' See, *Cengiz v Turkey* App Nos 48226 and 14027/11 (ECHR, 1 December 2015) para 52, also citing *Delfi AS v Estonia* App no. 64569/09 (ECHR, 16 June 2015, GC) para 110.

104 For example, Communication No. 1948/2010, *Turchenyak et al. v Belarus*, Views adopted 10 September 2013, CCPR/C/108/D/1948/2010 at para 7.4; Communication No. 1864/2009, *Kirsanov v Belarus*, Views adopted 20 March 2014, CCPR/C/110/D/1864/2009 para 9.7; Communication No. 2029/2011, *Praded v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011, para. 7.8; Communication No. 1949/2010, *Kozlov et al. v Belarus*, Views adopted 25 March 2015, para 7.4; Communication No 1902/2009, *Bakur v Belarus*, Views adopted 15 July 2015, CCPR/C/114/D/1902/2009, para. 7.8; Communication No 1984/2010, *Pugach v Belarus*, Views adopted 15 July 2015, para 7.7; Communication No. 2133/2012, *Statkevich and Matskevich v Belarus*, Views adopted 29 October 2015, para 9.4; Communication No. 2016/2010, *Sudalenko v Belarus*, Views adopted 5 November 2015, para 8.4; Communication No. 2019/2010, *Poplavny v Belarus*, Views adopted 5 November 2015, para 8.4; Communication No. 2089/2011, *Korol v Belarus*, Views adopted 14 July 2016, CCPR/C/117/D/2089/2011, para 7.5; Communication No. 2101/2011, *Evrezov v Belarus*, Views adopted 14 July 2016, para 8.4; Communication Nos 2108/2011-2109/2011, *Basarevsky and Rybchenko v Belarus*, Views adopted 14 July 2016, CCPR/C/117/D/2108/2011-CCPR/C/117/D/2109/2011, para 9.5; Communication No 2139/2012, *Poplavny and Sudalenko v Belarus*, Views adopted 3 November 2016, CCPR/C/118/D/2139/2012, para 8.5; Communication No 2147/2012, *Melnikov v Belarus*, Views adopted 14 July 2017, para 8.5; Communication No 2142/2012, *Shumilina et al v Belarus*, Views adopted 28 July 2017, para 6.4; Communication No. 2175/2012, *Kim v Uzbekistan*, Views adopted 4 April 2018, CCPR/C/122/D/2175/2012, para 13.4.

105 Communication No. 1838/2008, *Tulzhenkova v Belarus*, Views adopted 26 October 2011, CCPR/C/103/D/1838/2008, individual opinion of Mr Fabián Salvioli, para 7.

106 [Animal Defenders International v UK](#), Application No 48876/08, 23 April 2013. Joint Dissenting Opinion of Judges Ziemele, Sájo, Kalaydjieva, Vučinić and De Gaetano, para 12.

107 [El Salvador](#) CCPR/C/SLV/CO/7, 9 May 2018, para 38 ('The State party should ... take effective measures to protect and safeguard the right of peaceful assembly and freedom of association, including by reviewing its criminal legislation.'). [Jordan](#), CCPR/C/JOR/CO/5, 4 December 2017, para 32 ('The Committee notes that through the Act on public gatherings of 2011 the Government took steps to facilitate peaceful assembly, providing for example that authorization for demonstrations is not required and that notification suffices. However, the Committee notes with concern reports that the Act is being circumvented in practice ...'); [Thailand](#), CCPR/C/THA/CO/2, 25 April 2017, para 40 'The State party should effectively guarantee and protect the freedom of peaceful assembly and avoid restrictions that do not respond to the requirements under article 4 of the Covenant'; [Moldova](#) CCPR/C/MDA/CO/3, 18 November 2016, paras 34 ('The State party should guarantee the right to freedom of assembly without any undue restrictions or obstacles in law or in practice, ...'); [Kazakhstan](#) CCPR/C/KAZ/CO/2, 9 August 2016, para 52 ('The State party should ensure that all individuals fully enjoy, in law and practice, their right to freedom of assembly, and revise all relevant regulations, policies and practices with a view to ensuring that any restrictions on freedom of assembly, including through the application of administrative and criminal sanctions against individuals exercising that right, comply with the strict requirements of article 21'); [Benin](#) CCPR/C/BEN/CO/2, 23 November 2015, para 33 ('The State party should promote freedom of assembly and association and facilitate equal access to the public media'). See also [Serbia](#), CCPR/C/SRB/CO/3, 10 April 2017 paras 38-39 (concern 'about aspects of the Public Assembly Act of 26 January 2016 that might hinder, not facilitate, protection of the right to freedom of assembly (arts. 19 and 21). ... 39. The State party should: ... (d) review the application of the Public Assembly Act of 26 January 2016 so as to ensure its compatibility with the Covenant.'). [Russian Federation](#), CCPR/C/RUS/CO/7, 28 April 2015, para 10 (... The State party should ... (d) Guarantee the exercise in practice of the rights to freedom of expression and assembly of LGBT individuals and their supporters.').

108 [Russian Federation](#), 'List of issues in relation to the seventh periodic report of the Russian Federation', CCPR/C/RUS/Q/7\*, 19 August 2014, para 25(a)(ii) ('Please (a) report on measures taken: ... To ensure the protection of LGBT individuals from violence emanating from counter-demonstrators during LGBT public events'); [Georgia](#), CCPR/C/GEO/CO/4, 19 August 2014, para 8 ('concerned about discrimination and social stigma, hate speech and acts of violence against lesbian, gay, bisexual and transgender persons and violation of their rights to freedom of expression and assembly ... The State party



should ... also take all necessary measures to guarantee the exercise in practice of the rights to freedom of expression and assembly of lesbian, gay, bisexual and transgender persons and defenders of their rights.’); [Lithuania](#) CCPR/C/LTU/CO/3, 31 August 2012, paras 8 and 15 (inter alia, ‘The Committee, finally, recalls the obligation of the State party to guarantee all human rights of such individuals, including the right to freedom of expression and the right to freedom of assembly’); Mozambique, CO, November 2013; [Ukraine](#), CCPR/C/UKR/CO/7, 22 August 2013, para 10 (‘The Committee is concerned at reports of discrimination, hate speech and acts of violence directed at lesbian, gay, bisexual and transgender (LGBT) persons and violation of their rights to freedom of expression and assembly’); [Russian Federation](#), CCPR/C/RUS/CO/6, 24 November 2009, para 27 (multiple concerns including infringement of FoAA – ‘take all necessary measures to guarantee the exercise in practice of the right to peaceful association and assembly for the LGBT community’);

109 See, for example: [Djibouti](#) CCPR/C/DJI/CO/1, 19 November 2013, para 12(a). Similarly, [Spain](#), CCPR/C/ESP/CO/6, 14 August 2015, para 25 (‘The State party should review the Public Security Act and subsequent amendments to the Criminal Code, in consultation with all stakeholders, so as to ensure that they are fully in line with the Covenant’); [Venezuela](#) CCPR/C/VEN/CO/4, 14 August 2015, para 20 (‘The State party should take the necessary measures to ensure that all individuals under its jurisdiction are able to fully enjoy their rights to freedom of peaceful assembly and freedom of association and that the exercise of those rights is subject only to restrictions which are in accordance with the strict requirements of articles 21 and 22 of the Covenant’); [Morocco](#), CCPR/C/79/Add.44, 23 November 1994, paras 15 and 23 (‘23. The Committee recommends that restrictions imposed to the rights to freedom of expression, assembly and association under the Dahir of 1973 be modified and brought into line with those permitted under the Covenant ...’).

110 See generally, [Lao](#), CCPR/C/LAO/CO/1, 23 November 2018, paras 33-34 (‘Committee regrets the severe restrictions on freedom of opinion and expression and the right to peaceful assembly, which hinder the development of a civic space in which individuals can meaningfully exercise their human rights and promote human rights without fear of sanction or reprisal. ... 34. The State party should revise its laws and practices with a view to guaranteeing the full enjoyment of freedom of expression and peaceful assembly by everyone in practice, including by: (a) Ensuring that any restrictions on the exercise of the freedom of expression and peaceful assembly comply with the strict requirements of articles 19 and 21 of the Covenant; (b) Repealing or otherwise amending the criminal provisions providing for the above-mentioned vague and broadly defined offences to ensure compliance with the principle of legal certainty, and refraining from applying such provisions to suppress conduct and speech protected by the Covenant’); [Sudan](#), CCPR/C/SDN/CO/5, 19 November 2018, paras 46 (‘The State party should review its legislation and practice to (a) ensure that any restrictions on the exercise of freedom of expression, assembly and association comply strictly with the requirements set out in the Covenant.’); [Belarus](#), CCPR/C/BLR/CO/5, 22 November 2018, para 53 (‘The State party should revise its laws, regulations and practices, including the Mass Events Act, with a view to guaranteeing the full enjoyment of the right to freedom of assembly, both in law and in practice, and to ensuring that any restrictions on the freedom of assembly, including through the application of administrative and criminal sanctions against individuals exercising that right, comply with the strict requirements of article 21 of the Covenant’); [Bahrain](#), CCPR/C/BHR/CO/1, 15 November 2018, para 55 (‘The Committee is concerned that the right to freedom of assembly is severely limited and notes that public gatherings and marches are severely restricted by a 1973 decree on public gatherings and Decree No. 32/2006 ...’); [Algeria](#), CCPR/C/DZA/CO/4, 17 August 2018, para. 45 (‘The Committee is deeply concerned by Act No. 91-19 of 2 December 1991 amending and supplementing Act No. 89-28 of 31 December 1989 on public meetings and demonstrations, inasmuch as the provisions are extremely restrictive ...’); [Chad](#), ‘List of issues prior to submission of the third periodic report of Chad’, CCPR/C/TCD/QPR/3, 4 September 2017, para 22 (‘Please provide information on the measures taken to guarantee, in practice, that the right to freedom of assembly and peaceful demonstration is upheld in the State party and that any restrictions thereon are in accordance with the provisions of the Covenant. In particular, please provide information on measures taken to bring Ordinance No. 45/INT/SUR of 27 October 1962, which regulates assemblies and public demonstrations, into line with article 21 of the Covenant ...’); [Democratic Republic of Congo](#), ‘List of issues in relation to the fourth periodic report of the Democratic Republic of the Congo’, CCPR/C/COD/Q/4, 1 May 2017, para 23 (‘Pending the entry into force of the law establishing modalities for ensuring the freedom to demonstrate, please describe the procedures for exercising the right to demonstrate and the safeguards in place to ensure that any restriction is in conformity with the Covenant.’); [Turkmenistan](#), CCPR/C/TKM/CO/2, 20 April 2017, para 45 (‘The State party should revise its laws, regulations and practices, including the 2015 Organization and Conduct of Gatherings, Meetings, Demonstrations and Other Mass Events Act, with a view to guaranteeing the full enjoyment of the right to freedom of assembly both in law and in practice and to ensuring that any restrictions on the freedom of assembly comply with the strict requirements of article 21 of the Covenant.’); [Azerbaijan](#), CCPR/C/AZE/CO/4, 16 November 2016, para 39 (‘The State party should revise its laws and practices with a view to ensuring that individuals fully enjoy their right to freedom of assembly and that any restrictions on the exercise of that right are in compliance with the strict requirements of article 21 of the Covenant.’); [Rwanda](#), CCPR/C/RWA/CO/4, 2 May 2016, para 42 (‘The State party should amend the legislation and take other measures necessary to ensure that all individuals and political parties fully enjoy, in practice, their rights to freedom of expression, peaceful assembly and association, including by guaranteeing that any restrictions on the exercise of such rights comply with the strict requirements set out in the Covenant.’); [Spain](#), ‘List of issues in relation to the sixth periodic report of Spain’, CCPR/C/ESP/Q/6, 20 November 2014, para 21 (amendment of Criminal Code and draft Bill on Public Security and impact on freedom of peaceful assembly – Articles 557(2) and 559 of the Criminal Code); [Burundi](#), CCPR/C/BDI/CO/2, 21 November 2014, para 20 (‘... The State party should revise its legislation to remove any unnecessary restriction on freedom of assembly’); [Kyrgyzstan](#), ‘List of issues in relation to

the second periodic report of Kyrgyzstan', CCPR/C/KGZ/Q/2, 22 August 2013, para 27 (new law on peaceful assembly); [Ukraine](#), CCPR/C/UKR/CO/7, 22 August 2013, para 21 (concern at lack of domestic legal framework – 'should adopt a law' [note in this regard the judgments of the European Court of Human Rights in *Vyerentsov v Ukraine*, App No 20372/11, 11 April 2013 and *Shmushkovych v Ukraine* App No 3276/10, 14 November 2013]); [Hong Kong \(China\)](#), CCPR/C/CHN-HKG/CO/3, 29 April 2013, para 10 (Concern regarding application in practice of particular terms in Public Order Ordinance, inter alia, 'disorder in public places' or 'unlawful assembly' which may facilitate excessive restriction to the Covenant rights); [Maldives](#) CCPR/C/MDV/CO/1, 31 August 2012, para 23 (should revise its legislation accordingly – see also notification requirements); [Yemen](#), CCPR/C/YEM/CO/5, 23 April 2012, para 26 ('... In the framework of the Gulf Cooperation Council initiative, the State party should immediately repeal all laws which unreasonably restrict the freedom of assembly.');

[Iran](#) CCPR/C/IRN/CO/3, 29 November 2011, para 26 ('The State party ... withdraw its draft Bill on the Establishment and Supervision of Non-Governmental Organisations, which would establish a Supreme Committee Supervising Non-Governmental Organisations' Activities, chaired by the Interior Ministry, including representatives from the Intelligence Ministry, the police, the Basij and the Revolutionary Guards Corps') and [Iran](#) CCPR/C/79/Add.25, 3 August 1993, para 15 ('the Committee is concerned at the extent of limitations to the freedom of expression, assembly and association, exemplified by articles 6 and 24 of the Constitution and article 16 of the Law Pertaining to Activities of Parties, Societies and Political and Professional Associations'); [Kuwait](#), CCPR/C/KWT/CO/2, 18 November 2011, para 28 ('The State party should revise its regulations, policy and practice, and ensure that all individuals under its jurisdiction fully enjoy their rights under article 21 of the Covenant.');

[Ethiopia](#), CCPR/C/ETH/CO/1, 19 August 2011 (para 18: bring legislative provisions into line with BPUFF; also, para 25: provisions of Proclamation on Charities and Societies No. 621/2009 – prohibits >10% budget from foreign donors and prohibits NGOs deemed to be 'foreign' from engaging in human rights and democracy related activities); [Kazakhstan](#), CCPR/C/KAZ/CO/1 19 August 2011, para 26 ('The State party should re-examine its regulations, policy and practice, and ensure that all individuals under its jurisdiction fully enjoy their rights under article 21 of the Covenant.');

[Togo](#), CCPR/C/TGO/CO/4, 18 April 2011, para 20 ('The State party should take steps to ensure that the new act ensuring the freedom to demonstrate is in conformity with the Covenant'); [Belgium](#) CCPR/C/BEL/CO/5, 16 November 2010, para 22 (reconsider resubmitting bill to prohibit Neo-Nazi demonstrations); [Poland](#), CCPR/C/POL/CO/6, 15 November 2010, para 23 (introduce legislative amendments to Assemblies Act 1990 to ensure that appeals are not unnecessarily protracted and are dealt with before the planned date); [Moldova](#) CCPR/C/MDA/CO/2, 4 November 2009, para 8(d) ('The State Party should 'ensure respect for the right to freedom of assembly, including through the enforcement of the 2008 Law on Assemblies ...');

[Russian Federation](#), CCPR/C/RUS/CO/6, 24 November 2009, para 26 ('despite the amendments of July 2009, the restrictions on the registration and operation of associations, non-governmental organizations and political parties under the 2006 Non-Profit Organizations Act continue to pose a serious threat to the enjoyment of the rights to freedom of expression, association and assembly in the State party ... The State party should ensure that any restriction on the activities of nongovernmental organizations under the 2006 Non-Profit Organizations Act is compatible with the provisions of the Covenant by amending the law as necessary.');

[Switzerland](#) CCPR/C/CHE/CO/3, 3 November 2009, para 3(e) (Committee generally welcomes the following legislative and other measures ... 'The Act on the Use of Force and Police Measures of 20 March 2008); [Azerbaijan](#), CCPR/C/AZE/CO/3, 13 August 2009, para 16 (should re-examine its regulations, policy and practice); [Rwanda](#), CCPR/C/RWA/CO/3, 7 May 2009, para 20 (though nothing specifically on assembly – should cease to punish acts of so-called 'divisionism');

[Nicaragua](#) CCPR/C/NIC/CO/3, 12 December 2008, para 16 (recommends State considers reforming the Code of Criminal Procedure which allows detention without warrant, contrary to the Constitution); [Libya](#) CCPR/C/LBY/CO/4, 15 November 2007, para 25 (The Committee, while noting the revision of laws governing the registration of groups with a view to authorizing appeals, is concerned that the laws and regulations and their current application prevent the exercise of the right to freedom of association and peaceful assembly. (art. 21). The State party should take all necessary measures to guarantee the exercise in practice of the right to peaceful association and assembly.'). See further, [Libya](#), 'List of Issues ...', CCPR/C/LBY/Q/4, 16 August 2007, para 25 ('Under the current law, if the competent authorities do not issue a decision on a group's application for registration within 60 days, the application is deemed refused and there is no right to appeal a decision denying a group's application.').

111 [Algeria](#), CCPR/C/DZA/CO/4, 17 August 2018, para. 45 ('... prior authorization by and at the discretion of the executive ...').

112 [Algeria](#), CCPR/C/DZA/CO/4, 17 August 2018, para. 45 ('... vague criteria, such as national principles, the public order or public decency'); [Ukraine](#), CCPR/C/UKR/CO/7, 22 August 2013, para 21 ('The Committee is concerned at the lack of a domestic legal framework regulating peaceful events and at the application by domestic courts of outdated regulations which are not in line with international standards and severely restrict the right to freedom of assembly. It is also concerned at reports that the success rate of local authorities' applications in court for banning peaceful assemblies may be as high as 90 per cent');

[Kuwait](#), CCPR/C/KWT/CO/2, 18 November 2011, para 28 ('The State party ...should ensure that the exercise of this right is not subject to restrictions other than the ones permissible under the Covenant.');

[Benin](#), CCPR/CO/82/BEN, 1 December 2004, para 23 ('The Committee notes with concern that public demonstrations have been banned for reasons that appear to have nothing to do with the justifications listed in article 21 of the Covenant');

[Kenya](#), CCPR/CO/83/KEN, 29 April 2005, para 23 ('... public demonstrations have not been authorized for reasons that appear to have nothing to do with the justifications listed in article 21 of the Covenant.');

[Syria](#), CCPR/CO/71/SYR, 24 April 2001 ('remains concerned, however, at the restrictions on the holding of public meetings and demonstrations (see articles 335 and 336 of the Penal Code). In the Committee's view, such restrictions exceed those authorized by article 21.');

[Kyrgyzstan](#), CCPR/CO/69/KGZ, 24 July 2000, para 22 ('The Commit-

tee is concerned about restrictions on the holding of public meetings and demonstrations, which exceed those permitted under article 21 and about the lack of appeal procedures in the case of denial of permission.’); [Hong Kong \(China\)](#), CCPR/C/79/Add.117, 15 November 1999, para 19 (‘the Committee is concerned that the Public Order Ordinance could be applied to restrict unduly enjoyment of the rights guaranteed in article 21 of the Covenant. The HKSAR should review this Ordinance and bring its terms into compliance with article 21 of the Covenant.’); [Cyprus](#), CCPR/C/79/Add.88, 6 April 1998, para 15 (‘While the Committee notes the enactment of a new law regulating public assemblies and processions, it is concerned about the conditions which the appropriate authorities may impose regarding the conduct of assemblies and processions upon receiving the required advance notification. ... The Committee reiterates that restrictions on freedom of assembly must be limited only to those which are in conformity with article 21 of the Covenant’).

113 For example, inviting the State under review to take steps/necessary measures/appropriate action etc. to protect, ensure, uphold, effectively guarantee freedom of assembly etc. or ‘bring its laws into line with international standards established by the International Covenant for Civil and Political Rights’. Eg. UPR Belarus 2014: ‘Amend the Law on Mass Events in order to enable the right to peaceful assembly to be exercised more easily’. See also Egypt’s response (as stated in its National Standing Committee for Reporting and Follow-Up, [Mid Term Report](#)) to UPR recommendations regarding the legal framework for safeguarding the right to peaceful assembly ([A/HRC/28/16](#), Report of the Working Group on the Universal Periodic Review, 24 December 2014).

114 Communications Nos. 1867/2009, 1936/2010, 1975/2010, 1977/2010, 1978/2010, 1979/2010, 1980/2010, 1981/2010 and 2010/2010, *Levinov v Belarus*, Views adopted 19 July 2012, CCPR/C/105D/1867/2009, 1936, 1975, 1977-1981, 2010/2010, para 12 (without expressly invoking the second paragraph of article 2, and whilst holding the author’s freestanding article 2 complaint to be inadmissible – para 9.3); Communication No 2030/2011, *Poliakov v Belarus*, Views adopted 17 July 2014, CCPR/C/111/D/2030/2011, para 10 (similarly holding the author’s freestanding article 2 complaint to be inadmissible – para 7.4).

115 Communication No. 1785/2008, *Olechkevitch v Belarus*, Views adopted 18 March 2013, CCPR/C/107/D/1785/2008, para 10; Communication No 1982/2010, *Mikhalchenko v Belarus*, Views adopted 22 July 2015, CCPR/C/114/D/1982/2010, para 10.

116 For example, Communication No 1784/2008, *Schumilin v Belarus*, Views adopted 23 July 2012, CCPR/C/105/D/1784/2008, para 11; Communication No. 1790/2008, *Govsha, Syritsa and Mezyak v Belarus*, Views adopted 27 July 2012, para 11; Communication Nos. 1919-1920/2009, *Protsko and Tolchin v Belarus*, Views adopted 1 November 2013, CCPR/C/109/D/1919-1920/2009, para 9; Communication No 1902/2009, *Bakur v Belarus*, Views adopted 15 July 2015, CCPR/C/114/D/1902/2009, para 9.

117 Communication No 2093/2011, *Misnikov v Belarus*, Views adopted 14 July 2016, para 11. Similarly, Communication No. 2019/2010, *Poplavny v Belarus*, Views adopted 5 November 2015, para 10; Communication No 2168/2012, *Koreshkov v Belarus*, Views adopted 9 November 2017, CCPR/C/121/D/2168/2012, para 10.

