

**Submission to Human Rights Committee re draft General Comment 37
on Article 21 of the ICCPR: The Right of Peaceful Assembly**

International Service for Human Rights¹

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1. Introduction

During its 125th Session held between 4 to 29 March 2019, the Human Rights Committee (the 'Committee') held a half-day discussion to start the process of elaborating General Comment 37 (the 'General Comment') on Article 21 of the International Covenant on Civil and Political Rights (the 'Covenant'), on the right to peaceful assembly.² The Committee invited stakeholders including civil society organizations, national human rights institutions, academia and international organizations to provide insights to be taken into consideration by the Committee when drafting the General Comment. In March 2019, the International Service for Human Rights (ISHR) submitted issues for consideration.³

The Committee began its first reading of the draft during its 126th session in July 2019 and finalised its first review at the 127th session held in November 2019. ISHR presents this submission in response to the Committee's call to all interested stakeholders including Member States to provide comments on the draft.

ISHR is an independent, non-governmental organisation dedicated to promoting and protecting human rights. We achieve this by supporting human rights defenders, strengthening human rights systems, and leading and participating in coalitions for human rights change.

This submission aims to inform the application and interpretation of the right to peaceful assembly guaranteed by Article 21 of the Covenant. It draws on relevant international, regional and domestic legal standards and decisions, including from the Committee, and makes specific reference to the Model Law on the Recognition and Protection of Human Rights Defenders.⁴

2. Scope of the right of peaceful assembly

In the draft General Comment, the Committee acknowledges that there is not always a clear dividing line between assemblies that are peaceful and those that are violent.⁵ Paragraph 40 further provides that *'the right of peaceful assembly is not absolute... The onus is on the authorities to justify any restrictions, and where this onus is not met, article 21 is violated'*.⁶

We suggest that the draft General Comment should further develop paragraph 40 to outline that **the burden of proving violent intentions of the organizers of an assembly also lies with the authorities, and that due process must be exercised to provide organizers the opportunity to challenge any adverse inferences drawn from such evidence of violence** – this may include by showing that the organizers have taken bona fide measures to avoid violence.⁷

The European Court of Human Rights has previously confirmed that this burden lies with state authorities.⁸ When attempting to assess and prove the violent intentions of assembly organizers, biases must be barred to the extent that non-peaceful intentions cannot be inferred merely from the occurrence of violence at past events with the same organizer and/or a significant number of the same participants. Nevertheless, the authorities should be allowed a margin of appreciation when assessing these issues.⁹ Unless there is convincing evidence of the intention to use or incite imminent violence, an

² The Human Rights Committee, in accordance with article 40, paragraph 4, of the International Covenant on Civil and Political Rights, and Rule 76 of its Rules of Procedure, is mandated to prepare general comments on the various articles and provisions of the Covenant with a view to assisting States parties in fulfilling their obligations under the Covenant.

³ https://www.ohchr.org/Documents/HRBodies/CCPR/GC37/InternationalService_for_HumanRights_ISHR.pdf

⁴ [Model National Law on the Recognition and Protection of Human Rights Defenders](#)

⁵ Draft General Comment No. 37 on Article 21: right of peaceful assembly, para. 19.

⁶ Draft General Comment No. 37 on Article 21: right of peaceful assembly, para. 40.

⁷ Ibid.

⁸ [Christian Democratic People's Party v. Moldova](#) (No.2) (2010), para. 23.

