**Human Rights Committee**

 General comment No. 37

 Article 21: right of peaceful assembly

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 1. General remarks

1. In societies around the world, the fundamental human right of peaceful assembly enables people to participate collectively in shaping their societies in a powerful yet peaceful way. The right of peaceful assembly is important in its own right, as it protects the ability of people to exercise autonomy while experiencing solidarity with others. Together with other rights related to political freedom, it constitutes the very foundation of a system of government based on democracy, human rights and pluralism. Peaceful assemblies play a critical role in allowing people to test ideas and approaches, and to establish the extent of support for or opposition to those ideas and approaches in the public domain. Where peaceful assemblies are used to air grievances, this may create the opportunity for the resolution of conflict in a peaceful and inclusive manner.

2. Peaceful assembly is, moreover, a valuable tool that can and has been used to ensure the practical recognition of a wide range of other human rights, including socioeconomic rights. It can be of particular importance to members of society who find themselves marginalized. Recognition of the right to organize and participate in peaceful assemblies is an indispensable part of a pluralistic and tolerant society; failure to accommodate this right is a marker of repression and of a lack of democracy. Peaceful assembly is a legitimate use of the public space, which is “not only an area for circulation, but also for participation”.[[1]](#footnote-2)

3. The first sentence of article 21 of the International Covenant on Civil and Political Rights provides that: “The right of peaceful assembly shall be recognized”. The right is articulated in similar general terms in other international and including regional instruments and has been given further content in interpretive guidelines and judicial decisions.[[2]](#footnote-3) In addition to being bound by international law to recognize the right of peaceful assembly, the vast majority of States also recognize the right in their respective national constitutions.[[3]](#footnote-4)

4. At the core of what the right of peaceful assembly protects is the non-violent gathering of a number of people in a publicly accessible place with a common expressive purpose.[[4]](#footnote-5)

5. Peaceful assemblies may take many forms, including demonstrations, meetings, processions, strikes, rallies, sit-ins and flash mobs.[[5]](#footnote-6) They are protected under article 21 whether they are stationary, such as pickets, or moving, such as processions or marches. The right of peaceful assembly constitutes an individual right that is exercised collectively.[[6]](#footnote-7) Inherent to the right is thus an associative element.

6. In many cases, peaceful assemblies do not pursue controversial goals and their participants’ activities cause little or no disruption. The aim may indeed be, for example, to celebrate a popular event. However, peaceful assemblies are sometimes used to pursue unpopular goals and their scale or nature can cause disruption, without calling into question the protection such assemblies enjoy. To the extent that these events may create risks, they have to be managed within a human rights framework.

7. The recognition of the right of peaceful assembly imposes a corresponding obligation on States to treat the exercise of the right and its repercussions with a certain level of accommodation.[[7]](#footnote-8) This requires refraining from unwarranted interference and, where needed, facilitating and enabling such assemblies. This also applies to the way in which law enforcement is conducted in connection with assemblies. Even unlawful assemblies must, as far as possible, be accommodated, as long as they are peaceful.[[8]](#footnote-9) Law enforcement officials may have to use their discretion not to respond to every unlawful act immediately, while continuing to counter violence.

8. Peaceful assembly does not constitute an absolute right and may in some cases be limited. However, any restrictions must be narrowly drawn. There are, in effect, limitations on the limitations that may be imposed.

9. The full protection of those engaged in peaceful assemblies is possible only when the other rights related to political freedom are also protected, notably freedom of expression, but also rights such as freedom of association and political participation (A/HRC/39/28, para. 5). Such protection is also dependent on the realization of a broader range of rights, such as the right to life, to freedom from cruel, inhuman and degrading treatment and to non-discrimination.

10. Some kinds of assemblies find their primary protection under other Covenant provisions, in addition to the protection afforded by article 21. Purely private gatherings might, for example, be protected primarily under article 17, while religious meetings may fall under article 18.

11. No participant in any assembly is unprotected under the Covenant. Even if a particular assembly ceases to be peaceful, those involved retain all their other rights under the Covenant, such as the right to life.

12. The manner in which public assemblies are conducted has materially changed in recent years. New technologies present opportunities as well as risks for the protection of peaceful assemblies. Communication technologies often play an integral role in organizing but also in controlling assemblies. Surveillance technologies can be used to detect threats of violence, but could also have far-reaching implications for privacy. A whole range of less-lethal and remote-controlled weapons have become available. There is increased private ownership of public spaces. Considerations such as these need to inform an assessment of the legal framework required to give full effect to article 21 today.

 2. Scope of the right of peaceful assembly

13. Everyone under the jurisdiction of a particular State party has the right of peaceful assembly. The right may be exercised, for example, by foreign nationals,[[9]](#footnote-10) such as migrant workers,[[10]](#footnote-11) asylum seekers and refugees[[11]](#footnote-12) and people who have crossed a border to participate in an assembly. The right is also applicable to children.[[12]](#footnote-13)

14. Only “assemblies” that are “peaceful’ are protected under article 21 and thus trigger the obligation of accommodation, provided legitimate limitations do not apply. Both elements must be present. To qualify as an “assembly”, there must be more than one person gathered at the same time, in a publicly accessible place, with the purpose of expressing themselves collectively. This may, for example, entail conveying a preference for or against a particular cause or position, using the public gathering of people as a vehicle to do so. It can also entail asserting group solidarity or identity. Expression need not be the only or even the main goal.

15. One-person protests are not covered by article 21, although such actions may be protected under other provisions of the Covenant, such as article 19.[[13]](#footnote-14) Gatherings that primarily have a commercial or social entertainment purpose would not generally fall within the core of what is protected under article 21, although they may also be otherwise protected. Assemblies can happen on publicly or privately owned property, provided the property is publicly accessible.

16. Assemblies are often organized well in advance, with enough time to give notice to the authorities. However, spontaneous assemblies, as direct responses to current events that do not allow enough time to provide such notice, whether coordinated or not, also engage article 21 protection. The occurrence of such assemblies is greatly facilitated by modern communication technologies.

17. “Counter assemblies” occur where one assembly takes place to express opposition to another. Both sides can claim article 21 protection.

18. A “peaceful” assembly stands in contradistinction to one that is violent, and which as a result is not protected under article 21. The terms “peaceful” and “non-violent” can thus be used interchangeably in this context. There is no right to act violently in the exercise of the right of peaceful assembly. Violence in this context typically entails the use by participants of physical force that is likely to result in injury or serious physical damage to property.[[14]](#footnote-15) Mere disruption of daily schedules does not amount to violence.

19. If an assembly is peaceful, the fact that not all the legal requirements pertaining to the assembly have been met by the participants does not, on its own, place the participants outside the protection of article 21. Breaking the law peacefully during an assembly, as may for example occur during civil disobedience or direct action campaigns, is covered by article 21.[[15]](#footnote-16)

20. A violent assembly is one that is characterized by widespread and serious violence, and is sometimes referred to as a riot. There is no clear dividing line between assemblies that are peaceful and those that are violent, but there is a presumption in favour of considering assemblies as peaceful.[[16]](#footnote-17) Moreover, isolated acts of violence by some participants should not be attributed to the other participants.[[17]](#footnote-18) Some participants or parts of the assembly may thus be covered by article 21, while others in the same assembly are not.

21. The question of whether an assembly ceases to be peaceful must be answered with reference to actual or imminent violence originating from the participants. Violence by the authorities against participants in a peaceful assembly does not render the assembly violent. The same applies to violence by members of the public, for example during counterdemonstrations.[[18]](#footnote-19)

22. The carrying by participants of objects that could be viewed as weapons is not sufficient in and of itself to render the assembly violent. That has to be determined on a case-by-case basis, dependent on, among other considerations, local cultural practices, whether there is an indication of violent intent, and the risk of injury presented by the presence of such objects.