118 For example, Communication No. 1948/2010, *Turchenyak et al. v Belarus*, Views adopted 24 July 2013, CCPR/C/108/D/1948/2010, para 9; Communication No. 1851/2008, *Seferko v Belarus*, Views adopted 28 October 2013, para 11; Communication No. 1976/2010, *Kuznetsov et al. v Belarus*, Views adopted 24 July 2014, CCPR/C/111/D/1976/2010, para. 11; Communication No 1933/2010, *Aleksandrov v Belarus*, Views adopted 24 July 2014, CCPR/C/111/D/1933/2010, para 9; Communication No. 1934/2010, *Bazarov v Belarus*, Views adopted 24 July 2014, CCPR/C/111/D/1934/2010, para 9; Communication No. 2029/2011, *Praded v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011, para 9; Communication No. 2156/2012, *Nepomnyaschkih v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2156/2012, paras 3.3 and 11; Communication No. 2137/2012, *Toregozhina v Kazakhstan*, views adopted 21 October 2014, CCPR/C/112/D/2137/2012, para 9; Communication No 1949/2010, *Kozlov et al v Belarus*, Views adopted 25 March 2015, CCPR/C/113/D/1949/2010, para 9; Communication No 1992/2010, *Sudalenko v Belarus*, Views adopted 27 March 2015, CCPR/C/113/D/1992/2010, para 10; Communication No. 1969/2010, *Surgan v Belarus*, Views adopted 15 July 2015, CCPR/C/114/D/1969/2010, para 11; Communication No 1984/2010, *Pugach v Belarus*, Views adopted 15 July 2015, para 9; Communication No 2076/2011, *Derzhavtsev v Belarus*, Views adopted 29 October 2015, CCPR/C/115/D/2076/2011 para 10; Communication No. 2016/2010, *Sudalenko v Belarus*, Views adopted 5 November 2015 CCPR/C/115/D/2016/2010, para 10; Communication No 2092/2011, *Androsenko v Belarus*, Views adopted 30 March 2016, para 9; Communication No 2082/2011, *Levinov v Belarus*, Views adopted 14 July 2016, CCPR/C/117/D/2082/2011, para 8.3; Communication No 2089/2011, *Korol v Belarus*, Views adopted 14 July 2016, para 9; Communication No 2158/2012, *Sviridov v Kazakhstan*, Views adopted 13 July 2017, CCPR/C/12D/2158/2012, para 12;

119 Communication No. 2217/2012, *Popova v The Russian Federation*, Views adopted 6 April 2018, para 9.

120 Each State Party undertakes ‘to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.’

121 Each State Party undertakes ‘(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.’



122 Communication No 2030/2011, Poliakov v Belarus, Views adopted 17 July 2014, CCPR/C/111/D/2030/2011, para 7.4; Communication No. 1976/2010, Kuznetsov et al. v. Belarus, Views adopted 24 July 2014, CCPR/C/111/D/1976/2010, para 8.4; Communication No 1982/2010, Mikhalchenko v Belarus, Views adopted 22 July 2015, CCPR/C/114/D/1982/2010, para 7.5; Communication No 2168/2012, Koreshkov v Belarus, Views adopted 9 November 2017, CCPR/C/121/D/2168/2012, para 7.4;

123 Kuznetsov, Joint opinion of Committee members, Gerald L. Neuman, Anja Seibert-Fohr, Yuji Iwasawa and Konstantine Vardzelashvili (concurring), para 2. Similarly, Communication No 1982/2010, Mikhalchenko v Belarus, Views adopted 22 July 2015, CCPR/C/114/D/1982/2010, Individual opinion of Committee Members Anja Seibert-Fohr and Yuji Iwasawa (concurring).

124 Ibid, para 3.

125 Communication No 2139/2012, Poplavny and Sudalenko v Belarus, Views adopted 3 November 2016, CCPR/C/118/D/2139/2012, para 8.7.

126 Mr Fabián Salvioli's individual concurring opinion in Communication No 1838/2008, Tulzhenkova v Belarus, Views adopted 26 October 2011, CCPR/C/103/D/1838/2008, at para 12. In his view, the State was in violation of its obligation under article 2(2) 'to adopt such laws or other measures as may be necessary to give effect to' Covenant rights', noting General Comment 31. See further his partially dissenting opinion in Communication No. 1406/2005, Weerawansa v Sri Lanka; and in Communication No 1478/2006, Kungurov v Uzbekistan, Views adopted 20 July 2011, CCPR/C/102/D/1478/2006 (concerning the refusal to register an NGO).

127 Kuznetsov, *ibid*, Joint separate opinion of Fabián Omar Salvioli and Víctor Manuel Rodríguez-Rescia, para 3.

128 Communication No. 1785/2008, Olechkevitch v. Belarus, Views adopted 18 March 2013, CCPR/C/107/D/1785/2008, Separate opinion, paras 4-7.

129 Individual opinion of Committee Member Sarah Cleveland (concurring) in both Communication No. 2019/2010, Poplavny v Belarus, Views adopted 5 November 2015, CCPR/C/115D/2019/2010 and 2016/2010, Sudalenko v Belarus, Views adopted 5 November 2015, CCPR/C/115/D/2016/2010. In relation to the approach of the European Court of Human Rights under Article 46 ECHR, see for example, ECtHR Vyerentsov v Ukraine Application No 20372, judgment of 11 April 2013, paras 93-95; ECtHR Shmushkovych v Ukraine Application No 3276/10, judgment of 14 November 2013.

130 Communication No 2133/2012, Statkevich and Matskevich v Belarus, Views adopted 29 October 2015, CCPR/C/115/D/2133/2012, para 9.4.

131 Communication No 2168/2012, Koreshkov v Belarus, Views adopted 9 November 2017, CCPR/C/121/D/2168/2012, para 8.5.

132 Communication No. 1948/2010, Turchenyak et al. v Belarus, Views adopted 10 September 2013, CCPR/C/108/D/1948/2010, para 7.4; Communication No 1949/2010, Kozlov et al v Belarus, Views adopted 25 March 2015, CCPR/C/113/D/1949/2010, para 7.4; Communication No. 2089/2011, Korol v Belarus, Views adopted 14 July 2016, CCPR/C/117/D/2089/2011, para 7.5. Communication No. 2101/2011, Evrezov v Belarus, Views adopted 14 July 2016, para 8.4; Communication No 2089/2011, Korol v Belarus, Views adopted 14 July 2016, para 7.5; Communication Nos 2108/2011-2109/2011, Basarevsky and Rybchenko v Belarus, Views adopted 14 July 2016, CCPR/C/117/D/2108/2011-CCPR/C/117/D/2109/2011, para 9.5; Communication No 2139/2012, Poplavny and Sudalenko v Belarus, Views adopted 3 November 2016, CCPR/C/118/D/2139/2012, para 8.5; Communication No 2147/2012, Melnikov v Belarus, Views adopted 14 July 2017, para 8.5; Communication No. 2175/2012, Kim v Uzbekistan, Views adopted 4 April 2018, CCPR/C/122/D/2175/2012, para 13.4; Communication No. 2217/2012, Popova v The Russian Federation, Views adopted 6 April 2018, para 7.3; In Communication No 1932/2010, Fedotova v Russian Federation, Views adopted 31 October 2012, CCPR/C/106/D/1932/2010, para 10.8, the Committee found a violation of article 19 'even if indeed, as argued by the State party, [the author] intended to engage children in the discussion of issues related to homosexuality';

133 For example, in Communication No. 2029/2011, *Praded v. Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011, para 3.1, the author argued that 'holding the demonstration at any other location [than in front of the Iranian Embassy in Minsk] *would have defeated its purpose*' (emphasis added).

134 For example, Communication No. 2016/2010, Sudalenko v. Belarus, Views adopted 5 November 2015 CCPR/C/115/D/2016/2010, para 8.4.

135 See, for example, [Kazakhstan](#), CCPR/C/KAZ/CO/1 19 August 2011, para 26 ('concern at reports that the right to freedom of assembly is not respected in the State party. The Committee is particularly concerned at reports of undue restrictions on the right to freedom of assembly, such as the designation of areas for holding assemblies, which are routinely located in the outskirts of city centres in order to attract low public attention.').

136 Communication No. 2217/2012, Popova v The Russian Federation, Views adopted 6 April 2018, para 7.5. The legal principle in *Kivenmaa* could itself be re-framed as concerning the obligation to protect spontaneous assemblies: requiring factual clarification as to whether it was not practicable for Ms. Kivenmaa to provide the requisite 6-hours notification, or whether (as the dissenting opinion suggests) 'she seems to have deliberately chosen to disregard the provisions of the Act.'

137 See, for example, [Switzerland](#) CCPR/C/CHE/CO/4, 22 August 2017, para 49 ('The State party should re-examine its



legislation with a view to ensuring that all individuals fully enjoy their right to freedom of assembly, including the right of spontaneous assembly’); [Rwanda](#), CCPR/C/RWA/CO/4, 2 May 2016, para 41 (‘The Committee is ... concerned at information received that ... spontaneous peaceful demonstrations have not been authorized or allowed for reasons that appear to be unrelated to the justifications listed in article 21 of the Covenant.’); [Belarus](#), CCPR/C/BLR/QPR/5, List of issues prior to submission of the fifth periodic report of Belarus, 19 August 2015, para 30 (‘In connection with the Committee’s previous concluding observations (see [CCPR/C/79/Add.86](#), para. 18), please explain how the restrictions on the exercise of freedom of peaceful assembly, such as those outlined in the Law on Mass Events, including those set out below, are compatible with the State party’s obligations under the Covenant: ... (d) ... absolute ban on peaceful spontaneous assemblies, simultaneous assemblies and counter-demonstrations.’); [Russian Federation](#), ‘List of issues in relation to the seventh periodic report of the Russian Federation’, CCPR/C/RUS/Q/7\*, 19 August 2014, para 26(c) (‘Indicate whether the State party plans to introduce legal provisions on spontaneous assemblies?’).

138 Communication No. 1873/2009, *Alekseev v. The Russian Federation*, Views adopted 25 October 2013, para 9.6;

139 See, for example, [Moldova](#) CCPR/C/MDA/CO/3, 18 November 2016, paras 34 (‘The State party should ... take appropriate measures to ensure that organizers and participants of assemblies do not face any acts of intimidation, including police interference prior to the organization of assemblies.’); [Greece](#), CCPR/C/GRC/CO/2, 3 December 2015, para 41 (‘The Committee is concerned that, during demonstrations in the State party, peaceful demonstrators and journalists were reportedly threatened, intimidated and harassed by members of extremist groups such as Golden Dawn.’); [Russian Federation](#), ‘List of issues in relation to the seventh periodic report of the Russian Federation’, CCPR/C/RUS/Q/7\*, 19 August 2014, para 25(a)(ii) (‘Report on measures taken: ... (ii) To ensure the protection of LGBT individuals from violence emanating from counter-demonstrators during LGBT public events and to investigate and bring to justice the perpetrators of such attacks. In that regard, please provide information on the number of reported attacks, investigations carried out and their outcome, including in the case of a participant in the closed event “Rainbow Tea Party” in 2013 that lost vision in one eye as a result of an armed attack during the event in Saint Petersburg’); [Russian Federation](#), CCPR/C/RUS/CO/7, 28 April 2015, para 10(a) (concerned ‘About reports of discrimination, hate speech, violence against lesbian, gay, bisexual and transgender (LGBT) individuals and activists and violations of their rights to freedom of expression and assembly; ... The State party should ... (d) Guarantee the exercise in practice of the rights to freedom of expression and assembly of LGBT individuals and their supporters.’); [Indonesia](#), CCPR/C/IDN/CO/1, 21 August 2013, para 28 (‘The State party should ensure the enjoyment by all of the freedom of peaceful assembly and protect protesters from harassment, intimidation and violence. The State party should consistently investigate such cases and prosecute those responsible.’);

140 Communication No. 1873/2009, *Alekseev v. The Russian Federation*, Views adopted 25 October 2013, para 9.6;

141 Communication No. 1873/2009, *Alekseev v. The Russian Federation*, Views adopted 25 October 2013, para 9.6;

142 [Liberia](#), CCPR/C/LBR/CO/1, 27 August 2018, para 19(d) ‘Guarantee in practice the security as well as the rights to freedom of expression, assembly and association of lesbian, gay, bisexual, transgender and intersex individuals, defenders and organizations’; [Lebanon](#), CCPR/C/LBN/CO/3, 9 May 2018, paras 13-14 (‘concerned about reports of the prevalence in society of discrimination, hate speech and homophobic attitudes; harassment, violence and extortion directed at lesbian, gay, bisexual, transgender and intersex individuals; violations of their freedom of expression and of peaceful assembly; and the lack of protection against such acts ... 14. The State party should explicitly prohibit discrimination on the basis of sexual orientation and gender identity and ensure that lesbian, gay, bisexual, transgender and intersex individuals are afforded, both in law and in practice, adequate and effective protection against all forms of discrimination, hate speech or violence based on sexual orientation or gender identity, and that such acts are properly investigated, prosecuted and, if the perpetrators are convicted, punished with appropriate penalties.’); [Chile](#), CCPR/C/CHL/CO/6, 13 August 2014 para 19 (‘allegations about the police committing acts of sexual violence against girls and women during student protests’); [Iran](#) CCPR/C/IRN/CO/3, 29 November 2011, para 26 (‘... notes in particular the large number of women’s rights activists who have been arrested and detained, including volunteers and members of the One Million Signatures Campaign... The State party should ensure that the right to freedom of assembly and association is guaranteed to all individuals without discrimination, and release immediately and unconditionally anyone held solely for the peaceful exercise of this right, including ... human rights defenders (including women’s rights activists)...’); UPR Egypt [A/HRC/28/16](#) (para 166.76: ‘In compliance with international human rights law, amend, adopt and effectively implement legislation to eliminate all forms of discrimination and criminalize all forms of violence against women and girls; ensure that all A/HRC/28/16 17 cases of sexual violence and harassment faced by women protesters and human rights defenders must be promptly investigated and the perpetrators brought to justice (Finland); para 166.166: ‘Take steps to put in place legislative and enforcement measures designed to eliminate all forms of violence against women, including sexual violence against women participating in protests and demonstrations (Montenegro)’); [Spain](#), ‘List of issues in relation to the sixth periodic report of Spain’, CCPR/C/ESP/Q/6, 20 November 2014, para 22 (‘Please comment on reports of excessive use of force by the police at demonstrations, in particular against journalists and women’);

143 For example, Communication No. 1866/2009, *Chebotareva v Russian Federation*, Views adopted 26 March 2012, CCPR/C/104/D1866/2009, paras 2.2. and 9.3 (city authorities claimed that events dedicated to Teachers’ Day would be held on the same day and at the same location as a planned event to mark the anniversary of Anna Politkovskaya’s murder. However, no Teachers’ Day events occurred, and the Committee held that ‘[i]n these circumstances, the State party has violated the author’s right under article 21’). The Committee’s view, however, does not provide guidance to States Parties in terms of how

they ought to deal with a potential clash of simultaneous assemblies ex ante.

144 Communication No. 2101/2011, *Evrezov v Belarus*, Views adopted 14 July 2016, paras 2.2 and 8.5 (here, a previously authorized sporting event was scheduled to take place at the same location, on the same date as the author's planned picket).

145 See, for example: [Mongolia](#), CCPR/C/MNG/CO/6, 22 August 2017, paras 11-12: ('concerned about the notable obstacles to the exercise of freedom of assembly by persons belonging to the lesbian, gay, bisexual, transgender and intersex community, which further exacerbates their vulnerable status in Mongolian society ... The State party should also promote and guarantee freedom of expression, association and peaceful assembly for lesbian, gay, bisexual, transgender and intersex persons, and should abstain from any unjustified interference with the exercise of these rights and ensure that any restrictions imposed comply with the strict requirements of articles 19, 21 and 22 of the Covenant and are not applied in a discriminatory manner.');

[Cameroon](#), CCPR/C/CMR/CO/5, 30 November 2017, paras 41-42 ('concerned at reports of infringements of the freedom of assembly, especially in the context of the crisis in English-speaking parts of the country, ... the State party should (d) lift any unnecessary restrictions on the freedom of assembly and the freedom to demonstrate, in particular for members of the country's English-speaking minority');

[Iraq](#), CCPR/C/IRQ/CO/5, 3 December 2015, paras 11-12 ('... Taking into consideration the State party's comment in its periodic report (see CCPR/C/IRQ/5, para. 177), the Committee regrets the lack of clarity on the right of homosexuals to hold peaceful demonstrations. 12. The State party should: ... (b) Take the measures necessary to ensure that such persons can fully enjoy all the human rights enshrined in the Covenant, including the right to peaceful assembly');

[Austria](#), CCPR/C/AUT/CO/5, 3 December 2015, para 31 ('The Committee is concerned that some provisions of the 2015 Amendments to the Law on the Recognition of Islamic Religious Communities may be discriminatory and unduly restrict the enjoyment of the right to freedom of religion in community with others, as well as the rights to association and assembly (arts. 18, 22 and 26).');

[Sri Lanka](#), CCPR/C/LKA/CO/5, 21 November 2014, paras 22-23 ('disproportional and discriminatory restrictions on freedom of peaceful assembly and freedom of association against the Tamil minority');

[Bulgaria](#), CCPR/C/BGR/Q/3, List of Issues ... in consideration of the third periodic report of Bulgaria, 3 December 2010, para 26 ('allegations that peaceful assemblies and associations by ethnic Macedonians are suppressed because the Government denies the self-identification of certain citizens as ethnic Macedonians).

146 Communication No 1932/2010, *Fedotova v Russian Federation*, Views adopted 31 October 2012, CCPR/C/106/D/1932/2010, para 10.4.

147 *Ibid.*, para 12.

148 For example, Communication No 2142/2012, *Shumilina et al v Belarus*, Views adopted 28 July 2017, para 3.3. In Communication No 2093/2011, *Misnikov v Belarus*, Views adopted 14 July 2016, failure to submit contracts with the respective government and municipal authorities was cited as a reason for the rejection of the application to hold the assembly (para 2.2) even though the organiser claimed to have provided related guarantees (para 2.1). Similar written assurances were provided to the authorities by the authors of Communication No. 2133/2012, *Statkevich and Matskevich v Belarus*, Views adopted 29 October 2015, para 9.2. Also, Communication No 1604/2007, *Zaleskaya v Belarus*, Views adopted 28 March 2011, CCPR/C/101/D/1604/2007, para 7.2; Communication No 2030/2011, *Poliakov v Belarus*, Views adopted 17 July 2014, CCPR/C/111/D/2030/2011, para 8.3; Communication No 2029/2011, *Praded v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011, para. 7.7; Communication No 1828/2008, *Olmedo v Paraguay*, Views adopted 22 March 2012, CCPR/C/104/1828/2008, para 3.3 ('The complaint': 'No measures had been taken to ensure that medical teams from the public emergency services were present at the site of the demonstration, if needed, to provide proper first aid to the injured').

149 Communication No. 2030/2011, *Poliakov v Belarus*, Views adopted 17 July 2014, CCPR/C/111/D/2030/2011, para 8.3.

150 [United Kingdom](#), 'List of issues in relation to the seventh periodic report of the United Kingdom ...', CCPR/C/GBR/Q/7, 20 November 2014, para 29 ('Please clarify whether and how the United Kingdom plans: ... (f) to amend the Police, Public Order and Criminal Justice (Scotland) Act 2006, with a view to reducing the notification period for a procession to a few days and alleviating the financial costs associated with obtaining a procession licence.');

[Switzerland](#) CCPR/C/CHE/CO/4, 22 August 2017, para 48 (concern about '(b) the law of 14 October 2016 on charging of security costs incurred during demonstrations in the Canton of Geneva');

[Belarus](#), CCPR/C/BLR/QPR/5, List of issues prior to submission of the fifth periodic report of Belarus, 19 August 2015, para 30 ('In connection with the Committee's previous concluding observations (see [CCPR/C/79/Add.86](#), para. 18), please explain how the restrictions on the exercise of freedom of peaceful assembly, such as those outlined in the Law on Mass Events, including those set out below, are compatible with the State party's obligations under the Covenant: ... (b) reported excessive requirements on organizers of assemblies with regard to maintenance of public order and safety, provision of medical services and clean-up services;'. UPR Zambia 2018; 'Several meetings had had to be put on hold by the Minister of Justice because the police did not have sufficient capacity to ensure peaceful assembly');

151 See further, Frederick Schauer, 'The Hostile Audience Revisited' (November 2017) Available at: <https://knightcolumbia.org/content/hostile-audience-revisited>

152 Communication No. 2016/2010, *Sudalenko v Belarus*, Views adopted 5 November 2015, CCPR/C/115/D/2016/2010 and Communication No. 2019/2010, *Poplavny v Belarus*, Views adopted 5 November 2015, para 8.6.

153 Partly dissenting opinion of Víctor Manuel Rodríguez-Rescia in Communication No. 2016/2010, *Sudalenko v Belarus*, Views adopted 5 November 2015; Communication No. 2019/2010, *Poplavny v Belarus*, Views adopted 5 November 2015 CCPR/C/115/D/2019/2010, Joint Opinion of Committee members Fabián Salviolio and Víctor Manuel Rodríguez-Rescia

(partly dissenting), para 5.

154 It is noteworthy that Rodger LJ, in a judicial review of the appointment of Commissioners to the Northern Ireland Parades Commission, remarked that 'the Parades Commission is not a body to whose proceedings article 6 ... applies', without explaining whether this was because Arts 10 and 11 were not 'civil rights' for the purposes of Art 6, or whether – in line with the argument advanced by Dyson MR in *Gallastegui* – the Commission does not, of itself, 'determine' these civil rights. See In re Duffy UKHL 4 (2008), para 31. In contrast, in its report on 'Parades and Protests in Northern Ireland' (November 2013), the Northern Ireland Human Rights Commission stated that 'Article 6(1) applies both to decision making processes which permit parades and protests and to those which consider their permissibility after they have occurred.' Available at [www.nihrc.org](http://www.nihrc.org).