⁹ OSCE, *Guidelines on Freedom of Peaceful Assembly* (3rd Edition) para 49, accessible here

assembly should be deemed peaceful. International standards provide that even if there is a real risk of an assembly resulting in disorder as a result of developments outside the control of those organizing it, this by itself does not remove it from the scope of protection.¹⁰

Furthermore, paragraph 8 of the General Comment provides that *‘the right of peaceful assembly is not absolute, but any restrictions must be narrowly drawn’*.¹¹ We suggest that it is equally important for the General Comment to state that **the spectrum of conduct that could be construed as either constituting violence, or is regarded as capable of causing violence, should be narrowly construed,¹² in order to avoid arbitrariness in the determination of peaceful assemblies.**

Even in cases where certain content or messages of an assembly actually provoke or could potentially provoke strong reactions by non-participants, this does not make an assembly ‘non-peaceful’ insofar as such content or messages do not incite violence. The term ‘peaceful’ should be widely construed to include conduct that may annoy or give offence to individuals or groups opposed to the ideas or claims that the assembly is seeking to promote,¹³ while the term ‘violence’ should be narrowly construed.

3. Human Rights Defenders

The right to peaceful assembly is one of the most valuable freedoms in the work of human rights defenders. The UN Declaration on Human Rights Defenders (the ‘Declaration’) acknowledges the legitimacy of participation in peaceful activities by human rights defenders to protest against violations of human rights.¹⁴ The Declaration expressly recognizes freedom of assembly as a very important element of this right.¹⁵ The UN Special Rapporteur on the situation of human rights defenders considers the right to peaceful assembly essential for human rights defenders working locally, nationally and globally to promote and protect human rights.¹⁶ Without a guarantee of this right and protection against its violation from state officials and non-state entities, human rights defenders will be restricted in their ability to fulfil their fundamental role of protecting and promoting human rights.

Paragraph 34 of the draft General Comment provides *‘the role of journalists, human rights defenders and others involved in monitoring, including documenting or reporting on assemblies, is of special importance, and they are entitled to protection under [article 21 of] the Covenant’*.¹⁷

The disproportionate risks faced by human rights defenders cannot be understated. Around the world, human rights defenders continue to face legal, administrative and social impediments to the full realization of their right of peaceful assembly. In some States, domestic legislation related to freedom of assembly is generic, lacking clear and complete statements which encompass relevant procedures and principles.¹⁸ Far too often, this results in arbitrary and overly restrictive interpretations and applications of relevant provisions.¹⁹

In addition to this, due to the nature of the work carried out by human rights defenders, they are often the subject of threats, intimidation and reprisals. The right to freedom of peaceful assembly often comes

[https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)017-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)017-e).

¹⁰ See *Schwabe and M.G. v. Germany*, Application Nos 8080/08 and 8577/08, 1 December 2011, para. 103; see also *Taranenko v. Russia*, Application (Application no. 19554/05), para. 66.

¹¹ Draft General Comment No. 37 on Article 21: right of peaceful assembly, para. 8.

¹² OSCE, *Guidelines on Freedom of Peaceful Assembly* (Second Edition), para 27, accessible here <https://www.osce.org/odihr/73405>.

¹³ *Ibid*, para. 1.3.

¹⁴ [The Declaration on Human Rights Defenders](#), Article 5 (a).

¹⁵ *Ibid*.

¹⁶ Report of the Special Rapporteur on the situation of human rights defenders, [A/74/159](#), para. 25.

¹⁷ Draft General Comment No. 37 on Article 21: right of peaceful assembly, para. 34.

¹⁸ Guidelines on the Protection of Human Rights Defenders (Warsaw: OSCE/ODIHR, 2014), para. 161, accessible here:

<https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders>.

¹⁹ *Ibid*.

under increased attack during elections or periods of political transition, affecting the scope of the right.²⁰ Often, political protestors and human rights defenders advocating for political change face judicial, physical and verbal harassment.²¹ In his latest report to the General Assembly, the Special Rapporteur on the Freedom of Assembly voiced concern on numerous reports received concerning grave violations of the rights of human rights defenders, activists and community leaders who exercised their rights to freedom of peaceful assembly.²²

We suggest that the General Comment should place **more emphasis on the responsibility of States to protect human rights defenders and ensure their unhindered exercise of the right of peaceful assembly. The General Comment should provide more comprehensive guidelines towards how this protection should be guaranteed** including, for example, that:

- a. States should ensure that domestic legislation governing the right of peaceful assembly be drafted, interpreted and implemented in conformity with relevant international and regional jurisprudence and good practice,²³ including the UN Declaration on human rights defenders and the Model Law for the Recognition and Protection of Human Rights Defenders;²⁴
- b. States should establish, adequately resource, and fully and effectively implement mechanisms or programmes for the protection of the rights of human rights defenders—including the right of peaceful assembly. These mechanisms should include measures to promote a safe and enabling environment for human rights defenders; contribute to the prevention of threats and risks during assemblies; and provide both urgent and long-term protection to human rights defenders at risk;²⁵
- c. States should hold meaningful consultations with civil society, including human rights defenders, on how best to protect their right to peaceful assembly, and should ensure their free and active participation in discussions of relevant legislative initiatives.²⁶ If mechanisms or programmes are established, human rights defenders should be involved in their development, governance and decision-making structures;²⁷ and
- d. When establishing mechanisms or programmes for the protection of rights, States should seek to identify and address both structural and systemic factors contributing to risk and provide for individualised assessment for particular defenders.²⁸

²⁰ UN Human Rights Council, Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, [A/HRC/38/34](#), para. 2.

²¹ *Ibid.*, para. 71.

²² These violations were reported in the context of natural resource exploitation. [A/74/349](#), para. 56.

²³ Guidelines on the Protection of Human Rights Defenders (Warsaw: OSCE/ODIHR, 2014), para. 162, accessible here: <https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders>.

²⁴ Section 11 (1) of the [Model Law](#) provides that ‘everyone, individually or in association with others, has the right to meet or assemble peacefully as well as to participate in peaceful activities concerning human rights and fundamental freedoms, free from interference that is arbitrary or unlawful by public authorities and private actors, at the local, national, regional or international level.’

²⁵ [Model Law for the Recognition and Protection of Human Rights Defenders](#), page 28.

²⁶ Guidelines on the Protection of Human Rights Defenders (Warsaw: OSCE/ODIHR, 2014), para. 163, accessible here:

<https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders>

²⁷ [Model Law for the Recognition and Protection of Human Rights Defenders](#), page 28.

²⁸ *Ibid.*

4. Groups at risk

Paragraph 28 of the General Comment provides that *'States must not deal with assemblies in a discriminatory manner, for example on the basis of nationality, race, ethnicity, age, political opinion, religion, belief, minority status, disability, sexual orientation or gender identity. Particular efforts should be made to ensure equal and effective protection of the right of peaceful assembly of individuals who are members of groups who are or have been subjected to discrimination. This includes the duty to protect participants from homophobic, sexual or gender-based attacks.'*²⁹

Though all defenders are potentially vulnerable in situations where they are exercising the right to freedom of assembly, certain groups of defenders are at particular risk, and more efforts are needed to ensure their protection and prevent any acts by third parties that aim to obstruct their exercise of their right to peaceful assembly.³⁰ The special nature of these groups, and their increased likelihood for targeting by state agencies when exercising their right to assemble, should be further highlighted in the General Comment, considering the excessive barriers that exist in exercising their right of assembly. We elaborate on the particular vulnerabilities experienced by women defenders and LGBTI defenders below:

a. Women human rights defenders³¹

Women human rights defenders (WHRDs) are often at particular risk because they are seen as challenging traditional assumptions about the role and status of women in society.³² States should ensure that social attitudes are not only used to justify violations, but should also not be used as barriers of WHRDs' right to freedom of assembly.