23. Participants’ conduct may also be deemed violent if, before or during the event, it is clear that the participants are inciting others to the imminent use of unlawful force, or if it is established that they have violent intentions and plan to act on them.[[19]](#footnote-20) Again, isolated incidents will not suffice to taint an entire assembly as violent, but where the incitement or intention of violence is widespread, or if the leaders or organizers of the assembly themselves convey this message, the gathering as such may no longer be protected under article 21.

24. The Covenant requires States parties to prohibit propaganda for war (art. 20 (1)) and incitement to violence (art. 20 (2)). Where it is clear that inciting unlawful violence is the purpose of an assembly, it is not protected under article 21, because the different rights limit one another (art. 5 (1)). Participation in such an assembly should be prohibited (art. 5). However, it is often difficult to establish on the spot whether the high threshold of incitement violence has been reached, or whether participants’ intentions are violent. In such cases, the presumption in favour of viewing assemblies as peaceful means that such a situation should be considered as protected under article 21, subject to the normal limitations.

 3. Obligations of States parties in respect of the right of peaceful assembly

25. The various rights involved in protecting peaceful assemblies, including the right of peaceful assembly, impose a range of corresponding duties on the State to ensure their effective realization. States parties are required by article 2 (1) of the Covenant to respect and ensure the rights therein, by article 2 (2) to create a legal framework to do so, and by article 2 (3) to pursue accountability and provide effective remedies for violations.

26. The right of peaceful assembly imposes an obligation of accommodation of such assemblies on the State and the broader society. The obligation to accommodate peaceful assemblies is not absolute, and the right may in some cases be limited, but there is a presumption in favour of the accommodation, as far as possible, of peaceful assemblies.[[20]](#footnote-21)

27. The primary obligation on States as far as the accommodation of peaceful assemblies are concerned is, as far as possible, to “leave them alone”. State agents must refrain from unwarranted interference with assembly participants. This largely negative duty requires States parties, for example, not to prohibit, restrict, block or disrupt assemblies without good reason, and not to sanction participants without good cause. Where there is uncertainty, participants must be given the benefit of the doubt. Of key importance is allowing the participants to determine the purpose of the assembly, and, given the expressive nature of assemblies, enabling them to conduct the assembly within the “sight and sound” of the target.

28. The obligation of accommodation also means that States parties and their agents must facilitate and create an enabling environment for the exercise of assembly rights. States thus also have positive obligations to assist participants, where needed, to achieve their legitimate objectives. In some cases, streets may need to be blocked off, traffic redirected or security provided. These positive obligations also entail putting into place a legal framework within which these rights can be exercised effectively, and providing protection to participants against possible abuses by non-State actors, such as interference or violence by members of the public.[[21]](#footnote-22) This includes the obligation to protect participants from homophobic, sexual or gender-based violence.[[22]](#footnote-23)

29. States parties must be proactive in dealing with assemblies and take precautionary measures aimed at preventing violations of the different rights that are at stake. At the same time, the need to take precautionary measures cannot serve as a justification for invasive measures that violate human rights, such as the right to privacy.

30. Protection of individuals’ right to peaceful assembly does not guarantee immunity from challenge or criticism by other members of society. This could happen through ordinary expression, but also through peaceful assemblies. States must allow and facilitate counterdemonstrations as peaceful assemblies in their own right, while preventing undue disruption of the assemblies to which they are opposed. Counterdemonstrations should also be allowed to take place, where possible, within sight and sound of the assemblies against which they are aimed.

31. The fact that a peaceful assembly may provoke violent reactions from some members of the public is not in itself a reason to restrict the assembly. The obligation of the State is to take all possible measures to protect the participants and to allow the assembly to take place in an uninterrupted manner.

32. A functioning and transparent legal and decision-making system lies at the core of the proper accommodation of peaceful assemblies. States must make sure that people are able to know what the law provides with respect to their assembly rights, who the responsible authorities are, what rules are applicable to those officials, and what remedies are available in the case of alleged violations of those rights.

33. There must be independent and visible oversight of all bodies involved in fulfilling the obligation to accommodate assemblies, including access to judicial remedies in the case of potential violations of the rights involved. The right of peaceful assembly, like other rights, is properly protected only when adequate accountability and redress mechanisms are in place.

34. The role of journalists and other monitors engaged in observing, documenting and reporting on assemblies is of special importance, and is protected under article 21 and its related rights.[[23]](#footnote-24) Journalists and observers may not be prohibited from recording assemblies or from otherwise reporting on them, including on the actions of law enforcement officials. Their equipment may not be confiscated or damaged. Even if the assembly itself is declared unlawful and is dispersed, that does not terminate the right of monitors to cover it. Human rights defenders, journalists and monitors should not be harassed as a result of their attendance at demonstrations.[[24]](#footnote-25) It is a good practice for independent national human rights institutions and non-governmental organizations to make themselves available to monitor assemblies.

35. States parties hold the primary responsibility as far as the realization of the right of peaceful assembly is concerned. Private entities and the broader society, however, can also be expected to accept some infringement of their rights, if this is required for the exercise of the right of peaceful assembly.

36. Given that peaceful assemblies have an expressive function, and political speech enjoys particular protection as a form of expression, it follows that assemblies with a political message should likewise enjoy a heightened level of accommodation and thus enhanced protection.[[25]](#footnote-26) Furthermore, particular effort should be made to ensure equal and effective protection of the rights of groups or individuals who have historically experienced discrimination.[[26]](#footnote-27)

37. Article 21 and its related rights not only protect ongoing assemblies while and where they are conducted. Activities conducted outside the scope of the gathering but that are integral to making the exercise meaningful are also covered. The obligations of States parties thus extend to participants’ or organizers’ dissemination of information about an upcoming event;[[27]](#footnote-28) travelling to the event;[[28]](#footnote-29) communications between participants leading up to and during the assembly; conveying information about what is happening to the outside world; and going home afterwards. These activities may, like the assembly itself, be subjected to some limitations, but such limitations are also to be narrowly construed. For example, publicity for an upcoming assembly before notification has taken place cannot be penalized in the absence of a specific indication of what dangers would have been created by the early distribution of the information.[[29]](#footnote-30)

38. In the digital age, many of these associated activities happen online or rely upon digital services. Such activities are also protected under article 21. States parties should, for example, refrain from unduly blocking Internet connectivity in relation to demonstrations.[[30]](#footnote-31) The same applies to geo-targeted or technology-specific interference or hindering of connectivity. States should ensure that self-regulation by Internet service providers does not unduly affect assemblies and that the activities of those providers does not unduly infringe upon the privacy of assembly participants. Any restriction on the operation of information dissemination systems must conform with the test for restrictions on freedom of expression.[[31]](#footnote-32) At the same time, the fact that people can communicate online should not be used as a ground for undue restrictions on in-person assemblies.

39. While all branches of government carry the obligation to ensure that various rights related to assemblies are realized, decisions on assemblies are often taken at the local level. It is important in such cases that the necessary understanding and expertise be available also at the local level.

 4. Limitations on the right of peaceful assembly

40. The right of peaceful assembly is not unlimited, but limitations should be kept to a minimum. Any infringements of the right must be justified according to the criteria established in international law, as discussed below.

41. Where limitations may be imposed on an assembly, the relevant authorities should consider a range of options, rather than viewing the choice as between no intervention and prohibition. Intermediate or partial restrictions are also possible, and sometimes required. It is, moreover, often preferable to allow an assembly to take place and to decide only after the event whether steps – such as the imposition of sanctions – should be taken, rather than to impose prior restraints in an attempt to eliminate all risks. [[32]](#footnote-33)

42. Any limitations on the way in which someone exercises their right of peaceful assembly should not be indiscriminate, and should in principle be based on a differentiated or individualized assessment of that person’s conduct and the assembly concerned. Blanket restrictions on public assemblies are presumptively disproportionate.