155 Communication No 1866/2009, *Chebotareva v Russia*, Views adopted 26 March 2012, CCPR/C/104/D/1866/2009, para 8.4.

156 For example, Communications Nos. 1867/2009, 1936/2010, 1975/2010, 1977/2010, 1978/2010, 1979/2010, 1980/2010, 1981/2010 and 2010/2010, *Levinov v Belarus*, Views adopted 19 July 2012, CCPR/C/105D/1867/2009, 1936, 1975, 1977-1981, 2010/2010, para 9.5 (emphasis added).

157 Communication No 1929/2010, *Lozenko v Belarus*, Views adopted 24 October 2014, paras 2.1, 3.2 and 6.4. (Article 14 claim inadmissible for want of substantiation).

158 For example, Communication No 1902/2009, *Bakur v Belarus*, Views adopted 15 July 2015,

159 Communication No 1949/2010, *Kozlov v Belarus*, Views adopted 25 March 2015, para 3.4.

160 *Kozlov*, *ibid.*, para 6.3.

161 For example, Communication No. 1022/2001, *Velichkin v Belarus*, Views adopted 20 October 2005, CCPR/C/85/D/1022/2001, para 4.2; 'video recordings' of events were presented in court (presumably by the authorities rather than human rights monitors) in Communication No 1604/2007, *Zalesskaya v Belarus*, Views adopted 28 March 2011, CCPR/C/101/D/1604/2007, para 4.3; Communication No 1773/2008, *Kozulina v Belarus*, Decision adopted 21 October 2014, CCPR/C/112/D/1773/2008, para 4.9.

162 Communication No. 1989/2010, *E.V. v Belarus*, Views adopted 30 October 2014, CCPR/C/112/D/1989/2010, Joint (dissenting) opinion of Committee members Yuval Shany, Dheerujall B. Seetulsingh and Fabian Salvioli at para 4 (arguing that the Committee erred in declaring inadmissible the author's claim, based on article 14(3)(e), that he was denied the right to summon a defence witness. Cf. Communication No 1949/2010, *Kozlov et al v Belarus*, Views adopted 25 March 2015, CCPR/C/113/D/1949/2010, para 6.3.

163 Communication No 1999/2010, *Evrezov, Nepomnyaschikh, Polyakov and Rybchenko v Belarus*, Views adopted 10 October 2014, CCPR/C/112/D/1999/2010, paras 3.3 and 8.9. See also Communication No 2212/2012, *Sannikov v Belarus*, Views adopted 6 April 2018, CCPR/C/122/D/2212/2012, para 2.14.

164 See, for example, ECtHR, *Sergey Kuznetsov v The Russian Federation*, Application No. 10877/04, judgment of 23 October 2008, para 42: 'the Court reiterates that subjection to an authorisation or notification procedure does not normally encroach upon the essence of the right as long as the purpose of the procedure is to allow the authorities to take reasonable and appropriate measures in order to guarantee the smooth conduct of any assembly.' The separate Concurring Opinion of Committee members Mr Nisuke Ando, Mr Michael O'Flaherty and Mr Walter Kälin in Communication No 1157/2003, *Coleman v Australia*, Views adopted 17 July 2006, CCPR/C/87D/1157/2003, is closer to the historical approach adopted by the Strasbourg Court. This Concurring Opinion stated: '... the establishment of such systems, in principle, is wholly consistent with the Covenant, and has additional advantages of fostering clarity, certainty and consistency, as well as providing an easier means of review by local courts and in turn the Committee of a decision by the authorities to decline a particular exercise of the right, rather than being left, as in this case, with an assessment of the raw primary facts standing alone.' On this basis, the opinion further argued that greater weight ought to have been placed on the author's failure to obtain the requisite permit, since this failure 'deprived the State party's authorities of the opportunity to reconcile the interests at issue in this particular case'. Indeed, this concurring opinion went further, noting that a permit system 'enables the State party's authorities to strike a balance, consistent with the Covenant, between freedom of expression and countervailing interests', that the Committee's decision 'should not be read as a rejection of permit systems'.

165 A similar position to that of the Committee has been adopted by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, and by the OSCE/ODIHR Panel of Experts on Freedom of Assembly. Communication No. 412/1990, *Kivenmaa v Finland*, Views adopted 31 March 1994, CCPR/C/50/D/412/1990, para. 9.2 (noting also that, in this case, the State party sought to rely on jurisprudence of the European Court of Human Rights to argue, at para 7.8, 'that the right of public assembly is not restricted by the requirement of a prior notification to the police'); Communication No. 1790/2008, *Govsha, Syritysa and Mezyak v. Belarus*, Views adopted 27 July 2012, para. 9.2 ('the Committee notes that since the State party imposed a procedure for organizing mass events, it effectively established restrictions on the exercise of the rights to freedom of expression and assembly'); See also, Communication No. 1976/2010, *Kuznetsov et al. v. Belarus*, Views adopted 24 July 2014, CCPR/C/111/D/1976/2010, para 9.4 ('since the State party imposed a "procedure for holding mass events", it effectively established restrictions regarding the exercise of the freedom to impart information, guaranteed by article 19, paragraph 2 of the Covenant'); Communication No. 2133/2012, *Statkevich and Matskevich v Belarus*, Views adopted 29 October 2015, para 9.3; Communication No. 1969/2010, *Surgan v Belarus*, Views adopted 15 July 2015, CCPR/C/114/D/1969/2010,



para 9.3.

166 For example, both Communication No. 1933/2010, Aleksandrov v Belarus, 1933/2010, Views adopted 24 July 2014, CCPR/C/111/D/1933/2010, para 7.4 and Communication No. 1934/2010, Bazarov v Belarus, Views adopted 24 July 2014, CCPR/C/111/D/1934/2010, para 7.5 ('the State party has not attempted to explain why it was necessary ... to obtain authorization prior to holding a peaceful, silent, street march in which only three persons intended to participate'); Communication No. 2175/2012, Kim v Uzbekistan, Views adopted 4 April 2018, CCPR/C/122/D/2175/2012, para 13.7 ('the State party has not demonstrated why obtaining prior formal authorisation from local authorities before conducting the protests was necessary ... specifically with regard to the second protest which counted two participants only').

167 Eg. Communication No 1929/2010, Lozenko v Belarus, Views adopted 24 October 2014, para 7.7; Communication No 1902/2009, Bakur v Belarus, Views adopted 15 July 2015, para 7.9.

168 [Morocco](#), CCPR/C/79/Add.113, 1 November 1999, para 24 ('The Committee is concerned at the breadth of the requirement of notification'); [Central African Republic](#), Report of the Human Rights Committee, GA 43<sup>rd</sup> Session, Supplement No. 40 (A/43/40), 1988, para 289 ('the Committee ... asked whether prior approval from the authorities had to be obtained for all meetings')

169 [Algeria](#), CCPR/C/DZA/CO/4, 17 August 2018, para. 45 ('... concerned by an unpublished decree of 18 June 2001, which prohibits demonstrations in the capital, and by reports that the decree is being applied generally throughout the country'); [Indonesia](#), CCPR/C/IDN/CO/1, 21 August 2013, para 28 (difference between Papua, which has no permit requirement, and other provinces; still undue restrictions);

170 Communication No 1903/2009, Youbko v Belarus, Views adopted 17 March 2014, CCPR/C/110/D/1903/2009, para 9.5. In many cases, a similar point is made solely in relation to article 19, and it is noteworthy that the Committee has so often considered notification as an issue pertaining to article 19 – rather than requiring justification in terms of the particular characteristics of peaceful assemblies as protected by article 21. For example: Communication Nos. 1919-1920/2009, Protsko and Tolchin v Belarus, Views adopted 1 November 2013, CCPR/C/109/D/1919-1920/2009, para 7.5; Communication No. 1969/2010, Surgan v Belarus, Views adopted 15 July 2015, CCPR/C/114/D/1969/2010; para 9.6; Communication No 1982/2010, Mikhalchenko v Belarus, Views adopted 22 July 2015, CCPR/C/114/D/1982/2010, para 8.4; Communication No. 2016/2010, Sudalenko v. Belarus, Views adopted 5 November 2015, CCPR/C/115/D/2016/2010, para 8.3; Communication No. 2019/2010, Poplavny v Belarus, Views adopted 5 November 2015, CCPR/C/115D/2019/2010, para 8.3; Communication No. 1157/2003, Coleman v Australia, Views adopted 17 July 2006, CCPR/C/87/D/1157/2003, para. 7.3; Communication No. 1948/2010, Turchenyak et al. v. Belarus, Views adopted 24 July 2013, para 7.8; Communication No. 1934/2010, Bazarov v Belarus, Views adopted 24 July 2014, CCPR/C/111/D/1934/2010, para 7.4.

171 Communication No. 2217/2012, Popova v The Russian Federation, Views adopted 6 April 2018, para 7.5, citing ECtHR, Annenkov and others v Russia, Application no. 31475/10, judgment of 25 October 2017, para 131(d).

172 Communication No. 1157/2003, Coleman v Australia, Views adopted 17 July 2006, CCPR/C/87/D/1157/2003, Concurring opinion of Committee members Mr. Nisuke Ando, Mr. Michael O'Flaherty and Mr. Walter Kälin.

173 See, for example, [Belarus](#), CCPR/C/BLR/CO/5, 22 November 2018, para 51 ('(a) Broad authorization requirements for holding all types of protests; the stringent conditions for granting authorization, including undertakings to ensure public order and safety and the provision of medical and cleaning services; the limitations on the holding of assemblies, especially their being restricted to certain permissible locations only, the size of assemblies organized by physical persons being restricted to less than 1,000 persons and the banning of spontaneous assemblies. While noting that the 2018 amendments to the Mass Events Act introduce a notification-based procedure for holding assemblies, the Committee remains concerned that the notification procedure may be used only for assemblies held at permanent locations as designated by the authorities, which are reportedly located far away from city centres;'); [Democratic Republic of Congo](#), CCPR/C/COD/CO/4, 30 November 2017, para 41 (notice requirement under the constitution but 'legislative framework has not been harmonized and the authorities can impose a prior authorization requirement under current law.');

[Rwanda](#), CCPR/C/RWA/CO/4, 2 May 2016, para 41 ('The Committee notes with concern that assemblies in public places and demonstrations of political parties are subject to prior authorization in domestic law');

[Kuwait](#), CCPR/C/KWT/CO/3, 11 August 2016, para 42 ('The Committee is concerned ... about the overly broad prohibition on public gatherings without the prior authorization of the Ministry of the Interior');

[Chad](#), CCPR/C/TCD/CO/1, 11 August 2009 ('notes with concern that freedom of association and peaceful assembly cannot be exercised without prior authorization');

[Jordan](#), CCPR/C/JOR/CO/4, 18 November 2010, para 15 ('the Public Assemblies Act (2008) requires any organizer of a public meeting on general State policy first to obtain the governor's written authorization');

In the course of the UPR of [Myanmar 2015](#), Estonia recommended that Myanmar should 'replace the system of prior authorization for peaceful assemblies with a system of *voluntary* notification' (at 145.36, emphasis added);

[Netherlands \(Antilles\)](#), CCPR/CO/72/NET, 27 August 2001, para 20 ('The Committee is equally concerned that the legal rules on the right of peaceful assembly contain a general requirement of prior permission from the local police chief. The State party should ensure that the right of peaceful assembly can be exercised by all in strict conformity with the guarantees of article 21 of the Covenant.');

UPR Kazakhstan 2010: 'The National Human Rights Action Plan for 2009-2012 calls for the adoption of a new law to replace the requirement for prior authorization by authorities with notification in order to organize a gathering';

[Syria](#), CCPR/CO/84/SYR, 9 August 2005, para 15 ('While noting the view held by the delegation that protests such as the peaceful demonstration on 25 June 2003 outside UNICEF headquarters in Damascus had not obtained the required permit, the Com-

mittee is concerned that the laws and regulations and their application prevent the exercise of the right to peaceful assembly’);

174 [Algeria](#), CCPR/C/DZA/Q/4, 11 December 2017 (List of Issues in relation to the fourth periodic report of Algeria), para 24 (‘Please comment on reports that (a) walis often refuse to issue receipts for authorization requests submitted to them, (b) marches and demonstrations are often prohibited arbitrarily, with the reasons for refusal rarely given, or are authorized at the last minute ...’); [Morocco](#), CCPR/C/MAR/CO/6, 1 December 2016, paras 45-46 (‘The Committee notes with concern that, under Moroccan law, prior authorization must be obtained for gatherings that are to be held in public places and that the issuance of such authorizations is sometimes hindered unjustifiably. ... The State party should ensure that the law governing peaceful demonstrations is applied in accordance with the Covenant and that the exercise of that right is not subject to restrictions other than those that are authorized under the Covenant. To this end, the State party should give consideration to the proposals made in November 2015 by the National Human Rights Council concerning public gatherings.’); [Russian Federation](#), ‘List of issues in relation to the seventh periodic report of the Russian Federation’, CCPR/C/RUS/Q/7\*, 19 August 2014, para 25(a)(i) (Report on measures taken: (i) To address the unlawful interference with the freedom of assembly and association of LGBT individuals and activists, including refusals to register LGBT organizations, arbitrary refusals to authorize public events on LGBT issues, disruption of such events when organized, as well as arrest, detention and punishment of members of the LGBT community exercising their right to peaceful assembly’); [Malawi](#), CCPR/C/MWI/CO/1, 18 June 2012, para 17 (‘concerned that the freedom of assembly and association is not always effectively guaranteed, in particular as evidenced by refusals to authorize peaceful demonstrations ... The State party should strengthen its efforts to effectively guarantee the freedom of assembly and association, including by removing obstacles to the right to demonstrate and by applying the 48-hour notification rule.’); [Kuwait](#), CCPR/C/KWT/CO/2, 18 November 2011, para 28 (‘concerned about persistent reports that the State party’s authorities unreasonably refuse to deliver authorizations’); [Kazakhstan](#), CCPR/C/KAZ/CO/1 19 August 2011, para 26 (‘... concerned at reports that applications for permission to hold assemblies are often declined on the grounds of public order and national security, but that people continue to stage unauthorized assemblies, which put them at risk of being arrested and charged for breaching a number of administrative regulations, thereby severely restricting their right to freedom of assembly (art. 21).’); [Azerbaijan](#), CCPR/C/AZE/CO/3, 13 August 2009, para 16 (persistent reports of unreasonable restrictions including by refusing to deliver authorizations). [Belarus](#), CCPR/C/BLR/QPR/5, List of issues prior to submission of the fifth periodic report of Belarus, 19 August 2015, para 30 (‘In connection with the Committee’s previous concluding observations (see [CCPR/C/79/Add.86](#), para. 18), please explain how the restrictions on the exercise of freedom of peaceful assembly, such as those outlined in the Law on Mass Events, including those set out below, are compatible with the State party’s obligations under the Covenant: ... (a) prior authorization for holding an assembly and routine denial of permission’).

175 [Kenya](#), CCPR/CO/83/KEN, 29 April 2005, para 23 (‘no remedy appears to be available for the denial of an authorization’); [Syria](#), CCPR/CO/71/SYR, 24 April 2001 (‘... The Committee requests the State party to provide it with additional information on the conditions for authorizing public assemblies and, in particular, to indicate whether and under what conditions the denial of an authorization can be appealed.’); [Kyrgyzstan](#), CCPR/CO/69/KGZ, 24 July 2000, para 22 (‘lack of appeal procedures in the case of denial of permission’).

176 [Azerbaijan](#), CCPR/C/AZE/CO/4, 16 November 2016, para 38 (‘The Committee remains concerned about restrictions on the exercise of the right to peaceful assembly in practice. While noting that legislation only requires advance notification of a peaceful assembly, it is concerned about reports that it frequently requires permission in practice.’); [Republic of Korea](#), ‘List of issues in relation to the fourth periodic report of the Republic of Korea’, CCPR/C/KOR/Q/4, 28 April 2015, para 26 (‘Please report on measures taken to address the restrictions imposed on the exercise of freedom of peaceful assembly in law and in practice, including: (a) the de facto system of authorization of peaceful assemblies by the police’) and [Republic of Korea](#), CCPR/C/KOR/CO/4, 3 December 2015, para 52 (‘The Committee is concerned about the severe restrictions placed on the right to peaceful assembly, including the operation of a de facto system of authorization of peaceful assemblies by the police: note also the following news reports from Seoul regarding Pride parade and Counter Protests: both groups camp outside police station for days because of first-come, first-served system of notification, June 2015 – see [kore.am](#) and [Washington Post](#)’); [Venezuela](#), CCPR/C/VEN/CO/4, 14 August 2015, para 20 (‘it finds it regrettable that there has been a lack of clarity about the need to request authorization to hold a public gathering or demonstration and about the reality of the situation since, although the State party reported that the notification to be given to the relevant authorities by the organizers does not constitute a request for authorization, the Committee observes that, in its judgement of 24 April 2014, the Constitutional Chamber of the Supreme Court ruled that there was an obligation to exhaust the administrative procedure for granting authorization.’); [Azerbaijan](#), ‘List of issues in relation to the fourth periodic report of Azerbaijan’, CCPR/C/AZE/Q/4, 26 April 2015, para 23 (‘provide further information on the meaning of a “justified decision about holding assembly” mentioned in the State party’s report which stated (at para 301): ‘Respective executive body is only notified of holding assembly. Justified decision about holding assembly should be submitted to the organizers within three working days’ (emphasis added)); [Hong Kong \(China\)](#), ‘List of Issues ...’, CCPR/C/HKG/Q/2, 7 December 2005, para 14 (‘information before the Committee that police authorities have used the “notice of no objection” procedure under the Public Order Ordinance to make it more difficult for groups to obtain permissions for marches, demonstrations and rallies’ (emphasis added)).

177 [Jordan](#), CCPR/C/JOR/CO/5, 4 December 2017, para 32 (‘The Committee notes that through the Act on public gatherings of 2011 the Government took steps to facilitate peaceful assembly, providing for example that authorization for demonstrations is not required and that notification suffices. However, the Committee notes with concern reports that the Act is being

circumvented in practice ...'); [Morocco](#), CCPR/C/79/Add.113, 1 November 1999, para 24 ('... the requirement of a receipt of notification of an assembly is often abused, resulting in de facto limits of the right of assembly ...'), and [Morocco](#), CCPR/CO/82/MAR, 1 December 2004, para 24 ('The Committee remains concerned that the process of issuing a receipt for advance notice of meetings is often abused, which amounts to a restriction on the right of assembly, as guaranteed by article 21 of the Covenant. The State party should eliminate the obstacles to the exercise of the right of assembly ...'), and [Morocco](#), 'List of issues in relation to the sixth periodic report of Morocco' CCPR/C/MAR/Q/6, 9 May 2016, para 27: 'reports that administrative delays and other methods continue to be used to discourage or prevent the holding of peaceful gatherings ...').

178 See, Communication No 1790/2008, Govsha, Syritsa and Mezyak v Belarus, Views adopted 27 July 2012, CCPR/C/105/D/1790/2008, para 2.4(a) (the authors did not indicate in the application their respective years of birth, nationality and a purpose for the meeting'). See also: [Swaziland](#), CCPR/C/SWZ/CO/1, 23 August 2017, para 44 ('The Committee is concerned at reports ... that proposed amendments to the Public Order Act will severely restrict freedom of expression, assembly and association, impose cumbersome requirements for obtaining permits before holding a meeting or hosting an activity and give law enforcement officers discretionary powers to interrupt meetings. It is also concerned at reports that a monitor should be present during public meetings.');

[Switzerland](#), CCPR/C/CHE/CO/4, 22 August 2017, para 48 (concern expressed about 'the conditions that must be satisfied in order to organize a mass event requiring the deployment of specific and extraordinary police resources, including an event of a political nature, whereby the request for authorization must be submitted three months in advance and must indicate the business name of the company contracted to provide security at the event');

[Maldives](#) CCPR/C/MDV/CO/1, 31 August 2012, para 23 (concern that 'the "Regulation concerning Assembly", requires at least three persons representing the organizers of public assemblies to submit a written form fourteen days in advance');

UPR Kazakhstan, 2010 ('To make efforts to speedily draft and implement the new law on the right to assembly with fewer demands regarding prior registration and fewer requirements for information concerning, for example, the participants in an assembly').

179 On the other hand, this might arguably simply lead States to use the language of 'notification' rather than describing the applicable system as one of authorization.

180 Communication No 2092/2011, Androsenko v Belarus, Views adopted 30 March 2016, para 3.1.

181 *Ibid.*, para 7.6.

182 ACHPR, [Guidelines on Freedom of Association and Assembly](#) (2017), p.24, para 71.

183 Communication No 1172/2003, Abbassi v Algeria, Views adopted 28 March 2007, CCPR/C/89/D/1172/2003, paras 2.1 and 3.2 and Communication No 1173/2003, Benhadj v Algeria, Views adopted 20 July 2007, CCPR/C/90/D/1173/2003 paras 2.1 and 3.2 (agreement to end protests in exchange for future revision of electoral law, but then dispersed by Algerian army); Communication No 1828/2008, Olmedo v Paraguay, Views adopted 22 March 2012, CCPR/C/104/1828/2008, para 2.2 (protests by lemon verbena producers restarted following the failure of substantive negotiations aimed at obtaining increased subsidies); Communication No 1828/2008, Olmedo v Paraguay, Views adopted 22 March 2012, CCPR/C/104/1828/2008 at para 2.5 and Communication No 1829/2008, Gamarra v Paraguay, Views adopted 22 March 2012, CCPR/C/104/D/1829/2008 at para 2.5 ('while negotiations were under way, the prosecutor ordered the road to be cleared' but note the State party's observations - Olmedo, para 4.3 - that the protesters are described as having 'refused the dialogue and responded highly aggressively towards law-enforcement personnel').

184 [Switzerland](#) CCPR/C/CHE/CO/4, 22 August 2017, para 48 ('an event of a political nature, whereby the request for authorization must be submitted three months in advance and must indicate the business name of the company contracted to provide security at the event');

185 [Uzbekistan](#), CCPR/C/UZB/CO/4, 17 August 2015, para 24 ('concerned about arbitrary restrictions on the right to peaceful assembly in law and in practice, including: (a) the excessive requirement that authorizations for holding mass events be filed at least one month in advance ... The State party should revise its laws and practices with a view to ensuring that individuals fully enjoy their right to freedom of assembly and that any restrictions imposed are in compliance with the strict requirements of article 21 of the Covenant.');

186 [Belarus](#), CCPR/C/79/Add.86, 19 November 1997, para 18 ('The Committee also expresses its concern about severe restrictions imposed on the right to freedom of assembly which are not in compliance with the Covenant. The Committee notes in particular that applications for permits to hold demonstrations are required to be submitted 15 days prior to the demonstration and are often denied by the authorities.')