Retaliation against WHRDs may take a sexual or gender-specific form, which can have adverse social consequences in addition to causing physical harm. These include WHRDs being attacked and arrested for organizing women's rights events, peaceful demonstrations and vigils, or facing threats by conservative religious groups and persons.³³ During the 2019 UN Security Council Open Debate on Sexual Violence in Conflict, a women human rights defender stated: *'sexual and gender-based violence is systematically used to intimidate and silence women activists and political figures. Reprisals for our activism and criminalization of our work has led to severe restrictions on freedom of movement, assembly, and speech. Numerous women's organizations have simply stopped working due to such harassment and threats.'*³⁴

While the draft General Comment provides that *States have 'a duty to protect participants from homophobic, sexual or gender-based attacks'*,³⁵ we suggest that the General Comment should take a more **focused and tailored** approach to WHRDs who often face additional risks and obstacles that are

²⁹ Draft General Comment No. 37 on Article 21: right of peaceful assembly, para. 28.

³⁰ Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, page 27, accessible here: <https://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>; also see the Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, 2016, [A/HRC/31/66](https://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf)

³¹ The Special Rapporteur on the situation of human rights defenders defines women human rights defenders as both women human rights defenders, and any other human rights defenders who work in the defence of women's rights or on gender issues ([A/HRC/16/44](https://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf))

³² Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, page 6, accessible here: <https://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>.

³³ Ibid, page 27.

³⁴ Statement by Ms. Inas Miloud at UN Security Council Open Debate on Sexual Violence in Conflict, NGO Working Group on Women, Peace and Security, April 23, 2019, <http://www.womenpeacesecurity.org/resource/statement-unscc-sexual-violence-open-debate-april-2019/>.

³⁵ Draft General Comment No. 37 on Article 21: right of peaceful assembly, para. 28.

not only gendered, but rooted in tradition, historical, cultural and religious attitudes about who women are and should be.³⁶

b. LGBTI Defenders

Defenders working on the promotion and protection of the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons are also inordinately targeted. Their exercise of the right to peaceful assembly is often denied or alternatively, the police do not provide them with adequate protection during demonstrations.³⁷ In reported cases, authorities have prohibited demonstrations, conferences and meetings of organizations working for LGBTI rights, such as the cancelling of a large LGBTI regional meeting in Indonesia.³⁸

Police officers have also beaten or sexually abused LGBTI defenders, generally attempting to justify action against them by arguing that the public do not want such demonstrations to take place, or do not want LGBTI people in their community.³⁹ The Office of the United Nations High Commissioner for Human Rights Report on Discrimination and Violence against Individuals based on their Sexual Orientation and Gender Identity,⁴⁰ specifically states that States should, *'protect LGBT persons exercising these rights from attacks and reprisals through preventive measures and by investigating attacks, prosecuting perpetrators and ensuring remedy for victims.'*

Paragraph 28 of the draft General Comment provides that the duty of non-discrimination *'includes the duty to protect participants from homophobic, sexual or gender-based attacks'*.⁴¹ However, the General Comment fails to elaborate on how States should implement this duty, and the measures that should be taken to adequately facilitate assemblies associated with individuals or groups most at risk.

c. Recommendations

We suggest that the General Comment should outline the responsibility of States to protect groups at risk, providing **a more detailed description of what States should do to fulfil this duty and the approaches that can be taken in protecting their right of peaceful assembly.** This could include for instance:

- a. Taking all necessary measures to ensure that discrimination in policing or restricting assemblies be eliminated, including in legislation or in practice, whether perpetrated by the State or by non-State actors;⁴²
- b. Paying particular attention to the safety and protection of women and WHRDs from gender-based violence, including sexual assault in the context of peaceful protests;⁴³

³⁶ General Comment No. 28: Equality of rights between men and women (article 3) (sixty-eighth session, 2000), Human Rights Committee, para. 5, accessible here <https://www.refworld.org/pdfid/45139c9b4.pdf>.

³⁷ Report of the Special Rapporteur on the situation of human rights defenders, [A/HRC/13/22](#), para. 49.