43. Any restrictions that are imposed should be aimed at enabling the exercise of the right to the greatest possible extent, rather than seeking unnecessary and disproportionate limitations to it.[[33]](#footnote-34) Given that there is a presumption in favour of accommodating peaceful assemblies, the onus is on the authorities to justify restrictions as legitimate exceptions to the norm.[[34]](#footnote-35) Where this onus is not met, article 21 is violated.[[35]](#footnote-36)

44. Central to the protection of the right of peaceful assembly is the requirement that any limitations on the right will be content neutral, and thus not be related to the message conveyed by the assembly. According to the Committee, a rejection of an individual’s right to organize a public assembly addressing a chosen subject is one of the most serious interferences with the freedom of assembly.[[36]](#footnote-37) It defeats the very purpose of assemblies as a tool of political and social participation aimed at the testing of ideas by members of the population if those in power dictate in advance the permissible outcome.

45. Limitations must thus not be used, explicitly or implicitly, to stifle political opposition to a government,[[37]](#footnote-38) including calls for a change of government, the constitution or the political system, or to prohibit insults to the honour and dignity of officials or State organs[[38]](#footnote-39) or to pursue other objectives favoured by the authorities. Moreover, restrictions must not be aimed specifically at particular categories of potential participants, for example on the basis of nationality, race, ethnicity, age, political opinion, sexual orientation or gender identity.[[39]](#footnote-40)

46. Only under restricted circumstances may limitations be based on the message conveyed by the participants. The rules as far as freedom of expression is concerned should also be followed when dealing with the expressive element of peaceful assemblies. Peaceful assemblies should not be used to incite members of the public to commit hate crimes against third parties, which are prohibited under domestic law in accordance with international standards. As far as possible, action should be taken in such cases against the perpetrators, rather than against the group as a whole.[[40]](#footnote-41) The use of assemblies to convey hate speech is susceptible to the same limitations as those imposed on other forms of speech. At the same time, mere provocation of a hostile reaction, as indicated above, does not justify prohibition; the assembly must be allowed to go ahead and its participants must be protected.[[41]](#footnote-42)

47. Generally, the use of flags, uniforms, signs and banners is to be regarded as a legitimate form of expression that should not be restricted, even if such symbols are reminders of a painful past. In exceptional cases, where such symbols are intrinsically and exclusively associated with acts of physical violence, or serve to intimidate members of the population, restrictions may be justified.[[42]](#footnote-43) The fact that such symbols are used as part of a broader message of incitement to violence may influence the assessment of whether the assembly is peaceful.

48. The three main general requirements for limitations on Covenant rights are legality, necessity and proportionality. Article 21 contains its own specific formulation of these limitations. The second sentence of article 21 provides that no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law. This poses the formal requirement of legality, akin to the requirement that limitations must be “provided by law” in other articles of the Covenant. Limitations must thus be imposed through law or administrative actions based on law. The laws in question must be sufficiently precise to allow members of society to decide how to regulate their conduct and may not confer unfettered or sweeping discretion on those charged with its execution.[[43]](#footnote-44)

49. In addition, there are also the interrelated, substantive requirements of necessity and proportionality. Article 21 requires that any limitations must as a factual matter be necessary in a democratic society. In order to satisfy this requirement, a restriction must respond to a pressing social need and be considered imperative, in the context of a society based on political pluralism and human rights, as opposed to being merely reasonable or expedient.[[44]](#footnote-45) It must also be the least intrusive among the measures that might achieve the relevant protective function. Limitations, moreover, have to be proportionate**.**[[45]](#footnote-46) This requires a value judgment, balancing the nature and the extent of the interference against the reason for interfering.[[46]](#footnote-47)

50. The last part of the second sentence of article 21 makes it clear that there is an exhaustive list of the legitimate purposes for which the right may be limited – namely, in the interests of national security or public safety, public order (*ordre public*), the protection of health or morals or the protection of the rights and freedoms of others. States parties must therefore demonstrate the legality, necessity and proportionality of all limitations as related to one or more of these legitimate purposes.[[47]](#footnote-48)

51. The “public safety” ground often comes into play.[[48]](#footnote-49) It may, however, be invoked only when the assembly creates a significant and immediate danger to the safety of persons (to their life or physical integrity) or a risk of serious damage to property.[[49]](#footnote-50) This could apply to a situation in which the conduct of the participants themselves presents such a danger, but the risk is not sufficient to render the assembly violent. However, a situation in which peaceful demonstrations are expected to elicit violence from opponents could also potentially fall under this heading.

52. The general obligation of the State is to protect demonstrators from external threats, but if the State is genuinely unable to do so, interference (for example postponement or relocation of the assembly) may be justified. There is high potential for abuse in this area, and any restriction, prohibition or dispersal of such events should be subjected to strict scrutiny. An unspecified risk of violence or the mere possibility that the authorities will be unable to prevent or neutralize the violence is not enough; the State must provide concrete evidence of the risk and show that it will be unable to contain the situation, even if a significant police force is deployed.[[50]](#footnote-51)

53. Limitations imposed for “the protection of the rights and freedoms of others” may be related to their safety, as discussed above, but also cover threats to their other human rights.[[51]](#footnote-52) It is on this basis that the conduct of hate crimes as part of an assembly may be prohibited. Mere disruptions are normally not ground for restrictions. It is in the nature of assemblies that they sometime disrupt the daily exercise of rights such as freedom of movement. This has to be tolerated, unless it imposes a disproportionate burden, in which case detailed grounds for limitations must be provided. Claims that an assembly will result in the undue disruption of traffic and the movement of pedestrians must be substantiated to allow a full assessment.[[52]](#footnote-53)

54. States parties should not rely on some vague notion of “public order” as a ground to justify overbroad restrictions on the right of peaceful assembly.[[53]](#footnote-54) The aim cannot be to prevent all disruptions of daily routines; peaceful assemblies in some cases have such inherent consequences. “Public order” and “law and order” are not synonyms, and the crime of “public disorder” should not be used to prohibit legitimate assemblies. “Public order” refers to the sum of the rules that ensure the functioning of society, or the set of fundamental principles on which society is founded, which includes respect for human rights.[[54]](#footnote-55)

55. The “protection of public health” ground may in rare instances permit limitations to be imposed, for example where there is an outbreak of an infectious disease and gatherings are dangerous. This may in extreme cases also be applicable where the sanitary situation during the assembly presents a health risk to the general public or to the participants themselves.[[55]](#footnote-56)

56. The “interests of national security” can serve as a ground for limitations only if necessary to protect the existence of the nation, its territorial integrity or political independence against force or threat of force.[[56]](#footnote-57) This threshold will rarely be met by peaceful assemblies. Moreover, where the very reason that national security has deteriorated is the suppression of human rights, such deterioration cannot be used to justify further restrictions on those rights, including assembly rights.[[57]](#footnote-58) Security-related crimes such as terrorism should not be defined in an overbroad manner that curtails or discourages peaceful assembly.[[58]](#footnote-59)

57. Limitations on peaceful assemblies should only rarely be imposed for “the protection of morals”. If this ground is used at all, it should not be to protect narrow understandings of morality. As the Committee has stated, limitations for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.[[59]](#footnote-60) Limitations on demonstrations involving sexually explicit material may potentially fall into the category of the protection of morals, but limitations based on opposition to expressions of sexual orientation may not.[[60]](#footnote-61)

58. The regulation of the time, place and manner of assemblies is generally content neutral, and there is more scope for limitations that affect these elements, but the onus remains on the authorities to justify any such restriction.[[61]](#footnote-62)

59. As far as the regulation of the duration of peaceful assemblies is concerned, peaceful assemblies are generally temporary. Normally, assemblies should be left to end by themselves. There are no fixed rules about restrictions on their duration, but participants must have sufficient opportunity to manifest their views.[[62]](#footnote-63) The duration of a demonstration may play a central role in the message that is being conveyed. Assemblies should, moreover, not be limited solely because of their frequency, subject to the proviso that the cumulative impact of sustained gatherings should not disproportionately impact the rights of others.

60. Restrictions on the precise time of day at which assemblies can or cannot be held raise concerns about their compatibility with the Covenant.[[63]](#footnote-64) At the same time, it should be recognized that assemblies held at night might have an undue impact on the lives of those who live nearby.