187 [Algeria](#), CCPR/C/DZA/CO/4, 17 August 2018, para 45.

188 [Cyprus](#), CCPR/C/79/Add.88, 6 April 1998, para 15 ('... The Committee also notes that the advance notice required to be given is too early and may unduly curtail freedom of assembly ...');

189 [Moldova](#), CCPR/CO/75/MDA, 5 August 2002, para 15 ('The Committee is further concerned at the requirement of 15 days' advance notice of proposed assemblies to be provided to the relevant authorities. The Committee considers that a requirement of such length may unduly circumscribe legitimate forms of assembly. The Committee should revise its law with a view to ensuring that the time periods required for advance notice to its authorities of assemblies, as well as the procedures applied to such requests and appeals against initial decisions, pay due regard to the ability in practice of the individuals concerned fully to enjoy their rights under article 21 of the Covenant.');



190 [Kenya](#), CCPR/CO/83/KEN, 29 April 2005, para 23 ('The Committee notes with concern that large public political meetings are subject to a prior notification requirement of at least three days under section 5 of the Public Order Act');

191 Communication No. 412/1990, *Kivenmaa v Finland*, Views adopted 31 March 1994, CCPR/C/50/D/412/1990, para. 9.2: 'The Committee finds that a requirement to notify the police of an intended demonstration in a public place six hours before its commencement may be compatible with the permitted laid down in article 21 of the Covenant.'

192 For example, Communication No. 1851/2008, *Sekerko v Belarus*, Views adopted 28 October 2013, CCPR/C/109/D/1851/2008, para 2.4: 'the application contained only the undertaking to duly organize the events, whereas the required details related to their planning and conduct were missing therefrom'; para 7.2: 'the authorities had an opportunity to establish, in consultation with him, measures to protect his right'; para 9.7 '... the State party has not specified which required details related to the planning and conduct of mass events might be missing' such as to raise any of the legitimate grounds for restriction - '[n]either has the State party demonstrated that, in the author's case, these purposes could only be achieved by the denial of the planned events.'

193 For example, Communication No 2030/2011, *Poliakov v Belarus*, Views adopted 17 July 2014, CCPR/C/111/D/2030/2011, para 8.3: '... the State party did not explain why the author was not given the opportunity to amend his request to carry out a demonstration and add details that were not fully specified in the original request.' See also, ACHPR, *Guidelines on Freedom of Association and Assembly* (2017), p.25, para 72(c).

194 [Thailand](#), CCPR/C/THA/CO/2, 25 April 2017, para 39 ('concerned about the provisions of the Public Assembly Act (2015) that establish criminal penalties for failing to provide prior notification to authorities regarding the organization of peaceful assemblies.');

[Kazakhstan](#) CCPR/C/KAZ/CO/2, 9 August 2016, para 51 'The Committee ... is also concerned about the imposition of administrative and criminal penalties for such offences as providing "assistance" to "illegal" assemblies ...'; For a recent domestic judgment holding the criminalization of failure to give notice/adequate notice to be unconstitutional, see the Judgment of the South African Constitutional Court in [Mlungwana and Others v S and Another](#) (Equal Education, Right-2Know Campaign and UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association as Amici Curiae) [2018] ZACC 45 19 November 2018.

195 Michael O'Flaherty has observed in relation to General Comment 34 that: 'Commentators may ... be disappointed that the Committee, in its guidance regarding the term, 'rights and reputation of others', failed to provide address to the complex and important issue of the relationship of Article 19 with such other Covenant provisions as Articles 7 (concerning privacy) and 18 (concerning freedom of religion or belief) albeit elements of the relationship are touched on in the final sections of the text.' See, Michael O'Flaherty, 'Freedom of Expression: Article 19 of the International Covenant on Civil and Political Rights and the Human Rights Committee's General Comment No.34' 12:4 *Human Rights Law Review* 627-654 (2012) at 652.

196 For example, Communication No. 1772/2008, *Belyazeka v Belarus*, Views adopted 23 March 2012, para 11.7; Communication No. 1866/2009, *Chebotareva v Russian Federation*, Views adopted 26 March 2012, CCPR/C/104/D1866/2009, para 9.2;

197 For example, Communication No. 1772/2008, *Belyazeka v Belarus*, Views adopted 23 March 2012, paras 11.6 (article 19) and 11.8 (article 21); Communication No. 1808/2008, *Kovalenko v Belarus*, Views adopted 17 July 2013, CCPR/C/108/D1808/2008, para 8.6 (article 19) and para 8.8 (article 21); Communication No. 1948/2010, *Turchenyak et al. v Belarus*, Views adopted 24 July 2013, para 7.4 (Article 21) and paras 7.7-7.8 (article 19);

198 See [Canada](#), 'List of issues in relation to the sixth periodic report of Canada', CCPR/C/CAN/Q/6, 21 November 2014, para 18 ('Please provide information on measures taken at the federal level to reduce restrictions on the right to freedom of peaceful assembly and of association at the provincial and territorial level. Please also comment on: (b) the alleged unlawful restrictions on the right of peaceful assembly, inter alia, over the course of the 2010 G20 protests in Toronto, 2012 Quebec Student protests, and demonstrations by Aboriginal communities.');

[Uzbekistan](#), 'List of issues in relation to the fourth periodic report of Uzbekistan', CCPR/C/UZB/Q/4, 21 November 2014, para 25 ('Please respond to reports of arbitrary restrictions on the right to peaceful assembly in law and in practice, including disruption of peaceful assemblies by law enforcement officers and detention and sanctioning of participants. Please provide information on existing regulations governing peaceful assemblies');

[Russian Federation](#), 'List of issues in relation to the seventh periodic report of the Russian Federation', CCPR/C/RUS/Q/7\*, 19 August 2014, paras 25-26 (LGBT and more generally Bolotnaya, 6 May 2012 and Sochi, 21 February - 4 March 2014); [Indonesia](#), CCPR/C/IDN/CO/1, 21 August 2013, para 28 ('undue' restrictions in West Papua); [Bosnia and Herzegovina](#), CCPR/C/BIH/CO/2, 13 November 2012, para 19 (State should investigate legality of prohibitions to conduct commemorations in Prijedor); [Yemen](#), CCPR/C/YEM/CO/5, 23 April 2012, para 26 (continuous infringements, especially during 2011 unrest & call to release all prisoners detained under laws unreasonably restricting freedom of assembly); [Iran](#) CCPR/C/IRN/CO/3, 29 November 2011, para 26 ('continuing reports of harassment or intimidation, prohibition and forceful breaking up of demonstrations, and arrests and arbitrary detentions of human rights defenders. ... The State party should ensure that the right to freedom of assembly and association is guaranteed to all individuals without discrimination, and release immediately and unconditionally anyone held solely for the peaceful exercise of this right, including students, teachers, human rights defenders (including women's rights activists), lawyers and trade unionists.');

[Togo](#), CCPR/C/TGO/CO/4, 18 April 2011, para 20 ('concerned about the restrictions that are imposed on the freedom to demonstrate peacefully and the varying degree of such freedom depending on whether the demonstrations are planned in Lomé or elsewhere in the country'); [Moldova](#) CCPR/C/MDA/CO/2, 4 November 2009, para 8 ('... the Committee takes note of the delegation's statement that law enforcement officers "acted

outside of their powers” ...’); [Chad](#), CCPR/C/TCD/CO/1, 11 August 2009, para 30 (‘human rights defenders are unable to carry out their activities without impediment because they have been subjected to harassment, intimidation and aggression and have been forbidden by the security services from holding demonstrations (articles 21 and 22 of the Covenant)’); [Nicaragua](#) CCPR/C/NIC/CO/3, 12 December 2008, para 16 (‘The Committee is concerned about alleged instances of wrongful arrest occurring, in particular, in connection with public protests (arts. 6, 7 and 9) ...’).

199 1987/2010, *Stambrovsky v Belarus*, Views adopted 24 October 2014, CCPR/C/112/D/1987/2010, para 7.3 (emphasis added), citing General Comment 34, para 22.

200 For example, No. 1785/2008, *Olechkevitch v Belarus*, Views adopted 18 March 2013, CCPR/C/107/D/1785/2008, para 8.5; Communication No. 1830/2008, *Pivonos v Belarus*, Views adopted 29 October 2012, CCPR/C/106/D/1830/2008, para 9.3; Communication No 2092/2011, *Androsenko v Belarus*, Views adopted 30 March 2016, para 7.3; Communication No 2168/2012, *Koreshkov v Belarus*, Views adopted 9 November 2017, CCPR/C/121/D/2168/2012, para 8.3.

201 Communication No 2137/2012, *Toregozhina v Kazakhstan*, Decision adopted 21 October 2014, CCPR/C/112/D/2137/2012, para 7.4, citing General Comment No. 34, para 34; Communication No 2158/2012, *Sviridov v Kazakhstan*, Views adopted 13 July 2017, CCPR/C/12D/2158/2012, para 10.3. A number of other cases similarly explain proportionality as ‘the least intrusive measure to achieve the purpose sought by the State party, and proportionate to the interests the State party sought to protect’. For example, Communication No 2030/2011, *Poliakov v Belarus*, Views adopted 17 July 2014, CCPR/C/111/D/2030/2011, para 8.3 (also citing General Comment No. 34, para 34).

202 [Algeria](#), ‘List of Issues in relation to the fourth periodic report of Algeria’, CCPR/C/DZA/Q/4, 11 December 2017, para 24 (‘Please clarify the legal basis and the reasons for the continuing ban on demonstrations in Algiers and Oran, the lifting of the state of emergency notwithstanding’); [Thailand](#), CCPR/C/THA/CO/2, 25 April 2017, para 39: ‘strict banning of any public gathering of more than five people and political gatherings of more than four people’; [Democratic Republic of Congo](#), ‘List of issues in relation to the fourth periodic report of the Democratic Republic of the Congo’, CCPR/C/COD/Q/4, 1 May 2017, para 23 (‘the banning of demonstrations on 26 May 2016 and on the blanket bans of demonstrations imposed in several cities, including Kinshasa, since 22 September 2016’); [Cambodia](#) ‘List of issues in relation to the second periodic report of Cambodia’, CCPR/C/KHM/Q/2, 19 August 2014, para 20 (‘... Concerning the information contained in paragraph 167 of the State party’s report, please provide further information on the regulations governing the use of “freedom parks”. Please also comment on reports that indicate that roadblocks had been set up to prevent access to the Freedom Park in Phnom Penh ...’); [Ukraine](#), CCPR/C/UKR/CO/7, 22 August 2013, para 21 (‘reports that the success rate of local authorities’ applications in court for banning peaceful assemblies may be as high as 90 per cent’); [Bosnia and Herzegovina](#), CCPR/C/BIH/CO/2, 13 November 2012, para 19 (Prijeedor – prohibition of commemorations for 20<sup>th</sup> anniversary of mass atrocities – State party should conduct investigations regarding the legality of prohibitions); [Kazakhstan](#), CCPR/C/KAZ/CO/1 19 August 2011, para 26 (‘concerned at reports that applications for permission to hold assemblies are often declined on the grounds of public order and national security, but that people continue to stage unauthorized assemblies, which put them at risk of being arrested and charged for breaching a number of administrative regulations, thereby severely restricting their right to freedom of assembly’); [Israel](#), CCPR/C/ISR/CO/3, 3 September 2010, para 20 (although article 21 not cited, ‘While noting the State party’s argument regarding security concerns, the Committee is nevertheless concerned at frequent disproportionate restrictions on access to places of worship for non-Jews. It further notes with concern that the regulations containing a list of holy sites only include Jewish holy places (arts. 12, 18 and 26). The State party should increase its efforts to protect the rights of religious minorities and ensure equal and non-discriminatory access to places of worship. Furthermore, the State party should pursue its plan also to include holy sites of religious minorities in its list’); [Republic of Korea](#), CCPR/C/79/Add.114, 1 November 1999, para 18 (‘The prohibition of all assemblies on major roads in the capital would appear to be overbroad. While some restrictions on assemblies on main roads in the interests of public order are permissible, article 21 of the Covenant requires that all such restrictions be in conformity with the law and be necessary in a democratic society. The absolute restrictions on the right to hold assemblies on main roads imposed by the State party do not meet these standards.’); [Lebanon](#), CCPR/C/79/Add.78, 5 May 1997, para 26 (‘The Committee is concerned about the maintenance of the total ban on public demonstrations, which continues to be justified by the Government on grounds of public safety and national security. This wholesale ban on demonstrations is not, in the Committee’s opinion, compatible with the right to freedom of assembly under article 21 and should be lifted as soon as possible.’); [Netherlands](#), ‘List of issues prior to submission of the fifth periodic report of the Netherlands’ CCPR/C/NLD/QPR/5, 3 May 2017, para 29 (‘Please respond to ... reports of interference with peaceful demonstrations, such as ... bans on assemblies at particular locations ...’).

203 [Republic of Korea](#), CCPR/C/KOR/CO/4, 3 December 2015, para 52, (‘the restriction of demonstrations held past midnight’); [Tunisia](#), A/42/40, 31 March 1987, para 141: (‘public meetings normally had to end at midnight’).

204 Communications Nos. 1867/2009, 1936/2010, 1975/2010, 1977/2010, 1978/2010, 1979/2010, 1980/2010, 1981/2010 and 2010/2010, *Levinov v Belarus*, Views adopted 19 July 2012, CCPR/C/105D/1867/2009, 1936, 1975, 1977-1981, 2010/2010, para 10.3 (‘The Committee observes that limiting pickets to certain predetermined locations, regardless of the kind of manifestations or the number of participants, raises serious doubts as to the necessity of such regulation under article 19 of the Covenant’);

205 Communications Nos. 1867/2009, 1936/2010, 1975/2010, 1977/2010, 1978/2010, 1979/2010, 1980/2010,



1981/2010 and 2010/2010, Levinov v Belarus, Views adopted 19 July 2012, CCPR/C/105D/1867/2009, 1936, 1975, 1977-1981, 2010/2010, para 10.3: 'limiting pickets to certain predetermined locations, regardless of the kind of manifestation or the number of participants, **raises serious doubts as to the necessity of** such regulation under article 19'. Communication No. 1948/2010, Turchenyak et al. v. Belarus, Views adopted 24 July 2013, CCPR/C/108/D/1948/2010, para 7.5 ('The Committee notes that the thus de facto prohibition of an assembly in any public location in the entire city of Brest, with the exception of the Lokomotiv stadium, **unduly limits the right to freedom of assembly**'); Communication No. 2016/2010, Sudalenko v. Belarus, Views adopted 5 November 2015, CCPR/C/115/D/2016/2010, 'the de facto prohibition imposed by decision No. 299 of an assembly in any public location in the entire city of Gomel, with the exception of a single remote area, **unduly limits the right of assembly and the freedom of expression** in the same context'; Communication No 2093/2011, Misnikov v Belarus, Views adopted 14 July 2016, para 9.3: 'limiting pickets to certain predetermined locations as well as requesting the organizer of a one-person picket to conclude service contracts with a number of government agencies in order to hold the picket **do not appear to meet the standards of necessity and proportionality** under article 19 of the Covenant'; Communication No 2082/2011, Levinov v Belarus, Views adopted 14 July 2016, CCPR/C/117/D/2082/2011, para 8.3.

206 For example, Communication No. 1772/2008, Belyazeka v Belarus, Views adopted 23 March 2012, para 11.6; Communication No. 2029/2011, Praded v. Belarus, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011, para. 7.8. '[W]hile ensuring the security and safety of the embassy of the foreign State may be regarded as a legitimate purpose for restricting the right to peaceful assembly, the State party must justify why the apprehension of the author and imposition on him of an administrative fine were necessary and proportionate to that purpose.' The Committee has come to similar views in, amongst others, Communication No 1604/2007, Zalesskaya v. Belarus, Views adopted 28 April 2011, CCPR/C/101/D/1604/2007, para. 10.6; Communication No 1808/2008, Kovalenko v. Belarus, Views adopted 17 July 2013, CCPR/C/108/D/1808/2008, para. 8.8; Communication No 1839/2008, Komarovskiy v. Belarus, Views adopted 4 February 2014, CCPR/C/109/D/1839/2008, para. 9.4; Communication No. 1976/2010, Kuznetsov et al. v. Belarus, Views adopted 24 July 2014, CCPR/C/111/D/1976/2010, para. 9.8; Communication No. 1929/2010, Lozenko v. Belarus, Views adopted 21 November 2014, CCPR/C/112/D/1929/2010, para. 7.7.

207 Communication No 2158/2012, Sviridov v Kazakhstan, Views adopted 13 July 2017, CCPR/C/12D/2158/2012, para 10.4.

208 Communication No 1604/2007, Zalesskaya v Belarus, Views adopted 28 March 2011, CCPR/C/101/D/1604/2007.

209 Both that the Law 'On Mass Events' 'is ambiguous and lacks clarity' (by leaving the term 'mass event' undefined – para 5.4) and that the requirements of the city by-law (which designated specific locations for assemblies, and imposed compulsory payments for policing, cleaning-up and medical support services – para 7.2) is contrary to article 19. Similarly, Communication No 2139/2012, Poplavny and Sudalenko v Belarus, Views adopted 3 November 2016, CCPR/C/118/D/2139/2012, para 3.4 ('the national Public Events Act contains vague and ambiguous provisions. For example, article 6 ... gives the heads of local executive committees the discretionary right to designate specific permanent areas for the organization of peaceful assemblies, without justification.').

210 In Zalesskaya, *ibid.*, para 10.4, the Committee states that 'the legal issue before it is not the question whether the author's actions ought or ought not to be qualified as an unauthorized mass event in the sense of the Belarus laws', noting in conclusion (para 13) that 'pursuant to article 2 of the Covenant, 'the State party has undertaken to prove an effective and enforceable remedy' where violations are established.

211 Communication No. 1808/2008, Kovalenko v Belarus, Views adopted 17 July 2013, CCPR/C/108/D1808/2008.

212 Kovalenko, *ibid.*, para 8.3.

213 Kovalenko, *ibid.*, para 8.6 (emphasis added).

214 Communication No 2318/2013, Nepomnyashchiy v Russian Federation, Views adopted 17 July 2018, CCPR/C/123/D/2318/2013, para 7.7.

215 *Ibid.*

216 For example, [Belarus](#), CCPR/C/BLR/CO/5, 22 November 2018, para 52 ('...The Committee regrets that the restrictions imposed on assemblies and gatherings are being used to deny the political opposition the ability to meaningfully participate in public life and to influence public opinion'); [Democratic Republic of Congo](#), CCPR/C/COD/CO/4, 30 November 2017, paras 41-42 ('Of particular concern are allegations that authorization is systematically denied for demonstrations in support of the political opposition, but granted for demonstrations in support of the Government ...'); [Honduras](#), CCPR/C/HND/CO/2, 22 August 2017, para 40 ('... concerned by the conviction on 7 June 2017 of three students of the National Autonomous University of Honduras and by the criticism that members of the Government, among others, levelled at the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Office of the National Commissioner for Human Rights in relation to their work promoting respect for the right to peaceful protest.'). [Chad](#), 'List of issues prior to submission of the third periodic report of Chad', CCPR/C/TCD/QPR/3, 4 September 2017, para 22 ('Please comment on reports that peaceful demonstrations that would be critical of the Government have been systematically prohibited ...'); [Russian Federation](#), CCPR/C/RUS/CO/7, 28 April 2015, para 21 ('concern about ... imposition of harsh fines and prison sentences for the expression of political views'); [Côte d'Ivoire](#), CCPR/C/CIV/CO/1, 28 April 2015, para 21 ('concerned about reports of assaults on freedom of association and assembly involving prohibitions on demonstrations in the State party by certain opposition political parties and certain non-governmental organizations ... The State party should also remove any unnecessary restrictions on freedom of assem-

bly, particularly on the freedom of political parties and non-governmental organizations to demonstrate.’); [France](#), CCPR/C/FRA/Q/5, ‘List of Issues in relation to the Fifth Periodic Report of France’, 18 August 2014, para 29 (pre-emptive prohibition of pro-Palestinian demonstrations in July 2014); [Bosnia and Herzegovina](#), CCPR/C/BIH/CO/2, 13 November 2012, para 19 (‘... concerned at reports that public announcements were made that ... the use of the term “genocide” when referring to the crimes committee in Omarska would be prosecuted’); [Iran](#) CCPR/C/IRN/CO/3, 29 November 2011, para 26 (‘the right to freedom of assembly and association is severely limited, and notes that the holding of public gatherings and marches as well as the establishment of associations are conditional upon compliance with “principles of Islam”, which are not defined under national legislation’ and ‘... human rights defenders and defence lawyers often serve prison sentences based on vaguely formulated crimes such as mohareb or the spreading of propaganda against the establishment.’); [Indonesia](#), ‘List of issues in relation to the initial report of Indonesia’, CCPR/C/IDN/Q/1, 29 April 2013, para 27 (‘reports that the Ahmadiyya religious group has not been allowed to hold national conferences since 2008 when the Bali police refused to issue them a permit and that some local governments in the State party continue to restrict their right to assembly.’); [Iceland](#) CCPR/C/83/L/ISL, ‘List of Issues on the Fourth Periodic Report of Iceland’, 2 December 2004, para 13 ‘measures taken to prevent a Falun Gong demonstration during a visit by a foreign head of State’; [Belarus](#), CCPR/C/79/Add.86, 19 November 1997, para 18 (‘Decree No. 5 of 5 March 1997 imposes strict limits on the organization and preparation of demonstrations, lays down rules to be observed by demonstrators, and bans the use of posters, banners or flags that “insult the honour and dignity of officials of State organs” or which “are aimed at damaging the State and public order and the rights and legal interests of citizens”. These restrictions cannot be regarded as necessary in a democratic society to protect the values mentioned in article 21 of the Covenant.’); [Morocco](#), CCPR/C/79/Add.44, 23 November 1994, para 15 (‘The Committee expresses concern about the extent of the limitations to the freedom of expression, assembly and association under the Dahir of 1973 and especially limitations on the right to criticise the Government.’); [Iran](#) CCPR/C/79/Add.25, 3 August 1993, para 15 (‘contrary to the provisions of articles 18 and 19 of the Covenant, members of certain political parties who did not agree with what the authorities believe to be Islamic thinking or who expressed opinions in opposition to official positions have been discriminated against. Self-censorship also seems to be widespread in the media and severe limitations appear to have been placed upon the exercise of freedom of assembly and of association.’); [Central African Republic](#), Report of the Human Rights Committee, GA 43<sup>rd</sup> Session, Supplement No. 40 (A/43/40), 1988, para 289 (‘the Committee wished to receive additional information concerning the actual implementation of the regulation prohibiting meetings of a political character outside the party ...’). See also, Communication No 1932/2010, Fedotova v Russian Federation, Views adopted 31 October 2012, CCPR/C/106/D/1932/2010 (violation of article 19(2) read in conjunction with article 26 where author was convicted of ‘propaganda of homosexuality among minors’ – see further, ‘non-discrimination’ infra); Communication No 1903/2009, Youbko v Belarus, Views adopted 17 March 2014, CCPR/C/110/D/1903/2009, para 9.6.