³⁸ Participants were ordered to leave the conference hotel by police. A group of militant fundamentalists entered the hotel and attempted to identify conference participants by conducting a room-by-room search and according to various reports, the police did not take any measures to ensure the safety of the participants. Source: Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, page 28, accessible here: <https://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>

³⁹ Report of the Special Rapporteur on the situation of human rights defenders, [A/HRC/13/22](#), para. 49.; see also [A/HRC/4/37](#), para. 96.

⁴⁰ Report of the Office of the United Nations High Commissioner for Human Rights [A/HRC/29/23](#), para. 18.

⁴¹ Draft General Comment No. 37 on Article 21: right of peaceful assembly, para. 28.

⁴² Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 2014, [A/HRC/26/29](#), para. 73 (b).

⁴³ HRC Resolution on the promotion and protection of human rights in the context of peaceful protests [A/HRC/RES/22/10](#) para 6.

- c. Preventing and responding to sexual harassment, threats and violence by State and non-State actors before, during and after assemblies. This should include demonstrating a **zero-tolerance approach** to gender-based violence connected with an assembly by properly investigating all violations, prosecuting perpetrators and ensuring effective remedies for victims;
- d. Ensure that no individual belonging to a group most at risk is criminalized for exercising his/her rights to freedom of peaceful assembly and of association, nor is subject to threats or use of violence, harassment, persecution, intimidation or reprisals;⁴⁴
- e. Ensure that any restrictions on the rights of individuals belonging to groups most at risk to freedom of peaceful assembly and of association are prescribed by law, necessary in a democratic society and proportional to the aim pursued, and do not harm the principles of pluralism, tolerance and broadmindedness. Any restrictions should be subject to an independent, impartial and prompt judicial review;⁴⁵
- f. Provide physical protection before, during and after assemblies if those organizing or participating them face threats of violent attacks. Paragraph 36 of the draft General Comment provides for a '*heightened level of accommodation and protection*' for assemblies with a political message.⁴⁶ This level of protection should also extend to assemblies that are perceived to challenge traditional values or aim to counter political views, including demonstrations to counter racism, xenophobia, intolerance or discrimination;⁴⁷
- g. Integrating a gender and diversity perspective into States' efforts to create a safe and enabling environment for the protection and exercise of the right to freedom of peaceful assembly, implemented in such a way as to identify and address the particular situation and risks faced by vulnerable groups. Protection measures must be specific, rather than generic, to respond to the level and nature of risk;⁴⁸ and
- h. Making of public statements and increasing public awareness, especially through information and education and by making use of all press organs to promote the important and legitimate work of human rights defenders. Such announcements should be made in advance of assemblies to advocate, without ambiguity, a tolerant, conciliatory stance.⁴⁹

5. Reprisals for participation or non-participation in assemblies

While paragraph 34 of the General Comment provides that '*no one should be harassed or penalized as a result of their attendance at demonstrations*',⁵⁰ reprisals against participants related to peaceful assembly go beyond attendance. These reprisals can take a wide range of forms including grave threats, persecution and intimidation, which can occur before and after participation in assemblies. Reprisals are

⁴⁴ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2014, [A/HRC/26/29](#), para. 74 (a).

⁴⁵ Ibid, para. 74 (b).

⁴⁶ Draft General Comment No. 37 on Article 21: right of peaceful assembly, para. 36.

⁴⁷ Guidelines on the Protection of Human Rights Defenders (Warsaw: OSCE/ODIHR, 2014), para. 60, accessible here: <https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders>.

⁴⁸ [Model Law for the Recognition and Protection of Human Rights Defenders](#), page 28.

⁴⁹ Ibid, page 46.