61. Peaceful assemblies may in principle be conducted in all places to which the public has access or should have access by virtue of article 12 of the Covenant and other related rights, such as public squares and streets. General restrictions on access to some spaces, such as buildings and parks, may affect the right to assemble in such places.

62. The participants should, as far as possible, be allowed to assemble “within sight and sound” of their target audience.[[64]](#footnote-65) Location, like timing, is often central to the expressive rationale of assemblies. Participants may not be relegated to remote areas where they cannot capture the attention of those who are being addressed or the general public.[[65]](#footnote-66) General prohibitions on assemblies across the entire capital,[[66]](#footnote-67) any public location except a single specified place, either in a city,[[67]](#footnote-68) or outside the city centre,[[68]](#footnote-69) or more general prohibitions such as “the streets”, may not be imposed.

63. Identifying no-go zones for protestors, such as the perimeters of a court, parliament or a hospital, should generally be avoided because these are public spaces. To the extent that assemblies in such places are prohibited, the restrictions must be specifically justified and narrowly circumscribed.[[69]](#footnote-70)

64. The increased privatization of public spaces highlights the fact that assembly rights may require some recognition on private property that is open to the public.[[70]](#footnote-71) The interests of private owners have to be given due weight, but may have to be limited if the participants have no other reasonable ways to convey their message to their target audience.[[71]](#footnote-72)

65. Caution is also due when themanner of assemblies is regulated, for example when restrictions are placed on mobile assemblies. Whether participants want to convey particular language on posters or over megaphones, or want to use drums or the like, should generally be for them to decide. Assemblies may entail the erection of structures, but given the temporary nature of assemblies, they need to be non-permanent constructions.

66. In general, States parties should not place a limit on the number of participants in assemblies. Any such restriction can be accepted only if there is a clear connection with a legitimate purpose, for example where public safety considerations dictate a maximum capacity for a stadium or a bridge.[[72]](#footnote-73)

67. Anonymous participation and the wearing of face masks may present challenges to law enforcement agencies, for example by limiting their ability to identify those who engage in violence, but should not be the subject of a general ban. Concerns about identification may deter people with peaceful intentions from participation in demonstrations, or face masks could be part of the chosen form of expression.

68. The collection of accurate information and data by authorities may assist the management of assemblies, improve public accountability and constitute part of a proactive approach to preventing violations and abuses of rights from occurring. However, information gathering, including through surveillance, and the way in which data are retained and accessed, must strictly conform to the applicable international standards, including on the right to privacy, and may never be aimed at intimidating or harassing (would-be) participants in assemblies.[[73]](#footnote-74) Such practices should be regulated by appropriate and publicly accessible legal frameworks.[[74]](#footnote-75)

69. The mere fact that participants in assemblies are out in public does not mean that their privacy cannot be infringed, for example, by facial recognition and other technologies that can identify individual participants in mass assemblies. The same applies to the monitoring of social media. Independent scrutiny and oversight must be exercised over the collection of personal information and data of those engaged in peaceful assemblies.

70. The ability of law enforcement personnel and State officials to participate in peaceful assemblies should not be limited more than is strictly required by the need to ensure public confidence in their neutrality and to perform their service duties.[[75]](#footnote-76)

71. The costs of peaceful assemblies should generally be covered by public funds and should not be shifted to the participants.[[76]](#footnote-77) Requirements for participants to arrange and cover policing or security costs during demonstrations,[[77]](#footnote-78) or to conclude contracts for the maintenance of security, for medical assistance or cleaning, are generally not compatible with article 21.[[78]](#footnote-79)

72. While assembly organizers and participants may be obliged to make reasonable efforts to comply with legal requirements, they should be held accountable for their own conduct only.[[79]](#footnote-80) Responsibility of participants or organizers for damage caused by the crowd during an assembly should as a general rule not be imposed. If this is done, such responsibility must be limited to what could have been prevented with reasonable efforts.[[80]](#footnote-81) It is good practice for assembly organizers to appoint marshals where necessary, but such an obligation must not be imposed.

73. Where criminal or administrative sanctions are used against participants for violating the law, they should not be excessive.[[81]](#footnote-82)

74. Redress to courts or other tribunals concerning limitations must be readily available. The length of an appeal procedure against a prohibition of an assembly should not jeopardize the exercise of the right.[[82]](#footnote-83) The fair trial provisions of article 14 (1) of the Covenant apply in such cases, and also to issues such as deprivation of liberty and the imposition of a fine in connection with participation in a prohibited demonstration.[[83]](#footnote-84)

75. States may not require pledges by demonstrators not to participate in future demonstrations.[[84]](#footnote-85) Conversely, no one may be forced to participate in an assembly.[[85]](#footnote-86)

 5. Notification

76. Notification systems entail that the authorities require those intending to organize an assembly to inform them accordingly and to provide certain salient details. There may be legitimate reasons for requiring notification.[[86]](#footnote-87) At the same time, this requirement can easily be used to stifle legitimate assemblies. Like other interferences in the right of assembly, notification requirements have to be justified in terms of the standards set out above.[[87]](#footnote-88) While a system of prior notification may be important for the smooth conduct of public demonstrations, its enforcement cannot become an end in itself.[[88]](#footnote-89) Notification procedures should not be unduly burdensome and must be proportionate to the potential public impact of the assembly concerned. They have to be justifiable on the basis that they allow facilitation of the assembly or protect the rights of others.[[89]](#footnote-90)

77. A failure to notify the authorities of an assembly should not render participation in the assembly unlawful, and should not in itself be used as a basis for dispersing the assembly or arresting the participants, or charging them with a criminal offence.[[90]](#footnote-91) It also does not absolve the authorities from the obligation, within their abilities, to facilitate the assembly.

78. Some assemblies should be excluded from notification requirements, for example, where the impact of the assembly on others is likely to be minimal because of the size, duration or location of the assembly. Notification requirements should also not be imposed for spontaneous assemblies, when there is not enough time to notify the authorities.[[91]](#footnote-92)

79. The minimum period of advance notification that is required for pre-planned assemblies might vary according to the particular context.[[92]](#footnote-93) It should on the one hand not be excessively long, but on the other hand, not result in a situation where there is not enough time for recourse to the courts, should that be deemed necessary.

80. Authorization regimes, where the authorities must be asked for permission to assemble, should generally not be imposed.[[93]](#footnote-94) Having to ask for permission negates the idea that peaceful assembly is a basic right.[[94]](#footnote-95) This is, however, not the case where such regimes amount in practice to notification systems, and authorization is granted as a matter of course, in the absence of reason to do otherwise. Where such authorization procedures are used, they should nevertheless not be overly bureaucratic.[[95]](#footnote-96) Notification regimes, for their part, must not in practice become authorization systems.[[96]](#footnote-97)

 6. Duties and powers of law enforcement agencies

81. The fundamental duty of any law enforcement agency involved in policing a peaceful assembly is to accommodate, by enabling and facilitating, the exercise of the fundamental rights of the participants, while also protecting other members of the public, including journalists,[[97]](#footnote-98) monitors and observers, as well as public and private property, from harm.[[98]](#footnote-99)

82. Where facilitation is required, communication and dialogue between the authorities and participants in an assembly, aimed at ensuring that “no unpleasant surprises” occur, are the basis of implementing this duty. Voluntary meetings between the organizers and the authorities before the event should be encouraged where possible.[[99]](#footnote-100)

83. Where the presence of law enforcement officials is necessary, the policing of an assembly should be planned and conducted with the intention of enabling the assembly to take place as planned, and with a view to minimizing the potential for injury to any person.[[100]](#footnote-101) A plan should be elaborated for the policing of each assembly for which the authorities have received notification in advance or are otherwise informed about and through which public order may be affected. The plan should detail the instruction, equipping and deployment of those officials. It should also include, wherever appropriate, provision for dialogue between law enforcement agencies and the organizers of an assembly throughout the assembly.