217 Communication No. 1022/2001, Velichkin v Belarus, Views adopted 20 October 2005, CCPR/C/85/D/1022/2001 (2005), Individual opinion by Committee Member Ms. Ruth Wedgwood.

218 Communication No. 1873/2009, Alekseev v. Russian Federation, Views adopted 25 October 2013, para 9.6; Communication No. 1864/2009, Kirsanov v Belarus, Views adopted 20 March 2014, CCPR/C/110/D/1864/2009, para 9.7;

219 For examples, see n.111 above.

220 Eg., Communications Nos. 2108/2011 and 2109/2011, [Basarevsky and Rybchenko v Belarus](#), Views adopted 14 July 2016, CCPR/C/117/D/2108/2011 – CCPR/C/117/D/2109/2011 at para 9.5;

221 [Republic of Korea](#), CCPR/C/79/Add.114, 1 November 1999, para 18 (‘The prohibition of all assemblies on major roads in the capital would appear to be overbroad’); [Republic of Korea](#), ‘List of issues in relation to the fourth periodic report of the Republic of Korea’, CCPR/C/KOR/Q/4, 28 April 2015, para 26 (‘(b) the use of the General Obstruction of Traffic provision and of article 314 of the Criminal Code on obstruction of business, against demonstrators’). See also, Communication No 1987/2010, Stambrovsky v Belarus, Views adopted 24 October 2014, CCPR/C/112/D/1987/2010, para 3 (author claimed that authorities had ‘invented’ grounds of hindering traffic in relation to proposed one-person picket in a pedestrian area), noting at para 7.6 that the national authorities must explain how the particular demonstration would hinder traffic and/or movement of pedestrians.

222 [Burundi](#), CCPR/C/BDI/CO/2, 21 November 2014, para 20 (‘new law on public demonstrations, whose general wording, and specifically use of the term “public order”, could serve as the basis for an arbitrary interpretation that could give rise to a prohibition on demonstrations’); [Hong Kong \(China\)](#), CCPR/C/CHN-HKG/CO/3, 29 April 2013, para 10 (‘concerned about the application in practice of certain terms contained in the Public Order Ordinance, inter alia, “disorder in public places” ...’);

223 Communication No. 953/2000, Zündel v Canada, Decision adopted 27 July 2003, CCPR/C/78/D/953/2000, para 3.1;

224 Communication No. 1903/2009, Youbko v Belarus, Views adopted 17 March 2014, CCPR/C/110/D/1903/2009, paras 2.2, 9.2 and 9.6.

225 Communication No. 1790/2008, Govsha, Syritsa and Mezyak v. Belarus, Views adopted 27 July 2012, paras 2.2 and 3.4(b) (and at para 9.4, the Committee concludes the State party had failed to demonstrate why the restrictions were necessary for one of the legitimate purposes of article 19(3) and the second sentence of article 21).

226 Communication No. 1864/2009, Kirsanov v Belarus, Views adopted 20 March 2014, CCPR/C/110/D/1864/2009

227 Communication Nos 2108/2011-2109/2011, Basarevsky and Rybchenko v Belarus, Views adopted 14 July 2016, CCPR/

C/117/D/2108/2011-CCPR/C/117/D/2109/2011, para 9.4.

228 Communication No 921/2000, Dergachev v Belarus, views adopted 2 April 2001, CCPR/C/74/D/921/2000 (author carried a poster during a picket he had organised, urging people to join the struggle led by the Belarus People's Front; prosecuted on the basis that the poster amounted to a call for insubordination).

229 Communication No 1172/2003, Abbassi v Algeria, Views adopted 28 March 2007, CCPR/C/89/D/1172/2003, paras 3.2 and 8.8; Communication No 1173/2003, Benhadj v Algeria, Views adopted 20 July 2007, CCPR/C/90/D/1173/2003, paras 3.2 and 8.10;

230 'The Committee observes that, while ensuring the security and safety of the embassy of a foreign State may be regarded as a legitimate purpose for restricting the right to peaceful assembly, the State party must justify [the proportionality of any interference with the exercise of the article 21 right].' See, Communication No. 2029/2011, Praded v. Belarus, Views adopted 10 October 2014, CCPR/C/112/D/2029/2011, para 7.8; Communication No 2092/2011, Androsenko v Belarus, Views adopted 30 March 2016, para 7.6.

231 Communication, No. 1014/2001, Omar Sharif Baban v Australia, Views adopted 6 August 2003, CCPR/C/78/D/1014/2001, para 6.7.

232 Communication No 1932/2010, Fedotova v Russian Federation, Views adopted 31 October 2012, CCPR/C/106/D/1932/2010 para 10.6 (noting also the legal opinion relied upon by the author and prepared by the International Commission of Jurists – paras 5.8 – 5.9); Communication No 2318/2013, Nepomnyashchiy v Russian Federation, Views adopted 17 July 2018, CCPR/C/123/D/2318/2013, paras 7.7-7.8. The Committee, however, considered that such a restriction was not based on reasonable and objective criteria, and lacked any justification. Indeed, in *Nepomnyashchiy v Russian Federation* (2018), the Committee noted that the restriction on the author was not limited to sexually explicit obscenities, but constituted a blanket restriction on legitimate expressions of sexual orientation. See. Communication No 2318/2013, *Nepomnyashchiy v Russian Federation*, Views adopted 17 July 2018, CCPR/C/123/D/2318/2013, paras 7.8, recalling General Comment 34, para 32 (itself citing General Comment 22 (1993) on the right to freedom of thought, conscience and religion): “the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations ... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.” Any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination.’

233 Communication No 1984/2010, Pugach v Belarus, Views adopted 15 July 2015, paras 2.2, 3.2 and 7.8: ‘the authorities have not explained how, in practice, a picket held in a pedestrian zone ... would hinder the work of said enterprise as well as the movement of traffic’.

234 Communication No 2441/2014, Zhagiparov v Kazakhstan, Views adopted 25 October 2018.

235 [Bahrain](#), CCPR/C/BHR/CO/1, 15 November 2018, para 55 (‘the Committee notes with concern that participating in public gatherings without government authorization is a crime punishable by a fine and/or imprisonment.’); [Algeria](#), CCPR/C/DZA/Q/4, 11 December 2017 (List of Issues in relation to the fourth periodic report of Algeria), para 24 (‘Please provide information on the number of complaints registered, investigations, prosecutions, convictions and acquittals for the period under review, penalties handed down for “unlawful assembly”, and the types of persons who were convicted.’); [Switzerland](#) CCPR/C/CHE/CO/4, 22 August 2017, paras 48-49 (concern expressed about ‘... the excessive amount of the fines that may be imposed — up to 100,000 Swiss francs – notably for organizing an unauthorized demonstration; The State party should re-examine its legislation with a view to ensuring that all individuals fully enjoy their right to freedom of assembly, including the right of spontaneous assembly’); [Hong Kong \(China\)](#), CCPR/C/CHN-HKG/CO/3, 29 April 2013, para 10 (‘(a) the application in practice of certain terms contained in the Public Order Ordinance, inter alia ... “unlawful assembly” which may facilitate excessive restriction to the Covenant rights, (b) the increasing number of arrests of, and prosecutions against, demonstrators.’); [Burkina Faso](#), CCPR/C/BFA/CO/1, 17 October 2016, para 37 (‘concern that punishment of acts of vandalism committed during demonstrations on the public highway, is not in conformity with the Covenant, and notably with the principle of the presumption of innocence and individual criminal responsibility, as it allows for every member of a group to be held criminally responsible, regardless of whether the perpetrator of the offence has been identified or not.’); [Canada](#), CCPR/C/CAN/CO/5, 20 April 2006, para 20 (‘The Committee is concerned about information that the police, in particular in Montreal, have resorted to large-scale arrests of demonstrators. It notes the State party’s responses that none of the arrests in Montreal have been arbitrary since they were conducted on a legal basis. The Committee, however, recalls that arbitrary detention can also occur when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by the Covenant, in particular under articles 19 and 21 (arts. 9, 19, 21 and 26). The State party should ensure that the right of persons to peacefully participate in social protests is respected, and ensure that only those committing criminal offences during demonstrations are arrested. The Committee also ... wishes to receive more details about the practical implementation of article 63 of the Criminal Code relating to unlawful assembly.’); UPR Azerbaijan, 2013: ‘Higher penalties for organizers and participants in “unauthorized” gatherings’; Note the judgment of the South African Constitutional Court in [Mlungwana and Others v S and Another](#) (with Equal Education, Right2Know Campaign and the [UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association](#) as Amici Curiae) [2018] ZACC 45 19 November 2018 (s.12(1)(a) Regulation of Gatherings Act 1993 invalidated an unjustifiable limitation of the right in section 17 of the Constitution to the extent that it makes the failure – wittingly or unwittingly – to give notice or the giving of inadequate notice by any person who convened a gathering a criminal offence).



236 UPR Azerbaijan, 2013: ‘Higher penalties for organizers and participants in “unauthorized” gatherings’;

237 For example, [Belarus](#), CCPR/C/BLR/CO/5, 22 November 2018, para 51 (‘(c) The disproportionate enforcement of criminal and administrative sanctions against persons organizing, calling for or participating in mass events ...’); [El Salvador](#) CCPR/C/SLV/CO/7, 9 May 2018, para 37 (‘The Committee is also concerned about the implementation of articles 345 and 348 of the Criminal Code, which respectively concern “illegal groups, associations and organizations” and the crime of “public disorder”, and article 331 of the Code of Criminal Procedure, which prohibits the application of alternatives to provisional detention for the offence of public disorder, since that prohibition could lead to restrictions on the right to peaceful assembly and freedom of association’); [Algeria](#), CCPR/C/DZA/CO/4, 17 August 2018, para. 45 (‘criminal sanctions for any public assembly not meeting these [authorization] conditions, such events being classified in the Criminal Code as unarmed gatherings’); [Honduras](#), CCPR/C/HND/CO/2, 22 August 2017, para 40 (‘concerned about the excessive recourse to provisions on defamation and other criminal offences against persons exercising their rights to freedom of expression, freedom of assembly and freedom of association and about the continued stigmatization of such persons by government officials.’); [Azerbaijan](#), CCPR/C/AZE/CO/4, 16 November 2016, para 38 (‘concerned about ... the imposition of administrative and criminal penalties against persons participating in planned or spontaneous peaceful protests’); [Moldova](#) CCPR/C/MDA/CO/3, 18 November 2016, para 33 (‘While noting the high number of assemblies that are organized in the State party, the Committee expresses concern about: ... (b) the nature of cases that have led to the prosecution of organizers of assemblies, which may create a chilling effect on the enjoyment of the right to freedom of assembly ...’); [Ecuador](#) CCPR/C/ECU/CO/6, 11 August 2016, para 27, ‘concerned about allegations that criminal proceedings have been instituted ... [e.g. sabotage and terrorism] against persons who participated in social protests and other public demonstrations’; [Republic of Korea](#), CCPR/C/KOR/CO/4, 3 December 2015, para 52 (‘concerned ... about the frequent application of criminal law to impose fines on and arrest journalists and human rights defenders for either organizing or participating in protests ...’); [Kazakhstan](#) CCPR/C/KAZ/CO/2, 9 August 2016, paras 51-52 (‘The Committee ... is also concerned about the imposition of administrative and criminal penalties for such offences as providing “assistance” to “illegal” assemblies, and the imposition of harsher penalties against “leaders” of associations as a new, separate category of offender under the Criminal Code (arts. 19 and 21). 52. The State party should ... revise all relevant regulations, policies and practices with a view to ensuring that any restrictions on freedom of assembly, including through the application of administrative and criminal sanctions against individuals exercising that right, comply with the strict requirements of article 21’); [Russian Federation](#), CCPR/C/RUS/CO/7, 28 April 2015, para 21 (‘The Committee expresses concern about ... imposition of harsh fines and prison sentences for the expression of political views. ... The Committee is further concerned about the strong deterrent effect on the right to peaceful assembly of the new restrictions introduced in the amended federal law No. 65FZ (Assemblies Act) of 8 June 2012, which imposes high administrative sanctions on organizers of assemblies who were previously convicted of similar administrative offences. Similarly, it is concerned about the additional set of restrictions introduced in July 2014, further increasing the fines for violating rules on holding public events, introducing administrative custodial sentences for participation in an unauthorized public gathering and making repeated violations a criminal offence punishable by up to five years’ imprisonment or a fine of up to 1 million roubles (arts. 7, 9, 10, 14, 19 and 21). The State party should take all the measures necessary to ensure that individuals fully enjoy their rights under article 21 of the Covenant in practice, inter alia by: ... (c) Revising those laws, regulations and practices affecting the exercise of the right to peaceful assembly, including those imposing heavy sanctions on individuals exercising such right, with a view to bringing them in line with the Covenant.’); [Spain](#), CCPR/C/ESP/CO/6, 14 August 2015, para 25 (‘The Committee is concerned about the deterrent effect that the recent adoption of the Public Security Act and subsequent amendments to the Criminal Code might have on freedom of expression, association and peaceful assembly. In particular, the Committee is concerned about the excessive use under the Act of civil penalties that preclude the application of certain judicial guarantees set out in the Covenant ...’); 238 For example, Communication No. 1782/2008, Tahar Mohamed Aboufaiad v Libya, Views adopted 21 March 2012, para. 2.10 (‘planning to overthrow the Government’). See further: [Spain](#), CCPR/C/ESP/CO/6, 14 August 2015, para 25 (‘The Committee is concerned about the deterrent effect that the recent adoption of the Public Security Act and subsequent amendments to the Criminal Code might have on freedom of expression, association and peaceful assembly. In particular, the Committee is concerned about ... the use of vague and ambiguous terms in some provisions, which could give rise to wide variations in the implementation of the Act ...’); [Russian Federation](#) ‘Replies of the Russian Federation to the list of issues’ CCPR/C/RUS/Q/7/Add.1, 18 December 2014, para 162; [Russian Federation](#), CCPR/C/RUS/CO/7, 28 April 2015, para 21 (‘The Committee expresses concern about consistent reports of arbitrary restrictions on the exercise of freedom of peaceful assembly ...’); [China \(Macao\)](#), CCPR/C/CHN-MAC/CO/1, 29 April 2013, para 16 (‘Regarding the right to freedom of assembly, the Committee is concerned, in particular, at reports of application of the section of the Penal Code establishing the offences of “inciting, in a public gathering or by any means of communication, collective disobedience of public order or law, with an intention to destroy, alter or overturn the established political, economic or social system”, and of spreading “false or demagogic information that may frighten or unsettle the residents” against those exercising their right to freedom of assembly and freedom of expression.’); [Peru](#), CCPR/C/PER/CO/5, 29 April 2013, para 17 (‘the broad definition of “hostile group” provided for in Legislative Decrees No. 1094 and No. 1095, which could be potentially interpreted so as to include individuals taking part in demonstrations or social movements ... The Committee recommends that the State party review Legislative Decrees No. 1094 and No. 1095 so as to bring them in to line with its human rights obligations as contained in the Covenant ...’); [Iran](#) CCPR/C/IRN/CO/3, 29 November 2011, para 26 (‘... notes with concern that human rights defenders and defence lawyers often serve prison sentences based on vaguely formulated crimes such as mohareb or the spreading of propaganda against

the establishment.’)

239 See, for example, [Bulgaria](#), CCPR/C/BGR/CO/4, 15 November 2018, paras 33-34 (‘Counter-terrorism measures and surveillance activities ... The Committee also notes ... the prosecution of peaceful protesters and political opponents. ... The State party should, in particular, (a) Define the acts that constitute terrorism in a precise and narrow manner, so that they comply with the principles of legal certainty and predictability and cannot be used to prosecute peaceful protesters or political opponents ...’); [Algeria](#), CCPR/C/DZA/CO/4, 17 August 2018, para 17 (‘While the Committee acknowledges the exigencies involved in combating terrorism, it reiterates its concern with regard to article 87 bis of the Criminal Code as that article defines the crime of terrorism in overly broad and vague terms that would allow for the prosecution of actions that might constitute exercise of the freedom of expression or peaceful assembly. It is concerned as well by claims of inappropriate use of counter-terrorism measures against human rights defenders and journalists.’); [Bahrain](#), CCPR/C/BHR/CO/1, 15 November 2018, para 29 (‘the Act on the Protection of Society from Acts of Terrorism (Act No. 58 of 2006) includes an overly broad definition of terrorism that provides too much room for interpretation and may result in violations of the right to freedom of expression, association and assembly.’); [Guatemala](#), CCPR/C/GTM/CO/4, 7 May 2018, para 36 (‘The Committee is further concerned about draft legislation relating to terrorist acts, public order and non-governmental organizations that would restrict freedom of expression, assembly and association by defining criminal conduct in vague terms, among other reasons (arts. 6, 7, 19, 21 and 22).’); [Jordan](#), CCPR/C/JOR/CO/5, 4 December 2017, paras 32-33 (‘participants and organizers have been detained under the Act on crime prevention and the Act on prevention of terrorism ... The State party should guarantee the right to peaceful assembly, in conformity with article 21 of the Covenant and international standards. The State party should not use security laws and measures to intimidate members of civil society who exercise this right’); [Swaziland](#), CCPR/C/SWZ/CO/1, 23 August 2017, paras 36-37 (‘The Committee is concerned at reports that counter-terrorism laws have been used to counter political opposition and social protests instead of addressing legitimate terrorism threats. It is also concerned that the definition of a terrorist act in the Suppression of Terrorism Act is overbroad and that neither that law nor the Sedition and Subversive Activities Act provide access to effective legal remedies and procedural safeguards (arts. 9, 14, 19 and 21). 37. The State party should ensure that its counter-terrorism legislation and practices are in full conformity with the Covenant, including the principles of freedom of expression and non-discrimination. In particular, the State party should ensure that acts of terrorism are defined in accordance with international standards, including restricting the definition to cases involving acts of violence, and that effective remedies and procedural safeguards are in place against improper application of counter-terrorism laws.’); [Turkmenistan](#), CCPR/C/TKM/CO/2, 20 April 2017, paras 14-15 (‘14. The Committee is concerned about the excessively broad definition of extremism under the State party’s legislation, which leads to arbitrary and disproportionate restrictions of the rights in the Covenant in practice (arts. 2, 9, 18, 19, 21 and 25). 15. The State party should bring its counter-extremism legislation and practices into full compliance with its obligations under the Covenant by, inter alia, narrowing the broad range of activities considered extremist and ensuring their conformity with the principles of legal certainty, predictability and proportionality, and by ensuring that the definition of extremism contains an element of violence or advocacy of hatred.’); [Poland](#) CCPR/C/POL/CO/7, 23 November 2016, para 9 (‘The Committee is also concerned that the counter-terrorism law of June 2016 and its regulation of July 2016 provide a definition of “terrorist incidents” that is broad and imprecise (arts. 14, 17 and 21).’); [Ecuador](#) CCPR/C/ECU/CO/6, 11 August 2016, para 27 (‘The Committee is further concerned about allegations that criminal proceedings have been instituted on the basis of broadly worded offences contained in the old Criminal Code, such as sabotage and terrorism, against persons who participated in social protests and other public demonstrations’); [France](#), CCPR/C/FRA/CO/5, 17 August 2015, para 10 (‘concerned about: (a) the procedural implications of including the offences of provocation and vindication of terrorism in the Criminal Code, in particular the possibility of trying suspects in immediate hearings; (b) the introduction of bans on leaving the country and of the offence of “individual terrorist undertaking”, along with the use of vague and inaccurate terms criminalizing and defining actions constituting acts of terrorism, provocation and vindication of terrorism; (c) the number and types of acts that have led to prosecution, in particular of minors, for vindicating terrorism in the wake of the attacks committed in Paris in January 2015, and which are often adjudicated in immediate hearings ... The State Party should ensure that the provisions of Act No. 2014-1353, which strengthens anti-terrorism provisions, observe the principles of the presumption of innocence and of legality, and are consequently clearly and precisely set out’); [United Kingdom](#), ‘List of issues in relation to the seventh periodic report of the United Kingdom ...’, CCPR/C/GBR/Q/7, 20 November 2014, para 29 (‘Please clarify whether and how the United Kingdom plans: ... (c) to amend the broad definition of “domestic extremism” and implement the recommendations of the report of Her Majesty’s Inspectorate of Constabulary, entitled “A review of national police units which provide intelligence on criminality associated with protest”’) and [United Kingdom](#), August 2015, para 14 (albeit with no reference to protest or assembly, ‘The Committee is concerned that the State party has maintained the broadly formulated definition of terrorism in section 1 of the Terrorism Act 2000 that can include a politically motivated action which is designed to influence a government or international organization, despite the concern raised by the two Independent Reviewers of Terrorism Legislation and endorsed unanimously by the Supreme Court in R v. Gul (2013) that the definition is “unduly restrictive of political expression” ... Furthermore, the Committee is concerned about the potential misuse of arrest powers under section 41 of the Terrorism Act 2000 (arrest without warrant of a person reasonably suspected to be a terrorist), in light of the low charge rate of those arrested under section 41. ... The State party should ... (a) Consider revising the broad definition of terrorism to require intent to coerce, compel or intimidate a government or section of the public, and implementing the recommendations of the Independent Reviewers of Terrorism Legislation’ ... (d) Undertake a review of the exercise of arrest powers under section 41 of the Terrorism Act 2000 to ensure that the principles of necessity and proportionality are strictly observed when using such

powers; ensure that any detention of suspects arrested under the Terrorism Act 2000 is based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, rather than on the nature of the crime’); [Venezuela](#), CCPR/C/VEN/Q/4, 20 November 2014 para 23 (‘Please provide information ... on the restrictions imposed under the National Security Act on persons taking part in peaceful demonstrations. Please also describe the steps taken to ensure that the Organized Crime and Financing of Terrorism Act of 2012 is implemented without infringing freedom of association, expression and peaceful assembly.’); [Russian Federation](#), ‘List of issues in relation to the seventh periodic report of the Russian Federation’, CCPR/C/RUS/Q/7\*, 19 August 2014, para 23 (‘Please indicate how the following legislative developments are compatible with the State party’s obligations under article 19 ...: (d) the federal law No. 398-FZ authorizing prosecutors to issue emergency orders without a court decision to block any website containing, inter alia, calls to participate in “public events held in violation of the established order” or “extremist” or “terrorist” activities’); [Hong Kong \(China\)](#), CCPR/C/CHN-HKG/CO/3, 29 April 2013, para 14 (and similarly, 2006) ‘concerned at the broad wording of the definition of the offences of treason and sedition currently in Hong Kong China’s Crimes Ordinance’; [Turkey](#) CCPR/C/TUR/CO/1, 13 November 2012, para 16 (‘The Committee is particularly concerned at (a) the vagueness of the definition of a terrorist act; (b) the far-reaching restrictions imposed on the right to due process; (c) the high number of cases in which human rights defenders, lawyers, journalists and even children are charged under the Anti-Terrorism Law for the free expression of their opinions and ideas, in particular in the context of non-violent discussions of the Kurdish issue (arts. 2, 14 and 19). The State party should ensure that its counter-terrorism legislation and practices are in full conformity with the Covenant. The State party should address the vagueness of the definition of a terrorist act in the 1991 Anti-Terrorism Law to ensure that its application is limited to offences that are indisputably terrorist offences.’); [USA](#) CCPR/C/USA/CO/3/Rev.1, 18 December 2006, para 11 (‘The State party should ensure that its counter-terrorism measures are in full conformity with the Covenant and in particular that the legislation adopted in this context is limited to crimes that would justify being assimilated to terrorism, and the grave consequences associated with it’); [Canada](#), CCPR/C/CAN/CO/5, 20 April 2006, para 12 (‘The Committee, while noting the existence of a social protest protection clause, expresses concern about the wide definition of terrorism under the Anti-Terrorism Act. The State party should adopt a more precise definition of terrorist offences, so as to ensure that individuals will not be targeted on political, religious or ideological grounds, in connection with measures of prevention, investigation or detention.’); [Iceland](#) CCPR/CO/83/ISL, 25 April 2005, para 10 (‘Act 99/2002 amending the General Penal Code sets out a vague and broad definition of terrorism (art. 100 (a)), which might encompass and consequently jeopardize legitimate activity in a democratic society, in particular participation in public demonstrations’).