⁵⁰ Draft General Comment No. 37 on Article 21: right of peaceful assembly, para. 34.

often linked to multiple forms of human rights violations, including undue restrictions on freedom of movement and violations of the right to liberty and security, freedom of association and others.⁵¹

Reprisals against participants may also hinder them from taking part in, or organizing assemblies. The Special Rapporteur on freedom of assembly and association also observed that reprisals don't only come in the form of violence but can include threats to cut access to social services and confiscation of property for people living in poverty or marginalized individuals if they speak out against the Government.⁵²

In 2012, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association called on States to ensure that the right to peaceful assembly be '*enjoyed by everyone*' and that no one is subject to '*harassment, persecution, intimidation or reprisals*' for exercising it.⁵³ The right encompassed in Article 21 should not be interpreted to exist in isolation, and neither should it be interpreted to exist only for the duration of the assembly. While a peaceful assembly may be temporary, it can have long-lasting effects and participants may suffer various repercussions due to their participation.

We suggest that the draft General Comment should provide that **the right to peaceful assembly should under all circumstances be enjoyed without fear of not only harassment or penalization, but any form of reprisals, threats, persecution or intimidation before, during or after participation in, or organization of an assembly. This should extend to also cover any retaliatory reprisals towards individuals who bring complaints against police or other law enforcement officers for excessive use of force.**⁵⁴

All allegations of such reprisals – whether committed by public officials or other actors – must be promptly, thoroughly and independently investigated, and there must be no impunity for such acts.⁵⁵ Victims and their families must have access to effective remedies and should obtain adequate reparation.⁵⁶

In addition, participation in assemblies should be **voluntary**. The essence of the freedom to assemble means that participation in assemblies must be of free will, and individuals must never face sanctions for refusing to participate in assemblies. While the General Comment has addressed the question of harassment and penalization for participating in peaceful assemblies, it has not examined the repercussions of a failure to participate, for example in instances of forcible mass mobilization of the population for participation in events organized by State authorities.

The Committee has previously attested that '*participation in mass events is voluntary and that individuals should not suffer from any reprisals for nonparticipation*',⁵⁷ this should be reiterated in the General Comment in reference to non-voluntary/forced or incentivized participation in assemblies.

⁵¹ Guidelines on the Protection of Human Rights Defenders (Warsaw: OSCE/ODIHR, 2014), para. 263, accessible here: <https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders>.

⁵² Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, see [A/74/349](#), para 38, 57.

⁵³ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, [A/HRC/20/27](#), para. 84 (b) – (c).

⁵⁴ Guidelines on the Protection of Human Rights Defenders, page 4, para. 13, accessible here: <https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders>.

⁵⁵ Ibid, para 90, page 18.

⁵⁶ Ibid.

⁵⁷ UN Human Rights Committee (HRC), *Concluding observations on the second periodic report of Turkmenistan*, 20 April 2017, [CCPR/C/TKM/CO/2](#) 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).

6. Surveillance Technologies

The draft General Comment provides that surveillance technology, which has been used to detect threats of violence, could infringe on the right to privacy under Article 17 of the Covenant. Paragraph 71 of the draft General Comment states that *'any information gathering, including through surveillance or the interception of communications, and the way in which data is 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.'*⁵⁸

Due to the emerging concerns raised by surveillance technology, including its online and offline use, it is a growing threat for individuals and human rights defenders. Repressive laws, coupled with the advent of new and more sophisticated technology—including the intrusive nature of collecting, retaining, using, and sharing of personal data obtained from public places—has made the threat of targeted surveillance even more urgent.

We suggest that the General Comment should go further than only stating that surveillance activities should conform to applicable standards, but also lay out what rules exist to govern this type of surveillance, including that it should **conform with obligations under Article 17 of the Covenant**. This should align with remarks by the Special Rapporteur on the rights to freedom of peaceful assembly and of association who stated that the use of surveillance against individuals exercising their rights of peaceful assembly and association can only be conducted on a targeted basis, where there is a reasonable suspicion that they are engaging in or planning to engage in serious criminal offences, and under the very strictest rules, operating on principles of necessity and proportionality and providing for close judicial supervision.⁵⁹

⁵⁸ Draft General Comment para. 71.

⁵⁹ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, [A/HRC/41/41](#), para 57.