84. More generic contingency plans should also be elaborated by relevant law enforcement agencies, in particular for the policing of assemblies for which the authorities are not notified in advance and through which public order may be affected.[[101]](#footnote-102) These include spontaneous assemblies and counterdemonstrations. Clear command structures must exist to underpin accountability.

85. Law enforcement officials, in carrying out their duty, are obliged, as far as possible, to apply non-violent means before resorting, when absolutely necessary, to the use of force.[[102]](#footnote-103) In any event, all use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination, and those using force must be accountable for each use of force.[[103]](#footnote-104) The use of excessive or disproportionate force breaches articles 7 and 9 of the Covenant and, where death results, may violate article 6.[[104]](#footnote-105) In an extreme case, widespread or systematic use of force against peaceful protesters may constitute a crime against humanity.[[105]](#footnote-106)

86. Where it is lawful and required to arrest certain participants or even to disperse an assembly, domestic legislation must detail conditions for the permissible use of force.[[106]](#footnote-107) The granting of general authority or power to disperse assemblies without restriction does not suffice, especially when those powers are exercised wantonly, excessively or on a discriminatory basis.[[107]](#footnote-108)

87. Only the minimum force necessary may be used where this is required for a legitimate law enforcement purpose. Once the need for any use of force has passed, such as when a violent individual is safely apprehended during an assembly, no further resort to force is lawful.[[108]](#footnote-109) Law enforcement officials may not use greater force than is reasonably necessary under the circumstances for the dispersal of an assembly, prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders.[[109]](#footnote-110)

88. Wherever possible, only law enforcement officials who have been trained in the policing of assemblies should be deployed for that purpose.[[110]](#footnote-111) As a general rule, the military should not be used to police assemblies.[[111]](#footnote-112) The law enforcement officials responsible for policing assemblies should be suitably equipped, including with appropriate less-lethal weapons, and should be provided with adequate personal protective equipment.[[112]](#footnote-113) While preferable to firearms, States parties should ensure that less-lethal weapons are subject to strict independent testing and evaluate and monitor their impact on the rights to life and bodily integrity.[[113]](#footnote-114)

89. Preventive detention of targeted individuals may constitute arbitrary deprivation of liberty and act to frustrate the right of peaceful assembly.[[114]](#footnote-115) Such action should, therefore, be used only in exceptional cases and where the authorities have actual knowledge of the intent of specific individuals to engage in or incite acts of violence during a particular assembly, and where other measures to prevent violence from occurring will be clearly inadequate.[[115]](#footnote-116) Practices of mass arrest prior to, during or following an assembly are indiscriminate and therefore arbitrary.[[116]](#footnote-117)

90. To the extent that they are lawful, powers of “stop and search” or “stop and frisk”, applied to participants in assemblies, must be exercised based on evidence about a threat posed and may not be used in a discriminatory manner, such as purely on the basis of ethnicity, religion, belief or political opinion. Otherwise, they constitute an unwarranted interference with the right to privacy.[[117]](#footnote-118) The mere fact that an individual is participating in a peaceful assembly does not constitute reasonable grounds for stopping and searching him or her.[[118]](#footnote-119)

91. Containment, sometimes referred to as “kettling”, where law enforcement officials encircle and close in a section of the demonstrators, may be used only where it is necessary and proportionate to do so in order to prevent violence during an assembly. A legitimate aim is to facilitate the right of non-violent participants to continue to exercise their right of peaceful assembly. Targeted arrests using necessary and proportionate force are often preferable as a policing tactic. Where the tactic of containment is used indiscriminately, it violates the right of peaceful assembly,[[119]](#footnote-120) and may violate other rights such as freedom from arbitrary detention.

92. An ongoing assembly that is no longer peaceful may be dispersed, provided the rules on the use of force are strictly followed. It may be dispersed based on the risk of violence breaking out only if there is an imminent threat of serious violence.[[120]](#footnote-121) A peaceful assembly that causes serious disruption, such as blocking the streets for days, may be dispersed only if the disruption is “serious and sustained”, and even then only the minimum force necessary can be used.[[121]](#footnote-122)

93. Where a decision is lawfully taken to disperse an assembly, force should be avoided. Where that is not possible in the circumstances, only the minimum force necessary should be used.[[122]](#footnote-123) In seeking to disperse an assembly, force that is not directed against a specific individual or group of participants in an assembly is by definition indiscriminate and therefore unlawful. Area weapons such as chemical irritants dispersed at a distance, including tear gas, and water cannon tend to have indiscriminate effects and should be used with care, bearing in mind that a stampede may result when irritants are used against a crowd in enclosed areas.[[123]](#footnote-124)

94. Firearms are not an appropriate tactical tool for the policing of assemblies.[[124]](#footnote-125) Firearms must never be used simply to disperse an assembly.[[125]](#footnote-126) In order to comply with international law, any use of firearms by law enforcement officials must be limited to circumstances in which it is strictly necessary to confront an imminent threat of death or serious injury or a grave and proximate threat to life.[[126]](#footnote-127) Given the threat such weapons pose to life, this minimum threshold should also be applied to the firing of rubber-coated or plastic bullets. It is never acceptable to fire indiscriminately into a crowd. Where the police are prepared for the use of force they must also ensure adequate medical facilities.

95. The State is responsible for the actions and omissions of its law enforcement agencies. To ensure effective accountability, uniformed police officers should always display a form of identification during assemblies.[[127]](#footnote-128)

96. There is a duty to investigate effectively, impartially and in a timely manner any allegation of unlawful use of force by law enforcement officials during or in connection with assemblies.[[128]](#footnote-129) Deliberate or unintentional but negligent action or inaction is sufficient ground to find a violation of human rights. Law enforcement agencies and individual officials must be held accountable for their actions and omissions under domestic law.

97. All use of force by law enforcement officials should be reported by them in a transparent manner. Where injury occurs, a report should contain sufficient information to establish whether the use of force was necessary and proportionate, and set out the details of the incident, including: the surrounding circumstances; measures taken to avoid the use of force and to de-escalate the situation; the type and manner of force employed, including specific weaponry; the reasons for the use of force; its effectiveness; and the consequences.

98. Any use of undercover officers must be reasonably necessary in the circumstances and such officers (or other State agents) should never incite violence on the part of other participants, for example, by acting as agents provocateurs.

99. Where private security service providers are used by the authorities for law enforcement tasks during an assembly, the State remains responsible for their actions.[[129]](#footnote-130) This is in addition to the accountability of the private security service providers under domestic law. In any event, the legal status of private security service providers should be clarified by the authorities in law and their use of force strictly regulated.

100. The police should have clear and transparent guidelines on their use of video recording that are consistent with international standards on privacy and used in such a way as not to have a chilling effect on participation in assemblies.[[130]](#footnote-131)

101. The State is fully responsible for any remotely controlled use of force during an assembly. Such methods of force delivery may escalate tensions and should be used only with great caution. Fully autonomous weapons systems, where lethal or less lethal force can be used against assembly participants without human intervention once a system has been deployed, should never be used for law enforcement during an assembly.[[131]](#footnote-132)

 7. Assembly during states of emergency, including armed conflict

102. The right of peaceful assembly is not listed as a non-derogable right in article 4 (2) of the Covenant, but some of the other assembly rights such as those listed in articles 6, 7 and 18 are. As the Committee stated in its general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency, if States purport to invoke the right to derogate from the Covenant during, for instance, a mass demonstration including instances of violence, they must be able to justify not only that such a situation constitutes a threat to the life of the nation, but also that all their measures derogating from the Covenant are strictly required by the exigencies of the situation (para. 5).

103. If not derogated from, the right of peaceful assembly continues during states of emergency and during situations of armed conflict. As the Committee also noted in its general comment No. 29, the possibility of restricting the right of peaceful assembly is generally sufficient during such situations and no derogation from the provisions in question would be justified by the exigencies of the situation (ibid.).