240 Communication No. 574/1994, Keun-Tae Kim v Republic of Korea, Views adopted 3 November 1998, CCPR/C/64/D/574/1994, para 12.3.

241 Ibid., para 12.5.

242 [Algeria](#), CCPR/C/DZA/Q/4, 11 December 2017 (List of Issues in relation to the fourth periodic report of Algeria), para 24 (‘Please clarify the legal basis and the reasons for the continuing ban on demonstrations in Algiers and Oran, the lifting of the state of emergency notwithstanding’); [Algeria](#) CCPR/C/DZA/CO/3, 12 December 2007, para 14; [Peru](#) CCPR/C/PER/CO/5, 29 April 2013, para 15: ‘The Committee notes with concern the frequency with which the State party has declared states of emergency and derogated from the rights enshrined in the Covenant, **even in relation to social protests**, although derogations should occur only in truly exceptional situations. The Committee also notes with concern the allegations of serious human rights violations during the states of emergency, such as arbitrary detentions, killings and torture. In this connection, it regrets the lack of concrete information from the State party on the specific measures taken pursuant to such derogations (arts. 4, 6, 7 and 9); Derogations of note include: Algeria (June 1991, elections); Armenia (March 2008); Azerbaijan (coup d’état/overthrow of constitutional order October 1994 and April 1995); Bahrain (‘state of national **safety**’, 15 March -1 June 2011); Bolivia (due to hyper-inflation and social unrest including occupation of state facilities, October 1985 and 1995: ‘assemblies of people ... have arrogated to themselves the sovereignty of the people’); Colombia (Cartels, ‘Guerrilla organizations’, terrorist activities); Ecuador (economic conditions, 2000 and 2005); El Salvador (1984, permission granted to political parties to campaign); Georgia (March 2006 – H5N1, bird flu; November 2007 – attempted coup d’état and massive disobedience in Tbilisi); [Chad](#) CCPR/C/TCD/CO/1, 11 August 2009, para 29 (states of emergency allegedly being used to control and censor the free press);

243 [Netherlands](#), ‘List of issues prior to submission of the fifth periodic report of the Netherlands’ CCPR/C/NLD/QPR/5, 3 May 2017, para 29 (‘Please respond to ... reports of interference with peaceful demonstrations, such as abuse of emergency orders ...’)

244 [Chad](#), ‘List of Issues ... in connection with ... the initial report of Chad’, CCPR/C/TCD/Q/1, 26 November 2008, para 6 (‘Please clarify which of the rights set out in the Covenant are restricted during states of emergency (para. 120) and indicate whether effective remedies are available, in law and in practice, to persons affected by emergency measures’); [Rwanda](#), ‘List of Issues ... in connection with the ... third periodic report of Rwanda’, CCPR/C/RWA/Q/3/Rev.1, 27 November 2008, para 10 (‘Please specify which rights in the Covenant are limited by a state of siege or state of emergency (report, para. 182). Please also indicate whether individuals can avail themselves of effective remedies during a state of siege or emergency’);

245 A/72/43280, Report of the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin (27 September 2017) [https://www.ohchr.org/Documents/Issues/Terrorism/A\\_72\\_43280\\_EN.pdf](https://www.ohchr.org/Documents/Issues/Terrorism/A_72_43280_EN.pdf)



246 'Fracking protesters walk free after court quashes 'excessive' sentences', The Guardian, 17 October 2018. Available at: <https://www.theguardian.com/environment/2018/oct/17/court-quashes-excessive-sentences-of-fracking-protesters>

247 [Kuwait](#), CCPR/C/KWT/CO/3, 11 August 2016, para 49 ('The State party should amend Law No. 15 (1959) on nationality to ensure that the peaceful exercise of the rights to freedom of opinion and expression and of association and assembly can never be used as a ground for revoking citizenship');

248 [Dominican Republic](#), CCPR/C/DOM/CO/6, 27 November 2017, para 31.

249 [Iran](#), CCPR/C/IRN/Q/3, 'List of issues ... third periodic report of the Islamic Republic of Iran', 17 May 2011, para 27 ('Please clarify why in the two and a half years prior to the 2009 presidential elections, some 200 students were detained and at least 160 students were suspended or were expelled from universities. Please report on the number of students that have been arrested and detained during and after the 2009 presidential elections.')

250 [Thailand](#), CCPR/C/THA/CO/2, 25 April 2017, para 25 'The Committee ... is further concerned that upon release, detainees were reportedly compelled to sign a written agreement not to travel abroad and refrain from expressing political views, and that failure to comply involved the risk of up to two years of imprisonment'; [Jordan](#), CCPR/C/JOR/CO/5, 4 December 2017, para 32 ('concerned ... that participants and organizers have been detained under the Act on crime prevention and the Act on prevention of terrorism and that many have been forced to sign pledges not to engage in demonstrations'); [Cambodia](#) 'List of issues in relation to the second periodic report of Cambodia', CCPR/C/KHM/Q/2, 19 August 2014, para 20 ('Please also comment on reports that indicate that there is a practice of detaining peaceful demonstrators until they sign or thumbprint a document agreeing to refrain from participating in future demonstrations.') and [Cambodia](#), CCPR/C/KHM/CO/2, 27 April 2015, para 22 ('The Committee is concerned about the increasing number of reports of arbitrary arrest of demonstrators and the practice of requiring them to thumbprint documents pledging to refrain from future demonstrations (art. 21). The State party should ensure that the Law on Peaceful Demonstrations is implemented in conformity with the Covenant. It should also ensure that the exercise of the right to peaceful assembly is not subject to restrictions other than the ones permissible under the Covenant.');

251 Communication No 1157/2003, *Coleman v Australia*, Views adopted 17 July 2006, CCPR/C/87D/1157/2003, para 7.3.

252 Communication No. 2175/2012, *Kim v Uzbekistan*, Views adopted 4 April 2018, CCPR/C/122/D/2175/2012, para 13.8.

253 Communication No. 1989/2010, *E.V. v Belarus*, Views adopted 30 October 2014, CCPR/C/112/D/1989/2010, para 6.5 (though the author's complaints under articles 10 and 14 ultimately inadmissible for lack of substantiation).

254 Communication No 2147/2012, *Melnikov v Belarus*, Views adopted 14 July 2017, para 8.8.

255 See generally: [Russian Federation](#), 'List of issues in relation to the seventh periodic report of the Russian Federation', CCPR/C/RUS/Q/7\*, 19 August 2014, para 26 (a) ('Please (a) Comment on consistent reports of arbitrary restrictions on the exercise of freedom of peaceful assembly in law and in practice, including violent dispersal of protesters by law enforcement officers, often employing excessive use of force, arrests, detentions, and imposition of harsh fines and prison terms for expressing one's political views, including during: (i) The demonstration organized by the opposition on Bolotnaya Square in Moscow on 6 May 2012; (ii) The post-Sochi protests from 21 February to 4 March 2014 against the approval of military intervention in Ukraine and the purported annexation of Crimea, as well as the peaceful demonstration in Moscow and Saint Petersburg on 21 and 24 February 2014 in support of eight persons convicted on charges related to the Bolotnaya Square protests in May 2012; (b) Provide information on measures taken to remedy such violations and address the issues highlighted by the former ombudsman Vladimir Lukin in his statement dated 4 March 2014 on practices employed by law enforcement officers during mass events;'); [Mauritania](#), CCPR/C/MRT/CO/1, 21 November 2013, para 22 ('The Committee notes with concern that, during rallies and demonstrations in the State party, human rights defenders and the demonstrators are threatened, intimidated and harassed by members of the security forces or the police ... The State party should, furthermore, take specific measures to ensure the protection of members of NGOs against any retaliation and the protection of peaceful demonstrations organized on its territory'); [Ukraine](#), CCPR/C/UKR/CO/7, 22 August 2013, para 10 ('provide effective protection to LGBT persons' and 'all necessary measures to guarantee the exercise in practice of ... FoA ... of LGBT persons'); [Angola](#), CCPR/C/AGO/CO/1 29 April 2013, para 21 ('ensure the enjoyment by all of freedom of peaceful assembly and protect journalists, human rights defenders and protesters from harassment, intimidation and violence'); [Hong Kong \(China\)](#), CCPR/C/CHN-HKG/CO/3, 29 April 2013, para 10 (increasing number of arrests and prosecutions of demonstrators); [Maldives](#) CCPR/C/MDV/CO/1, 31 August 2012, para 23 ('should adopt procedures and regulations in compliance with human rights standards for the police in controlling large crowds of protestors'); [Norway](#), CCPR/C/NOR/CO/6, 18 November 2011, para 14 (not specifically related to freedom of assembly, but call for police to be trained to detect and prosecute hate speech that constitutes an offence); [Belgium](#) CCPR/C/BEL/CO/5, 16 November 2010, para 14 (Preventive arrests); [Republic of Korea](#), 'List of issues in relation to the fourth periodic report of the Republic of Korea', CCPR/C/KOR/Q/4, 28 April 2015, para 26 ('(d) the use of bus blockades to isolate and block assemblies and demonstrations, restricting participation in assemblies and impeding the movement of demonstrators.');

256 [Netherlands](#), 'List of issues prior to submission of the fifth periodic report of the Netherlands' CCPR/C/NLD/QPR/5, 3 May 2017, para 29 ('Please respond to concerns that the Public Assemblies Act and its application in practice by local authorities gives rise to undue restrictions on the right to peaceful assembly ...')

257 Communication No 1157/2003, *Coleman v Australia*, Views adopted 17 July 2006, CCPR/C/87D/1157/2003, para 6.2.



258 Communication No. 1828/2008, *Olmedo v Paraguay*, Views adopted 22 March 2012, CCPR/C/104/D/1828/2008, para. 7.5.

259 For example (concerning the use of excessive force in the context of a demonstration) Communication No. 1828/2008, *Olmedo v Paraguay*, Views adopted 22 March 2012, CCPR/C/104/D/1828/2008, paras.7.3 and 7.5.

260 CCPR/C/GC/36, [General Comment 36](#), 30 October 2018, para 14 (internal references omitted).

261 *Ibid.*, para 27 (internal references omitted).

262 A/HRC/31/66 Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, on the proper management of assemblies (4 February 2016), para 9.

263 [Bahrain](#), CCPR/C/BHR/CO/1, 15 November 2018, para 36 ('The State party should also ensure that all demonstrators injured during demonstrations have access to medical assistance').

264 As General Comment 34, para 25: 'A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution'. Similarly, In Communication No. 2627/2015 [Reyes et al v Chile](#), Views adopted 7 November 2017, CCPR/C/121/D/2627/2015, at para 7.6 the Committee noted that 'the provisions cited by the State party to justify the actions of the Carabineros — namely, article 101 (2) of the Constitution and article 3 of Act No. 18.961, which establish the Carabineros' mandate to guarantee order and public safety and to conduct preventive policing activities — without the necessary safeguards against unfettered discretion — are insufficient in themselves to serve as the sole legal basis required by article 19 (3) of the Covenant.'

265 [Sudan](#), CCPR/C/SDN/CO/5, 19 November 2018, paras 45-46 ('The Committee is further concerned about reports of restrictions on public meetings, including a number of instances in 2018 during which the National Intelligence and Security Service prevented public gatherings of political parties'); [Bahrain](#), CCPR/C/BHR/CO/1, 15 November 2018, para 55 ('The Committee is also concerned about reports that the State party regularly avails itself of legal provisions making assemblies illegal to disperse protests violently and arrest activists, human rights defenders and members of the opposition (arts. 19 and 21).'); [Belgium](#) CCPR/C/BEL/CO/5, 16 November 2010, para 14 (Preventive arrests regarding demonstrations on 29 September 2010 – 1 October 2010); [Nicaragua](#), CCPR/C/NIC/CO/3, 12 December 2008, para 19 ('de facto restrictions on exercise by human rights organizations of freedom of assembly'); Tunisia, CO, April 2008 (human rights organizations unable to exercise right to freedom of assembly and subjected to harassment, intimidation and sometimes even arrest); [Algeria](#) CCPR/C/DZA/CO/3, 12 December 2007, para 25 ('many human rights organizations and human rights defenders are not able to pursue their activities freely, including their right of peaceful demonstration, and are often subjected to harassment and intimidation by State officials'); [Iceland](#) CCPR/C/83/L/ISL, 'List of Issues on the Fourth Periodic Report of Iceland', 2 December 2004, para 13 ('comment on allegations that a list of Falun Gong members was sent by the police to the Minister of Justice, who subsequently forwarded the list to Iceland's embassies abroad and to the national airline, asking it to prevent the persons listed from boarding a plane to Iceland.')

266 [Azerbaijan](#), CCPR/C/AZE/CO/4, 16 November 2016, paras 38-39 ('... the Committee is concerned about the use of a variety of tactics to prevent and deter individuals from joining and participating in peaceful assemblies, including the practices of preventive detention of activists and "prophylactic conversations" on police premises aimed at intimidating activists and discouraging them from participating in assemblies... 39. ... The State party should end the practices of preventive detention of activists and "prophylactic conversations", which are inconsistent with the State party's obligations under articles 9, 19 and 21 of the Covenant.'; [China \(Macao\)](#), CCPR/C/CHN-MAC/CO/1, 29 April 2013, para 16 ('concerned at reports of systematic use by police of cameras and video-recordings during demonstrations as well as other methods to deter individuals from participating in any type of street actions');

267 [Guinea](#), CCPR/C/GIN/CO/3, 7 December 2018, para 45 ('Le Comité exprime ses préoccupations quant aux informations faisant état d'interdictions de manifester arbitraires, en particulier pour les partis d'opposition, et d'arrestations de masse au cours des manifestations.'). [Canada](#), CCPR/C/CAN/CO/6, 13 August 2015, para 15 ('While noting explanations provided by the State party, the Committee is concerned about reports of increased repression of mass protests in the State party, such as those which occurred during the G-20 summit in Toronto in 2010, and in Quebec in 2012, and the disproportionate number of arrests of participants. ... The State party should effectively protect the exercise of the freedom of peaceful assembly and avoid restrictions that are not proportionate.'). [Canada](#), CCPR/C/CAN/CO/5, 20 April 2006, para 20 ('The Committee is concerned about information that the police, in particular in Montreal, have resorted to large-scale arrests of demonstrators').

268 Communication No. 1976/2010, *Kuznetsov et al. v. Belarus*, Views adopted 24 July 2014, CCPR/C/111/D/1976/2010, para. 2.1 (The facts as presented by the authors: 'police officers observed and recorded on a video the authors' activities, without, however, approaching them'); [Bulgaria](#), CCPR/C/BGR/CO/4, 15 November 2018, paras 33-34 ('Counter-terrorism measures and surveillance activities ... The Committee also notes ... the prosecution of peaceful protesters and political opponents. ... The State party should, in particular ... (c) Ensure that surveillance activities conform with its obligations under article 17 of the Covenant, including the principles of legality, necessity and proportionality, that they are subject to periodic judicial review and that persons affected by these measures have access to effective remedies'); [Norway](#), CCPR/C/NOR/CO/7, 25 April 2018, paras 20-21 (not specifically in relation to assembly), ('... concerned that amendments to the Code of Criminal Procedure and Police Act in 2016 grant broader monitoring and search powers to police, which may be used in a preventa-

tive manner to anticipate crime and may lack sufficient safeguards to prevent interference with the right to privacy. ... 21. The State party ... should ensure that the collection and use of data on communications take place on the basis of specific and legitimate objectives and that the exact circumstances in which such interference may be authorized and the categories of persons likely to be placed under surveillance are set out in detail in law. It should also ensure the effectiveness and independence of a monitoring system for surveillance activities.’); [Netherlands](#), ‘List of issues prior to submission of the fifth periodic report of the Netherlands’ CCPR/C/NLD/QPR/5, 3 May 2017, para 29 (‘use of photographic and video surveillance and identity checks, including during demonstrations against the figure of “Black Pete” in Rotterdam on 12 November 2016’); [Poland](#) CCPR/C/POL/CO/7, 23 November 2016, paras 39-40 (‘concerned about the surveillance and interception powers of the Polish intelligence and law enforcement authorities, as reflected in the law on counter-terrorism of June 2016 and the act amending the Police Act and certain other acts of January 2016. The Committee is particularly concerned about: (a) the unlimited and indiscriminate surveillance of communications and collection of metadata; (b) the targeting of foreign nationals and application of different legal criteria to them; (c) the insufficient procedural safeguards; (d) the lack of adequate judicial oversight; (e) the possibility of banning or terminating assemblies and mass events; ...’); [Republic of Korea](#), ‘List of issues in relation to the fourth periodic report of the Republic of Korea’, CCPR/C/KOR/Q/4, 28 April 2015, para 20 (‘“base station” investigations by the police, whereby the call history of every mobile phone within the range of assemblies is allegedly intercepted in order to find out the identity of participants’) and [Republic of Korea](#), CCPR/C/KOR/CO/4, 3 December 2015, paras 42-43 (‘... concerned about the use and insufficient regulation in practice of base station investigations of mobile telephone signals picked up near the site of demonstrations in order to identify participants. ... 43. The State party should introduce the legal amendments necessary to ensure that any surveillance, including for the purposes of State security, is compatible with the Covenant. It should, inter alia, ... increase the safeguards to prevent the arbitrary operation of base station investigations.’); [United Kingdom](#), ‘List of issues in relation to the seventh periodic report of the United Kingdom ...’, CCPR/C/GBR/Q/7, 20 November 2014, para 29 (‘Please clarify whether and how the United Kingdom plans: ... (d) to address the use of overt and covert surveillance of protesters, including undercover police officers infiltrating peaceful protest groups and campaigns, and the alleged collection of data about peaceful protesters by private security companies’); [Hong Kong \(China\)](#), CCPR/C/CHN-HKG/CO/3, 29 April 2013, para 10 (‘use of camera and video-recording by police demonstrations – ‘establish clear guidelines for police and for records for use of video-recording devices and make such guidelines accessible to the public’); [China \(Macao\)](#), CCPR/C/CHN-MAC/CO/1, 29 April 2013, para 16 (‘concerned at reports of systematic use by police of cameras and video-recordings during demonstrations as well as other methods to deter individuals from participating in any type of street actions’).

269 [United Kingdom](#), ‘List of issues in relation to the seventh periodic report of the United Kingdom ...’, CCPR/C/GBR/Q/7, 20 November 2014, para 29 (‘Please clarify whether and how the United Kingdom plans: ... (e) to end the practice of containment (“kettling”) and the use of pre-emptive measures and private injunctions against protesters.’) and State Report (considered 1 July 2015).