104. In all decisions, the safety and protection of assembly participants and the broader public should be a primary consideration. Assemblies that are civilian in nature remain governed by the rules governing law enforcement, even if acts of violence occur. It is generally unlawful to shoot unarmed participants based solely on their membership in an armed group.[[132]](#footnote-133) An individual participant in an assembly during an armed conflict may be targeted with lethal force only when he or she is participating directly in hostilities as that term is understood under international humanitarian law, and to the extent that he or she is not otherwise protected from attack under international law.[[133]](#footnote-134)

 8. Relationship between article 21 and other provisions of the Covenant
and other legal regimes

105. The full protection of the right of peaceful assembly depends on the protection of a range of rights. The right to life (art. 6)[[134]](#footnote-135) and the right not to be subjected to cruel, inhuman or degrading treatment (art. 7)[[135]](#footnote-136) may both be implicated if law enforcement officials use excessive force. Restrictions on people’s ability to travel in order to participate in assemblies, including to travel abroad (art. 12 (2)), and to participate in marches and other moving assemblies, may violate their freedom of movement (art. 12 (1)). Decisions restricting the exercise of the assembly rights fall under the protection of fair trial rights (art. 14 (1)).[[136]](#footnote-137)

106. The surveillance of those involved in assemblies and other data-gathering may violate their privacy (art. 17). Freedom of assembly is more than a manifestation of freedom of expression (art. 19 (2)),[[137]](#footnote-138) but it has an expressive element and the rationale for the recognition of these two rights and the acceptable limitations overlap in many ways. Freedom of information (art. 19 (2)) underlies the ability of participants to know about the legal and administrative framework within which they participate in assemblies and enables the public to hold government officials accountable. Freedom of association (art. 22) also protects collective action, and restrictions on this right often affect freedom of assembly. Like freedom of expression, the right of political participation (art. 25) is closely linked to peaceful assembly.[[138]](#footnote-139) The right to non-discrimination protects participants against discriminatory practices in the context of assemblies (art. 26).

107. At the same time, participants in peaceful assemblies may also infringe on the rights of others. This may for example include their freedom of movement (art. 12 (1)). Socioeconomic rights, such as the right to health or to education, may be implicated by assemblies in or proximate to amenities such as hospitals or educational facilities.