270 [Belarus](#), CCPR/C/BLR/CO/5, 22 November 2018, para 51 (‘... (i) The detention and criminal conviction of Dzmitry Paliyenka in 2016 following his participation in a peaceful protest on 29 April 2016 against restrictions on cyclists, and his reportedly being subjected to ill-treatment and solitary confinement; (ii) The excessive use of police force, mass arrests, detention and punishments for administrative offences in connection with the Freedom Day events on 25 March 2017, when police allegedly detained at least 700 persons, including about 100 journalists and 60 human rights activists, with at least 177 protesters reportedly found to be in violation of the Code of Administrative Offences following proceedings that lacked fair trial guarantees.’); [Lao](#), CCPR/C/LAO/CO/1, 23 November 2018, paras 33 and 39 (‘... severe restrictions on ... the right to peaceful assembly, ... include: ... (e) Reports of arbitrary arrest, detention, trial without due process and criminal convictions for expression of political opposition and criticism of State authorities or policies, including through the Internet (despite the State party’s argument that these do not concern freedom of expression), such as the case of ...of Somphone Phimmasone, Lodkham Thammavong and Soukan Chaithad, who were sentenced to 12 to 20 years of imprisonment for posting criticism of the Government on the Internet and participating in a peaceful demonstration in Bangkok against the policies of the State party (arts. 9, 14, 19 and 21)’ and ‘... reports of the arbitrary arrest and detention of farmers and villagers protesting against land leases and concessions, such as in the case of farmers from Yeup village, Thateng District’); [Netherlands](#), ‘List of issues prior to submission of the fifth periodic report of the Netherlands’ CCPR/C/NLD/QPR/5, 3 May 2017, para 29 (‘Please respond to ... reports of interference with peaceful demonstrations, such as ... unlawful detention of peaceful protesters ...’); [Thailand](#), CCPR/C/THA/CO/2, 25 April 2017, para 25 (‘The Committee is concerned about reports of the arbitrary detention of hundreds of individuals exercising their right to assembly and/or freedom of expression for “attitude adjustments” after the 2014 coup, and that such individuals were reportedly often detained without charge and held incommunicado at undisclosed places of detention for periods of up to seven days, with no judicial oversight or safeguards against ill-treatment and without access to a lawyer’), and paras 39-40 (‘The Committee is particularly concerned about the arrest of hundreds of people for having organized or taken part in peaceful gatherings ... The State party should ... refrain from imposing detention on individuals who are exercising their rights and who do not present a serious risk to national security or public safety’); [Kuwait](#), ‘List of issues in relation to the third periodic report of Kuwait’, CCPR/C/KWT/Q/3, 4 December 2015, para 21, (‘Please comment on reports of violations of freedom of assembly in practice, including excessive use of force by law enforcement officers to disperse peaceful assemblies, arbitrary arrests, detention and prosecutions of individuals exercising their right to peaceful assembly, including during peaceful assemblies held regularly by bidoon activists, during the large wave of demonstrations

in 2012 and the protest held between 2 and 7 July 2014 against the arrest of the opposition figure and former member of the parliament, Musallam al-Barrak’); [Azerbaijan](#), CCPR/C/AZE/CO/4, 16 November 2016, para 38 (‘concerned about allegations of frequent use of excessive force and/or detention ... against persons participating in planned or spontaneous peaceful protests ...’) and [Azerbaijan](#), ‘List of issues in relation to the fourth periodic report of Azerbaijan’, CCPR/C/AZE/Q/4, 26 April 2015, para 23 (‘please comment on the arrest of civil society actors and members of the opposition based on the restrictive assembly law’); [Macedonia](#), CCPR/C/MKD/CO/3, 17 August 2015, para 19 (‘concerned about reports that the demonstration that took place in Skopje on 5 May 2015 was dispersed by the police ... that dozens of demonstrators were arrested and in some cases held in pretrial detention notwithstanding their lack of a criminal record and the relatively light nature of the charges brought against them (art. 21). ... The State party should always attempt to resort to alternatives to detention in cases involving individuals who do not present a risk to public safety and should consider the impact of implementing its criminal laws against demonstrators on its duty to facilitate the right of peaceful assembly’); [Russian Federation](#), CCPR/C/RUS/CO/7, 28 April 2015, para 21 (‘The Committee expresses concern about consistent reports of arbitrary restrictions on the exercise of freedom of peaceful assembly, including ... arbitrary detentions ... The Committee notes with particular concern the charges of violence against law enforcement officers and mass unrest brought against demonstrators on Bolotnaya Square in Moscow on 6 May 2012 resulting in prison sentences of up to four and a half years and lengthy pretrial detention exceeding, in some cases, a year, as well as the detention of some 1,300 protesters during spontaneous gatherings following the announcement of the verdict in the Bolotnaya Square case in February 2014.’); [Mozambique](#), CCPR/C/MOZ/CO/1, 19 November 2013, para 22; 271 [Guinea](#), CCPR/C/GIN/CO/3, 7 December 2018, para 31 (‘Le Comité accueille favorablement la loi no L/2015/009/AN du 4 juin 2015 portant maintien de l’ordre public, qui impose l’usage d’armes non létales pour le maintien de l’ordre et limite l’usage des armes à feu aux circonstances de légitime défense et cas de nécessité impérieuse. Il demeure toutefois préoccupé par les informations crédibles, confirmées par la délégation, faisant état d’un usage souvent excessif de la force par les agents responsables de l’application de la loi, en particulier au cours de manifestations, entraînant des morts et des blessés. Il s’inquiète vivement de ce que les agents sont rarement, sinon jamais, poursuivis pour de tels actes, causant de facto un climat d’impunité. Il exprime également ses préoccupations quant aux informations faisant état de pillages et saccages perpétrés par des agents responsables de l’application de la loi dans des domiciles privés au cours de perquisitions (art. 6, 7, 9, 17 et 21).’); [Algeria](#), CCPR/C/DZA/CO/4, 17 August 2018, para. 45 (Committee is similarly concerned by reports of frequent cases of (a) public and private gatherings being violently dispersed; (b) demonstrators being mistreated, imprisoned and, on occasion, prosecuted) and [Algeria](#), ‘List of Issues in relation to the fourth periodic report of Algeria’, CCPR/C/DZA/Q/4, 11 December 2017, para 24 (‘Please comment on reports that (a) walis often refuse to issue receipts for authorization requests submitted to them, (b) marches and demonstrations are often prohibited arbitrarily, with the reasons for refusal rarely given, or are authorized at the last minute, and (c) law enforcement officials use excessive force during peaceful gatherings and intimidate organizers. In this regard, please state whether the State party has a code of conduct for law enforcement officials that incorporates the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and please describe the human rights training provided to members of the police and security forces, the content of such training and the number of officials trained during the reporting period. Please also indicate whether any members of the police and security forces have been prosecuted for excessive use of force during demonstrations, the number of acquittals and convictions, and the penalties handed down’); [Cameroon](#), CCPR/C/CMR/CO/5, 30 November 2017, para 41 (‘concerned about... the excessive use of force by police to disperse demonstrations, which led to deaths and injuries during the events of 1 October 2017’); [Bahrain](#), CCPR/C/BHR/CO/1, 15 November 2018, para 35 (‘The Committee is concerned about reports of excessive and disproportionate use of lethal force and allegations of enforced disappearances, torture, arbitrary detention and threats against civilians involved in peaceful demonstrations for political and democratic change in 2011. The Committee notes with concern reports indicating a recent increase in the use of violence by law enforcement officials during peaceful demonstrations, including reports of 6 fatal incidents during demonstrations and 10 other extrajudicial killings in 2017. The Committee also notes with concern reports that demonstrators injured during demonstrations were questioned in medical facilities about their participation in demonstrations and denied medical assistance (arts. 2, 6, 7, 9, 10, 16, 19 and 21).’); [Chad](#), ‘List of issues prior to submission of the third periodic report of Chad’, CCPR/C/TCD/QPR/3, 4 September 2017, para 22 (‘Please comment on ... reports of excessive or unjustified force being used to disperse demonstrations and causing injuries and deaths ...’); [Democratic Republic of Congo](#), CCPR/C/COD/CO/4, 30 November 2017, paras 43-44 (‘The Committee is concerned about allegations that police and security officers have used excessive force to disperse demonstrations, resulting in deaths and injuries in some cases, such as the demonstrations that took place between 19 and 21 September 2016 and on 19 and 20 December 2016 (arts. 6, 7, 19, 21 and 25) ... It should also take measures to effectively prevent and eliminate all forms of excessive use of force by police and security officers, including by providing such personnel with training on the use of force, taking due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials’); [Peru](#), ‘List of issues prior to submission of the sixth periodic report of Peru’, CCPR/C/PER/QPR/6, 4 September 2017, para 14 (‘Please also provide information on the prevention of the excessive use of force, in particular with reference to deaths occurring at the hands of the police and including the large number of deaths that have taken place during social protests’); [Netherlands](#), ‘List of issues prior to submission of the fifth periodic report of the Netherlands’ CCPR/C/NLD/QPR/5, 3 May 2017, para 29 (‘Please respond to ... reports of interference with peaceful demonstrations, such as ... excessive use of force by police ...’); [Morocco](#), CCPR/C/MAR/CO/6, 1 December 2016, paras 45-46 (‘The Committee ... is also concerned about the excessive and disproportionate use of force to disperse unauthorized peaceful gatherings despite the issuance of a circular by the Ministry of Justice and Freedoms in October 2015 which states that police intervention is justified only in the presence of an armed mob and/or when a crowd



has gathered that is likely to disturb the peace (arts. 7, 9, 19 and 21.); [Azerbaijan](#), CCPR/C/AZE/CO/4, 16 November 2016, para 38 ('concerned about allegations of frequent use of excessive force and/or detention ... against persons participating in planned or spontaneous peaceful protests ...') and [Azerbaijan](#), 'List of issues in relation to the fourth periodic report of Azerbaijan', CCPR/C/AZE/Q/4, 26 April 2015, para 23 ('please comment on reports indicating serious restrictions to freedom of assembly, including frequent use of excessive force against and/or detention of persons participating in peaceful protests'); [Azerbaijan](#), CCPR/C/AZE/CO/3, 13 August 2009, para 16 (persistent reports of unreasonable restrictions and dispersing peaceful demonstrations with excessive force); [Kuwait](#), CCPR/C/KWT/CO/3, 11 August 2016, para 42 ('remains concerned at reports that the State party unduly restricts freedom of peaceful assembly and that security forces have dispersed peaceful demonstrations with excessive and disproportionate uses of force'); [Ecuador](#), CCPR/C/ECU/CO/6, 11 August 2016, para 28 ('The State party should ... redouble its efforts to prevent and eliminate all forms of the excessive use of force by law enforcement officials and members of the security forces'); [South Africa](#), April 2016, paras 26-27 ('The Committee is concerned about numerous reports of excessive and disproportionate use of force by law enforcement officials in the context of public protests that has resulted in loss of lives. The Committee is also concerned about the slow pace of the investigation into the Marikana incident, including with respect to the criminal responsibility of members of the South African Police Service and the potential liability of the Lonmin Mining Company (arts. 6, 7 and 21). 27. The State party should: (a) Expedite the work of the Task Team and the Panel of International Experts established by the Ministry of Police in implementing the recommendations of the Marikana Commission of Inquiry, revise laws and policies regarding public order policing and the use of force, including lethal force by law enforcement officials, to ensure that all policing laws, policies and guidelines are consistent with article 6 of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials'); [Iraq](#), CCPR/C/IRQ/CO/5, 3 December 2015, paras 41-42 ('41. The Committee is concerned about allegations of excessive use of force by law-enforcement and security officials to disperse demonstrations, which in some instances has reportedly resulted in the loss of life and people being wounded (arts. 6, 7, 19 and 21.); [Greece](#), CCPR/C/GRC/CO/2, 3 December 2015, para 41 ('...The Committee is also concerned about incidents of human rights violations committed by the security forces or the police against the demonstrators.');

[Macedonia](#), CCPR/C/MKD/CO/3, 17 August 2015, para 19 ('concerned about reports that the demonstration that took place in Skopje on 5 May 2015 was dispersed by the police resorting to excessive violence against demonstrators and journalists ...'); [Uzbekistan](#), CCPR/C/UZB/CO/4, 17 August 2015, para 24 ('The Committee is concerned about reports of arbitrary restrictions on the right to peaceful assembly in law and in practice, including: ... (b) the disruption of peaceful assemblies by law enforcement officers and arrests, detentions, beatings and sanctioning of participants (arts. 7, 9, 19 and 21)...'); [Cambodia](#), CCPR/C/KHM/CO/2, 27 April 2015, para 12 ('The Committee is concerned about reports of several deaths, many injuries and one enforced disappearance following repression by the security forces during various demonstrations in Phnom Penh, particularly during the demonstration on 15 September 2013, the garment workers' protest on 12 November 2013 and the gatherings held on 2 and January 2014 ...'); [Republic of Korea](#), 'List of issues in relation to the fourth periodic report of the Republic of Korea', CCPR/C/KOR/Q/4, 28 April 2015, para 26 ('(c) the use of excessive force in order to disperse demonstrators and arrests, detentions and prosecutions of those protesting against government policies or large-scale development projects, including during candlelight vigils (2008), at the Yongsan tenant protest (2009), at protests against mass layoffs at the SsangYong Motor Company (2009), at protests to support trade union members at Hanjin Heavy Industries (2011) and during assemblies following the Sewol ferry disaster (2014)' and [Republic of Korea](#), CCPR/C/KOR/CO/4, 3 December 2015, para 53 ('The State should ...review its regulations on the use of force and ensure that they are in compliance with the Covenant, and train its police officials accordingly'); [Spain](#), 'List of issues in relation to the sixth periodic report of Spain', CCPR/C/ESP/Q/6, 20 November 2014, para 22 ('Please comment on reports of excessive use of force by the police at demonstrations, in particular against journalists and women, and the improper use of riot equipment. ... Please provide this information, in particular, in relation to: (a) the demonstrations held at the Plaça Catalunya in Barcelona on 27 May 2011 and at Atocha-Cercanías station in Madrid on 25 September 2012; and (b) the alleged assaults on Ángela Jaramillo in Madrid on 4 August 2011 and Paloma Aznar Fernández in Madrid on 11 July 2012'); [Venezuela](#), 'List of Issues in relation to the fourth periodic report of the Bolivarian Republic of Venezuela', CCPR/C/VEN/Q/4, 20 November 2014, para 7 (inc. role of military and specific weapons – firearms, rubber bullets, tear gas) and [Venezuela](#), CCPR/C/VEN/CO/4, 14 August 2015, para 14 ('the Committee is concerned at numerous reports of the alleged commission of human rights violations during the protests that took place in the early months of 2014, including cases of excessive and disproportionate use of force, torture and ill-treatment, arbitrary detention and failure to uphold fundamental legal safeguards. ... The State party should: (a) Continue to take steps effectively to prevent and eliminate the excessive use of force by law enforcement officials, especially during demonstrations, including by intensifying training in human rights and the appropriate use of force'; [Chile](#), CCPR/C/CHL/CO/6, 13 August 14, para 19; [Georgia](#), CCPR/C/GEO/CO/4, 19 August 2014, para 12 (violent dispersal of peaceful demonstrations); [Sudan](#), CCPR/C/SDN/CO/4, 19 August 2014, para 22 (leading to loss of life); [Bolivia](#), CCPR/C/BOL/CO/3, 6 December 2013, para 15 (Indigenous marches in Chaparina, 2011 & Mallku Khota, 2012); [Djibouti](#), CCPR/C/DJI/CO/1, 19 November 2013, para 15; [Mauritania](#), CCPR/C/MRT/CO/1, 21 November 2013, para 22 ('notes with concern that, during rallies and demonstrations in the State party, human rights defenders and the demonstrators are threatened, intimidated and harassed by members of the security forces or the police'); [Mozambique](#), CCPR/C/MOZ/CO/1, 19 November 2013 (tear gas, water cannon, rubber bullets and batons); [Indonesia](#), CCPR/C/IDN/CO/1, 21 August 2013, para 16 ('The Committee is concerned at increased reports of excessive use of force and extrajudicial killings by the police and the military during protests, particularly in West Papua, Bima and West Nusa Tenggara. The Committee is particularly concerned at reports that the State party uses its security apparatus to punish political dissidents and human rights defenders ... The State party should

take concrete steps to prevent the excessive use of force by law enforcement officers by ensuring that they comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. It should also take appropriate measures to strengthen the National Police Commission to ensure that it can effectively deal with reported cases of alleged misconduct by law enforcement personnel.); [Hong Kong \(China\)](#), CCPR/C/CHN-HKG/CO/3, 29 April 2013, para 11 ('reports of excessive use of force by members of the police force, not compatible with the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials, in particular by the inappropriate use of pepper spray to break up demonstrations to restore order, notably with regard to demonstrations surrounding the annual Hong Kong march on 1 July 2011, the visits of Vice-Premier and President of China, respectively in August 2011 and July 2012'); [Peru](#) CCPR/C/PER/CO/5, 29 April 2013, para 16 ('reports of excessive and disproportionate use of force, including the use of lethal weapons, by law enforcement officials and members of the security forces in the context of social protests, which in some instances resulted in loss of lives (arts. 6 and 7). The State party should continue to take steps to effectively prevent and eradicate the excessive use of force by law enforcement officials and members of the security forces, including by intensifying and providing regular human rights training with special emphasis on alternatives to the use of force and firearms. It should also ensure that all allegations of excessive use of force are promptly, impartially and effectively investigated, and those responsible brought to justice.');

[Armenia](#), CCPR/C/ARM/CO/2, 31 August 2012, para 12 (events of 1 March 2008, despite efforts to investigate fatalities, effective investigation to ensure accountability & appropriate sanctioning of law enforcement inc. those with command responsibility; BPUFF); [Kenya](#), CCPR/C/KEN/CO/3, 31 August 2012, para 11 ('The Committee is further concerned at regular reports of serious and unlawful use of force by State security forces and as to whether adequate training and planning procedures are in place to prevent excessive use of force in security operations, ... The State party should initiate training programmes for State security officers and law enforcement officials which emphasize alternatives to the use of force, including the peaceful settlement of disputes, the understanding of crowd behaviour, and the method of persuasion, negotiation and mediation with a view to limiting the use of force.');

[Maldives](#) CCPR/C/MDV/CO/1, 31 August 2012, para 23 (police and National Defence Forces during demonstrations 16/1/12-6/2/12: 'The State party ... should adopt procedures and regulations in compliance with human rights standards for the police in controlling large crowds of protestors'); [Yemen](#), CCPR/C/YEM/CO/5, 23 April 2012, para 26 ('particularly concerned about the limitations provided in Law No. 29 (2003) which has been widely used by the State party's authorities in 2011 to use excessive force to disperse unauthorized protest rallies'); [Jamaica](#) CCPR/C/JAM/CO/3, 17 November 2011, para 15 (especially during state of emergency, May - July 2010: 73 civilians killed by law enforcement personnel); [Kuwait](#), CCPR/C/KWT/CO/2, 18 November 2011, para 28 ('... concerned about persistent reports that the State party's authorities ... disperse peaceful demonstrations by excessive use of force'); [Ethiopia](#), CCPR/C/ETH/CO/1, 19 August 2011, para 18; [Belgium](#) CCPR/C/BEL/CO/5, 16 November 2010, para 14 (especially regarding preventive arrests at demonstrations, 29/9/10-1/10/10); [Cameroon](#), CCPR/C/CMR/CO/4, 4 August 2010, para 18 ('concerned about reported cases of human rights violations related to the social riots which took place in February 2008, triggered by high fuel and food prices, during which reportedly more than 100 persons died and more than 1,500 persons were arrested.');

[Israel](#), CCPR/C/ISR/CO/3, 3 September 2010, para 9 ('firing live bullets during demonstrations against the military operation' i.e. in the Gaza Strip [Operation Cast Lead, 27/12/08-18/1/09]); [New Zealand](#), CCPR/C/NZL/CO/5, 7 April 2010, para 10 (not specifically regarding assemblies, but: 'The State party should consider relinquishing the use of electro-muscular disruption devices (EMDs) "TASERS". While such weapons remain in use, it should intensify its efforts to ensure that its guidelines, which restrict their use to situations where greater or lethal force would be justified, are adhered to by law enforcement officers at all times. The State party should continue carrying out research on the effects of the use such weapons') and [Australia](#), CCPR/C/AUS/CO/5, 7 May 2009, para 21 (not specifically regarding assemblies, but: 'concerned by reports of the excessive use of the electro-muscular disruption devices (EMDs) "TASERS" by police forces in certain Australian states and territories ... The State party should ... ensure that restraint devices including Tasers are only used in situations where greater or lethal force would otherwise have been justified');

[Uzbekistan](#), CCPR/C/UZB/CO/3, 7 April 2010, para 8 (regarding Andijan events of 2005 - 'The State party should review its regulations governing the use of firearms by the authorities, in order to ensure their full compliance with the provisions of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).');

[Ecuador](#), CCPR/C/ECU/CO/5, 4 November 2009, para 16 (deaths of participants in demonstrations through discharge of firearms or use of tear gas); [Moldova](#) CCPR/C/MDA/CO/2, 4 November 2009, para 8 (violent crowd control tactics, including beatings); [Russian Federation](#), CCPR/C/RUS/CO/6, 24 November 2009, para 25 ('concerned about the reports of excessive use of force by the police during demonstrations, in particular in the context of the 2007 Duma elections and the 2008 presidential elections ...');

[Nicaragua](#) CCPR/C/NIC/CO/3, 12 December 2008, para 16 ('The State party should protect the lives and safety of all individuals against excessive use of force by the police.');

[Thailand](#), CCPR/CO/84/THA, 8 July 2005, para 24 ('violent suppression of peaceful demonstrations by law enforcement officers ...'); [Iran](#), CCPR/C/IRN/Q/3, 'List of issues ... third periodic report of the Islamic Republic of Iran', 17 May 2011, para 27 ('Please comment on the alleged use of force by security forces to break up workers' public protests.');

272 [Algeria](#), CCPR/C/DZA/CO/4, 17 August 2018, para. 45 ('demonstrators being mistreated, imprisoned and, on occasion, prosecuted'); [Mauritania](#), CCPR/C/MRT/CO/1, 21 November 2013, para 14 ('The Committee is also concerned by allegations of the systematic practice of torture and ill-treatment or excessive use of force by members of the police or the security forces during demonstrations ...');

[Albania](#), CCPR/C/ALB/CO/2, 22 August 2013, para 9 ('concerned that investigations into allegations of human rights violations that occurred during the January 2011 demonstrations, including the death of four civilians and reports of ill-treatment by police officers against demonstrators, have not been finalized and that victims have not been compensated'); Panama - ill-treatment, threats and harassment of members of communities on the occasion of protests

against hydroelectric infrastructure projects, mining operations or tourism facilities on their territory. [Venezuela](#), 'List of Issues in relation to the fourth periodic report of the Bolivarian Republic of Venezuela', CCPR/C/VEN/Q/4, 20 November 2014, para 7 (between February – June 2014); [Angola](#), CCPR/C/AGO/CO/1 29 April 2013, para 14 ('concerned at reports of cases of disappearances of protesters which occurred in Luanda between 2011 and 2012'); [Maldives](#) CCPR/C/MDV/CO/1, 31 August 2012, para 23 (demonstrations in February 2012); [Cameroon](#), CCPR/C/CMR/CO/4, 4 August 2010, para 18 (allegations by NGOs of torture/ill-treatment of those detained during riots 2008 and of summary trials); [Moldova](#) CCPR/C/MDA/CO/2, 4 November 2009, para 8 (concern at credible reports of grave human rights violations committed against protesters following post-election demonstrations in April 2009. ... It is particularly concerned at reports of arbitrary arrests, violent crowd control tactics, including beatings, and the torture and ill-treatment of persons detained in connection with the post-election demonstrations'); [Russian Federation](#), CCPR/C/RUS/CO/6, 24 November 2009, para 17 (Committee notes with concern the return to Uzbekistan of persons suspected in Andijan protests of 2005).

273 [Bulgaria](#), CCPR/C/BGR/CO/4, 15 November 2018, para 38 ('The State party should: (a) Continue training police officers, judges and prosecutors in human rights standards relating to freedom of expression and assembly and the lawful use of force'); [Honduras](#), CCPR/C/HND/CO/2, 22 August 2017, para 41 ('The State party should, as a matter of urgency, take practical steps to: ... (b) Increase training and education programmes on the importance of freedom of expression, freedom of association and freedom of assembly for law enforcement officers, military personnel, staff of private security companies, judges and prosecutors'); [Democratic Republic of Congo](#), CCPR/C/COD/CO/4, 30 November 2017, paras 43-44 ('... It should also take measures to effectively prevent and eliminate all forms of excessive use of force by police and security officers, including by providing such personnel with training on the use of force, taking due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials'); [Iraq](#), CCPR/C/IRQ/CO/5, 3 December 2015, para 42 ('The State party should ... also take measures to effectively prevent and eradicate all forms of excessive use of force by law-enforcement and security officials, including by guaranteeing their systematic training on the use of force, taking due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.');

[Bahrain](#), CCPR/C/BHR/CO/1, 15 November 2018, para 36 ('...In addition, it should take measures to effectively prevent and eradicate all excessive use of force by law enforcement and security officials, including by guaranteeing that such officials receive systematic training on the use of force, taking due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.');

[Republic of Korea](#), CCPR/C/KOR/CO/4, 3 December 2015, para 53: 'The State should ...review its regulations on the use of force and ensure that they are in compliance with the Covenant, and train its police officials accordingly'; [Cambodia](#), CCPR/C/KHM/CO/2, 27 April 2015, para 12 ('... the State party should increase its efforts to systematically provide training to all security forces, including municipal security guards, on the use of force, especially in the context of demonstrations, taking due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.');

[Moldova](#) CCPR/C/MDA/CO/2, 4 November 2009, para 8(d) (The State Party should ' ... put in place safeguards, such as appropriate training, to ensure that such violations of human rights by its law enforcement officers do not occur again.');

[Kuwait](#), CCPR/C/KWT/CO/3, 11 August 2016, para 42 ('The State party should ... (c) increase its efforts to systematically provide training to all security forces on the use of force, especially in the context of demonstrations, taking due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.').

274 [Spain](#), 'List of issues in relation to the sixth periodic report of Spain', CCPR/C/ESP/Q/6, 20 November 2014, para 22 ('Please state whether or not security officials wear legible identity badges while on duty at demonstrations.')

275 [Peru](#), 'List of issues prior to submission of the sixth periodic report of Peru', CCPR/C/PER/QPR/6, 4 September 2017, para 14 ('Please provide information on the use of automatic weapons for the control of demonstrations in rural areas.');

[Venezuela](#), 'List of Issues in relation to the fourth periodic report of the Bolivarian Republic of Venezuela', CCPR/C/VEN/Q/4, 20 November 2014, para 7 ('Please specify the actions taken to ensure the prompt and impartial investigation of allegations of excessive use of force — including firearms, rubber bullets and tear gas — to manage protests ...'); [Mozambique](#), CCPR/C/MOZ/CO/1, 19 November 2013, para 22: concerned about '...the use of tear gas, water cannons, rubber bullets and batons by police during demonstrations'; [Belgium](#) CCPR/C/BEL/CO/5, 16 November 2010, para 13 (not specifically in relation to assemblies, but 'The State party should consider discontinuing authorization to use tasers. While such weapons remain in use, it should intensify its efforts to ensure that the police force adheres to the rules and conditions governing their use. The State party should also assess the effects of these weapons' use); [Spain](#), 'List of issues in relation to the sixth periodic report of Spain', CCPR/C/ESP/Q/6, 20 November 2014, para 22 ('Please comment on ... the improper use of riot equipment ...');

276 [Cambodia](#) 'List of issues in relation to the second periodic report of Cambodia', CCPR/C/KHM/Q/2, 19 August 2014, para 20 ('Please clarify the legal status of municipal security guards and their role in policing Demonstrations') and [Cambodia](#), CCPR/C/KHM/CO/2, 27 April 2015, para 12 ('... the Committee remains concerned about the legal status of municipal security guards and their role in policing demonstrations ...'); [United Kingdom](#), 'List of issues in relation to the seventh periodic report of the United Kingdom ...', CCPR/C/GBR/Q/7, 20 November 2014, para 29 ('Please clarify whether and how the United Kingdom plans: ... (d) ... the alleged collection of data about peaceful protesters by private security companies');

277 [Venezuela](#) CCPR/C/VEN/CO/4, 14 August 2015, para 14 ('... It is further concerned at reports of the involvement of military personnel in the policing of public gatherings and demonstrations ... The State party should: ... (f) ensure that public order is, to the maximum extent possible, upheld by civilian rather than military authorities');

278 There are no cases that squarely address the issue of 'agents provocateur' (i.e. suspected state agents who foment trouble, either by attacking assembly participants or encouraging them to engage in unlawful acts). Note however that States can



be held accountable for the actions of unidentified officials/persons (Communication 2234/2013, M.T. v Uzbekistan, Views adopted 23 July 2015, CCPR/C/114/D/2234/2013).

279 UPR Republic of Korea, 2017: 'investigating complaints as to excessive use of force on the part of State security agents ...'; [Bahrain](#), CCPR/C/BHR/CO/1, 15 November 2018, para 36 ('The State party should fully investigate, in accordance with international standards, all allegations of involvement by members of its law enforcement and security forces in the killing of civilians, excessive use of force, arbitrary detention, enforced disappearance, torture and ill-treatment from 2011 onward. Furthermore, the State party should initiate criminal proceedings against the alleged perpetrators of such acts, sentence convicted perpetrators and afford victims integral reparation, including adequate compensation. In the event of enforced disappearances, the fate or the whereabouts of victims should be elucidated. ...'); [Democratic Republic of Congo](#), CCPR/C/COD/CO/4, 30 November 2017, paras 43-44 ('The State party should see to it that all instances of excessive use of force are promptly, impartially and effectively investigated and that those responsible are brought to justice.');

[Cameroon](#), CCPR/C/CMR/CO/5, 30 November 2017, para 42 ('... the State party should ... (e) carry out prompt, impartial and effective investigations of all cases involving the excessive use of force to disperse demonstrations, and bring the perpetrators to justice'); [Azerbaijan](#), CCPR/C/AZE/CO/4, 16 November 2016, para 39 ('The State party ... should promptly and effectively investigate all cases of violence, excessive use of force by law enforcement officials, arbitrary arrest and detention of peaceful protesters and bring perpetrators to justice.');

[Ecuador](#), CCPR/C/ECU/CO/6, 11 August 2016, para 28 ('The State party should ... take appropriate action to ensure that all allegations of the excessive use of force are investigated thoroughly, independently and impartially and that the alleged perpetrators are brought to justice and, if found guilty, punished commensurately with the seriousness of their actions.');

[Uzbekistan](#), CCPR/C/UZB/CO/4, 17 August 2015, para 24 ('The State party ... should also effectively investigate all cases of violence, arbitrary arrest and detention of peaceful protesters and bring to justice those responsible.');

[Kuwait](#), CCPR/C/KWT/CO/3, 11 August 2016, para 42 ('The State party should ... (b) investigate all allegations relating to the excessive use of force by security forces and ensure that the perpetrators are prosecuted and the victims adequately compensated');

[Iraq](#), CCPR/C/IRQ/CO/5, 3 December 2015, para 42 ('The State party should ensure that all instances of excessive use of force are promptly, impartially and effectively investigated and those responsible brought to justice.');

[Greece](#), CCPR/C/GRC/CO/2, 3 December 2015, paras 41-42 ('... The Committee is further concerned by the lack of comprehensive information on investigations and prosecutions of those responsible (arts. 19 and 21-22). 42. The State party should ensure that all allegations of serious human rights violations by security forces against demonstrators are adequately and impartially investigated, perpetrators are brought to justice and victims are adequately compensated. The State party should organize training sessions for its law enforcement officials to ensure that they carry out their activities in accordance with human rights standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.');

[Macedonia](#), CCPR/C/MKD/CO/3, 17 August 2015, para 19 ('... The State party should effectively investigate all allegations of police violence against journalists and demonstrators in connection with the events of 5 May 2015.');

[Venezuela](#), CCPR/C/VEN/CO/4, 14 August 2015, para 14 ('... While it takes note of the information provided by the State party regarding the investigations under way, the Committee notes with concern that only seven civil servants have been convicted to date. ... The State party should: ... (b) Ensure that all human rights violations, including those that may have been committed by private individuals with the acquiescence of State officials, are investigated promptly, thoroughly, independently and impartially and that the perpetrators are brought to justice and, if found guilty, are punished in accordance with the gravity of their acts');

[Cambodia](#), CCPR/C/KHM/CO/2, 27 April 2015, para 12 ('... The Committee is further concerned by the lack of any specific detailed information on the investigations carried out into these cases. ... The State party should investigate all allegations relating to the excessive use of force, especially the use of lethal force, by police and military personnel and ensure that the perpetrators are prosecuted and the victims adequately compensated. ...');

[Spain](#), 'List of issues in relation to the sixth periodic report of Spain', CCPR/C/ESP/Q/6, 20 November 2014, para 22 ('... Please also provide information on investigations into the excessive use of force by security officials and on the outcomes of those investigations. ...');

[Albania](#), CCPR/C/ALB/CO/2, 22 August 2013, para 9 ('The State party should intensify its efforts to conclude its investigation into the January 2011 demonstrations, ensure compliance with international standards of investigation, and to this end, bring perpetrators to justice, punish them adequately, if convicted, and compensate victims.');

[Russian Federation](#), CCPR/C/RUS/CO/6, 24 November 2009, para 25 ('... The State party should establish an independent body with authority to receive, investigate and adjudicate all complaints of excessive use of force and other abuses of power by the police'), and [Russian Federation](#), CCPR/C/RUS/CO/7, 28 April 2015, para 21 ('The Committee expresses concern about consistent reports of arbitrary restrictions on the exercise of freedom of peaceful assembly, including violent and unjustified dispersal of protesters by law enforcement officers ... The State party should take all the measures necessary to ensure that individuals fully enjoy their rights under article 21 of the Covenant in practice, inter alia by: ... (b) Promptly investigating all cases of violence, excessive use of force by law enforcement officers, arbitrary arrest and detention of peaceful protesters and punishing those responsible ...');

[Mauritania](#), CCPR/C/MRT/CO/1, 21 November 2013, para 14 ('... The Committee is also concerned that no specific independent authority has been set up to examine complaints made against the police and security forces ... The State party ... should also ensure that any investigation into acts of torture, ill-treatment or excessive use of force attributed to members of the police or security forces should be conducted by an independent authority');

[Moldova](#), CCPR/C/MDA/CO/2, 4 November 2009, para 8 ('The State party should (a) Thoroughly investigate allegations of abuse by law enforcement officials during the April 2009 demonstrations through an independent and impartial body, whose findings should be made public; (b) Take measures to ensure that law enforcement officers found responsible for the torture and ill-treatment of protestors, including those with command responsibility, are held accountable through prosecution and appropriate disciplinary measures and that, during

the conduct of the investigation, officers implicated are suspended from duty; (c) Ensure that adequate compensation is paid to victims of torture and other forms of ill-treatment which occurred during the April 2009 demonstrations irrespective of the outcome of criminal prosecutions against the perpetrators, and that adequate medical and psychological rehabilitation measures are made available to victims ...'); [Cameroon](#), CCPR/C/CMR/CO/4, 4 August 2010, para 18 ('The Committee regrets that, more than two years after the events [social riots of February 2008], investigations were still ongoing and that the State party was not able to give a fuller account of the events. The explanation provided by the State party's delegation that security forces shot warning shots and that rioters were trampled to death as they tried to escape contrasts with NGO reports according to which the deaths were mainly attributed to excessive force applied by security forces. ... The State party should ensure that allegations of serious human rights violations related to the social riots in 2008, including allegations of excessive use of force by security forces, of torture and ill-treatment of persons detained, and of summary trials are adequately investigated and that perpetrators are brought to justice.').

280 [Malawi](#), CCPR/C/MWI/CO/1, 18 June 2012, para 17 ('... concerned about allegations of arrests, killings and ill-treatment having occurred in the State party during the demonstrations of July 2011 ... The State party should also investigate and prosecute persons allegedly responsible for arrests, killings and ill-treatment of demonstrators in July 2011, and punish those who are convicted. In this regard, the State party should further provide the Independent Commission, set up to inquire into these events, with sufficient resources to carry out its mandate and implement its recommendations.') and [Malawi](#), CCPR/C/MWI/CO/1/Add.1, 19 August 2014, para 23 (While noting that the Commission of Inquiry set up to investigate the handling of demonstrations in July 2011 presented its findings in July 2012, the Committee is concerned that prosecutions have not yet taken place (art. 21). The State party should expeditiously prosecute all persons allegedly responsible for arrests, killings and ill-treatment in relation to the demonstrations that occurred in July 2011 and adequately compensate the victims.').; [Maldives](#) CCPR/C/MDV/CO/1, 31 August 2012, para 14 (State should implement findings of Commission of Inquiry to investigate events that took place during the political transition period); [Jamaica](#) CCPR/C/JAM/CO/3, 17 November 2011, para 15 (Independent Commission of Investigations (INDECOM) – deaths of 73 civilians during May-July 2010 emergency resulting from excessive use of force); [Ethiopia](#), CCPR/C/ETH/CO/1, 19 August 2011, para 18 (Excessive legal force, notably during the post-election violence in 2005); [Belgium](#) CCPR/C/BEL/CO/5, 16 November 2010, para 14 (not an inquiry, but complaints lodged following demonstrations between 29 September 2010 and 1 October 2010); [Hungary](#) CCPR/C/HUN/CO/5, 16 November 2010, para 17 (delay in criminal investigations regarding September-October 2006 protests. Out of 202 criminal proceedings launched, only 2 have led to a conviction and only 7 judgments have been handed down: difficulties regarding procurement of evidence); [Israel](#), CCPR/C/ISR/CO/3, 3 September 2010, para 9 (UN Fact-finding Mission regarding Operation Cast Lead, 27 December 2008 – 18 January 2009, but 'the State party has not yet conducted independent and credible investigations into serious violations of international human rights law, such as ... firing live bullets during demonstrations against the military operation ... The State party should launch, in addition to the investigations already conducted, credible, independent investigations into the serious violations of international human rights law, such as violations of the right to life, prohibition of torture, the right to humane treatment of all persons in custody and the right to freedom of expression. All decision makers, be they military or civilian officials, should be investigated and where relevant prosecuted and sanctioned.').; [Uzbekistan](#), CCPR/C/UZB/CO/3, 7 April 2010, para 8 (concern regarding the 'absence of a comprehensive and fully independent investigation on the exact circumstances of the events in Andijan in 2005, during which 700 civilians were killed'); [Chad](#) CCPR/C/TCD/CO/1, 11 August 2009, paras 7 and 20 ('The Committee notes with interest the establishment of the National Commission of Inquiry to investigate the human rights violations that took place in the State party during the events of February 2008'; 'The Committee ... regrets that the recommendations of the Commission of Inquiry on the human rights violations that took place during the events of February 2008 have not been implemented by the State party'). **Note also:** No inquiry in Cameroon regarding the riots in February 2008 (conflicting reports from authorities and NGOs); [Ecuador](#), CCPR/C/ECU/CO/5, 4 November 2009, para 16 (State party should take necessary steps 'such as through the establishment of commissions to investigate such acts' – namely, deaths of demonstrators through firearms and/or tear gas); [Canada](#), CCPR/C/CAN/CO/5, 20 April 2006, para 20 ('The Committee is concerned about information that the police, in particular in Montreal, have resorted to large-scale arrests of demonstrators. It notes the State party's responses that none of the arrests in Montreal have been arbitrary since they were conducted on a legal basis. ... The Committee also invites the State party to conduct an inquiry into the practices of the Montreal police forces during demonstrations ....'); UPR Denmark's recommendation to Bahrain to implement swiftly and resolutely all recommendations made by the BICI, including the document abuses during recent protests.

281 [Chad](#), 'List of issues prior to submission of the third periodic report of Chad', CCPR/C/TCD/QPR/3, 4 September 2017, para 22 ('... Please supply information on the investigations, prosecutions, convictions and penalties imposed on the perpetrators of such violent acts and the redress provided for victims.').; [Ecuador](#) CCPR/C/ECU/CO/6, 11 August 2016, para 27 ('The Committee regrets not having received any information on the number of persons charged with terrorism or sabotage under either the old Criminal Code or the new Comprehensive Organic Criminal Code in connection with social protests or other public demonstrations during the reporting period.').; [Russian Federation](#), CCPR/C/RUS/CO/6, 24 November 2009, para 25 ('regrets that it did not receive any information from the State party on any investigation or prosecution measures taken in relation to members of the police in connection with the excessive use of force. (art. 21) The State party should provide detailed information on the results of any investigation, prosecution and disciplinary measures taken vis-à-vis members of the police in connection with the alleged cases of excessive use of force in the context of the Duma elections in 2007 and the presidential elections in 2008.');

282 [Georgia](#), CCPR/C/GEO/CO/4, 19 August 2014, para 12 (journalists physically and verbally assaulted during violent dispersal of demonstrations in 2007, 2011, 2012); [Angola](#), CCPR/C/AGO/CO/1 29 April 2013, para 21 ('particularly concerned about threats, intimidation and harassment by security or police forces of journalists, human rights defenders and protesters during political rallies or demonstrations in Luanda'); [Turkey](#) CCPR/C/TUR/CO/1, 13 November 2012, para 24 (though not specifically related to assembly); [Spain](#), 'List of issues in relation to the sixth periodic report of Spain', CCPR/C/ESP/Q/6, 20 November 2014, para 22 ('Please comment on reports of excessive use of force by the police at demonstrations, in particular against journalists and women'). See also the judgment of the European Court of Human Rights in [Butkevich v Russia](#) (Application no. 5865/07, judgment of 13 February 2018). In particular, the third party intervention by the Media Legal Defence Initiative, Article 19 and others. This intervention makes two key points – that a blanket requirement for journalists to wear distinctive clothing could threaten their rights under articles 2, 3 and 10 ECHR (see Butkevich, paras 119-120); and the right of journalists to cover assemblies should extend not only to 'professional' journalists. The separate intervention by the Ukrainian government also emphasizes (para 117) that the right should extend to unauthorized/non-notified assemblies. The communicated case of [Kalikh and Demyanenko](#) (in which the applicants are respectively, a journalist with an NGO, Index on Censorship, observing the demonstration, and a photojournalist) may allow for further strengthening of the rights of journalists and assembly monitors.

283 [Republic of Korea](#), CCPR/C/KOR/CO/4, 3 December 2015, para 52 ('concerned about the frequent application of criminal law to impose fines on and arrest journalists and human rights defenders for either organizing or participating in protests without due consideration for their right to freedom of assembly'); [Angola](#), CCPR/C/AGO/CO/1 29 April 2013, para 21 ('ensure the enjoyment by all of freedom of peaceful assembly and protect journalists, human rights defenders and protesters from harassment, intimidation and violence'); [Central African Republic](#), CCPR/C/CAF/CO/2, 27 July 2006, para 18 ('The Committee is concerned that many human rights defenders are unable freely to carry out their work and are subjected to harassment and intimidation by the security forces (articles 9, 21 and 22 of the Covenant)').

284 See, for example, Communication No. 2441-2014, [Zhagiparov v Kazakhstan](#), Views adopted on 25 October 2018, para 2.3: 'The author claims that he was covering the gathering as a journalist and showed his professional ID to the police, however he was detained and taken to local police station'; and para 5.3: 'The author notes that as a journalist, he has the right to be present in areas of emergency, protests and demonstrations, and other events expressing public and individual interests ... In accordance with para. 19 of the Committee's general comment No. 34, States parties should make every effort to ensure easy, prompt, effective and practical access to information of public interest. Instead, the author was detained and sentenced to 15 days of arrest for covering the peaceful assembly of 23 May 2013 in Astana city, which was an event of public interest.' See also, [Spain](#), CCPR/C/ESP/CO/6, 14 August 2015, para 25 ('The Committee is concerned about ... the prohibition on the use of the personal or professional data or images of authorities or members of law enforcement agencies');

285 [Trinidad and Tobago](#) CCPR/C/37/Add.7, 28 September 1988 (see 'Report of the Human Rights Committee', p 21, para 81): 'If a prohibition was announced only 24 hours before an event was due to take place, very little could be done by way of recourse'.

286 [Kyrgyzstan](#), CCPR/CO/69/KGZ, 24 July 2000, para 22 ('lack of appeal procedures in the case of denial of permission'); [Australia](#), CCPR/C/42/Add.2 1988 (see, 'Report of the Human Rights Committee', 1988, p 106, para 451): 'The scope for judicial and administrative review of such decisions varied from State to State.'

287 [Poland](#), CCPR/C/POL/CO/6, 15 November 2010, para 23 (concern regarding 'the length of the appeals procedure against a prohibition to hold an assembly may jeopardize the enjoyment of the right of peaceful assembly.' 'The State party should introduce legislative amendments to the Assemblies Act of 5 July 1990 in order to ensure that appeals against a ban to hold a peaceful assembly are not unnecessarily protracted and are dealt with before the planned date.')

288 Communication No. 1790/2008, [Govsha, Syritysa and Mezyak v. Belarus](#), Views adopted 27 July 2012, para 8.3 ('[T]he State party has not shown whether and in how many cases supervisory review procedures were applied successfully in cases concerning freedom of expression and freedom of association'). See also, [Syria](#) CCPR/CO/84/SYR, 9 August 2005, para 15 ('The State party ... should provide statistical information on the number of and grounds for denials of applications, the number of cases where denials have been appealed, the number of rejected appeals and on what grounds.').

289 CCPR/C/21/Rev.1/Add. 13, General Comment 31 (adopted 29 March 2004), para 18. Also, Communication No 1828/2008, [Olmedo v Paraguay](#), Views adopted 22 March 2012, CCPR/C/104/1828/2008, para 7.4.

290 Communication No 1828/2008, [Olmedo v Paraguay](#), Views adopted 22 March 2012, CCPR/C/104/1828/2008, para 7.5.

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