1. Constitutional Court of Spain, judgment 66/1995 of 8 May 1995, legal grounds 3. [↑](#footnote-ref-2)
2. The right is recognized in the Universal Declaration of Human Rights (art. 20 (1); the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) (art. 11); the American Convention on Human Rights (art. 15); the African Charter on Human and Peoples’ Rights (art. 11); and the Arab Charter on Human Rights (art. 28). Guidelines on the right have also been developed. See, e.g., Organization for Security and Cooperation in Europe (OSCE) *Guidelines on Freedom of Peaceful Assembly* (Warsaw, OSCE Office for Democratic Institutions and Human Rights, 2010); and African Commission on Human and Peoples’ Rights, “Guidelines on freedom of association and assembly in Africa” (2017) and “Policing assemblies in Africa: guidelines for the policing of assemblies by law enforcement officials in Africa” (2017). [↑](#footnote-ref-3)
3. A total of 180 of the 193 States Members of the United Nations recognize the right in their constitutions. [↑](#footnote-ref-4)
4. In *Kivenmaa v. Finland* (CCPR/C/50/D/412/1990), para. 7.6, the Committee described a public assembly as “the coming together of more than one person for a lawful purpose in a public place that others than those invited also have access to”. (See, however, the dissenting opinion in the annex, para. 2.5, which questions the application of this definition to the facts of that case). The Committee has subsequently emphasized the expressive element of the exercise of the right. See, e.g., *Sekerko v. Belarus* (CCPR/C/109/D/1851/2008), para. 9.3; *Poplavny v. Belarus* (CCPR/C/118/D/2139/2012), para. 8.5. On the requirement of a public space, see *Popova v. Russian Federation* (CCPR/C/122/D/2217/2012), para. 7.3. According to the OSCE *Guidelines on* *Freedom of Peaceful Assembly*, an assembly entails “the intentional and temporary presence of a number of individuals in a public place for a common expressive purpose” (para. 1.2). The African Commission guidelines on freedom of association and assembly in Africa describe assembly as “an act of intentionally gathering, in private or in public, for an expressive purpose and for an extended duration” (para. 3). [↑](#footnote-ref-5)
5. During the drafting of article 21 of the Covenant, specific examples of peaceful assemblies were not provided, in order to keep the formulation of the right open. Marc J. Bossuyt, *Guide to the “travaux preparatoires” of the International Covenant on Civil and Political Rights* (Dordrecht, The Netherlands, Martinus Nijhoff Publishers, 1987), p. 414. See also European Court of Human Rights, *Navalny v. Russia* (application No. 29580/12), judgment of 15 November 2018, para. 98. [↑](#footnote-ref-6)
6. General comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 9. [↑](#footnote-ref-7)
7. European Court of Human Rights, *Primov and others v. Russia* (application No. 17391/06), judgment of 12 June 2014, paras. 118–119. [↑](#footnote-ref-8)
8. According to the European Court of Human Rights, in *Frumkin v. Russia* (application No. 74568/12), judgment of 5 January 2016, para. 97: “It is important for public authorities … to show a certain degree of tolerance towards peaceful gatherings, even unlawful ones, if the freedom of assembly … is not to be deprived of all substance.” [↑](#footnote-ref-9)
9. General comment No. 15 (1986) on the position of aliens under the Covenant, paras. 1–2; CCPR/C/KWT/CO/3, para. 42. [↑](#footnote-ref-10)
10. CCPR/C/DOM/CO/6, para. 32. [↑](#footnote-ref-11)
11. CCPR/C/NPL/CO/2, para. 14. [↑](#footnote-ref-12)
12. Convention on the Rights of the Child, art. 15. [↑](#footnote-ref-13)
13. *Coleman v. Australia* (CCPR/C/87/D/1157/2003), para. 6.4. [↑](#footnote-ref-14)
14. OSCE, *Guidelines on Freedom of Peaceful Assembly*, paras. 26–27. [↑](#footnote-ref-15)
15. European Court of Human Rights, *Frumkin v. Russia*, para. 97. [↑](#footnote-ref-16)
16. European Court of Human Rights, *Lashmankin and others v. Russia* (applications Nos. 57818/09 and 14 others), judgment of 7 February 2017, paras. 402–403. [↑](#footnote-ref-17)
17. European Court of Human Rights, *Frumkin v. Russia*, para. 99. [↑](#footnote-ref-18)
18. However, as far as limitations on such assemblies are concerned, see paras. 52–53 below. [↑](#footnote-ref-19)
19. European Court of Human Rights, *Lashmankin and others v. Russia*, para. 402. [↑](#footnote-ref-20)
20. OSCE *Guidelines on* *Freedom of Peaceful Assembly*, para. 2.1. [↑](#footnote-ref-21)
21. *Alekseev v. Russian Federation* (CCPR/C/109/D/1873/2009), para. 9.6. See also European Court of Human Rights, *Plattform “Ärzte für das Leben” v. Austria* (application No. 10126/82), judgment of 21 June 1988, para. 25. [↑](#footnote-ref-22)
22. CCPR/C/CHL/CO/6, para. 19. [↑](#footnote-ref-23)
23. *Pranevich v. Belarus* (CCPR/C/124/D/2251/2013), para. 6.3; *Zhagiparov v. Kazakhstan* CCPR/C/124/D/2441/2014, paras. 13.2–13.5. [↑](#footnote-ref-24)
24. CCPR/C/MRT/CO/1, para. 22. See also General Assembly resolution 66/164, operative para. 6. [↑](#footnote-ref-25)
25. General comment No. 34 (2011) on the freedoms of opinion and expression, paras. 34, 37–38
and 42–43. See also CCPR/C/LAO/CO/1, para. 33. [↑](#footnote-ref-26)
26. A/HRC/31/66, para. 16. [↑](#footnote-ref-27)
27. *Tulzhenkova v. Belarus* (CCPR/C/103/D/1838/2008), para. 9.3. [↑](#footnote-ref-28)
28. *Evrezov et al. v. Belarus* (CCPR/C/112/D/1999/2010 and Corr.1), para. 8.5. [↑](#footnote-ref-29)
29. *Tulzhenkova v. Belarus*, para. 9.3. [↑](#footnote-ref-30)
30. CCPR/C/CMR/CO/5, para. 41. [↑](#footnote-ref-31)
31. General comment No. 34, para. 34. [↑](#footnote-ref-32)
32. OSCE, *Guidelines on* *Freedom of Peaceful Assembly*, para. 109. [↑](#footnote-ref-33)
33. *Turchenyak et al. v. Belarus* (CCPR/C/108/D/1948/2010 and Corr.1), para. 7.4. [↑](#footnote-ref-34)
34. *Gryb v. Belarus* (CCPR/C/108/D/1316/2004), para. 13.4. [↑](#footnote-ref-35)
35. *Chebotareva v. Russian Federation* (CCPR/C/104/D/1866/2009), para. 9.3. [↑](#footnote-ref-36)
36. *Alekseev v. Russian Federation*, para. 9.6. [↑](#footnote-ref-37)
37. CCPR/C/MDG/CO/4, para. 51. [↑](#footnote-ref-38)
38. CCPR/C/79/Add.86, para. 18. [↑](#footnote-ref-39)
39. CCPR/C/GEO/CO/4, para. 8; CCPR/C/MNG/CO/6, para. 11. [↑](#footnote-ref-40)
40. Article 20 (2) of the Covenant requires the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Any limitations pursuant to article 20 (2) should be justified under the limitations to article 21. See general comment No. 34, paras. 50–52, article 4 of the Convention on the Elimination of Racial Discrimination, and Committee on the Elimination of Racial Discrimination, general recommendation No. 15 (1993) on article 4 of the Convention. See also the threshold test for incitement to hatred in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, para. 29. [↑](#footnote-ref-41)
41. *Alekseev v. Russian Federation*, para. 9.6 [↑](#footnote-ref-42)
42. OSCE, *Guidelines on* *Freedom of Peaceful Assembly*, para. 97. See also European Court of Human Rights, *Osmani and others v. the former Yugoslav Republic of Macedonia* (application No. 50841/99) decision of 11 October 2001, and *Fáber v. Hungary* (application No. 40721/08), judgment of 24 October 2012, paras. 56–58, in which the Court outlined a threshold of intimidation. [↑](#footnote-ref-43)
43. *Nepomnyashchiy v. Russian Federation* (CCPR/C/123/D/2318/2013), para. 7.7; general comment No. 34, para. 25. [↑](#footnote-ref-44)
44. European Court of Human Rights, *Chassagnou and others v. France* (application Nos. 25088/94, 28331/95 and 28443/95), judgment of 29 April 1999, para. 113; general comment No. 34, para. 34. [↑](#footnote-ref-45)
45. *Toregozhina v. Kazakhstan* (CCPR/C/112/D/2137/2012), para. 7.4. [↑](#footnote-ref-46)
46. OSCE, *Guidelines on* *Freedom of Peaceful Assembly*, para. 39. [↑](#footnote-ref-47)
47. *Protsko and Tolchin v. Belarus* (CCPR/C/109/D/1919-1920/2009, para. 7.8. [↑](#footnote-ref-48)
48. CCPR/C/MKD/CO/3, para. 19; *Alekseev v. Russian Federation*, para. 9.5. [↑](#footnote-ref-49)
49. Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights (E/CN.4/1985/4, annex), para. 33. [↑](#footnote-ref-50)
50. *Alekseev v. Russian Federation*, para. 9.6. [↑](#footnote-ref-51)
51. *Bazarov v. Belarus* (CCPR/C/111/D/1934/2010), para. 7.5. [↑](#footnote-ref-52)
52. *Stambrovsky v. Belarus* (CCPR/C/112/D/1987/2010), para. 7.6; *Pugach v. Belarus* (CCPR/C/114/D/1984/2010), para. 7.8 [↑](#footnote-ref-53)
53. CCPR/C/KAZ/CO/1, para. 26; CCPR/C/DZA/CO/4, para. 45. [↑](#footnote-ref-54)
54. Siracusa Principles, para. 22. [↑](#footnote-ref-55)
55. European Court of Human Rights, *Cisse v. France* (application No. 51346/99), judgment of 9 April 2002. [↑](#footnote-ref-56)
56. Siracusa Principles, para. 29. [↑](#footnote-ref-57)
57. Ibid., para. 32. [↑](#footnote-ref-58)
58. CCPR/C/SWZ/CO/1, para. 36; CCPR/C/BHR/CO/1, para. 29. See also A/HRC/40/52. [↑](#footnote-ref-59)
59. General comment No. 22 (1993) on the right to freedom of thought, conscience and religion, para. 8. [↑](#footnote-ref-60)
60. *Fedotova v. Russian Federation* (CCPR/C/106/D/1932/2010), paras. 10.5–10.6; *Alekseev v. Russian Federation*, para. 9.6. [↑](#footnote-ref-61)
61. OSCE, *Guidelines on* *Freedom of Peaceful Assembly*, paras. 99–100. [↑](#footnote-ref-62)
62. European Court of Human Rights, *Éva Molnár v. Hungary* (application No. 10346/05), judgment of 7 October 2008, para. 42. [↑](#footnote-ref-63)
63. CCPR/C/KOR/CO/4, para. 52. [↑](#footnote-ref-64)
64. *Turchenyak et al. v. Belarus*, para. 7.4. [↑](#footnote-ref-65)
65. Ibid.; CCPR/C/KAZ/CO/1, para. 26. [↑](#footnote-ref-66)
66. CCPR/C/DZA/CO/4, para. 45. [↑](#footnote-ref-67)
67. *Turchenyak et al. v. Belarus*, para. 7.5. [↑](#footnote-ref-68)
68. *Sudalenko v. Belarus* (CCPR/C/113/D/1992/2010), para. 8.5. [↑](#footnote-ref-69)
69. European Court of Human Rights, *Yilmaz Yildiz and others v. Turkey* (application No. 4524/06), judgment of 14 October 2014, para. 43. [↑](#footnote-ref-70)
70. European Court of Human Rights, *Annenkov and others v. Russia* (application No. 31475/10), judgment of 25 July 2017, para. 122; United States Supreme Court, *Marsh v. Alabama* (*United States Reports*,vol. 326, No. 501, 1946), p. 2. [↑](#footnote-ref-71)
71. European Court of Human Rights, *Appleby and others v. United Kingdom* (application No. 44306/98), judgment of 6 May 2003, para. 47. In *Giménez v. Paraguay* (CCPR/C/123/D/2372/2014), para. 8.5, the Committee held that a two-year restriction on participation in assemblies after the occupation of a private property was excessive. [↑](#footnote-ref-72)
72. CPR/C/THA/CO/2/1, para. 39. [↑](#footnote-ref-73)
73. A/HRC/31/66, para. 73. [↑](#footnote-ref-74)
74. CCPR/C/KOR/CO/4, paras. 42–43. [↑](#footnote-ref-75)
75. OSCE, *Guidelines on* *Freedom of Peaceful Assembly*, para. 60. [↑](#footnote-ref-76)
76. African Commission guidelines on freedom of association and assembly in Africa, para. 102 (b). [↑](#footnote-ref-77)
77. CCPR/C/CHE/CO/4, para. 48. [↑](#footnote-ref-78)
78. *Poliakov v. Belarus* (CCPR/C/111/D/2030/2011), paras. 8.2–8.3. [↑](#footnote-ref-79)
79. A/HRC/31/66, para. 26. [↑](#footnote-ref-80)
80. OSCE, *Guidelines on* *Freedom of Peaceful Assembly*, para. 197. See also Constitutional Court of South Africa, *South African Transport and Allied Workers Union and another v. Garvas and others* (case CCT 112/11) [2012] ZACC 13. [↑](#footnote-ref-81)
81. CCPR/C/RUS/CO/7, para. 21. [↑](#footnote-ref-82)
82. CCPR/C/POL/CO/6, para. 23. [↑](#footnote-ref-83)
83. *E.V. v. Belarus* (CCPR/C/112/D/1989/2010), para. 6.6. [↑](#footnote-ref-84)
84. CCPR/C/KHM/CO/2, para. 22; CCPR/C/JOR/CO/5, para. 32. [↑](#footnote-ref-85)
85. CCPR/C/TKM/CO/2, para. 44. [↑](#footnote-ref-86)
86. *Kivenmaa v. Finland*, para. 9.2. [↑](#footnote-ref-87)
87. Ibid. See also *Sekerko v. Belarus*, para. 9.4. [↑](#footnote-ref-88)
88. *Popova v. Russian Federation*, para. 7.5. [↑](#footnote-ref-89)
89. African Commission guidelines on freedom of association and assembly in Africa, para. 72. [↑](#footnote-ref-90)
90. States parties must justify the imposition of criminal or administrative sanctions for a failure by demonstrators to give notice or to ask for authorization. See, e.g., *Popova v. Russian Federation*, para. 7.5. See also A/HRC/31/66, para. 23. [↑](#footnote-ref-91)
91. *Popova v. Russian Federation*, para. 7.5. See also European Court of Human Rights, *Éva Molnár v. Hungary*, para. 38. [↑](#footnote-ref-92)
92. CCPR/CO/83/KEN, para. 23; CCPR/C/CHE/CO/4, para. 48; CCPR/C/DZA/CO/4, para. 45. [↑](#footnote-ref-93)
93. CCPR/C/MAR/CO/6, para. 45; CCPR/C/GMB/CO/2, para. 41. [↑](#footnote-ref-94)
94. African Commission guidelines on freedom of association and assembly in Africa, para. 71. [↑](#footnote-ref-95)
95. *Poliakov v. Belarus*, para. 8.3. [↑](#footnote-ref-96)
96. CCPR/C/JOR/CO/5, para. 32. [↑](#footnote-ref-97)
97. CCPR/C/AGO/CO/1, para. 21; CCPR/C/GEO/CO/4, para. 12; CCPR/C/KOR/CO/4, para. 52. [↑](#footnote-ref-98)
98. A/HRC/31/66, para. 41. [↑](#footnote-ref-99)
99. Ibid., para. 38. [↑](#footnote-ref-100)
100. Human Rights Council resolution 38/11, preambular para. 10; A/HRC/26/36, para. 51. [↑](#footnote-ref-101)
101. A/HRC/31/66, para. 37. [↑](#footnote-ref-102)
102. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 4. [↑](#footnote-ref-103)
103. General comment No. 36 (2018) on the right to life; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; Code of Conduct for Law Enforcement Officials. [↑](#footnote-ref-104)
104. CCPR/C/ISR/CO/3, para. 9; CCPR/C/UZB/CO/3, para. 8; *Olmedo* *v.* *Paraguay* (CCPR/C/104/D/1828/2008), para. 7.5. [↑](#footnote-ref-105)
105. See Organization of American States (OAS), *Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the possible commission of crimes against humanity in Venezuela* (OAS, Washington, D.C., 2018). [↑](#footnote-ref-106)
106. CCPR/C/MDV/CO/1, para. 23. [↑](#footnote-ref-107)
107. CCPR/C/MAR/CO/6, paras. 45–46; CCPR/C/BHR/CO/1, para. 55. [↑](#footnote-ref-108)
108. Code of Conduct for Law Enforcement Officials, art. 3. [↑](#footnote-ref-109)
109. Ibid., commentary to art. 3. [↑](#footnote-ref-110)
110. CCPR/C/KHM/CO/2, para. 12; CCPR/C/GRC/CO/2, para. 42; CCPR/C/BGR/CO/4, para. 38. [↑](#footnote-ref-111)
111. CCPR/C/VEN/CO/4, para. 14; African Commission guidelines on policing assemblies in Africa, para. 3.2. [↑](#footnote-ref-112)
112. European Court of Human Rights, *Güleç* *v.* *Turkey* (application No. 21593/93), judgment of 27 July 1998, para. 71; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 2. [↑](#footnote-ref-113)
113. General comment No. 36. [↑](#footnote-ref-114)
114. CCPR/C/MKD/CO/3, para. 19. [↑](#footnote-ref-115)
115. European Court of Human Rights, *S., V. and A.* *v.* *Denmark* (applications Nos. 35553/12, 36678/12 and 36711/12), judgment of 22 October 2018 (Grand Chamber), paras. 77 and 127. [↑](#footnote-ref-116)
116. CCPR/C/CAN/CO/6, para. 15. [↑](#footnote-ref-117)
117. CCPR/C/NOR/CO/7, paras. 20–21; European Court of Human Rights, *Gillan* *and Quinton v.* *United Kingdom* (application No. 4158/05), judgment of 12 January 2010, paras. 63–65 and 84–85. [↑](#footnote-ref-118)
118. A/HRC/31/66, para. 43. [↑](#footnote-ref-119)
119. European Court of Human Rights, *Austin and others* v. *United Kingdom* (applications. Nos. 39629/09, 40713/09 and 41008/09), judgment of 15 March 2012 (Grand Chamber), para. 68. [↑](#footnote-ref-120)
120. OSCE, *Guidelines on* *Freedom of Peaceful Assembly*, para. 95. [↑](#footnote-ref-121)
121. A/HRC/31/66, para. 62. [↑](#footnote-ref-122)
122. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 13; A/HRC/26/36, para. 75. [↑](#footnote-ref-123)
123. S/2009/693, annex, para. 62. [↑](#footnote-ref-124)
124. African Commission guidelines on policing assemblies in Africa, para. 21.2.4. [↑](#footnote-ref-125)
125. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 14. [↑](#footnote-ref-126)
126. Ibid., principles 9 and 14; general comment No. 36. [↑](#footnote-ref-127)
127. European Court of Human Rights, *Hentschel and Stark* v. *Germany* (application No. 47274/15), judgment of 9 November 2017, para. 91. [↑](#footnote-ref-128)
128. CCPR/C/COD/CO/4, paras. 43–44; CCPR/C/BHR/CO/1, para. 36. See also *The* *Minnesota Protocol on the investigation of potentially unlawful death* (United Nations publication, Sales No. E.91.IV.1). [↑](#footnote-ref-129)
129. Inter-American Court of Human Rights, *Rochela Massacre* *v.* *Colombia*, judgment of 11 May 2007, para. 102. [↑](#footnote-ref-130)
130. CCPR/C/CHN-HKG/CO/3, para. 10; CCPR/C/CHN-MAC/CO/1, para. 16. [↑](#footnote-ref-131)
131. A/HRC/31/66, para. 67. [↑](#footnote-ref-132)
132. A/HRC/40/CRP.2, summary and para. 106. [↑](#footnote-ref-133)
133. See Nils Melzer, *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law* (Geneva, International Committee of the Red Cross, 2009),
pp. 41–45. [↑](#footnote-ref-134)
134. *Olmedo v. Paraguay*,para. 7.5. [↑](#footnote-ref-135)
135. *Benítez* *Gamarra v. Paraguay* (CCPR/C/104/D/1829/2008), para. 7.4. [↑](#footnote-ref-136)
136. *Evrezov et al. v. Belarus*, paras. 3.3 and 8.9. [↑](#footnote-ref-137)
137. The Committee has often dealt with assembly cases under article 19 without finding a violation of article 21, e.g., *Komarovsky v. Belarus* (CCPR/C/109/D/1839/2008), while in others it has found a violation of both articles 19 and 21, e.g., *Derzhavtsev v. Belarus* (CCPR/C/115/D/2076/2011). [↑](#footnote-ref-138)
138. *Sudalenko v. Belarus*, para. 8.6. [↑](#footnote-ref-139)